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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Wednesday, July 27, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable FRANK R. LAUTENBERG, a Senator from the State of New Jersey.

PRAYER

The Reverend Dr. William D. Watley, St. James AME Church, Newark, NJ, offered the following prayer:

Let us pray:

O Lord, our Lord, how excellent is Your name in all the Earth. You have said in Your word:

"I am about to create new heavens and a new Earth; the former things shall not be remembered or come to mind * * * No more shall there be in it an infant that lives but a few days, or an old person who does not live out a lifetime; for one who dies at a hundred years will be considered a youth, and one who falls short of a hundred will be considered accursed. They shall build houses and inhabit; they shall plant vineyards and eat their fruit. They shall not build and another inhabit; they shall not plant and another eat; for like the days of a tree shall the days of my people be, and my chosen shall long enjoy the work of their hands. They shall not labor in vain, or bear children for calamity; for they shall be offspring blessed by the Lord and their descendants as well."—Isaiah 65:17, 20–23 NRSV.

God, we pray that Your vision for Your people will become our vision as well. We pray that we will understand our role and responsibility in making that vision our victory. Save us from cynicism that would categorize Your vision as rhetoric and not reality, as promise but not practical, and as a way we should live instead of the way we can live.

Thus we pray for humility to use power. We pray for principles that are so deeply held that they override personal differences and overrule political expedience. We pray for the courage of our convictions and for faith that overcomes fear. Above all, we pray that we shall never forget that, beyond our constituency, we are accountable to You, our Creator, for our actions.

God of our weary years, God of our silent tears
Thou who hast brought us thus far on the way,
Thou who hast by Thy might led us into the light,
Keep us forever in the path we pray.
Lest our feet stray from the places our God where we met Thee,
Lest our hearts drunk with the wine of the world we forget Thee
Shadowed beneath Thy hand, may we forever stand.
True to our God, true to our native land.—
"Lift Every Voice and Sing," (African-American National Anthem), James Weldon Johnson.

In Your name and through Your grace, do we pray. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 27, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, on July 5, I wrote a letter to each Member of the Senate setting forth the schedule for this legislative period. In that letter, I stated that the education bill, a bill entitled "Improving America's Schools Act of 1993," would be a legislative priority and would be brought up during this legislative period. On July 12, I read that letter and had it placed in the CONGRESSIONAL RECORD. I also on that day placed in the CONGRESSIONAL RECORD a list of legislation which I intended to bring before the Senate during this legislative period, and that list included the education bill.

On July 21, I met with the Republican leader to discuss the schedule for this legislative period. During that meeting, I informed him that I would proceed to the education bill during this legislative period and probably sometime the following week, which is, of course, this week.

On July 25, this past Monday, the Senate began consideration of the Interior appropriations bill, and at my direction my staff notified the Republican leader's staff that the next legislative item would be either the education bill or the VA/HUD appropriations bill.

Therefore, Mr. President, each Member of the Senate has been on notice for several weeks that I would bring before the Senate the education bill, and that notice has taken several forms and been repeated over several weeks.

On yesterday, last evening, at my direction, my staff notified the Republican leader's staff that, having discussed the matter with the several chairmen involved in the various bills remaining, I concluded it would be best to proceed to the education bill today.

Accordingly, Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar Item 495, S. 1513.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COCHRAN. Reserving the right to object, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Mr. COCHRAN. Mr. President, I rise to reserve the right to object because I have been advised that there is a Senator on this side of the aisle who would like to speak on the motion to proceed to the consideration of the bill. I have not been advised how long the Senator would like to speak or for what purpose except to speak on the motion to proceed.

So I would hope, if the majority leader could, he would consider laying the motion before the Senate and our proceeding to discuss that, and then at some point it is my hope that we will be able to proceed to the bill.

As the majority leader knows, I helped craft some of the provisions of this bill with members of the committee. I would like to see the bill taken up. Therefore, I have no personal objection to proceeding to consideration of the bill this morning, but I am constrained to object if the unanimous-consent request is put before the body.

Mr. MITCHELL. Mr. President, I appreciate the Senator's comments, and I understand the position in which he finds himself. I wish to make an inquiry of the Senator regarding the length of time involved.

Last evening, I indicated that it was my intention to make this motion at 9 a.m. today. We were asked by our Republican colleagues in order to accommodate one Senator—I assume the same Senator—if I would wait until 9:30, which I agreed to do—now waited until 9:40—and I inquire of the Senator whether he has any knowledge as to when we might be able to get a decision in that regard. I am perfectly prepared, as the Senator knows, to accommodate a Senator's wishes and schedule in that regard, but it would be helpful to me if I had some idea of when these events might occur.

Mr. COCHRAN. Mr. President, if the Senator will yield, I can say that I am told the Senator who wants to speak is on his way to the Capitol and would like to have the opportunity to speak. I do not know when he will arrive or how long he will speak, so I cannot answer the question about at what time we would proceed to consider the bill under the unanimous-consent request.

Mr. MITCHELL. Mr. President, I regret very much the objection to the unanimous consent request. The only effect of this, of course, is to cause delay of the Senate's actions and to mean that at some later time this evening or Friday we will be in session longer than otherwise would be the case.

IMPROVING AMERICA'S SCHOOLS ACT

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, for the reasons stated—and I understand the Senator's reasons—objection has been made to the unanimous consent request, I now move to proceed to order No. 495, S. 1513, a bill entitled "Improving America's Schools Act of 1993."

The ACTING PRESIDENT pro tempore. The question is on the motion.

Mr. COCHRAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I hope that the debate on the motion to proceed will not inconvenience Senators who would like to proceed to consider the bill. But at this point, because there is a request for an opportunity to speak on the motion, my intention would be to suggest the absence of a quorum unless there are other Senators who do want to speak to the motion. I could certainly speak to the motion myself because I think we should proceed to the consideration of the bill and I will vote in favor of the motion when the motion is put to the Senate.

So I will be happy to yield the floor for that purpose. But I will not be able to consent to a vote on the motion now without the Senator who wants to speak being given the right to speak on the motion.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I am prepared to wait a reasonable period of time for any Senator to appear. I have never failed to accommodate a Senator in this regard, and I point out that I have already acceded to one request to delay this matter at the Senator's request. But I am in a position where, without any assurance of when it might occur, I feel the necessity of setting forth some kind of time period within which we will either have a vote on the motion to proceed or a procedural vote to compel the attendance of Senators.

I recall, humorously—the Senator said the other Senator is on his way to the Capitol. I recall once when Senator Baker was majority leader that a Senator called him and said, "Could you hold the vote? I am at the airport. I am on the way." He agreed to do it. Only later did he find out that he was at the airport in Philadelphia on the way. I know that is not the case here.

But I have no objection to a quorum call, unless the Senator from Massachusetts or the Senator from New Jersey wishes to speak. But I will say to the Senator that I am perfectly prepared to accommodate a Senator within reason. But if no one shows up in the near future, this is time when we could be working—instead we are just doing nothing—and I will make a motion to instruct the Sergeant at Arms to request the presence of absent Senators. But I will discuss it with the Senator and with the Republican leader's staff for a reasonable time.

I just want to repeat that every Senator has had nearly a month's notice of intention to proceed on this bill, increased regularly over the past several days, as I earlier stated, and we are going to do the bill. It is inevitable. The question is when we do it. And the more often we end up not doing anything in the morning we end up doing it at night, which I personally do not think is a good practice. But it is something we are forced into because of actions like this.

But I will yield the floor, and I assure the Senator I will not seek a vote on the motion or move to do a procedural vote without further consultation with the Senator and with the Republican staff so as to try to again accommodate the Senator involved.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it would be my intention, since it certainly appears that we will be debating this issue during the course of today and whatever time it takes to complete action, to outline the legislation itself, and I invite my friend and colleague, the chairman of the Education Committee, Senator PELL, Senator KASSEBAUM, and others to do likewise so that we will be prepared to move ahead with the amendments at the earliest possible time when we actually get onto the bill.

I see the Senator from New Jersey. I am glad to yield the floor for a question.

Mr. LAUTENBERG. I appreciate that. I would like, if I may, to make a statement regarding the Chaplain's prayer this morning.

Mr. KENNEDY. I am glad to yield for that purpose.

THE PRAYER

Mr. LAUTENBERG. Mr. President, if the Senator from Massachusetts will indulge me, I do appreciate it—and my colleagues also—because this morning we had an opportunity to hear from the Reverend Dr. William Watley, who is the pastor of the AME St. James Church in Newark.

As we heard from the guest chaplain's prayer this morning, he is a man of deep thought and interest in serving our constituents. I thought it was a particularly good message in this body to remind us. If I may just extend the chaplain's remarks a little bit to say kind of "get on with your business." I am hoping that we will do just that this morning.

Dr. Watley has a significant parish of over 3,000 members. He is someone who has taken time in his life to get the kind of education that prepares him so well for his assignment as a leader in the community, not just religious, but also on the activist side.

What he has done in a city deeply troubled by lack of resource, lack of opportunity, is to try to bring some light into that sea of darkness. He holds his church out as a place where people can gather, where people can learn. He is trying to build a school. He has never let up on his belief that the community can be a better place to live.

So I am delighted that we had a chance to hear from the Reverend Dr. Watley, and to wish him well and to commend to all of my colleagues in the Senate to take a minute, if they have not heard his prayer this morning, to read it.

I thank my colleague from Massachusetts once again for the courtesy extended to me.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Doctor, we welcome you, and we thank you for joining us here, and for that important ceremony.

We appreciate very much the remarks of the Senator from New Jersey.

IMPROVING AMERICA'S SCHOOLS ACT OF 1993

MOTION TO PROCEED

Mr. KENNEDY. Mr. President, in a hopefully short period of time we will begin action on the reauthorization of the Elementary and Secondary Education Act.

It is not an overstatement to say this is the most important reauthorization in this legislation's history. Our Senate bill incorporates many of the excellent proposals sent to us by President Clinton, and it reshapes the manner in which the Federal Government supports public schools across the Nation. It authorizes $12.5 billion next year for support for local schools, and $60 billion over the next 5 years.

At the same time, the committee bill recognizes the need to simplify the current programs within the overall framework of the Goals 2000 education reform legislation that we enacted at the end of March.

At the heart of both Goals 2000 and the pending bill is one clear idea. American students—all students, including those with few advantages—can meet high standards of learning if we commit ourselves to the task and if all levels of government—Federal, State, and local—coordinate their efforts.

S. 1513 has broad, bipartisan support. It passed the Labor and Human Resources Committee on June 15 by a vote of 16 to 1. Since that time my colleagues and I have worked to incorporate changes important to both sides of the aisle. It is gratifying that in bringing this measure before the Senate, Senator PELL and I have the strong support of both Senators KASSEBAUM and JEFFORDS, and other Members who have made important contributions to the legislation.

Since the last reauthorization in 1988, over 20 reports on ESEA have been commissioned by the Department of Education. Five major independent studies have been completed. S. 1513 reflects nearly all the recommendations of those reports and commissions.

It also reflects what we were told by the witnesses at the 12 hearings we held on this measure in the Subcommittee on Education.

One of our most persuasive witnesses at the hearing was Gary Hocevar, a former State legislator who is now the principal of the Van Buren Middle School, an award-winning school that serves a very diverse group of students in Albuquerque, NM.

Mr. Hocevar, who is active in the National Urban Reform Network, told us:

> You have the opportunity to craft ESEA and other child-related initiatives in ways that actually support, rather than hinder, the day-to-day efforts of front line pioneers. * * * If you take this opportunity, our progress will be the mark of your success.

We have heard Mr. Hocevar and thousands of others across the country who are the frontline pioneers—principals and teachers charting a new course, working with students every day.

S. 1513 is based on six principles. First, schools should not hold disadvantaged students to a different, lower standard from the standard they apply to other students in their school. S. 1513 requires States to develop standards in at least reading and math for use by all students in the State, including title I students. We also require new assessments that measure the progress of students in reaching those standards, and these assessments have to be the same for everyone. The days of special, dumbed down tests for low-income pupils are over.

At the same time, we are not dictating to States what standards they should have and what tests they should use. Each State will develop their own performance standards and test students using a broad range of assessment tools.

Second, S. 1513 increases support for the schools that need it most. Without drastically reducing chapter 1 funding to affluent districts overnight, we target new money to the neediest schools so that they can undertake major reform projects. Research is very clear that low-income students attending schools with high concentrations of poverty learn the least. The committee formula weights students according to the concentration of poverty in their districts. With insufficient dollars available to serve all students, it is essential to serve those who need help the most.

Third, the bill recognizes that schools need more flexibility to consolidate funds from small programs so that they can design comprehensive, coherent reform plans. Today, Federal assistance under ESEA is splintered into dozens of different programs, each with its own limitations and requirements. As a result, it is difficult for Federal aid to be used to fund the kind of large-scale innovative programs that schools so urgently need.

The bill also amends the General Education Provisions Act to streamline the waiver process, so that it is easier for States and school districts to receive waivers from Federal regulations to carry out their reform plans and use Federal dollars more effectively.

In addition, under the bill, we will no longer have federally designed reporting requirements for title I. Instead, we allow States to differentiate themselves. Each State will choose or create its own assessment to measure the progress of its students. Each school district will use its State's assessment, but it can also add its own measurements if it chooses.

Fourth, we have amended chapter 1 so that more students will stay in their regular classrooms. Most chapter 1 programs pull students out of their regular classrooms to attend special supplemental courses.

This pull-out approach was intended to ensure that chapter 1 funds are targeted only to needy students. But it has also created a new kind of segregation in our schools, isolating disadvantaged students from their peers and condemning them to a second-class education.

While these students are attending special courses, they are missing the more interesting and demanding work their classmates are doing. Research indicates that disadvantaged students actually learn more effectively when they are held to the same high standards as all students.

S. 1513 changes the percentage of eligible students needed by a school in order to serve all the students in a school from 75 to 30 percent. Thirty percent is the point were research shows that the concentration of poverty affects student learning. To ensure accountability, to make sure that disadvantaged students are still helped, and to prevent the funds from going into swimming pools and sports equipment, we require schools to pull out the test results or title I eligible children, so that their parents and all of us can make sure they are being served and are making progress.

Fifth, the bill invests more in the Nation's teachers. It makes no sense to provide Federal aid for education, if we neglect the single most important component of any education program—the teaching.

The bill contains two main provisions for teacher development:

The Eisenhower Math and Science Program and the chapter II Block Grant Program become a new Eisenhower Professional Development Program authorized at $800 million a year. The funds will be available to each State and school district for professional development only.

Each school must set aside 10 percent of its title I funds for professional development activities. Teachers across the country have told us that they need time to work together and to find new ways to help students reach higher standards. This provision will guarantee that funds are available at the school level for them to do so.

We have also created a small demonstration program at the national level to enable the Secretary of Education to develop a few model programs for the organizational arrangements and investments that will be needed if higher standards and assessments are to lead to improved outcomes for all students. These demonstration projects will combine the preparation of new teachers with ongoing professional development activities in schools.

Sixth, the bill invests in education technology. New technology is transforming all sectors of our economy, from health care to manufacturing to retailing, yet most classrooms lack even a telephone, let alone a computer. If students are to acquire the skills they need in order to function effectively in today's high-technology workplace, we must give them the opportunity to work with technology in the classroom.

Title III of S. 1513 is the Education Technology Program that Senators BINGAMAN and COCHRAN and I sponsored to help the poorest schools pay for new computers, electronic network links, and teacher training in technology. It will provide technical assistance to the schools, and encourages development of new educational software and programming.

Finally, S. 1513 includes provisions that will make it easier for schools to coordinate health and social services for their students. If a local education district chooses, it can use title I funds for this purpose. Education can help offset poverty, but schools cannot do the job alone. They must have help from others in the community. Under this legislation, schools can use title I funds to make it easier for agencies and health centers to coordinate their efforts with schools, so that more students can be served.

The bill also places a great emphasis on making schools safe. It is our intention that funds in title V, the Safe and Drug Free Schools Act, be used for violence prevention as well as drug prevention. These two problems are often interconnected. By acknowledging that fact, we hope to give schools support for making classrooms more effective places in which to learn.

S. 1513 continues many specific programs designed for specific purposes and for particular students. Because of the budget freeze and the need to emphasize new approaches, the administration had proposed to eliminate many of these programs, even though some of them were very successful and served students well. Among those programs, for instance, are measures to increase the achievement of girls and women in our classrooms, the Woman's Educational Equity Program. Last week, I was very proud to be the Senator from Massachusetts, the State that was home to two of the six members of the victorious U.S. team in the International Mathematics Olympiad. Two of our students, Noam Shazeer from Swampscott and Jonathan Weinstein from Lexington each received a perfect score, and helped the United States to defeat students from 70 countries. Without detracting from their great achievement, I hope very soon we will have a Norah and a Jennifer on our team as well as Noam and Jonathan. The committee chose to preserve many of these programs, but we are continuing to explore various alternatives.

This legislation is among the most important measures this Congress will consider. Public education in America is in more trouble than any of us like to admit. A system that has served this country so well for so long needs far-reaching reform. Like health care reform, the challenge is complex, with no easy answer. The Improving America's Schools Act, S. 1513, is an important part of the answer.

Mr. President, finally, I hope that our colleagues will look at the totality of what we on our committee, in a bipartisan way, have tried to do in terms of the areas of education and investing in our children. We have extended the Head Start Program to provide help and assistance to expectant mothers. The extension of the Head Start Program of the zero to three will help those young individuals to begin to build some self assurance and self confidence and help them in terms of developing problem solving skills.

We have tried to bring about a greater flexibility in the chapter 1 program, give greater flexibility at the local level, and still try to balance and make sure the funding was going to be provided in the areas where there is the greatest need in terms of young children who are disadvantaged.

We also see our Goals 2000 to try and find a bottom-up forum with support coming from the top, so we are going to be able to get the education reform that is generated at the local level from the school and school districts that are really going to establish and raise that bar in terms of the education standards and challenge the young people in our country.

We have also seen that this is not unrelated to the Community Service Program that also is being developed within our school systems in terms of the Serve America Program that has the component of a program developed by students that has an educational component and also sees that the community can get the seed money in order that young people are going to be able to serve their community and try and help and assist many of their colleagues.

The Community Service Program, that is an outreach program, has many different features to it, but one of them is to try to route and enroll 400,000 young Americans who drop out of schools every year and be an additional kind of net to try to bring them back into the system, both in terms of their educational development and also in terms of the service to the community.

There the actions that we have taken at higher education to move toward the testing in terms of the direct loan program and also on a tuition contingency income payback to permit young people not just to be driven to the higher price or higher wage professions but also to be able to fulfill their own ideals if they do so want to be of service to the community and also the School-To-Work Program to try to help and assist those 65 percent of our young people who are moving out of high school to move them into the private sector and in a more competent way that will give them a greater opportunity in terms of the future.

All of these components really are part of a total kind of this Nation's commitment in terms of the investment in the children of this country, and this element in terms of the reauthorization of the chapter 1 program is a natural key element. It is really in many respects a building block because all of us have come to the recognition that the earlier kind of intervention and involvement is absolutely key in terms of the young people's development and evolution.

So this is an extraordinarily important piece of legislation. It is, as we have indicated, under the leadership of Chairman PELL in that subcommittee. It was virtually a unanimous vote of Republicans and Democrats alike. Now we had the strong bipartisan, the overwhelming majority of the Members of the committee, in reporting to this body.

So we all are grateful to our Members, grateful to the excellent work that so many of our staffs have provided, and I will mention more about that later as we move forward.

I certainly hope that we will move. I know that there are matters which will be debated. I am grateful for those Members who have indicated that they will offer amendments.

At the opening session now we are inviting those Members who will have amendments to notify us at the earliest possible time so that we can give them the consideration and try to work with those Members where possible to respond in a positive way, if possible, to recommendations and suggestions.

This has been an evolving process. We had evolution in the development of the program in the subcommittee, in the full committee, and also great work prior to the time that we have reached the floor, a very constructive period of time that we have worked with our colleagues. And I am very, very hopeful that we can continue that spirit as we go on through the course of the debate.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the Senator from Massachusetts for the kind words, and my colleagues for permitting me to go ahead.

Mr. President, few things in life are more important than the education of our children. They are the living legacy we will leave behind, and the quality of the education we provide will in no small measure determine the future health and strength of the American Nation.

For over 29 years the Federal role in education has been a small, but extremely important one. We have sought through the title I Program, for example, to help fashion a level playing field upon which all children have the opportunity to learn. Our efforts have been focused, and targeted particularly upon the educational needs of children from less well off families.

In the past we have sought to ensure that children in need learn the basic skills they must have in order to function well in our society. Unfortunately, in today's society, as important as the mastery of basic skills is, it is not enough. We must make sure that children in need are taught to the same high academic and performance standards as other children. We must do what we can to ensure that American education, overall, is an education of excellence. In essence, that is the thrust of the reauthorization bill we have before us.

Early in the reauthorization hearings, I said from a Federal perspective, the Goals 2000 legislation set the stage for education reform, but the play would be acted out in this bill. I believe that statement when I originally made it, and I believe it to be even more true today.

This is a $12 billion reauthorization. In program after program, in provision after provision, we state in clear and unequivocal language that we expect all children to be taught to challenging State academic and performance standards. We expect new and better assessments that measure complex skills, emphasize written work, and serve important diagnostic purposes. Forty-four States are already putting such standards and assessments into effect, and others would undoubtedly soon follow.

In short, we want American education to be an education of excellence and second to none in the world. Given the current state of American education, that is a massive undertaking. I believe deeply, however, that we should not and, indeed, cannot shy away from that challenge. The education of our children demands that we do no less.

While we expect all children to learn to challenging State academic and performance standards, our concern at the Federal level is that children who are less well off also do well and do not get lost in the shuffle. This is a special Federal responsibility. While the Federal contribution to education is small, its contribution to the education of poor children is very significant. It may be only 62 percent, but it has a very real impact. Today, over two-thirds of all of the money spent on compensatory education for poor children comes from the Federal Government.

In some areas, such as dropout prevention, bilingual education, magnet schools, gifted and talented education, and women's educational equity, we focus on special populations, but we do so within the context of high expectations of all children. In other areas, such as professional development, safe and drug free schools, and educational technology, our concern is an overarching one. We want the school to be a safe haven for learning, one in which teachers and staff are constantly upgrading their skills and knowledge, and one where all have access to and an understanding of state-of-the-art methods of learning.

Throughout this legislation we also place a new emphasis on involving parents in the education of their children. Parents need professional development as much as teachers and staff do. We must have ways of more effectively involving the parent in education. Sometimes this will mean helping the parent learn. At other times, it will mean showing the parent how they can help their children learn. Often it will mean bringing the parent to the school in conferences with teachers and staff. Sometimes it will mean bringing teachers and staff to the home to meet and confer with parents. But no matter what, I believe we all agree that more intensive parental involvement in education is an absolute necessity.

We also focus upon several special areas where we believe there is considerable merit for special programs. Through Arts in Education and the Cultural Partnerships for At-Risk Youth, we seek to bring the rich benefits of the arts and humanities into our children's education. Through "We the People," "Close-Up," and the mock-student parent election, we seek to improve the understanding of our system of Government and how it works. Through professional development we seek to improve the quality of the teaching, administrative and support staff in every school in America.

In no area is our work more important than in title I, by far the most important program in this reauthorization bill. Here we seek to ensure that high academic and performance standards are brought to all children, but we pay special attention to making sure that less well off children, the very children who have been the focus of this program since its inception 29 years ago, receive the same high quality instruction as other children.

In title I we also include a special emphasis on professional development because we recognize that a good, strong education relies upon good teachers and staff, and the meaningful involvement of parents.

We also target funds more precisely than we have ever done before to make sure that those districts and schools that need the help most get that help from the outset.

We not only make adjustments to the Orshansky formula but also add new incentives linked to effort and equity. The effort incentive recognizes States that place high priority on education. The equity incentive, which grew out of the school finance hearings held by the subcommittee, recognizes States that have brought an important measure of equity to their education spending.

I would be the first to admit that the formula is not perfect. It is, however, well-balanced and I believe fair. No State loses, and while some States may gain more than others, the gains are reasonable and justifiable.

In State after State, in district after district, and in school after school, the winds of education reform are sweeping our country. What we have sought to do in this legislation is fashion Federal programs that spur, respond to, and aid reform. Equally important, we have sought to accomplish our objectives under the umbrella of bipartisanship that has traditionally been the hallmark of education legislation. This legislation has been approved by both the Education Subcommittee and the full Committee on Labor and Human Resources with only one vote in opposition.

Mr. President, all Members of this Chamber share a common concern—we care deeply about the education of our children. That concern is the hallmark of this legislation, and because of that, I believe it merits swift consideration and passage.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, as I stated earlier, I have given notice over several weeks, in writing and orally here on the Senate floor and printed in the CONGRESSIONAL RECORD, that we would be proceeding to this bill during this period of time.

Last evening, I expressed my intention to attempt to proceed to the bill at 9 a.m. this morning. I was then asked by our Republican colleagues to wait until 9:30, to accommodate a Republican Senator. I agreed to do so.

At 9:30, I was then asked again by our Republican colleagues to wait until 10 to accommodate a Republican Senator. I agreed to do so.

It is now 10 past 10 and I have just been advised that we can have no assurance as to any time on this matter. Therefore, we are in a position of not being able to proceed to the matter because of a delay and I can have no assurance as to the period of that delay; that is to say, I am told there is going to be, apparently, an indefinite delay.

Therefore, I have no alternative but to do that which I indicated earlier I would do.

I will shortly suggest the absence of a quorum. I will then ask for a recorded vote on a motion to have the Sergeant at Arms request the presence of absent Senators. And I will, as soon as I can get the signatures on a motion, file cloture to bring this to a close.

We have to have this matter resolved one way or the other. We are now in a position of doing nothing and we cannot get any assurance as to when we may be able to do something.

Therefore, under the circumstances, no alternative is left to me but to proceed in the manner which I have suggested.

I will state that after the vote on the motion to request the presence of absent Senators, if no one is here debating the motion and in effect filibustering, then we are going to have the Chair put the question. I want every Senator to have ample notice of that before acting in that regard.

So, as soon as the vote on the motion to proceed is over, if no Senator is present to filibuster, then we are going to have the motion put.

QUORUM CALL

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 4]

Jeffords
Kassebaum
Kennedy
Kohl
McCain
Mitchell
Pell

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. MITCHELL. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Connecticut [Mr. DODD] and the Senator from Iowa [Mr. HARKIN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. CRAIG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 20, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—77

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Danforth
Daschle
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gregg
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—20

Bennett
Breaux
Brown
D'Amato
Faircloth
Gramm
Grassley
Helms
Kempthorne
Lott
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Pressler
Smith
Specter
Wallop

NOT VOTING—3

Craig
Dodd
Harkin

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. MITCHELL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. We cannot proceed until the Senate is in order. Conversations will cease.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is the motion to proceed to S. 1513.

Mr. HELMS. Mr. President, I cannot hear.

The PRESIDING OFFICER. S. 1513.

Mr. HELMS. I suggest the absence of a quorum until you can get order.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the motion to proceed. Is there debate?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, we are in the process of debating a motion to proceed to a bill which, obviously, is an important bill. Clearly, it is a bill in which many Members of the Senate are interested. But it seems to me that there are a lot of other issues that are more important.

When we have a great debate going on in the country on health care, when we have buses running up and down the road urging people to support the President's health care plan, and when people ask, "Well, which health care plan?" and supporters of the President's plan say, "Well, not the old health care plan, but a new health care plan"—yet there is no new health care plan—it seems to me, Mr. President, that we have reached the point where we are no longer talking about a health care debate; we are talking about an agenda. And the agenda, it seems to me, is to pass any health care bill rather than trying to deal with a specific set of problems.

The point I wanted to make today, while everybody is deciding what they are going to do about the education bill, is the following: before we all get into a political debate, I think it is very important that we define what we are trying to do.

I think it is very important that if the President, who has a bunch of people in my State today going in all kinds of directions but generally in circles, wants to ask people to vote for his new health care plan, even though the American people in overwhelming numbers have rejected the old health care plan, I think it is incumbent on the President to tell people what this new health care plan is. How does it treat working Americans? Does it force people to give up their health insurance and to buy health insurance through a Government-run cooperative? What does it do in terms of taxes? Does it tax health insurance benefits, as the Finance Committee bill does?

As many of my colleagues are aware—and I am not sure all are—the

Senate Finance Committee bill imposes two new taxes on health insurance benefits; one, an across-the-board tax that will tax every premium paid by every American for private health insurance, and then another tax, a 25 percent tax, that will be imposed on the 40 percent of American families that have the best private health insurance.

Mr. WALLOP. Will the Senator yield for a question?

Mr. GRAMM. I will be happy to yield.

Mr. WALLOP. I noted that the Senator referred to the Senate Finance Committee bill. Has that finally been reduced to print so that other people can see it, or are we still talking about this fantasy that was marked up in the Finance Committee and turned over to the staff to turn into bill language while we went on a holiday, and now that is not going to be any good because we are told that the majority leader and others are crafting a bill behind closed doors in secret? Has the Senator seen a plan, a bill from the Finance Committee?

Mr. GRAMM. Well, the distinguished Senator is a member of the Finance Committee.

Mr. WALLOP. That is why I asked, because I have not seen it.

Mr. GRAMM. I do not have the privilege to serve on that committee, and therefore I did not have an opportunity to see if in fact there was real language. I had heard that there might be a bill, though according to press reports, it looks as if the committee just voted on concepts.

My point is this: We cannot enact concepts. We have to debate what the President proposes. We have people running up and down the highway in buses saying, "Vote for the President's health care plan," yet the President cannot tell us what the plan is. When the President has had a year and a half to convince the American people that his health care plan was good, he cannot claim he failed because he did not have a big megaphone. He has not failed because he is not a great salesman. He has not failed because the First Lady is not a great saleslady. He has failed because he has a bad product. He has failed because he has been unable to convince the 85 percent of Americans who have private health insurance that they should lose their health insurance and be forced to buy health care through a Government-run collective in order to help the 15 percent who do not have it.

My point is this——

Mr. WALLOP. Will the Senator yield for one last question?

Mr. GRAMM. I will be happy to yield.

Mr. WALLOP. If it does in the course of the day or sometime soon happen to befall to the Senator that he comes across the Senate Finance Committee plan in bill language, I would hope the Senator would share it with the rest of the Senate. We are going to be asked to go to debate next week and we have not the foggiest notion what we are going to debate, except the bill we are being asked to debate is being crafted behind closed doors.

A seventh of the American economy is being crafted behind closed doors, in secret, and we are going to be asked to make decisions that affect the lives and times of individual Americans, groups of Americans, elderly Americans, young Americans, healthy and infirm, without having the foggiest notion what that is.

The Finance Committee does not have a bill, and if the Senator comes across it, share it with the Nation, because most of us are going to want to have something upon which to run our debate.

Mr. GRAMM. I would like to say, Mr. President——

Mr. KENNEDY. Will the Senator yield for a question?

Mr. GRAMM. I would be happy to yield.

Mr. KENNEDY. Just as a point of information. We have this legislation that was reported out 16 to 1, bipartisan, and it is enormously important to the school children in this country. I see a number of my colleagues on the Judiciary Committee, of which I am a member, that are now in the process of marking up the crime bill, as well as on the Armed Services Committee, that are present here. They were interested in addressing the issues which, hopefully, we will have before the Senate.

I am just wondering, inquiring of the Senator from Texas, whether he is going to permit us to get about the business which has been outlined by the majority leader, to permit us to begin the debate on the elementary and secondary education program which has bipartisan support.

Just as a matter of inquiry, I am wondering whether the Senator is prepared to proceed.

I would ask the majority leader and minority leader to designate some time, obviously, and, as he always has, to permit general comments on legislation and on the legislative agenda. But I am just wondering, since the principals are here, Senator KASSEBAUM and Senator JEFFORDS, who are cosponsors in support of the legislation, have not been able to speak to the legislation that we hope to address—Senator PELL and I have—just in the order of things I would like, as a point of information and courtesy to Members on both sides, to have some idea as to what the intentions of the Senator are.

Mr. GRAMM. Let me say to the distinguished chairman, I do not have a dog in this fight. I had understood there was an objection to proceeding to the bill. We have had a real dearth of morning business. Since we have all these bus riders pushing the President's plan—I hope they are buying Texas gasoline—I am getting all kinds of calls from my State from people asking what I think of the President's new bill. And I simply wanted to take this opportunity, while I assumed others were working out your problem, to express my concern that I am being asked to engage in a debate on a bill that I have not had an opportunity to see, and no one else has had an opportunity to see.

I was simply expressing, No. 1, frustration, and, number two, a growing conviction that what we have here is not a health care plan but an agenda. And the agenda is basically to try to pass any health bill because the President has gotten so far out on the limb on this issue. While it is clear that his initial idea has been rejected, rather than saying, well, maybe we ought to rethink this thing, maybe we ought to go back and look at some other ideas, and maybe we ought to come back next year and have a real debate on a real bill, what we are seeing is the promotion of an agenda.

Now, that is the point I wanted to make. But I do not have a dog in the fight on this bill. I just assumed others were negotiating, and since we have not had any morning business, I was simply trying to take this time, assuming others were working out your problem. But I am not your problem.

Mr. MITCHELL addressed the Chair.

Mr. STEVENS. Will the Senator yield?

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. STEVENS. Does the Senator have the floor?

Mr. MITCHELL. Mr. President, there are no other negotiations, so the Senator's assumption is incorrect. And if he is not trying to delay this bill, might I ask if he would permit us to have a vote on the motion to proceed, and I will then ask unanimous consent that he can speak for 10 minutes on whatever subject he wants.

Mr. GRAMM. Mr. President, I do not object to a vote on the motion to proceed. I assumed that we had negotiations underway, and I simply was trying to speak on this subject.

Did the Senator from Alaska want me to yield for a question?

Mr. STEVENS. I would be pleased to be recognized in my own right before we are through.

Mr. MITCHELL. The Senator has that right.

Let me make clear, Mr. President, we are trying to begin debate on the elementary and secondary education bill. It was reported out of the committee by a vote of 16 to 1. I have given notice over several weeks of our intention to proceed to the bill.

We are being prevented from doing so by Senators who have objected to our bringing the bill up. We now have a motion to proceed to that bill before the Senate. We will have a vote on it when Senators are prepared to do so. These talks merely delay the vote on it. Whether it is intentional or not, I do not know. That is the effect of the debate now going on.

Senators do have a right to debate it, of course, if they wish to do so. That is their right. But what it does is it prevents us from proceeding to the bill. It also prevents us from acting on other cases. The Senate is spending hours in the morning doing nothing other than delaying something, and then we have to be here in the evening voting. And Senators ask, "Why are we here in the evening?" Well, we are here in the evening because we are prevented from proceeding to legislate in the morning.

Certainly, Mr. President, the Senator from Alaska has the right, as does any Senator, to address the Senate on this matter.

Everyone should understand that we are now having a delay because of an objection by our colleagues to proceeding to the elementary and secondary education bill. I hope we can get to the vote on the motion to proceed promptly.

Mr. KENNEDY. Mr. President, I just remind our Members that even though there was an objection to proceeding, we were still moving the process ahead because we were addressing in the presentation the essential aspects of the bill.

I see Senator KASSEBAUM and Senator JEFFORDS, who I know want to address this as well. So the process was basically moving ahead as the objection, whatever that is, was going to be evaluated by those who are going to object to making some decision with leadership as to the manner in which we proceed.

So even though there has been some objection, we were at least moving the process of the debate and the discussion on this very, very important legislation.

So to the extent that Members can permit that process of the statements and comments prior to the time that the leader puts the question, I hope that we can have as much cooperation on this as possible.

I thank the Senator.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have not objected to taking up the education bill, and I do not intend to do so. I do want to make a comment.

We had arranged for a series of special orders this morning to speak on other subjects. When I got home very late last night, I found a notice that it had been canceled. Some of us are very disturbed about the process on the health care bill. I am one. I have spent several days, as a matter of fact, going over some notes and looking into the history of the catastrophic insurance bill that was passed and then repealed. I was prepared to make those comments.

I find, I think, on the part of some servants that we have here now, the fact that there is no regularity in really assigning the time for Senators to make short statements on subjects of great concern to us.

My State is probably more adversely affected by any of these health care bills than any other State. It is one-fifth the size of this Union, with about one person per square mile. When you look at that, and realize that over the last 3 years, we had a series of meetings in my State, and after all those meetings people asked me, "When you get the final version of the bill, will you come back and let us discuss that," that is the message I hope to present to the Senate when I get the time for a special order.

I am not going to do it now. But I do think we have to have some similarity in terms of when we can make statements on matters of great concern to our States.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, we are being asked to take up a bill with some 1,300 pages. The majority leader and the Senator from Massachusetts have just told us that this has been voted out, and has been—I think for 7 weeks—ready to go to the floor. That at least implies that Senators may have had a moment or two to look at it.

But the health care bill is going to be this size, Mr. President. We have not gotten it yet, and we are going to be asked to cram that in before an August recess. And it is going to affect more American lives than this will, and for a longer future than this will.

This is a very complex piece of legislation. I doubt that even its managers know each and every page of it. But at least it has been out for a time when people might have had an opportunity to examine it.

But the health care bill is being drafted behind closed doors. And it is going to be this size, and we are going to be asked to make judgments on behalf of the American people in a collapsed period of time, when Senators are anxious to go out and campaign, especially on that side, because of the trouble that is abroad in the land.

This is just not a very easy moment in time for us to understand why we are going to this when the health care bill continues to be promised and never shows up.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I would like to answer the Senator from Wyoming for a moment, if I may. It is daunting to look at this bill. But let me just say almost half of it is the proposed administration bill which has been crossed out. And of course, this is now the committee substitute. So it is not quite as long as it might look, and you would need to go to page 452 before we start with the legislation under consideration.

Mr. WALLOP. The Senator makes my point; that I mean this is even shorter than the health care bill. We have 400 pages of it which are not relevant to us. But that still leaves 900 pages that are. I am saying that it has at least been around for 7 weeks, according to the majority leader. We would have at least less of an excuse for being daunted by it than we will by being daunted by a health care bill which is going to flop on our desks on Monday morning or Friday night, or some other day, and we will be asked to consider it. And it will have, I believe, far, far more effect on the lives of ordinary Americans, middle class and others, should that take place.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, all I would say to the Senator from Wyoming, and to others who are listening, is that the committee spent a lot of time looking at the reauthorization of the Elementary and Secondary Education Act, which has been in effect for some 30 years. I do not want to compare it to health care. That is not what I am engaged in at this moment.

Mr. WALLOP. May I say I am not comparing it to health care. I am comparing it to the process by which we are about to proceed. I am not standing in the way. I am perfectly willing to let us go to a vote.

But I will say, in answer to the Senator from Alaska, that one of the reasons these kinds of procedures are necessary is, frankly, because we were denied the opportunity to speak in normal routine morning business this morning, when that had been the view that some of us had before we went to bed last night.

The PRESIDING OFFICER. Is there further debate?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am going to make some remarks that I would have made this morning had there been a period for morning business. But I left here I believe when the distinguished manager of the preceding bill left. He and I were under the impression that there would be an opportunity to speak this morning. Then, when I checked the situation with respect to today's schedule, I found that there would be no time for morning business.

(Mr. ROBB assumed the chair.)

The majority leader is doing exactly what he said he would do for the record at the close of business yesterday. I am not concerned about that. But there were several of us who wished to talk about the health care matter. I had not proposed yesterday to speak long this morning, and I shall not. But I did want to make the point that in the debate thus far on health care reform, one solution has been given extremely short shrift. This is a solution that many businesses have already successfully used to keep their health care costs down and their employee satisfaction up. Of course, I am referring to giving individuals an incentive to spend health care dollars wisely. How is this being accomplished in many places across this country today? How do you accomplish it? You turn part of the savings over to the employees.

I know personally of several private companies that have used cash incentives and medical savings accounts to cut their health care costs while keeping employees satisfied with their health care.

One company that successfully has used this kind of incentive-based program cut its health care costs significantly. In 1992, Forbes magazine was spending $2.3 million a year for health care insurance from CIGNA. This averaged about $5,000 per employee. In an attempt to make employees more cost conscious, Malcolm Forbes, Jr.—better known to those of us who are his friends and claim him as our friend as Steve Forbes—decided to give his employees a bonus for not filing major medical and dental claims.

Steve Forbes brought the choice to his employees. If, during the year an employee kept to a minimum the number of claims filed with the insurance company, Forbes would pay the employee a bonus of up to $1,200. Employees enthusiastically embraced this plan, and what do you know—insurance claims dropped dramatically. This year, while the premiums for other CIGNA clients rose between 21 and 25 percent Forbes' major medical premiums fell 17.6 percent.

Back in April, I invited Steve Forbes to come to Charlotte, North Carolina and meet with about 400 businessmen at a luncheon. I asked him to discuss, among other things, that health care plan operated by his company. And I know of 350 or 400 businessmen who are solidly sold on this plan because they now know that the lesson learned from the Forbes example is that people can control their health spending if they get to keep the savings. It is pretty good discipline on the insurance companies as well. Of course, those who are really sick filed the necessary claims, and they received less of a bonus. Those who decide to pay out of pocket for routine health expenses rather than file claims—and that is a lot of paperwork—these people get the bonus at the end of the year that I referred to earlier.

So one of the things that ought to be injected into this discussion about health care—instead of running all over the country in buses—is consideration to this kind of common sense solution. All I have heard is a series of invectives accusing those of us asking questions as being "better off" in health care. Well, I will say to Mrs. Clinton that we have the same health care that she and the President have. I do not believe she would turn any of hers down, and I have not heard of the President turning any of his down.

But in the case of a Forbes company employee who regularly needs four different prescriptions filled, this has happened. As a result of Forbes' bonus program, this employee now has a reason to shop around for the best price for prescriptions. Before, he did not care. He did not give a hoot about how much a prescription cost because insurance paid for it. We all know that when insurance pays for every nickel and dime claim, we all pay in the form of higher insurance premiums—and lower wages, by the way.

Forbes is not the only company to benefit from an incentive-based program. Dominion Resources, which is a public utility very much in the news these days, is a public utility holding company in Richmond, VA. That company has also developed an innovative method of reducing its health care expenses. This method is called a medical savings account.

Here is how this MSA works: The employer—in this case Dominion Resources—buys its employees a health insurance policy with a high deductible.

This kind of policy has two beneficial aspects:

One is that it protects the insured against catastrophic health care expenses.

Second, it has cheaper insurance premiums because of the higher deductible.

The employer sets up a special account for each employee to pay for routine medical bills that the employee will now handle on his or her own. What the employee does not spend in this account, he or she gets to keep. This incentive encouraged 75 percent—three out of every four—of Dominion's employees to enroll in that high-deductible plan.

Guess what? Since 1990, Dominion's health care costs have risen less than 1 percent per year.

So, Mr. President, a lot of us are weary of hearing that the American people are not smart enough to spend their own money.

These two examples out of many prove that the employees are smart when given an opportunity, when given a choice.

It is tiresome to continue to hear this old "Government knows best" routine: We have to do this. We have to mandate that. We have to demand this. The President says that Government can make better health care decisions than the American people can, and I do not believe that.

Americans do not need a Government commission to make health care choices for them. Individuals should be free to make their own health care decisions, and any legislation that is passed by this Senate jolly well better give the beneficiaries a choice instead of saying, "You are mandated to do 'x,' 'y,' or 'z'."

If we ensure freedom of choice, Americans can determine what is best for their families.

Now, the Forbes case and the Dominion Resources case, as I say, are only two examples of private industry taking the bull by the horns and coming up with health care solutions that work. These incentive-based solutions work for the company and they work for the employees. Gerald Musgrave, an economist, had this comment.

He said:

> We have thousands of years of experience with how people handle their own money.

Why not let Americans continue to handle their own health care dollars and help them realize their role in cost savings. Time and time again, Americans have shown that they do make cost-conscious health care decisions when given a financial incentive to do so.

Mr. President, I ask unanimous consent that a recent Reader's Digest article further detailing both the Forbes and the Dominion Resources solutions to the high cost of health care be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HERE'S HEALTH-CARE REFORM THAT WORKS

(By Rachel Wildavsky)

Each year the typical American business spends a whopping 12 percent more than it spent the year before to buy health insurance for its employees. No wonder employees—even those who are now well covered—are nervous. Will I still be covered in ten years? What happens if I lose my job?

One result is "job-lock"—employees who are not able to quit because they fear becoming uninsured. Meanwhile, U.S. businesses struggle under the insurance load, severely handicapped in increasingly competitive world markets. Employees are paid less, laid off or not hired in the first place. The result?

A loss of both jobs and opportunity for millions.

To many, rising health-care costs seem like an unstoppable upward spiral. Provoked by these fears, the Clinton Administration is drafting legislation to control costs through radical changes in the system, despite evidence that our health care remains the best and most versatile in the world.

Is such drastic change really necessary? Without any changes in the law, some companies have stepped off the health-care escalator, with no loss to their employees and even with some employee gain. Before we let the government take control of our health-care spending, we need to understand the solid, easy concept that worked for these businesses. If more broadly applied, the idea they used on a small scale could help rescue American health care from possibly dangerous "reforms." In the process, it could save big money and help expand health coverage to those now without coverage.

Cash Incentives.—At Forbes magazine, as at most businesses, major-medical insurance premiums are based in part on company claims submitted the year before. By the mid-1980s, a "good" year meant premiums rose only ten percent. In 1990, a bad year, they were up 30 percent. By January 1992 Forbes was paying $2.3 million a year for health insurance—almost $5000 per employee. Even though employees chipped in through payroll deductions, Malcolm S. Forbes, Jr., president and editor-in-chief of the family-owned business magazine, realized the situation couldn't continue.

Forbes knew he had to persuade employees to be more cost-conscious. The problem was that they had no incentive to do so. Like most Americans, their health care was paid for on a "use it or lose it" basis. There was no reason for an employee to make the effort to spend health-care dollars more carefully. So, Forbes figured, why not give employees a bonus for not filing major-medical and dental claims? Such a plan would hurt no one—health insurance would still be there. Sick employees could still use it, and he knew they should and would. The only penalty would be not getting the bonus.

In December 1991 Forbes offered its employees a deal: if, during the year, an employee filed major-medical and dental claims totaling less than $500, Forbes would pay that person double the difference between $500 and what the individual filed. Suppose an employee and his family had $900 in medical expenses. If the employee filed them, the most the insurer could reimburse him would be $900 minus his deductible and co-payments (the portion of the bill the employee is responsible for beyond the deductible). He would be out a few hundred dollars, and since his claims were over $500, Forbes would pay him nothing.

However, if he filed no claims for those expenses, Forbes would give him $1000. (Five hundred dollars minus zero, for no claims, comes to $500; doubled, that $1000). This would put the employee $100 ahead even after he paid his bills. To hammer the incentive home, Forbes would pay whatever taxes the employee owed on the bonus.

In other ways, employee's costs rose. Deductibles, for instance, came up from a maximum of $300 to one percent of the employee's gross salary. Employees' contributions to their premiums also rose slightly.

Still, the staff at Forbes enthusiastically embraced the plan, and claims plummeted. In 1991 the company's insurer, CIGNA, reimbursed Forbes employees $1,427,895 for medical and dental expenses. In 1992 it paid them just $1,041,907—a reduction of $385,988 from the year before, or 23 percent less per person covered. In addition, CIGNA estimates that for each claims dollar, it spends eight cents on "administrative services." That means the insurer also saved about $30,000 on 1992 paper work because Forbes employees sent in fewer claims.

Because CIGNA saved, Forbes saved. Last year the plan cost the company about $125,000 in bonuses. But that was more than made up for by a $200,000 rebate that CIGNA paid to the magazine at the end of the year for saving it so much money. And this year, while premiums for other CIGNA clients rose between 21 and 25 percent, the magazine's major-medical premiums fell 17.6 percent, and its dental premiums dropped 29.7 percent.

Finally, because Forbes saved, its employees saved. For 1993 the magazine expanded its bonus program. Instead of paying employees double the difference between $500 and the claims they submit, Forbes will double the difference from $600. This means the maximum bonus that employees can earn will rise from $1,000 to $1,200.

The success of the Forbes idea provides two important lessons:

1. People can control their own health spending if they get to keep the savings. Susan Kern, an assistant in the magazine's advertising department, regulated her health-care spending last year, paying when she thought she could and using insurance when she knew she couldn't.

Hoping for the full $1,000 bonus, she started last year by paying her own bills for a bout of bronchitis. In October, though, she was hit with big medical expenses from a car accident and used her insurance. While she received no bonus this year, she hopes to earn one in the future.

Executive vice president Leon Yablon regularly fills four different prescriptions for himself and his wife. Now he has a reason to check prices. "Just last week, I filled something for $29 that cost $45 at another pharmacy," he says. "Before, who cared?"

2. Generous health insurance is not free. Without gold-plated policies, employers could pay workers more. Secretary Donna Hampton has filed "maybe one health-insurance claim" in her seven years with Forbes. Yet in that time, the company has spent thousands per year to insure her. She would have preferred the money—and with the bonus program, Hampton received a $1,000 check last year.

"You tend not to think of the real dollar cost of benefits," admits senior editor Bill Flanagan, another recipient of a $1,000 bonus. "But the more expensive health insurance is for the company, the more expensive it is for everybody."

Sharing the Wealth.—Other companies, too, are cutting costs with the same concept: employees keep what they save on health care.

In 1991 Dominion Resources, a public-utility holding company in Richmond, Va., announced that if its 1992 health-care expenses came in under budget, it would share the surplus with employees who helped hold costs down. At year's end, expenses were 31 percent under budget. Each employee whose medical claims were below his deductible got a check for $794.

Another innovation helps keep Dominion's health-care expenses low: incentives to employees to choose high deductibles. Individuals with high deductibles handle routine expenses on their own. For that reason, high-deductible policies are cheap to buy. But because companies subsidize premiums, employees naturally prefer low-deductible policies.

Dominion solves this problem by offering three health plans with deductibles ranging from $200 to $1500 for an individual and $600 to $3000 for a family. Dominion contributes the same amount toward each employee's premium, no matter which plan he selects. Employees who choose more expensive low- and middle-deductible plans must pay more to make up the difference.

Dominion offers a special feature to help employees see that the money they save with high deductibles is their own. Says vice president Ken Davis, "We'll take what they save on premiums and automatically deposit it in a savings account." These incentives have helped encourage 75 percent of Dominion's employees to enroll in the high-deductible plan. And Dominion's health-care costs have risen less than one percent per year since 1990.

The Pittston Company of Stamford, Conn., goes even further to ease the bite of high deductibles: it sweetens the pot. Twice a year each employee gets a $500 check to help cover the costs of medical bills. Whatever part of that check the employee doesn't spend on health care, he pays taxes on and keeps. If an employee's semi-annual expenses exceed $500, the company's health insurance will pay the rest.

President Gerald R. Spindler says it is too soon for the self-insured company to know for sure that costs are down, but the early results are "encouraging." Employee-relations director Ed Cox knows why. "Before, people had no incentive not to go to the doctor," he says. "Now, if they don't, they keep the money."

For four years Knox Semiconductor, Inc., of Rockport, Maine, has had an insurance plan called "Health Wealth," which is marketed by Progress Sharing Co., an insurance broker in Saco, Maine. Under the plan, Knox raised employees' deductibles and co-payments, lowering its premium costs. It then put the money saved into a mutual-fund account for each employee. Employees—who make matching contributions—can use the money in their accounts to pay for their deductibles and co-payments. If they don't, they can pay taxes on the money and keep it. Knox has had just one rate increase of six percent in the past four years. The 32-employee firm has saved over $100,000.

Tax Relief.—Each of these employers saves money by letting employees keep some of the health dollars they save. But, limited by current law, employers will offer only enough cash to affect relatively small medical expenses. Some lawmakers hope to change U.S. tax law to make the concept go further. The idea is called a medical IRA or a "medical savings account" (MSA). Legislators have drafted a variety of MSA bills. Here's how most would work:

An employer would buy its employees a health-insurance policy with a high deductible. The company would also set up an account for each employee to pay for the medical bills that he would now handle on his own. If the deductible was $3000, the employer might put $3000 into each employee's account every year. Advocates of MSAs say in most areas, high-deductible policies are so cheap that employers could easily fund employee accounts out of their premium savings, sometimes even with money to spare.

The money in each employee's account would belong to the employee. If the person was healthy and didn't need to spend it, he could keep it. Each year the employer would add more. And because only about ten percent of American families spend more than $3000 on health care each year, most accounts would grow.

So far, it sounds like what Pittston and Knox Semiconductor have done. The crucial difference? MSAs would grow tax-free from year to year, as long as they withdrew money only for medical expenses. If an MSA-owner moved to another job, he could take the account to this next position. If he lacked insurance between jobs, he could draw on the account to pay medical bills or to buy insurance.

For catastrophic medical problems, patients will always need insurance or Medicare. But MSA advocates say without taxes and with their incentives to save, the accounts could accumulate substantial cash. That would let patients use cheap, catastrophe-only policies and pay most medical bills the most efficient way: by themselves.

When finally retired, the former employee could use the money left in that account to supplement Medicare coverage, either by buying more insurance or by paying medical bills out-of-pocket. If he chose not to spend the money on health care, he could use it—after finally paying taxes—for whatever he wanted.

The idea behind MSAs is the same as that behind the health insurance plans at Forbes, Dominion Resources and other companies: when possible, let employees keep the money they choose not to spend on health care. "If that were permitted, people would spend more rationally," says economist Gerald Musgrave of Economics America, a consulting firm based in Ann Arbor, Mich. "We have thousands of years of experience with how people handle their own money."

Yet President Clinton's health-care plan probably won't offer patients this choice or many others. The Clinton plan, reported to cost at least $100 billion, would require all Americans to have the same coverage whether they wanted to pay for it or not.

Some Americans already have the opportunity to make rational health-care choices. If more had that chance, many weaknesses of our current system would be improved without risking what we cherish: high quality, choice and individual control. The idea of a free marketplace in health care has not failed; it has not fully been tried.

Mr. HELMS. Mr. President, that concludes my remarks.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. Mr. President, I object for the time being.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The bill clerk continued the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVING AMERICA'S SCHOOLS ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, is the pending question the motion to proceed to the education bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the motion to proceed to S. 1513?

If not, the question is on agreeing to the motion to proceed to the consideration of S. 1513. On this question, the yeas and nays have been ordered, and clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Maryland [Ms. MIKULSKI] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—98

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NOT VOTING—2

Harkin
Mikulski

So the motion was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, on behalf of myself and Senator JEFFORDS, I send a series of bipartisan amendments to the desk and ask they be adopted en bloc and they be considered as original text.

IMPROVING AMERICA's SCHOOLS ACT OF 1994

The PRESIDING OFFICER. The clerk will report the bill. As soon as the bill is reported, that unanimous-consent request will be addressed.

The assistant legislative clerk read as follows:

A bill (S. 1513) entitled the "Improving America's Schools Act of 1994".

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause and inserting in lieu thereof the follow:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving America's Schools Act of 1994".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

TITLE III—AMENDMENTS TO OTHER ACTS

TITLE IV—MISCELLANEOUS

TITLE V—WORKERS TECHNOLOGY SKILL DEVELOPMENT

SEC. 3. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATES.—

(1) TITLE I.—The amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under part A of title IX of the Elementary and Secondary Education Act of 1965, as amended by this Act, and to programs under such Act that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

(2) TITLE II.—Title II of this Act and the amendments made by title II of this Act shall take effect on the date of enactment of this Act, except that section 250 of such title shall be effective—

(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(3) TITLE III.—(A) Parts A and B of title III of this Act and the amendments made by such parts shall take effect on July 1, 1995.

(B) Part C of title III of this Act and the amendments made by such part shall take effect on October 1, 1994.

(b) TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as such Act was in effect on the day preceding the date of enactment of this Act, may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"SEC. 2. TABLE OF CONTENTS.

"The table of contents for this Act is as follows:

"Sec. 1. Short title.
"Sec. 2. Table of contents.

"TITLE I—HELPING CHILDREN IN NEED MEET HIGH STANDARDS

"Sec. 1001. Declaration of policy and statement of purpose.
"Sec. 1002. Authorization of appropriations.

"PART A—MAKING HIGH-POVERTY SCHOOLS WORK

"SUBPART 1—BASIC PROGRAM REQUIREMENTS

"Sec. 1111. State plans.
"Sec. 1112. Local educational agency plans.
"Sec. 1113. Eligible school attendance areas.
"Sec. 1114. Schoolwide programs.
"Sec. 1115. Targeted assistance schools.
"Sec. 1116. Parental involvement.
"Sec. 1117. Participation of children enrolled in private schools.
"Sec. 1118. Assessment and local educational agency and school improvement.
"Sec. 1119. State assistance for schools support and improvement.
"Sec. 1120. Fiscal requirements.

"SUBPART 2—ALLOCATIONS

"Sec. 1121. Grants for the outlying areas and the Secretary of the Interior.
"Sec. 1122. Allocations to States.
"Sec. 1123. Grants to States.
"Sec. 1124. Within State allocations.

"PART B—TRANSITION TO SUCCESS

"Sec. 1201. Transition to success.
"Sec. 1202. Coordination requirements.
"Sec. 1203. Definitions.

"PART C—EVEN START FAMILY LITERACY PROGRAMS

"Sec. 1301. Statement of purpose.
"Sec. 1302. Program authorized.
"Sec. 1303. State programs.
"Sec. 1304. Uses of funds.
"Sec. 1305. Program elements.
"Sec. 1306. Eligible participants.
"Sec. 1307. Applications.
"Sec. 1308. Award of subgrants.
"Sec. 1309. Evaluation.
"Sec. 1310. Construction.

"PART D—EDUCATION OF MIGRATORY CHILDREN

"Sec. 1401. Program purpose.
"Sec. 1402. Program authorized.
"Sec. 1403. State allocations.
"Sec. 1404. State applications; services.
"Sec. 1405. Secretarial approval; peer review.
"Sec. 1406. Comprehensive needs assessment and service-delivery plan; authorized activities.
"Sec. 1407. Bypass.
"Sec. 1408. Coordination of migrant education activities.

"PART E—EDUCATION FOR NEGLECTED AND DELINQUENT YOUTH

"Sec. 1501. Purpose; program authorized.
"Sec. 1502. Eligibility.
"Sec. 1503. Allocation of funds.
"Sec. 1504. State reallocation of funds.
"Sec. 1505. State plan and State agency applications.
"Sec. 1506. Use of funds.
"Sec. 1507. Institution-wide projects.
"Sec. 1508. Three-year projects.
"Sec. 1509. Program evaluations.
"Sec. 1510. Transition services.
"Sec. 1511. Definitions.

"PART F—FEDERAL EVALUATIONS AND DEMONSTRATIONS

"Sec. 1601. Evaluations.
"Sec. 1602. Demonstrations of innovative practices.

"PART G—GENERAL PROVISIONS

"Sec. 1701. Federal regulations.
"Sec. 1702. State administration.
"Sec. 1703. Construction.

"TITLE II—IMPROVING TEACHING AND LEARNING

"PART A—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

"Sec. 2101. Findings.
"Sec. 2102. Purposes.
"Sec. 2103. Authorization of appropriations; allocation between subparts.

"SUBPART 1—FEDERAL ACTIVITIES

"Sec. 2111. Program authorized.
"Sec. 2112. Authorized activities.
"Sec. 2113. Eisenhower National Clearinghouse for Mathematics and Science Education.
"Sec. 2114. National Teacher Training Project.

"SUBPART 2—STATE AND LOCAL ACTIVITIES

"Sec. 2121. Program authorized.
"Sec. 2122. Allocation of funds.
"Sec. 2123. Within State allocations.
"Sec. 2124. Priority for professional development in mathematics and science.
"Sec. 2125. State applications.
"Sec. 2126. State level activities.
"Sec. 2127. Local educational agency applications.
"Sec. 2128. Local cost-sharing.
"Sec. 2129. Local allocation of funds and allowable activities.
"Sec. 2130. Higher education activities.
"Sec. 2131. Consortium requirement.

"SUBPART 3—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

"Sec. 2141. Findings and purpose.
"Sec. 2142. Demonstration program authorized.
"Sec. 2143. Grants.
"Sec. 2144. Plan.
"Sec. 2145. Technical assistance.
"Sec. 2146. Matching funds.

"SUBPART 4—GENERAL PROVISIONS

"Sec. 2151. Reporting and accountability.
"Sec. 2152. Definitions.

"PART B—NATIONAL WRITING PROJECT

"Sec. 2201. Short title.
"Sec. 2202. Findings.
"Sec. 2203. National Writing Project.

"PART C—SUPPORT AND ASSISTANCE FOR ESEA PROGRAMS

"SUBPART 1—COMPREHENSIVE REGIONAL CENTERS

"Sec. 2301. Findings.
"Sec. 2302. Purpose.
"Sec. 2303. Program authorized.
"Sec. 2304. Eligible entities.
"Sec. 2305. Comprehensive regional centers.
"Sec. 2306. Information collection and evaluation.
"Sec. 2307. Transition.
"Sec. 2308. Authorization of appropriations.

"SUBPART 2—NATIONAL DIFFUSION NETWORK

"Sec. 2311. Program authorized.
"Sec. 2312. Authorization of appropriations.

"SUBPART 3—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIUMS

"Sec. 2321. Program established.
"Sec. 2322. Use of funds.
"Sec. 2323. Application and review.
"Sec. 2324. Regional boards.
"Sec. 2325. Payments; Federal share; non-Federal share.
"Sec. 2326. Evaluation.
"Sec. 2327. Definitions.
"Sec. 2328. Authorization of appropriations.

"PART D—TERRITORIAL TEACHER TRAINING PROGRAM

"Sec. 2401. Territorial teacher training program.

"PART E—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

"Sec. 2501. Project authorized.
"Sec. 2502. Application required.
"Sec. 2503. Authorization of appropriations.

"TITLE III—TECHNOLOGY FOR EDUCATION

"Sec. 3001. Short title.

"PART A—EDUCATIONAL TECHNOLOGY FOR ALL STUDENTS

"Sec. 3111. Findings.
"Sec. 3112. Statement of purpose.
"Sec. 3113. Definitions.

"SUBPART 1—NATIONAL PROGRAMS IN TECHNOLOGY FOR EDUCATION

"Sec. 3121. Purposes.
"Sec. 3122. Federal leadership.
"Sec. 3123. Regional technical support and professional development.
"Sec. 3124. Educational technology product development.
"Sec. 3125. Research on educational applications of advanced technologies.
"Sec. 3126. High performance educational computing and telecommunications networks.
"Sec. 3127. Study, evaluation and report of funding alternatives.

"SUBPART 2—STATE AND LOCAL PROGRAMS FOR SCHOOL TECHNOLOGY RESOURCES, TECHNICAL SUPPORT, AND PROFESSIONAL DEVELOPMENT

"Sec. 3131. Statement of purpose.
"Sec. 3132. School technology resource grants.

"SUBPART 3—SPECIAL RULE APPLICABLE TO APPROPRIATIONS

"Sec. 3141. Special rule.

"PART B—STAR SCHOOLS PROGRAM

"Sec. 3201. Short title.
"Sec. 3202. Purpose.
"Sec. 3203. Grants authorized.
"Sec. 3204. Eligible telecommunications partnerships.
"Sec. 3205. Applications.
"Sec. 3206. Leadership and evaluation activities.
"Sec. 3207. Administrative provisions.
"Sec. 3208. Other assistance.
"Sec. 3209. Definitions.

"PART C—READY-TO-LEARN TELEVISION

"Sec. 3301. Ready-to-learn.
"Sec. 3302. Educational programming.
"Sec. 3303. Duties of Secretary.
"Sec. 3304. Applications.
"Sec. 3305. Reports and evaluation.
"Sec. 3306. Administrative costs.
"Sec. 3307. Definition.
"Sec. 3308. Authorization of appropriations.

"PART D—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

"Sec. 3401. Short title.
"Sec. 3402. Statement of purpose.
"Sec. 3403. Program authorized.
"Sec. 3404. Allotments of funds.
"Sec. 3405. State application.
"Sec. 3406. Local application.
"Sec. 3407. Program requirements.
"Sec. 3408. Federal administration.
"Sec. 3409. Authorization of appropriations.

"PART E—ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCES PROGRAM

"Sec. 3501. Program authorized.

"Sec. 3502. Funding requirements.
"Sec. 3503. State plans.
"Sec. 3504. Distribution of allocation to local educational agencies.

"PART F—BUDDY SYSTEM COMPUTER EDUCATION

"Sec. 3601. Short title.
"Sec. 3602. Purpose.
"Sec. 3603. Grant authorization.
"Sec. 3604. Program requirements.
"Sec. 3605. Applications.
"Sec. 3606. Use of funds.
"Sec. 3607. Evaluation.
"Sec. 3608. Authorization of appropriations.

"TITLE IV—MAGNET SCHOOLS ASSISTANCE

"Sec. 4101. Findings.
"Sec. 4102. Statement of purpose.
"Sec. 4103. Program authorized.
"Sec. 4104. Definition.
"Sec. 4105. Eligibility.
"Sec. 4106. Applications and requirements.
"Sec. 4107. Priority.
"Sec. 4108. Use of funds.
"Sec. 4109. Prohibitions.
"Sec. 4110. Limitation on payments.
"Sec. 4111. Innovative programs.
"Sec. 4112. Authorization of appropriations; reservation.

"TITLE V—BETTER SCHOOLS FOR AMERICA

"PART A—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

"Sec. 5101. Findings.
"Sec. 5102. Purpose.
"Sec. 5103. Authorization of appropriations.

"SUBPART 1—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

"Sec. 5111. Reservations and allotments.
"Sec. 5112. State applications.
"Sec. 5113. State and local educational agency programs.
"Sec. 5114. Governor's programs.
"Sec. 5115. Local applications.
"Sec. 5116. Local drug and violence prevention programs.
"Sec. 5117. Evaluation and reporting.
"Sec. 5118. Programs for Hawaiian Natives.

"SUBPART 2—NATIONAL PROGRAMS

"Sec. 5121. Federal activities.
"Sec. 5122. Grants to institutions of higher education.

"SUBPART 3—GENERAL PROVISIONS

"Sec. 5131. Definitions.
"Sec. 5132. Materials.
"Sec. 5133. Prohibited uses of funds.

"PART B—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

"Sec. 5201. Short title.
"Sec. 5202. Purpose.
"Sec. 5203. Grants to local educational agencies.
"Sec. 5204. Application.
"Sec. 5205. Authorized activities.
"Sec. 5206. Distribution of assistance; limitation on costs.
"Sec. 5207. Reports.
"Sec. 5208. Authorization of appropriations.

"TITLE VII—LANGUAGE ENHANCEMENT AND ACQUISITION PROGRAMS

"PART A—BILINGUAL EDUCATION PROGRAMS

"Sec. 7101. Short title.
"Sec. 7102. Findings.
"Sec. 7103. Policy; authorization of appropriations.
"Sec. 7104. Definitions.
"Sec. 7105. Native American and Alaska Native children in school.

"SUBPART 1—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION

"Sec. 7111. Financial assistance for bilingual education.

"SUBPART 2—RESEARCH AND EVALUATION

"Sec. 7121. Authority.
"Sec. 7122. Research.
"Sec. 7123. Academic excellence awards.
"Sec. 7124. State grant program.
"Sec. 7125. National Clearinghouse for Bilingual Education.
"Sec. 7126. Evaluations.

"SUBPART 3—PROFESSIONAL DEVELOPMENT

"Sec. 7131. Purpose.
"Sec. 7132. Professional development grants.
"Sec. 7133. Fellowships.
"Sec. 7134. Stipends.

"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

"Sec. 7201. Short title.
"Sec. 7202. Findings.
"Sec. 7203. Program authorized.
"Sec. 7204. Applications.
"Sec. 7205. Authorization of appropriations.

"PART C—ADMINISTRATION

"Sec. 7301. Coordination with related programs.
"Sec. 7302. Report on bilingual education.
"Sec. 7303. State educational agency recommendations; peer review.

"PART D—SPECIAL RULE

"Sec. 7401. Special rule.

"TITLE VIII—PROGRAMS OF NATIONAL SIGNIFICANCE

"PART A—ARTS IN EDUCATION

"Sec. 8101. Support for arts education.

"PART B—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

"Sec. 8151. Inexpensive book distribution program for reading motivation.

"PART C—PUBLIC CHARTER SCHOOLS

"Sec. 8201. Findings and purpose.
"Sec. 8202. Program authorized.
"Sec. 8203. Applications.
"Sec. 8204. Administration.
"Sec. 8205. Uses of funds.
"Sec. 8206. National activities.
"Sec. 8207. Definitions.
"Sec. 8208. Authorization of appropriations.

"PART D—CIVIC EDUCATION

"Sec. 8251. Instruction on the history and principles of democracy in the United States.
"Sec. 8252. Instruction in civics, government, and the law.
"Sec. 8253. Report; authorization of appropriations.

"PART E—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

"Sec. 8301. Findings.

"SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

"Sec. 8311. Establishment.
"Sec. 8312. Applications.

"SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

"Sec. 8321. Establishment.
"Sec. 8322. Applications.

"SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

"Sec. 8331. Establishment.
"Sec. 8332. Applications.

"SUBPART 4—GENERAL PROVISIONS

"Sec. 8341. Administrative provisions.
"Sec. 8342. Authorization of appropriations.

"PART F—GIFTED AND TALENTED CHILDREN

"Sec. 8401. Short title.
"Sec. 8402. Findings and purposes.
"Sec. 8403. Definitions; construction.
"Sec. 8404. Authorized programs.
"Sec. 8405. Program priorities.
"Sec. 8406. General provisions.
"Sec. 8407. Authorization of appropriations.

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"TITLE I—HELPING CHILDREN IN NEED MEET HIGH STANDARDS

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) STATEMENT OF POLICY.—

"(1) IN GENERAL.—The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

"(2) ADDITIONAL POLICY.—The Congress further declares it to be the policy of the United States to expand the program authorized by this title over the fiscal years 1995 through 1999 by increasing funding for this title by at least $750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

"(b) RECOGNITION OF NEED.—The Congress recognizes that—

"(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

"(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

"(3) educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, children with limited-English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services; and

"(4) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 102(3) of the Goals 2000:

Educate America Act, students and schools will need to maximize the time spent on teaching and learning the core academic subjects, and students who receive pullout instruction at the expense of core academic subject learning time can fall further behind in learning the core academic subjects.

"*(c) WHAT HAS BEEN LEARNED SINCE 1988.—To enable schools to provide all children a high-quality education, this title builds upon the following learned information:*

"*(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.*

"*(2) Piecemeal reform, particularly when not tied to an overall vision of teaching to, and helping all children reach, high standards does not work.*

"*(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on low-level skills measured by those tests.*

"*(4) Resources are effective when children have full access to quality regular school programs and receive supplemental help through extended-time activities.*

"*(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.*

"*(6) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.*

"*(7) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.*

"*(8) Opportunities for students to achieve to high standards can be enhanced through a variety of approaches such as public school choice and charter schools.*

"*(9) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.*

"*(10) Resources provided under this title have not been adequately targeted on the highest-poverty school districts and schools that have children most in need.*

"*(11) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.*

"*(d) STATEMENT OF PURPOSE.—The purpose of this title is to enable schools to provide opportunities for children served to acquire the same basic and advanced skills and knowledge as children not served under this title. This purpose shall be accomplished by—*

"*(1) ensuring high standards and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;*

"*(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts and humanities, through schoolwide programs or through additional services that increase the amount and quality of instructional time;*

"*(3) promoting schoolwide reform and access of children, from the earliest grades, to effective instructional strategies and challenging academic content that support intensive complex thinking and problem-solving experiences;*

"*(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for ongoing professional development;*

"*(5) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;*

"*(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;*

"*(7) distributing resources, in amounts sufficient to make a difference, to areas where needs are greatest;*

"*(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this title are achieving high State student performance standards expected of all children;*

"*(9) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance; and*

"*(10) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups.*

"SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

"*(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A of this title, other than section 1117(e), there are authorized to be appropriated $7,500,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"*(b) EVEN START.—For the purpose of carrying out part C, there are authorized to be appropriated $120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"*(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part D, there are authorized to be appropriated $310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"*(d) EDUCATION FOR NEGLECTED OR DELINQUENT YOUTH.—For the purpose of carrying out part E, there are authorized to be appropriated $40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"*(e) CAPITAL EXPENSES.—For the purpose of carrying out section 1117(e), there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"*(f) FEDERAL ACTIVITIES.—*

"*(1) SECTION 1601.—For the purpose of carrying out section 1601, there are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"*(2) SECTION 1602.—For the purpose of carrying out section 1602, there are authorized to be appropriated $20,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.*

"PART A—MAKING HIGH-POVERTY SCHOOLS WORK

"Subpart 1—Basic Program Requirements

"SEC. 1111. STATE PLANS.

"*(a) PLANS REQUIRED.—*

"*(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section.*

"*(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 10302.*

"*(b) STANDARDS AND ASSESSMENT PROVISIONS.—*

"*(1) IN GENERAL.—(A) Each State plan shall describe—*

"*(i) the high-quality academic standards for all children that will be used by the State, its local educational agencies, and its schools in subjects, as determined by the State, to carry out this part, and for those subjects for which a State does not have standards and students are served under this part, describe a process for ensuring that such students are taught the same knowledge and skills and held to the same expectations as all children;*

"*(ii)(I) two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and*

"*(II) a third level, partially proficient, to provide complete information about the progress of the lower-performing children toward achieving to the proficient and advanced levels of performance; and*

"*(iii) the steps the State will take to help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(3), 1114(b), and 1115(c) that is applicable to such agency or school.*

"*(B) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act or an aligned set of assessments for all students developed under such title, or if not developed under such title, adopted under another process, the State shall use those standards and assessments, modified, if necessary, to conform with the requirements of paragraphs (1)(A)(i), (2), and (3).*

"*(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, including at least mathematics, and reading or language arts, which standards shall include the same knowledge, skills, and levels of performance expected of all children, and for those subjects for which a State will not develop standards and students are served under this part, include a strategy for developing a process for ensuring that such students are taught the same knowledge and skills and held to the same expectations as all children.*

"*(2) ADEQUATE YEARLY PROGRESS.—(A) Each State plan shall include a description, based on assessments described under paragraph (3), of what constitutes adequate yearly progress of—*

"*(i) any school served under this part toward enabling all children to meet the State's student performance standards; and*

"*(ii) any local educational agency that receives funds under this part toward enabling all children within its jurisdiction to meet the State's student performance standards.*

"*(B) Adequate yearly progress under this paragraph shall be defined in a manner that results in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's advanced level of performance, particularly eligible children described in section 1115(b).*

"*(3) ASSESSMENTS.—Each State plan shall include a description of the set of high-quality, yearly student assessments, including at least one assessment in one grade in each school, that will be used as the primary means of determining the yearly performance of each local educational agency and school served under this* *part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—*

"(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

"(B) be aligned with such State's content standards in subjects for which the State has developed standards in accordance with subparagraph (A) or (C) of paragraph (1);

"(C) involve multiple measures of student performance, including measures that assess higher order thinking skills and understanding;

"(D) provide for—

"(i) the participation in such assessments of all students with diverse learning needs; and

"(ii) the adaptations and accommodations necessary to permit such participation;

"(E) be used for the purposes for which they are valid and reliable and be consistent with relevant, nationally recognized professional and technical standards for such assessments, except that assessment measures that do not satisfy the requirements of this subparagraph may be included as one of the multiple measures;

"(F) be capable of providing coherent information about student attainments relative to the State content standards;

"(G) support effective curriculum and instruction;

"(H) provide individual student reports;

"(I) provide statistically reliable results for economically disadvantaged children disaggregated by gender, major ethnic or racial groups, limited-English proficient children, children with disabilities, and other educationally meaningful categories of children; and

"(J) include students who have resided in the area served by a local educational agency for a full academic year but have not attended a single school served by such agency for a full academic year, except that the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency, unless the State provides otherwise.

"(4) OTHER INDICATORS.—Each State plan may include a description of any other indicators, such as rates of attendance, graduation, and school-to-work or school-to-college transition, that will be used in addition to the assessments required by paragraph (3) in determining the yearly performance of each local educational agency and school served under this part.

"(5) TRANSITIONAL STATEWIDE ASSESSMENTS.—(A)(i) If a State does not have State content standards and State student performance standards that meet the requirements of paragraph (1) or assessments that meet the requirements of paragraph (3), the State may propose to use, for a transitional period of not more than two years, a transitional statewide set of yearly assessments that measure the performance of complex skills and challenging subject matter.

"(ii) Each State using the transitional assessments described in clause (i) shall develop benchmarks of progress toward the development of assessments that meet the requirements of paragraph (3), including periodic updates.

"(B)(i) The Secretary may extend for two additional years the use of the transitional assessments described in subparagraph (A) upon the request of a State and a showing of substantial progress toward meeting the requirements of paragraphs (1) and (3), particularly paragraph (3)(C).

"(ii) A State that is denied the two-year extension or renewal under clause (i) or is granted such an extension or renewal, but after one or two additional years does not have State content standards and State student performance standards that meet the requirements of paragraph (1) or assessments that meet the requirements of paragraph (3), shall adopt a set of such standards and aligned assessments, such as those contained in other State plans the Secretary has approved.

"(C) For any year during which a State is using transitional assessments the State shall devise a procedure for identifying local educational agencies under subsections (c)(3) and (c)(7) of section 1118 and schools under subsections (b)(1) and (b)(6) of section 1118 that relies on accurate information about the academic progress of each such local educational agency and school.

"(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

"(1) the State educational agency will implement a system of school support teams under section 1119(b), including provision of necessary professional development for those teams;

"(2) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

"(3) the State educational agency will fulfill its local educational agency and school improvement responsibilities under section 1118; and

"(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114.

"(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

"(B) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (b) and (c);

"(C) if the Secretary determines that the State plan does not meet the requirements of subsection (b) or (c), immediately notify the State of that determination and the reasons for such determination;

"(D) not finally disapprove a State's plan before offering the State an opportunity to revise its plan and provide technical assistance to assist the State to meet the requirements of subsections (b) and (c); and

"(E) not require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

"(2) WITHHOLDING.—The Secretary may withhold funds for State administration and activities under section 1119 until the Secretary determines that the State plan meets the requirements of this section.

"(e) DURATION OF THE PLAN.—

"(1) IN GENERAL.—Each State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(2) ADDITIONAL INFORMATION.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

"(f) SPECIAL RULE.—If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) PLANS REQUIRED.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan that is approved by the State educational agency. Such plan may be submitted as part of a consolidated plan under section 10304.

"(b) PLAN PROVISIONS.—

"(1) IN GENERAL.—Each local educational agency plan shall include—

"(A) a description of additional high-quality student assessments, if any, other than those described in the State plan under section 1111, that—

"(i) the local educational agency and schools served under this part will use to—

"(I) provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111(b)(2)(A); and

"(II) aid in instruction, in improving the performance of individual students, and in revising the local educational agency or school's instructional program to enable all children served under this part to meet the State student performance standards described in section 1111(b)(2)(A);

"(ii) will be selected and administered by teachers; and

"(iii) will be aligned with curriculum and constitute an integral part of the instructional program;

"(B) at the local educational agency's discretion, a description of any other indicators, such as rates of attendance, graduation, and school-to-work or school-to-college transition, that will be used in addition to the assessments described in subparagraph (A) for the uses described in clause (i) of such subparagraph;

"(C) a description of the strategy the local educational agency will use to provide ongoing professional development for teachers, pupil services personnel, administrators, parents and other staff, including local educational agency level staff, that—

"(i) takes into account the needs and activities across and within schools; and

"(ii) draws on resources available under this part, other Federal resources, and, at the local educational agency's discretion, other State and local resources;

"(D) a description of the poverty criteria that will be used to select school attendance areas under section 1113;

"(E) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115 will identify those eligible children most in need of services under this part;

"(F) a general description of the nature of the programs to be conducted by its schools under sections 1114 and 1115 and services outside those schools for children living in local institutions for neglected or delinquent children and for eligible homeless children;

"(G) a description of how the local educational agency, where appropriate, will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, or another comparable public early childhood development program; and

“(H) a description of how the local educational agency, as part of a comprehensive school reform effort, will, where appropriate and feasible as determined by such agency, use funds provided under this part to reduce class size to 15 students.

“(2) FILING AND APPROVAL.—Notwithstanding paragraph (1), each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than 2 years from the date of enactment of the Improving America's Schools Act of 1994 to have such plan approved by the State educational agency.

“(c) ASSURANCES.—Each local educational agency plan shall provide assurances that the local educational agency will—

“(1) work in consultation with schools as the schools develop their plans pursuant to section 1114 or 1118 and assist schools as schools implement those plans so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

“(2)(A) inform eligible schools and parents of schoolwide project authority; and

“(B) provide technical assistance and support to schoolwide programs;

“(3) fulfill its school improvement responsibilities under section 1118;

“(4) provide services to eligible children attending private elementary and secondary schools in accordance with section 1117, and timely and meaningful consultation with private school officials regarding such services;

“(5) consistent with the provisions of section 10306, coordinate and integrate services provided under this part with other educational services, including—

“(A) Even Start, Head Start, and other preschool programs, and school-to-work transition programs; and

“(B) services for children with limited-English proficiency or with disabilities, migratory children served under part D, neglected or delinquent children served under part E, homeless children, and immigrant children, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the children's instructional program;

“(6) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with school-based pupil services personnel where appropriate, and with other agencies providing services to children, youth, and families, including health and social services;

“(7) where appropriate and feasible as determined by the local educational agency, establish a procedure to ensure that all children in participating elementary schools receive two health screenings during the elementary school years at appropriate intervals based on reasonable pediatric standards; and

“(8) in the case that a State chooses to utilize funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

“(d) PLAN DEVELOPMENT AND DURATION.—Each local educational agency plan shall—

“(1) be developed in consultation with teachers, pupil services personnel and parents of children in schools served under this part;

“(2) remain in effect for the duration of the local educational agency's participation under this part; and

“(3) be periodically reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

“(e) STATE APPROVAL.—The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards described in section 1111(b)(1).

“(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of the local educational agency and schools in making decisions required under sections 1114 and 1115.

“SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

“(a) IN GENERAL.—

“(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

“(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

“(A) the term ‘school attendance area’ means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

“(B) the term ‘eligible school attendance area’ means a school attendance area in which the percentage of children from low-income families is equal to or greater than the percentage of children—

“(i) from low-income families served by the local educational agency as a whole; or

“(ii) served by the local educational agency as a whole who are eligible to participate in a schoolwide program under section 1114.

“(3) SERVING SCHOOLS IN RANK ORDER.—Each local educational agency receiving assistance under this part shall—

“(A) first serve in rank order schools in which the concentration of children from low-income families is 75 percent or greater;

“(B) then serve in rank order schools in which such concentration is at least 50 percent and less than 75 percent with rank order determined at the discretion of the local education agency according to grade span or school; and

“(C) finally serve in rank order schools in which such concentration is below 50 percent with rank order determined according to grade span or by school.

“(4) MEASURES.—The local educational agency shall use the same measure of low-income, which such agency shall choose on the basis of the best available verifiable data and which may be a composite of several indicators, with respect to all school attendance areas in the local educational agency to—

“(A) identify eligible school attendance areas;

“(B) determine the ranking of each such area; and

“(C) determine allocations under subsection (c).

“(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (a)(1), a local educational agency may use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency.

“(c) ALLOCATIONS.—

“(1) IN GENERAL.—A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools—

“(A) identified under subsection (a)(3)(A), in rank order, on the basis of the total number of children from low-income families in each such area or school; and

“(B) identified under subparagraphs (B) and (C) of subsection (a)(3) or under subsection (b), in rank order, on the basis of the total number of children from low-income families in grade levels served in each such area or school.

“(2) SPECIAL RULE.—(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 65 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criterion described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 50 percent or greater.

“(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

“(3) RESERVATION.—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

“(A) eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters, where appropriate; and

“(B) children living in local institutions for neglected or delinquent children.

“(d) INAPPLICABILITY.—Subsections (a) and (c) shall not apply—

“(1) to a local educational agency with a total enrollment of less than 1,000 children, except that such agency shall serve schools in rank order according to grade span or school; or

“(2) to schools participating in desegregation programs where the number of economically disadvantaged children is equal to or greater than 100 or equal to or greater than 25 percent of such school's total student enrollment.

“SEC. 1114. SCHOOLWIDE PROGRAMS.

“(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

“(1) IN GENERAL.—A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

“(A) The school serves an eligible school attendance area in which at least 30 percent of the children—

“(i) are from low-income families; and

“(ii) are eligible for a free or reduced price lunch or show evidence of poverty by other criteria, such as eligibility under the aid to families with dependent children program under part A of title IV of the Social Security Act.

“(B) At least 30 percent of the children enrolled in the school are from families meeting the requirements of clauses (i) and (ii) of subparagraph (A).

“(2) IDENTIFICATION.—(A) No school participating in a schoolwide program shall be required to identify particular children as eligible to participate in a schoolwide program or to provide supplemental services to such children.

“(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited-English proficiency.

“(3) SPECIAL RULE.—(A) Notwithstanding any other provision of law, a school participating in a schoolwide program may use funds received under any noncompetitive, formula-grant program administered by the Secretary, or any discretionary program contained on a list, updated

as necessary, issued by the Secretary (other than any such program under the Individuals with Disabilities Education Act) to support a schoolwide program if the underlying intent and purposes of such program are met.

"(B) A school that uses funds from the programs described in subparagraph (A) in accordance with such subparagraph shall not be relieved of the requirements relating to health, safety, civil rights, maintenance of effort, comparability of services, services for the participation of children enrolled in private schools, parental involvement, or the distribution of funds to State or local educational agencies that apply to the receipt of funds under such programs.

"(4) RESERVATION.—Each school receiving funds under this title for any fiscal year shall use not less than 10 percent of such funds to carry out the activities described in subsection (b)(1)(D) for such fiscal year, except that—

"(A) a school may enter into a consortium with another school to carry out such activities; and

"(B) this paragraph shall not apply to a school if 10 percent of the funds such school receives under this title for such year is less than $5,000.

"(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

"(1) IN GENERAL.—A schoolwide program shall include the following components:

"(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 1111(b)(1).

"(B) Schoolwide reform strategies that—

"(i) provide opportunities for all children to meet the State's proficient and advanced levels of performance described in section 1111(b)(1)(A);

"(ii) are based on effective means of improving the achievement of children;

"(iii) use effective instructional strategies that—

"(I) increase the amount and quality of learning time; and

"(II) help provide an enriched and accelerated curriculum;

"(iv)(I) address the needs of all children in the school, but particularly the needs of economically disadvantaged children, low-achieving children, children with limited-English proficiency, children with disabilities, children from migratory families, and children who are members of the target population of any program that is included in the schoolwide program, which may include—

"(aa) counseling, pupil services, and mentoring services;

"(bb) college and career awareness and preparation, such as college and career guidance, enhancement of employability skills, and job placement services;

"(cc) services to prepare students for the transition from school to work;

"(dd) services to assist preschool children in the transition from early childhood programs to elementary school programs;

"(ee) incorporation of gender-equitable methods and practices; and

"(ff) after school and summer programs; and

"(II) address how the school will determine if such needs have been met; and

"(v) are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act.

"(C)(i) Instruction by highly qualified professional staff.

"(ii) If a school uses funds received under this part to employ instructional aides, the school shall ensure that such aides—

"(I) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

"(II) have a secondary school diploma or its recognized equivalent, or earn such diploma or equivalent within 2 years of such employment, except that a school may employ an instructional aide that does not meet the requirement of this subclause if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

"(III) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

"(D) In accordance with subsection (a)(4), ongoing professional development for teachers, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

"(E) Parental involvement in accordance with section 1116.

"(F) Development and use of teacher selected assessments as described in section 1112(b)(1)(A)(ii) for providing information on and improving the performance of individual students and the overall instructional program.

"(G) Measures to ensure that students who experience difficulty mastering any of the standards required by section 1111(b) during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

"(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

"(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

"(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

"(I) what the school will do to help the student meet such standards;

"(II) what the parents can do to help the student improve the student's performance; and

"(III) additional assistance which may be available to the student at the school or elsewhere in the community.

"(2) PLAN.—(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before the date of enactment of the Improving America's Schools Act of 1994), in consultation with the local educational agency, a comprehensive plan for reforming the total instructional program in the school that—

"(i) incorporates the components described in paragraph (1);

"(ii) describes how the school will use resources under this part and from other sources to implement those components;

"(iii) includes a list of State and local educational agency programs and other Federal programs under paragraph (a)(3) that will be included in the schoolwide program;

"(iv) describes how the school will provide valid and reliable individual student assessment results, including an interpretation of those results, to the parents of any child who participates in the assessment required by section 1111(b)(3); and

"(v) provides for statistically reliable data on the achievement and assessment results of economically disadvantaged children disaggregated by gender, major ethnic or racial groups, children with disabilities, and, where appropriate, limited-English proficient children.

"(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria described in paragraphs (1) and (3) of section 1111(b) shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

"(C) The comprehensive plan shall be—

"(i) developed over a one-year period, unless—

"(I) the local educational agency determines that less time is needed to develop and implement the schoolwide program; or

"(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994, in which case such school may continue to operate that program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

"(ii) developed by a school-site council composed of those individuals who will implement the plan, including teachers, pupil services personnel, parents, principals, and other staff;

"(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school; and

"(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language.

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

"(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to economically disadvantaged children identified by teachers, in consultation with parents, administrators, and pupil services personnel, as having the greatest academic need for special assistance.

"(b) ELIGIBLE CHILDREN.—

"(1) ELIGIBLE POPULATION.—A child shall be eligible for services under this part if—

"(A) except as provided in subparagraphs (B), (C), and (D), the school serving such child determines that such child is economically disadvantaged, and such child—

"(i)(I) is not older than age 21 and is entitled to a free public education through grade 12; and

"(II) is not yet at a grade level where the local educational agency provides a free public education, yet is of an age at which such child can benefit from an organized instructional program provided in a school or other educational setting; or

"(ii) is a child with a disability, a limited-English proficient child, or a migrant child;

"(B) the child, at any time in the two years preceding the year for which the determination is made, received services under the program for neglected and delinquent children under part E (or its predecessor authority);

"(C) the child is homeless and attending any school in the local educational agency; and

"(D) the child, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program.

"(2) SPECIAL RULE.—Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children described in subparagraphs (B), (C), and (D) of paragraph (1) but may be used to coordinate or supplement such services.

"(c) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM.—

"(1) IN GENERAL.—To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity

to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

"(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

"(B) be based on effective means for improving achievement of children;

"(C) ensure that planning for students served under this part is incorporated into existing school planning;

"(D) use effective instructional strategies that—

"(i) increase the amount and quality of learning time;

"(ii) help provide an accelerated, high-quality curriculum; and

"(iii) minimize isolating eligible children from other children in the school during regular school hours;

"(E) coordinate with and support the regular education program, which may include—

"(i) counseling, mentoring and other pupil services;

"(ii) college and career awareness and preparation, such as college and career guidance, enhancement of employability skills, and job placement services;

"(iii) services to prepare students for the transition from school to work; and

"(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

"(F) provide instruction by highly qualified staff;

"(G) if such program employs instructional aides, ensure that such aides—

"(i) possess the knowledge and skills sufficient to assist participating children in meeting the purposes of this title;

"(ii) have a secondary school diploma or its recognized equivalent, or earn such diploma or equivalent within 2 years of such employment, except that an instructional aide that does not meet the requirement of this clause may be employed if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

"(iii) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children;

"(H) in accordance with subsection (d)(2), provide opportunities for ongoing professional development to the extent the school determines feasible with resources provided under this part and from other sources for administrators and for teachers and other school staff who work with participating children in programs under this section or in the regular education program; and

"(I) provide opportunities for parental involvement in accordance with section 1116.

"(2) REQUIREMENTS.—Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of performance by—

"(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

"(B) providing individual student assessment results, including an interpretation of those results, to the parents of any child who participates in the assessment required by section 1111(b)(3).

"(d) SPECIAL RULES.—

"(1) COMPREHENSIVE SERVICES.—If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then funds provided under this part may be used as a last resort to provide such services, including—

"(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

"(B) compensation of a coordinator; and

"(C) professional development for teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

"(2) RESERVATION.—Each school receiving funds under this title for any fiscal year shall use not less than 10 percent of such funds to carry out the activities described in subsection (c)(1)(G) for such fiscal year, except that—

"(A) a school may enter into a consortium with another school to carry out such activities; and

"(B) this paragraph shall not apply to a school if 10 percent of the funds such school receives under this title for such year is less than $5,000.

"(e) ASSIGNMENT OF PERSONNEL.—To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

"(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

"(2) participate in general professional development and school planning activities; and

"(3) collaboratively teach with regular classroom teachers, so long as their efforts directly benefit participating children.

"(f) SPECIAL RULE.—Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 1116. PARENTAL INVOLVEMENT.

"(a) LOCAL EDUCATIONAL AGENCY POLICY.—

"(1) IN GENERAL.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

"(A) involve parents in the joint development and approval of the plan described under section 1112, and the process of school review and improvement described under section 1118;

"(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

"(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

"(D) coordinate and integrate parent involvement strategies described in this part with those under other programs; and

"(E) ensure that participating schools—

"(i) review the effectiveness of their parent involvement activities on an ongoing basis;

"(ii) identify and take steps to remove any barriers to greater parental involvement, including barriers resulting in lower rates of participation in the parent involvement activities by parents who are economically disadvantaged, are disabled, have limited literacy, have limited-English proficiency, or are from any racial or ethnic minority background; and

"(iii) use the findings of such reviews in—

"(I) designing strategies for school improvement; and

"(II) revising, if necessary, the parent involvement policies described in this subsection and subsection (b)(1).

"(2) AMENDMENT.—If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

"(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

"(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parent involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Such policy shall be updated periodically to meet the changing needs of parents and the school.

"(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

"(c) POLICY INVOLVEMENT.—Each school served under this part shall—

"(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

"(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

"(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development and approval of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning, design, and approval of its programs, the school may use that process, provided that such process includes an adequate representation of parents of participating children; and

"(4) provide parents of participating children—

"(A) timely information about programs under this part;

"(B) school performance profiles required under section 1118(a)(3);

"(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

"(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

"(E) timely responses to the suggestions described in subparagraph (E).

"(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student

achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

"(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, television watching, volunteering in their child's classroom, and participating as appropriate in decisions relating to the education of their children, and positive use of extracurricular time; and

"(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

"(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

"(B) frequent reports to parents on their children's progress; and

"(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

"(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency shall—

"(1) provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, State and local assessments, the requirements of this part, and how to monitor their children's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

"(2) provide materials and training, such as necessary literacy training that is not otherwise available from other sources to help parents work with their children to improve their children's achievement;

"(3) educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

"(4) coordinate and integrate parent involvement programs and activities with Head Start, Even Start, and public preschool programs, to the extent feasible;

"(5) other activities, as appropriate and feasible, such as parent resource centers, designed to help parents become full partners in the education of their children; and

"(6) provide such other reasonable support for parental involvement activities under this section as parents may request.

"(f) PARENTAL INFORMATION AND RESOURCE CENTERS.—In States where parental information and resource centers have been established pursuant to section 401 of the Goals 2000: Educate America Act of 1994 (to providing training, information, and support to parents and individuals who work with parents) local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

"(g) ACCESSIBILITY.—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited-English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

"SEC. 1117. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENT.—

"(1) IN GENERAL.—To the extent consistent with the number of eligible children identified according to section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part.

"(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, must be secular, neutral, and nonideological.

"(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

"(5) PROVISION OF SERVICES.—The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of the agency's programs under this part, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided; and

"(D) how the services will be assessed.

"(2) TIMING.— Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

"(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

"(c) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with those funds, shall be in a public agency, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(3) VERIFIABLE DOCUMENTATION.—An official of each private school assisted under this part shall provide to the local educational agency the verifiable documentation necessary to determine the proportionate allocation amount under subsection (a)(4) on which the provision of equitable services under this section will be based.

"(d) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

"(1) waive the requirements of this section for such local educational agency; and

"(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 10505 and 10506.

"(e) CAPITAL EXPENSES.—

"(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(e) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

"(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

"(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

"(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

"(3) USES OF FUNDS.—Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

"(4) DEFINITION.—For the purpose of this subsection, the term 'capital expenses' means—

"(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

"(B) insurance and maintenance costs;

"(C) transportation; and

"(D) other comparable goods and services.

"SEC. 1118. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

"(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

"(1) use the State assessments described in the State plan;

"(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) toward enabling its students to meet the State's student performance standards described in the State plan;

"(3) publicize and disseminate to teachers and other staff, parents, students, and the community the results of the annual review under *paragraph (1) of all schools served under this part in individual school performance profiles that include disaggregated results as required by section 1111(b)(3)(F); and*

"(4) provide the results of the local annual review to schools so that the local educational agency can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

"(b) SCHOOL IMPROVEMENT.—

"(1) IN GENERAL.—(A) A local educational agency shall identify for school improvement any school served under this part that—

"(i) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), for at least two consecutive school years prior to such day;

"(ii) has not made adequate progress as defined in the State's plan under section 1111(b)(2)(A)(i) for two consecutive school years, except that—

"(I) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

"(II) in the case of a school that is not operating a schoolwide program such school may be reviewed on the progress of only those students that have been, are, or will be, served under this part; or

"(iii) has failed to meet the criteria established by the State through the State's transitional procedure under section 1111(b)(5)(C) for two consecutive years.

"(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error, such school may provide evidence to the local educational agency to support such belief.

"(2) REQUIREMENT.—(A) Each school identified under paragraph (1) shall—

"(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards; and

"(ii) submit the plan to the local educational agency for approval.

"(B) During the first year immediately following identification under paragraph (1), the school shall implement such school's plan.

"(3) TECHNICAL ASSISTANCE.—For each school identified under paragraph (1), the local educational agency shall provide technical assistance as the school develops and implements such school's plan.

"(4) CORRECTIVE ACTION.—(A) The local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

"(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

"(I) withholding funds;

"(II) an aggressive joint plan between the local educational agency and the school that addresses specific elements of student performance problems and that specifies school and local responsibilities under the plan;

"(III) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

"(IV) waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students;

"(V) revoking authority for a school to operate a schoolwide program;

"(VI) decreasing decisionmaking authority at the school level;

"(VII) making alternative governance arrangements such as the creation of a public charter school;

"(VIII) reconstituting the school staff; and

"(IX) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (V), (VI), (VIII), (IX) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(E) of section 1111(b).

"(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action to the extent that the failure to make progress can be attributed to extenuating circumstances, such as sudden and significant reductions in Federal funding in a single year, as determined by the Secretary.

"(5) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

"(A) make assistance from school support teams and distinguished educators under section 1119 available to the schools farthest from meeting the State's student performance standards, if requested by the local educational agency or school; and

"(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (3) and (4), take such corrective actions that the State educational agency deems appropriate.

"(6) SPECIAL RULE.—Schools that for at least two of the three years following identification under paragraph (1) make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

"(c) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall—

"(A) annually review the progress of each local educational agency receiving funds under this part to determine whether the local educational agency is making adequate progress as defined in section 1111(b)(2)(A)(ii) toward meeting the State's student performance standards; and

"(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including disaggregated results, as required by section 1111(b)(3)(F).

"(2) REWARDS.—In the case of a local educational agency that for three consecutive years has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(ii), the State may make institutional and individual rewards of the kinds described for individual schools in paragraphs (2) and (3) of section 1119(b).

"(3) IDENTIFICATION.—(A) A State educational agency shall identify for improvement any local educational agency that—

"(i) for two consecutive years, is not making adequate progress as defined in section 1111(b)(2)(A)(ii) in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are not operating schoolwide programs may be reviewed on the basis of the progress of only those students served under this part; or

"(ii) has failed to meet the criteria established by the State through its transitional procedure under section 1111(b)(5)(C) for two consecutive years.

"(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error, such local educational agency may provide evidence to the State educational agency to support such belief.

"(4) LOCAL EDUCATIONAL AGENCY REVISIONS.—Each local educational agency identified under paragraph (3) shall, in consultation with schools, parents, and educational experts, revise its local educational agency plan under section 1112 in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency in meeting the State's student performance standards.

"(5) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—For each local educational agency identified under paragraph (3), the State educational agency shall—

"(A) provide technical assistance to better enable the local educational agency to develop and implement the local educational agency's revised plan and work with schools needing improvement; and

"(B) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance from school support teams and distinguished educators under section 1119.

"(6) CORRECTIVE ACTION.—(A) The State educational agency may take corrective action at any time against a local educational agency that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

"(B)(i) Corrective actions are those, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

"(I) the withholding of funds;

"(II) an aggressive joint plan between the State and local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan;

"(III) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning;

"(IV) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students;

"(V) reconstitution of school district personnel;

"(VI) appointment by the State educational agency of a representative to implement, in conjunction with the local educational agency, a program improvement plan;

"(VII) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for the public governance and supervision of such schools; and

"(VIII) authorizing students to transfer to another public school, including the cost of transportation.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I),

(V), and (VII) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(E) of section 1111(b).

"(C) Prior to implementing any corrective action, the State educational agency shall provide due process, including a hearing, to any local educational agency identified under paragraph (3) and may refrain from such corrective action to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the Secretary.

"(7) SPECIAL RULE.—Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

"(d) OTHER ACCOUNTABILITY SYSTEMS.—If a State has developed an accountability system for all children that, in the Secretary's judgment, is as rigorous as the system required by this section and can serve as basis for the accountability of programs under this part, then the Secretary may deem such system as meeting the requirements of this section.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

"SEC. 1119. STATE ASSISTANCE FOR SCHOOLS SUPPORT AND IMPROVEMENT.

"(a) SYSTEM FOR SUPPORT.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this title, including all schoolwide programs and all schools in need of program improvement.

"(b) COMPONENTS.—The system, at a minimum, shall include the following:

"(1) SCHOOL SUPPORT TEAMS.—

"(A) Each State, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs, or a school in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school and such school is identified as in need of improvement under section 1118(b)(1).

"(B) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform, and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for eligible children, such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

"(C) A school support team shall work cooperatively with each school and make recommendations as the school develops its schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

"(D) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

"(i) periodically review the progress of the school in enabling children in the school to meet the State's performance standards under this part;

"(ii) identify problems in the design and operation of the instructional program; and

"(iii) make recommendations for improvement to the school and the local educational agency.

"(E) Funds made available for State administration and, at the discretion of the local educational agency, funds available to local educational agencies under this part may be used to pay the costs of the school support teams.

"(2) DISTINGUISHED SCHOOLS.—(A) Each State shall designate as a distinguished school—

"(i) any school served under this part that, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(i); and

"(ii) any school in which almost every student has met the State's advanced level of performance.

"(B)(i) A State shall use funds available under section 1701(c) to recognize distinguished schools, including making monetary awards.

"(ii) Funds awarded to a distinguished school may be used by the school to further the school's educational program under this part, provide additional incentives for continued success, and reward individuals or groups in the school for past performance.

"(C) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level, increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

"(D) Schools designated as distinguished schools under such subparagraph (A) may serve as models and provide additional assistance to other schools served under this part, especially schoolwide programs and schools in school improvement, that are not making adequate progress.

"(3) DISTINGUISHED EDUCATORS.—

"(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds available under section 1701(c), shall establish a corps of distinguished educators.

"(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

"(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies furthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

"(c) IMPLEMENTATION.—In order to implement this section, funds made available under section 1701(c) may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

"(d) ALTERNATIVES.—

"(1) IN GENERAL.—The State may devise alternative or additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (b), such as providing assistance through institutions of higher education and educational service agencies or other local consortia and may use funds authorized in section 1701(c) for such approaches.

"(2) INAPPLICABILITY.—Paragraphs (1) and (3) of subsection (b) shall not apply to a State educational agency if such agency determines that a local educational agency or school is receiving adequate technical assistance from a source other than the State educational agency.

"SEC. 1120. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 10501 of this Act.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

"(B) For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

"(c) COMPARABILITY OF SERVICES.—

"(1) IN GENERAL.—(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

"(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

"(2) WRITTEN ASSURANCE.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

"(i) a local educational agency-wide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

"(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

"(3) PROCEDURES AND RECORDS.—Each local educational agency shall—

"(A) develop procedures for compliance with this subsection; and

"(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

"(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

"(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

"(A) bilingual education for children of limited-English proficiency; and

"(B) excessive costs of providing services to children with disabilities as determined by the local educational agency.

"Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

"(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

"(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c).

"(b) ASSISTANCE TO THE OUTLYING AREAS.—

"(1) IN GENERAL.—From amounts made available under subsection (a)(1) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas in accordance with recommendations from the Pacific Regional Educational Laboratory which shall conduct a competition for such grants.

"(2) ADMINISTRATIVE COSTS.—The Secretary shall provide 5 percent of amounts made available for grants under this paragraph in each fiscal year to the Pacific Regional Educational Laboratory to pay the administrative costs of such laboratory with respect to the activities under this subsection.

"(c) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

"(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

"(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

"(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

"(A) 40 percent of the average per pupil expenditure in the State in which the agency is located; or

"(B) 46 percent of such expenditure in the United States.

"SEC. 1122. ALLOCATIONS TO STATES.

"(a) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under section 1123 for such year, the Secretary first shall ratably reduce the allocations to such local educational agencies for such year.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under section 1123 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as such allocations were reduced.

"(b) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the total amount made available to each State under section 1123—

"(A) for fiscal year 1995, shall not be less than 100 percent of the total amount such State received under sections 1005 and 1006 (as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994;

"(B) for fiscal year 1996, shall not be less than 90 percent of the total amount such State received under section 1123 for fiscal year 1995; and

"(C) for fiscal year 1997 and each succeeding fiscal year, shall not be less than 85 percent of the total amount such State received in the fiscal year preceding the fiscal year for which the determination is made.

"(2) RATABLE REDUCTIONS.—(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

"(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts reduced.

"(c) DEFINITION.—For the purpose of this section and section 1123, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1123. GRANTS TO STATES.

"(a) AMOUNT OF GRANTS.—

"(1) IN GENERAL.—(A) In any case in which the Secretary determines that satisfactory data for local educational agencies are available to carry out determinations under paragraph (2), the grant which a State is eligible to receive under this subpart for a fiscal year shall be the aggregate amount of grants for all local educational agencies in that State, as determined under paragraph (2).

"(B) In any case in which the Secretary determines that satisfactory data for local educational agencies are not available to carry out determinations under paragraph (2), the grant which a State is eligible to receive for a fiscal year shall be the aggregate amounts of grants for all counties in that State, as determined under paragraph (2).

"(2) GRANTS FOR STATES.—(A)(i) The grant for a local educational agency shall be determined by multiplying the number of children determined under subsection (c)(2) by 40 percent of the amount determined under the next sentence, multiplying such product by the effort factor described in clause (ii) and multiplying such product by the equity factor described in clause (iii). The amount determined under this sentence shall be the average per pupil expenditure in the State except that (I) if the average per pupil expenditure in the State is less than 85 percent of the average per pupil expenditure in the United States, such amount shall be 85 percent of the average per pupil expenditure in the United States, or (II) if the average per pupil expenditure in the State is more than 115 percent of the average per pupil expenditure in the United States, such amount shall be 115 percent of the average per pupil expenditure in the United States.

"(ii)(I) Except as provided in subclause (II), the effort factor for a local educational agency shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor more than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the average per pupil expenditure for kindergarten through 12th grade education in the State served by the local educational agency multiplied by the per capita income in the United States and the denominator of which is the product of the per capita income in such State multiplied by the average per pupil expenditure for kindergarten through 12th grade education in the United States.

"(II) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subclause (I) for any State.

"(iii)(I) Except as provided in subclause (II), the equity factor for a local educational agency shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor more than 1.05. The equity factor determined under this sentence shall be calculated as follows: First, calculate the difference (expressed as a positive amount) between the average per pupil expenditure in the State served by the local educational agency and the average per pupil expenditure in each local educational agency in the State and multiply such difference by the total student enrollment for such agency, except that children from low-income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Second, add the products under the preceding sentence for each local educational agency in such State and divide such sum by the total student enrollment of such State, except that children from low-income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Third, divide the quotient under the preceding sentence by the average per pupil expenditure in such State. If the final quotient obtained under the preceding sentence is—

"(aa) .05 or less, then the equity factor is 1.05;

"(bb) greater than .05 and less than .15, then the equity factor is equal to 1.10 minus such quotient; or

"(cc) .15 or greater, then the equity factor is .95.

"(II) The equity factor for a local educational agency serving—

"(aa) the District of Columbia and the Commonwealth of Puerto Rico shall be calculated so that there is no increase or decrease in the District of Columbia's or the Commonwealth of Puerto Rico's grant under this section by the application of this clause;

"(bb) Hawaii shall be 1.05; and

"(cc) a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), shall be not less than 1.00.

"(B) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be determined by multiplying the product of the effort factor for the Commonwealth of Puerto Rico under subparagraph (A)(ii)(II) for such year multiplied by the equity factor for the Commonwealth of Puerto Rico under subparagraph (A)(iii)(II)(aa) for such year by the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence for such year; and

"(ii) 32 percent of the average per pupil expenditure in the United States for such year.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—The children served by a local educational agency shall be counted for a fiscal year under this subpart only if such agency meets the following requirements with respect to the number of children counted under subsection (c)(1):

"(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least 10.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least 10.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

"(c) DETERMINATION OF WEIGHTED NUMBER OF CHILDREN.—

"(1) CHILDREN TO BE COUNTED.—(A) The number of children to be counted for purposes of this section is the aggregate of—

"(i) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level; and

"(ii) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part E for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(B) For the purposes of this section, the Secretary shall determine the number of children counted under subparagraph (A) on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—(A) The number of children to be determined for purposes of this paragraph shall be the number of children counted under paragraph (1) multiplied by the weighting factor for the local educational agency. The weighting factor shall be established on the basis of the percentage that the number of children counted under paragraph (1) represents of the total population aged 5 to 17, inclusive, in the local educational agency or the number of such children. Weighted pupil counts shall be calculated based upon both percentage and number and the larger of the two counts shall be used in calculating grants for each local educational agency. Except as provided in subparagraph (B), weighting factors shall be assigned according to the following scale: if the percentage is greater than 0 but less than 12.20, the weighting factor shall be 1.00 for all children counted under paragraph (1); if the percentage is greater than 12.20 but less than 17.70, the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 12.20 percent of the total school age population and 1.10 for children counted under paragraph (1) in excess of 12.20 percent of the total school age population; if the percentage is greater than 17.70 percent but less than 22.80 percent, then the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 12.20 percent of the total school age population, 1.10 for a number of children counted under paragraph (1) equal to 5.50 percent of the total school age population, and 1.20 for children counted under paragraph (1) in excess of 17.70 percent of the total school age population; if the percentage is greater than 22.80 percent but less than 29.70 percent, then the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 12.20 percent of the total school age population, 1.10 for a number of children counted under paragraph (1) equal to 5.50 percent of the total school age population, 1.20 for a number of children counted under paragraph (1) equal to 5.10 percent of the total school age population, and 1.30 for children counted under paragraph (1) in excess of 22.80 percent of the total school age population; and if the percentage is greater than 29.70, then the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 12.20 percent of the total school age population, 1.10 for a number of children counted under paragraph (1) equal to 5.50 percent of the total school age population, 1.20 for a number of children counted under paragraph (1) equal to 5.10 percent of the total school age population, 1.30 for a number of children counted under paragraph (1) equal to 6.90 percent of the total school age population, and 1.40 for children counted under paragraph (1) in excess of 29.70 percent of the total school age population. Separately, if the number of children counted under paragraph (1) is greater than 0 but less than 1917, the weighting factor shall be 1.00 for all children counted under paragraph (1); if the number is greater than 1917 but less than 5,938, the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 1917, and 1.075 for children counted under paragraph (1) in excess of 1917; if the number is greater than 5,938 but less than 20,199, then the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 1917, 1.075 for a number of children counted under paragraph (1) equal to 4,021, and 1.150 for children counted under paragraph (1) in excess of 5,938; if the number is greater than 20,199 but less than 77,999 then the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 1917, 1.075 for a number of children counted under paragraph (1) equal to 4,021, 1.150 for a number of children counted under paragraph (1) equal to 14,261, and 1.225 for children counted under paragraph (1) in excess of 20,199; and if the number is greater than 77,999, then the weighting factor shall be 1.00 for a number of children counted under paragraph (1) equal to 1917, 1.075 for a number of children counted under paragraph (1) equal to 4,021, 1.150 for a number of children counted under paragraph (1) equal to 14,261, 1.225 for a number of children counted under paragraph (1) equal to 57,800 and 1.30 for children counted under paragraph (1) in excess of 77,999. For the Commonwealth of Puerto Rico, the weighting factor shall be not greater than 1.15.

"(B) If the Secretary determines that satisfactory data for local educational agencies are available to carry out determinations under section 1123(a)(2), then the Secretary shall substitute the percentages, numbers, and quintiles described in section 1124(b)(3) for the percentages, numbers, and quintiles described in subparagraph (A).

"(d) STATE MINIMUM.—

"(1) MINIMUM.—For any fiscal year the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2) SPECIAL RULE.—A State shall not be allotted in any fiscal year more than 125 percent of the amount that the State would have received under this section in such fiscal year if the provisions of paragraph (1) were not applied.

"(e) SPECIAL RULE.—No State shall receive a grant under this section for fiscal year 1995 in an amount that exceeds 115 percent of the amount that would have been allocated to such State for such fiscal year under subpart 1 of part A of chapter 1 of title I (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"SEC. 1124. WITHIN STATE ALLOCATIONS.

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—No local educational agency shall be eligible for funds under this part unless the number of children counted under subsection (b)(1) for such agency is at least 10 and equal to 5 percent or greater of the number of all children served by such agency.

"(2) HOLD HARMLESS.—(A) Except as provided in subparagraph (B), each local educational agency shall receive an amount under this part for fiscal years 1995 and 1996 that is at least equal to 85 percent of the amount such agency received under this part (or for fiscal year 1994 only, such part's predecessor authority) in the preceding fiscal year, except that if such agency is not eligible for assistance under paragraph (1) such agency shall only receive the amount provided for under this paragraph for fiscal year 1995.

"(B)(i) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under subparagraph (A) for such year, the State educational agency shall ratably reduce the allocations to such local educational agencies for such year.

"(ii) If additional funds become available for making payments under subparagraph (A) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

"(3) STATE RESERVE.—(A) For each fiscal year each State may reserve not more than 2 percent of the funds such State receives to carry out this part to award grants to local educational agencies that—

"(i) are not eligible for assistance under paragraph (1); and

"(ii) serve a school attendance area for which the percentage of children counted under subsection (b)(1) that are enrolled in the schools in such area exceeds—

"(I) the percentage of such children in the State; or

"(II) 25 percent.

"(B) The total amount of funds awarded to each local educational agency receiving a grant under this paragraph when added to funds made available under paragraph (2) shall not exceed—

"(i) for fiscal year 1995, the amount such agency received under this part's predecessor authority in the preceding fiscal year; and

"(ii) for fiscal year 1996 and each succeeding fiscal year, the average amount received per child under this part in the State multiplied by the number of children counted under subsection (b)(1) in such agency's school attendance areas described in subparagraph (A)(ii).

"(C) Each State awarding grants under this paragraph shall distribute such grants to local educational agencies in rank order based on the percentage of children from low-income families in each local educational agency's school attendance area described in subparagraph (A)(ii).

"(D) Each local educational agency receiving a grant under this paragraph only shall use such grants funds to serve school attendance areas described in subparagraph (A)(ii).

"(E) In order to receive a grant under this paragraph a local educational agency shall provide an assurance to the State educational agency serving such local educational agency that such local educational agency has not modified the student assignment practices of such local educational agency so as to increase the percentage of children from low-income families in each school for which assistance is sought under this paragraph.

"(b) LOCAL EDUCATIONAL AGENCY ALLOCATIONS.—

"(1) CHILDREN TO BE COUNTED.—(A) The number of children counted for purposes of this section is the aggregate of—

"(i) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level; and

"(ii) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part E for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(B) In determining the number of children eligible to be counted under subparagraph (A), a State educational agency shall use for each local educational agency served by such State educational agency—

"(i) data from the Bureau of the Census regarding the number of children determined in accordance with section 1123(c)(1)(B);

"(ii) data based on the sum of—

"(I) the number of children from families receiving aid to families with dependent children under part A of title IV of the Social Security Act; and

"(II) the number of children with limited-English proficiency served by such agency divided by three; or

"(iii) data based on other poverty criteria, including combinations of the data described in clauses (i) and (ii) and combinations of the data described in either such clause and other data, that the State educational agency deems appropriate and the Secretary approves, adjusted to be equivalent in proportion to the number of children determined in accordance with section 1123(c)(1)(B) in the State, except that the State educational agency may submit to the Secretary for approval alternative data that more accurately target poverty.

"(2) ABSORPTION.—In determining the number of children to be counted under this paragraph for each local educational agency, the State educational agency shall subtract 1 percent of the total number of children aged 5 to 17, inclusive, served by such local educational agency from the number of children counted under paragraph (1) for such local educational agency.

"(3) WEIGHTED CHILDREN.—From funds made available under section 1123, each State educational agency shall allocate such funds to local educational agencies in the State on the basis of the number of children counted under paragraph (2) for a local educational agency multiplied by the weighting factor for the local educational agency. The weighting factor shall be established on the basis of the percentage that the number of children counted under paragraph (2) represents of the total population aged 5 to 17, inclusive, in the local educational agency or the number of such children. Weighted pupil counts shall be calculated based upon both percentage and number and the larger of the two counts shall be used in calculating grants for each local educational agency. Weighting factors shall be assigned according to the following scale, except that a State educational agency may submit to the Secretary for approval State-specific quintiles for use in the following percentages or numbers for the State if the use of such quintiles more accurately targets poverty: if the percentage is greater than 0 but less than 14.265, the weighting factor shall be 1.00 for all children counted under paragraph (2); if the percentage is greater than 14.265 but less than 21.553, the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 14.265 percent of the total school age population and 1.150 for children counted under paragraph (2) in excess of 14.265 percent of the total school age population; if the percentage is greater than 21.553 percent but less than 29.223 percent, then the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 14.265 percent of the total school age population, 1.150 for a number of children counted under paragraph (2) equal to 7.288 percent of the total school age population, and 1.300 for children counted under paragraph (2) in excess of 21.553 percent of the total school age population; if the percentage is greater than 29.223 percent but less than 36.538 percent, then the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 14.265 percent of the total school age population, 1.150 for a number of children counted under paragraph (2) equal to 7.288 percent of the total school age population, 1.30 for a number of children counted under paragraph (2) equal to 7.67 percent of the total school age population, and 1.450 for children counted under paragraph (2) in excess of 29.223 percent of the total school age population; and if the percentage is greater than 36.538, then the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 14.265 percent of the total school age population, 1.150 for a number of children counted under paragraph (2) equal to 7.288 percent of the total school age population, 1.300 for a number of children counted under paragraph (2) equal to 7.67 percent of the total school age population, 1.450 for a number of children counted under paragraph (2) equal to 7.315 percent of the total school age population, and 1.600 for children counted under paragraph (2) in excess of 36.538 percent of the total school age population. Separately, if the number of children counted under paragraph (2) is greater than 0 but less than 575, the weighting factor shall be 1.00 for all children counted under paragraph (2); if the number is greater than 575 but less than 1,870, the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 575, and 1.10 for children counted under paragraph (2) in excess of 575; if the number is greater than 1,870 but less than 6,910, then the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 575, 1.10 for a number of children counted under paragraph (2) equal to 1,295, and 1.20 for children counted under paragraph (2) in excess of 1,870; if the number is greater than 6,910 but less than 42,000 then the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 575, 1.10 for a number of children counted under paragraph (2) equal to 1,295, 1.20 for a number of children counted under paragraph (2) equal to 5,040, and 1.30 for children counted under paragraph (2) in excess of 6,910; and if the number is greater than 42,000, then the weighting factor shall be 1.00 for a number of children counted under paragraph (2) equal to 575, 1.10 for a number of children counted under paragraph (2) equal to 1,295, 1.20 for a number of children counted under paragraph (2) equal to 5,040, 1.30 for a number of children counted under paragraph (2) equal to 35,090 and 1.40 for children counted under paragraph (2) in excess of 42,000.

"(4) GEOGRAPHIC CIRCUMSTANCES.—In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those local educational agencies among those local educational agencies in such manner as the State educational agency determines will best carry out the purposes of this part.

"(5) SPECIAL ALLOCATION PROCEDURES.—Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (ii) of section 1123(c)(1)(A), who are living in institutions for neglected or delinquent children, the State educational agency shall, if the State educational agency assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibility, shall be eligible to receive such portion of the allocation.

"(6) SPECIAL RULE.—A local educational agency may reserve not more than 2 percent of the funds such agency receives under this part for each fiscal year to provide services at the discretion of the highest administrative official (superintendent) of such agency and consistent with the purposes of this title to a school, if the school is within two rank orders described in section 1113(c) of the lowest such rank ordered school served under this part.

"PART B—TRANSITION TO SUCCESS

"SEC. 1201. TRANSITION TO SUCCESS.

"(a) SHORT TITLE.—This part may be cited as the 'Transitions to Success Act of 1994'.

"(b) TRANSITION TO SUCCESS CHALLENGE GRANTS.—

"(1) FUNDING.—(A) Notwithstanding any other provision of law, from amounts appropriated to carry out part A for each fiscal year the Secretary shall reserve 1 percent of the total amount made available to all States under such part for such fiscal year, to carry out this part for such year.

"(B) From amounts reserved under subparagraph (A) the Secretary shall make available to each State 1 percent of the amount made available to each State under part A, to carry out this part.

"(2) STATE INCENTIVE REQUIREMENTS.—(A) In order for a State to use the funds made available under paragraph (1), the State shall submit a transition coordinated services proposal to the Secretary as part of the plan submitted under section 1111.

"(B) If a State fails to submit an acceptable proposal described in subparagraph (A)(i), local educational agencies within the State may apply to the Secretary directly for funds to carry out this part under such terms and conditions as the Secretary determines will best carry out the activities assisted under this part.

"(3) IN GENERAL.—From amounts made available under paragraph (1), each State educational agency shall make challenge grants to local educational agencies that have formed consortia with early childhood development programs including, where available, Head Start, to

develop and operate programs that assist low-income elementary school students in kindergarten through third grade (giving priority to students entering their first year of elementary school) and their families in—

"(A) obtaining supportive services that build on the strength of families, including health, immunization, mental health, nutrition, parenting education, literacy, and social services (including substance abuse treatment, education, and prevention services); and

"(B) supporting the active involvement of parents in the education of their children.

"(4) Special Rule.—In awarding grants and administering the program assisted under this section, the State educational agency shall consult with the State liaison for the Head Start collaboration grant program under section 640(a)(5) of the Head Start Act and State agencies that administer early childhood development programs, including programs under the Child Care and Development Block Grant Act of 1990.

"(5) Term of Grant.—Each grant awarded under this part shall be for a period of not more than 3 years.

"(c) Consultation.—The Secretary shall consult with the Secretary of Health and Human Services to develop regulations and promote coordination of activities assisted under this part with the projects funded under the Head Start Transition Project Act, including a process to—

"(1) collect information on program activities and outcomes; and

"(2) disseminate information on model programs.

"(d) Eligibility.—

"(1) Local educational agency consortium.—A local educational agency shall be eligible for a grant under this part if such agency—

"(A) receives funds under part A;

"(B) has formed a consortium with one or more early childhood development programs that serve children who will enroll in any elementary school located within the school district of such local educational agency, including, where available, Head Start programs; and

"(C) agrees to contribute an amount equal to \$1 of matching funds for every \$1 made available to the local educational agency to carry out this part, which matching funds may include Federal funds, including funds made available under this Act, and State or local funds (including in-kind contributions, fairly evaluated).

"(2) Cooperating agency.—A nonprofit agency or institution of higher education with experience in early childhood development may participate in a consortium formed under paragraph (1)(B) in developing, operating, and evaluating programs assisted under this part, including developing or implementing model approaches to developmentally appropriate curricula.

"(e) Follow Through Grantees.—A local educational agency that is receiving assistance through a program under the Follow Through Act shall also be eligible for a grant under this part to complete their Follow Through grant cycle if such agency meets the requirements of subsection (d)(1).

"(f) Requirements.—

"(1) In general.—To the extent practicable, the State educational agency shall award grants under this part to consortia in both rural and urban areas.

"(2) Criteria.—In awarding grants under this part, the State educational agency shall consider—

"(A) the commitment of the members of the consortium to the program for which assistance under this part is requested;

"(B) the proportion of low-income children in the school attendance area where the program assisted under this part will be located; and

"(C) the quality of information and plans in the application.

"(3) Priority.—In awarding grants under this part, the State educational agency shall give priority to applicants that—

"(A) will operate a program under this part at a school designated for a schoolwide program under section 1114;

"(B) serve local educational agencies that have the highest number or percentage of poor children; and

"(C) demonstrate a significant commitment by the community to the proposed program, as evidenced by the level of resources, both cash and in-kind, from other public and private sources available to the consortium.

"(g) Application.—

"(1) In general.—Each local educational agency consortium seeking a grant under this part shall submit an application to the State educational agency according to guidelines established by the Secretary. Each such application shall include—

"(A) a description of the activities and services for which assistance is sought;

"(B) a description of members of the consortium formed under subsection (d)(1)(B), including any cooperating agency;

"(C) a self-assessment of the programs of the individual consortium members to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse treatment, education, and prevention), and educational needs of low-income students and their families, including the use of a developmentally appropriate curricula, such as a model approach developed under the Follow Through Act;

"(D) a plan for the development of a supportive services team of family service coordinators to—

"(i) assist families, administrators, and teachers to respond to health, immunization, mental health, nutrition, social service, and educational needs of students;

"(ii) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education, and prevention), for which such students and their families are eligible;

"(iii) coordinate a family outreach and support program, including a plan for involving parents in the management of the program assisted under this part, in cooperation with parental involvement efforts undertaken pursuant to this title, the Head Start Act, and the Individuals with Disabilities Education Act, including school-parent compacts, parent volunteer activities, parent education services such as the Even Start program, and regular meetings;

"(iv) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act, other early childhood development programs, and elementary school classes; and

"(v) prepare a plan for the transition of each child from Head Start, or other early childhood development program, to kindergarten, including—

"(I) a meeting of the early childhood development program teacher with the kindergarten teacher and the child's parents to discuss the transition of each child and to address any particular educational needs of such child; and

"(II) the transfer of knowledge about the child, including the transfer (with parental consent) of written records from the early childhood development program teacher to the kindergarten teacher to become part of the school record of the child;

"(E) the designation of a member of the supportive services team described in subparagraph (D) who will serve as the supervisor of such supportive services team;

"(F) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by the local educational agency consortium have been consulted in the preparation of the plan described in subparagraph (D);

"(G) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by the local educational agency consortium will designate an individual who will act as a liaison to the supportive services team described in subparagraph (D);

"(H) a description of the target population to be served by the supportive services team described in subparagraph (D), including families previously served under part C, the Head Start Act, or other comparable early childhood development program;

"(I) a description of the supportive services to be provided, directly or through referral;

"(J) a plan to ensure the smooth transition of children served under part C, the Head Start Act, the Individuals with Disabilities Education Act, and other comparable early childhood development programs, to elementary schools;

"(K) assurances that, and a plan describing how, families will be involved in the design and operation of the program assisted under this part;

"(L) a description of the Federal and non-Federal resources that will be used to carry out the program;

"(M) if the applicant is receiving assistance through a program under the Follow Through Act—

"(i) a description of the activities that will be funded under this part and the activities that are funded with assistance provided under the Follow Through Act; and

"(ii) a description of the manner in which activities funded under this part and activities funded with assistance provided under the Follow Through Act will be coordinated within the elementary school;

"(N) assurances that the supportive services described in subparagraph (D) will be equipped to assist children and families with limited-English proficiency and disabilities, if appropriate;

"(O) a plan describing how the program assisted under this part will be sustained, with funding received under part A or other Federal and non-Federal funding sources, after the grant has expired;

"(P) program goals and a methodology to measure progress toward achieving such goals; and

"(Q) such other information as the Secretary may reasonably require.

"(2) Special rule.—Each supportive services team developed pursuant to paragraph (1)(D) shall include at least 1 family service coordinator for every 35 children to be served.

"(h) Evaluation and Report.—

"(1) Evaluation.—The Secretary, in cooperation with the Secretary of Health and Human Services shall, through grants, contracts, or cooperative agreements, provide for the evaluation of the programs assisted under this part. To the extent practicable, such evaluation shall be conducted jointly with evaluations of the Head Start Transition Projects.

"(2) Information.—Each State educational agency shall furnish to the Secretary such information as the Secretary shall request to carry out the evaluation described in paragraph (1).

"SEC. 1202. COORDINATION REQUIREMENTS.

"(a) In General.—Each local educational agency receiving assistance under section 1113 may use such assistance to carry out the activities described in subsection (b) to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation

of parents and local Head Start agencies and, if feasible, other early childhood development programs.

"(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

"(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

"(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

"(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

"(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

"SEC. 1203. DEFINITIONS.

"As used in this part:

"(1) DEVELOPMENTALLY APPROPRIATE CURRICULUM.—The term 'developmentally appropriate curriculum' means a curriculum that is appropriate for the age and all areas of individual development of a child, including educational, physical, emotional, social, and cognitive development, and communication.

"(2) FAMILY SERVICES COORDINATOR.—The term 'family services coordinator' means an individual who is trained to assist families in obtaining supportive services. Such individual may be an existing employee of a local educational agency or Head Start agency.

"(3) HEAD START AGENCY.—The term 'Head Start agency' means any agency designated as a Head Start agency under the Head Start Act (42 U.S.C. 9831 et seq.).

"(4) SUPPORTIVE SERVICES.—The term 'supportive services' means services that will enhance the physical, social, emotional, and intellectual development of low-income children, including the provision of necessary support to the parents and other family members of such children.

"PART C—EVEN START FAMILY LITERACY PROGRAMS

"SEC. 1301. STATEMENT OF PURPOSE.

"It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as 'Even Start'. The program shall—

"(1) be implemented through cooperative projects that build on existing community resources to create a new range of services;

"(2) promote achievement of the National Education Goals; and

"(3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards.

"SEC. 1302. PROGRAM AUTHORIZED.

"(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—In each fiscal year, the Secretary shall reserve not more than 5 percent of the amount appropriated under section 1002(b) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for—

"(1) children of migratory workers;

"(2) the outlying areas; and

"(3) Indian tribes and tribal organizations.

"(b) RESERVATION FOR FEDERAL ACTIVITIES.—From amounts appropriated under section 1002(b), the Secretary may reserve not more than 3 percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) for the fiscal year 1994, whichever is greater, for purposes of—

"(1) carrying out the evaluation required by section 1309; and

"(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

"(c) RESERVATION FOR GRANTS.—

"(1) GRANTS AUTHORIZED.—In any fiscal year in which the amount appropriated to carry out this part exceeds the amount appropriated to carry out this part for the preceding fiscal year, the Secretary may reserve such funds in excess of the amount appropriated for such preceding fiscal years as do not exceed $1,000,000 to award grants, on a competitive basis, to States to enable such States to plan and implement, through literacy resource centers assisted under subpart 7 of part B of the Adult Education Act, statewide family literacy initiatives to coordinate and integrate existing Federal, State, and local literacy resources consistent with the purposes of this part.

"(2) MATCHING REQUIREMENT.—The Secretary shall not make a grant to a State under paragraph (1) unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

"(d) STATE ALLOCATION.—

"(1) IN GENERAL.—From amounts appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c), the Secretary shall make grants to States from allocations under paragraph (2).

"(2) ALLOCATIONS.—Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under section 1122 to that State bears to the total amount allocated under that section to all the States.

"(3) MINIMUM.—No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than $250,000, or one-half of 1 percent of the amount appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

"(e) DEFINITIONS.—For the purpose of this part—

"(1) the term 'eligible entity' means a partnership composed of both—

"(A) a local educational agency; and

"(B) a nonprofit community-based organization, a public agency, an institution of higher education, or a public or private nonprofit organization of demonstrated quality;

"(2) the term 'eligible organization' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

"(3) the terms 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act; and

"(4) the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1303. STATE PROGRAMS.

"(a) STATE LEVEL ACTIVITIES.—Each State that receives a grant under section 1302(d)(1) may use not more than 5 percent of the grant funds for the costs of—

"(1) administration; and

"(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b).

"(b) SUBGRANTS FOR LOCAL PROGRAMS.—

"(1) IN GENERAL.—Each State shall use the grant funds received under section 1302(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

"(2) MINIMUM.—No State shall award a subgrant under paragraph (1) in an amount less than $75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of $75,000 or greater, less than $75,000 is available to the State to award such subgrants.

"SEC. 1304. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out a program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing family-centered education programs that involve parents and children in a cooperative effort to help parents obtain educational skills and become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) FEDERAL SHARE LIMITATION.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

"(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

"(ii) 80 percent in the second such year;

"(iii) 70 percent in the third such year;

"(iv) 60 percent in the fourth such year; and

"(v) 50 percent in any subsequent such year.

"(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated.

"(2) WAIVER.—The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

"(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

"(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

"(3) PROHIBITION.—Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1302(a)(3) demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

"SEC. 1305. PROGRAM ELEMENTS.

"Each program assisted under this part shall—

"(1) include the identification and recruitment of those families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or English language proficiency of a parent who is an eligible participant, and other need-related indicators;

"(2) include screening and preparation of parents, including teenage parents, and children to enable such parents and children to participate fully in the activities and services provided under this part, including testing, referral to necessary pupil services, and other developmental and support services;

"(3) be designed to accommodate the participants' work and other responsibilities, including the provision of pupil services (when such pupil services are unavailable from other sources) necessary for participation in the activities assisted under this part, such as—

"(A) scheduling and location of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

"(4) include high-quality instructional programs that promote adult literacy, training of parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

"(5) include qualified personnel to develop, administer, and implement the program assisted under this part;

"(6) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

"(7) provide and monitor integrated instructional services to participating parents and children through home-based programs;

"(8) operate on a year-round basis, including the provision of some instructional or enrichment services during the summer months;

"(9) be coordinated with—

"(A) other programs assisted under this title and Act;

"(B) any relevant programs under the Adult Education Act, the Individuals with Disabilities Education Act, and the Job Training Partnership Act; and

"(C) the Head Start program, volunteer literacy programs, and other relevant programs;

"(10) ensure that the programs will serve those families most in need of the activities and services provided by this part;

"(11) provide services under this part to individuals with special needs, such as individuals with limited-English proficiency and individuals with disabilities;

"(12) encourage eligible participants to remain in the program for a time sufficient to meet the program's purpose; and

"(13) provide for an independent evaluation of the program.

"SEC. 1306. ELIGIBLE PARTICIPANTS.

"(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

"(1) a parent or parents—

"(A) who are eligible for participation in an adult basic education program under the Adult Education Act; or

"(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

"(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

"(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

"(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

"(2) SPECIAL RULE.—Any family participating in a program assisted under this part that becomes ineligible for such participation as a result of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

"(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

"(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of eight.

"SEC. 1307. APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

"(b) PLAN.—

"(1) IN GENERAL.—Each such application shall include—

"(A) a description of the program goals;

"(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1305;

"(C) a description of the population to be served and an estimate of the number of participants to be served;

"(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or eligible organizations in carrying out the program for which assistance is sought; and

"(E) a statement of the methods that will be used—

"(i) to ensure that the programs will serve those families most in need of the activities and services provided by this part;

"(ii) to provide services under this part to individuals with special needs, such as individuals with limited-English proficiency and individuals with disabilities; and

"(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose.

"(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1)(A) shall—

"(A) remain in effect for the duration of the eligible entity's participation under this part; and

"(B) be periodically reviewed and revised by the eligible entity as necessary.

"SEC. 1308. AWARD OF SUBGRANTS.

"(a) SELECTION PROCESS.—

"(1) IN GENERAL.—The State educational agency shall establish a review panel in accordance with subsection (b) that will approve applications that—

"(A) are most likely to be successful in—

"(i) meeting the purpose of this part; and

"(ii) effectively implementing the program elements required under section 1305;

"(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, including a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A of this title;

"(C) provide services for at least a three-year age range;

"(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(E) include cost-effective budgets, given the scope of the application;

"(F) demonstrate the applicant's ability to provide the remaining cost required by section 1304(b);

"(G) are representative of urban and rural regions of the State; and

"(H) show the greatest promise for providing models that may be adopted by other local educational agencies.

"(2) REVIEW PANEL.—A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one of the following individuals:

"(A) A representative of a parent-child education organization.

"(B) A representative of a community-based literacy organization.

"(C) A member of a local board of education.

"(D) A representative of business and industry with a commitment to education.

"(E) An individual who has been involved in the implementation of programs under this title in the State.

"(3) PRIORITY.—The State educational agency shall give priority to awarding subgrants under this subsection to applications describing programs that—

"(A) target services primarily to families whose children reside in attendance areas of schools eligible for schoolwide programs under section 1114; or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(b) DURATION.—

"(1) IN GENERAL.—Subgrants under this part may be awarded for a period not to exceed four years.

"(2) STARTUP PERIOD.—The State educational agency may provide an eligible recipient, at such recipient's request, a 3- to 6-month startup period during the first year of the 4-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall review the progress being made toward meeting the objectives of the program after the conclusion of the startup period, if any.

"(4) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this part may reapply under this part for a second subgrant period.

"(B) The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.

"(5) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that sufficient progress has not been made toward meeting

such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"SEC. 1309. EVALUATION.

"From funds reserved under section 1302(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this part—

"(1) to determine the performance and effectiveness of programs assisted under this part; and

"(2) to identify effective programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs.

"SEC. 1310. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"PART D—EDUCATION OF MIGRATORY CHILDREN

"SEC. 1401. PROGRAM PURPOSE.

"It is the purpose of this part to assist States to—

"(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

"(2) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

"(3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

"(5) ensure that migratory children benefit from State and local systemic reforms.

"SEC. 1402. PROGRAM AUTHORIZED.

"(a) In General.—In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

"(b) Definitions.—As used in this part—

"(1) the term 'local operating agency' means—

"(A) a local educational agency to which a State educational agency makes a subgrant under this part;

"(B) a public or private nonprofit agency with which a State educational agency or the Secretary makes an arrangement to carry out a program or project under this part; or

"(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly; and

"(2) the term 'migratory child' means a child who is, or whose parent or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 48 months, in order to obtain, or accompany such parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work—

"(A) has moved from one school district to another;

"(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

"(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

"SEC. 1403. STATE ALLOCATIONS.

"(a) State Allocations.—Each State (other than the Commonwealth of Puerto Rico) is eligible to receive an allocation under this part, for each fiscal year, in an amount equal to—

"(1) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

"(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(b) Allocation to Puerto Rico.—For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

"(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1); multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) Ratable Reductions; Reallocations.—

"(1) In general.—(A) If, after the Secretary reserves funds under section 1408(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

"(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

"(2) Special rule.—(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address those needs, that such amount is not needed by the State.

"(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

"(d) Consortium Arrangements.—

"(1) In general.—In the case of any State that receives a grant of $500,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or another appropriate entity would result in delivery of services in a more effective and efficient manner.

"(2) Proposals.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

"(3) Approval.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

"(A) reduce administrative costs or program function costs for State programs; and

"(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

"(e) Determining Numbers of Eligible Children.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

"(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children; and

"(2) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

"(A) the special needs of those children participating in special programs provided under this part that operate during the summer or other intersession periods; and

"(B) the additional costs of operating such programs.

"SEC. 1404. STATE APPLICATIONS; SERVICES.

"(a) Application Required.—Any State wishing to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(b) Program Information.—Each such application shall include—

"(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through a comprehensive plan for needs assessment and service delivery that meets the requirements of section 1406;

"(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(3) a description of how the State will use its funds to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

"(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State; and

"(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies and the amount of funds that such agencies will provide to individual schools, taking into account the requirements of paragraph (1).

"(c) Assurances.—Each such application shall also include assurances, satisfactory to the Secretary, that—

"(1) such programs and projects will be carried out in a manner consistent with the objectives of sections 1114, 1115(b), 1115(e), 1117, 1120(b), and 1120(c), and part G;

"(2) in the planning and operation of such programs and projects at both the State and local operating agency level, there is appropriate consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out, to the extent feasible, in a manner consistent with section 1116;

"(3) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A; and

"(4) to the extent feasible, such programs and projects will provide for—

"(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

"(B) professional development programs, including mentoring, for teachers and other program personnel;

"(C) family literacy programs, including such programs that use models developed under Even Start;

"(D) the integration of information technology into educational and related programs; and

"(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

"(5) the State will assist the Secretary in determining the number of migratory children under section 1403(e), through such procedures as the Secretary may require.

"(d) PRIORITY FOR SERVICES.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards, and whose education has been interrupted during the regular school year.

"(e) CONTINUATION OF SERVICES.—Notwithstanding any other provision of this part—

"(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term; and

"(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs.

"SEC. 1405. SECRETARIAL APPROVAL; PEER REVIEW.

"(a) SECRETARIAL APPROVAL.—The Secretary shall approve each application under this part that meets the requirements of this part.

"(b) PEER REVIEW.—The Secretary may review any application under this part with the assistance and advice of State officials and other individuals with relevant expertise.

"SEC. 1406. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

"(a) COMPREHENSIVE PLAN.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

"(A) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

"(B) specifies measurable program goals and outcomes;

"(C) encompasses the full range of services that are available for migratory children from appropriate local, State and Federal educational programs;

"(D) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and bilingual education programs under part A of title VII; and

"(E) provides for the integration of services available under this part with services provided by such other programs.

"(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In implementing the comprehensive plan described in subsection (a), each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

"(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

"(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

"(ii) are not addressed by services provided under other programs, including programs under part A;

"(B) all migratory children who are eligible to receive services under part A shall receive such services with funds provided under this part or under part A; and

"(C) funds received under this part shall be used only—

"(i) for programs and projects, including the acquisition of equipment, in accordance with section 1406(b)(1); and

"(ii) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families.

"(2) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(3) INAPPLICABILITY.—This subsection shall not apply to funds under this part that are used for schoolwide programs under section 1114.

"SEC. 1407. BYPASS.

"The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

"(1) the State is unable or unwilling to conduct educational programs for migratory children;

"(2) such arrangements would result in more efficient and economic administration of such programs; or

"(3) such arrangements would add substantially to the welfare or educational attainment of such children.

"SEC. 1408. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

"(a) IMPROVEMENT OF COORDINATION.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

"(2) EXTENSION.—The Secretary may extend until January 1, 1996 the contract for the operation of the migrant student record transfer system under section 1203(a)(2)(A) of this Act (as such section was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"(b) REPORT.—Not later than October 1, 1995, the Secretary shall submit a report to the Congress regarding the effectiveness of methods used by States to transfer migratory students' educational and health records.

"(c) AVAILABILITY OF FUNDS.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $6,000,000 of the amount appropriated to carry out this part for such year.

"(d) INCENTIVE GRANTS.—From the amounts made available to carry out this section, the Secretary may reserve not more than $1,500,000 to award grants in amounts of not more than $100,000 to each State educational agency entering into a consortium agreement described in section 1403(d).

"PART E—EDUCATION FOR NEGLECTED AND DELINQUENT YOUTH

"SEC. 1501. PURPOSE; PROGRAM AUTHORIZED.

"(a) PURPOSE.—It is the purpose of this part to—

"(1) improve educational services to children in institutions for neglected or delinquent children so that such children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State will be expected to meet; and

"(2) provide such children the services such children need to make a successful transition from institutionalization to further schooling or employment.

"(b) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies to enable such State educational agencies to award subgrants to State agencies to establish or improve programs of education for neglected or delinquent children in accordance with this part.

"SEC. 1502. ELIGIBILITY.

"A State agency is eligible for assistance under this part if such State agency is responsible for providing free public education for children—

"(1) in institutions for neglected or delinquent children;

"(2) attending community day programs for neglected or delinquent children; or

"(3) in adult correctional institutions.

"SEC. 1503. ALLOCATION OF FUNDS.

"(a) SUBGRANTS TO STATE AGENCIES.—

"(1) IN GENERAL.—Each State agency described in section 1502 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this part, for each fiscal year, an amount equal to the product of—

"(A) the number of neglected or delinquent children described in section 1502 who—

"(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

"(ii) are enrolled for at least 20 hours per week—

"(I) in education programs in institutions for neglected or delinquent children; or

"(II) in community day programs for neglected or delinquent children; and

"(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(2) SPECIAL RULE.—The number of neglected or delinquent children determined under paragraph (1) shall—

"(A) be determined by the State agency by a date or dates set by the Secretary, except that no State agency shall be required to determine the number of such children on a specific date set by the Secretary; and

"(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

"(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

"(1) the number of children counted under subsection (a)(1) for Puerto Rico; multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

"(d) PAYMENTS TO STATE EDUCATIONAL AGENCIES.—

"(1) IN GENERAL.—The Secretary shall pay to each State educational agency the total amount needed to make subgrants to State agencies in that State, as determined under this section.

"(2) ADMINISTRATIVE EXPENSES.—Each State educational agency may retain a portion of such total amount for State administration of, in accordance with section 1701(b).

"SEC. 1504. STATE REALLOCATION OF FUNDS.

"If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this part for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

"SEC. 1505. STATE PLAN AND STATE AGENCY APPLICATIONS.

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each State educational agency that desires to receive payments under this part shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent children, which shall be revised and updated as needed to satisfy the requirements of this section.

"(2) CONTENTS.—Each such State plan shall—

"(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

"(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

"(C) contain assurances that the State educational agency will—

"(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection; and

"(ii) carry out the evaluation requirements of section 1509 of this part.

"(3) DURATION OF THE PLAN.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) SECRETARIAL APPROVAL; PEER REVIEW.—

"(1) IN GENERAL.—The Secretary shall approve each State plan that meets the requirements of this part.

"(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

"(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

"(1) describes the procedures to be used, consistent with the State plan under part A, to assess the educational needs of the children to be served;

"(2) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

"(3) describes how the program will meet the goals and objectives of the State plan under this part;

"(4) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1507 are of high quality;

"(5) describes how the agency will carry out the evaluation requirements of section 1509 and how the results of the most recent evaluation were used to plan and improve the program;

"(6) includes data showing that the State agency has maintained fiscal effort as if such agency were a local educational agency, in accordance with section 10501;

"(7) describes how the programs will be coordinated with other State and Federal programs administered by the State agency;

"(8) describes how appropriate professional development will be provided to teachers and other staff; and

"(9) designates an individual in each affected institution to be responsible for issues relating to the transition of children from the institution to locally operated programs.

"SEC. 1506. USE OF FUNDS.

"(a) IN GENERAL.—

"(1) IN GENERAL.—A State agency shall use funds received under this part only for programs and projects that—

"(A) are consistent with the State plan described in section 1505(a); and

"(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to further education or employment.

"(2) USES.—Such programs and projects—

"(A) may include the acquisition of equipment;

"(B) shall be designed to support educational services that—

"(i) except for institution-wide projects under section 1507, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

"(ii) supplement and improve the quality of the educational services provided to such children by the State agency; and

"(iii) afford such children an opportunity to learn such standards;

"(C) shall be carried out in a manner consistent with section 1120(b) and part G; and

"(D) may include the costs of meeting the evaluation requirements of section 1509.

"(b) SUPPLEMENT, NOT SUPPLANT.—A program under this part that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the 'supplement, not supplant' requirement of section 1120(b) without regard to the subject areas in which instruction is given during those hours.

"SEC. 1507. INSTITUTION-WIDE PROJECTS.

"(a) PROJECTS AUTHORIZED.—A State agency that provides free public education for children in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

"(1) provides for a comprehensive assessment of the educational needs of all individuals under the age of 21 in the institution or program;

"(2) describes the steps the State agency has taken, or will take, to provide all children under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that such children will complete secondary school and find employment after leaving the institution;

"(3) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

"(4) specifically describes how such funds will be used;

"(5) describes the measures and procedures that will be used to assess student progress;

"(6) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

"(7) includes an assurance that the State agency has provided for appropriate training to teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

"(b) PROJECTS REQUIRED.—Beginning with school year 1996–1997, a State agency described in subsection (a) shall use funds received under this part only for institution-wide projects described in that subsection, except as provided in section 1510.

"SEC. 1508. THREE-YEAR PROJECTS.

"If a State agency operates a program or project under this part in which individual children are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this part for a period of not more than three years.

"SEC. 1509. PROGRAM EVALUATIONS.

"(a) SCOPE OF EVALUATION.—Each State agency that conducts a program or project under this part shall evaluate the program or project at least once every three years, disaggregating data on participants by sex, and if feasible, race, ethnicity or age, to determine the program or project's impact on the ability of participants to—

"(1) maintain and improve educational achievement;

"(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

"(3) make the transition to a regular program or other education program operated by a local educational agency; and

"(4) complete secondary school and obtain employment after participants leave the institution.

"(b) EVALUATION MEASURES.—In conducting each such evaluation with respect to subsection (a)(1), a State agency shall use multiple and appropriate measures of student progress.

"(c) EVALUATION RESULTS.—Each State agency shall—

"(1) submit the results of each evaluation under this section to the State educational agency; and

"(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children.

"SEC. 1510. TRANSITION SERVICES.

"(a) TRANSITION SERVICES.—Each State agency may reserve not more than 10 percent of the amount such agency receives under this part for

any fiscal year to support projects that facilitate the transition of children from State-operated institutions for neglected and delinquent children into locally operated programs.

“(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

“(c) LIMITATION.—Any funds reserved under subsection (a) shall be used only to provide special educational services, which may include pupil services and mentoring, to neglected and delinquent children in schools other than State-operated institutions.

“(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

“SEC. 1511. DEFINITIONS.

“For the purpose of this part—

“(1) the term ‘adult correctional institution’ means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age;

“(2) the term ‘community day program’ means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children;

“(3) the term ‘institution for delinquent children’ means a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision; and

“(4) the term ‘institution for neglected children’ means a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.

“PART F—FEDERAL EVALUATIONS AND DEMONSTRATIONS

“SEC. 1601. EVALUATIONS.

“(a) NATIONAL ASSESSMENT.—

“(1) IN GENERAL.—The Secretary shall conduct a national assessment of programs assisted under this title, in coordination with the ongoing Chapter 1 Longitudinal Study under subsection (c) of this section, that shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

“(2) EXAMINATION.—The assessment shall examine how well schools, local educational agencies, and States—

“(A) are progressing toward the goal of all children served under this title reaching the State's challenging State content standards and challenging State student performance standards; and

“(B) are accomplishing the purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—

“(i) ensuring challenging State content standards and challenging State student performance standards for all children served under this title and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

“(ii) providing children served under this title an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

“(iii) promoting schoolwide reform and access for all children served under this title to effective instructional strategies and challenging academic content;

“(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

“(v) coordinating services provided under all parts of this title with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

“(vi) affording parents of children served under this title meaningful opportunities to participate in the education of their children at home and at school;

“(vii) distributing resources to areas where needs are greatest;

“(viii) improving accountability, as well as teaching and learning, by making assessments under this title congruent with State assessment systems; and

“(ix) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

“(3) NAEP INFORMATION.—Where feasible, the Secretary shall use information gathered by the National Assessment of Educational Progress in carrying out this subsection.

“(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit an interim report summarizing the preliminary findings of the assessment to the President and the appropriate committees of the Congress and a final report of the findings of the assessment by January 1, 1998.

“(b) STUDIES AND DATA COLLECTION.—

“(1) IN GENERAL.—The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this title and to report on such effectiveness on a periodic basis.

“(2) MINIMUM INFORMATION.—At a minimum, the Secretary shall collect trend information on the effect of programs under this title. Such data shall complement the data collected and reported under subsections (a) and (c).

“(c) NATIONAL LONGITUDINAL STUDY.—

“(1) IN GENERAL.—The Secretary shall carry out an ongoing evaluation of the program assisted under part A of title I in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet high State content standards and State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

“(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least 3 years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

“(B) be separate and independent from State and local assessments an evaluations required under this part and consistent with measuring the achievement of students to relative to high State content standards and State student performance standards;

“(C) utilize the highest available content standards that are generally accepted as national in scope;

“(D) provide information on all students, students served under this part, and, if funds are sufficient, information on students from low-income families, limited-English proficient students, and students with disabilities; and

“(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

“(2) USE.—The Secretary shall use the results of the evaluation described in paragraph (1) as part of the national assessment required by subsection (a) and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4).

“(d) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under subsection (a) and the national longitudinal study under subsection (b), the Secretary shall use developmentally appropriate measures to assess student performance and progress.

“(e) STUDY ON ESTIMATING STATE CHILD POVERTY COUNTS.—The Secretary shall—

“(1) conduct a study to determine whether a feasible method exists for producing reliable estimates, between decennial census counts, of the number of school-aged children living in poverty by State in each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

“(2) use such a method, if one exists, to provide the Congress with such estimates.

“SEC. 1602. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

“(a) DEMONSTRATION PROGRAMS TO IMPROVE ACHIEVEMENT.—

“(1) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(g)(2), the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State content standards and challenging State student performance standards. Such projects shall include promising strategies such as—

“(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

“(B) coordinated pupil services programs;

“(C) integration of education services with each other and with health, family, and other social services, particularly in empowerment zones and enterprise communities;

“(D) effective approaches to whole school reform;

“(E) programs that have been especially effective with limited-English proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth; and

“(F) programs which are especially effective in recruiting, inducting and retraining highly qualified teachers for service in schools with low student achievement.

“(2) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

“(b) PARTNERSHIPS.—From funds appropriated under section 1002(g)(2) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.

“PART G—GENERAL PROVISIONS

“SEC. 1701. FEDERAL REGULATIONS.

“(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is *compliance with the specific requirements and assurances required by this title.*

"(b) PROCEDURE.—

"(1) IN GENERAL.—Prior to publishing proposed regulations pursuant to this title, the Secretary shall convene regional meetings which shall provide input to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this title.

"(2) PROPOSED REGULATIONS.—Subsequent to regional meetings and prior to publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit regulations on a minimum of 4 key issues to a modified negotiated rulemaking process as a demonstration of such process. The modified process shall waive application of the Federal Advisory Committee Act, but shall otherwise follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4, "Procedures for Negotiating Proposed Regulations" (47 Fed. Reg. 30708, June 18, 1982) and any successor regulation. Participants in the demonstration shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The demonstration shall be conducted in a timely manner.

"(3) EMERGENCY SITUATION.—In an emergency situation in which regulations pursuant to this title must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional meetings to review the emergency regulation prior to issuance in final form.

"(c) LIMITATION.—Programs under this title may not be required to follow any 1 instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1702. STATE ADMINISTRATION.

"(a) RULEMAKING.—

"(1) IN GENERAL.—Each State that receives funds under this title shall—

"(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;

"(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject; and

"(C) identify any such rule, regulation, or policy as a State-imposed requirement.

"(2) SPECIAL RULE.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the State's challenging State content standards and challenging State student performance standards.

"(b) PAYMENT FOR STATE ADMINISTRATION.—Each State may reserve for the proper and efficient performance of such State's duties under this title, the greater of—

"(1)(A) 1.00 percent of the funds appropriated to carry out subsections (a), (c), (d), and (e) of section 1002 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B) or (C);

"(B) 1.25 percent of the funds appropriated to carry out such subsections for any fiscal year after fiscal year 1995 for which the funds appropriated to carry out such subsections exceeds by more than $500,000,000 but less than $1,000,000,000 the funds appropriated to carry out such subsections for fiscal year 1995; or

"(C) 1.50 percent of the funds appropriated to carry out such subsections for any fiscal year after fiscal year 1995 for which the funds appropriated to carry out such subsections exceeds by $1,000,000,000 the funds appropriated to carry out such subsections for fiscal year 1995;

"(2) except as provided in paragraph (3)—

"(A) $375,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B) or (C);

"(B) $470,000 for any fiscal year after fiscal year 1995 for which the funds appropriated to carry out such subsections exceeds by more than $500,000,000 but less than $1,000,000,000 the funds appropriated to carry out such subsections for fiscal year 1995; or

"(C) $565,000 for any fiscal year after fiscal year 1995 for which the funds appropriated to carry out such subsections exceeds by $1,000,000,000 the funds appropriated to carry out such subsections for fiscal year 1995; or

"(3) in the case of an outlying area—

"(A) $50,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B) or (C);

"(B) $65,000 for any fiscal year after fiscal year 1995 for which the funds appropriated to carry out such subsections exceeds by more than $500,000 but less than $1,000,000,000 the funds appropriated to carry out such subsections for fiscal year 1995; and

"(C) $80,000 for any fiscal year after fiscal year 1995 for which the funds appropriated to carry out such subsections exceeds by $1,000,000,000 the funds appropriated to carry out such subsections for fiscal year 1995.

"(c) PAYMENT FOR SCHOOL IMPROVEMENT.—Each State may reserve for the proper and efficient performance of its duties under subsections (b)(5) and (c) of section 1118, and section 1119, the greater of—

"(1) .75 percent of the funds received under subsections (a), (c), (d), (e), and (f) of section 1002;

"(2) except as provided in paragraph (3), $245,000; or

"(3) in the case of an outlying area, $40,000.

"(d) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

"(B) For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate its compliance with paragraph (1).

"SEC. 1703. CONSTRUCTION.

"(a) PROHIBITION OF FEDERAL MANDATES, DIRECTION OR CONTROL.—Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this title.

"(b) EQUALIZED SPENDING.—Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"(c) BUILDING STANDARDS.—Nothing in this title shall be construed to mandate national school building standards for a State, local educational agency, or school.

"TITLE II—IMPROVING TEACHING AND LEARNING

"PART A—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

"SEC. 2101. FINDINGS.

"The Congress finds as follows:

"(1) Reaching the third National Education Goal (all students will demonstrate mastery of challenging subject matter in the core academic subjects) and the fifth National Education Goal (United States students will become first in the world in mathematics and science achievement) requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

"(2) A crucial component of the strategy for achieving these two goals is ensuring, through sustained and intensive high-quality professional development, that all teachers can provide challenging learning experiences in the core academic subjects for their students.

"(3) The potential positive impact of high-quality professional development is underscored by recent research findings that—

"(A) professional development must be focused on teaching and learning in order to change the opportunities of all students to achieve higher standards;

"(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, administrators, and pupil services personnel in a school and, through professional networks of teachers, administrators, pupil services personnel, and parents is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

"(C) professional development can dramatically improve classroom instruction and learning when teachers, administrators, pupil services personnel, and parents are partners in the development and implementation of such professional development; and

"(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

"(4) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

"(5) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in intervention strategies to—

"(A) alleviate the need, and inappropriate referral, for special education services; and

"(B) prepare staff to work collaboratively to educate students with disabilities placed into general education settings, consistent with such student's individualized education program.

"(6) Professional development activities, designed in cooperation with parents, that focus on the complex social, emotional and mental health needs of children which may impede learning, can help teachers, administrators, and pupil services personnel assist children in overcoming barriers to academic success.

"(7) Professional development is often a victim of budget reductions in fiscally difficult times.

"(8) There are few incentives or sanctions operating to encourage teachers and administrators to work to prepare themselves to be more effective or to participate in challenging and effective professional development activities.

"(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and administrators in involving parents. Programs are needed to provide parents the training and development necessary to enable parents to participate fully and effectively in their children's education.

"(10) The Federal Government has a vital role in helping to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

"SEC. 2102. PURPOSES.

"It is the purpose of this part—

"(1) to help ensure that teachers, other staff, and administrators have access to high-quality professional development that is aligned to challenging State content standards and challenging State student performance standards and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

"(2) to help ensure that teachers, administrators, other staff, pupil services personnel, and parents have access to professional development that—

"(A) is tied to challenging State content standards and challenging State student performance standards;

"(B) reflects recent research on teaching and learning;

"(C) includes strong academic content and pedagogical components;

"(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited-English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

"(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

"SEC. 2103. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION BETWEEN SUBPARTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) ALLOCATION BETWEEN SUBPARTS.—Of the amounts appropriated to carry out this part for any fiscal year the Secretary shall make available—

"(1) 5 percent of such amounts to carry out subpart 1, of which 10 percent of such 5 percent shall be available to carry out section 2114;

"(2) 93.75 percent of such amounts to carry out subpart 2; and

"(3) 1.25 percent of such amounts to carry out subpart 3.

"Subpart 1—Federal Activities

"SEC. 2111. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

"(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

"(2) evaluate activities carried out under this subpart and subpart 2 in accordance with section 10701.

"(b) REQUIREMENTS.—In carrying out the activities described in subsection (a), the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational Research and Improvement, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and other appropriate Federal agencies and entities.

"SEC. 2112. AUTHORIZED ACTIVITIES.

"The Secretary shall use funds available to carry out this subpart for activities that help meet the purposes of this part, such as—

"(1) providing seed money to the entities described in section 2111(a) to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

"(2) professional development institutes that provide teams of teachers, or teachers, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

"(3) encouraging the development of local and national professional networks, including the Teacher Research Dissemination Demonstration Program under section 941(j) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

"(4) supporting the National Board for Professional Teaching Standards;

"(5) the development and dissemination of teaching standards in the core academic subjects;

"(6) the development of exemplary methods of assessing teachers, other staff, and administrators for licensure and certification;

"(7) the dissemination of models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited-English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(8) activities that promote the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

"(9) the development and testing of incentive strategies for motivating teachers, administrators, and pupil services personnel to help increase their effectiveness through professional development focused on teaching and learning and giving all students the opportunity to learn to challenging State content standards and challenging State student performance standards;

"(10) the development of innovative intervention strategies to—

"(A) alleviate the need, and inappropriate referral, for special education services; and

"(B) prepare general education and special education teachers, paraprofessionals and pupil services personnel in effective integration of students with disabilities into general education settings, consistent with such student's individualized education program;

"(11) encouraging the development of innovative models for recruitment, induction, retention and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups;

"(12) the dissemination of information about voluntary national content standards and voluntary national performance standards and related models of high-quality professional development;

"(13) the development and maintenance of a national clearinghouse for such core academic subjects as the Secretary determines are needed;

"(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts;

"(15) the evaluation of programs under this subpart and subpart 2 in accordance with section 10701; and

"(16) the development of programs which prepare teachers to incorporate environmental education in the core academic subjects.

"SEC. 2113. EISENHOWER NATIONAL CLEARINGHOUSE FOR MATHEMATICS AND SCIENCE EDUCATION.

"(a) CLEARINGHOUSE AUTHORIZED.—The Secretary, in consultation with the Director of the National Science Foundation, may award a grant or contract to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the 'Clearinghouse').

"(b) APPLICATION AND AWARD BASIS.—Each entity desiring to establish and operate the Clearinghouse authorized by this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive, merit basis.

"(c) DURATION.—The grant or contract awarded under this section shall be awarded for a period of 5 years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

"(d) USE OF FUNDS.—The grant or contract awarded under this section shall be used to—

"(1) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortiums established under subpart 2 of part C and by the general public;

"(2) compile information on all mathematics and science education programs administered by each Federal agency or department;

"(3) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortiums under subpart 2 of part C;

"(4) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal and, where feasible, international data bases;

"(5) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortiums under subpart 2 of part C to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortiums, except that not more than 3 percent of the funds awarded under this section shall be used to carry out this paragraph; and

“(6) gather qualitative and evaluative data on submissions to the Clearinghouse.

“(e) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

“(f) PEER REVIEW.—The Secretary shall establish a peer review process to select the recipient of the award under this subsection.

“(g) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

“(h) APPLICATION OF COPYRIGHT LAWS.—Nothing in this section shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17, United States Code.

“(i) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

“SEC. 2114. NATIONAL TEACHER TRAINING PROJECT.

“(a) SHORT TITLE; FINDINGS; DEFINITIONS.—

“(1) SHORT TITLE.—This section may be cited as the ‘National Teacher Training Project Act of 1994’.

“(2) FINDINGS.—The Congress finds that—

“(A) teachers must be major players in educational reform in the United States;

“(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

“(C) there is a shortage of sustained, year-round professional development programs for teachers;

“(D) successful teaching methods are not adequately shared among teachers;

“(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

“(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

“(G) pertinent research is not shared among teachers in a professional setting;

“(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

“(I) each State should support a nationally based teacher training program that is modeled after the National Writing Project for teachers of the core academic subjects, including early childhood education, mathematics, science, English, civics and government, foreign languages, and arts;

“(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

“(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

“(L) each year over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through 1 of the 155 sites located within the United States, and in 18 sites located outside of the United States;

“(M) in the 20 years of its existence, over 1,100,000 teachers, administrators and parents have participated in National Writing Project programs;

“(N) less than $16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991–1992;

“(O) for every dollar in Federal support, the National Writing Project provides over $5 in matching funds from States, local universities and schools, and the private sector;

“(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training Project sites needed, and the future of the program is in jeopardy without secure financial support;

“(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

“(R) each of the 50 States should participate in the National Teacher Training Project by establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

“(3) DEFINITIONS.—For the purpose of this section—

“(A) the term ‘contractor’ means—

“(i) a local educational agency;

“(ii) an educational service agency; or

“(iii) an institution of higher education that awards a bachelor’s degree; and

“(B) the term ‘eligible recipient’ means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2).

“(b) GRANTS AUTHORIZED.—

“(1) GRANTS TO ELIGIBLE RECIPIENTS.—The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

“(A) to support and promote the establishment of teacher training programs in early childhood development and one of the 9 core academic subjects described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

“(B) to support classroom research on effective teaching practices in such area; and

“(C) to pay the Federal share of the cost of such programs and research.

“(2) CORE SUBJECT AREAS.—To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core academic subjects:

“(A) Mathematics.

“(B) Science.

“(C) English.

“(D) Civics and government.

“(E) Foreign languages.

“(F) Arts.

“(G) Geography.

“(H) History.

“(I) Economics.

“(3) NUMBER OF GRANTS AND ELIGIBLE RECIPIENTS.—The Secretary shall award not more than 10 grants under paragraph (1) to 10 different eligible recipients.

“(4) EQUITABLE DISTRIBUTION.—The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

“(5) SPECIAL RULE.—Each grant under paragraph (1) shall be of sufficient size, scope and quality to be effective.

“(6) ADMINISTRATIVE COSTS AND TECHNICAL ASSISTANCE.—Each eligible recipient receiving a grant under paragraph (1) may use not more than 5 percent of the grant funds for administrative costs and the costs of providing technical assistance to a contractor.

“(c) GRANT REQUIREMENTS.—Each eligible recipient receiving a grant under subsection (b) shall—

“(1) enter into a contract with a contractor under which such contractor agrees—

“(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the subject matter for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child’s education; and

“(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

“(2) make annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

“(3) meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

“(d) TEACHER TRAINING PROGRAMS.—The teacher training programs described in subsection (b) shall—

“(1) be conducted during the school year and during the summer months;

“(2) train teachers who teach grades kindergarten through college;

“(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area served by the National Teacher Training Project site;

“(4) borrow teacher training principles and receive technical assistance from the National Writing Project; and

“(5) encourage teachers from all disciplines to participate in such teacher training programs.

“(e) FEDERAL SHARE.—The term ‘Federal share’ means, with respect to the costs of teacher training programs described in subsection (b), 50 percent of such costs to the contractor

“(f) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

“(g) PARTICIPANTS AND SELECTION PROCESS.—The selection process for participation in a teacher training program described in subsection (b) shall—

“(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

“(2) involve an application process to select participants for a summer program;

“(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teachers of both public and private institutions in rural, urban and suburban settings of every State; and

“(4) automatically offer a place in a summer program to the ‘Teacher of the Year’ chosen pursuant to a Federal or State teacher recognition program.

“(h) LIMITATION.—A contractor entering into a contract under subsection (c)(1) shall not spend more than 5 percent of funds received under the contract for administrative costs.

"Subpart 2—State and Local Activities

"SEC. 2121. PROGRAM AUTHORIZED.

"The Secretary is authorized to make grants to State educational agencies for the support of sustained and intensive high-quality professional development activities in the core academic subjects at the State and local levels.

"SEC. 2122. ALLOCATION OF FUNDS.

"(a) Reservation of Funds.—From the amount available to carry out this subpart for any fiscal year, the Secretary shall reserve—

"(1) ½ of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part;

"(2) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

"(b) State Allotments.—The Secretary shall allocate the amount available to carry out this subpart and not reserved under subsection (a) to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than one-half of 1 percent of such amount:

"(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged 5 through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

"(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of title I for the preceding fiscal year.

"(c) Reallocation.—If any jurisdiction does not apply for an allotment under subsection (b) for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with that subsection.

"SEC. 2123. WITHIN-STATE ALLOCATIONS.

"Of the amounts received by any State under this subpart for any fiscal year—

"(1) 75 percent shall be available for State level activities under section 2126 and local allowable activities under section 2129(b), of which—

"(A) not more than 5 percent may be used for the administrative costs of the State educational agency;

"(B) not more than 5 percent may be used for State-level activities under section 2126; and

"(C) of the remaining amount—

"(i) 50 percent shall be distributed to local educational agencies—

"(I) for use in accordance with section 2129; and

"(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 50 percent of such amount shall be distributed to local educational agencies—

"(I) for use in accordance with section 2129; and

"(II) in accordance with the relative amount such agencies received under part A of title I of this Act for the preceding fiscal year; and

"(2) 25 percent shall be available to the State agency for higher education for activities under section 2130, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

"SEC. 2124. PRIORITY FOR PROFESSIONAL DEVELOPMENT IN MATHEMATICS AND SCIENCE.

"(a) Appropriation of Less Than $250,000,000.—In any fiscal year for which the amount appropriated for this part is less than $250,000,000, each State shall ensure that all funds distributed in accordance with section 2123(1)(C) are used for professional development in mathematics and science.

"(b) Appropriation Equal to or Above $250,000,000.—In any fiscal year for which the amount appropriated for this part is at least $250,000,000, each State shall ensure that the amount of funds distributed in accordance with section 2123(1)(C) that is used for professional development in mathematics and science is not less than the amount that bears the same ratio to the total amount of funds so distributed as the sum of $250,000,000 plus at least 10 percent of the amount appropriated for this part for such year in excess of $250,000,000 bears to the total amount appropriated for this part for such year.

"SEC. 2125. STATE APPLICATIONS.

"(a) Applications Required.—Each State educational agency that wishes to receive an allotment under this subpart for any fiscal year shall submit an application to the Secretary at such time and in such form as the Secretary may require.

"(b) Professional Development Plan.—

"(1) In general.—Each application under this section shall include a State plan for professional development that satisfies the requirements of this section.

"(2) Contents.—Each such State plan shall—

"(A) be developed in conjunction with the State agency for higher education, nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators, and pupil services personnel and show the role of each such entity in implementation of the plan;

"(B) be designed to give teachers, administrators, and pupil services personnel in the State the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

"(D) describe the need for teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically underrepresented groups;

"(E) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards;

"(F) describe how the State will work with teachers, administrators, parents, local educational agencies, schools, educational service agencies, and institutions of higher education or nonprofit organizations of demonstrated effectiveness to ensure that such individuals or entities develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

"(G) describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities;

"(H) describe how the State will prepare teachers, paraprofessionals and pupil services personnel in intervention strategies to—

"(i) alleviate the need, and inappropriate referral, for special education services; and

"(ii) prepare general and special education staff to work collaboratively to educate students with disabilities placed into general education settings, consistent with such student's individualized education program;

"(I) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, administrators, and pupil services personnel;

"(J) describe how the State will ensure a strong focus on professional development in mathematics and science taking into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups;

"(K) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing themselves to provide instruction consistent with challenging State content standards and challenging State student performance standards;

"(L) set specific outcome performance indicators for professional development; and

"(M) describe how parents can be involved in professional development programs to enhance their participation in the education of their children.

"(3) Duration of the plan.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this subpart; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this subpart.

"(c) Additional Material.—Each State application shall include—

"(1) a description of how the activities assisted under this subpart will be coordinated, as appropriate, with—

"(A) other activities conducted with Federal funds, especially activities supported under part A of title I of this Act, and parts B and D of the Individuals with Disabilities Education Act;

"(B) State and local funds;

"(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

"(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum Services, and the National Endowment for the Humanities; and

"(2) a description of the activities to be sponsored under the State level activities under section 2126 and the higher education activities under section 2130.

"(d) Peer Review and Secretarial Approval.—

"(1) In general.—The Secretary shall approve an application of a State educational agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

"(2) Review.—In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

"SEC. 2126. STATE LEVEL ACTIVITIES.

"Each State may use funds made available under section 2123(1) to carry out activities described in the plan under section 2125(b), such as—

"(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

"(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

"(3) providing technical assistance to schools and local educational agencies to help such schools and agencies provide effective professional development in the core academic subjects;

"(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

"(5) professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods for achieving gender equity both in students' access to computers and other educational technology and in teaching practices used in the application of educational technology;

"(6) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

"(7) designing systems that enable teachers to meet pay ladder professional development requirements by demonstrating content knowledge and pedagogical competence tied to challenging State content standards and challenging State student performance standards, rather than by merely completing course credits;

"(8) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

"(9) professional development to enable teachers, pupil services personnel, and other school staff to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have the full opportunity to achieve to challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

"(10) professional development designed to—

"(A) provide the collaborative skills needed to appropriately serve children with disabilities in the general education setting consistent with such child's individualized education program; and

"(B) develop skills needed for effective intervention teaching strategies to alleviate the need, and inappropriate referral, for special education services;

"(11) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities and females teaching in the core academic subjects in which such individuals are underrepresented;

"(12) identifying, developing, or supporting parental involvement programs to better equip parents to participate in the education of their children;

"(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools;

"(14) providing training for local education employees in the area of early childhood development in order to ensure that early childhood development services provided to low-income children below the age of compulsory school attendance comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994; and

"(15) providing technical assistance to teachers, administrators, parents and related services personnel in the area of early childhood development in order to ensure that early childhood development services provided to low-income children below the age of compulsory school attendance comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

"SEC. 2127. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

"(a) IN GENERAL.—Each local educational agency that desires a subgrant under this subpart shall submit an application to the State educational agency at such time as the State educational agency may require, but not less frequently than every 3 years.

"(b) CONTENTS.—Each application under this section shall include—

"(1) the local educational agency's plan for professional development that—

"(A) has been developed with the extensive participation of teachers, administrators, staff, and pupil services personnel;

"(B) is aligned with the State's challenging State content standards and challenging State student performance standards;

"(C) includes an assessment of local needs for professional development as identified by the local educational agency and school staff;

"(D) describes a strategy, tied to challenging State content standards and challenging State student performance standards, for addressing those needs;

"(E) includes strong academic content and pedagogical components;

"(F) takes into account the need for greater access to and participation in the core academic subjects, especially in mathematics and science, by students from historically underrepresented groups;

"(G) is of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom; and

"(H) sets specific outcome performance indicators;

"(2) an assurance that the activities conducted with the funds such agency received under this subpart will be assessed at least every three years using the outcome performance indicators to determine the effectiveness of such activities;

"(3) a description of how the programs funded under this subpart will be coordinated, as appropriate, with—

"(A) services of educational service agencies;

"(B) services of institutions of higher education;

"(C) State and local funds;

"(D) resources provided under part A of title I and other provisions of this Act;

"(E) resources from business, industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience;

"(F) resources provided under parts B and D of the Individuals with Disabilities Education Act; and

"(G) funds received from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the National Endowment for the Arts, the Institute of Museum Services, and the National Endowment for the Humanities;

"(4) an identification of the sources of funding that will provide the local educational agency's contribution under section 2128; and

"(5) a description of the strategies to be employed to more fully and effectively involve parents in the education of their children.

"(c) DURATION OF THE PLAN.—Each local plan described in subsection (b)(1) shall—

"(1) remain in effect for the duration of the local educational agency's participation under this subpart; and

"(2) be periodically reviewed and revised by the local educational agency, as necessary, to reflect changes in the local educational agency's strategies and programs under this subpart.

"SEC. 2128. LOCAL COST-SHARING.

"(a) IN GENERAL.—Each local educational agency shall provide at least 33 percent of the cost of the activities assisted under this subpart, excluding the cost of services provided to private school teachers.

"(b) AVAILABLE RESOURCES FOR COST-SHARING.—

"(1) IN GENERAL.—A local educational agency may meet the requirement of subsection (a) through one or more of the following:

"(A) Cash expenditures from non-Federal sources directed toward professional development activities.

"(B) Release time for teachers participating in professional development assisted under this subpart.

"(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this subpart and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

"(i) Part A of title I.

"(ii) Parts B and D of the Individuals with Disabilities Education Act.

"(iii) The Safe and Drug-Free Schools and Communities program under part A of title V.

"(iv) Bilingual Education Programs under part A of title VII.

"(v) The Women's Educational Equity Act of 1994.

"(vi) Title III of the Goals 2000: Educate America Act.

"(vii) Programs that are related to the purposes of this Act that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and the Department of Energy.

"(2) SPECIAL RULE.—A local educational agency may meet the requirement of subsection (a) through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

"SEC. 2129. LOCAL ALLOCATION OF FUNDS AND ALLOWABLE ACTIVITIES.

"(a) LOCAL ALLOCATION OF FUNDS.—Each local educational agency that receives funds under this subpart for any fiscal year—

"(1) shall use at least 80 percent of such funds for professional development of teachers, administrators, pupil services personnel, parents, and other staff of individual schools in a manner that—

"(A) is determined by such teachers and staff;

"(B) to the extent practicable, takes place at the individual school site; and

"(C) is consistent with the local educational agency's application under section 2127, any school plan under part A of title I, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

"(2) may use not more than 20 percent of such funds for school district-level professional development activities, including the participation of administrators, policymakers, and parents.

"(b) AUTHORIZED ACTIVITIES.—Each local educational agency and school that receives funds under this subpart shall use such funds for activities that contribute to the implementation of the local educational agency's professional development plan described in section 2127(b)(1), such as—

"(1) professional development for teams of teachers, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards and to create a

school environment conducive to high achievement in the core academic subjects;

"(2) support and time, which in the case of teachers may include release time with pay, for teachers, pupil services personnel, and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, and other providers such as community-based organizations, science centers and museums;

"(3) support and time, which in the case of teachers may include release time with pay, for teachers, pupil services personnel and other school staff to participate in professional development that goes beyond training and encourages a variety of forms of learning that are related to an educator's regular work, such as group study and consultation with peers and supervisors;

"(4) support and time for teachers, pupil services personnel and other school staff to learn and implement effective intervention or collaboration for the instruction of children with disabilities placed into general education settings, consistent with such child's individualized education program;

"(5) professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including females, minorities, individuals with disabilities, limited-English proficient individuals and economically disadvantaged individuals;

"(6) peer training and mentoring programs, including cross-generational mentoring, in the core academic subjects and in the developmental, social, emotional and mental health needs of children;

"(7) establishment and maintenance of local professional networks that provide a forum for interaction among teachers and pupil services personnel and that allow exchange of information on advances in content and pedagogy;

"(8) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

"(9) preparing teachers and pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

"(10) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

"(11) establishing policies to permit teachers to meet pay ladder requirements by demonstrating content and pedagogical competence rather than by only meeting course requirements;

"(12) professional development to enable teachers, pupil services personnel, and other school staff to ensure that girls and young women, minorities, limited-English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve to challenging State content standards and challenging State student performance standards in the core academic subjects;

"(13) professional development activities designed to increase the numbers of minorities, individuals with disabilities, and other underrepresented groups in the teaching force and to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, for example, through career ladder programs that assist educational paraprofessionals to obtain teaching credentials;

"(14) professional development activities and other support for new teachers as such teachers transition into the classroom to provide such teachers with practical support and increase retention;

"(15) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to the Transition to Success program developed under part B of title I;

"(16) developing incentive strategies for rewarding teachers, administrators, and pupil services personnel collectively in schools that sustain high performance or consistent growth in the number of their students who meet the challenging State content standards and challenging State student performance standards;

"(17) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

"(18) developing strategies and programs to more effectively involve parents in the education of their children;

"(19) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools;

"(20) release time with pay for teachers; and

"(21) professional development in experiential-based teaching methods such as service learning.

"SEC. 2130. HIGHER EDUCATION ACTIVITIES.

"(a) IN GENERAL.—

"(1) IN GENERAL.—From amounts made available under section 2123(2), the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall award grants to, or enter into contracts or cooperative agreements with, institutions of higher education or private nonprofit organizations working in conjunction with local educational agencies, for professional development activities in the core academic subjects that contribute to the State plan for professional development.

"(2) COMPETITIVE BASIS.—Each grant, contract or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

"(3) JOINT EFFORTS.—Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

"(b) ALLOWABLE ACTIVITIES.—A recipient of funds under this section shall use such funds for—

"(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, pupil services personnel and administrators from individual schools or school districts;

"(2) preservice training activities; and

"(3) other sustained and intensive professional development activities related to achievement of the State plan for professional development.

"(c) PARTNERSHIPS.—Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

"SEC. 2131. CONSORTIUM REQUIREMENT.

"(a) IN GENERAL.—Any local educational agency receiving a grant under this part of less than $10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

"(b) WAIVER.—The Chief State School Officer may waive the requirements of subsection (a) if distances or traveling time between schools make formation of the consortium more costly or less effective.

"(c) SPECIAL RULE.—Each consortium shall rely, as much as possible, on technology or other arrangements to deliver staff development tailored to the needs of each school or school district participating in a consortium described in subsection (a).

"Subpart 3—Professional Development Demonstration Project

"SEC. 2141. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) underlying the standards-driven framework of the Goals 2000: Educate America Act and the high academic standards for eligible students under title I is a widespread need to prepare teachers to teach to higher standards;

"(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

"(3) while both the Goals 2000: Educate America Act and titles I and II have extensive references to professional development of teachers, there are no provisions to incorporate 'on-the-ground' planning and implementation to serve as models for local educational agencies across the Nation; and

"(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

"(b) PURPOSE.—It is the purpose of this subpart—

"(1) to address the need for professional development with a primary focus on teachers;

"(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

"(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

"SEC. 2142. DEMONSTRATION PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this subpart to eligible partnerships to enable such partnerships to plan and implement professional development programs.

"(2) PROGRAM REQUIREMENTS.—The programs described in paragraph (1)—

"(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

"(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

"(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

"(b) ELIGIBLE PARTNERSHIPS.—For the purpose of this subpart the term 'eligible partnership' means a partnership consisting of—

"(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which at least 50 percent of the schools served by such agency, subunit, or consortium are eligible to participate in schoolwide programs under section 1114; or

"(2) other partners that—

"(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

"(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

"SEC. 2143. GRANTS.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this subpart.

"(2) DISTRIBUTION.—The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

"(3) NUMBER OF GRANTS.—In the first year that the Secretary awards grants under this subpart, the Secretary shall award at least twice as many planning grants as implementation grants in order to receive well-developed plans for long-term funding under this subpart.

"(b) GRANT REQUIREMENTS.—

"(1) DURATION.—The Secretary shall award—

"(A) planning grants under this subpart for a period of not less than 6 months and not more than 9 months; and

"(B) implementation grants under this subpart for a period of four fiscal years.

"(2) AMOUNT.—The Secretary shall award grants under this subpart in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this subpart shall exceed $500,000 in any one fiscal year.

"SEC. 2144. PLAN.

"Each eligible partnership desiring assistance under this subpart shall develop a plan for the program to be assisted under this subpart. Such plan shall—

"(1) identify clearly how such plan will support an overall systemic reform strategy giving special attention to the role of teacher preparation for new standards and assessment;

"(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

"(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional development schools, teacher networks, academic alliances, as well as the curriculum for teachers;

"(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

"(5) describe how the activities described under this subpart will lead to districtwide policy and budget changes.

"SEC. 2145. TECHNICAL ASSISTANCE.

"The Secretary is authorized to enter into an arrangement with an intermediary organization to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this subpart.

"SEC. 2146. MATCHING FUNDS.

"The Secretary shall give special priority to awarding grants under this subpart to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

"Subpart 4—General Provisions

"SEC. 2151. REPORTING AND ACCOUNTABILITY.

"(a) STATES.—Each State that receives funds under this part shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's progress toward the outcome performance indicators identified in such State's State plan, as well as on the effectiveness of State and local activities assisted under this part.

"(b) LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives funds under this part shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward outcome performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this part.

"(c) FEDERAL EVALUATION.—The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this part in accordance with section 10701.

"SEC. 2152. DEFINITIONS.

"As used in this part—

"(1) the term 'core academic subjects' means subjects such as English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography;

"(2) the term 'sustained and intensive high-quality professional development' means professional development activities that—

"(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

"(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

"(C) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

"(D) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

"(3) the term 'outcome performance indicators' means measures of specific outcomes that the State or local educational agency identify as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

"(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

"(B) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations;

"(C) pass rates on teacher examinations for initial and continuing certification or licensure;

"(D) specific increases in the number of elementary and secondary teachers with strong content backgrounds in the core academic subjects; and

"(E) specific increases in the number of teachers licensed in each core academic subject.

"PART B—NATIONAL WRITING PROJECT

"SEC. 2201. SHORT TITLE.

"This part may be cited as the 'National Writing Project Act'.

"SEC. 2202. FINDINGS.

"The Congress finds that—

"(1) the United States faces a crisis in writing in schools and in the workplace;

"(2) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

"(3) over the past 2 decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

"(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to such executives due to inadequate writing abilities;

"(5) writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing;

"(6) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

"(7) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

"(8) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(9) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, literature, performing arts, and foreign languages;

"(10) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

"(11) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

"(12) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

"(13) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

"(14) each year over 100,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school-year inservice programs through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in four sites that serve United States teachers teaching in United States dependent and independent schools;

"(15) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

"(16) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support;

"(17) independent evaluation studies have found the National Writing Project to be highly

cost-effective compared to other professional development programs for teachers; and

"(18) during 1991, the first year of Federal support for the National Writing Project, the National Writing Project matched the $1,951,975 in Federal support with $9,485,504 in matching funds from State, local, and other sources.

"SEC. 2203. NATIONAL WRITING PROJECT.

"(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the 'grantee'), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

"(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

"(2) to support classroom research on effective teaching practice and to document student performance;

"(3) to coordinate activities assisted under this section with activities assisted under part A; and

"(4) to pay the Federal share of the cost of such programs.

"(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

"(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as 'contractors') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

"(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

"(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

"(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

"(4) encourage teachers from all disciplines to participate in such teacher training programs.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term 'Federal share' means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

"(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

"(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

"(e) CLASSROOM TEACHER GRANTS.—

"(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

"(A) conduct classroom research;

"(B) publish models of student writing;

"(C) conduct research regarding effective practices to improve the teaching of writing; and

"(D) conduct other activities to improve the teaching and uses of writing.

"(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

"(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

"(f) NATIONAL ADVISORY BOARD.—

"(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

"(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

"(A) national educational leaders;

"(B) leaders in the field of writing; and

"(C) such other individuals as the National Writing Project deems necessary.

"(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

"(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

"(B) review the activities and programs of the National Writing Project; and

"(C) support the continued development of the National Writing Project.

"(g) EVALUATION.—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section 10701. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the grant to the National Writing Project, $4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out the provisions of this section.

"PART C—SUPPORT AND ASSISTANCE FOR ESEA PROGRAMS

"Subpart 1—Comprehensive Regional Centers

"SEC. 2301. FINDINGS.

"The Congress finds that—

"(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs assisted under this Act;

"(2) comprehensive technical assistance is an essential ingredient of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and to provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

"(3) States, local educational agencies, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this Act to provide such students with opportunities to learn to challenging State content standards and challenging State student performance standards;

"(4) current technical assistance efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States and local educational agencies for help in integrating into a coherent strategy for improving teaching and learning the various programs under this Act with State and local programs and other education reform efforts;

"(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

"(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this Act;

"(7) comprehensive technical assistance will provide one-stop shopping to help States, local educational agencies, participating colleges and universities, and schools integrate Federal, State, local education and pupil services programs in ways that contribute to improving schools and entire school systems; and

"(8) technical assistance in support of programs assisted under this Act should be coordinated with the Department's regional offices, the regional educational laboratories, and other technical assistance efforts supported by the Department.

"SEC. 2302. PURPOSE.

"The purpose of this part is to make available to States, local educational agencies, schools, and other recipients of funds under this Act technical assistance in—

"(1) administering and implementing programs authorized by this Act;

"(2) implementing school reform programs; and

"(3) coordinating such programs with other Federal, State, and local education activities, so that all students are provided opportunities to meet challenging State content standards and challenging State student performance standards.

"SEC. 2303. PROGRAM AUTHORIZED.

"(a) COMPREHENSIVE REGIONAL CENTERS.—The Secretary is authorized to establish one center in each of the Department's ten regions, and one center at the Pacific Regional Education Laboratory in Honolulu, Hawaii, and may establish field offices for each such center, in order to provide comprehensive technical assistance to States, local educational agencies, schools, and other recipients of funds under this Act in the administration and implementation of programs authorized by this Act. In allocating resources among the centers, the Secretary shall consider the geographic distribution of students with special needs.

"(b) TECHNOLOGY-BASED TECHNICAL ASSISTANCE.—The Secretary is authorized to provide a technology-based technical assistance service that will—

"(1) support the administration and implementation of programs authorized by this Act by providing information, including legal and regulatory information, and technical guidance and information about best practices; and

"(2) be accessible to all States, local educational agencies, schools, community-based organizations, and others who are recipients of funds under this Act.

"SEC. 2304. ELIGIBLE ENTITIES.

"The Secretary may carry out this part directly or through grants to, or contracts or cooperative agreements with, public or private agencies or organizations or consortia of such agencies and organizations.

"SEC. 2305. COMPREHENSIVE REGIONAL CENTERS.

"Each comprehensive regional center established under section 2303(a) shall—

"(1) maintain staff expertise in at least all of the following areas:

"(A) instruction, curriculum improvement, school reform, pupil services, and other aspects of title I;

"(B) meeting the needs of children served under this Act, including children in high-poverty areas, migratory children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, and children with disabilities;

"(C) professional development for teachers, pupil services personnel, other school staff, and administrators to help students meet challenging State content standards and challenging State student performance standards;

"(D) bilingual education, including programs that emphasize English and native language proficiency, and promote multicultural understanding;

"(E) safe and drug-free schools;

"(F) educational applications of technology;

"(G) parent involvement and participation;

"(H) the reform of schools and school systems;

"(I) the special needs of students living in rural areas and the special needs of local educational agencies serving rural areas; and

"(J) program evaluation;

"(2) ensure that technical assistance staff have sufficient training, knowledge, and expertise in how to integrate and coordinate programs assisted under this Act, as well as integrating and coordinating programs assisted under this Act with other Federal, State, and local programs and reforms;

"(3) work collaboratively with the Department's regional offices;

"(4) provide technical assistance using the highest quality and most cost-effective strategies possible;

"(5) provide information and assistance regarding exemplary and promising practices;

"(6) work collaboratively, and coordinate the services such center provides, with the general reform assistance provided by the regional educational laboratories and the National Diffusion Network State Facilitators supported by the Office of Educational Research and Improvement; and

"(7) consult with representatives of State educational agencies, local educational agencies, and populations served under this Act.

"SEC. 2306. INFORMATION COLLECTION AND EVALUATION.

"The Secretary shall evaluate activities assisted under this part, and shall report to the President and the Congress on the effectiveness of such activities by January 1, 1998.

"SEC. 2307. TRANSITION.

"(a) IN GENERAL.—The Secretary shall use funds appropriated to carry out this part for at least fiscal years 1995 and 1996 in order to ensure an orderly transition and phase-in of the comprehensive regional centers assisted under this subpart.

"(b) EXTENSION OF PREVIOUS CENTERS.—In accordance with subsection (a), and notwithstanding any other provisions of law, the Secretary shall use funds appropriated to carry out this part to draw on the expertise of staff and services from existing categorical assistance centers assisted under this Act (as such Act was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and, where appropriate and feasible, to continue to support, through grants or the extension of awards, such centers in order to ensure that services will not be interrupted, curtailed, or substantially diminished.

"SEC. 2308. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subpart, there are authorized to be appropriated $70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"Subpart 2—National Diffusion Network

"SEC. 2311. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—In order to increase the effectiveness of the comprehensive regional centers established under subpart 1 and to promote school reform, the Secretary shall carry out a State-based outreach, consultation, and dissemination program through the National Diffusion Network and its State Facilitators. To carry out such program, the Secretary shall make one or more awards in each State to public educational agencies or public or private nonprofit educational organizations or institutions to assist State and local educational agencies, schools, and other appropriate educational entities in that State to identify and implement exemplary or promising educational programs and practices.

"(b) STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators for each State shall—

"(1) identify educational programs and practices for possible dissemination throughout the State and Nation;

"(2) identify needs for assistance throughout the State, including educational technology needs;

"(3) provide professional development and technical assistance services;

"(4) promote and facilitate teacher networks throughout the State; and

"(5) provide such other outreach, coordination, and dissemination services as may be necessary to achieve the purposes of this subpart.

"(c) COORDINATION AND ADMINISTRATION.—

"(1) COORDINATION.—The National Diffusion Network State Facilitators shall work in close cooperation, and coordinate their activities, with the comprehensive regional centers established under subpart 1.

"(2) ADMINISTRATION.—The National Diffusion Network State Facilitators program shall be administered by the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(d) NATIONAL DIFFUSION NETWORK EFFECTIVE PROGRAMS AND PROMISING PRACTICES SYSTEM.—The Secretary shall develop a system of validating effective programs and promising practices for dissemination through the National Diffusion Network. Such system may include exemplary programs funded through any office of the Department, the National Science Foundation, or other Federal agencies. Such system shall be coordinated, aligned with, and administered by the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Secretary shall give priority to identifying, validating, and disseminating effective schoolwide projects, programs addressing the needs of high poverty schools, and programs with the capacity to offer high-quality, sustained technical assistance. The Office of Educational Research and Improvement Office of Reform Assistance and Dissemination shall also administer a grant program for the purpose of dissemination and the provision of technical assistance regarding such system.

"SEC. 2312. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subpart, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"Subpart 3—Eisenhower Regional Mathematics and Science Education Consortiums

"SEC. 2321. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts to eligible entities to enable such entities to establish and operate regional mathematics and science education consortia for the purpose of—

"(A) disseminating exemplary mathematics and science education instructional materials; and

"(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

"(2) NUMBER.—The Secretary shall, in accordance with the provisions of this section, award at least 1 grant or contract to an eligible entity in each region.

"(3) SPECIAL RULE.—In any fiscal year, if the amount made available pursuant to section 2328 is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope and quality to carry out this section.

"(4) DESIGNATION.—Each regional consortium assisted under this section shall be known as an 'Eisenhower regional consortium'.

"(b) GRANT TERM AND REVIEW.—Grants or contracts under this subpart shall be awarded for a period of not more than 5 years and shall be reviewed before the end of the 30-month period beginning on the date the grant or contract is awarded. Grants or contracts under this subpart shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out the provisions of this subpart.

"(c) AMOUNT.—In awarding grants or contracts under this subpart, the Secretary shall assure that there is a relatively equal distribution of the funds made available among the regions, but the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

"SEC. 2322. USE OF FUNDS.

"Funds provided under this subpart may be used by a regional consortium, under the direction of a regional board established pursuant to section 2324, to—

"(1) work cooperatively with the other regional consortiums and the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 2123 to more effectively accomplish the activities described in this section;

"(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in paragraph (1);

"(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in paragraph (1) in the classroom;

"(4) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

"(5) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(6) assist State and local educational agencies in identifying science equipment needs and help such agencies or consortia thereof assess the need for and desirability of regional mathematics and science academies;

"(7) develop and disseminate early childhood education mathematics and science instructional materials;

"(8) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(9) collect data on activities assisted under this subpart in order to evaluate the effectiveness of the activities of the regional consortiums;

"(10) identify exemplary teaching practices and materials from within the region and communicate such practices and materials to the Eisenhower National Clearinghouse for Mathematics and Science Education;

"(11) communicate, on a regular basis, with entities within the region who are delivering services to students and teachers of mathematics and science;

"(12) assist in the development and evaluation of State and regional plans and activities that hold promise of bringing about systemic reform in student performance in mathematics and science; and

"(13) increase the use of informal education entities (such as science technology centers, museums, libraries, Saturday academies, and 4H programs) for educational purposes to expand student knowledge and understanding.

"SEC. 2323. APPLICATION AND REVIEW.

"(a) IN GENERAL.—Each eligible entity desiring a grant or contract under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

"(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

"(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(4) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(5) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

"(6) demonstrate that the eligible entity will consider the resources of existing Star Schools consortia established pursuant to the Star Schools Program Assistance Act in carrying out the provisions of this subpart, where appropriate; and

"(7) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States under title 17, United States Code.

"(b) APPROVAL OF APPLICATION.—

"(1) IN GENERAL.—The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) PROCEDURES AND CRITERIA.—The Secretary shall develop procedures and criteria designed to ensure that grants or contracts are awarded on the basis of merit as determined by the competitive peer review process described in paragraph (3).

"(3) NATIONAL PANEL.—(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants or contracts under this subpart. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed under subparagraph (A) shall include participation, to the extent feasible, from each region.

"SEC. 2324. REGIONAL BOARDS.

"(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this subpart shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

"(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board required by subsection (a), except that at the discretion of a regional board, Federal funds may be used to provide assistance such as travel and accommodations for board members who could not otherwise afford to participate as members of the board.

"SEC. 2325. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 2323 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—For the purpose of subsection (a), the Federal share shall be 80 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted pursuant to this section may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government or State or local government.

"SEC. 2326. EVALUATION.

"(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement and in accordance with section 10701, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

"(b) ASSESSMENT.—The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

"(c) REPORT.—At the end of each grant or contract period, the Secretary shall submit to the Congress a report on the effectiveness of the programs conducted at each regional consortium.

"SEC. 2327. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'eligible entity' means—

"(A) a private nonprofit organization of demonstrated effectiveness;

"(B) an institution of higher education;

"(C) an elementary or secondary school;

"(D) a State or local educational agency;

"(E) a regional educational laboratory in consortium with the research and development center established under section 931(c)(1)(B)(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994; or

"(F) any combination of the entities described in subparagraphs (A) through (E),

with demonstrated expertise in mathematics and science education.

"(2) The terms 'mathematics' and 'science' include the technology education associated with such mathematics and science, respectively.

"(3) The term 'region' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act (as such section was in existence on the day preceding the date of enactment of the Goals 2000: Educate America Act.

"(4) The term 'regional consortium' means each regional mathematics and science education consortium established pursuant to section 2311.

"(5) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"SEC. 2328. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this subpart.

"PART D—TERRITORIAL TEACHER TRAINING PROGRAM

"SEC. 2401. TERRITORIAL TEACHER TRAINING PROGRAM.

"There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training.

"PART E—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

"SEC. 2501. PROJECT AUTHORIZED.

"The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

"SEC. 2502. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

"(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

"(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

"(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project for which assistance is

sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

"(4) contain such additional assurances as the Secretary may reasonably require.

"(b) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this subpart is conducted at elementary and secondary school sites in at least 15 States.

"SEC. 2503. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"TITLE III—TECHNOLOGY FOR EDUCATION

"SEC. 3001. SHORT TITLE.

"This title may be cited as the 'Technology for Education Act of 1994'.

"PART A—EDUCATIONAL TECHNOLOGY FOR ALL STUDENTS

"SEC. 3111. FINDINGS.

"The Congress finds that—

"(1) technology applications can help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

"(2) creative uses of technology can reshape our Nation's outdated method of providing education and empower teachers to create an environment where students can be challenged through rigorous, rich classroom instruction at a pace that suits the learning style of each student;

"(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

"(A) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

"(B) the inability of many State and local educational agencies to invest in and support needed technologies;

"(C) the lack of appropriate electrical and telephone connections in the classroom; and

"(D) the limited availability of technology-enhanced curriculum, professional development and administrative support resources and services in the educational marketplace;

"(4) advancements in technology offer new opportunities to promote partnerships among teachers, administrators, students, parents, communities, and industry in the quest for knowledge and the process of learning;

"(5) technology, when used as an essential tool in the learning process, will help cultivate and maintain a technologically literate citizenry and internationally competitive work force;

"(6) the Department of Education, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

"(7) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

"(8) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

"(9) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students and make it a priority to serve those students in greatest need;

"(10) continuing professional development for teachers and administrators requires ongoing exposure to advancements in technology in order to keep such teachers and administrators excited and knowledgeable about the unfolding opportunities for the classroom; and

"(11) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions.

"SEC. 3112. STATEMENT OF PURPOSE.

"It is the purpose of this part—

"(1) to promote equal access for all students to educational opportunities through advances in technology, including the information infrastructure, in order to achieve the National Education Goals by the year 2000;

"(2) to provide funding that will assist activities undertaken by the State and local school districts to promote and provide equipment, teacher training, and technical support;

"(3) to support technical assistance, professional development, information and resource dissemination, in order to help States, local school districts, and teachers successfully integrate technology into kindergarten through 12th grade classrooms;

"(4) to support the development of educational and instructional programming in core subject areas, which programming shall address the National Education Goals;

"(5) to offer opportunities for creative partnerships within the marketplace in order to develop state-of-the-art educational technology products that promote the use of advanced technologies in the classroom;

"(6) to avoid duplication and the development of incompatible systems by strengthening and building upon existing telecommunications infrastructures dedicated to educational purposes; and

"(7) to ensure that uses of educational technology are consistent with the overall national technology policy established by the President.

"SEC. 3113. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'all students' means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited-English proficiency, students who have dropped out of school, and academically talented students;

"(2) the term 'information infrastructure' means a network of communication systems designed to exchange information among all citizens and residents of the United States;

"(3) the term 'instructional programming' means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and control, or passive methods for the purpose of education and instruction;

"(4) the terms 'interoperable' and 'interoperability' refer to the ability to easily exchange data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students;

"(5) the term 'local educational agency' includes an elementary or secondary school funded by the Bureau of Indian Affairs, except that such schools shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs;

"(6) the term 'Office' means the Office of Educational Technology;

"(7) the term 'public telecommunications entity' has the same meaning given to such term by section 397(12) of the Communications Act of 1934;

"(8) the term 'State educational agency' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part; and

"(9) the term 'technology' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser and CD-ROM discs, and video and audio tapes.

"Subpart 1—National Programs in Technology for Education

"SEC. 3121. PURPOSES.

"It is the purpose of this subpart to promote achievement of the National Education Goals and—

"(1) to provide leadership at the Federal level, through the Department, by developing a national vision and strategy—

"(A) to infuse technology and technology planning into all educational programs and training functions carried out within school systems at the State, tribal, and local levels;

"(B) to coordinate educational technology activities among the related Federal and State departments or agencies, industry leaders, and interested educational and parental organizations;

"(C) to establish working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution; and

"(D) to ensure that Federal technology-related policies and programs facilitate the use of technology in education;

"(2) to promote awareness of the potential of technology for improving teaching and learning;

"(3) to support State and local efforts to increase the effective use of technology for education;

"(4) to demonstrate ways in which technology can be used to improve teaching and learning, and to help ensure that all students have an equal opportunity to meet challenging State education standards;

"(5) to ensure the availability and dissemination of knowledge (drawn from research and experience) that can form the basis for sound State and local decisions about investment in, and effective uses of, educational technology;

"(6) to promote high-quality professional development opportunities for teachers, pupil-services personnel and administrators regarding the integration of technology into instruction and administration;

"(7) to support development, production, and distribution of technology enhanced curriculum, and instruction and administrative support resources and services;

"(8) to promote the effective uses of technology in existing Federal education programs, such as part A of title I and vocational education programs; and

"(9) to monitor, and disseminate information regarding, advancements in technology to encourage the development of effective educational uses of technology.

"SEC. 3122. FEDERAL LEADERSHIP.

"(a) ACTIVITIES AUTHORIZED.—

"(1) IN GENERAL.—In order to provide Federal leadership that promotes higher student achievement through the use of technology in education and to achieve the purposes of this subpart, the Secretary, in consultation with the Office of Science and Technology Policy, the National Science Foundation, the United States National Commission on Libraries and Information Sciences, the Department of Commerce, the

Department of Energy, the National Aeronautics and Space Administration, the Bureau of Indian Affairs, and other appropriate Federal departments or agencies, may carry out activities designed to achieve the purposes of this subpart.

"(2) TRANSFER OF FUNDS.—For the purpose of carrying out coordinated or joint activities to achieve the purposes of this subpart, the Secretary may accept funds from, or transfer funds to, other Federal departments or agencies.

"(b) NATIONAL LONG-RANGE TECHNOLOGY PLAN.—

"(1) IN GENERAL.—The Secretary shall develop and publish within 12 months of the date of enactment of the Improving America's Schools Act of 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this subpart.

"(2) PLAN REQUIREMENTS.—The Secretary shall—

"(A) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the educational applications of technology, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act, and providers of technology services and products;

"(B) transmit such plan to the President and to the appropriate committees of the Congress; and

"(C) publish such plan in a form that is readily accessible to the public.

"(3) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this subpart, including—

"(A) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

"(B) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

"(i) to promote the use of technology in education, and training and lifelong learning, including plans for the educational uses of a national information infrastructure; and

"(ii) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

"(C) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

"(D) how the Secretary will promote—

"(i) higher achievement of all students through the integration of technology into the curriculum;

"(ii) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

"(iii) the use of technology to assist in the implementation of State systemic reform strategies;

"(iv) the application of technological advances to use in education; and

"(v) increased opportunities for the professional development of teachers in the use of new technologies;

"(E) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

"(F) how the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in education;

"(G) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 3206(c)(2) to promote the purposes of this subpart; and

"(H) the Secretary's long-range measurable goals and objectives relating to the purposes of this subpart.

"(c) ASSISTANCE.—The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.

"(d) USES OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this subpart, including—

"(A) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the educational uses of technology, including professional development;

"(B) consulting with representatives of industry, elementary and secondary education, higher education, and appropriate experts in technology and the educational applications of technology, in carrying out the activities assisted under this subpart;

"(C) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

"(D) research on, and the development of, educational applications of the most advanced and newly emerging technologies;

"(E) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

"(F) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

"(G) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

"(H) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

"(I) research on, and the evaluation of, the effectiveness and benefits of technology in education, giving priority to research on, and evaluation of, such effectiveness and benefits in elementary and secondary schools;

"(J) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

"(K) conferences on, and dissemination of information regarding, the uses of technology in education;

"(L) the development of model strategies to promote gender equity in the use of technology;

"(M) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

"(N) such other activities as the Secretary determines will meet the purposes of this subpart.

"(2) SPECIAL RULES.—

"(A) The Secretary shall carry out the activities described in paragraph (1) directly or by grant or contract.

"(B) Each grant or contract under this section shall be awarded—

"(i) on a competitive basis; and

"(ii) pursuant to a peer review process.

"(e) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(2) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

"(3) MAXIMUM.—The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"SEC. 3123. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

"(a) GRANTS AUTHORIZED.—

"(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall make grants, on a competitive basis, to regional educational technology assistance consortia in accordance with the provisions of this section. In awarding grants under this section, the Secretary shall ensure that each geographic region of the United States shall be served by such a consortium.

"(2) REQUIREMENTS.—Each consortium receiving a grant under this section shall—

"(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

"(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

"(C) foster regional cooperation and resource and coursework sharing.

"(3) SPECIAL RULE.—Each consortium receiving a grant under this section shall use not less than 80 percent of the grant funds to carry out paragraph (2) of subsection (b).

"(b) FUNCTIONS.—

"(1) TECHNICAL ASSISTANCE.—Each consortium receiving a grant under this section shall—

"(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

"(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, and schools on the types and features

of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom in order to support the purposes of this subpart;

"(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet State content standards or State student performance standards that may be developed; and

"(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

"(2) PROFESSIONAL DEVELOPMENT.—Each consortium receiving a grant under this section shall—

"(A) develop and implement, in collaboration with State educational agencies and institutions of higher education, technology-specific, ongoing professional development, such as—

"(i) intensive school year and summer workshops that use teachers to train other teachers; and

"(ii) distance educational professional development, including—

"(I) interactive training telecourses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

"(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

"(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

"(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

"(V) mobile education technology and training resources;

"(B) develop training resources that—

"(i) are relevant to the needs of the region and schools within the region;

"(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

"(I) use instructional technology; and

"(II) develop instructional materials for adult learning; and

"(iii) are aligned with the needs of teachers and administrators in the region;

"(C) establish a repository of professional development and technical assistance resources;

"(D) identify and link technical assistance providers to State and local educational agencies, as needed;

"(E) provide followup to ensure that training, professional development, and technical assistance meet the needs of educators, parents and students served by the region;

"(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

"(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

"(3) INFORMATION AND RESOURCE DISSEMINATION.—Each consortium receiving a grant under this section shall—

"(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

"(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

"(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

"(4) COORDINATION.—Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate entities assisted in whole or in part by the Department.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"SEC. 3124. EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT.

"(a) PURPOSE.—It is the purpose of this section to—

"(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

"(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

"(b) FEDERAL ASSISTANCE AUTHORIZED.—

"(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall award grants, on a competitive basis, to eligible consortia to pay the Federal share of the cost of developing, producing, and distributing products consisting of curriculum-based learning resources, services, and instructional programming for teachers and students, which incorporate state-of-the-art applications of advanced technology, including educational radio and television.

"(2) ELIGIBLE CONSORTIUM.—For the purpose of this subsection the term 'eligible consortium' means a consortium—

"(A) that shall include—

"(i) a State or local educational agency; and

"(ii) a business, industry or telecommunications entity; and

"(B) that may include—

"(i) a public or private nonprofit organization; or

"(ii) a postsecondary institution.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications describing products that are developed—

"(A) so that the product may be adapted and applied nationally at a reasonable cost over a broad technology platform;

"(B) to raise the achievement levels of all students, particularly students who are not realizing their potential;

"(C) in consultation with classroom teachers;

"(D) through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

"(E) so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

"(4) MATCHING REQUIREMENT.—The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(5) REQUIREMENTS FOR FEDERAL ASSISTANCE.—Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

"(A) a description of how the product will improve the achievement levels of students;

"(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

"(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

"(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

"(E) plans for dissemination of products to a wide audience of learners;

"(F) provisions for closed captioning or descriptive video, where appropriate;

"(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

"(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

"(c) CONSUMER REPORT.—The Secretary shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary determines to be appropriate, through print and electronic media that are accessible to the education community at large.

"(d) PROCEEDS.—The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

"(e) AUTHORIZATION OF FUNDS.—There are authorized to be appropriated $50,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"SEC. 3125. RESEARCH ON EDUCATIONAL APPLICATIONS OF ADVANCED TECHNOLOGIES.

"(a) PURPOSE.—It is the purpose of this section to—

"(1) provide direction and support for the conduct of research on advanced educational technologies; and

"(2) provide support for long-term, comprehensive educational applications of advanced high performance computer and communication technologies and video technologies in support of the core subjects of the National Education Goals.

"(b) GENERAL AUTHORITY.—The Secretary, consistent with the overall national technology

policy established by the President, and in cooperation with other Federal departments and agencies, is authorized to support research on educational applications of advanced learning technologies.

"(c) GRANTS AUTHORIZED.—The Secretary, through the Office of Educational Technology, shall award grants to or enter into contracts for research projects intended to develop educational applications of advanced technologies.

"(d) APPLICATION.—Each entity desiring assistance under this section shall submit to the Secretary an application at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) define clearly the scope and content of the subject matter of the research and the relevance of the advanced technology to such content;

"(2) describe the potential market for both the hardware and software developed under this section; and

"(3) assess the applications of the advanced technology in a way that will validate the technology's impact on student learning and achievement.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"SEC. 3126. HIGH PERFORMANCE EDUCATIONAL COMPUTING AND TELECOMMUNICATIONS NETWORKS.

"(a) PURPOSE.—It is the purpose of this section to support the development, demonstration, and evaluation of the educational aspects of high performance computing and communication technologies and of the national information infrastructure, including the use of high performance computing and communication and the national information infrastructure in—

"(1) providing professional development for teachers and other educators, as appropriate;

"(2) enhancing academic curricula for elementary and secondary school students in order to provide such students with opportunities to meet challenging State student performance standards;

"(3) facilitating communications among schools, local educational agencies, parents of students, and local communities;

"(4) facilitating an effective transition from secondary school to employment; and

"(5) other such areas of education as the Secretary deems appropriate.

"(b) AUTHORITY.—

"(1) IN GENERAL.—(A) The Secretary, consistent with the overall national technology policy established by the President, and in cooperation with other Federal departments and agencies, shall support the development of an electronic network program for the dissemination of educational information throughout the United States, including information about effective technology-enhanced programs, resources and services.

"(B) In carrying out subparagraph (A) the Secretary shall—

"(i) to the extent possible, coordinate activities assisted under this section with other dissemination activities assisted by the Department in order to—

"(I) avoid duplication; and

"(II) utilize the existing resources of the Department;

"(ii) consult with educators, State and local educational agencies, telecommunications providers, and other appropriate education entities throughout the United States to determine information requirements and policies for the effective dissemination of information;

"(iii) provide access to the existing Department of Energy FEDIX/MOLIS Information System regarding information about excess equipment (computers and supporting materials) within the Federal Government that are available for transfer to elementary and secondary schools; and

"(iv) make use of existing networks or developing networks, to the extent possible.

"(2) REQUIREMENTS; SPECIFICATIONS; AND PROTOTYPE OPERATIONS.—The Secretary is authorized to—

"(A) identify educational high performance computing and telecommunications network requirements;

"(B) develop specifications for the implementation of such requirements within any national telecommunications network;

"(C) establish prototype operations on existing networks to validate and further develop the educational specifications which will facilitate the use of such networks by kindergarten through 12th grade students, teachers, librarians, administrators, and parents;

"(D) represent the needs and interests of elementary and secondary schools in the Federal planning and development of a national information infrastructure; and

"(E) identify policy issues, such as communication rate structures and intellectual property rights, that affect the ability of the public schools to make effective use of the emerging information highways, and make recommendations to the Congress regarding such issues.

"(c) TYPES OF GRANTS.—The Secretary, through the Office of Educational Technology, shall award the following types of grants:

"(1) REQUIREMENTS GRANTS.—The Secretary shall solicit proposals for and award grants to 1 or more entities for the identification of educational high performance computing and telecommunications network requirements. The solicitation shall request proposals to—

"(A) identify and describe existing and planned educational high performance computing and telecommunications network efforts;

"(B) identify potential uses of such networks in kindergarten through 12th grade education by schools throughout the United States;

"(C) assess impediments to the development of such networks in kindergarten through 12th grade education, such as—

"(i) technological impediments;

"(ii) availability of technology-enhanced curriculum, instruction, and administrative support resources and services in schools; and

"(iii) parent, student, teacher and administrator attitudes toward technology-enhanced education;

"(D) assess the anticipated costs and benefits to be derived from such network access in kindergarten through 12th grade education and recommend priorities for development of such network; and

"(E) identify the range of possible educational applications of, and potential sources of funding for, both networks and information resources and databases that exist or are being developed by other Federal departments or agencies.

"(2) SPECIFICATIONS GRANTS.—The Secretary shall solicit proposals for and award grants to 1 or more entities for the design and development of educational specifications which may be used to ensure educational access to any national educational high performance computing and telecommunications network. The solicitation shall request proposals to—

"(A) incorporate—

"(i) the findings of the grant recipients under paragraph (1); and

"(ii) the priorities recommended for such networks by the Secretary consistent with the overall national technology policy established by the President;

"(B) provide for design alternatives and specifications that address—

"(i) linkage of schools and communities with each other, with central resource centers, and with Federal and State agencies over existing or planned telecommunications networks;

"(ii) uses of alternative connectivity modes, such as fiber optics, satellites, and land-based broadcasting;

"(iii) integrated uses of two-way interactive voice, video, and data communications;

"(iv) uses of interactive multimedia;

"(v) system capacity, such as maximum telecommunications traffic in a variety of use modes;

"(vi) availability of needed technologies;

"(vii) availability of support services; and

"(viii) assessment of the impact of proposed educational access specifications on existing or planned telecommunications networks; and

"(C) provide comprehensive specifications which will ensure educational access to any national educational high performance computing and telecommunications network as the primary deliverable product of the specifications grants described in this paragraph.

"(3) PROTOTYPE DEVELOPMENT GRANTS.—The Secretary shall solicit proposals for and award grants to 1 or more entities for prototype operations on existing networks in order to validate and further develop the educational specifications which will facilitate use of existing or planned educational high performance computing and telecommunications networks by kindergarten through 12th grade students, teachers, librarians, administrators, and parents. The solicitation shall request proposals to—

"(A) incorporate the design limits of the comprehensive educational high performance computing and telecommunications network specifications developed by grant recipients under paragraph (2);

"(B) support prototype operations for at least 1 year in a minimum of 5 test sites which are selected to represent a variety of economic, social, urban and rural settings;

"(C) provide for inservice training and technical assistance during the period of prototype operations;

"(D) provide provisions for the identification and correction of operational problems during the period of prototype operations (including design flaws);

"(E) include a comprehensive evaluation of all aspects of the prototype, including—

"(i) design flaws;

"(ii) training requirements, including resources and strategies for initial and on-going training;

"(iii) technical support requirements;

"(iv) financing constraints;

"(v) availability and utility of information resources and services accessed during the prototype operations period;

"(vi) factors which enhanced or impeded prototype operations; and

"(vii) an overall assessment of the impact of such technology on the educational process; and

"(F) provide recommended revisions of the Secretary's educational high performance computing and telecommunications network specifications based on findings of the comprehensive evaluation of prototype operations.

"(d) TIMELINE.—The Secretary, through the Office of Educational Technology, shall award grants under this section as follows:

"(1) REQUIREMENT GRANTS.—The Secretary shall award requirement grants under subsection (c)(1) within 6 months of the date of enactment of the Improving America's Schools Act of 1994.

"(2) DEVELOPMENT OF DESIGN SPECIFICATIONS.—The Secretary shall award grants under subsection (c)(2) within 18 months of the date of enactment of the Improving America's Schools Act of 1994.

"(3) PROTOTYPE OPERATIONS.—The Secretary shall award grants under subsection (c)(3) within 30 months of the date of enactment of the Improving America's Schools Act of 1994.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"SEC. 3127. STUDY, EVALUATION AND REPORT OF FUNDING ALTERNATIVES.

"The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services. Such report shall be submitted to the Congress not later than 1 year after the date of enactment of the Improving America's Schools Act of 1994.

"Subpart 2—State and Local Programs for School Technology Resources, Technical Support, and Professional Development

"SEC. 3131. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to provide Federal assistance in the form of grants to support—

"(1) the acquisition of equipment and supporting resources, training, and maintenance of technology; and

"(2) regional consortia to enable such consortia to provide professional development and technical assistance that fosters integration of technology into the kindergarten through 12th grade classrooms, libraries, and school library media centers.

"SEC. 3132. SCHOOL TECHNOLOGY RESOURCE GRANTS.

"(a) GRANTS AUTHORIZED.—

"(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having a systemic statewide plan that meets such criteria as the Secretary may establish in order to enable such agencies to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to—

"(A) purchase quality technology resources;

"(B) install various linkages necessary to acquire connectivity;

"(C) integrate technology into the curriculum in order to improve student learning and achievement;

"(D) provide teachers and library media personnel with training or access to training;

"(E) provide administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

"(F) promote the sharing, distribution, and application of educational technologies that are determined to be effective in individual schools;

"(G) assist schools in promoting parent involvement; and

"(H) assist the community in providing literacy-related services.

"(2) AMOUNT.—(A) Except as provided in subparagraphs (B) and (C), the Secretary shall award grants under this section to each State educational agency for a fiscal year in an amount which bears the same relationship to the amount appropriated pursuant to the authority of subsection (b) for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

"(B) No State educational agency shall receive a grant pursuant to subparagraph (A) in any fiscal year in an amount which is less than one-half of 1 percent of the amount appropriated pursuant to the authority of subsection (b) for such year.

"(C) If the sum of the amounts appropriated pursuant to the authority of section 3132(c) is equal to or less than $50,000,000 for any fiscal year, then the Secretary shall award grants under this section for such year on a competitive basis to local educational agencies, either separately or in cooperation with a local educational agency or a State educational agency, which submit to the Secretary an application, containing the information described in paragraphs (1) through (3) of subsection (e), that the Secretary approves. In awarding such grants, the Secretary shall give priority to applications from local educational agencies with the highest number or percentage of disadvantaged students or the greatest need for educational technology.

"(3) IDENTIFICATION OF LOCAL EDUCATIONAL AGENCIES; TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under this section shall—

"(A) identify the local educational agencies served by the State educational agency that—

"(i) have the highest number or percentage of children in poverty; and

"(ii) demonstrate to such State educational agency the greatest need for technical assistance in developing the application described in subsection (d); and

"(B) offer such technical assistance to such local educational agencies.

"(4) LIMITATION ON STATE COSTS.—Not more than 5 percent of grant funds awarded to a State educational agency under this section for any fiscal year may be used by the State or State educational agency for administrative costs or technical assistance.

"(b) SELECTION OF GRANTS.—Each State educational agency, in awarding grants under this section, shall—

"(1) ensure that each grant such agency awards to a local educational agency shall be of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this title effectively; and

"(2) award grants to local educational agencies on a competitive basis.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"(d) LOCAL USES OF GRANT FUNDS.—Each local educational agency receiving assistance under this section may use such assistance—

"(1) to acquire connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

"(2) for ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies; and

"(3) to acquire connectivity with wide area networks for purposes of accessing information and educational programming sources.

"(e) LOCAL APPLICATIONS.—Each local educational agency desiring assistance from a State educational agency under this section shall submit an application consistent with the objectives of the systemic statewide plan to such agency at such time and in such manner as such agency may prescribe. Such application, at a minimum, shall—

"(1) include a strategic, long-range (3- to 5-year), plan that includes—

"(A) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

"(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies at times other than the regular school day;

"(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

"(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

"(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

"(F) the projected timetable for implementing such plan in schools;

"(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

"(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

"(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

"(3) describe how the acquired instructionally based technologies will help the local educational agency—

"(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

"(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

"(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

"(A) will be integrated into the school curriculum; and

"(B) will affect student achievement and progress toward meeting the National Education Goals and any State content standards and State student performance standards that may be developed.

"(f) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, in conjunction with requirements under this Act or the Goals 2000: Educate America Act, the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e) if the State educational agency determines that such approval would further the purposes of this section.

"Subpart 3—Special Rule Applicable to Appropriations

"SEC. 3141. SPECIAL RULE.

"(a) APPROPRIATION OF LESS THAN $50,000,000.—Notwithstanding any other provision of law, for any fiscal year for which the sum of the amounts appropriated pursuant to the authority of sections 3122(f), 3123(b)(5), 3124(e), 3125(e), 3126(e), and 3132(c) is less than $50,000,000, the Secretary shall aggregate such amounts and make available—

"(1) 50 percent of such aggregate amount to carry out subpart 1 for such year; and

"(2) 50 percent of such aggregate amount to carry out subpart 2 for such year.

"(b) APPROPRIATION EQUAL TO OR GREATER THAN $50,000,000.—Notwithstanding any other provision of law, for any fiscal year for which the sum of the amounts appropriated pursuant to the authority of sections 3122(f), 3123(b)(5), 3124(e), 3125(e), 3126(e), and 3132(c) is equal to or greater than $50,000,000, the Secretary shall aggregate such amounts and make available—

"(1) the sum of $25,000,000 plus 35 percent of such aggregate amount in excess of $50,000,000 to carry out subpart 1 for such year; and

"(2) the sum of $25,000,000 plus 65 percent of such aggregate amount in excess of $50,000,000 to carry out subpart 2 for such year.

"PART B—STAR SCHOOLS PROGRAM

"SEC. 3201. SHORT TITLE.

"This part may be cited as the 'Star Schools Act'.

"SEC. 3202. PURPOSE.

"It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and disabled, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

"(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

"(2) develop and acquire educational and instructional programming; and

"(3) obtain technical assistance for the use of such facilities and instructional programming.

"SEC. 3203. GRANTS AUTHORIZED.

"(a) AUTHORITY.—The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible telecommunications partnerships to pay the Federal share of the cost of—

"(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

"(2) the development and acquisition of live, interactive instructional programming;

"(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

"(4) the establishment of teleconferencing facilities and resources for broadcasting interactive training to teachers;

"(5) obtaining technical assistance; and

"(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

"(b) DURATION.—

"(1) IN GENERAL.—The Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

"(2) RENEWAL.—Grants awarded pursuant to subsection (a) may be renewed for 1 additional 5-year period.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

"(d) LIMITATIONS.—

"(1) AMOUNT.—A grant made to an eligible telecommunications partnership under this part shall not exceed $5,000,000 in any 1 fiscal year.

"(2) RESERVATIONS.—

"(A) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

"(B) FACILITIES AND EQUIPMENT.—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for telecommunications facilities and equipment.

"(3) SPECIAL RULE.—Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for any fiscal year shall be not more than 75 percent.

"(2) WAIVER.—The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) for good cause, as determined by the Secretary.

"(f) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

"(g) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—Each entity receiving funds under this part is encouraged to provide—

"(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

"(2) descriptive video of the visual content of such program, as appropriate.

"SEC. 3204. ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS.

"(a) IN GENERAL.—In order to be eligible for a grant under this part, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purposes of developing and operating telecommunications services to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interest of elementary and secondary schools which are eligible for assistance under part A of title I; or

"(2) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in subparagraph (A) or (B):

"(A) a local educational agency serving a significant number of elementary and secondary schools that are eligible for assistance under part A of title I or elementary and secondary schools operated for Indian children by the Department of the Interior under section 1121(c);

"(B) a State educational agency;

"(C) an institution of higher education or a State higher education agency;

"(D) a teacher training center or academy which—

"(i) provides teacher preservice and inservice training; and

"(ii) receives Federal financial assistance or has been approved by a State agency;

"(E)(i) a public or private entity with experience and expertise in the planning and operation of a telecommunications service, including entities involved in telecommunications through satellite, cable, telephone or computers; or

"(ii) a public broadcasting entity with such experience; or

"(F) a public or private elementary or secondary school.

"(b) SPECIAL RULE.—An eligible telecommunications partnership shall be organized on a statewide or multistate basis.

"SEC. 3205. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible telecommunications partnership which desires to receive a grant under section 3203 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF THE APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

"(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as other subjects to be offered;

"(4) describe the training policies for teachers and other school personnel to be implemented to ensure the effective use of telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local

educational agencies that have a high number or percentage of children eligible to be counted under part A of title I;

"(7) describe the manner in which traditionally underserved students, such as students who are disadvantaged, limited-English proficient, disabled, or illiterate, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

"(8) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

"(9) if any member of the consortia is receiving assistance under section 3122, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;

"(10) describe the activities or services for which assistance is sought, including activities and services such as—

"(A) providing facilities, equipment, training, services, and technical assistance described in paragraphs (1), (2), (4) and (7);

"(B) making programs accessible to individuals with disabilities through mechanisms such as closed captioning and descriptive video services;

"(C) linking networks together, for example, around an issue of national importance, such as national elections;

"(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

"(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

"(F) incorporating community resources, such as libraries and museums, into instructional programs;

"(G) providing teacher training to early childhood development and Head Start teachers and staff;

"(H) providing teacher training to vocational education teachers and staff;

"(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed;

"(J) providing programs for adults at times other than the regular school day in order to maximize the use of telecommunications facilities and equipment; and

"(K) providing parent education programs during and after the regular school day which reinforce the student's course of study and actively involve parents in the learning process; and

"(11) include such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary, in approving applications under this part, shall give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign languages resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including in the case of elementary and secondary schools, those elementary and secondary schools having a significant number of students eligible to be counted under part A of title I, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development leading to comprehensive effective instructional strategies, outcomes-based curriculum and parenting practices;

"(6) the eligible telecommunications partnership will—

"(A) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

"(B) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum; and

"(C) provide instruction for students, teachers, and parents;

"(7) the eligible telecommunications partnership will serve a multistate area;

"(8) the eligible telecommunications partnership will give priority to the provision of equipment and linkages to isolated areas;

"(9) a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) will participate in the partnership and will donate equipment or in kind services for telecommunications linkages; and

"(10) the eligible telecommunications partnership will, in providing services with assistance under this part, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this part, the Secretary shall assure an equitable geographic distribution of grants under this part.

"SEC. 3206. LEADERSHIP AND EVALUATION ACTIVITIES.

"(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 3203(c)(1) in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

"(b) METHOD OF FUNDING.—The Secretary may fund the activities described in subsection (a) directly or through grants, contracts, and cooperative agreements.

"(c) USES OF FUNDS.—

"(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) may be used for—

"(A) disseminating information, including lists and descriptions of services available from recipients; and

"(B) other activities designed to enhance the quality of distance learning activities nationwide.

"(2) EVALUATION.—Funds reserved for evaluation activities under subsection (a) may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

"(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

"(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

"(3) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—

"(A) applications for grants under this part; and

"(B) activities assisted under this part.

"SEC. 3207. ADMINISTRATIVE PROVISIONS.

"(a) CONTINUING ELIGIBILITY.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this part for a second 5-year grant period an eligible telecommunications partnership shall demonstrate in the application submitted pursuant to section 3205 that such partnership will—

"(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

"(B) use all grant funds received under this part for the second 5-year grant period to provide expanded services by—

"(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

"(ii) providing new courses of instruction; and

"(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are disabled, are illiterate, or lack secondary school diplomas or their recognized equivalent.

"(2) SPECIAL RULES.—Grant funds received pursuant to the application of paragraph (1) shall be used to supplement and not supplant services provided by the recipient under this part in the previous fiscal year.

"(b) FEDERAL ACTIVITIES.—The Secretary may assist grant recipients under this part in acquiring satellite time, where appropriate, as economically as possible.

"SEC. 3208. OTHER ASSISTANCE.

"(a) SPECIAL STATEWIDE NETWORK.—

"(1) IN GENERAL.—The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

"(A) provides 2-way full motion interactive video and audio communications;

"(B) links together public colleges and universities and secondary schools throughout the State; and

"(C) meets any other requirements determined appropriate by the Secretary.

"(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

"(b) SPECIAL LOCAL NETWORK.—

"(1) IN GENERAL.—The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

"(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

"(A) include 2-way full motion interactive video, audio and text communications;

"(B) link together elementary and secondary schools, colleges, and universities;

"(C) provide parent participation and family programs;

"(D) include a staff development program; and

"(E) have a significant contribution and participation from business and industry.

"(3) SPECIAL RULE.—Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

"(4) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

"SEC. 3209. DEFINITIONS.

"As used in this part—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, or a State educational agency;

"(2) the term 'instructional programming' means courses of instruction, training courses, and resources used in such instruction and training, which have been prepared in audio and visual form on tape, disc, film, live, and presented by means of telecommunications devices;

"(3) the term 'public broadcasting entity' has the same meaning given that term by section 397 of the Communications Act of 1934; and

"(4) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands.

"PART C—READY-TO-LEARN TELEVISION

"SEC. 3301. READY-TO-LEARN.

"(a) IN GENERAL.—The Secretary is authorized to enter into contracts, cooperative agreements, or grants with entities described in section 3302(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

"(b) AVAILABILITY.—In making such contracts, cooperative agreements, or grants, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

"SEC. 3302. EDUCATIONAL PROGRAMMING.

"(a) AWARDS.—The Secretary shall award contracts, cooperative agreements, or grants to eligible entities to—

"(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(2) contract with entities (such as public broadcasting entities and those funded under the Star Schools Act) in order that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a contract, cooperative agreement, or grant under subsection (a), an entity shall be—

"(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

"(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

"(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

"SEC. 3303. DUTIES OF SECRETARY.

"The Secretary is authorized—

"(1) to establish and administer a Special Projects of National Significance program to award contracts, cooperative agreements, or grants to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

"(A) addressing the learning needs of young children in limited-English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

"(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

"(3) to develop and disseminate training materials, including—

"(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

"(4) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

"SEC. 3304. APPLICATIONS.

"Each eligible entity desiring a contract, cooperative agreement, or grant under section 3301 or 3303 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 3305. REPORTS AND EVALUATION.

"(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 3301 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

"(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

"(1) a summary of the information made available under section 3302(a); and

"(2) a description of the training materials made available under section 3303(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

"SEC. 3306. ADMINISTRATIVE COSTS.

"With respect to the implementation of section 3302, entities receiving a contract, cooperative agreement, or grant from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the contract, cooperative agreement, or grant.

"SEC. 3307. DEFINITION.

"For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

"SEC. 3308. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 3302.

"(b) SPECIAL PROJECTS.—Of the amount appropriated under subsection (1) for each fiscal year, at least 10 percent of such amount shall be utilized in each such fiscal year for activities under section 3303(1)(C).

"PART D—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

"SEC. 3401. SHORT TITLE.

"This part may be cited as the 'Elementary Mathematics and Science Equipment Act'.

"SEC. 3402. STATEMENT OF PURPOSE.

"It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

"SEC. 3403. PROGRAM AUTHORIZED.

"The Secretary is authorized to make allotments to State educational agencies under section 3404 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

"SEC. 3404. ALLOTMENTS OF FUNDS.

"(a) IN GENERAL.—From the amount appropriated under section 3410 for any fiscal year, the Secretary shall reserve—

"(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau according to their respective needs for assistance under this part; and

"(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

"(b) ALLOTMENT.—

"(1) IN GENERAL.—The remainder of the amount so appropriated (after meeting requirements in subsection (a)) shall be allotted among State educational agencies so that—

"(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of title I.

"(2) MINIMUM.—Except as provided in paragraph (3), no State educational agency shall receive an allotment under this subsection for any fiscal year in an amount that is—

"(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

"(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) RATABLE REDUCTIONS.—(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary shall ratably reduce the allotment to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

"(c) REALLOTMENT OF UNUSED FUNDS.—The amount of any State educational agency's allotment under subsection (b) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a part of the State educational agency's allotment under subsection (b) for that year.

"(d) DEFINITION.—For the purposes of this part the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(e) DATA.—The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"SEC. 3405. STATE APPLICATION.

"(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) provide assurances that—

"(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

"(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

"(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

"(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and individuals with disabilities; and

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

"(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(3) describe procedures—

"(A) for submitting applications for programs described in section 3406 for distribution of assistance under this part within the State; and

"(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) STATE ADMINISTRATION.—Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

"SEC. 3406. LOCAL APPLICATION.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

"(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

"(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

"(c) PRIORITY.—In awarding grants under this part, the State educational agency shall give priority to applications that—

"(1) assign highest priority to providing assistance to schools which—

"(A) are most seriously underequipped; or

"(B) serve large numbers or percentages of economically disadvantaged students;

"(2) are attentive to the needs of underrepresented groups in science and mathematics;

"(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

"(4) assign priority to providing equipment and materials for students in grades 1 through 6.

"SEC. 3407. PROGRAM REQUIREMENTS.

"(a) COORDINATION.—Each State educational agency receiving an allotment under this part shall—

"(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

"(2) evaluate applications of local educational agencies;

"(3) award grants to local educational agencies based on the priorities described in section 3406(c); and

"(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

"(2) CAPITAL IMPROVEMENTS.—Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

"SEC. 3408. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

"(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 10701.

"SEC. 3409. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"PART E—ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCES PROGRAM

"SEC. 3501. PROGRAM AUTHORIZED.

"The Secretary shall award grants or make allocations for the acquisition of school library media resources for the use of students, library media specialists, and teachers in elementary and secondary schools in accordance with this part.

"SEC. 3502. FUNDING REQUIREMENTS.

"(a) IN GENERAL.—From the amount appropriated to carry out part A in each fiscal year, the Secretary shall make available at least 10 percent but not more than 20 percent of such amount to make awards in accordance with subsection (b) to States having a plan approved under section 3503.

"(b) SPECIAL RULE.—

"(1) AMOUNTS BELOW $50,000,000.—If the amount made available under subsection (a) for a fiscal year is less than $50,000,000, then the Secretary shall award grants to States, on a competitive basis, taking into account such factors as age and condition of existing school library media collections and the relative economic need of the students to be served.

"(2) AMOUNTS EQUAL TO OR EXCEEDING $50,000,000.—If the amount made available under subsection (a) for a fiscal year equals or exceeds $50,000,000, then the Secretary shall allocate to each State an amount which bears the same relationship to such amount as the amount such State received under title II for such year bears to the amount all States received under such title for such year.

"SEC. 3503. STATE PLANS.

"In order for a State to receive a grant or an allocation of funds under this part for any fiscal year, such State shall have in effect for such fiscal year a State plan. Such plan shall—

"(1) designate the State educational agency as the State agency responsible for the administration of the program assisted under this part;

"(2) set forth a program under which funds paid to the State in accordance with section 3502 will be expended solely for—

"(A) acquisition of school library media resources, including books and foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

"(B) administration of the State plan, including development and revision of standards, relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed 3 percent of the amount available to such State under section 3502 for such fiscal year; and

"(3) set forth criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

"SEC. 3504. DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"From the funds made available under section 3502 to a State in each fiscal year, such State shall distribute not less than 97 percent of such funds for such year to local educational agencies within such State on the same basis as allocations are made available to States under section 2122.

"PART F—BUDDY SYSTEM COMPUTER EDUCATION

"SEC. 3601. SHORT TITLE.

"This part may be cited as the 'Buddy System Computer Education Act'.

"SEC. 3602. PURPOSE.

"It is the purpose of this part to award demonstration grants to develop and expand public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment in order to—

"(1) enhance learning by providing students with the technological tools and guidance necessary to develop skills critical to educational growth and success in the workplace, including—

"(A) mastery of fundamental computer technology and applications;

"(B) improved written and visual communication skills;

"(C) improved critical thinking and problem solving abilities; and

"(D) improved ability to work in a collaborative, teamwork-driven environment;

"(2) encourage parental involvement in education and total family use and understanding of computers and telecommunications through at-home applications; and

"(3) establish foundations for lifelong learning through improvement in education skills and student motivation and attitudes.

"SEC. 3603. GRANT AUTHORIZATION.

"(a) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall conduct a program of awarding a grant to each of 3 States to enable such States to create a computer-based education project for children in grades 4 through 6 in accordance with the requirements of section 3604.

"(2) AWARD BASIS.—The Secretary shall award grants under this part on a competitive basis.

"(3) PREFERENCE.—In awarding grants under this part, the Secretary shall give preference to applications—

"(A) from States that have a demonstrated ability or commitment to computer-based technology education; and

"(B) describing projects that serve school districts which serve a large number or percentage of economically disadvantaged students.

"(b) SITE SELECTION AND PROJECT IMPLEMENTATION.—Site selection and implementation of the computer-based education projects assisted under this part shall take place not later than 9 months after funds are appropriated to carry out this part pursuant to the authority of section 3608.

"SEC. 3604. PROGRAM REQUIREMENTS.

"Each State receiving a grant to conduct a computer-based education project under this part shall—

"(1) provide a continuous 3-year computer-based education project to 2 consecutive groups of 4th, 5th, and 6th grade elementary school students during the period commencing with each such group's entry into 4th grade and ending the summer following each such group's completion of 6th grade;

"(2) ensure that each student in each of the classes participating in the project shall participate in the project;

"(3) conduct such project in not more than 7 public elementary schools within the State; and

"(4) ensure that each student participating in the project shall have access to a computer—

"(A) at school during the school year; and

"(B) at home during the school year and summer.

"SEC. 3605. APPLICATIONS.

"(a) APPLICATION REQUIRED.—In order to receive a grant under this part, the State educational agency shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require. Such application shall include an assurance from the State educational agency that the State educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part on the basis of the failure to provide such matching funds.

"(b) APPLICATION PERIOD.—States shall be eligible to submit applications for assistance under this part during a 3-month period determined by the Secretary.

"SEC. 3606. USE OF FUNDS.

"Grant funds under this part shall be used to provide hardware and software components to all sites, and training for classroom teachers as well as parents, administrators and technical personnel.

"SEC. 3607. EVALUATION.

"The Secretary shall evaluate the demonstration program assisted under this part and shall report to the Congress regarding the overall effectiveness of such program.

"SEC. 3608. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"TITLE IV—MAGNET SCHOOLS ASSISTANCE

"SEC. 4101. FINDINGS.

"The Congress finds that—

"(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

"(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

"(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

"(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

"(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

"(i) magnet students from other students in the school; and

"(ii) students by racial characteristics;

"(B) school districts can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such districts have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

"(C) school districts must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

"(D) consistent with desegregation guidelines, school districts must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

"(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity to continue to operate magnet schools at a high level of performance;

"(5) it is in the best interest of the Federal Government to—

"(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

"(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

“(C) maximize the ability of school districts to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform.

“SEC. 4102. STATEMENT OF PURPOSE.

“The purpose of this title is to assist in the desegregation of school districts by providing financial assistance to eligible local educational agencies for—

“(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

“(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

“(3) the development and design of innovative educational methods and practices; and

“(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

“SEC. 4103. PROGRAM AUTHORIZED.

“The Secretary, in accordance with this title, is authorized to make grants to local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this title for magnet schools that are—

“(1) part of an approved desegregation plan; and

“(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

“SEC. 4104. DEFINITION.

“For the purpose of this title, the term ‘magnet school’ means a public school or public education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

“SEC. 4105. ELIGIBILITY.

“A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this title to carry out the purposes of this title if such agency or consortium—

“(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

“(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

“SEC. 4106. APPLICATIONS AND REQUIREMENTS.

“(a) APPLICATIONS.—An eligible local educational agency or consortium of such agencies desiring to receive assistance under this title shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

“(b) INFORMATION AND ASSURANCES.—Each such application shall include—

“(1) a description of—

“(A) how assistance made available under this title will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

“(B) the manner and extent to which the magnet school project seeks to increase student achievement in the instructional area or areas offered by the school;

“(C) how an applicant will continue the magnet school project after assistance under this title may no longer be available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this title cannot be continued without the use of funds under this part;

“(D) how funds under this title will be used to implement services and activities that are consistent with—

“(i) the State plan described in section 1111; and

“(ii) the local educational agency's plan described in section 1112; and

“(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

“(2) assurances that the applicant will—

“(A) use funds under this title for the purposes specified in section 4102;

“(B) employ State certified or licensed teachers in the courses of instruction assisted under this title to teach or supervise others who are teaching the subject matter of the courses of instruction;

“(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

“(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

“(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

“(iii) designing or operating extracurricular activities for students;

“(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

“(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for places in those projects.

“(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

“SEC. 4107. PRIORITY.

“In approving applications under this title, the Secretary shall give priority to applicants that—

“(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

“(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects, which include revisions to enable a magnet school to implement effective educational approaches that are consistent with the State's and the local educational agency's State or local improvement plans, if any;

“(3) propose to select students to attend magnet school projects on the basis of multiple criteria which may include a lottery, rather than solely academic examination; and

“(4) propose to draw on comprehensive community involvement plans.

“SEC. 4108. USE OF FUNDS.

“(a) IN GENERAL.—Grant funds made available under this title may be used by an eligible local educational agency or consortium of such agencies—

“(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

“(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

“(3) for the payment of, or subsidization of the compensation of, elementary and secondary school teachers who are certified or licensed by the State, and instructional staff, where applicable, and who are necessary for the conduct of programs in magnet schools; and

“(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

“(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

“(B) further the purposes of this title.

“(b) SPECIAL RULE.—Grant funds under this title may be used in accordance with paragraphs (2) and (3) of subsection (a), only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

“SEC. 4109. PROHIBITIONS.

“Grants under this title may not be used for transportation, or for any activity that does not augment academic improvement.

“SEC. 4110. LIMITATION ON PAYMENTS.

“(a) DURATION OF AWARDS.—A grant under this title shall be awarded for a period that shall not exceed four fiscal years.

“(b) LIMITATION ON PLANNING FUNDS.—

“(1) IN GENERAL.—A local educational agency may expend for planning not more than 50 percent of the funds received under this title for the first year of the project, 25 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

“(2) SPECIAL RULE.—A local educational agency shall not expend funds under this title for planning after the third year of a project assisted under this title.

“(c) FEDERAL SHARE.—

“(1) IN GENERAL.—The Federal share of the cost of any project assisted under this title shall not exceed 100 percent for the first and second years of the project, 90 percent for the third such year, and 70 percent for the fourth or any subsequent such year including any year for which a grant is renewed pursuant to a new grant competition under this title.

“(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project assisted under this title may be in cash or in kind, including planned equipment or services, fairly valued, and may include other Federal education funds.

“(d) LIMITATION ON GRANTS.—No local educational agency or consortium receiving a grant under this section shall receive more than $4,000,000 under this part in any one fiscal year.

“(e) AWARD REQUIREMENT.—To the extent practicable, for any fiscal year, the Secretary shall award grants to local educational agencies or consortia under this title not later than June 30 of the applicable fiscal year.

“SEC. 4111. INNOVATIVE PROGRAMS.

“(a) IN GENERAL.—From amounts reserved under section 4112(d) for each fiscal year, the Secretary shall award grants to local educational agencies described in section 4105 to enable such agencies to conduct innovative programs that—

“(1) carry out the purpose of this part; and

“(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

“(A) organized around a special emphasis, theme or concept; and

“(B) involving extensive parent and community involvement.

"(b) APPLICABILITY.—Sections 4103, 4106, 4107, and 4108, shall not apply to grants awarded under subsection (a).

"(c) APPLICATIONS.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

"SEC. 4112. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

"(a) AUTHORIZATION.—For the purpose of carrying out this title, there are authorized to be appropriated $120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia that did not receive a grant under this part in the preceding fiscal year.

"(c) EVALUATIONS.—

"(1) IN GENERAL.—The Secretary may reserve not more than two percent of the funds appropriated under subsection (a) for any fiscal year to carry out evaluations of projects assisted under this part.

"(2) CONTENTS.—Each evaluation described in paragraph (1), at a minimum, shall address—

"(A) how and the extent to which magnet school programs lead to educational quality and improvement;

"(B) the extent to which magnet school programs enhance student access to quality education;

"(C) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

"(D) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

"(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve not more than 5 percent of the funds appropriated under subsection (a) for each fiscal year to award grants under section 4111.

"TITLE V—BETTER SCHOOLS FOR AMERICA

"PART A—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

"SEC. 5101. FINDINGS.

"The Congress finds as follows:

"(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

"(2) The widespread use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to the physical and mental well-being of such students, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

"(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

"(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

"(5) Violence and drug abuse have numerous personal and societal roots, and character education is an important component of any comprehensive strategy to address the serious problems of violence and drug abuse.

"(6) The tragic consequences of violence and the illegal use of alcohol and other drugs by students are felt not only by students and their families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

"(7) Alcohol and tobacco are the most widely used drugs among young people. Both of these drugs can, and do, have adverse consequences for users, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address all drugs.

"(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of 21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. However, because the nicotine in tobacco is addictive, many tobacco users find it difficult to stop using tobacco once such users have started. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

"(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

"(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

"SEC. 5102. PURPOSE.

"The purpose of this title is to support programs to meet the seventh National Educational Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and other drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

"(1) States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

"(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth;

"(3) States for development, training, technical assistance, and coordination activities;

"(4) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities; and

"(5) public and private nonprofit organizations to conduct training, demonstrations, research, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth.

"SEC. 5103. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $660,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part, of which not more than 10 percent shall be available in each fiscal year to carry out subpart 2.

"Subpart 1—State Grants for Drug and Violence Prevention Programs

"SEC. 5111. RESERVATIONS AND ALLOTMENTS.

"(a) RESERVATIONS.—From the amount made available to carry out this subpart for each fiscal year under section 5103, the Secretary—

"(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with the Secretary's determination of their respective needs;

"(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

"(3) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 5119; and

"(4) may reserve not more than $1,000,000 for the national impact evaluation required by section 5118(a).

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

"(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

"(B) one-half of such remainder according to the ratio between the amount each State received under section 1122 for the preceding year (or, for fiscal year 1995 only, sections 1005 and 1006 of this Act as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and the sum of such amounts received by all the States.

"(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

"(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of such allotment. Such reallotments may be made by the Secretary in the same manner as allotments are made under paragraph (1).

"(4) DEFINITION.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 5112. STATE APPLICATIONS.

"(a) IN GENERAL.—In order to receive an allotment under section 5111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

"(2) contains assurances that the application was developed in consultation and coordination with appropriate State officials and others, including the chief State school officer, the head

of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations; and

"(3) contains a description of the procedures the State educational agency will use to review applications from local educational agencies under section 5115.

"(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 5113(a) by the State educational agency that includes—

"(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

"(2) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 5116;

"(3) a description of how the State educational agency will use funds such agency reserves under section 5113(b);

"(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies; and

"(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 5113(d)(2)(A)(ii) and how the supplemental funds will be allocated among those local educational agencies.

"(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 5114(a) by the chief executive officer that includes—

"(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting those goals and objectives;

"(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

"(3) a description of how funds reserved under section 5114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

"(4) a description of how the chief executive officer will award funds under section 5114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds; and

"(5) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

"(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

"(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

"SEC. 5113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.

"(a) USE OF FUNDS.—An amount equal to 80 percent of the total amount allocated to a State under section 5111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

"(b) STATE LEVEL PROGRAMS.—

"(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

"(A) training and technical assistance concerning drug and violence prevention for local and intermediate educational agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

"(B) the development, identification, dissemination and evaluation of the most readily available, accurate, and up-to-date curriculum materials, for consideration by local educational agencies;

"(C) making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

"(D) demonstration projects in drug and violence prevention;

"(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

"(F) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

"(G) evaluation activities required by this subpart.

"(2) SPECIAL RULE.—A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

"(c) STATE ADMINISTRATION.—A State educational agency may use not more than 5 percent of the amount made available under subsection (a) for the administrative costs of carrying out such agency's responsibilities under this subpart.

"(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

"(1) IN GENERAL.—A State educational agency shall distribute not less than 90 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

"(2) DISTRIBUTION.—(A) Of the amount distributed under subsection (d)(1), a State educational agency shall distribute—

"(i) 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

"(B)(i) A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

"(ii) In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider factors such as—

"(I) high rates of alcohol or other drug use among youth;

"(II) high rates of victimization of youth by violence and crime;

"(III) high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

"(IV) the extent of illegal gang activity;

"(V) high incidence of violence associated with prejudice and intolerance;

"(VI) high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

"(VII) high rates of referrals of youths to juvenile court;

"(VIII) high rates of expulsions and suspensions of students from schools; and

"(IX) high rates of reported cases of child abuse and domestic violence.

"(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 5115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(B) to have the greatest need for additional funds.

"SEC. 5114. GOVERNOR'S PROGRAMS.

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 5111 for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

"(2) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the amount reserved under subsection (a)(1) for the administrative costs incurred in carrying out the duties of such officer under this section.

"(b) PROGRAMS AUTHORIZED.—

"(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) for—

"(A) children and youth who are not normally served by State or local educational agencies; or

"(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

"(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

"(c) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (b) shall be used for programs and activities such as—

"(1) disseminating information about drug and violence prevention;

"(2) training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

"(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

"(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

"(5) activities to protect students traveling to and from school;

"(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

"(7) professional development workshops for teachers and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

"(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

"(9) developing and implementing strategies to prevent illegal gang activity;

"(10) coordinating and conducting community-wide violence and safety assessments and surveys;

"(11) age appropriate programs to prevent child abuse;

"(12) activities such as community service and service-learning projects; and

"(13) evaluating programs and activities assisted under this section.

"SEC. 5115. LOCAL APPLICATIONS.

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—In order to be eligible to receive a distribution under section 5113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

"(2) DEVELOPMENT.—(A) A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

"(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under paragraph (2)(A) shall, on an ongoing basis—

"(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

"(ii) advise the local educational agency on how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities and the agencies that administer such programs, projects, and activities; and

"(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

"(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

"(1) a description of the current alcohol, tobacco, and other drug problems as well as the violence, safety, prejudice, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program);

"(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

"(A) how that plan is consistent with, and promotes the goals in, the State's application under section 5112;

"(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

"(C) how the local educational agency will use its distribution under this subpart;

"(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

"(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

"(3) such other information and assurances as the State educational agency may reasonably require.

"(c) REVIEW OF APPLICATION.—

"(1) IN GENERAL.—A State educational agency shall use a peer review process in reviewing local applications under this section.

"(2) CONSIDERATIONS.—(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) and the extent to which such plan is consistent with, and supports, the State's application under section 5112 and the State's plan under section 1111.

"(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds distributed to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part or the State's plan under section 1111.

"SEC. 5116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

"(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

"(1) be designed, for all students and employees, to—

"(A) prevent the use, possession, and distribution of tobacco, alcohol and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

"(B) prevent violence and promote school safety; and

"(C) create a disciplined environment conducive to learning; and

"(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart.

"(b) AUTHORIZED ACTIVITIES.—A comprehensive drug and violence prevention program carried out under this subpart may include—

"(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

"(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

"(A) the dissemination of information about drug prevention;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

"(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and other drug use, such as—

"(i) family counseling;

"(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

"(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

"(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

"(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

"(A) the dissemination of information about school safety and discipline;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

"(C) the implementation of strategies, such as conflict resolution and peer mediation, and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse;

"(D) the development and implementation of character education programs that are tailored by communities, parents and schools, and based on the tenets of democracy, self discipline, and personal and civic responsibility, and guided by the principles of community and national laws, in order to reduce the problems of violence and drug abuse; and

"(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

"(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

"(6) acquiring and installing metal detectors and hiring security personnel;

"(7) reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities;

"(8) professional development workshops for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

"(9) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

"(10) drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

"(11) the evaluation of any of the activities authorized under this subsection.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—Not more than 10 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5), (6), and (7) of subsection (b).

"(2) SPECIAL RULE.—A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5), (6), and (7), of subsection (b) if funding for such activities is not received from other Federal agencies.

"SEC. 5117. EVALUATION AND REPORTING.

"(a) NATIONAL IMPACT EVALUATION.—The Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and submit a report of the findings of such evaluation to the President and the Congress.

"(b) STATE REPORT.—

"(1) IN GENERAL.—By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

"(A) on the implementation and outcomes of State programs under section 5114 and section 5113(b) and local programs under section 5113(d), as well as an assessment of their effectiveness; and

"(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 5112.

"(2) SPECIAL RULE.—The report required by this subsection shall be—

"(A) in the form specified by the Secretary;

"(B) based on the State's on-going evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

"(C) made readily available to the public.

"(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency whatever information, and at whatever intervals, the State requires to complete the State report required by subsection (b), including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

"SEC. 5118. PROGRAMS FOR HAWAIIAN NATIVES.

"(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 5111(a)(3) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives.

"(b) DEFINITION OF 'HAWAIIAN NATIVE'.—For the purposes of this section, the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"Subpart 2—National Programs

"SEC. 5121. FEDERAL ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 5103, the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels, prekindergarten through postsecondary. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

"(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

"(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

"(3) drug and violence prevention research that is coordinated with other Federal agencies and is directed toward improving programs and activities under this part;

"(4) program evaluations in accordance with section 10701 that address issues not addressed under section 5117(a);

"(5) direct services to schools and school systems afflicted with especially severe drug and violence problems;

"(6) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

"(7) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes;

"(8) developing and disseminating drug and violence prevention materials, including model curricula; and

"(9) other activities that meet unmet national needs related to the purposes of this part.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

"SEC. 5122. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

"(a) IN GENERAL.—From funds made available to carry out this subpart under section 5103, the Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, or consortia of such institutions, for drug and violence prevention programs under this section. Awards under this section shall support the development, implementation, validation, and dissemination of model programs and strategies to promote the safety of students attending institutions of higher education by preventing violent behavior and the illegal use of alcohol and other drugs by such students.

"(b) APPLICATIONS.—An institution of higher education, or consortium of such institutions, that desires to receive an award under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The Secretary shall use a peer review process for reviewing applications for funds under this section.

"(c) EQUITABLE PARTICIPATION.—The Secretary shall make every reasonable effort to ensure the equitable participation in the activities assisted under this section of private and public institutions of higher education (including community and junior colleges), institutions of limited enrollment, and institutions in different geographic regions.

"Subpart 3—General Provisions

"SEC. 5131. DEFINITIONS.

"For the purposes of this part, the following terms have the following meanings:

"(1) The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol, the use of tobacco and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids; and

"(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

"(2) The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

"(3) The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(4) The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(5) The term 'school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

"SEC. 5132. MATERIALS.

"(a) 'WRONG AND HARMFUL' MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

"(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

"SEC. 5133. PROHIBITED USES OF FUNDS.

"No funds under this part may be used for—

"(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

"(2) medical services, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or other drugs.

"PART B—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

"SEC. 5201. SHORT TITLE.

"This part may be cited as the 'School Dropout Assistance Act'.

"SEC. 5202. PURPOSE.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

"(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or ethnicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 5203. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 5208 for any fiscal year, the Secretary shall first reserve not more than $2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 10701. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to educational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) to local educational agencies participating in an educational partnership.

"(2) EDUCATIONAL PARTNERSHIPS.—Educational partnerships under this subsection shall include—

"(A) a local educational agency; and

"(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 5204 and whose applications propose a program of sufficient size, scope, and quality to be effective. Any local educational agency, educational partnership, or community-based organization that has received a grant under this part shall be eligible for additional funds subject to the requirements under this part. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this part.

"(d) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—

"(1) IN GENERAL.—Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories described in paragraphs (1) through (3) of subsection (a), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) PEER REVIEW.—In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) FEDERAL SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

"(B) 75 percent of such cost in each such succeeding fiscal year.

"(2) REMAINING COSTS.—The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) NON-FEDERAL SHARE.—The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 5204. APPLICATION.

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) DURATION.—Each such application shall be for a 3-year period.

"(b) CONTENTS.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

"(3) include a plan for coordinated activities involving at least 1 secondary school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) when applicable, describe how programs assisted under this part will be coordinated with, and not duplicate, programs assisted under title I;

"(5) include a description of how the program assisted under this part is consistent with the second National Education Goal and other Federal programs as appropriate; and

"(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 5203(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"(e) GRANTS FOR NEW GRANTEES.—In awarding grants under this part the Secretary shall utilize only those priorities and special considerations described in subsections (c) and (d).

"SEC. 5205. AUTHORIZED ACTIVITIES.

"Grants under this part shall be used to carry out plans set forth in applications approved under section 5204. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school personnel on strategies and techniques designed to—

"(A) identify children at risk of dropping out;

"(B) intervene in the instructional program with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and dropouts and between youth gangs *and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;*

"(11) the study of the relationship between disabling conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

"(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles;

"(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

"(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(17) summer employment programs;

"(18) occupational training programs;

"(19) career opportunity and skills counseling;

"(20) job placement services;

"(21) the development of skill employment competency testing programs;

"(22) special school staff training projects; and

"(23) mentoring programs.

"SEC. 5206. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 5203(a);

"(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this part may be used for administrative costs.

"SEC. 5207. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 14003(b), to implement a definition and data collection process for school dropouts in elementary and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by race and ethnic origin who drop out of school each year including dropouts—

"(1) throughout the Nation by rural and urban location as defined by the Secretary; and

"(2) in each of the individual States and the District of Columbia.

"(b) RECOMMENDATIONS.—The report under subsection (a) shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure dropout and retention rates on the national, State, and local levels.

"SEC. 5208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"TITLE VII—LANGUAGE ENHANCEMENT AND ACQUISITION PROGRAMS

"PART A—BILINGUAL EDUCATION PROGRAMS

"SEC. 7101. SHORT TITLE.

"This part may be cited as the 'Bilingual Education Act'.

"SEC. 7102. FINDINGS.

"The Congress finds that—

"(1) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English proficient peers;

"(2) limited-English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

"(A) segregated education programs;

"(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

"(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

"(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

"(3) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 and section 204(f) of the Equal Education Opportunities Act of 1974, has a special and continuing obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited-English proficiency;

"(4) the Federal Government also, as exemplified by the Federal Government's efforts under this title, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited-English proficient children and youth an equal educational opportunity;

"(5) in carrying out the Federal Government's responsibilities with respect to ensuring equal educational opportunity for children and youth of limited-English proficiency, the Federal Government has learned that—

"(A) large numbers of such children and youth have needs that must be met by a program of instruction designed specifically for such children and youth;

"(B) a primary purpose of such programs must be developing the English language skills of such children and youth;

"(C) the use of a child or youth's native language and culture in classroom instruction can—

"(i) promote self-esteem and contribute to academic achievement and learning English by limited-English proficient children and youth;

"(ii) benefit English proficient children and youth who also participate in such programs; and

"(iii) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

"(D) parent and community participation in bilingual education programs contributes to program effectiveness; and

"(E) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education; and

"(6) Native Americans and Native American languages (as such terms are defined in section 103 of the Native American Languages Act) have a unique status under Federal law that requires special policies within the broad purposes of this Act to serve the education needs of language minority students in the United States.

"SEC. 7103. POLICY; AUTHORIZATION OF APPROPRIATIONS.

"(a) POLICY.—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies and consortia of local educational agencies, institutions of higher education and community based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited-English proficiency that—

"(1) develop the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

"(2) educate such children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas;

"(3) develop bilingual skills and multicultural understanding; and

"(4) provide similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 7104. DEFINITIONS.

"For the purpose of this title:

"(1) BILINGUAL EDUCATION PROGRAM.—(A) The term 'bilingual education program'—

"(i) means a program of instruction designed specifically for children and youth of limited-English proficiency at any grade level, including the preschool, elementary, or secondary school levels, that is intended—

"(I) to help such children and youth develop proficiency in English and, to the extent possible, the native language of such children and youth; and

"(II) to achieve to high academic standards in all courses of study; and

"(ii) may include activities to assist the parents of such children and youth enrolled in bilingual education programs to participate in the education of their children.

"(B)(i) A bilingual education program may be conducted in English, the native language, or both languages, except that all bilingual education programs shall develop proficiency in the English language. The native language may be used in the instructional program to facilitate the acquisition of English, to develop overall linguistic competence, and to develop competence in the academic curriculum.

"(ii) A bilingual education program shall, to the extent possible, incorporate the cultural heritage of the children or youth of limited-English proficiency served by the program, as well as the cultural heritage of other children in American society.

"(C) Children and youth proficient in English may participate in a bilingual education program to enable all children and youth participating in a bilingual education program to become proficient in English and a second language.

"(2) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged three through 21.

"(3) DIRECTOR.—The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 210 of the Department of Education Organization Act.

"(4) JURISDICTION WHERE A NATIVE AMERICAN LANGUAGE HAS OFFICIAL STATUS.—The term 'jurisdiction where a Native American language has official status' refers to States, territories, commonwealths, cities, counties, reservations, Alaska Native villages, school districts, and other jurisdictions similar to those described in this paragraph that have legally recognized a Native American language for conducting an aspect of their official business.

"(5) LIMITED-ENGLISH PROFICIENCY AND LIMITED-ENGLISH PROFICIENT.—The terms 'limited-English proficiency' and 'limited-English proficient', when used with reference to an individual, mean an individual—

"(A) who—

"(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

"(ii) is a Native American or Alaska Native and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

"(iii) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

"(B) who, by reason thereof, has sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(6) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

"(7) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with at least five years successful experience in providing educational services in traditional Native American languages.

"(8) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

"(9) OTHER PROGRAMS FOR PERSONS OF LIMITED-ENGLISH PROFICIENCY.—The term 'other programs for persons of limited-English proficiency' means any programs administered by the Secretary that directly involve bilingual education activities serving persons of limited-English proficiency.

"SEC. 7105. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

"(1) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

"(ii) approved by the Secretary for the purpose of this section.

"(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

"Subpart 1—Financial Assistance for Bilingual Education

"SEC. 7111. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.

"(a) PURPOSE.—The purpose of this subpart is to assist local educational agencies, through the grants authorized by subsections (b), (c), and (d), to—

"(1) develop and enhance their capacity to provide high-quality instruction to children and youth of limited-English proficiency; and

"(2) to help such children and youth—

"(A) develop proficiency in English, and to the extent possible, their native language; and

"(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 1111(b).

"(b) DEVELOPMENT AND ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to local educational agencies, or community based organizations in consortia with one or more local educational agencies and an institution of higher education, to—

"(A) develop new bilingual education programs;

"(B) enhance or expand existing bilingual education programs to meet new conditions, such as the need to serve additional language groups or different age or grade levels; and

"(C) meet the short-term needs of local educational agencies without bilingual education programs to serve children and youth of limited-English proficiency.

"(2) DURATION.—Grants awarded under this subsection shall be for a period of not more than 2 years, except that grants to carry out paragraph (1)(A) shall be awarded for a period of not more than 3 years.

"(c) COMPREHENSIVE SCHOOL GRANTS.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to local educational agencies for the purpose of implementing schoolwide bilingual education programs that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

"(2) DURATION.—Grants awarded under this subsection shall be for a period of not more than 5 years, except that the Secretary shall terminate grants to local educational agencies if the Secretary determines that—

"(A) the program evaluation required by section 7126 indicates that students in the schoolwide program are not being taught to and achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(d) COMPREHENSIVE DISTRICT GRANTS.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to local educational agencies for the purpose of implementing district-wide bilingual education programs that serve a significant number of children and youth of limited-English proficiency in districts with significant concentrations of such children and youth.

"(2) DURATION.—Grants awarded under this subsection shall be for a period of not more than 5 years, except that the Secretary shall terminate grants to local educational agencies where the Secretary determines that—

"(A) the program evaluation required by section 7126 indicates that students in the program are not being taught to and achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Recipients of grant funds under subsections (b), (c), and (d) may use such funds for—

"(A) identification and acquisition of curricular materials, educational software, and technologies to advance the education of children and youth of limited-English proficiency;

"(B) parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(C) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

"(D) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(E) such other activities, related to the purposes of this part, as the Secretary may approve.

"(2) ADDITIONAL ACTIVITIES.—Recipients of funds under subsections (c) and (d) may—

"(A) use such funds for preservice and inservice professional development of staff participating, or preparing to participate, in the program, including staff who will not directly participate in the bilingual instructional program (which in the case of teachers who are participating in the program may include release time with pay), if such activities are directly related to serving children and youth of limited-English proficiency and will help accomplish the purposes of this subpart; and

"(B) during the first 12 months of such a grant, engage exclusively in activities preparatory to the delivery of services, which may include program design, the development of materials and procedures, and activities to involve parents in the educational program and to enable parents and family members to assist in the education of children and youth of limited-English proficiency.

"(f) GEOGRAPHIC DISTRIBUTION OF FUNDS.—To the extent possible, the Secretary shall award grants under this section throughout the Nation in a manner that—

"(1) reflects the geographic distribution of children and youth of limited-English proficiency throughout the Nation;

"(2) takes into account significant increases in limited-English proficient children and youth in areas with low concentrations of such children and youth; and

"(3) ensures that activities assisted under this part address the full needs of school systems of all sizes and geographic areas, including rural schools.

"(g) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited-English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(h) APPLICATIONS.—

"(1) IN GENERAL.—Any local educational agency or community based organization that desires a grant under this section shall submit, through its State educational agency, an application to the Secretary, in such form, at such time, and containing such information and assurances as the Secretary may require.

"(2) CONTENTS.—Each such application shall—

"(A) describe—

"(i) the need for the proposed program, including data on the number of the children and youth of limited-English proficiency in the school or district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to English proficient peers, and, where applicable, the recency of immigration; and

"(ii) the program to be implemented and how such program's design—

"(I) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served; and

"(II) is consistent with, and promotes the goals in, the local educational agency's improvement plan under section 1112, particularly as such plan relates to the education of children and youth of limited-English proficiency; and

"(B) provide an assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education programs if the applicant receives an award under this subpart.

"(3) ADDITIONAL INFORMATION.—Each application for a grant under subsection (c) or (d) shall—

"(A) describe—

"(i) current services the applicant provides to children and youth of limited-English proficiency;

"(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

"(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency; and

"(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

"(B) provide assurances that—

"(i) the program funded will be integrated with the overall educational program; and

"(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

"(i) LIMITATION ON FUNDING.—

"(1) DEVELOPMENT AND ENHANCEMENT GRANTS.—Not more than 25 percent of the total amount of funds that the Secretary awards under subsection (b) for any fiscal year shall be used to provide funding to bilingual education programs that do not use the native language.

"(2) COMPREHENSIVE SCHOOL GRANTS.—Not more than 25 percent of the total amount of funds that the Secretary awards under subsection (c) for any fiscal year shall be used to provide funding to bilingual education programs that do not use the native language.

"(3) SPECIAL RULE.—Notwithstanding paragraphs (1) and (2), the Secretary is authorized to award grants for bilingual education programs that are not conducted in the native language if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program that is conducted in the native language because—

"(A) the diversity of limited-English proficient students' native languages and the small number of students speaking each respective language make instruction in the native language impractical; or

"(B) despite documented efforts, the applicant has not been able to hire instructional personnel who are able to communicate in the students' native language.

"(j) STATE REVIEW OF APPLICATIONS UNDER PART A.—In order for an eligible applicant to apply for funds under this subpart, such applicant shall submit the application to the State educational agency for review. The State educational agency shall transmit such application to the Secretary along with such agency's timely comments on the need within the State for the proposed program and whether the proposed program is consistent with the State plan under section 1111.

"(k) CAPACITY BUILDING.—

"(1) IN GENERAL.—Each recipient of a grant under this section shall use the grant funds in ways that will build such recipient's capacity to continue to offer high quality bilingual education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

"(2) SPECIAL RULE.—In making awards under this subpart for any fiscal year, the Secretary shall, consistent with the quality of applications and the funds available under this part, increase the amount of funds used to support grants under subsections (c) and (d) over the amount used to support grants under subsections (c) and (d) in the previous fiscal year.

"(l) CONSORTIA.—A local educational agency that receives a grant under this subpart may collaborate or form a consortium with one or more local education agencies, institutions of higher education, and nonprofit organizations to carry out a program described in an application approved under this subpart.

"(m) SUBGRANTS.—A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this subpart, including a program to serve out-of-school youth.

"(n) PARENTAL NOTIFICATION.—

"(1) IN GENERAL.—Parents of a child or youth of limited-English proficiency identified for enrollment in bilingual education programs shall be informed of the—

"(A) benefits and nature of the bilingual educational program and of the instructional alternatives; and

"(B) reasons for the selection of their child as being in need of bilingual education.

"(2) OPTION TO DECLINE.—(A) Parents of a child or youth of limited-English proficiency identified for enrollment in bilingual education programs shall be informed that such parents have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if such parents so choose.

"(B) Nothing in this section shall be construed to relieve a local educational agency, community based organization or consortium receiving assistance under this part of any of their obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

"(3) INFORMATION.—Parents of a child or youth of limited-English proficiency identified for enrollment in bilingual education programs shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

"(A) timely information about projects funded under this subpart; and

"(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

"(o) PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.—Programs authorized under this title that serve Native American children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this title, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

"Subpart 2—Research and Evaluation

"SEC. 7121. AUTHORITY.

"The Secretary is authorized to conduct data collection, dissemination, research, and evaluation activities for the purpose of improving bilingual education programs for children and youth of limited-English proficiency.

"SEC. 7122. RESEARCH.

"(a) AWARDS.—The Secretary may award grants and enter into contracts and cooperative agreements for research and evaluation activities related to improving and maintaining high quality bilingual educational programs for persons of limited-English proficiency.

"(b) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

"(c) RESEARCH AND DISSEMINATION.—The Secretary, through the Office of Educational Research and Improvement, if appropriate, shall—

"(1) conduct research on effective instruction practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited-English proficient child in their classrooms; and

"(2) disseminate the findings of such research.

"SEC. 7123. ACADEMIC EXCELLENCE AWARDS.

"(a) AWARDS.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education programs that demonstrate great promise of assisting children and youth of limited-English proficiency to meet challenging State content standards and challenging State student performance standards.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

"(2) PEER REVIEW.—The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

"(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited-English proficiency, which may include—

"(1) completing the development of such programs;

"(2) professional development of staff participating in bilingual education programs;

"(3) sharing strategies and materials; and

"(4) supporting professional networks.

"(d) COORDINATION.—Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional centers assisted under subpart 1 of part C of title II.

"SEC. 7124. STATE GRANT PROGRAM.

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency effectively provides for the education of children and youth of limited-English proficiency within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency may use funds for programs authorized by this section to—

"(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation;

"(B) operate a bilingual education advisory panel under subsection (d); and

"(C) collect data concerning children and youth of limited-English proficiency.

"(2) SPECIAL RULE.—Recipients of awards under this section shall not restrict the provision of services under this section to federally funded programs.

"(d) STATE BILINGUAL EDUCATION ADVISORY PANEL.—Each State educational agency that receives funds under this section shall appoint a broad-based bilingual education advisory panel, with substantial representation from persons knowledgeable about the education of limited-English proficient students, to develop and recommend to the State educational agency guidelines for reviewing, and providing the Secretary with comments regarding, applications for funds under subparts 1 and 3 that come from within the State.

"(e) APPLICATIONS.—A State educational agency desiring to receive an award under this section shall submit an application to the Secretary in such form, at such time, containing such information and assurances as the Secretary may require.

"SEC. 7125. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

"(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

"(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

"(1) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems; and

"(2) develop a data base management and monitoring system for improving the operation and effectiveness of programs assisted under this part.

"SEC. 7126. EVALUATIONS.

"(a) PROGRAM EVALUATIONS UNDER SUBPART 1.—

"(1) IN GENERAL.—Each recipient of funds under subpart 1 shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of the program assisted under such subpart every 2 years.

"(2) USE.—Such evaluation shall be used by a recipient of funds under subpart 1—

"(A) to improve such program;

"(B) to further define such program's goals and objectives; and

"(C) to determine program effectiveness.

"(3) CONTENTS.—Such evaluation shall include—

"(A) student outcome indicators that measure progress toward the challenging State student performance standards set out in the State plan approved or being developed under section 1111, including data comparing children and youth of limited-English proficiency with nonlimited-English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

"(B) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the professional development of the program staff, and appropriateness of the language of instruction;

"(C) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited-English proficiency; and

"(D) such other information as the Secretary may require.

"(b) PROGRAM EVALUATIONS UNDER SUBPART 3.—

"(1) IN GENERAL.—Each recipient of funds under subpart 3 shall provide the Secretary with an evaluation of the program assisted under such subpart every 2 years.

"(2) DATA.—Such evaluation shall include data on—

"(A) post-program placement of persons trained;

"(B) how the training relates to the employment of persons served by the program;

"(C) program completion; and

"(D) such other information as the Secretary may require.

"Subpart 3—Professional Development

"SEC. 7131. PURPOSE.

"The purpose of this subpart is to improve the quality of instruction for children and youth of limited-English proficiency—

"(1) through professional development programs designed—

"(A) for persons preparing to provide services for children and youth of limited-English proficiency;

"(B) to improve the skills of persons providing services to children and youth of limited-English proficiency; and

"(C) for other staff in schools serving children and youth of limited-English proficiency; and

"(2) by disseminating information on appropriate instructional practices and activities for children and youth of limited-English proficiency to other school personnel, including teachers not serving such children and youth.

"SEC. 7132. PROFESSIONAL DEVELOPMENT GRANTS.

"(a) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—The Secretary is authorized to make grants to institutions of higher education for—

"(1) preservice and inservice professional development for individuals who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency, which in the case of teachers who are involved in the provision of such services may include release time with pay; and

"(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

"(b) GRANTS TO STATE AND LOCAL EDUCATIONAL AGENCIES.—The Secretary may make grants to State and local educational agencies for inservice professional development programs that prepare school personnel to provide effective services to limited-English proficient students.

"(c) USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.—Awards under this section may be used to develop a program participant's competence in a second language.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—An institution of higher education, or a State or local educational agency desiring to receive an award under this section shall submit, through its State educational agency, an application to the Secretary, in such form, at such time, and containing such information and assurances as the Secretary may require.

"(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

"(3) SPECIAL RULE.—(A) An application for a grant under subsection (a) from an applicant who proposes to conduct a masters or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

"(B) A recipient of a grant under subsection (a) may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

"(4) REVIEW.—In order for an institution of higher education or a local educational agency to apply for funds under this section, the State educational agency serving such institution shall review the application and provide the Secretary with timely comments on the need within the State for the proposed program and whether the proposed program is consistent with the State plan under section 1111 and section 2125(b)(1).

"SEC. 7133. FELLOWSHIPS.

"(a) ACADEMIC FELLOWSHIPS.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, *and curriculum development, and for the support of dissertation research related to such study.*

"(b) REPAYMENT.—

"(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

"(A) work in an activity related to the area for which the assistance was awarded or in an activity such as those authorized under this part for a period of time equivalent to the period of time during which such person receives assistance under this section; or

"(B) repay such assistance.

"(2) TERMS AND CONDITIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

"SEC. 7134. STIPENDS.

"The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

"SEC. 7201. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1994'.

"SEC. 7202. FINDINGS.

"The Congress finds as follows:

"(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

"(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

"(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

"(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

"(5) Four out of five new jobs in the United States are created from foreign trade.

"(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

"(7) Foreign language study can increase children's capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

"(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

"SEC. 7203. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

"(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of 3 years.

"(b) REQUIREMENTS.—

"(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

"(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

"(A) show the promise of being continued beyond the grant period;

"(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

"(3) SPECIAL RULE.—Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

"(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

"SEC. 7204. APPLICATIONS.

"(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

"(1) include intensive summer foreign language programs for professional development;

"(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

"(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

"SEC. 7205. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

"(a) INCENTIVE PAYMENTS.—From amounts appropriated under section 7206 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

"(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

"(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides at least 45 minutes of instruction in a foreign language at least 4 days per week throughout an academic year.

"SEC. 7206. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 7205.

"PART C—ADMINISTRATION

"SEC. 7301. COORDINATION WITH RELATED PROGRAMS.

"In order to maximize the effectiveness of Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department, including programs in such areas as teacher training, program content, research, and curriculum.

"SEC. 7302. REPORT ON BILINGUAL EDUCATION.

"The Secretary shall, within three years of the date of enactment of the Improving America's Schools Act of 1994, and every third year thereafter, submit to the Congress a report on the condition of bilingual education. The report shall include—

"(1) information regarding—

"(A) the grants, contracts, and cooperative agreements made pursuant to this title in the preceding 3 fiscal years;

"(B) the number of individuals benefiting from the programs assisted under this title;

"(C) the evaluation of activities carried out under this title during the preceding 3 fiscal years and the extent to which each such activity achieves the policy set forth in section 7103(a);

"(D) an estimate of the number of teachers and other school personnel for bilingual education that will be necessary for the 3 succeeding fiscal years; and

"(E) the research activities carried out under this title during the preceding 3 fiscal years and the major findings of such research activities; and

"(2) an analysis and synthesis of such information.

"SEC. 7303. STATE EDUCATIONAL AGENCY RECOMMENDATIONS; PEER REVIEW.

"(a) STATE EDUCATIONAL AGENCY RECOMMENDATIONS.—In making awards under part A, the Secretary shall take State educational agency recommendations into account.

"(b) PEER REVIEW.—

"(1) IN GENERAL.—In making awards under part A and in making funding decisions for continuation grants under such parts, the Secretary may solicit recommendations from peer review panels composed of individuals experienced in aspects of the education of limited-English proficient students.

"(2) FUNDING.—The Secretary may use not more than 0.2 percent of the total amount of funds appropriated for each fiscal year for programs authorized under this title for peer review of applications for assistance under such programs.

"PART D—SPECIAL RULE

"SEC. 7401. SPECIAL RULE.

"Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding the date of enactment of such Act).

"TITLE VIII—PROGRAMS OF NATIONAL SIGNIFICANCE

"PART A—ARTS IN EDUCATION

"SEC. 8101. SUPPORT FOR ARTS EDUCATION.

"(a) FINDINGS.—The Congress finds that—

"(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

"(2) the arts are important to excellent education and to effective school reform;

"(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

"(4) such transformation is best realized in the context of comprehensive, systemic education reform;

"(5) demonstrated competency in the arts for American students is among the National Education Goals;

"(6) arts education should be an integral part of the elementary and secondary school curriculum;

"(7) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings; and

"(8) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities.

"(b) PURPOSE.—The purposes of this part are to—

"(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

"(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

"(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

"(c) ELIGIBLE RECIPIENTS.—In order to carry out the purposes of this part, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

"(1) State educational agencies;

"(2) local educational agencies;

"(3) institutions of higher education;

"(4) museums and other cultural institutions; and

"(5) other public and private agencies, institutions, and organizations.

"(d) AUTHORIZED ACTIVITIES.—Funds under this part may be used for—

"(1) research on arts education;

"(2) the development of, and dissemination of information about, model arts education programs;

"(3) the development of model arts education assessments based on high standards;

"(4) the development and implementation of curriculum frameworks for arts education;

"(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

"(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

"(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

"(8) supporting model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities;

"(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

"(10) other activities that further the purposes of this part.

"(e) COORDINATION.—

"(1) IN GENERAL.—A recipient of funds under this part shall, to the extent possible, coordinate projects assisted under this part with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

"(2) SPECIAL RULE.—In carrying out this part, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

"(f) AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) SPECIAL RULE.—If the amount appropriated under paragraph (1) for any fiscal year is $9,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

"PART B—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

"SEC. 8151. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

"(a) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as 'the contractor') to support and promote programs, which include the distribution of inexpensive books to students, that motivate children to read.

"(b) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (a) shall—

"(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age;

"(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

"(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

"(A) low-income children, particularly in high-poverty areas;

"(B) children at risk of school failure;

"(C) children with disabilities;

"(D) foster children;

"(E) homeless children;

"(F) migrant children;

"(G) children without access to libraries;

"(H) institutionalized or incarcerated children; and

"(I) children whose parents are institutionalized or incarcerated;

"(4) provide that the contractor will provide such technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

"(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

"(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITION OF 'FEDERAL SHARE'.—For the purpose of this section, the term 'Federal share' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART C—PUBLIC CHARTER SCHOOLS

"SEC. 8201. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

"(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

"(3) the new schools developed through such process should be free to test a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for students consistent with challenging State content standards and challenging State student performance standards for all students;

"(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

"(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement; and

"(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform.

"(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

"(1) providing financial assistance for the design and initial implementation of charter schools; and

"(2) evaluating the effects of such schools, including the effects on students, staff, and parents.

"SEC. 8202. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 8203 to enable such agencies to conduct a charter school grant program in accordance with this part.

"(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 8203, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 8203(c).

"(c) PROGRAM PERIODS.—

"(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall

be awarded for a period of not more than 3 years.

"(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary or by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

"(A) not more than 18 months for planning and program design; and

"(B) not more than 2 years for the initial implementation of a charter school.

"(d) LIMITATION.—The Secretary and State educational agencies shall not award more than one grant under this part to support a particular charter school.

"(e) USE OF GRANTS.—

"(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award grants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

"(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving a grant from the Secretary or a State educational agency shall use such grant funds to plan and implement a charter school in accordance with this part.

"(3) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

"(4) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a grant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

"SEC. 8203. APPLICATIONS.

"(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives shall be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program and the availability of grants for the establishment of such schools;

"(2) contain assurances that the State educational agency—

"(A) has granted, will grant, or will obtain, a waiver of all State law applicable to each charter school receiving a grant under this section, except that this subparagraph only shall apply to a State that has enacted a statute regarding the waiver of State law for charter schools to the extent permitted by such statute; and

"(B) will assist each eligible applicant in the State in receiving a waiver under section 8204(d);

"(3) contain assurances that the State educational agency will require each eligible applicant receiving a grant to submit an application to the State educational agency containing—

"(A) a description of the educational program to be implemented by the proposed charter school, including—

"(i) how the program will enable all students to meet State student performance standards;

"(ii) the grade levels or ages of children to be served; and

"(iii) the curriculum and instructional practices to be used;

"(B) a description of how the charter school will be managed;

"(C) a description of—

"(i) the objectives of the charter school; and

"(ii) the method by which the charter school will determine its progress toward achieving those objectives;

"(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

"(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

"(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired if such agency determines that the school has met the objectives described in subparagraph (C)(i);

"(G) a request and justification for waivers of any Federal or State statutory or regulatory requirements that the applicant believes are necessary for the successful operation of the charter school;

"(H) a description of how the grant funds will be used, including a description of how grant funds will be used in conjunction with other Federal programs administered by the Secretary;

"(I) a description of how students in the community will be—

"(i) informed about the charter school; and

"(ii) given an equal opportunity to attend the charter school;

"(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

"(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

"(L) such other information and assurances as the Secretary and the State educational agency may require.

"(c) APPLICATIONS FROM ELIGIBLE APPLICANTS.—Each eligible applicant desiring a grant pursuant to section 8202(e)(1) or 8202(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require. Each such application shall contain the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purpose of this sentence subparagraphs (J), (K), and (L) of such subsection shall be applied by striking "and the State educational agency" each place such term appears.

"SEC. 8204. ADMINISTRATION.

"(a) ADMINISTRATION CRITERIA.—The Secretary shall select grant recipients under this part on the basis of the quality of the applications submitted under section 8203, after taking into consideration factors, such as—

"(1) the contribution that charter school will make to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

"(2) the degree of flexibility afforded by the State and local educational agencies in grant waivers and otherwise assisting teachers and others in establishing charter schools within the State;

"(3) the quality of the proposed curriculum and instructional practices;

"(4) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency, to the charter school;

"(5) the extent of community support for the application;

"(6) the ambitiousness of the objectives for the charter school;

"(7) the quality of the plan for assessing achievement of such objectives; and

"(8) the likelihood that the charter school will meet such objectives and improve educational results for students.

"(b) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for grants under this part.

"(c) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award grants under this part in a manner that, to the extent possible, ensures that such grants—

"(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

"(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

"(d) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 8207(1), if—

"(1) the waiver is requested in an approved application under this part; and

"(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

"SEC. 8205. USES OF FUNDS.

"A recipient of a grant under this part may use the grant funds only for—

"(1) post-award planning and design of the educational program, which may include—

"(A) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(B) professional development of teachers and other staff who will work in the charter school; and

"(2) initial implementation of the charter school, which may include—

"(A) informing the community about the school;

"(B) acquiring necessary equipment and educational materials and supplies;

"(C) acquiring or developing curriculum materials;

"(D) minor remodeling or renovation of facilities needed to meet State or local health or safety laws or regulations; and

"(E) other initial operational costs that cannot be met from State or local sources.

"SEC. 8206. NATIONAL ACTIVITIES.

"The Secretary may reserve not more than 10 percent of the funds available to carry out this part for any fiscal year for—

"(1) peer review of applications under section 8204;

"(2) an evaluation of charter schools, including those assisted under this part; and

"(3) other activities designed to enhance the success of the activities assisted under this part, such as—

"(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools;

"(B) collection and dissemination of information on successful charter schools; and

"(C) conferences, publications, and use of telecommunications and other means to share

ideas and information among grant recipients and others about charter schools.

“SEC. 8207. DEFINITIONS.

“As used in this part:

“(1) The term ‘charter school’ means a public school that—

“(A) in accordance with an enabling State statute, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

“(B) is created by a developer as a public school, or is adapted by a developer from an existing public school;

“(C) operates in pursuit of a specific set of educational objectives determined by the school’s developer and agreed to by the authorized public chartering agency;

“(D) provides a program of elementary or secondary education, or both;

“(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

“(F) does not charge tuition;

“(G) complies with the Age Discrimination Act, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

“(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

“(I) agrees to comply with the same Federal and State audit requirements as do other schools in the State, unless such requirements are specifically waived for the purpose of this program; and

“(J) meets all applicable Federal, State, and local health and safety requirements.

“(2) The term ‘developer’ means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

“(3) The term ‘eligible applicant’ means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

“(4) The term ‘authorized public chartering agency’ means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law to authorize or approve a charter school.

“SEC. 8208. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated \$15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“PART D—CIVIC EDUCATION

“SEC. 8251. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

“(a) General Authority.—

“(1) Program established.—(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

“(B) Such program shall be known as ‘We the People . . . The Citizen and the Constitution’.

“(2) Educational activities.—The program required by paragraph (1) shall—

“(A) continue and expand the educational activities of the ‘We the People . . . The Citizen and the Constitution’ program administered by the Center for Civic Education; and

“(B) enhance student attainment of challenging content standards in civics and government.

“(3) Contract or grant authorized.—The Secretary is authorized to enter into a contract or grant with the Center for Civic Education to carry out the program described in paragraph (1).

“(b) Program Content.—The education program authorized by this section shall provide—

“(1) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and the Bill of Rights;

“(2) at the request of a participating school, school and community simulated congressional hearings following the course of study; and

“(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

“(c) Program Content.—The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

“(d) Special Rule.—After the provisions of subsection (b) have been implemented, funds provided under this section may be used for—

“(1) advanced training of teachers about the United States Constitution and the political system the United States created; or

“(2) a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution, which course shall provide for—

“(A) optional school and community simulated State legislative hearings;

“(B) an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

“(C) participation by public and private middle schools in the 50 States, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

“SEC. 8252. INSTRUCTION IN CIVICS, GOVERNMENT, AND THE LAW.

“(a) Program Established.—The Secretary is authorized to carry out a program of grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations and institutions to enhance—

“(1) attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

“(2) attainment by the Nation of the third and the sixth National Education Goals.

“(b) Authorized Activities.—Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

“(1) the development and implementation of curricular programs that enhance student understanding of—

“(A) the values and principles which underlie, and the institutions and processes which comprise, our Nation’s system of government;

“(B) the role of law in our constitutional democracy, including activities to promote—

“(i) legal literacy;

“(ii) a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

“(iii) respect for cultural diversity and acceptance of cultural differences; and

“(C) the rights and responsibilities of citizenship;

“(2) professional development for teachers, including preservice and inservice training;

“(3) outside-the-classroom learning experiences for students, including community service activities;

“(4) the active participation of community leaders, from the public and private sectors, in the schools; and

“(5) the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

“(c) Applications, Peer Review and Priority.—

“(1) Submission of applications.—A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

“(2) Peer review.—(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

“(B) Such individuals shall have experience with education programs in civics, government, and the law.

“(3) Priority.—In making grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

“(d) Duration of Grants and Exception.—

“(1) Duration.—Except as provided in paragraph (2), the Secretary shall make grants and enter into contracts under this section for periods of two or three years.

“(2) Exception.—The Secretary may make a grant or enter into a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

“SEC. 8253. REPORT; AUTHORIZATION OF APPROPRIATIONS.

“(a) Report.—The Secretary shall report, on a biennial basis and in accordance with section 10701, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

“(b) Authorization of Appropriations.—

“(1) In general.—To carry out this part, there are authorized to be appropriated \$20,000,000 for fiscal year 1995 and such sums as necessary for each of the 4 succeeding fiscal years.

“(2) Allocation.—From the amount appropriated under subsection (a), the Secretary shall allocate—

“(A) 50 percent of such amount to carry out section 8251; and

“(B) 50 percent of such amount to carry out section 8252.

“PART E—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

“SEC. 8301. FINDINGS.

“The Congress finds as follows:

“(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

“(2) It is a worthwhile goal to ensure that America’s educators have access to programs for

the continued improvement of their professional skills.

"(3) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

"Subpart 1—Program for Middle and Secondary School Students

"SEC. 8311. ESTABLISHMENT.

"(a) General Authority.—The Secretary is authorized to make grants in accordance with the provisions of this title to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among middle and secondary school students.

"(b) Use of Funds.—Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

"SEC. 8312. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

"(2) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including students with disabilities, ethnic minority students, and gifted and talented students; and

"(3) the proper disbursement of the funds of the United States received under this subpart.

"Subpart 2—Program for Middle and Secondary School Teachers

"SEC. 8321. ESTABLISHMENT.

"(a) General Authority.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of teaching skills enhancement for middle and secondary school teachers.

"(b) Use of Funds.—Grants under this subpart shall be used only for financial assistance to teachers who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 8322. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in section 8311(a);

"(2) that not more than one teacher in each school participating in the programs provided for in section 8311(a) may receive a fellowship in any fiscal year; and

"(3) the proper disbursement of the funds of the United States received under this subpart.

"Subpart 3—Programs for Recent Immigrants, Students of Migrant Parents and Older Americans

"SEC. 8331. ESTABLISHMENT.

"(a) General Authority.—

"(1) In General.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans, recent immigrants and students of migrant parents.

"(2) Definition.—For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) Use of Funds.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 8332. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents;

"(2) that every effort will be made to ensure the participation of older Americans, recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

"(3) that activities permitted by subsection (a) are fully described; and

"(4) the proper disbursement of the funds of the United States received under this subpart.

"Subpart 4—General Provisions

"SEC. 8341. ADMINISTRATIVE PROVISIONS.

"(a) General Rule.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) Audit Rule.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

"SEC. 8342. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $4,500,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) Special Rule.—Of the funds appropriated pursuant to subsection (a), not more than 30 percent may be used for teachers associated with students participating in the programs described in section 8311(a).

"PART F—GIFTED AND TALENTED CHILDREN

"SEC. 8401. SHORT TITLE.

"This part may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1994'.

"SEC. 8402. FINDINGS AND PURPOSES.

"(a) Findings.—The Congress finds and declares that—

"(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

"(2) gifted and talented students are a national resource vital to the future of the Nation and our Nation's security and well-being;

"(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenging State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

"(4) unless the special abilities of gifted and talented students are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

"(5) gifted and talented students from economically disadvantaged families and areas, and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students for the provision of educational services and programs appropriate to their special needs;

"(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

"(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

"(A) develop a rich and challenging curriculum for all students; and

"(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

"(b) Statement of Purpose.—It is the purpose of this part—

"(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

"(2) to encourage the development of rich and challenging curricula for all students through

the appropriate application and adaptation of materials and instructional methods developed under this part; and

"(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

"SEC. 8403. DEFINITIONS; CONSTRUCTION.

"(a) DEFINITIONS.—For purposes of this part, the term 'gifted and talented students' means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(b) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 8404. AUTHORIZED PROGRAMS.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—From the sums appropriated under section 8407 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act) and Hawaiian native organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) CONTENTS.—Applications for funds under this part shall describe how—

"(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

"(B) how the proposed programs can be evaluated.

"(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

"(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

"(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role-socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

"(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

"(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

"(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, could be adapted for use by all students; and

"(7) carrying out—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—

"(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (5) of subsection (b).

"(2) DIRECTOR.—Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) LIMITATION.—Not more than $1,750,000 of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsection (b)(5) or (c).

"(e) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the such office; and

"(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

"SEC. 8405. PROGRAM PRIORITIES.

"(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation, through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and the provision of services to gifted and talented students.

"(b) SERVICE PRIORITY.—In approving applications under section 8404(a), the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1).

"SEC. 8406. GENERAL PROVISIONS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs for serving such children.

"(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall serve as a focal point of national leadership and information on mechanisms to carry out the purpose of this part.

"(c) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

"(1) use a peer review process in reviewing applications under this part;

"(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

"(3) evaluate the effectiveness of programs under this part in accordance with section 10701, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

"SEC. 8407. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out the provisions of this part.

"(b) SPECIAL RULE.—If the amount appropriated under subsection (a) for a fiscal year exceeds $20,000,000, 40 percent of such amount in excess of $20,000,000 shall be available for strategies and programs designed for the education of gifted and talented students that may be adapted and used to improve teaching and learning for all students in a school and to help all students in a school develop their talents, realize their potential, and meet challenging State content standards and challenging State student performance standards, while not diminishing the curriculum and instruction for students traditionally identified as gifted and talented.

"PART G—WOMEN'S EDUCATIONAL EQUITY

"SEC. 8451. SHORT TITLE; FINDINGS.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act of 1994'.

"(b) FINDINGS.—The Congress finds that—

"(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

"(2) because of funding provided under the Women's Educational Equity Act, more curricula, training and other educational materials concerning educational equity for women and girls are available for national dissemination;

"(3) significant gender inequities still exist in teaching and learning practices, for example—

"(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

"(B) girls may often receive significantly less attention from classroom teachers than boys, and girls of color have less interaction with teachers than all other girls;

"(C) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

"(D) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, there are few women role models in the sciences, and women continue to be concentrated in low-paying, traditionally female jobs that do not require mathematics and science skills; and

"(E) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such population;

"(4) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should, to the extent feasible, also help schools and local communities implement and institutionalize gender equitable practices;

"(5) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

"(6) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society cannot be achieved without educational equity for women and girls.

"SEC. 8452. STATEMENT OF PURPOSES.

"It is the purpose of this part—

"(1) to promote gender equity in education in the United States;

"(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

"(3) to promote equity in education to women and girls who suffer multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

"SEC. 8453. PROGRAM AUTHORIZED.

"The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, community groups, and individuals, to achieve the purposes of this part by providing support and technical assistance for—

"(1) the implementation of effective gender-equity policies and practices at all educational levels, including—

"(A) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

"(B) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

"(C) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

"(D) school-to-work transition programs, other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented, and guidance and counseling activities;

"(E) enhancing educational and career opportunities for women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

"(F) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

"(G) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls; and

"(H) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls; and

"(2) research and development, which shall be coordinated with the Office of Educational Research and Improvement's National Institute on the Education of At-Risk Students to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions and local communities gender-equitable, including—

"(A) research and development designed to advance gender equity, including the development of innovative strategies to improve teaching and learning practices;

"(B) the development of high quality and challenging assessment instruments that are nondiscriminatory;

"(C) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

"(D) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

"(E) the development of new dissemination and replication strategies;

"(F) updating high quality educational materials previously developed through awards made under this part; and

"(G) the implementation of nondiscriminatory tests of aptitude and achievement and alternative assessment instruments.

"SEC. 8454. APPLICATIONS.

"(a) APPLICATIONS.—A grant may be made, and a contract or cooperative agreement may be entered into, under this part only upon application to the Secretary, at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe, such as—

"(1) setting forth policies and procedures that will ensure a comprehensive evaluation of the activities carried out under the project, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

"(2) demonstrating how funds received under this part will be used to promote the attainment of one or more of the National Education Goals;

"(3) demonstrating how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

"(4) describing how funds under this part will be used in a manner that is consistent with the School-to-Work Opportunities Act of 1994;

"(5) for applications for projects under section 8453(1), demonstrating how the applicant will foster partnerships and share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations, and other recipients of Federal educational funding which may include State literacy resource centers; and

"(6) for applications for projects under section 8453(1), demonstrating how parental involvement in the project will be encouraged.

"(b) SPECIAL RULE.—In approving applications under this part, the Secretary shall give special consideration to applications—

"(1) submitted by applicants that have not received assistance under this part or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

"(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

"(3) for projects that will—

"(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

"(B) draw on a variety of resources, including local educational agencies, community-based organizations, institutions of higher education, and private organizations;

"(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant has terminated; and

"(D) address issues of national significance that can be duplicated.

"(c) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

"SEC. 8455. CRITERIA AND PRIORITIES.

"The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 8453 to ensure that available funds are used for programs that most effectively will achieve the purposes of this part.

"SEC. 8456. REPORT.

"The Secretary, by January 1, 1999, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

"SEC. 8457. EVALUATION AND DISSEMINATION.

"(a) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate in accordance with section 10701, and disseminate, materials and programs developed under this part and shall report to the Congress regarding such evaluation materials and programs by January 1, 1998.

"(b) USE OF PROGRAM FUNDS.—The Secretary is authorized to use funds appropriated under section 8458 to gather and disseminate information about emerging issues concerning gender equity and, if necessary, to convene meetings for this purpose.

"(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education and who shall serve as a focal point of national leadership and information on mechanisms to carry out the purpose of this part.

"SEC. 8458. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 8453(1).

"PART H—FUND FOR THE IMPROVEMENT OF EDUCATION

"SEC. 8501. FUND FOR THE IMPROVEMENT OF EDUCATION.

"(a) FUND AUTHORIZED.—From funds appropriated under subsection (d), the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"(b) USES OF FUNDS.—

"(1) IN GENERAL.—Funds provided under this section may be used for—

"(A) activities that will promote systemic education reform at the State and local levels, such as—

"(i) developing and evaluating strategies for eliminating ability grouping practices and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and counselors and academic enrichment programs that supplement regular courses for students;

"(ii) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

"(iii) developing and evaluating strategies for integrating instruction and assessment such that teachers and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students;

"(iv) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for guidance counselors and administrators, including inservice training that improves the skills of counselors and administrators in working with students from diverse populations;

"(v) research and development related to challenging State content standards and challenging State student performance standards for student learning; and

"(vi) the development and evaluation of model strategies for assessment of student learning, professional development for teachers and administrators, parent and community involvement, and other aspects of systemic reform;

"(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school based decisionmaking;

"(C) joint activities with other Federal agencies, such as the National Science Foundation, the Department of Health and Human Services, and the Department of Labor, and with institutions of higher education, to assist the effort to achieve the National Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

"(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

"(E) activities to promote and evaluate coordinated pupil services programs;

"(F) activities to promote comprehensive health education;

"(G) activities to promote environmental education;

"(H) activities to promote programs to assist students to demonstrate competence in foreign languages;

"(I) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

"(J) activities to promote metric education;

"(K) activities to promote consumer education, such as saving, investing, and entrepreneurial education;

"(L) activities to promote experiential-based learning, such as service-learning;

"(M) activities to promote scholar-athlete competitions;

"(N) activities to promote child abuse education and prevention programs;

"(O) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

"(P) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

"(Q) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity; and

"(R) other programs and projects that meet the purposes of this section.

"(2) ADDITIONAL USES.—The Secretary may also use funds provided under this section to complete the project periods for direct grants or contracts awarded under the provisions of the Elementary and Secondary Education Act of 1965, part B of title III of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, or title III of the Education for Economic Security Act, as such Acts were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"(c) AWARDS.—

"(1) IN GENERAL.—The Secretary may—

"(A) make awards under this section on the basis of competitions announced by the Secretary; and

"(B) support meritorious unsolicited proposals.

"(2) SPECIAL RULE.—The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that their effectiveness is readily ascertainable.

"(3) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for grants under this section and may use funds appropriated under subsection (d) for the cost of such peer review.

"(d) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated $35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART I—BLUE RIBBON SCHOOLS

"SEC. 8551. BLUE RIBBON SCHOOLS PROGRAM.

"(a) GENERAL AUTHORITY.—Subject to subsection (d), the Secretary is authorized to carry out programs to recognize elementary and secondary schools or programs which have established standards of excellence and which have demonstrated a high level of quality. Such programs shall be designated as 'Blue Ribbon Schools'. In selecting schools and programs to be recognized, the Secretary shall competitively select public and private schools or programs within local educational agencies in the States, schools operated for Indian children by the Department of the Interior, and schools operated by the Department of Defense for dependents of Department of Defense personnel.

"(b) SELECTION PROCESS.—

"(1) IN GENERAL.—The Secretary shall designate, each fiscal year, several categories for a Blue Ribbon Schools program. Such categories may include, but shall not be limited to, outstanding elementary schools, outstanding secondary schools, outstanding mathematics and science programs, or outstanding reading programs.

"(2) SELECTION.—Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) CONSULTATION.—The Secretary shall carry out the provisions of this section including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) APPLICATION.—No award may be made under this section unless the local educational agency submits an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(3) DEFINITION.—For the purposes of this section, the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(d) BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS.—The Secretary, through nominations provided by the Office on Correctional Education after consultation with representatives of correctional education organizations and others active in literacy education, shall annually make one or more awards under this section to effective and innovative programs for inmate education and literacy.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section.

"PART J—NATIONAL STUDENT AND PARENT MOCK ELECTION

"SEC. 8601. NATIONAL STUDENT AND PARENT MOCK ELECTION.

"(a) IN GENERAL.—The Secretary is authorized to award grants in every election year to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

"(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

"(2) consist of—

"(A) school forums and local cable call-in shows on the national issues to be voted upon in an 'issue forum';

"(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

"(C) quiz team competitions, mock press conferences and speechwriting competitions;

"(D) weekly meetings to follow the course of the campaign; or

"(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

"(b) REQUIREMENT.—Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $125,000 for each of the fiscal years 1995 through 1999 to carry out this section.

"PART K—ELEMENTARY SCHOOL COUNSELING DEMONSTRATION

"SEC. 8651. SHORT TITLE.

"This part may be cited as the 'Elementary School Counseling Demonstration Act'.

"SEC. 8652. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) elementary school children are being subjected to unprecedented social stresses, including fragmentation of the family, drug and alcohol abuse, child abuse, poverty, and violence, and experts indicate that intervention at an early age is the most beneficial;

"(2) an increasing number of elementary school children are exhibiting symptoms of distress, such as substance abuse, emotional disorders, academic underachievement, disruptive behavior, juvenile delinquency, and suicide;

"(3) elementary school counselors, school psychologists and school social workers can contribute to the personal growth, educational development, and emotional well-being of elementary school children by providing professional counseling, intervention, and referral services;

"(4) the average ratio of elementary school counselors to students is 1 to 1,000, the average

ratio of school psychologists to students is 1 to 2,500, and the average ratio of school social workers to students is 1 to 2,500;

"(5) when there is 1 counselor to 1,000 students, 1 school psychologist to 2,500 students, and 1 school social worker to 2,500 students, elementary school counseling programs are seldom adequate;

"(6) the Federal Government can help reduce the risk of academic, social, and emotional problems among elementary school children by stimulating the development of model elementary school counseling programs; and

"(7) the Federal Government can help reduce the risk of future unemployment and assist the school-to-work transition by stimulating the development of model elementary school counseling programs.

"(b) PURPOSE.—It is the purpose of this part to enhance the availability and quality of counseling services for elementary school children by providing grants to local educational agencies to enable such agencies to establish effective and innovative elementary school counseling programs that can serve as national models.

"SEC. 8653. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"SEC. 8654. PROGRAM AUTHORITY.

"(a) IN GENERAL.—From amounts appropriated pursuant to the authority of section 8653 in any fiscal year, the Secretary shall make grants to local educational agencies having applications approved under section 8655 to initiate or expand school counseling programs for elementary school children.

"(b) PRIORITY.—In awarding grants under this part, the Secretary shall give special consideration to applications describing programs that—

"(1) demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

"(2) propose the most promising and innovative approaches for initiating or expanding elementary school counseling; and

"(3) show the greatest potential for replication and dissemination.

"(c) EQUITABLE DISTRIBUTION.—In awarding grants under this part, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

"(d) DURATION.—A grant under this part shall be awarded for a period not to exceed 3 years.

"(e) MAXIMUM GRANT.—A grant under this part shall not exceed $400,000 for any fiscal year.

"SEC. 8655. APPLICATIONS.

"(a) IN GENERAL.—Each local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) NOTIFICATION OF STATE EDUCATIONAL AGENCY.—Before submitting an application to the Secretary in accordance with subsection (a), a local educational agency shall provide the State educational agency with an opportunity to review and comment on the program described in such application. The comments of the State educational agency shall be appended to the application upon submission of the application to the Secretary.

"(c) CONTENTS.—Each application for a grant under this part shall—

"(1) describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

"(2) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in paragraph (1);

"(3) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

"(4) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

"(5) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

"(6) document that the applicant has the personnel qualified to develop, implement, and administer the program;

"(7) describe how any diverse cultural populations, if applicable, would be served through the program;

"(8) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

"(9) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

"SEC. 8656. USE OF FUNDS.

"(a) IN GENERAL.—Grant funds under this part shall be used to initiate or expand elementary school counseling programs that comply with the requirements in subsection (b).

"(b) PROGRAM REQUIREMENTS.—Each program assisted under this part shall—

"(1) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

"(2) use a developmental, preventive approach to counseling;

"(3) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

"(4) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

"(5) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, academic and career planning, or to improve social functioning;

"(6) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

"(7) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

"(8) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

"(9) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration; and

"(10) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this part.

"(c) REPORT.—The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this section at the end of each grant period in accordance with section 10701, but in no case later than January 30, 1998.

"(d) DISSEMINATION.—The Secretary shall make the programs assisted under this part available for dissemination, either through the National Diffusion Network or other appropriate means.

"(e) LIMIT ON ADMINISTRATION.—Not more than 5 percent of the amounts appropriated pursuant to the authority of section 8653 in any fiscal year shall be used to carry out the provisions of this section.

"SEC. 8657. DEFINITIONS.

"For purposes of this part—

"(1) the term 'comprehensive' means, with respect to counseling services, a program in which—

"(A) a school counselor, school psychologist, or school social worker uses a range of individual and group techniques and resources in a planned way to meet the personal, social, emotional, educational, and career development needs of all elementary children in a school; and

"(B) a school counselor, school psychologist, or school social worker works directly with children, families, teachers, and other school or agency personnel to create an optimal positive learning environment and personal growth opportunities for all children;

"(2) the term 'developmental' means, with respect to a school counseling program, a systematically planned program that—

"(A) provides appropriate school counseling interventions to foster the social, emotional, physical, moral, and cognitive growth of elementary school children;

"(B) provides intervention services to help children cope with family, social, emotional, and academic problems; and

"(C) supports and enhances the efforts of families, teachers, and other school personnel to provide children maximum opportunity to acquire competence and skill in self-understanding and appreciation, interpersonal interaction, and educational achievement and literacy;

"(3) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

"(A) possesses State licensure or certification granted by an independent professional regulatory authority;

"(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

"(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

"(4) the term 'school psychologist' means an individual who—

"(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting; and

"(B) possess State licensure or certification in the State in which the individual works; or

"(C) in the absence of such State licensure or certification, possess national certification by the National School Psychology Certification Board;

"(5) the term 'school social worker' means an individual who holds a master's degree in social

work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

"(6) the term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

"PART L—21ST CENTURY COMMUNITY LEARNING CENTERS

"SEC. 8701. SHORT TITLE.

"This part may be cited as the '21st Century Community Learning Centers Act'.

"SEC. 8702. FINDINGS.

"The Congress finds that—

"(1) a local public school often serves as a center for the delivery of education and human services for all members of a community;

"(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding the opportunities available to, the residents of the communities served by such schools;

"(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

"(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

"(5) community schools enable the entire communities to develop an education strategy that addresses the educational needs of all members of local communities.

"SEC. 8703. PROGRAM AUTHORIZATION.

"(a) Grants by the Secretary.—The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia thereof, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

"(b) Amount.—The Secretary shall not award a grant under this part in any fiscal year in an amount less than $20,000.

"(c) Grant Period.—The Secretary shall award grants under this part for a period not to exceed 3 years.

"(d) Equitable Distribution.—In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"SEC. 8704. APPLICATION REQUIRED.

"(a) Application.—To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably prescribe. Each such application shall include—

"(1) a comprehensive local plan that enables such school or consortium to serve as a center for the delivery of education and human services for members of a community;

"(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

"(3) a description of the proposed project, including—

"(A) a description of the mechanism that will be used to disseminate information in a manner that is understandable and accessible to the community;

"(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

"(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

"(D) a description of how the school or consortium will act as a delivery center for existing and new services; and

"(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

"(i) the rules and regulations applicable to building and equipment use; and

"(ii) supervision guidelines.

"(b) Priority.—The Secretary shall give priority to applications describing projects that offer a broad selection of services.

"SEC. 8705. USES OF FUNDS.

"Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than 4 of the following activities:

"(1) Literacy education programs.

"(2) Senior citizen programs.

"(3) Children's day care services.

"(4) Integrated education, health, social service, recreational, or cultural programs.

"(5) Summer and weekend school programs that are coordinated with summer recreation programs.

"(6) Nutrition programs.

"(7) Expanded library service hours to serve community needs.

"(8) Telecommunications and technology education programs for individuals of all ages.

"(9) Parenting skills education programs.

"(10) Support and training for child day care providers.

"(11) Employment counseling, training, and placement.

"(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

"(13) Services for individuals who are either physically or mentally challenged.

"SEC. 8706. DEFINITIONS.

"For the purpose of this part, the term 'community learning center' means an entity within a public elementary or secondary school building that—

"(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

"(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, community colleges, and cultural, recreational, and other community and human service entities.

"SEC. 8707. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"PART M—MODEL PROJECTS

"SEC. 8751. MODEL PROJECTS.

"(a) Program Authorized.—The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

"(b) Priority.—In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

"(c) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"PART N—EXTENDING TIME FOR LEARNING

"SEC. 8801. FINDINGS.

"The Congress finds that—

"(1) the Commission on Time and Learning has found that—

"(A) realizing the third National Education Goal, that states all students will leave grades four, eight and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, will require considerably more common core learning time than most students now receive;

"(B) ensuring that all students learn to high standards will require flexibility and innovation in the use of common core learning time, as well as the rest of the time students spend both during and beyond the school day;

"(C) teachers need regular, sustained time for lesson development, collegial collaboration and other professional development; and

"(D) schools, businesses, community-based organizations, tribal leaders, and other community agencies and members should work together to foster effective learning and enrichment programs and activities for students, including programs that operate outside of the regular school day or year;

"(2) increasing the amount and duration of intensive, engaging and challenging learning activities geared to high standards can increase student motivation and achievement;

"(3) the benefits of extending learning time, including common core instructional time, can be maximized by concurrent changes in curriculum and instruction, such as accelerated learning, and engaging, interactive instruction based on challenging content; and

"(4) maximizing the benefit of increased common core and other learning time will require the collaboration and cooperation of teachers and administrators, students, parents, community members and organizations, businesses and others to develop strategies to meet the needs of students during and beyond the school day and year.

"SEC. 8802. PURPOSE.

"It is the purpose of this part to provide seed money to schools and local educational agencies to enable such agencies to devise and implement strategies and methods for upgrading the quality of, and extending, challenging, engaging learning time geared to high standards for all students.

"SEC. 8803. PROGRAM AUTHORIZED.

"(a) In General.—The Secretary is authorized to award grants to local educational agencies having applications approved under section 8804 to enable such agencies to carry out the authorized activities described in section 8805 in public elementary and secondary schools.

"(b) Amount.—Each grant under subsection (a) shall be awarded in an amount not more than $100,000.

"(c) Duration.—Each grant under subsection (a) shall be awarded for a period of not more than 3 years.

"SEC. 8804. APPLICATION.

"Each local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) the activities for which assistance is sought;

"(2) any study or other information-gathering project for which funds will be used;

"(3) strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize the percentage of common core learning time in the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

"(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

"(5) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this part;

"(6) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assisted under this part;

"(7) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

"(8) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(9) the goals and objectives of the activities assisted under this part, including a description of how such activities will assist all students to reach State standards;

"(10) the methods by which the applicant will assess progress in meeting such goals and objectives; and

"(11) how the applicant will use funds provided under this part in coordination with other funds provided under this Act or other Federal laws.

"SEC. 8805. AUTHORIZED ACTIVITIES.

"Funds under this part may be used—

"(1) to study the feasibility of, and effective methods for, extending learning time within or beyond the school day or year, including consultation with other schools or local educational agencies that have designed or implemented extended learning time programs;

"(2) to conduct outreach to and consult with community members, including parents, students, and other stakeholders, such as tribal leaders, to develop a plan to extend learning time within or beyond the school day or year;

"(3) to develop and implement an outreach strategy that will encourage collaboration with public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to coordinate challenging, high-quality educational activities outside of the school day or year;

"(4) to research, develop and implement strategies, including changes in curriculum and instruction, for maximizing the quality and percentage of common core learning time in the school day and extending learning time during or beyond the school day or year;

"(5) to provide professional development for school staff in innovative teaching methods that challenge and engage students, and also increase the productivity of extended learning time; and

"(6) to develop strategies to include parents, business representatives, and other community members in the extended time activities, especially as facilitators of activities that enable teachers to have more time for planning, individual student assistance, and professional development activities.

"SEC. 8806. ADMINISTRATION.

"(a) PEER REVIEW.—The Secretary shall award grants under this part pursuant to a peer review process.

"(b) DIVERSITY.—In awarding grants under this part the Secretary shall ensure that such grants are awarded to a diversity of local educational agencies, including such agencies that serve rural and urban areas.

"(c) PRIORITY.—The Secretary shall give priority to awarding grants under this part to local educational agencies that serve schools with high percentages of students in poverty.

"SEC. 8807. DEFINITIONS.

"For the purpose of this part the term 'common core learning time' means high-quality, engaging instruction in challenging content in each of the following core academic subjects described in the third National Education Goal:

"(1) English.

"(2) Mathematics.

"(3) Science.

"(4) Foreign languages.

"(5) Civics and government.

"(6) Economics.

"(7) Arts.

"(8) History.

"(9) Geography.

"SEC. 8808. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"PART O—CREATING SMALLER LEARNING COMMUNITIES

"SEC. 8851. FINDINGS.

"The Congress finds that—

"(1) smaller school communities can have a significant, positive impact on student achievement, including grade promotion, school attendance and motivation;

"(2) large schools can benefit from reorganization into smaller learning communities, such as schools-within-schools; and

"(3) smaller learning communities can provide students with a variety of educational options based on various themes, while providing all students engaging, innovative instruction in challenging curricula that will enable such communities to meet State standards.

"SEC. 8852. PURPOSE.

"It is the purpose of this part to improve the quality and effectiveness of teaching and learning by encouraging and supporting school and school district efforts to create smaller schools, including those that exist as schools-within-schools.

"SEC. 8853. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies having applications approved under section 8854 to enable such agencies to carry out the authorized activities described in section 8855 in public elementary and secondary schools.

"(b) AMOUNT.—Each grant under subsection (a) shall be awarded in an amount not more than $100,000.

"(c) DURATION.—Each grant under subsection (a) shall be awarded for a period of not more than 3 years.

"SEC. 8854. APPLICATION.

"Each local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) strategies and methods the applicant will use to create the smaller learning community or communities;

"(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

"(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

"(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

"(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

"(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

"(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

"(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

"(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

"(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this Act or other Federal laws;

"(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

"(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

"SEC. 8855. AUTHORIZED ACTIVITIES.

"Funds under this part may be used—

"(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

"(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

"(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

"(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators

of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

"SEC. 8856. ADMINISTRATION.

"(a) Peer Review.—The Secretary shall award grants under this part pursuant to a peer review process.

"(b) Diversity.—In awarding grants under this part the Secretary shall ensure that such grants are awarded to a diversity of local educational agencies, including such agencies that serve rural and urban areas.

"(c) Priority.—The Secretary shall give priority to awarding grants under this part to local educational agencies that serve schools with high percentages of students in poverty.

"(d) Special Rule.—In awarding grants under this part, the Secretary shall ensure that such grants are awarded for authorized activities described in section 8855 that serve a diversity of grade spans.

"SEC. 8857. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"TITLE IX—SPECIAL PROGRAMS

"PART A—IMPACT AID

"SEC. 9001. FINDINGS.

"The Congress finds that—

"(1) certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out; and

"(2) it is the shared responsibility of the Federal Government, the States, and local educational agencies to provide for the education of children connected to those activities.

"SEC. 9002. PURPOSE.

"In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children, and to help such children meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

"(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

"(2) educate children who reside on Federal property and whose parents are employed on Federal property;

"(3) educate children of parents who are in the military services and children who live in low-rent housing;

"(4) experience sudden and substantial increases or decreases in enrollments because of military realignments; or

"(5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Indian lands.

"SEC. 9003. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

"(a) In General.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

"(1) that the United States owns Federal property in the local educational agency, and that such property—

"(A) has been acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

"(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

"(ii) all real property in the local educational agency as assessed in the first year preceding or the year succeeding acquisition, whichever is greater, only if—

"(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

"(II) State law requires an assessment be made of property so acquired; and

"(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then the local educational agency shall be eligible to receive for such fiscal year such amount as, in the judgment of the Secretary, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property.

"(b) Amount.—

"(1) In general.—(A) The amount that a local educational agency shall be paid under subsection (a) for a fiscal year shall be calculated in accordance with paragraph (2), except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received from activities conducted on such property during the previous fiscal year.

"(B) If funds appropriated under section 9015(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each eligible local educational agency. In making such a ratable reduction for a local educational agency, the Secretary shall not take into consideration any revenue described in subparagraph (A), except that no local educational agency shall be paid an amount in excess of the amount calculated for such agency under paragraph (2).

"(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that when added to the amount such agency receives under section 9004(b)(2) exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 9004(b)(1)(C).

"(2) Application of current levied real property tax rate.—In making a determination of the amount that would have been derived in such year under paragraph (1)(A), the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed, for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

"(3) Determination of aggregate assessed value.—Such aggregate assessed value of such acquired Federal property shall be determined (on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined), and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

"(c) Applicability to Tennessee Valley Authority Act.—For the purposes of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 shall not be regarded as Federal property.

"(d) Ownership by United States.—The United States shall be deemed to own Federal property for the purposes of this Act, where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

"(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

"(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

"(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

"(e) District Containing Forest Service Land and Serving Certain Counties.—Beginning with fiscal year 1995, a school district shall be deemed to meet the requirements of subsection (a)(1)(C) if such school district meets the following requirements:

"(1) The school district contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

"(2) The school district serves a county certified by State law in 1875 or 1890.

"SEC. 9004. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

"(a) Computation of Payment.—

"(1) In general.—For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b), (d), or (f) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

"(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

"(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government;

"(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) resided on Indian lands;

"(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37, United States Code) but did not reside on Federal property; or

"(ii) had a parent who is an official of, and has been accredited by, a foreign government but did not reside on Federal property;

"(E) resided in low-rent housing;

"(F) resided on Federal property and is not described in subparagraph (A) or (B); or

"(G) resided with a parent employed on Federal property situated—

"(i) in whole or in part in the county in which the school district of such agency is located, or in whole or in part in the school district of such agency if the school district is located in more than one county; or

"(ii) if not in such county or district, in whole or in part in the same State as the school district of such agency.

"(2) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the basic support payment under subsection (b), the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

"(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

"(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

"(C) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .10.

"(D) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

"(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(1) BASIC SUPPORT PAYMENTS.—

"(A) IN GENERAL.—From the amount appropriated under section 9015(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described under subsection (a).

"(B) ELIGIBILITY.—A local educational agency shall be eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a) only if the number of children so determined with respect to such agency amounts to the lesser of—

"(i) at least 400 such children; or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

"(C) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by the greater of—

"(i) one-half of the average per pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

"(ii) one-half of the average per pupil expenditures of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

"(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

"(iv) the average per pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

"(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 9015(b) are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments in accordance with this paragraph.

"(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this title referred to as the 'threshold payment') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

"(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

"(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this subsection (not including amounts received under subsection (f)), and the denominator of which is the total current expenditures for such agency in the second preceding academic year for which the determination is made.

"(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

"(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

"(C) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

"(c) PRIOR YEAR DATA.—All calculations under this section shall be based upon data for each local educational agency from the fiscal year preceding the fiscal year for which the agency is making application for payment.

"(d) CHILDREN WITH DISABILITIES.—

"(1) IN GENERAL.—From the amount appropriated under section 9015(c) for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

"(A) multiplying the number of children described in subparagraphs (B) and (C) of subsection (a)(1) who are eligible to receive services under the Individuals with Disabilities Education Act by a factor of 1.0; and

"(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) who are eligible to receive services under such Act by a factor of 0.5.

"(2) USE OF FUNDS.—A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act.

"(e) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the total amount that the Secretary shall pay a local educational agency under subsection (b) shall not be less than 90 percent of the amount such agency received—

"(A) in the case of fiscal year 1995 only, under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal year 1994; or

"(B) in the case of fiscal years 1996, 1997, 1998, or 1999, under such subsection (b).

"(2) TWO-YEAR APPLICABILITY.—The provisions of paragraph (1) shall apply to any one local educational agency for a maximum of two consecutive fiscal years.

"(3) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1), the Secretary first shall ratably reduce payments under subsection (b) to local educational agencies that do not receive a payment under this subsection.

"(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, the Secretary shall ratably reduce payments to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(f) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) RESERVATION.—From amounts appropriated under section 9015(b) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

"(2) ELIGIBILITY.—(A) A local educational agency shall be eligible to receive additional assistance under this subsection only if such agency—

"(i)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 40 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

"(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

"(iii) is a local educational agency whose boundaries are the same as a Federal military installation or includes Federal property under exclusive Federal jurisdiction.

"(B) If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subsection (b)(1)(C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

"(C) Any local educational agency determined eligible under clause (iii) of subparagraph (A) shall be deemed to have met the tax efforts requirements for eligibility under clause (i)(II) or (ii)(II) of such subparagraph.

"(D) Any local educational agency having an enrollment of more than 6,500 students described

in subparagraph (A) or (B) of subsection (a)(1) and meeting the requirements of subclause (I) and (II) of subparagraph (A)(i), may use either their average general tax rate or total tax rate in determining eligibility under this paragraph.

"(3) Maximum payments.—

"(A) In general.—Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection in accordance with the following computations:

"(i) The Secretary shall first determine the greater of—

"(I) the average per pupil expenditure of the State in which the local educational agency is located;

"(II) the average per pupil expenditure of generally comparable school districts located in the State of the local educational agency, as defined in regulations issued by the Secretary; or

"(III) the average per pupil expenditure of three generally comparable school districts located in the State of the local educational agency, as defined in regulations issued by the Secretary.

"(ii) The Secretary shall next subtract from the amount determined under clause (i) the total amount of general fund revenues received by the local educational agency from any general fund source per pupil, other than revenues provided under this subsection.

"(iii) The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance of the local educational agency.

"(iv) If the tax rate used by the local educational agency is greater than 95 percent, but less than 100 percent, of the tax rate of comparable school districts, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

"(I) the average tax rate of its generally comparable school districts; or

"(II) the average tax rate of all the school districts in the State in which the local educational agency is located.

"(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

"(B) Special rule.—(i) With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per pupil expenditure in all States multiplied by .7, except that such amount may not exceed 125 percent of the average per pupil expenditure in all local educational agencies in the State, and multiplying such product by the number of students who are served by such local educational agency and described in subparagraph (A) or (B) of subsection (a)(1).

"(ii) The payment under this subsection that a local educational agency described in clauses (ii) and (iii) of paragraph (2)(A) shall receive in any fiscal year shall be equal to the maximum amount described in clause (i) minus the amount of payments such agency receives under subsections (b) and (d) for such year.

"(4) Current year data.—The Secretary shall, for purposes of providing assistance under this subsection, use—

"(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

"(B) the most recent data available on per-pupil cost adjusted to reflect per-pupil cost made current by increasing or decreasing the per-pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per-pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per-pupil expenditure data for such second year.

"(5) Determination for fiscal year 1994.—Notwithstanding the proviso referring to section 3(d)(2)(B) of Public Law 81–874 under the following heading "IMPACT AID" under title III of the Departments of Labor, Health and Human services and Education, and Related Agencies Appropriations Act of 1994, or any provision of paragraph (2) of section 3(d) of such Public Law which is consistent with this proviso, determinations regarding the eligibility for an amount of payments under section 3(d)(2)(B) of such Public Law for fiscal year 1994 shall be made on the basis of 1994 data, and related Department regulations in effect during fiscal year 1992 shall be used in the tabulation of payments.

"(6) Reduction in payments.—If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(g) Additional Payments for Local Educational Agencies With High Concentrations of Children With Disabilities.—If any local educational agency receives Federal funds from sources other than this title for any fiscal year due to the enrollment of children described under subsection (a), such funds shall be considered a payment to such agency under this title for such fiscal year. Notwithstanding any other provision of law, if funds appropriated pursuant to section 9015(b) for payments under subsection (b) to such agency for a fiscal year which when added to the funds described in the preceding sentence received by such agency for such fiscal year exceed the maximum amount described under subsection (b)(1)(C), then the Secretary shall make available from the funds appropriated under section 9015(b) for such fiscal year such excess amounts to—

"(1) any local educational agency designated by the Secretary of Defense for such fiscal year as a local educational agency serving children described under section 9004(a) who have a parent assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are enrolled in an educational program provided outside the schools of such agency; and

"(2) any remaining amounts shall be made available for expenditures under subsection (d) in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

"(h) Other Funds.—Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) or such section's successor authority.

"SEC. 9005. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS.

"(a) In General.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 9004 shall establish policies and procedures to ensure that—

"(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

"(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

"(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

"(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

"(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

"(b) Records.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 9004 shall maintain records demonstrating such agency's compliance with requirements contained in subsection (a).

"(c) Waiver.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 9004 shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

"(d) Technical Assistance and Enforcement.—The Secretary shall—

"(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

"(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

"(e) Complaints.—

"(1) In general.—(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

"(B) Within ten working days from receipt of a complaint, the Secretary shall—

"(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(ii) designate a hearing examiner to conduct the hearing; and

"(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(2) Hearing.—The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(3) Evidence; recommendations; cost.—The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

"(4) Findings and recommendations.—Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial

action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

"(5) WRITTEN DETERMINATION.—Within 30 days of his receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

"(6) COPIES PROVIDED.—Upon completion of his final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

"(7) CONSOLIDATION.—In all actions under this subparagraph, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(8) WITHHOLDING.—If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 9004 until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

"(9) REJECTION OF DETERMINATION.—If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 9004. In such event, funds under such section shall not be withheld pursuant to subparagraph (D) and no further complaints with respect to such students may be filed under subparagraph (C)(i).

"(f) CONSTRUCTION.—This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

"SEC. 9006. APPLICATION FOR PAYMENTS UNDER SECTIONS 9003 AND 9004.

"(a) IN GENERAL.—A local educational agency desiring to receive a payment under section 9003 or 9004 shall—

"(1) submit an application for such payment to the Secretary; and

"(2) provide a copy of such application to the State educational agency.

"(b) CONTENTS.—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

"(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

"(2) where applicable, an assurance that such agency is in compliance with section 9005 (relating to children residing on Indian lands).

"(c) DEADLINE FOR SUBMISSION.—The Secretary shall establish deadlines for the submission of applications under this section.

"(d) APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve an application submitted under this section that—

"(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c); and

"(B) otherwise meets the requirements of this title.

"(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) that otherwise meets the requirements of this title, except that, notwithstanding section 9004(e), the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

"(3) LATE APPLICATIONS.—The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c).

"(4) STATE APPLICATION AUTHORITY.—Notwithstanding any provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

"SEC. 9007. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

"(a) ELIGIBILITY.—A local educational agency is eligible for a payment under this section if—

"(1) the number of children in average daily attendance during the school year for which the determination is made is at least ten percent or 100 more than the number of children in average daily attendance in the school year preceding the school year for which the determination is made; and

"(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between February 1 and September 30, inclusive, of the fiscal year for which the determination is made, as certified by an appropriate local official of the Department of Defense, is at least ten percent or 100 more than the number of children in average daily attendance in the preceding school year.

"(b) APPLICATION.—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the school year for which payment is requested, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that such agency is eligible for such a payment.

"(c) CHILDREN TO BE COUNTED.—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

"(1) the increase in the number of children in average daily attendance from the school year preceding the fiscal year for which the determination is made; and

"(2) the number of children described in subsection (a)(2).

"(d) PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), from the amount appropriated for a fiscal year under section 9015(d), the Secretary shall pay each local educational agency with an approved application an amount equal to one-half of the national average per-pupil expenditure multiplied by the number of such children determined under subsection (c) for that local educational agency.

"(2) RATABLE REDUCTION.—(A) If the amount appropriated to carry out this section for any fiscal year is insufficient to pay the full payment that all eligible local educational agencies are eligible to receive under this section for such year, then the Secretary shall ratably reduce the payments to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

"(e) NOTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Secretary shall establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

"(2) INFORMATION.—Such process shall provide timely information regarding such closures and such adjustments—

"(A) by the Secretary of Defense to the Secretary; and

"(B) by the Secretary to the affected local educational agencies.

"SEC. 9008. CONSTRUCTION.

"(a) PAYMENTS AUTHORIZED.—From the amount appropriated for each fiscal year under section 9015(e), the Secretary shall make payments to each local educational agency—

"(1) that receives a basic payment under section 9004(b); and

"(2)(A) in which the number of children determined under section 9004(a)(1)(C) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the preceding school year;

"(B) that receives assistance under section 9004(f); or

"(C) that receives assistance under section 9007.

"(b) AMOUNT OF PAYMENTS.—The amount of a payment to each such agency for a fiscal year shall be equal to—

"(1) the amount appropriated under section 9015(e) for such year; divided by

"(2) the number of children determined under section 9004(a)(2) for all local educational agencies described in subsection (a), but not including any children attending a school assisted or provided by the Secretary under section 9009 or section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); multiplied by

"(3) the number of such children determined for such agency.

"(c) USE OF FUNDS.—Any local educational agency that receives funds under this section shall use such funds for construction, as defined in section 9014(3).

"SEC. 9009. FACILITIES.

"(a) CURRENT FACILITIES.—From the amount appropriated for any fiscal year under section 9015(f), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day

preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(b) TRANSFER OF FACILITIES.—

"(1) IN GENERAL.—The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

"(2) OTHER REQUIREMENTS.—Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this title.

"SEC. 9010. TREATMENT OF PAYMENTS BY THE STATES IN DETERMINING ELIGIBILITY FOR, AND THE AMOUNT OF, STATE AID.

"(a) IN GENERAL.—Except as provided in subsection (b), no payments may be made under this title for any fiscal year to any local educational agency in any State if—

"(1) such State has taken into consideration payments under this title in determining—

"(A) the eligibility of any local educational agency in that State for State aid for free public education of children; or

"(B) the amount of such aid with respect to any such agency;

during that fiscal year or the preceding fiscal year; or

"(2) such State makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under this title than such agency would receive if such agency were not so eligible.

"(b) EXCEPTION.—

"(1) IN GENERAL.—Notwithstanding subsection (a), if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

"(A) financial resources available to local educational agencies in that State; and

"(B) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

"(2) SPECIAL RULE.—The portion of payments under sections 9004(b), 9004(d) and 9004(f)(1) for children described in section 9004(a)(1)(C) which are attributable to the difference between the total weighted student units determined under section 9004(a)(2)(B) and the total weighted student units determined under section 9004(a)(2)(A), shall not be taken into consideration by the State for the purpose of this subparagraph. Whenever a State educational agency or local educational agency will be adversely affected by the operation of this section, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this section.

"(3) DEFINITIONS.—The terms 'State aid' and 'equalize expenditures' as used in this section shall be defined by the Secretary by regulation, after consultation with State and local educational agencies affected by this section, provided that the term 'equalize expenditures' shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils in meeting the special educational needs of such children as disabled children, economically disadvantaged children, limited-English proficient children, and gifted and talented children.

"(4) NOTICE AND CERTIFICATION.—(A) If a State desires to take payments under this title into consideration as provided in this subsection for any fiscal year, that State shall, not later than 60 days prior to the beginning of such fiscal year, submit notice to the Secretary of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Secretary to determine the extent to which the program of State aid of that State is consistent with the provisions of paragraph (1). In addition, such notice shall be accompanied by such evidence as the Secretary finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Secretary determines that the program of State aid of a State submitting notice under this paragraph is consistent with the provisions of paragraph (1), the Secretary shall certify such determination to that State.

"(B) Prior to certifying any determination under subparagraph (A) for any State for any fiscal year, the Secretary shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of paragraph (1).

"(C) The Secretary shall not finally deny to any State for any fiscal year certification of a determination under subparagraph (A) without first giving that State an opportunity for a hearing.

"(5) REQUIREMENT.—Any State whose program of State aid was certified by the Secretary under paragraph (4) for fiscal year 1988, but whose program was determined by the Secretary under paragraph (4)(A) not to meet the requirements of paragraph (1) for one or more of the fiscal years 1989 through 1992—

"(A) shall be deemed to have met the requirements of paragraph (1) for each of the fiscal years 1989 through 1992; and

"(B) shall not, beginning with fiscal year 1993, and notwithstanding any other provision of this paragraph, take payments under this title into consideration as provided under paragraph (1) for any fiscal year unless the Secretary has previously certified such State's program for such fiscal year.

"(6) GRANDFATHER CLAUSE.—Notwithstanding any other provision of law, a State shall be deemed to meet the requirements of this subsection if such State—

"(A) met the requirements of section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) on July 1, 1994; and

"(B) continues to meet the requirements of such section 5(d)(2) for each fiscal year for which the determination is made.

"SEC. 9011. FEDERAL ADMINISTRATION.

"(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS.—The Secretary shall round any payments under this title to the nearest whole dollar amount.

"(b) OTHER AGENCIES.—Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this title, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this title.

"SEC. 9012. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

"(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code.

"(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—

"(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(2) FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) REVIEW.—The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 9013. FORGIVENESS OF OVERPAYMENTS.

"Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this title, or under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress), if the Secretary determines that the overpayment was made as a result of an error made by—

"(1) the Secretary; or

"(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

"SEC. 9014. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) AVERAGE PER PUPIL EXPENDITURE.—The term 'average per pupil expenditure' means—

"(A) the aggregate current expenditures of all local educational agencies in the State; divided by

"(B) the total number of children in average daily attendance for whom such agencies provided free public education.

"(3) CONSTRUCTION.—The term 'construction' means—

"(A) the preparation of drawings and specifications for school facilities;

"(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

"(C) inspecting and supervising the construction of school facilities; and

"(D) debt service for such activities.

"(4) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free

public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of title I and title XIII. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

"(5) FEDERAL PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (F), the term 'Federal property' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

"(i) owned by the United States or leased by the United States from another entity;

"(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

"(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

"(III) conveyed at any time under the Alaska Native Claims Settlement Act to a Native individual, Native group, or village or regional corporation;

"(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

"(V) used for low-rent housing, as described in paragraph (10) that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

"(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937; or

"(II) used to provide housing for homeless children at closed military installations pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act; or

"(iv) owned by a foreign government or by an international organization.

"(B) SCHOOLS PROVIDING FLIGHT TRAINING TO MEMBERS OF AIR FORCE.—The term 'Federal property' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force.

"(C) NON-FEDERAL EASEMENTS, LEASES, LICENSES, PERMITS, IMPROVEMENTS, AND CERTAIN OTHER REAL PROPERTY.—The term 'Federal property' includes, whether or not subject to taxation by a State or a political subdivision of a State—

"(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

"(ii) any improvement on Federal property as otherwise described in this paragraph; and

"(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

"(D) CERTAIN POSTAL SERVICE PROPERTY AND PIPELINES AND UTILITY LINES.—Notwithstanding any other provision of this paragraph, the term 'Federal property' does not include—

"(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

"(ii) pipelines and utility lines.

"(E) PROPERTY WITH RESPECT TO WHICH STATE OR LOCAL TAX REVENUES MAY NOT BE EXPENDED, ALLOCATED, OR AVAILABLE FOR FREE PUBLIC EDUCATION.—Notwithstanding any other provision of this paragraph, 'Federal property' does not include any property on which children reside that is otherwise described in this paragraph if—

"(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

"(ii) no tax revenues of the State are allocated or available for the free public education of such children.

"(F) PROPERTY LOCATED IN THE STATE OF OKLAHOMA OWNED BY INDIAN HOUSING AUTHORITY FOR LOW-INCOME HOUSING.—The term 'Federal property' includes any real property located in the State of Oklahoma that—

"(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937); and

"(ii) at any time—

"(I) was designated by treaty as tribal land; or

"(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"(6) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

"(i) includes preschool education; and

"(ii) does not include any education provided beyond grade 12.

"(7) INDIAN LANDS.—The term 'Indian lands' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

"(8) LOCAL CONTRIBUTION PERCENTAGE.—

"(A) IN GENERAL.—The term 'local contribution percentage' means the percentage of current expenditures in the State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

"(B) HAWAII AND DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for all States.

"(9) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'local educational agency'—

"(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

"(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

"(B) EXCEPTION.—The term 'local educational agency' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this title or the Act of September 30, 1950 (Public Law 874, 81st Congress) or increasing the amount of such assistance; or

"(ii) is not constituted or reconstituted for legitimate educational purposes.

"(10) LOW-RENT HOUSING.—The term 'low-rent housing' means housing located on property that is described in paragraph (5)(A)(iii).

"(11) REVENUE DERIVED FROM LOCAL SOURCES.—The term 'revenue derived from local sources' means—

"(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

"(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

"(12) SCHOOL FACILITIES.—The term 'school facilities' includes—

"(A) classrooms and related facilities; and

"(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

"SEC. 9015. AUTHORIZATION OF APPROPRIATIONS.

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 9003, there are authorized to be appropriated $16,750,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under subsections (b) and (f) of section 9004, there are authorized to be appropriated $775,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which 6 percent shall be available, until expended, for each fiscal year to carry out section 9004(f).

"(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section 9004(d), there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(d) PAYMENTS FOR INCREASES IN MILITARY CHILDREN.—For the purpose of making payments under section 9007, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(e) CONSTRUCTION.—For the purpose of carrying out section 9008, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(f) FACILITIES MAINTENANCE.—For the purpose of carrying out section 9009, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART B—EMERGENCY IMMIGRANT EDUCATION PROGRAM

"SEC. 9201. PURPOSE; DEFINITION.

"(a) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

"(1) provide high-quality instruction to immigrant children and youth; and

"(2) help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State performance standards expected of all children and youth.

"(b) DEFINITION.—For the purpose of this subpart, the term 'immigrant children and youth' means individuals who—

"(1) are aged three through 21;

"(2) were not born in any State; and

"(3) have not been attending one or more schools in any one or more States for more than two full academic years.

"SEC. 9202. STATE ADMINISTRATIVE COSTS.

"For any fiscal year, a State educational agency may reserve not more than 1.5 percent of

the amount allocated to such agency under section 9204 to pay the costs of performing such agency's administrative functions under this part.

"SEC. 9203. WITHHOLDING.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 9204. STATE ALLOCATIONS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 9201(a).

"(b) ALLOCATIONS.—

"(1) IN GENERAL.—Except as provided in subsections (c), (d) and (e), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in elementary and secondary public schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in elementary and secondary nonpublic schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

"(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimate are clearly erroneous.

"(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—If the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, the Secretary shall reserve the amount in excess of $50,000,000 to award grants, on a competitive basis, to local educational agencies that have enrolled during the fiscal year for which the determination is made—

"(A) at least 1,000 immigrant children and youth; or

"(B) immigrant children and youth in numbers that represent at least 10 percent of the local educational agency's total student enrollment.

"(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 9207.

"(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

"(4) DURATION.—Grants awarded under paragraph (1) shall be for a period of not more than two years.

"(5) APPLICATIONS.—(A) Each eligible local educational agency desiring a grant under this subsection shall submit to the Secretary an application in such form, at such time, and containing such information and assurances as the Secretary may require.

"(B) Each such application shall—

"(i) describe—

"(I) the need for the proposed program, including data on the number of immigrant children and youth in the local educational agency to be served and their characteristics, such as language spoken, dropout rates, proficiency in English and the native language, and academic standing in relation to their English proficient peers; and

"(II) the program to be implemented and how such program's design relates to the linguistic and academic needs of the immigrant children and youth to be served; and

"(ii) provide an assurance that the applicant will not reduce the level of State and local funds that the applicant expends for instructional programs for immigrant children and youth if the applicant receives an award under this part.

"SEC. 9205. STATE APPLICATIONS.

"(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in sections 9201 and 9207, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes, and how the program designs are consistent with other education improvement plans;

"(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under title VII or title I;

"(4) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 9204(b)(1);

"(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

"(7) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds; and

"(8) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

"(b) APPLICATION REVIEW.—

"(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after reasonable notice, provision of technical assistance, and providing an opportunity for a hearing to the State.

"SEC. 9206. ADMINISTRATIVE PROVISIONS.

"(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 9205 of the amount of such agency's allocation under section 9204 for the succeeding year.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 9205(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 9207. USES OF FUNDS.

"(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

"(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

"(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

"(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

"(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 9208. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every 2 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as the State educational agency determines may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 2 years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 10701.

"SEC. 9209. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $75,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART C—NATIVE HAWAIIAN EDUCATION

"SEC. 9301. SHORT TITLE.

"This part may be cited as the 'Native Hawaiian Education Act'.

"SEC. 9303. PURPOSE.

"It is the purpose of this part to—

"(1) authorize and develop supplemental educational programs to benefit Native Hawaiians;

"(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils; and

"(3) supplement and expand existing programs and authorities in the area of Native Hawaiian education to further such purposes.

"SEC. 9304. NATIVE HAWAIIAN CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

"(1) CURRICULA.—The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian language, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

"(2) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai'i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(3) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(4) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) enhancing teacher recruitment within communities with a high concentration of Native Hawaiian students; and

"(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

"(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) that focus on the needs of at-risk youth or that employ a program of instruction conducted in the Native Hawaiian language.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9305. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

"(b) PURPOSE.—The learning centers described in subsection (a) shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

"(1) preschool programs;

"(2) after-school programs; and

"(3) vocational and adult education programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9306. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

"(1) parent-infant programs for prenatal through three-year-olds;

"(2) preschool programs for four- and five-year-olds;

"(3) continued research and development; and

"(4) a long-term followup and assessment program.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated $6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9307. NATIVE HAWAIIAN HIGHER EDUCATION PROGRAM.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

"(2) MANDATORY ACTIVITIES.—Such program shall include—

“(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting institutions of higher education with fellowship awards to be based on academic potential and financial need; and

“(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need;

“(3) PERMITTED ACTIVITIES.—Such program may also include—

“(A) counseling and support services for students receiving fellowship assistance under paragraph (1);

“(B) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A);

“(C) appropriate research and evaluation of the activities authorized by this section; and

“(D) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

“(b) SPECIAL CONDITIONS REQUIRED.—For the purpose of fellowships awarded under subsection (a), fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

“(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

“SEC. 9308. NATIVE HAWAIIAN GIFTED AND TALENTED PROGRAM.

“(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for a gifted and talented program designed to—

“(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

“(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

“(b) USES OF FUNDS.—The program funded under this section may include—

“(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

“(A) the emotional and psychosocial needs of such students; and

“(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

“(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

“(3) leadership programs designed to—

“(A) replicate programs throughout the State of Hawai'i for gifted and talented students who are not served under this section; and

“(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

“(4) appropriate research, evaluation, and related activities pertaining to—

“(A) the needs of such students; and

“(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

“(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

“(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

“SEC. 9309. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

“(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

“(1) the identification of Native Hawaiian students with learning disabilities, mental or physical disabilities, emotional impairments, or who are otherwise in need of special educational services;

“(2) the identification of the special education needs of such students, particularly with respect to—

“(A) the emotional and psychosocial needs of such students; and

“(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

“(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

“(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

“(5) appropriate research, evaluation, and related activities pertaining to—

“(A) the needs of such students;

“(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

“(C) the outcomes and benefits of activities assisted under this section upon such students.

“(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

“(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

“SEC. 9310. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

“(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the 'Education Council').

“(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 25 members, including a representative of—

“(1) each recipient of funds from the Secretary under this part;

“(2) the State of Hawai'i Department of Education;

“(3) the State of Hawai'i Office of Hawaiian Affairs;

“(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili'uokalani Trust and Children's Center; and

“(5) each Native Hawaiian education island council established under subsection (f).

“(c) CONDITIONS AND TERMS.—At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

“(d) ADMINISTRATIVE GRANT FOR THE EDUCATION COUNCIL.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

“(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

“(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

“(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

“(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any information that the Education Council provides to the Secretary pursuant to subsection (i)(1).

“(2) ANNUAL REPORT.—The Education Council shall present to the Secretary an annual report on the Education Council's activities.

“(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary deems appropriate.

“(f) ESTABLISHMENT OF ISLAND COUNCILS.—

“(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as 'island councils') for the following islands:

“(A) Hawai'i.

"(B) Maui and Lana'i.

"(C) Moloka'i.

"(D) Kaua'i and Ni'ihau.

"(E) O'ahu.

"(2) Composition of Island Councils.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians

"(g) Administrative Provisions Relating to Education Council and Island Councils.—The Education Council and each island council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

"(h) Compensation.—Members of the Education Council and each island council shall not receive any compensation for services on the Education Council and each island council, respectively.

"(i) Report.—Not later than four years after the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

"(j) Authorization of Appropriations.—There are authorized to be appropriated $500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9311. ADMINISTRATIVE PROVISIONS.

"(a) Application Required.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) Special Rule.—Each application submitted under this part shall be accompanied by the comments of each local educational agency serving students who will participate in the program for which assistance is sought.

"SEC. 9312. DEFINITIONS.

"For the purposes of this part—

"(1) the term 'Native Hawaiian' means any individual who is a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

"(A) genealogical records;

"(B) Kūpuna (elders) or Kama'āina (long-term community residents) verification; or

"(C) certified birth records;

"(2) the term 'Native Hawaiian educational organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has a demonstrated expertise in the education of Native Hawaiians; and

"(C) has Native Hawaiians in substantive and policymaking positions within the organization;

"(3) the term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i;

"(4) the term 'Office of Hawaiian Affairs' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai'i; and

"(5) the term 'Native Hawaiian community-based organization' means any organization which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

"PART D—TERRITORIAL ASSISTANCE

"SEC. 9401. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995 and for each of the 4 succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

"TITLE X—GENERAL PROVISIONS

"PART A—DEFINITIONS

"SEC. 10101. DEFINITIONS.

"Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

"(1) Average Daily Attendance.—(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during such school year.

"(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

"(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

"(i) consider the child to be in attendance at a school of the agency making such payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

"(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

"(2) Average Per-Pupil Expenditure.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third preceding fiscal year (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for operation of such agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) Child.—The term 'child' means any person within the age limits for which the applicable State provides free public education.

"(4) Community-Based Organization.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(5) Consolidated State Application.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 10302.

"(6) County.—The term 'county' means one of those divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(7) Covered Program.—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;

"(B) part D of title I;

"(C) part A of title II (other than sections 2114 and 2115);

"(D) subpart 1 of part A of title V (other than section 5114);

"(E) subpart 2 of part A of title III; and

"(F) title XIII.

"(8) Current Expenditures.—The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I, part A of title II, and title XIII.

"(9) Department.—The term 'Department' means the Department of Education.

"(10) Educational Service Agency.—The term 'educational service agency' means regional public multiservice agencies authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(11) Elementary School.—The term 'elementary school' means a day or residential school that provides elementary education, as determined under State law.

"(12) Free Public Education.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

"(13) Institution of Higher Education.—The term 'institution of higher education' has the meaning given that term in section 1201 of the Higher Education Act of 1965.

"(14) Interoperable and Interoperability.—The terms 'interoperable' and 'interoperability' refer to the ability to easily exchange data with, and connect to, other hardware and software in order to provide the greatest accessibility to such data for all students.

"(15) Local Educational Agency.—(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

"(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(16) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(17) OUTLYING AREA.—The term 'outlying area' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

"(18) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(19) PUBLIC TELECOMMUNICATION ENTITY.—The term 'public telecommunication entity' has the same meaning given to such term in section 397(12) of the Communications Act of 1934.

"(20) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—

"(A) The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602 of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) The term 'pupil services' means the services provided by pupil services personnel.

"(21) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

"(22) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(23) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(24) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

"(25) TECHNOLOGY.—The term 'technology' means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper and audio laser and CD-ROM disks, video and audio tapes, or other technologies.

"SEC. 10102. APPLICABILITY OF THIS TITLE.

"Parts B through F of this title do not apply to part A of title IX.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 10201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

"(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2).

"(2) APPLICABILITY.—This section applies to programs under title I and those covered programs described in subparagraphs (C), (D), (E), and (F) of section 10101(7).

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a), such as—

"(A) the coordination of such programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices; and

"(E) technical assistance under programs specified in subsection (a)(2).

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"SEC. 10202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

"A State educational agency that also serves as a local educational agency, in such agency's applications or State plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

"SEC. 10203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) GENERAL AUTHORITY.—In accordance with regulations issued by the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, determined by its State educational agency, of the total amount available to that local educational agency under those covered programs.

"(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency, in collaboration with local educational agencies in the State, shall establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the purposes described in section 10201(b)(2).

"(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

"SEC. 10204. ADMINISTRATIVE FUNDS STUDY.

"(a) STUDY.—

"(1) IN GENERAL.—The Secretary may conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of covered programs, including the percentage of grant funds used for such purpose in covered programs.

"(2) RESULTS.—Based on the results of such study, the Secretary may publish regulations or guidelines regarding the use of funds for administration under covered programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration.

"(b) REPORT.—The Secretary shall submit to the President and the appropriate committees of the Congress a report regarding the study, if any, conducted under this section within 30 days of the completion of such study.

"SEC. 10205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

"(a) GENERAL AUTHORITY.—

"(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title VI of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

"(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and performance measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

"SEC. 10206. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

"With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program other than part A of title I are not needed for the purpose of that covered program may use such funds, not to exceed 5 percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL APPLICATIONS

"SEC. 10301. PURPOSE.

"It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

"SEC. 10302. OPTIONAL CONSOLIDATED STATE APPLICATION.

"(a) GENERAL AUTHORITY.—

"(1) SIMPLIFICATION.—In order to simplify application requirements and reduce burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or application meeting the requirements of this section for each of the covered programs in which the State participates.

"(2) ADDITIONAL PROGRAMS.—A State educational agency may also include in its consolidated plan or application—

"(A) the Even Start program under part C of title I;

"(B) the education for neglected and delinquent youth program under part E of title I;

"(C) part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act; and

"(D) such other programs as the Secretary may designate.

"(3) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency that submits a consolidated State plan or application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated application under this section applies.

"(b) COLLABORATION.—

"(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

"(2) CONTENTS.—Through the collaborative process described in subsection (b), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or application.

"SEC. 10303. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

"(a) ASSURANCES.—A State educational agency that submits a State plan or application under this Act, whether separately or under section 10302, shall have on file with the Secretary a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the statute authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

"(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

"(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 435 of the General Education Provisions Act does not apply to programs under this Act.

"SEC. 10304. CONSOLIDATED LOCAL APPLICATIONS.

"(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

"(b) REQUIRED CONSOLIDATED APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 10302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or application to submit consolidated local plans or applications under such programs.

"(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated plans or applications under this section.

"SEC. 10305. OTHER GENERAL ASSURANCES.

"(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 10304, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the statute authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency or the Secretary or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

"(6) the applicant will—

"(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

"(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

"(7) before the plan or application was submitted, the applicant is afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

"(b) GEPA PROVISION.—Section 436 of the General Education Provisions Act does not apply to programs under this Act.

"SEC. 10306. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.

"(a) STATE PLANS.—

"(1) IN GENERAL.—Each State plan submitted under the following programs shall be integrated with each other and the State's plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

"(A) Part A of title I (making high-poverty schools work).

"(B) Part D of title I (education of migratory children).

"(C) Part E of title I (education of neglected and delinquent youth).

"(D) Part A of title II (professional development).

"(E) Subpart 1 of part A of title V (safe and drug-free schools).

"(F) Part D of title VI (Indian education).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the State's approved plan under title III of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

"(3) AMENDMENT.—Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State's plan under title III of the Goals 2000: Educate America Act.

"(b) LOCAL PLANS.—

"(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

"(A) Part A of title I (making high-poverty schools work).

"(B) Part A of title II (professional development).

"(C) Subpart 1 of part A of title V (safe and drug-free schools).

"(D) Part A of title VI (Indian education).

"(E) Subpart 1 of part A of title VII (bilingual education).

"(F) Part B of title IX (emergency immigrant education).

"(2) PLAN OF OPERATION.—Each plan of operation included in an application submitted by an eligible entity under part C of title I (Even

Start) shall be consistent with, and promote the goals of, the State and local plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 1111 and 1112 of this Act.

‘‘(3) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved plan under title III of the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

‘‘(4) SUBMISSION.—Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's plan under title III of the Goals 2000: Educate America Act.

“PART D—WAIVERS

“SEC. 10401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

‘‘(a) WAIVER AUTHORITY.—Except as provided in subsection (c), the Secretary may waive any requirement of this Act or of the General Education Provisions Act, or of the regulations issued under such Acts, for a State educational agency, local educational agency, Indian tribe, or other agency, organization, or institution that receives funds under a program authorized by this Act from the Department and that requests such a waiver, if—

‘‘(1) the Secretary determines that such requirement impedes the ability of the State educational agency or other recipient to achieve more effectively the purposes of this Act;

‘‘(2) in the case of a waiver proposal submitted by a State educational agency, the State educational agency—

‘‘(A) provides all interested local educational agencies in the State with notice and an opportunity to comment on the proposal; and

‘‘(B) submits the comments to the Secretary; and

‘‘(3) in the case of a waiver proposal submitted by a local educational agency or other agency, institution, or organization that receives funds under this Act from a State educational agency, such request has been reviewed by the State educational agency and is accompanied by the comments, if any, of such State educational agency.

‘‘(b) WAIVER PERIOD.—

‘‘(1) IN GENERAL.—A waiver under this section shall be for a period not to exceed 4 years.

‘‘(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

‘‘(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved performance; and

‘‘(B) such extension is in the public interest.

‘‘(c) WAIVERS NOT AUTHORIZED.—The Secretary may not waive, under this section, any statutory or regulatory requirement relating to—

‘‘(1) comparability of services;

‘‘(2) maintenance of effort;

‘‘(3) the equitable participation of students attending private schools;

‘‘(4) parental participation and involvement;

‘‘(5) the distribution of funds to States or to local educational agencies or other recipients of funds under this Act;

‘‘(6) applicable civil rights requirements; or

‘‘(7) the requirements of sections 438 and 439 of the General Education Provisions Act.

‘‘(d) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

“PART E—UNIFORM PROVISIONS

“SEC. 10501. MAINTENANCE OF EFFORT.

‘‘(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

‘‘(b) REDUCTION IN CASE OF FAILURE TO MEET.—

‘‘(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

‘‘(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

‘‘(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

‘‘(1) exceptional or uncontrollable circumstances such as a natural disaster; or

‘‘(2) a precipitous decline in the financial resources of the local educational agency.

“SEC. 10502. PROHIBITION REGARDING STATE AID.

‘‘No State shall take into consideration payments under this Act in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

“SEC. 10503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

‘‘(a) PRIVATE SCHOOL PARTICIPATION.—

‘‘(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or intermediate educational agency or consortium receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children, their teachers, administrators, and other staff, on an equitable basis, special educational services or other benefits under such program.

‘‘(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, must be secular, neutral, and nonideological.

‘‘(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, administrators, and other staff participating in such program.

‘‘(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

‘‘(5) PROVISION OF SERVICES.—Such agency or consortium may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

‘‘(b) APPLICABILITY.—

‘‘(1) IN GENERAL.—This section applies to—

‘‘(A) part A of title I;

‘‘(B) part D of title I;

‘‘(C) part A of title II (other than section 2114);

‘‘(D) part A of title III;

‘‘(E) part B of title III;

‘‘(F) part D of title III;

‘‘(G) subpart 1 of part A of title V (other than section 5114);

‘‘(H) title VII;

‘‘(I) part B of title IX; and

‘‘(J) title XIII.

‘‘(2) DEFINITION.—For the purposes of this section, the term ‘eligible children’ means children eligible for services under a program described in paragraph (1).

‘‘(c) CONSULTATION.—

‘‘(1) IN GENERAL.—To ensure timely and meaningful consultation, such agency or consortium shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

‘‘(A) how the children's needs will be identified;

‘‘(B) what services will be offered;

‘‘(C) how and where the services will be provided; and

‘‘(D) how the services will be assessed.

‘‘(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

‘‘(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that an agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

‘‘(d) PUBLIC CONTROL OF FUNDS.—

‘‘(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

‘‘(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

‘‘(i) by employees of a public agency; or

‘‘(ii) through contract by such public agency with an individual, association, agency, or organization.

‘‘(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

‘‘(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

“SEC. 10504. STANDARDS FOR BY-PASS.

‘‘If, by reason of any provision of law, a State, local, or intermediate educational agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 10503, the Secretary shall—

‘‘(1) waive the requirements of that section for such agency or consortium; and

"(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 10503, 10505, and 10506.

"SEC. 10505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

"(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations by an agency or consortium of section 10503 of this Act. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by such agency within a reasonable period of time.

"(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary within 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal within 120 days after receipt of the appeal.

"SEC. 10506. BY-PASS DETERMINATION PROCESS.

"(a) REVIEW.—

"(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 10504 until the agency or consortium affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(2) PETITION FOR REVIEW.—(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

"(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

"(C) The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) FINDINGS OF FACT.—(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

"(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) JURISDICTION.—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part.

"(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 10503 or any other provision of this Act.

"(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 10507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"PART F—OTHER PROVISIONS

"SEC. 10601. STATE RECOGNITION OF EXEMPLARY PERFORMANCE.

"(a) RECOGNITION.—

"(1) IN GENERAL.—A State educational agency may implement a program of State recognition awards under one or more covered programs (other than parts A and C of title I).

"(2) RECIPIENTS.—Such recognition awards shall be made by the State educational agency to recipients of assistance under this Act in the State that the State educational agency determines have carried out grant-related activities in an exemplary fashion and have demonstrated outstanding performance measured in accordance with this section.

"(3) FUNDING.—A State desiring to make monetary awards under this section may reserve a portion of the total amount available for grants within the State under such programs for any fiscal year, not to exceed 1 percent, for the purpose of making recognition awards to qualifying recipients under such programs. In implementing this section, a State may reduce the amount of funds the State would otherwise allocate to recipients in accordance with the applicable statute governing such allocation to the extent necessary.

"(b) CONDITIONS.—A State educational agency may make recognition awards under this section if—

"(1) in selecting awardees, such agency takes into account improvements in performance (rather than comparisons with other schools and school districts), and successful cooperative efforts among teachers, administrators, and other school personnel in achieving educational reform;

"(2) such agency employs peer review procedures in identifying recipients eligible for awards, the identity of the awardees, and the amount of the awards;

"(3) such agency determines that the awardee is in compliance with applicable civil rights requirements; and

"(4) such agency submits to the Secretary a description of the criteria used in making such awards.

"SEC. 10602. APPLICABILITY TO HOME SCHOOLS.

"Nothing in this Act shall be construed to affect home schools.

"SEC. 10603. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

"SEC. 10604. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

"SEC. 10605. REPORT.

"The Secretary shall report to the Congress within 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 10606. REQUIRED PARTICIPATION PROHIBITED.

"Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Education America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

"PART G—EVALUATIONS

"SEC. 10701. EVALUATIONS.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out program evaluations and studies of program effectiveness under this Act in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs authorized under this Act and related preschool, elementary and secondary Federal programs under other Federal law;

"(C) to evaluate the short- and long-term effects of demonstration projects that show the most promise of enabling children served under this Act to meet challenging standards in accordance with subsection (c); and

"(D) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) SPECIAL RULE.—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall use such funds to carry out paragraph (1).

"(b) NATIONAL EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall use not more than 90 percent of the funds made available under subsection (a) to carry out—

"(A) independent studies of programs authorized under this Act that are coordinated with research supported through the Office of Educational Research and Improvement, and use

rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment as appropriate, to determine—

"(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

"(ii) the short- and long-term effects of program participation on program participants, as appropriate;

"(iii) the cost and efficiency of such programs; and

"(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

"(B) in collaboration with the national assessment conducted pursuant to section 1601, conduct a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

"(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preelementary, elementary, or secondary education;

"(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act of 1994, and be coordinated with evaluations of such Acts;

"(iii) include a comprehensive review of the programs developed under the Acts described in subparagraph (D) to determine such programs' overall effect on—

"(I) the readiness of children for schooling;

"(II) the improvement in educational attainment of students in elementary and secondary education; and

"(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

"(iv) include a comprehensive review of the programs under the Acts described in subparagraph (D) to determine such programs' overall effect—

"(I) on school reform efforts undertaken by States; and

"(II) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

"(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and the National Education Statistics and Improvement Council (and any other Federal board established to analyze, address, or approve education standards and assessments) coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

"(vi) include a review of the programs under the Acts described in subparagraph (D) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies.

"(2) INDEPENDENT PANEL.—The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

"(3) REPORT.—The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

"(c) EVALUATION OF DEMONSTRATIONS OF INNOVATIVE PRACTICES.—The Secretary shall use at least 10 percent of funds reserved under subsection (a) for evaluation of demonstration projects assisted under this Act in order to improve student achievement. Such evaluation shall—

"(1) identify specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

"(2) use rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, to the extent feasible, to produce reliable evidence of effectiveness;

"(3) assess at the end the reauthorization period of each demonstration project the knowledge gained in identifying and disseminating effective management and educational practices; and

"(4) to the extent feasible, the cost of serving all students eligible to be served under such demonstration projects.

"(d) RECIPIENT EVALUATION AND QUALITY ASSURANCE IMPROVEMENT.—The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this Act to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

"TITLE XI—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

"SEC. 11101. SHORT TITLE.

"This title may be cited as the 'Cultural Partnerships for At-Risk Children and Youth Act of 1994'.

"SEC. 11102. FINDINGS.

"The Congress finds that—

"(1) with local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level;

"(2) children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction;

"(3) school-university partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children; and

"(4) museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

"SEC. 11103. DEMONSTRATION PROGRAM.

"(a) GRANTS AUTHORIZED.—

"(1) GRANT FROM SECRETARY.—(A) The Secretary, by grant, shall award all funds appropriated under section 11108 to the Committee established under subsection (b) to enable such Committee to award subgrants in accordance with paragraph (2).

"(B) The Committee established under subsection (b) may reserve not more than 5 percent of the grant funds received under paragraph (1) in each fiscal year for the costs of administration.

"(2) SUBGRANTS.—(A) From grant funds received under paragraph (1)(A) and not reserved under paragraph (1)(B), the Committee established under subsection (b) shall award subgrants to eligible entities to enable such entities to improve the educational performance and potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services to such children and youth.

"(B) Each eligible recipient may reserve not more than 5 percent of any subgrant funds received under this part in each fiscal year for the costs of administration.

"(3) ELIGIBLE ENTITIES.—For purposes of this title, the term 'eligible entity' means—

"(A) for purposes of determining eligibility for a subgrant under this title to serve in-school children and youth, a partnership between—

"(i) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 1114; and

"(ii) at least 1 institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

"(I) a nonprofit institution of higher education, local arts agency, cultural institution, or zoological or botanical facility; or

"(II) a private for-profit entity with an effective history of training children and youth in the arts or humanities; and

"(B) for purposes of determining eligibility for a subgrant under this title to serve out-of-school youth, a partnership between—

"(i) at least 1 entity described in clause (i) or (ii) of subparagraph (A); and

"(ii) at least 1 entity described in clause (ii) of subparagraph (A).

"(b) NATIONAL COMMITTEE ON CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH.—

"(1) ESTABLISHMENT.—There is established a committee to be known as the National Committee on Cultural Partnerships for At-Risk Children and Youth (referred to in this title as the 'Committee').

"(2) MEMBERSHIP.—The Committee shall be comprised of 8 members, of whom—

"(A) 2 members shall be appointed by the Secretary of Education;

"(B) 2 members shall be appointed by the Chairperson of the National Endowment for the Humanities;

"(C) 2 members shall be appointed by the Chairperson of the National Endowment for the Arts; and

"(D) 2 members shall be appointed by the Director of the Institute of Museum Services.

"(c) AWARD OF SUBGRANTS.—

"(1) IN GENERAL.—The Committee shall award subgrants under this title to eligible entities seeking to carry out programs designed to—

"(A) promote and enhance educational and cultural activities;

"(B) provide integration of community cultural resources into the regular curriculum and school day;

"(C) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

"(D) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act;

"(E) facilitate school-to-work transition from secondary schools and alternative schools to job

training, higher education, and employment through educational programs and activities that utilize school resources;

"(F) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

"(G) develop programs and strategies that—

"(i) provide high-quality coordinated educational and cultural services; and

"(ii) are designed to integrate such coordination into the regular curriculum and to replicate the services in other schools.

"(2) SPECIAL RULE.—Subgrants awarded under this title shall be of sufficient size, scope, and quality to be effective.

"(3) COORDINATION.—(A) The Committee shall award subgrants under this title only to eligible entities that agree to coordinate activities carried out under this part with other Federal, State, and local programs designed to serve the purposes and target populations described in this title.

"(B) The Committee shall award subgrants under this title so as to ensure nonduplication of services provided by subgrant recipients and services provided by—

"(i) the National Endowment for the Humanities;

"(ii) the National Endowment for the Arts; and

"(iii) the Institute for Museum Services.

"(4) GEOGRAPHIC DISTRIBUTION.—In awarding subgrants under this title the Committee, to the extent feasible, shall ensure an equitable geographic distribution of such subgrants.

"(5) PRIORITY.—In awarding subgrants under this title the Committee may give priority to eligible entities that provide comprehensive services that extend beyond traditional school or service hours.

"(6) RENEWAL.—The recipient of a subgrant under this title may be eligible for funding for a maximum of 5 years, if the Committee determines that the eligible recipient has made satisfactory progress toward the achievement of the program goals described in the application.

"(7) CRITERIA AND PROCEDURES.—The Committee shall establish and transmit to the Secretary criteria and procedures for awarding subgrants under this title. The Secretary shall publish such criteria and procedures in the Federal Register.

"(d) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity seeking a subgrant under this title shall submit an application to the Committee at such time, in such manner, and accompanied by such information as the Committee may reasonably require.

"(2) CONTENTS.—Each application submitted to the Committee pursuant to paragraph (1) shall—

"(A) describe the cultural entity or entities that will participate in the partnership;

"(B) describe the target population to be served;

"(C) describe the services to be provided;

"(D) describe a plan for evaluating the success of the program;

"(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this title will be perpetuated beyond the duration of the subgrant;

"(F) describe the manner in which the eligible entity will seek to improve the educational achievement or future potential of at-risk children and youth through more effective coordination of cultural services in the community;

"(G) describe the overall and operational goals of the program; and

"(H) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

"(e) TARGET POPULATION.—To be eligible for a subgrant under this title, an eligible entity shall serve—

"(1) students enrolled in schools participating in a schoolwide program under section 1114 and the families of such students to the extent practicable;

"(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

"(3) any combination of in-school and out-of-school at-risk children and youth.

"SEC. 11104. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Subgrants awarded under this title may be used—

"(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

"(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

"(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

"(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

"(5) to provide transportation necessary for participation in the program;

"(6) to develop curriculum materials in the arts;

"(7) for staff development activities that encourage the integration of the arts into the curriculum;

"(8) for stipends that allow local arts and humanities professionals to work with at-risk children and youth in schools;

"(9) for training individuals who are not trained to work with children and youth;

"(10) for cultural programs that encourage the active participation of parents in the education of their children;

"(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

"(12) for equipment or supplies that the Committee determines appropriate; and

"(13) for evaluation, administration, and supervision.

"(b) TEACHERS.—Each recipient of a subgrant under this title serving in-school children and youth shall carry out the activities described in the application with the involvement of a certified teacher or trained instructor.

"SEC. 11105. PLANNING SUBGRANTS.

"(a) IN GENERAL.—The Committee may award planning subgrants to eligible entities under this title.

"(b) AMOUNT.—A planning subgrant shall be in an amount not to exceed $50,000.

"(c) DURATION.—A planning subgrant shall be for a period of not more than 1 year.

"(d) LIMITATIONS.—An eligible entity may receive not more than 1 planning subgrant under this section.

"SEC. 11106. PAYMENTS; AMOUNTS OF AWARD; COST SHARE; LIMITATIONS.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 11103, the Federal share of the cost of the activities described in the application.

"(b) COST SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a subgrant under this title shall be 80 percent of the cost of carrying out the activities described in the application.

"(2) NON-FEDERAL SHARE.—The non-Federal share of a subgrant under this title shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

"(c) LIMITATIONS.—

"(1) NONINSTRUCTIONAL SERVICES.—Not more than 25 percent of the subgrant funds provided in any fiscal year under this title may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 11104(a).

"(2) SUPPLEMENT AND NOT SUPPLANT.—Subgrant funds awarded under this title shall be used to supplement and not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this title.

"SEC. 11107. MODELS.

"The Secretary, in consultation with the Committee, shall disseminate information concerning successful models under this title through the National Diffusion Network.

"SEC. 11108. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—Subject to subsection (b), there are authorized to be appropriated to carry out this title, $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) LIMITATIONS.—

"(1) CONTINGENT APPROPRIATIONS.—Notwithstanding any other provision of law, no amounts shall be made available to carry out this title in any fiscal year unless there is appropriated—

"(A) not less than $177,000,000 for the National Endowment for the Humanities under the National Foundation on the Arts and the Humanities Act of 1965;

"(B) not less than $170,000,000 for the National Endowment for the Arts under such Act; and

"(C) not less than $28,000,000 for the Institute for Museum Services under the Museum Services Act.

"(2) PLANNING SUBGRANTS.—Not more than 10 percent of the amount appropriated in each fiscal year pursuant to subsection (a) shall be used for planning subgrants under section 11105.

"TITLE XII—DISCLOSURE REQUIREMENTS

"SEC. 12001. DEFINITIONS.

"As used in this title:

"(1) DISABILITY.—The term 'disability' has the same meaning given to such term by section 3(2) of the Americans with Disabilities Act of 1990.

"(2) EDUCATIONAL ORGANIZATION.—(A) Except as provided in subparagraphs (B) and (C), the term 'educational organization' means any organization or entity that—

"(i) provides an educational program for a fee; and

"(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

"(B) Such term does not include—

"(i) a local educational agency, a State educational agency, a State department of education, or an elementary or secondary school;

"(ii) an institution of higher education; or

"(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

"(C) For the purpose of section 12002 only, such term—

"(i) except as provided in clause (ii), does not include an organization or entity that provides an educational program if such organization or entity recruits, for participation in such program, solely through a local school official; and

"(ii) includes any such organization or entity that offers a local school official, teacher or other school personnel compensation or any other benefit for such recruitment, except that payment of the expenses incurred by a local school official, teacher or other school personnel in performing chaperone activities related to such program shall not be considered compensation or a benefit for such recruitment.

"(3) EDUCATIONAL PROGRAM.—(A) Except as provided in subparagraph (B), the term 'educational program' means a special honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

"(i) that is generally directed toward minors or secondary school students;

"(ii) for which a tuition or enrollment fee is charged;

"(iii) that is offered away from a student's regular place of school attendance;

"(iv) that includes not less than 1 supervised night away from home; and

"(v) that is intended to enhance a student's regular course of study.

"(B) Such term does not include a recreational program, or a social or religious activity.

"(4) LOCAL SCHOOL OFFICIAL.—The term 'local school official' means the highest administrative official serving a school district, or such individual's designee.

"(5) MINOR.—The term 'minor' means an individual who has not attained the age of 18.

"(6) MEMBERSHIP ORGANIZATION.—The term 'membership organization' includes any organization that maintains a membership list or collects dues or membership fees from its members.

"(7) RECREATIONAL ORGANIZATION.—The term 'recreational organization' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

"(8) RECREATIONAL PROGRAM.—The term 'recreational program' includes any activity or service that is intended as an entertainment pastime.

"SEC. 12002. DISCLOSURE REQUIREMENTS.

"Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent:

"(1) METHOD OF SOLICITATION AND SELECTION.—The method of solicitation and selection of participants in the educational program, including—

"(A) the origin of any mailing list used for such solicitation and selection;

"(B) any recruitment through a local school official, teacher or school personnel, including any compensation or other benefit offered to such official, teacher or personnel for the recommendation of a minor for participation in the educational program;

"(C) any open enrollment activity, including the method of outreach; and

"(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

"(2) COSTS AND FEES.—Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

"(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

"(i) food;

"(ii) lodging;

"(iii) transportation;

"(iv) program staffing;

"(v) textbooks, syllabi, or other scholastic educational program materials;

"(vi) speaker fees; and

"(vii) administrative expenses, including expenses related to—

"(I) the preparation of non-scholastic educational program materials;

"(II) the provision of financial assistance;

"(III) mailing list rental or other recruitment activity; and

"(IV) administrative salaries and consulting fees;

"(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

"(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such Board member, officer, or employee.

"SEC. 12003. NONDISCRIMINATORY ENROLLMENT AND SERVICE POLICY.

"(a) IN GENERAL.—Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

"(1) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

"(2) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program,

on the basis of race, disability, or residence in a low-income area.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to entitle a student to—

"(1) participation in an educational program or any benefit associated with such program; or

"(2) a waiver of any fee charged for such participation or benefit.

"SEC. 12004. ENFORCEMENT.

"The Secretary shall—

"(1)(A) widely disseminate information about the requirements of this title to State and local school officials and parents; and

"(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this title; and

"(2) take whatever other steps the Secretary determines are appropriate to enforce this title, including—

"(A) promulgating regulations;

"(B) establishing a complaint process;

"(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

"(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this title; and

"(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this title.

"TITLE XIII—TARGETED ASSISTANCE PROGRAM

"PART A—GENERAL PROVISIONS

"SEC. 13101. ALLOTMENT TO STATES.

"(a) RESERVATIONS.—From the sums appropriated to carry out this title in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Northern Mariana Islands, and Palau, to be allotted in accordance with their respective needs for assistance under this title.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 13102. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—From the sum made available each year under section 13101, the State educational agency shall distribute not less than 80 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families;

"(2) children from low-income families; and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—

"(1) IN GENERAL.—The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools; and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this title,

for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this title.

"(2) ADJUSTMENTS.—(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families;

"(ii) children from low-income families; or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) DISTRIBUTION.—From the funds paid to a State educational agency pursuant to section

13101 for a fiscal year, such agency shall distribute to each eligible local educational agency which has submitted an application as required in section 13303 the amount of its allocation as determined under subsection (a).

"(2) ADDITIONAL FUNDS.—(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"PART B—STATE PROGRAMS

"SEC. 13201. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this title only for—

"(1) State administration of programs under this title including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds; and

"(C) monitoring and evaluation of programs and activities under this title; and

"(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to provide targeted assistance as provided in section 13301.

"(b) LIMITATIONS AND REQUIREMENTS.—Not more than 25 percent of funds available for State programs under this title in any fiscal year may be used for State administration under subsection (a)(1).

"SEC. 13202. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive grants under this title shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this title;

"(2) sets forth planned allocation of funds reserved for State use under section 13102(a) among the targeted assistance programs described in section 13301 and describes programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities;

"(3) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2);

"(4)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this title;

"(B) provides for an evaluation of the effectiveness of programs assisted under this title;

"(5) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this title);

"(6) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this title, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to an application under section 13301;

"(7) provides the following information: (A) how the State will adjust its formula to comply with section 13102(b)(2), (B) how children under section 13102(b)(2)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 13102(b)(2)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 13102; and

"(8) contains assurances that there is compliance with the specific requirements of this title.

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average $5,000 each year under this title need not be audited more frequently than once every 5 years.

"PART C—LOCAL TARGETED ASSISTANCE PROGRAMS

"SEC. 13301. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds allocated for use under this title shall be used by State and local educational agencies for targeted assistance described in subsection (b).

"(b) TARGETED ASSISTANCE.—The targeted assistance programs referred to in subsection (a) are—

"(1) programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that will be used to improve student achievement;

"(2) programs to improve the higher order thinking skills of economically disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

"(3) programs to combat illiteracy in the student and adult population, including parent illiteracy;

"(4) programs to provide for the educational needs of gifted and talented children;

"(5) school facility repair, renovation, improvement and construction;

"(6) school reform activities that are consistent with the Goals 2000: Educate America Act for local educational agencies that do not receive assistance under that Act; and

"(7) school improvement programs or activities under sections 1118 and 1119.

"SEC. 13302. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Activities authorized under this part may include the planning, development, or operation and expansion of programs, projects, and activities which are designed to carry out the targeted assistance described in section 13301. Such activities may include—

"(1) training of educational personnel and education policymakers in any of the targeted assistance programs described in section 13301;

"(2) guidance and pupil services; and

"(3) any other education or related activities which the State or local educational agency determines will contribute to improving the programs described in section 13301.

"(b) ADMINISTRATIVE AUTHORITY.—In order to conduct the activities authorized by this title, each State or local educational agency may use funds reserved for this title to make grants to and to enter into contracts with local educational agencies, educational service agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 13303. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this title for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1) sets forth the planned allocation of funds among targeted assistance programs described in section 13301 and describes the programs, projects, and activities designed to carry out such targeted assistance which the State educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities;

"(2) describes how assistance under this title will contribute to the goals of the program of improving student achievement or improving the quality of education for students;

"(3) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

"(4) provides, in the allocation of funds for the assistance authorized by this title, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this title (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds among programs and purposes authorized by this title for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this title, a local educational agency shall have complete discretion in determining how funds under this part shall be divided among the areas of targeted assistance of this part. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this title and are intended to meet the educational needs within the schools of that local educational agency.

"PART D—AUTHORIZATION OF APPROPRIATIONS

"SEC. 13401. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $325,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title.

"TITLE XIV—NATIONAL EDUCATION STATISTICS

"SEC. 14001. SHORT TITLE.

"This part may be cited as the 'National Education Statistics Act of 1994'.

"SEC. 14002. FINDINGS; PURPOSE; DEFINITIONS.

"(a) FINDINGS.—The Congress finds that—

"(1) a Department Office of Education was established in 1867 'for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and Territories, and of diffusing such information respecting the organization and management of schools and school systems and *methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country';*

"(2) today, while the role of the current Department of Education is much broader, the National Center for Education Statistics within the Office of Educational Research and Improvement continues to perform those crucial original purposes; and

"(3) looking to the 21st Century, the National Center for Education Statistics must be able to design and undertake, effectively and efficiently, statistical activities that will aid in the reform of our Nation's educational systems.

"(b) PURPOSE.—It is the purpose of this part to ensure the continuation of an effective mechanism for collecting and reporting statistics and information showing the condition and progress of education in the United States and other nations in order to promote and accelerate the improvement of American education.

"(c) DEFINITIONS.—For the purpose of this part, the term—

"(1) 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement provided for under section 202(b)(1)(E) of the Department of Education Organization Act; and

"(2) 'State' and 'United States'—

"(A) other than for the purpose of section 14011, mean each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) for the purpose of section 14011, include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

"SEC. 14003. NATIONAL CENTER FOR EDUCATION STATISTICS.

"(a) ESTABLISHMENT.—There is established, within the Office of Educational Research and Improvement established under section 209 of the Department of Education Organization Act, a National Center for Education Statistics (hereafter in this part referred to as the 'Center').

"(b) COMMISSIONER AND ASSOCIATE COMMISSIONERS.—

"(1) COMMISSIONER.—The Center shall be headed by a Commissioner of Education Statistics (hereafter in this part referred to as the 'Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

"(A) have substantial knowledge of programs encompassed by under the authority of the Center;

"(B) be paid in accordance with section 5315 of title 5, United States Code; and

"(C) serve for a term of 4 years, with the terms to expire every fourth June 21, beginning in 1995.

"(2) ASSOCIATE COMMISSIONERS.—The Commissioner may appoint such Associate Commissioners as the Commissioner determines are necessary and appropriate.

"SEC. 14004. DUTIES OF THE CENTER.

"(a) DUTIES.—The Center shall collect, analyze, and disseminate statistics and other information related to education in the United States and in other nations, including—

"(1) acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics on the condition and progress of education in the United States, including data on—

"(A) State and local education reform;

"(B) student achievement and other educational outcomes, including data on secondary school completions, dropouts, and adult literacy, which education statistics and data, whenever feasible, shall be collected, analyzed, cross-tabulated and reported by sex, race or ethnicity, and socioeconomic status;

"(C) educational access and opportunity, including data on financial aid to postsecondary students;

"(D) teaching, including data on curriculum, instruction, the conditions of the education workplace, and the supply of, and demand for, teachers, which may include data on the proportions of women and men cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented;

"(E) the learning environment, including data on libraries and the incidence of crime, violence, and substance abuse;

"(F) the financing and management of education, including data on revenues and expenditures; and

"(G) the social and economic status of children;

"(2) conducting and publishing reports and analyses of the meaning and significance of such statistics;

"(3) conducting longitudinal studies, as well as regular and special surveys and data collections, necessary to report on the condition and progress of education;

"(4) assisting public and private educational agencies, organizations, and institutions in improving and automating their statistical and data collection activities; and

"(5) acquiring and disseminating data on educational activities and student achievement in the United States compared with those in foreign nations.

"(b) SPECIAL RULE.—The Center shall ensure that education statistics and data described in subsection (a)(1), whenever feasible, are collected, analyzed, cross-tabulated and reported by sex, race or ethnicity, and socioeconomic status;

"(c) TRAINING PROGRAM.—The Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as temporary fellows at the Center in order to assist the Center in carrying out its duties.

"SEC. 14005. PERFORMANCE OF DUTIES.

"(a) IN GENERAL.—In carrying out the Commissioner's duties under this part, the Commissioner may enter into grants, contracts, and cooperative agreements.

"(b) GATHERING INFORMATION.—

"(1) SAMPLING.—The Commissioner may use the statistical method known as sampling to carry out the purpose of this part.

"(2) SOURCE OF INFORMATION.—The Commissioner may, as the Commissioner considers appropriate, use information collected—

"(A) from States, local educational agencies, schools, institutions of higher education, libraries, administrators, teachers, students, the general public, and such other individuals, organizations, agencies, and institutions as the Commissioner may consider appropriate; and

"(B) by other offices within the Department and by other Federal departments, agencies, and instrumentalities.

"(3) COLLECTION.—The Commissioner may—

"(A) enter into interagency agreements for the collection of statistics;

"(B) arrange with any agency, organization, or institution for the collection of statistics; and

"(C) assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(4) TECHNICAL ASSISTANCE AND COORDINATION.—In order to maximize the effectiveness of Federal efforts to serve the educational needs of children and youth, the Commissioner shall—

"(A) provide technical assistance to Department offices that gather data for statistical purposes; and

"(B) coordinate closely with other Department offices in the collection of data.

"SEC. 14006. REPORTS.

"(a) REPORT ON THE CONDITION AND PROGRESS OF EDUCATION.—The Commissioner shall, not later than June 1, 1995, and each succeeding June 1 thereafter, submit to the President and the Congress a statistical report on the condition and progress of education in the United States.

"(b) STATISTICAL REPORTS.—The Commissioner shall issue regular statistical reports to the President and Congress on such education topics as the Commissioner determines to be appropriate.

"(c) SPECIAL REPORTS.—The Commissioner may, whenever the Commissioner considers it appropriate, issue special reports on particular education topics.

"SEC. 14007. ADVISORY COUNCIL ON EDUCATION STATISTICS.

"(a) ESTABLISHMENT.—There is established, within the Center, an Advisory Council on Education Statistics (hereafter in this Act referred to as the 'Council').

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) 15 voting members who are users of education data and who are appointed by the Secretary on the basis of their experience and eminence within the field of education statistics, of whom at least—

"(i) three shall be educators;

"(ii) three shall be education policymakers;

"(iii) three shall be professional statisticians; and

"(iv) three shall be education researchers;

"(B) the Director of the Bureau of the Census and the Commissioner of the Bureau of Labor Statistics, as voting, ex officio members; and

"(C) the Assistant Secretary and the Commissioner, as nonvoting, ex officio members.

"(2) PRESIDING OFFICER.—The Secretary shall appoint the presiding officer of the Council from among the voting members of the Council.

"(3) TERMS.—Members of the Council appointed under paragraph (1)(A) shall be appointed for 3-year terms except that, in the case of initial appointments, the Secretary shall make appointments for shorter terms to the extent necessary to avoid the expiration of the terms of more than 5 members in the same calendar year.

"(4) MEETINGS.—

"(A) IN GENERAL.—The Council shall meet at the call of the presiding officer, except that the Council shall meet—

"(i) at least 2 times during each calendar year; and

"(ii) in addition, whenever 8 voting members request in writing that the presiding officer call a meeting.

"(B) QUORUM.—Nine voting members of the Council shall constitute a quorum.

"(5) SPECIAL RULE.—The Council shall review general policies for the operation of the Center and shall advise the Commissioner on standards to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence.

"SEC. 14008. CONFIDENTIALITY.

"(a) CONFIDENTIALITY STANDARDS.—

"(1) IN GENERAL.—The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this section. This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

"(2) PROHIBITION.—No person may—

"(A) use any individually identifiable information furnished under this part for any purpose other than a statistical purpose;

"(B) make any publication whereby the data furnished by any particular person under this part can be identified; or

"(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

"(b) ADMINISTRATION.—

"(1) IN GENERAL.—No department, bureau, agency, officer, or employee of the Federal Government, except the Commissioner in carrying out the purposes of this part, shall require, for any reason, copies of reports that have been filed under this part with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of its employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (4)(A)).

"(2) EMPLOYEE OR STAFF VIOLATIONS.—Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2), knowingly publishes or communicates any individually identifiable information (as defined in paragraph (4)(A)), the disclosure of which is prohibited by subsection (a)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this part, shall be found guilty of a class E felony and imprisoned for not more than 5 years, or fined as specified in section 3571 of title 18, United States Code, or both.

"(3) TEMPORARY STAFF.—The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing its responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

"(4) DEFINITIONS.—For the purposes of this section—

"(A) the term 'individually identifiable information' means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

"(B) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

"(5) VIOLATIONS.—Any person who uses any data provided by the Center, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2), shall be found guilty of a class E felony and imprisoned for not more than 5 years, or fined as specified in section 3571 of title 18, United States Code, or both.

"(6) ACCESS TO REPORTS OR RECORDS.—Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (5) of subsection (b) shall apply to such individuals.

"SEC. 14009. DISSEMINATION.

"(a) GENERAL REQUESTS.—

"(1) IN GENERAL.—The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

"(2) COMPILATIONS.—The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

"(b) CONGRESSIONAL REQUESTS.—The Center shall furnish such special statistical compilations and surveys as the Congress may request.

"(c) JOINT STATISTICAL PROJECTS.—The Secretary may engage in joint statistical projects related to the purposes of this part, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

"(d) FEES.—

"(1) IN GENERAL.—Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

"(2) FUNDS RECEIVED.—All funds received in payment for work or services described in this subsection may be used for the fiscal year for which such funds are received to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

"(e) ACCESS.—

"(1) OTHER FEDERAL AGENCIES.—The Center shall, consistent with section 14008, participate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

"(2) INTERESTED PARTIES.—The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

"SEC. 14010. COOPERATIVE EDUCATION STATISTICS SYSTEMS.

"(a) IN GENERAL.—The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, postsecondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

"(b) MODEL DATA SYSTEM.—

"(1) STUDY; DESIGN; PILOT.—The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local educational agency levels.

"(2) STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in paragraph (1), the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school and local educational agency level, and shall report to the Congress not later than six months after such date regarding—

"(A) the potential for the reduction of administrative expenses at the school and local educational agency levels;

"(B) the potential usefulness of such data system to reduce such administrative expenses;

"(C) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

"(D) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

"SEC. 14011. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

"(a) ESTABLISHMENT.—The Commissioner shall, with the advice of the National Assessment Governing Board established by section 14012, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this part referred to as the 'National Assessment').

"(b) PURPOSE; STATE ASSESSMENTS.—

"(1) PURPOSE.—The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship. The Commissioner, in carrying out the National Assessment, shall use sampling techniques that produce data that are representative on a national and regional basis and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall—

"(A) collect and report data on a periodic basis, but at least once every 2 years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

"(B) report achievement data on a basis that ensures valid and reliable trend reporting;

"(C) include, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socioeconomic status;

"(D) collect and report data on students receiving services under part A of title I; and

"(E) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

"(2) STATE ASSESSMENTS.—

"(A) IN GENERAL.—The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

"(B) STATE PARTICIPATION.—States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2). Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, required in section 14012(e)(5), and of the standards for sampling, test administration, test security, data collection, validation, and reporting.

"(C) STATE REVIEW AND RELEASE OF RESULTS.—A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

"(3) PROHIBITED DATA.—In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

"(4) TECHNICAL ASSISTANCE.—In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

"(c) ACCESS.—

"(1) PUBLIC ACCESS.—Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

"(2) PERSONALLY IDENTIFIABLE INFORMATION.—

"(A) IN GENERAL.—The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

"(B) SPECIAL RULE.—Notwithstanding any other provision of law, the Secretary may decline to make available to the public for a period, not to exceed 10 years following their initial use, cognitive questions that the Secretary intends to reuse in the future.

"(C) TEST INSTRUMENTS.—The Secretary may, upon the request of a State educational agency or a local educational agency, make National Assessment test instruments available for assessing aggregate student achievement at the school or school district level. Before receiving such instruments, an agency shall provide assurances, satisfactory to the Secretary, that security requirements and testing protocols, prescribed by the Commissioner, will be complied with in the use of such instruments.

"(d) PARTICIPATION.—

"(1) NATIONAL AND REGIONAL.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

"(2) STATE.—Participation in assessments made on a State basis shall be voluntary. The Secretary shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

"(A) participate in the assessment; and

"(B) pay from non-Federal sources the non-Federal share of participation.

"(3) NON-FEDERAL SHARE.—

"(A) IN GENERAL.—For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

"(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

"(ii) the cost of coordination within the State; and

"(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2).

"(B) SPECIAL RULE.—The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

"(C) ADMINISTRATIVE COSTS.—The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample may be met.

"(e) REVIEW OF NATIONAL AND STATE ASSESSMENTS.—The Secretary shall provide for continuing reviews of both national and State assessments, including evaluation studies by the Center and solicitation of public comment on the conduct and usefulness of the National Assessment. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization, or organizations, through which the Office carries out the National Assessment.

"(f) COVERAGE AGREEMENTS.—

"(1) DEPARTMENT OF DEFENSE SCHOOLS.—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

"(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

"SEC. 14012. NATIONAL ASSESSMENT GOVERNING BOARD.

"(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (hereafter in this part referred to as the 'Board'), which shall formulate policy guidelines for the National Assessment.

"(b) MEMBERSHIP.—

"(1) APPOINTMENT AND COMPOSITION.—The Board shall be appointed by the Secretary and be composed of—

"(A) two Governors, or former Governors, who shall not be members of the same political party;

"(B) two State legislators, who shall not be members of the same political party;

"(C) two chief State school officers;

"(D) one superintendent of a local educational agency;

"(E) one member of a State board of education;

"(F) one member of a local board of education;

"(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(H) one representative of business or industry;

"(I) two curriculum specialists;

"(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

"(K) one nonpublic school administrator or policymaker;

"(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and

"(M) four additional members who are representatives of the general public, including parents.

"(2) ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

"(3) SPECIAL RULE.—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

"(c) TERMS.—Members of the Board shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary. Any appointed member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

"(d) VACANCIES.—As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subsection (b)(1). For each vacancy, the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

"(e) DUTIES.—

"(1) IN GENERAL.—In carrying out its functions under this section the Board shall—

"(A) select subject areas to be assessed (consistent with section 14011(b)(1));

"(B) identify appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

"(C) develop assessment objectives;

"(D) develop test specifications;

"(E) design the methodology of the assessment;

"(F) develop guidelines for analysis plans and for reporting and disseminating results;

"(G) develop standards and procedures for interstate, regional, and national comparisons; and

"(H) take appropriate actions needed to improve the form and use of the National Assessment.

"(2) DELEGATION.—The Board may delegate any of the Board's procedural and administrative functions to its staff.

"(3) COGNITIVE ITEMS.—The Board shall have final authority on the appropriateness of cognitive items.

"(4) BIAS.—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

"(5) GOALS STATEMENTS.—Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public.

"(f) PERSONNEL.—

"(1) IN GENERAL.—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

"(2) STAFF.—The Secretary may appoint, at the direction of the Board, such staff as the Board requires. Such appointments may include, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection, who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(g) COMMISSIONER REPORTS.—The Commissioner shall report to the Board at regular intervals on the Department's actions to implement the decisions of the Board.

"(h) ADMINISTRATION.—

"(1) LIMITATION.—Not to exceed 10 percent of the funds available for the National Assessment for any fiscal year may be used for administrative expenses (including staff, consultants, and contracts) and to carry out the Board's duties described in subsection (e).

"(2) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

"SEC. 14013. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $100,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title.

"TITLE XV—EDUCATION INFRASTRUCTURE

"SEC. 15001. SHORT TITLE.

"This title may be cited as the 'Education Infrastructure Act of 1994'.

"SEC. 15002. FINDINGS.

"The Congress finds that—

"(1) improving the quality of public elementary and secondary school libraries, media centers, and facilities will help our Nation meet the National Education Goals;

"*(2) Federal, State, and local funding for the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities has not adequately reflected need; and*

"*(3) the challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.*

"SEC. 15003. PURPOSE.

"*It is the purpose of this title to help our Nation meet the National Education Goals through the repair, renovation, alteration and construction of public elementary and secondary school libraries, media centers, and facilities, used for academic or vocational instruction.*

"SEC. 15004. DEFINITIONS.

"*For purposes of this title—*

"*(1) the term 'alteration' refers to any change to an existing property for use for a different purpose or function;*

"*(2) the term 'construction' refers to the erection of a building, structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking, and utilities, which provides area or cubage not previously available, including—*

"*(A) freestanding structures, additional wings, or floors, enclosed courtyards or entryways, and any other means to provide usable program space that did not previously exist; and*

"*(B) the complete replacement of an existing facility;*

"*(3) the term 'eligible local educational agency' means a local educational agency which demonstrates in the application submitted under section 15006 that such agency—*

"*(A) has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction; and*

"*(B) serves large numbers or percentages of disadvantaged students;*

"*(4) the term 'renovation' refers to any change to an existing property to allow its more efficient use within such property's designated purpose;*

"*(5) the term 'repair' refers to the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage to such facility, component, or system, such deterioration or damage cannot be corrected through normal maintenance;*

"*(6) the term 'rural eligible local educational agency' means an eligible local educational agency—*

"*(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under section 1123(c); and*

"*(ii) which is not in a metropolitan statistical area; or*

"*(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area; and*

"*(7) the term 'urban eligible local educational agency' means an eligible local educational agency which—*

"*(i) serves the largest central city in a State;*

"*(ii) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or*

"*(iii) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.*

"SEC. 15005. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

"*(a) PROGRAM AUTHORITY.—From amounts appropriated pursuant to the authority of subsection (b) in any fiscal year, the Secretary shall award grants to eligible local educational agencies having applications approved under section 15006 to carry out the authorized activities described in section 15007.*

"*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title.*

"SEC. 15006. APPLICATIONS.

"*Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary. Each such application shall—*

"*(1) contain an assurance that such application was developed in consultation with parents and classroom teachers; and*

"*(2) include—*

"*(A) a description of each architectural, civil, structural, mechanical, electrical, or telephone line, deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;*

"*(B) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purposes of this part;*

"*(C) a description of the corrective action to be supported with funds provided under this title;*

"*(D) a cost estimate of the proposed corrective action;*

"*(E) an identification of the total amount and percentage of such agency's budget used in the preceding fiscal year for the maintenance, repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities;*

"*(F) a description of how such agency plans to maintain the repair, renovation, alteration, or construction supported with funds provided under this title;*

"*(G) a description of how activities supported with funds provided under this title will promote energy conservation;*

"*(H) a description of the extent to which the repair, renovation, alteration, or construction will help the Secretary meet the goals described in section 15010(1)(A); and*

"*(I) such other information as the Secretary may reasonably require.*

"SEC. 15007. CRITERIA FOR AWARDING GRANTS.

"*(a) IN GENERAL.—The Secretary shall award grants under this title on the basis of the extent to which—*

"*(1) the grant is needed to address conditions that compromise learning, health or safety; and*

"*(2) the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds, to undertake the project without Federal assistance.*

"*(b) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, including the issuance of bonds, to carry out the activities for which assistance is sought.*

"*(c) EQUITABLE DISTRIBUTION.—To the extent feasible, in awarding grants under this title the Secretary shall ensure that there is an equitable distribution of such grants among urban eligible local educational agencies and rural eligible local educational agencies.*

"SEC. 15008. AUTHORIZED ACTIVITIES.

"*Each eligible local educational agency receiving a grant under this title shall use such grant funds to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction, including—*

"*(1) inspection of such library, center, or facility;*

"*(2) repairing such library, center, or facility that poses a health or safety risk to students;*

"*(3) upgrading of and alteration to such library, center, or facility in order to accommodate new instructional technology;*

"*(4) meeting the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990;*

"*(5) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost-effective method;*

"*(6) meeting Federal, State, or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such library, center, or facility; and*

"*(7) replacing an old such library, center, or facility that is most cost-effectively torn down rather than renovated.*

"SEC. 15009. REQUIREMENTS.

"*(a) SPECIAL RULES.—*

"*(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.*

"*(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair and construction of school facilities used for educational purposes, and not to supplant such funds.*

"*(b) GENERAL LIMITATIONS.—*

"*(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.*

"*(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.*

"*(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.*

"*(4) APPLICABILITY OF LAWS REGARDING INDIVIDUALS WITH DISABILITIES.—Sections 504 and 505 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 shall apply to projects carried out with Federal funds provided under this title.*

"SEC. 15010. FAIR WAGES.

"*All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).*

"SEC. 15011. FEDERAL ASSESSMENT.

"The Secretary shall reserve not more than 1 percent of funds appropriated pursuant to the authority of section 15005(b)—

"(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

"(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of projects supported with funds provided under this title; and

"(B) evaluate the state of American public elementary and secondary school libraries, media centers, and facilities; and

"(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

"TITLE XVI—URBAN AND RURAL EDUCATION

"SEC. 16001. DEFINITIONS.

"Except as otherwise provided, for the purposes of this title:

"(1) CENTRAL CITY.—The term 'central city' has the same meaning used by the Bureau of the Census.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization that is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

"(3) COMMUNITY AS SCHOOL CONCEPT.—The term 'community as school concept' means the mutual sharing of the local public school's and the local community's human, financial, technical, and environmental resources to help meet each others needs;

"(4) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' has the same meaning used by the Bureau of the Census.

"(5) POVERTY LEVEL.—The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for All Urban Consumers.

"(6) RURAL ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'rural eligible local educational agency' means a local educational agency—

"(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under section 1123(c); and

"(ii) which is not in a metropolitan statistical area; or

"(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

"(7) STATE.—The term 'State' means each of the several States and the District of Columbia, but does not include Guam, American Samoa, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

"(8) URBAN ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'urban eligible local educational agency' means a local educational agency that—

"(A) serves the largest central city in a State;

"(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

"(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

"PART A—URBAN SCHOOLS

"SEC. 16101. SHORT TITLE.

"This part may be cited as the 'Urban Schools of America (USA) Act of 1994'.

"SEC. 16102. FINDINGS.

"The Congress finds that—

"(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

"(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner cities;

"(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the 'haves and the have-nots' in society;

"(4) the cost to America's businesses to provide remedial education to secondary school graduates is approximately $30,000,000,000 per year;

"(5) urban public schools enroll a disproportionately large share of the Nation's poor and at-risk youth;

"(6) urban public schools enroll approximately one-third of the Nation's poor, 40 percent of the Nation's African-American children, and 30 percent of the Nation's Hispanic youth;

"(7) nearly 20 percent of the Nation's limited-English proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

"(8) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

"(9) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

"(10) urban preschoolers have one-half the access to early childhood development programs as do other children;

"(11) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

"(12) declining numbers of urban minority secondary school graduates are pursuing post-secondary educational opportunities;

"(13) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

"(14) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

"(15) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(16) Federal and State funding of urban public schools has not adequately reflected need; and

"(17) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

"SEC. 16103. PURPOSE.

"It is the purpose of this part to provide financial assistance to—

"(1) assist urban public schools in meeting National Education Goals;

"(2) improve the educational and social well-being of urban public school children;

"(3) close the achievement gap between urban and nonurban public school children, while improving the achievement level of all children nationally;

"(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

"(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

"(6) encourage community, parental, and business collaboration in the improvement of urban schools.

"Subpart 1—Urban School Improvement

"SEC. 16121. ALLOCATION OF FUNDS.

"(a) RESERVATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall reserve 5 percent of the amounts appropriated or otherwise made available to carry out this subpart for any fiscal year, to provide incentive awards in accordance with section 16126.

"(2) INAPPLICABILITY.—Paragraph (1) shall not apply for the first year for which funds are appropriated to carry out this subpart.

"(b) FEDERAL ALLOTMENT.—From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each urban eligible local educational agency with an approved application in each fiscal year an amount which bears the same relationship to such funds as the amount such urban eligible local educational agency was allocated under section 1123 (or for fiscal year 1995 only, such section's predecessor authority) in the preceding fiscal year bears to the total amount received under such section in such preceding fiscal year by all urban eligible local educational agencies.

"(c) RESERVATION FOR COMMUNITY-BASED ORGANIZATIONS AND NONPROFIT PARTNERSHIPS.—Each urban eligible local educational agency shall reserve not more than 5 percent of the amounts allotted under subsection (b) for any fiscal year, to make as many grants as practicable for the activities described in section 16124 to—

"(1) community-based organizations; or

"(2) nonprofit partnerships between the urban eligible local educational agency and city-wide collaboratives of private sector businesses or universities.

"(d) PAYMENTS.—The Secretary shall make annual payments only to urban eligible local educational agencies that—

"(1) comply with the provisions of section 16125; and

"(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 16125 shows progress toward meeting National Education Goals.

"(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of any allotment or grant made under this subpart may be used for administrative costs.

"SEC. 16122. APPLICATION.

"(a) APPLICATION REQUIRED.—

"(1) URBAN LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—Any urban local educational agency desiring to receive an allotment from the Secretary to carry out this subpart shall—

"(i) develop and prepare an application;

"(ii) submit to the State educational agency the application for review and comment; and

"(iii) submit the application described in clause (i) to the Secretary for approval.

"(B) DURATION.—Except as provided in section 16125, the application described in clause (i) may be for a period of not more than 5 years.

"(2) COMMUNITY-BASED ORGANIZATIONS AND NONPROFIT PARTNERSHIPS.—Any community-based organization or nonprofit partnership referred to in section 16121(c) desiring to receive a grant from an urban eligible local educational agency pursuant to section 16126 shall—

"(A) submit an application to the urban eligible local educational agency;

"(B) describe in the application the collaborative efforts undertaken with the urban eligible

local educational agency in designing a program to meet the purposes of this subpart; and

"(C) describe in the application how funds will be used to help meet the education goals selected by the urban eligible local educational agency pursuant to subsection (b).

"(b) CONTENTS OF URBAN LOCAL EDUCATIONAL AGENCY APPLICATION.—Each application submitted by an urban eligible local educational agency shall include a description of—

"(1) the ranking of all schools in the urban eligible local educational agency by achievement, poverty, and racial isolation and how such schools will be served in accordance with section 16127(a);

"(2) the community served by the urban eligible local educational agency and the effects of the community on the educational conditions within the schools served by the urban eligible local educational agency;

"(3) the academic and other goals selected by the urban eligible local educational agency and their relationship to the standards set for all students under the Goals 2000: Educate America Act or title I of this Act;

"(4) how funds received under this subpart will be used to meet the National Education Goals selected by the urban eligible local educational agency;

"(5) how promising or successful models or programs will be replicated in designing activities assisted under this subpart; and

"(6) the statistical indicators and other criteria that the urban eligible local educational agency will use to measure progress toward meeting National Education Goals, and a description of what the urban eligible local educational agency has done to ensure that any assessments used to measure such progress will not have a negative effect on minority or language minority students.

"SEC. 16123. PLANNING PERIOD.

"Any urban eligible local educational agency requiring additional planning efforts to meet the provisions of this subpart may use the first 6 months of the initial program year for planning purposes, subject to approval by the Secretary, except that not more than 15 percent of the first year's allotment shall be used for such purposes. A written report of the results of such planning shall be submitted to the Secretary not later than the end of the first project year.

"SEC. 16124. USES OF FUNDS.

"(a) IN GENERAL.—Funds allotted under this subpart shall be used by urban eligible local educational agencies, community-based organizations, or nonprofit partnerships to meet National Education Goals through programs designed to—

"(1) increase the academic achievement of urban public school children to at least the national average, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

"(D) supplementary academic instruction;

"(E) efforts to improve problem-solving and higher-order thinking skills;

"(F) programs to increase student motivation for learning; and

"(G) efforts to lengthen the school day or school year, or to reduce class sizes;

"(2) ensure the readiness of all urban public school children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes and parent involvement activities;

"(C) activities designed to coordinate prekindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) upgrading the qualifications of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient preschool children;

"(3) increase the graduation rates of urban public school students to at least the national average, such as—

"(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

"(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support, such as mentoring programs;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

"(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

"(D) efforts to increase voter registration among eligible public secondary school students;

"(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

"(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

"(5) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to test efforts to increase the professionalization of teachers or to bring teachers up to national voluntary standards;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

"(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

"(F) activities specifically designed to increase the number of minority teachers in urban schools;

"(G) programs designed to 'grow your own' teachers;

"(H) incentives for teachers to work in inner-city public schools; and

"(I) collaborative activities with urban universities to revise and upgrade teacher training programs; or

"(6) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of urban public school students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

"(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs.

"(b) SPECIAL RULE.—Funds allotted under this subpart may be used for the planning, development, operation, or expansion of programs and activities that are designed to assist urban public schools in meeting National Education Goals, and may include—

"(1) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

"(2) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

"(3) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

"(4) guidance and psychological counseling, social work, and other support services that contribute to progress in achieving National Education Goals;

"(5) efforts to acquire and improve access to educational technology;

"(6) programs to serve homeless children, children in desegregation programs, immigrants, migrants, or other highly mobile populations, even if such individuals do not attend a public school assisted under this subpart; and

"(7) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

"(c) PRIORITY.—Each urban eligible local educational agency submitting an application shall give priority in designing the program assisted under this subpart to activities that replicate successful efforts in other urban local educational agencies or expand successful programs within the urban eligible local educational agency.

"SEC. 16125. ACCOUNTABILITY.

"(a) IN GENERAL.—The Secretary may award an allotment under this subpart to an urban eligible local educational agency to enable such an agency to operate a program under this subpart for a period of not more than 5 years. If an urban eligible local educational agency receiving an allotment under this subpart meets the

accountability requirements described in subsection (b) at the end of the 5-year period, and the requirements described in subsection (c) at the end of each year, as determined by the Secretary, such agency shall be eligible to continue the project with funds under this subpart for an additional 3-year period.

"(b) REQUIREMENTS TO MOVE TOWARD NATIONAL EDUCATION GOALS.—

"(1) PROGRAM CONTINUATION.—Except as provided in paragraph (2), if after 5 years of receiving an allotment under this subpart an urban eligible local educational agency is able to demonstrate to the satisfaction of the Secretary that such agency has increased the achievement level of urban public school students in the lowest 2 quartiles in the schools served by such agency and assisted under this subpart as measured by the statistical indicators and other criteria specified in the application in excess of the average such achievement of such students in the 3-year period prior to the initiation of the project, then such agency shall be eligible to continue the project with funds under this title for an additional 5-year period upon reapplication under section 16122.

"(2) SPECIAL RULE.—If after 5 years of receiving an allotment under this subpart an urban eligible local educational agency is able to demonstrate to the Secretary that it has made significant progress in school improvement, given changes in the student population or other factors beyond such agency's control, then such agency shall be considered to have met the requirements of paragraph (1) so long as the achievement level of the schools served by such agency and assisted under this subpart did not decline over the 5-year period.

"(c) COLLECTION OF DATA.—Each urban eligible local educational agency, community-based organization, university, or nonprofit partnership receiving an allotment under this subpart shall annually collect and submit to the Secretary data based on the statistical indicators and other criteria described in the application submitted by such urban eligible local educational agency for the purposes of monitoring progress in achieving National Education Goals. Such data shall include multiple measures or indicators of each variable, and may take into consideration the mobility of students in the schools served under this subpart.

"SEC. 16126. INCENTIVE AWARDS TO EXEMPLARY PROGRAMS.

"From amounts reserved pursuant to section 16121(a) or otherwise made available, the Secretary is authorized to make competitive awards to individual public schools participating in a program assisted under this subpart that demonstrate to the satisfaction of the Secretary success in at least 3 of the following areas:

"(1) Unusual or exemplary progress in achieving the National Education Goals through programs described in section 16124.

"(2) Exemplary or unusually effective collaborative arrangements between public schools, community-based organizations, agencies, parent groups, colleges and businesses.

"(3) Identification, review, and removal of potential barriers to student performance in achieving National Education Goals, including a decrease in suspensions, expulsions, in-grade retentions, and ability groupings, and lack of access to course offerings in pre-algebra and introductory algebra.

"(4) Substantial expansion of the hours that public schools remain open for community use or student after-school recreation.

"SEC. 16127. SPECIAL RULES.

"(a) RANKING OF SCHOOLS TO DETERMINE RELATIVE NEED.—

"(1) IN GENERAL.—In order to determine which public schools are most in need of services, each urban eligible local educational agency desiring to receive an allotment under this subpart shall separately rank all public elementary and secondary schools under the jurisdiction of such agency on the basis of—

"(A) low achievement;

"(B) high poverty; and

"(C) racial isolation.

"(2) PERCENTAGE OF SCHOOLS TO BE SERVED.—Each urban eligible local educational agency that receives an allotment under this subpart shall serve at least 10 percent, but not more than 20 percent, of the public schools under the jurisdiction of such agency.

"(3) CRITERIA FOR SCHOOLS TO BE SERVED.—Subject to paragraph (2) of this subsection, each urban eligible local educational agency that receives an allotment under this subpart—

"(A) shall serve any public school that is determined to be most in need with respect to all 3 rankings described in paragraph (1);

"(B) may serve any public school that is determined to be most in need with respect to any 1 or more of such rankings; and

"(C) may serve any public school that received assistance under this title in a previous fiscal year.

"(b) FLEXIBILITY.—Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegregation, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

"Subpart 2—General Provisions

"SEC. 16131. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the 'Conference') which shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(2) PURPOSE.—The purpose of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of urban education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

"(C) conduct the initial planning for a permanent national advisory commission on urban education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of 12 individuals, including—

"(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

"(B) representatives of the Congress, the Department of Education, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies; and

"(D) individuals with special knowledge of and expertise in urban education.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the Majority Leader of the Senate shall select one-third of such participants, and the Speaker of the House of Representatives shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

"PART B—RURAL SCHOOLS

"SEC. 16201. SHORT TITLE.

"This part may be cited as the 'Rural Schools of America (RSA) Act of 1994'.

"SEC. 16202. FINDINGS.

"The Congress finds that—

"(1) the ability of America's rural public school systems to meet the National Education Goals will contribute to the economic competitiveness and academic standing of the Nation in the world community;

"(2) the quality of public education in the rural areas of the Nation has a direct effect on the economic development of the rural communities of the Nation;

"(3) the success of rural public schools in boosting the achievement of minority youth attending such schools will determine the ability of the Nation to close the gap between the haves and the have-nots in society;

"(4) the cost to America's businesses to provide remedial education to secondary public school graduates is approximately $21,000,000,000 per year;

"(5) rural public schools enroll a disproportionately large share of the Nation's poor and at-risk youth;

"(6) approximately 60 percent of the Nation's public school districts are rural with a population of less than 2,500;

"(7) approximately one out of every four of America's rural children are living below the poverty line;

"(8) the academic performance of students in the average rural public school system is below that of students in most suburban school systems;

"(9) rural preschoolers have less access to early childhood development programs than other children;

"(10) shortages of teachers for rural public school systems is greater than in other kinds of school systems;

"(11) a declining number of rural public secondary school graduates are pursuing postsecondary education opportunities;

"(12) the average age of rural public school buildings is more than 45 years old and such buildings are often in serious disrepair, creating poor and demoralizing working and learning conditions;

"(13) solving the challenges facing the Nation's rural public schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(14) Federal and State funding of rural public schools has not adequately reflected need; and

"(15) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of rural public schools.

"SEC. 16203. PURPOSE.

"It is the purpose of this part to provide financial assistance to rural public schools most in need, to encourage the comprehensive restructuring of America's rural schools, the appropriate use of telecommunications technologies for learning, and to support innovative

programs which improve performance through programs and projects designed to—

"(1) assist rural public schools in meeting National Education Goals;

"(2) encourage rural public schools to engage in school reform;

"(3) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(4) improve the educational and social well-being of rural public school children;

"(5) close the achievement gap between children attending rural public schools and other children, while improving the achievement level of all children nationally;

"(6) conduct coordinated research on rural education problems, solutions, promising practices, and distance learning technologies;

"(7) improve the Nation's global economic and educational competitiveness by improving the Nation's rural public schools;

"(8) encourage community, parental, and business collaboration in the improvement of rural public schools;

"(9) encourage rural school consortia for the purpose of increasing efficiency and course offerings;

"(10) encourage a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(11) encourage community-as-school concepts, which include the role public schools can play to assist with rural community economic revitalization; and

"(12) provide meaningful inservice opportunities for rural public school teachers.

"Subpart 1—Rural School Improvement

"SEC. 16221. ALLOTMENT OF FUNDS.

"(a) RESERVATION.—From the amount appropriated or otherwise made available to carry out this subpart for any fiscal year after the first fiscal year in which the Secretary awards allotments to State educational agencies under this subpart, the Secretary shall reserve 5 percent of such funds to provide incentive awards in accordance with section 16226.

"(b) ALLOTMENTS.—

"(1) FEDERAL ALLOTMENT.—From the remainder of the funds not reserved under subsection (a), the Secretary shall allot to each State educational agency with an approved application in each fiscal year an amount which bears the same relationship to such funds as the amount all rural eligible local educational agencies with approved applications in the State were allocated under section 1123 (or for fiscal year 1995 only, such section's predecessor authority) in the preceding fiscal year bears to the total amount received under such section (or predecessor authority) in such preceding fiscal year by all rural eligible local educational agencies with approved applications in all States.

"(2) STATE ALLOTMENT.—

"(A) RESERVATION FOR ADMINISTRATIVE EXPENSES.—From amounts received pursuant to paragraph (1), each State educational agency may reserve not more than 1 percent of such amount for administrative expenses.

"(B) RESERVATION FOR COMMUNITY-BASED ORGANIZATIONS AND NONPROFIT PARTNERSHIPS.—From amounts received under paragraph (1) for any fiscal year, each State educational agency shall reserve not more than 5 percent to make as many grants as practicable for activities in accordance with the National Education Goals and described in section 16224 to—

"(i) community-based organizations; or

"(ii) nonprofit partnerships among rural eligible local educational agencies, local colleges or universities, private sector businesses, or any combination thereof, that enter into a written agreement with at least one rural eligible local educational agency.

"(C) FORMULA.—From the remainder of amounts received pursuant to paragraph (1) and not reserved pursuant to subparagraphs (A) and (B) in each fiscal year, each State educational agency shall allot to each rural eligible local educational agency with an approved application an amount which bears the same relationship to such funds as the amount such rural eligible local educational agency was allocated under section 1123 (or for fiscal year 1995 only, such section's predecessor authority) in the preceding fiscal year bears to the total amount received under such section (or predecessor authority) in such preceding fiscal year by all rural eligible local educational agencies with approved applications in the State.

"(D) ADMINISTRATIVE COSTS.—Not more than 5 percent of any rural eligible local educational agency's allotment under this subsection may be used for administrative costs.

"(c) REALLOTMENT.—Any amounts available for reallotment pursuant to subsections (a) and (b) shall be reallotted in the same manner as the original allotments were made.

"SEC. 16222. APPLICATION.

"(a) STATE APPLICATION.—

"(1) IN GENERAL.—Each State educational agency desiring to receive an allotment in any fiscal year to carry out the provisions of this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the State's approach to improving education in rural public schools;

"(B) contain such information as the Secretary may reasonably require in order to make the allotment described in section 16221(b)(1); and

"(C) contain such other information or assurances as the Secretary determines necessary to ensure compliance with this subpart.

"(b) LOCAL APPLICATION.—

"(1) IN GENERAL.—Any rural eligible local educational agency desiring to receive an allotment to carry out this subpart, shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.

"(2) CONTENTS OF LOCAL EDUCATIONAL AGENCY APPLICATION.—Each application submitted by a rural eligible local educational agency pursuant to paragraph (1) shall include a description of—

"(A) the community served by the rural eligible local educational agency and the effects of the community on the educational conditions within the public schools served by the rural eligible local educational agency;

"(B) the academic and other goals selected by the rural eligible local educational agency and their relationship to the standards set for all students under the Goals 2000: Educate America Act or title I of this Act;

"(C) how funds received under this subpart will be used to meet the National Educational Goals selected by the rural eligible local educational agency;

"(D) how promising or successful models or programs will be replicated in designing activities assisted under this subpart;

"(E) which federally funded programs and activities are being expanded under this subpart; and

"(F) the statistical indicators and other criteria that the rural eligible local educational agency will use to measure progress toward meeting National Education Goals.

"(3) DURATION.—Except as provided in section 16225, the application described in paragraph (1) may be for a period of not more than 5 years.

"(c) COMMUNITY-BASED ORGANIZATIONS AND NONPROFIT PARTNERSHIPS.—Any community-based organization or nonprofit partnership described in section 16221(b)(2)(B) desiring to receive a grant from a State educational agency pursuant to such section shall—

"(1) prepare and submit an application to the State educational agency;

"(2) describe in the application the collaborative efforts undertaken with a rural eligible local educational agency in designing a program to meet the purposes of this part; and

"(3) describe in the application how funds will be used to help meet the education goals selected by a rural eligible local educational agency pursuant to subsection (b) of this section.

"SEC. 16223. PLANNING PERIOD.

"Any rural eligible local educational agency requiring additional planning efforts to meet the requirements of this subpart may use the first 3 months of the initial program year for planning purposes, subject to approval by the State educational agency, except that not more than 10 percent of the first year's allotment shall be used for such purposes. A written report of the results of the plan shall be submitted to the State educational agency.

"SEC. 16224. USES OF FUNDS.

"(a) IN GENERAL.—Funds allotted under section 16221(b)(2) shall be used by rural eligible local educational agencies, or community-based organizations or nonprofit partnerships described in section 16221(b)(2)(B), to meet National Education Goals through programs designed to—

"(1) increase the academic achievement of rural public school children to at least the national average, including education reform initiatives, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) supplementary academic instruction;

"(D) efforts to improve problem-solving and higher-order critical thinking skills;

"(E) programs to increase student motivation for learning;

"(F) efforts to lengthen the school day, school year, or reduce class sizes; and

"(G) encouraging the establishment of rural school consortia to increase efficiency and course offerings;

"(2) ensure the readiness of all rural children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes, including parenting classes for teenage parents, and parent involvement activities;

"(C) activities designed to coordinate prekindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) improving the skills of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for student-parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient and migrant preschool children;

"(3) increase the graduation rates of rural public school students to at least the national average, when funds are used to serve secondary schools, such as—

"(A) dropout prevention activities and support services for students at-risk of dropping out of school;

"(B) reentry, outreach and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual, special education, and migrant students, who have dropped out of school or are at risk of dropping out of school;

"(4) prepare rural public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, enrolling in postsecondary educational institutions after graduation from secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist rural public school graduates in completing higher education;

"(D) activities designed in conjunction with community colleges to provide a kindergarten through grade 14 experience for rural public school secondary school students;

"(E) efforts to increase voter registration among eligible public secondary school students attending schools served by rural eligible local educational agencies;

"(F) activities designed to promote community service and volunteerism among students, parents, teachers, and the community;

"(G) civic education, law-related education, and other programs designed to enhance responsible citizenship and understanding of the political process; and

"(H) encouraging a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(5) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to increase the status of the teaching profession;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, foreign language teachers, and special education and bilingual teachers;

"(E) upgrading the skills of existing classroom teachers through the use of year-round, systematic, comprehensive inservice training programs;

"(F) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;

"(G) efforts specifically designed to increase the number of minority teachers in rural public schools;

"(H) programs designed to encourage parents and students to enter the teaching profession;

"(I) incentives for teachers to work in rural public schools;

"(J) collaborative activities with colleges and universities to revise and upgrade teacher training programs to meet the needs of rural public school students; and

"(K) training activities for the purpose of incorporating distance learning technologies; or

"(6) decrease the use of drugs and alcohol among rural public school students, and to enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of rural students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence and vandalism;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students;

"(E) collaborative activities with other agencies, businesses, and community groups;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual, migrant, and special education programs for students with special needs.

"(b) SPECIAL RULE.—Funds allotted under section 16221(b)(2) may be used by rural eligible local educational agencies, or community-based organizations or nonprofit partnerships, described in section 16221(b)(2)(B), for the planning, development, operation, or expansion of programs and activities that are designed to assist rural public schools in meeting National Education Goals, and may include—

"(1) training of teachers and other educational personnel in subject areas, or instructional technology and methods, that will improve the delivery of services in rural settings in any of the National Education Goal areas, including staff development efforts which emphasize multicultural, gender, and disability bias-free curricula;

"(2) coordination and collaboration with other rural agencies, including State rural development councils, child care organizations, universities, or the private sector;

"(3) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

"(4) guidance counseling, psychological, social work, and other support services that contribute to progress in achieving National Education Goals;

"(5) efforts to acquire and improve access to educational technology, including distance learning technologies;

"(6) programs to serve homeless children, children in schools undergoing desegregation, immigrants, migrants, or other highly mobile populations, even if such individuals do not attend a rural public school assisted under this subpart;

"(7) efforts to improve, reform and strengthen the curriculum, especially efforts to enhance critical thinking skills among rural students, and efforts to coordinate services across grade levels; and

"(8) other activities designed to assist in achieving the National Education Goals.

"(c) PRIORITY.—Each eligible rural local educational agency submitting an application under this section shall give priority in designing the program assisted under this subpart to activities that replicate successful efforts in other local educational agencies or expand successful programs within the rural eligible local educational agency.

"SEC. 16225. ACCOUNTABILITY.

"(a) IN GENERAL.—The State educational agency may award an allotment under this subpart to a rural eligible local educational agency to enable such an agency to operate a program under this subpart for a period of not more than 5 years. If a rural eligible local educational agency receiving an allotment under this subpart meets the accountability requirements described in subsection (b) at the end of 5 years and the requirements described in subsection (c) at the end of each year, as determined by the State educational agency, such local educational agency shall be eligible to continue the project with funds under this subpart for an additional 3 years if such local educational agency so desires.

"(b) REQUIREMENTS TO MOVE TOWARD NATIONAL EDUCATION GOALS.—

"(1) PROGRAM CONTINUATION.—If, after 5 years of receiving an allotment under this subpart, a rural eligible local educational agency is able to demonstrate to the satisfaction of the State educational agency that such rural eligible local educational agency has increased the achievement within the lowest 2 quartiles of students in rural public schools assisted under this subpart as measured by the statistical indicators and other criteria specified in the application in comparison to the year prior to the initiation of the project, then such agency shall be eligible to continue the project with funds under this subpart for an additional 5 years upon reapplication under section 16222.

"(2) SPECIAL RULE.—If, after 5 years of receiving an allotment under this subpart, a rural eligible local educational agency is able to demonstrate to the Secretary that it has made significant progress in school improvement, given changes in the student population or other factors beyond such agency's control, then such agency shall be deemed to have met the requirements of paragraph (1) so long as the average achievement level of the public schools assisted under this subpart did not decline over the previous 5-year period.

"(c) COLLECTION OF DATA AND CERTIFICATION.—

"(1) IN GENERAL.—Each rural eligible local educational agency, community-based organizations or nonprofit partnerships described in section 16221(b)(2)(B), receiving assistance under this subpart shall annually collect and submit to the State educational agency data based on the statistical indicators and other criteria described in the application submitted by such rural eligible local educational agency for the purposes of monitoring progress in achieving the National Education Goals in accordance with paragraph (2). Such data shall include multiple measures or indicators of each variable, and may take into consideration the mobility of students in the public schools served under this subpart or other special factors.

"(2) CERTIFICATION.—Each rural eligible local educational agency receiving an allotment pursuant to section 16221(b)(2) shall annually certify to the State educational agency that such rural eligible local educational agency has—

"(A) complied with the provisions of this subsection; and

"(B) made progress toward meeting National Education Goals and the goals described in section 16222(b)(2)(D).

"SEC. 16226. INCENTIVE AWARDS TO EXEMPLARY PROGRAMS.

"From amounts reserved pursuant to section 16221(a) or otherwise made available, the Secretary is authorized to make competitive awards to rural eligible local educational agencies to enable such agencies to provide assistance to individual schools participating in a program assisted under this subpart that demonstrate to the satisfaction of the Secretary at least 3 of the following:

"(1) Unusual or exemplary progress in achieving the National Education Goals through programs described in section 16224.

"(2) Exemplary or unusually effective collaborative arrangements between the schools, community-based organizations, agencies, parent groups, colleges, and businesses.

"(3) Identification, review and removal of potential barriers to student performance in the

National Education Goal areas, such as suspensions and expulsions, in-grade retentions, ability grouping, lack of access to course offerings, and other such barriers.

"Subpart 2—General Provisions

"SEC. 16231. WHITE HOUSE CONFERENCE ON RURAL EDUCATION.

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Rural Education (referred to in this section as the 'Conference').

"(2) DATE.—The Conference described in paragraph (1) shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(3) PURPOSE.—The purposes of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of rural public education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

"(C) conduct the initial planning for a permanent national commission on rural public education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of—

"(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

"(B) representatives of the Congress, the Department of Education, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies;

"(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

"(E) individuals with special knowledge of, and expertise in, rural business.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the Majority Leader of the Senate shall select one-third of such participants, and the Speaker of the House of Representatives shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.

"PART C—AUTHORIZATION OF APPROPRIATIONS

"SEC. 16301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title, of which—

"(1) 50 percent shall be made available to carry out part A; and

"(2) 50 percent shall be made available to carry out part B.

"(b) FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.—An eligible local educational agency may use funds received under this title only to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this title, and in no such case may such funds be used to supplant funds from non-Federal sources."

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

PART A—APPLICABILITY OF THE GENERAL EDUCATION PROVISIONS ACT

SEC. 211. TITLE; APPLICABILITY; DEFINITIONS.

Section 400 of the General Education Provisions Act (20 U.S.C. 1221 et seq.) (hereafter in this title (other than part G) referred to as the "Act") is amended to read as follows:

"SHORT TITLE; APPLICABILITY; DEFINITIONS

"SEC. 400. (a) This title may be cited as the 'General Education Provisions Act'.

"(b)(1) Except as otherwise provided, this title applies to each applicable program of the Department of Education.

"(2) Except as otherwise provided, this title does not apply to any contract made by the Department of Education.

"(c) As used in this title, the following terms have the following meanings:

"(1) The term 'applicable program' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act or under Federal law effective after the effective date of that Act.

"(2) The term 'applicable statute' means—

"(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

"(B) this title; and

"(C) any other statute that by its terms expressly controls the administration of an applicable program.

"(3) The term 'Department' means the Department of Education.

"(4) The term 'Secretary' means the Secretary of Education.

"(d) Nothing in this title shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program.".

SEC. 212. REPEAL.

Section 400A of the Act (20 U.S.C. 1221–3) is repealed.

PART B—THE DEPARTMENT OF EDUCATION

SEC. 221. NEW HEADING FOR PART A.

The heading for part A of the Act is amended to read as follows:

"PART A—FUNCTIONS OF THE DEPARTMENT OF EDUCATION".

SEC. 222. GENERAL AUTHORITY OF THE SECRETARY.

Section 408 of the Act (20 U.S.C. 1221e–3) is amended to read as follows:

"GENERAL AUTHORITY OF THE SECRETARY

"SEC. 408. The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.".

SEC. 223. REPEALS.

Sections 401, 402, 403 (20 U.S.C. 1221c), 406 (20 U.S.C. 1221e–1), 406A (20 U.S.C. 1221e–1a), 406B (20 U.S.C. 1221e–1b), 406C (20 U.S.C. 1221e–1c), and 407 (20 U.S.C. 1221e–2) of the Act are repealed.

PART C—APPROPRIATIONS AND EVALUATIONS

SEC. 231. AVAILABILITY OF APPROPRIATIONS.

(a) AMENDMENT TO HEADING.—The heading for section 412 of the Act (20 U.S.C. 1225) is amended to read as follows:

"AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL-YEAR BASIS; ADDITIONAL PERIOD FOR OBLIGATION OF FUNDS".

(b) AMENDMENT TO TEXT.—Section 412 of the Act (20 U.S.C. 1225) is further amended—

(1) in subsection (a)—

(A) by striking "to educational agencies or institutions";

(B) by striking "expenditure" and inserting "obligation"; and

(C) by striking "agency or institution concerned" and inserting "recipient";

(2) in subsection (b)—

(A) by amending the matter preceding paragraph (2) to read as follows:

"(b)(1)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this subsection, any funds from appropriations to carry out any applicable State formula grant program that are not obligated by a recipient by the end of the fiscal year for which such funds were appropriated shall remain available for obligation by such recipient during the succeeding fiscal year.

"(B) As used in this subsection, the term 'applicable State formula grant program' means an applicable program the authorizing statute or implementing regulations of which provide a formula for allocating program funds among eligible States."; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "applicable program" and inserting "applicable State formula grant program"; and

(II) by striking "and expenditure" and inserting "and expended"; and

(ii) in subparagraph (B), by striking "such educational agencies or institutions" and inserting "the recipients of such funds"; and

(3) by striking subsection (c).

SEC. 232. CONTINGENT EXTENSION OF PROGRAMS.

Section 414 of the Act (20 U.S.C. 1226a) is amended to read as follows:

"CONTINGENT EXTENSION OF PROGRAMS

"SEC. 414. (a) The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for two additional fiscal years unless the Congress, in the regular session that ends prior to the terminal fiscal year of such authorization or duration has passed legislation that becomes law and extends, or has rejected legislation that would have extended, the authorization or duration of such program.

"(b) The amount authorized to be appropriated for the period of automatic extension under subsection (a) of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

"(c) If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a).".

SEC. 233. BIENNIAL EVALUATION REPORT.

Section 417 of the Act (20 U.S.C. 1226c) is amended to read as follows:

"BIENNIAL EVALUATION REPORT

"SEC. 417. Not later than March 31, 1995, and every 2 years thereafter, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving their legislated intent and purposes during the 2 preceding fiscal years. Such report shall—

"(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

"(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

"(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

"(4) list the principal analyses and studies supporting the major conclusions in the report;

"(5) include available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of the beneficiaries of such programs and projects; and

"(6) include the results of the program evaluations conducted in accordance with section 10107 of the Elementary and Secondary Education Act of 1965.".

SEC. 234. TECHNICAL AMENDMENTS.

(a) PAYMENTS.—Section 415 of the Act (20 U.S.C. 1226a–1) is amended by striking "Commissioner" and inserting "Secretary".

(b) PROGRAM PLANNING AND EVALUATION.—Section 420 of the Act (20 U.S.C. 1228) is amended—

(1) by striking "title I of" and all that follows through "Congress)" and inserting "title IX of the Elementary and Secondary Education Act of 1965"; and

(2) by striking "subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act" and inserting "subsections (d) and (g) of section 9004 of such Act or residing on property described in section 9014(10) of such Act".

SEC. 235. REPEALS.

Sections 411 (20 U.S.C. 1223), 413 (20 U.S.C. 1226), 416 (20 U.S.C. 1226b), and 419 (20 U.S.C. 1227) of the Act are repealed.

PART D—ADMINISTRATION OF EDUCATION PROGRAMS

SEC. 241. JOINT FUNDING OF PROGRAMS.

Section 421A of the Act (20 U.S.C. 1231) is amended to read as follows:

"JOINT FUNDING OF PROGRAMS

"SEC. 421A. (a)(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

"(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the Federal law authorizing the appropriation of such funds and the Federal law appropriating such funds, and shall be made available only to parties eligible to receive such funds under such law.

"(3) If the Secretary enters into a agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to select recipients of funds under such project and to administer the awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

"(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

"(b) The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.".

SEC. 242. COLLECTION AND DISSEMINATION OF INFORMATION.

Section 422 of the Act (20 U.S.C. 1231a) is amended to read as follows:

"COLLECTION AND DISSEMINATION OF INFORMATION

"SEC. 422. The Secretary shall—

"(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

"(2) inform the public regarding federally supported education programs; and

"(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.".

SEC. 243. REVIEW OF APPLICATIONS.

Section 425 of the Act (20 U.S.C. 1231b–2) is amended—

(1) in subsection (a)—

(A) by striking "Commissioner" and inserting "Secretary";

(B) by striking "and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965,";

(C) in the third sentence, by inserting a comma after "the hearing"; and

(D) in the fourth sentence—

(i) by striking the comma after "guidelines"; and

(ii) by inserting a comma after "program";

(2) in subsection (b), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(3) in subsection (d)—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(B) by inserting before the period "or issue such other orders as the Secretary may deem appropriate to achieve such compliance".

SEC. 244. USE OF FUNDS WITHHELD.

Section 428 of the Act (20 U.S.C. 1231e) is amended to read as follows:

"USE OF FUNDS WITHHELD

"SEC. 428. (a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which the allotment or reallotment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

"(b) The Secretary may use any funds withheld under subsection (a)—

"(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a), or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

"(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964, or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.".

SEC. 245. APPLICATIONS.

Subsection (a) of section 430 of the Act (20 U.S.C. 1231g) is amended by striking "for three fiscal years" and inserting "for more than 1 fiscal year".

SEC. 246. REGULATIONS.

Section 431 of the Act (20 U.S.C. 1232) is amended to read as follows:

"REGULATIONS

"SEC. 431. (a) For the purpose of this section, the term 'regulation' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

"(1) is prescribed by the Secretary or the Department; and

"(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

"(b) Regulations issued by the Secretary or the Department shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

"(c) All such regulations shall be uniformly applied and enforced throughout the 50 States.

"(d) The Secretary shall promulgate regulations in accordance with chapter 5 of title 5, United States Code, except that the exemption in section 553(a)(2) of such chapter for public property, loans, grants, and benefits shall apply only to regulations—

"(1) that govern a grant competition for the first year of a new program; or

"(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

"(e)(1) Following the enactment of any Act, or any part of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or part of such Act. Subject to paragraph (2) of this subsection, such schedule shall provide that all such final regulations shall be promulgated within 480 days after the date of enactment of such Act or part of such Act.

"(2) If in developing such schedule the Secretary determines in an exceptional case, for good cause, that a final regulation cannot be promulgated within the period specified in paragraph (1), the Secretary shall include in such schedule the date by which such regulation will be promulgated and the reasons for such determination.

"(3) Except as provided in the following sentence, all such final regulations shall be promulgated in accordance with such schedule. If the Secretary, for good cause, later determines that the Secretary cannot comply with such schedule for reasons unforeseen at the time such schedule was submitted, the Secretary shall notify such committees of the reasons for such finding and submit a new schedule. All such final regulations shall be promulgated in accordance with such new schedule.

"(f) Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 247. RECORDS; REDUCTION IN RETENTION REQUIREMENTS.

Section 437 of the Act (20 U.S.C. 1232f) is amended—

(1) in subsection (a)—

(A) by striking "grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)" and inserting "grant, subgrant, cooperative agreement, loan or other arrangement";

(B) by inserting "financial or programmatic" before "audit."; and

(C) by striking the last sentence; and

(2) in subsection (b), by striking "to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements" and inserting "to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements".

SEC. 248. TECHNICAL AMENDMENTS.

(a) HEADING FOR PART C.—The heading for part C of the Act (20 U.S.C. 1230 et seq.) is amended by striking "COMMISSIONER OF EDUCATION" and inserting "SECRETARY".

(b) SECTION 427.—Section 427 of the Act (20 U.S.C. 1231d) is amended—

(1) by striking "Commissioner" and inserting "Secretary"; and

(2) in the second sentence of the matter preceding paragraph (1), by inserting "is made" after "such determination".

(c) SECTION 430.—Section 430 of the Act (20 U.S.C. 1231g) is amended by striking "Commissioner" each place such term appears and inserting "Secretary".

(d) SECTION 433.—Section 433 of the Act (20 U.S.C. 1232b) is amended by striking "Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers" and inserting "All laborers".

(e) SECTION 434.—

(1) AMENDMENT TO HEADING.—The heading for section 434 of the Act (20 U.S.C. 1232c) is amended by striking "EDUCATIONAL".

(2) AMENDMENT TO TEXT.—Section 434 of the Act (20 U.S.C. 1232c) is amended—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary";

(B) by redesignating the matter following paragraph (3) of subsection (b) as subsection (c); and

(C) in subsection (c) (as redesignated by subparagraph (B)), by striking "paragraph (3)" and inserting "subsection (b)(3)".

(f) SECTION 435.—Section 435 of the Act (20 U.S.C. 1232d) is amended—

(1) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(2) in subsection (a)—

(A) by striking the comma after "submits a plan";

(B) by striking ", in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965,"; and

(C) by striking "title V of such Act" and inserting "part A of title V of the Elementary and Secondary Education Act of 1965" before "title V".

(g) SECTION 436.—Section 436 of the Act (20 U.S.C. 1232e) is amended—

(1) in subsection (a), by striking "that local education agency" and inserting "that local educational agency"; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting a comma after "program";

(B) in paragraph (4), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(C) in paragraph (7)(B), by striking "handicapped individuals" and inserting "individuals with disabilities".

(h) SECTION 438.—Section 438 of the Act (20 U.S.C. 1232g) is amended—

(1) in subsection (a)(4)(B)(ii), by striking the period and inserting a semicolon;

(2) in subsection (b)—

(A) in paragraph (1)(C), by striking "(iii) an administrative head of an education agency (as defined in section 408(c)), or (iv)" and inserting "or (iii)";

(B) in paragraph (1)(H), by striking "1954" and inserting "1986"; and

(C) in paragraph (3)—

(i) by striking "(C) an administrative head of an education agency or (D)" and inserting "or (C)"; and

(ii) by striking "education program" and inserting "education programs";

(3) in subsection (d), by inserting a comma after "education";

(4) in subsection (f)—

(A) by striking ", or an administrative head of an education agency,";

(B) by striking "enforce provisions of this section" and inserting "enforce this section";

(C) by striking "according to the provisions of" and inserting "in accordance with"; and

(D) by striking "comply with the provisions of this section" and inserting "comply with this section"; and

(5) in subsection (g)—

(A) by striking "of Health, Education, and Welfare"; and

(B) by striking "the provisions of".

SEC. 249. REPEALS.

Sections 421 (20 U.S.C. 1230), 423 (20 U.S.C. 1231b), 424 (20 U.S.C. 1231b–1), 426 (20 U.S.C. 1231c), 426A (20 U.S.C. 1231c–1), and 429 (20 U.S.C. 1231f) of the Act are repealed.

SEC. 250. EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES.

Subpart 1 of part C of the Act (20 U.S.C. 1231 et seq.) is further amended by inserting after section 425 the following new section:

"EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES

"SEC. 426. (a) The purpose of this section is to assist the Department in implementing its mission to ensure equal access to education and to promote educational excellence throughout the Nation, by ensuring equal opportunities to participate for all eligible students, teachers and other program beneficiaries in any project or activity carried out under an applicable program and promoting the ability of such students, teachers and beneficiaries to meet high standards.

"(b) The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

"(c) The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

"(d) Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the statutes cited in section 400(d) of this Act.".

PART E—ADVISORY COMMITTEES

SEC. 251. REPEAL.

Part D of the Act (20 U.S.C. 1233 et seq.) is repealed.

PART F—RELATED AMENDMENTS TO OTHER ACTS

SEC. 261. DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) OFFICE OF PRIVATE EDUCATION.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"OFFICE OF PRIVATE EDUCATION

"SEC. 216. Subject to section 413, there shall be in the Department an Office of Private Education to ensure the maximum participation of nonpublic school students in all applicable programs, as such term is defined in section 400(c)(1) of the General Education Provisions Act, for which such children are eligible.".

(b) RULES; ACQUISITION AND MAINTENANCE OF PROPERTY.—Part B of title IV of the Department of Education Organization Act (20 U.S.C. 3471 et seq.) is amended—

(1) in section 414—

(A) by striking "(a)"; and

(B) by striking subsection (b);

(2) in section 421, by inserting "and to accept donations of services" after "personal,"; and

(3) by repealing section 427.

PART G—CONFORMING AMENDMENTS

SEC. 271. THE REHABILITATION ACT OF 1973.

(a) SECTION 9.—Section 9 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is repealed.

(b) SECTION 100.—Section 100 of the Rehabilitation Act of 1973 (29 U.S.C. 720) is amended by striking subsection (d).

TITLE III—AMENDMENTS TO OTHER ACTS

PART A—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 311. ALLOCATIONS UNDER SECTION 611 OF THE IDEA.

(a) MAXIMUM AMOUNT.—Subsection (a) of section 611 of the Individuals with Disabilities Education Act (hereafter in this part referred to as the "Act") (20 U.S.C. 1141(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (5), the maximum amount of the grant for which a State is entitled under this section for any fiscal year is—

"(A) the sum of—

"(i) the number of children with disabilities in the State, aged 6 through 21, who are receiving special education and related services, as determined under paragraph (3); and

"(ii) if the State is eligible for a grant under section 619, the number of such children in the State, aged 3 through 5; multiplied by

"(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.";

(2) by amending paragraph (2) to read as follows:

"(2) For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico."; and

(3) in paragraph (5)(A)—

(A) in clause (i), by striking "and the State" and inserting ", or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State";

(B) in clause (ii)—

(i) by striking "and the State" and inserting ", or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking clause (iii).

(b) STATE USES.—Subsection (b) of section 611 of the Act (20 U.S.C. 1141(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsections (a) and (g), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(A) this section; and

"(B) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities aged 3 through 21.

"(2) If, for fiscal year 1998 or 1999, the number of children determined under subsection (a)(3) for any State is less than the total number of children with disabilities, aged 3 through 21, counted for that State's fiscal year 1994 grants under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994), then the amount determined under paragraph (1) for that State shall be reduced by the same percentage by which the number of those children so declined.

"(3)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.".

(c) DISTRIBUTION.—Subsection (c) of section 611 of the Act (20 U.S.C. 1141(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Of the funds received under subsection (a) by any State for any fiscal year—

"(A) a State may use not more than 25 percent of such funds in accordance with paragraph (2); and

"(B) except as provided in paragraph (4), the State shall distribute at least 75 percent of such funds to local educational agencies and intermediate educational units, in accordance with subsection (d), for use in accordance with priorities established under section 612(3)."; and

(2) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) From the funds that any State may use under paragraph (1)(A) for any fiscal year, the State—

"(i) may use 5 percent of the funds received under this section or $450,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613; and

"(ii) shall use the remainder—

"(I) to provide support services and direct services, subject to subparagraph (B), in accordance with priorities established under section 612(3); and

"(II) for the administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.".

(d) FORMULA.—Subsection (d) of section 611 of the Act (20 U.S.C. 1141(d)) is amended to read as follows:

"(d)(1) From the total amount of funds available for any fiscal year under subsection (c)(1)(B), the State shall provide to each local educational agency or intermediate educational unit an amount that bears the same ratio to such total amount as the number of children, aged 3 through 21, determined under subsection (a)(3) for such agency or unit bears to the total number of such children determined for all such agencies and units that apply for such funds.

"(2)(A) To the extent necessary, the State—

"(i) shall use funds available under subsection (c)(2)(A)(ii) to ensure that each State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) receives, from the sum of such funds and funds provided under paragraph (1), an amount equal to—

"(I) the number of children, aged 6 through 21, determined under subsection (a)(3) for such agency; multiplied by

"(II) the per-child amount provided under such subpart for fiscal year 1994; and

"(ii) shall use such funds to ensure that each local educational agency that received funds for fiscal year 1994 under such subpart for children who had transferred from a State-operated or State-supported school or program assisted under such subpart receives, from the sum of such funds and funds provided under paragraph (1), an amount for each such child, aged 3 through 21, determined under subsection (a)(3) for such agency, equal to the per-child amount the agency received under such subpart for fiscal year 1994.

"(B) For the purpose of subparagraph (A), the number of children determined under subsection (a)(3) for any State agency or local educational agency shall not exceed the number of children aged 3 through 21 for whom such agency received funds under such subpart for such fiscal year.".

(e) JURISDICTIONS.—Paragraph (1) of section 611(e) of the Act (20 U.S.C. 1141(e)(1)) is amended to read as follows:

"(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau.".

(f) INSUFFICIENT APPROPRIATIONS.—Subsection (g) of section 611 of the Act (20 U.S.C. 1141(g)) is amended to read as follows:

"(g)(1)(A) If the sums appropriated under subsection (h) for any fiscal year are not sufficient to pay in full the total of the amounts that all States are eligible to receive under subsection (a), each such amount shall be ratably reduced.

"(B) If additional funds become available for making such payments for any fiscal year, such reduced amounts shall be increased on the same basis as such payments were reduced.

"(C) Any State that receives any such additional funds shall distribute such funds in accordance with this section, except that any State that has used funds available under subsection (c)(2)(A)(ii) for the purposes described in subsection (d)(2) may—

"(i) deduct, from the amount that the State would otherwise be required to make available to local educational agencies and intermediate educational units, the same amount of such additional funds as the State so used; and

"(ii) use such funds in accordance with subsection (c)(2)(A)(ii).

"(2)(A) In any fiscal year for which payments have been reduced and additional funds have not been made available under paragraph (1) to pay in full the amounts for which all States are eligible under this section, each State educational agency shall fix dates by which each local educational agency or intermediate educational unit shall report to the State agency the amount of funds available to such agency under this section that such agency estimates such agency will expend.

"(B) The State educational agency shall, in accordance with this section, reallocate any funds that the State educational agency determines will not be used during the period of availability by local educational agencies and intermediate educational units, and by any such agency or unit to which such funds would be available if such agency or unit applied for such funds under this part, to those local educational agencies and intermediate educational units that the State educational agency determines will need, and be able to use, additional funds to carry out approved programs.".

SEC. 312. TREATMENT OF CHAPTER 1 STATE AGENCIES.

Part B of the Act (20 U.S.C. 1141 et seq.) is further amended by inserting after section 614 the following new section:

"TREATMENT OF CHAPTER 1 STATE AGENCIES

"SEC. 614A. (a) For the purpose of making payments under sections 611 and 619 of this Act, any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be treated as if the State agency were a local educational agency.

"(b) Any State agency which desires to receive payments under section 611(d) and section 619(c)(3) for any fiscal year shall submit an application to the State educational agency. Such application shall—

"(1) include an assurance that all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that such children and their parents are provided all the rights and procedural safeguards described in this part; and

"(2) meet those requirements of section 614 that the Secretary finds appropriate.

"(c) Section 611(c)(4) shall not apply with respect to a State agency that is eligible for a payment under this part by application of this section.".

SEC. 313. INFANTS AND TODDLERS WITH DISABILITIES.

(a) AMENDMENT.—Subsection (c) of section 684 of the Act (20 U.S.C. 1484) is amended—

(1) by redesignating paragraph (2) as paragraph (6);

(2) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraphs (3), (4), and (5) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States."; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) For fiscal year 1995 only, the Secretary shall allot $34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

"(A) are counted on December 1, 1994; and

"(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(3) Except as provided in paragraphs (4) and (5), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

"(A) one-half of one percent of the remaining amount described in paragraph (1), excluding any amounts allotted under paragraph (2); or

"(B) $500,000.

"(4)(A) Except as provided in paragraph (5), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(i) this part; and

"(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities from birth through age 2.

"(B) If, for fiscal year 1998 or 1999, the number of infants and toddlers in any State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for that State shall be reduced by the same percentage by which the number of those infants and toddlers so declined.

"(5)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on October 1, 1994.

PART B—AMENDMENTS TO THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

SEC. 321. STATE LITERACY INITIATIVES.

Section 702 of the Stewart B. McKinney Homeless Assistance Act (hereafter in this part referred to as "the Act") (42 U.S.C. 11421) is amended to read as follows:

"STATE LITERACY INITIATIVES

"SEC. 702. (a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary of Education is authorized to make grants to State educational agencies to enable each such agency to implement, either directly or through contracts and grants, a program of literacy training and academic remediation for adult homeless individuals within the State, which program shall—

"(A) include outreach activities; and

"(B) be coordinated with other agencies or organizations, such as community-based organizations, nonprofit literacy-action organizations, and recipients of funds under the Adult Education Act, title II of the Job Training Partnership Act, the Youth Fair Chance program under part H of title IV of the Job Training Partnership Act, the Volunteers in Service to America program under part A of title I of the Domestic Volunteer Service Act of 1973, part C of this title, or the Job Opportunity and Basic Skills program under part F of title IV of the Social Security Act.

"(2) ESTIMATES AND AMOUNTS.—The Secretary of Education, in awarding grants under this section, shall give special consideration to the estimates submitted in the application submitted under subsection (b) and make such awards in whatever amounts such Secretary determines will best serve the purposes of this section.

"(b) APPLICATION.—Each State educational agency desiring to receive a grant under this section shall submit to the Secretary of Education an application at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall include an estimate of the number of homeless individuals in the State and the number of such individuals expected to be served.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the adult literacy and academic remediation programs authorized by this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau).".

SEC. 322. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of the Act (42 U.S.C. 11431 et seq.) is amended to read as follows:

"Subtitle B—Education for Homeless Children and Youth

"STATEMENT OF POLICY

"SEC. 721. It is the policy of the Congress that—

"(1) each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth;

"(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth;

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment; and

"(4) homeless children and youth should have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student performance standards to which all students are held.

"GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH

"SEC. 722. (a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

"(b) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) ALLOCATION AND RESERVATIONS.—(1) Subject to paragraph (2) and section 724(c), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 to all States for that year, except that no State shall receive less than $100,000.

"(2)(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), according to their respective need for assistance under this subtitle, as determined by the Secretary.

"(B)(i) The Secretary is authorized to transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act, that are consistent with the purposes of this Act.

"(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives and milestones.

"(3) As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

"(d) MANDATED ACTIVITIES.—Grants under this section shall be used—

"(1) to carry out the policies set forth in section 721 in the State;

"(2) to provide activities for, and services to, homeless children, including preschool-aged children, and homeless youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

"(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

"(4) to prepare and carry out the State plan described in subsection (g); and

"(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

"(e) STATE AND LOCAL GRANTS.—(1)(A) Subject to subparagraph (B), if the amount allotted to the State educational agency for any fiscal *year under this subtitle exceeds the amount such agency received for fiscal year 1990 under this subtitle, such agency shall use such funds as exceed the amount such agency received for fiscal year 1990 under this subtitle to provide grants to local educational agencies in accordance with section 723.*

"(B) The State educational agency may reserve not more than the greater of 5 percent of the amount such agency receives under this subtitle for any fiscal year, or the amount such agency received under this subtitle for fiscal year 1990, to conduct activities under subsection (f) directly or through grants or contracts.

"(2) If the amount allotted to a State educational agency for any fiscal year under this subtitle is less than the amount such agency received for fiscal year 1990 under this subtitle, such agency, at such agency's discretion, may provide grants to local educational agencies in accordance with section 723 or may conduct activities under subsection (f) directly or through grants or contracts.

"(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

"(1) estimate the number of homeless children and youth in the State and the number of such children and youth served with assistance provided under the grants or contracts under this subtitle;

"(2) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

"(3) develop and carry out the State plan described in subsection (g);

"(4) prepare and submit to the Secretary not later than October 1, 1997, and on October 1 of every third year thereafter, a report on the information gathered pursuant to paragraphs (1) and (2) and such additional information as the Secretary may require to carry out the Secretary's responsibilities under this subtitle;

"(5) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth; and

"(6) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youth (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth), to improve the provision of comprehensive services to homeless children and youth and their families.

"(g) STATE PLAN.—(1) Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall describe how such children and youth are or will be given the opportunity to meet the same challenging State performance standards all students are expected to meet, shall describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs, and shall—

"(A) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

"(B) describe programs for school personnel (including principals, attendance officers, teachers and enrollment personnel), to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

"(C) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

"(D) describe procedures that ensure that—

"(i) homeless children have equal access to preschool programs provided to other children; and

"(ii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

"(E) address problems set forth in the report provided to the Secretary under subsection (f)(4);

"(F) address other problems with respect to the education of homeless children and youth, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays that are caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(G) demonstrate that the State educational agency and local educational agencies in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

"(H) contain an assurance that the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

"(2) Each plan adopted under this subsection shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (9).

"(3)(A) The local educational agency of each homeless child and youth shall, according to the child's or youth's best interest, either—

"(i) continue the child's or youth's education in the school of origin—

"(I) for the remainder of the academic year; or

"(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

"(B) In determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection.

"(C) For purposes of this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

"(D) The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.

"(4) Each homeless child or youth shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including—

"(A) transportation services, except as required by paragraph (9);

"(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited-English proficiency;

"(C) programs in vocational education;

"(D) programs for gifted and talented students; and

"(E) school meals programs.

"(5) Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

"(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

"(B) in a manner consistent with section 438 of the General Education Provisions Act.

"(6) Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social services agencies and other agencies or programs providing services to such children or youth and their families.

"(7)(A) Each local educational agency that receives assistance under this subtitle shall designate a homelessness liaison to ensure that—

"(i) homeless children and youth enroll and succeed in the schools of that agency; and

"(ii) homeless families, children, and youth receive educational services for which such children and youth are eligible, including preschool programs, and referrals to health care services, dental services, mental health services, and other appropriate services.

"(B) State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

"(8) Each State educational agency and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records, and other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

"(9) Each plan adopted under this subsection shall—

"(A) demonstrate that transportation, to the extent possible, will be provided at no cost to homeless children and youth attending the school in which such children are enrolled; and

"(B) contain procedures for resolving disputes between local educational agencies or within a local educational agency concerning transportation costs for such children and youth.

"(10) Where applicable, each State and local educational agency shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children who become homeless.

"LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH

"SEC. 723. (a) GENERAL AUTHORITY.—(1) The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

"(2) Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other facilities.

Where services are provided through programs on school grounds, such services may also be made available to children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, except that priority for such services shall be given to homeless children and youth. To the maximum extent practicable, services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

"(3) Services provided under this section shall be designed to expand upon or improve services provided as part of the school's regular academic program.

"(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems to be addressed through the provision of such services and programs;

"(2) an assurance that the local educational agency's combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year;

"(3) an assurance that the applicant complies with, or will use requested funds to come into compliance with, paragraphs (3) through (9) of section 722(g); and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

"(c) AWARDS.—(1) The State educational agency shall, in accordance with section 722(g) and from amounts made available to such agency under section 726, award grants under this section to local educational agencies submitting an application under subsection (b) on the basis of the need of such agencies.

"(2) In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State plan required by section 722(g);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

"(D) such other criteria as the agency determines appropriate.

"(3) Grants awarded under this section shall be for terms not to exceed three years.

"(d) AUTHORIZED ACTIVITIES.—(1) A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

"(A) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State content standards and challenging State student performance standards the State establishes for other children or youth;

"(B) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational education, and school meals programs);

"(C) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

"(D) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

"(E) the provision of assistance to defray the excess cost of transportation for students pursuant to sections 722(g)(4) or 722(g)(9), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3);

"(F) the provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged children;

"(G) the provision of before- and after-school and summer enrichment programs for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(H) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(I) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

"(J) the development of coordination between schools and agencies providing services to homeless children and youth;

"(K) the provision of pupil services (including violence prevention counseling) and referrals for such services;

"(L) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

"(M) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(N) the provision of school supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

"(O) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

"SECRETARIAL RESPONSIBILITIES

"SEC. 724. (a) REVIEW OF PLANS.—In reviewing the State plans submitted by the State educational agencies under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle.

"(c) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

"(d) REPORTS.—The Secretary shall prepare and submit a report to Congress on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter.

"DEFINITIONS

"SEC. 725. For the purpose of this subtitle, the following terms have the following meanings:

"(1) The term 'Secretary' means the Secretary of Education.

"(2) The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 726. For the purpose of carrying out this subtitle, there are authorized to be appropriated $30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART C—REPEAL OF IMPACT AID STATUTES

SEC. 331. REPEAL OF IMPACT AID STATUTES.

(a) PUBLIC LAW 81–815.—The Act entitled "An Act relating to the construction of school facilities in areas affected by Federal activities, and for other purposes", approved September 23, 1950 (64 Stat. 967; 20 U.S.C. 631 et seq.) is repealed.

(b) PUBLIC LAW 81–874.—The Act entitled "An Act to provide assistance for local educational agencies in areas affected by Federal activities, and for other purposes", approved September 30, 1950 (64 Stat. 1100; 20 U.S.C. 236 et seq.) is repealed.

PART D—OTHER ACTS

SEC. 341. GOALS 2000: EDUCATE AMERICA ACT.

(a) REPEALS.—Sections 231, 232, 234, and 235 of the Goals 2000: Educate America Act are repealed.

(b) GIFT AUTHORITY.—

(1) NATIONAL EDUCATION GOALS PANEL.—Section 204 of the Goals 2000: Educate America Act is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Goals Panel may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.".

(2) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—Section 215 of the Goals 2000: Educate America Act is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Council may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.".

(c) SAFE SCHOOLS.—Paragraph (2) of section 702(b) of the Safe Schools Act of 1994 (20 U.S.C. 5962(b)(2)) is amended by striking "10 percent" and inserting "5 percent".

SEC. 342. EDUCATION COUNCIL ACT OF 1991.

Title II of the Education Council Act of 1991 (20 U.S.C. 1221–1 note) is repealed.

SEC. 343. AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988.

Title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.) is repealed.

TITLE IV—MISCELLANEOUS

SEC. 401. DOCUMENTS TRANSMITTED TO CONGRESS.

In documents transmitted to Congress explaining the President's budget request for the Special Education account, the Department of Education shall display amounts included in the request to offset the termination of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 by the Improving America's Schools Act of 1994.

TITLE V—WORKERS TECHNOLOGY SKILL DEVELOPMENT

SEC. 501. SHORT TITLE.

This title may be cited as the "Workers Technology Skill Development Act".

SEC. 502. FINDINGS.

Congress finds and declares the following:

(1) In an increasingly competitive world economy, the companies and nations that lead in the rapid development, commercialization, and application of new and advanced technologies, and in the high-quality, competitively priced production of goods and services, will lead in economic growth, employment, and high living standards.

(2) While the United States remains the world leader in science and invention, it has not done well in rapidly making the transition from achievement in its research laboratories to high-quality, competitively priced production of goods and services. This lag and the unprecedented competitive challenge that the United States has faced from abroad have contributed to a drop in real wages and living standards.

(3) Companies that are successfully competitive in the rapid development, commercialization, application, and implementation of advanced technologies, and in the successful delivery of goods and services, recognize that worker participation and labor-management cooperation in the deployment, application, and implementation of advanced workplace technologies make an important contribution to high-quality, competitively priced production of goods and services and in maintaining and improving real wages for workers.

(4) The Federal Government has an important role in encouraging and augmenting private sector efforts relating to the development, application, manufacture, and deployment of new and advanced technologies. The role should be to—

(A) work with private companies, States, worker organizations, nonprofit organizations, and institutions of higher education to ensure the development, application, production, and implementation of new and advanced technologies to promote the improvement of workers' skills, wages, job security, and working conditions, and a healthy environment;

(B) encourage worker and worker organization participation in the development, commercialization, evaluation, selection, application, and implementation of new and advanced technologies in the workplace; and

(C) promote the use and integration of new and advanced technologies in the workplace that enhance workers' skills.

(5) In working with the private sector to promote the technological leadership and economic growth of the United States, the Federal Government has a responsibility to ensure that Federal technology programs help the United States to remain competitive and to maintain and improve living standards and to create and retain secure jobs in economically stable communities.

SEC. 503. PURPOSES.

The purposes of this title are to—

(1) improve the ability of workers and worker organizations to recognize, develop, assess, and improve strategies for successfully integrating workers and worker organizations into the process of evaluating, selecting, and implementing advanced workplace technologies, and advanced workplace practices in a manner that creates and maintains stable well-paying jobs for workers; and

(2) assist workers and worker organizations in developing the expertise necessary for effective participation with employers in the development of strategies and programs for the successful evaluation, selection, and implementation of advanced workplace technologies and advanced workplace practices through the provision of a range of education, training, and related services.

SEC. 504. DEFINITIONS.

As used in this title:

(1) ADVANCED WORKPLACE PRACTICES.—The term "advanced workplace practices" means innovations in work organization and performance, including high-performance workplace systems, flexible production techniques, quality programs, continuous improvement, concurrent engineering, close relationships between suppliers and customers, widely diffused decisionmaking and work teams, and effective integration of production technology, worker skills and training, and workplace organization, and such other characteristics as determined appropriate by the Secretary of Labor, in consultation with the Secretary of Commerce.

(2) ADVANCED WORKPLACE TECHNOLOGIES.—The term "advanced workplace technologies" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving the manufacturing and industrial production of goods and commercial services, which advance the state-of-the-art; or

(B) novel industrial and commercial techniques and processes not previously generally available that improve quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, inventory management, upgraded worker skills, communications with customers and suppliers, and promotion of sustainable economic growth.

(3) DEPARTMENT.—The term "Department" means the Department of Labor.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a tax-exempt organization, as described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(6) WORKER ORGANIZATION.—The term "worker organization" means a labor organization within the meaning of section 501(c)(5) of the Internal Revenue Code of 1986.

SEC. 505. GRANTS.

(a) IN GENERAL.—The Secretary of Labor, after consultation with the Secretary of Commerce, shall, to the extent appropriations are available, award grants to eligible entities to carry out the purposes described in section 503.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a nonprofit organization, or a partnership consortium of such institutions or organizations;

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities that the entity will carry out using amounts received under the grant; and

(3) agree to make available (directly or through donations from public or private entities) non-Federal contributions toward the costs of the activities to be conducted with grant funds, in an amount equal to the amount required under subsection (d).

(c) USE OF AMOUNTS.—An entity shall use amounts received under a grant awarded under this section to carry out the purposes described in section 503 through activities such as—

(1) the dissemination of information to workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers regarding successful practices relating to the effective deployment of advanced workplace technologies, and advanced workplace practices;

(2) the provision of technical assistance to workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers to identify advanced workplace practices and strategies that enhance the effective evaluation, selection, and implementation of advanced workplace technologies;

(3) the researching and identification of new and advanced workplace technologies, and advanced workplace practices that promote the improvement of workers' skills, wages, working conditions, and job security, that research the link between advanced workplace practices and long-term corporate performance, and that are consistent with the needs of local communities and the need for a healthy environment; and

(4) the development and dissemination of training programs and materials relating to the services provided pursuant to paragraphs (1) through (3).

(d) TERMS OF GRANTS AND NON-FEDERAL SHARES.—

(1) TERMS.—Grants awarded under this section shall be for a term not to exceed 6 years.

(2) NON-FEDERAL SHARE.—Amounts required to be contributed by an entity under subsection (b)(3) shall equal—

(A) an amount equal to 15 percent of the amount provided under the grant in the first year for which the grant is awarded;

(B) an amount equal to 20 percent of the amount provided under the grant in the second year for which the grant is awarded;

(C) an amount equal to 33 percent of the amount provided under the grant in the third year for which the grant is awarded;

(D) an amount equal to 40 percent of the amount provided under the grant in the fourth year for which the grant is awarded; and

(E) an amount equal to 50 percent of the amount provided under the grant in the fifth and sixth years for which the grant is awarded.

(e) EVALUATION.—The Department shall develop mechanisms for evaluating the effectiveness of the use of a grant awarded under this section in carrying out the purposes under section 503 and, not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, prepare and submit a report to Congress concerning such evaluation.

SEC. 506. IDENTIFICATION AND DISSEMINATION OF BEST PRACTICES.

(a) IN GENERAL.—

(1) INFORMATION.—The Secretary, in cooperation and after consultation with the Secretary of Commerce, shall assist workers, worker organizations, and employers in successfully adopting advanced workplace technologies, and advanced workplace practices by identifying, collecting, and disseminating information on best workplace practices and workplace assessment tools, including—

(A) methods, techniques, and successful models of labor-management cooperation and of worker and worker organization participation in the development, evaluation, selection, and implementation of new and advanced workplace technologies, and advanced workplace practices;

(B) methods, techniques, and successful models for the design and implementation of new and advanced workplace practices;

(C) methods, techniques, and successful models for the design and implementation of advanced forms of work organization; and

(D) methods, techniques, and successful models for the assessment of worker skills and training needs relating to the effective development, evaluation, selection, and implementation of advanced workplace technologies, and advanced workplace practices.

(2) CONTENTS.—Such information on best workplace practices shall include—

(A) summaries and analyses of best practice cases;

(B) criteria for assessment of current workplace practices; and

(C) information on the best available education and training materials and services relating to the development, implementation, and operation of systems utilizing new and advanced workplace technologies, and advanced workplace practices.

(b) DISTRIBUTION.—The information and materials developed under this section shall be distributed through an appropriate entity designated by the Secretary of Commerce to the Regional Centers for the Transfer of Manufacturing Technology, to the Manufacturing Outreach Center, to other technology training entities, and directly to others as determined appropriate by the Secretary of Labor and the Secretary of Commerce.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1995 through 1997.

(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available until expended.

The PRESIDING OFFICER. The unanimous-consent request proposed by the Senator from Massachusetts is agreed to.

The committee modifications are as follows:

On page 465, in the table of contents, strike the item relating to section 13203.

On page 478, line 3, insert "proficient and" after "State's".

On page 478, line 8, strike "one assessment" and insert "mathematics, and reading or language arts,".

On page 479, line 13, insert ", so long as a State includes in the State plan information regarding the State's efforts to validate such measures" before the semicolon.

On page 479, line 19, strike "reports" and insert "interpretive and descriptive reports, which may include scores and other information on the attainment of student performance standards".

On page 479, line 24, insert "migratory children," after "disabilities,".

On page 479, line 25, strike "and".

On page 480, line 10, strike the period and insert "; and".

On page 480, between lines 10 and 11, insert the following:

"(K) particularly for assessments given in kindergarden, or grades one or two, be developmentally appropriate.

On page 480, line 25, insert ", including at least mathematics, and reading or language arts, in one grade in each school," after "assessments".

On page 481, line 16, strike "one or".

On page 487, line 20, insert ", where appropriate, educational" before "services".

On page 487, line 22, insert ", for neglected and delinquent children in community day school programs," after "children".

On page 489, between lines 15 and 16, insert the following:

"(4) give priority to serving students in the earlier grades of schools that receive funds under this part.

On page 489, line 16, strike "(4)" and insert "(5)".

On page 489, line 21, strike "(5)" and insert "(6)".

On page 490, line 12, strike "(6)" and insert "(7)".

On page 490, line 18, strike "(7)" and insert "(8)".

On page 490, line 24, strike "(8)" and insert "(9)".

On page 496, line 2, strike "and".

On page 496, line 4, strike the period and insert "; and".

On page 496, between lines 4 and 5, insert the following:

"(C) where appropriate, neglected and delinquent children in community day school programs.

On page 496, strike lines 5 through 15, and insert the following:

"(d) INAPPLICABILITY.—

"(1) IN GENERAL.—Subsections (a) and (c) shall not apply—

"(A) to a local educational agency with a total enrollment of less than 1,000 children, except that such agency shall serve school attendance areas or schools in rank order according to grade span or school on the basis of the total number of children from low-income families in grade levels served in such area or school; or

"(B) to a school participating in a desegregation program where the number of economically disadvantaged children served by the school is equal to or greater than 100 or equal to or greater than 25 percent of such school's total student enrollment.

"(2) SPECIAL RULE.—(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school described in paragraph (1) shall be at least 65 percent of the per pupil amount of funds the local educational agency serving such area or school received for that year under the poverty criterion described by such agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of children from low-income families is 50 percent or greater.

"(B) A local educational agency described in subparagraph (A) may reduce the amount of funds allocated under such subparagraph for a school attendance area or school by the amount of any supplemental State and local funds expended in such area or school for programs that meet the requirements of section 1114 or 1115.

On page 498, strike lines 3 through 21, and insert the following:

"(3) SPECIAL RULE.—(A) Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under section 1114 from statutory or regulatory provisions of any other noncompetitive, formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act), to support schoolwide programs, if the intent and purposes of such other programs are met. Such notice shall not be subject to the requirements in section 431 of the General Education Provisions Act or section 553 of title 5, United States Code.

"(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

On page 502, line 17, insert "Such activities shall be jointly developed by the principal, teachers, and other staff of each school." after "standards.".

On page 510, line 23, strike "proficiency in" and insert "a tested proficiency in English and".

On page 512, line 4, strike "interpretation" and insert "explanation".

On page 513, line 6, strike "(G)" and insert "(H)".

On page 528, line 12, strike "(F)" and insert "(I)".

On page 534, line 11, insert "met or" after "has".

On page 539, line 21, strike "all".

On page 539, line 22, strike "all".

On page 556, line 9, strike "1.05" and insert "1.00".

On page 557, line 8, strike "32" and insert "34".

On page 563, line 22, strike "No State", and insert "Notwithstanding subsection (d)(1), no State".

On page 608, line 6, strike "spouse" and insert "guardian".

On page 619, strike lines 19 through 21, and insert the following:

"(3) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in subparagraph (1)(A).

On page 625, line 11, strike "1701" and insert "1702".

On page 639, line 23, strike "an evaluations" and insert "and evaluations".

On page 640, between lines 3 and 4, insert the following:

"SEC. 1704. RESERVATION OF FUNDS FOR TERRITORIES.

"There is authorized to be appropriated for each fiscal year for purposes of each of parts D and E of this title an amount equal to not more than 1 percent of the amount appropriated for such year for such parts, for payments to the outlying areas under each such part. The amounts appropriated for each such part shall be allotted among the outlying areas according to the outlying areas' respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this title.

On page 642, line 21, strike "retraining" and insert "retaining".

On page 651, line 13, insert "teacher educators," after "teachers,".

On page 652, line 13, insert "effective prevention and" after "staff in".

On page 652, line 14, strike "inappropriate" and insert "assure appropriate".

On page 659, line 3, insert "prevention and" before "intervention".

On page 659, line 5, strike "and inappropriate" and insert "or assure appropriate".

On page 678, line 18, insert "effective prevention and" before "intervention".

On page 678, lines 19 and 20, strike "inappropriate" and insert "assure appropriate".

On page 684, line 9, insert "prevention and" after "effective".

On page 684, line 11, strike "and inappropriate" and insert "or assure appropriate".

On page 688, lines 1 and 2, strike "and D" and insert ", D and H".

On page 693, strike lines 5 through 8, and insert the following:

"ment effective collaboration—

"(A) for the instruction of children with disabilities placed into general education settings, consistent with such child's individualized education program; and

"(B) in prevention and intervention strategies to alleviate the need for, or assure appropriate, referrals of children for special education services;".

On page 696, line 8, strike "and".

On page 696, line 10, strike the period and insert "; and".

On page 696, between lines 10 and 11, insert the following:

"(22) support for partnerships between (A) schools, consortia of schools, or local educational agencies, and (B) institutions of higher education, including schools of education, that encourage teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education, and encourage students at institutions of higher education studying to become teachers to have direct, practical experience at schools.

On page 706, line 9, strike "and".

On page 707, line 10, strike the period and insert "; and".

On page 707, between lines 10 and 11, insert the following:

"(4) the term 'prevention', when used with respect to strategies, includes activities conducted to—

"(A) detect and overcome early manifestations of learning, health and social, and behavioral, problems that may impede later student learning and school achievement;

"(B) prevent students from failing to achieve commensurate with their abilities; and

"(C) alleviate the need, or increase the probability of appropriate referrals, for special education services.

On page 718, line 21, strike "The" and insert "Notwithstanding section 6205, the".

On page 738, line 16, strike "**EDUCATIONAL TECHNOLOGY**" and insert "**TECHNOLOGY FOR EDUCATION**".

On page 742, between lines 23 and 24, insert the following:

"(1) the term 'adult education' has the same meaning given such term by section 312 of the Adult Education Act;

On page 742, line 24, strike "(1)" and insert "(2)".

On page 743, line 6, strike "(2)" and insert "(3)".

On page 743, line 10, strike "(3)" and insert "(4)".

On page 743, line 18, strike "easily exchange" and insert "exchange easily".

On page 743, line 17, strike "(4)" and insert "(5)".

On page 743, line 21, insert "and other users" before the semicolon.

On page 743, line 22, strike "(5)" and insert "(6)".

On page 744, line 3, strike "(6)" and insert "(7)".

On page 744, line 5, strike "(7)" and insert "(8)".

On page 744, line 8, strike "(8)" and insert "(9)".

On page 744, line 12, strike "(9)" and insert "(10)".

On page 745, line 7, insert "and other educational settings" before "at".

On page 745, line 8, strike "educational".

On page 745, line 9, insert "for education" after "activities".

On page 748, line 9, strike "educational".

On page 748, line 9, insert "to education" after "technology".

On page 749, line 10, insert "the National Institute for Literacy" after "Arts,".

On page 750, line 16, strike "and".

On page 750, between lines 16 and 17, insert the following:

"(v) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

On page 750, line 17, strike "(v)" and insert "(vi)".

On page 752, line 1, strike "educational".

On page 752, line 2, insert "for education" after "technology".

On page 752, line 5, insert "adult education," after "education,".

On page 752, line 15, strike "educational applications" and insert "applications for education".

On page 757, line 16, strike "and schools" and insert ", schools and adult education programs".

On page 765, line 18, insert "a description of how the product can be adapted for use by students with disabilities including" before "provisions".

On page 768, line 19, strike "**EDUCATIONAL**".

On page 768, line 20, insert "**FOR EDUCATION**" after "**NETWORKS**".

On page 771, line 21, strike "structures and" and insert "structures,".

On page 771, line 22, insert "certification and recertification of teachers, and issues related to how technology fits into the school environment," after "rights,".

On page 771, line 24, strike "highways" and insert "infrastructure".

On page 771, lines 24 and 25, strike "and make recommendations to the Congress regarding such issues".

On page 784, lines 13 and 14, strike "at times other than the regular school day".

On page 789, line 18, strike "broadcasting" and insert "making".

On page 789, line 19, insert "available" before "to".

On page 790, line 17, strike "this part" and insert "subsection (a)".

On page 791, line 22, insert "the Department of Commerce," after "Agriculture,".

On page 798, lines 22 and 23, strike "at times other than the regular school day in order".

On page 799, line 9, strike "part" and insert "section".

On page 799, line 24, insert "and ensuring that there is not needless duplication of existing information infrastructure" before the semicolon.

On page 801, line 23, strike "part" and insert "section".

On page 803, line 15, strike "this part" and insert "section 3203".

On page 804, line 19, strike "this part" and insert "section 3203".

On page 806, between lines 18 and 19, insert the following:

"(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

"(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible telecommunications partnerships to enable such partnerships to develop and operate one or more programs which provide on-line access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act.

"(2) APPLICATION.—Each eligible telecommunications partnership desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

"(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its equivalent;

"(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

"(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

"(D) assure that the applicant has the technological and substantive experience to carry out the program; and

"(E) contain such additional assurances as the Secretary may reasonably require.

On page 847, beginning with line 20, strike all through page 848, line 17, and insert the following:

"(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

"(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of 21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

On page 876, line 19, insert "Chair of the Ounce of Prevention Council," after "Policy,".

On page 879, lines 24 and 25, strike ", the use of tobacco".

On page 880, line 2, strike "and".

On page 880, between lines 2 and 3, insert the following:

"(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco; and

On page 880, line 3, strike "(B)" and insert "(C)".

On page 895, between lines 11 and 12, insert the following:

"TITLE VI—INDIAN EDUCATION

"SEC. 6001. FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

"(A) are based on high-quality, internationally competitive content standards and student performance standards and build on Indian culture and the Indian community;

"(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

"(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

"(2) since the date of enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

"(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

"(4) the dropout rate for Indian students is unacceptably high, for example, nine percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

"(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

"(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

"SEC. 6002. PURPOSE.

"(a) PURPOSE.—It is the purpose of this title to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

"(b) PROGRAMS.—This title carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

"(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

"(2) the education of Indian children and adults;

"(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

"(4) research, evaluation, data collection, and technical assistance.

"PART A—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 6101. PURPOSE.

"It is the purpose of this part to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State content standards and State student performance standards that are used for all students; and

"(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

"SEC. 6102. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) IN GENERAL.—A local educational agency shall be eligible for a grant under this part for any fiscal year if the number of Indian children who are eligible under section 6106 and were enrolled in the schools of such agency and to whom the agency provided a free public education, during the preceding fiscal year—

"(1) was at least 10; or

"(2) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

"(b) INDIAN TRIBES.—If a local educational agency that is eligible for a grant under this part does not apply for such grant, an Indian tribe that has children who are served by such local educational agency may apply for such grant.

"SEC. 6103. AMOUNT OF GRANTS.

"(a) AMOUNT OF GRANT AWARDS.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency with respect to which the Secretary has approved an application under this part an amount equal to the product of—

"(A) the number of Indian children who are eligible under section 6106 and served by such agency; and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which such agency is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

"(b) MINIMUM GRANT.—A local educational agency or an Indian tribe (as authorized under section 6102(b)) that is eligible for a grant under section 6102, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this part in an amount that is not less than $4,000.

"(c) DEFINITION.—For the purpose of this section, the average per-pupil expenditure of a State shall be an amount equal to—

"(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

"(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—

"(1) IN GENERAL.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(A) the total number of Indian children enrolled in schools that are operated by—

"(i) the Bureau of Indian Affairs; or

"(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988); and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which the school is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) TRANSFER.— The Secretary shall transfer the amount determined under paragraph (1), subject to any reduction that may be necessary under subsection (e), to the Secretary of the Interior in accordance with, and subject to, section 10205.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 6602(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

"SEC. 6104. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

"(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

"(2) explains how Federal, State, and local programs, especially programs under title I, will meet the needs of such children;

"(3) demonstrates how funds made available under this part will be used for activities described in section 6105;

"(4) describes the professional development opportunities that will be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in the program assisted under this part have been properly trained to carry out such program; and

"(5) describes how the local educational agency—

"(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this part, in meeting the goals described in paragraph (2);

"(B) will provide the results of each assessment referred to in subparagraph (A) to—

"(i) the committee of parents described in subsection (c)(4); and

"(ii) the community served by the local educational agency; and

"(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

"(c) ASSURANCES.—Each application submitted under subparagraph (a) shall include assurances that—

"(1) the local educational agency will use funds received under this part only to supplement the level of funds that, in the absence of the Federal funds made available under this part, such agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

"(A) carry out the functions of the Secretary under this part; and

"(B) determine the extent to which funds provided to the local educational agency under this part are effective in improving the educational achievement of Indian students served by such agency;

"(3) the program for which assistance is sought—

"(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

"(B) will use the best available talents and resources, including individuals from the Indian community; and

"(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

"(4) the local educational agency developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by—

"(i) Indian parents of Indian children in the schools of the local educational agency, and teachers; and

"(ii) if appropriate, Indian students attending secondary schools;

"(B) the membership of which is at least three-fourths Indian parents of Indian children;

"(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

"(D) with respect to an application describing a schoolwide program in accordance with section 6105(c), has—

"(i) reviewed the program; and

"(ii) determined that the program will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

"(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

"SEC. 6105. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this part shall use the grant funds, in a manner consistent with the purpose specified in section 6101, for services and activities that—

"(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 6104(b);

"(2) are designed with special regard for the language and cultural needs of the Indian students; and

"(3) supplement and enrich the regular school program of such agency.

"(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

"(1) culturally related activities that support the program described in the application submitted by the local educational agency;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

"(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

"(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 and the Carl D. Perkins Vocational and Applied Technology Education Act, including programs for technical preparation, mentoring, and apprenticeship;

"(6) activities to educate individuals concerning substance abuse and to prevent substance abuse; and

"(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 6101.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to the agency under this part to support a schoolwide program under section 1114 if—

"(1) at least 50 percent of the enrollment of the school that is the subject of the schoolwide program is comprised of Indian children;

"(2) the committee composed of parents established pursuant to section 6104(c)(4) approves the use of the funds for the schoolwide program; and

"(3) the schoolwide program is consistent with the purpose described in section 6101.

"SEC. 6106. STUDENT ELIGIBILITY AND FORMS.

"(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this part, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this part and that otherwise meets the requirements of subsection (b).

"(b) FORMS.—

"(1) IN GENERAL.—The form described in subsection (a) shall include—

"(A) either—

"(i)(I) the name of the tribe or band of Indians (as defined in section 6601(4)) with respect to which the child claims membership;

"(II) the enrollment number establishing the membership of the child (if readily available); and

"(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

"(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any parent or grandparent of the child from whom the child claims eligibility;

"(B) a statement of whether the tribe or band of Indians with respect to which the child, parent or grandparent of the child claims membership is federally recognized;

"(C) the name and address of the parent or legal guardian of the child;

"(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

"(E) any other information that the Secretary considers necessary to provide an accurate program profile.

"(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 6103, an eligibility form prepared pursuant to this section for a child shall include—

"(A) the name of the child;

"(B) the name of the tribe or band of Indians (as defined in section 6601(4)) with respect to which the child claims eligibility; and

"(C) the dated signature of the parent or guardian of the child.

"(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 6103.

"(c) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect a definition contained in section 6601.

"(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

"(1) to establish such eligibility; and

"(2) to meet the requirements of subsection (a).

"(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 6103, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe, band, or group. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

"(f) MONITORING AND EVALUATION REVIEW.—

"(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this part, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this part. The sampling conducted under this subparagraph shall take into account size of the local educational agency and the geographic location of such agency.

"(B) Notwithstanding any other provision of law, a local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

"(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

"(A) be ineligible to apply for any other grant under this part; and

"(B) be liable to the United States for any funds provided to the local educational agency that have not been expended.

"(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (d) shall not be counted for the purpose of computing the amount of a grant under section 6103.

"(g) DISTRIBUTION.—For the purposes of the distribution of funds under this part to schools that receive funding from the Bureau of Indian Affairs pursuant to—

"(1) section 1130 of the Education Amendments of 1978; and

"(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147),

the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

"SEC. 6107. PAYMENTS.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this part the amount determined under section 6103. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

"(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this part to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this part (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

"(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 6103 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) FAILURE.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

"(A) reduce the amount of the grant that would otherwise be made to the agency under this part in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) WAIVER.—(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

"(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

"(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this part, any amounts that—

"(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this part; or

"(2) otherwise become available for reallocation under this part.

"PART B—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

"SEC. 6201. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) PURPOSE.

"(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

"(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this part with—

"(A) other programs funded under this Act; and

"(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institutions of higher education, or a consortium of such institutions.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

"(A) innovative programs related to the educational needs of educationally deprived children;

"(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects as such subjects are described in the third National Education Goal described in section 102(3) of the Goals 2000: Educate America Act;

"(C) bilingual and bicultural programs and projects;

"(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

"(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

"(F) comprehensive guidance, counseling, and testing services;

"(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

"(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

"(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

"(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; and

"(K) other services that meet the purpose described in subsection (a)(1).

"(2) PRESERVICE OR INSERVICE TRAINING.—Preservice or inservice training of professional and paraprofessional personnel may be a part of any program assisted under this section.

"(d) GRANT REQUIREMENTS AND APPLICATIONS.—

"(1) GRANT REQUIREMENTS.—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

"(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

"(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

"(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

"(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has a demonstrated—

"(I) educational merit; and

"(II) the ability to be replicated.

"(2) APPLICATION.—(A) Any eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(B) Each application submitted to the Secretary under subparagraph (A) shall contain—

"(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

"(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section; and

"(iii) such other assurances and information as the Secretary may reasonably require.

"SEC. 6202. PROFESSIONAL DEVELOPMENT.

"(a) PURPOSES.—The purposes of this section are—

"(1) to increase the number of qualified Indian individuals in professions that serve Indian people;

"(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

"(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means—

"(1) an institution of higher education, including an Indian institution of higher education;

"(2) a State or local educational agency, in consortium with an institutions of higher education; and

"(3) an Indian tribe or organization, in consortium with an institution of higher education.

"(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support.

"(2) SPECIAL RULES.—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

"(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

"(e) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

"(2) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applications describing programs that train Indian individuals.

"(f) SPECIAL RULE.—In making grants under this section, the Secretary—

"(1) shall consider the prior performance of the eligible entity; and

"(2) may not limit eligibility to receive a grant under this section on the basis of—

"(A) the number of previous grants the Secretary has awarded such entity; or

"(B) the length of any period during which such entity received such grants.

"(g) GRANT PERIOD.—Each grant under this section shall be awarded for a program of not more than 5 years.

"(h) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

"(A) perform work—

"(i) related to the training received under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated part of the assistance received.

"(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

"SEC. 6203. FELLOWSHIPS FOR INDIAN STUDENTS.

"(a) FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

"(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

"(A) of not more than 4 academic years; and

"(B) that leads—

"(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

"(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

"(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

"(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship is pursuing a course of study, such amount as the Secretary determines to be necessary to cover the cost of education provided the fellowship recipient.

"(d) SPECIAL RULES.—

"(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

"(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

"(A) the amount of the fellowship; and

"(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

"(3) PRIORITY.—In awarding fellowships under subsection (a), the Secretary shall give priority to awarding not more than 10 percent of such fellowships to Indian students who are receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

"(e) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

"(A) perform work—

"(i) related to the training for which the individual receives assistance under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated portion of such assistance.

"(2) REPORTING PROCEDURE.—The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

"(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

"SEC. 6204. GIFTED AND TALENTED.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

"(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

"(2) support demonstration projects described in subsection (c).

"(b) ELIGIBLE ENTITIES.—The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a), with—

"(1) two tribally controlled community colleges that—

"(A) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978; and

"(B) are accredited by a State or regional accrediting agency or organization; or

"(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—The grants made, or contracts entered into, by the Secretary under subsection (a) shall be used for—

"(A) the establishment of centers described in subsection (a); and

"(B) carrying out demonstration projects designed to—

"(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

"(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

"(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

"(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (a) may include—

"(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

"(i) the emotional and psychosocial needs of such students; and

"(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

"(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including—

"(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

"(ii) mentoring and apprenticeship programs;

"(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

"(D) the use of public television in meeting the special educational needs of such gifted and talented children;

"(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

"(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

"(4) APPLICATION.—Each entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(d) ADDITIONAL GRANTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as 'Bureau schools') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

"(A) gifted and talented students;

"(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

"(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

"(D) mathematics and science education.

"(2) APPLICATIONS.—Each Bureau school desiring a grant under this subsection shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

"(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

"(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

"(5) GRANT PERIOD.—Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

"(6) DISSEMINATION.—The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

"(7) EVALUATION COSTS.—(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under such subsection.

"(B) If no funds are provided under subsection (b) for—

"(i) the evaluation of activities assisted under paragraph (1);

"(ii) technical assistance and coordination with respect to such activities; or

"(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

"(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community of the United States.

"SEC. 6205. GRANTS FOR EVALUATION AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary may award grants to, and enter into contracts with, public agencies, State educational agencies in States in which more than 5,000 Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, and private institutions and organizations, to establish, on a regional basis, information centers that shall—

"(1) evaluate programs that receive assistance under this title and evaluate other Indian education programs in order to—

"(A) determine the effectiveness of the programs in meeting the special educational and culturally related academic needs of Indian children and adults; and

"(B) conduct research to determine the needs described in subparagraph (A);

"(2) provide technical assistance in the form of materials and personnel resources, upon request, to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and committees described in section 6104(c)(4) in evaluating and carrying out activities assisted under this title; and

"(3) disseminate information, upon request, to the entities described in paragraph (1) concerning all Federal education programs that affect the education of Indian children and adults, including information concerning successful models and programs designed to meet the special educational needs of Indian children.

"(b) PERIOD OF GRANT OR CONTRACT.—Each grant or contract under this section may be for a period of not more than 3 years, and may be renewed for an additional 3-year period if the Secretary annually reviews the performance of the grant recipient and determines that satisfactory progress has been made.

"(c) USE OF FUNDS.—The Secretary may award grants and enter into contracts with Indian tribes, institutions, and organizations, and public agencies and institutions for—

"(1) the dissemination, on a national basis, of information concerning education programs, services, and resources available to Indian children and adults, including evaluations of such programs, services, and resources; and

"(2) the evaluation of the effectiveness of federally assisted programs in which Indian children and adults may participate in achieving the purposes of such programs relating to Indian children and adults.

"(d) STATE AGENCY GRANTS AND CONTRACTS.—The Secretary shall award not more than 15 percent of the funds appropriated under subsection (g) for each fiscal year to State educational agencies.

"(e) APPLICATION.—

"(1) IN GENERAL.—Each entity desiring assistance under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) PRIORITY.—In approving applications under this section, the Secretary shall give priority to Indian educational agencies, organizations, and institutions.

"(3) APPROVAL.—The Secretary may approve an application under this section, only if the Secretary determines that the funds made available under this section will be used to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds provided under this section, be made available by the State or local educational agency for the activities described in this section, and in no case will be used to supplant such funds.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $8,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

"SEC. 6206. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

"(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

"(2) develop education codes for schools within the territorial jurisdiction of the tribe;

"(3) provide support services and technical assistance to schools serving children of the tribe; and

"(4) perform child-find screening services for the preschool-aged children of the tribe to—

"(A) ensure placement in appropriate educational facilities; and

"(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

"(b) PERIOD OF GRANT.—Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

"(c) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

"(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

"(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

"(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

"(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

"PART C—SPECIAL PROGRAMS RELATING TO ADULT EDUCATION FOR INDIANS

"SEC. 6301. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

"(a) IN GENERAL.—The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

"(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs that are designed to stimulate—

"(A) basic literacy opportunities for all nonliterate Indian adults; and

"(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

"(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

"(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

"(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant are achieved.

"(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

"(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

"(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

"(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

"PART D—NATIONAL RESEARCH ACTIVITIES

"SEC. 6401. NATIONAL ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 6602(b) for each fiscal year to—

"(1) conduct research related to effective approaches for the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities that are consistent with the purpose of this title.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Assistant Secretary for Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office of Educational Research and Improvement; and

"(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

"PART E—FEDERAL ADMINISTRATION

"SEC. 6501. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

"(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the 'Council'), which shall—

"(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

"(2) represent different geographic areas of the United States.

"(b) DUTIES.—The Council shall—

"(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this title—

"(A) with respect to which the Secretary has jurisdiction; and

"(B)(i) that includes Indian children or adults as participants; or

"(ii) that may benefit Indian children or adults;

"(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

"(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

"(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

"(B) recommendations concerning the funding of any program described in subparagraph (A).

"SEC. 6502. PEER REVIEW.

"The Secretary may use a peer review process to review applications submitted to the Secretary under part B, C, or D.

"SEC. 6503. PREFERENCE FOR INDIAN APPLICANTS.

"In making grants under part B, C, or D, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

"SEC. 6504. MINIMUM GRANT CRITERIA.

"The Secretary may not approve an application for a grant under part B or C unless the application is for a grant that is—

"(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

"(2) based on relevant research findings.

"PART F—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 6601. DEFINITIONS.

"As used in this title:

"(1) ADULT.—The term 'adult' means an individual who—

"(A) has attained the age of 16 years; or

"(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

"(2) ADULT EDUCATION.—The term 'adult education' has the meaning given such term in section 312(2) of the Adult Education Act.

"(3) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(4) INDIAN.—The term 'Indian' means an individual who is—

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) any tribe or band terminated since 1940; and

"(ii) any tribe or band recognized by the State in which the tribe or band resides;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose;

"(D) an Eskimo, Aleut, or other Alaska Native; or

"(E) a member of an organized Indian group that received a grant under this title prior to the date of enactment of the Act entitled the 'Improving America's Schools Act of 1994'.

"SEC. 6602. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) PART A.—For the purpose of carrying out part A of this title, there are authorized to be appropriated to the Department of Education $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) PARTS B THROUGH D.—For the purpose of carrying out parts B, C, and D of this title, there are authorized to be appropriated to the Department of Education $31,925,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(c) PART E.—For the purpose of carrying out part E of this title, there are authorized to be appropriated to the Department of Education $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 6603. CROSS REFERENCES.

"The Tribally Controlled Schools Act of 1988 is amended—

"(1) in subparagraph (C) of section 5204(a)(3) (20 U.S.C. 2503(a)(3)(C)), by striking "chapter 1 of"; and

"(2) in section 5205 (20 U.S.C. 2504)—

"(A) in subsection (a)(3), by striking "chapter 1 of"; and

"(B) in subsection (b)—

"(i) in paragraph (2), by striking "chapter 1 of"; and

"(ii) in paragraph (3)(A), by striking "chapter 1 of".

On page 916, line 2, insert "qualified" after "hire".

On page 917, line 22, strike "and nature" and insert ", nature, and past academic results".

On page 924, line 12, strike "and" after the semicolon.

On page 924, line 15, strike the period and insert "; and".

On page 924, between lines 15 and 16, insert the following:

"(3) develop, maintain, and disseminate, through comprehensive regional centers described in section 2303(a) if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

On page 948, line 4, strike "and".

On page 948, line 8, strike the period and insert "; and".

On page 948, between lines 8 and 9, insert the following:

"(7) there is a strong documented need for cash flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

On page 949, line 8, strike "or" and insert "to eligible applicants or subgrants awarded".

On page 949, line 16, insert "shall not award more than one grant" after "Secretary".

On page 949, line 17, strike "grant" and insert "subgrant".

On page 949, line 19, strike "USE OF GRANTS" and insert "USES OF FUNDS".

On page 949, line 22, strike "grants" and insert "subgrants".

On page 950, line 2, strike "a grant" and insert "funds".

On page 950, line 3, strike "grant".

On page 950, between lines 5 and 6, insert the following:

"(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

"(A) post-award planning and design of the educational program, which may include—

"(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(ii) professional development of teachers and other staff who will work in the charter school; and

"(B) initial implementation of the charter school, which may include—

"(i) informing the community about the school;

"(ii) acquiring necessary equipment and educational materials and supplies;

"(iii) acquiring or developing curriculum materials;

"(iv) minor remodeling or renovation of facilities needed to meet State or local health or safety laws or regulations; and

"(v) other initial operational costs that cannot be met from State or local sources.

On page 950, line 6, strike "(3)" and insert "(4)".

On page 950, line 12, strike "(4)" and insert "(5)".

On page 950, line 17, strike "grant" and insert "subgrant".

On page 951, line 7, insert "OF A STATE EDUCATIONAL AGENCY APPLICATION" after "CONTENTS".

On page 951, line 11, strike "shall" and insert "will".

On page 951, lines 15 and 16, strike "and the availability of grants for the establishment of such schools".

On page 951, strike lines 19 through 25, and insert the following:

"(A) will grant, or will obtain, waivers of State statutory or regulatory requirements provided for in the State's charter schools law;

On page 952, line 1, strike "eligible applicant" and insert "subgrantee".

On page 952, line 3, strike "(d)" and insert "(e)".

On page 952, line 6, strike "receiving a grant" and insert "desiring to receive a subgrant".

On page 952, line 12, insert "challenging" after "meet".

On page 952, line 23, strike "method" and insert "methods".

On page 953, line 11, insert a comma after "expired".

On page 953, line 15, strike "or State".

On page 953, line 19, strike "grant funds" and insert "subgrant funds or grant funds, as appropriate,".

On page 953, line 21, strike "grant" and insert "such".

On page 954, strike lines 20 through 25, and insert the following:

"(1) IN GENERAL.—Each eligible applicant desiring a grant pursuant to section 8202(e)(1) or 8202(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

"(d) CONTENTS OF ELIGIBLE AGENCY APPLICATION.—Each application submitted pursuant to subsection (c) shall

On page 955, strike all beginning with line 7, through page 956, line 7, and insert the following:

"(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 8203, after taking into consideration such factors as—

"(1) the contribution that the charter schools grant program will make to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

"(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

"(3) the ambitiousness of the objectives for the State charter school grant program;

"(4) the quality of the process for assessing achievement of those objectives; and

"(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

"(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 8203, after taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

"(3) the extent of community support for the application;

"(4) the ambitiousness of the objectives for the charter school;

"(5) the quality of the process for assessing achievement of those objectives; and

"(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

On page 956, line 8, strike "(b)" and insert "(c)".

On page 956, line 10, strike "grants" and insert "assistance".

On page 956, line 12, strike "(c)" and insert "(d)".

On page 956, line 14, strike ", shall award grants" and insert "shall award subgrants".

On page 956, line 15, insert "and subgrants" after "grants".

On page 956, line 22, strike "(d)" and insert "(e)".

On page 957, beginning with line 7, strike all through page 958, line 5.

On page 958, line 6, strike "8206" and insert "8205".

On page 958, line 11, strike "8204" and insert "8204(c)".

On page 959, line 15, insert ", and is operated under public supervision and direction" after "school".

On page 960, line 3, strike "Act," and insert "Act of 1975,".

On page 961, line 8, strike "8208" and insert "8207".

On page 977, line 23, strike "DEFINITIONS;".

On page 977, beginning with line 24, strike all through "CONSTRUCTION.—" on page 978, line 6.

On page 981, line 19, strike "(5)" and insert "(7)".

On page 982, line 6, strike "(5)" and insert "(7)".

On page 1035, strike lines 14 through 23.

On page 1036, line 1, strike "9002" and insert "9001".

On page 1036, line 4, insert "because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out" after "children,".

On page 1036, line 5, strike "title" and insert "part".

On page 1036, line 22, strike "Indian" and insert "Federal".

On page 1036, line 23, strike "9003" and insert "9002".

On page 1038, line 23, insert "during the previous fiscal year" after "received".

On page 1038, lines 24 and 25, strike "during the previous fiscal year".

On page 1039, line 5, strike all beginning with "In" through line 10.

On page 1039, line 15, strike "9004" and insert "9003".

On page 1039, line 17, strike "9004" and insert "9003".

On page 1042, line 11, strike "9004" and insert "9003".

On page 1043, line 5, insert "and is a foreign military officer" after "government".

On page 1043, line 16, insert "and is a foreign military officer" after "government".

On page 1045, line 6, strike "9015" and insert "9014".

On page 1047, line 6, strike "9015" and insert "9014".

On page 1048, line 13, strike "academic" and insert "fiscal".

On page 1049, line 14, strike "the" and insert "not later than the first".

On page 1049, line 18, strike "9015" and insert "9014".

On page 1049, line 23, insert "(A)(ii)," after "subparagraphs".

On page 1050, line 17, strike "90" and insert "95".

On page 1050, line 18, insert "for the preceding fiscal year" after "received".

On page 1050, lines 21 and 22, strike "for fiscal year 1994".

On page 1051, line 4, insert ", except that in the second such year the total amount the Secretary shall pay a local educational agency under subsection (b) shall not be less than 85 percent of the amount such agency received under such subsection in the preceding fiscal year" after "years".

On page 1051, line 19, strike "paragraph (1)" and insert "paragraphs (1) and (2)".

On page 1051, line 24, strike "paragraph (1)" and insert "paragraphs (1) and (2)".

On page 1052, line 6, strike "9015" and insert "9014".

On page 1052, line 16, strike "40" and insert "50".

On page 1053, lines 7 and 8, strike "or includes Federal property under exclusive Federal jurisdiction".

On page 1054, strike lines 8 through 14.

On page 1059, beginning with line 6, strike all through page 1060, line 9, and insert the following:

"(g) ADDITIONAL PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES WITH HIGH CONCENTRATIONS OF CHILDREN WITH SEVERE DISABILITIES.—

"(1) IN GENERAL.—If any local educational agency receives Federal funds from sources other than this part to carry out the purposes of this part for any fiscal year due to the enrollment of children described under subsection (a), then the Secretary shall consider such funds as a payment to such agency under this part for such fiscal year.

"(2) SPECIAL RULE.—Notwithstanding any other provision of law, if funds appropriated pursuant to section 9014(b) for payments under subsection (b) to such agency for a fiscal year which when added to the funds described in paragraph (1) received by such agency for such fiscal year exceed the maximum amount described under subsection (b)(1)(C), then the Secretary shall make available from the funds appropriated under section 9014(b) for such fiscal year such excess amounts to any local educational agency serving two or more children described under subparagraph (B) or (D) of section 9003(a)(1) who have a severe disability and a parent serving in the uniformed services (as defined by section 101 of title 37, United States Code) and assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are provided an educational program provided outside the schools of such agency.

"(3) REMAINING FUNDS.—If funds remain after payments are made under paragraph (2) for any fiscal year, then such remaining funds shall be made available for expenditures under subsection (d) in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

"(4) RATABLE REDUCTIONS.—If amounts available to carry out paragraph (2) for any fiscal year are insufficient to pay in full the total payment that all eligible local educational agencies are eligible to receive under such paragraph for such year, then the Secretary shall ratably reduce such payments to such agencies for such year.

On page 1060, between lines 14 and 15, insert the following:

"(1) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

On page 1060, line 15, strike "9005" and insert "9004".

On page 1060, line 19, strike "9004" and insert "9003".

On page 1061, line 17, strike "9004" and insert "9003".

On page 1061, line 22, strike "9004" and insert "9003".

On page 1065, line 12, strike "9004" and insert "9003".

On page 1066, line 18, strike "9006" and insert "9005".

On page 1066, line 19, strike "9003" and insert "9002".

On page 1066, line 19, strike "9004" and insert "9003".

On page 1066, line 21, strike "9003" and insert "9002".

On page 1066, line 21, strike "9004" and insert "9003".

On page 1067, line 8, strike "9005" and insert "9004".

On page 1067, line 25, strike "9004" and insert "9003".

On page 1068, line 21, strike "9007" and insert "9006".

On page 1069, line 12, strike "February 1" and insert "May 15".

On page 1070, line 13, strike "9015" and insert "9014".

On page 1071, line 22, strike "9008" and insert "9007".

On page 1071, line 24, strike "9015" and insert "9014".

On page 1072, line 4, strike "9004" and insert "9003".

On page 1072, line 6, strike "9004" and insert "9003".

On page 1072, line 11, strike "9004" and insert "9003".

On page 1072, line 12, strike "9007" and insert "9006".

On page 1072, line 17, strike "9015" and insert "9014".

On page 1072, line 19, strike "9004" and insert "9003".

On page 1072, line 22, strike "9009" and insert "9008".

On page 1073, line 7, strike "9014" and insert "9013".

On page 1073, line 8, strike "9009" and insert "9008".

On page 1073, line 10, strike "9015" and insert "9014".

On page 1074, line 10, strike "9010" and insert "9009".

On page 1076, line 2, strike "9004" each place such term appears and insert "9003".

On page 1076, line 3, strike "9004" and insert "9003".

On page 1076, line 6, strike "9004" and insert "9003".

On page 1076, line 7, strike "9004" and insert "9003".

On page 1079, line 11, strike "9011" and insert "9010".

On page 1079, line 22, strike "9012" and insert "9011".

On page 1081, line 10, strike "9013" and insert "9012".

On page 1082, line 1, strike "9014" and insert "9013".

On page 1091, line 3, strike "9015" and insert "9014".

On page 1091, line 6, strike "9003" and insert "9002".

On page 1091, line 12, strike "9004" and insert "9003".

On page 1091, line 16, strike "9004" and insert "9003".

On page 1091, line 19, strike "9004" and insert "9003".

On page 1091, line 24, strike "9007" and insert "9006".

On page 1092, line 4, strike "9008" and insert "9007".

On page 1092, line 8, strike "9009" and insert "9008".

On page 1097, strike lines 6 through 14, and insert the following:

basis, to local educational agencies that—

"(A) have enrolled during the fiscal year for which the determination is made—

"(i) at least 1,000 immigrant children and youth; or

"(ii) immigrant children and youth in numbers that represent at least 10 percent of the local educational agency's total student enrollment; or

"(B) serve small, rural and isolated school districts that have little or no experience with serving immigrant children and youth.

On page 1127, between lines 11 and 12, insert the following:

"(3) CHARTER SCHOOL.—The term 'charter school' means a public school operated under public supervision and direction, that is nonsectarian, provides elementary or secondary education, or both, does not change tuition, and complies with relevant Federal education laws.

On page 1127, line 12, strike "(3)" and insert "(4)".

On page 1127, line 15, strike "(4)" and insert "(5)".

On page 1127, line 23, strike "(5)" and insert "(6)".

On page 1128, line 3, strike "(6)" and insert "(7)".

On page 1128, line 7, strike "(7)" and insert "(8)".

On page 1128, line 18, strike "(8)" and insert "(9)".

On page 1129, line 7, strike "(9)" and insert "(10)".

On page 1129, line 9, strike "(10)" and insert "(11)".

On page 1129, line 14, strike "(11)" and insert "(12)".

On page 1129, line 18, strike "(12)" and insert "(13)".

On page 1130, between lines 2 and 3, insert the following:

"(14) Gifted and Talented.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

On page 1130, line 3, strike "(13)" and insert "(15)".

On page 1130, line 7, strike "(14)" and insert "(16)".

On page 1130, line 13, strike "(15)" and insert "(17)".

On page 1131, line 12, strike "(16)" and insert "(18)".

On page 1131, line 16, strike "(17)" and insert "(19)".

On page 1131, line 21, strike "(18)" and insert "(20)".

On page 1131, line 24, strike "(19)" and insert "(21)".

On page 1132, line 3, strike "(20)" and insert "(22)".

On page 1132, line 17, strike "(21)" and insert "(23)".

On page 1132, line 22, strike "(22)" and insert "(24)".

On page 1133, line 1, strike "(23)" and insert "(25)".

On page 1133, line 4, strike "(24)" and insert "(26)".

On page 1133, line 8, strike "(25)" and insert "(27)".

On page 1134, line 5, strike "and" and insert a comma.

On page 1134, line 7, insert ", and administrative funds under section 308(c) of the Goals 2000: Educate America Act" before the period.

On page 1135, between lines 19 and 20, insert the following:

"(f) Consolidation of Funds for Standards and Assessment Development.—In order to develop State content standards, State student performance standards, or assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act and title III of the Goals 2000: Educate America Act.

On page 1150, line 21, strike "and".

On page 1150, between lines 23 and 24, insert the following:

"(C) provides notice and information to the public regarding the waiver proposal in the manner that such agency customarily provides similar notices and information to the public; and

On page 1151, strike lines 1 through 4 and insert the following:

Act from a State educational agency—

"(A) such request has been reviewed by the State educational agency and is accompanied by the comments, if any, of such State educational agency; and

"(B) notice and information regarding the waiver proposal has been provided to the public by the agency, institution, or organization requesting the waiver in the manner that such agency, institution, or organization customarily provides similar notices and information to the public.

On page 1152, between lines 12 and 13, insert the following:

"(e) Publication.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy, and civil rights organizations, other interested parties, and the public.

On page 1169, line 5, strike "subparagraph (D)" and insert "clauses (i) and (ii)".

On page 1169, line 19, strike "subparagraph (D)" and insert "clauses (i) and (ii)".

On page 1170, lines 16 and 17, strike "subparagraph (D)" and insert "clauses (i) and (ii)".

On page 1170, line 22, strike the period and insert "; and".

On page 1170, between lines 22 and 23, insert the following:

"(C) a study of the waivers granted under section 10401, which study shall include—

"(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

"(ii) an analysis, based on an appropriate sample of agencies, tribes, organizations, and institutions receiving waivers, of the effectiveness of such waivers in improving student performance outcomes.

On page 1211, strike lines 4 through 6, and insert the following:

"(a) Grants, Contracts, and Cooperative Agreements.—

"(1) In general.—In carrying out the Commissioner's duties under this part, the Commissioner may enter into grants, contracts, and cooperative agreements.

"(2) Special rule.—Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements awarded competitively under this section may be awarded for a period of not more than 5 years, and may be renewed at the discretion of the Commissioner for an additional period of not more than 5 years.

On page 1220, lines 5 and 6, strike "for the fiscal year for which such funds are received".

On page 1226, strike lines 10 through 20.

On page 1238, line 3, strike "or".

On page 1238, line 7, strike the period and insert "; or".

On page 1238, between lines 7 and 8, insert the following:

"(iv) has at least 7,500 students in average daily attendance at the schools of such agency and in which at least 50 percent of such students are from families with an income below the poverty level determined by using criteria of poverty established by the Bureau of the Census.

On page 1296, line 25, strike the end quotation marks.

On page 1296, after line 25, insert the following:

"TITLE XVII—GUN-FREE SCHOOLS

"SEC. 1501. GUN-FREE REQUIREMENTS.

"(a) Short Title.—This section may be cited as the "Gun-Free Schools Act of 1994".

"(b) Requirements.—

"(1) In general.—Except as provided in paragraph (3), no assistance may be provided to any local educational agency under this Act unless such agency has in effect a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have brought a weapon to a school under the jurisdiction of such agency, except that such policy may allow the chief administering officer of such agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) Construction.—Nothing in this title shall be construed to prevent a local educational agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting, as provided by State law, policy, or otherwise determined by such local educational agency.

"(3) Special rule.—(A) Any local educational agency serving a State that has enacted a State law prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than 1 year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending 1 year after such date.

"(4) Definition.—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) Report to State.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency has in effect the policy required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the policy required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the types of weapons concerned.".

On page 1313, between lines 5 and 6, insert the following:

SEC. 247A. PRIVACY RIGHTS.

Section 438 of the Act (20 U.S.C. 1232g) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.";

(iii) in clause (iii) of subparagraph (C) (as redesignated by clause (i)), by striking "(C)" and inserting "(D)"; and

(iv) in subparagraph (D) (as redesignated by clause (i)), by striking "(B)" and inserting "(C)"; and

(B) in paragraph (2), by striking "or other rights" and inserting "rights";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ", including the educational interests of the child for whom consent would otherwise be required" before the semicolon;

(ii) in subparagraph (H), by striking "and" after the semicolon;

(iii) in subparagraph (I), by striking the period and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

"(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.";

(B) in paragraph (2)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) in clause (ii) (as redesignated by clause (i)), by inserting "except as provided in paragraph (1)(J)," before "such information"; and

(iii) by adding at the end the following new subparagraph:

"(B) If a third party outside the educational agency or institution permits access to information in violation of subparagraph (A)(i), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of at least 5 years.";

(3) in subsection (c), by striking "The Secretary shall adopt appropriate regulations to" and inserting "Not later than 240 days after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall adopt appropriate regulations, or identify existing regulations, which";

(4) in subsection (e), by inserting "effectively" before "informs"; and

(5) by adding at the end the following new subsection:

"(h) Nothing in this section shall prohibit an educational agency or institution from—

"(1) including appropriate information in the education record of any student whose presence at school is determined by school officials to pose a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

"(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.".

On page 1326, line 11, insert ", for fiscal years 1995 and 1996, and may use such funds for fiscal years 1997, 1998 and 1999," after "funds".

On page 1357, between lines 16 and 17, insert the following:

(d) STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM.—Subsection (b) of section 317 of the Goals 2000: Educate America Act (20 U.S.C. 5897(b)) is amended by adding at the end the following new paragraph:

"(3) OUTLYING AREAS.—(A) From the amount appropriated pursuant to the authority of subsection (f) for fiscal year 1994, the Secretary shall reserve a total of 1 percent to provide assistance under this section to the outlying areas.

"(B) The funds reserved under subparagraph (A) shall be distributed among the outlying areas by the Secretary according to the relative need of such areas for assistance under this section.".

On page 1357, after line 25, insert the following:

SEC. 344. STAR SCHOOLS PROGRAM ASSISTANCE ACT.

The Star Schools Program Assistance Act (20 U.S.C. 4081 et seq.) is repealed.

SEC. 345. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING ACT.

The Fund for the Improvement and Reform of Schools and Teaching Act (20 U.S.C. 4801) is repealed.

SEC. 346. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

(a) IN GENERAL.—Title II of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2231 et seq.) is amended by striking part E.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994.

SEC. 347. OFFICE OF INDIAN EDUCATION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) (as amended by section 271) is further amended by adding at the end the following new section:

"OFFICE OF INDIAN EDUCATION

"SEC. 217. (a) There shall be in the Department an Office of Indian Education (hereafter in this section referred to as the 'Office').

"(b)(1) The Office shall be headed by a Director of Indian Education (hereafter in this section referred to as the 'Director') who shall—

"(A) be appointed by the Secretary; and

"(B) report directly to the Assistant Secretary for Elementary and Secondary Education.

"(2) The Director shall—

"(A) be responsible for administering title VI of the Elementary and Secondary Education Act of 1965;

"(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office;

"(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

"(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

"(3) The Director shall be a career appointee in the Senior Executive Service, and shall be paid at a level determined by the Secretary.

"(c)(1) The Secretary shall give preference to Indian individuals with respect to all personnel actions of the Office.

"(2) Such preference shall be implemented in the same fashion as the preference given to any Indian under section 2609 of the Revised Statutes (25 U.S.C. 45).".

SEC. 348. INDIAN EDUCATION ACT OF 1988.

The Indian Education Act of 1988 (25 U.S.C. 2601 note) is repealed.

PART E—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 351. REFERENCES.

Except as otherwise specifically provided, whenever in this part an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Library Services and Construction Act (20 U.S.C. 351 et seq.).

SEC. 352. AUTHORIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 4 (20 U.S.C. 351b(a)) is amended—

(1) by striking "for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years" each place the phrase appears and inserting "for fiscal year 1995"; and

(2) in the matter following paragraph (7), by striking "each of the fiscal years 1990, 1991, 1992, 1993, and 1994" and inserting "fiscal year 1995".

(b) FAMILY LEARNING CENTERS.—Section 806 (20 U.S.C. 385e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part.".

(c) LIBRARY LITERACY CENTERS.—Section 818 (20 U.S.C. 386g) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 818. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part.".

PART F—BUREAU OF INDIAN AFFAIRS

SEC. 361. GOALS 2000: EDUCATE AMERICA ACT.

(a) ASSISTANCE TO THE SECRETARY OF THE INTERIOR.—Section 315 of the Goals 2000: Educate America Act is amended—

(1) by amending subsection (c) to read as follows:

"(c) BUREAU OF INDIAN AFFAIRS COST ANALYSIS AND STUDIES.—

"(1) IN GENERAL.—The Secretary of the Interior shall reserve from the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds an amount not to exceed $500,000 for each such year to provide, through a contract executed, after open solicitation, with an organization or institution having extensive experience in school finance, for an analysis of—

"(A) the costs associated with meeting the academic, home-living, and residential standards of the Bureau for each Bureau funded school and annual projections of such costs; and

"(B) the feasibility and desirability of changing the method of financing for Bureau funded schools from the weighted student unit formula method in effect on the date of enactment of this Act to a school-based budget system or other alternative system of financial support.

"(2) COST ANALYSIS PURPOSE.—The purpose of the cost analysis provided for in paragraph (1)(A) shall be to provide the Bureau and the panel described in subsection (b)(4) with baseline data regarding the current state of operations funded by the Bureau and to provide a framework for the implementation of opportunity-to-learn standards or strategies. Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

"(A) the standards either published in the Federal Register and effective for schools funded by the Bureau on the date of enactment of this Act, or the State or regional standards in effect on such date for a Bureau-funded school;

"(B) the best projections of student counts and demographics as provided by the Bureau and as independently reviewed by the organization or institution selected by the Secretary to perform the analysis described in this section; and

"(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on the date of enactment of this Act.

"(3) FEASIBILITY STUDY PURPOSE.—(A) The purpose of the feasibility analysis provided for in paragraph (1)(B) shall be to determine whether it is feasible and desirable for the Bureau to replace or modify the weighted student unit formula system in effect on the date of enactment of this Act.

"(B) For the purposes of the feasibility analysis described in paragraph (1)(B), the term 'school-based budget system' means a system based upon an initial determination, at each school site, of the number of students who shall be served at the site, the needs of those students, the standards which will best meet those needs (including any standards or conditions reflecting local community input and such community's program), the personnel profile necessary to establish such program and the cost (determined on an actual basis) of funding such a program. Such a system shall include procedures to aggregate the determinations for each school site to determine the amount needed to fund all Bureau funded schools, to prepare a budget submission based upon such aggregate, and to provide for a mechanism for distributing such sums as may be appropriated based upon the determination at each school site.

"(4) RESULTS REPORT.—The contractor selected shall be required to report the results of analyses provided for in this section, in aggregate and school-specific form to the chairpersons and ranking minority members of the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives and the Committee on the Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, not later than six months after the date of enactment of the Improving America's Schools Act of 1994. The contractor shall also be required to provide an estimate of the costs of meeting the academic and residential standards of the Bureau for each Bureau funded school for each of the three succeeding forward-funded fiscal years following the date of submission of such report. The contractor shall provide an estimate of such costs to such persons and members not later than January 1 of each succeeding fiscal year."; and

(2) by adding at the end the following new subsections:

"(e) GRANTS.—The Secretary of the Interior may use not more than one percent of the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds for the purpose of providing grants, if requested by Bureau funded school boards, to enable such school boards to carry out activities of reform planning as such activities are described for States in section 308(b)(2)(J), or to evaluate the feasibility of becoming a contract school pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or a grant school pursuant to the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

"(f) STUDY.—In cooperation with the panel established in subsection (b)(4), the Secretary of the Interior shall conduct a study to evaluate the feasibility of contracting with a private management firm for the operation of one or more Bureau operated schools to facilitate the achievement of the National Education Goals and the efficient use of funds in the education of Indian children, and to report to the persons identified in subsection (c)(4) and to the panel described in subsection (b)(4) not later than 12 months after the date of enactment of the Improving America's Schools Act of 1994.".

(b) SYSTEMIC TECHNOLOGY PLANNING.—Subsection (b) of section 317 of the Goals 2000: Educate America Act is amended by adding at the end the following new paragraph:

"(3) SECRETARY OF THE INTERIOR.—From the amount appropriated pursuant to the authority of subsection (f) in each fiscal year, the Secretary shall reserve $75,000 for the Secretary of the Interior to enable the Secretary of the Interior to conduct, directly or through a contract, systemic technology planning for Bureau funded schools.".

SEC. 362. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.

(a) NEW CONSTRUCTION.—The second sentence of paragraph (4) of section 5205(b) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)(4)) is amended by striking "were received." and inserting "were received, except that a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal government or other organization provides funding for the new construction equal to at least one-fourth of the total cost of such new construction.".

(b) COMPOSITION OF GRANTS.—Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)) is further amended by adding at the end the following new paragraph:

"(5) If the Secretary fails to make a determination within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant the funds described in subsection (a)(2), the Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial of or failure to act on such tribe or organization's request, pursuant to the disputes authority described in section 5209(e).".

(c) PAYMENTS.—Subsection (a) of section 5208 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended to read as follows:

"(a) PAYMENTS.—

"(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments, of which—

"(A) the first payment shall be made not later than July 1 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year; and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) The provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.) shall apply to the payments required to be made by paragraphs (1), (2), and (3).

"(5) Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.".

(d) APPLICABILITY.—Subsection (a) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(a)) is amended to read as follows:

"(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of section 5, 6, 7, 104, 105(f), 106(f), 109, and 111 of the Indian Self-Determination and Education Assistance Act, except those provisions relating to indirect costs and length of contract, shall apply to grants provided under this part.".

(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Subsection (e) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(e)) is amended—

(1) by striking "the amount of a grant under section 5205 (and the amount of any funds referred to in that section), and payments to be made under section 5208 of this Act," and inserting "a grant authorized to be made pursuant to this part or any amendment to such grant,";

(2) by striking "the amount of, or payment of, the administrative grant" and inserting "an administrative cost grant"; and

(3) by adding at the end the following new sentence: "The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.".

SEC. 363. EDUCATION AMENDMENTS OF 1978.

(a) BUREAU OF INDIAN AFFAIRS.—Subsections (a) through (f) of section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) are amended to read as follows:

"(a)(1) The purpose of the standards developed under this section shall be to afford Indian students being served by a Bureau funded school with the same opportunities as all other students to achieve the high goals embodied in the Goals 2000: Educate America Act. Consistent with the provisions of this section and section 1131, the Secretary shall take such actions as are necessary to coordinate standards developed and implemented under this section with those in the State plans developed and implemented pursuant to the Goals 2000: Educate America Act for the States in which each Bureau funded school operates. In developing and reviewing such standards and such coordination, the Secretary shall utilize the findings and recommendations of the panel established in section 315(b)(4) of the Goals 2000: Educate America Act.

"(2) The Secretary shall take immediate steps to encourage school boards of Bureau funded schools to engage their communities in adopting declarations of purposes of education in their communities, analyzing the implications of such purposes for their schools, and determining how such purposes may be made to motivate students and faculties and otherwise animate their schools by May 1, 1995. Such declarations shall represent the aspirations of a community for the kinds of persons such community wants its children to increasingly become, and shall include such purposes as assuring that all learners are becoming accomplished in ways important to themselves and respected by their parents and communities, shaping worthwhile and satisfying lives for themselves, exemplifying the best values of the community and humankind, and becoming increasingly effective in shaping the character and quality of the world all learners share.

"(b) Within 18 months of the publication of the voluntary national content standards described in section 213(a) of the Goals 2000: Educate America Act, the Secretary, in consultation with the Secretary of Education and Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization a review of the standards in effect on the date of enactment of the Improving America's Schools Act of 1994 for the basic education of Indian children attending Bureau funded schools. Such review shall take into account the voluntary national content standards and other factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

"(c)(1) The Secretary shall revise the minimum academic standards published in the Federal Register on September 9, 1985 (50 Fed. Reg. 174) for the basic education of Indian children based upon the review conducted under subsection (b). The Secretary shall publish such proposed standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. The Secretary shall establish final standards, distribute such final standards to all the tribes and publish such final standards in the Federal Register. The Secretary shall revise such final standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(2) The standards described in paragraph (1) shall apply to Bureau schools, and subject to subsection (f), to contract and grant schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

"(d) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

"(e) A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsection (c), where such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

"(f) The Secretary, through contracting and grant-making procedures, shall assist school boards of contract and grant schools in the implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented. At the request of a contract or grant school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (c) and (d) to take into account the needs of the Indian children and the contract or grant school.".

(b) COUNSELORS FOR BOARDING SCHOOLS AND DORMITORIES.—Subsection (a) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(a)) is amended by adding at the end the following: "Prior to January 1, 1996, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau funded residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1121 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.".

(c) SCHOOL BOARD TRAINING.—Subparagraph (A) of section 1128(c)(2) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(2)(A)) is amended by striking "fiscal year 1986" and inserting "fiscal year 1992, except that the contracts for distribution of such funds shall require that such funds be distributed by the recipient organizations in a manner that assures the same pro rata share is made available for training for each school board in the system.".

(d) FORMULA ADJUSTMENT.—Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is further amended by adding at the end thereof the following new paragraph:

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

"(B) The adjustment required under subparagraph (A) shall be used for such school after—

"(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year following the school year for which the certification is made; and

"(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.".

(e) GRANT SCHOOLS.—Paragraph (3) of section 1128(g) of the Education Amendments of 1978 (25 U.S.C. 2008(g)(3)) is amended by inserting "or grant school" after "contract school" each time such term appears.

(f) AVAILABILITY.—Subsection (h) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(h)) is amended by inserting "of a Bureau school" after "board".

(g) SPECIAL RULE.—Section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008) is amended by adding at the end the following new subsection:

"(i) Beginning with academic year 1994-1995, tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds at a rate not to exceed the amount per weighted student unit for that year for the instruction of such students. Such payment shall be in lieu of payments that might otherwise be paid to Bureau funded or public schools on their reservations. No additional administrative cost funds will be added to the grant.".

(h) UNIFORM DIRECT FUNDING AND SUPPORT.—Subsection (a) of section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Within six months after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds in accordance with section 1128. All amounts appropriated for distribution under this section shall be made available as provided in paragraph (2).";

(2) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1128, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such funds are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

"(i) publish, on July 1 of the fiscal year for which the funds are appropriated, the allotments to be made under section 1128 to each affected school of 85 percent of such appropriation; and

"(ii) publish, not later than October 30 of such fiscal year, the allotments to be made under section 1128 of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.";

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(4) in paragraph (3) (as redesignated by paragraph (3)) by striking "$25,000" and inserting "$35,000".

(i) STUDENT PROJECTS AND MATCHING FUNDS.—Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding at the end the following new subsections:

"(g) Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

"(h) Notwithstanding any other provision of law, funds received by a Bureau funded school under this title shall not be considered Federal funds for purposes of meeting a matching funds requirement in any Federal program.".

SEC. 364. STAFF OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

Subsection (f) of section 1509 of the Higher Education Amendments of 1986 (20 U.S.C. 4416(f)) is amended to read as follows:

"(f) Applicability.—

"(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsection (d) and (g), the enactment of this title shall not affect—

"(A) the continued employment of any individual employed immediately before October 17, 1986; or

"(B) such individual's right to receive the compensation attached to such position.

"(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

"(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.".

SEC. 365. ENDOWMENT FUNDS.

Section 302 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1832) is amended—

(1) in subsection (a), by striking "section 333" and inserting in lieu thereof "section 331"; and

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 331(c) of the Higher Education Act of 1965, except that for purposes of this paragraph, the term 'endowment fund' means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;"; and

(B) in paragraph (3) by striking "same" the first time such term appears.

SEC. 366. STUDY.

The Secretary of the Interior shall conduct a study, in consultation with the board of regents of the Haskell Indian Junior College to evaluate the possible need for alternative institutional and administrative systems at Haskell Indian Junior College to support the transition of such college to a four year university. If the study's conclusions require legislation to be implemented, the study shall be accompanied by appropriate draft legislation. Such study shall be transmitted to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives by June 1, 1995.

PART G—CROSS REFERENCES AND CONFORMING AMENDMENTS

SEC. 381. CROSS REFERENCES.

(a) Refugee Education Assistance Act of 1980.—(1) Paragraph (1) of section 101 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "section 198(a)" and inserting "section 10101".

(2) Paragraph (2) of section 201(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(3) Paragraph (3) of section 301(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking ", except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965".

(4) Paragraph (2) of section 401(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(b) Title 10.—(1) Subparagraph (A) of section 1151(b)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(2) Subparagraph (A) of section 1151(b)(3) of title 10, United States Code, is amended by striking "chapter 1 of".

(3) Subparagraph (A) of section 1598(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(4) Section 2194 of title 10, United States Code, is amended—

(A) in subsection (a), by striking "education agency" and inserting "educational agency"; and

(B) in subsection (e)—

(i) by striking "education agency" and inserting "educational agency";

(ii) by striking "section 1471(12)" and inserting "section 10101"; and

(iii) by striking "(20 U.S.C. 1058(b)".

(5) Subparagraph (A) of section 2410j(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(c) Toxic Substances Control Act.—(1) Subparagraph (A) of section 202(7) of the Toxic Substances Control Act (15 U.S.C. 2642(7)(A)) is amended—

(A) by striking "section 198" and inserting "section 10101"; and

(B) by striking "(20 U.S.C. 3381)".

(2) Paragraph (9) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(9)) is amended—

(A) by striking "section 198" and inserting "section 10101"; and

(B) by striking "(20 U.S.C. 2854)".

(3) Paragraph (12) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(12)) is amended—

(A) by striking "section 198" and inserting "section 10101"; and

(B) by striking "(20 U.S.C. 2854)".

(4) Section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(A)) is amended—

(A) in subparagraph (A)—

(i) by striking "section 198" and inserting "section 10101"; and

(ii) by striking "(20 U.S.C. 3381)"; and

(B) in subparagraph (C), by inserting "or successor authority" after "1107)".

(d) National Defense Authorization Act for Fiscal Year 1993.—Paragraph (1) of section 386(h) of the National Defense Authorization Act for Fiscal Year 1993 (20 U.S.C. 238 note) is amended—

(1) by striking "section 1471(12)" and inserting "section 10101"; and

(2) by striking "(20 U.S.C. 2891(12))".

(e) Higher Education Act of 1965.—(1) Paragraph (1) of section 404(c) (20 U.S.C. 1070a–23(c)(1)) is amended by striking "section 1005(c)" and inserting "section 1123(c)(1)".

(2) Clause (ii) of section 418A(b)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070d–2(b)(1)(B)(ii)) is amended by striking "subpart 1 of part D of chapter 1" and inserting "part D".

(3) Subparagraph (A) of section 418A(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070d–2(c)(1)(A)) is amended—

(A) by striking "subpart 1 of part D of chapter 1" and inserting "part D"; and

(B) by inserting "(or such part's predecessor authority)" after "1965".

(4) Subparagraph (A) of section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)(A)) is amended—

(A) by striking "chapter 1 of the Education Consolidation and Improvement Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965"; and

(B) by striking "section 111(c)" and inserting "section 1123(c)(1)".

(5) Subsection (a) of section 469 of the Higher Education Act of 1965 (20 U.S.C. 1087ii(a)) is amended by striking "chapter 1 of".

(6) Subsection (b) of section 501 of the Higher Education Act of 1965 (20 U.S.C. 1102(b)) is amended—

(A) in subparagraph (B) of paragraph (1), by striking "sections 1005 and 1006 of chapter 1 of title I" and inserting "section 1123"; and

(B) in subclause (II) of paragraph (2)(A)(ii), by striking "sections 1005 and 1006" and inserting "section 1123".

(7) Subsection (b) of section 572 of the Higher Education Act of 1965 (20 U.S.C. 1111a(b)) is amended by striking "of chapter 1".

(8) Paragraph (1) of section 581(b) of the Higher Education Act of 1965 (20 U.S.C. 1113(b)(1)) is amended by striking "part A or subpart 1 of part D of chapter 1" and inserting "part A or D".

(9) Paragraph (3) of section 581(c) of the Higher Education Act of 1965 (20 U.S.C. 1113(c)(3)) is amended by striking "chapter 1 of".

(10) Subparagraph (C) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(C)) is amended by striking "chapter 1 of".

(11) Subparagraph (D) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(D)) is amended by striking "chapter 1 of".

(12) Subclause (I) of section 1144(b)(1)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1138c(b)(1)(B)(iv)(I)) is amended by striking "chapter 1 of".

(f) Education Amendments of 1978.—Subsection (h) of section 1203 of the Education Amendments Act of 1978 (20 U.S.C. 1221–1 note) is amended by striking "section 183" and inserting "part F of title I".

(g) Individuals with Disabilities Education Act.—(1) Clause (ii) of section 602(a)(21)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(21)(A)(ii)) is amended by striking "chapter 1 of".

(2) Paragraph (2) of section 613(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)) is amended by striking ", including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965,".

(3) Subparagraph (B) of section 622(c)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1422(c)(2)) is amended by striking "and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965,".

(h) Education Amendments of 1972.—Subparagraph (B) of section 908(2) of the Education Amendments of 1972 (20 U.S.C. 1687(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 10101".

(i) Department of Education Organization Act.—Section 204 of the Department of Education Organization Act (20 U.S.C. 3414) is amended by striking "subpart 1 of part B" and inserting "part D".

(j) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—The Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5001 et seq.) is repealed.

(k) EDUCATIONAL PARTNERSHIPS ACT OF 1988.—The Educational Partnerships Act of 1988 (20 U.S.C. 5031 et seq.) is repealed.

(l) SECONDARY SCHOOLS BASIC SKILLS DEMONSTRATION ASSISTANCE ACT OF 1988.—The Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 5061 et seq.) is repealed.

(m) EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.—The Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5311 et seq.) is repealed.

(n) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Paragraph (5) of section 3 of the National Environmental Education Act (20 U.S.C. 5502(5)) is amended—

(1) by striking "local education" and inserting "local educational"; and

(2) by striking "section 198" and inserting "section 10101".

(o) JOB TRAINING PARTNERSHIP ACT.—(1) Paragraph (23) of section 4 of the Job Training Partnership Act (29 U.S.C. 1503(23)) is amended by striking "section 1471(23)" and inserting "section 10101".

(2) Subparagraph (B) of section 263(a)(2) of the Job Training Partnership Act (29 U.S.C. 1643(a)(2)(B)) is amended by striking "chapter 1 of".

(3) Subparagraph (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(B)) is amended by striking "chapter 1 of".

(4) Paragraph (2) of section 265(b) of the Job Training Partnership Act (29 U.S.C. 1645(b)(2)) is amended by striking "parts A through D of chapter 1" and inserting "parts A through C".

(p) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (3) of section 1091(l) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended by inserting "(as such section was in effect on the day preceding the date of enactment of this Act)" after "1965".

(q) SAFE DRINKING WATER ACT.—Section 1461 of the Safe Drinking Water Act (42 U.S.C. 300j–21(6)) is amended—

(1) in subparagraph (A) of paragraph (3)—

(A) by striking "section 198" and inserting "section 10101"; and

(B) by striking "(20 U.S.C. 3381)"; and

(2) in paragraph (6)—

(A) by striking "section 198" and inserting "section 10101"; and

(B) by striking "(20 U.S.C. 2854)".

(r) CIVIL RIGHTS ACT OF 1964.—Subparagraph (B) of section 606(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 10101".

(s) OLDER AMERICANS ACT OF 1965.—(1) Section 338(a) of the Older Americans Act of 1965 (42 U.S.C. 3030g–11(a)) is amended—

(A) by striking "section 1005(d)(2)" and inserting "1121(c)(1)(A)"; and

(B) by striking "(20 U.S.C. 2711(d)(2))".

(2) Section 338A of the Older Americans Act of 1965 (42 U.S.C. 3030g–12(a)(1)) is amended—

(A) in paragraph (1) of subsection (a)—

(i) by striking "section 1471" and inserting "section 10101"; and

(ii) by striking "(20 U.S.C. 2891)"; and

(B) in paragraph (3) of subsection (b)—

(i) by striking "projects under section 1015" and inserting "programs under section 1114"; and

(ii) by striking (20 U.S.C. 2025)".

(3) Subparagraph (B) of section 363(5) of the Older Americans Act of 1965 (42 U.S.C. 3030o(5)(B)) is amended—

(A) by striking "section 1471" and inserting "section 10101"; and

(B) by striking "(20 U.S.C. 2891)".

(t) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Subsection (d) of section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(d)) is amended by striking "chapter 1 of".

(2) Paragraph (14) of section 113(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14)) is amended by striking "chapter 1 of".

(3) Subsection (a) of section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2325(a)) is amended—

(A) by striking "chapter 1 of"; and

(B) by inserting "of 1965" after "Secondary Education Act".

(4) Paragraph (1) of section 231(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(a)(1)) is amended by striking "section 1005" and inserting "section 1124 or such section's predecessor authority".

(5) Clause (iv) of section 231(d)(3)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(d)(3)(A)(iv)) is amended by striking "chapter 1 of".

(6) Section 352 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2395a) is amended by striking "section 1006" and inserting "section 1124".

(7) Subsection (b) of section 353 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2396b) is amended by striking "section 1006" and inserting "section 1124".

(8) Paragraph (1) of section 368 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2396f(1)) is amended by striking "section 1006" and inserting section 1124".

(9) Paragraph (3) of section 420(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2420(a)(3)) is amended by striking "section 1562" and inserting "subpart 2 of part C of title II".

(10) Paragraph (20) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(20) is amended by striking "section 1471(5)" and inserting "section 10101".

(11) Paragraph (21) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(21)) is amended by striking "section 703(a)(1)" and inserting "section 7104".

(u) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Paragraph (2) of section 288E(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–5(a)(2)) is amended by striking "chapter 1 of".

(v) AGE DISCRIMINATION ACT OF 1975.—Clause (ii) of section 309(4)(B) of the Age Discrimination Act of 1975 (42 U.S.C. 6107(4)(B)(ii)) is amended by striking "section 198(a)(10)," and inserting "section 10101".

(w) HEAD START TRANSITIONAL PROJECT ACT.—(1) Paragraph (4) of section 132 of the Head Start Transition Project Act (42 U.S.C. 9855(4)) is amended by striking "section 1471(12)" and inserting "section 10101".

(2) Subsection (a) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(a)) is amended by striking "of chapter 1".

(3) Subsection (b) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(b)) is amended by striking "of chapter 1".

(4) Subsection (d) of section 135 of the Head Start Transition Project Act (42 U.S.C. 9855c(d)) is amended by striking "schoolwide project under section 1015(a)" and inserting "schoolwide program under section 1114".

(5) Subparagraph (C) of section 136(a)(4) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(4)(C)) is amended—

(A) by striking "Follow Through Act, chapter 1 of"; and

(B) by striking "part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(6) Paragraph (8) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(8)) is amended by striking "part B of chapter 1" and inserting "part C".

(7) Paragraph (10) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(10)) is amended by striking "part B of chapter 1" and inserting "part C".

(x) FOLLOW THROUGH ACT.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(y) COMPREHENSIVE CHILD DEVELOPMENT ACT.—Paragraph (5) of section 670S of the Comprehensive Child Development Act (42 U.S.C. 9886(5)) is amended by striking "section 1471(12)" and inserting "section 10101".

(z) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subparagraph (B) of section 112(b)(2) of the National and Community Service Act of 1990 (42 U.S.C. 12524(b)(2)(B)) is amended by striking "chapter 1 of".

(aa) TRAINING TECHNOLOGY TRANSFER ACT OF 1988.—Paragraph (1) of section 6144 of the Training Technology Transfer Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994".

SEC. 382. ADDITIONAL REPEALS AND TECHNICAL AND CONFORMING AMENDMENTS REGARDING IMPACT AID.

(a) ADDITIONAL REPEALS.—

(1) OMNIBUS BUDGET RECONCILIATION ACT OF 1981.—Subsection (c) of section 505 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(2) EDUCATION AMENDMENTS OF 1984.—Section 302 of the Education Amendments of 1984 is repealed.

(3) DEPARTMENT OF EDUCATION APPROPRIATIONS ACT, 1991.—Section 306 of the Department of Education Appropriations Act, 1991, is repealed.

(4) NATIONAL ASSESSMENT OF CHAPTER 1 ACT.—Paragraph (2) of section 3(a) of the 1992 National Assessment of Chapter 1 Act is repealed.

(5) PUBLIC LAW 92–277.—Section 2 of Public Law 92–277 (86 Stat. 124) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966.—Section 182 of the Elementary and Secondary Education Amendments of 1966 is amended by striking "by the Act of September 23, 1950 (Public Law 815, 81st Congress),".

(2) TOXIC SUBSTANCES CONTROL ACT.—Subparagraph (C) of section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(C)) is amended by inserting "as in effect before enactment cf the Improving America's Schools Act of 1994" after "section 6 of the Act of September 30, 1950 (64 Stat. 1107),".

SEC. 383. INDIAN EDUCATION.

(a) Adult Education Act.—Paragraph (4) of section 322(a) of the Adult Education Act (20 U.S.C. 1203a(a)) is amended by striking “the Indian Education Act” and inserting “title VI of the Elementary and Secondary Education Act of 1965”.

(b) Education Amendments of 1978.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(3)) is amended—

(1) in clause (i) of subparagraph (A), by striking “(as determined pursuant to section 5324 of the Indian Education Act of 1988)”; and

(2) in subparagraph (B)—

(A) by striking “the later of the following” and all that follows through “(ii)”; and

(B) by inserting “, and for each fiscal year thereafter” before the period at the end thereof.

(c) Indian Education Assistance Act.—Section 209 of the Indian Education Assistance Act (25 U.S.C. 458e) is amended by striking “title IV of the Act of June 23, 1972 (86 Stat. 235)” and inserting “title VI of the Elementary and Secondary Education Act of 1965”.

(d) Johnson-O'Malley Act.—Subsection (a) of section 5 of the Act of April 16, 1934, commonly known as the “Johnson-O'Malley Act” (25 U.S.C. 456(a)) is amended by striking “section 305(b)(2)(B)(ii) of the Act of June 23, 1972 (86 Stat. 235)” and inserting “section 6104(c)(4) of the Elementary and Secondary Education Act of 1965”.

SEC. 384. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) Adult Education Act.—Paragraph (7) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)) is amended by striking “section 7004(a) of title VII” and inserting “section 7104(5)”.

(b) Age Discrimination Act of 1975.—Clause (ii) of section 309(4)(B) of the Age Discrimination Act of 1975 (42 U.S.C. 6107(4)(B)(ii)) is amended by striking “section 198(a)(10)” and inserting in lieu thereof “section 9101(13)”.

(c) Anti-Drug Abuse Act of 1988.—Subparagraph (A) of section 3521(d)(8) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(d)(8)(A)) is amended by striking “the Drug-Free Schools and Communities Act of 1986” and inserting “part A of title V of the Elementary and Secondary Education Act of 1965”.

(d) Asbestos School Hazard Abatement Act.—Section 511 of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4020) is amended—

(1) in subparagraph (A) of paragraph (4), by striking “section 198(a)(10)” and inserting “section 10101”; and

(2) in subparagraph (A) of paragraph (5), by striking “section 198(a)(7)” and inserting “section 10101”.

(e) Child Care and Development Block Grant Act of 1990.—Subsection (c) of section 658H of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858f(c)) is amended by striking “section 1006” and inserting “section 1124”.

(f) Cranston-Gonzalez National Affordable Housing Act.—Paragraph (10) of section 457 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899f(10)) is amended by striking “section 7003 of the Bilingual Education Act” and inserting “section 7104(5) of the Elementary and Secondary Education Act of 1965”.

(g) Family and Medical Leave Act of 1993.—Subparagraph (A) of section 108(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2618(a)(1)(A)) is amended by striking “section 1471(12) (20 U.S.C. 2891(12))” and inserting “section 10101”.

(h) Goals 2000: Education America Act.—The Goals 2000: Educate America Act is amended—

(1) in section 3—

(A) in subsection (a)—

(i) in paragraph (6), by striking “section 1471” and inserting “section 10101”; and

(ii) in paragraph (10), by striking “section 602” and inserting “section 602(a)(17)”; and

(B) in paragraph (1) of subsection (b), by striking “section 1471” and inserting “section 10101”;

(2) in paragraph (7) of section 231, by striking “chapter 1 of”;

(3) in subsection (b) of section 232—

(A) in subparagraph (A) of paragraph (2), by striking “Star Schools Program Assistance Act” and inserting “Star Schools program authorized by part B of title III of the Elementary and Secondary Education Act of 1965”; and

(B) in subparagraph (F) of paragraph (3), by striking “the evaluation undertaken pursuant to section 908 of the Star Schools Program Assistance Act” and inserting “any evaluation of the Star School program undertaken by the Secretary”;

(4) in subsection (b) of section 310, by striking “section 1017” and inserting “sections 1117 and 10503”; and

(5) in subsection (b) of section 311, by amending paragraphs (1) through (6) to read as follows:

“(1) Title I of the Elementary and Secondary Education Act of 1965.

“(2) Part A of title II of the Elementary and Secondary Education Act of 1965.

“(3) Part A of title V of the Elementary and Secondary Education Act of 1965.

“(4) Title VIII of the Elementary and Secondary Education Act of 1965.

“(5) Part B of title IX of the Elementary and Secondary Education Act of 1965.

“(6) The Carl D. Perkins Vocational and Applied Technology Education Act.”.

(i) Immigration and Nationality Act.—Subparagraph (D) of section 245A(h)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(D)) is amended to read as follows:

“(D) Title I of the Elementary and Secondary Education Act of 1965.”.

(j) National and Community Service Act of 1990.—The National and Community Service Act of 1990 is amended—

(1) in section 101—

(A) in paragraph (8), by striking “section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))” and inserting “section 10101 of the Elementary and Secondary Education Act of 1965”;

(B) in paragraph (14), by striking “section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))” and inserting “section 10101 of the Elementary and Secondary Education Act of 1965;

(C) in paragraph (22), by striking “section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21))” and inserting “section 10101 of the Elementary and Secondary Education Act of 1965”; and

(D) in paragraph (28), by striking “section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23))” and inserting “section 10101 of the Elementary and Secondary Education Act of 1965”;

(2) in subparagraph (B) of section 112(b)(2), by inserting “or its successor authority” after “(20 U.S.C. 2711 et seq.)”; and

(3) in subsection (b) of section 115A, by inserting “, as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994” after “(20 U.S.C. 2727(b))”.

(k) Rehabilitation Act of 1973.—The Rehabilitation Act of 1973 is amended—

(1) in section 202(b)(4)(A)(i), by striking “paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21))” and inserting “section 10101 of the Elementary and Secondary Education Act of 1965”; and

(2) in subparagraph (B) of section 504(b)(2), by striking “section 1471(12)” and inserting “section 10101”.

(l) School-to-Work Opportunities Act of 1994.—The School-to-Work Opportunities Act of 1994 is amended—

(1) in paragraph (15) of section 4, by striking “section 602(17)” and inserting “section 602(a)(17)”; and

(2) in subsection (b) of section 502, by amending paragraphs (1) through (6) to read as follows:

“(1) title I of the Elementary and Secondary Education Act of 1965;

“(2) part A of title II of the Elementary and Secondary Education Act of 1965;

“(3) part A of title V of the Elementary and Secondary Education Act of 1965;

“(4) part B of title IX of the Elementary and Secondary Education Act of 1965;

“(5) title XIII of the Elementary and Secondary Education Act of 1965; and

“(6) the Carl D. Perkins Vocational and Applied Technology Education Act.”.

(m) Social Security Act.—Paragraph (7) of section 402(g) of the Social Security Act (42 U.S.C. 602(g)(7)) is amended by striking “chapter 1 of the Education Consolidation and Improvement Act of 1981” and inserting “title I of the Elementary and Secondary Education Act of 1965”.

(n) State Dependent Care Development Grants Act.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877) is amended—

(1) in paragraph (6), by striking “section 198(a)(10)” and inserting “section 10101 of the Elementary and Secondary Education Act of 1965”; and

(2) in paragraph (11), by striking “section 198(a)(17)” and inserting “section 10101”.

(o) Tribally Controlled Schools Act of 1988.—The Tribally Controlled Schools Act of 1988 is amended—

(1) in subparagraph (C) of section 5204(a)(3), by striking “chapter 1 of”; and

(2) in section 5205—

(A) in subparagraph (A) of subsection (a)(3), by striking “chapter 1 of”; and

(B) in subsection (b)—

(i) in subparagraph (A) of paragraph (2), by striking “chapter 1 of”; and

(ii) in clause (i) of paragraph (3)(A), by striking “chapter 1 of”.

On page 1358, between lines 9 and 10, insert the following:

SEC. 402. PARENTAL INVOLVEMENT.

It is the policy of the Congress that the States, in cooperation with local educational agencies, schools, and parent groups, should be encouraged to involve parents of children who display criminal or violent behavior toward teachers, students, or others on school property in disciplinary actions affecting such children.

Mr. KENNEDY. Mr. President, I ask unanimous consent the debate and discussion earlier in the morning be arranged in the Record so as not to interfere with the general flow of the presentation of the debate on this legislation. I ask consent to be able to do that.

The PRESIDING OFFICER. Without objection, the debate occurring earlier this morning will be included in the RECORD in a place so as not to interfere with the debate on this particular bill.

PRIVILEGE OF THE FLOOR—S. 1513

Mr. KENNEDY. Furthermore, I ask consent two fellows on the Labor Committee staff, Jerry Hauser and Tricia Greenberg, be accord privileges of the floor during consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Kansas [Mrs. KASSEBAUM].

Mrs. KASSEBAUM. Mr. President, I rise to express support for S. 1513, the Improving America's Schools Act of 1994.

This legislation, as has been pointed out in the earlier part of the opening debate, reauthorizes a number of beneficial programs that were established under the Elementary and Secondary Education Act.

The Federal Government provides a relatively small share of the financial assistance offered to our Nation's elementary and secondary schools—about 6 percent.

Nevertheless, the Federal investment has been and is substantial, and funding for the programs included in ESEA currently exceeds $10 billion.

The Elementary and Secondary Education Act was first enacted in 1965. I think that is important because I think a lot of people assume this is new legislation. Instead, for nearly 30 years, ESEA programs have allowed schools across the country to offer services that they might otherwise be unable to provide. The $70 million which schools in Kansas receive is greatly valued, and I am sure that every Member of this body can say the same about their own States.

Beyond dollars and cents, however, are the tangible contributions which ESEA support has made to the improvement of education.

Years ago, efforts that I began as a volunteer to start a library in my children's school received an enormous boost when ESEA was enacted and funds became available to help establish a library in the elementary school.

More recently, I have had the opportunity to visit schools throughout the State and to see that my own experience was not unique. The combination of creative teachers and a little Federal funding is a powerful one, indeed.

The largest of the ESEA programs, chapter 1, provides extra help to educationally disadvantaged children, particularly in the areas of reading and math. The additional services made available under chapter 1 often spell the difference between a child's getting a solid foundation in skills needed for future educational success or simply muddling through years of school without these skills.

Another valuable program, I believe, Mr. President, is the chapter 2 block grant program, which allows States and localities great flexibility in supporting school improvement projects. Locally designed initiatives under chapter 2 make it possible to reflect the needs and priorities with the individual school districts. It is for this reason that local school officials have always enthusiastically supported chapter 2. As a former school board member, I place particular value on the views of those on the front lines of education, and those are the voices that we need to hear.

The chairman has gone through, as did the Senator from Rhode Island [Mr. PELL], the ESEA programs. Just to briefly reiterate some that I think are important: Even Start, which encourages parents to learn along with their children; impact aid, which has always made a difference in those areas which have significant Federal property because it provides Federal education funds to those school districts in lieu of lost tax revenue resulting from the presence of Federal property; the Blue Ribbon Schools Program, which recognizes outstanding schools providing an incentive to strive for excellence. It is not a lot of money, Mr. President, but it has made a big difference in the recognition which schools and school districts can achieve and gives them an incentive to continue to strive for excellence in education.

There is the migrant and homeless education programs, which provide supplemental services to children whose educations are disrupted by frequent moves from one school to another; and there is the chapter 1 State-operated program which provides funds for disabled students in State schools and institutions.

In addition to continuing these ongoing efforts, this legislation has a number of positive improvements, I suggest, particularly in the chapter 1 program.

A few highlights: The bill provides schools with greater flexibility to combine funds from various ESEA programs. This will make it possible to provide education services in more coordinated, comprehensive, and innovative ways. Too often today, we find that a great deal of time is spent figuring out how to fit a child into a set categorical program, rather than figuring out how to fit the program to the child.

The bill allows States to use their own assessments to measure the effectiveness of chapter 1, rather than tying them to dubious and often inappropriate standardized tests now selected by the Department of Education.

The bill more effectively targets chapter 1 funding to the poorest schools and allows States to use more accurate data to identify high poverty school districts.

It puts in place a system that will help guard against applying a lower set of expectations for disadvantaged students.

It increases the level of parental involvement in chapter 1 programs Mr. President, and I believe this is very important. I think we have come to recognize that just teachers and more money and Federal efforts are not going to solve education problems. It really takes parental caring and involvement and a student's recognition of the importance of that involvement which gives them incentives to learn and study. So I think encouraging that parental involvement, particularly in the chapter 1 programs, is very important.

Over the course of the past several months, the Committee on Labor and Human Resources has spent a great deal of time developing this legislation. I know it was pointed out earlier that this, of course, is an enormously large bill. As I pointed out, I am not quite sure why the administration's proposal regarding the reauthorization was marked out and included in the bill, and then the new portion was printed as well. It does make it look even longer than it is. But we spent a lot of time analyzing and debating and holding hearings on this reauthorization.

I am particularly pleased that the committee adopted changes which reaffirm local control and flexibility. Although I have the greatest respect for Secretary of Education Riley, I do feel that the original administration proposal went too far in trying to direct State and local education policies well beyond the chapter 1 program. I and others were concerned as well about the number of mandates which the original bill would have imposed on States and localities. I am pleased that this measure departs in several significant respects from the companion bill, H.R. 6, that was approved by the House of Representatives earlier this year.

In particular, S. 1513, the legislative language that we are considering now, does not contain any language dealing with so-called opportunity-to-learn standards. Such standards deal with issues such as resources, facilities, instruction material, and class sizes, all of which are areas that I believe are clearly State and local responsibilities.

Any time that Federal funds are involved, there is always a tension between the Government's need for accountability and the recipient's judgment about how the funds might be most effectively used.

The fine line between welcome Federal support and inappropriate interference is one that we are frequently asked to define.

In the areas of education, I think it is particularly critical that we take great care in doing so. The vitality and success of education, particularly at the elementary and secondary level, is directly linked to the level of community involvement in the enterprise. I believe S. 1513 strikes an appropriate balance.

As is often the case with a large piece of legislation which has undergone many, many revisions, there has been a certain amount of confusion about several aspects of this bill. So having mentioned some of the things which S. 1513 does do and which I feel are positive, I want to lay out some of the things which it does not do.

S. 1513 does not mandate that home school parents be certified as teachers. There has been a great deal of confusion about this, and I want to reiterate: It does not mandate that home school parents be certified as teachers. Language has been specifically included in the bill to make it clear that home schools, as well as private and religious schools, are not affected by this legislation.

Nothing in S. 1513 mandates the adoption of national standards or outcomes-based education. Decisions about curriculum and instructional methods continue to be left to the State and local school board. They are not assigned to the Federal Government and, I suggest, never should be. In fact, the bill contains specific language which prohibits the Federal Government from prescribing or mandating curriculum or the allocation of resources. Nothing in S. 1513 would dictate how the State and local funds are spent on education.

S. 1513 includes specific language assuring that its provisions will not lead to the imposition of unfunded mandates.

Finally, S. 1513 does not authorize the use of Federal funds for school-based health clinics. It does not authorize the use of funds for school-based health clinics. Such clinics have never been supported with ESEA funds.

One disappointment I do have with this legislation is the fact that it adds a number of new programs to the Elementary and Secondary Education Act, and that is what some of those extra pages contain, Mr. President, without getting rid of any of the old programs. The administration even recommended eliminating some of the old programs, but that was not supported by the committee.

Certainly, there is always the temptation to create a new program to address a particular need or interest. Over time, however, this becomes a confusing array of small and almost-but-not-quite-the-same programs. More over, the realities of our budget situation mean that more programs will be chasing scarce dollars.

On balance, this bill moves us in a positive direction. I should like to commend the committee chairman, Senator KENNEDY, as well as the leadership of the Education, Arts and Humanities Subcommittee, Senators PELL and JEFFORDS, for the efforts they have made in shaping a product which commanded strong, bipartisan support in the committee.

I urge my colleagues to join us in approving this measure.

There will be a number of amendments, Mr. President, that we recognize, and that will be an important part of the debate. But I would particularly like to call attention to the time that has been spent by the subcommittee chairman, the Senator from Rhode Island [Mr. PELL], and the ranking member of the Education, Arts and Humanities Subcommittee, the Senator from Vermont [Mr. JEFFORDS].

I yield the floor, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Just on a technical question, I rise to clarify my earlier request. I was submitting a series of committee authorized modifications to the committee amendment. I wish to clarify that the committee amendment was modified in accordance with my request.

The PRESIDING OFFICER. The Chair understands and recognizes the clarification.

Who seeks recognition?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. President, I rise today in strong support of S. 1513, a bill to reauthorize the Elementary and Secondary Education Act. First enacted in 1965 this bill is the single largest Federal education program. The benefits to low income and educationally disadvantaged students in elementary and secondary schools can be seen across the country in rural towns like Putney, VT to sprawling urban cities like Boston and Chicago.

S. 1513 is a comprehensive bill. It includes the well-known chapter 1 program—now called title I—designed to provide financial support for schools to improve the educational opportunities of low-income students, including funds to prepare students for the transition from preschool to elementary school, to provide literacy training to parents of young children, and to serve both migrant children and children who reside in institutions for neglected and delinquent children. The bill also includes funds to address the needs of bilingual children, gifted and talented children, and includes a new emphasis on professional development and funds for schools to purchase new technology.

Passage of this bill will continue our commitment to assist our next generation to be a productive, educated people, that can adapt to a technologically complex workplace and can respond quickly to the changing demands of society. I hope that my colleagues will join me in supporting S. 1513.

Let me take a brief moment to thank both the chairman of the committee and the chairman of the subcommittee of their willingness to work with Members from both sides of the aisle to craft what I believe is a sound bill. I would also like to thank the ranking member, Senator KASSEBAUM, for her outstanding leadership on several issues of importance to many Republican Members, especially issues concerning flexibility for States and school districts. This has been a truly bipartisan effort, and I can say without hesitation that I lend my full support to this piece of legislation.

I believe this reauthorization represents a fundamental change in thinking. The goal of this reauthorization has been to demand high standards for all children including our most disadvantaged. It is interesting to note, however, that over a year ago, before the Clinton administration had released its reauthorization proposal, I held a hearing in Montpelier, VT on the reauthorization of the Elementary and Secondary Education Act. At that time, I heard certain recommendations repeated over and over again from individuals across the educational spectrum. I am proud to say that I believe we have substantially followed those recommendations.

Witnesses at that hearing spoke about the need to give schools, school districts, and States maximum flexibility to design and carry out their programs in exchange for increased accountability to the Federal Government. We have done this with S. 1513. They told me that it was time to reward good performance in ESEA programs. Again, we have done this. In all, I believe that we have crafted an excellent reauthorization bill.

First, in the title I program we have made several changes to the bill proposed by the administration which, in my mind, have resulted in giving States and local school districts more flexibility, while at the same time ensuring that students served by the program will received a high quality educational experience.

While there is no disagreement that all students should be taught to high academic standards, members from my own party have expressed very legitimate concerns that requiring State to develop standards and assessments will be very costly and could be construed as authorizing Federal intervention into the locally controlled issue of curriculum content. Many believed it represented a back-door approach to forcing States to participate in the Goals 2000 Program. While I supported that program and the philosophy behind it I, too, was concerned that we not demand too much, too quickly from

States. For example my State of Vermont, is close to completing its common core of learning and new assessment measures, but other States are not nearly so far along.

In my mind, the committee has found the appropriate balance between encouraging schools, teachers, and parents to have high expectations for all children—including children who come from disadvantaged backgrounds—and recognizing that the 6 percent of funds that comes from the Federal Government cannot drive the entire educational system of a State. The committee bill represents a compromise between the administration's bill, which required States to develop and use standards for all children, and current law which does not require standards at all. S. 1513 as reported by committee requires States to use standards only for children who are served by the title I program in at least math and reading. It also allows States as much as 4 years to make the transition toward new testing systems based on performance measures rather than rote fill-in-the dot tests. I think this is an excellent compromise.

Another area of deep interest to many of the Members on the committee as well as the rest of our colleagues here in the Senate is the formula by which funds are to be distributed under title 1.

I would like to say a few words about what we have done and why I believe that the committee has crafted an excellent formula. In my mind the formula that has been put forward buy Chairman KENNEDY and Chairman PELL strikes a good balance between targeting title I funds to areas of high poverty and fulfilling the promise that we have made to provide those needy children who live in poverty with extra assistance, whether they live in the inner cities or in rural areas.

The formula we are considering today recognizes that it costs more to education poor children when they attend schools in districts which have high numbers or concentrations of poor students and provides grants of up to 40 percent high to serve students in these areas. Furthermore, for the first time, the formula provides rewards and incentives to those States which carry a high tax burden for education and to those States which have achieve a significant degree of funding equity in public schools across the State. While no one formula can be perfect for every State, I believe that this is a solid proposal.

At the State level, there is even greater targeting to poor areas. The within-State formula that was adopted by the committee cuts out all districts with a poverty student rate lower than 5 percent and again weights children according to the poverty of the district in which they attend school.

The formula may not go as far in targeting to high poverty areas as the formula that the Clinton administration proposed, yet it makes considerable headway toward targeting more money on poor children than the formula in current law. Conceptually I am sure we would all support a highly targeted formula. But in practice—with limited Federal dollars—such a formula is difficult to achieve because it entails robbing from poor Peter to pay poor Paul. Until we put a high priority on education and commit the resources necessary to serve all poor children, we will continue to be forced to devise formulas which are less than perfect.

While the title I program is the largest program in the bill, there are a number of other changes that have been made to the bill which I would like to mention here.

S. 1513 includes a new—and long overdue—effort to recognize the valuable work of teachers, administrators, and school staff. Title II of the bill provides $800 million devoted solely toward increasing access by teachers and school staff to intensive high-quality professional development activities. Studies have shown that increased access to professional development can dramatically improve classroom instruction and learning. Too often, however, there is no room in the school budget to provide for these activities. If we are to demand high standards of our students then it is essential that we give teachers and administrators the necessary tools to implement those standards. Title II recognizes the worth of our school professionals and provides the necessary fiscal support to implement these policies.

Title III of the bill provides much-needed and long-awaited Federal support for the development and purchase of educational technology. It holds the promise of helping to modernize our classrooms and prepare our young people for the increasingly technological workplace that will await them beyond the school doors. The children who will enter kindergarten this fall will be graduating from high school in the year 2007. It is critical that they learn not only how to use computers and other technology to enhance their own work, but how to use technology as a tool to open the windows to the world, through the Internet and other services that will provide them with access to any information the world over at the touch of their fingertips. Attaining this goal, however, will not be easy. Particularly in our poorer and more rural areas of the country, schools remain in the technological dark ages.

The provisions of this bill will not only stimulate development of new technological applications to education through public/private partnerships, but will also provide schools with the resources needed to purchase hardware and software and the connections necessary to link those purchases into state- and nationwide networks. Equally important, the bill contains provisions to address the needs of learners at all stages of the educational process, from pre-kindergarten through graduate school, and makes special note of the importance of technology as it relates to adult education and literacy programs.

"Programs of National Significance," title VIII, includes a number of small demonstrations which, if funded, could be replicated throughout the country. I am especially pleased that the 21st Century Community Learning Centers is one of these programs. Based on efforts in Vermont this program encourages schools to become learning centers for individuals of all ages.

The 21st Century Community Learning Centers Program is built on the notion of community education and on helping schools become centers of activity in rural and low-income communities. This program will encourage schools to bring the community into the school building, with activities and services provided by community members for the benefit of school children such as after-school tutoring programs, intergenerational mentoring programs, and on-site health and social services, as well as for the benefit of the adult members of the community, such as adult literacy classes, vocational training, and other evening programs.

Modeled after schools such as the H.O. Wheeler school in Burlington, this bill encourages the notion of community education—the coordination of education, recreation and social services in schools in order to better serve area residents and improve the quality of life for all.

Also included in title XIII is another program of great importance to me. It is the Javits Gifted and Talented Program which provides essential services to youngsters with exceptional talent. While this program receives only a fraction of the funds necessary to serve these special young people, it is nevertheless important for the Federal Government to recognize their importance to our future generations. This is an area in which we need improvement with respect to funding. I would like to thank the chairman for addressing my concerns with the program which the administration proposed, substantially diluting from its present form. S. 1513 maintains the focus of the program where it belongs—on identifying and serving gifted and talented youth.

I also strongly support provisions which have been included in the committee substitute which require rigorous evaluations of all Federal elementary and secondary education programs, including longitudinal studies where appropriate. In my mind, it is critical to know what kinds of effects these programs are having on teaching and learning. It is a pity that we have spent millions of dollars on demonstration programs over the years for which we have no good evaluation. We do not know whether some of these programs have helped children, or whether the gains that the children have made in some programs are sustained over time or whether they fade away after 6 months or a year. It is critical to know the answers to these questions before we proceed, especially under the Goals 2000 bill, where we must provide information and guidance on which programs to replicate.

Finally, I think it is important to note that S. 1513 continues what was known as chapter 2, now entitled title XIII. As with chapter 2, title XIII continues to provide schools the flexibility to respond to emerging local education priorities. Under the original version of S. 1513, the administration proposed eliminating the program. I know that in my State, this would have meant many Vermont school districts losing valuable dollars to fund computer technology, professional development, and parental involvement initiatives. I certainly am pleased to see it included in the bill before us today.

This is an exciting time for education. We have passed the Goals 2000 Act which will set the framework for high academic standards and we are now poised to pass S. 1513. But let us not rest on our laurels. The unfortunate reality is that one in four children still remain below the most basic level of proficiency according to 1993 test results.

The number of individuals who are functionally illiterate is still far too high. S. 1513 will provide the framework for change, but nothing can be done if we do not back up our words with a strong fiscal commitment. Passage of this bill represents only half of the job, and the other half will be completed when we reorder our priorities and devote the kinds of funds necessary to adequately prepare our youth for the years to come.

I urge my colleagues to support S. 1513, but I also urge them to consider in the months and years to come the urgent need to fully fund the programs we enact. I am most hopeful that next year we can take a step toward being able to have that funding which is so critical and so necessary for the educational system.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am very pleased to be counted as a supporter of S. 1513. Our Nation must maintain quality public education for everyone—and that is what the Improving America's School Act is all about.

Education is not just a private benefit to an individual, but is, in fact, a public good. It is the cornerstone of a healthy democracy. It is the means by which we prepare our children to succeed, to make a living, to participate in the community, to enjoy the arts, and to understand the technology that has reshaped our workplace.

Nonetheless, the Federal Government, as well as most States, continues to force local school districts to rely increasingly on local property taxes for public education.

In my State, in Illinois, the State share of public education funding fell from 43 percent during the 1980–81 school year to 34 percent in the 1992–93 school year, while the local share of funding increased from 48 to 58 percent during this same period.

The Federal Government's share of public education funding has also plummeted from 9.8 to 6.1 percent in just the last decade alone.

This pattern, Mr. President, is reflected nationwide and is one that we must reverse. The local property tax is, in my opinion, one of the worst funding sources for as critical a need as education. I am sure we can think of others that are not as good, but certainly the local property tax should not be the primary basis of funding for public education.

Funding for education should reflect our commitment to the importance of the social needs, and education should have a stable, elastic, responsive, and dependable funding base.

When I served, Mr. President, in my State legislature, I worked to make education my No. 1 priority, and I worked at that time to increase State support for education. In that period of time—and I served in the Illinois General Assembly for about 10 years—in that period of time, I saw candidate-after-candidate campaign on an education-first platform. We had in our State an education Governor, education mayors, and an education President; everybody was running on the basis of support for education and the importance of prioritizing it on the basis that our children are our future, that we have an obligation to them.

Well, Mr. President, I think it is time for us to make real the promise and the verbiage and the conversation around the priority that education should be. I believe that we have not only an obligation to our children to fund education, to adequately fund public education—and I daresay quality public education—but we have an obligation to ourselves, as well.

As laudable as the goal may be of prioritizing our children's needs, we also have an interest as a nation in seeing to it that our system of quality public education is maintained and is comparable and competitive with any in the world. Particularly, as we go into this information age, our support, our real support for public education, is a critical need and one that we cannot step away from.

Mr. President, the Congressional Research Service cites several studies in its report, "Educating New American Workers, Improving the Transition From School to Work," which finds that too many Americans are stuck in low-wage jobs due to limited career guidance, inadequate workplace experiences, and other impediments to efficient school-to-work transition.

That report talks about the forgotten half, which found that men aged 20 to 24 with high school diplomas experienced a 28-percent decline in real earnings between 1973 and 1986, while high school dropouts experienced a 42-percent decline during this same period.

A recent Census Bureau study found that 21.6 percent of all full-time workers with high school diplomas made low earnings in 1990, up from 12 percent in 1994.

In short, all of the reports and numerous studies have made it very clear that in order to compete in this world economy—to compete in this economy—having a quality education at the elementary and secondary level is of critical importance.

GAO studies reported that in the United States, our country as a whole is lagging behind some of our primary international economic competitors, including Germany and Japan, in providing our young people with the academic knowledge and technical skills employers will need. It is not too difficult to figure out the connection, the nexus between a quality system of public education and our ability to compete in this world economy in this information age. If we do not train our workers, if we do not train our work force, not only will we be building in the basis for a declining standard of living among our young people, but we will also be tearing apart the very foundation that made our country great and made us economically competitive worldwide.

So education is not just something that relates to the individual, it relates to whether or not a particular person can get a good job. Education is something that transcends the individual and relates to our entire community—to our competitiveness worldwide, to our ability to maintain our culture, to our ability to maintain the capacity of our community to grow and to appreciate democratic institutions; to our ability, indeed, to relate to health care issues such as the Senator from West Virginia just talked about.

The closest indices for health care status is educational attainment. The closest indices for crime, if you look at crime statistics: The higher the level of education, the lower the crime rate.

So here we have a social goal that relates directly to any number of priorities that we have in our society, from our position internationally to our health care status to the level of crime. Education becomes the key for our society as well as for the individual.

So I am delighted to join Senator KENNEDY, Senator KASSEBAUM, Senator

PELL, and others on this committee. I unfortunately do not serve on the committee, although I have been delighted to support and work with the sponsors of this legislation. I am delighted to join with them in behalf of S. 1513, because I think it represents a real step forward, a real initiative to promote increased Federal funding for public education by raising the authorization level for Federal education programs in the Elementary and Secondary Education Act. It will raise it to $12.5 billion in fiscal year 1995. And I believe that is a step in the right direction.

The PRESIDING OFFICER. The Chair will indicate to the Senator from Illinois that the hour of 12:30 has arrived.

Mr. KENNEDY. Mr. President, I ask unanimous consent it be in order we proceed for another 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. I thank the Senator very much. I will try to be brief.

Unlike past ESEA reauthorizations, S. 1513 would also create a coherent framework for education reform by coordinating all ESEA programs with the education reforms in the Goals 2000: Educate America Act that President Clinton signed into law on March 31, 1994.

S. 1513 would restructure the title I Program by directing States to develop their own content standards, performance standards, and opportunity-to-learn standards to improve the way teachers teach and students learn. Yet, rather than requiring States to adopt any specific standards, S. 1513 would give schools more decisionmaking authority over their title I funds in return for greater responsibility for student performance.

For example, S. 1513 would allow more schools to operate schoolwide programs with their title I funds. Since research shows student achievement is adversely affected in schools with 30 percent and above poverty rates, S. 1513 would reduce the poverty requirement for schoolwide programs from 75 to 30 percent, which is a realistic position to take.

Most schools that do not meet the 75-percent poverty requirement currently serve their title I eligible children through pull-out programs that promote remedial skills. By lowering the poverty threshold to 30 percent and giving the schools more decisionmaking authority over their title I funds, the new 30 percent requirement would encourage schools to challenge all of their students to achieve high skills rather than remedial skills. It would also discourage them from pulling title I eligible students out of regular classrooms. Eligible schools choosing to operate schoolwide programs would still be required to disaggregate their data on student progress to determine whether title I students are benefiting from the schoolwide programs.

But it is a great way, I think, Mr. President, to mainstream title I students and to give title I students the opportunities to learn by being put in with the rest of the program and the rest of the students.

Mr. President, in light of the fact that it is 12:35—I appreciate the Senator from Massachusetts allowing me to continue.

I would like to make the rest of this statement, but I fear it will take more than 5 minutes. What I would prefer and what I think will be appropriate at this point—again, given the wishes of the Senator from Massachusetts—I will be willing to come back and proceed at a later time in behalf of this bill.

To conclude my remarks now, I simply say this is a step in the right direction. I applaud the Senator from Rhode Island and the Senator from Massachusetts for their leadership in this area. There are certain specifics about this bill I will speak to directly, because I support so many of the specific initiatives in this legislation. But I would just like to commend them for demonstrating the leadership and the awareness and sensitivity to the fact that Federal support for education is something that as a nation we all have an obligation to support. As we go forward and focus in on our national interests in elementary and secondary education—which, of course, is where it all starts. If we do not educate youngsters in the grammar schools, we will never have to worry about them being able to perform at college level.

So I think we have an obligation to engage fully at the elementary and secondary level. This legislation is consistent with that approach. It is heading in that direction. It opens some very important doors, and remedies and reforms some important parts of the statutes. I commend the sponsors for their fine work and indicate my support.

I ask unanimous consent to be added, if it is the desire of the manager, as a cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I want to express our appreciation to the Senator from Illinois for a very eloquent statement in support of the legislation and pay particular tribute to her for the innovation, in terms of program amendment to this legislation, which she presented to our full committee at the markup and which was accepted. That is to try to bring some focus and attention on the basic deterioration, in terms of the infrastructure, in many of our schools.

This is a particular problem in many of the urban areas of the country. It has been a subject matter that has been debated and discussed for a very considerable period of time. I think the power of the Senator, both in the presentation and logic of her argument and sense of deep compassion for those who are being adversely impacted, carried the day and it was accepted unanimously by our committee. Then she was again sufficiently persuasive to be able to go to the Appropriations Committee and get a substantial downpayment on that initiative. In times of scarce resources, that is a very important addition to this whole process.

Again, it carries forward the essence of this legislation, which is to bring some help and assistance in terms of the neediest students in our country. I think the Senator has, by her own diligence and hard work and continuity, on this issue as in other issues, made a very, very important contribution.

I thank the Senator. I look forward to her interventions as we continue with the debate and discussion. I know there are a number of matters which we will have an opportunity to debate and to take action on during the course of the afternoon and evening, and tomorrow. We certainly welcome her insight into the debate and discussion.

Mr. President, seeing no further colleagues here seeking the floor, in accordance with the wishes of the majority leader, I ask consent we proceed with the earlier recommendation of the leader as modified by my suggestion.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:38 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FEINGOLD).

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I wonder whether I can inquire of the manager of the bill whether I might have 10 minutes to speak on the bill.

Mr. KENNEDY. We are under no time limit. We thank the Senator for his active participation in this legislation. We look forward to his comments.

Mr. WELLSTONE. Mr. President, there is so much that I could say. I am going to try to be relatively brief.

This piece of legislation, or education in particular, Mr. President, is dear to my heart. I was a college teacher for over 20 years, and I have seen education really work. I have seen the spark of learning take a child from any kind of background to a life of accomplishment and creativity.

I view education as kind of being the foundation. We have a lot of discussion about how education is key to economic competitiveness. I agree. You have to have a skillful, literate, productive work force. But I think even more fundamental than that, education is key to a working democracy. We just simply have to have women and men who can think on their own two feet, who understand the world and the country that they live in, who have conceptual tools that will enable them to understand this world and this country and who really are empowered by education so that they, as citizens, can really be full participating members in a democratic society. I just do not think there could be a more important topic or a more important piece of legislation on which the U.S. Senate should be focused.

The Improving America's School Act, S. 1513, does a lot to move us in the right direction. Senator KENNEDY and Senator PELL deserve a tremendous amount of praise for their fine, fine work.

Among other things, the bill provides funds to help disadvantaged students reach the same high standards as all students. It concentrates funds in those areas that need the funds the most. It expands the Eisenhower Math and Science Training Program to support teacher training in all subjects, and it expands the national writing projects to other core subjects as well. That is an amendment that I worked on that I am very excited about, because I have seen as a teacher the way in which these teacher institutes work. It is so important for teachers to have high morale. I have seen when teachers come together for a 1- or 2-week period during the summer and can exchange notes, compare notes, energize one another, build off one another's experience. It is really quite important.

I think this piece of legislation is a step in the right direction. It authorizes $12.5 billion for fiscal year 1995. I might also state that this is only 6 cents on the dollar of what our country spends on education.

So I commend Senator KENNEDY and Senator PELL for their fine work. But I am also really disappointed. I am not disappointed in my colleagues, Mr. President, but I am disappointed in our failure as a nation, with the Senate being part of the Nation, to really invest in children and education. I do not think it is enough just to have the goals and to talk about rigor and to talk about excellence if, in fact, we do not do anything to really change the concerns and circumstances of children's lives so that each and every child, each and every young person is going to have the same opportunity to reach those goals.

Quite frankly, Mr. President, given the huge disparity in resources—again I think of Jonathan Kozol's book, "Savage Inequalities." If I am not mistaken, Jonathan Kozol's facts are something like this. You walk out of the front door of this Chamber, you go downstairs, or just really from the top of the steps, if you look to Bethesda—and this is not an indictment of the people in Bethesda—I think the community has the capacity to spend something like $13,000 per child per year. That is about a mile away in one direction.

If you look to Anacostia, I do not know, it is $4,000 or $5,000 per pupil per year, Anacostia being, in the main, poor children of color, mainly African-American black.

Mayor Schmoke, Mr. President, when he testified before our committee, the Labor and Human Resources Committee, really was eloquent, and I just want to quote:

> I will just start by saying that defending and reinforcing public education has once again become a matter of national security. I say once again because in the early days of the cold war, President Eisenhower cited national security as the justification for the National Defense Education Act.

By the way, Mr. President, now that I think about it, it was the National Defense Education Act that enabled me—and I am sure Senator PELL was probably involved in really the drafting of this legislation—that enabled me to afford my higher education, that enabled me to go into teaching.

Mayor Schmoke goes on, and he pointed to the disparities in his own area, and I quote:

> In Maryland, the difference between what we in the city are able to spend per classroom and what the wealthiest jurisdiction is able to spend is $60,000 per classroom. [$60,000 per classroom.] What does this mean in real terms? It means for us the inability to provide basic supplies and maintenance to the buildings and thus to provide an inviting environment for our young people to stimulate their minds. It means that we have a shortage of supplies and other basic resources. It means for our teachers in particular that we lose our best teachers, those who have 8 to 10 years of experience, to surrounding jurisdictions.

Mr. President, there are those who say, "Well, do not throw money at the problem. I do not think money is the answer."

But I will tell you one thing, adequate resources is the key to recruitment and maintaining good teachers. It is the key to support services. It is the key to good lab facilities. It is the key to textbooks. And just simply building on what the mayor had to say to us, I find it to be just outrageous and unconscionable that children should have to go to schools where the physical infrastructure is decaying, where we still have not done the renovating, where it is still unsafe in terms of asbestos, where it is dreary, where the toilets do not work. When are we going to make a commitment to education and children? This piece of legislation just is but the smallest step forward.

Now, Mr. President, some will say, "But our appropriations committees are under strict budget constraints this year."

I know you, Mr. President, are a Senator who is very focused, and I think justifiably so, on sound fiscal management, on deficit reduction, but once upon a time, Mr. President, we were talking about two deficits. We were talking about a budget deficit, and we were talking about an investment deficit.

It does seem to me that if we are going to continue to find the money for S&L bailouts, if we are going to continue to build the space station, if we are going to continue to find the moneys for B-2 bombers, if we are going to continue to build prisons, and if we are going to continue to find the money for star wars, we ought to be able to do a better job of investing in education and our children. And by the way, Mr. President, Children's Defense Fund pointed out that every 5 seconds a child drops out of school in the United States of America.

I would like to point that out again. Every 5 seconds, a child drops out of school in the United States of America.

Mr. President, I had a judge from Minnesota, Hennepin County district judge, who sent me a copy of a report, and the statistic I remember is that there is a higher correlation between high school dropouts and incarceration, being in prison, than between cigarette smoking and lung cancer. We are talking about the need to reduce violence. If every 5 seconds a child is dropping out of school in this country, then we ought to start examining why children are dropping out of school and we ought to start making a commitment of resources to do something about it.

Another witness at these hearings was Representative BECERRA from California and I wish to quote. He said:

> The United States now ranks 13th among the 23 wealthiest industrialized nations in public spending on education. We need to shift the paradigm, and we need to begin working toward providing children with the resources they require based on their relative need. We would define equity as the allocation of funding to meet individual education needs, not just matching dollar amounts for students in poor and wealthy districts. This is what makes the issue of opportunity-to-learn standards so critical. If we cannot agree on the measurement of what a school must input in order for students to succeed, how can we establish national standards to determine the students' level of success?

Mr. President I have to tell you, I met with a group of 20 educators today in my office—they just happened to be here—counselors, teachers, principals. Every single one of them said—it surprised me. I said to them, "Please tell me if I am wrong." Then I went on to say to these educators, "I am really discouraged because we keep focusing on these national standards but I do not see the commitment of resources to make sure that children in our country have the same opportunity to reach those standards. I feel as if the emphasis has become on rigor and we are not dealing anymore with the whole issue of equality of opportunity."

All of them agreed. They want to see rigor; they want to see higher academic standards. They think it is important not to give up on that. They do not see them as being mutually exclusive goals, I would say to my colleague from Connecticut, but each and every one of them said to me there is no way that a lot of the children that we teach are ever going to be able to succeed, not given the inadequate resources we have to look at, not given the failure to fund early childhood development, not given the failure to fund child care.

They said it even goes further than that. And they argued women expecting children have to have an adequate diet in the first place.

I just had a grandson yesterday. I would like to see every child born in the same way my grandson was born, with a real opportunity to be everything he or she can be. But I know that my daughter-in-law had an adequate diet. I know that they could afford that. But a lot of women cannot. And the children that are born are not going to be all they can be.

When are we going to make a commitment to children? When are we going to make a commitment to early childhood development? When are we going to make a commitment to education? We have reports of a decade ago, it seems way to me, of a "nation at risk." Well, if the Nation is at risk, and we are talking about national security, why do we not start investing in the health and skills and intellect and character of young people? We do not need as much for S&L's. We do not need star wars. We do not need the B-2. We do not need the space station. Let us invest more in education and children.

So, Mr. President, I said I would not speak too long. This is not an amendment. I think an amendment that would attempt to transfer funds or to spend more money would not succeed. And I know my colleagues are operating within budget constraints. I know that Senator PELL and Senator KENNEDY have done all they can to bring a good piece of legislation to the floor.

Mr. President, this piece of legislation takes steps in the right direction. I am going to support it. I am proud of what they have done. But I wish to go on record today in saying we can do much better, and I hope soon we will.

I really believe that what candidate Bill Clinton talked about—the investment deficit has been put in parentheses—I really believe that all these issues of race, gender, and poverty, and children, and opportunity, and how to reduce violence, and how to do it at the community level, and how to invest in education, and how that can be part of national security—I feel there is a huge disconnect between the words we speak and the legislation we introduce.

I hope that during my tenure in the U.S. Senate we will end up doing it much more. I will tell you one thing—and I am not doing it to ingratiate myself to him—I look forward to working with Senator DODD, who is very committed, along with Senator KENNEDY.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNAUTHORIZED DEMONSTRATIONS

Mr. MITCHELL. Mr. President, I was advised a few moments ago that an unauthorized demonstration took place in the Capitol a short time ago, and I want to make clear to all concerned that the laws, rules, and regulations governing demonstrations in the Capitol and in this Chamber will be enforced. We are a country in which the speech and assembly and protest of every citizen is protected. But such rights must be exercised in a lawful and orderly manner so as not to infringe upon the rights of others.

Demonstrations on the Capitol grounds require a prior permit and participation in specific, designated locations. Every Senator knows they are a commonplace event. One of the places most frequently used for such demonstrations is right outside my office window. And so almost every day I observe and hear lawful demonstrations occurring. That is appropriate and as it should be. But we will not tolerate any demonstrations which occur in an unlawful manner and which infringe upon the rights of other persons. The law prohibits it.

The United States Code sets forth the legal requirements with respect to such matters, and I want it clearly understood by all concerned that so long as I am majority leader, the law will be enforced. No persons are authorized to take the law into their own hands to conduct demonstrations as they see fit. Many persons hold strong beliefs on various subjects. The depth of one's conviction is not a sufficient basis for acting in an unlawful and unauthorized manner, because other Americans may have equally deep convictions to the contrary.

So everyone is, of course, welcome to our Nation's Capitol. All are encouraged to make their views known. And those who wish to conduct a demonstration are invited to do so, but all in a manner consistent with law and regulations and prior practice.

So I make this statement so there can be no misunderstanding on anyone's part with respect to such demonstrations. We welcome everyone's point of view, but we welcome it in an appropriate way.

I have instructed the Sergeant at Arms to make the Capitol Police aware and to inform all those who come into the Capitol that we will not tolerate unlawful demonstrations and the law and regulations will be enforced properly.

I thank my colleagues for their attention and consideration.

I yield the floor.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, I rise to express my support for the Elementary and Secondary Education Act, the legislation which is presently before us.

Before engaging in some formal remarks, Mr. President, let me, at the outset, commend the principal authors of this legislation and those who are principally responsible for bringing this bill to the floor today.

The chairman of the Labor and Human Resources Committee, Senator KENNEDY, has once again demonstrated with this legislation his deep commitment to the education of all children in this country, be they from rural communities or highly populated urban centers. He has been involved in these issues for several decades, and this piece of legislation is yet another example of that commitment.

CLAIBORNE PELL, our colleague from Rhode Island, of course, has been known for many accomplishments during his tenure in the Senate, but one of his principal achievements over the years has been his leadership in the area of education. In fact, for many years, our former colleague, Senator Stafford of Vermont, who was at various times either the ranking minority member or the chairman of the subcommittee, would often talk about the firm of Stafford and Pell, or Pell and Stafford. Together, they were responsible for many of the very innovative and thoughtful initiatives in the area of education.

Senator KASSEBAUM has now become the ranking minority member, and her work with Senator KENNEDY has enabled us to bring such a strong, balanced bill to the floor. It passed the Labor and Human Resources Committee by a vote of 16 to 1, demonstrating the kind of cooperation and bipartisanship we were able to achieve on legislation that has sometimes been the source of significant division.

Last, but not least, credit must go to our colleague from Vermont, Senator JEFFORDS, who is the ranking member on education issues and is deeply committed to all aspects of the educational needs of children in this country. He has carried on the remarkably fine tradition of Senator Stafford. I do not know if it is the water of Vermont or the air, but our neighbors to the north of Connecticut have historically brought a tremendous commitment to education when they come to the U.S.

Congress. JIM JEFFORDS is carrying on that tradition in its finest form, and I commend him as well. I have enjoyed working with him on the committee on a number of initiatives. I think both of us would agree that the one in which we take the greatest amount of pride, and on which we will continue to fight, is the issue of achieving a greater commitment to education in our Federal budget—a commitment to meeting the overall educational needs of our citizens, beginning with early childhood development, extending through elementary and secondary and on up to higher education.

He and I, along with Senator WELLSTONE and Senator SIMON of Illinois, have been trying over the last year or so, through a number of hearings, to build some support for the notion of increasing our commitment—that is, the Federal Government's commitment—to the education of Americans by 1 percent a year, to a grand total of 10 percent of the budget.

The high-water mark for the Federal Government's spending in education occurred in the administration of Richard Nixon, when 6 percent of the Federal budget was committed to education. That number has dropped consistently over the last 20 years. We are now hovering at around 2 percent of the Federal budget, overall, as a commitment to education. I suspect that number startles people, who would assume that a far greater percentage of their Federal budget was committed to the education of Americans. Yet, it is, I think, a source of some embarrassment that such a small fraction of our budget is committed to that. We are determined to try to raise that by 8 percent over the next 10 years, to 10 percent. We spent about 13 or 14 percent just on the interest payments on the Federal deficit, about 23 percent on the defense of our Nation, about 50 percent on entitlements, if you will, roughly. While 10 percent is hardly in the range of these figures, we believe it is critical and will continue to work together to move this initiative forward.

But today, Mr. President, as I said, I want to extend my congratulations to these Members, both Republicans and Democrats, who have made it possible for us to arrive at this particular juncture with this critical bill.

Obviously, there will be a lot of amendments, I suspect, being offered over the next day or so on this bill. We welcome those amendments. Some good ideas may be forthcoming. I assume those ideas would be incorporated in the bill. There may be some on which there will be a legitimate differences to debate, but this too is an important part of the process.

Nevertheless, I am pleased to have arrived at this moment in the Senate. We are going to shortly engage in debate on health care and try to increase access and reduce costs to all Americans. That debate will attract a significant amount of attention, as it should, in this country.

I suggest this afternoon, while this debate and this particular bill may not evoke the same degree of interest either from the media or others, that the education of Americans from their first up until their last days is something that all of us ought to recognize as critically important. In fact, I would argue, it is the single most important issue facing this country.

So, for those reasons, Mr. President, I rise in strong support of the legislation before us this afternoon to reauthorize the Elementary and Secondary Education Act.

As I said, we debate many, many issues here in the U.S. Senate, but very few, in my view, touch the lives and futures of Americans as directly and as poignantly as education does. Few issues that we debate here are so intricately linked to who we are as a people.

President Lyndon Johnson said three decades ago, and I quote him:

> At the desk where I sit, I have learned one great truth. The answer for all of our national problems—the answer for all the problems of the world—comes to a single word. That word is "education."

Mr. President, that was true 30 years ago, and it is certainly true today. To take just one example, there is no question that there is a connection between education and crime. I have recently focused a great deal of my time and effort on youth violence. And I have learned that there are no easy answers to that issue once kids become involved in violence and crime; it is very difficult to change course and direction. The solution to this, in my view, and to so many of our other problems, must come far earlier. Children must have parents who will love and nourish them, role models to respect, activities to fill hours of the day, and an education to provide them with the opportunities and hope for the future.

The bill we are considering today—the Improving America's Schools Act—seeks to provide that opportunity and hope for millions of needy children all across this land.

For too many of these children, the promise of access to a quality education has become little more than a cruel hoax. For thousands of American children, there are no books, there are no regular teachers, and there are no safe classrooms. Education is supposed to open doors for these young people, but for far too many of them those doors remain tightly barred.

With this legislation, let us hope that we can begin to throw those doors open wide once again.

Among all the important components of this bill, Mr. President, I am especially encouraged by its restructuring of the title I program to establish high standards for all children and to target resources toward the neediest communities and children in this land.

We all know that Federal resources are quite limited. That is obviously something that everyone of us has to deal with every day, regardless of the bill before us. The Federal contribution, however, to elementary and secondary education last year was just over 6 percent with the balance coming from State and local sources.

Mr. President, I will continue my efforts to increase our commitment to education at the Federal level. But while the Federal share of education expenses remains so small, it is especially critical that we target that money on those who need it most in our land. That is what this bill attempts to do.

In the past, Federal title I dollars have flowed to 95 percent of our school districts, greatly restricting the program's impact. The obvious reason for that is, with every district receiving funding, political support for the title I program is stronger. But the fact of the matter is when you spread those resources out to some school districts which have very few needs financially you dilute the impact of those dollars into those communities that need the resources the most. This bill would better concentrate our limited dollars toward schools that, in fact, do need the resources the most.

By supporting these schools, Mr. President, we also send, I think, a very important signal to States and school districts regarding educational spending. Last summer and fall, the Education Subcommittee held a series of hearings on the vexing issue of school finance and the inequities that plague so many of our States and schools.

This is a very difficult issue. It has defied resolution, despite countless hours of hearings, discussion, debate, and the commitment of knowledgeable people to work on and think about this issue.

Funding for our schools is mostly local, and it varies widely depending on the wealth of the local community. Widely varying levels of funding lead to widely varying levels of quality. That is an absolute given.

This situation strikes many people as fundamentally unfair. It does not seem right that two children who live but a few blocks away from each other could receive greatly different educations, all because of variations in their respective communities' property tax bases.

This is an issue, Mr. President, that is receiving, thankfully, more and more attention. All across the country, State legislatures, local communities, and the courts are struggling to develop finance systems that are more fair.

While our hearings did not produce a magical silver bullet, it is clear from those hearings that the Federal Government can help States trying to find more educational equity, and this bill does just that, not to the fullest extent that I would like to see or that some of my colleagues here would like to see, but it clearly moves us in that direction. The formula for the distribution of title I dollars provides an incentive for States that are making a substantial investment in the education of their children and also for those States that have less variation in spending between school districts. In this way, Mr. President, we would reward those States that have responsibly addressed this critical issue, and that is as it should be.

I was pleased to work with my colleagues on the Labor Committee to craft several other important initiatives in this bill. Allow me to mention a few of them.

The committee adopted an amendment that I offered to include a successful and innovative new program in title I of the bill, and that is what we call the transition to success program. This program would encourage parental involvement and coordinated social services to help young children and their families make a smoother transition from preschool or home to kindergarten and beyond. These early years are absolutely critical for later success in school, and parental involvement needs to be expanded.

Let me just cite, if I can, one statistic that I think makes the point very clearly. Parental involvement in Head Start programs and in pre-kindergarten programs is roughly 82 percent. That is 82 percent of children in these preschool programs have significant parental involvement in their program. That is parents coming to the school, parents participating in programs that these preschool programs provide, parents volunteering in classrooms.

Yet once that child moves to a school-based kindergarten program, parental involvement drops to roughly 30 percent and then continues to decline as that child moves through the elementary school grades.

So we have a significant involvement at the preschool level, and then it literally drops precipitately once that child moves into the traditional elementary school years.

It seems to me that all of us appreciate the value of significant parental involvement. What this new program will do is support imaginative and creative ways of encouraging continued parental involvement. Where parents are involved in the education of their children, not just as homework, not just in encouragement around the dining room table, but actually going to and participating in the education of their children at these schools and helping to dramatically increase the success rate of these children.

Mr. President, we also in this bill have refined the Safe and Drug Free Schools and Communities Act. It is very clear, in my view, that children are not going to learn and teachers cannot teach when they are afraid. Language that I have offered in this bill clarifies that all eligible schools can now be assured of support for proven violence prevention tools, such as conflict resolution, peer mediation and after-school activities.

The committee also adopted an amendment that I offered providing new support for local schools' character education programs designed to get at the roots of violence, drug and alcohol abuse, and other discipline problems by teaching children about honesty, responsibility, respect, trustworthiness and civic virtues.

Mr. President, let me add, that I do not believe, under the best of circumstances, that we would be asking schools to do this. These are things that parents ought to be doing with their children. These basic values ought not to necessarily become the responsibility of your teacher.

And yet, tragically, we know in far too many cases these children are coming to school without the kinds of role models, the love, the nurturing, and the guidance that they should be getting at home. And so these character issues are critically important.

I would mention here that my colleague from New Mexico, Senator DOMENICI, who has spent a great deal of time on these issues, and I have an amendment that we will offer that will strengthen the support this bill offers to encourage more of these ideas being incorporated in the seamless garment of a child's education.

The one thing I know of that makes it hard for kids to learn and teachers to teach is violence. And it is becoming a daily reality in too many of our schools. It is estimated that some 130,000 children bring a gun to school every day in America, and that one out of five children are bringing a violent weapon to school every single day. Most of them are doing it not because they intend to cause violence, but because they are just gripped with fear.

I have a sister who teaches at the largest inner-city elementary school in the State of Connecticut. She will tell you, even at the earliest stages, these children fear to come to school. The fear of violence and being harmed is significant, and does impact on their ability to learn.

These teachers, who are asked to provide basic guidance, have to worry every day about whether going to school is going to bring them within the reach of violence. It is a tough job. But when you have to teach in an environment where you fear bodily harm, where your life may be in jeopardy, then we ought to be doing what we can to eliminate those problems.

So the safe schools and drug-free schools part of this bill is also critically important.

Mr. President, building upon the strong parental involvement initiative offered by the administration, I also added to this bill a provision to ensure that parents have a number of additional tools to increase their participation in their children's education, including opportunities to volunteer in their child's classroom. Improving the structure and system to encourage parental involvement is absolutely critical to our efforts to improve the achievement of America's students and I think everyone agrees with that. The language we have offered here I think will help us achieve that goal.

The committee, Mr. President, also reported a number of other important provisions. Working with Senator SIMON, we were able to restore the Foreign Language Assistance Program in this bill. Language is also included that restores authority for a National Center for Gifted and Talented Education in this country. We also clarify that consortia of local districts are eligible for funding under the Magnet Schools Program, where there are regional efforts to address segregation.

Mr. President, there is much, I think, we can be proud of in this bill. It tackles head-on the No. 1 issue challenging our Nation—the need to adequately educate the next generation of Americans.

No generation will be as challenged as the present one in our school systems. They will have to be better prepared and better educated than any other generation in America's history. It is our job here in this body and in the public sector to see to that they are ready to meet the challenges of the next century.

It is not our exclusive responsibility, of course. Certainly, local school districts and States have to play a major role in fashioning the educational programs for these Americans, and the private sector, as well as average citizens, can play a critical role in helping us improve the educational system of this Nation.

So all of us bear a responsibility to try to see to it that the educational system of our Nation meets the demands that this generation and future ones will face.

For those reasons, Mr. President, I strongly support this legislation. It gives us a valuable blueprint for success. I urge all of our colleagues to read the bill, to focus on the major provisions, and to offer us their support so that we can collectively—in a bipartisan way, as we did coming out of our committee, as I mentioned earlier, by a vote of 16 to 1—make a strong bipartisan commitment to the elementary and secondary education needs of America's children.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I am glad Senator DODD is on the floor.

Might I inquire of the distinguished Senator from Connecticut, I understand that he might have to be at another meeting shortly.

Mr. DODD. I do. But I would be more than happy to stay here. Whether we get started in the meeting will not depend upon my presence. I am sure I can find out what happened there at the appropriate time.

I think the chairman would like to start moving amendments. If that is the case, I am prepared to stay here and work with you.

Mr. DOMENICI. Mr. President, I say to the Senator, they are going to accept our amendment on trying to fund some centers for character education and local partnerships, and we are going to present it now.

AMENDMENT NO. 2414

(Purpose: To establish a grant program for the design and implementation of character education programs)

Mr. DOMENICI. Mr. President, on behalf of myself, Senator DODD, and Senator MIKULSKI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. DODD, and Ms. MIKULSKI, proposes an amendment numbered 2414.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1035, between lines 11 and 12, insert the following:

"PART P—PARTNERSHIPS IN CHARACTER EDUCATION PILOT PROJECT

"SEC. 8901. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make up to a total of 10 grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in section 8904, as well as other character elements identified by applicants.

"(b) MAXIMUM AMOUNT OF GRANT.—No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

"(c) DURATION.—Each grant under this part shall be awarded for a period not to exceed 5 years, of which the State educational agency shall not use more than 1 year for planning and program design.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 $6,000,000, and such sums as may be necessary for each fiscal year thereafter to carry out this part.

"SEC. 8902. STATE EDUCATIONAL AGENCY APPLICATIONS.

"(a) REQUIREMENT.—Each State educational agency desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(b) PARTNERSHIPS.—Each State educational agency desiring a grant under this part shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall—

"(1) pursue State and local initiatives to meet the objectives of this part; and

"(2) establish a character education clearinghouse at the State level to make information and materials available to local educational agencies.

"(c) APPLICATION.—Each application under this part shall include—

"(1) a list of the local educational agencies entering into the partnership with the State educational agency;

"(2) a description of the goals of the partnership;

"(3) a description of activities that will be pursued by the participating local educational agencies, including—

"(A) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

"(B) curriculum and instructional practices;

"(C) methods of teacher training and parent education that will be used or developed; and

"(D) examples of activities that will be carried out under this part;

"(4) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

"(5) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

"(6) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

"(7) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

"(8) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

"(9) any other information that the Secretary may require.

"(d) NON-PARTNER LOCAL EDUCATIONAL AGENCIES.—Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

"SEC. 8903. EVALUATION AND PROGRAM DEVELOPMENT.

"(a) REQUIREMENT.—Each State educational agency receiving a grant under this part shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

"(1) by the mid-term of the program; and

"(2) not later than 1 year after completion of such program.

"(b) CONTRACTS FOR EVALUATION.—Each State educational agency receiving a grant under this part may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in section 8904.

"(c) FACTORS.—Factors which may be considered in evaluating the success of the program may include—

"(1) discipline problems;

"(2) students' grades;

"(3) participation in extracurricular activities;

"(4) parental and community involvement;

"(5) faculty and administration involvement; and

"(6) student and staff morale.

"(d) MATERIALS AND PROGRAM DEVELOPMENT.—Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

"SEC. 8904. ELEMENTS OF CHARACTER.

"(a) IN GENERAL.—Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

"(1) Caring.

"(2) Civic virtue and citizenship.

"(3) Justice and fairness.

"(4) Respect.

"(5) Responsibility.

"(6) Trustworthiness.

"(7) Any other elements deemed appropriate by the members of the partnership.

"(b) ADDITIONAL ELEMENTS OF CHARACTER.—A local educational agency participating under this part may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

"SEC. 8905. USE OF FUNDS.

"Of the total funds received by a State educational agency in any fiscal year under this part—

"(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

"(A) not more than 10 percent of such funds may be used for administrative purposes; and

"(B) the remainder of such funds may be used for—

"(i) collaborative initiatives with local educational agencies;

"(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

"(iii) other appropriate activities; and

"(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

"(A) not more than 10 percent of such funds may be retained for administrative purposes; and

"(B) the remainder of such funds may be used to—

"(i) award subgrants to schools within the local educational agency; and

"(ii) pursue collaborative efforts with the State educational agency.

"SEC. 8906. SELECTION OF GRANTEES.

"(a) CRITERIA.—The Secretary shall select, through peer review, partnerships to receive grants under this part on the basis of the quality of the applications submitted under section 8902, taking into consideration such factors as—

"(1) the quality of the activities proposed by local educational agencies;

"(2) the extent to which the program fosters in students the elements of character;

"(3) the extent of parental, student, and community involvement;

"(4) the number of local educational agencies involved in the effort;

"(5) the quality of the plan for measuring and assessing success; and

"(6) the likelihood that the goals of the program will be realistically achieved.

"(b) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this part in a manner that ensures, to the extent practicable, that programs assisted under this part—

"(1) serve different areas of the Nation, including urban, suburban, and rural areas; and

"(2) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.".

Mr. DOMENICI. Mr. President, and fellow Senators, I rise today to introduce a measure which we choose to call Partnerships in Character Education Pilot Project.

Mr. President, Theodore Roosevelt once noted that "To educate a man in mind and not in morals is to educate a menace to society."

Now, I am sure he was totally right, but the bill before us goes a long way toward ensuring that our students have the resources and the opportunities necessary to learn the essentials of math, science, reading, and writing. It makes good progress toward ensuring our schools are safer and more progressive relative to rapidly advancing technologies.

As we educate our children in mind and ensure that they master modern technologies, we can also offer another element, the element of character education.

So for those who say, "Let's have reading, writing, and arithmetic emphasized," again, I suggest we have to add something to it now for the foreseeable future in America, and that is character education.

The amendment which I sent to the desk on behalf of myself, Senator DODD, and Senator MIKULSKI establishes a very small grant program so that State education agencies, in partnership with local education agencies, can develop character education programs.

And I stress, none of this will be developed at the national level; none of it will be developed by the Secretary of Education; but, rather, in partnerships between State education agencies and local education agencies. Thus, it will involve the grassroots participants in educating our young people across the land.

So I want to emphasize one more time that these programs are partnerships. If the grant is awarded, it will only be because there is a partnership between the local education agency—and they are authorized to consult and work with parents, school authorities, and community leaders to craft programs that best meet the community's concerns. These local agencies will be working at the community level and will work with the State education agencies to form partnerships for the purpose of developing, implementing, and evaluating character education programs.

We do not believe Congress wants to be prescriptive as to what constitutes good character or character education, because we believe the States and local education agencies in conjunction with parent organizations and the community will develop what is best for their needs. Therefore, we allow these partnerships to identify the elements they believe meet their needs and to lend direction to the kinds of elements we support. And we have added the elements as identified in the 1992 Aspen declaration as accepted by the Senate, in Senate Joint Resolution 178, National Character Counts Week.

These elements that we believe lend direction to character education are: caring, civic justice and citizenship, justice and fairness, respect, responsibility and trustworthiness. And we have added as a sixth: And any other element deemed appropriate by the members of the partnership.

So it is not exclusively the Aspen-declared six, but rather any others related to it that in fact the partnership which I have just described, the local grassroots partnership, determines. We have included these because they provide uniformity of some elements for evaluation purposes and because they have national, wide-based acceptance by millions of Americans, scholars, educators, parents, communities, and national youth organizations. Therefore, under title VII, Programs of National Significance, a section which authorizes programs such as art education, civic education, blue ribbon schools—we have included these new grant programs.

This pilot program will allow up to 10 grants for these character education partnerships, I say to my friend from Connecticut, whose assistance I greatly appreciate and whose support, both on the committee and here on the floor—and there we did the joint resolution to call the attention of the nature of these—I deeply appreciate and acknowledge.

I know many schools in America are already beginning to develop character education programs. This pilot program will give schools an opportunity to work with their local and State agencies to build upon their efforts and to pass on their experiences, materials, and training courses through the establishment of an information and materials clearinghouse at any State's level. I know these programs are working well even though they are in their infancy, and I know they will have problems as they move from infancy to adulthood. Nonetheless, I believe we should get started.

Particularly, I might mention, in Albuquerque, NM, our Albuquerque school board adopted a resolution to begin the development of character education in some or all of its schools. There is a great school there called Bel-Air, and they have already successfully established an education program that involves these six elements of character. They believe, after less than 1 full year, that significant, positive changes have taken place as a result of the program.

I said to my friend from Connecticut, we will bring evidence that after less than 1 year—almost a year—there is a noticeable change in this great school that took one element per month and inculcated it in the curriculum and talked about responsibility for 1 month, talked about caring for 1 month, et cetera.

Teachers noted a marked improvement in discipline, saying there were fewer discipline referrals. They also thought that working relationships between students had improved, as student-teacher working relationships had improved, and even teacher-to-teacher relationships.

I might indicate, I was privileged to attend the teachers' assembly early one morning before their full assembly, when they worked together to produce a 2½-hour program on these elements for an assembly. The teachers were excited. They felt much more a part of what was going on in the school as a whole. And the following were results: Standardized test scores went up among third and fifth graders. While the cause of this is not absolutely clear, many teachers attribute a better learning atmosphere as a factor. And 87 percent of the fourth and fifth graders thought that peer behavior had improved; 65 percent thought their own behavior had improved; and 98 percent of the parents thought the program was worthwhile.

All of which was done as a result of this 1 year's effort at this one grade school; 72 percent of the parents said their children had discussed the issues at home, in answering a questionnaire. That is a rather remarkable percentage.

All of this came from surveys sent home to all parents of students at the school, all of which was voluntary. Nobody ordered it and nobody said you must do it.

There are many character education organizations which are successfully working with schools, with parents, and with communities to develop and implement character education programs. I have received materials from organizations and I am very impressed with their fine work. I would like to name just a few: the Character Education Institute; the Character Counts Coalition; the Jefferson Center for Character Formation; the Character

Education Partnership; the Community of Caring, a project of the Joseph P. Kennedy, Jr. Foundation.

Character education is something we should support. It will not always be easy, but now is the time to lend a slight bit of support for some pilot programs so we might measure it better and engage those who want to do this with a little bit of resources here and there to encourage them and help them on the way.

Since I was brought into this effort by the efforts of a Character Counts Coalition, one of those that I mentioned, that was cochaired by former Representative Barbara Jordan and conservative actor Tom Selleck, I close with a statement from Barbara Jordan, very brief but to the point. This is her statement about this issue.

You are for responsibility, you are for caring, you are for fairness, you are for good citizenry. So why do we need a coalition to talk about something that everybody agrees on? We need it because we have neglected our commonality. We have neglected the things we share in common. There is no partnership here, which makes it beautiful. There is no ideological tension here, which makes it beautiful.

Are we trying to replace the family? We're not crazy. The family remains the first line of defense in teaching morals and values. The church? Are are trying to preempt the church? Of course not, we've got church people joining in this coalition.

What we are saying is that for too long there has been a reluctance to talk about teaching values. You don't want to teach values because you say "No, no, no. That is interfering with someone's conscience. That is interfering with a system of beliefs. That is proselytizing." We're not going to do that. The way that we can get on top of some of the problems which plague us so is to decide that we are not going to be reluctant about telling people what's right and what's wrong and what's expected and what's civilized and what's uncivilized.

We are going to make character the number one call of young people in this country. They are going to think before they act because they will know there are consequences. We are responsible for making sure that young people know what is expected of them in the total civilized community of humanity.

Mr. President, I ask unanimous consent the quote from Barbara Jordan be printed in the RECORD.

I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Adapted from remarks made by Prof. Barbara Jordan on October 8, 1993, in Washington, DC, at a press conference announcing the kick-off of the Character Counts Campaign]

Crisis is an overworked word, but I really do believe that there is a crisis of values. A deficit in values. We are plagued by young people who seem to have a disregard for human life as evidenced by the number of drive by shootings. If a person has respect for others, if a person values life, then you don't have life being snuffed out as if it were trivial. This character coalition is something that no one is going to disagree about. You are for responsibility, you are for caring, you are for fairness, you are for good citizenry. So why do we need a coalition to talk about something that everybody agrees on? We need it because we have neglected our commonality. We have neglected the things we share in common. There is no partisanship here, which makes it beautiful. There is no ideological tension here, which makes it beautiful.

Are we trying to replace the family? We're not crazy. The family remains the first line of defense in teaching morals and values. The church? Are are trying to preempt the church? Of course not, we've got church people joining in this coalition.

What we are saying is that for too long there has been a reluctance to talk about teaching values. You don't want to teach values because you say "No, no, no. That is interfering with someone's conscience. That is interfering with a system of beliefs. That is proselytizing." We're not going to do that. The way that we can get on top of some of the problems which plague us so is to decide that we are not going to be reluctant about telling people what's right and what's wrong and what's expected and what's civilized and what's uncivilized.

We are going to make character the number one call of young people in this country. They are going to think before they act because they will know there are consequences. We are responsible for making sure that young people know what is expected of them in the total civilized community of humanity.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, let me at the outset commend my good friend and colleague from New Mexico for his leadership on this issue. I am very pleased and proud to be a principal cosponsor of this amendment.

We have had an opportunity to meet and talk with a number of people who have been involved in this particular question. The bill itself, as I noted earlier, incorporates some of these ideas already, but I think this amendment significantly strengthens Federal support for character education. So I commend him for his efforts and, again, have enjoyed working with him immensely on this question. Our colleague from New Mexico, Senator DOMENICI, has very eloquently described the value of this amendment and why it is important. I think, the basic question that many ask is simply: Why character education?

I suggested earlier that, I suppose, in an ideal world, the parents would be doing this before children even got to school and throughout the education of their children. Regretfully, that does not happen in as many places as it did only a few short years ago. This particular amendment, I think, makes a significant contribution to meeting this challenge.

Fundamentally, this bill is about making America a better place by helping to ensure that all children learn and achieve at the highest levels. But it is not just about making better, more knowledgeable individuals, it is also about strengthening the fabric of our society. That is what is at the very core of the bill in front of us.

The very premise, Mr. President, of our democracy—the people's ability to govern themselves—hinges on good education and good character. That is what our democracy depends upon. We cannot be ignorant of the knowledge of the world, nor can we be ignorant of the common values that bind us together as a people. This bill is about nurturing the character, as well as the mind.

Character education itself—the word, the phrase—raises eyebrows. But if you believe that children should be taught trustworthiness, respect, responsibility, fairness, caring, and citizenship, then you believe in character education. And that is what this amendment does.

These are not revolutionary or controversial concepts, Mr. President. They transcend individual religions and philosophies. They are also almost universally accepted.

A recent Phi Delta Kappa-Gallup poll asked adults whether certain principles should be taught in schools. Let me share, if I can, with our colleagues the results of that survey.

I also ask unanimous consent to print in the RECORD an article which appeared in the Wall Street Journal that goes over these numbers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

EFFORTS TO PROMOTE TEACHING OF VALUES IN SCHOOLS ARE SPARKING HEATED DEBATE AMONG LAWMAKERS

(By Rochelle Sharpe)

WASHINGTON.—When Rep. George Miller suggested adding character education to the massive elementary and secondary education bill, several of his colleagues on the House Education and Labor Committee began to snicker.

"Are you serious about this?" GOP Rep. Steve Gunderson of Wisconsin whispered to the California Democrat. After a brief but heated debate, the modest amendment—which called for a national conference and demonstration grants to promote the teaching of such values as honesty, responsibility and caring—was soundly defeated, 23-6. That vote earlier this year marked the seventh time that a character-education amendment sponsored by Ohio Democratic Rep. Tony Hall had failed to make it through Congress.

Only in Washington could teaching children to refrain from lying, cheating or stealing be an issue. Liberals fear the character-education movement may be a backdoor effort to mix religion with public education: Deputy Education Secretary Madeleine Kunin has declined to even hear a briefing on the subject from McDonnell Douglas Corp.'s former chairman, Sanford McDonnell, now chairman of the Character Education Partnership, a nonprofit organization that promotes the concept. Conservatives, meanwhile, fear character education as an attempt to spread political correctness and undermine parental authority.

"I for one, would not tolerate anybody having the presumption to dare to think they should define who my children are, what their values are, what their ethics are and who in the hell they will be in this world." Rep. Richard Armey, a conservative Texas Republican, argued to the Education and Labor Committee. "The fact is these people don't know my children and the fact is they don't love my children. And the fact is they don't care about my children and the further fact is they accept no responsibility for the outcome * * * and they ought to, by God, leave my kids alone."

Actually, character education has already spread into thousands of classrooms nationwide, where teachers have begun heralding it as a successful way to reduce discipline problems. "Politicians are the last ones to get the message on this issue," say Rep. Hall, who says he's amazed at how little his colleagues knew about the character-education movement. "The whole country is crying out for this."

Values Judgment—A poll last year asked 1,306 adults whether each of the following values should be taught in the public schools:

	Percentage who agree
Honesty	97
Democracy	93
Acceptance of people of different races, ethnic backgrounds	93
Caring for friends and family members	91
Moral courage	91
The golden rule	90
Acceptance of people who hold different religious beliefs	87
Sexual abstinence outside of marriage	66
Acceptance of right of women to choose abortion	56
Acceptance of homosexuals and bisexuals	51

Source: Phi Delta Kappa/Gallup Poll of attitude toward public schools

In Tyler, Texas, not far from Rep. Armey's district, character education is so popular that the Chamber of Commerce and the police department help reinforce the schools' work. Many schools declare a value of the month, which businesses advertise with signs in store windows or on billboards along the highway. Police officers hand out baseball-style cards featuring their pictures on the front and their favorite value on the back.

The officers give the cards to children when eating lunch with them in school or when they see them on the street. Sometimes, officers riding in squad cars will turn on their sirens and stop children for doing a good deed, giving them a certificate that allows them to enter a school raffle.

Since the program began four years ago, the number of school expulsions and fights have dropped, says Tyler's police chief, Larry Robinson, who organized the project. No parents have complained, adds the chief.

In New York, meanwhile, teachers as well as parents are delighted with the results of the character-education program. "There's a huge difference in school tone and climate," says Linda Costagliola, who teaches sixth grade at Brooklyn's P.S. 3. At nearby P.S. 11, the frequent brawls have virtually disappeared, says Kisha Brown, the program's coordinator. The school had been desperate to regain order in the classrooms, she says, and teaching positive values like respect rather than simply punishing negative behavior appears to work. "This seems perfect for us," she says.

It may be hard to fathom that conservatives and liberals could ever agree on anything that had to do with values. But all over the nation, communities have figured out ways to avoid controversy, mainly by focusing on what values to teach rather than debating whose values are most appropriate.

In the Pattonville School District in St. Louis County, Mo., the committee choosing values decided that if anyone disagreed with a character trait, it would be discarded. They reached consensus on 20 traits, including assertiveness, compassion and discretion. The nearby Parkway School District, meanwhile, chose values by surveying 1,200 members of the community twice. The district spent three years choosing the character traits, defining them and deciding on a character development policy.

The controversy in Washington has much to do with the fact that federal involvement in almost any aspect of education virtually guarantees years of discord. It took Congress five years to pass a bill allowing the creation of national academic standards that will be voluntary. So it should come as no surprise that many lawmakers would view the notion of getting the government near values education as a prescription for a political quagmire.

Phyllis Schlafly, head of the conservative Eagle Forum, argues that it is "ridiculous" for the federal government to play any role in the movement. "No good character-education program is going to be developed with taxpayers' money," she says.

But Mr. McDonnell argues that the federal Department of Education could, and should, give the movement a boost. "Kids in schools are getting values transmitted to them one way or another," he argues, and unless they are taught about values, they get the message that values aren't really that important—or may decide to model themselves on the negative values they see glorified on television or on the streets.

Yet government officials have responded to his arguments mainly with kind words and little action. The department once gave a $530,000 demonstration grant to schools in Mr. McDonnell's hometown of St. Louis and in surrounding counties; ironically, Mrs. Schlafly—who didn't know federal money was involved—says she has no objections to these character-education programs.

But the Education Department has done little else. Especially disheartening, Mr. McDonnell says, was the refusal of Deputy Secretary Kunin to even listen to his presentation. Ms. Kunin, the former governor of Vermont, says she finds character education "interesting work" but possibly "inappropriate" for federal involvement. "Our approach is that this is still the prerogative of the local community and the family," she says. "Our focus is on academics. That's where we see our most urgent needs."

But Tyler's Mr. Robinson, who spent six months studying character education before launching the Tyler program, seems annoyed with Washington's attitude about the movement. "I wonder what the impact would be on congressmen if character-building had been done when they were young," the police chief says.

Mr. DODD. Mr. President, just listen to what American citizens said when asked the question about whether or not some of these character issues ought to be taught in school: 97 percent of the respondents supported teaching honesty; 93 percent supported teaching democracy; 93 percent supported teaching acceptance of people of different races and ethnic backgrounds; 91 percent supported teaching caring for friends and family members; 91 percent supported teaching moral courage, and the list goes on.

Indeed, what Senator DOMENICI and I are suggesting with this amendment is already being done by a number of school districts around the country that have designed and implemented programs of character education. It seems to be working. From Tyler, TX, to Brooklyn, NY, school districts that have implemented character education programs report marked drops in discipline problems, pregnancy, substance abuse, tardiness, and unexcused absences.

The Hyde Leadership Public School in Hamden, CT, is one such effort. While this New Haven satellite school has just completed its first year and is still experiencing birthing pains, it is beginning to show promise with its focus on character education. Students report feeling closer to their parents and having far more confidence.

Let me share, if I can, at this point a letter that I received from the Joseph P. Kennedy, Jr., Foundation from Mrs. Eunice Kennedy Shriver; I received it just yesterday regarding the Kennedy Foundation's particular program. I ask unanimous consent that her letter and the supporting information be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE JOSEPH P. KENNEDY, JR.
FOUNDATION,
Washington, DC, July 26, 1994.

Hon. CHRISTOPHER J. DODD,
444 Russell Building, Washington, DC.

DEAR SENATOR DODD: I was inspired by our conversation yesterday concerning Character Education. As promised, I am sending you some materials about the Community of Caring, a program which has focused my attention on Character Education for the past decade.

The Community of Caring was developed by the Kennedy Foundation initially as a way to reduce teen pregnancy and, thereby, reduce the incidence of mental retardation. The Community of Caring is a values-education program for the schools, grades K-12, focused on teen pregnancy prevention and other destructive behaviors: violence, drugs and alcohol, and dropping out of school. The program enables students to see the relationship between the decisions they make in life and their individual value systems. The students learn how to make values an essential part of life in the home, school, and the community.

Unlike "one-shot" programs, the Community of Caring is not a separate class or curriculum, but rather an integrated part of the existing content in all the various classes offered in the school. The values discussions in the classroom are centered around five core values: respect, responsibility, trust, caring and family, based on universally accepted principles of personal and civic responsibility and the foundation of our democracy.

In addition to the classroom discussions, opportunities are provided throughout the school environment and the community for the students to practice leadership and decision-making skills. The school program has five major components: training for teachers, values discussions across the curricula, teen forums, parent involvement, and community service. Behavioral science research has long shown that positive attitudes and positive reinforcement lead to improved self-concept, and academic and job performance. The Community of Caring is a positive values education approach, giving students something to strive for, rather than something to run away from.

In summary, the Community of Caring is a tested character education program, and provides opportunities for out of class activities, unifies the school and faculty, involves the parents and community, and provides a sharper focus into the needs of young people. By using the systematic, inclusive positive values approach inherent in the Community of Caring's approach, Community of Caring schools have been successful in reducing destructive behaviors in teenagers, and preventing some of the causes of mental retardation.

The Community of Caring operates in 145 schools nationwide, impacting on 75,000 students. A fact sheet from a nearby school, Armstrong High School in Richmond, Virginia, illustrates typical outcomes for the Community of Caring. Armstrong is an inner-city school where many of the students live in public housing with a single parent heading the household.

To be successful, public and private health and human service agencies, Churches, schools, civic and service organizations and community leaders must all come together to instill a sense of belonging to young people who are at risk of becoming disenfranchised. The Community of Caring has shown a reduction in violence and drug abuse everywhere it is in use. Side benefits, from increased student attendance to reduced teacher absenteeism are also reported. We are constantly told by teachers that teaching is meaningful again, now that they can address character education.

When the community is actively involved in working with schools, other benefits, such as support for schools, recognizing the value of young people, etc. are crucial side benefits.

I am also enclosing the following:

(1) The textbook which is used by schools;

(2) The Teacher's guide for the text;

(3) The "How To Create a Community of Caring School" notebook, used by participating middle and high schools;

(4) The "How to Create a Community of Caring Elementary School", a recently developed program for schools, grades K–6.

I hope that during the creation of the legislative history on Character Education you can reference programs like the Community of Caring which use proven methods to assist young people to grow up in a positive environment, with a reduction in violence and drug abuse.

Thank you for your support of this important program for America's children. Please let me know if I can provide you with any further information.

Sincerely,

EUNICE KENNEDY SHRIVER.

Mr. DODD. Mr. President, I will not read the entire letter at this particular point, but let me share with you a little bit about this program. Its program, the Community of Caring, operates in 145 schools nationwide and has an impact on 75,000 students.

To give an example of what one school has been able to do, Mrs. Shriver gave me some data from the Armstrong High School program in nearby Virginia. It is a success story at a glance.

Pregnancies among ninth graders dropped from 12 in the 1987–88 school year to 1 in 1991–92.

Students promoted to the next grade in 1987, 77 percent, and yet after this character education program, they achieved almost 90 percent, a 13 percent increase in just a few years.

The dropout rate from that school went from 15 percent in 1989 down to a little more than 10 percent in the following year.

Students caught with drugs, alcohol, or weapon at school went to zero in most recent surveys.

Teacher attendance: 5 teachers had perfect attendance rates in 1987–88; 24 teachers had perfect attendance rates in 1991–92.

Mr. President, I ask unanimous consent to print the remainder of this data in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARMSTRONG HIGH SCHOOL'S COMMUNITY OF CARING: A SUCCESS STORY AT A GLANCE

Pregnancies among 9th graders:
- 12 in 1987–88
- 1 in 1991–92

Pregnancies among all students:
- 36 in 1987–88
- 19 in 1991–92

Increases in test scores (percentiles) for same students in 9th grade in 1989, 10th grade in 1990, 11th grade in 1991:
- Mathematics—33rd in 1989, 37th in 1990, 39th in 1991
- Reading comprehension—30th in 1989, 38th in 1990, 39th in 1991
- Science—58th in 1989, 60th in 1990, 61st in 1991
- Social studies—32nd in 1989, 34th in 1990, 42nd in 1991
- Written expression—48th in 1989, 56th in 1990, 59th in 1991

Students promoted to next grade:
- 77.7 percent in 1987–88
- 83.9 percent in 1991–92
- Goal of 87.0 percent in 1992–93
- Goal of 90.0 percent in 1993–94

Students going on to 2-year and 4-year colleges:
- 47.2 percent of Class of 1989
- 48.3 percent of Class of 1990
- 56.1 percent of Class of 1991
- 59.3 percent of Class of 1992

Drop-out rate:
- 14.9 percent in 1988–89
- 10.3 percent in 1991–92

Students caught with drugs, alcohol or weapon at school:
- 0 from 1988 to present

Student attendance:
- 83.6 percent in 1987–88
- 85.9 percent in 1991–92

Teacher attendance:
- 5 teachers with perfect attendance in 1987–88
- 24 teachers with perfect attendance in 1991–92

Prominent graduates:
- Governor L. Douglas Wilder
- Richmond Mayor Walter Kenney
- Richmond School Supt. Lucille Brown
- Max Robinson, first black anchor for network TV, U.S. Circuit Judge Spottswood Robinson, III
- Admiral S. L. Gravely, Jr.

School Address:
1611 N. 31st Street, Richmond, VA 23223

School Principal:
George W. Bowser

Mr. DODD. Mr. President, this is just one example of a small school, a neighborhood school, that as a result of having a program like this has improved. These programs affect the lives of children and teach them how to make a difference. Kids want to learn these things. They sense the importance of character, how it can enrich their lives and make them happier, better people.

So while some may snicker a bit at this, it works. It works. What we are simply asking for here is just a few new resources to support a few pilot programs and bring these ideas to districts that may not have the resources. And the Domenici amendment offers this limited federal support and this chance to communities across the states.

Character education may not be—and I think the Senator from New Mexico would agree—the magical answer to all of our problems out there. It is not. But we believe very firmly and very deeply that by developing good character in our young people, we can make a real difference in the lives of every one of them and their families. The data and statistics that we received just in a few programs around the country indicates that.

So this may not be a large amount, and it is not. We do not think it takes a great deal of resources to get it underway, but the value of it speaks for itself.

I think this amendment will make this a better bill. Again, I commend my colleague from New Mexico and our colleague from Maryland, Senator MIKULSKI, who also joined us as a cosponsor of this amendment. We thank the leadership on the floor for allowing us to bring this up. Hopefully, our colleagues will support this and make an already strong bill, even better, by including these provisions.

The PRESIDING OFFICER. Is there further debate? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I talked with the two managers. It is my understanding that they are going to accept this amendment. For that, I am grateful. I hope nobody thinks we are reinventing anything. The truth of the matter is that I believe most Americans—young, old, middle-aged—all know something has gone wrong in our country, and nobody has the answer. We do not either. But we believe part of the answer is that our society is losing its character.

Way back in Plato's day, he said a country without character is lost. The only way for a country to have character is for its people to have character. That is a truism. That does not have anything to do with America today; it has to do with humans living together in a civilized manner.

I think most would say we know that we ought to have more respect, more responsibility, more trustworthiness, more fairness.

These are the kinds of characteristics or elements of character we are talking about. There are lots of Americans working on it, and we want to lend our hand to trying to be part of understanding it, to spread it more rapidly, to put it into some understandable form and measurable. And to have just 10 pilot programs, if such be the will of the partnerships around our country, to lend a little impetus to this we believe, and I am sure the Senate believes, is very, very necessary in our country.

Mr. KENNEDY. Mr. President, I am personally grateful for the kind comments of the Senators from New Mexico and Connecticut about the Joseph P. Kennedy, Jr. Foundation program that has been involved in this area and has been for some period of time. I therefore sort of necessarily recuse myself from expressing an opinion on this particular amendment.

I yield to the ranking member to make a judgment in terms of the committee's position on this.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, as stated by the Senator from New Mexico, there is no objection on either side of the aisle, and I think it is a worthy effort. And by example, it is my understanding in Massachusetts this is being used in the public schools and private schools as well, and it has served well.

I think it is a fine approach for us to take at this time, and there is no objection.

Mr. DOMENICI. Mr. President, Senator PELL would like to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, while Senator DODD is in the Chamber, I would like to address one aspect of this that we have both confronted. Frankly, there is a lot of cynicism in America. There is cynicism about almost anything that politicians try to do.

Frankly, I have been asked questions in my home State that seem to say: Why would the Senate—and then they will add whatever they think about the Senate—be involved in this?

I would just like to say from this Senator's standpoint I choose not to be cynical. For whatever time I serve the public, I do not want to be a cynic of our future or our childrens' future. And that is why I approach this with great confidence, not because of what I am saying but because we expect those people down at the grassroots, people of America in our cities and in our school districts, in our families to find that we are interested and maybe they will be more interested, to find that we are concerned and maybe they will feel more confident.

So that is why we are here. We do not have a monopoly. We do not even begin to be here preaching that we know exactly how to behave and how character should be motivated, but we do believe we have a responsibility to accept the future with optimism and do what we can to help those who are trying.

With that, I have nothing further and I assume we will adopt the amendment.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

So the amendment (No. 2414) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2415

(Purpose: To impose a fine on persons who violate a court order regarding interference with rights to prayer in public schools)

Mrs. KASSEBAUM. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 2415.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1165, between lines 21 and 22, insert the following

"SEC. 10607. SCHOOL PRAYER

"Any State or local education agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.".

Mrs. KASSEBAUM. Mr. President, I rise to offer an amendment which I believe to be a thoughtful solution to the potentially volatile and divisive issue of school prayer. This amendment will protect "constitutionally protected prayer"—just as Senator HELMS' amendment does—without placing unfair and unreasonable burdens on school administrators.

During the debate of Goals 2000 last February, the Senate found itself tied up in a complicated and fractious debate regarding the issue of prayer in our public schools. Indeed, the final version of the legislation that the Senate sent to the conference contained three different amendments relating to this one point. The amendment that I am now introducing is designed to avoid a repeat of that scenario.

In crafting this amendment, I have worked hard to meld the spirit of the Goals 2000 amendments while avoiding heavy-handed and unreasonable penalties on the students of our country.

All of the concerns raised on the Senate floor during the debate were valid ones. No one would argue against protecting constitutionally protected prayer. I commend all of my colleagues who expressed a sincere interest in maintaining this basic right for the public school students of our country.

But unfortunately, Mr. President, the issue of what is constitutionally protected is not as simple as it may first sound. Even the courts are split on what is allowed. The law surrounding this issue is unquestionably murky.

For example, in June 1993, a Federal court judge in Boise, ID, upheld students' rights to have a prayer at graduation. That same summer a Federal judge in Virginia ruled that a planned graduation prayer was unconstitutional, stating that the Constitution does not permit "students by majority vote to impose prayer on a minority."

In short, the same issue produced two very different interpretations of the Constitution.

Mr. President, this does not mean that all aspects of religion and prayer in public schools are currently in question. Students and parents have contended that some actions which school administrators at first determined impermissible were in fact ensured by our first amendment's guarantee of religious freedom. The courts have ruled that students have the right to read religious materials during individual study time; that a school district which permits civic and social groups to use its facilities must allow similar use for religious groups, and that school libraries are allowed to contain copies of the Bible. Certainly these are things that I think we would all feel were enormously important, Mr. President.

In each of these instances, the rights guaranteed by the first amendment were determined in their proper venue—the courts. School administrators had made good-faith efforts to determine what actions were constitutionally protected. But school administrators are not constitutional scholars, and it has placed them in an enormously difficult role. Therefore, in each of these cases, the courts ruled that the actions were permitted and the schools acted accordingly.

That, Mr. President, is how it should be. This amendment avoids putting school administrators in the position of determining how the first amendment should be interpreted.

This amendment will protect the rights of students. If a school administrator fails to correct a policy that the Court has deemed to infringe upon a student's first amendment rights, that school district will be faced with a monetary penalty. If school administrators willfully violate a student's constitutional rights regarding school prayer, they should be punished. But I think the phrase to emphasize is "willfully violate a student's constitutional rights."

Mr. President, the first amendment to the Constitution guarantees us religious freedom. That is something that everyone in this country cherishes and values. It is important to note that the Supreme Court has never attempted to forbid students from participating in voluntary, personal, undisruptive prayer on school property during school hours. I wholeheartedly believe in the importance of prayer in our daily lives. One can pray anywhere, at any time.

However, the first amendment also ensures that our Government refrain from endorsing one particular religion over another. The text reads:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

The Supreme Court has consistently interpreted this to mean that Government must be neutral regarding religion in the public schools.

Mr. President, our Constitution is not about, and has never been about, inhibiting religion, but ensuring that our Government stays neutral towards it. Reconciling these two fundamental intentions of the first amendment remains a challenge to us all—here in the Congress and out among the schools. It is unreasonable to expect our school administrators and teachers to be constitutional scholars.

The courts will ensure that protected prayer is permitted in our schools. This amendment further strengthens that power, without unfairly placing on our school officials the burden of determining what is protected.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I will vote for the Kassebaum amendment, because it represents a fair and balanced approach to protecting the constitutional rights of all Americans with regard to prayer in the public schools.

The Kassebaum amendment would require that Federal funds be withheld from any State or local educational agency that is found to have willfully violated a court order requiring the school district to stop violating the constitutional rights of any student with respect to prayer in the schools. A school district cannot be reimbursed for funds that are withheld during any period when the district is in willful noncompliance of the court's order.

The approach taken by the Kassebaum amendment is far superior to that taken by the amendment offered by the Senator from North Carolina to the Goals 2000 bill, an amendment that has been offered to this bill as well.

The Helms amendment provides that all Federal education funds must be cut off when a State or local educational agency "has a policy of denying, or which effectively prevents participation in, constitution[ally] protected prayer in public schools by individuals on a voluntary basis."

When the Goals 2000 bill was before the Senate I supported the Helms amendment after he modified it to limit its application to constitutionally protected voluntary prayer. There are narrow situations in my view where the free exercise clause guarantees a student the right of pray privately and quietly to himself or herself, without disrupting class or avoiding his studies.

On reflection, however, I believe that in the form offered by the Senator from North Carolina, the provision could be misused by some to scare school board officials into allowing religious rituals in situations where they are not constitutionally protected. That point was made in a June 3, 1994, joint letter by a broad coalition of educational, religious and civil liberties organizations. I would like to read a portion of that letter.

> As educational organizations, religious and faith communities, and organizations devoted to religious and civil liberty, we write to urge that you oppose the Helms school prayer amendment which will be offered when the Senate considers S. 1513, the Elementary and Secondary Education Authorization Act. The Helms amendment would terminate all Department of Education funding to any state or local educational agency which "has a policy of denying or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis."
>
> Together, we serve millions of students and parents, thousands of school administrators and school boards, teachers and child advocates, as well as millions of Americans of many religious faiths. We are firmly convinced * * * that the Helms amendment would undermine local control of education, would needlessly interfere with the task of running our public schools, would undermine religious liberty, and should be rejected by the Senate:
>
> The amendment places an unfair burden on school authorities by forcing them to navigate an exceedingly complex and sometimes contradictory area of constitutional law under penalty of forfeiting all federal funding.
>
> The amendment is draconian, withholding precious educational resources even for actions which unintentionally, indirectly or unforeseeably interfere with prayer in schools.
>
> The amendment would significantly expand federal bureaucratic intrusion into decisions by state and local educational officials.
>
> The amendment would invite widespread threats and litigation against school officials by activists seeking to force group prayer into the public schools.
>
> Although seemingly phrased in constitutionally neutral language, the amendment would actually encourage widespread violations of the First Amendment's Establishment Clause, and would thereby foster even more litigation against our schools.
>
> Finally, the Helms amendment is wholly unnecessary in light of the availability of ordinary legal remedies for violations of the constitutional right to pray and the very sparse record of judicial decisions finding violations of students' constitutional rights to pray in school.
>
> For the sake of our schools, local control of education, and our Constitution, we urge you to reject the Helms amendment to ESEA.

I ask unanimous consent that the full text of the letter be printed in the RECORD.

In short, the right protected by the Helms amendment is a profoundly important one, but the harsh remedy it would prescribe would tip the delicate balance required to protect the constitutional rights of those who wish to engage in prayer in schools, and of those who do not wish to participate. Local school boards faced with the risk of a complete cutoff of Federal funds would have every reason to sacrifice the constitutional rights of religious minorities to accommodate the religious preferences of the majority.

And where school boards erred in good faith and unintentionally violated the Constitution, under the Helms amendment all Federal funds would be cut off and innocent children would be deprived of educational opportunities.

Congress has previously recognized that a complete fund cutoff is unfair in these circumstances. The Equal Access Act which Congress passed in 1984 assures that religious groups will be given an equal right to use school facilities for after-school meetings.

When that law was first introduced, it contained a fund cutoff provision similar to that contained in the Helms amendment. Congress rejected that approach in the version that finally was enacted; it expressly prohibits the Federal Government from withholding school aid for violations of the act.

The Kassebaum amendment avoids the deficiencies of the Helms amendment. It applies evenhandedly to protect the constitutional rights of those who seek to pray, and of those who seek to avoid the unconstitutional establishment of religion. Because the Kassebaum amendment would authorize the withholding of Federal funds only when a school district willfully disobeyed a court order, it would not pressure school boards to tilt in favor of one group at the expense of others. And it would not punish innocent school children for good faith errors committed by local school boards.

The Kassebaum amendment is similar to Federal laws banning race, gender, and disability discrimination in federally funded programs. These laws do not permit, let alone require, a complete cutoff of Federal funds to institutions that are found to discriminate.

Under those laws, fund terminations may occur only after a hearing on the record, judicial review, and persistent refusal by the institution to comply with the requirement; even in those situations, fund terminations are required to be limited to the particular program found to have discriminated.

Similarly, the Kassebaum amendment requires that a court determine whether there has been a constitutional violation before the withholding of Federal funds can be ordered. This is appropriate, since the law in this area is often vague, and the Federal courts are best situated to determine whether a violation has occurred.

In sum, the Kassebaum amendment fairly protects the religious rights of all Americans, while the Helms amendment would jeopardize educational opportunities for innocent children and coerce school officials to observe the religious rights of some students and to deny the rights of others.

I urge my colleagues to support the Kassebaum amendment and to reject the Helms amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 3, 1994.

DEAR SENATOR: As educational organizations, religious and faith communities, and organizations devoted to religious and civil liberty, we write to urge that you oppose the Helms school prayer amendment which will be offered when the Senate considers S. 1513, the Elementary & Secondary Education Authorization Act. The Helms amendment would terminate all Department of Education funding to any state or local educational agency which "has a policy of denying or which effectively prevents participation in constitutionally protected prayer in public schools by individuals on a voluntary basis."

Together, we serve millions of students and parents, thousands of school administrators and school boards, teachers and child advocates, as well as millions of Americans of many religious faiths. We are firmly convinced, for the many reasons outlined below and explained more fully in the attached memorandum, that the Helms amendment would undermine local control of education, would needlessly interfere with the task of running our public schools, would undermine religious liberty, and should be rejected by the Senate:

The amendment places an unfair burden on school authorities by forcing them to navigate an exceedingly complex and sometimes contradictory area of constitutional law under penalty of forfeiting all federal funding.

The amendment is draconian, withholding precious educational resources even for actions which unintentionally, indirectly or unforeseeably interfere with prayer in schools.

The amendment would significantly expand federal bureaucratic intrusion into decisions by state and local educational officials.

The amendment would invite widespread threats and litigation against school officials by activists seeking to force group prayer into the public schools.

Although seemingly phrased in constitutionally neutral language, the amendment would actually encourage widespread violations of the First Amendment's Establishment Clause, and would thereby foster even more litigation against our schools.

Finally, the Helms amendment is wholly unnecessary in light of the availability of ordinary legal remedies for violations of the constitutional right to pray and the very sparse record of judicial decisions finding violations of students' constitutional rights to pray in school.

For the sake of our schools, local control of education, and our Constitution, we urge you to reject the Helms amendment to ESEA.

American Federation of School Administrators, AFL-CIO.

American Jewish Committee.

American Jewish Congress.

Americans for Religious Liberty.

Americans United for Separation of Church and State.

Anti-Defamation League.

Baptist Joint Committee on Public Affairs.

Central Conference of American Rabbis.

Church of the Brethren, Washington Office.

Council of Chief State School Officers.

Council of the Great City Schools.

The Episcopal Church.

Friends Committee on National Legislation.

General Conference of Seventh-day Adventists.

National Coalition for Public Education & Religious Liberty.

National Council of Churches.

National Council of Jewish Women.

National Education Association.

National Jewish Community Relations Advisory Council.

National Jewish Democratic Council.

National P.T.A.

National School Boards Association.

People For The American Way Action Fund.

Presbyterian Church (USA), Washington Office.

Union of American Hebrew Congregations.

Unitarian Universalist Association of Congregations.

United Synagogues of Conservative Judaism.

Mr. THURMOND. Mr. President, I rise today to speak in favor of S. 1513, the Improving America's Schools Act of 1993. I commend Senator KASSEBAUM for the fine job she has done on this bill. While I intend to support the legislation before us today, amendments may be offered to this legislation that I also support. However, I caution my colleagues that amendments regarding opportunity-to-learn standards or outcome-based education will force me to reconsider my support of this legislation.

Mr. President, last year we passed S. 1150, the Goals 2000: Educate America Act. I supported that legislation during its initial passage in the Senate. However, I felt that I could not support the Senate version which would further involve the Federal Government in education. Subsequently, I did not support the legislation reported by the conference committee. I hope this does not happen with the legislation before us today.

The Elementary and Secondary Education Act primarily addresses the special educational needs of disadvantaged students. It encourages the development and implementation of innovative instructional techniques. It also encourages instructional improvement in key subject areas such as math and science.

S. 1513 contains a number of worthy programs, several of which I would like to highlight. First, the largest Federal elementary and secondary education program, chapter I, is a formula grant program that provides supplemental educational and related services through State and local organizations to improve the achievement of educationally deprived children from preschool through high school.

Second, the Early Childhood Transition and Even Start Programs will help children under 8 years of age to be better prepared when entering elementary school. The Early Childhood Transition Program provides transition services for children who have participated in Head Start or other early childhood programs. This is vital to ensure that the gains made by early childhood programs are not lost as these children enter elementary school. The Even Start Program combines early and adult education to families with parents without a high school diploma or GED. This helps build partnerships within families so that family members reinforce and encourage each other to learn.

Third, S. 1513 will continue to improve educational programs for migrant children and to improve interstate and intrastate coordination and transfer of student records.

Fourth, this legislation includes grants which will foster the use of technology applications in our schools, professional development in educational technology, and technology-related services in public libraries and literacy programs. The Star Schools Program provides access to telecommunications systems for rural schools to improve access to educational instruction through the development and acquisition of telecommunications equipment and instructional programming. The use of technology in education will help America remain globally competitive, and I am very supportive of this program.

Fifth, the Inexpensive Book Distribution Program will be contained under this legislation. This program is operated by Reading is Fundamental [RIF], which is associated with the Smithsonian Institution. It is estimated that in 1995, approximately 6 million books will be distributed to nearly 2 million children. This program inspires children to read and motivates parents to be involved in the achievements of their children.

Finally, in order for our children to be successful in education they must live in a safe and drug-free environment. The Improving America's Schools Act provides assistance to help prevent the illegal use of alcohol and other drugs and to prevent violence in and around schools. It expands the Drug-Free Schools and Communities Act of 1986 to include violence prevention. This is a worthy program that deserves our support.

These programs are among the many worthy programs authorized by this legislation.

Mr. President, as you know, I have concerns with the role of the Federal Government in our educational system. I am particularly concerned about the establishment of a Federal curriculum and limitations on the flexibility that is critical in allowing States to address local needs.

However, on balance, I believe this legislation seeks to provide a high-quality education for all Americans. It provides critical resources to help economically disadvantaged children achieve their educational goals. It also encourages innovation in addressing the diverse educational needs our children face.

I am a strong supporter of education reform. I believe the education we provide to our children and future generations of children is one of the most important gifts we can give them.

Again, I intend to support S. 1513 in its current form. However, I must again caution my colleagues against amendments that call for excessive Federal regulatory requirements, as well as Federal mandates not funded by the Federal Government.

SCHOOL PRAYER AMENDMENTS TO ESEA

Mr. DURENBERGER. Mr. President, I rise in support of the Kassebaum school prayer amendment and in opposition to the Helms amendment.

Mr. President I commend both my colleagues, Senator HELMS and Senator KASSEBAUM for working on the critical issue of school prayer. Like my colleagues I have been concerned about the abuse of the Constitution that has resulted in attempts to forbid any religious expression in public schools. I am heartened by the Court's recent attempts to restore the appropriate balance between the free expression of religion and the establishment clause.

Today I vote my preference for the Kassebaum approach because I think it very creatively deals with the problem found in the Helms amendment.

The only problem with the Helms amendment, in my mind, was that it forced school administrators to reach difficult constitutional conclusions with an enormous stake riding on their ability to guess correctly. I support the goal of the amendment to condition Federal support on an appropriate respect for the constitutional rights of students who want to pray in school. But I was troubled, in the final analysis, by the possibility that a school administrator, who tried in good faith and to the best of his or her ability to discern the constitutionality of any given proposal, could lose Federal funds because he or she did not accurately predict the outcome of a constitutional issue.

The Kassebaum amendment cures this defect. It gives the school administrator a way to make decisions in good faith when there is no specific guidance on the constitutionality of a proposal without placing their Federal funding on the line. But, like the Helms amendment, it gives real teeth to the requirement that schools not interfere with constitutionality protected prayer.

Mr. President, I applaud the efforts of the Senator from North Carolina to keep this issue before the Senate. And I applaud the Senator from Kansas for her creative solution to the dilemma that school administrators might have faced under the Helms amendment.

I urge my colleagues to support the Kassebaum approach to this important issue.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, [Mr. HELMS], is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I have just come from the White House, where I was witness to an inspiring event. As I told Senators in the policy luncheon today, I was going down to join in welcoming the number one girls' basketball team in America—the Lady Tarheels from the University of North Carolina. I have heard it mentioned that last year, the men's basketball team was number one in the NCAA. They were not number one this year, because Arkansas beat them.

But there were those young ladies, and most of them tower over the President and me. I think I shall never forget the picture—and it may be in the papers tomorrow morning—of the President looking up at a lovely young woman, one of whom won the game back in March, in the last seven-tenths of a second. She made a three-pointer and won the game and the championship for the ladies of the University of North Carolina's basketball team.

In talking with these young ladies and with the coach, we began wandering off the subject of basketball and wandering onto the state of the Nation, if you will. I found that each one of these ladies is dedicated in terms of moral and spiritual values. A couple of them said, "Senator, are you going to offer your prayer amendment again any time this year?" I said, "I am." They said, "We hope it passes." Well, I share that hope, because that is what I intend to do right now.

But first, Mr. President, may I ask if the pending business is the amendment of the Senator from Kansas?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. It is necessary to set that aside temporarily. Can I do that by second-degreeing her amendment?

The PRESIDING OFFICER. The Kassebaum amendment is open to further amendment in the second degree.

Mr. HELMS. I thank the Chair.

I ask for the yeas and nays on the Kassebaum amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2416 TO AMENDMENT NO. 2415

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. LOTT, Mr. NICKLES, and Mr. SMITH, proposes an amendment numbered 2416 to amendment No. 2415.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . PROHIBITION AGAINST FUNDS FOR PROTECTED+ PRAYER.

Notwithstanding any provision of law, no funds made available through the Department of Education under this Act, or any other Act, shall be available to any State or local education agency which has a policy of denying or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any State nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

Mr. HELMS. Mr. President, as we were discussing at the White House with those young people today, America is in the midst of a historic struggle between those who see this Nation as having been rooted in Judeo-Christian morality, people who yearn for a restoration of the traditional values passed down by the Founding Fathers on one side; and on the other side, those who intentionally, or unintentionally, or by benign neglect, would discard the moral and spiritual values in favor of something called "moral relativism," and that is really a struggle, I think, for the soul of America.

Jenkin Lloyd Jones, of the Tulsa Tribune, many years ago wrote an editorial which must have been reprinted a million times, entitled "What Has Happened to the Soul of America?"

That question is relevant today, even more so. How this struggle is resolved will—many of us are convinced—determine whether America will succeed and prosper, or whether America will disappear into the dustbin of history.

I am gratified, for one, that the American people, in poll after poll, confirm that they recognize what is at stake. And by a wide margin—anywhere from 75 to 80 percent—they want school prayer restored. I might add that since the first time that the Senate passed this amendment, 75–22, if I am correct in the figures, we must have received 10,000 pieces of mail, and almost that many telephone calls, from people wanting to know if I wanted to try it again and on what legislation. And, of course, I told them on this piece of legislation—the elementary and secondary education bill.

I was encouraged back in February when the Senate voted 75–22 to approve an amendment to prevent public schools from prohibiting constitutionally protected, voluntary, student-initiated school prayer.

Despite this vote and a 367 to 45 vote in the House of Representatives to instruct its conferees to support the Senate school prayer amendment that had been approved by the Senate, as I said 75 to 22, despite all of that, a little hanky-panky occurred in conference, and the amendment was dropped. I had plenty to say about that, and so did several other Senators, just before Easter when the conference report on that bill came back.

I was dismayed, frankly, as author of that amendment, as was Senator LOTT, who was the principal cosponsor of the amendment, that our amendment was dropped in the closing seconds of the conference between the House and the Senate. There was no debate. There was no discussion. There was no vote. Just a wink and a nod, between the Senator from Massachusetts and his counterpart on the House side who by obvious prearrangement dropped the amendment and substituted in its stead do-nothing language. In other words, they gutted the provision.

The House as a whole rejected the do-nothing amendment that the Senator from Massachusetts and his House counterpart put in that conference report earlier this year.

Now, when that do-nothing text, that precise amendment, I might emphasize, was offered to the House version of this bill, the underlying bill, H.R. 6, the House rejected it overwhelmingly 179 to 239.

So what do we have here the second time around? The will of the overwhelming majority of both the Senate and the House was deliberately overturned and the wishes of the American people—75 to 80 percent of them in every poll I have seen support voluntary prayer in school—were cast aside. What they thought, what they wanted, what they desired did not matter. A wink and a nod and away the amendment went.

We ought to see if that happens again. Many Senators on that Friday night—just before Easter when the Senate was in session until after midnight—stood on this floor and were highly critical of the arrogance of the Senator from Massachusetts and his cohort in the House of Representatives when the conference report was brought up in the Senate immediately prior to that Easter recess.

As I recall, one of the Nation's large, liberal newspapers lamented the fact that the Senate was being delayed in beginning its recess because, as the newspaper put it, something "so trivial"—so trivial—as school prayer was taking up the time of the Senate.

Mr. President, let me emphasize the way I feel about it. If we care about restoring America's principles and traditional values, the very foundation of this country from the beginning, if we care about the long-term survival of this country of ours, how could there be anything more important than for the Senate to spend a little time on the subject of protecting the right of America's children to participate in voluntary, constitutionally protected prayer in their school?

And that is why, Mr. President, I have offered the pending amendment.

So that there may be no misunderstanding about it, no misinterpretation of it, let me read the amendment into the RECORD again. The clerk has already read it very clearly, but you are going to hear a lot of "who struck John" about how my amendment is terrible. Well, it is not terrible at all.

The amendment pending says:

> Notwithstanding any provision of law, no funds made available through the Department of Education under this Act, or any other Act, shall be available to any State or local educational agency which has a policy of denying or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any State nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

That is the amendment. It includes a modification suggested by the Senator from Massachusetts last February who then voted for it when it passed the Senate, and then when it got into conference the hanky-panky began.

This is the precise language which the Senate approved 75 to 22 on February 3 of this year. I repeat that for emphasis.

Mr. President, I ask unanimous consent that the rollcall vote on school prayer on February 3, to which I allude, be printed in the RECORD immediately before the vote on the pending amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Now, then, Mr. President, I reiterate that this exact language was approved by the House of Representatives 345 to 64 as an amendment to their version of the elementary and secondary education bill, H.R. 6, meaning that if the Helms-Lott-Dole-Nickles-Smith amendment is approved today, surely no conferee on the underlying bill will again be brazen enough to attempt to drop the amendment in conference.

So that there will be no misunderstanding as to the implications of this amendment, I will remind Senators what it does not do.

It does not mandate school prayer. It does not require schools to write any particular prayer. It does not compel any student in any school to participate in any prayer against his or her wishes. It does not prohibit school districts from establishing appropriate time, place, and manner restrictions on voluntary prayer—the same kind of restrictions that are placed on other forms of free speech in the schools.

What the amendment does do is prevent school districts from establishing official policies or procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead or participate in voluntary prayer in school.

I will tell you why this amendment is essential: All over this country school administrators either are confused or claim to be confused about what students' rights are in terms of this issue. The Helms-Dole-Lott-Nickles-Smith amendment, which is pending, will make it perfectly clear, because this amendment will tell them you better not prevent individuals from praying without studying the law, not popular myths, about what is and is not constitutional. The amendment will make it really clear to school officials who claim to be—but are truly—confused. A lot of them may be legitimately confused because there are conflicting signals coming out of Washington, DC, mainly because of a lot of things that are said on this floor that simply are not true.

What the amendment does do—I reiterate—is prevent school districts from establishing official policies or official procedures with the intent of prohibiting students from exercising their constitutionally protected right to lead or participate in voluntary prayer in the school.

That, Mr. President, will be its immediate impact because, as I said, this exact language is already in the House version.

In the long-term, the amendment's impact will be to help reverse the breakdown in our Nation of traditional morality and respect for human life and love for our fellow man.

I was gratified, as I know other Senators were, to note in the media the activities of a great many young people in Washington who are turning back toward moral and spiritual values, and I want to take my hat off, if I had one on, to the black ministers of Washington, DC, who have also been pushing for school prayer. They are not being fooled about the cause of violence, the cause of immorality, or the cause of the breakdown in traditional values. They know what has happened, and they are doing something about it. And I am proud of them and I want them to know it.

Looking back in time for just a moment, I, for one, believe it is possible, Mr. President, to pinpoint the precise time when the decline of America began. It began with the Supreme Court's 1962 decision banning school prayer. That is when America reached the slippery slope and looked down and then continued, and the importance of moral and spiritual values faded into the background.

Those of us who are in roughly my age bracket remember a woman named Madalyn Murray. She is now Madalyn Murray O'Hair. She is the lady who invited known Communists into her home, who then assisted her with the lawsuit that ended up in the Supreme Court and resulted in the banning of voluntary prayer from the schools.

Madalyn Murray. She had a little boy who was used as the pawn in this rolling of the dice. His name is Bill Murray.

Along about 1980, Mr. President, I went with the candidate for President that year to Dallas for an appearance. After the appearance was over, I went to a hotel restaurant to see if I could get a sandwich before going to bed. A nice-looking young man came up and shook hands with me as I was standing in line.

He said, "I just want to introduce myself and thank you for what you are trying to do. My name is Bill Murray."

We had an athletic director at Duke University named Bill Murray. I said, "Is your dad the athletic director at Duke?"

He said, "No, sir. My mother is Madalyn Murray O'Hair."

I said, "Well, you are—"

He said, "That's right. I'm the little boy who was made the focal point. She did not want me to be exposed to prayer in school."

We sat and talked that evening and shared a sandwich together. I found out that Bill Murray was conducting a ministry. He was going around the country saying, "I love my mother, but I apologize for what she did." He said, "You know, it is interesting to watch the news media." He elaborated, "When I get down to the business of how this effort was contrived in my mother's home and by whom, the television lights go off and the notebooks are snapped shut, and you never hear anything about it."

I still correspond with Bill, and I think his ministry is doing well.

But I think it is quite interesting that the focal point of the 1962 decision—and there was more than one of them—is now going around apologizing for what his mother did. He still loves his mother, but he regrets what she did and he regrets that she used him.

In the publication entitled "The Index of Leading Cultural Indicators," a publication prepared by Bill Bennett, former Secretary of Education, Bill documents the cultural breakdown of our society over the past 20 years or so. Senators who review this publication will see, for example, that between 1972 and 1990, teenage pregnancy almost doubled, from 49.4 per thousand to 99.2 per thousand. Teenage abortions increased from 19.9 to 43.8 per thousand in the same period.

So is there any real wonder that we see such trends when our schools actively prohibit prayer and reading from the Bible, and then turn around and distribute condoms to students? What kind of signal are we sending to the young people of this Nation when our Government forbids their prayers, but pays for their condoms?

Back to Bill Bennett's publication. He pointed out how at one time not too long ago school teachers were worried about their students "chewing gum, making noise" or "running down the halls." Today, teachers worry about their students abusing drugs, getting pregnant, being raped, assaulted, or shot in school or on the streets; or students bringing guns to school.

I recall a 1993 survey of school superintendents in New York State. This survey was published by Time Magazine. Time Magazine listed the following instances of violence in the New York public schools in 1993. It might be worthwhile to read them into the RECORD.

Disorderly conduct, 24,066; harassment, 19,535—now, these are acts committed in the schools—assault, 8,879; vandalism, 6,886; larceny, 5,587; menacing, 5,445; weapon possession, 3,142; reckless endangerment, 3,119; robbery, 1,804; and sex offenses, 348.

With all that going on, I think the ministers in the District of Columbia are properly saying to me and others, "Why do we still hear voices saying, 'Oh, no; prayer in the schools must not be permitted'?"

Now, these voices insist that school children must not be allowed to begin their school day—just as we do in the U.S. Senate and as they do over in the House of Representatives—with a prayer. That is what the ACLU and the ACLU's allies here in the Senate see as the great threat to students—school prayer.

Have we, as a society, learned nothing from the rising rates of crime and illegitimate birth, abortion, incest, poverty, teenage suicides, AIDS, and the tragic erosion of American citizens' traditional love and concern for their fellowman?

All of these, I am absolutely persuaded, have a common thread: A collapse of moral and spiritual values in America. But I believe it is encouraging to know that 75 to 80 percent of the American people in every poll now strongly support the restoration of school prayer. They took the poll on the Helms-Lott-Nickles-Dole amendment, and there the support stood at 75 to 80 percent.

Mr. President, 207 years ago—and I am going to wind up with this—a group of patriots, whom we now call our Founding Fathers, met in Philadelphia to try to work out an agreement on what was to become the Constitution of the United States. The story is a familiar one.

I often say that every school board knows it, but I am not too sure of that now. I hope they are still teaching it.

But, in any case, of those patriots, who met in Philadelphia 207 years ago, few had any notion whatsoever about the importance of the task that they had undertaken and for which they had assembled. And, being human, everyone tried to get an advantage over all the others for their home States.

You see some of that in the U.S. Senate in the year 1994—one-upmanship. And that rubs on the nerves a little bit after awhile.

Tempers began to flare; some of the delegates were beginning to get fed up and were making plans to get on their horses and get back to their homes.

And it was then that a 81-year-old gentleman named Benjamin Franklin—he listened and shook his head—got up and said to his brethren, and I am quoting,

> In the beginning of the contest with Britain, when we were sensible of danger, we had daily prayers in this room for Divine Protection. Our prayers, sir, were heard and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of a superintending Providence in our favor.
>
> Have we now forgotten this powerful Friend? Or do we now imagine that we no longer need His assistance?

And here is where he got down to brass tacks.

> I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth: That God governs in the affairs of man. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?
>
> We have been assured Sir, in the Sacred Writings that except the Lord build the house, they labor in vain who build it. I firmly believe this.

Ben, wherever you are, I believe it, too.

And then came Ben Franklin's final counsel and admonition to those assembled representatives:

> I therefore beg leave to move that, henceforth, prayers imploring the assistance of Heaven, and its blessing on our deliberation, be held in this assembly every morning.

And they were held.

Do you know something? It was not long before they worked out their little differences, these Founding Fathers of ours. And this Nation was born. The Constitution was completed, and signed. The delegates, you see, had gotten the message. They closed the doors and the windows, fell to their knees inprayer—and, of course, that was the beginning of the Miracle of America.

After the delegates had finished their work, Dr. Franklin stepped outside where a great crowd had been milling. A lady rushed forward, tugged at the great statesman's jacket, and asked: "What do we have, Dr. Franklin—a monarchy or a republic?"

Dr. Franklin gazed into her eyes and replied: "My dear lady, you have a republic—if you can keep it."

And that is the challenge to us today. We are trying desperately to keep a Republic. For more than 200 years, generation after generation knew about that and understood the precept. They met the challenge, I would point out, including individuals from a multitude of faiths, whether they were Protestant or Catholic, Moslem or Jew, Hindu or Buddhist, or countless others. But that was the day, you see, before the American Civil Liberties Union. Now, as we work our way through America's third century, we face this question: Can this great Nation, created with the assistance of Almighty providence, long survive if we as a nation turn our backs on God by allowing a small elite to prohibit voluntary prayer in schools—the very place where we try to educate and nurture future generations?

Statistic after statistic shows that we cannot. And the betting is that we will not. That is why I urge Senators to change the tragic course we have taken by adopting the pending amendment. America's future is at stake.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. KASSEBAUM. Mr. President, before the Senator from North Carolina leaves the floor, I would just like to ask a couple of questions. The amendment of the Senator from North Carolina and my amendment are similar in one respect, we both protect the rights of students to engage in constitutional protected prayer. The Senator would agree with that?

Mr. HELMS. That is correct. And that is why earlier today I suggested everybody vote for the amendment of Senator KASSEBAUM and also vote for the amendment of JESSE HELMS.

Mrs. KASSEBAUM. Could I suggest to my good friend from North Carolina, that there is a major difference in our amendments. I would like to make sure everyone recognizes this. Much of what the Senator from North Carolina has spoken to—about the need to reinvigorate our educational system with a sense of responsibility and a respect for prayer, his thoughts on respect and tolerance for the views of others—I certainly would agree with.

But there is one very important difference in our amendments. In the Helms amendment, the children served by chapter 1 moneys, who are the lowest income and most disadvantaged of our students, would be deprived of moneys in cases where an arbitrary judgment is made by a specified party that school officials have prevented legal prayer.

In my amendment that can only happen where there has been willful violation of the law. I suggest to the Senator from North Carolina that it troubles me a great deal that he proposes we can cut these funds—which I think both of us would agree are important funds and which have helped the schools in North Carolina as well as Kansas—because of an inadvertent decision made by an individual teacher. And while we both support constitutionally protected prayer, it has become difficult to determine what is constitutionally protected.

I believe it is absolutely essential that when it is determined that certain rights are protected and those rights have been violated, there should be a penalty. But when there is uncertainty, I think we do a real injustice to the students to deprive them of chapter 1 moneys, which are targeted to the poorest of our school districts. That is where there is a major difference between these two amendments. It is imperative that this difference be recognized because it is my understanding that a vote for Senator HELM's second-degree amendment could nullify mine as the first-degree amendment. I do not think they are compatible enough.

Mr. HELMS. You are not correct about that. Mine is an add-on. The Senator's amendment will stand.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from North Carolina will——

Mrs. KASSEBAUM. Madam President, I ask that I have a dialog with the Senator from North Carolina and get his response. I would be happy to get a response.

Mr. HELMS. I will explain to the Senator the problem I find with her amendment. I think the lady knows I respect her. However, your amendment drags in Federal judges to make any initial decisions in favor of school prayer, but not for decisions against school prayer. I think the Congress of the United States ought to make such decisions.

The amendment of the Senator says, "Any State or local agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order." We already have too many of our decisions being made by judges who ought not be on the bench in the first place. So, I have trouble with the Senator's amendment. But I have no objection to Senators voting for both of them if they wish.

But I cannot say I look with great excitement on the Senator dragging in Federal judges to make decisions that should be made by the Congress of the United States. That is what we are paid to do.

Mrs. KASSEBAUM. Madam President, I thank the Senator from North Carolina. I suppose that we all could, at one time or another, make the argument that we do not agree with the Court.

But I think that the language of the Senator from North Carolina puts at great risk turmoil within our school districts when it forces school administrators to determine what should be allowed, and cuts off Federal funds even if school administrators make good faith efforts to follow the law.

So while it is very difficult to determine what is and what is not constitutional, it is not Congress' responsibility. It is the responsibility of those in school districts to make good-faith efforts and then it is the responsibility of the courts to acknowledge whether, indeed, it is constitutional.

Madam President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. HELMS. Madam President, let me respond to what the Senator said about my amendment, please.

The PRESIDING OFFICER. The Senator from Illinois is recognized. We are going from one side of the aisle to the other.

Mr. SIMON. Madam President, I would be pleased to yield to the Senator from North Carolina for the sole purpose of responding.

Mr. HELMS. Madam President, we are going to get down to brass tacks on this, and I say this with great affection and respect. Under the Senator's amendment, the enforcement of a child's right voluntarily to pray in school could very well not be vindicated until years after that child has graduated from high school.

As I have said, the Kassebaum amendment will not diminish the impact of my amendment, so I will not be upset if both are adopted.

But there are significant differences in how the two amendments approach the issue of school prayer and, thus, in the help they will actually provide students who have had their constitutional rights violated. I say again, under the Kassebaum amendment, the enforcement of a child's right to pray voluntarily in the schools might not be vindicated until years after the child has graduated from high school. And even then, the Kassebaum amendment does not penalize the school district for all those years of violating the child's constitutional rights.

Mr. President, under the civil rights laws, damages are given for violations of such rights both before and after the Federal courts render their judgment that indeed an individual's rights have been violated. Yet, the Kassebaum amendment—on the issue of violating rights to pray in school—would penalize schools only for violations that occur after a judgment is rendered against a school district. The violations which are the very basis for the court's judgment would go unpunished.

In other words, a school district can go merrily along prohibiting children's rights for years, but will never pay a financial penalty for all those violations if the school complies with the court's final judgment. Even then, the school district can still violate the judge's order as long as they can show that they didn't violate the order "willfully." The bottom line is that there is no incentive to do the right thing before the court decree is issued—much less to do the right thing without having to be taken to court.

And that has been the whole point of my amendment. Currently, the ACLU and their legal allies are exerting unbalanced pressure on school boards. They are in the legal driver's seat. They swoop down on any offending school district and threaten its officials with a lawsuit if any kind of voluntary student-initiated prayer or religious activity is even rumored.

The Helms amendment—unlike the Kassebaum amendment—would provide a counterbalance to this pressure. Schools would have to consider an alternative consequence of any unconstitutional decision to disallow voluntary, constitutionally protected school prayer. The amendment creates a complete system of checks and balances to ensure that school districts do not shortchange their students one way or the other.

Finally, Mr. President, after what occurred in the last conference on school prayer, it is almost guaranteed that no language dealing with school prayer will survive the conference on this bill either—unless the Senate adopts verbatim the same language the House passed on the bill. And that is why the pending amendment is verbatim the same language the House has already attached to their version of the bill—H.R. 6—by a vote of 345 to 64.

That is why those who oppose school prayer want the Senate to pass almost anything on the issue of school prayer—as long as it is different than the language of my pending amendment.

A vote against my amendment on school prayer is a vote to kill school prayer in the upcoming conference on the Elementary and Secondary Education Reauthorization Act. Senators can vote for or against the Kassebaum amendment, but if they truly want school prayer to be restored in the schools, they must vote of the Helms amendment.

Let us take on our responsibility as a U.S. Senate. Let us not say some Federal judge way out there somewhere in America who exercises one man's or woman's judgment is going to decide something we have the responsibility to decide.

Mrs. KASSEBAUM. Madam President, just if I may respond, it is not at all clear that Senator HELMS' amendment would provide a faster remedy.

Mr. HELMS. Just a minute. Who has the floor?

The PRESIDING OFFICER. The Senator from Illinois is recognized and had yielded. The Senator from Illinois now has the floor.

Mr. SIMON. Madam President, I respect the sincerity of my colleague from North Carolina and those who advocate this. My colleague from North Carolina happens to have his office right next to mine and, among many other virtues he has, he is just good to people, whether they come from Illinois or North Carolina or California, or where they are. I appreciate it.

I remember when I served in the House, we had a House Member who was mean to elevator operators and other people, and pages and others. One day, he came to me and said he needed help on something and I said, "I'm going to tell you real candidly why I'm not going to help you." It is because he was not good to people.

My colleague from North Carolina is good to people, and I genuinely respect him for that. But I also believe he is wrong on this amendment.

What he is saying is that we should have mandated voluntary prayer. There is some inconsistency in having mandated voluntary prayer. From the people who are always against Federal mandates, all of a sudden we are going to have a Federal mandate that affects all the schools.

I think this is unwise. Senator HELMS says the Federal judges are going to be making the decision on the Kassebaum amendment. His amendment has this phrase in it that it would require school districts to have constitutionally protected prayer. Who makes the decision as to what is constitutionally protected prayer? Well, it would be the Federal judges who would make that decision.

I respect those who want to see a greater spiritual life in our country. My father was a Lutheran minister. My brother is a Lutheran minister. But we should not expect our schools to do what our homes and our churches and our synagogues and our mosques are doing. That is something we ought to be doing individually. I do believe that this amendment, even if it were to be adopted, violates the criteria that has been set forth by the U.S. Supreme Court.

When we ask the schools to get into this business of religion, I think we have to remind ourselves, believe it or not, in Nazi Germany, they had required religion in the schools. Somehow something did not click because that is not where we are going to acquire religion.

And then finally, Madam President, when we get down to this business of prayer, we have to ask, whose prayer is it? Is it Roman Catholic, is it Presbyterian, is it Jewish? We now have, for example, in this country, believe it or not, according to the last census, more Moslems than we do Presbyterians. We have more Buddhists than we have Episcopalians. Whose prayer are we going to use?

I think we get into a very, very delicate area when we mandate voluntary prayer. I think there is an inconsistency in the very phrase "mandated voluntary prayer." But that is what this amendment calls for.

I think, with all due respect for my friend from North Carolina, this amendment should be defeated.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I know that Senator HATFIELD—and there have been others—has been waiting. If I can get the attention of the Senator from Oregon for a moment, he has been in the middle of some appropriations meetings. Perhaps he can speak next for a few moments.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Madam President, I will be very brief, and I appreciate my colleague from Rhode Island permitting me to inject a few remarks at this time.

We are dealing with, of course, a very personal issue in matter of prayer. We are dealing with the issue of protecting religion and religious convictions.

I must say very frankly that I oppose all prescriptive prayer of any kind in public schools. Does that mean I am against prayer? No, it does not mean that at all. I am very strong in my belief in the efficacy of prayer. But I must say that there is no way this body or the Constitution or the President or the courts could ever abolish prayer in the public schools. That is an impossibility. I often use, somewhat facetiously, the example and experience of having prayed my way through every math course examination I ever took. I was not praying to the teacher. I was not praying to my fellow students. I was engaging in silent prayer to God, who I thought was more powerful than I and all the students put together.

All I am saying is that this can be very personal, and silent prayer is happening all the time. I am not sure that I know of anything in any of the great religions that requires audible prayer to validate the efficacy or the importance of prayer. I can pray silently, or I can pray verbally and audibly.

So I think we get ourselves into a great thicket of trying to prescribe parameters surrounding prayer in public schools. The Senator from Illinois asked the question: Whose prayers? I have also sometimes said facetiously, I do not have the time to write the prayers for the schools and I do not trust anybody else to write them. That is my religious heritage, always questioning ecclesiastical authority as well as political authority.

So I would like to say that prayer is being given everyday in public schools throughout this country—silent prayer, personal prayer that in no way could we ever abolish even if we wanted to.

So I do not see any great crises about the right of prayer in public schools.

I also feel very strongly, Madam President, that when we begin to talk about personal prayer again, we should remember that it is a matter of free speech as well as freedom of religion. I happened to coauthor here on the Senate side the Equal Access Act legislation, coming from the Widmar case of the University of Missouri, where the university had provided access to facilities on the campus for students to voluntarily congregate in pursuing a common interest. But, when they wanted to get together for a Bible study, the university ruled against that; that was religion.

The Supreme Court very quickly handled that case by saying wherever the institution of learning gives a right to forum, they have no right to dictate the subject of the forum, and upheld the right of students to voluntarily gather themselves together for Bible study on that campus.

We took the same principle of the Widmar case, and we applied it to the secondary school system of this country under the Equal Access Act. If the school before or after hours provides an opportunity for students to voluntarily gather themselves using facilities of the school for a particular interest, for a camera club, music club or whatever it might be, those students should have the same right to gather themselves together for prayer or Bible study.

Now, that is a free speech issue, but like many of our freedoms it also correlates to the freedom of religion. I would like to see us move beyond and outside of this particular debate because I do not see the necessity for this Senate to take any action—any action—on the subject of school prayer. If there are those schools that are unfriendly to religious practices or free speech, then let that be handled through the individual communities and through the legal authorities in each of those communities with injunctions or whatever remedy may be issued by the court. We do not have to cut off funds to enforce court actions.

So I believe that the simplest and best way to deal with this subject is to take no action relating to school prayer. Let students continue to pray as they do now, silently as a undeniable personal right.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, I commend the Senator from Oregon for his remarks. I completely agree with him. I do not think this is an area in which the Senate of the United States ought to be involved.

What I would like to do is just take a quick look, if I might, Madam President, at what this amendment does. This is really a draconian amendment. What it says is that notwithstanding any provision of the law, no funds from the U.S. Department of Education—no funds for Head Start, no funds for chapter 1, no funds for literacy, no funds for anything that comes through the Department of Education—shall be available to any State or local educational agency which has a policy of effectively preventing participation in constitutionally protected prayer.

Now, the problem arises, Madam President, in determining exactly what constitutionally protected prayer is. It is a fuzzy area that is very difficult to define. Yet what this amendment will do is to put a tremendous burden on every local school department and every local school committee to try to figure out what that definition is.

In our State, we have 39 cities and towns and each one of them has a school committee, although in some instances, two towns combine to have one common high school, for example. But basically, I believe we have some 36 different school entities in our State. And under this amendment administrators at each one would have to try to figure out what is constitutionally protected prayer.

Now, we had a case come up on this, Madam President, in our State. At the Nathan Bishop Middle School—actually, that is the middle school that I went to—graduation a few years ago they had a benediction, and it was objected to. The matter was taken to the courts because nobody could figure out whether that graduation prayer was all right. Was it constitutional or was it not constitutional? Did it violate the first amendment or not?

The case was filed in June 1989. In January 1990, the district court, our district court in the State of Rhode Island, said that benediction violated the U.S. Constitution. So one court spoke. But then the case was appealed.

Six months later, in July 1991, it went to the First Circuit Court of Appeals up in Boston. Three judges sat on the case, and in the decision they split two to one, which is not a very clear signal. And there they said they agreed that, yes, the benediction was a violation. But with dogged determination the school board appealed to the U.S. Supreme Court. Now, this is getting fairly expensive by this stage. And in June 1992, the U.S. Supreme Court handed down its decision. After 4 years of litigation and three court rulings, they decided in a close 5 to 4 decision that, yes, that benediction did violate the Constitution of the United States.

The total cost to the city of Providence, which like many others is a community that is having difficulty properly funding its schools, was $110,000. And actually I think they probably must have gotten some kind of break on legal fees to go all the way to the Supreme Court for $110,000. That was money which could well have been better spent not on lawyers, but on children's school books and school equipment.

So after all of this, the decision came down from the U.S. Supreme Court that the Nathan Bishop benediction was in violation of the Constitution. Now, what is my point? My point here, Madam President, is if the courts themselves have such trouble with defining constitutionally protected prayer, how is a school administrator to tell what is a constitutionally protected prayer in his or her public school? It is very, very difficult to tell. It is a murky area with no clear definition. Indeed, I would point out that we have a very prestigious First Circuit Court of Appeals, and yet even they divided on the subject.

Just to make it even more confusing, 6 months after this decision from the U.S. Supreme Court on the Nathan Bishop case, the fifth circuit came out with what seems to be a contradictory ruling. Now, obviously they do not think it is a contradiction. They probably think they are following the Supreme Court of the United States as they are duty bound to do. But nonetheless their decision only added to the confusion out there as to what is permissible under the Constitution and what is not.

Madam President, I think this is really going too far, to say that school administrators must now act as constitutional experts. They are meant to be running schools and educating children. And thank goodness that that is what they are meant to be doing. I hate to see them having to divert their time and energy into making calls on whether this one is a constitutionally protected prayer and that one is not, always knowing that if they make a call one way or the other, it is probably going to be appealed or taken to the courts—as happened at the Nathan Bishop Middle School.

So, Madam President, I think this is an amendment we should not have. I know it passed here earlier this year, and this amendment is substantially the same amendment as the one we voted on earlier. I can say I voted against it, and I am glad I did. However, it passed very substantially, and I think that was unfortunate. I hope everybody who voted for this amendment back in February of this year would think of the confusion that it will bring to our schools. Our public schools already are dealing with every kind of problem known to man. Why, they have guns in the corridors. They have children with drug problems. They have teenage pregnancy. All of these problems the administrators are trying to tackle while at the same time providing a good education for the youngsters in their charge.

On top of all these problems comes the question of constitutional school prayer. Under this amendment not 1 cent from the Department of Education would be available to any school committee if it denies—even inadvertently—participation in constitutionally protected prayer.

In my State of Rhode Island, a small State with a total population of 1 million, we could lose a good amount of money. The total Federal funds for the State are $60 million. I suspect that the city of Providence could be risking millions of dollars. That is very, very important money to that school system.

So, Madam President, I urge that my colleagues vote against this amendment. Frankly, I think we ought to stay out of this whole business of this body trying to dictate what takes place in school prayer in the various schools throughout our Nation.

I want to thank the Chair.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized.

Mr. LOTT. Madam President, I rise to support the Helms amendment. I would like to begin by doing a couple of things; that is, by reading what we are actually talking about here.

First, I want to read the Helms amendment. Maybe it has already been read. It is worth listening to again. I want to emphasize that this is the same amendment we voted on earlier this year.

> Notwithstanding any provision of law, no funds made available through the Department of Education under this act, or any other act, shall be available to any State or local educational agency which has a policy of denying, or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any State nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

I do not understand what is the great fear of that language. In that regard, I thought maybe we should read the Constitution, particularly the first amendment. We have different interpretations of it. But it is pretty clear:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

We seem to have forgotten the second part of that phrase, "* * * or prohibiting the free exercise thereof."

I know that there is disagreement. Any time you get two lawyers in a room, you have disagreement. So you have Constitution scholars, lawyers, and educators who will always get into great detail about what cannot be done and how it must be done. But the people out there in the real world just feel as if the opportunity for voluntary prayer is something they ought to have.

We are up here arguing all of the constitutional niceties. But those people in the real world read the Constitution. They have heard what the Constitution says. They do not understand why we should not be able to have voluntary prayer in our schools.

The speeches you have heard from the Senator from Rhode Island and the Senator from Missouri are excellent, eloquent speeches. And others are going to speak.

I want to emphasize that everyone who has spoken against this amendment voted against it last time. I have the list. Every speaker opposed to the amendment was among the 22 who voted against it earlier this year; 75 U.S. Senators voted for this identical language the last time we voted on it.

Let me run through a little of the chronology of what has happened on this amendment. On February 3, 1994, the Senate voted 75 to 22 in favor of this language as a part of H.R. 1804, the Goals 2000 bill. On February 23, 1994, the House voted 367 to 55 to instruct the House conferees on the Goals 2000 bill to accept the school prayer amendment which had been approved in the Senate. On March 17, 1994, the House and Senate Goals 2000 conferees dropped this language and substituted really do-nothing language.

On March 21, 1994, the House voted 345 to 64 to add the language as an amendment to H.R. 6, the Elementary and Secondary Education Reauthorization Act. On March 23, the House voted 232 to 195 not to recommit the Goals 2000 bill and insist that it include the school prayer amendment. On March 25, the Senate voted 62 to 23, right before Easter, in a cloture vote to cut off the efforts by Senator HELMS to restore the original language.

So there is an interesting chronology. There are overwhelming votes repeatedly in the House and an overwhelming vote here in the Senate on this issue.

I want to go back and read something that I read last year. We are arguing over the niceties of what may be allowable or not; let me just read this to you.

> Almighty God, we ask that you bless our parents, teachers, and country throughout this day. In your name, we pray. Amen.

Who does that horrify? Is there something wrong with that? That prayer was prayed by a young lady at Wingfield High School in Jackson, MS, last year on a voluntary basis by a vote of the students. They devised this language. She delivered it over the PA system. The principal, an African-American named Bishop Knox, was fired from his job because he allowed that prayer to be voluntarily developed by the students and presented over the PA system by a lady who I believe was president of the student body. And the principal was fired because he allowed it to happen.

That was clearly a mistake. Here you had a principal that was willing to stand up for principle, for the students' rights, and he was fired in the process. As it turns out, after being out of work for about 6 months or so, a judge has now ordered that he be reinstated, and I presume he will be reinstated with back pay.

The argument was, "Well, you know, we are not certain what the law might provide. You just should not have allowed that to occur." Where have we come? What have we wrought in this country? We pray every day here in the Senate—every day. We do not prescribe the prayer. It might be a Greek Orthodox priest or a Baptist preacher or Jewish rabbi. But we have it every day.

Yet, our students in Wingfield High School in Jackson, MS, are told they cannot say that harmless prayer for their parents, their teachers, and their country. What are we doing here?

We say, "Oh, it is perfectly okay to have sex education." That goes way beyond anything I would ever approve of. It is all right to advocate condoms in the high schools. It is all right to have kids running up and down the halls carrying guns. It is not all right to try to get order and discipline in the schools.

The headlines in Mississippi newspapers earlier this year:

> Seventh grader arrested after roaming halls with loaded pistol.
>
> Philadelphia, MS, Central High School ninth grader shot a classmate moments after the two were told to stop arguing and go to class.

I am saying this is something not only in Washington or New York or California. It is right in my home. I am not saying there is a direct parallel between prayer in schools and these other events. But there is a curious coincidence of how things have changed since I was in high school in the late fifties, when we had prayer every day at the beginning of the school day over the PA system. It was a part of getting everybody to sit down and be still and get order, and get in the proper frame of mind.

I feel that from that moment to this, the quality of education, the discipline of education, the type of education, has all been going downhill.

So I think constitutional scholars can make great arguments about what can be allowed and what cannot be allowed. All I know is because of some court decisions that we had in the sixties, and occasionally since then, it is uncertain when you can have a prayer, what you can say in the prayer, or who can say it. The net result is that there is less of it. The schools basically cannot have it. And 4,000 students, on their own, demonstrated after that principal at Wingfield High was fired because he stood up for the students.

Do you know why it is important that we cut off funds? Because it is a violation of the Constitution when people are told that, in effect, they cannot pray. If a school violates the Constitution and prohibits a prayer like the one I just read, then I do think serious action should be taken.

Mr. PACKWOOD. Madam President, will the Senator yield for a question?

Mr. LOTT. Yes.

Mr. PACKWOOD. I supported the Helms amendment before. I may do so again, or I may not. It depends on the answers. I hope that I do not stop learning.

Who makes the decision as to whether or not the school board is prohibiting constitutionally protected prayer; the school district or the school principal?

Mr. LOTT. I presume that could be done when it is requested, when a matter is of concern and people raise questions with Federal officials, through the administration. If that is not satisfactory, I presume it would go to court like the current efforts to try to block prayer.

Mr. PACKWOOD. OK. Here is my question: A student, teacher, whatever, thinks they have a right to do a constitutionally protected prayer. It is an honest debated issue as to whether it is constitutionally protected or not. You are the principal. Do you say, "That is constitutionally protected, go ahead"? Is that the end of it? Or does somebody say, "The principal does not know what he is talking about, I am going to sue"? I want to know at what stage are funds cut off, when is a decision made, and does that decision become a decision upon which the funds can be cut off?

Mr. LOTT. I presume if that suit is filed and it goes to court and a ruling is made, it would be cut off. Or if an investigation is made by the administration, and a determination is made, then the funds would likely be cut off.

But think about it the other way around. Here is a principal that allowed a prayer to be offered, and he lost his job. That is when the decision was made.

Mr. PACKWOOD. I understand that. I agree that that was wrong. I am trying to find out who is going to make the decision. There was a famous cartoon in the New Yorker 10 or 15 years ago where there were two guys sitting in a bar, and the first says, "We ought to line them up against the wall and shoot them."

Mr. LOTT. Who makes the decision now?

Mr. PACKWOOD. The second person says "Who?" The third person says, "Commies, pinkos, radical libs." The second person says, "No, who ought to line them up and shoot them?"

I want to know who is going to make the decision that the prayer is not constitutionally protected? Are we going to have somebody in the Department of Education do it?

Mr. LOTT. We very well could have. I do not feel particularly comfortable with the courts making that decision, but they may.

Mr. PACKWOOD. They may. I am wondering. I do not know if I feel more comfortable with the Department of Education making that decision.

Mr. LOTT. Somebody has to make that decision. I will tell you who I prefer make that decision: The students and the parents and the administrators at the local level are the ones who should make the decision.

Mr. PACKWOOD. As to whether it is constitutional.

Mr. LOTT. No, as to whether or not they want a prayer, or whether it is a voluntary prayer, or what goes into the prayer.

Mr. PACKWOOD. I have no quarrel with that. But you would not want them making the decision as to whether it was constitutional?

Mr. LOTT. Unfortunately, that would have to be made by the courts, or by the Department of Education, or some lawyer in the Department of Education. Again, that does not make me very comfortable, but there must be some process.

Mr. PACKWOOD. I agree. If the process is a court process—and for better or worse I would rather settle it there—should the money be cut off before the finality of the court process?

Mr. LOTT. I presume not. The determination has to be made.

Mr. PACKWOOD. Is that the distinction between the Helms amendment and the Kassebaum amendment?

Mr. LOTT. I emphasize this, too. I understand what the Senator from Kansas is trying to do, and I plan to vote for her amendment. I think we need to have the clarification she is trying to get in her amendment. But I do not think that prohibits the second-degree amendment from being offered and accepted at the same time. I think they basically support each other.

Mrs. KASSEBAUM. Madam President, I hesitate to interrupt, but I have a question.

Mr. LOTT. I will conclude, and I will yield the floor. I am sure we are going to have a lot more discussion, as we should, about exactly how this would work and who would make the determination. The determination has to be made at some point.

I reiterate what I said in the beginning. What we are talking about here is whether or not a prayer like the one I read can be offered:

> Almighty God, we ask that You bless our parents, teachers, and country throughout the day. In Your name we pray. Amen.

That is all I am trying to accomplish. Do you have a better way to accomplish that and make sure it is allowed, without having the principal fired? I want to hear it. This amendment would allow it.

I yield the floor.

Mr. PACKWOOD. Madam President, I ask the Senator from North Carolina a question in all seriousness. I am opposing the amendment of the Senator from Mississippi. The Senator knows I supported his amendment before. Who makes the decision?

Mr. HELMS. Who makes it now?

Mr. PACKWOOD. The courts.

Mr. HELMS. They would make it in this case if it ever came up. You might say: What are you going to do if 40 skunks go running through the Chamber? Who is going to stop them? What are you going to do about this or that?

The truth is that it is never going to come up because the principal will be freed of any reluctance to permit voluntary, constitutionally protected prayer.

Mr. PACKWOOD. If she knows what it is.

Mr. HELMS. He or she does not have to know what it is. If somebody does not like it, they challenge it. We put the shoe on the other foot.

Mr. PACKWOOD. I am curious. If a principal runs the risk and thinks to herself: I am not sure if this is constitutionally protected prayer, so I better allow it because my funds are going to be cut off. And she has to make the decision herself, as to whether funds are going to be cut off, and whether it is a constitutionally correct decision or not, she has to make it.

Mr. HELMS. So what? Is it the end of the world if you have some children pray?

Mr. PACKWOOD. No.

Mr. NICKLES. Regular order, Madam President.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. NICKLES. The rule of the Senate is that Senators will speak through the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is correct.

Mr. PACKWOOD. I ask unanimous consent to speak to the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I want to make sure that the school principal is not put in a real Hobson's choice position.

Mr. HELMS. Do not lose any sleep over it, Senator. It is not going to happen.

Mr. PACKWOOD. I am not sure.

Mr. HELMS. Please worry about the Senator from Mississippi who is inspired for permitting it.

The PRESIDING OFFICER. The Chair advises the Senators to address the Chair rather than each other.

Mr. PACKWOOD. I asked unanimous consent to address him.

The PRESIDING OFFICER. That is correct, you did. However, you should address it through the Chair.

Mr. PACKWOOD. I realize that is the rule.

I ask unanimous consent that I might have a little colloquy with the Senator from North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Thank you. You are the school principal, or I am the school principal. A student comes in, and they want to do a prayer. You are not sure if it is constitutional or not; you are not a constitutional expert. You are worried about arguing with the school board about money all the time. And you are afraid your money might be cut off if you prohibit a constitutionally protected prayer. Normally, that kind of a decision would not face a school administrator until a court had made a decision as to whether it is constitutional or not. It is unusual to put a school administrator in the position of losing his or her money ab initio, at the start, right now, if he makes the wrong decision. Unless you are saying that there really is no court review of this, you are going to lose your money now, and it does not matter what the court is saying later. This is confusing.

Mr. HELMS. Please be not confused. The amendment does not even imply that. I am saying to you that we put the shoe on the other foot and give the advantage to the principals who want to permit the school prayer but who are intimidated and do not permit it now under the present situation.

Mr. PACKWOOD. And we want to put the shoe on the other foot then, Madam President, by saying that they do not need to be intimidated. If they allow constitutionally impermissible prayer, the impermissible prayer will be allowed and the funding will continue until a court says no—if I understand it correctly.

Mr. HELMS. Is the Senator asking me a question?

Mr. PACKWOOD. Yes, because I am confused.

Mr. HELMS. Please note that there is a question mark there.

Mr. PACKWOOD. Yes.

Mr. HELMS. All right. The answer, of course, is that if you want to make legislative history, this thing will, of course, be decided—if such a farfetched scenario should occur—by the proper authorities, a judge, a Federal judge.

Mr. PACKWOOD. The money would not be cut off until the judge makes that decision.

Mr. HELMS. Of course not. It would be adjudicated.

Mr. PACKWOOD. That is important history. As I read the amendment, it is going to be cut off before the adjudication.

Mr. HELMS. How do you get that impression?

Mr. PACKWOOD. It says:

> "* * * no funds made available through the Department of Education under this Act, or any other Act, shall be available to any State or local educational agency which has a policy of denying, or which effectively prevents participation in, constitutionally protected prayer * * *."

If you are saying that the student wants to pray, the administrator says no. No. The principal says, no, you cannot do that. That is constitutionally impermissible. The student says it is permissible. And the principal says it is not permissible. That money is not cut off until that is adjudicated by a court.

Mr. HELMS. How many times does the Senator think that case will happen?

Mr. PACKWOOD. I do not know.

Mr. HELMS. It will never happen. It will never happen.

May I answer his question?

The PRESIDING OFFICER. The Senator may.

Mr. HELMS. I thank the Chair.

The school principal is in the position now that if he makes the wrong decision, there comes the American Civil Liberties Union with the threat to take him to court and the principal will lose hundreds of thousands of dollars in school funds defending against the lawsuit.

Mr. PACKWOOD. But he will lose——

Mr. HELMS. I say it is a matter of the shoe being on the other foot. Now, the ACLU's threat of thousands of dollars in litigation expenses means that school principals almost always say no to school prayer even if it might be constitutionally permissible. My amendment balances the ACLU's threats by saying if the school principal automatically decides against constitutionally permitted prayer, the school could lose thousands of dollars in Federal funds. That is the intent of my amendment, to make school officials stop automatically capitulating to the ACLU's threats.

Mr. LOTT. Madam President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. I am happy to yield to the Senator from Mississippi, yes.

Mr. LOTT. He also runs the risk of losing his job. This is the point I am trying to make. Again, we are trying to shift the burden. Now all the pressure is not on allowing prayer.

Mr. PACKWOOD. Yes.

Mr. LOTT. We would like the emphasis to be the other way where the principal would think: "Look, the students want this prayer. I am going to allow it to go forward. And if someone does bring legal action, then so be it."

But now all the pressure is the other way. The pressure is against allowing prayer.

Mr. PACKWOOD. Here is what I want to make sure.

Mr. LOTT. It is possible for permission to go the other way.

Mr. PACKWOOD. I want to make sure that no funds are going to be cut off until this is adjudicated. The fact that the principal says go ahead with the prayer and a lawsuit is brought, or a Department of Education person makes a decision you made a wrong decision, "We are cutting off your funds," that will not happen. The principal can opt on the side of the prayer in school. In the long run, it may be found to be unconstitutional, but the principal opts on the side of the prayer. They do not lose any money.

Mr. LOTT. Right.

The PRESIDING OFFICER. Does the Senator from Kansas yield?

Mr. PACKWOOD. I yield the floor.

Mrs. KASSEBAUM. I would just like to ask the Senator from Oregon a question. Did he not just make the case for my amendment, because under my amendment, funds will be cut off only when a willful violation is found?

Mr. PACKWOOD. That is what I thought.

I did not know whether I was making the case for the Senator's amendment or not, because I thought initially, as I understood the amendment of the Senator from North Carolina, that the funds could be cut off before there is any judicial determination.

The Senator's amendment says, in essence, you are reaching the same substance as he is on permissible prayer. You are in favor of permissible prayer. You do not want the school to run the risk of losing any money until the court says it is permissible or not permissible. It sounds like they are saying the same thing, but I am not sure.

Mrs. KASSEBAUM. I thank the Senator from Oregon.

I do think he makes a point that there is a difference, because my language requires that funds be cut off only if there is a willful violation. Schools would not lose money if the schools followed the court's ruling and corrected the situation.

So I thank the Chair. I thank the Senator.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Madam President, I think that the answer to the point that was made by Senator PACKWOOD is clear. The answer is that under our Constitution, courts only can adjudicate real cases in controversies. Courts cannot, under our Constitution, give advice or opinions about some future state of affairs. They adjudicate cases. Cases are brought under sets of circumstances under complaints that are filed, stating certain facts that have already occurred, not asking for advice as to the future.

So the only way that the Helms amendment can be read, is that a set of facts would occur and that the principal would have to guess as to whether those facts are constitutional or not constitutional.

The way that this would come up in the real world is that students would ask to participate in some sort of prayer event. And the concern of the principal or the superintendent of that school district would be, "Am I going to lose money?" Any close call would be resolved in favor of letting the prayer go forward because otherwise the fear would be, "I am going to lose my money." And maybe the principal would not want to do that.

The Senator from Mississippi said he thought that this should be decided in the individual school districts. The fact of the matter is that this amendment is a Federal mandate. It is absolutely the typical Federal mandate. It says:

> Do things our way or you lose your money, not after a court decides at some later event. You lose your money now.

That is the way a principal would have to decide it. Let us say that the principal is in a school district which is poor. In fact, the principal in question would be in a poor school district because poor school districts are the ones that get Government money, not the rich school districts. These are poor school districts. They probably do not have a wealth of legal talent to draw on. They probably cannot pick up the phone and call the leading law firm.

So the principal or the superintendent is going to have to make a decision, not based perhaps on great constitutional analysis.

The principal might decide, "Well, if I had my own call, I would not want to have prayer going on in my school."

Let us say that this is not only a poor school district, which it almost certainly would be, but let us say that this happens to be a school where all hell has broken loose. Let us say that this is a school where there are gangs. Let us say that exactly the set of circumstances postulated by the Senator from Mississippi is the case in this school district. Kids hate each other. They carry guns to school, if they can get into school with guns. This is a violent type of situation. And let us say that there are some Protestant kids and some Catholic kids or some Christian kids and some Jewish kids, and they do not like each other. And the principal says, "I would just as soon not have religion break out in this fashion in my school."

Some of the kids will say, "Well, we want to have a classroom," or "We want to use the PA system to have our prayers. And the principal says: I really do not want that to happen. But I know what I cannot do. I cannot make a decision that risks losing my money, not in this poor school district. I cannot risk having my money turned off."

So the answer is: Go right ahead. Go right ahead and do it, not because I think it is a great idea, but because word has come down from on high that I must do it this way.

Word from on high. Not, Madam President, from the heavens, but from the next level of on-highness, Washington, DC. The Congress of the United States has conditioned your Federal funds yet again on doing things our way.

We have made the decision. We have heard it on the floor of the Senate. What is wrong with school prayer, we say? We are Senators. We have the answers. Oh, do not bother us, Madam Principal in Joplin, MO, or in Greenville, MS. Please do not bother us with your opinion on this. We have made the decision, and the decision is, "Why, prayer is good."

Madam President, obviously I believe that prayer is good. But I also believe that the very root for the word religion is the same root for the word ligament—it is what binds things together. But, unfortunately, in practice, religion is not necessarily what binds things together. Religion is often the cause of driving things apart. And it is true all over the world. We had the King of Jordan and the Prime Minister of Israel here in the Capitol yesterday. What is all that about?

Or how about Northern Ireland, where Protestants and Catholics kill each other and people bomb school buses?

Religion, unfortunately, can be that which drives people apart. And the great challenge in this diverse country is not to figure out new ways to drive people apart. It is to figure out how to hold people together.

There are religious schools and they are wonderful schools. They are all over the country. People know what they are getting when they go to religious schools. But if it is not a religious school, the insertion of religion can drive people apart and create a lot of damage.

The Senator from Mississippi read a prayer that was read in Mississippi. Was that a bad prayer?

Quite frankly, it was not much of anything. It was kind of bland and innocuous. So what is so great about it? Are we saying, "Well, what's wrong with religion, because, hey, here is a prayer that is bland and innocuous? We like innocuous prayers. Innocuous prayers are good. They cannot do any harm. They are bland. Who can take offense at something bland?"

A lot of religious people would say, "Well, that is not much of a prayer."

But when I think about this debate, I think about something that was not very bland. I did not think about it at the time, but when I was growing up I went to a private school in St. Louis. It was not a church school. It was just a private school. We had what we call chapel, but it was not really chapel. It was just sort of announcements and somebody would make a speech or something.

But we would always start chapel with a hymn and a prayer. And the most popular hymn that we sang in that chapel was "Holy, Holy, Holy." "Holy, Holy, Holy" is a great Christian hymn. "Holy, holy, holy, Lord God Almighty! Early in the morning our song shall rise to Thee," and so on.

And there is a line in it, "God in Three Persons, blessed Trinity." "God in Three Persons, blessed Trinity." Seemed OK to me.

But there were Jewish kids in that school. There were Jewish kids in that school. And I think about that after the fact, and I think, What were we doing? What were we up to? Were we so insensitive about those kids that we sang that hymn?

Religion is supposed to draw people together but, in the real world, it can drive people apart. And in the real world, things are falling apart as it is. In the real world, we have Farrakhan. In the real world, we have people who paint swastikas on synagogues. In the real world, we have racism. In the real world, we have people going every which way.

And the great genius and the great challenge of this country is to keep that world from fracturing beyond all recognition. We are not going to do that if we have people uttering prayers in public schools.

Senator CHAFEE asked, "What is the definition of constitutionally protected prayer?" Those are the words used in this amendment—"constitutionally protected prayer." What does it mean?

There is no manual on this. A principal cannot turn to a manual and say, "Oh, constitutionally protected prayer. Well, I've looked it up. That is not permissible." Principals cannot do that. It is a very, very fuzzy situation.

Try to figure it out. Call the finest law firm and try to figure it out, much less ask a principal what is constitutionally protected prayer.

How is the principal supposed to know the answer to that question—is this constitutionally protected or is it not constitutionally protected?

So a student comes into the principal's door and says, "I want to use the PA system." Is that constitutionally protected?

We have had votes in the Senate about whether Jewish soldiers can wear yarmulkes. I did not think they should, because I think that there has to be a degree of uniformity in the armed services.

But is it constitutionally protected to wear a yarmulke?

Would it be constitutionally protected if somebody said, "My religion requires public testimonials. In exercising my religion, I believe in public testimonials. I have a constitutional right to do it." Is that constitutionally protected?

"You decide, Madam Principal or Mr. Superintendent, but you better decide in favor of constitutionality, because if you decided wrong and it is later adjudicated, too bad. You are in the poorhouse. You have guessed wrong. Close your doors."

This is not simply a matter of making things even in this question. This is a Government mandate—"Do it our way or lose money."

Government mandates do not make things even. Government mandates are designed to require some actions. And this particular Government mandate is designed to open up school prayer, particularly in poor school districts. This is not innocuous. It is not an innocuous amendment. It is a bad amendment. It is a pernicious amendment. It is a harmful amendment.

Please, let no Senator come to the floor and say, "This is innocuous. What's wrong with a little prayer?"

It is a Government mandate. It is a Government mandate that will be obeyed. It is a Government mandate that will take decision making out of the hands of the local public school officials. And it is a Government mandate that may well cause more fracturing, more divisiveness, more problems, not less in our public schools.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I thank the Senator from Missouri for that extraordinary presentation. Regretfully, Senator DANFORTH will not be with us next year and it may be that an amendment like this one will be offered again next year. It will be a surprise if it were not. And we will miss Senator DANFORTH for many reasons, but none more important than for the kind of presentation he has just made.

I came early in the debate this afternoon and decided to stay and hear the arguments presented. There will soon be a time agreement, so I sought recognition now to make a few comments. But there is not a great deal more to be said on the basic approach and the importance of not having a government engaged in the establishment of religion than what Senator DANFORTH has already said.

It is the very first line of the very first amendment to the U.S. Constitution, "Congress shall make no law respecting an establishment of religion. * * *" That now applies to the States as well. And Senator DANFORTH has outlined the reasons why it is important that there not be religion in the schools, which makes arguments just as it has made wars, as the references which the Senator from Missouri made to the enormously impressive ceremony in the Capitol yesterday when Israel's Prime Minister Rabin was present with Jordan's King Hussein to make peace. And the purpose of eliminating religion in our schools, eliminating the establishment of religion by the Federal or State government, is to promote tolerance, to recognize diversity in America, and to respect that diversity.

The Statistical Abstract of the United States, based on the U.S. census, reports that 19 percent of the people in America are not Christian. There are some who talk about America being a Christian nation, but that just does not bear up under the statistics. Americans belong to other religions, or they do not subscribe to any of the Christian religions, so that about 50 million people in this country do not subscribe to the proposition that there is a Christian nation here.

When Senator DANFORTH talked about prayers in the private school that he went to, which were insensitive to minorities, it reminded me of when I went to school in Wichita, KS, and heard school prayers when I was in the first grade, as I was on the other end of the line from what Senator DANFORTH describes.

We have fought the issue of a constitutional amendment for school prayer, and it has been defeated in the U.S. Senate. I recall, in 1983, having that discussion with President Reagan, about what went on in schools in Illinois when he was in public schools and I was a youngster in public schools in Wichita, KS. We have moved to the point where the constitutional principle is firmly established, that there are severe limits as to school prayer.

I think the discussion this afternoon has been of a very high level, almost uniformly. There has been a recognition by all of those who have spoken that there is a constitutional doctrine of separation of church and State. I think it is important that be recognized, as it has been recognized on the Senate floor today, because there are some in America who say that there is no constitutional doctrine of separation of church and State. There are some who say that it is a lie that there is a constitutional doctrine of the separation of church and State, that it is a lie of the left that there is a separation of church and State in America.

There is no doubt about the constitutional doctrine of separation of church and State, and the Supreme Court's having made that clear by upholding Jefferson's statement that a wall of separation exists between church and State. It is a matter we often inquire into in some detail as, for example, during the confirmation hearings of Judge Breyer.

It may be that there is not a great deal of difference between the amendment by the Senator from Kansas and the second-degree amendment by the Senator from North Carolina, as the conversation, as the dialog has evolved where there have been statements by a number of Senators—the Senator from Mississippi, the Senator from North Carolina—that it would take a judicial determination to know what is constitutionally permissible. But who knows what the Supreme Court across the green will do if they do not look to legislative intent and do not pay any attention to what the CONGRESSIONAL RECORD says for July 27, 1994? That is why I think the amendment offered by the Senator from Kansas is by far the more preferable.

I voted against the amendment offered by the Senator from North Carolina back on February 3 of this year, and I did so because of my judgment that it was just not possible to tell what was constitutionally protected prayer. That is why I came over this afternoon, to comment about it in terms of a number of the cases which have been decided by the Federal courts after the Supreme Court handed down Lee versus Weisman, which left some latitude, perhaps, for prayer in school.

There was a case in the Court of Appeals for the Fifth Circuit, which upheld a school board resolution which provided that:

> The use of an invocation and/or benediction at high school graduation exercise shall rest within the discretion of the graduating senior class, with the advice and counsel of the senior class principal; the invocation or benediction, if used, shall be given by a student volunteer; and consistent with the principle of equal liberty of conscience, the invocation and benediction shall be nonsectarian and nonproselytizing in nature.

There was an opposite decision reached by the Court of Appeals for the Third Circuit.

The fifth circuit decision is Jones versus Clear Creek Independent School District. An opposite decision was reached by the Court of Appeals for the Third Circuit in ACLU versus Blackhorse Pike Regional Board of Education.

Similarly, opposite decisions have been reached by the U.S. District Court for the District of Idaho in a case captioned Harris versus Joint School District, in which that Federal court said that it was permissible to have a prayer where the senior students themselves, not the principal, determined every element of their graduation including whether or not a prayer would be a part of the ceremony, and if so who will say it. About the same kind of situation was turned down by the U.S. District Court in the Eastern District of Virginia in a case captioned Gearon versus Loudoun County School Board, where the court said that it was not sufficient to pass constitutional muster to have the prayer delivered by students, when they were student initiated, student written, and student delivered.

So there is no easy definition as to what is constitutionally protected prayer. That is so because the Supreme Court of the United States said, in Lee versus Weisman, "Our establishment clause jurisprudence remains a delicate and fact-sensitive one," which depends upon what the facts are in order to make a determination because of the delicacy of the judgment under the establishment clause.

So it seems to me that it is important for the Senate to recognize the constitutional doctrine of separation of church and State. I think that has been done either explicitly or implicitly by every Senator who has spoken here this afternoon. And if we are to have a cutoff of public funds, it ought to be in accordance with our customary way of deciding disputes, when there is a judicial decision. That is the way we operate in the United States. That is why it is my view the amendment by the Senator from Kansas is preferable to the amendment by the Senator from North Carolina.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, as has been the case with the Senator from Pennsylvania, I think it appropriate to begin remarks in this connection with a reading of the first part of the first amendment to the Constitution. It says:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *.

In other words, in the Constitution there are two balanced provisions on religion in public life or with respect to laws which we pass: One on establishment, prohibiting such an establishment; and one on any kind of law which prohibits the free exercise of religion.

It has been my conclusion over a number of years that the Supreme Court of the United States has not adequately or properly balanced these two considerations; that it has been so fierce in enforcing the establishment clause that it, for all practical purposes, at least within a school context and, to a certain extent, within a broader set of public context, has read out of the Constitution the free exercise clause itself.

It is so exalted and expanded in its reading of the free exercise clause that we have reached the point at which religious speech of any kind is almost totally prohibited in a school context.

Many of the recent decisions of the courts have not involved prayer. It has for so long been accepted that the Constitution of the United States prohibits any formal school-sponsored prayer that we move well beyond that to the context of speeches by students at school events, graduation ceremonies, prayers led by the members of a football team before a football game, that most schools now, in attempting to follow the Constitution, will say that the rights of free speech simply do not exist in schools in a religious context.

Most schools, encouraged by some courts, will not allow a student valedictory address which speaks to the religious faith of the individual student making that address. They question whether or not in a speech class, in a class in a school at which students are required to speak about themselves and the factors that motivated their lives, whether they can speak to religion. They can speak to their political opinions, to their opinions on a wide range of social questions and issues, but in many schools, they would be prohibited from reading a paper on the influence of organized or other religion in their own lives.

This I find troubling. This I criticize in the direction and the impact of the decisions of the Supreme Court of the United States. But in this respect, I recognize that they, not I, not we collectively, are the final readers, the final authority on what the Constitution means.

Beginning with that context, I get to my listening to the debate here, and we have listened to a parade of horribles. We have listened to the proposition that a school district threatened potentially with the loss of funds will not be able to deny the student the right to grab the student microphone and give a sermon in the morning to all the other students whether they like it or not.

Mr. President, does the other part of the first amendment, the free speech part of the first amendment, guarantee to the student the right to grab that microphone in the morning at school and read a speech as to why he wants students and the teachers to vote for Republican candidates in the next election? Or make any other speech? Well, of course, it does not. That is not a right guaranteed by the first amendment's freedom of speech, and it clearly is not a constitutionally protected right under this amendment, as awkwardly or as clearly as it may be drawn.

If this amendment, guaranteeing the right to engage in constitutionally protected religious activities, is unclear and fraught with danger in the schools, so equally is the balance of the first amendment with respect to anything else a student or teacher wishes to say.

The practical answer is that school authorities do not have to guess in this connection, and in 99 cases out of 100, the answer will be extremely clear.

It is highly doubtful that in this or any other administration funds will be cut off except with respect to obvious bad faith in decisions that are made in this connection.

This Senator, though he is speaking on this subject, must say that he does not believe that prayer, whether institutionally formulated or as a result of a volunteer statement by an individual student, is likely to do much for the character and development of other students. Nor does he think that it is likely, when it is completely a spontaneous student activity, to be any more controversial with other students than our statements on politics or about sex or about next Saturday night or a social event in the schools. The danger that individualized activity of this sort is going to be overwhelmingly divisive seems to this Senator not to be seriously subject to consideration, except perhaps in debate on the floor of the U.S. Senate.

So I do not know that even if the practice of schools were to be changed by the adoption of the Helms amendment that it would have much impact on the schools, and I do not think practices in the schools are likely to be very much changed by this amendment, aimed as it is at prayer rather than at speech in general.

But I must say, with all respect for my usual seatmate and friend, the distinguished junior Senator from Kansas, I think that her amendment is, for all practical purposes, totally meaningless because her amendment deals with the subject of school prayer only after a court has already ordered that it is constitutional and must be permitted. Under those circumstances, every school district subject to such an order is going to permit whatever that activity is. I do not know why we have to take their money away from them under those circumstances. They are not going to be violating the law after a district court orders them to permit a certain kind of activity.

So either the amendment of the Senator from Kansas is meaningless because it is not going to change activities anywhere, or it is actually destructive because it will take money away from schools, perhaps retroactively, when they will obviously abide by the decision of the court in any event.

What is the answer to this question? I think the answer to this question is that schools inhibited by many of these Supreme Court decisions are much more likely to deny the constitutional right of individuals to freely exercise their religion, however that may be defined by the courts, than they are to establish a religion in their schools. They are far more likely to err on the side of saying you cannot say this, you cannot do this and thus to violate the free exercise clause than they are to say, "Oh, go ahead, we'll sponsor something which will ultimately be found to be a violation of the establishment clause."

So I guess I reach this conclusion: Even though I do not think that the Helms amendment will change very much in its present form, and even though I have serious questions about whether or not the Kassebaum amendment is positively negative, destructive, I intend to vote for both of them, with the hope that, unlike the situation in the conference committee on Goals 2000 where this subject was summarily dismissed without even really being discussed in the conference committee itself, that the adoption of both of these will motivate both the Senator from Massachusetts and the Senator from Kansas to come up with a proposal that is meaningful with respect to the free-exercise clause and which gives some guidance to schools that they ought to promote the free-exercise to exactly the same extent that they should prevent the establishment and perhaps go beyond the narrow word "prayer" to what, in a pluralistic society, even school kids ought to be allowed to discuss and to speak about their own attitudes toward it as a constructive part of their education.

I have not written such an amendment. I am not exactly sure how such an amendment should be cast. But I do think if we simply reject the Helms amendment, we have just for another year said this does not matter, this does not matter at all. And I believe it does matter. I believe this body ought to be seriously considering the relationship in a school context of the establishment clause and of the free exercise clause, and I think we ought to be encouraging school districts to give equal attention to both probably without the kind of penalties that are included in both of these amendments. But if we defeat either or both of them, this issue is just going to go away. If we pass both of them, this is an issue that they are going to have to seriously consider, get good constitutional advice about—and they can get that if they are in a poor school district—and come up with something that actually helps the situation rather than destroys it.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague, Senator GORTON, for an excellent speech. I just wish that our colleagues had listened to that speech. I think he was right on target.

He talked about the Supreme Court, and he has a great deal of knowledge and legal wisdom in dealing with the Court. But he talked about the emphasis on the first amendment and I would say the overemphasis on the first amendment of the Supreme Court in past cases dealing with the establishment clause.

The first amendment says Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof. Senator GORTON just very plainly said they have had all of their decisions weighted toward the establishment of religion and basically ignored the free exercise clause of the first amendment.

I find that to be very regrettable. We have heard a couple of colleagues mention the Lee versus Weisman case.

Mr. President, I did something kind of unusual—I do it once or twice a year. I visit the Supreme Court when there is a case of real interest—I sat in on the arguments on Lee versus Weisman. I found it to be very interesting. I also was kind of optimistic. Some people talk about this conservative Court appointed, some of the members, by President Reagan and President Bush, that maybe they are going to make for a different result than what we have had in some of these other prayer-in-school cases, and I was hopeful that they would. I thought they weighted all their decisions on the establishment clause. Now maybe they would have a little attention towards free exercise.

The Lee versus Weisman case, if my memory serves me correctly, was about a rabbi in a school district in Rhode Island who gave a prayer at a commencement exercise. Just for the purposes of making everyone familiar with his prayer—he basically gave two prayers, Rabbi Gutterman—I will read his prayer.

> God of the free, hope of the brave, for the legacy of America where diversity is celebrated and the rights of minorities are protected, we thank you. May these young men and women grow up to enrich it. For the liberty of America we thank you. May these new graduates grow up to guard it. For the political process of America in which all citizens may participate before its court systems, where all can seek justice, we thank you. May those we honor this morning always turn to it in trust. For the destiny of America we thank you. May the graduates of Nathan Bishop Middle School so live that they might help to share it. May our aspirations for our country and for these young people who are our hope of the future be richly fulfilled. Amen.

He also gave the benediction that was very similar. I read this prayer, and I read the benediction, and I fail to see how that injures anyone in this country, regardless of their religious affiliation, regardless if they have religious affiliation. I just have a hard time seeing how this prayer could be declared unconstitutional. How have we offended the young people? How have we hurt them? Have we established religion by allowing a rabbi to give a prayer at a commencement exercise? I do not think so. Do we hurt or hinder kids by saying we are going to prohibit prayer? I think there is a real danger there. We are basically telling them in a public institution we think that it is wrong for you to pray.

That is the signal that is being sent. I would venture to say that all of our colleagues have made commencement addresses. I wonder at how many of those commencement exercises there was a prayer. I know when I used to give them years ago they always did. And now more and more schools—and not just high schools, but also colleges and universities, more and more now schools will avoid a prayer.

You ask them why. They say, well, we are afraid we might be involved in litigation. Or we received a letter from the American Civil Liberties Union that advised us that if we had a prayer, be ready to go to court. And although we wanted to have one and although we have had prayer for the last 40 years, we decided we really could not afford the potential litigation, and therefore the board decided we better pass. And we did not want to offend anybody. We did not want any trouble. And we said what good does it do any way because prayers are pretty secular? We try to make the prayer, we ask whoever is giving the prayer to make sure they do not offend anybody, so they probably do not do much good any way. So we decided maybe we should not say it. And they decided maybe we should expand that because—I will tell you, in my State, where we have a lot of football games, and Illinois and Kansas basketball games, we always had a prayer before the high school games. A lot of the high schools are now saying we cannot have a prayer. Why? Because they are afraid of litigation. Usually, those prayers would say, "Hey, God bless"—they would not say "Hey." They would say, "God bless these athletes. We want them to be safe. We want to have a good energetic encounter. We want to be friends. We want to be sports." But now those prayers in a lot of places are not given.

I might mention the Lee versus Weisman decision dealt with a commencement exercise of a middle school, not of a high school, not of a university, and not at an athletic event. These are clearly voluntary enterprises and, in my opinion, in no way is it prohibited by the Lee versus Weisman decision. That is an overinterpretation or an expansion of the decision that, in my opinion, is a serious mistake.

I might also mention the Lee versus Weisman decision was decided on a 5-to-4 basis. It was a close decision as the Court interpreted it—I think an incorrect one.

Now, maybe I am wrong. But I think again a little too much attention on the focus of the establishment clause and still ignoring or not paying enough attention to the free exercise clause, as Senator GORTON alluded to. So I compliment Senator GORTON for his statement. I would just encourage people not to overinterpret what the Court has said.

I think a lot of people, when they say, well, the Supreme Court has allowed prayer in school, are even making a mistake when they say that. Senator Helms alluded to the Supreme Court case, 1962 case, where one Madalyn O'Hair said we do not want to have prayer in school. And if my memory serves me correctly, I think it was in New York, and I think that was a State-prescribed prayer. Some people are alluding to the Helms amendment as this is a State-prescribed prayer, and that is not the case. They ought to read the amendment because the amendment does not say that there will be a state-prescribed prayer.

It does not say that there would be one by any legislative body. It says it be on a voluntary basis and neither the United States nor any State nor any local education agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in public schools.

We do not want bureaucrats writing prayers. I believe that is very important. It also says it is voluntary. I heard my good friend, and I compliment him. And I would certainly concur with Senator SPECTER's statement, Senator DANFORTH made an excellent speech. I do not agree with his conclusion, but I very much appreciate his input and certainly he will be missed in this body.

My friend and colleague, Senator DANFORTH, said that this is a mandate. And if this language is passed, we are going to be mandating that the States will do this.

I do not agree with his conclusion. If you want to look at a mandate, let us look at the bill. There are 900-some pages, and for the most part we are telling schools how to run. We are telling schools how money should be spent. We are telling the schools all kinds of things in the bill that is about 900 new pages of language. There are a lot of things in here where we are telling schools what to do. But what we would like to do is at least allow or change the burden where school districts right now are saying, well, we are so afraid of litigation, we are telling our kids that they just cannot utter the name of God in school unless maybe it is made in vain, and maybe that is protected speech.

We have in our schools now a deplorable situation.

Senator GORTON is going to have an amendment later dealing with school violence. I think maybe it would help to try to solve some of that problem. But schools have no question deteriorated substantially in the last two or three decades. There is a lot more violence. There are a lot more problems that our young people are dealing with today in schools than anyone in this body ever dealt with. I know a lot of the parents are wrestling with some of those problems. There are a lot more drugs. There is a lot more violence. Would allowing voluntary prayer in school hurt?

There are other things going on in school that this Government, and some people in this administration particularly, are pushing, dealing with sex education, dealing with condom distribution, and so on. A lot of us think that is the wrong direction. And, yet, will we not at the least allow the schools or the kids to have voluntary prayer in school? Maybe the penalties are too harsh. They will cut off all funds. Maybe. But I might mention, I know Senator KENNEDY is going to be taking this bill to conference, and I know he is going to drop this amendment. He dropped it last year. He is going to drop it again, no matter by how large a vote it passes, if it passes. I do not know whether it will or not, whether it be the Helms amendment or the Kassebaum amendment.

But I expect that this is the last time we are going to see it. This amendment will probably be dropped off on the way through the Rotunda.

But I think it is an important issue. Maybe the penalties are correct. Maybe we should come up with a different penalty. Maybe we should just pass a law that reinterprets the first amendment saying to school districts: Do not prohibit the free exercise of religion; Federal Government, do not prohibit the free exercise of religion. Are we erring more on the other side?

Right now, schools and public facilities are so afraid they might be taken to court or have some potential litigation that they are afraid to utter the name of God unless it is in vain. I think that is a serious problem. When you have the Supreme Court of the United States saying that Rabbi Gutterman's prayer is unconstitutional, there is something wrong. There is something seriously, seriously wrong.

So I want to compliment the Senator from North Carolina for his attempt to try to send a signal. I also compliment the Senator from Kansas. I think her amendment, while not as good as Senator HELMS' amendment, is better than nothing. I hope that we will send some signal. I hope the courts, I hope Congress, will look at protecting the free exercise of religion.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, it is with some reluctance that I enter into this debate. But it appears very clear to me that we need to try to clarify just what we are talking about here, and what the big distinctions are between the Kassebaum approach and the Helms approach.

We are talking about two different groups, and the question is who should be protected, how should they be protected, and under what circumstances? You have on the one hand that person or group of persons who desire to utilize the schools for prayer. Certainly, that is a noble cause. Then, on the other hand, you have those who are concerned about their children being exposed to religious beliefs that are not their own; who have enough problems with adjustment to their own peers by having these different views.

We have a structure set up now which tries to balance the interests of all of those parties. In this case, if we look at what we are trying to do with these amendments, it is oriented toward protecting those who desire to have prayer in the school. That may get you into several different circumstances. Certainly, if the prayer is to be one which is reflective of a majority of religious beliefs, it may well be easy to have it done. However, if it is not, if it expresses the views of a religion followed by a small minority in the community, then it likely would be difficult.

If you take a look at the Kassebaum amendment, it is rather the traditional, structured approach. It says that if you are abridged of your rights to make a constitutionally protected prayer in the schools, you can go to court. The court can come back, and if they agree with you, they will order the school authorities to cease and desist from allowing you to engage in that prayer. In addition to the other remedies available, probably to ensure better compliance, it states that they may—and I emphasize may—also deny the offending school district the use of all Federal funds derived through the Department of Education.

The Helms amendment takes a quite different approach, and loads the deck very much against the individual who desires to have their child protected from having a religion forced upon them in school. Let us take the realistic kinds of situations we will be talking about here.

You take a small town. They have a school board. It is 90 percent, or 99 percent, Protestant. They have one Catholic or one Jew, or one other religion there. So the parents decide among themselves, "Let us go and get the prayer in the school. We have a law now which says that, in the event the school board denies us the opportunity to make a constitutionally protected prayer, they are going to lose all their Federal funds."

"Shall" is the word in the Helms amendment. They "shall" lose all of their Federal funds—not just the ones under this bill, but all of their Federal funds.

So what is the school board faced with there, whether they are for or against prayer as a matter of policy? Under the Helms amendment, most likely, the school board says, "Hey, this is a heads we win, tails you lose situation. We will just sit back and let things go, if they want prayer, let them pray. If nobody opposes this, fine, we are in the clear and the Federal funds will continue to flow."

Well, who is going to oppose it? Some individual in the school and in the community who feels that the prayer activity will abridge their rights. What are they faced with? Well, if they persuade the school board not to allow the prayer, the board is placed at risk of losing all their funds—shall lose them is what the amendment says. You can well imagine that the voices of dissent, those who are perhaps a minority in number, will be hard pressed to rise up against that kind of pressure. And it is unlikely that many would have the desire to do so.

So if they go to court and they win, they will be run out of town on a rail because they have caused the school to lose all of their funds. If they lose, they have lost all of the pressures—and the money—of trying to do it. But on the other side, those that are desirous of putting school prayer in have a huge weapon to protect them from lawsuits.

It raises not only the question of whether or not there is constitutionally protected prayer denied, but there is also the question of who makes the decision. I suppose you can battle that in the courts. Was it a reasonable decision, whether by the school board, or by the State agency, or by the Federal agencies? Who is it that decides whether or not it was a constitutionally protected prayer? So you have to go through administrative proceedings first, and then to the courts. What do you do?

But it seems to me that the purpose here is obviously to load the scales so much in favor of those who desire to do so—which is contrary to the Constitution, which is primarily there to protect the rights of the minority—that you cast an incredible burden upon anybody that wants to protest the law to be made by this amendment in order to protect themselves. What it will mean is that the odds of people being able to protect themselves from the abuse of the establishment of religion will end up with really no effective remedy at all as to what they feel they could possibly do without huge detriment to their own situation.

So I think it is clear that the Kassebaum amendment, which we understand relies on traditional procedures of judicial resolution of the critical question, adds an additional remedy of the loss of funds, which is an appropriate and proper one, to protect those who desire to make constitutionally protected prayer in schools; whereas the Helms amendment really provides almost a sham, or almost a veil of protection to those who want to abuse the rights of the minority, and to be able to hide behind the threat of the loss of all their school funds and to argue against those who would like to protect the right.

So I urge my colleagues to vote against the Helms amendment and to support the Kassebaum amendment.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to support the amendment offered by my good friend and colleague, Senator HELMS. I commend Senators LOTT, GORTON, and NICKLES for their fine statements of support. This amendment requires that no funds from the Department of Education go to a State education agency or a local education agency which has a policy against constitutionally protected prayer.

Senator HELMS offered this amendment to S. 1150, the "Goals 2000, Educate America Act". This amendment was adopted in the Senate by a vote of 75 to 22. However, the House-Senate conference on "Goals 2000", in a hasty manner, adopted so-called compromise language on the Helms amendment which completely missed the mark of the original Senate position. Hopefully, this action will not stand and the Senate now has an opportunity to reiterate its position on voluntary prayer in public schools. This amendment has received strong support from our colleagues on both sides of the aisle and is important to our Nation.

Until the Supreme Court ruled in the Engel and Abington school district decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without Government interference or restraint. In their wisdom, they recognized that true religious liberty precluded the Government from forcing or preventing worship.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation "under God." Our currency is inscribed with the motto, "In God We Trust."

Every morning we open the Senate and begin our work day with the comfort and stimulus of voluntary prayer—such a practice has been recently upheld as constitutional by the Supreme Court. It is absurd that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools.

Mr. President, there is much discussion across this Nation on the breakdown of values and morality. There are concerns of violence in schools threatening the safety of teachers and students alike and undermining a sound learning environment. Of course, school prayer is not the panacea to end all problems, but I am confident that it will considerably add to the well-being and character development of America's children.

This amendment enjoys the support of an overwhelming number of Americans, and I strongly urge my colleagues to support this amendment.

Mr. President, I yield the floor.

Mr. BURNS. Mr. President, it has been an interesting debate this afternoon, if you had the opportunity to sit in your office and listen to it. I would like to offer a couple of comments and go right to the bottom line. We can all sit around here and use fancy words to justify the stand that we take. So call me just one of those old-fashioned people who thinks kids should have an opportunity, if they choose—if they choose—to pray, to take a moment during the school day for prayer or reflection, if they choose. We should protect their right to choose.

Neither of these amendments would force any certain kind of a prayer on any certain student. Neither of these amendments would even require students to participate. That is the bottom line. It is very simple. Let us not flock around the Bill of Rights, let us not turn it on its head, turn it upside down. Let us honor the Constitution. That is what we are saying here.

Maybe in school one day an individual student wants to meet with 2 or 3 of his colleagues and pray; that should be protected. We are not saying they have to. We are saying they have the right to. That is the bottom line. Use all of the arguments and all of the logic that you want to try to turn it on its head; it does not work. That is what we are talking about. What we are hearing here is a lot of legalese that what we are supposed to be doing is taking a look at the Constitution and protecting those rights.

Mr. President, I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate vote on Senator HELMS' amendment No. 2416 at 6:20 today; that upon the disposition of that amendment, the Senate vote on Senator KASSEBAUM's amendment No. 2415, as amended, if amended, with the preceding all occurring without any intervening action or debate, and with the time between then and now equally divided between Senator KASSEBAUM and Senator HELMS or their designees.

The PRESIDING OFFICER. Is there objection?

Without objection, so ordered.

Mr. LEVIN. Mr. President, will the Senator from Kansas yield me 6 minutes?

Mrs. KASSEBAUM. I am happy to yield whatever amount of time the Senator needs.

Mr. LEVIN. I thank the Senator from Kansas. These two amendments that we are going to be voting on are inconsistent. We should not delude ourselves about that fact. The Senator from Kansas has introduced an amendment which has two very distinct advantages over the Helms amendment. First of all, the Helms amendment wades into the thicket of constitutional law relative to prayer and puts at risk a decision of a school board or school administrator, if they, by chance, make the wrong decision relative to one side of the issue.

This is a very complicated issue—school prayer. If it were not, there would not be so many cases going to the Supreme Court. The fact that it is complicated is proven by the number of cases that are in court on this issue.

But the amendment of the Senator from North Carolina says if you make a mistake relative to your judgment on this, get legal advice which may be found by a court to be wrong, and you are going to lose all your Federal funding. That threat to school boards and school administrators is a major threat; it is a threat which no school board or administrator ought to face, and it is a threat which is avoided by the Kassebaum amendment, which says that only if you violate a court order relative to prayer in public school will you then lose your public funds. If you violate a court order with respect to prayer in school, then you are going to lose your funds. But we are not going to put you at peril if you make a mistake in judgment as to whether or not a prayer is permitted or not permitted. We are not going to put your whole funding at risk if you make that kind of an honest mistake.

The Helms amendment will punish school boards and administrators for honest mistakes in an area which is complicated. Again, if it were not so darn complicated, we would not have hundreds of cases going up to the court as to whether something is permitted or not. So we should avoid this threat, this very unfair threat to school administrators which the Helms amendment creates. That is one advantage of the Kassebaum amendment. The remedy of loss of funds follows the violation of a court order and it does not follow an honest mistake in this area.

There is a second very important advantage to the Kassebaum amendment. The Kassebaum amendment protects the rights of schoolchildren who want to pray and those who do not with the same remedy. The Kassebaum amendment takes into consideration the fact that there are children in this country who want to pray, who have a constitutional right as defined by a court under certain circumstances to engage in voluntary prayer. It protects those students to the same extent it protects students on the other side of the issue who want to be protected from a Government-imposed prayer.

There are constitutional rights in both groups of children, and we should defend those constitutional rights to the same extent and not single out one group for protection, leaving the other group without protection.

The Helms amendment applies the remedy of loss of Federal funding only for one group. It only uses that threat, which is really a nuclear weapon for school boards, on behalf of only one group's constitutional rights and does not use it to protect the other group's constitutional rights.

We should protect the constitutional rights of all children—all children—and there are children on both sides, or all sides of this issue because there are probably more than two sides that have constitutional rights.

I want to just read the language of the Helms amendment because it is so clear here what is being done. The Helms amendment says:

> * * * no funds made available * * * under this act, or any other act, shall be available to any State or local educational agency which has a policy of denying or which effectively prevents participation in—

And here are the key words:

> * * * constitutionally protected prayer in public schools by individuals on a voluntary basis.

And then it goes on to say something very different about the other side of the coin, the constitutional rights of the other children, and here is what it says about those:

> Neither the United States nor any State nor any local educational agency—

According to the Helms amendment.

> shall require any person to participate in prayer or influence the form or contents of any constitutionally protected prayer in such public schools.

But what happens if they do? That is the silence of the Helms amendment. It does not provide the remedy of loss of funding if the second half of that amendment is violated. It is only the first half which results in a loss of funding.

If the right to participate in a constitutionally protected prayer is violated, the loss of funding follows, but if someone is required to participate in prayer, nothing follows. There is no remedy here for requiring someone to participate in prayer which violates their constitutional rights. There is silence. It just simply says do not do it. But what it does not say, what it leaves out is the same remedy to protect people from those violations as it provides for people who have had their constitutionally protected right to pray violated. And that is the second problem with the Helms amendment.

It is that it gives protection to one group with this remedy but does not give protection to the other group that has constitutional rights, the right not to be forced to participate in prayer, the right to be free from Government influence of the form or content of prayer. That group has no remedy in terms of the loss of Federal funds in this amendment. This amendment does not give that group that also has constitutional rights this same remedy. It is only the first group that is given this remedy.

The Kassebaum amendment, on the other hand, protects both groups with the same remedy. The Kassebaum amendment protects the rights of students with respect to prayer in public schools which covers students who wish to pray voluntarily, as well as students who want to be free from a mandated Government-imposed prayer. Both groups are protected by the Kassebaum amendment with a remedy which does not put the school unfairly at risk; whereas the Helms amendment protects only one group and leaves the school boards and administrators in great peril because, if they make an honest mistake in judgment in this complicated area with respect to the one group whose rights are protected by this remedy, then they lose their Federal funding.

So on both counts, the Kassebaum amendment protects the constitutional rights of children who want to engage in voluntary prayer as well as those who want to be free from a Government-imposed prayer—and they both have rights. Make no mistake about it. Under court decisions, there are rights for both groups of children. The Kassebaum amendment protects the rights of both groups of children and avoids the harsh and unfair peril that the Helms amendment would put school administrators and teachers in, that if they make an honest mistake, they will lose Federal funding.

I hope that we will adopt the Kassebaum amendment, after rejecting the Helms amendment. They are inconsistent. They are very different.

And, again, for the reasons I have indicated, I think the Kassebaum amendment is far superior because it protects the rights of all children with a reasonable remedy instead of just protecting the rights of some children with an unfair and harsh remedy.

I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator has 1 minute remaining under her control.

Mr. WELLSTONE. Then I yield back to the Senator from Kansas if she yielded me time.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I do not need to speak. I do not know who else wishes to speak at this time.

Mr. WELLSTONE. I will take the 1 minute.

Mr. BUMPERS. Mr. President, if the Senator from Kansas will yield, I had hoped to speak for 3 or 4 minutes, but it is not of Earth-shaking importance to me.

Mr. WELLSTONE. Mr. President, if the Senator from Kansas will yield 1 minute, I defer to the Senator from Arkansas that time.

Mrs. KASSEBAUM. Mr. President, then I will yield 1 minute to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator has 5 seconds remaining.

Mr. HELMS. Mr. President, if the Senator will yield, I would like to yield 5 minutes to the Senator from my time if he would be interested in having it.

Mr. BUMPERS. That is most magnanimous of the Senator from North Carolina. I am sure the Senator knows I do not support his amendment.

Mr. HELMS. That suits me fine. Everyone has to be someplace.

Mr. BUMPERS. The Senator is kind. It may get him some votes, for that matter.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, last year, I supported the Helms amendment. I do not remember the words "constitutionally protected prayer" being in that amendment. I believe that was a second-degree amendment by Senator KENNEDY, which made it considerably better.

But a lot of people jumped under their desks, as politicians always do when prayer comes up in this body, and said, "Well, I don't want to get involved. Senator KENNEDY will drop this when it goes to conference anyway, and no damage will be done."

But I am not going to do that anymore.

I was the only southern Senator in the U.S. Senate to vote against President Reagan's constitutional proposal back in, I believe, 1984 to establish so-called voluntary prayer in school. The problem was that it was not voluntary.

In that very same year, I was up for reelection. That vote was not the most politically propitious thing I ever did. My opponent made much of the fact that I was the only southern Senator to vote against that constitutional amendment.

But on one happy occasion when there were about 1,000 people in the audience and my opponent tried to use that vote against me, I pointed out to the audience what that amendment did. I said: "If you believe that the school board in your local community ought to be allowed not to compose, but to adopt prayers composed by others and send them to the schoolhouse for your children to recite, you vote for my opponent, but I will be lying prostrate on the Senate floor before I vote for an amendment to the Constitution of the United States, which has served us so well for 205 years, that would allow a school board to take prayers from Jerry Falwell or whomever and say, These are the prayers our children will recite at 10 a.m. and 2 p.m. every day."

Now, I will tell you, it was a pretty conservative audience, but they were stomping and cheering by the time I finished, because they understood for the first time what that amendment did.

All the American people want is somebody to talk sense to them. A very powerful and emotional thing, prayer in school.

Right after we defeated that amendment, several of us went to work here to adopt what we called "Equal Access." That is essentially what we are talking about here. We said school districts which allow other extracurricular activities and organizations may not deprive any voluntary group of students who want to pray, have devotions, theological discussions, or whatever of that right.

I went over to the Supreme Court to hear the constitutionality of that bill argued. I had never been there to hear an argument before. The Supreme Court said that it was constitutional. They said, if people want to voluntarily assemble in school for prayer, or whatever, the school board may not deny them that right if they accord the same right to other extracurricular organizations. And that is the law of the land today, and prayer takes place in thousands of schools across America every day.

Both of these amendments refer to constitutionally protected prayer. The Senator from Kansas and the Senator from North Carolina both say you cannot deny students the right to constitutionally protected prayer.

But then, unhappily, the Senator from North Carolina goes on to say: But we will deprive you of another constitutional right. We will take your money away from you without you ever getting a trial and a legal determination as to whether prayer is constitutionally protected or not.

I served on the school board in my community for 12 long years. It was a lot tougher job than being a U.S. Senator. I ran for Governor to get off the school board. We put up with this kind of thing constantly.

And I can tell you that there are a lot of school boards in this country that would violate the Constitution on this issue. Most of them are honest, good people who want better schools. But there are some who would maybe innocently trample on the rights of people who do not want to have to pray or listen to a prayer that violates their faith.

Under the Helms amendment, that school board could also say, "No, you can't pray because this is not constitutionally protected," and they would lose their money without a trial. Nobody here believes that this is a fair method of handling this.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from North Carolina controls all remaining time.

Mr. HELMS. What is the time situation on both sides?

The PRESIDING OFFICER. The Senator has 6 minutes and 36 seconds remaining.

Mr. HELMS. I thank the Chair.

Has the time for the Senator from Kansas expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Mr. President, how do I respond to a nice guy like DALE BUMPERS? He is so wrong in what he said, but that is all right. I think 80 percent of the American people, and certainly those who are watching on C-SPAN, will know that he is not correct. Nor was Senator DANFORTH, when he intoned that my amendment would be so dangerous. But I shall not be critical of anybody who has criticized the amendment. That is their right.

I will ask unanimous consent, Mr. President, that a list of 12 instances where, under the present system, the rights of children have been violated because they wished to participate in a voluntary prayer but were forbidden to do so.

In Prestonberg, KY, a sixth grade student was denied the right to pray with friends before school.

In Champagne, IL—I call to the attention of my friend, PAUL SIMON—Eileen Unander was denied the right to participate in "See You at the Pole," which is a coordinated, nationwide student event where they gather to pray at their school flagpoles in the morning before school begins.

In Colorado, Becky Renshaw has been told not to mention the word "Jesus" in school.

What happened to her rights, Mr. President?

Nathan Lewis, of Hatfield, PA—I wish Senator SPECTER were here—was selected to speak at his graduation because he was such a stellar student, but he was told that he could not pray during his speech even if he wanted to.

And then there is James Amyx, of Broadhead, KY. He was denied the right to plan a prayer for his graduation, and has been further threatened with denial of the right to pray with other students before school if he pursues the graduation issue further.

Now, I am going to ask unanimous consent in just a moment that this entire list be printed in the RECORD at this time.

But what I am saying, Mr. President, is that we are putting the shoe on the other foot with this amendment. Right now, the students are denied their rights. Hereafter, the administrator or the superintendent or the principal or the school board will have to justify their actions to deprive students of their right of voluntary prayer.

Now, I want to know, what is wrong with the shoe being on the other foot a little bit? For years and years and years, since 1962, there has been such a muddled situation in our schools about what is lawful and what is not concerning prayer—and the ACLU has exploited the situation.

I know that Senator BUMPERS went over to the Supreme Court, because he said he did. And he is like George Washington—he never told a lie. I am sure he found out what he said he found out.

But the fact remains that young people, children all over the United States, have been deprived of their right to voluntary prayer under the present system.

So what I am saying is let us put the shoe on the other foot and let the administrators justify their position, instead of the students being kicked around as they have been.

Mr. President, I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

1. J.J. Music (Prestonberg, KY)—sixth grade student denied the right to pray with friends before school.
2. Eileen Unander (Champagne, IL)—denied right to participate in See You at the Pole type activity.
3. Becky Renshaw (Kremmling, CO)—has been told not to mention the word "Jesus" in school.
4. Nathan Lewis (Hatfield, PA)—selected to speak at graduation, but told he cannot pray during his speech.
5. James Amyx (Broadhead, KY)—student has been denied right to plan a prayer at graduation, and has been further threatened with denial of right to pray with other students before school if he pursues the graduation issue further.
6. Adam Grecco (Derby, CT)—student denied right to speak to another student about God at school.
7. Bethany Null (Panama City, FL)—special education student told she can not pray over her lunch. Client moved and lost interest in pursuing the matter. File closed.
8. Linda Williams (Tayneville, KY)—valedictorian concerned about censorship of her speech which will include a prayer.
9. Darren Warren (San Diego, CA)—denied right to participate in See You at the Pole. After receiving our information, however, school chose to permit the activity.
10. Matthew Moen (Smithtown, NY)—originally denied right to participate in See You at the Pole. The matter was subsequently resolved.
11. Harris V. Joint School District (9th Cir.)—students plan entire graduation ceremony. All decisions are in the hands of the students, including the decision to have a ceremony. In this context, some students have chosen to include student-initiated prayers. This action was challenged. The trial court decided that the practice is constitutional. The case is currently on appeal. The ACLJ file amicus briefs at the trial court level and with the 9th Circuit.
12. John Walden (St. Petersburg, FL)—student denied right to participate in See You at the Pole. Litigation was avoided when school agreed not to interfere with the activity at the last minute.

Mr. HELMS. Mr. President, the arguments against my amendment fail the test of reasonableness. Interestingly enough, the Supreme Court has never ruled directly on the constitutionality of student-initiated voluntary school prayer. But Supreme Court precedent holds that students have a right to engage in religious activities in the schools if those activities do not materially disrupt other activities in the school.

In 1981, in *Widmar* v. *Vincent*, 454 U.S. 263, the Supreme Court held that religious speech is protected under both the free speech and the free exercise clause of the first amendment.

In 1969, in *Tinker* v. *Des Moines School District*, 393 U.S. 503, the Supreme Court held that students exercising their free speech rights in the school cannot materially disrupt the school day or substantially infringe upon the rights of the others in the school.

In 1990, in *Mergens* v. *Westside Community School District*, 496 U.S. 226, the Supreme Court upheld the Federal Equal Access Act for religious activities in the schools against a challenge against the act by the school which argued that student-initiated religious activities on campus violated the establishment clause in the Constitution. The Supreme Court thus rejected the argument that any student religious activities on school campuses violated the Constitution.

Those cases are still good law, and taken together, make it clear that students have a right to engage in religious activities in the schools if those activities do not materially disrupt other activities in the school day or infringe upon the rights of others in the schools.

I do not find anything in the language of the pending amendment contrary to those Supreme Court holdings and I fully expect that the amendment, if enacted, would be interpreted and upheld in a manner consistent with these Supreme Court precedents concerning student-initiated religious activities in the schools.

Mr. President, I will ask unanimous consent in a moment that two legal opinions on the implications of the Helms-Lott amendment be printed in the RECORD. The first opinion was written by David M. Ackerman of the American Law Division of the Congressional Research Service and is dated February 22, 1994. The second legal opinion was drafted by James Matthew Henderson, Sr., the senior litigation counsel for the American Center for Law and Justice. I ask unanimous consent that both opinions be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit).

Mr. HELMS. Mr. President, Mr. Ackerman provided the followed legal analysis in his opinion:

> [W]hile the Court has been clear in holding government to be barred by the establishment clause from sponsoring or promoting prayer in the public schools, it has had less occasion to address the converse issue of what prayer activities must be allowed in the public school, i.e., what prayer activities might be considered constitutionally protected. In general the Court has affirmed that students in public schools do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate"* * * One can surmise, for instance, that it would violate both the free speech and free exercise clauses of the First Amendment for a [school] to forbid a student from praying silently during the school day or, perhaps, even from praying aloud, at least so long as the prayer activity was not disruptive of the school environment and did not connote school endorsement* * *.
>
> Some degree of uncertainty about what is constitutionally protected also attends the issue of commencement prayer* * *. The U.S. Court of Appeals for the Fifth Circuit, as well as a Federal district court in Idaho, differentiated student-initiated and student-delivered prayer at a public secondary school's commencement ceremony and held that kind of commencement prayer to be constitutional. The Supreme Court chose not to review the Fifth Circuit's decision* * *. Thus, student-initiated prayer at commencement ceremonies might for now be considered to be constitutionally protected in the* * * Fifth Circuit and in Idaho* * *.
>
> Would any of the [school prayer] amendments violate the Constitution? None of the amendments appear to be unconstitutional* * *. With respect to the cutoff of funds in the Helms-Lott amendment, it suffices to note that Congress has broad power to impose conditions on the receipt of Federal funds.

Mr. President, Mr. Henderson stated in his legal opinion that:

> When public school officials interfere with voluntary, student-initiated prayer, such actions usually result from ignorance; that is, administrators assume that such student religious speech threatens the "wall of separation between church and state." Because the Establishment Clause is a restraint on governmental establishments, not student religious exercises, such school officials act out of an erroneous and fundamental misconception.

Mr. President, it is obvious that school administrators are not the only ones who are ignorant of the constitutionality of voluntary student-initiated prayer in the schools. I suggest Senators read both of these opinions in their entirety.

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, February 22, 1994.

AMERICAN LAW DIVISION
MEMORANDUM

Subject: Senate amendments to S. 1150 relating to school prayer.
Author: David M. Ackerman.

During debate in early February on S. 1150, the "Goals 2000: Educate America Act," the Senate adopted three amendments relating to school prayer. This memorandum provides a brief analysis of their legal and constitutional implications.

TEXT OF THE AMENDMENTS

On February 3, 1994, the Senate adopted an amendment sponsored by Senators Helms and Lott to S. 1150, the "Goals 2000: Educate America Act."[1] The amendment, which was approved by a vote of 75–22, provides as follows:

"No funds made available through the Department of Education under this Act, or any other Act, shall be available to any state or local educational agency which has a policy of denying, or which effectively prevents participation in, constitutionally protected

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Footnotes at end of article.

prayer in public schools by individuals on a voluntary basis. Neither the United States nor any state nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public school."

The words "constitutionally protected" were not included in the amendment as first propounded but were added by unanimous consent after an extended colloquy between Senators Helms, Packwood, and Danforth.[2]

On February 4 and 8, 1994, respectively, the Senate adopted two more amendments generally relating to the issue of school prayer—a sense of the Senate amendment sponsored by Senators Danforth, Chafee, and Kassebaum and an amendment by Senator Levin. The sense of the Senate amendment, which was adopted by a vote of 78–8,[3] provides as follows:

"It is the sense of the Senate that local educational agencies should encourage a brief period of daily silence for students for the purpose of contemplating their aspirations; for considering what they hope and plan to accomplish that day; for considering how their own actions of that day will effect (sic) themselves and others around them, including their schoolmates, friends and families; for drawing strength from whatever personal, moral or religious beliefs or positive values they hold; and for such other introspection and reflection as will help them develop and prepare them for achieving the goals of this bill."

Finally, the Levin amendment, which was adopted by voice vote,[4] provides as follows:

"Notwithstanding any other provision of this Act, no funds made available through the Department of Education under this Act, or any other Act, shall be denied to any State or local educational agency because it has adopted a constitutional policy relative to prayer in public schools."

LEGAL EFFECT OF THE AMENDMENTS

While the amendment concerning a brief period of daily silence is, as a statement of the sense of the Senate, purely hortatory, both the Helms-Lott and the Levin amendments would have substantive legal effect. The Helms-Lott amendment would bar the Department of Education from making funds available to any State educational agency (SEA) or local educational agency (LEA) that had "a policy of denying, or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis." The Levin amendment, conversely, would prohibit the Department from denying funds to any SEA or LEA which had "a constitutional policy relative to prayer in public school." It is not clear that that prohibition accomplishes anything that would not otherwise be the case, but the prohibition, nonetheless, would be a binding legal mandate.[5]

The amendments raise at least five issues relating to their legal effect. First, are the amendments compatible, or contradictory? Second, would the Helms-Lott amendment cut off all Federal funds flowing to SEAs and LEAs that violate its prescription, or just funding provided through the Department of Education? Third, what does the phrase "constitutionally protected prayer in public schools by individuals on a voluntary basis" in the Helms-Lott amendment mean? Fourth, what does the counterpart phrase in the Levin amendment—"a constitutional policy relative to prayer in public school"—mean? Fifth, would any of the amendments violate the Constitution?

(1) Are the amendments compatible, or contradictory? The amendments appear to be compatible. The Helms-Lott amendment would require that Federal education funds be cut off under certain circumstances, while the Levin amendment would prohibit the cutoff of Federal education funds under certain circumstances. But under both the Helms-Lott and Levin amendments an SEA or LEA that had a constitutional policy relative to prayer in the public schools would be eligible for Federal education funds. Only in the circumstance that an SEA or LEA prevented participation in constitutionally protected prayer, i.e., had an unconstitutional policy relative to prayer in the public schools, would the Helms-Lott amendment require that funds be cut off. The Levin amendment would not proscribe that cutoff. The Danforth amendment, as a statement of the sense of the Senate regarding a brief period of silence in the public schools, is, as previously noted, purely hortatory. But because the policy it recommends is arguably constitutional, it, too, appears to be compatible with the Helms-Lott and Levin amendments.

(2) Would the Helms-Lott amendment cut off all Federal funds flowing to SEAs and LEAs that violate its prescription, or just funding provided through the Department of Education? This issue arose during debate on the Helms-Lott amendment but does not appear to have been clearly resolved. The language of the Helms-Lott amendment states "No funds made available through the Department of Education under this Act, or any other Act, shall be available to any state or local educational agency. . . ." Sen. JEFFORDS, an opponent of the amendment, twice asserted during debate that this language meant that the cutoff of funds under the amendment would apply not only to funds under S. 1150 and not only to other funds that go through the Department of Education but also to all other Federal funds going to SEAs and LEAs, such as school lunch and breakfast monies from the Department of Agriculture, National Science Foundation grants, NASA grants, and Medicaid funds through the Department of Health and Human Services.[6] No rebuttal of this allegation was made by proponents of the amendment. Sen. HELMS did introduce a legal memorandum from the American Center for Law and Justice several days later which described the funding cutoff of his amendment as applying to "funding under the Goals legislation, and funding under any other act, which is provided through the Department of Education. . . ."[7] But early in the debate he had stated that under his amendment a school district could "lose its Federal funding."[8] the same language appears in the Levin amendment.

The grammatical structure of the language would seem to intend that the phrase "through the Department of Education" applies not only to "under this Act" but also to ", or any other Act,". But any uncertainty in this regard would be eliminated if the commas were eliminated and the word "Act" were used but once: "No funds made available through the Department of Education under this or any other Act. . . ."

(3) What does the phrase "constitutionally protected prayer in public schools by individuals on a voluntary basis" in the Helms-Lott amendment mean? This phrase states the prescriptive standard of the Helms-Lott amendment, interference with which would cause a cutoff of Federal funds. The meaning of that phrase, thus, is critically important.

The Supreme Court has held in a number of decisions that government sponsorship of devotional activities in the public schools violates the establishment of religion clause of the First Amendment. With respect to prayer in the public schools, it has held the constitutional prohibition of government sponsorship and promotion to apply (1) regardless of whether the prayer is composed by the State,[9] is taken from religious literature,[10] or is composed by a teacher or student[11]; (2) regardless of whether students can be excused from participating[12]; and (3) to both regular devotional activities during the school day and to prayers at such singular events as graduation exercises.[13] The proscription has even been held to extend to moments of silence in the public schools where the State has prescribed that the moments are to be used for prayer.[14]

None of these prayer activities, in other words, are constitutionally protected; and SEA or LEA policies or actions to prevent students and teachers from engaging in such activities, thus, would not, or should not, trigger the cutoff of funds under the Helms-Lott amendment.

But while the Court has been clear in holding government to be barred by the establishment clause from sponsoring or promoting prayer in the public schools, it has had less occasion to address the converse issue of what prayer activities must be allowed in the public schools, i.e., what prayer activities might be considered to be "constitutionally protected." In general the Court has affirmed that students in public schools do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate"[15]; but it has also made clear that the first Amendment rights of students in the public schools 'are not automatically coextensive with the rights of adults in other settings' and must be 'applied in light of the special characteristics of the school environment,' "[16] Yet specific rulings illuminating the parameters of those generalities and, consequently, the scope of the standard articulated in the Helms-Lott amendment are few. One can surmise, for instance, that it would violate both the free speech and free exercise clauses of the First Amendment for a SEA or LEA to forbid a student from praying silently during the school day or, perhaps, even from praying aloud, at least so long as the prayer activity was not disruptive of the school environment and did not connote school endorsement. But our research has found no case directly on point.[17]

Other areas involving prayer in the public schools have more decisional authority, but the parameters of what is constitutionally protected or mandated or permissible have not been fully defined. For instance, the Court has indicated in dicta that it would be constitutionally permissible for a State to provide for a moment of silence in the public schools that could be used by students, inter alia, for voluntary prayer.[18] But in the one case in which it considered the issue, it struck down the specific silent prayer or meditation statute that was before it on the grounds the State adopted the statute to promote prayer[19]; and it has so far chosen not to address the issue again. The one subsequent lower Federal court decision also struck down a particular moment of silence statute.[20] Thus, although it seems possible for a constitutional policy relating to moments of silence to be articulated, the courts have not as yet provided certain guidance.

The Court has also explicitly held the free speech clause to mandate equal access to school facilities for student-initiated religious groups at the public college level,[21] but it has not addressed that constitutional issue at the public secondary school level. In its one pertinent decision it construed the Equal Access Act enacted by Congress in 1984[22] to give student-initiated religious groups at Federally assisted secondary schools a statutory right to meet in school facilities on the same basis as other non-curriculum related student groups, and it held that Act not to violate the establishment clause.[23] But in that decision it explicitly avoided the question of whether the constitutional right it found in Widmar v. Vincent, supra, extended to students in public secondary schools. The Helms-Lott amendment would seem to require that issue to be resolved in the instance that a school district failed to comply with the Equal Access Act, i.e., denied a student religious group the opportunity to meet in school facilities on the same basis as other student noncurricular groups. The answer to the constitutional issue, however, is uncertain.[24]

Some degree of uncertainty about what is constitutionally protected also attends the issue of commencement prayer. In Lee v. Weisman, supra, the Supreme Court held school-initiated and clergy-delivered prayer at a public secondary school's commencement ceremony to be unconstitutional. Subsequently, however, the U.S. Court of Appeals for the Fifth Circuit, as well as a Federal district court in Idaho, differentiated student-initiated and student-delivered prayer at a public secondary school's commencement ceremony and held that kind of commencement prayer to be constitutional.[25] The Supreme Court chose not to review the Fifth Circuit's decision, despite the fact that analogous decisions involving school prayer suggested it might not be correct.[26] Thus, student-initiated prayer at commencement ceremonies might for now be considered to be constitutionally protected in the jurisdiction of the Fifth Circuit and in Idaho, but its status elsewhere, as well as its ultimate constitutional status in the Fifth Circuit and Idaho, remains uncertain.

In short, what prayer activities in the public schools are constitutionally protected has not as yet been fully delineated. As a consequence, considerable ambiguity would seem to attend the application of the funds cutoff standard of the Helms-Lott amendment.

(4) What does the counterpart phrase in the Levin amendment—"a constitutional policy relative to prayer in the public school"—mean? This standard appears to have the same potential for ambiguity as the one articulated in the Helms-Lott amendment. If a SEA or LEA adopted a policy that did no more than track what the Supreme Court has held to be constitutionally prohibited, as described above, it would seem to satisfy this standard. But if it went beyond what has been explicitly articulated by the Court and addressed such issues as individual oral prayer or moments of silence for prayer or meditation or meetings of student religious groups beyond what is required by the Equal Access Act or student-initiated and led prayer at commencement ceremonies, it would encounter the same legal ambiguities that have been detailed above. Pending an administrative decision by the Department of Education or litigation, or both, it would not be certain whether a particular policy would, or would not, insulate a SEA or LEA from a cutoff of funds.

(5) Would any of the amendments violate the Constitution? None of the amendments appear to be unconstitutional. The sense of the Senate amendment pertaining to moments of silence for prayer or meditation described does not, as noted above, have any binding legal effect that might raise a constitutional issue. But even if the policy it recommends were implemented, the policy does not appear to endorse prayer as the preferred activity for such moments and arguable would not contravene the Court's decision in *Wallace* v. *Jaffree, supra*. With respect to the cutoff of funds in the Helms-Lott amendment, it suffices to note that Congress has broad power to impose conditions on the receipt of Federal funds.[27]

FOOTNOTES

[1] 140 CONG. REC. S756 (daily ed. Feb. 3, 1994).

[2] Id., at S741.

[3] Id., atS841 (daily ed., Feb. 4, 1994).

[4] Id., at S1118 (daily ed. Feb. 8, 1994).

[5] The Levin amendment appears to be a response to the Helms-Lott amendment as it was eroded prior to the addition of the words "constitutionally protected." Without those words the language of the amendment, and some of the examples cited by its sponsors in justification—see 140 CONG. REC S725-28 (statements of Sen. Helms) and S730-31 (statement of Sen. Lott) (daily ed. Feb. 3, 1994)—seemed to open the possibility that SEAs and LEAs could jeopardize their Federal funding by prohibiting voluntary prayer activities that have been held unconstitutional by the courts. The Levin amendment would have vitiated the possibility. But the addition of the words "constitutionally protected" to the Helms-Lott amendment accomplished that purpose as well.

[6] See 140 CONG. REC. S737-38 and S742-43 (daily ed. Feb. 3, 1994) (statements of Sen. Jeffords).

[7] Id., at S1156 (daily ed., Feb. 8, 1994).

[8] Id., at S724 (daily ed., Feb. 8, 1994) (statement of Sen. Helms).

[9] Engel v. Vitale, 870 U.S. 421 (1962); Wallace v. Jaffree, 466 U.S. 924 (1984), aff'g mem. 705 F.2d 1526 (11th Cir. 1983).

[10] Abington School District v. Schempp, 374 U.S. 203 (1968).

[11] Karen B. v. Treen, 455 U.S. 913 (1982), aff'g mem. 653 F.2d 897 (1981).

[12] Engel v. Vitale, supra, at 421, and Abington School District v. Schempp, supra, at 228. In both cases, it might be noted, the Court found the voluntariness of the exercise not to be material to its decision. It suggested, in fact, that because of compulsory schooling, peer pressure, and the official sanction given the exercises, "voluntary" participation might be an impossibility.

[13] Lee v. Weisman, 112 S.Ct. 2649 (1991).

[14] Wallace v. Jaffree, 472 U.S. 88 (1985).

[15] Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 506 (1969).

[16] Hazelwood School District v. Kuhlias, 434 U.S. 260, 266 (1988), quoting Bethel School District No. 403 v. Fraser, 478 U.S. 675, 682 (1986) and Tinker v. Des Moines Independent Community School District, supra, at 506.

[17] Cf. Roberts v. Madigan, 921 F.2d 1047 (10th Cir. 1991), cert. den., 112 S.Ct. 8025 (1992) (teacher's display and reading of personal Bible during silent reading periods held, in the context of the inclusion of religious books in classroom library and display of religious poster on wall, to amount to religious proselytizing and to be constitutionally barred).

[18] Wallace v. Jaffree, supra.

[19] Id.

[20] See Walter v. West Virginia Board of Education, 610 F.Supp. 1169 (D. W.Va. 1985) (constitutional amendment adopted by referendum providing for "brief time at the beginning of each school day for any student to exercise their right to personal and private contemplation, meditation, or prayer" held to have a purpose of returning prayer to the public schools and to be unconstitutional).

[21] Widmar v. Vincent, 454 U.S. 263 (1981).

[22] 20 U.S.C. 4071-74 (1988).

[23] Westside Community Board of Education v. Mergens, 496 U.S. 226 (1990).

[24] Prior to Mergens, four Federal appellate courts had held the accommodation of student-initiated religious meetings on the premises of public secondary schools not to be mandated by either the free speech or free exercise clauses, but one Federal district court had held to the contrary. Compare Brandon v. Board of Education of the Guilderland Central School District, 635 F.2d 971 (2d Cir. 1980), cert. den., 454 U.S. 1123 (1981); Lubbock Civil Liberties Union v. Lubbock Independent School District, 659 F.2d 1038 (5th Cir. 1982), cert. den., 459 U.S. 1156 (1983); Bell v. Little Axe Independent School District, 766 F.2d 1391 (10th Cir. 1985); and Garnett v. Renton School District No. 403, 874 F.2d 608 (9th Cir. 1989), judg. vacated and case remanded for further consideration in light of Mergens, 496 U.S. 914 (1990) with Bender v. Williamsport Area School District, 563 F.Supp. 697 (M.D. Pa. 1983), rev'd, 741 F.2d 538 (3d Cir.), vacated for want of jurisdiction, 475 U.S. 584 (1986) (the Supreme Court held that the party that had taken an appeal from the district court's decision had no standing to do so, that therefore neither it nor the Third Circuit had jurisdiction to issue a decision on the merits in the case, and that, consequently, the district court's decision that secondary school students had a constitutional right to meet for religious purposes on school premises stood as the final decision in the case).

[25] See Jones v. Clear Creek Independent School District, 977 F.2d 963 (5th Cir. 1992), cert. den., 61 U.S.L.W. 3819 (1993) and Harris v. Joint School District No. 241, 1193 US Dist LEXIS 6684 (D. Id. 1993).

[26] See, e.g., Collins v. Chandler United School District, 470 F.Supp. 959 (D. Ariz. 1979), aff'd, 644 F.2d 759 (9th Cir.), cert. den., 454 U.S. 863 (1981) (student council sponsorship of prayer by students at beginning of school assemblies held unconstitutional).

[27] South Dakota v. Dole, 483 U.S. 208 (1987).

SOME GUIDING CONSTITUTIONAL PRINCIPLES REGARDING STUDENT EXPRESSION, INCLUDING VOLUNTARY PARTICIPATION IN STUDENT-INITIATED PRAYER

(By James Matthew Henderson, Sr.)

I. PUBLIC SCHOOL STUDENTS ENJOY SUBSTANTIAL PROTECTION OF THE RIGHT TO FREEDOM OF SPEECH UNDER THE UNITED STATES CONSTITUTION

The First Amendment of the United States Constitution, made applicable to public schools by operation of the Fourteenth Amendment, provides significant protection for public school students who desire to exercise their right to freedom of speech while on campus. *Tinker* v. *Des Moines Ind. Sch. Dist.*, 393 U.S. 503 (1969).[1] In Tinker, the Supreme Court said that public school students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." *Tinker*, 393 U.S. at 506.[2]

In Tinker, the Court addressed a dispute that arose when some students wore black armbands in school and during class to protest the Vietnam War. The school authorities ordered the students to remove the armbands or to leave school. The Supreme Court ruled that the school authorities had violated the Constitution, and construed the students' First Amendment rights broadly: "in our system, state-operated schools may not be enclaves for totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are persons under our Constitution. They are possessed of fundamental rights which the state must respect, just as they themselves must respect their obligations to the state. *In our system, students may not be regarded as closed-circuit recipients of only that which the state chooses to communicate. They may not be confined to the expressions of those sentiments that are officially approved.*" Tinker, 393 U.S. at 511 (emphasis added).

Under the First and Fourteenth Amendments, as held in Tinker, public schools may not limit student-initiated speech unless it "would materially and substantially interfere with the requirements of appropriate discipline in the operation of the school." *Tinker*, 393 U.S. at 509 (citation omitted).[3]

As the Supreme Court has also noted: "[t]he vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools." *Shelton* v. *Tucker*, 364 U.S. 479, 487 (1967). In fulfilling this vital role, the Congress, the Executive, and the Courts should encourage public

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Footnotes at end of article.

schools to "apply the First Amendment mandates in our educational system" "to safeguard the fundamental values of freedom of speech and inquiry . . . ." *Epperson* v. *Arkansas*, 393 U.S. 97, 104 (1968).

II. COMPLETE PROHIBITIONS ON STUDENT EXPRESSION, INCLUDING STUDENT-INITIATED PRAYER, FAIL CONSTITUTIONAL SCRUTINY UNDER THE SUPREME COURT'S PUBLIC FORUM DOCTRINE

Under the "Public Forum Doctrine," elucidated in the decisions of the United States Supreme Court, regulations prohibiting students from participating in voluntary, student-initiated prayer must be examined under the strictest scrutiny.[4]

In *Cornelius* v. *NAACP Legal Defense & Educational Fund*, 473 U.S. 788 (1985), the United States Supreme Court enunciated the proper analysis for determining the existence of First Amendment Rights in a given locale. First, it must be determined whether the activity at issue is speech protected by the First Amendment. If protected speech is at issue, the next step is to identify the nature of the forum, the public school. The extent to which the government may limit access depends on whether the forum is public or non-public. Finally, it must be determined whether the justifications for exclusion of the speech from the relevant forum satisfy the requisite standard of constitutional scrutiny.

A. Voluntary, student-initiated prayer is protected under the first and fourteenth amendments

It is a constitutional axiom that the religious speech, including prayer, is a form of expression protected by the First Amendment. See, e.g., *Widmar* v. *Vincent*, 454 U.S. 263, 269 (1981); *Heffron* v. *International Society for Krishna Consciousness*, 454 U.S. 640 (1981).

B. For duly enrolled students, public schools are designated forums for freedom of speech

The Supreme Court has identified three types of fora for First Amendment analysis: (1) traditional public fora (e.g., streets, sidewalks, and parks, *Hague* v. *C.I.O.*, 307 U.S. 496 (1939)); (2) designated public fora (e.g., public university, *Widmar* v. *Vincent*, 454 U.S. 263 (1981)); and (3) nonpublic fora (e.g., jails, *Adderley* v. *Florida*, 385 U.S. 39 (1966)). See, *Board of Airport Commissioners* v. *Jews for Jesus, Inc.* 482 U.S. 569, 572 (1987); *Perry Educators* v. *Perry Local Educators Assn.*, 460 U.S. 37, 45–46 (1983). For each of these, the Court has established standards of review applicable to government restrictions on speech.

Public school campuses are designated, or opened, public forums for the students in attendance. Of course, public school officials need not tolerate on campus interlopers unrelated to the purposes and functions of the school. Students, on the other hand, are compelled by state laws to spend some six hours a day on campus. While on campus, students enjoy periods of varying supervision and control. In those periods when student expression would not be disruptive of order and discipline, or substantially interfere with the rights of others, the fact that student speech is widely tolerated leads to the conclusion that schools are intended to be places for student speech.

At least for matriculated students, classrooms, lunchrooms, and hallways are "necessary conduit[s] in the daily affairs of a locality's citizens." *Heffron* v. *ISKCON, Inc.*, 452 U.S. 640, 651 (1981). Indeed, as one federal court has put it, interpreting *Tinker*, "whether or not a school campus is available as the public forum to others, it is clear that the students, who of course are required to be in school, have the protection of the First Amendment while they are lawfully in attendance." *Rivera* v. *East Otero School District*, 721 F. Supp. 1189, 1197 (D.Colo. 1989).

In these fora, with their general access for students, "[t]he crucial question is whether the manner of expression is basically incompatible with the normal activity of a particular place at a particular time." *Grayned*, 408 U.S. at 115–16. When the issue is compatibility of the speech, regulations of time, place and manner, not complete bans, are the appropriate means of securing legitimate governmental interests. A school district that bars all voluntary, student-initiated speech on campus studiously disregards the rule that "one who is rightfully [in a forum] which the state has left open to the public carries with him there as elsewhere the constitutional right to express his views in an orderly fashion." *Jamison* v. *Texas*, 318 U.S. 413, 416 (1943).

C. A complete prohibition on voluntary, student-initiated prayer fails the requisite constitutional analysis

In Tinker, the Supreme Court rejected the effort to interfere with student speech, even in the classroom proper, in the absence of objective evidence that the expressive activity would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school." *Tinker*, 393 U.S. at 509 (citation omitted). By requiring objective evidence, the Supreme Court indicated that school officials must produce concrete evidence that the student speech objectively disrupts the operation of the school.

Unless a public school can offer evidence of specific "material and substantial" disruptions resulting from voluntary, student-initiated prayer, it would lack the requisite constitutional warrant to take action against such speech. By asserting some undifferentiated fear of disruption, a public school would fail to satisfy the requisite constitutional standards. As the Supreme Court said, "in our system, undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression." *Tinker*, 393 U.S. at 508. Absent unusual circumstances, there simply is no basis that "might reasonably [lead] school authorities to forecast substantial disruption or material interference with school activities." *Tinker*, 393 U.S. at 514, resulting from participation in voluntary, student-initiated prayer.

The burden on school authorities in cases where a public school completely prohibits all student-initiated voluntary prayer is significant. Such content-related, flat bans must be subjected to heightened scrutiny. As explained by the Supreme Court, the standard for government regulation in such cases is: "the government may not prohibit all communicative activity. For the State to enforce a content-based exclusion it must show that its regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end. . . . The State may also enforce regulations of the time, place, and manner of expression which are content-neutral, are narrowly tailored to serve a significant government interest, and leave open ample alternative channels to communication." Perry Ed. Assn. 460 U.S. at 45–46. Furthmore, "[a]dditional restrictions as an absolute prohibition on a particular type of expression will be upheld only if narrowly drawn to achieve a compelling interest." *Grace*, 461 U.S. at 177.[5]

There are few, if any, circumstances in which the government of a republic can express adequate reasons to justify a prohibition on an entire class of speech. Student-initiated prayer lacks the indicia of speech which is readily subject to special disability (it is unlike defamation, obscenity, the revelation of troop movements during times of war, or fighting words).

III. EVEN IN A NONPUBLIC FORUM, A BAN ON STUDENT-INITIATED VOLUNTARY PRAYER WOULD BE UNCONSTITUTIONAL

Even if public school campuses are nonpublic forums, a flat ban of student-initiated voluntary prayer would still be unconstitutional under the standards applicable to nonpublic fora.[6] Viewed "in light of the purpose of the forum and all the surrounding circumstances," *Cornelius*, 473 U.S. at 808, a flat ban would be manifestly unreasonable.

Given the purpose and circumstances of the relevant fora, an absolute prohibition is patently unreasonable. Public school campuses are not exclusively dedicated to pedagogical employment. Not is a student's act of voluntary participation in student-initiated prayer somehow destructive of a public school campus or of the learning environment generally. Any other approach, admitting of intolerance of religion, would relegate students to a status of closed-circuit recipients of only that which the public schools approve.

IV. VOLUNTARY, STUDENT-INITIATED PRAYER ON A PUBLIC SCHOOL CAMPUS CANNOT VIOLATE THE ESTABLISHMENT CLAUSE.

When public school officials interfere with voluntary, student-initiated prayer, such actions usually result from ignorance; that is, administrators assume that such student religious speech threatens the "wall of separation between church and state." Because the Establishment Clause is a restraint on government establishments, not student religious exercises, such school officials act out of an erroneous and fundamental misconception.

In *Widmar* v. *Vincent*, 454 U.S. 263 (1981), for example, the Supreme Court ruled that religious speech cannot be barred from the campus forum simply because it is *religious*. In Widmar, the University of Missouri-Kansas City allowed student groups to meet in campus facilities, but excluded a student evangelical Christian group from meeting on campus solely because it was religious. The Supreme Court said, "Here UMKC has discriminated against student groups and speakers based on their desire to use a generally open forum to engage in religious worship and discussion. These are forms of speech and association protected by the First Amendment." 454 U.S. at 269.

The Supreme Court applied the Widmar principles to public schools, in a statutory context, in *Board of Education* v. *Mergens*, 496 U.S. 226 (1990). The Court held that public high schools cannot bar a student-led Bible study from meeting on campus when other non-curriculum groups are allowed to meet on campus.

Only a compelling state interest can justify a content-based burden on certain speakers using an open forum, *Perry*, 460 U.S. at 45; *Widmar*, 454 U.S. at 270; *Cornelius*, 473 U.S. at 800. There is no compelling state interest to support a complete prohibition on student religious speech and the Establishment Clause does not require such an exclusion.

A. Students cannot violate the establishment clause

The Mergens opinions expresses the crucial point that only the government can violate the Establishment Clause, and the students are not governmental representatives. This common sense distinction reflects the Establishment Clause's intended limitation on the power of governments, not on the rights of individual students. As Justice O'Connor stated, "there is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect." 496 U.S. at 250 (emphasis in original).

Thus, "separation of church and state" justifications thrown up in the faces of praying students are legal irrelevancies. The acts of a student are the acts of a private citizen, not of a government entity. Public schools employees and officials can violate the Establishment Clause; students cannot do so. The Supreme Court also has stated, as a general proposition, that the activities of student evangelists in a public school do not present Establishment Clause problem: "Petitioner's principal contention is that the [Equal Access] Act [Title 20 U.S.C. §§ 4071 et seq.] has the primary effect of advancing religion. Specifically, petitioners urge that, because the student religious meetings are held under school aegis, and because the state's compulsory attendance laws bring the students together (and thereby provide a ready-made audience of student evangelists), an objective observer in the position of a secondary school student will perceive official school support for such religious meetings. . . . We disagree." *Mergens*, 496 U.S. at 249.

Because the government, not students, is limited by the Establishment Clause, students are incapable of violating the clause unless they act as agents of the government. In contrast, students who act on their own behalf and engage in speech activities as a result of personal belief or interest, are fully protected by the First Amendment. Therefore, public schools cannot use the Establishment Clause as a rationale to ban religious speech by students.

B. Public schools do not endorse the religious views of students engaged in voluntary student-initiated prayer on campus

The apparent concern of some, that mere accommodation of student religious activities on campus violates the Establishment Clause, is without basis in law. The Supreme Court has repeatedly rejected that notion, most recently in Mergens. There the Court stated, "secondary school students . . . are likely to understand that a school does not endorse or support student speech that it merely permits on a nondiscriminatory basis. . . ." *Mergens*, 496 U.S. at 250. Despite the fact "that schools do not endorse everything they fail to censor," id., some public school officials will continue to entertain unwarranted fears about the "church-state" issue.

Of course this point, regarding private religious uses of public property, was also made in the context of a public university in *Widmar* v. *Vincent:* "An open forum in a public university" *does not confer any imprimatur* of state approval on religious sects or practices." 454 U.S. 274. The Supreme Court also said in Widmar: "But by creating a forum the University does not thereby endorse or promote any of the particular ideas aired there. Undoubtedly many views are advocated in the forum with which the University desire no association." 454 U.S. at 271 n.10. In Mergens, Supreme Court applied this principle to public secondary schools, saying that public schools do not violate the Establishment Clause when they allow student religious groups to meet on Campus. *Mergens*, 110 L.Ed.2d at 214. Thus the Supreme Court has twice rejected, in Widmar and Mergens, application of the Establishment Clause to the private speech of students otherwise entitled to be present on a public campus.

In fact, a policy excluding voluntary, student-initiated prayer because of its religious content would violate the second prong of the Lemon test. See *Lemon* v. *Kurtzman*, 430 U.S. 602, 612–613 (1971).[7] Such a policy or practice would demonstrate hostility toward religion, and would have a primary effect of inhibiting religion. The Establishment Clause requires government neutrality toward religion.

C. The Government has a "duty to accommodate" religious speech and accommodation does not violate the establishment clause

The Supreme Court has ruled that governments have the duty to accommodate religious beliefs and practices, and that such accommodation does not result in unconstitutional endorsement of religion, in violation of the Establishment Clause, In *Lynch* v. *Donnelly*, 465 U.S. 668 (1984), the Supreme Court stated, "[the First Amendment] affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any." 465 U.S. at 673. And, in *Hobbie* v. *Unemployment Appeals Commission*, 480 U.S. 136 (1987), the Supreme Court reiterated that concept:

"This Court has long recognized that the government may (and sometimes must accommodate religious practices and that it may do so without violating the Establishment Clause." 480 U.S. at 144. The Supreme Court expressed the correct balance in Widmar and Mergens, that accommodation of religious speech under a neutral policy is not an advancement of religion and does not violate the Establishment Clause.

FOOTNOTES

[1] In a subsequent decision addressing the right to freedom of speech on a public sidewalk adjacent to a public school, the United States Supreme Court reiterated its Tinker decision: [In Tinker, w]e concluded that free expression could not be barred from the school campus. We made clear that "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression," and that particular expressive activity could not be prohibited because of a "mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint . . . ." *Grayned* v. *City of Rockford*, 408 U.S. 104, 117 (1972) (citations omitted).

[2] Undoubtedly, school officials have "important, delicate and highly discretionary functions" to perform. *West Virginia* v. *Barnette*, 319 U.S. 624, 637 (1943). These functions, however, must be performed "within the limits of the Bill of Rights." Barnette, at 637.

[3] The Supreme Court has relied on its Tinker decision when addressing students' expressive rights in other contexts on campus. In *Hazelwood School District* v. *Kuhlmeier*, 484 U.S. 260 (1988), the Court reaffirmed Tinker as the standard for evaluating restrictions on student-initiated speech. Hazelwood addressed the right of a Missouri school district to edit and eliminate student-written stories from the high school newspaper because of inappropriate content. The Supreme Court unequivocally stated that the issues in Hazelwood concerning dissemination of a school-sponsored, student-written newspaper are very different from the issue of dissemination of student writing that is not school-sponsored: The question whether the First Amendment requires a school to tolerate a particular student's speech—the question that we addressed in Tinker—is different from the question of whether the First Amendment requires a school affirmatively to promote particular student speech. The later question concerns educators' authority over the school-sponsored publications, theatrical productions, and other expressive activities that the students, parents and members of the public might reasonably perceive to bear the imprimatur of the school. 484 U.S. at 270–71.

[4] Importantly, the Tinker Court held that "personal intercommunication among students" in high schools is an activity to which schools are dedicated. Tinker, 393 U.S. at 512 (and accompanying footnote).

[5] In a long line of cases, the Supreme Court has consistently struck down such sweeping prohibitions of cherished First Amendment speech. In *Board of Airport Commissioners* v. *Jews For Jesus*, 482 U.S. 569 (1987), for example, the Supreme Court held unconstitutional a regulation which prohibited all free speech activities in an airport terminal. As the Supreme Court explained, "we think it obvious that such a ban cannot be justified even if [the airport terminal] were a nonpublic forum because no conceivable governmental interest would justify such an absolute prohibition of speech." 482 U.S. at 575. No compelling governmental interest supports a flat ban on student-initiated religious speech on public school campuses.

[6] In a nonpublic forum, a regulation of speech must be reasonable and viewpoint neutral. See, e.g., *ISKCON, Inc.* v. *Lee*, 120 L.Ed. 2d. 541 (1992).

[7] In its cases interpreting the Establishment Clause, the Court has come to employ a three-pronged analysis commonly called the Lemon test. See, e.g., *Harris* v. *McRae*, 448 U.S. 297, 319 (1980) (government action does not contravene the Establishment Clause if it has a secular legislative purpose, then its principal or primary effect neither advances nor inhibits religion; and, if it does not foster an excessive government entanglement with religion).

Mr. COATS. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina. Religion is not just part of the practice of our Nation, it is part of the theory of our founding. Banning voluntary prayer in our schools threatens religious expression and denies our history. The Helms amendment affirms the right of public school students to participate in constitutionally protected prayer on a voluntary basis.

As the Senator has stated, this language, which the Senate passed as an amendment to the Goals 2000 bill by a vote of 75 to 22, was subsequently removed in conference.

When the Supreme Court decided its landmark school prayer case in 1963, Abington versus Schempp, two dissenting justices warned that "unilateral devotion to the concept of neutrality can lead to * * * not simply noninterference and noninvolvement with the religious which the Constitution demands, but a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious."

No phrase could more accurately describe the current thinking about school prayer—"a brooding and pervasive devotion to the secular." It denies the central role of religion in our public life. It ignores the value of a child's hope and belief in a higher power.

Religion was intended to play an important part in America's public life—not to favor any sect, but to affirm our traditions and beliefs, and to assert the source of all our liberties. America has a history of religious accommodation, not secular hostility.

When all reference to religion is omitted from our public life, we have declared off-limits the expression of people's deepest motivations and highest beliefs. We have created a naked public square—a public life scrubbed of the sacred, in which religious people lose important rights and our Nation is ultimately impoverished.

There is a difference between religious indoctrination, and the simple acknowledgement of the creator. We seem to have lost the ability to make that distinction.

Mr. KEMPTHORNE. Mr. President, I support the amendment offered by Senator Helms that would withhold chapter I funding from any school district that denies their students their constitutional right to prayer.

Idaho is no stranger to the issue of school prayer. We have a case currently before the Ninth Circuit Court of Appeals looking at this very issue. The Grangeville, ID, School District was making no effort to infringe on a student's right to constitutionally protected prayer. In fact, they were giving them the freedom to practice constitutionally protected prayer. But the American Civil Liberties Union is trying to make the case that those students should not be given that freedom.

Mr. President here are the facts. The Grangeville School Board allows their students to plan the entire graduation ceremony; who speaks, what is done, even what school board members are invited to attend or pass out diplomas, and yes, whether or not there will be a prayer. In 1990, the American Civil Liberties Union notified the school board that they would file suit if prayer was allowed at the graduation ceremonies. The school board stood their ground and said it was up to the students how their graduation ceremony would be conducted. At the same time, a citizens group and the students asserted their right to pray and the right to free exercise and free speech.

Last year, District Court Judge Harold Ryan ruled in favor of the citizens and students, and denied the ACLU summary judgment and allowed the prayer to continue.

The ACLU has appealed that decision and it now is before the Ninth Circuit Court of Appeals.

I am no stranger to the threat that exists to this constitutional right to free speech. As mayor of Boise, ID, for 7 years, I began every city council meeting with a prayer. After several years of inviting representatives of all denominations to offer the prayer at the weekly meetings, I was informed that a suit may be filed to stop this practice. My response was not to stop prayers prior to our council meetings. I feel as strongly today as I did at that time. We must never willingly surrender our right to prayer.

I recently received a letter from members of the United Methodist Church in Boise where they shared with me their concerns for this attack on freedom. They shared their motivation in our Nation to express our faith and reliance on God in public life.

I quote from their letter:

> Our Founding Fathers regarded the Bible as a Holy writ and based the Declaration of Independence and our Constitution on its wisdom. They knew the law of all civilized man is based on the Ten Commandments. They are philosophical absolutes that shaped our national tradition. Yet it is deemed politically incorrect to make reference to or use Biblical wisdom.
>
> It seems to us that in our attempt to be unprejudiced in this pluralistic society we have sacrificed Truth on an altar of unprincipled tolerance.
>
> How far afield from our religious roots our Nation under God has gone! We believe that if this trend is not reversed our Nation will surely perish, not at the hand of an enemy from without, but by our own moral decay from within.

Mr. President. I share those concerns. I favor voluntary prayers in school and at commencement exercises. While the Constitution states that the Government shall not establish a national religion, I do not believe that should be interpreted to prevent all religious activities in public institutions.

Our Founding Fathers wanted everyone in the United States to practice the religion of their choice in the way they choose. They did not intend for us to deny the existence of religion in this country, but wanted to recognize the legitimacy of different religions to exist without governmental interference or promotion.

Mr. President. I support the Helms amendment to allow those students of this Nation to go back to those religious roots through voluntary, constitutionally protected prayer, and to allow school administrators to be sensitive to those students' desires.

Mr. HELMS. Mr. President, I ask unanimous consent that the rollcall vote on school prayer on February 3, to which I allude, be printed in the Record immediately before the vote on the pending amendment.

There being no objection, the vote was ordered to be printed in the Record, as follows:

GOALS 2000: EDUCATE AMERICA ACT

The Senate continued with the consideration of the bill.

VOTE ON AMENDMENT NO. 1382, AS MODIFIED

The Presiding Officer. Under the previous order, the Senate will now vote on amendment No. 1382 offered by the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. Simpson. I announce that the Senator from Arizona [Mr. McCain], the Senator from Oklahoma [Mr. Nickles], and the Senator from Alaska [Mr. Stevens] are necessarily absent.

The Presiding Officer [Mr. Daschle]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 22, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—75

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Ford
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Lieberman
Lott
Lugar
Mack
Mathews
McConnell
Mikulski
Mitchell
Moseley-Braun
Murkowski
Nunn
Packwood
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Thurmond
Wallop
Warner
Wofford

NAYS—22

Boxer
Bryan
Chafee
Danforth
Feingold
Feinstein
Glenn
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Leahy
Levin
Metzenbaum
Moynihan
Murray
Pell
Riegle
Simon
Specter
Wellstone

NOT VOTING—3

McCain
Nickles
Stevens

So the amendment (No. 1382), as modified, was agreed to.

Mr. Helms. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The Presiding Officer. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, we are nearing the bewitching hour of 6:20. I yield back my time and suggest we go to a vote on the Helms amendment.

The PRESIDING OFFICER (Mr. Wellstone). Is there objection? Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 2416

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. Reid). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 53, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—47

Bennett
Bingaman
Bond
Boren
Brown
Burns
Byrd
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Johnston
Kempthorne
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Sasser
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—53

Akaka
Baucus
Biden
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Chafee
Cohen
Conrad

Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

So the amendment (No. 2416) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. May we have order, Mr. President.

Parliamentary inquiry. What is the matter before the Senate?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2415 offered by the Senator from Kansas. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DORGAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 7, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—93

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Ford
Glenn
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—7

Chafee
Danforth
Feingold
Gorton
Hatfield
Simon
Specter

So the amendment (No. 2415) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, we wanted to continue to move forward. As I think the Members know, this legislation we had intended to be laid down at the very early part of the morning. Then, for various reasons, we did not get to this amendment until somewhat later in the day.

I think it has been a very important and constructive debate on a very, very important constitutional issue. As we have seen from the votes, this is a very important public policy matter.

We have probably 10 different amendments which we are prepared to deal with this evening. The major item that comes in different forms is on a question about the potential formula change. We are prepared to deal with that. I have been notified by two of those that have amendments that their materials have not been put into sufficient order to vote on those matters.

We have what we call the fight or flight; the vouchers in unsafe schools, Senator COATS and Senator DOLE, which we are prepared to deal with; Senator DANFORTH's amendment on single-sex schools; the longer year program, Senator SIMON; a private management amendment by Senator SPECTER; we have some prenatal care counseling, Senator SPECTER; a change in the IDEA provisions, by Senator GORTON; we have a potential one dealing with immigrants in the rural National Service Program. There may be others.

We have tried to indicate and give as much notice to our Members as possible on these votes. I anticipate, from conversations we had just a short while ago, that we will probably have two more votes. I hope that we can give an indication to the membership in a short while as to the time when those votes might be. We are in one of those circumstances where the managers are prepared to move ahead. I have talked to at least a half-dozen of these Members and urged them to bring these matters up. We have been—for whatever reason, there is a reluctance to bring them up this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am going to speak for a couple of minutes while Senators are working out this evening's arrangement.

ILLEGAL NARCOTICS

Mr. DECONCINI. Mr. President, some of our country's most terrible health and social problems result from the use of illegal narcotics. That has been overwhelmingly concluded in this country. This includes crimes perpetrated by drug traffickers, as well as drug addiction; incarceration costs, which are ever escalating; lost productivity at the workplace, which has increased; health care costs, including emergency admissions to hospitals, which has gone up every year; AIDS; children born to drug-addicted parents; and a host of other problems with which we are plagued.

If we are going to make inroads in reducing the use of illegal drugs in our country, cooperation with source countries, under the new Clinton administration drug strategy to place more emphasis on the source country, is paramount, and we must proceed to do that.

I have questioned that, because I have had some qualms about taking emphasis away from the border and from the transit zone. We have tried to restore some of those.

But it is worthwhile to deal with the source country, particularly if you have a country that is friendly or cooperative in some nature. Ninety-five percent of the cocaine in our country comes from Peru, Bolivia, and Colombia. I am sad to say that most of that comes through the country of Mexico into the Southwest Border States.

In recognition of this particular situation, the President's new drug policy places a strong focus on the source country's activity, these particular three countries. These countries, through their own initiatives, collective efforts, and some cooperation with the United States Government, have made significant progress in regaining control of their nations and in attacking their illegal drug problems.

Needless to say, some of them have problems in the area of human rights, of which I am very, very aware.

These countries have come to the conclusion that they share our interest in the war against drugs because they, too, are experiencing the devastating consequences of drug trafficking. In addition to the tremendous cost in lives of both civilians and police on the front lines of this war, the drug cartels have the potential to subvert and corrupt the entire system.

Few countries are more key to this fight against drugs or have suffered a heavier price than the country of Colombia. Their interest in fighting drugs is demonstrated by their counternarcotic program, which is the most comprehensive program in the region, I must say. Any chance we have of disrupting the flow of drugs to our country is tied to cooperative efforts with the country of Colombia. The amendments which Senator GRAHAM and I offered to the Foreign Operations appropriations bill was an effort to ensure that our cooperative efforts would continue to go forward.

I look forward to furthering cooperative efforts to combat the drug trafficking and trade when the government of Ernesto Samper takes office in August. The U.S. and Colombia have shared a long history of cooperative bilateral relations and have been able to forge a close relationship over the last 5 or 6 years in the war on drugs.

I was in Peru and in Colombia in February. We saw firsthand the cost that the Colombian people have paid for this drug operation. We also saw a genuine effort and an effort to do something about corruption.

Now, having said all that, it is clear that the Colombians still have a long way to go, and there was some evidence in the recent election of Mr. Samper that we are dealing with people who were connected or were in fact part of the drug cartel. He and his campaign and his new administration deny that. We have no firm evidence to confirm it. The person who was his treasurer is not part of the government, or has not been announced to be part of the government, and I am advised will not be part of the government. And he has stated that he did have some conversation with the wrong people and refused or denied or turned down any contributions.

Unfortunately, Colombia has a little bit of the same syndrome we have on election campaigns. They cost millions of dollars and they have to go to many sources to raise that kind of money.

We do have very good operating procedures in Colombia: Joint intelligence, communications, and other efforts are underway. We have capabilities in Colombia to assist them immensely. They need resources and they need some friendship.

I am prepared to give this new government some breathing room. I am not one who stands on this floor and says let us just go ahead and let it be business as usual.

Business as usual is a little different in Colombia for the first time since I have been in this body. In fact, they have demonstrated that they can deal with corruption and they have demonstrated that they are even prepared to use greater force than we do. They have a shoot-down policy on airplanes. They have demonstrated, with the very dramatic effort to get Mr. Escobar and in fact eliminate him, not in the course of constitutional rights under which we might have proceeded.

Both of our countries share the costs of the illegal drug trade, and both of our countries will reap great benefits from reducing it. The drug cartels are as much a threat to the Colombian Government and the people there as they are to us.

Moving forward in the war on drugs requires a strong commitment in reducing both the supply and the demand. So I look forward to a renewed effort with the Colombian Government, and I hope they will proceed with what they have represented to our Government and our people. The President-elect, Mr. Samper, has sent forward his potential designees for Secretary of Defense, Secretary of Justice, and Foreign Minister to the United States to make the case, and I believe that they are well intended and will indeed proceed with the continued forceful operations that the previous government has made.

I am prepared to watch them and work with them, and I hope our Government is.

Mr. President, I yield the floor.

HEALTH CARE

Mr. BYRD. Mr. President, daily, as one turns on the television or reads the newspapers one is barraged with the propaganda of the warring forces on one of the most important and far-reaching proposals ever scheduled to come before this body—health care.

We have heard that health care will be scheduled, and I have every reason to believe that it will be.

Rarely has an issue been scheduled for debate that will potentially so impact the lives of each and every man, woman, and child in this Nation.

Paradoxically, rarely has an issue been so politicized or so noisily trashed or trumpeted by competing forces than this same issue—health care. Properly legislated health care reform could be of enormous benefit to millions of our citizens. It could provide the health security to which our people are entitled and of which so many are in need. Properly legislated health care reform could keep the deficit on its downward track and save billions of dollars. It could bolster our competitive posture in the world and provide needed fairness and equality in health care matters.

Improperly legislated health care could cost billions of dollars, lead to rationed medical treatment, exacerbate our deficit growth, and damage small business interests.

We are experiencing pressures from certain special interests urging Members of the Congress to vote for the bill. We see advertisements by other special interests on television, urging Members of Congress to vote against the bill. It is, then, critically important that we turn down the noise and cool off the rhetoric on this far-reaching issue.

Let us all remember that we have not even seen a bill yet in this Chamber. We have no final CBO estimates and no idea of how ambitious a proposal we are going to consider. Yes, it is true that we have multitudes of studies and estimates on the many draft proposals which have been offered. Indeed, one might go blind reading the studies and counter studies and the analyses of the costs of this proposal or that proposal. But at this moment we have nothing at all on the legislation which we will be asked to actually consider and debate on this Senate floor. At the moment, it is a pig in the poke that we are being asked to vote for or to vote against.

Yet, the interest groups are swarming and the pulling and tugging on each Senator is enough to sever arms and legs from the corporal whole—and all of this before we have even seen a bill which we will be voting on.

Once again we are seeing the oversimplification and gross politicization of what is colorfully termed a "hot issue." I do not think the American people are ever well-served by these chaotic orgies that occur whenever there is a lot at stake in Washington. I lament the lack of a climate for cool, reasoned study and debate which is as rare in this town as any of the rarest of the endangered species. How can anyone fail to be influenced by the cacophony of noise and shrill rhetoric on this issue? One would have to take up residence in a cave like Timor of Athens, and then wear ear plugs to avoid the din. It may be well for us to remember Mark Twain's admonition.

> Noise proves nothing. Often a hen who has merely laid an egg cackles as if she had laid an asteroid.

Let me say to my colleagues, this is no sense-of-the-Senate resolution that we will be fooling around with. Nothing less than the health, financial security, and the very lives of millions of people are being dealt with when we start to consider radical changes in the health care system of this Nation. In my home State of West Virginia 15.6 percent of the population has no health care coverage whatever. Many of our people have seriously inadequate coverage. It is clear that something needs to be done. However, with about 14 percent of our gross domestic product—I have heard it as much as 15 percent—there are varying figures—potentially impacted by changes in our health care system, we had better do whatever we are going to do with great care. A botched job of reform could be disastrous.

So I urge everyone on all sides of this debate to pipe down a little bit, slow down a little bit, pause and get very serious about the monumental task which lies ahead of us. This is no time—this is no place—for sloppy legislating. And certainly on this subject it could be disastrous.

This Senate is being looked to for wisdom and leadership by the Nation on a matter about which the people care very deeply. And, of course, the people of America naturally must feel that there is a bill that we all know about, that we have all read, that we are going to debate and amend and vote on.

I say there is no bill before the Senate. There is no bill that I have seen that purports to be the bill that is going to be debated in this Senate. There will be no political advantage for anybody if we fail to keep faith with the people in this matter. They will watch and judge and rightfully hold us accountable for whatever we enact in the way of health care reform. There is no ducking this one. There is no finessing it. This health care legislation will have ramifications for years in every facet of our national life. Too timid a proposal could be hurtful to our people, while too broad a proposal could devastate our economy. Now is the time for thoughtful analysis and calm, reasoned thinking. It is my hope that in the coming days Senators will buy those ear plugs and locate that cave—perhaps in the Allegheny Mountains—until we see the legislation, until we have an opportunity to study and debate it. The Devil is in the details. So I hope that we will stop, look, and listen until we have the CBO estimates and begin a thorough, considered debate about where we are going on this most important and sensitive of measures.

Marcus Manilius, an early first century A.D. poet, once wrote:

> (Human reason) freed men's minds from wondering at portents by wresting from Jupiter his bolts and power of thunder, and ascribing to the winds the noise and to the clouds the flame.

Let us inform the American people clearly through our debate and study of just what we are doing to their health care system, and not leave them or us to wonder at portents.

Mr. President, following the battle of Shrewsbury, in which the son of the Earl of Northumberland was killed, the son being Henry "Hotspur" Percy, the rebels gathered to assess the situation, and to determine whether or not and when and where and how they should go about continuing the rebellion against the English King Henry IV.

We find in Shakespeare, part II of King Henry IV, that the Archbishop of York, whose name was Scroop, and three of the Lords—Lord Hastings, Lord Mowbray, and Lord Bardolph—had gathered in the Archbishop's palace to review the situation, following the disaster in which young Hotspur had been killed. And it was Lord Bardolph, who uttered these cautionary words:

When we mean to build,
We first survey the plot, then draw the model,
And when we see the figure of the house,
Then we must rate the cost of the erection;
Which if we find outweighs ability,
What do we then but draw anew the model
In fewer offices, or at least desist
To build at all?

Mr. President, those words of caution might very well be applicable in this health care situation.

Before we begin this journey into the unknown waters of health care reform—and I am not saying we should not move out into those waters, but before we begin that journey—let us have a clear and cogent understanding of the bill. Let us first see the bill. Let us have a clear understanding of just how far we are going to go, of how many other existing programs are going to be loaded onto the boat, and the cost of carrying that extra cargo. The American people and this Senate must have a firm understanding of how the canvas of our poor beleaguered budget is going to be stretched so that our boat will sail and not simply founder on the shoals of overcommitment and the rocks of too many good intentions.

Unless we do this, Mr. President, we may be confronted with the apparition of Banquo's ghost, which would sit at the head of an empty table for years or even decades to come.

I yield the floor.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, the pending business is still the education bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I ask unanimous consent to just speak for 3 minutes on another matter, and not have it interfere with any of the amendments to the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

JUDGE STEPHEN BREYER

Mr. DOLE. Mr. President, I want to take a few moments to respond to an editorial that appeared in yesterday's New York Times. The editorial, entitled "A Cloud on the Breyer Nomination," suggests that Judge Breyer should have recused himself from certain environmental cases because of his investment in a Lloyd's of London insurance syndicate. The editorial unfairly paints a picture of someone whose personal ethics are open to question.

Judge Breyer has denied any conflict of interest, testifying under oath that he never sat on any case in which he had reason to believe that Lloyd's was an interested party.

During his tenure on the First Circuit Court of Appeals, Judge Breyer also developed an elaborate screening system to prevent conflicts from occurring:

Each year, I am told, he provided the first circuit clerk with a list of his personal investments, including the Lloyd's of London investment. Judge Breyer typically requested that he not be assigned to any case involving any company in which he had an investment. In addition, Judge Breyer personally reviewed cases for potential conflicts and disclosed his Lloyd's investment on his annual financial disclosure report. Since these reports are available to the public, it gave litigants the opportunity to seek the recusal of any judge whom they believed may have had a conflict.

Not surprisingly, several prominent legal and ethics experts have reviewed the Lloyd's investment, and the consensus view is that Judge Breyer complied with all relevant laws and ethical standards.

Mr. President, as someone who worked closely with Judge Breyer when he served as chief counsel to the Senate Judiciary Committee, I know first-hand that he is a man of integrity and good judgment. I cannot imagine Judge Breyer intentionally trying to enrich himself by issuing an opinion favorable to his own financial interests. In fact, throughout the confirmation process, no one has offered any plausible explanation of how Judge Breyer's environmental rulings may have benefited him.

I will not speculate on why the New York Times ran its misguided editorial, but I do know that there are those on the left side of the political spectrum who may not want a thoughtful moderate like Judge Breyer sitting on the Nation's Highest Court.

Unfortunately, if history is any guide, they will go to great lengths to achieve their goals, including trying to smear a good man's good reputation.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times editorial of July 26, 1994, entitled "A Cloud on the Breyer Nomination."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 26, 1994]

A CLOUD ON THE BREYER NOMINATION

Eager for swift confirmation of the Supreme Court nominee Stephen Breyer, senators of both parties are rushing to a floor vote without fully investigating significant ethical issues connected to the nominee's investments. This irresponsible failure by the senate leaves Judge Breyer with a cloud still hanging over his nomination.

Judge Breyer, who is Chief Judge of the U.S. Court of Appeals in Boston, answered the Senate Judiciary Committee's questions for three days and won unanimous clearance for a floor vote scheduled for tomorrow. But the committee failed to fully explore the judge's participation in pollution cases despite his investment in a Lloyd's of London venture that heavily insured asbestos and toxic pollution risks in this country.

At issue is Judge Breyer's compliance with the Federal recusal statute, which requires judges and justices to disqualify themselves when their impartiality "might reasonably be questioned." In addition, they must sit out cases where they have a financial interest in a party to a lawsuit or any interest "that could be substantially affected by the outcome of the proceeding."

Lloyd's was not a named party in any of the eight pollution cases in which Judge Breyer took part. But what if Lloyd's, famous around the world for insuring all kinds of major risks, were an insurer of a company involved in a pollution lawsuit? Judge Breyer did recuse himself from asbestos litigation but, curiously, not from other major pollution disputes. Only senator Howard Metzenbaum saw fit to mention this inconsistency; the committee failed to question the nominee in detail about what steps, if any, he took to find out about Lloyd's involvement as an insurer.

Judge Breyer assured the committee that he had not violated the standard that requires recusal from cases that would have a "direct and predictable financial impact" on his investments. Yet Newsday has reported that Lloyd's was one of the insurers of a company involved in one of the eight pollution cases. That sounds like a direct contradiction of Judge Breyer's testimony. It warranted closer investigation. Could the judge have known about Lloyd's involvement? did he investigate the other cases sufficiently to guard against sitting in a case that might affect his financial interest? Again, the committee was not inquisitive, though Senator Arlen Specter has called for re-examining the recusal law with an eye toward having judges disqualify themselves if their investments are even indirectly involved.

As it turned out, Judge Breyer's ruling in that case might actually have gone against any financial interest of his own. But the judge surely showed bad judgment in failing to explore Lloyd's involvement. and the incident leaves one wondering how many other cases Judge Breyer ruled on that might have put his Lloyd's investment at risk.

Judge Breyer, a popular former staff chief for the Judiciary Committee and a moderate liberal, is being rushed through confirmation by democrats trying to please President Clinton and Republicans relieved at the nominee's moderate views. But his possible failure to recuse himself from cases whose outcomes might affect his financial interests has not been thoroughly explored. The Senate is voting on faith and political need, not knowledge. Based on the inadequate record in hand, Judge Breyer has not been shown to deserve the prize that will be awarded him by the Senate.

IMPROVING AMERICA'S SCHOOLS ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2417

(Purpose: To create a demonstration program to provide students who attend violence-prone schools with scholarships to enable such students to attend safe schools)

Mr. DOLE. Mr. President, I am, along with the distinguished Senator from Indiana, offering an amendment. We have revised the amendment and I am having copies made. But I thought maybe, in the interest of time, we could make our statements and then we will send the amendment to the desk.

I would add that I have discussed this with the Senator from Massachusetts, Senator KENNEDY, and the Senator from Kansas, Senator KASSEBAUM.

It may or may not be that we can vote this evening because one of our cosponsors, Senator LIEBERMAN, is not available. But we will just have to see what happens.

Mr. President, when I read the newspapers these days, it is hard for me to imagine the violence that many students experience in our Nation's schools. I guess you could go back to when we were in school. When I was in school, we had a bully or two. But we did not have armed thugs—ones that would make Kim Il-song cringe—roaming the halls.

Let us not fool ourselves. Violence is not isolated to a few schools. In fact, it is nearing epidemic proportions. It happens in the inner cities, and unfortunately, it is happening in the Heartland and even in Kansas. I am saddened to say that we have had beatings and shootings in Wichita, Topeka, Kansas City, and even in some of our smaller towns like Junction City. These are not statistics. They are somebody's little girl or boy. And sometimes they are teachers and principals.

Earlier this year, Congress helped schools tighten security by passing the Safe Schools Act. That measure was definitely a step in the right direction. It seems to me, however, that more metal detectors will not give parents and their children the peace of mind they are entitled to. Parents deserve more options. They should not be forced to send their children to crime ridden schools.

Mr. President, since we passed the Safe Schools Act, I have found that many of my colleagues shared the same concerns. Over the course of the last several months, my office has worked closely with Senators COATS, LIEBERMAN, DANFORTH, and BROWN to find a way to give parents more alternatives. What we have come up with is Fight or Flight, a demonstration program that would help low-income parents send their children to safer elementary and secondary schools.

Let me give you a summary of what the bill would do.

Fight or Flight is a $30 million demonstration that will target as many as 20 crime prone schools. It will be authorized under Goals 2000. For those States which wish to participate, only students from schools that the Secretary of Education designates as crime-prone will be eligible for educational vouchers that can be spent at both private and public schools.

Eligibility requirements.—Students will be eligible if they attend a violence-prone school and if they qualify for free or reduced priced meals under the National School Lunch Act.

Use of scholarship funds.—Funds can be used for tuition and fees, reasonable transportation costs, and parents can use up to $500 to obtain supplementary academic services for their child. For students attending a private school, any remaining funds will be returned to the State to provide additional vouchers. Public schools, on the other hand, will be able to keep remaining funds.

National evaluation.—This amendment would require the Secretary to compare the achievement of participating and nonparticipating students, and to assess the program's effects on increasing parental and community satisfaction and its ability to foster greater parental involvement.

No loss of Federal funds to public schools.—Public schools which lose students as a direct result of the demonstration may count such children for purposes of receiving funds under any program administered by the U.S. Secretary of Education.

Civil rights protection.—Participating schools may not discriminate on the basis of race. The amendment also stipulates that demonstration projects could not continue if they interfere with desegregation plans.

Finally, Fight or Flight is limited to a 3-year demonstration program.

Some say, "What happens at the end of 3 years? This is going to be another one of those unfunded mandates."

So we have revised our amendment to make certain this is a demonstration project, period. It is not an effort to start something and then leave it up to the States or local communities, what we call an unfunded mandate.

In short, this is a very simple amendment. If your son or daughter attends one of 20 violent schools, you can use fight or flight to send them to a safe school. I think that would make a lot of sense to a lot of parents in inner cities and, as I said, in middle-sized or smaller cities.

I am certain that few of my colleagues will argue that fight or flight will kill off some inner-city schools. Personally, I am more concerned about the students, more concerned about their safety. You can replace buildings, but you cannot replace children. And that is what this amendment is all about.

The bottom line is that students should have safe places to learn. If a school is crime-ridden, I see no reason why children should be forced to go there, especially if the only thing keeping them there is that their families cannot afford to send them to a better school.

Many of us have struggled with the so-called issue of school choice. I for one believe it is a concept worth testing. I am not saying that either public or private schools are inherently better. The point is that all Americans, rich or poor, should be able to choose the best education for themselves and for their children. By introducing an element of competition, we can encourage schools to work harder to provide the best possible education. But that is not what this amendment is about. It is about helping parents protect their children from the violence that seems to run rampant in some of our Nation's schools.

Mr. President, there are strongly held beliefs on both sides of the choice issue. I respect the beliefs of others, but I think this may be an exception and I think we made and can make a good case.

I urge my colleagues to carefully consider this amendment. This is an opportunity to give students a safer education. If they are not being terrorized on a daily or weekly or monthly basis, it may offer a great opportunity for more learning, and a lot of good things could come from this particular amendment.

I want to particularly congratulate my colleague from Indiana, who has been the moving force on this amendment. I am very happy to join with him as a cosponsor.

I now send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. COATS, and Mr. LIEBERMAN, proposes an amendment numbered 2417.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1296, after line 25, insert the following:

"TITLE XVII—FIGHT OR FLIGHT: PROTECTING AMERICAN STUDENTS

"SEC. 1701. SHORT TITLE.

"This title may be cited as the 'Fight or Flight: Protecting American Students Act of 1994'.

"SEC. 1702. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) violence and crime have increased significantly in our Nation's schools;

"(2) it is estimated that 3,000,000 violent acts or thefts occur in or near schools, and that one in five high school students carries a weapon;

"(3) the incidence of violence and criminal activity within elementary and secondary schools threatens the school environment and interferes with the learning process; and

"(4) students have a right to be safe and secure in their persons while attending school.

"(b) PURPOSE.—It is the purpose of this title—

"(1) to provide children from low-income families who attend violence-prone schools with the option of attending safer elementary and secondary schools;

"(2) to improve schools and academic programs by providing certain low-income parents with increased consumer power and dollars to choose safer schools and programs that such parents determine best fit the needs of their children;

"(3) to engage more fully certain low-income parents in their children's schooling;

"(4) through families, to provide at the school site new dollars that teachers and principals may use to help certain children achieve the high educational standards called for by the National Education Goals; and

"(5) to demonstrate, through a competitive discretionary demonstration grant program, the effects of programs that provide certain low-income families with more of the same choices regarding all schools, including public, private, or religious schools, that wealthier families have.

"SEC. 1703. DEFINITIONS.

"As used in this title—

"(1) the term 'choice school' means any public or private elementary or secondary school, including a private sectarian school, that is not a violence-prone school;

"(2) the term 'eligible child' means a child in grades 1 through 12 who—

"(A) is eligible for free or reduced price meals under the National School Lunch Act; and

"(B) attended a violence-prone school prior to receiving assistance under this title;

"(3) the term 'State' means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

"(4) the term 'violence-prone school' means a school that—

"(A) serves an area in which there is a high rate of—

"(i) homicides committed by persons between the ages 5 to 18, inclusive;

"(ii) referrals of youth to juvenile court;

"(iii) youth under the supervision of the courts;

"(iv) expulsions and suspensions of students from school;

"(v) referrals of youth, for disciplinary reasons, to alternative schools; or

"(vi) victimization of youth by violence, crime, or other forms of abuse; and

"(B) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

"SEC. 1704. FUNDING AND RESERVATION.

"(a) FUNDING.—From amounts appropriated to carry out the Goals 2000: Educate America Act, the Secretary shall make available $30,000,000 for each of the fiscal years 1995 through 1997.

"(b) RESERVATION.—Of the sums made available pursuant to subsection (a) for any fiscal year, the Secretary may reserve not more than $1,500,000 over three years to carry out the national evaluation described in section 1711.

"SEC. 1705. PROGRAM AUTHORIZED.

"(a) AUTHORITY.—The Secretary is authorized to make not more than 20 grants nationally, on a competitive basis, to States to enable such States to carry out educational choice demonstration projects in accordance with this title.

"(b) AMOUNT.—The Secretary shall award grants under this title annually, and shall determine the amount of such grants by taking into account the availability of appropriations, the number and quality of applications, and other factors related to the purposes of this title that the Secretary determines are appropriate.

"(c) SUPPLEMENT NOT SUPPLANT.—Grant funds awarded under this title shall be used to supplement and not to supplant State and local funds that would, in the absence of funds under this title, be made available to public elementary and secondary schools for the activities assisted under this title.

"SEC. 1706. SCHOLARSHIPS.

"(a) IN GENERAL.—

"(1) USE OF FUNDS FOR SCHOLARSHIPS.—Each State receiving funds under this title shall use such funds to provide scholarships to the parents of eligible children.

"(2) NUMBER.—Each State shall determine the number of scholarships to be awarded in such State.

"(3) AMOUNT.—(A) Subject to subparagraph (B), each State shall determine the amount of each scholarship in such State.

"(B) The amount of a scholarship under this title in a State shall be the same for every site in such State.

"(b) SPECIAL RULE.—Notwithstanding any other provision of law, the amount of scholarship assistance received under this title shall not be deemed to be income of the parents or child for Federal income tax purposes or for purposes of determining eligibility for any other Federal assistance.

"(c) CONTINUATION.—Subject to the limitation paragraph "d" each State receiving funds under this title may provide a scholarship in each year of the State's program to the parents of each eligible child to whom the State provided a scholarship in the previous year of the program, unless—

"(1) the eligible child no longer resides within the area served by a violence-prone school; or

"(2) the eligible child no longer attends an elementary or secondary school.

"(d) SPECIAL RULE.—If the amount of the grant made to a State under this title is not sufficient to provide all of the scholarships to the parents of each eligible child who is served by the State, then the State shall only be required to provide scholarships to parents of the eligible children who are from the lowest income families to the extent that they are funded.

"SEC. 1707. APPLICATIONS.

"(a) IN GENERAL.—Each State that desires a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(b) CONTENTS.—Each application described in paragraph (1) shall contain—

"(1) information demonstrating that the State will comply with the other requirements of this title;

"(1)(a) a definition of violence prone school using the parameters set forth in section 1703.

"(2) a description of the procedures to be used to provide scholarships to parents and to enable parents to redeem those scholarships, such as the issuance of checks payable both to parents and to schools; and

"(3) a description of—

"(A) the procedures by which a choice school will make a pro rata refund to the State for any participating eligible child who, before completing 50 percent of the choice school attendance period for which the scholarship was issued—

"(i) is released or expelled from the choice school; or

"(ii) withdraws from the choice school for any reason; or

"(B) another refund policy that addresses special circumstances the State can reasonably anticipate and that the State demonstrates, to the Secretary's satisfaction, adequately protects participating eligible children, in accordance with the purposes of this title,

except that no such refund procedure or policy shall require a choice school to refund any portion of funds received under this title due to a permanent change of residence of a parent of an eligible child for whom scholarship assistance under this title was awarded.

"(c) UPDATING.—Each such application shall be updated annually in such manner as the Secretary may determine necessary to reflect revised conditions.

"SEC. 1708. USE OF SCHOLARSHIP FUNDS.

"The Federal portion of any scholarship awarded to the parents of an eligible child under this title shall be used in the following sequence:

"(1) FIRST.—First, for—

"(A) the payment of tuition and fees at a choice school that is selected by the parents of the child for whom the scholarship was provided; and

"(B) the reasonable costs of the eligible child's transportation to the choice school, if—

"(i) the choice school is not the school to which the eligible child would be assigned in the absence of a program assisted under this title; and

"(ii) the parents of an eligible child choose to use the scholarship funds for such transportation.

"(2) SECOND.—Second, if the parents so choose, to obtain supplementary academic services for the eligible child, at a cost of not more than $500, from any provider chosen by the parents that the State, in accordance with regulations prescribed by the Secretary, determines is capable of providing such services and has an appropriate refund policy.

"(3) THIRD.—Third—

"(A) if the child attends a public choice school, any remaining funds shall be made available to such school to enable such school to conduct educational programs that help students at such school achieve high levels of academic excellence; or

"(B) if the child attends a private choice school, any remaining funds shall be made available to the State to enable the State to award additional scholarships under this title in that year or the succeeding year of the State's program.

"SEC. 1709. REQUIREMENTS.

"(a) EFFECT ON OTHER PROGRAMS.—

"(1) IN GENERAL.—Eligible children participating in a demonstration project under this title, who, in the absence of such project, would have received services under part A of title I of this Act shall be provided such services.

"(2) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this title shall be construed to affect the applicability or requirements of part B of the Individuals with Disabilities Education Act.

"(b) COUNTING OF CHILDREN.—Notwithstanding any other provision of law, for purposes of receiving funds under any program administered by the Secretary, any school participating in a demonstration project under this title may count eligible children who, in the absence of such project, would attend such school.

"(c) INFORMATION.—Notwithstanding section 9 of the National School Lunch Act, a State receiving a grant under this title may use information collected for the purpose of determining eligibility for free or reduced price meals to determine a child's eligibility to participate in a demonstration project under this title. All such information shall otherwise remain confidential, and information pertaining to income may be disclosed only to persons who need that information for the purposes of a demonstration project under this title.

"(d) SPECIAL RULES.—

"(1) ASSISTANCE TO FAMILIES NOT INSTITUTIONS.—Scholarships under this title shall be considered to be aid to families, not institutions. A parent's expenditure of scholarship funds at a choice school or for supplementary academic services under this title shall not be construed to be Federal financial aid or assistance to that school or to the provider of those supplementary academic services.

"(2) ANTIDISCRIMINATION PROVISIONS.—

"(A) IN GENERAL.—Notwithstanding the provisions of paragraph (1), in order to receive scholarship funds under this title a choice school or provider of academic services under this title shall comply with the antidiscrimination provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 901 of the Education Amendments of 1972 (20 U.S.C. 1681), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(B) IMPLEMENTING REGULATIONS REQUIRED.—The Secretary shall promulgate regulations to implement the provisions of this paragraph, taking into account the purposes of this title and the nature, variety, and missions of choice schools and providers that may participate in providing services to children under this title.

"(e) CONSIDERATION OF FEDERAL FUNDS PROHIBITED.—No Federal, State, or local agency may, in any fiscal year, take into account Federal funds provided to a State or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to the choice school attended by such child.

"(f) STATE LAW.—Nothing in this title shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by religious or other private institutions, except that no provision of a State constitution or State law shall be construed or applied to prohibit any State from paying the administrative costs of a program under this title or providing any Federal funds received under this title to parents for use at a religious or other private institution.

"(g) SECRETARY.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program assisted under this title.

"(h) CONSTRUCTION.—Nothing in this title shall be construed to interfere with any desegregation plans that involve school attendance areas affected by this title.

"SEC. 1710. PARENTAL NOTIFICATION.

"Each State receiving a grant under this title shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served. At a minimum, such notice shall—

"(1) describe the demonstration project;

"(2) describe the eligibility requirements for participation;

"(3) describe the information needed to establish a child's eligibility for participation in the demonstration project;

"(4) describe the selection procedures to be used if the number of eligible children seeking to participate exceeds the number that can be accommodated;

"(5) provide a list of violence-prone schools located in the State; and

"(6) include the schedule for parents to apply for their children to participate.

"SEC. 1711. EVALUATION.

"From funds reserved under section ____02(b), the Secretary shall conduct a national evaluation of the activities assisted under this title. Such evaluation shall, at a minimum—

"(1) assess the implementation of projects assisted under this title and such projects' effect on the participants, schools, and communities served under this title, including the degree of parental involvement in, and satisfaction with, the project and their children's education; and

"(2)(A) evaluate the educational achievement of eligible children who participate in the projects assisted under this title, during the periods—

"(i) before the provision of scholarship assistance under this title;

"(ii) during such provision; and

"(iii) after such provision; and

"(B) compare such achievement with such achievement, during comparable periods, of similar children who do not so participate.

"SEC. 1712. REPORTS.

"(a) REPORT BY GRANT RECIPIENT.—Each State receiving a grant under this title shall submit an annual report to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(b) REPORT BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall report annually to the President and the President shall report annually to the Congress on the progress of the demonstration projects assisted under this title, including information submitted by each State receiving a grant under this title and from other sources.

"(2) SUBMISSION.—The Secretary shall submit a report to the President and the President shall submit a report to the Congress on the national evaluation described in section 1711 within 9 months after the conclusion of the demonstration projects assisted under this title.

"SEC. 1713. ENFORCEMENT.

"(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

"(b) PRIVATE CAUSE OF ACTION PROHIBITED.—No provision or requirement of this title shall be enforced through a private cause of action.".

Mr. COATS. Mr. President, I want to join the minority leader in offering this amendment. We have been debating over the last several years the concept of school choice. I am particularly pleased to be able to merge the amendment that was originally, I believe, offered by Senator HATCH, which I have offered several times in the last 2 or 3 years, to merge this with an idea that the minority leader has come up with that I think has a lot of validity. Because it takes a concept that has been advocated and that I think has a great deal of merit and marries it with a particular problem that exists in many of our inner-city schools. It is that concern that parents have about the safety of their children, along with their concerns that their children receive a good education, that has been brought together in this particular amendment that the minority leader has just sent to the desk.

Let me detail some of the reasons why I believe this particular amendment is needed.

The memory of rushing her son off to school on February 22, 1993, still haunts Margaret Ensley.

"He was so slow, he just moved so slowly," she recalled. "I kept after him: 'hurry up, you'll miss the school bus.' * * * I hurried him to his death."

That morning, Michael Ensley was shot dead by a 15-year-old classmate during a snack break at Reseda High School.

Michael Ensley's story, unfortunately, is not an isolated case. Many of our schools are becoming increasingly violent places.

In 1992, 9 percent of 8th graders, 10 percent of 10th graders, and 6 percent of 12th graders reported that they had brought a weapon to school at least once during the previous month. Not once in their school career, but once during the previous month.

Nearly 3 million crimes occur on or near schools every year; 16,000 take place each day, or one every 6 seconds.

Nationwide, between 1986 and June 1990, at least 75 people were killed with guns at school, over 200 were severely wounded by guns, and at least 242 were held hostage at school by gun-wielding assailants.

The violence is so widespread that children today are afraid to go to school. "I'm scared. I'm still scared," said Glenn Browne, Jr., who lost a kidney after being shot by an 18-year-old gang member at Dorsey High School in Los Angeles. "I'm scared that they will come back and get me." As President Clinton has pointed out, Glenn Browne is not the only child to go to school. I quote the President:

> A hundred and sixty thousand kids stay home everyday from school, because they're worried if they're going to be safe at school. Are they learning anything? Are they going to be competitive workers?

The answer is no. No child can live, let alone learn, in such an environment. No child should be forced to attend a crime-ridden, drug-infested school.

But, unfortunately that is too often the case. Children are forced to attend unsafe schools simply so that school buildings can remain open. That is why the Senate passed the Safe Schools Act, offered by our colleague Senator DODD, from Connecticut, to provide assistance to schools to help them fight violence. And I supported that bill and I think it is a step in the right direction. But it clearly has not solved the problem or will not solve the problem.

Installing metal detectors and hiring security guards is not enough. Just ask 14-year-old Michelle McKie. Michelle was shot in the head just 400 feet from her metal-detector-equipped school. Michelle was one of the lucky ones because she lived. Children like Michelle and George and Michael should not have to fear going to school, but parents with limited means do not have the luxury wealthier parents have, the ability to afford to live in safer neighborhoods or send their children to safer schools.

It is easy—at least available—for affluent families in America to make a choice as to where they send their children to school. If they are unhappy with the local school, or unhappy with the public education system or the school which their children are going to, private or public, they can place their children in another school—in a parochial school or private school, giving their children what they believe are opportunities for a better education. That is true for those with means. That is not true for children from low-income families. In many of our inner cities and in many of our rural areas they simply do not have the choice or the financial wherewithal to make any decision other than sending their child to the public school.

Public school systems as we know have tried all kinds of different innovations. They have reduced the size of classes, they have increased the length of the school year, they have raised teachers' salaries, they have lowered expectations, they have painted buildings, installed metal detectors, encouraged ethnicity, focused on self esteem. The bottom line is that most of these changes have not truly made a difference in educating children. They have not significantly altered the quality of education provided to these students. And they obviously have not improved results as measured by SAT scores or other tests—we have actually seen a reduction in these scores.

So the truth is, for low-income American families there is no choice about where they send their children to school for educational purposes. There is no competition within the system to force or to bring about innovative changes to make those schools better. And most important in terms of this amendment, there is no choice on the part of low-income parents to remove their child from an unhealthy, unsafe situation with the option of placing them in a safer school so they have the opportunity to learn.

Mr. KENNEDY. Will the Senator yield? I understand Senator LIEBERMAN is returning momentarily, prepared to speak on this. Just to try to give our colleagues an idea—I plan to stay here. If it is agreeable, we would be glad to enter into a time limitation, just in terms of the notification of the Members.

Mr. COATS. Mr. President, I will be happy to do that. As a Senator who has pressed long and hard for some scheduling sensibility, in terms of what we are going to do and when we are going to vote, particularly in the evening, I am more than happy to enter into a time agreement. I have, obviously, not had a chance to check with Senator LIEBERMAN or others. I would think before I am finished with my statement we can quickly run a check and find out how many other Members want to speak and how long they want to speak. It is perfectly acceptable to this Senator to work out a time agreement and set a vote if that is what is necessary.

Mr. KENNEDY. We will try to pursue that. From our side, I know Senator DODD wanted to speak, but I do not think we would, on our side, take more than probably 20 minutes or so. We will see what the desire is.

Mr. COATS. I would state to the Senator I think that is probably going to be roughly what we would need.

Mr. KENNEDY. Just to give Senators information, in that time we will try to indicate to the membership, at that vote, in consultation with the leader, what the rest of the evening will look like.

Mr. COATS. The Senator does anticipate a vote, then, following the debate?

Mr. KENNEDY. On this matter this evening, yes.

Mr. COATS. To continue, we have had a number of discussions about the concept of choice on the Senate floor. In fact, I offered an amendment in February and received 41 votes. That amendment was offered to provide demonstration programs for the choice concept—a $30 million authorized amount—that could be used in schools, 6 different schools, to test the concept of choice with a report back by the Secretary of Education to the Congress after a 2-year period of time so we could determine whether or not this concept was valid, in terms of improving educational opportunities.

During that debate, however, the Senator from West Virginia, Senator BYRD, came down and began discussing the amendment in terms of the crime and violence situation that exists in many of our schools. It was really that Senator's lengthy and important discussion of that aspect of the choice amendment that prompted Senator DOLE and I, and others, along with Senator LIEBERMAN, to adjust our amendment to primarily focus it on schools in low-income areas and high crime areas. What we are attempting to do is provide opportunities to parents of children who have no options, either relative to improving their educational opportunities given the local school that becomes their only choice, or in terms of increasing or improving their safety—which obviously has an effect on learning.

So the essence of this amendment is to direct the demonstration project—I want to stress this is not a mandate. This is purely a voluntary effort to stretch that opportunity relative to crime infested and violent areas and give parents a choice in that regard.

I do not know whether or not choice is the answer to all the problems with our educational system. I do know that what we have tried to date has not succeeded. Therefore, this idea, which I think is an innovative idea—and I think there are some examples of how it has worked around the country that we ought to look at—but I think it is an innovative enough idea with enough promise that we at least ought to try it.

So all we are doing with this amendment is simply saying try it. If the proponents of choice are correct, we will have some evidence to suggest that perhaps this is something we want to expand. If the opponents of school choice are correct in their assertions that it will not work, we will have evidence of that before the Senate. So, our message is, "Try it, you might like it." If you are right and it does not work, then you will know. But why not at least give it a try?

So the amendment we are offering today is very simple. It says let us set aside a small amount of education dollars to allow low-income children to escape from violent schools. Our amendment would go specifically for the purpose of providing assistance to children from the lowest income homes who are trapped in violence-prone schools. The children who would be eligible under this program would be children who qualify for reduced school lunch prices or full subsidy on school lunch and income-based measurement.

A violence-prone school is defined using the same criteria used in the Safe Schools Act which was passed by the Senate. Senator DODD in that legislation outlined criteria which were used then, or will be used under this amendment, to define what a violence-prone school is. So that legislation is already in place. That has been adopted by the Senate.

The funds that would be made available under this amendment could be used to opt into and to pay for education costs at alternative schools. It would be the parents' choice as to which school they could send their children.

There is no limitation. There is no restriction, yet there is no proscription of what school needs to be chosen.

Mr. President, it is also important for Members to know that we have incorporated a very strict civil rights and desegregation protection clause to make sure that participating schools can, in no way, discriminate on the basis of race.

We also stipulate that demonstration projects cannot continue if they interfere with these segregation plans. So Members should be aware that nothing in this demonstration choice project can be used to thwart any desegregation plan or violate any civil rights of any student. No decisions, in terms of participation, can be made on the basis of race.

The total cost of the demonstration project would be a $30 million annual amount, and there would be no more than 20 schools that could participate. Schools would voluntarily apply for grants through the Secretary of Education.

It is also important to note, Mr. President, that we have specifically protected public schools from the loss of income that they might receive under the Elementary and Secondary Education Act because we do not want schools to be in a position where they will be penalized for losing students who have opted out because of the choice program that is available to parents and students within that particular area.

My home State of Indiana has several existing choice initiatives underway. One program originated by an individual in our State pays half the tuition for children from low-income families to attend private schools. The program serves already 1,100 students and has a waiting list of 650. Our public schools are also experimenting with choice. Indianapolis public schools, for example, have initiated the Select Schools Program. More than 80 percent of parents participated this year.

I really do not understand why anyone would want to oppose this particular amendment. It is not a mandate, it is purely voluntary. It provides a basis for which we in Congress can evaluate the validity of this particular concept. As I said, if it turns out that it substantially improves opportunity for low-income children, then why would we not want to provide that data to school districts and education agencies across the country? Why would we not want to have that set of information available so we can make intelligent choices? After all, our bottom line is not preserving any particular system. Our bottom line ought to be how do we provide the best education opportunities we can to American children?

In this particular area, we have denied that opportunity to children from low-income homes simply because they do not have the opportunity of choice as other students do from homes of increased means.

It is important to understand what the amendment does not do. It does not force choice on anyone. It is purely voluntary. It will not upset the American public education system. We are doing this simply on a voluntary basis. It will not drain resources away from any public school or education system. We have a specific protection against that. The Secretary cannot provide any reduction in funds or deny any funds that a public school would otherwise be eligible for, even though students in that school opted out or numbers decreased. It cannot adversely affect the amount of funds available at this time.

Choice in education does not destroy public education. In fact, I would argue that it enhances public education. My hometown of Fort Wayne, IN, has had for decades an education system that has thrived on competition. We have a vigorous, effective Catholic parochial school system in Fort Wayne. We have a vigorous, effective Lutheran school system because of our heavy concentration of Lutheran belief. They have established their own system of schools. Those two systems exist alongside, I would say, with other private education opportunities, side by side with the public schools of Fort Wayne, IN, and all are successful.

They are successful because the parents and the students of Fort Wayne, IN, have a choice. The competition between those three systems has caused each system to better their education program, to compete with each other for the students and they work hand in hand. Parents in Fort Wayne have opportunities which parents in many States do not have.

Why do we not give this option to other schools, to other areas and, particularly, why do we not make it available to students of low-income parents in violence-prone areas?

I think there are many rational reasons to vote for this amendment. But I am going to close and give you 10 reasons to vote for this amendment. Reason No. 1, Michael Ensley; reason No. 2, Jose Luis Lopez; reason No. 3, Michelle McKie; reason No. 4, Cecilia Rios; reason No. 5, Demetrius Rice; reason No. 6, Glenn Brown, Jr.; reason No. 7, Gabriel Gettleson; reason No. 8, Jerome Cook; reason No. 9, Robert Tran; and reason No. 10, Jarrell Tompkins—all students, tragic stories of students injured or killed, subjected to violence because they had no choice as to where they could go to school.

Mr. President, I ask unanimous consent that the 10 examples be printed in the RECORD. I will not take my colleagues' time in reading these tragic cases.

There being no objection, the material was ordered to be printed in the Record, as follows:

VIOLENCE IN SCHOOLS

"A hundred and sixty thousand kids stay home every day from school, because they're worried if they're going to be safe at school. Are they learning anything? Are they going to be competitive workers? If you have the school drop-out rate, the poverty rate among kids, the level of crime and violence, if we spend money putting people in jail that we should be spending educating people on new technologies. All of these things drag our capacity down."—President Bill Clinton (from CNN, Larry King Live), April 20, 1994.

No one should need a reason to support the Coats-Dole amendment. But just in case anyone does, here are ten:

1. Michael Ensley.
2. Jose Luis Lopez.
3. Michelle McKie.
4. Cecilia Rios.
5. Demetrius Rice.
6. Glenn Browne Jr.
7. Gabriel Gettleson.

8 Jerome Cook.

9. Robert Tran.
10. Jarrell Tompkins.

TRAGEDY ONE

The memory of rushing her son off to school on Feb. 22, 1993 still haunts Margaret Ensley. "He was so slow, he just moved so slowly," she recalled. "I kept after him: 'Hurry up, you'll miss the school bus.' . . . I hurried him to his death." That morning, Michael Ensley was shot dead by a 15 year old classmate during a snack break at Reseda High School in Los Angeles, CA. (Los Angeles Times, February 20, 1994)

TRAGEDY TWO

Miquel Camarena, 19, faces life in prison without the possibility of parole for the murder of Jose Luis Lopez, a 17-year-old varsity soccer player who was shot in the head as he drove to school in Santa Ana, CA. Two days before the shooting, Camarena had lost a fistfight with the victim's brother. (Los Angeles Times, June 11, 1994)

TRAGEDY THREE

A sixteen year old teenager who told police he was "field-testing" a friend's handgun shot a Queens, NY high school student in the head outside her school, causing her to lose sight in her right eye. Michelle McKie, 14, a sophomore at Springfield Gardens High School, was about 400 feet from the building—which is equipped with metal detectors—when she was struck in the right temple. (Newsday, May 25, 1994)

TRAGEDY FOUR

In San Pablo, CA in March 1994, the body of Richmond High School student Cecilia Rios, 15, was discovered in a stairwell at Edward M. Downer Elementary School. She had been raped and brutally murdered, police said, by a 17-year-old acquaintance whose motive was robbery. (San Francisco Examiner, April 25, 1994)

TRAGEDY FIVE

In January 1993, Demetrius Rice, a 16-year-old student at Fairfax High School in Los Angeles, CA was shot to death by a classmate who accidentally fired a .357 magnum during an English class. (Los Angeles Times, February 20, 1994)

TRAGEDY SIX

Glenn Browne Jr. was shot by an 18-year-old gang member at Dorsey High School in Los Angeles, CA while he was waiting in a registration line on the first day of school. Glenn lost a kidney and will never again participate in sports. "I'm Scared—I'm still scared," said Glenn Jr. "I'm scared that they will come back and get me. I think about my body (and) how messed up I am. I can't play football or any sports at all. I can't really do nothing." The gang member who shot Glenn was looking for someone else. (Los Angeles Times, February 20, 1994)

TRAGEDY SEVEN

17-year-old Gabriel Gettleson was shot and critically injured at Chatsworth High School in Los Angeles, CA when he refused to give his backpack to two boys. Gettleson was waiting for his mother to pick him up and take him to his job. (Los Angeles Times, February 20, 1994)

TRAGEDY EIGHT

In March, Jerome Cook, 17, was shot four times at close range by Cornell Cheeks, 17, in a crowded stairwell at Eastern High School right here in Washington, DC. (Washington Times, March 10, 1994)

TRAGEDY NINE

In San Francisco, CA in February 1994, Wallenberg High School student Robert Tran, 17, was shot to death by a teenager with a .38 caliber revolver, three blocks from the Inner Richmond District campus. Tran's offense: intervening in a fight at a bus stop. (San Francisco Examiner, April 25, 1994)

TRAGEDY TEN

Jarrell Tompkins, 15 years old, has been wondering how to protect himself at Intermediate School 52 in Melrose in the Bronx ever since a classmate grabbed him and pressed a razor to his throat in a hallway robbery. (New York Times, December 12, 1993)

Mr. COATS. Mr. President, these are reasons why the Dole amendment is necessary. Let us give it a try. Let us see if it works. If it does not, then the opponents can say we tried it and it does not work, let us move on to something else. If it does, maybe we can make some opportunities to young people. I think that should be our goal.

I will be happy to either yield the floor or submit for a question.

Mr. JEFFORDS. Mr. President, this certainly is intriguing the way the Senator describes it. My question is, when we put in place a demonstration program, we have in mind that it is going to lead to some sort of goal that will solve the problem. In this case, the problem the Senator from Indiana is pointing out is violence in the schools.

I am a little confused as to how removing kids from the violent area and placing them in another area is going to help solve the underlying problem of violence in the schools. I expect that it may show that the children who leave the schools do better, but I do not believe that it addresses the central issue of making these schools safer places for our children to attend. How will this program solve the problem we have here which is the violent schools themselves? What will this demonstration program accomplish other than moving everybody out of the school?

Mr. COATS. There are two problems we are dealing with. One is how do we improve educational opportunities and the quality of education for young people. That was the original intent of the choice amendment that I offered in February.

It will demonstrate, as if we need the demonstration, we can demonstrate and we can allow the Secretary of Education to test the concept and report back to us as to whether or not the educational advantages and opportunities that many parents think their children will have if they have a choice of schools, whether or not that is a valid concept.

But it will also give parents who select into the choice program because they happen to live in violence-prone areas an opportunity to provide a safer learning environment for their young people. It does not solve the problem of crime in schools. The Safe Schools Act which we passed is more directly related to solving this specific problem, and we have to solve that problem.

But in the meantime, why do we not at least allow, on a test basis—we would like to do it on a greatly expanded basis, but we cannot get the votes for that—why do we not at least allow on a test basis a concept that we can report back to the Congress and see what difference it might have made.

Mr. JEFFORDS. Just to follow up, it seems to me that the Senator from Indiana already thinks he knows what the outcome of this test will be and that he just wants to develop a school choice program. Certainly, if it does not work with schools in violent areas, choice is not going to work anywhere.

However, I still do not understand how this program will solve the school violence problem for those unfortunate kids who have to remain in the school. The Senator gave a list of kids' names. Next year there will be different kids. There will always be kids attending violent schools if we do not solve the basic problem. Not all of the children will go to private schools. I am a little confused as to what we are going to learn from this demonstration project, other than what we might expect, and that is kids in safe schools will do better than kids in violent schools.

Mr. COATS. As I said, we are attempting to reach two goals. One of those goals is directed to give the parents the opportunity to protect their children. One of those goals is to be able to tell the parents of these students whose names I have read, Michael Ensley's mother and Jose Luis Lopez' mother and father, and Michelle McKie's mother and father, that they do have a choice; that they will not be strictly limited by their income; that they will have an opportunity to send their young people—remove their child from a school that they know is not only not contributing to their learning but is so violence-prone that their very health and safety is in jeopardy.

Now, it may send a signal to some of those inner-city schools that unless they can find a way to provide a safer environment, that school ought to close. But I think the safety of the students ought to be our primary concern, not whether or not the building remains in a particular location. As Senator DOLE said, maybe some inner-city schools will have to close because we will not be able to solve the problem, we will not be able to come up with enough metal detectors or security guards to provide parents the assurance that their children will be safe. And if that is the case, rather than perpetuate a system that, number one, is not educating those children, but, number two, cannot keep them safe, why not at least look at alternative ways to provide education to our young people. It may mean moving the whole school to another location, if that is necessary to provide a learning environment and safety for the students.

Mr. JEFFORDS. One more question, if I may. As the Senator knows, there are numerous sources of funding that the Senator could have tapped into for funds to support this demonstration. In this bill, for example, there are a large number of demonstration projects. In addition, this type of demonstration program seems particularly relevant to the Safe Schools Act. Why did the Senator choose to take funds from the Goals 2000 program, funds that are designated as planning money for States, not for demonstration programs?

Mr. COATS. My understanding is that because the Goals 2000 funds became available last month, just last month, only one State, Hawaii, was ready to apply for those funds, so those funds are sitting there unused at this particular time. We thought this was an appropriate way to use the funds.

As the Senator knows, we are all searching for scarce resources, and if it is not one it is another. But I just think that out of the very substantial—how much is this bill?

Apparently the section that we are dealing with is a $400 million-some section, and we are allocating $30 million out of this section for this particular purpose. We think it is a worthy demonstration project and would make good use of those funds.

Mr. JEFFORDS. Is my memory correct that the Senator voted against the Goals 2000 bill?

Mr. COATS. It is. But not for that reason. I voted against it because the opportunity-to-learn standards I thought imposed Federal mandates and Federal restrictions on States and decisions that I thought ought to be made at the State and local level now had the potential of being usurped at the Federal level.

But that was a different reason for voting against that bill than what we are talking about here. Just because I voted against the bill does not mean that I am not willing to tap some of the funds for what I think is a better purpose.

Mr. JEFFORDS. I think that is rather obvious. I thank the Senator.

Mr. COATS. Mr. President, we are waiting for Senator LIEBERMAN, who is a cosponsor with me and Senator DOLE on this amendment.

I would note that it is a bipartisan effort, Republicans and Democrats concerned about the serious problem we have in many of our public schools, particularly our inner-city schools, joining together to try to fashion an idea and a solution—at least test the concept. I think it is a modest effort, hopefully one that would be proven to be successful so that we could expand it in the future. I do not see what Members have to fear about testing something. That is what this is designed to do. It is a demonstration project allocating $30 million.

I will yield the floor at this particular time. My colleague, Senator LIEBERMAN, has just arrived and Senator KENNEDY perhaps wants to respond. So, Mr. President, I will yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have talked with the majority and the minority leaders and the floor managers, and they are prepared to have a vote on this up and down at 8:15, with no other amendments to be in order prior to the disposition of the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered. The vote will occur at 8:15.

Mr. KENNEDY. Mr. President, we have now 20 minutes, so why not have the Senator from Connecticut, if he would, take 5 or 6 minutes, and then I think Senator DODD and I would share the remaining time, if that is agreeable.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am proud to join with Senators COATS and DOLE in a bipartisan effort to give school choice a chance to prove itself as one solution to the problem of educating poor children in America.

We all know the tragic record of public education in some of America's poorest neighborhoods. Children have to worry more about getting shot than learning. And more and more people are becoming convinced that the answer is just not more money. If the bureaucracy of education in poor cities and towns is broken, additional money may be wasted—not invested in our children.

That is why many of us are looking for new answers to this education crisis. We want big change because we recognize how damaging the status quo is to America's children in particular, and American society in general. Who can deny that the lack of a good education is directly related to the problem we are focused on like crime, welfare, dependency, unwed mother-and-fatherhood, unemployment?

In both Goals 2000 and in Improving America's Schools Act of 1994 we have made a concerted effort to build a new framework for educational change, innovation and effectiveness at the local level. The charter schools program, a concept developed and implemented at the State and local levels and which provides for new and innovative public schools is an example of that new framework for choice now supported by these two bills. It is in this spirit of innovation, of building a framework for choice and a realization that localities have the best insight to implement change that works, that this amendment is offered.

The amendment simply establishes a program of demonstration projects for school vouchers which would empower the parents of poor children, especially those exposed to violence in their schools, to choose a private, parochial or public school instead of being given no choice at all. It will give poor children the same educational options middle class children now have. Faced with the loss of children, the program could motivate public schools to be more competitive, to react much more forcefully in tackling their problems. The legislation tries to replace a bureaucratic framework with a competitive framework to drive improvements. Our proposal is modest, inexpensive and potentially revolutionary in its impact if it succeeds and adds another degree of freedom of choice for our communities.

School vouchers represent fairness. People who are poor have relatively few choices in life. But one important part of their life that I believe they deserve a choice is when it comes to the education of their children.

Given the choices, I believe many poor parents will choose to send their children to better public schools or to private * * * and particularly to private parochial schools. There is evidence that parochial schools are a great alternative to public schools for some students. For example, a Rand Corp. study evaluated the performance of a comparable group of black and hispanic children at Catholic parochial schools and public schools. The study showed that the gap in performance between minority children and all other children dropped significantly in the parochial school system.

The Rand study also found that these parochial schools performed better because they had a rigorous academic curriculum, were independent of the stifling effects of too much bureaucracy, and they could provide students with more attention. I personally believe the success of parochial schools also has something to do with a special sense of mission, purpose and values.

Some people are concerned that extending vouchers to low income students will harm, or even destroy, public education. That is nonsense. What we are trying to do is recognize that some of the schools in the most economically depressed parts of our country are failing our children. This is not another program which will result in moving the advantaged student out of the public school system. This is however all about whether schools which have been successful at educating those who can afford choice can also be successful at educating those who we now provide the opportunity of choice. It is a program in which families can provide their children with an opportunity of a quality education instead of waiting for future solutions provided in this fine bill to take effect but which in all likelihood will be too late for their own children.

We need to, first give students a choice so they can make a better life for themselves. Second, we must create competition for the established bureaucracy and the failing schools that can result in the kinds of changes that money can't buy * * * changes in the quality of what is taught, and the environment in which it is taught. This demonstration program will help all schools, including public schools, learn new ways to meet the needs of some of our most disadvantaged students.

So today I join with Senators COATS and DOLE in saying give choice a chance. If it works, we can expand it to the benefit of millions of young people throughout our country. If we do not try, we will never know how much it could have helped. We will only know that the current system until it is drastically changed, will go on, failing too many of our kids, especially those who need the most help.

In conclusion, Mr. President, I am glad to join with my colleagues from Indiana and Kansas in supporting this amendment which again puts before the Members of the Senate the choice of whether we are going to allow choice for parents of children in our school systems to send their kids to a range of alternatives to educate them. And really more specifically this is a question of whether we are going to give children in poor families the same opportunity that children in wealthier families have to go to the school of their choice if they are not satisfied with the public school in their area for various reasons, either the quality of education or, as this amendment points out, the quality of safety and security.

Mr. President, in so many ways we come back on this floor to matters that deal with the public's concern about values and the erosion of values in our society. And the concern of so many parents I talk to in Connecticut about how they can raise their children in this society in the way that they want to raise them. So many parents have said to me that they feel in conflict with other forces in society—entertainment, peer pressure—and so the values they want to give their kids are harder to carry forth.

The public schools in the United States have been really given too many burdens, asked to answer and respond to so many social crises that I express in the first instance my admiration for so many of the administrators and teachers who are doing such extraordinarily good work in our public school system, but the fact is that the public school system as we know it, of which I am proud to say I am a product and supporter, the public school system, unfortunately, is failing many of our children, failing to educate them, prepare them, give them not only the skills but in some measure the values that we want them to have to be successful, self-sufficient, and in the broadest sense be good citizens.

The idea of school choice I think proceeds from these principles, and it is to give parents a choice of where they can send their kids. To do so, to recognize and honor that parental role but also to create some competition in the school systems so that through that competition hopefully the public schools, which are our main responsibility, will become better.

Mr. President, my interest in school choice, I will be frank to say, also has one of its origins in my own observations of the religious or parochial schools in the State of Connecticut, performing I think with remarkable effectiveness, performing with remarkable effectiveness and value this educational function particularly in cities with poorer areas, with a real sense of mission.

Mr. President, I made reference to a Rand Corp. study that evaluated the performance of a comparable group of poorer children at Catholic parochial schools and public schools and showed that there was a remarkable gap in performance.

That is to say, the gap in performance between poor children and minority children and the rest of the population diminished dramatically in the parochial school system. The Rand study found that these parochial schools perform better because they had a rigorous academic curriculum, were independent of the stifling effects of too much bureaucracy—which unfortunately burdens some of our public school systems—and they were provided more attention.

I also must say that part of this study said that the students in the parochial schools did better because all the students were held to a higher standard and were, in a sense, given the courage and confidence to believe that they could do better, and, as a result, did better. I personally believe that the success of these schools has a lot to do with the sense of mission and purpose and values of those who run them.

So many of these schools in urban areas are suffering financially. So many have failed in the last decade that we have this anomaly of a separate school system that is performing a public function so brilliantly and yet does not have the wherewithal to go forward.

In part, this amendment, which recognizes and honors the capacity of parents to choose where they want to send their children also is an attempt to provide an alternative that will give their children the values that we miss in our society.

Mr. President, I ask for a moment more to conclude my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, let us talk briefly——

Mr. KENNEDY. Mr. President, reserving the right to object, what was the request?

Mr. LIEBERMAN. Two moments more.

Mr. KENNEDY. Reserving the right to object, we have an agreement for a vote at 8:15. Other Members have complied with that. I want to be fair to all the Members.

Mr. LIEBERMAN. I would have objected, if I had known that the limitations were going to be that strict. I will take a minute and enter my statement in the RECORD.

The point is that this is a test. Are any of us in this Chamber so secure about the success of our current school system and so sure that we do not want to give more choice that we are not even prepared to test how a choice system will affect parental rights, education of our children, and, yes, public schools, and come back after 3 years and decide, based on that test, whether we should go forward or terminate it and realize that there is nothing more to do?

Mr. President, I say that our schools are failing a lot of our children. The choice is one way to better educate them, better prepare them, and it is at least worth the test provided in this amendment.

I thank the Chair.

Mr. KENNEDY. Mr. President, how much time remains for those opposed?

The PRESIDING OFFICER. Twelve minutes.

Mr. KENNEDY. I yield 4 minutes to the Senator from Connecticut and to Senator BYRD whatever time remains.

Mr. DODD. Will the Senator yield? Is there time left for anyone else?

Mr. KENNEDY. The Senator from Connecticut has 4 minutes. We have agreed to have a vote at 8:15 by consent, since we worked that out with the majority and minority leaders.

Mr. President, I yield myself 3 minutes and the Senator from Vermont 2 minutes.

Mr. President, one thing that does not have to be demonstrated is whether children learn better in a safe school rather than in a nonsafe school. The idea that we have to have a demonstration program of $60 million for that really is not a very, very significant persuasive argument. We know from all the national assessments, from all of the State assessments, and from the assessments made in title I that children learn more in terms of a safe school. That is No. 1. We have to ask ourselves. Does this really add to the whole issue of violence prevention in our schools?

Over the period of this last year, in our Goals 2000 bill, we have important authorization for grants to school districts for violence prevention. I am a conferee on the crime bill. We have $100 million for school safety in there. We have the community schools program of $500 million over 3 years to support after-school summer activities to provide alternatives to violence; the prevention council of the Senator from Connecticut [Mr. DODD], to support community-based activities; drug-free schools. There is $500 million in this bill to do the same kinds of things to deal with the problems of violence and, also, of substance abuse.

We are attempting to deal with that. And the idea that we have another program to try to deal with that, I think, at this time takes scarce resources that are out there to support this effort for needy children. That is what the ESEA program is all about. It is about needy children. To take scarce resources out of that kind of program makes no sense.

It is basically a voucher program. It is as plain and simple as that. We know that. This amendment is called "fight or flight." If we adopt the amendment, we will be giving up the fight and encouraging only the flight.

By giving the vouchers to children in unsafe schools, this amendment would abandon the schools that most need help. Effectively, as the Senator from Vermont pointed out, we would be abandoning all the other children in those schools. We need to help them as well. So instead of flight, we should take up the fight against school violence.

I believe we have made an important downpayment on that program. We will need the help and the support of all Members. But I hope that this measure is not accepted. We should not abandon our public schools. We should make them safer and more substance free.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Connecticut is recognized for 4 minutes.

Mr. DODD. Thank you, Madam President. Let me thank my colleague from Massachusetts and the Senator from Vermont.

It is a rare occasion that I differ with my colleague from Connecticut on issues. But on this issue, we fundamentally disagree.

Let me say to my colleagues, we have had this debate in the past. The question here is the same as always—should we move away from the public school system. Choice, it has an appealing sound, but what we are basically talking about is Federal funding of a dual school system.

So whether we frame the argument in terms of safety, money or whatever other issue people may come up with, we always must come back to the same basic issue. So finding a different logic for it does not in any way digress from what the fundamental question is. The fundamental question is, Should we use American taxpayer money to fund a dual school system? In my view, that would be a tragic mistake.

If school safety is the issue, we ought to take the resources identified in this amendment, $30 million, and apply them to our effort to make schools safer. Earlier this year, when we passed the Safe Schools Act, we were only able to manage to get some $20 million for the entire program. I wish I could have gotten more when I introduced that bill. But that is all I could get.

This amendment would take $30 million, $10 million more than we were able to get for the entire Nation to improve the safety of our public schools, and come up with pilot programs in 20 States to give a few the opportunity to go someplace else.

In my view, we must confront the problem—not run from it. And violence is serious. As I said earlier today, it is very difficult for children to learn or teachers to teach in a threatening environment. In New Haven, CT, the public secondary schools spend almost $1 million a year for security and safety. That is tragic, in my view; but at least they are working to make the schools safer through concrete, directed efforts to improve the school environment.

This amendment presents a much different course of action—abandon the schools. Schools will not get less violent, less threatening, less intimidating for those students and those teachers by merely encouraging some to go off to a private or parochial school. Our responsibility—all of us as citizens; forget our titles as Senators or Congressmen—our job as citizens is to go to work on this problem in the public and private sector to come up with some answer to reduce the violence and not to walk away from it.

And our schools need our help—violence, disinvestment, and declining revenues plague some of our schools, just as they do many other community institutions. But our schools are not ignoring these problems. Even with limited resources, many are digging themselves out of these problems to offer real hope and opportunities to students. James Comer in Connecticut has lead a revolution in public schools across the country to support parents and improve education through community involvement and reinvestment in the schools. Public magnet and charter schools are flourishing in offering innovative curriculum to students. School safety programs, from conflict resolution training to metal detectors, are becoming as common in schools as social studies as schools work to meet the challenge of violence.

Our goal must be to lend a hand in these critical efforts not withdraw our support. And that is exactly what this amendment does in diverting Goals 2000 schools improvement funds to private school vouchers.

The sponsors of this amendment have perhaps aptly titled it "Fight or Flight." And they chose flight as a response to the crisis in our schools. Mr. President, I believe, we, as citizens and as a body, must chose the more courageous path. We must fight for our public schools, not fly from them, when they most need our help.

That would be a great tragedy. And the adoption of this amendment would, in fact, do just that.

Madam President, I yield to the Senator from Massachusetts whatever time I have remaining.

Mr. KENNEDY. Madam President, I assume we have 5 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield that to the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator from Massachusetts, the manager of the bill. I do not need 5 minutes. I wish to express opposition to the amendment, and I direct my attention and the attention of the Senate to section 1704, "Funding and Reservations," which reads as follows: "Funding: From amounts appropriated to carry out the Goals 2000: Educate America Act, the Secretary shall make available $30 million for each of the fiscal years 1995 through 1997."

Madam President, this is not an appropriations bill.

Mr. COATS. Will the Senator yield on that? I think I can clarify that for the Senator, because he is absolutely right.

Mr. BYRD. I yield.

MODIFICATION TO AMENDMENT NO. 2417

Mr. COATS. Senator, there was a drafting error. The legislative counsel, the individual who handles the education area, unfortunately, was at a funeral today, and so the bill was handed to someone else, and they made an error. I have a modification which would change that. The Senator is right. It should read that "there is hereby authorized to be appropriated." The word "authorized" was left out.

So I send this modification to the desk. It is an important modification. It was an error as a result of the individual who normally drafts this not being available today.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2417), as modified, is as follows:

In lieu of section 1704(a) insert:

SEC. 1704. (a) AUTHORIZATION.—There are hereby authorized to be appropriated to carry out this section.

(1) $30,000,000 for fiscal year 1995; and

(2) Such sums as may be necessary for fiscal year 1996 and each fiscal year thereafter.

Mr. BYRD. Very well. I thank the Senator for his modification. I yield the floor, and I yield the remainder of my time.

Mr. KENNEDY. Parliamentary inquiry. As I understand it, it is $30 million this year, and so it could be any number, any figure afterwards. So it could be $30 million this year, and it could be any figure into the future on the Goals 2000.

Mr. COATS. More or less, Madam President.

Mr. KENNEDY. Madam President, I see the time is about expired. I hope that this amendment, for the reasons outlined here, will not be accepted.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I share the concerns expressed about the serious issue of violence in our schools. That is why I cosponsored the Safe Schools Act, an important violence prevention initiative recently passed and funded by Congress.

In addition, the Improving America's Schools Act which we are considering today will expand the focus of the Drug-Free School Program to include violence prevention. This important expanded program will provide funds to local schools for projects designed to combat problems of violence and enhance school safety. Funds can support a variety of approaches, including important violence prevention activities such as conflict resolution, peer counseling, and after-school programs.

I want every child to attend a safe school. But I fail to see how the amendment offered by the Senator from Kansas will help us to accomplish this goal. This is yet another amendment which proposes to abandon our public schools, rather than helping them to surmount their problems.

The amendment will do nothing to help those schools and neighborhoods which are beset by violence. Instead, it will make matters worse, by diverting scarce funds from our public schools to private and religious schools.

I want to remind my colleagues that twice within the last 2½ years, the Senate has gone on record against this ill-conceived policy, defeating two separate amendments which would have provided vouchers for students attending private and religious schools. It was a bad idea then, and it's still a bad idea now.

Yet today we are once again faced with an amendment which would offer public funds to children attending private schools—the so-called "Fight or Flight" amendment.

And the fact that the name and the details have changed, doesn't change the reality that this is simply the same old proposal under a different disguise—a cynical attempt to use the fear of violence to enact the same old voucher scheme.

And it doesn't change the fact that this is simply bad public policy, which would unwisely break down the barrier between church and state and distract our attention from the real needs of our public schools and the vast majority of American children who attend those public schools.

Private school vouchers will do nothing to help these children, since private schools are under no obligation to accept them. Private schools can select students based on any criteria they wish, rejecting those who may be discipline problems, or disabled, or who may have learning disabilities. In Milwaukee, for example, one of the few sites where vouchers have been tested, vouchers are available for 1,000 public school children. Yet the private schools have never enrolled more than 750 or so of these students.

Funneling Federal funds to private schools drains limited funds away from underfunded Public Education Programs at a time when public schools throughout our Nation are facing serious financial problems.

The current budget situation places severe constraints on funding for Federal Education Programs. This is not the time to divert scarce dollars to private and sectarian schools.

And once again, Mr. President, this is the nose under the tent amendment. While this amendment may be somewhat limited in scope, make no mistake, passage of this amendment would set a dangerous precedent and open the door to unlimited expansion of funding for private and religious schools.

If we are really concerned about violence in our schools we should address that problem head on by providing our public schools with the support and resources they need to deal with their problems.

The "Flight" amendment proposes simply to abandon our system of public education. I urge my colleagues to oppose the amendment.

FLIGHT OR FLIGHT AMENDMENT

Mr. DURENBERGER. Mr. President I rise to support the amendment offered by my distinguished colleagues from Kansas, Indiana, and Connecticut which authorizes a limited demonstration program to give low-income parents expanded education choices for their children.

This 3-year demonstration is focused on low-income children who attend crime prone schools. Eligibility is based on students who qualify for free or reduced price meals under the National School Lunch Act. Only those students from schools that the Secretary of Education designates as crime prone will be eligible for a $2,000 scholarship that can be spent at private and public schools. Parents can use grant funds for tuition and fees, reasonable transportation costs, and supplementary education services for their children.

As my colleagues know, my own State of Minnesota has taken the lead nationally in expanding the right of parents to choose which schools their children will attend. Minnesota has also been at the forefront of efforts nationally to expand the number and diversity of schools that parents may choose from.

Even in a State like Minnesota which is known for its leadership on public school choice, we are using a number of different ways of delivering what is a new and broader understanding of public education. More and more creative education reform ideas are being tested, like charter schools, which can bring the public and private sectors together.

At a time when our communities and schools are under increased pressure, I believe that we need to try a number of different approaches to improve the academic achievement of our children. This amendment offers another way to do just that. I intend to support this amendment and urge my colleagues to do the same.

The PRESIDING OFFICER. The question is on the amendment offered by the Republican leader.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—45

Bennett
Bond
Boren
Bradley
Breaux
Brown
Bumpers
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hutchison
Johnston
Kassebaum
Kempthorne
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Roth
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NAYS—53

Akaka
Baucus
Biden
Bingaman
Boxer
Bryan
Burns
Byrd
Campbell
Chafee
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wofford

NOT VOTING—2

DeConcini
Helms

So the amendment (No. 2417), as modified, was rejected.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Madam President, that was the final vote for the evening. We have a full agenda for tomorrow.

I have talked with the Senator from Washington [Mr. GORTON] who indicated he would be prepared to lay down his amendment as the first order of business. We hope that we would be able to, after the beginning of the debate, perhaps indicate to the membership the time that we might need to consider that amendment.

Then we have a number of other amendments. Although we will not ask consent tonight, I hope to lay down after that the amendment of the Senator from New Mexico [Mr. BINGAMAN]. He had even indicated he would be prepared to debate his amendment this evening, but we had already indicated to the Senator from Washington that his would be the first order of business. So that is the way we will proceed.

We hope that Members who do have additional amendments would be in touch with us during the course of the evening and with staff so that we could try and accommodate the Members on their different proposals and to move along on the consideration of this legislation.

I think this has been a very instructive day. We have had two major policy issues that have been raised, which, at least for the purposes of this legislation, have been resolved.

There will be several other items tomorrow. But it would certainly appear to me, with the items which we have been given, that we will be able to move along in a pretty reasonable fashion. There are the broad issues related to the census that we will have to deal with. We have the single-sex school amendment by Senator DANFORTH. There is the longer year programs of Senator SIMON; increasing funding for education, basically by Senator SIMON and Senator WELLSTONE; some rural national service programs by Senator MCCONNELL; and probably two or maybe three other items. There is also the IDEA amendment of Senator GORTON.

So I ask that all Members that do have amendments if they would communicate them through the night and early in the morning.

I understand what the leader has said that he has every intention of completing this legislation and also completing the Breyer nomination prior to the conclusion of business this week.

We are planning to be here all day. We understand that there will be a period of time at the noon hour for the services for our recent departed colleague, Hugh Scott, of Pennsylvania. But we will be here during the morning. We will try to work even through that period to try to dispose of some of the amendments and through the afternoon.

The leader has indicated—and we want to indicate to all of the Members—that we intend to go through the evening tomorrow. It is Thursday evening. That is the late night Senate evening. We will be prepared to move along and consider amendments during the course of the evening tomorrow night.

The majority leader and the minority leader will obviously make the ultimate decision on the schedule, but that is the way that we will proceed.

Again, I say, I hope all of the Members that do have amendments will let us know.

I want to thank all Members for their cooperation today. We have had a good discussion and debate. I think it has been an important debate. Obviously, Members have thought a good deal about these issues. I think it has been a very constructive day in the consideration of a very, very important bill. We will look forward to similar debates tomorrow.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Madam President, I ask unanimous consent there now be a period for morning business, with Senators allowed to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

GENERAL J. GARY COOPER'S NOMINATION AS AMBASSADOR TO JAMAICA

Mr. HEFLIN. Madam President, I rise today in strong support of the nomination of Mobile, AL businessman and retired Marine Corps Maj. Gen. J. Gary Cooper as the United States Ambassador to Jamaica. General Cooper has shown through his long career of military and public service that he is an excellent choice for this diplomatic assignment.

In 1958, after earning his degree from the University of Notre Dame, the young Gary Cooper entered the marines. Over the next 30 years, he rose from the rank of second lieutenant to major general. As a captain in Vietnam, he led a rifle company and was wounded twice. He received Purple Hearts, a Bronze Star, and four Vietnamese Crosses of Gallantry for his leadership and bravery in combat. In 1969, General Cooper returned to Mobile to run his family's business. Meanwhile, he remained active in the Marine Reserves.

Back Alabama, General Cooper diligently resumed his commitment to public service in the political arena. He sat in the Alabama House of Representatives from 1974 to 1978. He then became Commissioner of the Alabama Department of Human Resources under Governor Fob James. He did an excellent job as commissioner, a post he filled until 1981.

In 1988, General Cooper was promoted to the rank of major general in the Reserves and directed Marine Corps recruitment until his retirement from military service. He was chosen in 1989 as Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment. In this Pentagon post, he played a key role in the military preparations for the Persian Gulf war and once again proved his competence, leadership, and devotion to this country.

General Cooper is currently a senior vice president for David Volkert and Associates consulting engineers and board chairman for Commonwealth National Bank. His experience spans over three decades in the public service arena. I am certain that he is qualified in every respect for the position of Ambassador to Jamaica.

I am proud to support General Cooper for this important post, and know that he will prove to be a capable and effective United States Ambassador to Jamaica.

INVESTITURE OF JACK CADELL AS BANKRUPTCY JUDGE

Mr. HEFLIN. Madam President, I wish I could have been in Decatur, AL on Friday, July 15, to have witnessed Jack Cadell's investiture as a bankruptcy judge for Northern Alabama. As a serviceman, lawyer, and always active citizen, Judge Cadell has demonstrated a strong commitment to his country and to his native region.

Jack Cadell was born in Decatur in 1945. As a young man, he served in the ROTC, the Alabama National Guard, and the Naval Reserve. At the same time, he completed his education at the University of Alabama. He earned a law degree from the University of Alabama in 1970 and served as a law clerk to U.S. District Court Judge Seybourn Lynne, also in the Northern District. Jack's formal education is certainly extensive. However, I have a feeling that he also had some early legal training from his father and my great friend, John Cadell.

Jack has been practicing law for more than 20 years, primarily in the area of bankruptcy law. His intellectual and technical legal expertise have made him one of the most respected bankruptcy lawyers in the State. For many years, he worked with the law firm of Caddell, Shanks, Harris, Moores & Murphree. By establishing his own practice after the 1979 bankruptcy law revisions, Jack Cadell demonstrated his personal work ethic and his ability to handle every aspect of the law.

Jack has also served as a part-time municipal judge in Decatur and is a past president of the Morgan County Bar Association. He enjoys an excellent reputation for thoroughness and fairness throughout the region and State.

Jack knows the people of Northern Alabama, and he knows the specific issues and concerns which are unique to this area. His practice frequently takes him all over the district, to Florence and Huntsville, Gadsden and Anniston, and always back here to Decatur, where he lives with his wife Amy and their two daughters.

Jack Cadell has proven himself to be a great citizen and a great lawyer; I have no doubt that he will also prove himself to be a great judge. He will bring fairness to the bench from his experience on both sides of bankruptcy law. I am certain that as bankruptcy judge for the Northern District, Judge Cadell will continue the great legal tradition of the Caddell family. He is well qualified and will make an excellent judge in every respect.

I want to congratulate him and wish him all the best for a long and productive tenure on the bench as a bankruptcy judge.

LESSONS WITHOUT BORDERS

Mr. SARBANES. Madam President, last month I had the honor of participating in the launching of the U.S. Agency for International Development's Lessons without Borders Program series at Morgan State University in Baltimore. At that event, city officials, community leaders, and USAID professionals came together to initiate a dialogue on some of the problems that affect developing countries and U.S. inner cities alike, with the goal of sharing methods and solutions.

The program demonstrated not only that we can learn from the experience and creativity born of hardship in other countries, but that together we can develop common approaches that result in greater benefits to everyone. In areas such as providing preventive health care services, making credit available to small mom-and-pop businesses, eradicating preventable diseases, and lowering childhood mortality, there is much to be gained by taking advantage of some of the cost-effective and broad-based solutions that have been applied in the developing world. By sharing directly the ideas, information, and techniques that have been used in their respective areas, community service professionals and development experts are multiplying the impact of investments in domestic revitalization as well as in international development.

I would like to commend USAID Administrator Brian Atwood, Vice President AL GORE, Jr., Baltimore Mayor Kurt Schmoke, and all of those USAID and the city of Baltimore who made the June 6 event possible, and I would ask unanimous consent that the attached articles about the program, along with the Vice President's speech, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LESSONS WITHOUT BORDERS

(By Vice President Al Gore)

I've just come from a ceremony commemorating D-Day. We remember the actions fifty years ago today—not only of the allied soldiers—but also those who sacrificed at home.

But anniversaries of famous battles aren't just the cause of celebration. For while they remind us of the heroes of freedom and democracy they also remind us of the grim horrors of war—destruction and loss. They make us renew our effort to prevent future wars.

After WWII, it was the Marshall plan which aimed at revitalizing the economy and communities in Western Europe.

And it was a success. We helped Western Europe build a self-sustaining system which embodied participatory democracy, protected the free market and unleashed their productive energies.

And the Marshall Plan's success led to other foreign aid efforts. Like President Kennedy's Foreign Aid Act of 1961 which extended aid to Africa, Asia and Latin America.

He said soon after entering the White House that the developing world is "The great battle ground for the defense and expansion of freedom."

Since that time, we have learned many lessons in our efforts to aid developing nations. Lessons about housing, nutrition, vaccinations, prenatal health care and disease. Now it's time to bring the lessons we have learned abroad home, for these are "lessons without borders."

That's why we're here today. To continue a dialogue between development experts and those here at home who are working to solve economic and social problems in the United States.

I am particularly pleased that USAID has taken the lead on this.

Under Brian Atwood, the Agency has taken on the task of redefining its mission to meet the needs of the post-Cold War world. USAID has been a leader in the program I chaired, the National Performance Review, and it has made itself an official reinvention laboratory.

Those who may think reinvention is just another word for shuffling around bureaucratic boxes should look at what USAID is doing here. Since the Foreign Assistance Act became law thirty-three years ago, thousands of Americans have become involved in the rebirth of nations. They're agricultural experts, advising on soil conservation, cattle breeding and crop management.

They're teachers—helping communities establish schools where children are now learning to read, and technical facilities, where adults learn the skills they need to compete in a changing world.

They're water and waste experts, helping to set up clean water supplies and develop efficient, affordable ways to recycle waste.

They're public health officials—setting up clinics where expectant mothers and their children can receive health care, and whose effect is felt long after they have left.

They are precisely the kind of people who can help us solve problems within our borders.

Whether it's developing vaccine programs in Mali and Manhattan, or treating dehydration in Bangladesh and urban areas in the U.S. such as right here in Baltimore, some lessons are universal.

Let me give you some examples:

IMMUNIZATIONS

A few weeks ago we recognized Immunization Week at the White House. We pledged to keep working on developing new immunization strategies until children cease to die needlessly from diseases which are easily prevented.

In 1990, only 39 percent of inner city children in the United States were immunized against measles.

In Mali, infant mortality rates are among the highest in the world: over two-thirds of childhood deaths could be prevented by vaccination.

The University of Rochester is currently working in partnership with the Columbia University in Mali to improve child immunization levels among the poor, urban populations.

DEHYDRATION

Dehydration kills 3 million children every year. In the United States it kills up to 600 children and hospitalizes thousands every year.

USAID has found that feeding children a mixture of water, sugar, and salt prevents diarrhea from causing dehydration. This treatment costs pennies a day.

It now saves more than 1,000,000 lives a year.

SOCIAL MARKETING

USAID is using marketing techniques all over Africa, much like Colgate toothpaste, to "sell" socially important products like condoms, or messages stressing the importance of breastfeeding.

They pretest, package and promote the materials and launch the products just like a business would. This cause-related marketing is another example of something we can use within our borders.

COMMUNITY BASED SERVICES

USAID identifies credible people within the community and forms a network between these groups—in places like Kenya, Nigeria, Guatemala and El Salvador.

The groups then serve as actual service providers—going door to door to identify children with diarrhea or pregnant women. They then pass along their knowledge so the people can "help themselves." This is an excellent example of community empowerment and we can use this same idea right here at home.

PEST MANAGEMENT

Alley farming is a technique used in Nigeria to control crops without pesticides.

Rapidly growing trees are planted in bean fields, becoming an artificial host for parasites. The beans are allowed to grow quickly. The Nigerians then plant corn, and the pests feed on the beans. We can use this cheap, environment-friendly technique in Georgia and the Carolinas.

MICROENTERPRISE DEVELOPMENT

Credit and loans are now within reach of the poor.

A commercial bank in La Paz, Bolivia now gives loans solely to low-income people. The average loan is about $400. This bank makes more loans than the entire banking sector in Bolivia combined.

In the United States, there are 200 microenterprise programs just getting started—and here's a technique that can help.

The underlying solution we see from these examples is cooperation. Development comes from communities and individuals working together. It is a natural outcome of empowerment.

The community activists in this room know all too well that the problems on the table are severe and require considerable personal responsibility. But they also know that they are made worse by hopelessness.

The mother who doesn't get prenatal care, who doesn't know about nutrition or when to have her children immunized—her situation is made worse by a feeling of powerlessness.

The young man who wants honest work but lacks the means to start a business—his situation is made worse by a reasonable lack of hope.

We can't "develop" people, or make them assume responsibility for their own lives if they don't want to. This is as true here as it is overseas.

But we also know that we can use cooperative approaches to give people a sense of control over their futures—that they matter as positive contributors to society—not just as victims.

The federal government has a role to play and that's the basis of our community empowerment program. But the government can't do everything.

This is why I'm especially eager to see programs of microenterprise and community banking flourish in our poor neighborhoods. In developing countries, these programs have given tens of thousands of poor people the means to begin small, informal businesses that give them the strength to live lives of purpose and hope.

In neighborhoods where no one is literate—in homes where most infants are expected to die—in nations torn by violence and hunger and despair. Yet even in such environments, they have learned how to bring hope.

Now they're bringing those lessons home.

As the programs of Accion International and FINCA have demonstrated in Latin America, the real strength of microenterprise and neighborhood banking is empowerment at the grassroots level. It helps people take control of their own lives. It creates bonds among strangers. It helps to make a neighborhood from a bunch of buildings.

USAID, along with other development agencies and private voluntary organizations have learned how to achieve things in environments that have few resources, if any,

It reminds me of an old story about the business man who went to the oracle and said his abacus counters couldn't keep up with the workload—but couldn't afford to hire any new workers. What should he do?

"Each abacus counter must grow another finger on each hand," said the oracle.

"That's very wise," said the businessman. "But how do I get them to do that?"

"Ah," said the oracle. "I only make policy. Implementing it is your job."

We must remember that when it comes to implementing—we all have a role to play whether in the public or private sector, or through volunteer groups.

Eric Sevareid once told President Kennedy that:

"It doesn't make much sense when two people are sitting in a boat for one of them to point a finger accusingly at the other and say 'your end of the boat is sinking.'"

We know that we are all in the boat together. Only together can we formulate solutions which will put an end to poverty and ensure economic and social freedom for all—both overseas, and in our neighborhoods.

The time and opportunity are upon us. It's always been easy for Americans to lend a helping hand, but far more difficult to accept one.

On this day when we remember how Americans lent a helping had to Europe, let's dedicate ourselves to a continuing effort abroad, but also renewing our commitment within our own borders.

Yet here we are—truly helping ourselves—bringing the lessons we've paid for to our own doorstep. It is a hard path, but a necessary one. can traverse it best by traveling it together.

[From the Washington Post, June 11, 1994]

Foreign Aid Comes Home

The "Lessons Without Borders" program launched by Vice President Gore in Baltimore this week is supposed to be a winning proposition for all. The idea, generated by the U.S. Agency for International Development, is to bring to America's poor communities some of the lessons AID has learned while operating programs in the developing world. Baltimore Mayor Kurt Schmoke volunteered his city to be AID's opening act. His reasons for doing so were candid and telling about America today.

"It is an unfortunate fact of life," said Mayor Schmoke, "that we have in certain parts of our city health problems, housing problems, that resemble those in Third World countries." Those words, could have been spoken by any big-city major in America.

The similarities of conditions in the developing world and American inner cities and rural communities are mortifying. There are poor neighborhoods around the country with infant mortality rates that rank right up there with countries where Peace Corps volunteers and American aid workers are being dispatched to work. We think of children who die from diarrhea as being only found in countries like Bangladesh or Burkina Faso. In America's inner cities and in rural communities, however, hundreds of our own children are dying or being hospitalized each year from disease.

Vice President Gore noted that only 39 percent of inner city children were immunized against measles in 1990. Stack that up against poverty-ridden Egypt, where AID reports a 90 percent immunization rate, or India's 80 percent or the 88 percent immunization rate achieved in the Philippines. The sad fact is the some of what ails the most devastated countries on earth also afflicts communities within our own borders: illiteracy, poor nutrition, little or no prenatal care, disease, joblessness and, ultimately, hopelessness.

The Agency for International Development can't be expected to solve problems on American soil; the law prevents AID from doing that. But perhaps the agency—take a page from the developing world—can lend a helping hand by advising hard-pressed U.S. communities how they can use techniques from the Third World to address their own problems. After decades of work abroad, AID has learned many lessons. This experiment can usefully teach Americans another lesson: Images of Third World deprivation are universal; they can be even found on U.S. soil.

[From the Baltimore Sun]

Lessons from the Third World

For more than three decades, the United States has been sending small armies of people to poor countries to aid economic development efforts. Now, when Americans have plenty of reason to be concerned about their own economic well-being, many voters are beginning to look askance at the money spent on foreign aid. The partnership inaugurated this past week between Baltimore and the U.S. Agency for International Development is aimed at finding ways to apply the lessons learned in development efforts overseas to some of America's urban ills.

The lessons abound: Haiti may be poor, miserable and desperate. But in many areas it does better in immunizing its children against common childhood diseases than some parts of Baltimore. Could we learn something from their approach?

Bangladesh also has enormous misery and deprivation. But through its innovative Grameen Bank it has found a way to provide capital to millions of poor people, particularly women. In this country, poor people are caught in a credit bind, vastly limiting their ability to capitalize on their own initiative. Without money or other assets, it is hard to qualify for a loan.

The Grameen Bank has found that loans of even $10 and $20 enable women to invest in spinning wheels or other equipment necessary to begin very small businesses, or "micro enterprises." By helping these people tap into their own energy and initiative, the bank enables them to magnify their household income and improve their family's standard of living. Programs modeled on the Grameen Bank have given similar chances to poor people here; how can we expand these efforts?

Anyone familiar with the lives of very poor people, whether in inner cities or rural areas, knows their problems transcend national borders. Their problems reach far beyond the daily challenge to maintain adequate food and shelter. From unanticipated pregnancies, infant mortality and unhealthy children to lack of jobs or no access to credit, the problems of poor people in Maryland look a lot like those faced by the poor elsewhere in the world.

It is refreshing to see that a federal agency charged with funding development programs in other countries can also recognize the importance of finding ways to share what it learns with people in this country. That not only enriches efforts to help poor Americans; it also helps to inform taxpayers about the vital role foreign aid can play in a dangerously unstable world.

[From the Baltimore Sun, June 6, 1994]

Baltimore to Try Third World Remedies

(By Scott Shane)

For decades, the U.S. Agency for International Development has sent Americans into the Third World to attack the problems of developing countries: infant mortality and childhood illness, unplanned birth and sexually transmitted diseases, poverty and chronic unemployment.

Now AID wants to teach at home what it has learned abroad. In Baltimore and elsewhere, the agency wants to share remedies for the ills of urban America—infant mortality and childhood illness, unplanned births and sexually transmitted diseases, poverty and chronic unemployment.

Because Mayor Kurt L. Schmoke put aside boasterism and responded to AID's offer with a candid acknowledgment that the city needs help. Baltimore is the first U.S. city to be targeted by AID's "Lessons Without Borders" program.

It is an unfortunate fact of life that we have in certain parts of our city health problems, housing problems, that resemble those in Third World countries." Mr. Schmoke says. "And, if there are some techniques that AID has used overseas that can be used here. I'd like to apply those problem-solving techniques."

"Lessons Without Borders" will debut today with a conference at Morgan State University that will bring together Baltimore officials and staff members from AID, the major distributor of foreign aid. Vice President Al Gore will be the keynote speaker.

By law, AID is not permitted to fund programs in the United States. But, by offering advice and cheerleading, the agency is seeking to be midwife at the birth of a new generation of U.S. social programs.

AID officials acknowledge that they hope "Lessons Without Borders" will help them sell skeptical American taxpayers on the value of foreign aid. But, budgetary motives aside. American specialists in Third World development say the initiative is a long-overdue recognition that creative programs being used to attack stubborn social problems in Africa, Asia and Latin America could be useful on U.S. soil.

Whether it is immunizations in Haiti—where in some desperately poor neighborhoods the rate of childhood inoculation is far higher than in Baltimore—condom distribution in Central Africa or small enterprise development in Bangladesh. Third World social programs have much to teach U.S. policy makers, say Americans who have worked abroad.

"A lot of us who've worked overseas have been waiting a long time for this to happen," says Julie Convisser, who runs an AIDS preservation project in Portland, OR, based on a similar effort in Zaire. "As Americans we sometimes believe no other country has anything to teach us. We're wrong."

Portland's Project Action, the first U.S. effort of Population Services International, which operates in 24 other countries, is among a handful of successful transfers of Third World programs to this country. In Zaire, the battle against AIDS incorporated television soap operas promoting safe sex and condoms on sale for 2 cents apiece in every roadside bar or shop. In Portland, Project Action has produced MTV style television shows for adolescents and placed 185 vending dispensing condoms at 25 cents each, Ms. Convisser says.

"Lessons Without Borders" was born of a conversation late last year between AID Administrator J. Brian Atwood, 51, who was a few months into his job, and Marian Wright Edelman, the longtime head of the Children's Defense Fund.

As Mr. Atwood described AID's work abroad and Ms. Edelman recounted disheartening statistics on child health and poverty in the United States, they saw an opportunity, Mr. Atwood said last week by telephone from Geneva. He was returning from a tour of African famine areas undertaken at the request of President Clinton.

In a November appearance on C-Span, Mr. Atwood said, he "blurted out" the idea that AID hoped to consult with U.S. cities. Among the viewers was Schmoke aide Lee Tawney. He passed the word on to the mayor, who decided Baltimore should be part of the collaboration.

Mr. Atwood said AID has not previously sought to apply its expertise in the United States partly because the agency long felt beleaguered, a pawn in superpower politics that came under fire for dubious spending.

"During the Cold War, we did waste a lot of money to buy influence overseas," Mr. Atwood said.

The agency's budget peaked in the early 1980s at about $12 billion, much of it directed to fighting communism in Central America and elsewhere. Today, the budget may be less vulnerable to political pressure to steer the aid to allies, but it is down to $7 billion. "Lessons Without Borders" could protect that spending by providing visible evidence to Americans of the effectiveness of programs developed by AID.

Other developments make AID's initiative timely, public health experts say.

The debate over health care reform has given new urgency to cutting medical spending and one way to do it is to get away from the high-cost approach traditional in this country.

"We Americans like the idea of being rushed to a high-tech hospital," says Dr. William B. Greenough III. professor of medicine and international health at Johns Hopkins. "A great many things can be done at lower cost and with equal efficacy in the community and not in the hospital. In countries with very limited resources, you have to save the patient and save money at the same time."

A striking example is treatment for dehydration caused by diarrhea, says Dr. Greenough, who worked for eight years in Bangladesh before returning to the United States in 1985.

For many years, doctors in Third World countries have treated the condition with "oral rehydration therapy" a packet of a few cents worth of salts and sugars that can be mixed with water and drunk by the patient. If such a packet is not available, chicken and rich soup is a fine substitute, as Hopkins physicians have long pointed out

Yet the United States severely dehydrated patients generally are hospitalized and hooked up to an intravenous drip at a cost hundreds of times greater than the low-tech alternative. Indeed, because diarrhea is dismissed as a triviality, Dr. Greenough says, it often goes untreated, leading to many unnecessary deaths, particularly among nursing home patients.

Remedies that can be administered at home "lack TV appeal" and are not considered real medicine by Americans, who have an almost superstitious belief in costly machinery. "Basically, our witch doctor's mask is a lot more expensive," says Dr. Greenough, who welcomes AID's push to bring in low-tech methods.

Elizabeth Holt, an assistant professor of international health at Hopkins, is another public health professional who has worked on both sides of the great divide between domestic and international programs: in a poor urban community outside Port au Prince, Haiti, and in Baltimore and elsewhere in Maryland.

In the Haitian community, Dr. Holt says, the rate of complete immunizations by 1 year of age reached 85 percent in the late 1980's. In Baltimore, while nearly every child is immunized by school age, the rate at 2 years of age is only 55 percent, says Dr. Peter Beilenson, Baltimore's health commissioner.

The problem, Dr. Beilenson says, is not a shortage of facilities for immunization and other preventive care. It's the failure of people to take advantage of what's available. That's why Baltimore's Healthy Start program, which seeks to reduce infant mortality and the incidence of low birth-weight babies, hires community residents to do outreach work, identifying pregnant women and bringing them in for early prenatal care.

Healthy Start may have something to teach AID, says Margaret Neuse, deputy director of the agency's office of population. "Lessons Without Borders" should be a two-way street, she says.

In Latin America, Africa and Asia. Ms. Neuse says, she has faced difficulty in getting people to use health services. "I just came back from a place in Ethiopia with a population of 30,000, where a program serves just 10 clients a day. We had a case in Nepal where you couldn't pay women enough to get them to go to a clinic."

Joe Bock, a former Missouri legislator who has worked for two years for Catholic Relief Services, says he sees great potential for transfer of programs outside the area of health care to U.S. soil.

Many programs in the U.S. war on poverty have "failed miserably." says Dr. Bock, who will soon take over Catholic Relief's operations in Pakistan. "We're looking around for new ideas."

One such idea, he says, is what development professionals call microenterprise: tiny, family-based businesses started with minimal capital. The Grameen Bank ("rural bank") of Bangladesh, which has served more than 1 million poor women, has inspired a number of fledgling U.S. programs.

As the United States grapples with welfare reform, microenterprise offers an alternative approach to fighting poverty, one based on poor people becoming small-time entrepreneurs rather than cashing monthly checks.

"Unfortunately, we've had the idea of the U.S. riding in as a knight in shining armor to teach these countries." Dr. Bock says. "In fact, we can learn a lot from what they're doing."

[From the Baltimore Sun, June 7, 1994]

GORE LAUNCHES U.S. AID'S HELP FOR CITY

(By Richard O'Mara)

Vice President Al Gore launched a partnership yesterday between Baltimore and the U.S. Agency for International Development designed to apply here the agency's expertise in helping people mired in poverty.

Speaking at a conference titled "Lessons Without Borders," at Morgan State University, the vice president referred to the efforts of the tens of thousands of health workers, literacy teachers and small business advisers sent abroad since 1961 to focus America's attention on the plight of the Third World.

"It is time to bring this knowledge back home," he said.

"The idea might sound strange but it's not," he added. "Whether developing a vaccination program in Malawi or Manhattan, some lessons are universal."

The partnership is the first of its kind, but other cities—Chicago, Atlanta, Boston—have expressed interest in drawing on AID know-how.

J. Brian Atwood, AID adminsitrator, said, "It is people like those in Baltimore who invested in the foreign aid programs. Why shouldn't they benefit from it?"

The suggestion by Mr. Atwood, made on C-Span television late last year, was seized upon by Mayor Kurt L. Schmoke.

The vice president spoke to about 250 health and socialworkers and community activists at the Morgan conference, plus as many guests.

After that he visited the Family Place on Ashland Avenue—which provides services to needy families, such as literacy training, prenatal care, nutritional information and vaccinations—and was shown around an immunization bus that roams Baltimore's neighborhoods inoculating children.

At Morgan State, Mr. Gore pointed out that in 1990, only 39 percent of American children were immunized against measles. (In Baltimore, fewer than half the city's two-year-olds are up to date with their immunizations, said Charlotte Crenson, a city health program adminsitrator, who was on hand for the vice presidential visit to East Baltimore.)

Because of AID's skills abroad at propagating the importance of inoculations, a lot of developing countries are doing much better in immunization, he said.

AID marketing techniques also are effective at spreading the word in foreign countries about the protection against infant illness that breast feeding provides.

The agency encourages and underwrites banks in Third World countries to lend small amounts of money to poor people who have no collateral, but do have an idea for a business, or "microenterprise," Mr. Gore said.

AID also trains and deploys local community volunteers to assist professional health workers and community activists abroad.

The vice president called the use of volunteers "an excellent example of community empowerment, a technique we can use here. Something developed to help nations elsewhere can help here."

And the reverse can be true. Baltimore can teach AID a thing or two, agency officials said. For example, workers at Healthy Start, a prenatal care program, have devised strategies for dealing with substance abuse among the people it helps.

Healthy Start was founded in 1990 to help lower infant mortality rates in certain Baltimore neighborhoods that had reached Third World levels—19 deaths per 1,000 live births in Harlem Park and the area around Johns Hopkins Hospital, according to Daisy Morris, who runs Healthy Start.

"When we began we found that substance abuse was a tremendous problem, between 30 and 35 percent of [expectant] moms" had it, Ms. Morris said. The experience in dealing with this, Ms. Morris believes, is "what gave us the edge on a lot of cities, because we understood our moms."

Margaret Neuse, deputy director of AID's Office of Population, who has visited Healthy Start, said, "We have a lot to exchange with Baltimore. We have met different problems."

Everyone who addressed the Morgan State conference stressed that the partnership would be more than a rhetorical one, a friendly gesture from a Democratic president to a political ally in a nearby city. They insisted this was the case even though AID is prohibited by law to operate within the United States.

Other speakers included Mr. Atwood; U.S. Sen. Paul Sarbanes, a Maryland Democrat; and U.S. Rep. Kweisi Mfume, D–7th District.

Mr. Atwood announced that a working group would be set up with representatives from AID and the city to decide on reasonable expectations for the partnership.

Mr. Slater listed several likely AID initiatives. It would send field directors just returned from abroad to Baltimore to lecture and hold seminars; provide access to AID's enormous library to Baltimore health and nutrition workers; create internships for social workers from the city; and send people in the local helping professions to visit foreign development programs. Later in the day, Mr. Gore went to the Social Security Administration headquarters in Woodlawn and continued a theme that he raised at Morgan State: the benign intervention of government.

"Twenty-five or 30 years ago, more than 70 percent of the American people felt that government would do the right thing in solving national problems. Now only 20 percent believe that," he said.

"We have to put the customers (citizens) first," he emphasized.

CYPRUS: 20 YEARS ON JULY 27, 1994

Mr. BIDEN. Madam President, last week marked the 20th anniversary of a tragic event: The invasion of Cyprus by Turkish forces.

In that fateful month of July 1974, a coup by radical Greek Cypriots, instigated by the rightist Junta in Athens, threatened the Turkish minority in Cyprus. The plotters sought to unite Cyprus with Greece. Turkey, a guarantor of the treaty establishing Cypriot independence, sent forces, with two salutary results: The coup on Cyprus failed, and the dictatorship in Athens collapsed. Had Turkey withdrawn at that point, the world could hardly have complained. A few weeks later, however, in the midst of peace talks in Geneva, Turkey launched a second invasion, 40,000 troops proceeded to carve the nation in two.

The invasion was as vicious as it was rapid. Hundreds were killed. Nearly 200,000 Greek Cypriots—30 percent of the population—fled their homes in northern Cyprus and resettled in the South. To this day, over 1,500 people—including 5 Americans—remain unaccounted for.

Alert U.S. diplomacy might have averted tragedy. In the 1960's, warnings by President Johnson on two occasions had helped prevent Turkish intervention. But a Nixon White House distracted by Watergate ignored predictions of the coup on Cyprus, and stood by while Turkey launched its invasions.

Turkey's illegal actions were only briefly punished. The United Nations demanded Turkey's immediate withdrawal but enforced no sanctions. A partial U.S. arms embargo imposed by Congress lasted just 4 years.

Meanwhile, the occupation of northern Cyprus was buttressed by the immigration of mainland Turks who were encouraged to settle in Cyprus by Ankara. In 1983, Turkish Cypriots declared secession by establishing the "Turkish Republic of Northern Cyprus"—recognized only by Turkey. The U.N. Security Council again spoke forcefully, declaring the act legally invalid but it failed to act further.

For the past two decades, the illegal division of Cyprus has continued—a stark reminder of the failure of the international community to enforce its will. U.N. peacekeepers monitor a Cypriot dividing line. Beyond it, Turkey occupies nearly 40 percent of Cyprus in defiance of the United Nations charter and the Helsinki final act.

Numerous efforts have been made by U.S. and U.N. diplomats to resolve the crisis. Unfortunately, little tangible progress has resulted. To be sure, neither community on Cyprus is blameless. There have been moments over the past two decades where the Greek Cypriots have not been forthcoming in negotiations. But it cannot be disputed that most of the blame for the failure to resolve the Cyprus question lies with the Turkish Cypriots, and their patron in Ankara, the Government of Turkey.

Over the course of the last year, for example, the U.N. Secretary-General attempted to construct a series of confidence-building measures—modest but important steps designed to pave the way for comprehensive negotiations. After months of painstaking negotiations, the effort collapsed in May. The Secretary-General of the United Nations, Boutros Boutros Ghali, stated clearly that the Turkish Cypriots had caused the breakdown in the talks. With unequivocal language rarely employed by U.N. Diplomats, the Secretary-General reported that "at present, the Security Council finds itself faced with an already familiar scenario: the absence of agreement due essentially to a lack of political will on the Turkish Cypriot side." The Secretary General continued:

> While it can be understood that the Turkish Cypriot community has sometimes felt that its unhappy experience in the years before 1974 justified its unforthcoming approach on key aspects of the proposed * * * federation, I find it difficult to understand why similar reluctance should have affected the Turkish Cypriot leadership's approach to a set of eminently reasonable and fair proposals that would bring substantial and tangible benefits to its community without in any way compromising its security or its basic political positions.

The continued stalemate of the Cyprus question cannot be attributed only to Turkish Cypriot obstinance. The continued occupation of the island, and the economic support provided by Turkey, sustains the illegal regime in northern Cyprus, and thus is critical to the continuation of the status quo. Turkish forces, numbering approximately 30,000–35,000, occupy the island, despite United Nations Security Council and General Assembly resolutions demanding their withdrawal. Moreover, Ankara provides economic assistance that props up the Turkish Cypriot community. The Central Intelligence Agency reports in its "World Factbook" for 1993 that "Turkey normally underwrites a substantial portion of the Turkish Cypriot Economy." In late 1992, for example, Turkey provided a $100 million loan for economic development projects in the Turkish Cypriot area.

Given these facts, it should be obvious that United States diplomatic pressure should be focused on Ankara, the recipient of significant American economic and military assistance. Unfortunately, every administrator, Democratic and Republican, has resisted such an approach against Turkey, a member of the NATO Alliance which sits at a geostrategic corner of Europe critical to American interests.

To be sure, Turkey has played an important role in recent military operations in the region. During the Gulf War, critical air strikes were conducted from Turkish bases. Similarly, Operation Provide Comfort—the effort to protect the Kurdish population in northern Iraq from Saddam's legions—depends on the continued support of Turkey.

But Turkey's support of these operations does not absolve Ankara of responsibility to uphold the rule of law on Cyprus.

This week, the Clinton administration achieved a historic breakthrough in facilitating an end to the state of war between Israel and Jordan. The administration has also played a critical role in the accords between Israel and the Palestine Liberation Organization. A key element in the Middle East peace process has been high-level American diplomacy, including personal intervention by the President and the Secretary of State. Justice demands that the administration also turn to the Cyprus issue with equal vigor by pressing forcefully for Turkish withdrawal from Cyprus.

In the coming days, the United Nations Security Council is expected to call on the parties in Cyprus to undertake a new effort to accept confidence building measures, and press forward with negotiations on an overall resolution of the conflict. This presents an opportunity for the Clinton administration to accelerate its own efforts on Cyprus. United States policy should include the following elements:

First and foremost Turkey must understand that its occupation of Cyprus cannot continue. The United States and the other permanent members of the Security Council should make this clear in the strongest terms possible. Turkey must also use its influence with the Turkish Cypriot leader, Mr. Denktash, to come to terms.

Second, the President should appoint a special envoy on Cyprus, similar to the high-level Ambassador we now have on Haiti. Although for many years the United States has had a special Cyprus coordinator, in practice the incumbent has been a career foreign service officer, lacking the prestige and profile of an appointee with direct access to the President and the Secretary of State.

Third, to minimize Turkish Cypriot fears about a Turkish troop withdrawal, the United Nations should be prepared to expand its peacekeeping force on the island in the event of a settlement. Consideration should also be given to using forces from the permanent members of the U.N. Security Council.

Fourth and finally, the two Cypriot communities must understand that their interests will be served by a settlement. Toward that end, the United States and the European Union should pledge that a reunited Cyprus will be afforded full integration in Western economic and security institutions.

Madam President, for 20 long years the people of Cyprus have suffered the unnatural and illegal division of their beautiful island. The status quo cannot continue. I call on the administration, the United Nations, and my colleagues to work together to bring about a just resolution of the Cyprus conflict.

REV. THEODORE J. KOZLOWSKI

Mr. LEVIN. Madam President, I rise today to pay tribute to the Rev. Theodore J. Kozlowski of the Roman Catholic Diocese of Grand Rapids. In so doing, I join with the members of his church and community who are honoring Father Ted on August 7, 1994 for nearly four decades of selfless work for social justice.

Father Ted has served as director for the Hispanic Apostolate for the Diocese of Grand Rapids as an advocate, counselor, pastor, and friend. He has been a consistent and loving voice for a people who are too often overlooked and underserved. He knows that American culture is enriched by the diverse gifts that Hispanic-Americans bring to our shores, and he has steadfastly worked to eliminate racial barriers and erect bridges of understanding.

As a founding member of the Catholic Human Development agency and the former director of the Secretariat of Social Concerns, Father Ted raised the consciousness of social service staffs enabling them to meet the basic needs of individuals in the areas of health, housing, and emergency food distribution. He has also been a longtime advocate for gainful employment and justice in the workplace.

Long before health care was a popular topic, Father Ted was creating links with existing providers to address the needs of underepresented groups in accessing and receiving quality care from the health care system.

In the field of education, Father Ted has been active in both the private and public educational systems developing leadership opportunities for both parents and children. He ensures that the community learns to equate education with opportunity.

As cochair of the multicultural task force, Father Ted has been a leader in the crusade to obtain civil rights for all. He views racism as one of society's greatest evils and has never failed to denounce it as dehumanizing to both the bigot and the victim. He fights ignorance with education and answers hatred with love.

Because of his outstanding service, in 1993 the Diocese of Grand Rapids presented him with the Bishop Haas Award for Social Justice, its highest honor, named after the legendary Roman Catholic prelate and labor movement hero.

As a person who lives out his faith and embodies the highest ideals of his country, Father Ted Kozlowski is a shining example of service to others. Although his vocation is sectarian, his mission is ecumenical, always addressing the needs of the oppressed and underepresented.

Father Ted Kozlowski is a visionary, a steadfast worker, and an outstanding citizen. His legacy of service is something all of us should strive to emulate.

WELCOME NEWS FROM MOSCOW ON TROOP WITHDRAWAL FROM ESTONIA

Mr. PELL. Madam President, yesterday Russian President Yeltsin and Estonia President Lennart Meri reached an agreement on Russian troop withdrawal that effectively brings an end to an era of foreign encroachment on Baltic sovereignty. I welcome the announcement that the remaining 2,300 Russian troops will indeed be withdrawn from Estonia by the August 31 deadline to which the Russian Government had previously committed. As of that date, troops of the former Soviet Union, which occupied half of Europe for half a century, will no longer be stationed on European soil.

I think we all recognize the great difficulties that the vestiges of Soviet occupation of Estonia, Latvia, and Lithuania have caused for Russia and the three Baltic countries. Undoing the Soviet legacy cannot take place overnight, although among the people who were victims of the occupation, there is an understandably strong desire for instant change. In this context, the leaders of all four countries deserve credit for achieving agreement on the withdrawal of Russian troops less than 3 years after the Soviet Union's dissolution.

While we recognized the difficulties involved in securing a pull out, earlier this month, many of us were very concerned by statements by President Yeltsin as well as by Russian parliamentarians suggesting that the August deadline would not be met. Accordingly, yesterday's announcement is especially good news.

I would note that the Clinton administration deserves a great deal of credit for its quiet, yet effective diplomatic role in facilitating the Russian-Estonia agreement. Most people do not realize the amount of energy President Clinton has personally expended on this issue. Earlier this month, for example, the President made troop withdrawal a top priority issue on his very busy European agenda.

The Senate, too, has taken a strong position on troop withdrawal. A couple of weeks ago, we adopted an amendment to the Foreign Operations appropriations bill that would have cut off assistance to Russia if the August 31 deadline was not met. With the signing of yesterday's agreement, it appears that any aid cut-off will be averted, which is certainly good news for the Russian reformers, who after all, are key to making the troop withdrawals possible.

THE TREATMENT OF THE BAHA'I COMMUNITY OF IRAN

Mr. DODD. Madam President, I rise to inform my colleagues of a letter that was recently sent to President Clinton by myself and several of my colleagues regarding the treatment of the Baha'i community of Iran.

Madam President, ever since the Islamic regime took power in 1979, more than 200 members of the Baha'i faith—Iran's largest religious minority—have been executed and thousands have been imprisoned, solely on account of their religious beliefs. Although the repression appears to have been somewhat less violent in recent years, the Iranian Government continues to vigorously pursue a policy of religious repression of the Baha'is—a policy which was made explicit in an official government document revealed last year.

Iran's policy of pervasive religious discrimination threatens the very existence of the Baha'i community through severe economic and social repression. This has included the denial of education and job opportunities for Baha'is, confiscation of personal and community properties, and the denial of the right of the Baha'i community to meet and elect its leaders.

Last year, 52 Members of this body joined in cosponsoring Senate Concurrent Resolution 31, calling on Iran to end its religious persecution of the Baha'i community. This legislation was adopted by unanimous consent in the Senate on November 17, 1993. This year, the House of Representatives adopted an identical resolution by a recorded vote of 414-0. This represented the sixth time in the past dozen years that the U.S. Congress has adopted legislation expressing concern for the Iranian Government's persecution of the Baha'is.

Madam President, several Members of this body who took the lead in the adoption of Senate Concurrent Resolution 31 recently joined me in writing to President Clinton to urge the administration to continue its leadership and diplomatic efforts in support of the religious rights of the Baha'is. In the letter we urged the administration to continue to speak out in support of the cause of religious tolerance and freedom in Iran through the Voice of America and other appropriate public channels.

I ask unanimous consent that the full text of the letter appear in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 21, 1994.

The President,
The White House, Washington, DC.

DEAR MR. PRESIDENT: The purpose of this letter is to commend to your attention recent legislative action on Senate Concurrent Resolution 31, a measure we introduced last year that calls on Iran to end its persecution of the Baha'i community. This legislation, which gained 52 Senate cosponsors and passed the Senate by a unanimous vote in November, was adopted by the House of Representatives by a 414-0 vote on April 19th.

We are pleased that the Congress has chosen, for the sixth time since 1982, to convey its deep sense of concern over the officially-sponsored repression that has been directed against Bahai's since the Iranian Revolution. While this repression has been less violent in recent years, we remain concerned that the Bahai's—Iran's largest religious minority—continue to be singled out for persecution based on their religious beliefs. Indeed, this policy was made explicit in an official Iranian Government document that was revealed last year.

We know that you are committed to the cause of human freedom and civil liberties in Iran and that you are determined to take actions which serve to promote these important goals. To this end we urge the administration to continue its leadership and diplomatic efforts on the issue of the Baha'is and to continue to speak out in support of the cause of tolerance and freedom in Iran through the Voice of America and other appropriate public channels.

We welcome all you have done on behalf of the Baha'i community of Iran and we look forward to continuing to work with you in the future on this very important issue.

SINCERELY,
JOSEPH I. LIEBERMAN,
U.S. Senator,
CHRISTOPHER J. DODD,
U.S. Senator,
NANCY LANDON KASSEBAUM,
U.S. Senator,
JOHN MCCAIN,
U.S. Senator,
CLAIBORNE PELL,
U.S. Senator.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Madam President, before we ponder today's bad news about the Federal debt, how about a little pop quiz: How many million would you say are in a trillion? When you figure that out, just consider that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business on Tuesday, July 26, the Federal debt stood—down to the penny—at $4,632,296,732,963.69. This means that every man, woman, and child in America owes $17,767.69, computed on a per capita basis.

Madam President, to answer the question (how many million in a trillion?) there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

THE CRISIS IN RWANDA

Mr. MOYNIHAN. Madam President, the crisis in Rwanda is one of staggering proportions. Millions of lives hang in the balance as a result of this overwhelming humanitarian tragedy. Our ability to quickly implement a coordinated relief effort to those displaced is crucial. However, the key to success lies not only in providing supplies. Conditions inside Rwanda must be quickly stabilized so that refugees can soon return to Rwanda without the fear of violence.

Last week, President Clinton responded to the mass exodus of refugees from Rwanda by ordering a round-the-clock airlift of food, water, and medicine to the border areas where American troops have been dispatched to distribute this aid. The United States has responded by contributing more than $250 million in aid to Rwanda since April. I commend the efforts of the relief workers who have bravely met the crisis, the scope of which has not been witnessed in recent memory.

The United States is the best equipped to deal effectively with a crisis of these proportions. Indeed, the effort which President Clinton initiated last week reminds me of a past mission which displayed the ingenuity and generosity of our Nation. I am speaking, of course, Mr. President, of the Berlin airlift. At that time the United States, despite extreme logistical difficulties, was able to supply war-torn Berlin with humanitarian assistance. No matter we had just fought a world war with the Nazis. The United States responded to the genuine needs of the citizens of Berlin. We are now faced with an even more desperate situation than was witnessed in Berlin, and once again the President has mobilized a massive relief effort.

We are moving in the right direction but there is much still to be done to save the nearly 4.5 million Rwandans—both in and outside the country—displaced by the conflict. In the words of Panos Moumtzies, spokesman for the U.N. High Commissioner for Refugees, Rwanda has become, "A nation without people." As we respond to the immediate needs of those displaced by the crisis, we must also begin working to bring about conditions in Rwanda that will restore the confidence of refugees and create the opportunity for them to safely and voluntarily return.

Yesterday, the Foreign Relations Committee received some encouraging news during a hearing on the crisis: Human rights monitors will be allowed to enter Rwanda, and United States troops will now establish an operation in the capital, Kigali, to distribute food to those in need inside the country. These are two important steps which will help bring stability to Rwanda. There is still more to be done.

A continued source of instability has been the radio propaganda broadcasts which throughout the crisis have encouraged genocidal violence. There are reports that a new station is broadcasting from Zaire, spreading rumors designed to frighten people from returning to Rwanda. These broadcasts are deadly. They must be stopped.

Finally, Madam President, now that the United States has mobilized for this humanitarian effort, I must remind my colleagues that the root of the current crisis is the genocidal slaughter that has swept Rwanda since early April. The United States has voluntarily accepted the obligation under article I of the U.N. Convention on the

Prevention and Punishment of the Crime of Genocide, to prevent and punish the crime of genocide. Without further delay, the U.N. peacekeeping force in Rwanda known as UNAMIR needs to become fully operational. That force is not yet in a position to adequately protect the Rwandan people from further genocide. In order to prevent further disaster, it is vital that this force be expanded and quickly deployed.

We must act with great vigor to combine the efforts of the United States, international aid organizations and the international community to bring assistance to the suffering people of Rwanda and prevent further slaughter. There can be no more delay.

TRIBUTE TO STEVE SHERICK

Mr. BAUCUS. Madam President, all too often, Federal bureaucrats are depicted in a negative light. Today, however, I want to recognize the retirement of a man who personifies the best of public service, Steve Sherick. Steve worked for the U.S. Forest Service for almost 35 years. Throughout his career, he never forgot that he worked for the public, and the public never forget what a good friend they had in Steve Sherick.

Perhaps Steve's greatest asset is that he came from Butte. As most every Montanan knows, Butte natives are blessed with strong character, a good sense of humor, an abundance of charisma, and an unflagging loyalty to Montana. Steve has all the above and then some.

For the past 25 years, Steve worked as a public affairs officer at Region 1 Headquarters. During my tenure here in Washington, DC, Steve became a good friend and a strong ally in protecting the interests of Montanans on issues relating to Forest Service policy. For that I am truly thankful.

Steve, I am going to miss you, Montanans are going to regret seeing you go, and the Forest Service is going to have a tough time finding your equal. On this, the day of your retirement from government service, I want to recognize all you have done for Montana and the Nation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that House insists on its amendment to the bill (S. 2182) to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the entire Senate bill and the entire House amendment, and modifications committed to conference: Mr. Dellums, Mr. Montgomery, Mrs. Schroeder, Mr. Hutto, Mr. Skelton, Mr. McCurdy, Mrs. Lloyd, Mr. Sisisky, Mr. Spratt, Mr. McCloskey, Mr. Ortiz, Mr. Pickett, Mr. Lancaster, Mr. Evans, Mr. Bilbray, Mr. Tanner, Mr. Browder, Mr. Meehan, Mr. Spence, Mr. Stump, Mr. Hunter, Mr. Kasich, Mr. Bateman, Mr. Hansen, Mr. Weldon, Mr. Kyl, Mr. Dornan, Mr. Hefley, Mr. Machtley, and Mr. Saxton.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. Glickman, Mr. Richardson, and Mr. Combest.

As additional conferees from the Committee on Education and Labor, for consideration of sections 337, 346–347, 643, 924, 1051, and 1082 of the Senate bill and sections 351–354, 1133, 1136, 1138, and 1151 of the House amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Clay, Mr. Williams, Mr. Goodling, and Mr. Gunderson.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 142, 324, 708, 2821(e)(3), 2849, 3151, 3155, 3157–3158, 3160, and 3201 of the Senate bill and sections 1055, 3201, and 3502 of the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Sharp, Mr. Swift, Mr. Moorhead, and Mr. Bilirakis: *Provided*, That Mr. Waxman is appointed in lieu of Mr. Swift and Mr. Bliley is appointed in lieu of Mr. Bilirakis solely for the consideration of section 708 of the Senate bill: *Provided further*, That Mr. Oxley is appointed in lieu of Mr. Bilirakis solely for the consideration of sections 324, 2821(e)(3), 2849, and 3157 of the Senate bill and section 1055 of the House amendment.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 221–222, 225, 241, 251, 354, 823, 1012, 1013(b), 1014, 1015(a), 1016–1018, 1021(a), 1021(b), 1022–1023, 1024(c), 1031–1032, 1041, 1065, 1070, 1074, 1078–1079, 1088, 1092, and 1097 of the Senate bill and sections 1011(a), 1022–1025, 1038, 1041, 1043, 1046–1049, 1052, 1054, 1058–1060, 1201–1214, and 1401–1404 of the House amendment, and modifications committed to conference: Mr. Hamilton, Mr. Gejdenson, Mr. Lantos, Mr. Gilman, and Mr. Goodling.

As additional conferees from the Committee on Government Operations, for consideration of sections 824, 2812(c), 2827, and 3161 of the Senate bill and modifications committed to conference: Mr. Conyers, Mr. Towns, Mr. Synar, Mr. Clinger, and Mr. McCandless.

As additional conferees from the Committee on the Judiciary, for consideration of sections 1052–1053, 1089, and 3505 of the Senate bill and modifications committed to conference: Mr. Brooks, Mr. Hughes, Mr. Mazzoli, Mr. Sensenbrenner, and Mr. McCollum.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 357, 601, 654, 2206, 2825, 3134, and 3501–3505 of the Senate bill and sections 522–523, 527, 531, 601–602, 1137, and 3134 of the House amendment, and modifications committed to conference: Mr. Studds, Mr. Hughes, Mr. Tauzin, Mr. Fields of Texas, and Mr. Coble.

As additional conferees from the Committee on Natural Resources, for consideration of section 2853 of the House amendment and modifications committed to conference: Mr. Miller of California, Mr. Vento, Mr. Abercrombie, Mr. Young of Alaska, and Mr. Duncan.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 331–334, 346, 636, 901, 1080, 1087, 1090, and 3158 of the Senate bill and sections 165, 351, 375, 1031, and 2816 of the House amendment, and modifications committed to conference: Mr. Clay, Mr. McCloskey, Ms. Norton, Mr. Myers of Indiana, and Mrs. Morella.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 324, 1086, and 2827 of the Senate bill and section 3402 of the House amendment, and modifications committed to conference: Mr. Mineta, Mr. Applegate, Mr. Traficant, Mr. Shuster, and Mr. Clinger: *Provided*, That Mr. Duncan is appointed in lieu of Mr. Clinger solely for the consideration of section 2827 of the Senate bill.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 232–233, 243, 249, and 3141 of the Senate bill and sections 211(a), 211(b), 216(a), 216(b), 216(c), 216(e), 217–218, 223(a), 1112–1115, and 3141 of the House amendment, and modifications committed to conference: Mr. Brown of

California, Mr. VALENTINE, Mr. SCOTT, Mr. WALKER, and Mr. ROHRABACHER.

As additional conferees from the Committee on Veterans' Affairs, for consideration of section 641 of the Senate bill and modifications committed to conference: Mr. MONTGOMERY, Mr. SLATTERY, Mr. APPLEGATE, Mr. STUMP, and Mr. BILIRAKIS.

The message also announced that House disagrees to the amendment of the Senate to the bill (H.R. 2739) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes, and agrees to a conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House.

From the Committee on Public Works and Transportation, for consideration of titles I and II of the House bill, and the Senate amendment (except sections 121, 206, 304, 415, and 418 and title VI), and modifications committed to conference: Mr. MINETA, Mr. RAHALL, Mr. OBERSTAR, Mr. BORSKI, Mr. CLEMENT, Mr. SHUSTER, Mr. CLINGER, and Mr. PETRI.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title VI of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. NEAL of North Carolina, and Mr. LEACH.

From the Committee on Education and Labor, for consideration of section 418 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. OWENS, and Mr. GOODLING.

From the Committee on Education and Labor, for consideration of section 208 of the House bill, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. WILLIAMS, Mr. GOODLING, and Mrs. ROUKEMA.

From the Committee on Foreign Affairs, for consideration of section 415 of the Senate amendment, and modifications committed to conference: Mr. HAMILTON, Mr. LANTOS, Mr. ACKERMAN, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. GILMAN, Mr. GOODLING, and Mr. LEACH.

From the Committee on Science, Space, and Technology, for consideration of title III of the House bill, and sections 206 and 304 of the Senate amendment, and modifications committed to conference: Mr. BROWN of California, Mr. VALENTINE, Mr. GLICKMAN, Mr. GEREN of Texas, Ms. HARMAN, Mr. WALKER, Mr. LEWIS of Florida, and Mrs. MORELLA.

From the Committee on Ways and Means, for consideration of title IV of the House bill, and sections 121 and 122 of the Senate amendment, and modifications committed to conference: Mr. GIBBONS, Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. ARCHER, Mr. CRANE, and Mr. THOMAS of California.

The message further announced that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2739) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes: from the Committee on Education and Labor Mr. MCKEON is appointed in lieu of Mr. GOODLING for consideration of section 418 of the Senate amendment and modifications committed to conference.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3838. An Act to amend and extend certain laws relating to housing and community development, and for other purposes.

H.R. 3870 An Act to promote the research and development of environmental technologies.

MEASURES PLACED ON THE CALENDAR

The following measures were read the first and second times by unanimous consent and placed on the calendar:

H.R. 3838. an act to amend and extend certain laws relating to housing and community development, and for other purposes.

H.R. 3870. An act to promote the research and development of environmental technologies.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3110. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the audit of the financial statements of the Resolution Trust Corporation for calendar years 1992 and 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC–3111. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report with respect to a recent transaction involving U.S. exports to Russia; to the Committee on Banking, Housing and Urban Affairs.

EC–3112. A communication from the President of the United States, transmitting, pursuant to law, the report entitled "Republic of Palau: Economic Development Plan for fiscal years 1995-1999" and certain agreements; to the Committee on Energy and Natural Resources.

EC–3113. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the report on the operation of the trade agreements program; to the Committee on Finance.

EC–3114. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential Determination relative to South Africa; to the Committee on Foreign Relations.

EC–3115. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on efforts by the United Nations and the Specialized Agencies to employ a fair share of Americans; to the Committee on Foreign Relations.

EC–3116. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference held on March 15, 1994; to the Committee on the Judiciary.

EC–3117. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Special Management Improvement Plan; to the Committee on Labor and Human Resources.

EC–3118. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the sixth special impoundment message for fiscal year 1994; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Agriculture, Nutrition and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table, as indicated:

POM–605. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources.

"HOUSE CONCURRENT RESOLUTION NO. 82

"Whereas, the Civilian Conservation Corps was one of the most successful programs ever run by the United States government; and

"Whereas, the Civilian Conservation Corps was responsible for undertaking and completing a multitude of worthwhile projects, many of which are still providing benefits for the citizens of the United States; and

"Whereas, the essential element of the Civilian Conservation Corps, which was the foundation upon which the success of this program was based, was the service which the members of the Civilian Conservation Corps rendered to the program and to the United States; and

"Whereas, the United States Congress should recognize this service by authorizing the use of the United States flag to drape the coffins of former members of this program: Therefore, be it

"*Resolved,* That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to authorize the use of the United States flag to drape the coffins of the former members of the Civilian Conservation Corps; and be it further

"*Resolved,* That a copy of this Resolution shall be transmitted to the members and the presiding officers of each house of congress and to the Louisiana congressional delegation."

POM–606. A resolution adopted by the Commission of the City of Coral Gables, Florida relative to the Republic of China on Taiwan; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works, with amendments:

S. 617. A bill to authorize research into the desalinization of water and water reuse and to authorize a program for States, cities, or any qualifying agency which desires to own and operate a desalinization or water reuse facility to develop such facilities (Rept. No. 103-320).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2326. A bill to require the Secretary of Agriculture to issue regulations concerning use of the term "fresh" in the labeling of poultry, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DANFORTH:

S. 2327. A bill to amend the Civil Rights Act of 1964 to encourage mediation of charges filed under title VII of such Act and the Americans with Disabilities Act of 1990, to amend the Revised Statutes to encourage mediation of complaints filed under section 1977 of the Revised Statutes, and to decrease resort to the courts; to the Committee on Labor and Human Resources.

By Mr. SIMON (by request):

S. 2328. A bill to revise and simplify certain labor laws applicable to Federal contracts, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2329. A bill to settle certain Indian land claims within the State of Connecticut, and for other purposes; to the Committee on Indian Affairs.

By Mr. ROCKEFELLER (for himself, Mr. MURKOWSKI, Mr. DECONCINI, Mr. MITCHELL, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. CAMPBELL, Mr. THURMOND, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S. 2330. A bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. FEINSTEIN (for herself, Mr. BREAUX, Mrs. BOXER, Mr. PRYOR, Mr. BUMPERS, and Mr. JOHNSTON):

S. Con. Res. 73. A concurrent resolution expressing the sense of the Congress with respect to the announcement of the Japanese Food Agency that it does not intend to fulfill its commitment to purchase 75,000 metric tons of United States rice; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2326. A bill to require the Secretary of Agriculture to issue regulations concerning use of the term "fresh" in the labeling of poultry, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE TRUTH IN POULTRY LABELING ACT

• Mrs. BOXER. Mr. President, I am pleased to introduce today the Truth in Poultry Labeling Act of 1994. This legislation directs the Secretary of Agriculture to restrict the use of the term "fresh" to poultry that has never been kept frozen.

The bill would close a loophole in Federal law that allows frozen chickens and turkeys to be labeled and sold as fresh.

A few weeks ago fresh poultry producers held an event outside the Rayburn House Office Building featuring frozen chicken bowling. Members of the House actually bowled frozen chickens, clearly labeled as fresh. Even in the heat of a Washington summer the hard-as-rock chickens skated along the floor and knocked down pins as effectively as bowling balls.

Mr. President, this situation is not only absurd, it is grossly unfair to consumers and to the producers of genuinely fresh poultry. Consumers have no way of knowing whether the chickens and turkeys they buy for dinner are really fresh or whether they have been kept frozen for months and thawed out for sale.

And what's the difference? Consumers and some of our best chefs have testified that, in terms of taste and texture, fresh poultry is superior to poultry that has been kept frozen. Because of that, consumers are willing to pay a premium price for fresh poultry. Unfortunately, because of misleading labels, consumers are not always getting what they're paying for.

In addition, producers of genuinely fresh poultry in States like California are at a significant disadvantage as big out-of-State producers of frozen poultry benefit from lower feed costs, lower labor costs, and less stringent health, safety and environmental standards. This puts 25,000 jobs at risk in California alone.

We must put an end to the deception allowed by current law. Poultry that has been frozen and then thawed should be accurately labeled. This bill would in no way prohibit poultry producers from selling their frozen products in California or anywhere else. It would simply restrict their right to use the term "fresh" to products that are in fact fresh.

The Truth in Poultry Labeling Act of 1994 is supported by Consumers Union, the National Consumers League, Public Voice, the California Poultry Industry Federation, the Consumer Federation of America, and the United Food and Commercial Workers International Union.

I urge my colleagues to support this sensible legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Poultry Labeling Act of 1994".

SEC. 2. REGULATIONS ON LABELING OF POULTRY.

Not later than 120 days after the date of enactment of this Act, the Secretary of Agriculture shall issue final regulations under the Poultry Product Inspection Act (21 U.S.C. 451 et seq.) that prohibit the use of the term "fresh" on labeling of any poultry or poultry part, or of any edible portion of the poultry or part, that has been frozen or previously frozen to below 26 degrees Fahrenheit.•

By Mr. DANFORTH:

S. 2327. A bill to amend the Civil Rights Act of 1964 to encourage mediation of charges filed under title VII of such act and the Americans with Disabilities Act of 1990, to amend the Revised Statutes to encourage mediation of complaints filed under section 1977 of the Revised Statutes, and to decrease resort to the courts; to the Committee on Labor and Human Resources.

EMPLOYMENT DISPUTE RESOLUTION ACT OF 1994

• Mr. DANFORTH. Mr. President, I introduce the Employment Dispute Resolution Act of 1994. A companion bill, H.R. 2016 has been introduced in the House by Representative STEVE GUNDERSON.

This legislation is designed to provide an alternative to litigating employment discrimination claims. When I first introduced this measure in 1992, it was needed to ease the burden on the already swamped and overloaded court system and EEOC. Since that time, the plight of the courts and the EEOC has become steadily worse, and the need for this measure has become even more desperate.

According to EEOC Chairman Tony Gallegos, the agency received almost 88,000 new charges of discrimination in the year ending September 30, 1993. This is almost 22 percent more than the previous year and 38 percent more than 1991. This dramatic increase is the anticipated result of the protections legislated by Congress in the Americans With Disabilities Act [ADA] and the Civil Rights Act of 1991 [CRA].

Of course the effects of this deluge of claims are felt throughout the system. In September 1992, then-Chairman Evan Kemp reported that "EEOC investigators are already stretched to the limit. They will break under these conditions." Since then, matters have become even more drastic. The Americans With Disabilities Act and the Civil Rights Act of 1991 have both created protections which have generated significant numbers of claims. At the same time, claims of sexual harassment have doubled. As a result, the average time for processing a claim has more than doubled. And this hurts the claimants whose civil rights Congress wants to protect.

As Chairman Kemp said in 1992:

> Those who turn to the EEOC for relief will be forced to wait nearly three years before the agency can resolve their charges. A woman who files a charge of pregnancy discrimination, for example, will not see the case resolved until her child is in pre-school.
>
> The practical implications of such a delay are horrendous. They are horrendous not only for the charging party who feels his or her rights have been violated, but for the business charged with the alleged violation. An employer would be faced with the administrative nightmare of producing information to justify actions of three or four years earlier.

Chairman Kemp's analysis was corroborated by a recent GAO report which reviews the EEOC's methods for investigating and litigating discrimination charges. As reported by the GAO, by fiscal year 1996, the processing time for a discrimination claim could more than double. The GAO concluded that this delay can seriously injure complaining parties:

> The longer it takes to investigate a charge, the greater potential for difficulty in (1) locating witnesses, (2) obtaining from witnesses credible accounts of the actions alleged to be discriminatory, and (3) securing settlements—because the larger liability involved after a long time could make some employers less willing to settle. * * *
>
> The extensive processing times * * * that charging parties can expect to face in EEOC appear incompatible with the mission of the Commission "to ensure equality of opportunity by vigorously enforcing federal legislation prohibiting discrimination in employment * * *.

It is only getting worse. As of yesterday, July 26, the Americans with Disabilities Act has expanded to cover businesses with 15 or more employees; until now, it has only covered those with 25 or more. The EEOC simply cannot handle this explosion.

The situation in the courts is also disaster. The Civil Rights Act of 1991 added jury trials for compensatory and punitive damages to both title VII and the Americans with Disabilities Act. These valuable antidiscrimination measures are naturally strong incentives to litigate. Even before the enactment of these amendments, the number of private employment discrimination suits skyrocketed over 2,000 percent between 1970 and 1990.

Increasingly, therefore, the courts are not viable as a responsible enforcement mechanism. Finally, even if there were no problems of overcrowded court dockets and delays that are matters of years, the adversarial nature of a prolonged legal battle is so hostile, that it overcomes most prospects of resuming a productive work relationship after resolution of the charge.

There should be a better way and there is. It is called mediation. In the winter 1991–92 issue of The Journal of Intergroup Relations, a publication of the National Association of Human Rights Workers, there is an article called "Mediation of Civil Rights Complaints: Win/Win." The author, Clark Field, is a human relations specialist in Evansville, IN. He explains, simply, accurately and compellingly, why mediation is a superior method for resolving employment discrimination claims. I agree.

But I would like to share with my colleagues some of the arguments he makes in the article. Mr. Field's experience has led him to corroborate that which is intuitively true. That the adversarial process of litigation is itself destructive and a barrier to resuming a continuing employment relationship. That, even when a complainant wins the battle, he or she loses the war.

"Is there a better way?" asks the article. "A win/win method of dealing with discrimination charges, where the relationship of employer and employee may be maintained? Maybe so. With mediation, everyone wins."

The Employment Dispute Resolution Act is not just expedient, although it is that. It is not just speedier, although it is that. It is not just cost-effective, although it is that. This act is important because it is fair and good. It recognizes the plight of complainants who are intimidated by the prospect of hiring lawyers to embark on a prolonged, hostile and confusing battle that may take years to resolve. It provides neutrality and confidentiality to reassure employers that they should try to mend the situation rather than use their muscle to get their way in court.

In conversations my office has had with Mr. Field he has told us that he can mediate a case in 2 hours that normally would take 6 to 12 months or more to investigate. But, he says that "the most beautiful thing is to see people walk out smiling, shake hands and go away friends."

The concept of mediation as a win/win approach is being asserted by more and more experts in the field of employment disputes. In the June 1994 Labor Law Journal, an article entitled "Mediation of Employment Discrimination Claims: The Win/Win ADA Option" describes how well suited mediation is to resolving employment disputes. I recommend this article to my colleagues who are interested in doing something practical to help employees protect their rights in a timely and reasonable way. As that article concludes, mediation "is an especially appropriate vehicle for resolving employment discrimination claims, because mediation makes possible creative outcomes that serve the respective interests of the parties in ways that litigation or arbitration cannot."

And when these experts call mediation a win/win proposition, they are right on target. According to the GAO, "[m]ediation was the ADR approach discussed most often" in the interviews they conducted with EEOC commissioners, three former EEOC chairpersons, headquarters and field staff, Fair Employment Practice Agency staff, lawyers for charging parties and respondents and representatives of interest groups.

This has been my experience as well, when I have discussed my own mediation proposal. All sides recognize they have something to gain. Mr. Field reports that employers are sometimes reluctant to mediate out of fear that they may be surrendering some of their power. Increasingly, however, employers are recognizing that such fears are unfounded. That is the subject of a recently published monograph called "Alternative Dispute Resolution Techniques: Options and Guidelines To Meet Your Company's Needs." In that book, Douglas McDowell, the general counsel to the Equal Employment Advisory Council sets out the advantages which accrue to employers if they agree to mediate discrimination claims.

In April, Mr. McDowell testified before the Commission on the Future of Worker-Management Relations. The Commission, formed by Secretaries Reich and Brown, is headed by former Labor Secretary John Dunlop. Mr. McDowell recommended that the Commission closely examine the Employment Dispute Resolution Act and suggested that the approach taken by my bill could have a positive effect on resolving employment disputes before they reach the courts.

Mr. President, it is rare that labor and management find mutual advantage from the same reform. The Employment Dispute Resolution Act is one such rarity. I hold no illusions that mediation will be successful in every case. But under this act, there really is no downside. This legislation does not compel parties to mediate in all circumstances. However, where either of the parties feels that a settlement can be achieved in mediation, then the parties cannot proceed to litigate in the courts without first trying to work out their differences in mediation.

Let us act now to make available the civil rights protections we struggled so hard to win. Let us ease the massive burden of the EEOC and the courts. Let us establish procedures that are quicker, cheaper, and friendlier.

Mr. President, I ask unanimous consent that excerpts of Mr. Field's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Intergroup Relations, Winter 1991-92]

MEDIATION OF CIVIL RIGHTS COMPLAINTS: WIN/WIN

(By Clark G. Field)

INTRODUCTION

If you are not familiar with Mediation, let me first define it and describe it as a process. Mediation is the coming together of disputants with an unbiased facilitator ("third party neutral"), who will assist both parties—although there can be more than two disputants—in reaching an agreement. The mediator absolutely makes no decisions, but only facilitates consensus decision-making.

Mediation is not: compromise, negotiation arbitration, conciliation, nor striking a deal.

Mediation is: voluntary, immediate, future oriented, confidential, hard on facts but soft on persons; conducted by an unbiased, trained mediator; and respectful of disputants.

In a few months, I will have been writing "VS" on my letters, question-naires, fact-finding conference notes, and investigative summaries for eight years. I am a Human Relations Specialist/Investigator for the City of Evansville and Vanderburgh County, Indiana, and I have written that abbreviation "VS" thousands of times. Versus means "against"; it means "doing battle," "overcoming"—"VS" means "win/lose." Our society instinctively thinks of suing, forcing, litigating, winning when it comes to disputes.

When a person comes into our Human Relations office to file a discrimination charge (ninety-five times out of one-hundred, it will be in the area of employment), the common procedure is adversarial—only lately am I explaining the mediation option. If both parties should be amenable, we work out an informal resolution and, if the Complainant is found to have made a good case for him/herself (received a "Probable Cause" ruling), there is a time set (maybe twenty days) for reconciliation—these efforts I term "hit and miss" affairs.

There is an inherent flaw in our system, in our adversarial approach, and it is this. Typically, when the Complainant "wins" his/her case—proves discrimination because of race, sex, color, religion, national origin, age, or handicap—she/he will choose not to return to work for the same employer (Respondent). The feeling is that things will not be the same, that he/she will be picked on, or treated worse. Both Respondent and Complainant are reminded that retaliation is illegal, but Complainant still will be afraid to return to the old position. Therefore, we can say that Complainant "wins the battle, but loses the war."

It is my experience that more anger and ill will are generated by race discrimination charges than by any other kind. When the Respondent receives the official charge, e.g., "John Jones VS. John Doe Corp," a combination of feelings erupt in many employers, such as: anger, hostility, fear, hurt, bellicosity, indignation, frustration, embarrassment, defensiveness, vindictiveness, and maybe self-righteousness. More than anything else, whites do not like for blacks to point fingers at them and label them as discriminators and racists. Maybe, back in the recesses of our genetic history, guilt and fear linger as a remnant of slavery.

Is there a better way? Another route, other than "VS"? A win/win method of dealing with discrimination charges, where the relationship of employer and employee may be maintained? Maybe so. With Mediation, everyone wins.

PROBLEMATIC AREAS

1. The Motivation to Mediate

My experience has been that Complainant will usually consent to Mediation, while Respondent is much more hesitant. The reasons are pretty obvious, namely: Complainant has a lot to gain, such as an immediate resolution of the complaint and the repairing of the employer/employee relationship, while the Respondent must deal with a number of obstacles, including: fear of the unknown; fear of giving up power; fear of compromising their position; and the traditional dependence on legal counsel in such matters.

One of the challenges facing the mediator is that of balancing the power. In a Title VII (employment) charge, the power imbalance can be more pronounced than in any other setting—a large corporation facing an unemployed, and sometimes uneducated, ex-employee. But the more employers realize that not only valuable time, energy, and expense can be saved, but also valuable, trained employees can be "kept on board," the more they may choose the Mediation option.

In some Mediations, both parties, after they are familiar with the "Rules and Regulations of Mediation," are required to sign an agreement "to begin Mediation." This can be an important tool for successful Mediation.

2. That Impartiality Be Ensured

The most important attribute of any mediator is impartiality. If the investigator also serves as the mediator, there may be a conflict of interest should no agreement be mediated. For instance, if one of the participants proves to be very difficult, later this may bias the mediator/investigator.

In one of my mediations, I realized that Complainant, a white woman, was prejudiced against her black co-workers. She also appeared to have an emotional problem. As the Mediation progressed she backed off, and no agreement was reached. Because of this experience, I felt that she had no legitimate discrimination charge—she was claiming handicap discrimination. As it happened, we went to Mediation before she filed a discrimination charge. Had she later returned to file such a charge, I would have had to refer her to another investigator.

Generally, the mediator and the investigator should be different persons. In small offices, where there is only one investigator, something would have to be worked out. Where there is only an executive director and a secretary and where the Human Relations Commission does not have the force of law, as is the case in some rural Kentucky offices, Mediation could be extremely expedient, if properly promoted.

3. Timeliness

There is always a time limit, usually well defined, for filing discrimination charges. In Indiana, it is ninety days from the last date of harm for local and state commissions, and usually one hundred and eighty days for the Equal Employment Opportunity Commission (EEOC). Since Mediation is voluntary and unofficial, it is better for Complainant's charge to be filed initially, in order to preserve the timeliness. Then, when Mediation results in an agreement, Complainant can withdraw his/her charge. Otherwise, Complainant's timely filing could be compromised.

CONCLUSION

At a time in the United States when cities and states are experiencing a financial crunch and as we move into 1992, when the Americans with Disabilities Act (ADA) will "kick in" for handicapped persons—thus presenting enforcement agencies with perhaps 30 percent more complaints—Mediation can be a very "timely" process. With Mediation, the possibilities are almost limitless. It empowers both employer and employee to sit down together and solve their problems—this way, both win.

While we have been focusing on discrimination in employment in this paper. Mediation will serve a similar purpose in other discrimination charges—housing, education, finance, and public accommodations. In housing especially, Complainants need immediate action, and the survey showed that some offices use Mediation exclusively for housing discrimination charges.●

By Mr. SIMON (by request):

S. 2328. A bill to revise and simplify certain labor laws applicable to Federal contracts, and for other purposes; to the Committee on Labor and Human Resources.

FEDERAL ACQUISITION LABOR LAW IMPROVEMENT ACT OF 1994

● Mr. SIMON. Mr. President, I am pleased to introduce today the Federal Acquisition Labor Law Improvement Act of 1994. I am introducing the legislation on behalf of the Clinton administration. The Federal Acquisition Labor Law Improvement Act of 1994 is the product of work initiated by the National Performance Review as part of their efforts to streamline the Federal procurement process. The bill proposes reforms to the Davis-Bacon Act and other labor laws applicable to Federal contracts. The reforms are designed to clarify the law and to reduce administrative burdens.

The administration remains strongly committed to the protections that the Davis-Bacon Act and other laws provide to workers. These reforms are designed to balance the objectives of these laws with the administration's goal to streamline the Federal procurement process. The key components of the Davis-Bacon Act reform in the proposal are: a threshold increase, simplified reporting requirements, a clarification of coverage, and a private right of action.

Mr. President, I look forward to working with the administration as the Federal Acquisition Labor Law Improvement Act of 1994 moves through the legislative process. I ask unanimous consent that the bill, and other material be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Labor Law Improvement Act of 1994".

SEC. 2 AMENDMENTS TO THE DAVIS-BACON ACT.

The Act of March 3, 1931, 46 Stat. 1494, as amended, commonly referred to as the "Davis-Bacon Act", 40 U.S.C. 276a et seq., is amended—

(1) by retitling section 1 (40 U.S.C. 276a) to read "CONTRACT REQUIREMENTS" and amending subsection (a) to read as follows:

"(a) REQUIRED PROVISIONS.—(1) IN GENERAL.—A contract described in subsection (b) which requires or involves the employment of mechanics and/or laborers shall contain a provision:

"(A) stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the locality where the work is to be performed;

"(B) which stipulates that the contractor or subcontractor under the contract shall pay all laborers and mechanics under the contract—

"(i) unconditionally,

"(ii) not less often than once a week; and

"(iii) without subsequent deduction or rebate on any account, unless otherwise authorized in writing by such laborer or mechanic in accordance with section 186(c)(4) of title 29, United States Code or by regulations issued by the Secretary of Labor, the full amounts accrued at the time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics;

"(C) which stipulates that the requirements of paragraph (A) shall apply to laborers and mechanics employed by the contractor or subcontractor to work directly upon the site of the work, including work at fabrication plants, batch plants, tool yards or similar facilities (other than previously established facilities of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to the contract work) which are not located on the project site but are dedicated exclusively, or nearly so, to construction of the project; and to laborers and mechanics, including truckdrivers, employed by the contractor or subcontractor to transport materials, supplies, and equipment to and/or from the site of the work (other than the hauling of materials or supplies to the site of the work from a permanent previously established facility by truckdrivers employed by a bona-fide independent trucking company or bona-fide material supplier), including between the actual construction location and other covered facilities; and

"(D) which stipulates that there may be withheld from the contractor under the contract or any contract between the same contractor and Federal Government or the District of Columbia or under any Federally assisted contract subject to Davis-Bacon prevailing wage requirements so much of accrued payments as may be considered necessary by the contracting officer or by the Secretary of Labor to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors or their agents, and, if the violations are willful, to pay an additional equal amount as liquidated damages. Funds withheld under this section shall be placed in an interest bearing account until the disposition of the funds is administratively and/or judicially resolved.

"(2) POSTING.—A contractor or subcontractor under a contract described in subsection (b) shall post the scale of wages required to be paid under such contract in a prominent and early accessible place at the site of the contract work.";

(2) by redesignating subsection (b) as (c), inserting "WAGES.—(1) DEFINITION.—" after "(c)", redesignating "(1)" and "(2)" as "(A)" and "(B)", redesignating "(A)" and "(B)" as "(i)" and "(ii)", changing all references to "subparagraph (2)(A)" to "subparagraph (B)(i)", changing all references to "subparagraph (2)" to "subparagraph (B)(ii)", changing all references to "paragraph (1)" to "subparagraph (A)", change all references to "paragraph (2)" to "subparagraph (B)", and by inserting "(2) OVERTIME.—" at the beginning of the last paragraph of the subsection;

(3) by inserting the following as new subsection (b) of section 1 (40 U.S.C. 276a) to read as follows:

"(b) COVERED CONTRACTS.

"(1) IN GENERAL.—The requirements of this section shall apply to any contract to which the United States or the District of Columbia is a party:

"(A) for the new construction, complete rehabilitation or reconstruction, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia in excess of $100,000;

"(B) for the repair and/or alteration, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia in excess of $50,000.

"(2) LEASES OF REAL PROPERTY.—The requirements of this section shall apply to any contract to which the United States or the District of Columbia is a party for the new construction, complete rehabilitation or reconstruction, including painting and decorating, of any building or work which is so constructed, rehabilitated or reconstructed for lease to, and in preparation for occupancy and use by, the United States or the District of Columbia where such lease provides for an average annual rental in excess of $100,000, provided, that any use of the building or work other than by the United States or the District of Columbia will be functionally or quantitatively incidental to the use and occupancy by the United States or the District of Columbia.

"(3) FEDERALLY ASSISTED.—(A) The requirements of this Act apply as provided in subparagraph (B) of this paragraph to any project for the construction, rehabilitation, reconstruction, alteration or repair, including painting and decorating, of buildings or works which are financed in whole or in part by loans, grants, revolving funds, loan guarantees, or other assistance from the United States pursuant to a statute which (i) is enacted after the effective date of this Act unless exempted or otherwise limited by Federal law, or (ii) contains a provision requiring the payment of prevailing wages as determined by the Secretary of Labor pursuant to this Act.

"(B) The provisions of this Act shall apply to Federally assisted projects if the amount of Federal financial assistance provided for the project exceeds the applicable thresholds set forth in this subsection for contracts to which the United States or the District of Columbia is a party. In the case of loan guarantees or other assistance for which the instrument of Federal financing or assistance does not have an aggregate dollar amount or cannot be determined, this Act shall apply when the value of the assisted project exceeds the applicable threshold set forth in this subsection for projects to which the United States or the District of Columbia is a party.

"(4) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—The amounts of the thresholds set forth in paragraph (1) shall be adjusted by the Secretary of Labor each year that is divisible by 5 to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, shall be rounded to the nearest $1,000. The adjusted threshold shall be effective upon publication in the Federal Register to contracts for which bids are solicited or negotiations concluded after such publication.

"(5) PROHIBITION ON SPLITTING CONTRACTS.—No project that would, if procured under a single contract, be subject to the requirements of this Act may be divided into multiple contracts of lesser value to avoid the application of this Act.

"(6) PREFMPTION.—Neither the requirements of subsection (a) nor the provisions of any other Federal law or regulation related to prevailing wages shall, solely by reason of such prevailing wage provisions preempt the application of requirements for the payment of wages or fringe benefits or both adopted by State, local or tribal governments otherwise applicable to contracts for the construction, rehabilitation or reconstruction, repair or alteration, including painting and decorating, of buildings and works financed in whole or in part by loans, grants, revolving funds, loan guarantees, or other assistance from the United States, unless compliance with such requirement would make it impossible to comply with the requirements of subsection (a).";

(4) by retitling section 3 (40 U.S.C. 276a-2(a)) to read "ENFORCEMENT" and amending subsection (a) to read as follows:

"(a) ADMINISTRATIVE PROCEDURES.—(1) PAYMENTS.—The Secretary of Labor is hereby authorized and directed to pay directly to laborers and mechanics from any accrued payments withheld under the contract or any contract between the same contractor and the Federal Government or District of Columbia or under any Federally assisted contract subject to Davis-Bacon prevailing wage requirements any wages found to be due laborers and mechanics pursuant to this Act, and if the violations were willful, for payment of an additional equal amount as liquidated damages. Any sum not paid to an employee because of inability to do so within 3 years shall be deposited into the miscellaneous receipts of the United States Treasury. If the accrued payments withheld are insufficient to reimburse all the laborers and mechanics with respect to whom there has been a failure to pay the wages required by this Act, the Secretary or any laborer or mechanic or any organization authorized to represent such laborer or mechanic may, within one year of the conclusion of all administrative proceedings, bring an action against the contractor and the contractor's sureties or other responsible parties for the payment of wages and liquidated damages found due by the Secretary. In such an action it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds. Every suit instituted under this subparagraph shall be brought in the United States district court for the district in which the contract was performed, where the contractor or subcontractor is currently doing business, or where the contractor or subcontractor maintains its payroll records, irrespective of the amount in controversy in such suit. In such suits, the parties must conform to Chapter 7 of Title 5 of the United States Code.

"(2) DEPARMENT.—The Secretary of Labor is further authorized and directed to provide the names of persons or firms whom the Secretary has found to have disregarded their obligations to employees and subcontractors to the General Services Administration for inclusion on the governmentwide List of Parties Excluded from Federal Procurement and Nonprocurement Programs. No contract shall be awarded to the person or firm appearing on this list or to any firm, corporation, partnership, or association in which such person or firm has an interest until three years have elapsed from the date the persons' or firms' name is entered on the electronic version of the list.

"(3) AUTHORITY.—The Secretary of Labor shall prescribe appropriate standards, regulations and procedures in order to assure coordination of administration and consistency of enforcement of this Act which shall be observed by the Federal agencies responsible for administration of contracts described in subsection (b) of section 1 of this Act. The Secretary of Labor and the Federal agencies awarding contracts or providing financial assistance to projects are authorized to investigate compliance by any contractor or subcontractor with the requirements of the Act, and may take such action to secure compliance with such requirements as may be appropriate. The Secretary shall have the power to issue orders requiring the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the case of contumacy, failure, or refusal of any person to obey such order, any district court of the United States or of any territory or possession, within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person who is guilty of contumacy, failure, or refusal is found, or resides or transacts business, upon application by the petitioner, shall have jurisdiction to issue to such person an order requiring such person to appear before the Secretary or a representative designated by the Secretary, to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.";

(5) by amending subsection (b) of section 3 (40 U.S.C. 276a–2(b)) to read as follows:

"(b) REVIEW PROCEDURES.—(1) ACTION BY THE SECRETARY.—The Secretary of Labor shall issue regulations providing procedures for making determinations regarding the application of this Act to given contracts.

"(2) COVERAGE REVIEW.—(i) Any interested person, as defined in regulations issued by the Secretary of Labor, shall have the right to request the Secretary of Labor to make a determination regarding the applicability of the Act to a contract. Such determination shall be binding upon the Federal agencies awarding contracts or providing financial assistance and any recipient of financial assistance. If the Secretary notifies the contracting agency that the contract is subject to the Act, the contracting authority shall include in the contract the provisions required by section 1, including any applicable wage determination issued by the Secretary or his authorized representative, through the exercise of any and all authority that may be needed (including, where necessary, its authority to negotiate or amend, its authority to pay any necessary additional costs, and its authority under any contract provision authorizing changes, cancellation, and termination).

"(ii) Any person adversely affected or aggrieved by a determination by the Secretary of Labor made on a petition filed pursuant to paragraph (i), may obtain review of such determination in any United States court of appeals for the circuit in which such person is located, or in the United States Court of Appeals for the District of Columbia, by filing in such court within 60 days following issuance of such determination, a written petition praying that such determination be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court in which it is filed to the Secretary and to other interested persons. Review shall conform to Chapter 7 of Title 5 of the United States Code.";

(6) by amending section 3 (40 U.S.C. 276a–2) to add a new subsection (c) to read as follows:

"(c) RIGHT OF ACTION.—(1) IN GENERAL.—A laborer or mechanic employed pursuant to a contract, subcontract, loan, grant or other agreement which incorporates the provision required by section 1, or an organization authorized by such laborer or mechanic to represent the laborer or mechanic, who has not been paid in full therefor shall have the right to sue the contractor and/or subcontractor and the contractors' sureties for the amount, or balance thereof, unpaid and, if the violations were willful, for an additional equal amount as liquidated damages, and to prosecute said action to final execution and judgment for the sum or sums justly due the laborer or mechanic. A copy of the complaint shall be served on the Secretary of Labor. Such an action shall be commenced not later than 180 days after the day on which the last labor was performed under the contract with respect to which the action is brought, except that such time allowed for commencement shall be tolled if the contract is under investigation or review, including review of the applicability of the Act to the contract, by the Secretary of Labor pursuant to section 2(b) of this Act. In such an action it shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds. Any action that requires a determination of the applicability of the Act shall first be referred by the Court to the Secretary of Labor for the opportunity to make a decision pursuant to paragraph (b)(2) of this section. No action may be brought or maintained under this paragraph by a laborer or mechanic with respect to the laborers' or mechanics' wages if an administrative proceeding or judicial action has been brought by the Secretary for the payment of wages alleged due such laborers or mechanics.

"(2) ACTION.—Every suit instituted under paragraph (c)(1) shall be brought in the United States District Court for the district in which the contract was performed, where the contractor or subcontractor is currently doing business, or where the contractor or subcontractor maintains its payroll records, irrespective of the amount in controversy in such suit.

"(3) ATTORNEY'S FEE.—The Court in any action brought under paragraph (c)(1) shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant and the cost of the action."

SEC. 3. AMENDMENTS TO THE COPELAND ACT.

Section 2 of the Act of June 13, 1934, 48 Stat. 948, as amended, commonly referred to as the "Copeland Act", 40 U.S.C. 276c, is amended to read a follows:

"(a) The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair and/or alteration of buildings or works subject to the Davis-Bacon Act, as amended (40 U.S.C. 276a et seq.), or to the requirement of payment of wages determined in accordance with the Davis-Bacon Act. The regulations shall include provisions: (1) requiring contractors and subcontractors to submit along with each payment request under the contract a signed statement certifying that all persons employed in the performance of work under the contract have been paid the full amount of wages earned without deductions, except as permitted by regulations under this act, during the period covered by the payment request and certifying that all payroll records maintained and/or submitted by the contractor or subcontractor under subsections (b) and (c) of this section are correct and accurate, and (2) requiring lessors to submit monthly during the period of construction subject to prevailing wage provisions of the Davis-Bacon Act a signed statement certifying that all persons employed in performance of work under the contract have been paid the full amount of wages earned without deductions, except as permitted by regulations under this Act, during the period covered by the payment request and certifying that all payroll records maintained and/or submitted by the contractor or subcontractor under subsections (b) and (c) of this section are correct and accurate. Section 1001 of title 18 of the United States Code (Criminal Code and Criminal Procedure) shall apply to such statements.

"(b) Such regulations shall provide, among other things—

"(1) in the case of contracts which exceed $100,000 (as adjusted under section (b)(3) of 40 U.S.C. 276a), that all contractors and subcontractors, unless waived by the Secretary of Labor, shall furnish with respect to persons employed in such work not later than the 10th day of each month a payroll statement which sets forth at least the following information for each person for each payroll period ending during the preceding calendar month: the name, address, social security number, employment classification, number of hours worked daily and during the payroll period, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits), all deductions made, and actual wages paid, and

"(2) procedures for waiving the requirement for submission of monthly payroll statements based on criteria established by the Secretary of Labor. Such criteria shall include, but are not limited to, the contractor or subcontractor (A) has never been debarred for disregarding its obligations to employees under the Act of March 3, 1931, 46 Stat. 1494, as amended, commonly referred to as the "Davis-Bacon Act" or any other labor standards statute, (B) has demonstrated a thorough knowledge of the requirements of the Davis-Bacon Act through a history of compliance with the requirements of the Davis-Bacon Act over a substantial period of time, and (C) has otherwise demonstrated through performance that it is a responsible contractor.

"(c)(1) Each contractor and subcontractor shall maintain payroll and other basic records relating to payroll as required by regulations issued by the Secretary of Labor and shall preserve such records for a period of three years after completion of the contract work.

"(2) The contractor or subcontractor shall submit payroll and related records to the contracting officer or the authorized representatives of the Secretary of Labor upon request, and make payroll and related records available for inspection upon request. If a contractor or subcontractor fails to make records available in a timely manner as required herein, the Secretary of Labor or authorized representatives or the contracting officer may suspend all payments to the contractor or subcontractor. Any statement provided under this section, excepting social security numbers, may be obtained by any person from any department, agency, or contracting authority which is required by law, regulation, or the terms of a contract, grant, or other agreement, to maintain a record of such statement without regard to the provisions of section 552 of title 5, United States Code.

"(3) The Secretary of Labor may require by subpoena testimony and the production of payroll and related record access to which is provided by this section. Any such subpoena in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(4) The Secretary of Labor may debar contractors, subcontractors or other persons pursuant to section 3(a)(2) of the Davis-Bacon Act who fail to submit payroll records when requested to do so or who fail or refuse to make payroll records available for inspection, including contractors and subcontractors who fail to retain required records, or who maintain or provide false payroll records.

"(5) Any contractor, subcontractor or other person whose duty it shall be to employ, direct, or control any laborer or mechanic employed in the performance of any contract to which this Act applies who other than inadvertently provides false payroll records to the Government under any mechanism provided for in this section, shall be subject to a fine of not to exceed $25,000, or by imprisonment for not more than one year, or both, in the discretion of the court having jurisdiction thereof.

"(d) This section shall not apply to any contract or project that is exempted by its size from the application of the Act of March 3, 1931, 46 Stat. 1494, as amended, commonly referred to as the 'Davis-Bacon Act', 40 U.S.C. 276a et seq."

SEC. 4. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.

The Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327–333) is amended—

(1) by striking, in subsection 330(a), "Comptroller General of the United States" and substituting "Secretary of Labor";

(2) by striking, in subsection 333(d)(1), "Comptroller General" and substituting "General Services Administration"; and

(3) by amending subsection 333(d)(2) to read as follows:

"(2) The General Services Administration shall include each name so transmitted on the governmentwide List of Parties Excluded from Federal Procurement or Nonprocurement Programs. No contract shall be awarded to the person or firm appearing on the list or to any firm, corporation, partnership, or association in which such person or firm has a substantial interest until three years have elapsed from the date the persons' or firms' name is entered on the electronic version of the list."; and

SEC. 5. SERVICE CONTRACT ACT.

The Service Contract Act, Pub. L. 89–286, as amended (41 U.S.C. 351(a)), is amended—

(1) by striking, in subsection 4(d), ", if authorized by the Secretary," and "not exceeding five,";

(2) by amending subsection (a) of section 5 to read as follows:

"(a) The Secretary is directed to provide the names of persons or firms that the Secretary has found to have violated this Act to the General Services Administration for inclusion on the governmentwide List of Parties Excluded from Federal Procurement or Nonprocurement Programs. Unless the Secretary determines otherwise because of unusual circumstances, no contract of the United States shall be awarded to the person or firm appearing on this list or to any firm, corporation, partnership, or association in which such person or firm has a substantial interest until three years have elapsed from the date the persons' or firms' name is entered on the electronic version of the list."; and

(3) by striking paragraph (2) of section 7 and redesignating paragraphs (3) through (7) as (2) through (6).

SEC. 6. EFFECTIVE DATE.

This Act shall apply to all contracts entered into pursuant to negotiations concluded or invitations for bid issued on or after 180 days from the date of enactment of this Act.

FEDERAL ACQUISITION LABOR LAW IMPROVEMENT ACT OF 1994—SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

Section 1 provides that the proposed Act may be cited as the "Federal Acquisition Labor Law Improvement Act of 1994."

SECTION 2—AMENDMENTS TO THE DAVIS-BACON ACT

Section 2 amends provisions of the Davis-Bacon Act to address the following issues:

Designation of locality

Subsection (a)(1)(A) of Section 1 of the Act (40 U.S.C. 276a) as amended deletes all reference to "city, town, village, or other political subdivision of the State" and substitutes in its place "in the locality where the work is performed". This change conforms the language of the Davis-Bacon Act and the Service Contract Act and gives the Department of Labor greater flexibility for establishing wage determinations.

Authorized deductions from wages

Subsection (a)(1)(B)(iii) of Section 1 of the Act (40 U.S.C. 276a) as amended requires contractors and subcontractors to pay laborers and mechanics unconditionally at least weekly and without subsequent deduction or rebate. A new exception from the broader language prohibiting subsequent deductions or rebates on any account has been made for deductions authorized by section 186(c)(4) of title 29 U.S.C. to accommodate union job targeting programs. Section 186(c)(4) allows employers to deduct union initiation fees, dues and assessments from the wages of employees and remit such amounts to a labor organization, provided that the employer has received a written authorization for each employee on whose account deductions are made. However, this new exception in no way otherwise limits the Secretary of Labor's authority to permit reasonable deductions pursuant to regulations issued under section 2 of the Copeland Act (40 U.S.C. 276c).

Definition of site of work

Subsection (a)(1)(C) of Section 1 of the Act (40 U.S.C. 276a) as amended applies the Act's requirements to laborers and mechanics employed by the contractor or subcontractor to work directly upon the site of the work, including work at fabrication plants, batch plants, tool yards and other similar facilities that are dedicated exclusively, or nearly so, to the performance of the contract work. This language essentially codifies the Department of Labor's "site of the work" regulations for activities performed by employees of a contractor or subcontractor at facilities dedicated exclusively, or nearly so, to the contract work but which are not located on the project site. The language change does not, however, extend the Act's coverage provisions to previously established fabrication plants, batch plants, tool yards and similar facilities of a contractor, subcontractor or material supplier whose location and continuance in operation are determined wholly without regard to the contract work, even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of the contract. These changes nullify the effects of the Court of Appeals decision in *Ball, Ball and Brosamer, Inc.* No. 92–5366, June 10, 1994.

The Act will also apply to laborers and mechanics, including truckdrivers, employed by the contractor or a subcontractor to transport materials, supplies, and equipment to and/or from the site of the work including between the actual construction location and fabrication plants, batch plants, tool yards or similar facilities that are dedicated exclusively, or nearly so, to construction of the project. This language essentially reinstates the Department of Labor's long-standing rule covering truck drivers employed by contractors and subcontractors who haul materials and supplies to or from a Davis-Bacon covered site. The language change does not, however, extend the Act's provisions to truckdrivers employed by a bona-fide material supplier or bona-fide independent trucking company, when hired by contractors or subcontractors, if the truck drivers are transporting materials or supplies to the site of the work from a previously established permanent facility. These changes nullify the effects of the Court of Appeals decision in *Building and Construction Trades Department, AFL–CIO* v. *United States Department of Labor*, 932 F. 2d 985 (D.C. Cir. 1991) but not the Court of Claims decision in *H. B. Zachry Co.* v. *United States*, 170 Ct. Cl. 115, 344 F. 2d 352 (1965).

Covered contracts

Subsection (b)(1) of section 1 of the Act (40 U.S.C. 276a) as amended replaces the current single coverage threshold of $2,000 with a threshold of $100,000 for contracts for new construction, complete rehabilitation or reconstruction (including painting and decorating) of public buildings and public works, and a $50,000 threshold for contracts for repairs and/or alterations (including painting and decorating) of public buildings and works.

The thresholds are established solely for purposes of determining whether the statute applies to projects and are not determinative of the nature of projects for wage determination purposes. Thus, separate wage schedules need not be developed or issued for new construction, rehabilitation or reconstruction versus repair and alteration.

In defining the terms the Secretary shall consider the term "new construction" to mean the initial construction of any building or work or the initial construction of an addition or extension to an existing building or work (e.g., adding a new wing or additional floors to an existing building). The term "complete rehabilitation or reconstruction" shall be defined to mean the complete renovation, rehabilitation or reconstruction of an existing building or work.

Subsection (b)(2) of section 1 of the Act (40 U.S.C. 276a) as amended applies to contracts to which the United States or District of Columbia is a party for the new construction, complete rehabilitation or reconstruction of any building or work which is so constructed, rehabilitated or reconstructed for lease to, and in preparation for occupancy and use by, the United States or the District of Columbia where such contract provides for an average annual rental in excess of $100,000, provided, that any use of the building or work other than by the United States or the District of Columbia will be functionally or quantitatively incidental to the Government's use and occupancy. Where the building to be constructed will be occupied by tenants other than the Government, the construction of the building would be covered only if the use by the other tenants would be functionally or quantitatively incidental to the Government's use. In other words, the tenants' use would be functionally incidental if it served the Government or its employees—e.g., physical fitness or other athletic facilities, child care centers, credit unions, retail space such as cafeterias, restaurants or dry cleaners. The other tenants' use would be incidental in a quantitative sense if it were a relatively small proportion of the usable space, in relation to the space leased to the Government. It is anticipated that regulations of the Secretary will set clearer parameters for these criteria.

The Act will not apply to repairs or alterations, including painting and decorating, of any leased buildings or works performed by the lessor within the general scope and under the terms and conditions of the lease. Repairs and alterations performed by the lessor which are within the general scope of the lease are those which should be regarded as fairly and reasonably within the contemplation of the parties when the lease was entered into. Construction or repairs and alterations, including painting and decorating, that fall outside the general scope of the lease, even if they are performed by the lessor under a supplemental agreement to the lease, would be treated as a new procurement subject to the Act if the criteria in subsection (b)(1) of the Act are met. The principles of Federal procurement law will apply in determining whether work is outside the general scope of the lease contract.

Subsection (b)(3) of section 1 of the Act (40 U.S.C. 276a) as amended applies prospectively to new enacted statutes that provide Federal assistance unless exempted or otherwise limited by Federal law if the amount of Federal assistance provided for the project exceeded $100,000 for new construction or $50,000 for repairs and alterations.

Subsection (b)(4) of section 1 of the Act (40 U.S.C. 276a), as amended, provides a mechanism for periodic (every 5 years) adjustments of the threshold based on inflation.

Subsection (b)(5) of section 1 of the Act (40 U.S.C. 276a) as amended prohibits splitting contracts to avoid the threshold.

Subsection (b)(6) of section 1 of the Act (40 U.S.C. 276a) as amended deals with preemption and makes it clear that application of the Act would not preempt requirements of State or local laws related to the payment of wages. Contractors would have to comply with Davis-Bacon and State or local laws unless compliance with State or local law would make it impossible to comply with Federal law in which case the Contractor would comply with Federal law.

Enforcement

Section 3 of the Act (40 U.S.C. 276a-2(a)) is retitled and revised to enhance the enforcement provisions by: (1) establishing provisions for the Secretary of Labor to review an agency determination regarding the applicability of the Act to particular contracts; (2) providing for liquidated damages in an amount equal to the amount of unpaid wages for willful violations; (3) specifically authorizing the Secretary of Labor to bring action against the contractor, the contractor's sureties or other responsible parties for payment of wages; (4) providing for funds withheld to be placed in an interest bearing account until disposition of the funds is administratively or judicially resolved; (5) authorizing the Secretary of Labor to pay laborers and mechanics directly from funds withheld under contracts; (6) authorizing the Secretary of Labor instead of the Comptroller General to debar contractors for violations of the Act; (7) providing for listing of debarred parties on the Governmentwide list maintained by the General Services Administration; and (8) providing laborers and mechanics a private right of action. Such actions will be filed in United States District Court. The private right of action provision allows for the Court to provide for payment of reasonable attorney's fee to be paid by the defendant and the cost of the action.

SECTION 3—AMENDMENTS TO THE COPELAND ACT

Section 3 amends the Copeland Act to eliminate the current requirement for submission of weekly payroll data on all covered contracts of $100,000 or less (repair and alteration contracts over $50,000). For contract in excess of $100,000 (to be adjusted every 5 years to reflect inflation) the frequently for submission of weekly payroll data is changed from weekly to monthly. In addition, the Act is amended to provide for the Secretary of Labor to issue regulations which will provide procedures for waiving the requirement for monthly payroll data submission for contractors or subcontractors with a demonstrated history of compliance. These changes will significantly benefit the procurement community by reducing the flow of paper to the contracting agencies and reduce the paperwork burden on contractors and subcontractors. Contractors will, however, be required to certify with each payment request submitted to the contracting agency that employees have been properly compensated and that their payrolls, either maintained or submitted, are correct.

Section 3 also amends the Copeland Act to enhance the enforcement mechanisms by (1) requiring the contractor to maintain records for a period of 3 years after completion of the contract, (2) providing for suspension of all payments under the contract for failure to submit payroll and related records upon request by the contracting officer or a representative of the Secretary of Labor, (3) providing the Secretary of Labor authority to subpoena testimony and the production of payroll records, and (4) establishing a penalty of not to exceed $25,000 or imprisonment for not more than one year, or both for submission of false payroll records.

In addition, the Copeland Act is amended to provide for release of monthly payroll statements, excepting social security information, by any department, agency, or contracting authority which is required by law, regulations or terms of a contract or grant to maintain a record of such statement.

SECTION 4—AMENDMENT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Section 4 amends the Contract Work Hours and Safety Standards Act to provide for the Secretary of Labor rather than the Comptroller General to initiate debarment action for violations of the Act and for the submission of information on debarments to the General Services Administration (GSA) for inclusion on the Governmentwide List of Parties Excluded from Federal Procurement or Nonprocurement Programs. This change will provide for uniformity with other labor laws with respect to the process for withholding and disbursing funds to employees, for debarring violators, and for disseminating information on debarment actions. It will reduce costs by cutting out the Comptroller General. Uniformity in procedures under the various labor laws simplifies matters for contractors, procuring agencies and the Department of Labor. It also resolves possible constitutional issues regarding the role of the Comptroller General.

SECTION 5—SERVICE CONTRACT ACT

Section 5 amends the Service Contract Act by eliminating the current 5 year limitation on the period of a contract while retaining the provision for incorporating updated wage determinations in multiyear contracts at least every two years. It also amends the Act to provide for the Secretary of Labor to debar contractors for violations and for use of the Governmentwide list maintained by GSA to disseminate information on debarment actions.

SECTION 6—EFFECTIVE DATE

Section 6 establishes the effective date of the amendments to the various labor laws.

OFFICE OF MANAGEMENT
AND BUDGET,
Washington, DC, July 26, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a legislative proposal entitled the "Federal Acquisition Labor Law Improvement Act of 1994." A sectional analysis is also enclosed.

The Administration continues to support the basic protections provided by the Davis-Bacon Act. At the same time, the National Performance Review (NPR) highlighted the need to streamline Davis-Bacon requirements as they apply to Federal procurement. For example, the NPR recommended reducing burdensome reporting requirements and increasing the onerous low threshold for the Act's coverage, which has remained unchanged since 1935. Davis-Bacon streamlining will produce administrative savings and reduce burdens on small construction contractors doing business with the Government.

The Administration has developed a balanced package of Davis-Bacon reforms, which would achieve streamlining without undercutting the wages of construction workers. The enclosed legislative proposal:

Raises the threshold for coverage from $2,000 to $100,000 for new construction and from $2,000 to $50,000 for repairs and alterations.

Eliminates more than three quarters of contractors' reporting requirements.

Prospectively applies Davis-Bacon to federally assisted construction (unless Congress votes otherwise) and introduces an automatic inflation adjustment to the coverage threshold.

To keep the package balanced, (1) restores traditional Department of Labor policies (recently overturned in court) regarding the definition of the worksite for the purposes of coverage, and (2) establishes a worker-initiated remedy for Davis-Bacon enforcement.

Provides a statutory standard for the coverage of Davis-Bacon in cases of leased construction. The need for such a standard has become more urgent given the recent ruling of the Department of Justice that Davis-Bacon can cover leased buildings.

This legislative proposal provides a significant opportunity for the first reform of the Davis-Bacon Act in many decades. I urge its prompt and favorable consideration by the Congress.

Sincerely,

ALICE M. RIVLIN,
Acting Director.•

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 2329. A bill to settle certain Indian land claims within the State of Connecticut, and for other purposes; to the Committee on Indian Affairs.

THE MOHEGAN NATION OF CONNECTICUT LAND CLAIMS SETTLEMENT ACT OF 1994

• Mr. DODD. Mr. President, I introduce the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994. I am joined in this effort by my good friend and colleague, Senator JOSEPH LIEBERMAN.

This legislation can be described as the final leg of a journey that began in Colonial times. It was then that white settlers in the Colony of Connecticut first encountered and befriended the Mohegan Tribe, a band of Indians that dwelled primarily in what is now New London County along the banks of the Thames River. Regrettably, in a scenario that has become all too familiar in the annals of the history of United States-Native American relations, the Mohegans ultimately paid a severe price for their willingness to cooperate with the Europeans. They were eventually forced onto a reservation, only to find the boundaries of that land shrink steadily over time.

Three hundred years later, descendants of the Mohegans still reside in eastern Connecticut, living and working side-by-side with descendants of the original Europeans.

And after a lengthy and complicated process, the modern-day Mohegan Tribe has succeeded in documenting their historical and genealogical linkages with the original tribe and have satisfied the requirements necessary to achieve Federal recognition. I commend the tribe for persevering on the administrative recognition process. Challenging though it may be, the Mohegan experience illustrates that the administrative process does work, and ought to be followed.

It remains for the Congress, however, to enact legislation to extinguish any pending Mohegan land claims. Though most of these claims were filed prior to the establishment of the Federal recognition process, they continue to cloud land titles in Connecticut to this day.

The legislation I am about to introduce extinguishes those pending land claims. This is an important step—not just for the tribe, but for the citizens of Montville as well. Homeowners, many of whom have been living with clouded titles for a dozen years or more, will finally have peace of mind when they go to sell or refinance their property.

In addition to the extinguishment provisions, the bill authorizes the Secretary of the Interior to accept lands to be taken into trust by the United States for the Mohegan Tribe, so that they may establish a reservation. Finally, the legislation paves the way for implementation of a pair of underlying agreements that the Mohegan Tribe has negotiated with the State of Connecticut and the town of Montville, CT, respectively.

With regard to those agreements, I am pleased that the tribe has made the effort to sit down with their non-Indian neighbors and work out agreements that address the legitimate concerns of those citizens. These groups have been and will continue to be neighbors for a very long time, and it is in everyone's interest to start off on the right foot. To be sure, the future endeavors of the Mohegan Tribe will have an impact on the other residents of the town of Montville, and by establishing a cooperative relationship at this juncture, the prospect for continued mutual respect and collaboration is greatly enhanced.

These agreements would not have come about without the concerted efforts of Mohegan Chief Ralph Sturges and Mayor Wayne Scott of Montville. I commend them both for sitting down and forging a positive relationship.

I also want to acknowledge the efforts of my colleague in the House of Representatives, Congressman SAM GEJDENSON, who introduced this measure in the House. I look forward to working with him and my colleagues in the Senate to enact this legislation.•

By Mr. ROCKEFELLER (for himself, Mr. MURKOWSKI, Mr. DECONCINI, Mr. MITCHELL, Mr. GRAHAM, Mr. AKAKA, Mr. DASCHLE, Mr. CAMPBELL, Mr. THURMOND, Mr. SIMPSON, Mr. SPECTER, and Mr. JEFFORDS):

S. 2330. A bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes; to the Committee on Veterans' Affairs.

VA COMPENSATION FOR UNDIAGNOSED ILLNESSES

• Mr. ROCKEFELLER. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am introducing today S. 2330, a bill to amend title 38, United States Code, to clarify that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to service-connected disability compensation from the Department of Veterans Affairs. I am enormously pleased that all members of the Committee on Veterans' Affairs have joined me as original cosponsors of this important measure. They are ranking minority member MURKOWSKI and Senators DECONCINI, MITCHELL, GRAHAM, AKAKA, DASCHLE, CAMPBELL, THURMOND, SIMPSON, SPECTER, and JEFFORDS.

Mr. President, this bill would clarify the authority of the Department of Veterans Affairs to pay service-connected disability compensation to veterans who are clearly disabled as the result of illnesses that cannot be diagnosed. The necessity for this measure has arisen with respect to compensation for Persian Gulf war veterans.

Mr. President, I first express my deep concern about the Department's failure thus far to compensate certain Persian Gulf war veterans who should already be compensated. This problem is the direct result of VA's refusal to grant service connection to those veterans with clearly disabling conditions who do not have a diagnosable illness which VA will recognize as meeting the definition of "disease."

Mr. President, since their service in the Persian Gulf theater of operations, many members of the U.S. Armed Forces have experienced serious, unexplained health problems that many suspect are related to their in-theater service before, during, or after the war. A small number also have experienced specific health problems that clearly are related to this service, such as leishmaniasis, which results from infection by a known tropical parasite.

In the past year or so, there has been a great deal of attention paid to the mysterious illnesses experienced by Persian Gulf veterans. Veterans and active-duty servicemembers have reported chronic symptoms such as joint pain, debilitating fatigue, hair loss, impaired memory, and skin rashes. Often, these afflictions are broadly referred to as "Persian Gulf Syndrome" or "Gulf War Syndrome." Whatever their source or cause, these symptoms have led to varying degrees of disability for numerous veterans.

At first, much of the focus was on the effects of the burning oil from wells in Kuwait set afire by Iraqi troops. More recently, the focus has expanded to include the potential health effects of other chemical exposures during military operations in the Persian Gulf, as well as the experimental drugs and vaccines that were administered to hundreds of thousands of servicemembers.

Congress, VA, and the Department of Defense have taken a number of actions to address the problems facing Persian Gulf veterans. Legislation has required VA and DOD to conduct health examinations and establish registries of Persian Gulf war veterans, in an effort to record and track any health problems. The registries are meant to preserve information about these troops that could prove vital in assessing the health impact of the various exposures in the Gulf. The examinations and registries are intended to give the Federal Government an opportunity to observe and monitor the health of these veterans, in an effort to allow for valid, long-term, scientific study of these reported medical problems—without immediately reaching any conclusions about specific conditions or mandating any particular studies.

Congress also required VA and DOD to seek to enter into a contract with the National Academy of Sciences' Medical Follow-Up Agency [MFUA] to review the existing scientific, medical, and other information on the health consequences of military service in the Persian Gulf theater of operations. Under this provision, MFUA also would assess the effectiveness of efforts by VA and DOD to collect and maintain information potentially useful for assessing these health consequences. Finally, MFUA would evaluate and recommend whether there is a scientific basis for VA and DOD to undertake an epidemiological study or studies, and, if so, what types of studies would be appropriate.

In April 1994, the National Institutes of Health held a workshop on the health effects of service in the Persian Gulf. This workshop was cosponsored by VA, DOD, and other Federal agencies. Unfortunately, the experts on the panel did not have sufficient information to draw conclusions about the causes of the symptoms being experienced by Persian Gulf war veterans.

Mr. President, while all of these actions are being taken, there are many veterans who continue to suffer from disabilities resulting from their Persian Gulf service, yet nevertheless remain uncompensated.

VA maintains that current law does not authorize the Department to compensate any veterans who do not have diagnosable illnesses—even if symptoms first showed up during service. VA will not award compensation because there is no diagnosis of a defined disease on the veteran's medical examination report.

Mr. President, sections 1110 and 1131 of title 38, United States Code, state that the Federal Government will pay compensation for a disability resulting from personal injury suffered or disease contracted in line of duty * * *. Nothing in the law requires that a disability must consist of a specific diagnosed condition in order to be awarded service connection and subsequently rated for purposes of determining the amount of the compensation payment. The requirement of a diagnosed condition is one imposed by VA for purposes of adjudicating claims for service-connected disability compensation. This may be convenient for VA, but it is not a requirement of the law.

I simply cannot understand why VA takes the position it does concerning compensation for Persian Gulf veterans, particularly in light of the Department's duty, under section 1154 of title 38, to resolve every reasonable doubt in favor of combat veterans and generally to apply the "reasonable doubt doctrine" in every case, under section 3.102 of title 38, Code of Federal Regulations.

Mr. President, I remain firm in the belief that the Department has sufficient legal authority under existing law to fully remedy this situation. The full membership of the Committee on Veterans' Affairs shares this view, as reflected in a June 9, 1994, letter from all members of the Committee to Secretary of Veterans Affairs, Jesse Brown, in which we urged him to take action to compensate Persian Gulf veterans without delay. Nevertheless, correspondence and discussions over the past few weeks between the Committee and VA have indicated that the Department remains unconvinced of this authority. Therefore, legislation is required.

Mr. President, this bill is intended to solve this stalemate by affirming VA's authority to pay compensation for a disability that happens to result from an illness that has no defined diagnosis. This bill would afford a broad approach to addressing the problem of compensation for Persian Gulf veterans. Because it would affirm VA's general authority related to service connection for disabilities, it would apply to all veterans with chronic, undiagnosed illnesses, not only to Persian Gulf veterans.

Mr. President, this bill would amend sections 1110 and 1131 of title 38 to clarify that the term "disease" for purposes of eligibility for disability compensation includes undiagnosed illnesses. The bill also would amend section 1154 of title 38 to require that VA regulations governing the determination of service connection include consideration of any military experiences or medical symptoms that a veteran may have in common with other veterans whose service was similar to the veteran's. For example, in the case of Persian Gulf veterans, VA would be required to take into consideration the similarity of the constellation of medical symptoms suffered by so many Persian Gulf veterans. Such similarities, while not explained, must be attributed to more than mere coincidence and these veterans must be given the benefit of the doubt.

Mr. President, section 1101 of title 38 sets out a list of specific chronic diseases that may be service-connected on a presumptive basis under section 1112(a) if they show up within a year after the veteran leaves service. Section 1101 also gives the Secretary authority to establish presumptive service connection for such other chronic diseases as the Secretary may add to this list. The clarification of current law contained in the measure introduced today, along with the provision in section 1101 that allows the Secretary to add chronic diseases to the list, would provide the Secretary with all the tools needed to compensate Persian Gulf veterans for undiagnosed illnesses.

Mr. President, I regret that this situation requires a legislative remedy. However, I strongly believe this measure is the appropriate action to take if the Department will not correct this problem on its own. This bill would provide clarification of VA's existing authority to award service connection for disabilities resulting from undiagnosed conditions, without expanding or changing that authority. Of the various legislative options available, I believe this is the preferable approach because it avoids micromanagement of the Department by Congress, and validates VA's authority to make decisions concerning service connection for specific conditions.

Congress should not be in the business of legislating service connection for every new disease that results from service in particular wars or military conflicts. This measure leaves the discretion for such decisions to VA, where it rightfully belongs. Only when VA fails to act properly in carrying out its obligations with respect to compensating veterans for service-related disabilities should Congress step in and take some corrective action.

This measure will not resolve all of the problems faced by Persian Gulf veterans. There are still many unanswered questions concerning the health effects of the chemical exposures in the Persian Gulf and whether conditions that take a longer time to show up can be connected to Persian Gulf service. However, as it has been noted previously in this debate, we will have to wait for the scientific and medical evidence to provide us with answers. In the meantime, VA can and should be acting with respect to at least some of the affected veterans. This bill will ensure that VA is able to do just that.

Mr. President, my hope is that we can enact this measure quickly, so that VA can begin to compensate all veterans who are suffering from undiagnosed, service-connected conditions that have left them severely disabled. These deserving veterans should not be penalized simply because their diseases have no name. They are sick because of their military service, and therefore should receive compensation from the Government they served so bravely.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF RELATIONSHIP BETWEEN UNDIAGNOSED ILLNESS AND DISEASE FOR PURPOSES OF ENTITLEMENT TO DISABILITY COMPENSATION.

(a) WARTIME DISABILITY COMPENSATION.—Section 1110 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "For disability"; and

(2) by adding at the end the following:

"(b) For the purposes of this section, the term 'disease', in the case of an individual, means any deviation from or interruption of the normal structure or function of any part, organ, or system of the body of the individual that is manifested by a symptom or sign (or symptoms or signs) the etiology, pathology, and prognosis for which is known or unknown.".

(b) PEACETIME DISABILITY COMPENSATION.—Section 1131 of such title is amended—

(1) by inserting "(a)" before "For disability"; and

(2) by adding at the end the following:

"(b) For the purposes of this section, the term 'disease', in the case of an individual, means any deviation from or interruption of the normal structure or function of any part, organ, or system of the body of the individual that is manifested by a symptom or sign (or symptoms or signs) the etiology, pathology, and prognosis for which is known or unknown.".

(c) CONSIDERATION OF CIRCUMSTANCES OF SERVICE.—Subsection (a) of section 1154 of such title is amended to read as follows:

"(a) The Secretary shall include in the regulations pertaining to service-connection of disabilities the following provisions:

"(1) Additional provisions requiring that due consideration be given in each case where a veteran is seeking service-connection for a disability and where such consideration might materially assist the veteran in establishing such service-connection to—

"(A) the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which the veteran served, such veteran's medical records, and all pertinent medical and lay evidence; and

"(B) the common or shared experiences, medical symptoms or signs, or both, of other veterans (including groups of veterans) who—

"(i) were engaged in service similar to the service of such veteran; and

"(ii) exhibit, or have exhibited since such service, medical symptoms or signs similar to the medical symptoms or signs of such veteran.

"(2) The provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (38 U.S.C. 1154 note).".•

• Mr. MURKOWSKI. Mr. President, as Senator ROCKEFELLER has outlined in his statement, the legislation being introduced today reaffirms the authority of the Department of Veterans Affairs [VA] to compensate Persian Gulf veterans who suffer illnesses which physicians and scientists do not yet fully understand. As the ranking minority member of the Senate Veterans' Affairs Committee, I speak on this legislation with mixed feelings.

Certainly, I am committed to the principle that Persian Gulf veterans who suffer mysterious maladies must receive the compensation to which they are entitled. Equally, I am committed to the principle that Persian Gulf veterans who are ill must receive compensation now—even though medical professionals, scientists, and VA officials have not yet been able to agree on the "diagnostic codes" into which they might cubbyhole the very real maladies which, all now seem to agree, some Persian Gulf veterans are suffering.

In light of my commitment to Persian Gulf veterans, I am pleased to join Senator ROCKEFELLER in cosponsoring this legislation. I am pleased, as well, to be able to say that all of the Republican members of the committee have joined in cosponsoring this bill.

As I have stated however, I do have mixed feelings about this legislation because I think it is unnecessary, and I think VA delay while waiting for unnecessary legislation is unconscionable. The members of the Senate Veterans' Affairs Committee are of the unanimous view, as expressed in a letter to VA dated June 6, 1994, that the VA already has authority to compensate Persian Gulf veterans. Senator ROCKEFELLER and I reaffirmed our view, in a letter published in the July 13, 1994 edition of the Washington Post, that the existence of Persian Gulf ailments—not their cause, diagnosis or scientific name—is what matters when it comes to the issue of whether Persian Gulf veterans should be compensated. In that letter, Senator ROCKEFELLER and I said that "it doesn't matter if the cause of the [Persian Gulf] health problem is a toxin, a virus, a psychosomatic reaction to the stress of deployment or of combat or forever unknown. If a veteran went over healthy and came back sick, the VA's mandate is, to paraphrase Abraham Lincoln, to care for those who have borne the battle."

In my view, Mr. President, VA has lost sight of this fundamental tenet. The fact that VA may not yet fully understand gulf war illnesses is not a good reason for denying compensation. Nor should the fact that medical science has not yet developed "diagnostic codes" by which it might label Persian Gulf illnesses. "Diagnostic codes," to my way of thinking, are mere administrative conveniences under which doctors can classify sick persons. The existence of "diagnostic codes" is not a necessary prerequisite to a medical finding those persons are, in fact, sick. The fact that a Persian Gulf veteran came back from the gulf sick—not the label we attach to that sickness—is what matters. No amount of legal hairsplitting ought to distract us, or the VA, from that fundamental fact.

Unfortunately, Mr. President, the committee has not succeeded in persuading VA that the scope of its current legal authority allows it to proceed. No practical purpose would be served in further arguing the point with VA, since VA lawyers have apparently convinced the Secretary of Veterans Affairs that he cannot take decisive action without legislation. Thus, Senator ROCKEFELLER and I—supported by a bipartisan coalition of Veterans' Affairs committee members—offer this legislation today. We request the support of our colleagues, noting that the bill will grant to VA clear and unmistakable—and generic—authority to determine in the future which diseases and conditions ought to give rise to compensation. It will thereby get Congress out of the business of making such determinations on a disease by disease basis.

Mr. President, I ask unanimous consent that the texts of the two letters I have mentioned in this statement—a letter to the Secretary of Veterans Affairs, dated June 6, 1994, and a letter to the Washington Post, dated June 29, 1994, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, June 9, 1994.

Hon. JESSE BROWN,
Secretary of Veterans Affairs, Washington, DC.

DEAR JESSE: We are deeply concerned about the Department's failure to adequately meet the needs of Persian Gulf War veterans, a goal we know you share. This problem is the direct result of VA's refusal to grant service connection to those veterans with clearly disabling conditions but for whom VA has not made, or recognized, a diagnosis which VA considers adequate to meet the regulatory definition of disability or disease.

We strongly believe that the Department has sufficient legal authority under existing law to fully remedy this shortcoming, and urge you to do so without delay.

We have received information indicating there are a significant number of Persian Gulf veterans who allege service connection based on exposure to environmental hazards in the Persian Gulf, and there is no question that the veteran is disabled. However, VA will not award compensation because it lacks a diagnostic code to place on the medical examination report. There simply is no excuse for this.

We applaud your support for legislation that would require VA to pay compensation to Persian Gulf veterans who suffer from a chronic disability resulting from an undiagnosed illness if the disability manifested itself to a degree of at least 10 percent within 2 years after the veteran left Southwest Asia. However, we nevertheless maintain that you do not need additional legislative authority to provide compensation to those veterans who are clearly disabled.

Section 1110 of title 38, United States Code, states that the federal government will pay compensation for a "disability resulting from personal injury suffered or disease contracted in line of duty, . . ." Nothing in the law requires that a "disability" must consist of a diagnosed condition in order to be awarded service connection and subsequently rated for purposes of determining the amount of the compensation payment. The regulatory requirement of a diagnosed condition is one imposed by VA for purposes of adjudicating claims for service-connected disability compensation. While it may be a matter of convenience to VA, it is not a requirement of the law.

We are at a loss to understand why VA would take the position it does with respect to these claims, in light of VA's obligation under section 1154 of title 38, to resolve every reasonable doubt in favor of combat veterans and generally to apply the "reasonable doubt doctrine" in every case under section 3.102 of title 38, Code of Federal Regulations.

Whether VA takes action to provide compensation to Persian Gulf War veterans on an administrative basis or under new legislative authority, there will be cost implications. We are interested in your views on how VA proposes to achieve the necessary savings to offset the cost of an approach such as in H.R. 4386, which we understand VA estimates will be $15 million per year.

Mr. Secretary, we know that you are thoroughly committed to providing every possible assistance to the veterans of this most recent war. The issue we have raised certainly provides an opportunity to show this generation of American veterans that the government that sent them to the Persian Gulf stands ready and willing to make sure they get the benefits they have earned through their service. We urge you to look into this issue personally and get back to us as soon as possible.

Sincerely,
Jay Rockefeller,
Ben Nighthorse Campbell,
Daniel K. Akaka,
Frank H. Murkowski,
George Mitchell,
Al Simpson,
Bob Graham,
Dennis DeConcini,
Tom Daschle,
Jim Jeffords,
Arlen Specter.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, June 29, 1994.

THE EDITOR,
The Washington Post, Washington, DC.

DEAR EDITOR: Jim Schnabel, in his column headlined "Band-wagon Syndrome", missed the point on disability compensation for veterans.

By law, VA is mandated to compensate for diseases or injuries which are either incurred or aggravated during active duty. The cause of the illness is irrelevant. In the case of "Persian Gulf Syndrome", it doesn't matter if the cause of the health problem is a toxin, a virus, a psychosomatic reaction to the stress of deployment or combat, or forever unknown. If a veteran went over healthy and came back sick, VA's mandate is, to paraphrase Abraham Lincoln, to care for those who have borne the battle.

That is why we are astonished at VA's refusal to compensate disabled Persian Gulf veterans unless forced to do so by the Congress.

Sincerely,
JOHN D. ROCKEFELLER IV,
Chairman.
FRANK H. MURKOWSKI,
Ranking Minority Member.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1026

At the request of Mr. LOTT, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1026, a bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or Reserve units of the Armed Forces will be allowable in computing adjusted gross income.

S. 1513

At the request of Ms. MOSELEY-BRAUN, her name was added as a cosponsor of S. 1513, a bill entitled "Improving America's Schools Act of 1993."

S. 1746

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1746, a bill to establish a youth development grant program, and for other purposes.

S. 2073

At the request of Mr. SMITH, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. GORTON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2073, a bill to designate the U.S. courthouse that is scheduled to be constructed in Concord, NH, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2246

At the request of Mr. DORGAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2246, a bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments.

S. 2255

At the request of Mr. GORTON, the names of the Senator from Oklahoma [Mr. NICKLES] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 2255, a bill to amend the Budget Enforcement Act of 1990 to establish a new budget point of order against any amendment, bill, or conference report that directs increased revenues from additional taxation of Social Security or Railroad Retirement benefits to a fund other than the Social Security trust fund or the Social Security equivalent benefit account.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 212

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Arizona [Mr. MCCAIN], the Senator from Nevada [Mr. BRYAN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Oklahoma [Mr. BOREN], the Senator from Nebraska [Mr. EXON], the Senator from Virginia [Mr. WARNER], the Senator from California [Mrs. FEINSTEIN], the Senator from Indiana [Mr. COATS], the Senator from Virginia [Mr. ROBB], the Senator from Idaho [Mr. CRAIG], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 212, a joint resolution designating August 2, 1994, as "National Neighborhood Crime Watch Day."

SENATE CONCURRENT RESOLUTION 64

At the request of Mrs. MURRAY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of Senate Concurrent Resolution 64, a concurrent resolution expressing the sense of the Congress regarding the Guatemalan peace process and the need for greater protection of human rights in Guatemala.

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. GREGG, the names of the Senator from Colorado [Mr. BROWN], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Concurrent Resolution 72, a concurrent resolution expressing the sense of the Congress that the President should refrain from signing the seabed mining agreement relating to the Convention on the Law of the Sea.

SENATE RESOLUTION 70

At the request of Mr. MURKOWSKI, his name was withdrawn as a cosponsor of

Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child.

SENATE CONCURRENT RESOLUTION 73—RELATIVE TO THE JAPANESE FOOD AGENCY

Mrs. FEINSTEIN (for herself, Mr. BREAUX, Mrs. BOXER, Mr. PRYOR, Mr. BUMPERS, and Mr. JOHNSTON) submitted the following concurrent resolution, which was referred to the Committee on Finance:

S. RES. 73

Expressing the sense of the Congress with respect to the announcement of the Japanese Food Agency that it does not intend to fulfill its commitment to purchase 75,000 metric tons of United States rice.

Whereas due to severe weather conditions during the summer of 1993, Japan found its rice supply to be disastrously short, and thus was forced to announce the establishment of an emergency program to import rice during 1993 and 1994;

Whereas the Japanese Food Agency initiated an emergency program to import approximately 2,650,000 metric tons of rice during 1993 and 1994;

Whereas the Japanese Food Agency reached a good faith agreement with United States Government officials and representatives of the United States rice industry to purchase 644,000 metric tons of United States rice as part of the emergency program;

Whereas the United States rice industry undertook extraordinary measures, including buying back inventory already sold to other customers, to ensure that 644,000 metric tons of United States rice was available for shipment to Japan;

Whereas the Japanese Food Agency announced in June 1994 that it had terminated the emergency program, notwithstanding that 75,000 metric tons of United States rice reserved for export to Japan under the good faith agreement remained to be shipped;

Whereas the Japanese Food Agency refuses to honor its commitment to purchase the remaining 75,000 metric tons of United States rice despite repeated overtures from United States Government officials and representatives of the rice industry;

Whereas the remaining 75,000 metric tons of rice represent a relatively small quantity of rice to Japan, but a highly significant one to the United States rice industry, with an economic impact of over $45,000,000;

Whereas if the 75,000 metric tons of rice remain unsold to the Japanese Food Agency, the carryover of this quantity from the 1993 crop year to the 1994 crop year will cause the United States season average farm price for rice to decline by $.36 per hundredweight in 1994, and by $.17 per hundredweight in 1995;

Whereas these declines in price would equate to a loss in farm revenue of $56,200,000 in 1994 and $30,800,000 in 1995, for a combined loss of $87,000,000;

Whereas the United States Government and the United States rice industry have worked diligently and exhaustively to establish an open trade relationship with the Government of Japan;

Whereas the failure of the Japanese Food Agency to purchase the remaining 75,000 metric tons of United States rice directly contravenes a good faith agreement between the Japanese Food Agency and the United States rice industry and thereby places in jeopardy other such agreements reached between the United States and Japan; and

Whereas this action by the Japanese Food Agency damages the prospect for future trade relations between the United States and Japan: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States—

(1) strongly disapproves of the decision of the Japanese Food Agency to renege on its good faith agreement to purchase 75,000 metric tons of rice from the United States rice industry;

(2) express its grave concern about the future of trade relations between the United States and Japan in light of the failure of the Japanese Food Agency to honor an agreement made in good faith with United States Government officials and representatives of the rice industry;

(3) strongly urges the Government of Japan to fulfill expeditiously its commitment to purchase the remaining 75,000 metric tons of United States rice; and

(4) strongly encourages the President of the United States to take all steps necessary to conclude the purchase of the remaining 75,000 metric tons of United States rice that has been reserved for purchase by the Japanese Food Agency.

Mrs. FEINSTEIN. Mr. President, I rise to submit a resolution expressing congressional disapproval of the decision of the Japanese Food Agency to renege on its agreement to purchase 75,000 metric tons of rice from the United States. The measure is identical to the resolution Congressman VIC FAZIO is submitting today in the House.

For many years, the Japanese market has been closed to American rice as Japan has sought to protect its own rice industry. Japan's decades-old ban of imported rice has been one of the most egregious examples of unfair trade.

Last year, however, Japan had a disastrously short crop due to bad weather and was forced to establish an emergency program to import foreign rice. Japan's emergency program called for the importation of approximately 2,650,000 metric tons of rice in 1993 and 1994. Most importantly for the United States, the Japanese Food Agency reached an agreement with United States Government officials and representatives of the United States rice industry to purchase 644,000 metric tons of United States rice.

Now the Japanese Food Agency has backed off on fulfilling that commitment. Last month the Japanese Food Agency announced that it was terminating its emergency program to purchase foreign rice immediately. This announcement means Japan is not purchasing 75,000 metric tons of United States rice that it had already agreed to buy. Moreover, the United States is the only country affected by the announcement.

Mr. President, this is a very significant matter for the U.S. rice industry, with an economic impact of over $45 million. The United States rice industry undertook extraordinary measures, including buying back rice already sold to other customers, in order to ensure that 644,000 metric tons of United States rice would be available for shipment to Japan. I am advised that if the 75,000 metric tons of rice remain unsold, the carryover of this quantity from the 1993 crop year to the 1994 crop year will cause the U.S. average farm price for rice to decline by 36 cents per hundredweight in 1994 and by 17 cents per hundredweight in 1995. This equates to a loss of $56.2 million in farm revenue in 1994 and $30.8 million in 1995—a total loss of $87 million in farm revenue.

I believe our Government must take a strong stand and ensure that the Japanese follow through on the original agreement. The resolution I am submitting today calls for firm action. Specifically, the resolution:

Strongly disapproves of the decision of the Japanese Food Agency to renege on its good faith agreement to purchase 75,000 metric tons of rice from the United States rice industry;

Expresses grave concern about the future of our trading relationship with Japan in light of the Japanese Food Agency's failure to honor the agreement;

Strongly urges the Government of Japan to fulfill its commitment to purchase 75,000 metric tons of rice from the United States rice industry; and

Strongly encourages the President to take all steps necessary to conclude the purchase of the remaining 75,000 metric tons of rice that have been reserved for purchase by the Japanese Food Agency.

AMENDMENTS SUBMITTED

IMPROVING AMERICA'S SCHOOLS ACT OF 1993

DOMENICI (AND OTHERS) AMENDMENT NO. 2414

Mr. DOMENICI (for himself, Mr. DODD, Ms. MIKULSKI, Mr. DORGAN, and Mr. PELL) proposed an amendment to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

On page 1035, between lines 11 and 12, insert the following:

"PART P—PARTNERSHIPS IN CHARACTER EDUCATION PILOT PROJECT

"SEC. 8901. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make up to a total of 10 grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in section 8904, as well as other character elements identified by applicants.

"(b) MAXIMUM AMOUNT OF GRANT.—No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

“(c) DURATION.—Each grant under this part shall be awarded for a period not to exceed 5 years, of which the State educational agency shall not use more than 1 year for planning and program design.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 $6,000,000, and such sums as may be necessary for each fiscal year thereafter to carry out this part.

“SEC. 8902. STATE EDUCATIONAL AGENCY APPLICATIONS.

“(a) REQUIREMENT.—Each State educational agency desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

“(b) PARTNERSHIPS.—Each State educational agency desiring a grant under this part shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall—

“(1) pursue State and local initiatives to meet the objectives of this part; and

“(2) establish a character education clearinghouse at the State level to make information and materials available to local educational agencies.

“(c) APPLICATION.—Each application under this part shall include—

“(1) a list of the local educational agencies entering into the partnership with the State educational agency;

“(2) a description of the goals of the partnership;

“(3) a description of activities that will be pursued by the participating local educational agencies, including—

“(A) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

“(B) curriculum and instructional practices;

“(C) methods of teacher training and parent education that will be used or developed; and

“(D) examples of activities that will be carried out under this part;

“(4) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

“(5) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

“(6) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

“(7) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

“(8) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

“(9) any other information that the Secretary may require.

“(d) NON-PARTNER LOCAL EDUCATIONAL AGENCIES.—Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

“SEC. 8903. EVALUATION AND PROGRAM DEVELOPMENT.

“(a) REQUIREMENT.—Each State educational agency receiving a grant under this part shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

“(1) by the mid-term of the program; and

“(2) not later than 1 year after completion of such program.

“(b) CONTRACTS FOR EVALUATION.—Each State educational agency receiving a grant under this part may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in section 8904.

“(c) FACTORS.—Factors which may be considered in evaluating the success of the program may include—

“(1) discipline problems;

“(2) students' grades;

“(3) participation in extracurricular activities;

“(4) parental and community involvement;

“(5) faculty and administration involvement; and

“(6) student and staff morale.

“(d) MATERIALS AND PROGRAM DEVELOPMENT.—Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

“SEC. 8904. ELEMENTS OF CHARACTER.

“(a) IN GENERAL.—Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

“(1) Caring.

“(2) Civic virtue and citizenship.

“(3) Justice and fairness.

“(4) Respect.

“(5) Responsibility.

“(6) Trustworthiness.

“(7) Any other elements deemed appropriate by the members of the partnership.

“(b) ADDITIONAL ELEMENTS OF CHARACTER.—A local educational agency participating under this part may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

“SEC. 8905. USE OF FUNDS.

“Of the total funds received by a State educational agency in any fiscal year under this part—

“(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

“(A) not more than 10 percent of such funds may be used for administrative purposes; and

“(B) the remainder of such funds may be used for—

“(i) collaborative initiatives with local educational agencies;

“(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

“(iii) other appropriate activities; and

“(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

“(A) not more than 10 percent of such funds may be retained for administrative purposes; and

“(B) the remainder of such funds may be used to—

“(i) award subgrants to schools within the local educational agency; and

“(ii) pursue collaborative efforts with the State educational agency.

“SEC. 8906. SELECTION OF GRANTEES.

“(a) CRITERIA.—The Secretary shall select, through peer review, partnerships to receive grants under this part on the basis of the quality of the applications submitted under section 8902, taking into consideration such factors as—

“(1) the quality of the activities proposed by local educational agencies;

“(2) the extent to which the program fosters in students the elements of character;

“(3) the extent of parental, student, and community involvement;

“(4) the number of local educational agencies involved in the effort;

“(5) the quality of the plan for measuring and assessing success; and

“(6) the likelihood that the goals of the program will be realistically achieved.

“(b) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this part in a manner that ensures, to the extent practicable, that programs assisted under this part—

“(1) serve different areas of the Nation, including urban, suburban, and rural areas; and

“(2) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

KASSEBAUM AMENDMENT NO. 2415

Mrs. KASSEBAUM proposed an amendment to the bill S. 1513, supra; as follows:

On page 1165, between lines 21 and 22, insert the following:

SEC. 10607. SCHOOL PRAYER.

Any State or local education agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

HELMS (AND OTHERS) AMENDMENT NO. 2416

Mr. HELMS (for himself, Mr. LOTT, Mr. THURMOND, and Mr. NICKLES) proposed an amendment to the bill S. 1513, supra; as follows:

At the appropriate place, add the following:

SEC. . PROHIBITION AGAINST FUNDS FOR PROTECTED PRAYER.

Notwithstanding any provision of law, no funds made available through the Department of Education under this Act, or any other Act, shall be available to any State or local educational agency which has a policy of denying or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any state nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

DOLE (AND OTHERS) AMENDMENT NO. 2417

Mr. DOLE (for himself, Mr. COATS, Mr. LIEBERMAN, Mr. DANFORTH, Mr. SIMPSON, and Mr. THURMOND) proposed an amendment to the bill S. 1513, supra; as follows:

On page 1296, after line 25, insert the following:

"TITLE XVII—FIGHT OR FLIGHT: PROTECTING AMERICAN STUDENTS

"SEC. 1701. SHORT TITLE.

"This title may be cited as the 'Fight or Flight: Protecting American Students Act of 1994'.

"SEC. 1702. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) violence and crime have increased significantly in our Nation's schools;

"(2) it is estimated that 3,000,000 violent acts or thefts occur in or near schools, and that one in five high school students carries a weapon;

"(3) the incidence of violence and criminal activity within elementary and secondary schools threatens the school environment and interferes with the learning process; and

"(4) students have a right to be safe and secure in their persons while attending school.

"(b) PURPOSE.—It is the purpose of this title—

"(1) to provide children from low-income families who attend violence-prone schools with the option of attending safer elementary and secondary schools;

"(2) to improve schools and academic programs by providing certain low-income parents with increased consumer power and dollars to choose safer schools and programs that such parents determine best fit the needs of their children;

"(3) to engage more fully certain low-income parents in their children's schooling;

"(4) through families, to provide at the school site new dollars that teachers and principals may use to help certain children achieve the high educational standards called for by the National Education Goals; and

"(5) to demonstrate, through a competitive discretionary demonstration grant program, the effects of programs that provide certain low-income families with more of the same choices regarding all schools, including public, private, or religious schools, that wealthier families have.

"SEC. 1703. DEFINITIONS.

"As used in this title—

"(1) the term 'choice school' means any public or private elementary or secondary school, including a private sectarian school, that is not a violence-prone school;

"(2) the term 'eligible child' means a child in grades 1 through 12 who—

"(A) is eligible for free or reduced price meals under the National School Lunch Act; and

"(B) attended a violence-prone school prior to receiving assistance under this title;

"(3) the term 'State' means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

"(4) the term 'violence-prone school' means a school that—

"(A) serves an area in which there is a high rate of—

"(i) homicides committed by persons between the ages 5 to 18, inclusive;

"(ii) referrals of youth to juvenile court;

"(iii) youth under the supervision of the courts;

"(iv) expulsions and suspensions of students from school;

"(v) referrals of youth, for disciplinary reasons, to alternative schools; or

"(vi) victimization of youth by violence, crime, or other forms of abuse; and

"(B) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

"SEC. 1704. FUNDING AND RESERVATION.

"(a) FUNDING.—From amounts appropriated to carry out the Goals 2000: Educate America Act, the Secretary shall make available $30,000,000 for each of the fiscal years 1995 through 1997.

"(b) RESERVATION.—Of the sums made available pursuant to subsection (a) for any fiscal year, the Secretary may reserve not more than $1,500,000 over three years to carry out the national evaluation described in section 1711.

"SEC. 1705. PROGRAM AUTHORIZED.

"(a) AUTHORITY.—The Secretary is authorized to make not more than 20 grants nationally, on a competitive basis, to States to enable such States to carry out educational choice demonstration projects in accordance with this title.

"(b) AMOUNT.—The Secretary shall award grants under this title annually, and shall determine the amount of such grants by taking into account the availability of appropriations, the number and quality of applications, and other factors related to the purposes of this title that the Secretary determines are appropriate.

"(c) SUPPLEMENT NOT SUPPLANT.—Grant funds awarded under this title shall be used to supplement and not to supplant State and local funds that would, in the absence of funds under this title, be made available to public elementary and secondary schools for the activities assisted under this title.

"SEC. 1706. SCHOLARSHIPS.

"(a) IN GENERAL.—

"(1) USE OF FUNDS FOR SCHOLARSHIPS.—Each State receiving funds under this title shall use such funds to provide scholarships to the parents of eligible children.

"(2) NUMBER.—Each State shall determine the number of scholarships to be awarded in such State.

"(3) AMOUNT.—(A) Subject to subparagraph (B), each State shall determine the amount of each scholarship in such State.

"(B) The amount of a scholarship under this title in a State shall be the same for every site in such State.

"(b) SPECIAL RULE.—Notwithstanding any other provision of law, the amount of scholarship assistance received under this title shall not be deemed to be income of the parents or child for Federal income tax purposes or for purposes of determining eligibility for any other Federal assistance.

"(c) CONTINUATION.—Subject to the limitation paragraph "d" each State receiving funds under this title may provide a scholarship in each year of the State's program to the parents of each eligible child to whom the State provided a scholarship in the previous year of the program, unless—

"(1) the eligible child no longer resides within the area served by a violence-prone school; or

"(2) the eligible child no longer attends an elementary or secondary school.

"(d) SPECIAL RULE.—If the amount of the grant made to a State under this title is not sufficient to provide all of the scholarships to the parents of each eligible child who is served by the State, then the State shall only be required to provide scholarships to parents of the eligible children who are from the lowest income families to the extent that they are funded.

"SEC. 1707. APPLICATIONS.

"(a) IN GENERAL.—Each State that desires a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(b) CONTENTS.—Each application described in paragraph (1) shall contain—

"(1) information demonstrating that the State will comply with the other requirements of this title;

"(1)(a) a definition of violence prone school using the parameters set forth in section 1703.

"(2) a description of the procedures to be used to provide scholarships to parents and to enable parents to redeem those scholarships, such as the issuance of checks payable both to parents and to schools; and

"(3) a description of—

"(A) the procedures by which a choice school will make a pro rata refund to the State for any participating eligible child who, before completing 50 percent of the choice school attendance period for which the scholarship was issued—

"(i) is released or expelled from the choice school; or

"(ii) withdraws from the choice school for any reason; or

"(B) another refund policy that addresses special circumstances the State can reasonably anticipate and that the State demonstrates, to the Secretary's satisfaction, adequately protects participating eligible children, in accordance with the purposes of this title,

except that no such refund procedure or policy shall require a choice school to refund any portion of funds received under this title due to a permanent change of residence of a parent of an eligible child for whom scholarship assistance under this title was awarded.

"(c) UPDATING.—Each such application shall be updated annually in such manner as the Secretary may determine necessary to reflect revised conditions.

"SEC. 1708. USE OF SCHOLARSHIP FUNDS.

"The Federal portion of any scholarship awarded to the parents of an eligible child under this title shall be used in the following sequence:

"(1) FIRST.—First, for—

"(A) the payment of tuition and fees at a choice school that is selected by the parents of the child for whom the scholarship was provided; and

"(B) the reasonable costs of the eligible child's transportation to the choice school, if—

"(i) the choice school is not the school to which the eligible child would be assigned in the absence of a program assisted under this title; and

"(ii) the parents of an eligible child choose to use the scholarship funds for such transportation.

"(2) SECOND.—Second, if the parents so choose, to obtain supplementary academic services for the eligible child, at a cost of not more than $500, from any provider chosen by the parents that the State, in accordance with regulations prescribed by the Secretary, determines is capable of providing such services and has an appropriate refund policy.

"(3) THIRD.—Third—

"(A) if the child attends a public choice school, any remaining funds shall be made available to such school to enable such school to conduct educational programs that help students at such school achieve high levels of academic excellence; or

"(B) if the child attends a private choice school, any remaining funds shall be made available to the State to enable the State to award additional scholarships under this title in that year or the succeeding year of the State's program.

"SEC. 1709. REQUIREMENTS.

"(a) EFFECT ON OTHER PROGRAMS.—

"(1) IN GENERAL.—Eligible children participating in a demonstration project under this title, who, in the absence of such project, would have received services under part A of title I of this Act shall be provided such services.

"(2) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this title shall be construed to affect the applicability or requirements of part B of the Individuals with Disabilities Education Act.

"(b) COUNTING OF CHILDREN.—Notwithstanding any other provision of law, for purposes of receiving funds under any program administered by the Secretary, any school participating in a demonstration project under this title may count eligible children who, in the absence of such project, would attend such school.

"(c) INFORMATION.—Notwithstanding section 9 of the National School Lunch Act, a State receiving a grant under this title may use information collected for the purpose of determining eligibility for free or reduced price meals to determine a child's eligibility to participate in a demonstration project under this title. All such information shall otherwise remain confidential, and information pertaining to income may be disclosed only to persons who need that information for the purposes of a demonstration project under this title.

"(d) SPECIAL RULES.—

"(1) ASSISTANCE TO FAMILIES NOT INSTITUTIONS.—Scholarships under this title shall be considered to be aid to families, not institutions. A parent's expenditure of scholarship funds at a choice school or for supplementary academic services under this title shall not be construed to be Federal financial aid or assistance to that school or to the provider of those supplementary academic services.

"(2) ANTIDISCRIMINATION PROVISIONS.—

"(A) IN GENERAL.—Notwithstanding the provisions of paragraph (1), in order to receive scholarship funds under this title a choice school or provider of academic services under this title shall comply with the antidiscrimination provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 901 of the Education Amendments of 1972 (20 U.S.C. 1681), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(B) IMPLEMENTING REGULATIONS REQUIRED.—The Secretary shall promulgate regulations to implement the provisions of this paragraph, taking into account the purposes of this title and the nature, variety, and missions of choice schools and providers that may participate in providing services to children under this title.

"(e) CONSIDERATION OF FEDERAL FUNDS PROHIBITED.—No Federal, State, or local agency may, in any fiscal year, take into account Federal funds provided to a State or to the parents of any child under this title in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such State or to the choice school attended by such child.

"(f) STATE LAW.—Nothing in this title shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by religious or other private institutions, except that no provision of a State constitution or State law shall be construed or applied to prohibit any State from paying the administrative costs of a program under this title or providing any Federal funds received under this title to parents for use at a religious or other private institution.

"(g) SECRETARY.—Nothing in this title shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program assisted under this title.

"(h) CONSTRUCTION.—Nothing in this title shall be construed to interfere with any desegregation plans that involve school attendance areas affected by this title.

"SEC. 1710. PARENTAL NOTIFICATION.

"Each State receiving a grant under this title shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served. At a minimum, such notice shall—

"(1) describe the demonstration project;

"(2) describe the eligibility requirements for participation;

"(3) describe the information needed to establish a child's eligibility for participation in the demonstration project;

"(4) describe the selection procedures to be used if the number of eligible children seeking to participate exceeds the number that can be accommodated;

"(5) provide a list of violence-prone schools located in the State; and

"(6) include the schedule for parents to apply for their children to participate.

"SEC. 1711. EVALUATION.

"From funds reserved under section ____02(b), the Secretary shall conduct a national evaluation of the activities assisted under this title. Such evaluation shall, at a minimum—

"(1) assess the implementation of projects assisted under this title and such projects' effect on the participants, schools, and communities served under this title, including the degree of parental involvement in, and satisfaction with, the project and their children's education; and

"(2)(A) evaluate the educational achievement of eligible children who participate in the projects assisted under this title, during the periods—

"(i) before the provision of scholarship assistance under this title;

"(ii) during such provision; and

"(iii) after such provision; and

"(B) compare such achievement with such achievement, during comparable periods, of similar children who do not so participate.

"SEC. 1712. REPORTS.

"(a) REPORT BY GRANT RECIPIENT.—Each State receiving a grant under this title shall submit an annual report to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(b) REPORT BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall report annually to the President and the President shall report annually to the Congress on the progress of the demonstration projects assisted under this title, including information submitted by each State receiving a grant under this title and from other sources.

"(2) SUBMISSION.—The Secretary shall submit a report to the President and the President shall submit a report to the Congress on the national evaluation described in section 1711 within 9 months after the conclusion of the demonstration projects assisted under this title.

"SEC. 1713. ENFORCEMENT.

"(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this title.

"(b) PRIVATE CAUSE OF ACTION PROHIBITED.—No provision or requirement of this title shall be enforced through a private cause of action.".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON WATER AND POWER AND COMMITTEE ON INDIAN AFFAIRS

Mr. BRADLEY. Mr. President, I would like to announce for my colleagues and the public a change in a hearing scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources and the Committee on Indian Affairs.

In addition to receiving testimony on S. 2259 and S. 2236, the subcommittee will also receive testimony on S. 2319, a bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

The hearing will take place on Thursday, August 4, 1994 at 2 p.m. in room 366 of the Dirksen Senate Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement for the printed hearing record is welcome to do so. Please send your comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC, 20510, Attention: Leslie Palmer.

For further information, please contact Dana Sebren Cooper, counsel for the subcommittee at 202–224–4531 or Leslie Palmer at 202–224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 27, 1994, at 3 p.m. in executive session, to discuss matters related to the conference with the House on the fiscal year 1995 National Defense Authorization Act and to discuss certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, July 27, 1994, at 10 a.m., to continue considering its recommendations for legislation to implement the Uruguay round of multilateral trade negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, July 27, at 10 a.m. to hold a nomination hearing on Ralph Earle, II, of the District of Columbia, to be Deputy Director of the U.S. Arms Control and Disarmanent Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, July 27, at 2:30 p.m. to receive a closed briefing on the status of Negotiations on Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Wednesday, July 27, 1994, at 9:30 a.m. for a hearing on the subject: "Drug Pricing: Poor Prescription for Consumers and Taxpayers?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, July 27, 1994. The Committee will hold a full committee hearing on the implementation of Public Law 100–656, the "Business Opportunity Reform Act of 1988" and the final report of the Commission on Minority Business Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., July 27, 1994, to receive testimony on the following bills: S. 2253, to modify the mountain park project in Oklahoma, and for other purposes; S. 2262, to amend the Elwha River Ecosystem and Fisheries Restoration Act, and S. 2266, to amend the Recreation Management Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STARS OF ENERGY EFFICIENCY

• Mr. BINGAMAN. Mr. President, on June 15, 1994, the Alliance to Save Energy, a bipartisan coalition of Government, environmental, and business leaders that I chair and that Senator JEFFORDS and Congressman SHARP cochair, presented its annual awards to three "Stars of Energy Efficiency," Pacific Gas and Electric Co. received the 1994 Energy Efficiency Award for two decades of leadership in energy efficiency programs. Our colleague Representative PHILIP SHARP of Indiana, chairman of the House Energy and Power Subcommittee, received the award for his career-long commitment to energy efficiency, which culminated in his successful effort to make energy efficiency the cornerstone of the Energy Policy Act of 1992.

The Alliance presented its final award to Maurice Strong, chairman and CEO of Ontario Hydro, for his many years of pioneering effort to ensure that energy efficiency would be a key part of global energy and environmental activities. Among his many other accomplishments, Mr. Strong served as Secretary-General of the U.N. Conference on Environment and Development—the Earth summit—in Rio de Janeiro in 1992, which placed energy efficiency at the forefront of a global effort to reverse environmental degradation and promote sustainable development.

In accepting this prestigious and important award, Mr. Strong clearly profiled the challenges facing the global economy and environment. I would like to share Mr. Strong's enlightening remarks with my colleagues.

The remarks follow:

ENERGY AND THE ENVIRONMENT

(By Maurice F. Strong)

Thank you very much, Katie. And profound thanks also to the Alliance to Save Energy. I am deeply moved by, and grateful for, your high compliment in awarding me one of this year's Energy Efficiency Awards—all the more so because I share this year's honors with such distinguished company as Rep. Sharp of Indiana and the Pacific Gas and Electric Company.

May I also pay tribute to Senators Charles Percy, Tim Wirth and Jeff Bingaman, who were among the earliest to recognize the vital need for energy efficiency, and who have done so much to make this Alliance such a powerful influence in the business sector of this country. Finally, I would like to recognize Bill Nitze, a great champion of sustainable development and mainstay of this organization.

Indeed, I see many familiar faces here tonight, and I would like to single them all out. Instead, let me just say that I accept this distinguished award as a tribute to them, and all the others with whom I have had a privilege of working on behalf of the Earth's environment over the years.

I am sure that most of these old friends will vouch for me when I say that I am not one of those somewhat dubious prophets who hang around street corners with a sign reading "The End Is Nigh." If I truly believed that, I wouldn't waste your time and my breath here tonight. I'd probably be out near a lake somewhere, enjoying what was left of nature.

But I DO believe that humankind is at one of the most critical cross-roads in its history. And I DO believe that time is running out for us all to make some very fundamental changes in the way in which we conduct outselves—in particular, the ways in which we use the Earth's resources—and most notably, its energy resources.

I am not alone in this belief. Nor have the threats I speak of only recently come to light. Let me quote a famous stateman on the subject:

"To waste and destroy our natural resources—to skin and exhaust the land instead of using it so as to increase its usefulness—will result in undermining for our children the very prosperity which we ought by right to hand down to them amplified and developed."

Now, that statesman was Theodore Roosevelt. And his warning—just as timely today—was given a century ago. He was talking about the need—and indeed the duty—of the industrialized world to embrace policies of sustainable economic development—many, many decades before the term itself was invented.

The world's population in his day was about one and a half billion. It is now more than 5 billion, and in the two decades alone the number of people on this planet has increased by an amount equal to the total in Teddy's Roosevelt's time. Last year the net increase in our numbers was 90 million. We are adding the equivalent of one New York City to the Earth every month.

There is now overwhelming evidence that the industrialized world cannot continue in its historical patterns of production and consumption—that it cannot forge ahead indefinitely on the path of profligacy in its use of the Earth's resources—either for its own sake or for the sake of the myriad others who have not yet experienced the luxury of waste.

This realization prompted the United Nations General Assembly to convene the Conference on Environment and Development, the Earth Summit of Rio de Janeiro, in June of 1992. Studies undertake for UNCED made clear not only that the ecological consequences of our economic behavior were worsening, but also that rich/poor disparities within and between nations were deepening.

Last fall, the report of the World Energy Council's Commission on Engery for Tomorrow's World supplied more evidence. Among the important points it made was that energy issues will shift from the industrialized to the developing world within the next three decades, and that the latter's proportion of world-wide energy consumption will rise to 55 percent from 33 percent in the same period. Among the many severe challenges identified was the requirement for investment of about $30 trillion (US) in the expansion of existing energy systems and technologies by the year 2020—50 percent more than the current total world GDP! What's more, "Energy for Tomorrow's World" not only maintained that the target of stabilizing global anthropogenic CO2 emissions at the 1990 level by the year 2020 is virtually unattainable, but says there is a strong possibility that atmospheric CO2 concentrations will continue to rise "for many decades to come."

But there is also evidence that circumstances are beginning to bring about changes in energy consumption patterns, even without a grand strategy or concerted conservation policies.

In a book called "Vital Signs 1993," Lester Brown describes the 1990s as the "decade of discontinuity." It is an era, he says, in which long-standing upward growth curves for production of such key economic commodities as grain, steel and coal have suddenly reversed.

World coal production, which had risen annually and almost without interruption since the beginning of the Industrial Revolution, declined in 1990—then again in 1991 and 1992. World oil output peaked even earlier—in 1979. Only the relatively clean-burning natural gas is expanding in production.

These reversals in historical trends may well be temporary and result from environmental constraints in industrialized countries. Intolerable air pollution in such cities as Los Angeles, Mexico City and some European centers has put a brake on the unrestrained growth of automobile use. Acid rain, health concerns, and the more recently acknowledged threat to the ozone layer, have curtailed the world's use of coal. But the fossil fuel era is far from over. Coal may not be the fuel of choice, but it is still the fuel most likely to be used in countries like China and India, which have rapidly growing energy needs and extensive coal reserves.

It is true that a growing environmental consciousness in recent years has produced discernible improvements throughout the industrialized world in what I call the "close-in" problems. Toxic emissions to air, land and water have in many cases been reduced, and important changes in manufacturing processes have reduced raw materials and energy use per unit of production.

With the coming into force of the Climate Change Convention, and the Biodiversity Convention approved at Rio, we have taken some important first steps to come to grips with two of the most threatening and intractable global risks. But they are only first steps. Indeed, there is a danger that the process of negotiating the protocols required to give real substance and "bite" to these framework conventions will now lag. It must not be allowed to do so.

Moreover, too little attention has been given to the area of environment-development relationships in the policies and practices of governments and industries. The growing awareness and concern over the past two decades has been accompanied by the establishment of environmental ministries and agencies by virtually all governments, and this has of course produced a proliferation of regulations. But these activities have not typically been linked to, and have had little effect on, national economic policies or the fundamental policies and practices of the major sectoral industries that are the principal sources of environmental impacts. Regulation is necessary, but experience has shown that its effects can be limited, and even sometimes counter-productive, if it is not accompanied by changes in fiscal policies and provide positive incentives for environmentally sound and sustainable development.

We are still approaching the problem, to too great an extent, from the wrong end. Last year, a paper from Arthur D. Little's Centre for Environmental Assurance said that industry in North America and Europe is spending more than $150 billion per year on pollution abatement and control—the so-called "end-of-the-pipe" remedies—and that this figure will likely double by the end of the century. Despite these enormous outlays, companies are still not meeting society's demands. In other words, we have been busy applied very expensive Band-aids to our industrial infrastructure while the environment, the natural resources, and the health and welfare of human beings in much of the developing countries have been hemorrhaging.

The prospect of a massive increase in Third World energy consumption over the next 30 years boldly underlines a point I have been making since before Rio. That is that the industrialized world must reduce its environmental impacts in order to leave "space" for developing countries to begin to fulfill their own development needs and aspirations. The Earth simply cannot sustain another traumatic round of undisciplined growth, a repeat of the unthinking exploitation that marked the first industrial revolution—and which, to an alarming extent, continues.

A crucially important priority—which makes as much sense economically as it does environmentally—is energy efficiency. PG&E, the Sacramento Municipal Utility District under David Freeman, and the New England Electric System under John Rowe, have been pioneers in recognizing that those of us in the energy industries—and in particular the electrical utility sector—have an enormous potential in helping our customers cut their energy use—and thereby cut their costs and increase their competitiveness. The Electric Power Research Institute in the United States has estimated that electricity use in that country could be reduced by as much as 55 percent through cost-effective measures. Others think that is a conservative estimate. While most electric utilities today have some sort of demand management program in place, I believe we are still just on the threshold of potential savings.

There is a similar potential in the transportation field—particularly in the United States and Canada, which account for more than a third of the world's private cars. A study for the National Academy of Sciences in the U.S. judged that straightforward technological improvements—using existing light-weight materials, for example—could make vehicles 50 percent more efficient, and save about two million barrels of oil per day. That saving is more than the U.S. imports from the Persian Gulf. On this front, it was very encouraging to learn of President Clinton's recent initiative on light-weight cars, but this too can only be viewed as a modest step in the right direction.

What is needed, as the Business Council on Sustainable Development advocated to the Earth Summit, is a decisive change of course. As Ed Woolard, the CEO of DuPont and 60 other Chief Executive Officers of some of the world's leading corporations said in their contribution to our Earth Summit preparations, "The present industrial civilization is simply not viable." It's simply not viable.

Now those aren't wild-eyed environmentalists or placard-wavers, any more than I am. Those are some of the most astute and experienced business leaders of our times.

As I have said, fossil fuels will be with us for a long time yet. We are admittedly undergoing changes in our fuel mix, but it is still a very traditional mix. The World Energy Council predicts that by the year 2020, our two countries will be using 21 percent less coal, but only two percent less oil. And these reductions will be all but offset by a forecast 21 percent increase in our use of natural gas. Viewed in isolation, this would seem to augur for somewhat cleaner air. But in the same period, developing countries on the Pacific Rim, South Asia, Africa, the Middle East and Latin America will increase their coal consumption by factors of up to two-and-one-half times—resulting in a net global increase in coalburning of 31 percent. Blue skies and reduced greenhouse gas emissions are not yet in prospect, at least worldwide.

The period ahead will continue to be characterized by pressures to reduce the role of coal and oil, but in fact it will take quite some time to do this. And while natural gas is emerging as the fuel of choice within the fossil fuel complex, this can only be regarded as a transitional adjustment rather than a permanent solution. Even with the adjustments I have mentioned, we have still not got anything like a viable, environmentally sound, economically feasible energy mix on which we can rely for our energy future.

An essential second step is to reflect in our energy prices the full external costs of producing it. As long as our energy prices remain at current low levels—particularly in North America, and even more particularly in the United States—there is little incentive to develop alternatives to our dependence on either fossil fuels or on nuclear energy. Energy prices still tend to be pegged to oil prices, and low prices—coupled, in the United States, with low taxes on gasoline—provide no short-term encouragement to conserve. Ultimately, we will need higher prices, and this would occur if they reflected their true total cost—not only the costs of capital, exploration, development, production and delivery—but also the environmental costs incurred in each of these stages.

I am pleased to say that my own company, Ontario Hydro, is in the process of adopting full cost accounting as a guide to its decision making. While we will not be able unilaterally to incorporate full environmental costs into our rate structure, we hope that our example will help to accelerate the process of full cost accounting by society as a whole.

The third step—and I do not mean to imply that these steps are sequential, or that one need be completed before another is undertaken—the third step is a fundamental revision in the system of incentives and penalties by which governments motivate the conduct of citizens and corporations. In general terms, this means providing positive incentives for environmentally sound and sustainable practices, products and services, together with penalties as a deterrent to unsound behavior. This also needs to be accompanied by full cost accounting at the national accounting level as well as business levels. It is, after all, fully consistent with the principles of market economics that the price of all products and transactions should incorporate their full real cost.

And, speaking of consistency, one of the more intractable myths surrounding this whole matter of sustainable development is that energy efficiency costs more than it's worth, and that conservation is somehow a recipe for slow growth or no growth. The experience of industrialized countries, notably Japan, has demonstrated that environmental improvement and efficiency in the use of energy and resources is fully compatible with, and indeed contributes to, good economic performance.

As Katie McGinty said, a healthy economy and a healthy environment go hand-in-hand. I am encouraged to note that the Alliance has joined with the U.S. Agency for International Development to promote energy efficiency in Europe and Mexico as part of the Sustainable Cities Project. I see great promise, too, in the Alliance's collaboration with other energy NGOs to help the Department of Energy promote exports of energy-efficient products and services.

Energy is the fulcrum of the relationship between the environment and the economy. Virtually every environmental issue—from a local dump site to the deterioration of the global climate—has an energy component. This gives those of us in the energy industry a special responsibility to lead the process of transition to sustainable economy. And I might add that for me and my fellow Canadians, that responsibility is heightened by the fact that we are the most energy self-indulgent nation in the world, even allowing for the vastness of our geography and our cold climate.

Every sector of the North American economy is faced with the need to effect a massive restructuring to ensure that we can continue to compete in an increasingly competitive and interdependent, global economy. Our own company had undergone a massive restructuring, cost-reduction program as the first step in reshaping the organization to live up to the new corporate goal which Katie McGinty mentioned. It's an ambitious goal—yes. Some might even say pretentious. But we deliberately wanted to set a high standard for our own performance—and perhaps even to throw down a gauntlet to other utilities and other energy players in other jurisdictions.

I might just say here that we at Ontario Hydro recognized the leadership role of PG&E a year before the Alliance. We did this just over a year ago by hiring its former Manager of Energy Efficiency Services, John Fox. He is Managing Director of our Energy Services and Environment Group, the Hydro branch that will play the key role in helping us to achieve our efficiency objectives. I am happy to note also that John is a director of this Alliance.

We have recently received the report of an internal Task Force on Sustainable Energy Development, with a series of recommendations responding to the global Agenda 21 adopted by governments at last year's Earth Summit in Rio de Janeiro. We are determined to make Ontario Hydro, as the largest company in Ontario and a major factor in the Ontario economy, a much more active and positive force for revitalizing the economy, helping to make it more competitive and setting the primary example of sustainable energy development. Energy efficiency is our highest priority. And our first challenge is to set an example ourselves.

It's amazing what you discover when you change your perspective. Our Sustainable Energy Development Task Force pointed out that Ontario Hydro is its own best and worst customer. Best because we use in our system 50 per cent more electricity than the entire City of Toronto. Worst because we didn't pay for it. It was treated as a free good in our own internal economy. That might have made good sense at one time but no more! We are changing that—charging our own business units on the same basis that we charge our customers. This way we expect to get more energy efficiency and better business decisions.

And the stakes are high. We estimate that we can save at least 800 megawatts just by using energy more efficiently within the corporation. It is like finding another Niagara Falls we didn't know we had. And not only do we NOT have to build a generating station to get the power—we hope to produce additional savings, or revenue, of some half-a-billion dollars per year.

I am sure that all of the organizations that many of you represent could find, to varying degrees, similar savings, and that some of you are already doing this. We have been working with our own customers to help them to use our product more efficiently, and many of them have offset rate increases to a significant degree by becoming more efficient in their use of energy. And what better example could the energy sector set for the nations in which they operate, and for the world as a whole, than for each company to commit itself to a process of self-examination and development of its own Agenda 21 while at the same time encouraging and working with its customers to improve their energy efficiency.

While this may seem counter-productive to companies, like our own, which have substantial surpluses of capacity and declining revenue, I maintain that it still makes sound economic sense. If our economy is to be competitive, our customers must be competitive and energy efficiency will make an important, and in some cases decisive contribution to their competitiveness. Helping them to become more competitive through energy efficiency may reduce their purchases from us in the short term, but will make them sounder, more secure customers in the longer term, provide an incentive for them to expand and, at the same time, help to put our own economies on a more sound, more sustainable basis.

This will not be easy; nor does it seem timely when the pressure of recession and competition are most acute. But I believe that these changes are imperative in both economic and environmental terms and that this period of change is precisely the right time to effect these changes. Waiting until what may seem a more propitious moment would, in my view, exact heavy costs, both in terms of our own organizations and our economies as a whole.

The dilemma facing the energy industry illustrates graphically the main theme of the Earth Summit and the principal challenge we all confront in giving effect to its conclusions—the need for fundamental changes in our economic life through a full integration of the environmental dimension in economic policies, decision making and behaviour.

In the final analysis, the role of industry in effecting this transition will be pivotal. The Business Council on Sustainable Development made it clear in its report to the Earth Summit that eco-efficiency is the key to the new generation of industrial opportunity—efficiency in the use of energy and resources, and in the prevention, disposal and re-cycling of waste.

The economic growth of developing countries, if it proceeds in the traditional mode, will soon overtake industrialized countries as the principal source of global environmental impacts. An already discernible shift in the focus of energy production and energy markets to the developing world underlines this perilous potential. These developments would increase risks to dangerous levels the word community cannot afford to accept. Yet the right of developing countries to grow cannot be denied; nor can it be constrained by conditions unilaterally imposed by the industrialized countries.

We must lighten our demands on the Earth's resources, and reduce our impacts on Earth's environment. This will require basic changes in current patterns of production and consumption and a transition to an efficiency-driven, eco-industrial economy, based on much greater efficiency in the use of energy and materials as well as in the prevention, disposal and recycling of waste. It must be accompanied by expanded support for developing countries in effecting their transition to sustainable modes of development and to increased access to financial resources, technology, and the international trading system that this will entail.

This new eco-industrial economy really implies a new industrial revolution—not some comprehensive patching-up of our old political and economic systems. Today's world cannot be re-tooled with yesterday's blue-prints. Today's problems cannot be solved with yesterday's conventional wisdom.

Is there, then, any basis for confidence that we can rise to the challenge? Despite the persuasive case for pessimism, I remain convinced that we can do it. The reason is that we must do it or civilization will degenerate into chaos, conflict and continued degradation of the environment. Pessimism would be self-fulfilling. As long as there is the slightest chance that we can make the transition to a more secure and sustainable way of life on our planet, we must continue to strive for it.

Throughout history, nations have demonstrated their willingness to devote the resources, establish the alliances and make the sacrifices required to confront risks to their security. Today the people and nations of the world are joined as never before in facing the greatest ever threat to their common security—the threat to the capacity of our planet to sustain life as we know it and the accompanying risks of economic, political and social breakdown. Only by forging a new global alliance, embracing north, south, east, west, rich and poor, can this challenge be met effectively. The agreements reached at the Earth Summit—the Declaration of Rio and Agenda 21—provide the foundations for the launching of this new alliance.

But in the final analysis, it is only through our practical actions and the examples we set in our lives as businessmen, community leaders and citizens that our hopes for a more secure, sustainable future will be realized.•

TRIBUTE TO DAVID JONES

• Mr. McCONNELL. Mr. President, I rise today to recognize a brilliant Kentucky businessman. David A. Jones is the chairman and chief executive officer of the Louisville-based Humana, Inc., and the chairman of the Healthcare Leadership Council.

David A. Jones is a Yale-educated lawyer who started out practicing law in Louisville, KY. He became involved in healthcare in 1961 when a friend told him about making some extra money by investing in a nursing home. He decided to give it a try and what started out as a bit of extra money became his career. The nursing home venture grew into Humana, Inc., the Nation's largest publicly traded health maintenance organization [HMO].

The Healthcare Leadership Council is a nationwide coalition of a variety of parties interested in healthcare reform. It includes leaders from hospitals; insurance, pharmaceutical, and medical equipment companies; and doctors and nurses. Since it was begun in the late 1980's, the council has worked to find solutions to the healthcare problems that we face today and has come up with variety of possibilities.

In a recent column for the Louisville Courier-Journal, David Jones outlines the ideas that he has come up with. As we prepare to begin debating healthcare reform next week, I believe that every Member of this body could benefit from a thorough review of this article. Please enter the following article from the Courier-Journal into the RECORD.

The article follows:

REFORMING HEALTH CARE

HUMANA CHIEF OFFERS HIS PROPOSALS FOR CHANGE

(By David A. Jones)

The writer is chairman and chief executive officer of Humana Inc., the Louisville-based corporation which is the nation's largest publicly-traded Health Maintenance Organization (HMO).

Health care reform is today a major domestic political issue. The status quo is without a serious defender. That's as it should be. The time has come for fundamental change.

Democrats and Republicans agree that we have serious problems of (a) rising costs; (b) access, especially by an estimated 37 million uninsured Americans; and (c) anxiety on the part of many workers that they might become uninsured if they lose their job, or change their job after they or a family member become ill.

But there is some disagreement on what needs to be done to solve the agreed-upon problems.

This [article] contributes to the debate in three critical ways: It identifies the problems; suggests solutions; and, more important, describes a reasonable way to pay for the solutions.

Actual and potential problems of access to affordable health care are the visible symptom of the underlying problem, which is rapidly rising costs. If costs were lower, and more easily affordable, we could readily expand coverage to cure the access problem.

All of us, providers and consumers alike, will have to alter our behavior to a greater or lesser extent if the cost crisis is to be mastered.

It is now possible to identify the well-intentioned policy choices of the past, whose now visible flaws have led to the present cost crisis.

Happily, the root causes of our excess cost increases—increases greater than those experienced by competing industrialized nations—are both crystal clear and readily correctable, if we can summon the political will to act.

But that won't be easy, because every dollar of cost in our system is someone else's dollar of revenue, fiercely protected.

These root causes are two simple, connected historical events. No congressional votes were taken, and participants did not even realize that they were making policy choices of great magnitude.

The first event occurred in World War II, when wages were frozen by the Office of Price Stabilization. Labor-short firms began offering health insurance as a fringe benefit not prohibited by the wage freeze.

The second event occurred just after WW II, when the Internal Revenue Service ruled that such employer-provided health insurance would, without limit, be free of federal income and Social Security tax.

Thus, it is pure accident that most of us receive our health insurance through employment, and stand to lose it if we lose or change our jobs. Our other insurance, such as life, homeowners, and automobile, are totally unaffected by such change.

Such policy is as irrational as it is accidental. It's really policy by default—leading to enormous "hidden" cost burdens within our health care system.

The tax subsidy created by the IRS ruling largely benefits the well-to-do, and amounted to about $75 billion in 1991 ($66.6 billion federal and $8.3 billion state), and the federal portion is now estimated at about $92 billion for 1993. This is about six times the estimated cost to provide Medicaid coverage to the approximately 12 million Americans who live below the poverty line, but are still not covered by Medicaid. Moreover, 26 percent of this tax subsidy goes to families with annual incomes in excess of $75,000, while only 6 percent goes to those with incomes under $20,000, so it is deeply regressive.

And this gigantic subsidy disguises, by seeming to minimize, the actual cost of health care services, thereby artificially and greatly stimulating demand.

The third-party payment system created by employer-paid health insurance coverage is an even larger stimulator of demand and excess cost. When a patient and a health care provider negotiate, neither is concerned with costs, which are to be paid by some vague third party—perhaps an employer, an insurance company, or government. So they concentrate only on benefits.

The provider is thus often able to define quantity and price of chosen services, while the patient, filled with anxiety and lacking experties, normally accepts the provider's recommendation.

Interestingly, the patient is largely unaware that proffered services, for example, diagnostic imaging, may actually be owned by the referring provider. In that case, as reported in the Dec. 6, 1990, New England Journal of Medicine, the cost of such "captive" imaging services is 4.4 to 7.5 times greater than if the referral is to a neutral, nonowned site.

Thus, to recapitulate, these two factors constitute the basic, root causes of the excess costs of our health care system:

1. A third-party payment system which allows interested providers to define the scope, price and source of recommended services to an anxious, dependent, somewhat unknowledgeable patient at the expense of an unrepresented third party.

2. And a $75 billion tax subsidy which stimulates excess demand by seemingly lowering health care prices.

Armed with this knowledge, and several simple but critical reforms, we can formulate a strategy to make affordable health insurance available to the three main groups now lacking such coverage. They are:

1. Middle-class Americans who work for themselves or in a small group where someone has a family member with a pre-existing medical condition, which prevents their purchase of reasonably priced health insurance.

These individuals can usually afford to pay for an average-priced policy, but when coverage is available at all, it costs $500 to $1,000 more per person per month.

The solution to this problem, with which most Members of Congress agree (and which a number of States have already embraced), is insurance reform, which requires: (A) Guaranteed issue, but with a six-month waiting period for pre-existing conditions. Otherwise, no one would buy insurance until after becoming ill. (B) Guaranteed renewal, (C) Portability. (D) No underwriting based on health or employment status.

In addition to these long overdue insurance reforms, there is a need to create a vehicle that enables individuals and small groups to join together in groups large enough to attract highly competitive bids from many insurers.

Voluntary purchasing cooperatives, whose functions are limited to obtaining and distributing information on price and quality, and the matching of buyers and sellers, admirably fill the role of enabling individuals and small groups to buy at the same price as large groups.

2. The poor and near-poor—even with insurance reform and purchasing co-ops to help make insurance affordable, there are among us many who simply can't afford the premiums.

For those who live below the poverty line, yet are not covered by Medicaid, a full subsidy will be needed. Income-based, sliding-scale subsidies will also be needed for the near-poor, perhaps up to 200 percent or 250 percent of the poverty level.

While all agree that our most disadvantaged citizens need access to primary and preventive services, rather than having to depend on expensive and overcrowded emergency rooms, there is little agreement on how to pay for such benefits, which are likely to be phased in over several years to ease the pain of needed taxes.

3. Healthy, non-poor employees who do not have health insurance.

The earlier-mentioned voluntary purchasing co-ops will enable these individuals to choose among many plans and to buy at good prices.

Tax laws must be amended, however, so that individual purchasers of health insurance, who now receive only 25 percent deductibility, receive the same tax subsidy as do employees.

The federal Medicare program and the joint federal-state Medicaid program are the two largest contributors to the growth of the federal deficit, and thus primarily responsible for our inability to expand coverage to the poor and near-poor.

President Clinton's plan and most congressional plans contemplate the mainstreaming of Medicaid by allowing and requiring beneficiaries to purchase private coverage through cooperatives. Since the Medicaid program is far more expensive than private coverage, significant savings are likely and, if achieved, can be used to expand the number of poor people covered.

Moreover, there will be greatly enhanced dignity for beneficiaries, who will receive their care from the same doctors and hospitals used by working Americans.

Medicare, an even larger contributor to the growth of budget deficits, has been exempted from the market-based reforms of the Clinton plan, because of the feared political clout of these beneficiaries.

However, no meaningful cost containment can occur unless and until Medicare beneficiaries are allowed and required to select among many competitive bids for covered services, and to pay the extra cost if they select a more expensive plan.

The insurance companies and managed care plans that submit bids serve as surrogate purchasers of health care services for consumers and provide the necessary counterweight to the third-party payment system, which is largely responsible for excess costs in our system.

Let me offer a simple example. No one of us can negotiate individually with Merck over the price of a prescription, but large systems like Kaiser, Humana and The Harvard Community Health Plan can and do negotiate substantial discounts, which result in lower competitive bids.

A third significant cost generator is our medical malpractice-tort system, which turns unfortunate medical outcomes into a high stakes lottery. Fear of malpractice litigation explains and legitimizes significant, expensive overuse of medical resources. Reform, along the lines enacted years ago in Indiana, is needed throughout the country.

In conclusion, I offer a simple and effective, if controversial way to help pay for coverage of the poor and near-poor, while minimizing incentives for overconsumption of health care services for all.

Tax subsidies should be limited to the average price of several of the most popular health plans within a region. Anyone choosing to spend more on coverage would be free to do so, but no tax deductibility or subsidy would be allowed for the excess cost.

This will reduce the overall tax subsidy, thereby providing significant funds for income-based subsidies, which will help the poor and near-poor gain access to coverage while preserving a full tax subsidy for all who choose to purchase cost-effective health plans.●

APPOINTMENT OF CONFEREES—S. 2182

The PRESIDING OFFICER. The Senate having received a message from the House insisting on its amendment to S. 2182, and requesting a conference thereon, under the order of July 1, 1994, the Senate agrees to the request for conference and the Chair appoints the following conferees.

The Presiding Officer (Mrs. BOXER) appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON conferees on the part of the Senate.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. FORD. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m. Thursday, July 28; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that there then be a period of morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following Senators recognized in the order listed, if present and for the time limits specified: Senator GRAHAM for up to 30 minutes; Senator KERREY for up to 30 minutes; Senator GORTON for up to 30 minutes; and Senator GRAMM of Texas, and Senator LEAHY of Vermont, for up to 10 minutes each; that at 10:30 a.m. the Senate resume consideration of S. 1513; further, that on Thursday, the Senate stand in recess from 12 noon until 3 p.m. for the memorial service of the late Hugh Scott, former minority leader of the U.S. Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. FORD. Madam President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:51 p.m., recessed until Thursday, July 28, 1994, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 27, 1994:

DEPARTMENT OF STATE

DAVID GEORGE NEWTON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.

DEPARTMENT OF TRANSPORTATION

ANTHONY S. EARL, OF WISCONSIN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, VICE RANDOLPH J. AGLEY, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

GARY NILES KIMBLE, OF MONTANA, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES. (NEW POSITION.)

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS OF THE U.S. COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADE OF LIEUTENANT (JUNIOR GRADE):

MARK L. EVERETT
EUILL W. LONG III

FOREIGN SERVICES

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

JOSEPH HUGGINS, OF THE DISTRICT OF COLUMBIA.

DEPARTMENT OF COMMERCE

MAXIMILIAN OLLENDORFF, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

STEWART BALLARD, OF VIRGINIA
EDWARD CANNON, OF FLORIDA
IRA KASOFF, OF CALIFORNIA
RICHARD LENAHAN, OF OREGON

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

KEITH CURTIS, OF VIRGINIA
RICHARD ROTHMAN, OF NEW HAMPSHIRE
AMERICO TADEU, OF MARYLAND
ANDREW WYLEGALA, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

BRIAN C. AGGELER, OF THE DISTRICT OF COLUMBIA
SUSAN M. BALL, OF FLORIDA
KRISTEN F. BAUER, OF MASSACHUSETTS
RENE LOUIS BEBEAU, OF VIRGINIA
JOHN KYLE BOICE, OF TEXAS
JENNIFER V. BONNER, OF NEW YORK
BARBARA FOULKE CATES, OF MARYLAND
JUNE ELLEN COCHRAN, OF VIRGINIA
KAREN B. DECKER, OF VIRGINIA
JOHN MICHAEL DESMOND, OF COLORADO
KATHLEEN ANN DOHERTY, OF NEW YORK
FELIX ANDREW DOWDY, OF TENNESSEE
DOUGLAS KENT ELLRICH, OF FLORIDA
DALE BLAINE EPPLER, OF WYOMING
JOHN ERATH, OF NEW JERSEY
JOHN D. FEELEY, OF NEW YORK
NINA MARIA FITE, OF PENNSYLVANIA
LISA A. GAMBLE, OF LOUISIANA
BENJAMIN ANDRES GARCIA, OF NEW JERSEY
ROBERT S. GILCHRIST, OF FLORIDA
ERIC F. GREEN, OF MINNESOTA
KRISTIN MARIA HAGERSTROM, OF CALIFORNIA
HENRY HARRISON HAND, OF NEW YORK
WALLIS SPENCER HAYNES, OF VIRGINIA
JEFFREY M. HOVENIER, OF MARYLAND
MARTHA A. HUSTED, OF CALIFORNIA
MELISSA J. KEHOE, OF WASHINGTON
CHRISTOPHER MILES KRAFFT, OF VIRGINIA
DANIEL J. LAWTON, OF NEW YORK
BRUCE J. LEVINE, OF NEW YORK
PATRICIA ALICE MAHONEY, OF TEXAS
DANIEL LINAN MARTINEZ, OF TEXAS
JONATHAN MICHAEL MOORE, OF ILLINOIS
CHRISTOPHER MICHAEL O'CONNOR, OF FLORIDA
E. CANDACE PUTNAM, OF VIRGINIA
AVRAHAM RABBY, OF NEW YORK
DAVID HUGH RANK, OF ILLINOIS
MARK DOUGLAS SCHALL, OF ARIZONA
SUSAN MARIE SCHMIDT, OF CALIFORNIA
M. HANSCOM SMITH, OF MAINE
MICHAEL G. SNOWDEN, OF CALIFORNIA
DANIEL EMERSON TURNBULL, OF FLORIDA
LISA ANNETTE VICKERS, OF CALIFORNIA
WILLIAM C. WALKER, OF CALIFORNIA

DEPARTMENT OF COMMERCE

BRIAN BRISSON, OF THE DISTRICT OF COLUMBIA

UNITED STATES INFORMATION AGENCY

AMY M. BLISS, OF COLORADO
KATHLEEN JOANNE BRAHNEY, OF VIRGINIA
MARY ELLEN COUNTRYMAN, OF WASHINGTON
PETER ALFRED EISENHAUER, OF WISCONSIN
IN-MI KIM GOSNELL, OF VIRGINIA
LAURA MARLENE GOULD, OF FLORIDA
ALYSON LYNN GRUNDER, OF NEW YORK
ELIZABETH KAY WEBB MAYFIELD, OF TEXAS
PAUL LEONARD OGLESBY, JR., OF ILLINOIS
TAMARA PARSONS PITMAN, OF WASHINGTON
CORINNE E. SMITH, OF NEW YORK
JAMES ALAN WARREN, OF CALIFORNIA
TERRY JOHN WHITE, OF OREGON

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE AND THE UNITED STATES INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MILLARD W. ARNOLD, OF CONNECTICUT
JOSEPH E. ARONHIME, OF VIRGINIA
CHRISTOPER T. BAKER, OF VIRGINIA
WILLIAM E. BAKER, OF VIRGINIA
THOMAS M. BASSAM, OF VIRGINIA
STEPHEN MARK BEAIRD, OF VIRGINIA
RENA BITTER, OF TEXAS
ANNA R. BOLINGER, OF VIRGINIA
RICHARD L. BREAW, OF VIRGINIA
MARY JANE WOLANSKY BUSHNAG, OF VIRGINIA
ERIC JOHN CARLSON, OF VIRGINIA
TIMOTHY J. CASEY, OF VIRGINIA
MICHAEL FRANCIS CAVAHAUGH, OF ILLINOIS
MARGARET ELIZABETH CLARK, OF TEXAS
THOMAS EDWARD COONEY, OF MICHIGAN
THOMAS R. CRABB, OF MISSOURI

LORI PETERSON DANDO, OF MINNESOTA
DARIA LEIGH DARNELL, OF VIRGINIA
LYNN DAROCZY, OF PENNSYLVANIA
NORMAN W. DE CARTERET, JR., OF CALIFORNIA
GUILLERMO DE LAS HERAS, OF VIRGINIA
NIDA A. EMMONS, OF ALABAMA
SUZANNE MICHELLE ERIQAT, OF CALIFORNIA
JEWELL ELIZABETH EVANS, OF MISSISSIPPI
ROBERT FARMER, OF FLORIDA
PATRICIA LYNNE FIETZ, OF NEW YORK
JOHN N. GAFFNEY, OF WASHINGTON
MICHAEL GORDON GARVEY, OF NEW YORK
MARCELO A. GIGENA, OF CALIFORNIA
ANTHONY F. GODFREY, OF NEW YORK
KATHARINA P. GOLLNER-SWEET, OF VIRGINIA
PATRICIA H.H. GUY, OF FLORIDA
ADRIENNE LEE HARCHIK, OF VIRGINIA
BROOK EMERSON HEFRIGHT, OF THE DISTRICT OF COLUMBIA
DUANE M. HILLEGAS, OF MARYLAND
WENDY HILTON-JONES, OF VIRGINIA
MARVIN W. JENSEN, OF CALIFORNIA
DEBORAH L. JONES, OF VIRGINIA
ROBERT O. JONES, JR., OF MARYLAND
SEAN P. KELLEY, OF TENNESSEE
ATUL KESHAP, OF VIRGINIA
REBECCA J. KING, OF VIRGINIA
JIM LOVELAND, OF UTAH
SAMUEL ANDREW MADSEN, SR., OF VIRGINIA
LORENZO A. MARTINI, OF VIRGINIA
BRETT DAMIAN MATTEI, OF CALIFORNIA
WAYNE AMORY MCDUFFY, OF NEW JERSEY
DELORES MINERVA MORTIMER, OF MICHIGAN
VONDA GAY NICHOLS, OF TEXAS
SHEILA PASKMAN, OF PENNSYLVANIA
GREGORY C. PATRICK, OF THE DISTRICT OF COLUMBIA
SARAH LONGMAN PAYNE, OF VERMONT
THOMAS T. PIERSON, OF VIRGINIA
KARYN ALLISON POSNER, OF CALIFORNIA
BRENDA S. QUERRIERA, OF VIRGINIA
CRAIG THOMAS REILLY, OF PENNSYLVANIA
JOHN J. RICE, OF THE DISTRICT OF COLUMBIA
DAVID ALLEN SCHLAEFER, OF TEXAS
LAN N. SCHOFIELD, OF VIRGINIA
DAVID J. SCONYERS, OF THE DISTRICT OF COLUMBIA
ROBERT SETTJE, OF SOUTH DAKOTA
LYNNE P. SKEIRIK, OF MAINE
TIMOTHY J. SMITH, OF VIRGINIA
LAUREL ELAINE STEELE, OF CALIFORNIA
KEVIN DOUGLAS STRINGER, OF TEXAS
GREGORY S. TAEVS, OF CALIFORNIA
DAVID A. THOMSON, OF ILLINOIS
BRIAN J. TINDELL, OF ARIZONA
JO ANNE THERESE WAGNER, OF MISSOURI
JOHN EDWIN WARNER, JR., OF VIRGINIA
ALETA FAY WENGER, OF WASHINGTON
KATHLEEN T. WILLIS, OF VIRGINIA
JASON NIALL WITOW, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT, AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED TO BE EFFECTIVE MARCH 22, 1992:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ROBERT H. STRONG, OF FLORIDA

THE FOLLOWING-NAMED PERSON OF THE DEPARTMENT OF STATE, PREVIOUSLY APPOINTED MAY 9, 1994 AS A FOREIGN SERVICE OFFICER OF CLASS FOUR, A CONSULAR OFFICER AND A SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, NOW TO BE EFFECTIVE NOVEMBER 20, 1992:

RICHARD SCOTT SACKS, OF NEW HAMPSHIRE

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A) AND 3385:

ARMY PROMOTION LIST

To be lieutenant colonel

RICHARD W. ATTWOOD, [redacted]
JOHN P. BASILICA, JR. [redacted]
RICHARD K. BISHOP, JR. [redacted]
STEVEN L. BROWN, [redacted]
CHARLES R. BRULE [redacted]
KEVIN J. CROWLEY [redacted]
DAVID M. DAVISON, [redacted]
DAVID M. DE ARMOND, [redacted]
JOSEPH P. DERDERIAN [redacted]
GARY F. EISCHEID, [redacted]
FERGUSON EVANS, [redacted]
WILLIAM A. FOLEY, JR. [redacted]
RICHARD W. GIRARD, [redacted]
LEON L. HARRELL III [redacted]
JAMES D. HEAD, [redacted]
GARY L. JONES, [redacted]
JOHN M. KANE, [redacted]
PHILLIP J. LENNERT [redacted]
DAVID A. LEWIS, [redacted]
FORREST D. MALCOMB [redacted]
GEORGE H. MALLOY, [redacted]
JEFFREY C. MCCANN [redacted]
JAMES P. MCDERMOTT [redacted]
JOHN E. NELSON II [redacted]
ROBERT W. OLSCHESKY, [redacted]
CALVIN F. PRINCE, JR., [redacted]
STEVE M. REED, [redacted]
LANCE E. REVO, [redacted]
GLENN K. RIETH, [redacted]
THOMAS S. SHATAVA, [redacted]
PATRICIA A. SHREVE [redacted]
DAVID R. SMITH, [redacted]
ROBERT E. STAFFORD [redacted]
JIMMY L. STEWART [redacted]
LLOYD L. SUTTON, [redacted]
SHERMAN E. TATE [redacted]
MARGARET S. WASHBURN, [redacted]
PATRICK D. WILSON, [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

STEPHEN L. DANNER [redacted]
DAVID S. NISS, [redacted]
JONATHAN D. PELLETIER [redacted]
GORDON E. WISE, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

SAMUEL J. HALL [redacted]
JAMES R. TINKHAM [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

RUTH A. WILCOX, [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, July 27, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we experience the joy of the day, the exaltation of the gifts of the spirit, the beauty of friendship and the opportunities for service to others. We are grateful, O God, that in spite of the anxieties of daily living and the tensions in our world, we can be filled with thanksgiving that You have blessed us with rich traditions and numerous occasions to see the magnificence of Your world and the splendor of Your creation. May our hearts and minds be open to Your glory, O God, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Colorado [Mr. SKAGGS] come forward and lead the House in the Pledge of Allegiance.

Mr. SKAGGS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1030. An act to amend title 38, United States Code, to improve the Department of Veterans Affairs program of sexual trauma services for veterans, to improve certain Department of Veterans Affairs programs for women veterans, to extend the period of entitlement to inpatient care for veterans exposed to Agent Orange or ionizing radiation, to establish a hospice care pilot program, to establish a rural health care clinics program, to authorize the Secretary of Veterans Affairs to provide per diem payments and construction grants to State homes for adult day health care services, to establish an education debt reduction program, and for other purposes; and

S. 1146. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

GUARANTEED HEALTH INSURANCE FOR ALL

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, as we get close to the floor debate on health care reform, the threshold question remains, are we going to provide guaranteed health insurance for everybody in this country? It is clear that that is what the American people want and expect us to be able to do. But the question remains, would just insurance reform accomplish most of what we need to do? It sounds good. The problem is with the law of unintended consequences, which would kick in if we were to limit ourselves to insurance reform alone. People who need insurance would get in, but those without immediate problems would wait. As a result, costs would go up, premiums would go up. The middle class would get squeezed out. So, we have to see insurance for all as absolutely critical to our other goals: Affordability, cost containment, workable insurance reform.

This is the key element to real reform. It is the key element missing from the alternatives offered by the other side. We have got to act on health care reform and we have got to have guaranteed insurance for all Americans.

LIMITING SENIORS HEALTH CARE—NOT AN OPTION

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, with time drawing short this year for Congress to pass a health care bill, I wanted to share a word of caution from older Americans who are concerned that Congress will rush into something they do not want to do.

The media reports that the Clinton health plan is dead—but we know it is not. Similar plans approved in committee would: Limit older Americans' choice of doctors, ration care, and limit current services.

For example, to pay for expanded health care coverage for the uninsured, the bills approved in the House Education and Labor Committee and the Ways and Means Committee would tax benefits and drastically cut Medicare. The Clinton plan recommends cutting Medicare $124 billion.

There is a better way. Older Americans do not have to settle for all-or-nothing reforms that endanger current benefits. Proven reforms can be enacted now to: Control costs, expand access to health services, and guarantee health security.

These reforms will not disrupt the high quality of health services available to most Americans today.

Mr. Speaker, I support moving ahead with health care reform. This issue cannot be rushed. I will not support a plan that jeopardizes the quality of care for older Americans.

HOUR OF MEETING ON THURSDAY, JULY 28, 1994

Mr. SKAGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 a.m. tomorrow.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Colorado?

There was no objection.

HOUR OF MEETING ON FRIDAY, JULY 29, 1994

Mr. SKAGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday, July 28, 1994, it adjourn to meet at 11 a.m. Friday, July 29.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Colorado?

There was no objection.

NO FREE LUNCH

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, as we get closer to a vote on health care reform we are hearing that the issue of cost sharing between employers and employees is dead. There are those who would require an individual to buy insurance and pay the full cost rather than to risk upsetting special interests who do not want to cover their employees. What we are really talking about is fairness in who pays the cost of health care insurance. Both employers and employees have a stake in a healthy work force; therefore, the costs and benefits should be shared.

The fact is that most people who have insurance get that insurance

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

through their employer. This is not a new situation and this resulted from the free market determining how benefits would be distributed.

Many of you know that large businesses generally support the idea of providing coverage to all employees since most large companies already provide these benefits. However, you may have also heard that this proposal would kill small business. In the district I represent, a small businessowner named Bobby Schlitzberger provides insurance to his 10 employees today without a Government mandate. However, he realizes that unless his competition does the same, he is put at a competitive disadvantage.

This small businessman, who also happens to be a member of the National Federation of Independent Business, seems to already have gotten the message that many Members of this body have not. We need to provide health coverage to all employees so that all of our businesses can stay competitive.

As Bobby Schlitzberger stated, "There ain't no free lunch."

It's time for this Congress to pass health care reform. This is the last great social policy debate of this century. When our kids and grandkids look back, will we have set the stage for a stable economic future or will we have taken the course of least resistance and continued business as usual.

THE PHONY EXPRESS

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, "The Health Security Express Off to a Slow Start." That was the headline in the Washington Post, describing the special interest bus tour inspired by President and Mrs. Clinton.

In a sign of things to come, one of the tour's four buses broke down the first day. If the Clinton plan is enacted, everybody's health care would break down under the control of Government bureaucrats. But even as the Phony Express makes its way across the country, Democratic leaders are finally heeding Republican warnings.

In fact, late last week, the President acknowledged that his plan was officially dead. The White House is now open to the idea of delaying reform.

But Republicans do not want to delay the wrong reforms. They want swift action now on the right reforms. Republicans want malpractice reform. We want portability. We want to end preexisting conditions. And we want to do it now.

I urge my Democrat colleagues to work with Republicans to achieve commonsense health care reform, while abandoning their plan once and for all.

MOM LOSES CUSTODY OVER DAY CARE

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, this morning as I read the cover of USA Today, the cover story says "Mom Loses Custody Over Day Care." It seems to me that this sends all of the wrong messages to responsible young women who assume primary responsibility for their child. This young lady, a student at the university of Michigan, allows her daughter to live with her in the dormitory while she pursues her college education. It seems to me that even as we debate welfare reform here on the floor of the House, as we talk about trying to get more young people to assume that kind of responsibility, as we talk about moving them from welfare rolls so that they can pursue not only education but job training programs, that the message that is sent by this particular decision is one that has dire consequences. It is my hope that the judge will take another look, perhaps reverse the decision, because I think it means much to working mothers to know that they can place their child in good day care while at the same time pursuing their education and other training pursuits.

FIRST LADY'S HEALTH CARE TASK FORCE

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, every day there is some new revelation. Today it was reported in the news that the First Lady's defense lawyer now claims that her health care reform task force had no influence on the content of the President's health care reform bill. The White House has now apparently admitted that the task force that the first Lady headed was mainly composed of special interests, not Government employees.

The American people cannot be fooled. It is absolutely clear that the task force was assembled to write the Clinton health care plan and indeed I am sure the First Lady's comments in the press over the past year will confirm that. For her attorney to now deny that the task force had any influence on the health care plan is absolutely ridiculous. If the task force did not write the plan, who did? What were those hundreds of people doing? How much did it cost the taxpayers?

This is another example of how this administration feels it is above the law. A trial has been scheduled to determine whether the task force broke the law. Now we will know.

Mr. Speaker, there is no wonder the American people have no confidence in the Clinton health care plan.

☐ 1010

INNOCENT UNTIL PROVEN GUILTY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there is still a lot of injustice in America. One injustice is a taxpayer is guilty until proven innocent by himself or herself when accused of tax fraud or tax evasion. Another one is that our great legislator around here, JIM BUNNING, has not been inducted into the Baseball Hall of Fame.

But, Congress, we cannot do anything about JIM BUNNING and the baseball writers should wise up. But, Congress, we can do something about protecting the constitutional rights of our taxpayers, and I invoke JIM BUNNING's name because JIM is a member of the Ways and Means Committee and signed on to Discharge Petition No. 12, folks.

He said, "Jim, I was reluctant at first because of the provisions on IRS agents' liabilities." I gave JIM BUNNING my word that I would throw those provisions out and I am giving Congress my word. Sign Discharge Petition No. 12 and there is only one thing that will be brought to the floor: A taxpayer, when accused of tax fraud or tax evasion, is innocent until proven guilty. That is it.

If it is good enough for Jeffrey Dahmer, if it is good enough for Charles Manson, if it is good enough for the Son of Sam, Congress, it is good enough for mom and dad. I want Members to sign Discharge Petition No. 12.

THE BUS STARTS HERE

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, what a difference 40 years makes. When Harry Truman was the Democrat in the White House he had a sign on his desk that read "The Buck Stops Here."

In other words, when the going got tough then it was his responsibility. In contrast, today when the going gets tough this administration hits the road. Literally.

Last week the White House began its bus campaign to salvage its Big Government, big spender health care program. It is not the buck that has stopped, but the bus that has stopped.

However, this strategy has a major oversight. The problem with the Clinton health care plan is not that the people do not know it. The problem with the Clinton health care plan is that the people do not like it.

Boy, don't they like it. According to the latest CNN/Gallup poll, 59 percent of Americans oppose the Clinton plan, while only a sliver thin one third of Americans still support it. Let us get off the bus and get to work—on health care reform most Americans can swallow.

INTRODUCTION OF LEGISLATION TO ESTABLISH AMERICAN MEDICAL CARE [AMCARE]

(Mr. SCOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT. Mr. Speaker, I am today introducing legislation to establish American Medical Care [AMCARE].

AMCARE establishes a Federal Government sponsored, single payer type health care plan, available as a choice to all individuals. It assures that all competitive health care plan options now available to consumers remain as a part of a reformed health care system.

AMCARE will operate alongside of the various private options under the same structure and rules. It will offer the standard national benefits package with supplemental benefits offered in the same manner as other plans.

While AMCARE is government sponsored, it is not taxpayer financed. It is self-financing through premiums. It will be administered by the Secretary of Health and Human Services with an oversight board of trustees and a 3-percent administration cap. It will participate in risk adjustment and receive subsidy payments for individuals in the same manner as other plans.

As we consider the final version of health care reform, I hope that an AMCARE model will be considered.

For anyone who believes that government can compete with the private sector in the delivery of healthcare, AMCARE is the plan for you; for anyone who believes the private sector can out compete government in the delivery of health care, AMCARE will allow you to prove it; for those of you who feel that the jury is not in on the issue, AMCARE will allow the jury to come in.

TALES FROM THE CRYPT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, in its enthusiasm to sell its health care plan the Clinton White House has pulled out all the stops on its rhetoric.

Recently, they have been trumpeting the support their plan has from some 300 small businesses.

There is just one problem: Many of these claimed supporters are not. According to Business Week many of the listed businesses actually oppose the plan and dozens more have never heard of the Clinton coalition.

However, the Clinton health care proponents did not stop at falsely claiming converts; they even went so far as to raise the dead. One of the White House's claimed supporters, Louis Slotnick of Chicago, passed away 19 years ago.

The Clintons may be underselling the healing powers of their health plan if they are able to get Mr. Slotnicks support for it.

Actually, it is appropriate that the Clinton plan is seeking support from this quarter at the same time that it is losing it among the living.

Instead of taking a bus to rally support for their plan, the White House should be taking a hearse.

PRIVATE GUARANTEED HEALTH INSURANCE FOR EVERYONE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, last week, the Catholic Health Association released a comprehensive study of the major health care reform plans. The study confirms what Democrats have been saying all along—that unless we guarantee private health insurance for all, the middle class will wind up bearing the brunt of rising health care costs.

No matter what happens in Congress, we know this: the very poor and the very wealthy will be able to get health care. It is middle-income Americans who are at risk. And, it is their interests that we must keep in mind.

Health insurance reform alone will not work. That's what the opponents want. In fact, the Catholic Health Association study points out that if we make it harder to exclude people from insurance, only sick people who need expensive care will have insurance and working families will see their premiums go through the roof.

We have an opportunity to reach out to working families and enact real health care reform—not a cheap imitation, not halfway legislation, not softboiled initiatives.

Reform must begin and end with private guaranteed health insurance for everyone. It is not a line in the sand. It is the sand—the very foundation of real health care reform. Minimal political reform fails working families, fails small businesses, fails America.

FORGIVING JORDAN'S DEBT TO THE UNITED STATES

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, I am deeply concerned by reports that President Clinton will ask Congress to forgive some or all of Jordan's $700 million debt to the United States.

I serve on the Foreign Operations Appropriations Subcommittee and would expect to have received some type of notification of this proposed action. I have not. In fact, a recent inquiry through the State Department indicated that nobody knew anything about this forgiveness.

No one in this body welcomes the peace agreement between Jordan and Israel more than I do, and I was truly proud to be part of yesterday's joint session with King Hussein and Prime Minister Rabin. However, I am concerned if American taxpayers must pay for one nation to do the right thing. What type of precedent are we setting for future international peace settlements, treaties, or other actions?

It may be in our best interest to forgive Jordan's indebtedness. At this point I do not think it is. But we should not do it secretly without a debate and vote. I urge the leadership to bring the President's proposal before this House for full and thorough discussion, and we should have a vote accordingly.

KEEP ASSAULT WEAPONS BAN IN CRIME BILL

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, I rise today to urge the conferees on the crime bill to keep the assault weapons ban in the final conference agreement.

My constituents are tired of seeing the streets controlled by these heavily armed criminals. I have told you this before but it is worth telling you again: In one of my counties, more people died in gun-related deaths in 1 year than in Great Britain, Australia, and Sweden combined.

Over the years, a small number of interest groups have managed to hold Congress hostage to their pro-weapons doctines, and the Nation as a whole has suffered. We broke this barrier by passing the first national assault weapons ban this past May. We owe it to the American people to uphold this position and keep the assault weapons ban in the crime bill.

The ban will save American lives. The 19 specific weapons that were banned are all copies of military style submachine guns; they are used by criminals to kill people at close quarters with rapid fire lethal bursts. I support the rights of sportsmen but these guns are not used by sportsmen.

The assault weapons ban will reduce the amount of firepower available to criminals. It is the least we can do for our Nation's next generation. I urge my colleagues on both sides of the aisle to join me in my request to the conferees to keep the assault weapons ban in the crime bill.

□ 1020

POLL RESULTS SHOW SUBSTANTIAL OPPOSITION TO GOVERNMENT-MANDATED UNIVERSAL HEALTH CARE COVERAGE

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, months ago, the President dramatically brandished his veto pen for anything other than universal coverage in health care reform. But just a few days ago a phone-in poll was conducted by a major newspaper which serves a large metropolitan area in my southwest Florida district. Poll results show that two-thirds of those responding oppose Government-mandated universal coverage in health care reform. Unlike the liberal media and the White House spin doctors, these good people realize that there is a legitimate difference between universal access to affordable care and universal coverage under a Government-mandated, Government-run budget-busting health system. Hopefully, Mrs. Clinton and her fellow bus travelers are discovering that most Americans do not want a Washington-driven Health Care System. I believe they are saying let us put the people in the driver's seat, not Washington bureaucrats.

HEALTH CARE REFORM: MAKE SURE IT WORKS

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, very soon we will vote on the most important reform of health care in our Nation's history.

Having spent 20 years treating patients, I am convinced that for reform to work, we have to accomplish several objectives:

We have to keep the cost of health insurance from spiraling out of control, especially for small business.

We have to give people a choice of doctors and health plans.

We have to keep health insurance in the private marketplace.

And we have to let States like Washington implement their own health reform plans.

That is what the people we work for expect, that is what they deserve, and that is why I will not support any plan that does not offer every American the same health security that Members of Congress have.

WHO IS HAROLD ICKES?

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, who is Harold Ickes?

Officially, he is the White House Deputy Chief of Staff, the top Clinton strategist for health care reform, and the administration's point man on Whitewater.

Pretty impressive. But there is more to this picture than meets the eye.

As his record in the Whitewater affair will attest, Mr. Ickes is a proven master in the art of stonewalling and political intimidation.

Soon after arriving at the White House, Ickes pressured Roger Altman to stay at the RTC because the Clintons needed a friend on the inside. Then, he tried to remove attorney Jay Stephens from the Whitewater case because the Clintons didn't need any enemies.

But most disturbing is a confidential memo Ickes sent to Hillary Clinton on the RTC, which has been redacted from 25 pages to just one paragraph. Where is the rest of the story? Only Harold Ickes and the White House know.

If the people's faith in Government is ever to survive Whitewater, then the Clinton administration is going to have to tell the truth this week. And people like Harold Ickes are going to have to come clean.

Who is Harold Ickes? The American people deserve to know.

CONGRESSIONAL REFORM: LET US REFORM OURSELVES

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, only in Congress could we have a self reform package that pleases no one. The old guard warns of utter chaos and confusion, the reformers feel it does not go far enough, and the voters will not like it as it does not do away with the abuses, perks and privileges of office.

The Joint Committee on Congress has spent 6 months and $640,000 on a package that has few changes, probably none that will affect the way we do business.

My bill, H.R. 4444, does away with proxy voting. The package does not. My bill reforms our pension, parking, and travel guidelines. The package does not. My bill applies health care reform to us. The package does not. There is much, much more H.R. 4444 does that the package does not.

The numbers speak for themselves, Mr. Speaker. 110 new freshman in 1992. The Democratic Congressional Campaign Committee admitted in a briefing that they expect to lose 25 to 30 seats, which means they will lose more.

We can reform ourselves or the voters will do it for us. Let us reform ourselves. Support total congressional reform, support H.R. 4444.

LET US WORK TOGETHER ON HEALTH CARE REFORM AND RESTORE CONFIDENCE IN CONGRESS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I believe the poll results show that there was a very significant upward movement of approval across the country for Congress as an institution, and as a working institution, when together we adopted what was called NAFTA, the North American Free Trade Agreement back in 1993. Unfortunately, some of those approval ratings have been dropping off in the meantime, and it seems to me that one way this institution, and we as Members of it on both sides of the aisle, could again improve our ratings with the American people both as an institution of historical significance and also as a working, productive body, would be to do something together on the health care issue.

What dignified and probably distinguished NAFTA was the fact that both sides came together, the leadership on both sides of the aisle, and fashioned this agreement. What we now need, I think, is more effort collegially and cooperatively in a bipartisan sense with regard to health care reform.

It seems to me if we were able to do something like that in these waning days of summer, then we might be able to restore the confidence of the people in Congress as an institution and as a working institution.

CONGRESS APPROVES STRONG RISK ASSESSMENT LANGUAGE

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, yesterday the House of Representatives again confirmed its commitment to strong risk assessment language. As we considered new science and technology legislation, 286 Members sent a message to bureaucrats, this administration and our House leaders that we will not accept a watered-down approach to risk assessments.

The movement in Congress for regulatory reform took a large step forward. Unfortunately, EPA Administrator Browner and her bureaucratic buddies still have not gotten the message. Yesterday they rushed to the House floor their statement of opposition and defiance to including strong risk assessment language in the pending legislation. Ms. Browner's actions and opposition can only be compared to a drowning woman's plea for help, but rather than call for a life preserve, Carol Browner asked for another cement block.

Fortunately, the House refused her hollow plea, fortunately the House rejected her idle threat. Fortunately the House stated clearly and loudly that we will not accept new legislation, we will not accept new programs, and we will not accept new regulations without strong risk assessment language.

HARRY TRUMAN: PRESIDENT AND PROPHET

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, 46 years ago Harry Truman, in a courageous move, recognized the State of Israel. Yesterday we had the head of the State of Israel and the King of Jordan before this Congress signing a peace that has taken those 46 years to achieve.

Harry Truman in 1945 called for universal health care. In 1945 he said the need for a program that will give everyone an opportunity for medical care is obvious, nor can there be any serious debate about the doubt of the Government's responsibility to help in this humane and social problem.

Mr. Speaker, we have brought the parties in the Middle East together; the Soviet Union that President Truman, through President Bush, fought, has dissipated. The Soviet Union is no longer.

We have been to the moon; we have been able to conquer most of the childhood diseases that existed when President Truman was in office, but we are still struggling to give every American guaranteed health care coverage.

We have brought peace to the Middle East. We have brought an end to the Communist reign in the Soviet Union; it is time to give Americans, 100 percent of Americans, universal health care coverage.

U.S. MATH TEAM IS FIRST IN THE WORLD

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we often hear that America is not No. 1 in the world any more. The example often cited is the decline in our country's educational system.

Now, Mr. Speaker, we do have some problems that need to be addressed in our schools, but I believe it important to acknowledge the successes as well. We still produce some of the brightest students in the world.

Just this week the United States won the top prize in the international match competition which took place in Hong Kong.

Each of the five members on the U.S. team scored a perfect 42 which is an unprecedented accomplishment. The competition included participants from 69 countries. China placed second and Russia third.

We hear a great deal of talk about the need to build self esteem in our young people. One of the best ways to build self esteem is to make sure that we instill in our teens the importance of a good education.

Math and science should be promoted in our schools if we are to continue being No. 1 in the world. We must be able to compete globally.

Again, I commend our U.S. math team for this phenomenal achievement.

MIDDLE EAST PEACE ACCORD: LET'S GIVE CREDIT WHERE CREDIT IS DUE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, yesterday most of the press attention was on Whitewater hearings, but the most important event took place right here in this great hall where the leaders of Jordan and Israel signaled that the time had come for peace.

You notice they credited one man named Warren Christopher for the efforts that brought them together. The administration deserves credit for pursuing this Middle East initiative with persistence, with diplomacy, with good judgment, but most importantly, on a bipartisan basis.

□ 1030

Mr. Speaker, Warren Christopher many times is criticized. But his achievement will always be measured as Secretary of State by his very positive diplomacy that he brought to the historic meeting that took place yesterday.

The Clinton administration has made very, very significant progress in the Middle East, building upon past administrations. Let us give credit where credit is due.

CALIFORNIA DESERT PROTECTION ACT OF 1994

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for further consideration of the bill, H.R. 518.

□ 1031

IN THE COMMITTEE OF THE WHOLE HOUSE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 518) to designate certain lands in the California desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, with Mr. PETERSON of Florida in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, July 14, 1994, the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] had been disposed of, and title VII was open to amendment at any point.

Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. CALVERT

Mr. CALVERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CALVERT: At the end of the bill, add the following new section:

"SEC. 703. EFFECTIVE DATE.

"This Act shall take effect when the National Park Service has reduced the nationwide backlog of land acquisition by 50 percent. The scope of the backlog shall be determined as of the date of enactment of this Act, by the Director of the Office of Management and Budget, and shall certify when the backlog has been reduced by the requirements of this section."

Mr. CALVERT. Mr. Chairman, this is a simple, yet very important amendment. Its purpose is straightforward—to require fiscal, as well as environmental responsibility.

It requires the National Park Service to take care of existing obligations before Congress adds new ones.

Our national park Service is in desperate need of funds.

Here is what National Park Service Director Kennedy recently had to say about our national parks:

> The condition of the places is in many instances genuinely desperate and disgusting. There are buildings that aren't safe, buildings with asbestos in them, parks with hazardous waste all over the place.

These words—"desperate," "disgusting," "hazardous," and "not safe" are his, not mine.

Virtually everywhere you look in our national parks, you can see deteriorated or inadequate facilities and inadequate personnel to provide basic information or respond to emergencies.

Nationwide, the National Park Service is facing a shortfall of $5.6 billion for construction, several billion for land acquisition and $400 million in annual operating costs—as is shown on this chart.

This translates to a 37-year backlog in funding for construction and a 25-year backlog in land acquisition, if we assume no inflation and no decreases in funding.

And, the fact is that funds are getting more and more scarce for our existing parks. The House-passed appropriation bill for fiscal year 1995 provides for a cut of 15 percent in construction over the previous year, an 8-percent cut in land acquisition over the previous year, and an operational increase less than the amount of inflation.

In short, the shortfall is likely to get worse, rather than better.

A recent nationwide survey of park superintendents identified their No. 1 problem as inadequate funds. The number two problem was inadequate staff.

Despite this crisis, Secretary Babbitt has ordered the National Park Service to cut more than 1,300 full-time positions or about 7 percent of their work force over 3 years.

Mr. Chairman, it does not take a mathematician or an economist to understand that this legislation, the California Desert Protection Act, will put the Park Service in worse financial condition than it is now.

According to the Congressional Budget Office, the cost of implementing this bill will be $336 million, and according to the Department of the Interior, it will require 100 additional employees to manage 3 million acres of new National Park Service lands.

And, where will the money and personnel come from? There's only one place they can come from—parks which are already underfunded and understaffed—parks in the districts of virtually every Member of this body.

Funding the Desert Protection Act before clearing the backlog of Park Service repairs and acquisitions makes about as much sense as a family which owns a home with a leaky roof, worn-out furnace and broken water heater borrowing money to add a swimming pool. It is completely illogical.

Mr. Chairman, my amendment does not prohibit our Government from taking steps to protect the California desert. What it does do is require the Government to fulfill its current commitments—to remove the asbestos; to repair dangerous facilities and to fix up disgusting buildings. It requires us to make our present park inventory more available to the American people before adding additional acres.

The amendment simply requires the U.S. Park Service to reduce the nationwide backlog of land acquisition, construction and operation by 50 percent, before this bill—H.R. 518—can take effect.

We are telling the family with the leaky roof, blown-out water heater, and broken furnace that they have to take care of those essentials before we will give them money to build that swimming pool.

We are telling the Park Service that we want them to take care of what they already have before we burden them with even more.

Mr. Chairman, this is a commonsense amendment, and I urge a "yes" vote.

Mr. McKEON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. CALVERT].

Mr. Chairman, Congress has regularly increased the National Park Service's maintenance budget but continues to face a huge backlog of repairs. In the State of California alone, repairs are estimated to cost over $2 billion. By creating three new parks, one of the results of the bill before us today would be to divert limited funds from such California parks as Yosemite and Sequoia, as well as other parks like Yellowstone, Bryce Canyon, and the Grand Canyon. Opponents of the Calvert amendment will state that figures cited for maintenance projects are inflated because they represent a wish list of park directors rather than a reasonable attempt to address maintenance priorities. While to a limited extent this may be true, the fact remains that necessary improvements at our national parks will be sacrificed by adding expansive desert lands to the national park system. I urge adoption of the Calvert proposal as a means of addressing this critical issue.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. CALVERT].

Mr. Chairman, I rise in strong opposition to this amendment. Just listening to the principal proponent of it, he says we have a 37-year backlog in terms of the National Park Service in terms of land and other types of backlogs that are identified, that he tried to identify. Using that, Mr. Chairman, that would mean that, if we wanted to take 50 percent of that without inflation to the other factors according to the proponent, it would be the year 2014, or about 20 years, before we could, in fact, designate these parks in California that they would be operative. The expansion we are talking about is substantial expansion to the parks here.

□ 1040

So I do not think this is really a serious amendment in terms of what its impact is. It would simply pull the rug out from under the idea of having any new park or the new park in California, or the expansion that is so justified and wanted by the people of California and this Nation, and a longtime goal of the National Park Service to provide the Mojave type in the national park system.

This is an effort to change the argument in terms of the needs. This is part of the legacy of tomorrow.

They talk about what we are doing in terms of restoring the Golden State and some of the gold. The gold there was not from the forty-niners. It is in the natural resources that are there and available to the people, and it is something that is really of national interest.

Most of these lands, incidentally, are going to remain in the public domain or are in the public domain. These are BLM lands. These are public lands, and it is a question of whether we can have the highest and best use. Do we want to make these lands open to the 1872 mining laws so we can give away more mining claims and patents? That is the effect of not permitting this particular designation and these activities to go forward. By the year 2014, there would be nothing left; it would be ruined, based on the past mining policies and their effect that has occurred historically.

So this is an effort really to mask as a friend of the Park Service. With friends like this, no wonder the Park Service has a backlog.

The truth is that that backlog could grow, simply based on inflation, and that is precisely what has happened during the 1980's, because land prices, where we had responsibilities to purchase land, have gone up, because the wish list of those in the Park Service, the superintendents from parks who have no legislative limitations, has significantly grown.

Are there some serious problems at Isle Royale? Yes, there are dock problems there, and there are other issues. The fact is that the Park Service through various trust funds and other types of programs has been shortchanged. The arguments of the gentleman and others would be much more convincing if they had come to the floor and been advocates for the Park Service in the sense of trying to represent and fight for the needs of the Park Service, along with others of us who are concerned about the park's future.

So I think this amendment deserves richly to be defeated. As to the value of the assets and the administration handing this over to the Office of Management and Budget to run the Park Service, in essence to make the decisions that Congress should make, to designate or not designate, to put that type of trip wire in is to trip up the whole process of park designation, and I think this amendment, masking as a friend of the park, is a policy that does not work.

The Members who are advocating and supporting this amendment in essence in my judgment do not want to designate these parks. They do not support the designation of these parks. So the suggestion that somehow we have to have this type of limitation in here, I think, is disingenuous to say the least.

As to the OMB, there simply is no target. The gentleman from California [Mr. LEWIS] and others—Mr. LEWIS has not spoken yet, but I suppose he will—say there is a $9 billion to $11 billion park backlog. This amendment proponent suggest that there is a $7 billion to $9 billion park backlog. Is it $9 to $11, and this has $7 to $9? The Park Service calculates the backlog as $4.5 billion. The backlog is a moving target. So even if we wanted to use that particular logic, we certainly would have to understand the limitations and inappropriateness of such threshold.

The important point is that we, the Congress, should make the decision, make it ourselves and not pass it over to OMB or some bureaucrat to make the decision about whether or not we are going to have a Mojave Desert Park, whether we are going to substantially expand Death Valley, and whether we are going to add to Joshua Tree.

Mr. Chairman, this amendment should be defeated.

MODIFICATION OF AMENDMENT OFFERED BY MR. CALVERT

The CHAIRMAN. The Chair understands that the gentleman from California [Mr. CALVERT] wished to offer a modification.

Mr. CALVERT. Mr. Chairman, I do offer the modification, and I ask unanimous consent for its adoption.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. CALVERT: After the phrase, "land acquisition," insert ", construction and park operations".

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The text of the amendment, as modified, offered by the gentleman from California [Mr. CALVERT] is as follows:

At the end of the bill, add the following new section:

"SEC. 703. EFFECTIVE DATE.

"This Act shall take effect when the National Park Service has reduced the nationwide backlog of land acquisition, construction and park operations by 50 percent. The scope of the backlog shall be determined as of the date of enactment of this Act, by the Director of the Office of Management and Budget, and shall certify when the backlog has been reduced by the requirements of this section."

Mr. LEWIS of California. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise with no small amount of consternation after listening to the presentation by my colleague, the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee that would deal with these public lands or has the responsibility for them.

I must say to suggest that one way or another this amendment would indicate a total lack of support for parks in this region is not a reflection of the debate that has gone before us over these past several weeks.

The reality is that the Park Service is in serious trouble at this moment. There is little doubt that the Members of the House understand that one way or another this committee, including the subcommittee chairman, has gotten out of touch with the real world as it relates to what we can actually afford with the Park System. There is a significant backlog reflected here in California parks and reflected throughout the country as well. The Park Service by way of this committee has been saddled with a log of long-term intent, very ambitious expansion objectives in terms of the Park System, with very little idea of how we are going to pay for it over a period of time.

In our State alone, Yosemite National Park has an annual operating shortfall of $9.4 million, a construction and land acquisition shortfall of $394 million. The Sequoia-Kings Canyon National Park has almost a million dollars of annual backlog, and $200 million of construction. It goes on and on and on.

In the very area that we are talking about here, with one of the national monuments, the Death Valley National Monument, we are kind of in the midst of trying to complete a record-breaking period of temperatures in excess of 120 degrees at that national monument, and we have Park Service people living in metal crates essentially because of a lack of capability to fund adequate housing for those members of the Park Service.

It is very critical for us to recognize that first and foremost we have a responsibility to the existing Park Service. Members across the country recognize that their parks are not receiving the kind of service that they need to in turn adequately service the public.

Then let us speak to this bill specifically as it relates to this amendment. This amendment simply would say, until such time as the Park Service brings down their backlog in terms of property that they need to purchase, that in turn there would not be an implementation of this specific legislation.

What does that actually mean? Well, presently the two major areas that would be reflected by this bill in terms of any significant policy change are the Joshua Tree National Monument, which is supposed to become a park and to expand somewhat significantly, and the Death Valley National Monument, which would become a park. Both of those monuments are currently operated by the Park Service. They have been handled by that service over a sizable number of years, and in spite of their shortfall, still there are people in the public worried about parks and lands who believe they are of a quality that they should become parks.

It seems to me that somehow, some way, in spite of that shortfall, the Park Service has done a pretty adequate job handling the monuments per se. This amendment would suggest that the monuments continue in that pattern without the additional expenditures that are necessary for making them parks. You have to increase the number of personnel significantly to make that transition to parks. Yet there is absolutely no mechanism, no suggestions as to how this committee would find those added expenses, to say the least. If there is a shortfall, there is a shortfall of reality here.

This bill in its present form, does not create a third park, which is the wish list of this committee. It creates a preserve in the East Mojave, recognizing the horrendous multiple kinds of uses that absolutely belie the suggestion that there should be a park in the region. There are thousands of miles of roadways, there are endless high power lines, and multiple use that involves very important minerals and mining, which is critical to the national interest.

□ 1050

The House has recognized that multiple use is logical for the East Mojave, so there is not a question there. So really what this bill would do, this amendment would do, is say in the two areas where transition of significance would take place, where we are talking about making a monument, a couple of monument parks, there is added expense. Let us delay that expense.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. LEWIS of California. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. MILLER of California. Mr. Chairman, it is the intention of this gentleman to object to extensions of time on both sides of the aisle so we can move along with the legislation. I do object.

The CHAIRMAN. Objection has been heard.

Mr. PACKARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I must say I certainly hope the chairman's action this early in this discussion today is not an indication of his intention to return to a pattern of essentially rolling over the people who are elected to represent the desert. We do not expect to spend extensive time today. But if this is going to be the pattern of the chairman, we may spend a great deal more time than I had intended, at least. To suggest they are not issues that are important to discuss here, Members across the country should take a look at their own States and districts, at the backlog that is there.

Secretary Babbitt, in the hearing on the Senate side, suggested that where we had inholdings that might not have money available for them in terms of priority for the Park Service, Secretary Babbitt said, "They can keep their property forever, as far as I am concerned." This is essentially a statement inside a national park, caring less about the kinds of property rights that were reflected in an overwhelming vote of concern just last week when we were discussing this bill.

Indeed, there is little doubt there is a major problem here. This amendment attempts to address the problem in a very responsible way, and I urge the Members to look at their own States and districts as they consider their vote on this amendment.

Mr. PACKARD. Mr. Chairman, reclaiming my time, I rise in strong support of the amendment to H.R. 518 of the gentleman from California [Mr. CALVERT], the California Desert Protection Act. This amendment adds a level of credibility to an ill-conceived piece of legislation which threatens National Park Service operations throughout this country. As originally fashioned, the California Desert Protection Act would create three new national parks in a system which is having trouble sustaining the current operations.

The National Park Service's own estimates show shortfalls of up to $9 billion. The 367 existing units of the National Park System already contend with deteriorating facilities for visitors, poor roads, and personnel shortages.

The Calvert amendment takes a commonsense approach to solving this problem by delaying the implementation of H.R. 518 until existing National Park Service backlog on construction, land acquisition, and operations is reduced by 50 percent.

Members from Utah, Idaho, Montana, Wyoming, Virginia, Arizona, Florida, New York, anywhere where there is a national park in your area or State, you will be called upon to take less money in an already short budget to operate your national park if these three national parks become a reality. This amendment will help to ensure that less money will be siphoned away from existing parks to create these three new national parks.

Secretary Babbitt, who came before my subcommittee on appropriations, stated over and over again that no new money will be provided for new parks. Instead, these new parks will be absorbed into the Service's already overburdened budget. That means that every national park in your area will have to help sustain these three new parks by taking less money.

As a Member serving on the appropriations subcommittee charged with funding the National Park Service, I am acutely aware of the current fiscal crisis facing the National Park Service during the 1994 fiscal budget year appropriations hearings. Park Service officials lamented the fact that there already exists a backlog of $2.1 billion in National Park Service construction for Park Service projects already approved that are still waiting for the funds to get started. Those projects will be further delayed if this bill becomes enacted without the Calvert amendment.

Member after Member came to our subcommittee and testified about the insufficient staffing and employee housing, poor roads, and deteriorating recreational facilities.

I ask my colleagues to consider the parks in their area. How much further down the list will it fall for construction and maintenance moneys when the Park Service is saddled with the burden of sustaining three new parks? These problems are certain to get worse in four district and in your parks. Without passage of the Calvert amendment, the park in your area will receive less money this year, next year, and every year after that.

Mr. Chairman, I hope my colleagues will keep in mind that the consequences of the California Desert Protection Act are not limited to California's alone. They reach into every one of your districts and your national parks across the country. I urge Members to support the Calvert amendment.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Calvert amendment.

Mr. Chairman, the reality of where we stand with our National Park System is painfully clear. Everyone is aware by now, or should be, of the major problems that are inherent in the system, in parks all across the country. Simply put, we are not able to take proper care of our existing park units, and as it stands now, we are unlikely to, given the staggering and well-documented backlogs in land acquisition and construction and maintenance. If we can't bring ourselves to exercise some restraint, as this amendment would, then the future of our National Park System, in both the short and long term, is exceedingly grim.

I would urge my colleagues to examine the logic of the Chicken Littles who call this amendment a bill killer. Look at what is happening in all our other parks; look at the facts as they relate to the lack of available moneys and staff. Forget about killing a bill; without this amendment, we are going to kill the desert that supporters of H.R. 518 claim to love so much. Look at it this way: Right now, the people who live in or visit the desert regularly do so because they love and appreciate its special brand of beauty. It is not for everyone, as these folks will tell you, but the rock climbers, hikers, birdwatchers, photographers, rockhounds, and others each find what they need in the unique stillness of the desert. These people understand the desert, and know that it is not a playground to be taken lightly. For these kinds of outdoor aficionados, the lack of infrastructure, rangers, or other staff, whether they are Park Service or BLM, is less of an issue, for the simple reason that they understand and respect the desert.

Now, let us assume that Congress in its infinite wisdom goes ahead and creates these new national parks. Now you have big signs on Interstate 10 and I–95 advertising these great new parks, and the tourists come rolling in by the station wagon full. Now these people for the most part have never experienced the desert, but because it is a national park they have certain preexisting expectations. Lodging, parking, sanitary and water facilities, campgrounds, interpretational kiosks, nature walks, snack bars, and the whole nine yards.

Will such amenities be available? Not likely, given the lack of the most basic resources and services at well-established and heavily visited parks like Yosemite and Yellowstone.

Now, the dissatisfied tourists notwithstanding, what will be the effect on the fragile desert ecosystem when millions of visitors come streaming through it with little to no direction as to how to appreciate it or conduct themselves in it?

I'm sorry, but that dog won't hunt. Without the Calvert amendment, whatever parks that will be created by this act are doomed from the start. Further, without the restraint of this amendment, we are turning our backs on the problems of existing parks. How can I say this? Don't take my word for it, just read the papers.

We are loving our Park System to death, plain and simple. This June 2 article from the San Francisco Chronicle tells us that in Yosemite, traffic jams, overcrowding, and enforcement of crimes such as rape and assault have taken the spotlight from Half Dome. This park covers nearly 1,200 square miles, and has only 100 rangers to patrol it. That number will be reduced with additional cutbacks to be phased in over the next 5 years.

In the July issue of Outside magazine, the summer travel advisory lists the 16 most dangerous national parks in America. Unhappily, listed among these is the California Desert Conservation District, the area addressed by this bill, which features among other things practicing satanists, militant white supremacists, and heavily armed drug laboratories. And finally, the August 1 issue of Newsweek carries a very interesting article about how our natural resources, including parks and national forests, have been brought to the breaking point by overuse. Tourism is killing places like the Grand Canyon, and Moab, UT, because we lack the resources to manage them properly, I would ask that these three articles I have mentioned be added to the RECORD at the appropriate point.

I cannot stress this enough: Without the Calvert amendment, three things are guaranteed to happen:

First, our existing park facilities will continue to deteriorate due to overuse and lack of resources.

Second, the very deserts the supporters of this odious bill claim to know so well and care so much about will be thrown into this very same pot, without proper funding or supervision, where they too will suffer the same abuses due to our neglect.

Third, existing park facilities in every State will have their already strapped budgets hit up yet again to try and pay for the new California park facilities.

That is the bottom line. So there you have it. Worsening mediocrity is the best your constituents can expect from the National Park System this summer, or this Labor Day weekend, unless we make a stand right here to change how we operate. Again, you don't need to take my word for it. Your constituents will tell you all about it when you get back from the August recess.

Please support the Calvert amendment.

Mr. Chairman, I include for the RECORD the newspaper articles referred to.

[From the San Francisco Chronicle, June 2, 1994]

CRIME SURGE WORRIES YOSEMITE RANGERS—PARK'S LAW ENFORCEMENT PERSONNEL CUT WAY BACK AS NUMBER OF VISITORS SWELL TO NEW RECORDS EACH YEAR

(By Michael McCabe)

YOSEMITE NATIONAL PARK.—Three park ranger police cars converged quietly on the crowded campground in the Yosemite Valley over the Memorial Day weekend looking for the occupants of a blue Toyota pickup. A 9-year-old girl with sharp eyes was waiting to assist them.

"You're looking for two white males, one with red hair, the other with brown hair and no shirt on," she said to the first ranger out of the car. "The red-haired one went that way on a bike, and the other one ran over that way."

Within minutes the rangers, each wearing a bulletproof vest, had two men in handcuffs, a bag of marijuana and a collection of little spoons that they suspected to be connected to cocaine use. Their witness, the little girl, stood by taking pictures with her disposable camera.

It was another beautiful day in Yosemite National Park Half Dome looking down benevolently from on high, dogwood trees in full blossom, laughing families in rubber rafts drifting down the high Merced River—while other tourists cranked up for an evening of drinking and brawling, some of them hell-bent on crime.

On the eve of another summertime deluge of visitors to the park, officials say crime and related urban problems are increasingly intruding onto one of the world's great natural wonders, a place that is supposed to be a refuge from all that.

With park attendance already up 14 percent over the last year at this time, park officials expect another record year, with more than 4 million visitors. Yet the ranger force is stretched thinner than ever, with just eight law enforcement rangers on duty in the valley at any one time to serve a highly diverse, not always tranquil, population of as many as 50,000 or a busy weekend day.

Twenty years ago, Yosemite had 220 men and women providing resource and visitor protection for the park, which covers nearly 1,200 square miles. Last year that figure dropped to 112 and this year it is down to about 100.

"Twenty years ago we had up to 28 rangers on a night shift, a time when we had 1.5 million fewer visitors," said park superintendent Mike Finley, who will take over as superintendent of Yellowstone National Park this fall. "We used to have rangers walk through campgrounds, which kept the noise level down. We don't have people to do that anymore. That personal relationship between our law enforcement rangers and the public is being lost. The bad guys may be gaining the upper hand."

While the rangers see their budget cut to the bone, they also are seeing the nature of their jobs changing dramatically, from that of a naturalist with the friendly Smokey Bear hat talking about wildflowers and birds to that of a fully armed, flak-jacketed police officer talking to suspects about their right to remain silent.

GANGS AND GRAFFITI

Increasingly they are concerned not only with drugs and alcohol, but also gangs, graffiti, racial strife, rape, even child sexual abuse.

Last week, a park rest room was trashed and graffiti scribbled on virtually every available surface; rangers suspect it was gang-related. Last summer, 350 Russian Americans from the Bay Area were escorted out of the park after the group had a near-violent confrontation with another group of campers who traced their roots to a Baltic country. Also last summer, rangers broke up a tense standoff between a group of Latino campers from Los Angeles and a group of blacks from Oakland.

Most visitors are aware of the hiking trails, the campgrounds, the shops, the restaurants and bars in the park, but few are aware of the rest: a fire department, a medical clinic, a federal court, a jail (there were 715 arrests last year, nearly twice as many as 1989), even a morgue (there were 21 deaths in 1993, compared with 13 in 1989).

Surprisingly, one of the biggest headaches for rangers turns out to be the park's employees, specifically employees of the concessions. For years, the Yosemite Park & Curry Co. operated the concessions, but last year they were taken over by Yosemite Concession Services Corp., which has 2,100 employees during the summer.

Concession employees, who live three to a tent in rundown residential areas in Yosemite Valley that some consider little better than slums, account for 40 percent of the ranger arrests. Investigators yesterday were still questioning a suspect involved in a reported date rape that was said to have occurred in one of the concession employee's camps last weekend.

BACKGROUND CHECKS

The concession company has recently started doing background checks and drug testing on prospective employees, but rangers say the workers are often on the job for a week or two before the results of the investigation catches up with them. By that time, they may well have already gotten into trouble with the law.

Contrary to pleasant notions that the great outdoors, like music, soothes the savage beast, for many it has the opposite effect, because of "the middle-of-nowhere syndrome," said Paul Berkowitz, senior special agent for the National Park Service in Washington, D.C., and formerly a ranger at Yosemite National Park.

"First, there are the people who are so naive that they think everyone who comes to the park must be good people," Berkowitz said. "They turn out to be the perfect victims. Then there are the people who come to the parks determined to have a good time no matter what, with the help of alcohol and drugs. They believe they are in the middle of nowhere and there are no rules. They turn on the first group.

"And there's also a third group of hardened criminals, who prey on the rest. These are the car burglars, thieves and pedophiles. They are all there in the beautiful confines of Yosemite."

The cutbacks in the federal budget are part of the problem, the rangers say. Yosemite's budget this year is $15.8 million, up $2 million from five years ago, when there were fewer visitors and more rangers. The park charges admission, $5 a car, and there is a fee for camping. Last year, Yosemite took in $5.4 million in fees and sent it all to the federal treasury—but got back only $920,000 as part of its budget. The rest went to other parks.

BEER AND MARIJUANA

At 11 p.m. Sunday, Ranger Brian Smith, who also is a criminal investigator, pulled over a beat-up Mazda that had a taillight out and was veering over the yellow center line. Smith and fellow ranger Keith McAuliffe were not surprised when they discovered a bag of marijuana and an open can of beer in the car. The driver was well-known to the rangers, who believe that he is one of the many homeless who reside in the park during summer months.

"If we stopped everyone on the road at this time of night, one out of every two would have some dope in the car," McAuliffe said. "And it's not just marijuana anymore. We're seeing more and more methamphetamines (speed) and crack cocaine."

Several rangers privately expressed the fear that if something is not done soon—either an increase in the budget to hire more rangers or a reduction in the evergrowing numbers of visitors—their jobs will become more frustrating, more crime-dominated, more dangerous.

Finley would like to see more restrictions on visitors, although he acknowledges the problems that would entail. Just outside of the park are thousands of small businesses that rely on the tourist dollar for survival. When Finley closed the entire park briefly during the 1993 Memorial Day weekend because of gridlocked traffic, he took considerable heat from the surrounding business community.

"We need to control visitor use in some way," Finley said. "Day-use reservations may be one way. A transit system using buses with reservations may be another. We need to control when people enter the park and how they enter. But it takes big bucks and careful planning to make sure you allocate the park's resources fairly and equitably."

Shortly after noon on Memorial Day, Ranger John Roth walked up to a group of teenage boys who were jumping off of Stoneman Bridge into the Merced River. During the night, the bridge is often used as drug exchange. During the heat of the day, Roth said, there is not enough manpower to keep the kids from jumping into the cool waters below. Every summer, the park counts a few more jumpers permanently injured with broken necks.

"People come here year after year for the sole purpose of jumping off this bridge," Roth said. "They get very upset at us for prohibiting that. I try to tell them this is not Disneyland or Raging Waters.

"I also try to tell people that they cannot assume Yosemite is a nice, safe place. It would be wonderful to say we can provide people with a safe, criminal-free atmosphere, but we can't provide that. I don't know if we ever can."

In the campgrounds, more and more people arrive. Barbecue fires are lit. Beers opened. The laughter of summer in Yosemite begins again.

[From Newsweek, Aug. 1, 1994]

NO ROOM, NO REST

(By Jerry Adler and Daniel Glick)

In the summer of 1869, long before the inventions of Gore-Tex parkas and Kevlar kayaks, the great explorer John Wesley Powell led an expedition of 10 men in four boats down the Green River, through the red-rock canyons of what is now southeastern Utah. It was unlike any place he had ever seen before: "a strange, weird, grand region," he wrote; "the landscape everywhere is of rock . . . no vegetation; no sand; no soil." It has taken more than a century, but the American economy in its infinite adaptability has finally figured out a use for all that rock. The smooth, table-flat buttes turn out to be the perfect—in fact, almost the only—place on earth for in-line mountain skating.

Americans, having conquered a continent in the name of Manifest Destiny, are doing it again, this time for fun. They are creating a new landscape for the post-service economy of the future, in which the major industries will be recreation, self-actualization and tourism. But—just like mining and logging—that takes resources, and our reserves of wilderness are being drawn down by the millions seeking a part of it. When rafters, anglers, kayakers and jet-boaters all seek to use the same river, someone must apportion it among them. God-given wilderness will be rationed out, a campsite at a time, by a burgeoning bureaucracy. It will still be possible to see a grizzly bear in the wild; you'll just have to stand in line to do it.

A love of wilderness is said to be deeply ingrained in the American psyche, although the popularity of bus, car and airplane rides to the Grand Canyon suggests that what most people really want is more accurately described as "scenery." In principle, there's plenty of that to go around, although even the Grand Canyon may be reaching its carrying capacity. Twice as many people visited the park last year (nearly 5 million) as a decade ago, and some of them, sitting on the wrong side of packed tour buses, hardly saw anything.

But a comparable explosion of use has also occurred in the backcountry, the remote reaches traditionally inhabited only by bears, black flies and backpackers of an esthetic sensibility so refined that their wilderness experience could be irrevocably impaired by the sight of a discarded tea bag. In just the last four years the number of backcountry camping permits issued by the National Park Service has increased 50 percent, to 2.4 million. "We are in a combat management situation," says Mark Hilliard, national "watchable wildlife coordinator" for the federal Bureau of Land Management, which administers more than three times more land than all the national parks combined.

RELATED PROBLEMS

Hilliard and his counterparts in the National Park Service and the U.S. Forest Service confront two distinct, but related, problems: damage to land, water and wildlife, and the depressing psychological effect on visitors of viewing the wilderness as part of a mob. Environmentalists like to point out that recreation is a nonexclusive use of wilderness, as compared with development. Many people can see the same tree, but it can be cut down only once. On the other hand, the experience of looking at it begins to deteriorate when another backpacker's underwear is drying on its branches. And a tree that has been killed by Sierra Club members tramping over its roots is just as dead as one that met its fate by chainsaw. "Five years ago we were saying that tourism would help us save wilderness," says Del Smith, director of education for the National Outdoor Leadership School. "Today we're not so sure."

No place is safe from the voracity of America's leisure class. A backpacker who makes a spur-of-the-moment decision to hike in California's John Muir Wilderness has to start his trip by camping outside the ranger station all night to be in line for one of a handful of same-day permits (most are given out by mail months in advance). During the run of king salmon on Alaska's Kenai River, "if you have four feet between two fishermen, there's room for two more," says Anchorage resident Steven Nelson, who describes this as "combat fishing." The 1964 Wilderness Act made "an outstanding opportunity of solitude" an officially sanctioned federal goal. But, says Kevin Proescholdt, of an environmental group called Friends of the Boundary Waters, the most popular lakes in the million-acre Boundary Waters Canoe area of northern Minnesota resemble Walden Pond less than a summer camp in the Poconos, with a steady stream of paddlers never out of sight of one another and frequent waits at portages. "It's hard to have an 'outstanding opportunity of solitude' when you're racing another party for the last campsite on the lake," Proescholdt says.

It is not just overpopulation that threatens the backcountry, but a proliferation of new technologies that have turned it into one vast, gravity-powered thrill ride. Just 20 years ago rock-climbing was an esoteric hobby for daredevils, while the notion of wrecking a perfectly good bicycle on a mountain trail would have been viewed as insane. Now both are sports pursued by millions. aluminum-hulled "jet boats" can take 40 people at a time down the rapids of the Snake River on the Idaho-Oregon border and also back up the rapids, filling Hell's Canyon with a roar you can hear for miles. This has given rise to a classic environmental conflict between those who prize the canyon precisely for its remoteness and the much larger number who want to see it in a day and get back to their motor homes in time for "Jeopardy." Each side claimed to be fighting not just for its own interests, but for the sanctity of the environment. The rafters played the trump card of environmental debate, asserting that jet boats disrupt the spawning salmon; the jet-boat guides cleverly retorted that by taking people up and down the river in a day, they eliminate the need to camp along the banks. Last month the Forest Service in its Solomon-like wisdom split the river, prohibiting jet boats along a 21-mile stretch on Mondays, Tuesdays and Wednesdays. The rafters, if not the salmon, can time their excursions accordingly.

More and more, the wilderness seems to lend itself to pursuits once confined to Grosse Pointe or Malibu: long-distance desert golf; surfing in the standing waves at the bottoms of river rapids; in-line skating on desert trails. Ed Cannady, a Forest Service ranger in Idaho, lives in dread that someone will figure out how to use in-line skates on the mountain trails in his region. And that's not even his biggest fear; even worse, he thinks, is the possibility of hikers equipped with Soviet Army surplus night-vision goggles, stumbling around in the dark looking for bears.

"FUN HOGS"

Moab, Utah, is a good place to study this process of disillusionment. "The big [environmental] issue here isn't mining or grazing anymore," according to Grand County Councilman Bill Hedden. "It's industrial-strength tourism." By the hundreds of thousands every winter and spring, "fun hogs," as they are sometimes called in the West, descend on the surrounding countryside, gaping at the arches and towers of red sandstone, scrunching the desert beneath the fat tires of their mountain bikes. Around 300 people road the famous Slickrock Trail a decade ago; last year there were 90,000. In the wake of the bikes come ponderous four-wheel-drive trucks loaded with the tents, coolers, portable showers and lounge chairs the riders require at sunset. The rocks themselves are rugged. But what Powell couldn't see from the river is the thin layer of soil overlying the rock, glued in place by a black crust of microorganisms that can be dislodged by a single bootprint. Canyonlands National Park superintendent Walt Dabney laments that "we truly have the ability to turn this place into nothing but rocks and dirt."

And bikers are only one segment of an industry that includes hikers, nature-study groups, "off-road" vehicles (motorcycles and 4X4s), "all-terrain" vehicles (three-wheeled buggies), horse outfitters and companies that carry disabled people into the wilderness. Their impact would be substantial even if they all behaved responsibly, which of course they don't. In April 1993, when college and high-school breaks coincided with the annual Jeep Safari, thousands of nature lovers descended on the Moab region. In their enthusiasm for the wilderness, they got drunk, started fights and began uprooting trees for their campfires, resulting in a riot that took every law-enforcement officer in Grand County to quell.

The BLM's response was to slap emergency closures on some of the affected trails and campsites. Some people approved, but to others, especially those who sold trips to the area, if you stacked that decision up against communism you could hardly tell them apart. A proposed backcountry management plan for nearby Canyonlands National Park unleashed criticism from every imaginable quarter, including Mormons who objected that a limit on six on backcountry camping parties placed an undue hardship on families of eight or 10. The uproar reached Washington, where Assistant Secretary of the Interior for Wildlife and Parks George Frampton said that the "proposed plan in Canyonlands is likely to be reproposed."

This is a model for a new kind of environmental clash, in which the issue is one kind of recreation against another—a battle, says Joe Higgins of Wilderness Watch, of "the good guys versus the good guys." Higgins's group has been caught up in a complex tangle over restricting use of the Alpine Lakes area. This is a stark, cloud-shrouded wilderness of granite peaks and wildflower-strewn meadows that has the misfortune to lie only about an hour's drive from Seattle. The Forest Service recently proposed rules that would require permits for overnight use in parts of Alpine Lakes and prohibit unleashed dogs on two trails. In some quarters this was portrayed as an act of the most blatant tyranny and a likely first step toward confiscating people's boots to keep them from stepping on plants in the forest. "Dogs come here for the same reason I do, to run around and be free," said Lynn O'Malley, an ultramarathoner who trains in the area with daylong hikes.

But those who oppose restrictions are probably fighting a losing battle. Among environmentalists, the only debate is whether to call it "rationing" or something else. "Rationing is in the cards," says Wilderness Society president Jon Roush. "It's just inevitable." "Rationing is too tough a word to describe what we're doing." Interior Secretary Bruce Babbitt told Newsweek, "but reservations and allocating backcountry permits—those are indispensable tools." The dissents come mostly from people with a business interest to protect, like Derrick Crandall of the American Recreation Council, who points out that the peak in backcountry use may have already passed. "Don't forget," he says, "the number-one recreational activities for Generation X are shopping malls and skateboards."

But population grows exponentially while wilderness contracts, as Malthus might have observed had he lived in an era characterized by the struggle for recreational opportunities rather than food. Rationing is happening already, on an ad hoc, patchwork basis around the country. One of the best advertisements for the continued existence of nature is the chance to see a grizzly bear in the wild. There are places in Alaska where the bears' appetite for salmon overcomes, for a few weeks a year, their fear of people, allowing anyone to stand within yards of the giant creatures as they pursue behaviors once known only to life-long readers of National Geographic.

Want to go? Of course you do. But you can't just pack your camera and get on an airplane; you need a permit. You can apply for a day-use permit for the Pack Creek area on Admiralty Island, near Juneau, and hope you get your letter in early enough to qualify for one of the 12 daily passes awarded for the six-week season. Or you can enter the lottery for an overnight-use permit at McNeil River, 250 miles from Anchorage; last year more than 2,000 people applied. Or you can sign up with a private concessionaire on Kodiak Island—at some $1,400 for a four-day trip.

Increasingly, land will be allocated like this, and we need guidance. We will have to invent a new science of psycho-ecology, the phenomenology of wilderness experience. Noel Poe, superintendent of Arches National Park, is already trying to come up with a quantifiable measure of solitude. Visitors to Delicate Arch, a spectacular sandstone formation, were shown pictures of the site in various states of crowding, from deserted up to a mob of 100; from their reactions, Poe was able to conclude that the point at which people turned to their spouses and said, We should have stayed in the motel and gone to the pool was reached at approximately 30 visitors. Perhaps we need data points like this for every significant natural site in the United States, a national inventory of our trails, streams, rivers and peaks so they can be allocated with maximum efficiency among backpackers, mountain bikers, heli-mountain bikers, free climbers, sport climbers, rafters, canoers, kayakers, fly fishermen, bait fishermen, black-power hunters, cartridge hunters, bowhunters, mushroom pickers, photographers and nature writers. We give something up, certainly, in scheduling wilderness like the tees at Augusta National: the freedom to set off into the country at a whim, to explore without worrying about the time limit on our permit. But the alternative is . . . well, a country that can put a man on the moon is probably capable of building a mountain skateboard.

Federal Rock: A Hard Place

(By Daniel Glick)

Rock-climbing legend has it that celebrated conservationist David Brower installed the first permanent piton in North America. Brower, now in his 80s, confirms that he placed "a half-inch expansion bolt with a hand drill and a hammer" at Shiprock in Arizona in 1939. Fifty-five years later, rock-climbing has become one of the fastest-growing outdoor sports, with an estimated 500,000 adherents. But the sport, and pitons, to which climbers clip their ropes to break falls, have become flash points of controversy. There are about 7,000 "fixed anchors" in Yosemite and 5,000 in California's Joshua Tree alone. These days, they are often installed with cordless electric drills instead of hammers. This proliferation of bolts "offends the mountain," says Brower. "Power drills offend the mountain."

Since the late 1980s, these bolts have also offended environmental groups. Critics complain that climbers flock to established routes, trampling vegetation and leaving chalk marks on the mountain (chalk is used for a better grip). Rock jocks who won't leave so much as a PowerBar wrapper on the trail are incensed at the notion that they might not be conservationally correct. Fixed anchors are essential for safe climbing and descent, they say; to outlaw bolts in some places is to outlaw climbing. Grazing, mining and air strips are allowed in some wilderness areas—and bolts are a menace?

Both the Interior Department and the U.S. Forest Service are currently debating bans on fixed anchors. Meanwhile, former enemies such as The Wilderness Society and the Access Fund, a national climbing group, are seeking common ground. Many climbers agree that power drills should be banned in national parks, and some wilderness advocates say the judicious use of fixed anchors is OK. As for the mountains, and whether they really are offended by modern climbers, we may never know.

Power Ranger: Making It Work

(By Daniel Glick)

A few years back, the U.S. Forest Service floated plans to restrict use of Idaho's 2.1 million-acre Sawtooth National Forest. Warring recreationists in the southern part of the state descended on public-hearing rooms to rail against the idea. Environmentalists complained that motorcycles would tear up the backcountry. Off-road-vehicle users roared objections to that affront. At one such contentious meeting, Ketchum District Ranger Alan Pinkerton stood up. "Don't panic, everybody," he said. "We'll work this out together."

In Idaho, where the Feds own nearly two thirds of the state, residents normally think bureaucrats like Pinkerton are as useful as a broken shovel. But in six years in the district, Pinkerton, 45, has pulled a divided community together and successfully managed his heavily used resources. "He's a little pocket of difference," says Bob Rosso, owner of a local sports shop.

Pinkerton routinely brings feuding recreationists together to explain the stark alternatives to sharing, like closing areas or rationing their use. One positive result: for three years he has successfully imposed a moratorium on trail use during the muddy spring when trails are vulnerable. Because he is a credible voice, "We don't go to court over our decisions," he says.

The longhaired Pinkerton's easygoing ways have prompted mountain-biking wildmen, horse people and motorcyclists to do trail work side-by-side. While other land managers are redrafting 10-year plans for trail use, Pinkerton's crew has actually built more than 20 miles of new mountain-biking trail.

In the forms-in-triplicate world of "Smokey's children," as Forest Service personnel are known, Pinkerton and his rangers stand out. "If Washington doesn't put its heavy hand on them," says Mel Quale, a Twin Falls motorcyclist, "we might be able to work things out." In the ongoing wilderness wars, that would be a rare victory.

[From Outside, July 1994]

BADLANDS

(By Debra Shore)

"I've gotta go," is how Robert Tranter hastily ended a phone call one Friday afternoon a few months back. "I just got word that there may be another dead body out there." Tranter, a ranger at the Bureau of Land Management's California Desert District, did indeed find a corpse, the 13th discovery by him and his colleagues in 12 months. And as usual, the cause of death—shotgun wounds to the chest—wasn't exactly what you'd call natural.

Most of us view our public lands as happy refuges, places to ditch the bonds of civilization and commune with nature—and why not? The allure of the Great Wilderness Escape, perhaps second only to the American Dream in the national imagination, has been seeded and fertilized by everyone from Henry David Thoreau to L. L. Bean. But in seeking harmony with nature, we often forget that human nature accompanies us everywhere we go, expressing itself in any number of ways: robbery, drunk driving, arson, drug manufacturing, paramilitary training, ammunition stockpiling, sexual assault, and murder—not to mention resource crimes like wildlife poaching and artifact theft. Wallace Stegner got it wrong. Wilderness is not where man is not.

In fact, it's getting a little crowded. More than 273 million people visited the national parks last year, 67 million more than a decade ago. (The system also has added 33 new sites since then.) The number of crimes committed on park property has doubled in the last five years, yet the number of law-enforcement officers—charged with the double duty of guarding resources and babysitting visitors—has decreased by 39. Throw in BLM and Forest Service lands and you've got more than 541 million acres with a combined law-enforcement squad of about 3,600—or about one officer for every 150,000 acres. It doesn't take a genius to do the math. "People who engage in criminal activities have figured out that remoter public lands are accessible to them," says Bill Paleck, superintendent of North Cascades National Park, who in his 27-year career has dealt with everything from suicide to drug smuggling.

Less apparent, perhaps, are the implications for the land itself. "These people problems are keeping us from doing the job we need to do in cultural and resource protection," says Rick Gale, a 36-year Park Service veteran who now oversees wildfire operations at the National Interagency Fire Center in Boise, Idaho. "We can fix the graffiti on the restroom, but you lose one Anasazi pot and it's gone.

In the report that follows, we've excluded places where criminal spillover is a matter of pure proximity—the Angeles and San Bernardino National Forests on the outskirts of Los Angeles, or Gateway National Recreation Area outside New York, for example. Instead we've focused on the nationally popular locales most plagued—and endangered—by crime. Granted, the vast majority of visitors to these parks, forests, and BLM lands will never experience anything much worse than car vandalism at a trailhead or drunken behavior in a campground. But employ this as a reminder, a compendium of cautionary campfire tales that have a common moral: When you're packing for your annual getaway this summer, it's best not to leave your wits behind. As one ranger puts it, "Criminals go on vacation, too."

JOSHUA TREE NATIONAL MONUMENT

Mug Shot

Joshua Tree, where high desert (the Mojave) meets low desert (the Colorado), where cattle rustlers hid their herds and gold miners punched holes in the ground seeking their fortune, has been wild and woolly for a long time. Today the area is besieged by yet another sort of fringe element. As retired San Bernardino sheriff's sergeant Brian English, who worked the area for 20 years, puts it: "I can tell you there are more weirdos per square inch in Joshua Tree, Twentynine Palms, and Yucca Valley than anywhere else. More child molesters too, because of the remoteness." Rangers here have their hands full with a regular witches' brew of troublemakers, including rowdy marines from the base in Twentynine Palms practicing Satanists, amateur arsonists, grave robbers, and combinations thereof.

When they're not busy running down sociopathic soldiers or performing any number of mundane duties like dousing illegal campfires, Joshua Tree rangers update the park's three-inch-thick "weird file," a folder filled with photos and descriptions, from the amusing to the eerie, of unsolved mysteries—such as the 12-foot pentagram decorated with bird wings that ranger Nina Burnell found etched in the sand in May 1993. Why Joshua Tree? Gary Garrett, a longtime backcountry volunteer at the park, ventures a guess: "There's an unwritten acceptance that Joshua Tree has energy centers, though I've never felt them myself. Also, it is convenient to southern California."

The Facts

Number of acres: 559,950.

Number of visitors in 1993: 1,256,928.

Number of law-enforcement officers: 14 permanent, 3 seasonal.

Percentage increase in law-enforcement activity over last ten years: 577.

Number of Satanic rock rings found by one back-country volunteer since 1990: 50.

Reported acts of vandalism in 1993: 54.

Average cost of cleaning up one act of vandalism: $151.17.

1994 budget: $2,775,381.

Law-enforcement budget: $559,400.

Hot Spots

Hidden Valley picnic area, where in 1992 a young girl and her brother found a booby-trap simulator—a military device with the explosive power of a quarter-stick of dynamite—while playing in the bushes. The device blew up, igniting the girl's clothes. Within the next few weeks four more booby-trap simulators were found in the underbrush, where rangers speculate they were stashed by marines.

Lost Horse Ranger District, where last January rangers discovered that someone had dug up and disheveled the grave of Johnny Lang, a prominent prospector who died on a supply run in the area in 1926. Sifting through the pile of bones and dirt left by the vandals, archaeologists found that the only thing missing was Lang's skull.

Indian Cove Campground, a perennial trouble spot where, during one notorious week in February 1992, two people were arrested for collecting 66 cacti, four people were arrested and charged with burning six picnic tables, county hostage-negotiation team was called in to help catch a man tripping on LSD and mushrooms and screaming for rangers to shoot him, a successful five-hour search was concluded for a lost and inebriated college fraternity member, six marines were arrested for being under the influence of alcohol and for attempting to assault a woman with a burning stick, and a second person was arrested for drug use—the 97th such arrest that year in Indian Cove alone.

From the Files

On September 19, 1973, a lethal combination of drugs and alcohol killed musician Gram Parsons, formerly of the Byrds and the Flying Burrito Brothers, in Twenty-nine Palms, a mile outside the national monument. While awaiting transport at the Los Angeles airport, the coffin containing his remains was stolen; a day later, at a turnout near Cap Rock, a maintenance worker at Joshua Tree came upon Parson's flaming corpse, which burned a stain into the ground that remained visible for two full years. Two friends of Parsons later pleaded guilty to the misdemeanor theft and received suspended 30-day sentences. For some time afterward, groupies would visit the spot with spoons to try to scoop up souvenirs; nowadays, the occasional fan still places flowers on the site.

LAKE MEAD NATIONAL RECREATION AREA

Mug Shot

Of the 367 sites in the national park system, Lake Mead National Recreation Area has the dubious distinction of being the one where you're most likely to trip over a corpse. This morbid trend peaked in 1982, when 54 bodies were found within park boundaries; in 1993, Lake Mead still accounted for a quarter of the system's 160 recorded fatalities. Granted, most of the deaths have been the result of accidents (over the last 23 years, at least seven people have drowned here after jumping out of boats to recover their hats), but 53 violent crimes—homicides, rapes, assaults—have been recorded over just the last two years. Drunkenness, hooliganism, and proximity to Las Vegas (a 45-minute drive) add to the atmosphere of mayhem. "I'm an ex-marine and I went into park work because I didn't want to get into rough-and-tumble police work," says 15-year veteran ranger Bob McKeever. "But here I've been in a dozen foot-chases with wanted felons. I had a vision of sitting on a horse atop a mountain pass, watching eagles and moose. It hasn't turned out that way."

The Facts

Number of acres: 1,510,216.

Number of visitors in 1993: 9,256,520.

Number of law-enforcement officers: 45 permanent, 11 seasonal.

Number of arrests in 1993: 609.

Number of violent crimes: 13.

Number of fatalities: 38 (17 drownings, 5 suicides, 3 boating accidents, 2 motor-vehicle accidents, 9 of natural causes, 2 undetermined).

Number of drownings involving drugs or alcohol: 5.

Number of corpses discovered by visitors: 5.

1994 budget: $10,805,370.

Law-enforcement budget: $3,060,000.

Hot Spots

The Cliffs, on the edge of Lake Mead's 33 Hole (so named because "10-33" is law-enforcement code for an emergency situation), the site of 30 drownings since 1975, almost half of them alcohol-related. In the seventies and eighties, rangers routinely wore riot helmets to shield their heads from full beer cans hurled by surly drunks. "We used tear gas and tactical techniques to take the place over," recalls chief ranger Dale Antonich. "We still only go in with at least three rangers—two to walk around and one to guard the car."

The New Cliffs, at mile marker 4.2 on Upper Gypsum Wash Road. When Lake Mead rises, some of the Cliffs crowd migrates to this spot, from which they periodically pelt rangers and passersby with rocks.

Gasoline Alley, a small bay near Katherine's Landing on Lake Mohave, accessible only by boat. On spring and summer weekends, the entrance to the bay is choked with college students drinking copious amounts of alcohol. "They use gigantic water-balloon slingshots to knock our people out of their boats," says Antonich.

Remote mile marker 8.0 on the north shore of Lake Meade, where in March 1993 a visitor from Scotland shot and wounded a couple who were camping at the spot he had chosen to commit suicide. "There's places around there I wouldn't go without a gun," says ranger Tom Velenta, "and I'm a law-enforcement officer."

From the Files

On July 6, 1993, Barry Barnett, 38, of Laughlin, Nevada, met Michael Bertram, 40, of Bullhead City, Arizona, at a weekend-long beach wingding near Katherine's Landing. Though they'd been arguing for most of the party, when it broke up the pair borrowed a boat to go out and tow each other on Barnett's surfboard. Bertram returned the boat alone, noting casually to its owner, "I think I killed the little surfer dude." Two park visitors found Barnett's body floating near the Katherine's Landing water-intake barge on July 14. Charges of negligent homicide and reckless endangerment were filed against Bertram, who had fled to Florida, though for two months, according to park investigator Ernie Soper, "Nobody had money to bring him back for prosecution."

In October U.S. Marshals did finally haul him back—for violation of probation: Bertram had previously been cited for driving under the influence within park boundaries. As of early May, he was in prison in Florida awaiting trial in the Barnett case.

DANIEL BOONE NATIONAL FOREST

Mug Shot

Local pranksters thwacked the nail on the head a few years ago when they amended one of the entrance signs to read, Daniel Boone National Pot Forest: Nearly half of the marijuana plants confiscated on national forest land last year were grown here. Authorities reaped and burned 248,487 plants from 4,591 plots around the forest and ferreted out 38 booby traps, including steel bear traps, punji sticks, dynamite, and fishhooks strung across trails at eye level. The good news:

That's way down from the 145 traps found in 1989.

Daniel Boone's status as dope capital of our public lands is no surprise, in historical context. During World War II, under a federal incentive program, farmers in this part of southeastern Kentucky were paid to grow marijuana plants for the hemp fiber used to make rope, and it's still widely acknowledged as a vital part of the local economy. "We were interviewing an elderly gentleman whom we'd just arrested for cultivating marijuana," says the forest's special agent in charge of eradication, "and there in his patch I said to him, 'Now what in the world are you doing here? You're three counties away from your residence!' And he looked at me and said, 'Sonny, all the good places over there were taken.'"

The Facts

Number of acres: 681,923.

Number of visitors in 1993: 5,261,700.

Number of law-enforcement officers: 16.

Number of joints per visitor that could have been rolled with marijuana destroyed in 1993: 42.9.

Approximate total hours of intoxication that could have been provided by marijuana destroyed: 451,500,879.

Approximate street value of marijuana destroyed: $248,400,000.

1994 budget: $13,525,864.

Law-enforcement budget: $1,053,800.

Hot Spots

Leslie Clay, and Owsley Counties, in the extreme southeastern part of the forest. This is the location of most of the 180,000 acres designated as "constrained," meaning the law enforcement always goes in with backup. Each year a dozen or so visitors to these areas report that they've been told at gunpoint they'd best pitch their tents elsewhere. Growers are less polite with the feds: During the 1992 growing season, they shot at a Kentucky National Guard truck used to refuel drug-surveillance choppers.

Form the Files

In Kentucky, the religion that is high school football holds services on Friday night, and for ten years Archie Powers was its high priest—which is to say, he was the head coach at Corbin City High School, a long-time powerhouse that brought home the state title twice under his guidance. When Powers resigned in 1982, he rode his popularity into the office of judge executive of Whitley County. From this new pulpit, he and a partner extended a hoe to a bit of his jurisdiction in southern Daniel Boone National Forest and raised about a thousand marijuana plants. Upon his indictment in 1990, the cry swept across the land: "My God, my boys played football for him!"

BIG BEND NATIONAL PARK

Mug Shot

The extreme poverty of the Mexican hamlets across the Rio Grande, coupled with the fact that only five or six rangers patrol the park at any given time, makes for a lot of conflict in and around Big Bend. Twice in recent years, snipers on the Mexican side have taken potshots at rafters on the Rio Grande; in 1988, a man was killed and his wife and guide wounded by a teenager on the bluffs above Colorado Canyon, 15 miles from the park entrance. A more typical consequence of the border tension, however, is car breaking. "It's very easy for someone to ride across the river on a horse, hit a vehicle, and go back across," says chief ranger Jim Northup. "You'd be surprised at what they take. A lot of the stuff that's stolen is the kind of stuff needed for basic subsistence—water jugs, gasoline, tires, kerosene lanterns."

But the predominant concerns is smuggling. Though its border makes up 13 percent of the international boundary with Mexico, there is no customs port of entry in the park. As a result, an inestimable quantity of drugs, animal pelts, household appliances, auto parts, stereo equipment, and construction materials—not to mention illegal aliens—sneak past rangers and the Border Patrol each year. In 1993, ranges stopped four pickups hauling 500 boxes of frozen chicken parts, a bust that turned into a logistical nightmare. "If they had spoiled, we would have been liable," says assistant chief ranger Roger Moder. "We had to track down a food locker 100 miles away."

The Facts

Number of acres: 801,163.

Number of visitors in 1993: 330,741.

Number of rangers: 13.

Number of car break-ins reported: 36.

Number of illegal aliens caught: 31.

Number of fox and bobcat pelts stuffed into a spare tire confiscated by rangers on January 31, 1994: 20.

Pounds of marijuana confiscated on same bust from a different tire: 23.

Street value of drugs seized in or near the park in 1993: $5,034,601.

1994 budget: $3,564,400.

Law-enforcement budget: $690,000.

Hot Spots

San Vicente Crossing, the preferred port of entry for less-than-legitimate trade with Mexico. "The Cavalry," a group of 30 or so mounted Mexican men, some with machetes slung from their saddles, hangs out on the park side of the Rio Grande and, for $50 a pop, provides an informal towing and ferrying service for vehicles crossing in either direction, no questions asked.

Dominguez Springs Trailhead and the adjacent parking area, two hours from the nearest paved road and a favorite spot for car looters. Rangers often observe hoofprints around the unlucky visitors' cars, which leads them to believe that the thieves come from across the river.

From the Files

In July 1991 the body of 26-year-old Donald Tate was found in the southeastern part of the park in a desolate area along the Rio Grande. Tate's teeth were broken, his finger pads were missing, and his skull was fractured. The corpse of his five-year-old daughter was found in his burned-out van several miles away.

Smuggling-related theories abound, though some rangers think Tate was just in the wrong place at the wrong time. Less plausible is the theory that a campstove fire in the van burned Tate, who ran to the river to extinguish himself, expired there, and got washed downstream. "There's some speculation that his finger pads were nibbled by turtles," says ranger Moder, "but then there's the blow to his head . . ."

EVERGLADES NATIONAL PARK

Mug Shot

The Coast Guard and the U.S. Customs Bureau have been less of a presence in south Florida since a massive drug sweep in the eighties cleaned up the region's murky backwaters. As a result, a dispersed, harder-to-track drug trade is reestablishing itself in the park. "It was pretty easy when the stuff was stacked up ten feet high and 20 feet long," says ranger Mike Mayer. "Now it's in much smaller loads, and it's getting harder and harder to stop it."

It doesn't help that just four rangers patrol several hundred square miles of the most tangled territory, or that a new trouble spot has emerged to divert their attention: East Everglades, a 107,600-acre crazy quilt of private and federal land recently appended to the park. The problem there isn't smuggling but rather general gun-happiness. "I can show you refrigerators and hulks of cars that look like cheesecloth," says ranger Bob Panko, "and mounds of shell casings on the ground." Just last fall, a wealthy Miami businessman was cited for helicoptering a few pals out to the Chekika Access Area to test out an impressive variety of toys, among them a .50-caliber Desert Eagle pistol, two nine-millimeter pistols, a .454 revolver, and a single-shot pen gun. "The people out there shoot at virtually anything," says ranger Ben Morgan. "On the Fourth of July, it reminds me of Vietnam."

The Facts

Number of acres: 1,506,539.

Number of visitors in 1993: 1,061,000.

Number of law-enforcement officers: 35 permanent, 6 seasonal.

Drugs confiscated in 1987: 474 bales of marijuana, 135 balls of hashish.

Drugs confiscated in 1993: 211 grams of marijuana.

Number of weapons offenses in 1987: 15.

Number of weapons offenses in 1993: 191.

1994 budget: $10,356,300.

Law-enforcement budget: $1,414,200.

Hot Spots

The Ten Thousand Islands, on the Gulf Coast near Everglades City. Though fewer antics go on here than in the past (between 1983 and 1987, more than a hundred residents of Everglades City were arrested by DEA or customs agents), this network of mangrove islands is still believed to be a popular conduit for illicit substances—especially in smaller quantities. Rangers and non-park officials all declined to discuss intelligence reports that indicate the estimated amount of drug traffic through the region. "By the nature of our geography, we're very susceptible to smuggling by vessel and by air," says Richard Crawford, who heads the DEA office in Fort Myers. "We can never totally stop it."

East Everglades, near the end of Southwest 237th Avenue, an overgrown marsh originally slated for development but never drained. "We have seen or seized just about every type of weapon ever made up there—M-16s, AR-15s, AK-47s, even a grenade launcher," says Morgan, who was once fired upon while flying a helicopter over the area.

From the Files

On the afternoon of July 1, 1992, observers at a customs intelligence facility in Richmond Heights spotted a twin-engine Piper Aerostar flying low from the Bahamas toward the eastern United States and dispatched a helicopter and a plane to tail it. The two aircraft followed the Aerostar to a spot above a landing strip west of Homestead, at which point confederates on the ground are believed to have notified the Aerostar's pilot of his pursuers. Before the pilot and passenger were finally apprehended at Homestead General Aviation Airport, they wheeled around and flew back across the park, jettisoning their entire cargo—some 16 bundles of cocaine worth about $2.5 million apiece. Ten were recovered: Eight splashed down in the Everglades backcountry, one landed on a Homestead church, and the last crashed into a house next door to a neighborhood crime-watch meeting, where the Homestead police chief was concluding his speech.

BUREAU OF LAND MANAGEMENT CALIFORNIA DESERT DISTRICT

Mug Shot

Given that a ranger's beat here can cover as much as a million acres, it's a safe bet that there's a whole lot going on that the authorities will never see. Nevertheless, they see plenty: In 1993, rangers discovered 12 corpses—one without a head or fingers—scattered about the district. In the Barstow Resource Area, where seven of the bodies were found and where the evidence locker is full of assault weapons, a paramilitary group called the Confederate Mexican Army has been conducting boot camp. "Their goal is to take back southern California, basically," says ranger Jerry Bronson. In June 1993, in the Ridgecrest Resource Area, a group of Japanese-Americans, possibly affiliated with the Japanese mafia known as the Yakuza, was observed running armed drills on a mining claim near Red Mountain.

Other nuisances have included Charles Manson, who was apprehended in the Panamint Range in 1969; a methamphetamine lab found in the Orocopia Mountains in 1989; skinheads holding periodic armed rallies in the southern Panamint Valley; and the instant city that routinely springs up on holiday weekends at Imperial Dunes, where dune buggies tear up the turf and their drivers tear up one another. "They've been riding hard," explains ranger Bob Zimmer, "and they're dirty, and they just finally piss each other off to the point where they may stab each other."

The Facts

Number of acres: 12,500,000
Number of visitors in 1993: not available
Number of law-enforcement officers: 60
Average number of weapons on each person encountered by rangers: 4
Number of guns confiscated in 1993: 150
1994 budget: $17,000,000
Law-enforcement budget: $2,660,000

Hot Spots

- The areas off Boulder, Hodge, and Sidewinder Roads in the Barstow Resource Area. These places have become post-apocalyptic shooting galleries identifiable by piles of debris—and dead bodies: Three of the seven corpses found in Barstow last year were found here.
- Corn Springs, in the Palm Springs South Coast Resource Area. In the first four months of this year, rangers seized four sawed-off shotguns and 15 assault weapons here. Two years ago they dug up a cache of stolen explosives, possibly linked to the ongoing bombings of wild animals in the area by clubs of "varminters." "They love to blow up and kill wildlife," marvels ranger John Blachley. "They will shoot it and then hang it up and continue to shoot it. It's kind of strange."

From the Files

One Sunday afternoon in December 1993, a visitor from New Zealand was hiking the Sheep Spring Oasis Trail in the Palm Springs South Coast Resource Area when he was hailed by someone in a pickup truck claiming to be stalled. When the hiker approached, he was shot twice in the torso, then robbed of his shoes and money and left for dead. He managed to drag himself to Interstate 10, seven miles away, where he flagged down help.

GRAND CANYON

Grand Canyon Village, on the South Rim, is home to more than 1,100 employees of Grand Canyon National Park Lodges, aka the Fred Harvey Company, the park's primary concessioner. In March, the employee rec center burned down, leaving even fewer social opportunities for staffers who already had "no other option but to sit around and drink all evening," says ranger Dave Brennan. Indeed, about 80 percent of the 140 concession-worker arrests last year were alcohol-related. Fortunately, no one's killed a visitor since 1984, when a newly divorced and distraught mule handler shot a man in the bar at El Tovar hotel on the South Rim. Stealing, however, has remained a steady pastime: Last September, police in Idaho apparently brought an end to a string of nearly 100 park burglaries (40 in Grand Canyon) when they arrested a suspect in several car break-ins at Yellowstone and Grand Teton. The man, who has confessed to stealing from four rooms at Grand Canyon, had worked there as a hotel supervisor.

On the creepier side, last winter an Arizona Highway Patrol officer pulled over a concession employee for a moving violation and discovered that he was wanted by the FBI in California for sexual assault and kidnapping. At the time he was working as a host at El Tovar.

YELLOWSTONE

Concessions at Yellowstone are handled by TW Recreational Services, which seems to make a business of relying on unreliable people: To get the 2,300 workers it needs for peak season, it hires 2,900; last year, 1,400 employees left before their terms were completed, and 300 were fired. The hot spots, not surprisingly, are the five employee pubs. "They are cesspools," declares ranger Pat Ozment. "That's where almost all our arrests originate." Sixty of the 90 arrests in Yellowstone last year involved concession employees, and Ozment estimates that 90 percent of them involved alcohol. In addition, all five sexual assaults that occurred in the park, including two on mentally handicapped female workers, were committed by TW employees, and one worker fired last summer for "poor performance" turned out to be one of the major car looters in the area.

YOSEMITE

Out of the 201 Yosemite concession employees that Ron Hamann studied, 129 had been arrested for alcohol-related offenses or burglaries, or both—84 of them for the second (or third or fourth) time. Fifty-four of those 129 had prior arrest records for theft. Such repeat offenses are almost ridiculously common. "Why are they making people housekeepers who were involved in the past in property crimes?" asks law-enforcement chief Jeff Sullivan. Over the last ten years more than a quarter of all arrests in the park involved concession workers, busted for everything from drunkenness to domestic disputes to drug dealing.

The current concessioner, Yosemite Concession Services Corp. (which replaced the Yosemite Park and Curry Co. in October 1993), employs 1,850 people, including 1,200 who still live in trailers, tents, and run-down dorms in the seven-mile-long, half-mile-wide Yosemite Valley. The company has placed added emphasis on pre-employment drug testing and criminal-history background checks, and has hired a consultant to work on "community health promotion."

GREAT SMOKY MOUNTAINS NATIONAL PARK, NORTH CAROLINA AND TENNESSEE

This is a drive-through park, so it's not surprising that much of the crime involves vehicles. In one sad case, a drunk driver collided head-on with an elderly couple, killing the husband. More of a threat to the average visitor, though, is the flotsam that cruises the major thoroughfare, U.S. 441, looking for cars to steal or loot. Bobby Joe Phillips, who's been linked to 114 break-ins in the region, was arrested in the park for the third time last November. Last year the park recorded 152 break-ins and six auto thefts, but criminal investigator Bill Acree estimates that half the break-ins go unreported. Be especially careful at the Davenport Gap trailhead in Cocke County, Tennessee—known locally as the chop shop capital of the East Coast.

DESCHUTES NATIONAL FOREST, OREGON

"Thirty percent of the people we contact have a warrant out for their arrest," says special agent Ron Pugh. Most of these unsavory characters are attracted to the area because it's prime hunting turf for entrepreneurs seeking valuable wild mushrooms, most notably the matsutake, worth anywhere from $10 to $600 a pound. These pickers are secretive about their favorite spots, work for cash, and are reluctant to report conflicts to the authorities. Hence forest law-enforcement officers were unable to prove—or disprove— rumors that four Asian pickers were killed last season. (It's fact, however, that one was murdered in the fall of 1992.) Pugh also predicts conflicts between game and mushroom hunters this fall. "The hunters are trying to sneak through the brush quietly. The pickers yell and shoot into the air to communicate," he explains. "This is obviously not an ideal situation."

OUACHITA NATIONAL FOREST, ARKANSAS AND OKLAHOMA

Ironically enough, here in Clinton's home state sprawls one of the top five national forests in marijuana cultivation. Last year a drug interdiction team made 14 felony arrests and eradicated 41,938 marijuana plants from 1,936 sites. In 1992, agents found eight booby traps at five sites in and just outside the park. Law-enforcement officers have also discovered a rifle attached to a trip wire, a bear trap, and fishhooks strung at eye-level. Hot spots in the last three years have been along the Arkansas-Oklahoma line, though more growers are moving onto paper-company inholdings: Weyerhaeuser alone owns (and rarely polices) 600,000 acres within the 1.7-million-acre forest.

BLM LAS VEGAS DISTRICT, NEVADA

The city of Las Vegas casts more than its lurid neon glow into the surrounding desert. The malcontents who frequent the 6.6 million acres that radiate from the city will shoot anything that moves and much that doesn't: parked cars, utility poles, wild horses, one another. Last November, three members of the 28th Street Gang were caught practicing drive-by shooting with silhouette targets on a side road. Chief ranger Randy August estimates that half of the incidents dealt with by his staff involve weapons. The magazine Soldier of Fortune hosts its annual gathering of would-be mercenaries and commandos here, natch.

ORGAN PIPE CACTUS NATIONAL MONUMENT, ARIZONA

Rangers at this lonely monument, which shares 31 miles of international border with Mexico, estimate that they detain 15 to 20 illegal liens a month and that the $3.5 million worth of drugs they confiscated last year was only about 8 percent of what actually came through. On New Year's Day 1993, rangers found 154 pounds of marijuana hidden near an employee housing complex—and three armed men casing the area dressed in full camouflage gear. And last April, rangers and the Border Patrol concluded a five-week series of busts in which more than 600 pounds of pot were confiscated, mostly from backpackers en route to drop-off points along Arizona 85.

OLYMPIC NATIONAL PARK AND NATIONAL FOREST, WASHINGTON

In October 1993, a park crew unearthed $702,500 Canadian buried in five canisters on the park's coastal strip—later determined to be a fraction of the profits from an estimated 25 tons of hashish smuggled in through the area the year before. In 1991, investigators also found a methamphetamine lab, a hash-oil processing facility, and two marijuana grow-rooms on a five-acre private inholding near Quinault Lake—and have yet to deal with the chemical residue that drained into the ground 30 feet from a stream. Park rangers have made 116 drug busts in the last three years on park roads and in campgrounds, while local addicts have taken to mugging the adjacent forest, felling and selling cedar to feed their habits. What they're leaving behind isn't great either: Law-enforcement officers have learned to step lightly in the Sol Duc District, where this year alone they've found more than 240 used hypodermic needles. Last but not least, five sexual assaults have been reported in the park in the last two years, including a case in which a concession employee attacked a 16-year-old visitor.

MOUNT HOOD NATIONAL FOREST, OREGON

Just 20 miles from Deschutes National Forest, this is a playground for a different breed of miscreant. Cruise Oregon 224 above the Clackamas River near North Fork Reservoir and check out the bull's-eye and photographs tacked up by Portland gangs for drive-by target practice. Anyone remotely interested in a family camping experience should avoid the vicinity of Babgy Hot Springs, 65 miles from Portland, between 4 p.m. and 10 a.m., when weapons-toting neo-Nazis and a variety of gangs occasionally butt heads. But Larch Mountain, adjacent to the Columbia Gorge National Scenic Area, is the forest's most popular shooting gallery. You can't miss it: The trees look like they've been mowed down with a .60-caliber machine gun.

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Mr. McCANDLESS. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. MILLER of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that all time for debate on this amendment and all amendments thereto end in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. CALVERT. Reserving the right to object, Mr. Chairman, I have several speakers who would like to speak to this amendment, and, therefore, I object.

The CHAIRMAN. Objection is heard.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from California [Mr. CALVERT]. I think it is a commonsense amendment like the amendment that he authored to allow our drug enforcement agencies and other law enforcement agencies to at least enter with vehicles the proposed wilderness areas that about the Mexican border, areas that we know will be used by drug smugglers, if we do not allow entry by law enforcement people. That is commonsense. I think this amendment is commonsense.

It goes to the practical problem that we have right now of trying to fund existing programs, fund existing infrastructure. It goes across the array of American programs and institutions. And we are trying to fund existing programs with existing dollars, and it does not make a lot of sense to create a new drain on the Federal treasury at a time when we are undercutting and under funding programs that we put in place, especially with respect to the National Park Service over the last five or 10 years.

I want to ask my friend, the gentleman from California [Mr. CALVERT] a couple of questions.

How many thousand acres of authorized but unacquired lands do we have right now in California?

Mr. CALVERT. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. CALVERT. As I understand, there is approximately 22,000 acres alone in California that have been authorized but not acquired.

Mr. HUNTER. I thank the gentleman. So right now we are 22,000 acres in the hole in terms of coming up with the dollars to fund and, at the same time, we are looking at, as I understand it, I would like the gentleman to verify my figures, I have been given figures that say that the Presidio has a one-time conversion cost, former military base, one-time conversion cost that ranges from $702 million to $1.2 billion. Is that accurate?

Mr. CALVERT. Mr. Chairman, if the gentleman will continue to yield, that is accurate. According to the GAO that is an accurate number.

Mr. HUNTER. So we have in that one conversion cost alone, close to a billion dollars. The Desert bill, as I understand, has been, the cost has been capped at something like $336 million, but that presumably is to come on top?

Mr. CALVERT. That is on top of the Presidio.

Mr. HUNTER. I think the gentleman is making a good point. We are hearing more and more from our constituents that the National Park Service is strained, is stretched very thin, that people are not getting the service when they go to our national parks that they got, that they at least perceived that they got 10, 15, 20 years ago.

Part of that is the fact that we are trying to move dollars that should be going to current operations, trying to move dollars into new land acquisition. So I think the gentleman has an excellent point here.

I understand that 367 existing units of the National Park Service are on the verge of collapse due to existing funding shortfalls; is that correct?

Mr. CALVERT. That is correct, according to the National Park Service.

Mr. HUNTER. Let me ask the gentleman, has the National Park Service come up with any way in which we are going to be able to accommodate all of these spending requirements that we have just enumerated, the acquisition of the 22,000 acres, the 367 existing units of park service that are experiencing funding shortfalls? How are we going to be able to accommodate all of those drains or those requirements for dollars and still fund the desert bill? Have they come up with an answer?

Mr. CALVERT. As my friend from California knows, there is no money, to answer that question.

Mr. HUNTER. I thank the gentleman. I think he is offering a very commonsense amendment, and I would hope that it would pass.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me just state, I think this amendment is quite mischievous. It is hard to really take it seriously when you look at the numbers that have been bandied about here, none of which are accurate.

I would like to point to the situation in my district, where I represent Kings Canyon-Sequoia Parks as well as Yosemite. I have heard figures of up to $605 million in backlogs in acquisitions in those parks. That is totally untrue.

In fact, the people who run those local parks say they have no idea how an exaggerated number like that was obtained. The larger fact here is that most of the people who own land within those parks do not want to sell their property. Certainly that is the case with Yosemite and in Kings Canyon-Sequoia as well. They enjoy owning land within the park. It is quite prestigious just to have, and they like passing it down within their families.

Many have been tremendous impediments to acquiring any lands even if this Congress saw fit to try to appropriate the money to do it in the first place.

Also, I really think we have to consider here the tremendous value these parks have brought to the local community. No one, no businessman in Mariposa or in three Rivers and Tulare Counties and areas adjacent to these parks would want to go back to a time when they did not have the park.

The park has been a tremendous economic boom to the local area there, providing a lot of revenue and a lot of jobs. This amendment in the name of waiting until property could be purchased by the Federal Government, in many instances from sellers who do not want to sell it, would undo all the advantages of having a park in the local area.

There has been adequate money in our budgets for construction and for long-term planning in the parks. Operations have not been a problem. But to say that we are going to wait until we acquire all the land that over time may have been authorized for acquisition regardless of whether or not, or half of it in this instance, regardless of whether or not anyone wants to sell it on the other side I think would be foolish.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Minnesota.

Mr. VENTO. I think the gentleman has referred, to the land-water conservation fund and the historic preservation fund, there is over a billion dollars a year flowing to the Federal Government, it is intended to be made available from the Outer Continental Shelf oil and gas leases that are supposed to be used for land purchase purpose.

The gentleman raised a very important point in terms of in-holdings that have been in the park system since it was created in 1916. Individuals on a willing seller-willing buyer basis are not interested in selling in many instances. The park service has decided that some inholdings, their presence is not a problem. But this amendment would put them into the equation as part of the consideration of the backlog. I guess for technical reasons they are part of it; for practical reasons, they are not.

The other point most importantly is that Congress has not seen fit, it has taken, diverted the LWCF/HPF money that is supposed to go for the Park Service and put it into other sources. This type of amendment just aids and abets that type of diversion of money from the Park Service. This is not a friendly amendment to the Park Service. This does not help in creating the legacy and the heritage of natural resources and cultural resources that this Nation and future generations deserve. This defeats it. This postpones it.

This land, we will not know in 20 years, if we do not act today. This is urgent. This needs to be set aside for the American people today, not in 20, 30, or 40 years, it will be lost.

Mr. LEHMAN. I thank the gentleman for his comments. I agree with him, and I urge rejection of this amendment which does unnecessary harm to the legislation and is really not based on the facts out there.

Mr. FILNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment that has been put forward by my colleague from California. The National Park System has been called our Nation's best idea ever. Our national park ethic has never failed to look to the future by protecting and preserving our history and heritage. Part of this has been taking on the responsibility of managing new areas for the benefit and enjoyment of current and future generations. This amendment would indefinitely postpone protecting the California desert region which, of course, is the true intent of its supporters.

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I do not deny the importance of reducing the National Park Service's backlog and I thank my colleagues for raising that issue. But we vote on the budget for the National Park Service in the appropriations process. The Committee on Appropriations makes a recommendation to the House as to what our priorities are for the Department of Interior for the following fiscal year. I do not recall any of the proponents of this amendment making a proposal to increase the National Park Service budget for land acquisition, construction or operations. It is our job in Congress to work with the administration to solve this problem. The Department of Interior considers earlier estimates of Park Service construction and infrastructure backlogs to be very unreliable because they included unauthorized projects and others which are not part of park management plans. The department has testified before Congress that it is preparing a full report on these backlogs using more accurate information. The Department of Interior as I understand also intends to include in that report a proposed method for providing the funds necessary to resolve any backlog identified.

The time to solve this problem, working together, is when we have that accurate data. I urge my colleagues to analyze that data and make a focused effort to reduce the backlog. This amendment does not do that. What this amendment does is to block the implementation of a bill that the majority of our fellow Californians support. I urge its defeat.

Mr. POMBO. Mr. Chairman, I rise in support of the amendment, and I yield to the author of the amendment, the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Chairman, I place in the RECORD the statistics and data from the National Park Service showing the shortfall of dollars for construction, land acquisition and operating costs, as follows:

NATIONAL PARK SERVICE BUDGET SHORTFALLS

Program	Shortfall
Land acquisition	$1 to 3 billion.
Major facility repair/construction	$6 billion.
Annual park operations	$375 million.
Total shortfall	$7.4 to $9.4 billion.

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Abercrombie (D–HI–1st)	U.S.S. *Arizona* Memorial	$686	$0	$0	$686
Total shortfall					686
Allard, Wayne (R–CO–4th)	Bent's Old Fort National Historic Site	71	258	0	329
	Rocky Mountain NP	1,597	5,385	33,828	40,810
Total shortfall					41,139
Bacchus, Jim (D–FL–15th)	Canaveral National Seashore	617	0	3,506	4,123
Total shortfall					4,123
Baker, Bill (R–CA–10th)	Eugene O'Neill National Historic Site	92	0	0	92
	John Muir National Historic Site	172	200	0	372
Total shortfall					464
Ballenger (R–NC–10th)	Appalachian NST	0	35,000	0	35,000
	Blue Ridge Parkway	9,245	11,797	25,800	46,842
Total shortfall					81,842
Barrett, Bill (R–NE–3d)	Agate Fossil Beds National Monument	106	0	2,921	3,027
	Scotts Bluff National Monument	212	8	0	220
	Niobrara River	0	0	0	0

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Total shortfall					3,247
Bartlett (R–MD–6th)	Antietam NB	321	2,190	8,036	10,547
	Appalachian NST	0	35,000	0	35,000
	Catoctin Mountain Park	887	114,856	35,325	152,248
	Chesapeake and Ohio Canal National Historic Park	2,067	114,856	35,325	152,248
	Harpers Ferry National Historic Park	328	2,585	38,928	41,841
	Monocacy NB	62	24,204	5,660	29,926
Total shortfall					270,449
Bateman (R–VA–1st)	Assateague Island National Seashore	870	3,076	30,502	34,448
	Colonial National Historic Park	818	50	66,383	67,251
	Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park	807	40,617	22,233	63,657
	George Washington Birthplace National Monument	49	100	0	149
	Richmond NBP	874	0	23,800	24,674
Total shortfall					190,179
Beilenson (D–CA–24th)	Santa Monica Mountains National Recreation Area	4,080	102,131	1,310	107,521
Total shortfall					107,521
Bentley (R–MD–2d)	Hampton National Historic Site	111	1,500	8,000	9,611
Total shortfall					9,611
Bereuter, Doug (R–NE–1st)	Homestead National Monument of America	16	0	0	16
	Niobrara/Missouri NRA	0	0	0	0
Total shortfall					16
Bevill, Tom (D–AL–4th)	Little River Canyon National Preserve	500	6,000	0	6,500
Total shortfall					6,500
Bishop (D–GA–2d)	Andersonville National Historic Site	140	0	7,400	7,540
	Jimmy Carter National Historic Site	79	20	0	99
Total shortfall	Ocmulgee National Monument	104	0	0	104
Bliley, (R–VA–7th)	Maggie L. Walker NHS	440	0	2,500	2,940
	Richmond NBP	874	0	23,800	24,674
	Appalachian	0	35,000	0	35,000
	Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park	807	40,617	22,233	63,657
	Shenandoah NP	1,695	0	85,751	87,446
Total shortfall					213,717
Boehlert (R–NY–23d)	Fort Stanwix National Monument	33	0	0	33
					33
Bonilla (R–TX–23d)	Amistad National Recreation Area	418	250	4,500	5,168
	Big Bend NP and Rio Grande W and S River	152	0	40,300	40,452
	Fort Davis National Historic Site	236	0	0	236
	Guadalupe Mountains NP	168	952	3,100	4,220
Total shortfall					50,076
Borski, Robert (D–PA–3d)	Independence National Historic Park	934	0	97,500	98,434
	Thaddeus Kosciuszko National Memorial	38	0	0	38
	Edgar Allen Poe National Historic Site	22	0	0	22
Total shortfall					98,494
Boucher, Rick (D–VA–9th)	Appalachian NST	0	35,000	0	35,000
	Shenandoah National Park	1,695	0	85,751	87,446
	Blue Ridge Parkway	9,245	11,797	25,800	46,842
	Cumberland Gap National Historical Park	900	0	0	900
Total shortfall					170,188
Brewster, Bill (D–OK–3rd)	Chickasaw National Recreation Area	388	0	19,700	20,088
Total shortfall					20,088
Browder, Glen (D–AL–3rd)	Horseshoe Bend National Military Park	51	0	0	51
	Tuskegee Institute National Historic Site	159	0	0	159
Total shortfall					210
Brown, Sherrod (D–OH–13th)	Cuyahoga Valley National Recreation Area	600	43,500	4,500	48,600
Total shortfall					48,600
Byrne, Leslie (D–VA–11th)	Prince William Forest Park	632	20,750	9,709	31,091
	Manassas National Battlefield Park	412	10,400	8,000	18,812
	George Washington Memorial Parkway	2,693	0	44,802	47,495
	Wolf Trap Farm Park for the Performing Arts	916	0	38,320	39,236
Total shortfall					136,634
Cardin (D–MD–3rd)	Fort McHenry National Monument and Historic Shrine	239	0	9,600	9,839
	Baltimore-Washington Parkway	179	0	0	179
Total shortfall					10,018
Clay, Bill (D–MO–1st)	Jefferson National Expansion Memorial	2,000	1,000	41,250	44,250
Total shortfall					44,250
Clement, Bob (D–TN–5th)	Natchez Trace Parkway	4,505	124	52,900	57,529
Total shortfall					57,529
Clyburn, James (D–SC–6th)	Congaree Swamp National Monument	224	996	0	1,220

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Total shortfall					1,220
Coble (R–NC–6th)	Guilford Courthouse National Military Park	338	0	0	338
Total shortfall					338
Coleman (D–TX–6th)	Chamizal National Memorial	338	0	0	338
Total shortfall					338
Combest (R–TX–19th)	Alibates Flint Quarries National Monument/Lake Meredith National Recreation Area	676	0	44,100	44,776
Total shortfall					44,776
Cooper, Jim (D–TN–4th)	Big South Fork National River and Recreation Area	743	0	0	743
	Shiloh National Military Park	362	0	4,607	4,969
	Cumberland Gap National Historical Park	900	0	0	900
Total shortfall	Natchez Trace Parkway	4,505	124	52,900	57,529
					64,141
Costello, Jerry (D–IL–12th)	Jefferson National Expansion Memorial	2,000	1,000	41,250	44,250
Total shortfall					44,250
Cramer, Bud (D–AL–5th)	Natchez Trace Parkway	4,505	124	52,900	57,259
	Russell Cave National Monument	42	0	0	42
Total shortfall					57,571
Crapo (R–ID–2d)	City of Rocks National Reserve	0	1,597	19,300	20,897
	Craters of the Moon National Monument	98	0	4,500	4,598
	Hagerman Fossil Beds National Monument	38	0	14,000	14,038
	Yellowstone NP	5,814	0	324,930	330,744
Total shortfall					370,277
Darden (D–GA–7th)	Kennesaw Mountain NBP	138	0	0	138
Total shortfall					138
Deal, Nathan (D–GA–9th)	Appalachian NST	0	35,000	0	35,000
	Chattahoochee River National Recreation Area	1,002	20,255	3,238	24,495
	Chickamauga and Chattanooga National Military Park	188	0	46,292	46,480
Total shortfall					105,975
de Lugo, Ron (Del–VI)	Buck Island Reef National Monument	89	0	0	89
	Christiansted National Historic Site	358	0	0	358
	Salt River Bay NHP and Ecological Preserve	0	16,850	0	16,850
	Virgin Islands NP	656	47,330	0	47,986
Total shortfall					65,283
Derrick, Butler (D–SC–3d)	Ninety Six National Historic Site	13	0	0	13
Total shortfall					13
Deutsch (D–FL–20th)	Biscayne NP	1,458	272	0	1,730
	Forth Jefferson National Monument	303	0	0	303
	Dry Tortugas NP	0	0	12,000	12,000
	Everglades NP	2,618	50	96,400	99,068
Total shortfall					113,101
Dickey, Jay (R–AR–4th)	Hot Springs NP	1,053	2,127	16,900	20,080
Total shortfall					20,080
Dicks (D–WA–6th)	Olympic NP	1,160	23,035	53,300	77,495
Total shortfall					77,495
Doolittle, John (R–CA–4th)	Yosemite NP	9,465	63,924	330,120	403,509
Total shortfall					403,509
Duncan, John (R–TN–2d)	Great Smoky Mountains NP	3,912	480	34,000	38,392
Total shortfall					38,392
Dunn (R–WA–8th)	Mount Rainier National Park	1,250	0	65,300	66,550
Total shortfall					66,550
Emerson, Bill (R–MO–8th)	Ozark National Scenic Riverways	839	498	24,754	26,091
Total shortfall					26,091
Engel, (D–NY–17th)	Saint Paul's Church National Historic Site	49	0	0	49
Total shortfall					49
English, Karan (D–AZ–6th)	Canyon de Chelly National Monument	202	0	7,500	7,702
	Hubbell Trading Post National Historic Site	32	0	3,200	3,232
	Casa Grande National Monument/Hohokam Pima National Monument	63	0	0	63
	Glenn Canyon National Recreation Area/Rainbow Bridge National Monument	5,368	0	25,807	31,175
	Navajo National Monument	41	0	1,200	1,241
	Petrified Forest NP	722	0	0	722
	Tonto National Monument	67	0	0	67
	Walnut Canyon National Monument/Wupatki National Monument/Sunset Crater Volcano National Monument.	604	180	7,500	8,284
Total shortfall					52,486

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Faleomavaega (Del–AS)	National Park of American Samoa	753	0	0	753
Total shortfall					753
Farr, Sam (D–CA–17th)	Pinnacles National Monument	606	50	0	656
Total shortfall					656
Fazio, Vic (D–CA–3d)	Lassen Volcanic NP	440	1,355	17,030	18,825
Total shortfall					18825
Fingerhut, (D–OH–19th)	James A. Garfield National Historic Site	0	0	6,090	6,090
Total shortfall					6,090
Fish, (R–NY–19th)	Appalachian NST	0	35,000	0	35,000
Total shortfall					35,000
Foley, Tom (D–WA–5th)	Coulee Dam National Recreation Area	716	0	3,700	4,416
	Whitman Mission National Historic Site	17	0	0	17
Total shortfall					4,433
Fowler, Tillie (R–FL–4th)	Castillo de San Marcos National Monument/Fort Matanzas National Monument	423	0	5,000	5,423
	Fort Caroline National Memorial	32	50	0	82
	Timucuan Ecological and Historic Preserve	0	8,538	0	8,538
Total shortfall					14,043
Frank (D–MA–4th)	Frederick Law Olmsted National Historic Site	400	0	0	400
	John F. Kennedy National Historic Site	128	0	0	128
Total shortfall					528
Franks, Gary (R–CT–5th)	Weir Farm National Historic Site	250	520	12,306	13,076
Total shortfall					13,076
Furse (D–OR–1st)	Fort Clatsop National Memorial	52	0	0	52
Total shortfall					52
Gallegly (R–CA–23d)	Channel Islands NP	3,324	5,000	2,882	11,206
	Santa Monica Mountains National Recreation Area	4,080	102,131	1,310	107,521
Total shortfall					118,727
Gallo, Dean (R–NJ–11th)	Morristown National Historical Park	430	0	1,598	2,028
Total shortfall					2,028
Gekas (R–PA–17th)	Appalachian NST	0	35,000	0	35,000
Total shortfall					35,000
Gephardt (D–MO–3d)	Ulysses S. Grant National Historic Site	148	0	5,195	5,343
Total shortfall					5,343
Gilchrest (R–MD–1st)	Assateague Island National Seashore	870	3,076	30,502	34,448
Total shortfall					34,448
Gillmor, Paul (R–OH–5th)	Perry's Victory and International Peace Memorial	109	0	11,380	11,489
Total shortfall					11,489
Gilman (R–NY–20th)	Appalachian NST	0	35,000	0	35,000
	Upper Delaware Scenic and Recreational River	999	391	14,500	15,890
Total shortfall					50,890
Gingrich (R–GA–6th)	Chattahoochee River National Recreation Area	1,002	20,255	3,238	24,495
	Kennesaw Mountain NBP	138	0	0	138
Total shortfall					24,633
Goodlatte (R–VA–6th)	Appalachian NST	0	35,000	0	35,000
	Blue Ridge Parkway	9,245	11,797	25,800	46,842
	Shenandoah NP	1,695	0	85,751	87,446
Total shortfall					169,288
Goodling (R–PA–19th)	Appalachian NST	0	35,000	0	35,000
	Eisenhower National Historic Site	587	0	8,000	8,587
	Gettysburg National Military Park	2,782	11,565	15,358	29,705
Total shortfall					73,292
Gordon, Bart (D–TN–6th)	Natchez Trace Parkway	4,505	124	52,900	57,529
	Stones River NB	400	13,305	0	13,705
Total shortfall					71,234
Goss, (R–FL–14th)	Big Cypress National Preserve	1,260	109,000	0	110,260
Total shortfall					110,260
Grams, Rod (R–MN–6th)	Lower Saint Croix National Scenic Riverway/Saint Croix National Scenic Riverway	369	557	0	926
	Mississippi National River and Recreation Area	1,200	0	12,346	13,546
Total shortfall					14,472

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Gunderson (R–WI–3d)	Lower Saint Croix National Scenic Riverway/St. Croix National Scenic Riverway	369	557	0	926
Total shortfall					926
Hall, Tony (D–OH–3d)	Dayton Aviation Heritage NHP	1,000	200	4,118	5,318
Total shortfall					5,318
Hamburg, Dan (D–CA–1st)	Redwood NP	1,476	5,046	0	6,522
Total shortfall					6,522
Hamilton, Lee (D–IN–9th)	Lincoln Boyhood National Memorial	84	0	1,450	1,534
Total shortfall					1,534
Hancock, Mel (R–MO–7th)	George Washington Carver National Monument	86	0	0	86
	Wilson's Creek NB	623	0	1,400	2,023
Total shortfall					2,109
Hansen, Jim (R–UT–1st)	Cedar Breaks National Monument	24	0	0	24
	Golden Spike National Historic Site	8	166	0	174
	Zion National Park	1,670	1,593	23,195	26,458
Total shortfall					26,656
Hayes, James (D–LA–7th)	Jean Lafitte National Historical Park and Preserve	875	484	5,800	7,159
Total shortfall					7,159
Hefley, Joel (R–CO–5th)	Florissant Fossil Beds National Monument	74	0	8,922	8,996
Total shortfall					8,996
Herger, Wally (R–CA–2d)	Lassen Volcanic NP	440	1,355	17,030	18,825
	Whiskeytown-Shasta-Trinity National Recreation Area	1,392	325	0	1,717
	Lava Beds National Monument	353	0	5,895	6,248
Total shortfall					26,790
Hinchey (D–NY–26th)	Upper Delaware Scenic and Recreational River	999	391	14,500	15,890
Total shortfall					15,890
Hobson (R–OH–7th)	Dayton Aviation Heritage NHP	1,000	200	4,118	5,318
	Hopewell Culture NHP	234	4,000	2,000	6,234
Total shortfall					10,352
Hochbrueckner (D–NY–1st)	Fire Island National Seashore	1,477	21,362	8,000	30,839
Total shortfall					30,839
Hoke (R–OH–10th)	Cuyahoga Valley National Recreation Area	600	43,500	4,500	48,600
Total shortfall					48,600
Holden, Tim (D–PA–6th)	Appalachian NST	0	35,000	0	35,000
	Hopewell Furnace National Historic Site	416	0	5,000	5,416
Total shortfall					40,416
Hoyer, Steny (D–MD–5th)	Baltimore-Washington Parkway	179	0	0	179
	Greenbelt Park	178	0	0	178
	Thomas Stone National Historic Site	306	130	5,900	6,336
Total shortfall					6,693
Huffington (R–CA–22d)	Channel Islands NP	3,324	5,000	2,882	11,206
Total shortfall					11,206
Hutchinson (R–AR–3d)	Buffalo National River	478	242	18,700	19,420
	Fort Smith National Historic Site	54	0	4,900	4,954
	Pea Ridge National Military Park	267	0	2,750	3,017
Total shortfall					27,391
Hutto, Earl (D–FL–1st)	Gulf Islands National Seashore	1,309	810	0	2,119
Total shortfall					2,119
Inglis (R–SC–4th)	Cowpens National Battlefield	32	0	0	32
Total shortfall					32
Inslee, Jay (D–WA–4th)	Coulee Dam National Recreation Area	716	0	3,700	4,416
	Lake Chelan National Recreation Area/North Cascades NP/Ross Lake National Recreation Area	1,578	15,119	14,100	30,797
Total shortfall					35,213
Jefferson (D–LA–2d)	Jean Lafitte National Historical Park and Preserve	875	484	5,800	7,159
Total shortfall					7,159
Johnson, Nancy (R–CT–6th)	Appalachian NST	0	35,000	0	35,000
Total shortfall					35,000
Johnson, Tim (D–SD–All)	Badlands NP	276	151	15,700	16,127
	Jewel Cave National Monument	133	0	0	133

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
	Niobrara/Missouri National Recreational River	0	0	0	0
	Mount Rushmore National Memorial	458	0	10,000	10,458
	Wind Cave NP	222	0	1,179	1,401
Total shortfall					28,119
Kanjorski (D–PA–11th)	Appalachian NST	0	35,000	0	35,000
Total shortfall					35,000
Kennedy, Joe (D–MA–8th)	Boston African American National Historic Site	196	0	2,000	2,196
	Boston National Historical Park	1,096	0	16,916	18,012
	Longfellow National Historic Site	184	0	0	184
Total shortfall					20,392
King, Peter (R–NY–3d)	Sagamore Hill National Historic Site	267	0	0	267
Total shortfall					267
Kingston, Jack (R–GA–1st)	Cumberland Island National Seashore	386	14,624	2,912	17,922
	Fort Frederica National Monument	82	230	0	312
	Fort Pulaski National Monument	79	0	0	79
Total shortfall					18,313
Klein, Herb (D–NJ–8th)	Edison National Historic Site	189	0	27,000	27,189
Total shortfall					27,189
Kolbe, Jim (R–AZ–5th)	Chiricahua National Monument/Fort Bowie National Historic Site	142	17	0	159
	Coronado National Memorial	60	200	0	260
	Saguaro National Monument	387	49,600	0	49,987
Total shortfall					50,406
Lambert (D–AR–1st)	Arkansas Post National Memorial	9	0	1,000	1,009
Total shortfall					1,009
Lancaster (D–NC–3d)	Cape Hatteras National Seashore/Fort Raleigh National Historic Site/Wright Brothers National Memorial	1,095	18,310	25,275	44,680
	Cape Lookout National Seashore	271	50	0	321
	Moores Creek NB	50	0	0	50
Total shortfall					45,051
Lantos, Tom (D–CA–12th)	Golden Gate National Recreation Area	5,659	69,234	27,903	102,796
Total shortfall					102,796
LaRocco, Larry (D–ID–1st)	Nez Perce National Historical Park	300	1,500	7,000	8,800
Total shortfall					8,800
Laughlin (D–TX–14th)	Lyndon B. Johnson National Historical Park	406	2,266	5,000	7,672
Total shortfall					7,672
Lazio, Rick (R–NY–2d)	Fire Island National Seashore	1,477	21,362	8,000	30,839
Total shortfall					30,839
Leach, James (R–IA–1st)	Herbert Hoover National Historic Site	241	0	3,900	4,141
Total shortfall					4,141
Lehman, (D–CA–19th)	Yosemite NP	9,465	63,924	330,120	403,509
	Sequoia NP/Kings Canyon NP/Devils Postpile National Monument	896	3,120	198,030	202,046
Total shortfall					605,555
Lewis, Jerry (R–CA–40th)	Joshua Tree National Monument	1,134	3,326	22,532	26,992
	Death Valley National Monument	2,635	14,881	35,632	53,148
	Mansanar National Historic Site	300	0	4,000	4,300
Total shortfall					84,440
Lewis, John (D–GA–5th)	Chattahoochee River National Recreation Area	1,002	20,255	3,238	24,495
	Martin Luther King, Jr. National Historical Site	340	1,160	0	1,500
Total shortfall					25,995
Lewis, Ron (R–KY–2d)	Abraham Lincoln Birthplace National Historic Site	70	0	0	70
	Mammoth Cave NP	1,239	0	8,101	9,340
Total shortfall					9,410
Livingston (R–LA–1st)	Jean Lafitte National Historical Park and Preserve	875	484	5,800	7,159
Total shortfall					7,159
Lloyd, Marilyn (D–TN–3d)	Chickamauga and Chattanooga National Military Park	188	0	46,292	46,480
	Obed W and S River	90	984	0	1,074
Total shortfall					47,554
McCandless (R–CA–44th)	Joshua Tree National Monument	1,134	3,326	22,532	26,992
Total shortfall					26,992
McCloskey (D–IN–8th)	George Rogers Clark National Historical Park	20	0	1,300	1,320
Total shortfall					1,320

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
McCrery, Jim (R–LA–5th)	Jean Lafitte National Historical Park and Preserve	875	484	5,800	7,159
	Poverty Point National Monument	0	0	0	0
Total shortfall					7,150
McDade, Joe (R–PA–10th)	Appalachian NST	0	35,000	0	35,000
	Delaware Water Gap National Recreation Area	2,598	7,517	147,600	157,715
	Steamtown National Historic Site	3,000	0	0	3,000
	Upper Delaware Scenic and Recreational River	999	391	14,500	15,890
Total shortfall					211,605
McDermott (D–WA–7th)	Klondike Gold Rush National Historical Park	48	0	1,331	1,379
Total shortfall					1,379
McHale, (D–PA–15th)	Delaware Water Gap National Recreation Area	2,598	7,517	147,600	157,715
	Appalachian NST	0	35,000	0	35,000
Total shortfall					192,715
McInnis, Scott (R–CO–3d)	Black Canyon of the Gunnison National Monument	95	96	0	191
	Colorado National Monument	129	0	0	129
	Curecanti National Recreation Area	407	0	1,441	1,848
	Dinosaur National Monument	1,267	859	11,310	13,436
	Great Sand Dunes National Monument	178	449	2,227	2,854
	Hovenweep National Monument	25	0	0	25
	Rocky Mountain NP	1,597	5,385	33,828	40,810
	Mesa Verde NP/Yucca House National Monument	259	96	35,285	35,640
Total shortfall					94,933
Machtley (R–RI–1st)	Roger Williams National Memorial	99	0	0	99
Total shortfall					99
Maloney (D–NY–14th)	Theodore Roosevelt Birthplace National Historic Park	146	0	10,900	11,046
Total shortfall					11,046
Mann, (D–OH–1st)	William Howard Taft National Historic Site	42	0	1,500	1,542
Total shortfall					1,542
Margolies-Mezvinsky, Marjorie (D–PA–13th)	Valley Forge National Historical Park	826	15,415	11,000	27,241
Total shortfall					27,241
Markey, Ed (D–MA–7th)	Minute Man National Historical Park	258	19,680	15,177	35,115
Total shortfall					35,115
Meehan (D–MA–5th)	Minute Man National Historical Park	258	19,680	15,177	35,115
	Lowell National Historical Park	1,277	10,100	688	12,065
Total shortfall					47,180
Menendez (D–NJ–13th)	Ellis Island	2,900	0	0	2,900
	Statue of Liberty National Monument	589	0	12,400	12,889
Total shortfall					15,889
Mfume, (D–MD–7th)	Baltimore-Washington Parkway	179	0	0	179
Total shortfall					179
Michel, (R–IL–18th)	Lincoln Home National Historic Site	80	0	2,620	2,700
Total shortfall					2,700
Miller, Dan (R–FL–13th)	De Soto National Memorial	90	0	0	90
Total shortfall					90
Minge, David (D–MN–2d)	Pipestone National Monument	81	0	0	81
Total shortfall					81
Mink, Patsy (D–HI–2d)	Haleakala NP	1,087	7,040	6,026	14,153
	Hawaii Volcanoes NP	2,020	14,900	0	16,920
	Kalaupapa National Historical Park	992	450	0	1,442
	Kaloko-Honokohau National Historical Park	473	18,250	0	18,723
	Pu'uhonua o Honaunau National Historical Park	189	0	2,882	3,071
	Puukohola Heiau National Historical Site	29	0	1,572	1,601
Total shortfall					55,910
Moakley (D–MA–9th)	Boston National Historical Park	1,096	0	16,916	18,012
Total shortfall					18,012
Molinari (R–NY–13th)	Gateway National Recreation Area (Staten –Island)	4,843	47,000	225,030	276,873
Total shortfall					276,873
Mollohan (D–WV–1st)	Chesapeake and Ohio Canal National Historical Park	2,067	114,856	35,325	152,248
Total shortfall					152,248
Montgomery (D–MS–13th)	Natchez Trace Parkway	4,505	124	52,900	57,529
Total shortfall					57,529
Moran, James (D–VA–8th)	George Washington Memorial Parkway	2,693	0	44,802	47,495
	Potomac Heritage National Scenic Trail	0	0	0	0

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
	Arlington House, The Robert E. Lee Memorial	0	0	0	0
Total shortfall					47,495
Morella (R–MD–8th)	Chesapeake & Ohio Canal National Historical Park	2,067	114,856	35,325	152,248
	Clara Barton National Historic Site	0	0	0	0
	George Washington Memorial Parkway	2,693	0	44,802	47,495
Total shortfall					199,734
Murphy (D–PA–20th)	Fort Necessity NB	136	0	10,020	10,156
	Friendship Hill National Historic Site	200	0	0	200
Total shortfall					10,356
Murtha, John (D–PA–12th)	Allegheny Portage Railroad National Historic Site	173	5,267	9,800	15,240
	Johnstown Flood National Memorial	55	2,600	0	2,655
Total shortfall					17,895
Nadler (D–NY–8th)	Castle Clinton National Monumental	155	0	21,700	21,855
	Ellis Island	2,900	0	0	2,900
	Federak Hall National Memorial	195	0	8,420	8,615
	General Grant National Memorial	268	0	0	268
	Statue of Liberty National Monument	589	0	12,400	12,989
Total shortfall					46,627
Neal, Richard (D–MA–2d)	Springfield Armory National Historic Site	90	0	0	90
Total shortfall					90
Neal, Stephen (D–NC–5th)	Appalachian NST	0	35,000	0	35,000
	Blue Ridge Parkway	9,245	11,797	25,800	46,842
Total shortfall					81,842
Norton, (D–DC–All)	Chesapeake and Ohio Canal National Historical Park	2,067	114,856	35,325	152,248
	Ford's Theatre National Historic Site	71	0	0	71
	George Washington Memorial Parkway	2,693	0	44,802	47,495
	National Capital Parks—Central	2,335	0	138,060	140,395
	Frederick Douglas National Historic Site	0	0	0	0
	Mary McLeod Bethune Council House National Historic Site	500	694	1,500	2,694
	National Capital Parks—East	2,491	0	11,117	13,608
	Rock Creek Park	1,677	0	14,266	15,943
	White House	748	0	0	748
Total shortfall					373,202
Nussle, Jim (R–IA–2d)	Effigy Mounds National Monument	65	0	0	65
Total shortfall					65
Oberstar (D–MN–8th)	Grand Portage National Monument	36	0	3,650	3,686
	Lower Saint Croix National Scenic Riverway/Saint Croix National Scenic Riverway	369	557	0	926
	Voyageurs NP	1,758	9,995	3,865	15,618
Total shortfall					20,230
Obey, David (D–WI–7th)	Apostle Islands National Lakeshore	752	0	3,865	4,617
	Saint Croix National Scenic Riverway/Lower Saint Croix National Scenic Riverway	369	557	0	926
Total shortfall					5,543
Olver, John (D–MA–1st)	Appalachian NST	0	35,000	0	35,000
Total shortfall					35,000
Ortiz (D–TX–27th)	Padre Island National Seashore	0	4,318	3,600	7,918
	Palo Alto Battlefield National Historic Site	700	6,000	8,000	14,700
Total shortfall					22,618
Orton, Bill (D–UT–3d)	Arches NP	198	0	0	198
	Bryce Canyon NP	643	4	21,917	22,564
	Canyonlands NP	1,146	0	0	1,146
	Capitol Reef NP	222	1	0	223
	Glen Canyon National Recreation Area/Rainbow Bridge National Monument	5,368	0	25,807	31,175
	Dinosaur National Monument	1,267	859	11,310	13,436
	Hovenweep National Monument	25	0	0	25
	Zion National Park	1,670	1,593	23,195	26,458
	Natural Bridges National Monument	44	0	0	44
	Timpanogos Cave National Monument	230	0	5,923	6,153
Total shortfall					101,422
Pallone, Frank (D–NJ–6th)	Gateway National Recreation Area (Sandy Hook)	4,843	47,000	225,030	276,873
Total shortfall					276,873
Parker, Mike (D–MS–4th)	Natchez National Historical Park	188	1,908	0	2,096
	Natchez Trace Parkway	4,505	124	52,900	57,529
Total shortfall					59,625
Pastor, Ed (D–AZ–2d)	Organ Pipe Cactus National Monument	823	2,650	0	3,473
	Tumacacori National Historical Park	47	262	0	309
Total shortfall					3,782
Paxon, Bill (R–NY–27th)	Women's Rights National Historical Park	137	0	0	137
Total shortfall					137
Payne, Donald (D–NJ–24th)	Edison National Historic Site	189	0	27,000	27,189

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Total shortfall					27,189
Payne, Lewis (D–VA–5th)	Appomattox Court House National Historical Park	363	9	0	372
	Blue Ridge Parkway	9,245	11,797	25,800	46,842
	Appalachian NST	0	35,000	0	35,000
	Booker T. Washington National Monument	72	0	1,519	1,591
	Shenandoah NP	1,695	0	85,751	87,446
Total shortfall					172,251
Pelosi, Nancy (D–CA–8th)	Golden Gate National Recreation Area	5,659	69,234	27,903	102,796
	Fort Point National Historic Site	138	0	0	138
	San Francisco Maritime National Historical Park	1,173	0	17,292	18,465
Total shortfall					121,399
Pickett, Owen (D–VA–2d)	Colonial National Historical Park	818	50	66,383	67,251
Total shortfall					67,251
Pomeroy (D–ND–All)	Fort Union Trading Post National Historic Site	49	90	600	739
	Knife River Indian Villages National Historic Site	89	400	1,700	2,189
	Theodore Roosevelt NP	398	233	10,900	11,531
Total shortfall					14,459
Quillen, Jimmy (R–TN–1st)	Andrew Johnson National Historic Site	31	0	0	31
	Great Smoky Mountains National Park	3,912	480	34,000	38,392
	Appalachian NST	0	35,000	0	35,000
Total shortfall					73,423
Quinn, Jack (R–NY–30th)	Theodore Roosevelt Inaugural National Historic Site	17	0	10,900	10,917
Total shortfall					10,917
Rahall, Nick (D–WV–3d)	New River Gorge National River	694	16,176	69,450	86,320
	Gauley River National Recreation Area/Bluestone National Scenic River	0	6,000	0	6,000
Total shortfall					92,320
Ramstad, Jim (R–MN–3d)	Mississippi National River and Recreation Area	1,200	0	12,346	13,546
Total shortfall					13,546
Rangel (D–NY–15th)	Hamilton Grange National Memorial	351	0	10,900	11,251
Total shortfall					11,251
Ravenel (R–SC–1st)	Charles Pinckney National Historic Site	235	0	2,000	2,235
	Fort Sumter National Monument	250	190	0	440
Total shortfall					2,675
Richardson (D–NM–3d)	Aztec Ruins National Monument	323	2,481	3,900	6,704
	Bandelier National Monument	508	0	10,800	11,308
	Capulin Volcano National Monument	55	0	1,500	1,555
	Chaco Culture National Historical Park	318	235	9,900	10,453
	El Morro National Monument	99	213	0	312
	Fort Union National Monument	81	11	600	692
	Pecos National Historical Park	59	3,602	3,400	7,061
	El Malpais National Monument	141	3,871	4,600	8,612
Total shortfall					46,697
Roberts, Pat (R–KS–1st)	Fort Larned National Historic Site	79	0	6,076	6,155
Total shortfall					6,155
Roemer, Tim (D–IN–3d)	Indiana Dunes National Lakeshore	3,500	54,462	5,800	63,762
Total shortfall					63,762
Rogers, Hal (R–KY–5th)	Big South Fork National River and Recreation Area	743	0	0	743
	Cumberland Gap National Historical Park	900	0	0	900
Total shortfall					1,643
Romero-Barcelo, Carlos (D–PR–All)	San Juan National Historic Site	1,158	0	0	1,158
Total shortfall					1,158
Roukema (R–NJ–5th)	Appalachian NST	0	35,000	0	35,000
	Delaware Water Gap National Recreation Area	2,598	7,517	147,600	157,715
Total shortfall					192,715
Sabo, Martin (D–MN–5th)	Mississippi National River and Recreation Area	1,200	0	12,346	13,546
Total shortfall					13,546
Sanders (I–VT–All)	Appalachian NST	0	35,000	0	35,000
	Marsh-Billings NHP	500	0	2,500	3,000
Total shortfall					38,000
Sarpalius (D–TX–13th)	Alibates Flint Quarries National Monumental/Lake Meredith National Recreation Area	676	0	44,100	44,776
Total shortfall					44,776
Sawyer (D–OH–14th)	Cuyahoga Valley National Recreation Area	600	43,500	4,500	48,600
Total shortfall					48,600
Schenk, Lynn (D–CA–49th)	Cabrillo National Monument	202	0	0	202

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Total shortfall					202
Schiff, Steve (R–NM–1st)	Petroglyph National Monument	1,000	50,000	11,700	62,700
	Salinas Pueblo Missions National Monument	58	138	7,000	7,196
Total shortfall					69,896
Schumer (D–NY–9th)	Gateway National Recreation Area	4,843	47,000	225,030	276,873
Total shortfall					276,873
Scott, Robert (D–VA–3d)	Colonial National Historical Park	818	50	66,383	67,251
	Petersburg NB	1,180	1,263	15,000	17,443
	Richmond NBP	874	0	23,800	24,674
Total shortfall					109,368
Shuster, Bud (R–PA–9th)	Allegheny Portage Railroad National Historic Site	173	5,267	9,800	15,240
	Appalachian NST	0	35,000	0	35,000
Total shortfall					50,240
Sisisky (D–VA–4th)	Petersburg NB	1,180	1,263	15,000	17,443
	Richmond NBP	874	0	23,800	24,674
Total shortfall					42,117
Skaggs, David (D–CO–2d)	Rocky Mountain NP	1,597	5,385	33,828	40,810
Total shortfall					40,810
Skeen, Joe (R–NM–2d)	Carlsbad Caverns NP	257	18	7,000	7,275
	El Malpais National Monument	141	3,871	4,600	8,612
	Gila Cliff Dwellings National Monument	26	0	0	26
	White Sands National Monument	75	0	3,300	3,375
Total shortfall					19,288
Slattery, Jim (D–KS–2d)	Brown v. Board of Education NHS	0	700	3,843	4,543
	Fort Scott National Historic Site	122	0	1,037	1,159
Total shortfall					5,702
Smith, Lamar (R–TX–21st)	Lyndon B. Johnson National Historical Park	406	2,266	5,000	7,672
Total shortfall					7,672
Smith, Bob (R–OR–2d)	Crater Lake NP	1,505	0	121,700	123,205
	JOhn Day Fossil Beds National Monument	32	465	12,000	12,497
	Oregon Caves National Monument	51	0	0	51
Total shortfall					135,753
Snowe (R–ME–2d)	Acadia NP	1,232	22,259	59,955	83,446
	Appalachian NST	0	35,000	0	35,000
	Saint Croix Island International Historic Site	25	0	0	25
Total shortfall					118,471
Solomon (R–NY–22d)	Eleanor Roosevelt National Historic Site	174	0	0	174
	Home of Franklin D. Roosevelt National Historic Site	425	0	17,375	17,800
	Martin Van Buren National Historic Site	58	0	0	58
	Saratoga National Historical Park	34	1,540	15,239	16,813
	Vanderbilt Mansion National Historic Site	630	0	6,840	7,470
Total shortfall					42,315
Spratt, John (D–SC–5th)	Kings Mountain National Military Park	92	0	0	92
Total shortfall					92
Strickland (D–OH–6th)	Hopewell Culture National Historic Park	234	4,000	2,000	6,234
Total shortfall					6,234
Studds (D–MA–10th)	Adams National Historic Site	304	0	3,100	3,404
	Cape Cod National Seashore	323	32,081	24,155	56,559
Total shortfall					59,963
Stump, Bob (R–AZ–3d)	Grand Canyon NP	3,989	1,530	131,992	137,511
	Lake Mead National Recreation Area	5,290	1,526	202,657	209,473
	Montezuma Castle National Monument/Tuzigoot National Monument	284	101	0	385
	Pipe Spring National Monument	124	0	0	124
	Glen Canyon National Recreation Area/Rainbow Bridge National Monument	5,368	0	25,807	31,175
	Sunset Crater Volcano National Monument/Wupatki National Monument/Walnut Canyon National Monument.	604	180	7,500	8,284
Total shortfall					386,952
Stupak, Bart (D–MI–1st)	Isle Royale NP	334	0	8,694	9,028
	Keweenaw NHP	100	5,000	28,000	33,100
	Pictured Rocks National Lakeshore	268	0	10,586	10,584
	Sleeping Bear Dunes National Lakeshore	488	0	1,846	2,334
Total shortfall					55,316
Sundquist (R–TN–7th)	Natchez Trace Parkway	4,505	124	52,900	57,529
Total shortfall					57,529
Swett, Dick (D–NH–2d)	Appalachian NST	0	35,000	0	35,000
	Saint-Gaudens National Historic Site	44	320	7,365	7,729
Total shortfall					42,729

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
Swift, Al (D–WA–2d)	Ebey's Landing National Historical Reserve	0	8,494	0	8,494
	North Cascades NP/Lake Chelan National Recreation Area/Ross Lake National Recreation Area	1,578	15,119	14,100	30,797
	San Juan Island National Historical Park	68	0	0	68
Total shortfall					39,359
Synar (D–OK–2d)	Fort Smith National Historic Site	54	0	4,900	4,954
Total shortfall					4,954
Tanner, John (D–TN–8th	Fort Donelson NB	221	43	0	264
Total shortfall					264
Tauzin, Billy (D–LA–3d)	Jean Lafitte National Historic Park and Preserve	875	484	5,800	7,159
Total shortfall					7,159
Taylor, Charles (R–NC–1st)	Appalachian NST	0	35,000	0	35,000
	Blue Ridge Parkway	9,245	11,797	25,800	46,842
	Carl Sandburg Home National Historic Site	287	0	0	287
	Great Smoky Mountains NP	3,912	480	34,000	38,392
Total shortfall					120,521
Taylor, Gene (D–MS–5th)	Gulf Islands National Seashore	1,309	810	0	2,119
Total shortfall					2,119
Tejeda (D–TX–28th)	San Antonio Missions National Historic Park	220	3,677	9,600	13,497
Total shortfall					13,497
Thomas, Bill (R–CA–21st)	Sequoia NP/Kings Canyon NP/Devils Postpile National Monument	896	3,120	198,030	202,046
Total shortfall					202,046
Thomas, Craig (R–WY–All)	Bighorn Canyon National Recreation Area	432	620	212	1,264
	Devils Tower National Monument	531	0	0	531
	Fort Laramie National Historic Site	75	2	0	77
	Fossil Butte National Monument	89	0	0	89
	Grand Teton NP	2,864	21,775	64,530	89,169
	John D. Rockefeller, Jr., Memorial Pkwy	294	0	13,604	13,898
	Yellowstone NP	5,814	0	324,930	330,744
Total shortfall					435,772
Thompson (D–MS–2d)	Vicksburg Park	156	0	2,355	2,511
Total shortfall					2,511
Torkildsen (R–MA–6th)	Salem Maritime National Historic Site	814	350	13,110	14,274
	Saugus Iron Works National Historic Site	156	0	2,000	2,156
Total shortfall					16,430
Towns (D–NY–10th)	Gateway National Recreation Area (Jamaica Bay and Breezy Point)	4,843	47,000	225,030	276,873
Total shortfall					276,873
Underwood (Del–GU–All)	War in the Pacific National Historical Park	971	8,140	7,500	16,611
Total shortfall					16,611
Unsoeld (D–WA–3d)	Fort Vancouver National Historic Site	86	0	0	86
	Mount Rainier NP	1,250	0	65,300	66,550
Total shortfall					66,636
Vento, Bruce (D–MN–4th)	Mississippi National River and Recreation Area	1,200	0	12,346	13,546
Total shortfall					13,546
Visclosky (D–IN–1st)	Indiana Dunes National Lakeshore	3,500	54,462	5,800	63,762
Total shortfall					63,762
Vucanovich (R–NV–2d)	Death Valley National Monument	2,635	14,881	35,632	53,148
	Great Basin NP	604	0	0	604
	Lake Mead National Recreation Area	5,290	1,526	202,657	209,473
Total shortfall					263,225
Walker, Bob (R–PA–16th)	Hopewell Furnace National Historic Site	416	0	5,000	5,416
Total shortfall					5,416
Waxman (D–CA–29th)	Santa Monica Mountains National Recreation Area	4,080	102,131	1,310	107,521
Total shortfall					107,521
Weldon, Curt (R–PA–7th)	Valley Forge National Historical Park	826	15,415	11,000	27,241
Total shortfall					27,241
Wheat, Alan (D–MO–5th)	Harry S Truman National Historic Site	355	0	1,009	1,364
Total shortfall					1,364
Whitten (D–MS–1st)	Natchez Trace Parkway	4,505	124	52,900	57,529
	Brices Cross Roads National Battlefield Site	0	0	0	0
Total shortfall					57,529
Williams, Pat (D–MT–All)	Big Hole NB	33	0	0	33

Member	Park	Shortfalls (thousands of dollars)			
		Park operations	Land acquisition	Construction	Total per park
	Bighorn Canyon National Recreation Area	432	620	212	1,264
	Fort Union Trading Post National Historic Site	49	90	600	739
	Glacier NP	2,022	10,089	54,299	66,410
	Grant-Kohrs Ranch National Historic Site	62	94	0	156
	Little Bighorn Battlefield NM	0	0	750	750
	Yellowstone NP	5,814	0	324,930	330,744
Total shortfall					440,096
Wilson (D–TX–2d)	Big Thicket National Preserve	379	6,000	19,500	25,879
Total shortfall					25,879
Wise, Robert (D–WV–2d)	Appalachian NST	0	35,000	0	35,000
	Chesapeake and Ohio Canal National Historical Park	2,067	114,856	35,325	152,248
	Harpers Ferry National Historical Park	328	2,585	38,928	41,841
Total shortfall					229,089
Wolf, Frank (R–VA–10th)	Appalachian NST	0	35,000	0	35,000
	Harpers Ferry National Historical Park	328	2,585	38,928	41,841
	Manassas NBP	412	10,400	8,000	18,812
	Prince William Forest Park	632	20,750	9,709	31,091
	Shenandoah NP	1,695	0	85,751	87,446
Total shortfall					214,190
Woolsey, Lynn (D–CA–6th)	Golden Gate National Recreation Area	5,659	69,234	27,903	102,796
	Muir Woods National Monument	211	0	0	211
	Point Reyes National Seashore	1,027	15,622	0	16,649
Total shortfall					119,656
Wynn, Albert (D–MD–4th)	Baltimore-Washington Pkwy	179	0	0	179
	National Capital Parks—East	2,491	0	11,117	13,608
	Piscataway Park	128	580	0	708
Total shortfall					14,495
Young, Don (R–AK–All)	Aniakchak National Monument and Preserve	95	0	0	95
	Bering Land Bridge National Preserve	662	0	5,564	6,226
	Cape Krusenstern National Monument	201	0	0	201
	Denali NP and Preserve	992	0	18,307	19,299
	Gates of the Arctic NP and Preserve	716	1	0	717
	Glacier Bay NP and Preserve	673	0	19,354	20,027
	Katmai NP and Preserve	929	63	20,638	21,630
	Kenai Fjords NP	495	0	10,459	10,954
	Klondike Gold Rush National Historical Park	161	0	1,331	1,492
	Kobuk Valley NP	29	0	0	29
	Lake Clark NP and Preserve	329	0	6,939	7,268
	Noatak National Preserve	120	0	0	120
	Sitka National Historical Park	49	70	4,355	4,474
	Wrangell-St. Elias NP and Preserve	899	0	15,223	16,122
	Yukon-Charley Rivers National Preserve	309	0	3,181	3,490
	Statewide Park	0	0	59,867	59,867
Total shortfall					172,011
Zimmer, Dick (R–NJ–12th)	Delaware Water Gap National Recreation Area	2,598	7,517	147,600	157,715
Total shortfall					157,715

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I tried to rush through my statement as rapidly as possible and in so doing I would not consider it to be an eloquent presentation. I want to stress a couple of points here because of the importance of this amendment and what it indicates. As I tried to point out in my statement, this bill will put a national park out in the middle of the desert without the amenities and the necessary facilities that people who visit national parks expect. We will then have these people running around trying to find what they can in the way of a camping location, travel through the system, and all the other things which are already structured in a national park such as Yosemite, Yellowstone, the Everglades, or some of the others. So now you have a station wagon full of people who have no direction, who in many cases have never been in the desert before but because out on the freeway, out on an interstate you have a sign that says National Park, they have then become unintentionally, part of the very thing that we are trying to avoid here and, that is, the deterioration of the natural habitat because of a lack of facilities to be able to handle these people, in accordance with what we have now presented to the public on an interstate as a national park.

Mr. Chairman, this aspect has nothing to do with the infrastructure and the private property that is ultimately going to have to be purchased by the Federal Government. It deals with the day-to-day nuts and bolts of what we create in the way of an attraction. A national park listed in any magazine, in any kind of periodical, and somebody who is going from point A to point B on their vacation, or for other reasons is going to say, "Let's stop off and take a look at this new national park," expecting these facilities, these amenities. They are not there and we are going to have problems because these people do not understand what the desert is all about, and there will be no way of explaining it to them.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding.

I ask for this time if I could enter into a colloquy with the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO].

I know of the great expertise in this field of the gentleman from Minnesota [Mr. VENTO]. He has spent years looking at the problems of the parks. We all recognize that. I wonder if maybe he has developed some answers relative to how we handle these very difficult expenditures that are required that is not apparent to any of us. For example, in the Death Valley National Monument, there presently is a $24 million backlog in just the housing facilities that are needed there. Secretary Babbitt has refused to respond to our letters regarding that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. POMBO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the housing issue is a separate issue with the Park Service. Frankly as I have spoken earlier on the floor, BLM nationwide has 200 units of housing. The Park Service has over 4,000. I think there are some problems.

If the gentleman would continue to yield to me, the point being that the housing policies of the Park Service I think are something that has been eclipsed by where we are today as opposed to 1960 and we may not need all the housing that is being proposed. Some remote areas do need housing. Clearly there are a number of projects in terms of private-public sector trying to provide the opportunities in the communities around, rather than in the park either for concessionaires or employees.

Mr. POMBO. Mr. Chairman, reclaiming my time, I yield to the gentleman from California.

Mr. LEWIS of California. The chairman of the subcommittee has essentially said, we will kind of worry about that housing later.

Mr. VENTO. If the gentleman would yield further, that is not what I said.

Mr. LEWIS of California. If the gentleman would yield further, I would suggest that the chairman implies at least that BLM is in some way involved. The Park Service runs the national monument.

Mr. VENTO. If the gentleman would yield further. The Park Service has 4,000 units. The BLM has 200 nationwide.

Mr. LEWIS of California. Mr. Chairman, if the gentleman would continue to yield, it is very apparent that the chairman wants to essentially sidestep this whole question. If a park is made out of the national monument currently in Death Valley, it will not just have the problems that are outstanding already. The Secretary has suggested we will need at least 70 additional personnel. There is no indication whatsoever how we are going to pay for those personnel. The extension of complications relative to housing, I mentioned earlier that we have been over 120 degrees for a recordbreaking time out there and these people are living in metal crates. Indeed, this kind of lack of responsiveness to the real needs of the Park Service is affecting us negatively across the country and the Members should know that.

Mr. HERGER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate very much my colleague yielding.

Mr. Chairman, the point that I want to make involves a couple of things. First, it is astonishing to me with as relatively little time as we have left on this bill, that the chairman of the committee has chosen to readopt the style which is roll over the people who represent the desert and not allow people to talk even for 2 minutes beyond their normal time in this process. But above and beyond that, for this committee to be so blithe about the very real living circumstances of members of our Park Service who are living in conditions that have been described by the Secretary as totally unacceptable and to suggest that we could expand these parks when they are already operating reasonably well as monuments without worrying about those additional personnel and expenses is not acceptable and Members should know that every dime in the future that goes to these new parks is going to be taken from their parks across the country, throughout the States, throughout America.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. POMBO. I would just like to make one point. It was mentioned in earlier debate that we get $1 billion a year to spend on new parks, new national parks. Passed out of committee, out of the Committee on Natural Resources so far this year is $3.95 billion in acquisition of new parks, including $1.2 billion for the Presidio, the Six River Forest at $1 billion and the California desert protection bill at $1.2 billion as passed by committee.

Mr. CALVERT. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from California.

Mr. CALVERT. Mr. Chairman, I thank the gentleman for yielding.

I would just like to say the numbers that have been presented are numbers not only provided by the National Park Service but also the OMB have in fact confirmed that these shortfalls are in fact there. This is a serious amendment. We just do not have the money to manage our Park System the way we all would like to see it managed. We have shortfalls in employees at the parks. We have shortfalls in land acquisitions. We are just in terrible, terrible shape. As far as the land and water conservation fund, that is an appropriation problem unfortunately that hopefully we can all work together to get resolved. What we are saying, if we can get that problem resolved, then we could go ahead and move forward to acquire the property that is necessary to in fact move toward the acquisition of the land in the desert.

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Mr. HERGER. Mr. Chairman, I do appreciate the comments. I have in my northern California district seven national parks. One of them, Lasson National Park, is the only major national park in the Nation that does not have a visitors center. The funding has been so tight over the years that even funding for what many of us would feel is the most basic of necessities in our parks has not been there.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, the author of this amendment says that this is a serious amendment. Obviously it cannot be a serious amendment. It has not been proposed on any of the other major park legislation that has moved through this Congress over the last year and one-half because this amendment is designed for one purpose, to do indirectly what they cannot do directly. That is the establishment of this Park System in the desert of California that is overwhelmingly supported by the people of California.

If this were a serious amendment, if this were a serious concept, then we would apply it to the Department of Transportation where we would say we cannot authorize a public works bill until the backlog in public works is done. You cannot add any new systems of highway. But the fact is that we know that this kind of legislation allows us to put before the Appropriations Committee, to put before the departments, the organizations of where they want to move to save resources in the case of the national parks, where they want to dedicate transportation dollars to rail, or to highways as submitted to them by the Congress, decisions made by the Congress.

We do not do this in the Department of Defense. If there is a shortfall in operations in the Department of Defense, in the readiness in the Department of Defense or in strategic weapons, we do not say we cannot authorize a new weapons system until you pick up the backlog in readiness or what have you. The fact is we authorize these based upon the input from the departments, based upon the input from our constituents, and then the departments get an opportunity, the Appropriations Committee gets an opportunity to take advantage of that, to take advantage of a willing seller.

People who have inholdings no longer want to sell them. You are counting that against the backlog. When we created Yosemite National Park, Mineral King, or Kings Canyon people thought this was going to be a terrible experience. They are now fighting to hold onto their inholdings because they find out that they have something that is unique, they have something that is unique in this Nation, and that is an inholding in the middle of a wonderful national park, and that experience and that care that is given to those resources.

We do not do this on the public works bills. We do not do this in any other area. We do not have the Department of Education suggesting that you have to clean up the backlog before you can move around based upon the opportunities. We cannot do it to people who want water projects in their districts.

I joined with all of the gentlemen in front of the subcommittee of the gentleman from Alabama [Mr. BEVILL]. We have a shortfall in California water projects. How would you like to deal with flood control on this basis? We could not deal with any of the new requests that are brought to the committee of the gentleman from Alabama [Mr. BEVILL] until the backlog was done.

So this obviously is not a serious amendment. This is an amendment to try to delay the designation of these resources as parks, to upgrade the maintenance, and the care and the management of these resources. It denies what the Secretary of the Interior has said about the ability to care for these in a much more efficient manner as they are operated in these units.

We are simply not telling the truth to our colleagues in the House, and we ought to understand that we watch these budgets and attempts made by the past administrations to slash these budgets. Fortunately, the Congress did not go along with that. But as my colleague from Minnesota pointed out, acquisition costs continue to go up, and if we are not going to have the ability to move when opportunities arise, all we do is make this process far more expensive.

So let us not try to damage this effort that is overwhelmingly supported by the people of the State by offering this kind of amendment that we would not think of offering on other legislation in other matters that suffer from a far greater shortage.

Do my colleagues want to talk about the infrastructure shortage in the Nation and then talk about whether or not we can allocate a new highway system, or patch a road in one of your districts that you think is terribly important? That is what the Appropriations Committee is for. Every subcommittee of the Appropriations Committee has more people testifying before it as to what they would like, and if this is too big a task for them, maybe we should change the Appropriations Committee. But the fact is they sort it out, they bring to the committee what they believe are the priorities based on the recommendations from the administration and what is doable in that fiscal year. That is the process we ought to continue. We would appreciate the support of all of the Members on the other side of the aisle that we do not have when we try to increase the appropriations for land and water conservation.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I am glad to observe all of the friends of the Park Service here today. But we need them on a more constant basis, all of the time putting this as a priority as certainly many of us do.

The fact is, of course, if these lands do not become parks, and remain in the BLM, then they are subject to the mining laws and the other activities that go on there, and the public lands need to be managed. If somebody is out there with a bulldozer doing something, they can do a lot more harm than they can with a camera going into a park.

The fact is all of these needs arise. So the amendment really is not addressing what the problem is.

The fact is there is a lot of problems and we need to defeat this amendment. That is the first problem.

Mr. SMITH of Texas. Mr. Chairman, I move to strike the requisite number of words and I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I appreciate my friend yielding. I rise simply to respond in part to the outrageous statements made by Chairman MILLER.

He suggested, for example, that somehow the House ought to discount this amendment because it had not been presented on this sort of a bill before. I might suggest to my chairman that we had an amendment last week on this bill that had not been presented before that had to do with property rights as well. It suggested rather strongly that the department should not be allowed to decrease the value of property, of inholdings that they were going to take because of expanding parks, because of an endangered species happening to suddenly arrive there. It was a property rights bill that had never been presented before, and it passed this House by 133 votes with a majority of Democrats and Republicans supporting it.

Obviously, the people across the country are sick and tired, sick and tired of committees like this suggesting we will lightly take people's property for any whim, and then let them sit in somebody's inventory forever. The Secretary has said they can sit in the parks as long as until hell freezes over essentially.

I must say that the chairman is being greatly excessive in terms of his candor with the Members. Inholders, he suggests, sometimes get in the park, and suddenly want to keep their property. Tell that to the citizens across the country in your district for those of us in States where there are inholders standing in line where the department says they can wait. Tell your parks that they have plenty of money and we can afford to expand these parks.

The chairman, to say the least, is attempting to shade the message to our Members. This amendment is a property rights amendment that is very important, and I appreciate my colleague yielding.

Mr. CALVERT. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to my colleague, the gentleman from California.

Mr. CALVERT. Mr. Chairman, I thank the gentleman for yielding. I just wanted to point out the reason why we have a deficit as large as it is in this country is because we do not take care of past obligations. I am new to this body, but in the short time I have been here I have learned that the reason why our budget deficit grows by billions and billions of dollars every month, every day, is because we do not take care of past obligations, and that is what we are attempting to do with this piece of legislation.

Again, I thank the gentleman for yielding.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. Let me just add to the comments by the gentleman from California [Mr. LEWIS] about the Calvert amendment. This is a commonsense amendment, and I guess it is at least surprising to me to see the other side characterize this as nonserious and be outraged that the gentleman from California [Mr. CALVERT] would suggest that we pay for that which we have already committed to before we go out and take on a new batch of Federal commitments, because that is exactly what we are doing. We are going to put the taxpayers, we are going to ratchet them up one more notch, and we are going to stretch the Park Service thin. I say to my friend, the gentleman from Minnesota [Mr. VENTO], the Park Service is stretched thin. That is the reports we get from all of our users. It is the reports we get from our own bureaucracy, and the gentleman cannot tell us where we are going to be getting the money. We are not going to be getting the money. The country is going broke, and the gentleman from California [Mr. CALVERT] has the temerity to suggest that we pay for what we have already committed to before we take on other obligations.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would say to my friend in the well, the gentleman from California, that I agree with him, the Park Service is stretched. But this amendment does not require any payments, this does not do anything about it. All this does is defeat the California parks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CALVERT], as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CALVERT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 288, not voting 13, as follows:

[Roll No. 355]

AYES—138

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gallo
Gekas
Geren
Goodlatte
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lancaster
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pombo
Portman
Pryce (OH)
Quinn
Roberts
Rogers
Rohrabacher
Roth
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Walker
Young (AK)
Young (FL)
Zeliff

NOES—288

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hughes
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—13

Bentley
Clayton
Doolittle
Fish
Frost
Gingrich
Goodling
Hoyer
Owens
Slattery
Solomon
Washington
Wheat

□ 1151

Mr. SERRANO and Mr. GILLMOR changed their vote from "aye" to "no."

So the amendment, as modified, was rejected. The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Chairman, had I been able to get beyond the White House chains where we had the celebration on the Disabilities Act and, had I gotten one finger held up, as I ran down the aisle over here while the lights were still on, I would not have missed the vote. But had I been here on the Calvert vote, I would have voted "yes."

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that all debate on the remainder of the bill and all amendments thereto close at 2 p.m. today.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. McCANDLESS. Mr. Chairman, reserving the right to object, I would like to get an understanding of what the chairman of the committee might have in mind here relative to his request.

The CHAIRMAN. The gentleman's request is that the total time for the debate on this bill and all amendments thereto would be concluded at 2 p.m. today.

Mr. McCANDLESS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I move that all debate on the remainder of the bill and all amendments thereto close at 2 p.m. today.

The CHAIRMAN. The question is on the motion offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCANDLESS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 246, noes 179, not voting 14, as follows:

[Roll No. 356]

AYES—246

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barlow
Barrett (WI)
Becerra
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee

Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—179

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Hobson
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pickle
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Whitten
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Bentley
Clay
Dellums
Fields (TX)
Herger
Hilliard
Hoke
Markey
Molinari
Norton (DC)
Reynolds
Slattery
Valentine
Wheat

☐ 1213

Mr. EWING changed his vote from "aye" to "no."

Mrs. KENNELLY changed her vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The motion agreed to is that all debate on this bill and its printed amendments will conclude at 2 p.m. today.

AMENDMENT OFFERED BY MRS. VUCANOVICH

Mrs. VUCANOVICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. VUCANOVICH: At the end of the bill, add the following new section:

"**SECTION 703. FOREIGN MINERAL DEPENDENCE.**

The Secretary shall waive any provision of this Act, in whole or in part, if such provision is determined to require importation of any mineral from any foreign nation in excess of 90 percent of 1992 domestic consumption. Such determination shall be made within one year of enactment of this Act by the Director of the Bureau of Mines, Department of the Interior, who shall consider all alternatives for these minerals."

Mrs. VUCANOVICH. Mr. Chairman, I have an amendment to title VII of H.R. 518 which was printed in the RECORD on my behalf by Mr. LEWIS of California, concerning the provisions of the California Desert Protection Act and our Nation's dependency on mineral imports from foreign nations.

Mr. Chairman, my amendment would protect our Nation's strategic interests by simply requiring the Director of the Bureau of Mines to determine whether or not provisions of H.R. 518, if enacted, are causing the U.S. dependency on foreign imports to exceed 90 percent of our domestic consumption of any mineral product.

Mr. Chairman, I have here a graph prepared from the U.S. Bureau of Mines annual summary of mineral commodities which depicts our net import reliance on selected nonfuel minerals for 1993. For some commodities such as bauxite, the ore of aluminum, graphite, manganese and the high-tech minerals, strontium and niobium, we were 100 percent dependent upon foreign sources for our domestic consumption last year. For industrial diamonds and asbestos, we were over 95 percent dependent on foreign sources. For platinum group metals used in catalytic converters in automobiles and other pollution controlling devices the United States imported 88 percent of its needs. Chromium and tungsten are steel-hardening agents for which we were over 82 percent dependent upon imports, as we were likewise for tin and fluorspar, the ingredients for the ubiquitous additive in toothpaste, stannous fluoride.

And the list goes on and on. I might add that gold and silver are not on it however, because of successful exploration for and development of mines in my State and in the California desert, such as the Castle Mountain Mine for which the boundary of the proposed East Mojave Preserve was modified to exclude reserves for future years production. That was the amendment offered by my colleague from Nevada, and second degree amended by Chairman Miller to do likewise for mining claims adjacent to the Mountain Pass rare-earth mine astride Interstate Highway 15.

I supported those boundary adjustments as necessary to protect identified reserves for future mining at those active mining operations, and I am appreciative that the authors of this bill came around to this same conclusion, albeit not during markup in the Natural Resources Committee. Likewise, both this bill and the one passed by the other body make a boundary adjustment in the Panamint Range to exclude from wilderness designation a couple of identified deposits of disseminated gold. I note President Bush's recommendation was to declare those lands not suitable for wilderness status anyway, but H.R. 518 would put them into the system regardless.

Nonetheless, the amendment before us now remains necessary because the authors of this bill have not agreed to exclude from conservation units they would create in this bill many hundreds to thousands of mining claims that contain the potential to supply domestic needs for minerals. And that's just lands sufficiently prospected to date to be deemed worthy of claim-staking.

Certainly, much of the area remains unknown geologically in the detail necessary to delineate orebodies. The U.S. Geological Survey and the Bureau of Mines have done studies in some wilderness study areas within the area swallowed up by H.R. 518, but not for all of them by any means. Why? Because the Department of the Interior decided a decade ago to study on-the-ground only those WSA's which were initially recommended suitable for inclusion in the Wilderness Preservation System. For those WSA's for which other factors lead to the recommendation to Congress to not put them into

Wilderness the budget did not support detailed mineral surveys. Consequently, because H.R. 518 would put into wilderness many areas recommended nonsuitable for such status, passage of this bill will ensure inclusion of undiscovered mineral deposits for which neither Government geologists nor private prospectors have had opportunity to assess.

Mr. Chairman, the Bureau of Mines did complete an investigation of mineral potential in the East Mojave area of the desert in 1991. That review looked only at mineral prospects already identified—some 701 occurrences—and filtered those down to 24 deposits for which mines were existing or could be profitably mined in the near future. The Bureau went on to analyze the impact of restrictions to development of just those 24 deposits and determined that setting aside the area as a National Park would likely leave $2 billion of undeveloped resources in the ground. And, Mr. Chairman, that is assuming the protection of valid existing rights to develop the deposits at existing mines.

Now, the Committee of the Whole has voted to make the area a preserve, not a park, but it would remain off-limits to mineral development nonetheless, so this assessment of economic impact remains valid today. But, even this huge impact is understated. The Bureau said "the greatest impact of restrictions on mining relate to the untapped potential." Mr. Chairman, that means the undiscovered mineral resources we can only speculate must exist in this highly mineralized piece of the Earth's crust.

□ 1220

The CHAIRMAN. The time of the gentlewoman from Nevada [Mrs. VUCANOVICH] has expired.

Mr. McCANDLESS. Mr. Chairman, I ask unanimous consent that the gentlewoman from Nevada [Mrs. VUCANOVICH] be allowed to proceed for 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. MILLER of California. Mr. Chairman, I reserve the right to object.

PARLIAMENTARY INQUIRY

Mr. McCANDLESS. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. McCANDLESS. Mr. Chairman, it is my understanding that the motion passed to limit debate to a period not to exceed 2 o'clock on all amendments, et cetera.

The CHAIRMAN. The gentleman is correct.

Mr. McCANDLESS. Mr. Chairman, it would appear to me that the gentlewoman from Nevada [Mrs. VUCANOVICH] would certainly be entitled, under that rule, for a 3-minute extension to her remarks.

The CHAIRMAN. The request of the gentleman from California [Mr. MCCANDLESS] requires unanimous consent. The Committee is operating under the 5-minute rule.

Mr. MILLER of California. Mr. Chairman, reserving the right to object, the only reason I object is to know, since we do have a time limit, whether the gentleman's side is going to have other amendments or time for other Members to speak, or how he is going to handle this?

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, from my position, I would be happy to explain to the gentleman from California [Mr. MILLER] that I have probably less than 1 minute.

Mr. MILLER of California. Mr. Chairman, reserving the right to object, I am trying to get some information as to how the gentleman anticipates the time being apportioned. Most of the amendments, if not all, are the gentleman's amendments. I just did not know if Members were aware of the overall time limit and that the clock is now running down.

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, my response, if I understand the gentleman's question correctly, is that irrespective of whether the gentleman yields on the unanimous-consent request or not, or other factors that might follow, the limit for debate is 2 o'clock, irrespective, if I understood the motion the gentleman made earlier.

Mr. MILLER of California. That is correct.

Mr. McCANDLESS. Mr. Chairman, that would mean that the 3 minutes that the gentlewoman from Nevada [Mrs. VUCANOVICH] is asking to have would come out of that time between now and 2 o'clock.

Mr. MILLER of California. Mr. Chairman, if that is all right with the minority, that is fine. The gentleman from California [Mr. MCCANDLESS] has the most speakers.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the gentlewoman from Nevada [Mrs. VUCANOVICH] is recognized for 3 additional minutes.

There was no objection.

Mrs. VUCANOVICH. Mr. Chairman, the U.S. Geological Survey, in Circular No. 1024 of 1989, listed these metals commodities as having been produced from the desert in the past: antimony, bismuth, cadmium, gold, iron, lead, lithium, manganese, magnesium, mercury, rate-earths, tin, tungsten, uranium, vanadium, and zinc. A to Z. In addition nonmetallic minerals include borates, rare-earths, sand, gravel, pumice, cinders, limestone, and clay.

My amendment is a reasonable step to assure some semblance of regard for our national interest in having domestic supplies of mineral commodities our society demands. I merely seek to have the Director of the Bureau of Mines report to Congress, within 1 year of enactment—I do not seek delay, whether or not the act would put us beyond the 90-percent threshold on this chart if the parks, preserves, and wilderness so designated are forcing foreign mineral dependency. Do I believe the trigger of this amendment will be pulled? No, its not very likely. But neither is it likely a subsequent Congress will undo the designations in this bill which could prompt increased import dependency. So why not put in this provision and let a future Congress override it if they think necessary?

Mr. Chairman, my friend, the gentleman from Youngstown, OH, is a true champion of the Buy-America Act. Well, this amendment is nothing more than the explicit application of that philosophy to our natural resources. I urge his support and the support of all our colleagues for the Lewis amendment.

Mr. Chairman, I include for the RECORD a chart setting forth the 1993 net import reliance of selected nonfuel mineral materials as a percent of apparent consumption:

1993 NET IMPORT RELIANCE[1] [2] OF SELECTED NONFUEL MINERAL MATERIALS AS A PERCENT OF APPARENT CONSUMPTION[3]

		Major sources (1989–92)
Arsenic	100	Chile, China, Mexico, France.
Bauxite and Alumina	100	Australia, Jamaica, Guinea, Brazil, Guyana.
Columbium (niobium)	100	Brazil, Canada, Fed. Rep. of Germany.
Graphite	100	Mexico, China, Canada, Madagascar, Brazil.
Manganese	100	Rep. of South Africa, France, Australia, Brazil.
MICA (sheet)	100	India, Belgium, Brazil, China.
Strontium (celestite)	100	Mexico, Fed. Rep. of Germany.
Thallium	100	Belgium, Canada, United Kingdom (U.K).
Diamond (industrial stones).	98	Ireland, U.K., Zaire, Rep. of South Africa.
Gemstones (natural and synthetic).	98	Israel, Belgium, India, U.K.
Asbestos	95	Canada, Rep. of South Africa.
Fluorspar	89	Mexico, China, Rep. of South Africa, Canada, Morocco.
Platinum-Group Metals	88	Rep. of South Africa, U.K., former U.S.S.R.
Tantalum	86	Fed. Rep. of Germany, Australia, Canada, Brazil.
Tungsten	84	China, Bolivia, Peru, Fed. Rep. of Germany.
Chromium	82	Rep. of South Africa, Turkey, Zimbabwe, Yugoslavia.
Tin	81	Brazil, Bolivia, China, Indonesia, Malaysia.
Cobalt	75	Zambia, Zaire, Canada, Norway.
Potash	71	Canada, Israel, former U.S.S.R., Fed. Rep. of Germany.
Cadmium	66	Canada, Mexico, Australia, France.
Nickel	64	Canada, Norway, Australia, Dominican Republic.
Barite	58	China, India, Mexico.
Antimony	57	China, Mexico, Rep. of South Africa, Hong Kong.
Peat	56	Canada.
Iodine	51	Japan, Chile.
Selenium	46	Canada, Japan, Belgium-Luxembourg, U.K.
Silicon	34	Brazil, Canada, Venezuela, Norway.
Gypsum	29	Canada, Mexico, Spain.
Magnesium compounds	26	China, Canada, Greece, Mexico, Japan.
Zinc	26	Canada, Mexico, Peru, Australia, Spain.

1993 NET IMPORT RELIANCE [1] [2] OF SELECTED NONFUEL MINERAL MATERIALS AS A PERCENT OF APPARENT CONSUMPTION [3]—Continued

		Major sources (1989–92)
Pumice and pumicite	25	Greece, Ecuador, Mexico, Turkey.
Vermiculite	16	Rep. of South Africa.
Nitrogen	15	Canada, former U.S.S.R., Trinidad and Tobago, Mexico.
Sulfur (elemental)	15	Canada, Mexico.
Iron and steel	12	European Community, Canada, Japan, Brazil, Rep. of Korea.
Iron ore	12	Canada, Brazil, Venezuela, Mauritania, Australia.
Salt	12	Canada, Mexico, Bahamas, Chile.
Lead	11	Canada, Mexico, Australia, Peru.
Mica (scrap and flake)	11	Canada, India.
Cement	8	Canada, Mexico, Japan, Spain, Columbia.
Perlite	3	Greece.

[1] Estimated.

[2] Net import reliance=imports—exports+ adjustments for Government and industry stock changes.

[3] Apparent consumption=U.S. primary+secondary production+net import reliance.

Mr. HANSEN. Mr. Chairman, I rise in strong support of the Vucanovich amendment dealing with foreign mineral dependence.

This Congress is constantly debating ways to increase our ability to compete in the world marketplace and reduce our foreign trade deficit. Members on both sides of the aisle agree we must make progress in these areas to improve our own economy.

As the chart of the gentlewoman from Nevada [Mrs. VUCANOVICH] indicates, the United States is already over 100 percent dependent on foreign sources for such important minerals as bauxite, graphite, and managanese. We are over 90 percent dependent on foreign sources of industrial diamonds.

As this country painfully learned from our experience in the 1970's with OPEC, foreign dependence on natural resources can have devastating impacts on our fragile economy.

The Vucanovich amendment merely empowers the Secretary of the Interior to waive any provision of this act which results in the United States becoming over 90 percent dependent on foreign sources for any mineral. With rapidly changing technologies and their resulting new demands on resources, we must assure that this act does not impede our ability to compete in the world marketplace. We must assure flexibility that we can produce important minerals for our Nation's future.

Mr. Chairman, I urge my colleagues to support the Vucanovich amendment.

Mr. HUNTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH]. I think this is an amendment that is very, very important from a national defense perspective. There are a large number of items, of minerals and metals, that come from the California desert that are considered to be critical to our national defenses. Those are metals like chromium and tungsten and other materials that are used to make jet engines, to make other militarily critical items. I would like to review very briefly what some of these are.

The gentlewoman has talked about bauxite and aluminum. We are now 100 percent dependent on foreign sources for those.

For manganese, we are 100 percent dependent, presently, on foreign sources for that particular item. Yet, the desert is known to have those resources.

Tungsten is another item that is of militarily critical use to us. We are 85 percent dependent on foreign sources. Let me list some of the foreign sources we are dependent upon: China, Bolivia, the Federal Republic of Germany, and Peru. They are the major suppliers of tungsten.

Tin, we are 73 percent dependent on Brazil, Bolivia, China, Indonesia, Malaysia.

Antimony, we are 58 percent foreign-dependent, and those suppliers are China, Mexico, the Republic of South Africa, and Hong Kong.

Cadmium, we are 49 percent foreign-dependent on Canada, Mexico, Australia, and the Federal Republic of Germany.

Think, we are 34 percent foreign-dependent on Canada, Mexico, Peru, Spain, and we go down the line, Mr. Chairman.

☐ 1230

The point is that the California desert has supplies and deposits of these militarily critical materials and unless we make an inventory of what we have, which is essentially what the gentlewoman is asking us to do, we are not going to be able to determine whether or not we have supplies that might be necessary to the Nation's defenses should we at some point be cut off from this foreign supply. That is the genesis or the justification for maintaining a national defense stockpile. Those items I listed are on the national defense stockpile.

Mr. MCCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. MCCANDLESS. Mr. Chairman, I feel it essential to bring to Members' attention a matter that is critical to what we are doing today in the world of computers, and that is rare earths. There is a goodly deposit of rare earths that is included in the modified Joshua Tree boundary lines. Rare earth is something we kind of have to explain. What it is, is an element of the process by which we ultimately develop computer chips and other components for electrical activity. I cannot overemphasize the importance of such things as this, irrespective of whether they are or are not in a wilderness area, whether they are or are not in the Joshua Tree National Monument, or whatever it ends up being. The gentleman speaking is graphically illustrating what it is that we have to have in the way of resources if we are going to continue to build our economy and offset our deficit of trade.

Mr. HUNTER. Mr. Chairman, I would conclude by saying we are talking about basically locking up 7 million acres. We are doing that without taking the most basic of commonsense actions and, that is, to make a little inventory of what we have. Particularly, the gentlewoman's amendment goes to requiring the Director of the Bureau of Mines to determine whether or not provisions of this bill, if enacted, would cause the United States' dependency on foreign imports to exceed 90 percent of the domestic consumption of any such mineral product. That is common sense. It is something that is important. It has been stated by the other side, the proponents of this bill, that we are stewards of our natural resources and that is the reason that Members of the House should support this desert bill. We are also stewards of national security. For that reason, everyone in the House should support the gentlewoman's amendment. I thank her for offering it and I urge its full support.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. Chairman, the bill the Members have been talking to is not included in the amendment that has been proposed by the gentlewoman. That we have critical minerals is a fact but this amendment before us does not talk about critical or strategic minerals. It says any mineral. That is the language of the amendment, any mineral from any foreign nation in excess of 90 percent of 1992 domestic consumption. It starts off by saying the Secretary shall await any provision of this act in whole or in part if such provision is determined to require importation of any mineral beyond that 90 percent number that we have. That is what the amendment says. There is nothing in here about an inventory of what is available, the sort of reasoned arguments that are being made, or about a report to Congress. This provides for the unilateral action by the Secretary of Interior under the advice of the Bureau of Mines to open up the California Desert Act, and he shall do it, not maybe, but shall do it. That is what this amendment provides.

What is the effect of it? Read your amendment. Members well know that any mineral, it could be a list of the strategic ones we talked about, but what is mined there today? Sand, gravel, talc. Remember 20 Mule Team Borax? These are the strategic minerals. Is there some shortage of talc that occurs that causes us to then undo the provisions, any provision of this act? Eight million acres of wilderness is designated. Four million acres of parkland is designated in this act. And we are going to undo it because we have some sort of a critical shortage of talc or borax? I guess it might be a crisis someplace. Not enough for stone-washed jeans.

The point is, this amendment undoes the designations that occur here with regard to wilderness. It does it in a unilateral way. In fact, of course, the boundaries of these wilderness areas, the boundaries of these parks are looked at as based on the information we have. Do we have enough information? Probably not. Will we ever have enough information? Probably not. Are we using the information that we have? Absolutely, in terms of making decisions in 1994. That is what we use. We have excluded claims. The gentleman from California that has been interested in this most specifically in this Congress [Mr. LEHMAN] has attempted, the Members of the other body, the Senate, have avoided this. They try to avoid claims and patents of areas. In fact what about the public lands and how they are being used today in terms of what the cost is? What about something called due diligence? Just speculative claims does not do it. It does not get us there. Of course if we look across the landscape at the public lands, we find it is a scandal. That is why we are in conference and the gentleman from California [Mr. MILLER] and the gentleman from South Dakota [Mr. JOHNSON] are working to try to come up with a decent mineral law, rather than one that exploits and destroys the land in this country. Yet this amendment would put them before everything else and any other use. It is wrong. This amendment ought to be defeated and I urge my colleagues to defeat it.

Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, mining is a major industry in my State and district—and, it is a major source of wealth for the entire country.

The minerals which exist below the surface of our Earth are not merely ornamental. There is more than just gold and silver in them there hills. There are bauxite, graphite, tungsten, and many other minerals of tremendous strategic importance.

And, there are minerals which have uses we have yet to discover—minerals which may contain substances that will provide a cure for cancer, heart disease, AIDS or other horrible diseases.

Mr. Chairman, let us not lock up potential miracles. Let us not lock up our mineral wealth.

I urge a "yes" vote on the Lewis-Vucanovich amendment.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise as chairman of the Subcommittee on Energy and Mineral Resources to oppose this amendment. I must tell Members the other night, I was reading from an old CONGRESSIONAL RECORD about the battle over the creation of Yosemite National Park in my district. The same type of argument we are hearing here was brought up at the creation of that great national treasure's legislation which protected it, an attempt to say that one certain value here is more important than anything else or than the legitimate public interest is.

Mr. Chairman, this amendment is as mischievous as the last one was. It takes away all discretion from the Secretary with respect to his ability to make decisions on these lands. It says he shall waive any provision of the act. It does not say he may waive it, it does not say he may take anything else into consideration except the narrow provisions here. It ignores the fact that in putting this legislation together, we have excluded from the boundaries of the wilderness areas all operating mines. There are no operating mines within the boundaries of any wilderness area under this act. We have gone out of our way in every instance in fact to go beyond that where mining interests have had legitimate claims outside the boundaries to give them rights in those cases as well. It has not come to our attention at any time over the debate on this bill that there is any kind of mineral that is in the national interest that we ought to move and try to protect. Indeed, we certainly would have done that had it come to our attention, but it is not the case here. This is just an attempt to prevent this legislation from going forward.

As the gentleman from Minnesota [Mr. VENTO] just indicated, though the talk we hear on the floor is about protecting strategic minerals and things that might be vital to our national defense, that is not mentioned at all in this amendment. This amendment would apply to any minerals at all, to any kind of substance and not limit it to those that might have some strategic importance or value. That is certainly not the intent of the legislation.

The intent of the legislation is not to protect strategic minerals. The intent of the legislation is to undo the legislation that is before us. I think we should reject the amendment and get on with passage of the bill.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Minnesota.

□ 1240

Mr. VENTO. I thank the gentleman for his work and I know his efforts. He has been very concerned about patented claims that exist within the Mojave and other areas. But I think the one thing wrong with this amendment, if it were adopted, is you would have to change the name of the California Conservation Act to the California Mining and Exploitation Act. So it is an amendment that needs some correction, that is right.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlelady from Nevada [Mrs. VUCANOVICH]. I would like to thank Mrs. VUCANOVICH for her leadership in dealing with the complex issues involved in reforming the mining law of 1872. She is truly an expert in this field.

This is a commonsense amendment. It simply states that if the United States becomes too dependent on minerals from foreign sources, certain provisions of this legislation could be waived.

The reason this amendment is common sense is because there are a multitude of different minerals in the east Mojave Desert. In fact, according to the report completed by the Bureau of Mines study entitled "Minerals in the East Mojave," there are 701 mineral occurrences in the east Mojave. Of these, 24 are profitable deposits. However, the untapped mineral potential in the east Mojave is phenomenal.

Unfortunately, under the Feinstein-Miller-Lehman bill we may never realize this potential. However, Mr. MILLER and Mrs. FEINSTEIN have said that all valid and existing rights are protected, no mines will be put out of business, and existing mines can still operate under the Mining in the Parks Act. If that is the case, why not adopt this amendment?

Please allow me to step back just a bit. I presume Mr. MILLER is familiar with Pluess-Staufer, Inc. of California?

Pluess-Staufer's claims in the east Mojave represent the largest known deposit of high purity and high brightness calcium carbonate deposits in the Western United States. The claims held by Pluess-Staufer's limestone deposits have a gross value of over $6 billion at today's market price.

Pluess-Staufer has invested over $400,000 to develop these claims. They should be allowed to proceed with the permitting process. This process guarantees that their project complies with all environmental regulations.

If this legislation is implemented in its current form, the 80 employees at the Pluess-Staufer site in Lucerne Valley who earn approximately $20 per hour will be out of work. Contrary to what Mrs. FEINSTEIN and Mr. MILLER say, this bill will cost jobs. Just ask the employees at Pluess-Staufer.

I urge my colleagues to support the Vucanovich amendment. Let's not be put in the position of being totally dependent on foreign sources for our minerals—including strategic minerals which are critical to our national defense effort.

Keep in mind that the only other source outside the California desert that we have for rare earth minerals is the People's Republic of China.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, once again we are confronted with an amendment that goes far beyond the bounds that those who have spoken on behalf of it have suggested.

This amendment allows the Secretary to waive any provision of this act if any mineral is found that we are 90 percent dependent on. I do not know if that means for a single nation or a group of nations.

Mr. Chairman, I have spoken before and opposed such things as NAFTA, the trade act, and now provisions to extend NAFTA to China, to major mining companies so that we can engage in trade. We have GATT coming up that extends to mining activities and minerals. We have American companies that are seeking to mine in China, and Indonesia and everywhere else. Now somehow because of those actions which you want to give, what you want to give is the Director of the Bureau of Mines the right to waive any provision of this bill, to devastate the wilderness in this bill, to devastate the national parks based upon the finding of any mineral, not whether it is important to the United States, not whether it is critical to military needs, not whether it is strategic to the interests of this country, because the authors of this amendment know in fact those minerals are not present in the desert. And if they are, if they are being mined in the desert, they are grandfathered in. Those mines continue to exist. This committee has gone forward to see that that happens.

We have an ambiguous situation where the gentleman from California has written to me to ask me to work that out in conference, and I told them that I would try to do that, because minerals are not threatened, because we allow them to continue. So what is really going on here?

This is what we have seen in the last several amendments, to try to do indirectly what they cannot do directly, because the people of California overwhelmingly support the creation of these parks, Congress overwhelmingly supports it, and we have seen when we voted on this in the past, when we turned down these kinds of amendments, now to simply give blanket authority to override the Wilderness Act, to override the national park programs on the basis of some minerals that may be there sometime, let the Secretary come forward and tell this to the Congress, and let us not pretend that if the Secretary waived this and the Director of Minerals made this recommendation that that mine would be up and running in any short period of time. That is why we have stockpiles of strategic materials and minerals. That is why we have a petroleum reserve. That is why we have a stockpile of critical resources, so we can meet those needs.

The gentleman in the well recently said that Bolivia, Germany, and China were responsible for one of the minerals on the list where we are already 100 percent dependent. The point being that is a decision that this country and this Congress have already made, previous administrations have made, that they have encouraged those imports into this country, encouraged those companies to go to work, American companies to work in those foreign lands. The fact is if all of those countries get together in a consortia to cut off our minerals, then there is something going on in the world that is far larger than this act.

But the point is this: We have had the Geological Survey look at this, the National Academies have looked at this, and the probability of finding any commercial or strategic minerals is de minimis, it is essentially de minimis. Why? Because we have had people that have been exploring and that have been looking, and those who have found them are grandfathered in.

The gentlewoman keeps putting forward the amendment saying they are going to do a little inventory and submit a report, but the fact is there is nothing in the amendment about that, and the amendment provides for a waiver of every provision in this act that sets up these national parks in the California desert, and it is essentially to override what the Congress is going to do here and what the people of California, all of the people in the State of California have supported in our efforts to do, and that is to manage these resources on a multiple-use basis so that they can be preserved for the future.

□ 1250

This would put any mineral in advance of all of those other interests of the desert lands and the people of the State of California.

This amendment should be rejected, just as the last amendment was rejected, because it is simply an effort to try to delay or destroy the designation of these areas as wilderness, as parks, and to do again what they cannot do, and that is to kill this legislation.

Mr. VENTO. Will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

I would just like to point out, and I concur, of course, with the chairman's comment, and this requires the action. But the point is the Congress can, and the Congress has, modified wildernesses to deal with problems that occur, has modified parks to deal with problems that occur, where there are mines occurring in parks, where there are active mines and wilderness, where there are claims, and we could act.

The question here is not to turn this over to a unilateral, unelected bureaucrat in the Department of Interior who may or may not have the best interests of the areas and the American people at heart.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. LEHMAN. Will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEHMAN. Mr. Chairman, I just point out that at the present time Joshua Tree and Death Valley National Monuments are managed by the Secretary of the Interior, and this amendment, if passed, would apply a new standard in those areas that is not present now and would allow the opening up of those areas to mineral activity that has been excluded there for about half a century. It does great harm to those two national treasures, Joshua Tree and Death Valley, and I urge its defeat.

Mr. MILLER of California. I appreciate the gentleman's remarks.

That is the point. This amendment is an attempt to stand on its head the previous actions of this Congress, the current action that we are currently debating, and the fact is it does not require any kind of finding. It is simply a determination. It does not require a public process to go through this.

All of a sudden you can find the acts of this Congress and previous acts can be waived because one mineral somewhere was found to be in 90 percent of excess of domestic consumption.

Mr. VENTO. If the gentleman will yield further, this act covers certain military withdrawals. There has been an active problem between mining and the military reservations, and this amendment would provide for the mining of materials in military reservations and withdrawn areas in this act, and it would give the authority to the Secretary of the Interior to make that decision, not the President, not in consultation with the Department of Defense. It would be the Secretary of Interior in charge of those military reservations.

Mr. MILLER of California. I thank the gentleman for his point.

I hope our colleagues will reject this amendment. It is very, very bad policy and, again, it is an effort to kill this legislation, not to try to do, as we have done in the committee, as we have done on the floor, to accommodate those legitimate ongoing mining operations so they can continue. They are all taken care of in this legislation.

This is way beyond that. The agenda here is to kill this legislation, to kill the designation of these parks, and we should reject this amendment.

Mr. RAHALL. Mr. Chairman, I rise in opposition to this amendment.

This amendment represents a thinly disguised effort to undermine the wilderness and park designations of this legislation.

Let me remind my colleagues that we saw a similar type of amendment last November during debate on legislation to reform the mining law of 1872.

At the time, an amendment was offered to waive provisions of the bill if the Defense Department determined there is a national security necessity to ensure a sufficient supply of strategic and critical minerals.

That amendment, rightly so, was defeated.

Subsequent to that vote, it was revealed by the Cleveland Plain Dealer that the amendment could have benefited a Cleveland-based mining company that purportedly is seeking to obtain title to Federal lands—in the form of mining claim patents—containing beryllium ore worth up to $15 billion * * * for a mere $26,487.

And what does the Pentagon have to say? They want to sell 24,221 tons of beryllium materials they already have stockpiled.

Yet, today, this same type of amendment has been reconfigured to the pending legislation.

In this case, however, the Defense Department does not even get to make a national security call on whether or not the minerals are needed.

Rather, it is the Bureau of Mines.

The Defense Department could be sitting on tons of a given mineral, and may be trying to sell those minerals, yet if the Bureau of Mines says that if we are importing a certain percentage of that mineral, the wilderness and park designations contained in this bill could be waived.

Let us not forget that we have in this country a strategic and critical materials stockpile to address the national security needs of the Nation as it relates to mineral dependency.

And so I urge the defeat of this amendment. It is completely without justification.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LEWIS of California:

Strike all after the enacting clause and insert the following: That this Act may be cited as the "California Desert and Employment Preservation Act of 1994".

SEC. 2. The Congress finds that—

(a) many areas of undeveloped public land in California and one parcel in Washoe County, Nevada, administered by the Bureau of Land Management have outstanding natural characteristics that give them high value as wilderness and that can, if properly managed, serve as an enduring resource of wilderness for the benefit of the American people;

(b) it is in the national interest that these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve and maintain them as an enduring resource of wilderness to be managed to promote and perpetuate their wilderness character and their specific multiple values for natural systems biodiversity, watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and education use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of present and future generations of the American people; and

(c) certain areas of public lands located in Inyo and Riverside Counties, California are appropriate for transfer from the Bureau of Land Management to the National Park Service as additions to the Death Valley and Joshua Tree National Monuments.

SEC. 3. (a) As used in this Act, the term "public lands" shall have the same meaning as defined in section 103(e) of the Federal Land Policy and Management Act of 1976.

(b) As used in this Act the term "Secretary" means the Secretary of the Interior.

SEC. 4. (a) In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately fifteen thousand eight hundred and ninety-seven acres, as generally depicted on a map entitled "Owens Peak Proposal", dated June 1988 (CA-1-026).

(2) Certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately ten thousand seven hundred and twenty-one acres, as generally depicted on a map entitled "Sacatar Meadows Proposal", dated June 1988 (CA-010-027).

(3) Certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately twenty-eight thousand two hundred and ninety-one acres, as generally depicted on a map entitled "Southern Inyo Proposal", dated June 1988 (CA-010-056).

(4) Certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately one thousand nine hundred and eighty-three acres, as generally depicted on a map entitled "Pinnacles Proposal", dated June 1988 (CA-040-303).

(5) Certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand four hundred and forty-three acres, as generally depicted on a map entitled "Pit River Canyon Proposal", dated June 1988 (CA-020-103).

(6) Certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand eight hundred and eighty-nine acres, as generally depicted on a map entitled "Tunnison Mountain Proposal", dated June 1988 (CA-020-311).

(7) Certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately thirty-seven thousand and fifty-five acres located in Lassen County, California, and five hundred and eighty-nine acres located in Washoe County, Nevada, as generally depicted on a map entitled "Skedaddle Proposal", dated June 1988 (CA-020-612). However, the designation of the Skedaddle Wilderness Area will in no way be construed or used to restrain current or future activities associated with the adjacent Sierra Army Depot.

(8) Certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately one thousand one hundred and sixty-one acres, as generally depicted on a map entitled "South Warner Proposal", dated June 1988 (CA-020-708).

(9) Certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately four thousand one hundred and forty-three acres, as generally depicted on a map entitled "Chemise Mountain Proposal", dated June 1988 (CA-050-111).

(10) Certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred and forty-eight acres, as generally depicted on a map entitled "King Range Proposal", dated June 1988 (CA-050-112).

(11) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred and forty-four acres, as generally depicted on a map entitled "Agua Tibia Proposal" dated June 1988 (CA-060-002).

(12) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-two thousand eight hundred and seventy-five acres, as generally depicted on a map entitled "Sawtooth Mountains Proposal", dated June 1988 (CA-060-024B).

(13) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand four hundred and eight acres, as generally depicted on a map entitled "Carrizo George Proposal", dated June 1988 (CA-060-025A).

(14) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately four thousand three hundred and twenty-three acres, as generally depicted on a map entitled "Western Otay Mountain Proposal", dated June 1988 (CA-060-028).

(15) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand seven hundred and eighty-three acres, as generally depicted on a map entitled "Southern Otay Mountain Proposal", dated June 1988 (CA-060-029).

(16) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred ninety-two thousand six hundred forty-three acres, as generally depicted on a map entitled "Saline Valley Proposal", dated June 1988 (CDCA-117). Of this acreage approximately thirty thousand two hundred and ninety-five acres are added to the National Park System pursuant to section 4(a)(1) of this Act.

(17) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately two thousand one hundred and fifty-four acres, as generally depicted on a map entitled "Lower Saline Valley Proposal", dated June 1988 (CDCA-117A).

(18) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty five thousand seven hundred and ninety-two acres, as generally depicted on a map entitled "Little Sand Spring Proposal", dated June 1988 (CDCA-119A). All of this acreage is hereby added to the National Park System pursuant to section 4(a)(1) of this Act.

(19) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty eight thousand three hundred and ninety-two acres, as generally depicted on a map entitled "Inyo Mountains Proposal", dated June 1988 (CDCA-122).

(20) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand and thirty acres, as generally depicted on a map entitled "Hunter Mountain Proposal", dated June 1988 (CDCA-123).

(21) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately ninety thousand six hundred and twenty-six acres, as generally depicted on a map entitled "Panamint Dunes Proposal", dated June 1988 (CDCA-127).

(22) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fourteen thousand and seventy-nine acres, as generally depicted on a map entitled "Wild Rose Canyon Proposal", dated June 1988 (CDCA-134).

(23) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty four thousand five hundred and thirty-six acres, as generally depicted on a map entitled "Slate Range Proposal", dated June 1988 (CDCA-142).

(24) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty three thousand four acres, as generally depicted on a map entitled "Funeral Mountains Proposal", dated June 1988 (CDCA-143). Of this acreage approximately fifteen thousand seven hundred and seventy-eight acres are added to the National Park System pursuant to section 4(a)(1) of this Act.

(25) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty two thousand eight hundred and eleven acres, as generally depicted on a map entitled "Greenwater Valley Proposal", dated June 1988 (CDCA-148).

(26) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy nine thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Nopah Range Proposal", dated June 1988 (CDCA-150).

(27) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred twenty one thousand nine hundred and twelve acres, as generally depicted on a map entitled "Owlshead Mountains Proposal", dated June 1988 (CDCA-156).

(28) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty two thousand one hundred and twenty-five acres, as generally depicted on a map entitled "Little Lake Canyon Proposal", dated June 1988 (CDCA-157).

(29) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty six thousand one hundred and thirteen acres, as generally depicted on a map entitled "Owens Peak Proposal", dated June 1988 (CDCA-158).

(30) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirteen thousand nine hundred and eighty-six acres, as generally depicted on a map entitled "El Paso Mountains Proposal", dated June 1988 (CDCA-164).

(31) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty nine thousand one hundred and thirteen acres, as generally depicted on a map entitled "Golden Valley Proposal", dated June 1988 (CDCA-170).

(32) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred and ninety-one acres, as generally depicted on a map entitled "Newberry Mountains Proposal", dated June 1988 (CDCA-206).

(33) Certain public lands in the California Desert District of the Bureau of Land Management California, which comprise approximately seventeen thousand six hundred and thirty acres, as generally depicted on a map entitled "Rodman Mountains Proposal", dated June 1988 (CDCA-207);.

(34) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand six-eight acres, as generally depicted on a map entitled "Bighorn Mountains Proposal", dated June 1988 (CDCA-217);.

(35) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand four hundred and ten acres, as generally depicted on a map entitled "Morongo Proposal", dated June 1988 (CDCA-218).

(36) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand one hundred and sixty-nine acres, as generally depicted on a map entitled "Whitewater Proposal", dated June 1988 (CDCA-218A).

(37) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-four thousand three hundred and sixty-nine acres, as generally depicted on a map entitled "Kinston Range Proposal", dated June 1988 (CDCA-222).

(38) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-one thousand seven hundred and one acres, as generally depicted on a map entitled "Cinder Cones Proposal", dated June 1988 (CDCA-239).

(39) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-six thousand four hundred and five acres, as generally depicted on a map entitled "Kelso Dunes Proposal", dated June 1988 (CDCA-250).

(40) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-three thousand two hundred and thirty-two acres, as generally depicted on a map entitled "Bristol/Granite Mountains Proposal", dated June 1988 (CDCA-256).

(41) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-four thousand two hundred and thirty-eight acres, as generally depicted on a map entitled "South Providence Mountains Proposal", dated June 1988 (CDCA-262).

(42) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-nine thousand six hundred and eighty-one acres, as generally depicted on a map entitled "Providence Mountains Proposal", dated June 1988 (CDCA-263).

(43) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-three thousand five hundred and nineteen acres, as generally depicted on a map entitled "Castle Peaks Proposal", dated June 1988 (CDCA-266).

(44) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-four thousand eight hundred and fifty-four acres, as generally depicted on a map entitled "Fort Piute Proposal", dated June 1988 (CDCA-267).

(45) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred sixteen thousand four hundred and eighty acres, as generally depicted on a map entitled "Turtle Mountains Proposal", dated June 1988 (CDCA-307).

(46) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately sixty-one thousand eight hundred and fifty-three acres, as generally depicted on a map entitled "Chemehuevi Mountains Proposal", dated June 1988 (CDCA-310).

(47) Certain public lands in the Yuma, Arizona District of the Bureau of Land Management, located in California, which comprise approximately nine hundred and thirty-eight acres, as generally depicted on a map entitled "Chemehuevi/Needles Addition Proposal", dated June 1988 (AZ-050-004).

(48) Certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately seventy two thousand sixty-three acres, as generally depicted on a map entitled "Whipple Mountains Proposal", dated June 1988 (CDCA-312).

(49) Certain public lands in the Yuma, Arizona, District of the Bureau of Land Management, located in California, which comprise approximately one thousand three hundred and forty-three acres, as generally depicted on a map entitled "Whipple Mountains Addition Proposal", dated June 1988 (AZ-050-010).

(50) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy-five thousand six hundred and sixty-five acres, as generally depicted on a map entitled "Palen/McCoy Proposal", dated June 1988 (CDCA-325).

(51) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-two thousand seven hundred and eighty-two acres, as generally depicted on a map entitled "Coxcomb Mountains Proposal", dated June 1988 (CDCA-328).

(52) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-one thousand four hundred and thirty-four acres, as generally depicted

on a map entitled "Eagle Mountains Proposal", dated June 1988 (CDCA-334).

(53) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty-seven thousand one hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Mountains Proposal", dated June 1988 (CDCA-341).

(54) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seven thousand one hundred and ninety-nine acres, as generally depicted on a map entitled "Mecca Hills Proposal", dated June 1988 (CDCA-343).

(55) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-eight thousand two hundred and seven acres, as generally depicted on a map entitled "Orocopia Mountains Proposal", dated June 1988 (CDCA-344).

(56) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty-seven thousand thirty acres, as generally depicted on a map entitled "Chuckwalla Mountains Proposal", dated June 1988 (CDCA)-348).

(57) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty-one thousand four hundred and ninety-three acres, including eight hundred and ninety-one acres adjacent to the Wilderness Study Area, as generally depicted on a map entitled "Julian Wash (formerly Indian Pass) Proposal", dated June 1988 (CDCA-355).

(58) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately five thousand four hundred and fifty-five acres, as generally depicted on a map entitled "Gavilan (formerly Picacho Peak) Proposal", dated June 1988 (CDCA-355A).

(59) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-five thousand seven hundred and sixteen acres, as generally depicted on a map entitled "North Algodones Dunes Proposal", dated June 1988 (CDCA-360).

(60) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-six thousand one hundred and twenty-eight acres, as generally depicted on a map entitled "Jacumba Proposal", dated June 1988 (CDCA-368).

(61) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand three hundred and fifty-nine acres, as generally depicted on a map entitled "Fish Creek Mountains Proposal", dated June 1988 (CDCA-372).

(62) Certain public lands in the Carson City, Nevada, District of the Bureau of Land Management, located in California, which comprise approximately five hundred and fifty acres, as generally depicted on a map entitled "Carson Iceberg Proposal", dated June 1988 (NV-030-532).

(b) The acreages cited in this Act are approximate. In the event of discrepancies between acreages cited in this Act and the acreages depicted on the referenced maps, the maps shall control.

SEC. 5. As soon as practicable after enactment of this Act, a map and a legal description for each designated wilderness area and area added to the National Park System shall be filed by the Secretary with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical, and cartographic errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Offices of the Director and California State Director, Bureau of Land Management, Department of the Interior.

SEC. 6. (a) Subject to valid existing rights, each wilderness area designated by section 4(a) of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) and pursuant to the rules and regulations promulgated in implementation thereof.

(b) The following lands are hereby added to the National Park System:

(1) Certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred and three thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on maps entitled Proposed Additions to National Park System Death Valley National Monument, 1989, are hereby incorporated in, and shall be deemed to be a part of Death Valley National Monument.

(2) Certain public lands which comprise approximately four thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on a map entitled: Proposed Addition to National Park System Joshua Tree National Monument, 1989, are hereby incorporated in, and shall be deemed to be a part of Joshua Tree National Monument.

(c) Upon enactment of this title, the lands described in subsection (a) of this section, are, by operation of law and without consideration, transferred to the administrative jurisdiction of the National Park Service. The boundaries of the California Desert District; Death Valley National Monument and Joshua Tree National Monument are adjusted accordingly. The areas added to the National Park System by this section shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

(d) The Secretary shall, within a reasonable period of time, prepare plans to manage each designated wilderness area.

(e) For purposes of this Act, any reference in the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act.

SEC. 7. Any lands within the boundaries of a wilderness area established by this Act that are acquired by the United States after the date of enactment of this Act shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

SEC. 8. Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands established as wilderness by this Act and all lands within wilderness areas designated by this Act which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public lands laws, including the mining, mineral leasing, geothermal leasing, and material sales laws.

SEC. 9. (a) Nothing in this Act designating lands as wilderness shall constitute or be construed to constitute either an express or implied reservation of water or water rights for wilderness purposes. The United States may acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness pursuant to the substantive and procedural requirements of the laws of the States of California and Nevada as appropriate.

(b) Nothing in this Act shall be construed to limit the exercise of water rights as provided under California and Nevada State laws as appropriate.

SEC. 10. (a) Military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system.

(b) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities and the overflight of military aircraft over areas designated in this Act as the components of the National Wilderness Preservation System.

(c) The designation by this Act of wilderness areas in the State of California shall not restrict military overflights of wilderness areas for the purposes of military testing and training.

(d) The fact that military overflights can be seen or heard shall not preclude such activities over the wilderness areas designated by this Act.

(e) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities at Sierra Army Depot which is located adjacent to areas designated in this Act as components of the National Wilderness Preservation System and the fact that such demilitarization activities can be detected from within the adjacent wilderness areas shall not preclude such activities.

SEC. 11. In recognition of the past use of portions of the wilderness areas designated by this Act by Indian people for traditional cultural and religious purposes, the Secretary shall assure access to the wilderness areas by Indian people for traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an appropriate Indian tribe or Indian religious community, may from time to time temporarily close to general public use one or more specific portions of wilderness areas in order to protect the privacy of religious cultural activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

SEC. 12. The Congress finds and directs that all public lands in the State of California administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 and those lands not designated as wilderness by this Act are no longer subject to the requirements contained in section 603 of the Federal Land Policy and Management Act of 1976 for management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness and shall be managed for their other resource values in accordance with land management plans developed pursuant to the Federal Land Policy and Management Act; or as part of the National Park System pursuant to section 6 of this Act.

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. LEWIS of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Chairman, I will not at this point take all of my time.

But this substitute presented to the House is by way of having some further discussion of the process that we have been going through here relative to the way this committee has chosen to bring this bill to the floor.

First and foremost, I think my colleagues are aware of the fact that this legislation has a very long history in the House. This substitute is a reflection of much of that history. It was almost a decade ago that legislation was passed by this House that suggested that the California desert problems in terms of wilderness potential and park designation involved some very, very complex questions, and they were questions that should not be taken lightly by a committee or by action of the House. And so the House went out of its way, including this committee under different leadership, went out of its way to establish a commission that was given the charge to evaluate the problems of the California desert and to bring back recommendations to the House.

That commission, made up of environmentalists, of grazers, recreation users, all citizens who care about the desert, understand it, and have an interest in it, that commission, over the 6 years of its meetings, took some 40,000 individual inputs, spent $10 million of the taxpayers' money, and at the very end of that process, a very small group within the environmental community were not happy with the way the bill went together, and so they created their own image of the West introduced by way of legislation, and eventually was picked up by Senator FEINSTEIN.

This bill brought by the committee to the floor is somewhat of a clumsy reflection of those years of efforts and the aftermath of that effort. Indeed, it is important for the Members to know the House has acted in the past and, indeed, the House has during this process over the last several weeks acted in a very positive fashion as well.

The committee brought to the floor legislation that was a reflection of those extremes of which I have spoken.

I must say that the House has been more than generous in recognizing that the committee had been arbitrary in terms of their dealings with the Members, the five Members of the House who were elected to represent the desert. In that process, the House decided to listen to those Members as we went forward with the debate.

I could not be more pleased with both the dialog and discussion that has swirled around a number of the amendments that we have had, and in that discussion, it has caused the House to rather significantly improve the bill by changing the committee action. It is because of that that some of my colleagues are going to discuss further the past action of the House and the commission report which is my substitute.

Mr. HANSEN. Mr. Chairman, I rise in strong support of the Lewis substitute which is also sponsored by all Members who represent the California desert.

The Lewis substitute would essentially implement the recommendations of the BLM for the California desert, or designate approximately 2.3 million acres of wilderness and parks.

The professional land managers at the BLM spent 15 years and $8 million and considered over 4,000 public comments in developing the recommendations which are known as the California desert plan.

This plan has been endorsed by former Interior Secretaries Cecil Andrus, a Democrat, and James Watt, a Republican, and is clearly a compromise by all affected parties.

H.R. 518 is clearly a thinly veiled attempt to replace the California desert plan with the wish list of the national preservation groups. H.R. 518 triples the acreage in wilderness and parks that was recommended by BLM.

Mr. Chairman, I think the biggest waste of money we see in this Interior Committee or Natural Resources, we now call it, is in 1964 we passed the wilderness bill, and the wilderness bill and the FLPMA bill said the Forest Service, Park Service, the BLM would take it upon themselves to study these various areas. Then they would make a recommendation to Congress.

Well, if we have ever wasted money, that is the biggest waste we have ever seen. In my home State, they spent $8 million. I have been 14 years in Congress. I have been part of every wilderness bill that has passed.

I have yet to see only one, which I was the sponsor of, that stayed even close to the recommendation of the entity, of the agency.

So I really think what we ought to do, as we pass this bill, is the next bill we ought to agree on, with my friends on the other side, let us take national parks, let us take BLM, let us take Forest Service out of it. Why just throw this money down the drain? Because nobody pays any attention to it.

Here is a classic example of the gentleman from California. Here we spent all of that money and we just ignore it. We trample it as if it is not even there.

What an utter waste of money that the American taxpayers should see. True, it is the prerogative of Congress. But why do we go through this exercise, when we listen to them in a hearing for 15 minutes, we shove them out the door? Why do we even have these people?

It is to me one of the biggest wastes I have ever seen in my years in Congress.

To give you an example, in Utah the BLM exhaustive wilderness review mandated by the Federal Land Policy and Management Act, found 1.9 million acres of land suitable of wilderness as per the designation in the 1964 bill. The Utah delegation on a bipartisan basis has been trying to enact legislation, largely following these recommendations. Unfortunately, we have a freshman Member who comes in and put three times that amount who had never been west of the Mississippi River, if you can believe it, never seen the ground, but he thinks he ought to do it.

Moreover, preservation groups who felt the BLM should have identified more land suitable for wilderness persuaded their friends and administration to force the BLM to treat it as nonwilderness, which flies in the face of the recommendations that came out from Andrus to Mr. Lujan.

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In other words, they want to politically manipulate recommendations made by career civil servants who are professional land managers, BLM, and so forth. If I have learned anything from this bill, I think the first thing we should do is do away with waste of money, because we ignore it. It is a "make us feel good" thing. It is like the Brady bill, we all feel good even though it accomplishes nothing.

Mr. Chairman, I speak in strong support of the Lewis amendment, which is a good amendment and recognizes the will of the people and all of the career people who worked so diligently to come up with their particular piece of legislation.

Mr. HUFFINGTON. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. HUFFINGTON. I thank the gentleman for yielding.

Mr. Chairman, I rise to briefly revisit an issue the House considered recently regarding the unique land exchange included in this bill, specifically those provisions that would have granted to the Catellus Development Corp. exclusively an extremely beneficial preference.

Mr. Chairman, it causes me great concern that this provision, such a patently unfair special interest, found its way into the bill in the first place. Over the past few months I have tried to gain an understanding of how this legislative gift for one politically influential company came to be written into the bill. Unfortunately, my inquiries were never fully answered. Now we are on the verge of final passage.

I hope between now and the completion of the conference report we will finally learn how such a sweetheart deal was put into the bill. The American people have a right to see how backroom deals get made.

Mr. Chairman, I include additional information in the RECORD at this point.

The Desert Protection Act is perhaps one of the most important single pieces of wilderness legislation to come before the 103d Congress. This bill, proposed in the House by Congressman RICHARD LEHMAN and in the Senate by Senator DIANNE FEINSTEIN, also carries national implications. For, as presently drafted, that bill will determine how the Federal Government acquires land for public parks and whether the U.S. Department of the Interior gives fair treatment to landowners large and small.

With all this at stake, last spring I instructed my staff to begin a thorough review of the bill: who stands to benefit the most, and who stands to lose.

On the surface, treated superficially, the bill seems a straightforward proposition: transfer millions of acres of land in California into protection of the National Park System.

But that is on the surface. And, here the surface is deceptive.

Beneath the surface, a different story emerges.

In fact, on close examination, H.R. 518 and its companion bill in the Senate, Senator FEINSTEIN's S. 21, appear to be not dissimilar from a lot of legislation that has come out of Washington lately: down in the bowels of legalese formulations, can be found a pot of gold for a special interest, a very big—but little visible—payoff for a very large private company with excellent political connections.

This bill provides for a major bailout, at taxpayer's expense, of a corporation owned in significant part by people who neither live nor work in California and indeed by many who neither live nor work in the United States.

What first caught my eye was a section of the proposed legislation that took an extraordinary step: it directed the Secretary of Interior to treat a private corporation, the Catellus Development Corp. of San Francisco, CA, in a very preferential way.

Now we all know that special language for specific industries is put into State and Federal legislation from time to time, but very few actually put the name of the corporate beneficiary right in the bill. Yet this is exactly what occurred here, albeit in small print.

As I set about to learn more about this Catellus Corp., my study turned up some very, very disturbing questions. These questions are not only disturbing for their implications to the American taxpayer but are also disturbing for the nearly 1 million members of the California Public Employees Retirement System.

Catellus, you might say, is the child of big railroads. Back in the 1980's the Santa Fe Pacific Corp. needed money. It had just distributed one of the largest stock dividends in its history, $30 per share, and Santa Fe was heavily in debt, looking hard for money to pay for this largesse.

The biggest single stockholder in Santa Fe was Olympia & York Corp., a giant Canadian real estate firm that has built several projects in the United States including a $1.5 billion hotel and office complex in downtown San Francisco, a bid they won not long after DIANNE FEINSTEIN became mayor of that city.

Olympia & York received $30 for each of its shares in that 1988 dividend.

The head of Olympia & York, a Canadian named Paul Reichmann, suggested to the head of Santa Fe that they take some of the railroad's vacant land and form a development company. Santa Fe had millions of acres, a good deal of it in my State or California.

What was interesting about this land, and what is so important to understand in voting on this bill, is where Santa Fe got these acres. It didn't pay for them. This land was free. This land was a gift of the U.S. Government.

The land Santa Fe placed in the Catellus Development Corp., some 1 million acres, was part of the land the U.S. Government gave the railroads in the 19th century. Santa Fe has had the advantageous use of this free Government land for nearly a century. Some of it the railroad used for rights of way, on other acres Santa Fe has developed rich gold and mineral deposits.

Some of the land Santa Fe placed in Catellus is very valuable, a sliver of it on the coast, old rail yards and track areas in cities like San Francisco and San Diego. But, the bulk of the acreage is remote, in the desert or in the mountains and the land value of this remote portion is in question—to say the least. Some land experts think the land is close to worthless.

So Catellus was born. It had a sliver of valuable land and a lot of desert. In 1989, the Santa Fe-Olympia & York managers of Catellus set out to raise money. Tye found two sources, and one was the members of the California Public Employees Retirement System, often called CALPERS; the other an insurance company.

CALPERS is one of the largest pension funds in the country, a major investor in some of the best known publicly traded corporations in the United States, with nearly a million shareholders and over $80 billion in investments.

But at the time, Catellus wasn't publicly traded and CALPERS's initial investment was what they call a private placement. It bought 19.9 percent of Catellus at nearly $38 a share, an investment of $398 million.

From day one this was an unusual investment for CALPERS. It was, to begin with, the first speculative real estate company that CALPERS had invested in and one of the largest single investments it has ever made in anything but well known, Fortune 500, publicly traded firms.

In addition to the investment of CALPERS, Catellus borrowed another $71 million from the pension fund and about $400 million from the Prudential Insurance Co., so even before it went public it had raised nearly $1 billion in funds.

Now this is where the story becomes very interesting for anybody voting on this bill, paying taxes in the United States, or relying on CALPERS for his or her retirement.

When I looked at documents Catellus had filed with the Securities and Exchange Commission over the years, it looked to me as if that money, approximately a billion dollars, didn't stay very long at Catellus. It was "upstreamed" to Santa Fe. Upstreamed is Wall Street talk for sending it to the home office. In this case, Chicago and Toronto. It went to help Santa Fe unload the debt it had incurred in paying the dividend, and it went to pay the dividend that Olympia & York, Santa Fe's biggest single stockholder had received 2 years earlier.

In a sense, Santa Fe-Olympia & York had figured out a way to sell the free land they got from the Government. They sold it for approximately $1 billion to Catellus.

The members of CALPERS may have thought they were in the Catellus Development Co. to develop real estate in California, but it looked as if the money that they had invested had soon gone elsewhere.

Next, Santa Fe spun off Catellus. This is more Wall Street jargon. It gave every single stockholder in Santa Fe one free share of Catellus stock for every four shares of Santa Fe they owned.

This meant that Olympia & York got 14 percent of this new company, Catellus, as well as the $30 dividend it enjoyed at Santa Fe.

Then, in the fall of 1990, Catellus stock began to trade publicly on the New York Stock Exchange. It was at this moment that nearly 1 million California public employees relying on CALPERS got a rude shock, that is, if they were paying attention. The Catellus shares began to trade not at the $38 a share, the price paid by CALPERS, but at $11 a share, less than one third the price.

Other investors were more wary than the people who run CALPERS. Catellus stock which traded briefly at $11 a share has hardly ever traded at more than $8 a share and yet CALPERS has had $400 million invested in this company for nearly 5 years.

How was such an investment made? A man named David Elder, a member of the California State Assembly, tried to find out back in December 1990. He held a hearing on this deal. I've read the transcript of that hearing. It shows he couldn't get a straight answer.

But he was told a couple of interesting things: a major real estate management firm from Chicago named JMB Realty got $7.96 million from CALPERS to put CALPERS into this not-so-good investment and JMB gets nearly $2.5 million a year to watch the investment dwindle away. Two officials for JMB received $15,000 apiece to serve on the board and $1,000 a board meeting to attend.

I've tried to get answers with no more success than Dave Elder. I sent a letter to Catellus raising questions about my concerns. I've entered a copy in the RECORD. I've also entered the answer of James G. O'Gara, a senior vice president.

But I've taken another step.

The CALPERS decision to invest in Catellus smacks of something darker than poor judgment. It suggests that whoever made these decisions at CALPERS in 1988 and 1989 needs to explain just how and why they departed from cautious investment policy to enter this deal.

I have sent a formal request to the chairman of the board of CALPERS asking for a full investigation. That request is attached for the RECORD. If CALPERS wants the U.S. taxpayer to bail Catellus out by making an expensive and extraordinary land swap, I want an explanation of why CALPERS can't recover its losses from the Santa Fe. From Olympia & York. Or from JMB.

Moreover, I want to know why Senator DIANNE FEINSTEIN has seen fit to sponsor this bill as her maiden piece of legislation.

I believe the people of California and the people of the United States have a right to know what has happened here.

Catellus has not done well in these 5 years. Its major projects—like Mission Bay in San Francisco and Union Station in Los Angeles—are stalled.

Earlier this year, Catellus's board fired its chairman, Andrew Schwartz. Schwartz, it was said in the press, had been handpicked for this job from a firm in San Diego. It appears Olympia & York then brought him to Canada to head another big project. I think Mr. Schwartz has some explaining to do before the U.S. taxpayers bail out Catellus.

By now you can see why Catellus desperately, desperately needs money.

This is where Congress and the U.S. taxpayer come in.

Among the acres passed down to Catellus, the railroad's baby, are 355,000 acres that would be covered by this bill.

In section 609 of this bill as there was in section 610 of FEINSTEIN's S. 21, there is a very unusual, very extraordinary, very nice little deal to help rescue Catellus:

It would allow Catellus to swap any piece of its land for acres the Secretary of Interior holds. Catellus doesn't have to find something in California, it can choose land anywhere in 50 States.

Ordinary citizens have to wait in line until the Department of Interior has enough money to buy them out and the Department is $9 billion behind. But, through this swap Catellus can go to the head of the line.

And, there's more.

If Catellus doesn't like what it's offered, the Secretary of Interior will set up a bank and give Catellus credit. Catellus can use this credit to buy any kind of surplus or excess real estate from the U.S. Government being sold in California.

This is a license to go hunting for the sweetest investments in the country.

There's still more.

If Catellus can't develop the surplus property or doesn't want to, it can sell these credits to anyone. It could sell its right to Olympia & York or anyone else, so that they could bid on U.S. Government property using Catellus' credit.

What's this going to cost the American taxpayer? The estimates are all over the place, but I suggest that Catellus' modest guess at hearings that it could run as high as $189 million is low. I suspect that they think the amendment is worth millions more.

My colleagues in the Senate did not buy Senator FEINSTEIN's Catellus amendment. They knocked it out.

But Congressmen LEHMAN and GEORGE MILLER, the Democrats running things here, managed to keep it. All we could do was try to at least make the playing field even and give the small rancher, small landowner the same advantage.

Throughout my research I kept wondering how such a preferential piece of legislation ended up in these two bills. Was Senator FEINSTEIN not aware of the strange machinations at Catellus? Was Congressman RICHARD LEHMAN not aware? Why didn't they try to find out just who stood to benefit at Catellus before they offered this bailout?

I confess I don't know the answer. But, I know we and the American taxpayer are entitled to an answer.

In the course of this research, a very disturbing piece of evidence came into my hands. This is a letter from a vice president at JMB Institutional Realty Advisors, Inc., named Patrick J. Meara, to Dewitt Bowman, then chief investment officer at CALPERS.

I am going to put the entire letter into the RECORD, but let me read you some portions:

In November, 1991, the House passed an amended version of the Act. Catellus was the only private landowner "taken care of" in the bill. Management has worked with Congressman LEVINE in developing the amendment. . . .

Catellus planned on selling its desert land over at least the next ten years. Desert sales were $5 million in the first three quarters of 1991, representing 26 separate transactions. With an average transaction size of $200,000, Catellus would have to close more than 200 separate transactions to sell the same land included under one transaction through the Act.

The Act creates a market for land which is very difficult to sell in meaningful quantities. The area affected represents nearly half of Catellus' desert land.

Catellus can realize full value in a large transaction, which often might carry "bulk discount."

Catellus gets full benefit of land value appreciation before 1996.

Catellus management would certainly be interested in any help (CAL)PERS might be able to offer in the Senate vote next month.

As it happened there was no Senate vote. But, 2 years later, Senator FEINSTEIN made the introduction of the Desert Protection Act her first order of business as a Senator. Representative LEHMAN introduced it at the same time.

Interestingly, the language they proposed was almost the same language Mr. Meara referred to when he said Catellus was "taken care of" in the 1991 bill.

So, I ask again on behalf of the American taxpayer—was this legislation intended to "take care of" Catellus? Did those sponsoring legislation investigate where the $400 million of California public employees money had gone before they took care of Catellus? Did the officials of CALPERS help JMB lobby this bill?

JMB INSTITUTIONAL
REALTY ADVISORS, INC.,
San Francisco, CA, December 5, 1991.
Mr. DEWITT BOWMAN
Chief Investment Officer CalPERS, 400 "P" Street, Sacramento, CA.

Dear DEWITT: Bill Ramseyer asked me to update you on recent developments concerning the California Desert Protection Act of 1991 (the "Act"), formerly referred to as the Cranston Act. This letter will brief you on the Act's history, the amended bill passed by the House in November, and the Act's impact on Catellus.

History of the Act.

Senator Cranston originally introduced the Act more than five years ago, and until this year, the Act never made it past the Subcommittee level. In previous forms, the Act would have enabled the government to effectively take 200–300,000 acres of Catellus land for use as a wilderness area with no means of compensating Catellus. Santa Fe Mineral Company managed lobbying efforts to defeat the bill prior to 1990 on behalf of the parent company.

In 1990, Catellus management began handling the lobbying efforts. Catellus saw opportunity in the Act, in that this created a means of creating liquidity from its desert holdings, which are scheduled for disposition. The challenge was in structuring a means of compensation from the government in a budget-pressured environment.

The 1991 House Bill.

In November 1991, the House passed an amended version of the Act. Catellus was the only private landowner "taken care of" in the bill. Management has worked with Congressman Levine in developing the amendment. The amount of Catellus land included in the wilderness area was increased to 400,000 acres out of the company's 875,000 acres owned in the desert. The bill provided for compensation to Catellus in a somewhat complicated manner, as follows:

Through 1995, Catellus could in effect exchange its land for developable land under the control of the U.S. Department of Interior. Certain conditions make it unlikely any land will be exchanged in this manner before 1996. In 1996, a current law will expire which requires a "pay as you go" concept for government expenditures.

Beginning in 1996, the government will establish a "credit account" for Catellus in an amount equal to Catellus' land's then-current value, as determined through an appraisal process. Catellus would then have the right to use its credit account to bid for government property, using the account just as cash. Catellus could sell its account to an outside party if desired.

The amended bill will be introduced in the Senate in January 1992. I have enclosed a copy of the Congressional Record, which includes a text of the bill before amendments and a copy of the Catellus Amendment, which did pass.

Impact on Catellus—

In analyzing the impact of the Act on Catellus, it is helpful to keep the following points in mind.

As you may recall, Catellus' strategic plan envisions the sale of its excess (i.e., agricultural, surplus, mountain and desert) land, which represents 17% of the Company's real estate value. Sales proceeds will be invested into new development opportunities, thus creating appreciation in Catellus' value.

The pure land value today of Catellus holdings affected by the Act is $40-50 million (less than 2% of the Company's real estate value). By 1996, Catellus believes the land plus underlying mineral value could be worth $100 to $200 million.

Catellus planned on selling its desert land over at least the next ten years. Desert sales were $5 million in the first three quarters of 1991, representing 26 separate transactions. With an average transaction size of $200,000. Catellus would have to close more than 200 separate transactions to sell the same land included under one transaction through the Act.

JMB believes the amended bill passed by the House is extremely positive for Catellus based on the following:

The Act creates a market for land which is very difficult to sell in meaningful quantities. The area affected represents nearly half of Catellus' desert land.

Catellus can realize full value in a large transaction, which often might carry a "bulk discount".

A realistic means of creating liquidity in the investment has been established by the Act, either through the acquisition of developable land or by selling the credit account.

Catellus gets the full benefit of land value appreciation before 1996.

Catellus management would certainly be interested in any help PERS might be able to offer in the Senate vote next month. Please let me know of any thoughts you may have in that regard. Also, feel free to call Darla Flanagan or me at (415) 772-3500 if you need anything further.

Sincerely,

PATRICK J. MEARA,
Vice President.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 22, 1994.

Mr. JAMES G. O'GARA,
Senior Vice President, Catellus Development Corporation, San Francisco, CA.

DEAR MR. O'GARA: I appreciate the opportunity of being able to meet with you on the issue of the Desert Protection Act and the specific language regarding Catellus Development Corporation.

There are several questions that I would like to have answered by noon next Monday, June 27, as we will probably be voting on the bill next week. If your office could provide the requested information by then, I would be most appreciative.

FINANCIAL STATUS OF CATELLUS

How many acres of land under the Desert Protection Act are currently owned by Catellus?

How many acres are being developed, able to be developed, or cannot be developed?

What is the value of the land, using the same breakdown as question number two?

How much revenue was generated by your desert holdings in 1993?

Are there any appraisals of the land held by Catellus? If so please provide my office with copies of them. Who conducted them and per whose authority?

Were there appraisals made when Santa Fe decided to spin off its real estate into a separate company?

Please provide my office with the appraisals conducted by JMB in evaluating Catellus as an investment opportunity for CALPERS.

Do you have appraisals conducted by others which were used in evaluating Catellus as an investment opportunity for CALPERS?

Do you have a report of the analysis conducted by the Stephan Roulac Consulting Group? If so, please provide my office with a copy of it.

What other information was provided to CALPERS by Catellus prior to the fund making its investment in Catellus? Please provide my office with any relevant material.

Does Catellus retain Roulac in any function?

Did Catellus retain Roulac before it handled the assessment for CALPERS and have you retained it since?

HOW DID CALPERS COME TO INVEST IN CATELLUS?

Who first suggested Catellus as an investment opportunity for CALPERS?

Who was involved from Catellus/Santa Fe?

Who represented CALPERS?

Who represented JMB?

Who represented Roulac?

Did officials of Olympia & York take part in the CALPERS investment process? If so, in what capacity?

Did officials from Itel become involved? If so, who and when?

Were there any other entities, consultants, or individuals involved with CALPERS' decision to invest in Catellus? If so, please supply their names and roles.

Did Santa Fe have any business dealings with JMB prior to its being chosen as managing partner of the CALPERS investment? Does JMB receive any fees, payments, rents, or other financial remuneration from Catellus?

DESERT PROTECTION ACT

Why did Santa Fe oppose the California Desert Protection Act when it was first introduced in 1986?

Why did Santa Fe continue to oppose the bill until 1990?

What caused Catellus to support the bill?

CATELLUS AND OLYMPIA & YORK

Does Catellus share any projects with Olympia & York? Are you planning any?

As the second largest shareholder, does Olympia & York become involved in the management of Catellus?

Why did Vernon Schwartz choose to join Olympia & York when he stepped down from Catellus? Was his selection as chief executive officer in 1988 directed or suggested by Olympia & York?

FUNDS PAID TO SANTA FE

Who decided to spin off Catellus from Santa Fe?

Who decided how much money Catellus had to pay Santa Fe in 1988 and 1989? What was the process?

How much money did Catellus pay to Santa Fe in 1988 and 1989?

How much has been paid to Santa Fe since 1989?

What was the tax sharing arrangement Catellus had with Santa Fe?

Why did Catellus pay approximately $7.6 million and $18.9 million to Santa Fe in 1991 and 1990, respectively, as part of that tax sharing agreement?

Is Catellus still encumbered by debt assumed in 1988 and 1989 and used to pay Santa Fe?

GENERAL QUESTIONS

What agents, representatives, etc. did Catellus retain to draft and research language pertaining to Catellus in the Desert Protection Act? Who directed the lobbying effort on behalf of Catellus?

Please provide any copies of drafts of Catellus language in the bill and the correspondence by Catellus with any member of Congress, staff aide, or California State officials and legislators pertaining to the Catellus land swap.

SPECIFIC QUESTIONS

Are any major shareholders of Catellus lobbying for the bill? If so, who and through what mechanism?

Has Catellus asked CALPERS to use its political influence in California or in Washington, D.C. to gain support for the bill?

Has Catellus coordinated its political contributions with Olympia & York, JMB, or any other investor in Catellus?

How much money did Catellus direct to the campaigns of former Representative Mel Levine, Senator Dianne Feinstein, Representative Richard Lehman, and Representative George Miller?

Who from Catellus worked with Senator Alan Cranston's office when the bill was first drafted? With Levine? Lehman? Feinstein?

The language in Senator Feinstein's bill is almost word for word like an amendment to the 1991 bill proposed by Representative Levine. Did Catellus prepare this langauge?

Your company retains Assemblyman Willie Brown, the Speaker of the California State Assembly. What work has he performed for Catellus and its predecessors during the last 13 years? How much did Catellus pay him in the years the Desert Protection Act has been before the U.S. Congress (1986 through 1994)? Did he lobby members of Congress on behalf of the Desert Protection Act? If so, please provide the dates, times, and names.

Is anyone else, including outside parties, working with Senator Feinstein's or Representative Lehman's office on the bill on Catellus' behalf?

Who are your paid lobbyists on Capitol Hill and what was their yearly remuneration for the years 1988, 1989, 1990, 1991, 1992, 1993, and 1994?

Thank you for your assistance.

Sincerely,

MICHAEL HUFFINGTON,
Member of Congress.

CATELLUS,
June 27, 1994.

By messenger.

Hon. MICHAEL HUFFINGTON,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HUFFINGTON: It was a pleasure to meet with you last Tuesday to discuss Catellus' support for Section 609 of the California Desert Protection bill, H.R. 518. This provision makes it possible to manage and protect nearly 10% of the bill's wilderness and park areas, while protecting the economic interests of the owner of the areas' private lands and of its major shareholder, the California Public Employees Retirement System ("CalPERS"). I am optimistic that after you have had a chance to study the provision, you will conclude that it deserves your support. Your vote for the provision would not only be a vote for private property rights but also a vote for California's 970,000 public employees.

The letter which you gave me at the conclusion of our meeting contains a number of questions relevant to Catellus' land ownership in the California Desert, the impact of H.R. 518 and earlier Desert protection proposals on its ownership and the position taken by Catellus and its former parent company, Santa Fe Pacific Corporation, with respect to these proposals. I am pleased to provide you the following information in response to these questions. You will find attached to this letter statements given by Santa Fe Pacific Corporation and by Catellus before Congressional committees on H.R. 518 and earlier Desert protection proposals in 1987, 1989, 1991, 1992 and 1993.

CATELLUS LAND OWNERSHIP IN THE CALIFORNIA DESERT

Catellus owns about 850,000 acres of land in the California Desert. These lands were originally granted by the United States to the Southern Pacific Railroad in the latter half of the nineteenth century as an incentive to help finance the construction of a transcontinental railroad. More recently, the lands were held by Santa Fe Pacific Realty Corporation, which had been a subsidiary of Santa Fe Pacific Corporation. In 1989, Santa Fe Pacific Corporation sold nearly 20% of its interest in Santa Fe Pacific Realty to CalPERS and in 1990 spun the remaining shares of the subsidiary off to its stockholders. The company changed its name to

"Catellus Development Corporation" and it is now an independent, publicly-held corporation traded on the New York Stock Exchange. CalPERS has since increased its stock ownership in Catellus to 41%.

Catellus' California Desert lands have historically supported a wide variety of development activities providing income to Catellus. These include:

Precious metal exploration and development,

Oil and gas exploration and development,

Geothermal development,

Sand and gravel extraction for the construction of homes, highways and office buildings, etc.,

Solar power generation,

Placement of rights-of-way for fiber optic cables, pipelines, power lines, telephone lines and other utilities,

Placement of communication sites for television and transmitters with access roads in remote locations surrounded by vacant lands free of electro-magnetic fields,

Secret weapons testing,

Grazing and forage for cattle and sheep,

Agriculture, such as the growing of table grapes and

Providing areas for off-road, recreational vehicles.

THE EFFECT OF CALIFORNIA DESERT PROTECTION PROPOSALS ON CATELLUS LANDHOLDINGS

The California Desert protection proposals pending in this Congress, S. 21 and H.R. 518, place about 330,000 acres of Catellus' Desert lands within the boundaries of the bill's wilderness and national park units. This amounts to more than 65% of all of the private lands encompassed by the bill's wilderness and park boundaries. California Desert protection proposals introduced in earlier Congresses affected approximately the same number of Catellus acres.

Most of the Catellus acreage affected by these designations is intermingled with federal lands in a checkerboard pattern of ownership within which Catellus and the federal government own every other section. This pattern of ownership results in the placement of Catellus lands in wilderness or park whenever the alternating federal sections are included within the boundaries of these units.

The practical effect of including Catellus's lands in the Desert wilderness and park areas is to make it virtually impossible to exercise the existing development rights in those lands. This occurs for two reasons. First, federal wilderness or park designation will subject development activities within the areas to additional stringent regulatory requirements designed to afford maximum protection to wilderness and park values. These restrictions will make development activities uneconomic. Second, should Catellus attempt to conduct any development on these lands—notwithstanding these restrictions—it would be exposed to costly litigation intended to frustrate any development and stimulate adverse public reaction. The result will be that the affected Catellus lands will suffer significant diminution in value.

CATELLUS' POSITION

Since 1987, when Catellus's former parent company, Santa Fe Pacific Corporation, first submitted a statement on Senator Cranston's S. 7, Santa Fe Pacific Corporation and then Catellus have consistently taken the position that if Congress places private lands in restrictive status, it should ensure that the landowner is appropriately compensated for the loss of use of the land. As Senator Bennett stated in his additional views accompanying the Senate Energy and Natural Resources Committee report on S. 21 in this Congress:

> [I]t is unfair to individual citizens for their government to enact restrictive legislation and not compensate them for the effect of those restrictions on their property.
>
> I am of the view that if we are prepared to impose those restrictions in the "national interest", then the national interest should demand that the landowner be compensated and his land purchased if he wants to sell.

S. Rept. No. 165, 103rd Congress, 1st Session, at 68–69 (1993).

Both Santa Fe Pacific Corporation and Catellus suggested a number of ways by which the Federal government could acquire its Desert inholdings. Acquisition would not only provide compensation to the landowner, but would also allow the federal land managers to manage more efficiently its checkerboarded federal lands and the intermingled private lands for their wilderness and park values. Because the Bureau of Land Management doubted it had enough land classified for disposal under its jurisdiction in California to exchange, we proposed that the Federal Land Policy and Management Act's ("FLPMA") prohibition on interstate exchanges be relaxed and that surplus federal lands under the jurisdiction of the General Services Administration be made available for exchange.

Catellus objected to the earlier Desert protection bills because they failed to provide a realistic means by which Catellus's lands could be acquired and Catellus could be compensated.

THE HOUSE NATURAL RESOURCES COMMITTEE SOLUTION

In the previous Congress, the House Natural Resources Committee added a provision to the then pending Desert protection bill, H.R. 2929, designed to enable the Secretary of the Interior to acquire the State of California lands included in the bill's wilderness and park designations. The State of California Lands Commission manages these lands on behalf of the State Teachers Retirement System. By a floor amendment adopted without opposition, a similar provision applicable to the Catellus lands was added to the bill when the House passed the Desert protection bill in 1991.

We believe that it is appropriate to treat the Catellus lands in the same manner as the State lands. Just as the State Lands Commission acts as a trustee for the benefit of the State teachers in the management of the State land, Catellus has a fiduciary responsibility to its largest stockholder, the California public employees, in its management of Catellus lands. Representative Jerry Lewis drew this parallel during the House's consideration in 1991 of the Catellus amendment:

> The Members should know that in this case the California Teacher's Association has very sizable investments in thousands of acres of land. The teachers have investments by way of their retirement funds in thousands of acres of lands, invested because they hoped they would be kept for various natural resources to benefit their retirees. * * *
>
> As I understand, this amendment deals with public employees who have a similar investment in acres of land. They invested those retirement dollars in order to hope for future potential resources that might be discovered. * * *

Cong. Rec. H11396 (daily ed. Nov. 26, 1991).

Section 609 of H.R. 518 reported by the House Natural Resources Committee earlier this year is essentially the same as the amendment adopted by the House in 1991. The provision is two-pronged. First, it sets up a procedure which is intended to facilitate an agreement or series of agreements between Catellus and the Secretary of the Interior on land exchanges. These land exchanges would permit the United States to acquire Catellus landholdings included in the bill's wilderness areas and parks and to compensate Catellus by the transfer of federal lands under the jurisdiction of the Secretary of the Interior. Exchanges would be governed by FLPMA which requires that the fair market value of the land to be transferred out of federal ownership equal the fair market value of the private land to be acquired. Values would be determined in accordance with standard appraisal practices.

To the extent that not all of Catellus' lands have been acquired by exchange by 2004, the second prong of the amendment directs the Secretary of the Interior to establish an exchange account to acquire Catellus land. Under this procedure, Catellus would transfer its lands to the United States, just as it would in a land-for-land exchange, but instead of receiving federal lands in return, it would obtain exchange credits usable as payment for surplus federal properties in the State of California offered in public sales. These sales are designed according to existing law and regulations to realize for the federal government the fair market value of the property. The exchange account gives Catellus no right to federal monies in payment for its lands.

An important feature of section 609 of H.R. 518 is that it directs the Secretary to consider lands outside the State of California for possible exchange. Section 609 would allow the Secretary of the Interior to negotiate an interstate land exchange agreement with Catellus but would require that the exchange be approved by a joint resolution of Congress before it may take effect.

The exchange account is patterned after similar accounts established for the Cook Inlet Region, Incorporated (Sec. 12 of Public Law No. 94–204, 89 Stat. 1150 (January 2, 1976), 43 U.S.C. Sec. 1611 note) for the Haida Corporation (Sec. 15 of Public Law No. 102–415, 106 Stat. 2123 (October 14, 1992)), the Gold Creek Susitna Association, Incorporated (Sec. 20 of Public Law No. 102–415, 106 Stat. 2127 (October 14, 1992)), and for the private landowners within the Kaloko Honokohau National Historical Park (Public Law No. 98–146, 97 Stat. 954 (November 4, 1983), 16 U.S.C. Sec. 396f). Our research indicates that in all these instances, the exchange account has proven to be an efficient and effective mechanism for acquiring non-federal lands for national purposes and for compensating the owners for the lands' value.

ACTIONS TAKEN IN THIS CONGRESS

Senator Feinstein's Desert Protection bill introduced in 1993 included a provision identical to the Catellus provision adopted by the House in 1991. However, in order to obtain the votes needed to report the bill out of the Senate Energy and Natural Resources Committee, Senator Feinstein agreed to the deletion of the Catellus provision. Senator Hatfield had opposed the provision because of his concern that it could result in federal lands in his state of Oregon being exchanged for Catellus' Desert inholdings. After the provision was dropped, Senator Hatfield voted to report the bill. Unfortunately, the Senate did not restore the provision when it passed S. 21 last year.

Congressman Lehman also included the Catellus provision in H.R. 518 introduced in this Congress. The House Natural Resources Committee amended the provision by limiting the use of exchange credits to surplus federal property located in the State of California.

CONGRESSMAN LEWIS' AMENDMENTS

Representative Jerry Lewis has proposed two amendments to the Catellus provision contained in section 609 of H.R. 518. The first would delete the provision altogether. By doing so, his amendment would eliminate the only provision in the bill which would compensate Catellus for making it possible to create nearly 10% of the bill's wilderness and parks. We are unable to understand Congressman Lewis' motivation. The amendment is inimical to the interests of the public employees and is clearly inconsistent with the concern he expressed in 1991 for their investment in Catellus. It is also detrimental to the interests of other private property owners seeking the appropriation of scarce funds for land acquisition, in that it increases the likelihood that appropriated funds will eventually have to be used to acquire the Catellus inholdings. We therefore urge you to oppose the amendment.

Mr. Lewis's second amendment extends the Catellus provision to provide the same treatment to all other private inholders in the designated areas. We have no objection to this amendment, although we question whether the provision works for the smaller inholders or whether they actually desire the same treatment. As far as we know, none of those private landowners has suggested that the provisions of FLPMA are inadequate for the Secretary to negotiate an exchange or purchase with them.

Again, I appreciate the opportunity to have met with you to explain the importance of section 609 to Catellus and to the 970,000 public employees who invested in Catellus.

Sincerely,

JAMES G. O'GARA,
Senior Vice President.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 27, 1994.

JAMES G. O'GARA,
Senior Vice President, Catellus Development Corporation, San Francisco, CA.

DEAR MR. O'GARA: Thank you for your letter of June 25, which briefly addresses a few of the questions included in my recent letter to you. Unfortunately, the vast majority of my questions remain unanswered, and I would appreciate your complete response to them as soon as possible.

As this information is directly relevant to legislation which the House of Representatives is currently considering, I look forward to hearing from you soon.

Sincerely,

MICHAEL HUFFINGTON,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 19, 1994.

Dr. WILLIAM CRIST,
President of the Board, California Public Employees Retirement System, Sacramento, CA.

DEAR DR. CRIST: As the Congressman from the 22nd District of California, I have taken a great interest in the various issues pertaining to the Desert Protection Act, currently pending before the Congress. As you may be aware, the Desert Protection Act contains a special interest provision for the Catellus Corporation, in which the California Public Employees Retirement System (CALPERS) has a major stake. I have strongly opposed passage of that provision.

As a result of my inquiries, certain information has come to my attention that I feel compelled to share with CALPERS as it relates to the vital interests of your members—a subject of concern to me, as it is, of course, to CALPERS. I would appreciate your careful and immediate review of these disturbing facts as outlined below.

As you know, in 1989 CALPERS initially invested $398 million for 20 percent of the common stock of the Catellus Corporation, then a private real estate corporation owned by the Santa Fe Pacific Corporation (Santa Fe). Indeed, through purchases of preferred stock and the conversion of bonds, the total amount invested to date in Catellus has risen to $544 million. The amount invested in common stock, $473 million for 40 percent, is apparently one of the larger common stock investments ever made by CALPERS.

It appears that CALPERS first purchased Catellus stock for $37.75 per share when the company was still private. Because there was no public in market, CALPERS was limited in its ability to sell its Catellus stock which, as a result, increased the investment risk. This risk became painfully evident when, less than one year later, Catellus became a publicly traded corporation. Its stock first sold at only $11 a share and quickly dropped to $9, representing a 70 percent decline from the price paid by CALPERS.

In 1989, Catellus valued its developable and income producing properties at $2.4 billion. At the end of 1993, despite increasing its holdings, Catellus's properties were worth only $1.4 billion. Even in 1989 when CALPERS invested $398 million for 20 percent of Catellus's equity, the company's book value was only $118.4 million.

However, as an investment in Catellus was somewhat speculative at best, that investment appears to differ markedly from the sizable interests CALPERS has held in well-known American companies. At the end of each fiscal year from 1989 to 1993, the initial CALPERS investment in Catellus of $398 million was only exceeded by equity investments in IBM, Exxon Corporation, General Electric and AT&T. While CALPERS's investment in publicly-traded companies appears prudent, its investment in Catellus, a relatively unknown and financially speculative real estate company, appears questionable at best and underscores the need for review of the process by which the pension fund came to invest so heavily in Catellus.

It appears that CALPERS had at least two outside consultants: Chicago-based JMB Realty Company, and the San Francisco-based Roulac Consulting Group. As I understand it, the JMB Realty Company received a fee of $8 million for referring Catellus to CALPERS and continues to receive a yearly management fee of $2.4 million from the pension fund although its duties are not clear. It also appears unclear what services were in fact provided by the Roulac Group and what compensation was received.

The facts detailed above raise serious questions concerning the judgment of CALPERS in making the Catellus investment and its impact on millions of California pensioners. I believe therefore, that there is a need for an internal inquiry into the process by which the decision to invest in Catellus was taken. In such an inquiry, I suggest that one look into circumstances of the sale of land by Santa Fe to Catellus which was originally given to the railroad by the Federal Government and the fees paid to JMB and others involved in this investment, with a view to determining whether funds could be recovered from the various corporate entities that may have benefited at CALPERS's expense.

I thank you for your attention to this matter and you have my assurance of continued involvement to see that the interests of the California retirees are not prejudiced.

Sincerely,

MICHAEL HUFFINGTON,
Member of Congress.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Lewis of California amendment. This amendment—we have been working on this bill for a while, Mr. Chairman, as most Members know, and I think we are at the conclusion of it—the fact is that this amendment would really undo, disassemble the entire legislative proposal that we now have before us. It would eliminate the expansion of the parks that are in here, the designation of the new park; obviously, it would substantially reduce the amount of wilderness that is in the bill and which has been in the bills that have passed the House by a previous Congress. The fact is we spent a lot of time on this measure over the last 6 to 8 years.

The commission that the gentleman refers to, which was set up in the early 1970's, obviously, events and circumstances have eclipsed whatever benefit and whatever judgments were made by that particular commission. It was probably a good intention on the part of Congress in the early seventies to set up the commission, but it did not work, it did not come together, it did not build the type of consensus and support that is necessary to in fact designate this California wilderness area, the California desert lands. It did not build up the type of legislative action. That is not unusual, but I think that is a failed model, that type of commission.

We ought to think about that before we set up commissions, that expensive type of commission, and take it out of the hands of the BLM managers, the Park Service or the Forest Service, usually charged with the responsibilities to carry out studies. It was expensive and did not work. I think that is what is really at stake and what the gentleman's comments were here with regard to the commission.

But this bill, to go back now and pick up a 15-year-old report that was controversial and unworkable at the time, and try to suggest that was going to be implemented in the law, especially after the Congress acted on more progressive measures and has a very progressive measure before them today, one that has been perfected. Some of the modifications, of course, Mr. Chairman, you realize and other Members, that I did not agree with, but nevertheless we are marching forward with that today, to see it enacted eventually into law after modifications with the Senate conferees.

So I would hope we would reject this amendment. It fails to deal with many of the issues that we have. It is not responsive. It takes us back to the thrilling days of yesterday and not addressing where we are in 1994.

I think that the amendment simply does not do the job and deserves to be defeated, because of the tremendous work that has been done on this and the fact that it is a flawed amendment.

Mr. Chairman, I rise in opposition to the Lewis amendment in the nature of a substitute.

This is a very similar to a substitute offered by the gentleman from California, [Mr. LEWIS] when the House considered the California desert legislation in the last Congress. That substitute was rejected by a wide margin, and this substitute should also be rejected.

The substitute would designate some wilderness areas on BLM-managed public lands in the California desert and it would add some lands to the existing Death Valley and Joshua Tree National Monuments. However, it would omit from wilderness many important areas that would be protected under either the Senate-passed bill or the version adopted by the Natural Resources Committee. In addition, it totally omits the designation of a National Park System unit in the East Mojave Area.

Earlier during our consideration of this bill there was considerable debate about the future management of the East Mojave. In particular, the LaRocco-Lewis amendment addressed the question of whether sport hunting should continue to be permitted on those lands.

I did not support that amendment, Mr. Chairman. But on one point I was in complete agreement with the amendment's supporters. That point was that this is an area that should be under the management of the National Park Service.

By adoption of the LaRocco amendment, the House, including the gentleman from California, [Mr. LEWIS] has already shown clear support for placing those lands under the management of the National Park System. But this substitute would reverse that decision.

The substitute also would undercut agreements that have been worked out on other aspects of the bill, including the one developed by Chairman MILLER and Mr. CUNNINGHAM.

The substitute also lacks many other important features of the Senate bill and the version reported by our committee;

It fails to transfer lands to the State of California for expansion of the Red Rock Canyon State Park;

It fails to establish a desert lily sanctuary, as would be done by the Senate bill and the version reported by the committee.

It does not address the desire of the State of California to exchange its State school lands in the desert area for more developable lands, unlike the Senate bill and the version reported by the committee;

Mr. Chairman, The Lewis substitute is an incomplete and inadequate product. After nearly a decade of hearings, discussion, and debate, the time has come for Congress to resolve the outstanding questions about the future management of the public lands in the California desert. The Senate bill and the bill reported by the Natural Resources Committee are comprehensive measures that would accomplish what needs to be done. This substitute falls far short, and it should be rejected.

Mr. MCCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have reached the final mile of the road on this long and arduous activity which I started with in 1975 as a Riverside County supervisor and as a person who has been born in and spent a great deal of his younger life in and most of his adult life in the desert. I must say in all candidness that those who are here and debating have characterized the current status of the desert as some type of a loose cannon in which everyone is taking advantage of a situation to the detriment of the desert and the environment surrounding it.

Many of my friends belong to 4-wheel-drive recreational activity clubs and spend a great deal of time in the desert. These people are not wealthy people. They are just working people, businessmen who enjoy the desert and in so doing take along their families, spend the weekend camping.

On many occasions they will handle in the desert some type of a project which actually results in the betterment of the desert.

When we get involved with the desert plan, I was very appreciative that this came along, and those who took the many years that they did, Bob Mathias, Jerry Pettis, Shirley Pettis, others who were Members of Congress during that time, because they were addressing what I consider to be some of the needs of the desert properly.

During that time I watched the activities of the formation of the Desert Protection Act and I then followed it very closely as a county board member of Riverside County, I monitored its evolution. If there ever was an activity which had a public forum, an input, better or more progressive or of more wide range than this particular activity, then I have yet to see such a thing take place.

We have been led to believe here that if we do not pass the bill before us, that the desert is going to go to hell in a handbasket—excuse the word, Mr. Chairman—and that it will degrade, become some type of a zoo for anybody who wishes to use it.

I must take exception to that because we already have under the desert protection plan an activity that is in place, that has designated wilderness areas, that has designated this type of land use, that last designated that type of land use and, further, is patrolled by some 40-odd rangers under the jurisdiction of the BLM to enforce, when and where they can, over this vast area, the rules and regulations of the desert plan.

Mr. Chairman, it is in force, it is there, it is on the ground, it is active. Not a bunch of people running across the desert with motorcycles, as many people would like you to picture.

So when we talk about the extremes here, I have to relate to you a personal experience in that I took 2 full days by helicopter and toured the area with the then regional director of the BLM. In this helicopter we had our maps spread out and we went all through all the area in question, every cotton-picking square mile, almost. We looked at the wilderness area designation for this location, and I said to this gentleman, "Let me understand, right down there is where we have a wilderness designation? And we have it on the maps," as Mr. Hansen said, "a designation of wilderness." Well, then I said, "I don't understand because you are telling me that wilderness is defined as a certain type of area which man has certain restrictive types of use in?" Yes. I said, "Well, there is a little house in that small canyon with a road leading off another road which leads off a larger road, and this area is going to be wilderness?" Yes.

That certainly does not fit the definition of wilderness as currently on the books.

We found other areas all through the desert protection plan's locations, this same type of configuration. We no longer had wilderness, that man had been there, he had already gone through.

These are the kind of things that kind of riled my blood a little bit because what we have in the way of an interpretation of ongoing and existing activity and those who use the desert as they have been outlined here by the opponents of our substitute amendment and the proponents of what we have in the way of a bill before us.

Mr. Chairman, my time is limited, it has been limited, and so be it. I wanted to conclude by simply saying the desert is well, the desert is satisfied with what it has. The people who use it respect it. We are not a bunch of tramps running around like chickens with our heads cut off.

I would suggest and certainly support the substitute offered by Mr. LEWIS of California.

Mr. LEHMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment and, hopefully, to bring the Members up to date on where we are right now in this process.

The bill we have before us that, hopefully, we will be voting on very soon is similar to the bill that passed the House in 1991 and more recently the one that passed the Senate by a vote of 69 to 29.

H.R. 518 is the product of a 18-year process that has been anything but exclusive. That process has included literally thousands of individual public comments and hundreds of changes to the original Desert Protection Act of 1987. We have held many hearings in Washington and in California on this bill. We have had 2 in 1987, one in 1989, 3 in 1992 and 2 more in 1993.

□ 1310

The Committee on Rules granted an open rule on May 11, and there were 45 amendments proposed to the bill, and during the 2½ months since then, Mr. Chairman, Members and their constituents have been treated to 20 hours of lively debate. During that debate 22 amendments have been added to the bill. Some of them were in the Senate bill, and some of them were not.

Looking at this bill today and the one that was originally introduced, we have eliminated 271,000 acres from wilderness. We eliminated 63,000 this year in committee. We have taken thousands more out here on the floor. We delete an additional 125 miles that was previously closed to off-road vehicle use, and I think we have aggressively tried to pursue the legitimate concerns regarding access to wilderness and park areas that are established by this legislation, and I suspect, as this bill goes to conference and individual problems come up, we will attempt to deal with them in the same vein.

With respect to private property, Mr. Chairman, we have eliminated more than 90,000 acres of private lands from the boundaries of park and wilderness areas, provided assurances for reasonable access to private property, and provided protection for inholders from unreasonable treatment by the Park Service. We have also via amendment here on the floor assured landowners that the value of their land for purchase by the Federal Government will not be diminished by presence of an endangered species. We have given to individual landowners exchange mechanisms that apply to large landowners in the development bill, namely the Catellus Development Corp. and the State Lands Commission. We have also sent a clear message to inholders, especially those with land in the East Mojave: This bill will not prohibit you from building a house or adding an addition to your home if this is what you choose to do with your land. Activities on your lands will primarily be governed by State and county zoning laws.

My colleagues, there can be no question that the desert is not the untouched, unspoiled land which was Yosemite or Yellowstone in the late 1800s. The wheels of progress have churned forward and the region has been subject to a variety of multiple uses. However, the California desert remains one of the few oases of calm in a zone of urbanization and metropolitan sprawl. It is not the wasteland or giant mining pit as some would have us believe. It is an area inhabited by only the most hearty, some, including ranchers and homesteaders whose families have been there for generations. It is home to diverse people and species of animal and plant life as well as unique cultural and geographical features.

Science dictates that the best way to protect this area for future generations to enjoy is to reduce certain extractive uses like mining and limit other heavy impacts. This management scheme contrasts with the requirements of other areas like the Sierra Nevada where active management is a necessity to sustain healthy forests and reduce threats of fire.

According to economic figures developed by the National Park Service, this bill will total tax benefits of over $30 million per year. In addition, it will generate some 3,000 jobs and tremendous secondary economic benefits. H.R. 518 is a net job creator and will contribute to Federal, State and local treasuries. As one whose district includes two national parks, I can freely say that parks are priceless resources of which we need more, where warranted and properly and honestly debated here on the floor. I think it is high time we provided solid protection for this area.

The substitute falls far short of this goal, and I want to say that the gentleman from California [Mr. LEWIS] has fought hard here, and so have his allies. He has won some; he has lost some. I salute him for his efforts and certainly do not question his sincerity or dedication to his district and the values that he thinks ought to be maintained. But I suggest that years from now, when the history is written, it is going to be remembered that we at this moment had the foresight and the vision to act boldly to protect this vital area, this majestic and fragile area of our American landscape. The real beneficiaries of this bill are not the people that are in this room or not the people who are listening at home today. The real beneficiaries of this bill are people who are not yet born, who decades from now are going to enjoy the California desert and say, "Thank God that Congress back then had the wisdom to protect this for us."

Mr. Chairman, I urge rejection of the substitute and passage of the bill.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California, my friend who has been our leader in opposing what we call the desert lockout bill.

Mr. LEWIS of California. Mr. Chairman, indeed it has been suggested throughout this debate by my colleague, the chairman, that somewhere near 75 percent of the people in California want this bill, that the reality is that that entire discussion has flowed around a question of:

"Do you want to have protection for the California desert?"

Clearly, Mr. Chairman, 75 percent of the people want protection for our desert, but this bill, the question about this bill was asked of the people who live in, who work, who understand and love the desert the most, the people who were there, and this chart reflects their reaction to this specific piece of legislation, which, to say the least, is in excess well beyond anything that is needed regarding those who are concerned about the future of the desert. The substitute that we are considering here would, if passed, create the largest wilderness designation in the continental United States.

I mean it is no small matter. It is well beyond that which is available in the continental United States at this point in terms of individual designation.

Mr. HUNTER. Reclaiming my time, Mr. Chairman, for 1 second, just to reflect on what the gentleman has talked about with his chart up here that talks about 74 percent of the people in San Bernardino County objecting to the so-called Desert Protection Act. Now why would they do that? As my colleagues know, I think it is because the gentleman's constituents understand something that most Americans understand, and that is that the quality of our lives is largely a function of how much control we have over our lives, and they see this bill, not as something that protects the desert, but they see it as a function of the Federal Government taking away control from their lives.

Over the last several weeks, Mr. Chairman, we have been debating this bill, I think with some pretty serious amendments, and we have talked about the freedom that is taken away from the gentleman's offroaders, those families who leave their work, mostly blue collar people, and drive every Sunday or Saturday out to their favorite place in the desert where they have spent literally years and years enjoying the desert in their particular place. Whether we are talking about the amendment offered by the gentlewoman from Nevada [Mrs. VUCANOVICH] that speaks to the fact that we are taking away the rights of our mining people, the people who have carried on our mining and mineral exploration heritage in the West, they are getting their rights taken away under this bill. The hunters who are getting their rights taken away under this bill, the people in the West understand this is part of President Clinton's war on the West. It is a war that is imposed by Government, and, like most of the artifices that the President and those who support him strongly use to take away power that Americans have and control that Americans have over their own lives, it is all done on the basis of giving them something, whether it is health care, where we give them security by taking away their choices with respect to medical care, or whether it is taking away their right to use the desert as they have used it for 100 years, doing it under the guise of protecting the desert, and I guess the people from San Bernardino County asked themselves a question: Protecting the desert from whom? And then they realize that President Clinton and the people who are proposing this bill are protecting the desert from them, the people of that county and the rest of the people of the United States who want to use this area.

□ 1320

So I thank the gentleman for his leadership on this debate we have had for a couple of weeks, and all the gentlemen who have participated in this debate, the gentlemen from California [Mr. McCANDLESS], the gentleman from California [Mr. THOMAS], the gentleman from California [Mr. McKEON], and the gentleman from Utah [Mr. HANSEN] who has helped to run the debate. Thank you for making this strong point with the American people.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield further, I asked for essentially additional time to make the point one more time; that is, the House has been extremely responsive to the interests and concerns of the Members who are elected to represent the desert by way of the debate that has gone before us. Several amendments have been passed by them as a result of their listening and participating that radically changed this legislation as it came from the committee, in broadly based bipartisan votes. The last major amendment passed involved a majority on both sides of the aisle, reflecting the reality that we needed to take steps to protect private property rights. The committee was not even willing to begin to listen to those concerns. The committee was extremely arbitrary with the Members from the desert, not willing to discuss this in any depth with us at all, despite the fact that 14 Members are freshmen Members and had never been through this debate before.

In return, I want to express my deep appreciation to the House. The House has been responsive to all of us, and they shaped a better bill as a result of it. We are, as the chairman has suggested, well beyond this amendment at this point in time. The substitute is now a thing of the past.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

Mr. EVERETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. EVERETT. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would say to the chairman, we are well beyond this substitute, which was the work of a commission that spent a number of years evaluating the complexity of the problems in the desert and the west. There is little doubt that this legislation comes nowhere near reflecting the needs of those who would want to truly protect all of the resources of the desert. It is my view that in this process, I am hesitant to do what I was going to do, and I suggest that we are well beyond that commission report.

I also suggest to the chairman that any communication at all, even today, would have had you know that no one was attempting to use up all kinds of extra time today. I do not remember on the floor when we had a motion to limit debate. It may have occurred sometime in the last 15 years. But this is an outrageous exercise one more time of the kind of control that this committee likes to exercise.

But, having said that, as we are beyond this amendment, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. LEWIS]?

There was no objection.

The CHAIRMAN. Are there further amendments to the bill?

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong support of the substitute of our colleague from California and a Representative of the California desert area, Mr. LEWIS.

The Lewis substitute before us is the painstakingly formulated compromise plan for the management of the California Desert Conservation Area which the 94th Congress dictated the Bureau of Land Management prepare in section 601 of the Federal Land Management and Policy Act of 1976.

Mr. Chairman, FLPMA, the organic act for the BLM, is the public lands management bible for many Members from the other side of the aisle. FLPMA stands for retention of public lands rather than disposal as was the case generally prior to its passage. Yet, it is these very same Members that now wish to trash the mandate of section 601 because their environmentalist friends didn't get everything they wanted in the BLM's CDCA plan which was over a decade in the making.

Mr. Chairman, the environmental community and miners, grazers, motorized recreationists, and others all had to compromise their desires in the BLM's plan. But the environmental special interest groups knew that if they didn't get everything they sought in the BLM plan, well, they would just go to their friends in the California delegation and win it back. That's what H.R. 518 is really all about. The Lewis substitute would say "No" to all interest groups. You had your shot to be persuasive in the administrative process that was many years in the making. The Lewis substitute is the congressional ratification of that process, and I support it fully.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank the House for its persistence in sticking with us on this legislation. I deeply regret that this legislation had to be the subject of personal attacks on the chair of this committee, namely, me, because throughout the history of this legislation and the history of the Committee on Natural Resources, I have continued to run a very open committee, and any member of that committee could have offered any one of these amendments in committee and yet chose not to do that.

The gentleman from California [Mr. LEHMAN] and the gentleman from Minnesota [Mr. VENTO] have spent hours with their subcommittees on this legislation, as have the members of this committee. The gentleman from California [Mr. DREIER] likes to refer to me as Mr. Open Rule, because I continue to insist that these bills come before the House under an open rule. Clearly this bill has worn out its welcome on the floor, and that is why we put a time limitation on it.

But I think we have developed the fact that this bill is necessary. As the gentleman who just spoke in the well said, we are way beyond the substitute that he was offering, way beyond the commission report, because when that commission report was issued, the difference between that and today is that California has 15 million more people. Open spaces and the utilization of those open spaces and the protection of those open spaces for the multiple uses that are in this bill is more and more difficult, but more and more urgent.

Our colleague, the gentleman from California [Mr. LEHMAN], said it quite correctly. This bill, as all other bills that protect the wilderness of this country, that protect the national parks and create the national parks, will in the future again be recognized for what it did. It passed on as part of the heritage of this country the great natural assets to the next generation. We have the possibility with the designation of these areas as parks, with upgrading, if you will, the status of these lands, to start some rehabilitation where the lands have been abused, to change some uses from one area to another so the more sensitive areas can be protected, so that habitat can be protected, and so that the right of the public to access can be protected. Those who seek to use this for off-the-road vehicles, we have some 33,000 miles that they can use. We have to recognize mining. We must take some of these lands as we find them in 1994. This is not 1894. We have had to grandfather existing mining operations in. It is good for the local economy. These people were there before. They have a right to continue those activities, and we have a right to preserve the lands around those to the best that we can.

But what we could not allow is the continued unbridled misuse of many of these lands, and some are more critical than others. The misuse only comes by comparison to those lands and how frail they are. That is what the Committee on Natural Resources struggled with, that is what this House has struggled with, and I believe that when we pass this legislation, we will have done so successfully.

It has been said time and again in this debate, and it is a fact, that the people of California overwhelmingly support the creation of these national parks. It has been said time and again that the people in the area do not exactly support the creation of these national parks. That would have been true when we created the Olympic National Park. That would have been true when we created Yellowstone, when we created the Everglades, when we created the Mojave, when we created the Grand Canyon, and, of course, when we created Yosemite.

The people in the area kind of liked it the way it was. But we recognize that these were unique natural assets that are part of the heritage of this country, and they could not be squandered for timber interests, they could not be squandered for mineral interests, for oil interests, or for any single interest. They must be tried and preserved for the people of this Nation to enjoy. Whether those people come to these deserts or they come to our mountains or they come to the great canyons of this Nation, whether they come from the west coast or from the east coast or from the heartland of this country, they are entitled to have that heritage passed on, so that they can show it to their children and to their grandchildren, so that their grandchildren can show it to their grandchildren. And what the Desert Act points out is that unless we act now, we will not have that opportunity for the next generations.

California is a very crowded place. If these deserts were not on the edge, on the virtual edge of massive populations, we might take a different approach.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, but the fact is that these lands are on the edge of this huge, huge metropolitan population that seeks to use these lands, and rightfully so, as an outlet for their family activities, for their hobbies, for their exercise, for their own education, and for all of the other uses. That is what this act preserves. It preserves it in multiple uses, in multiple classifications, and for multiple access by the people of this Nation and the people of California.

Let us also know that this bill has been under study for a considerable period of time, since the first recommendations in 1978 and 1980, and during that time it has garnered the support of almost every newspaper in the State of California, suburban newspapers and urban newspapers, from San Bernardino County, from Inyo County, from San Diego, from Los Angeles, Santa Barbara, across the State.

□ 1330

Out of that opinion, out of that consensus, out of that support we have tried to put together a bill that would serve us well today and far, far into the future. It has been difficult. We have had to contend with these different uses.

We had to contend with the fact that there are large landowners in the area that would like to get out of the area, that would like to move on. We had to contend with the fact that one of those cases, the Catellus Corp., the State's lands commission represented the investment, the savings, the future, the retirement of California's public employees, of its retired teachers. And we tried to find a way so that we could get them out of these areas should they decide to sell those lands.

Somehow the gentleman from California [Mr. HUFFINGTON] sees those people as a special interest, people who should not be considered in this legislation, so that we cannot consider a means by which their retirement, their investments, their savings and their future can be considered as we transition the uses of these lands from one to another on a willing seller, a willing buyer basis. The same privilege that we have given to savings and loans and to corporations, somehow we were not going to give to the retired individuals in California.

That is not a special interest. That is an interest that deserves to be taken care of and to be considered, at least, in this legislation as was the mining interest, as were the off-the-road vehicles, as were the campers, the rock hounds, the naturalists and everybody else, the military, all of those were the interests that make up the California desert.

I would hope that my colleagues would support this legislation. It has been a lively debate, as the gentleman from California [Mr. LEHMAN] said, but I think we are right. I think we will create a product that not only has the overwhelming support of the House but of the Nation. It is compatible with the hard work, the stewardship, and the effort that Senator FEINSTEIN put into this legislation.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has again expired.

(On request of Mr. LEWIS of California and by unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Many said, after they threw out a Senator who built his career on rejecting this legislation, after the voters of California threw out a Senator that made the hallmark of his career his resistance to the Desert Act, she took this up. She took this up as a cause. And they said it would never come out of the Senate.

The fact is, she was able to navigate this legislation through the Senate, to put it before us, and we are now acting in response to that.

Over 69 Members of the Senate supported this on a bipartisan basis. We should do the same in this House. We should support this legislation on a bipartisan basis.

Mr. Chairman, the California Desert Protection Act merits our support. Nearly identical to legislation which passed the House in the 102d Congress, this bill designates almost 4 million acres as wilderness and transfers the existing 1.5 million acre East Mojave National Scenic Area from the Bureau of Land Management to the National Park System. In addition, the bill expands the existing Joshua Tree and Death Valley National Monuments by 234,000 acres and 1.3 million acres respectively, and redesignates the monuments as national parks.

The California Desert Protection Act overwhelmingly passed the House in 1991 by a vote of 297 to 136. Since 1987, there have been approximately 15 hearings in Washington, DC and California on desert protection legislation. In this Congress, the Subcommittee on National Parks, Forests and Public Lands held a hearing June 15, 1993 on the bill we are considering today. The hearings have demonstrated the widespread support for desert protection from environmental organizations, cities, utilities, and scientists. A field poll taken last year showed that 71 percent of Californians favor National Park Service management in the existing East Mojave National Scenic Area.

If the California Desert Protection Act is adopted, all existing uses of the desert will continue, sometimes in different areas under different management prescriptions. But there is no use of the desert land permitted today that will be precluded by enactment of this legislation.

For those who like to backpack, the bill designates nearly 4 million acres of wilderness, and there are thousands of trail miles to walk along. All of the areas to be designated wilderness were classified as roadless by the Bureau of Land Management in its desert plan, and all of the areas qualify for wilderness, according to the BLM.

For those who like to ride motorcycles and dune buggies, the legislation leaves open approximately 33,000 miles of roads, including 18,000 miles of primitive routes and 15,000 miles of paved and unmentioned dirt roads. Approximately 430,000 acres of public land—an area approximately 10 times the size of Washington, DC—will remain open primarily for use as off-road play areas for trail bike and all-terrain vehicle users.

Of special interest to off-road vehicle users is the 61,630-acre South Algodones (pronounced "Owl Go Dough Nays") Dunes area which will remain open for motorcycle and other vehicle users. The previously passed House bill did not leave this area open.

For those who presently enjoy the privilege of mining on public land, the legislation allows anyone with valid existing rights to continue operating. In addition, we exclude all known active mines within the park and wilderness areas designated by this bill.

The privilege of grazing on public lands also will be permitted subject to existing laws and

National Park Service regulations in Death Valley and Mojave National Parks.

H.R. 518 also satisfies the concerns initially raised by utilities operating in the California Desert, including the Los Angeles Department of Water and Power, Southern California Edison, Southern California Gas Co., and the Metropolitan Water District. In addition, the Pacific Gas and Electric Co. owns and operates a natural gas pipeline known as line 300 on existing rights-of-way adjacent to but outside areas designated as wilderness. Since the right-of-way is outside any specific wilderness designation, statutory language with respect to its continued operation such as that included in the bill for other utility activities is unnecessary. It is our intent that the legislation will not affect the utility's operations, or the customary use and maintenance of the existing right-of-way.

Mr. Chairman, the California Desert Protection Act has been debated in each successive Congress since 1986. And the debate existed as early as 1976 when Congress ordered the first study about future uses of the California desert. It is time to enact legislation so that all desert users—miners, hikers, educators, recreational vehicle users and others—will have some certainty about the future of the desert. At the same time as this legislation will preserve natural and scenic areas for the health, enjoyment and education of future generations, this legislation also maintains off-road vehicle recreational opportunities, and allows mining, grazing, and other activities to continue in specific areas.

Mr. Chairman, the California desert encompasses 25 million acres—approximately one-quarter the size of the State of California. Within the 25 million acres, there are three desert ecosystems known as the Sonoran, Mojave, and Great Basin, 90 mountain ranges, sand dunes as high as 700 feet, more than 2,000 species of plants and wildlife, and a wealth of archaeological sites.

Every major newspaper in California including the Los Angeles Times, San Francisco Chronicle, San Bernardino Sun, Sacramento Bee and San Diego Tribune have expressed their support for the entire bill in general, or the Mojave National Park in particular.

I commend Congressman RICHARD LEHMAN, the author of this legislation, as well as Subcommittee Chairman BRUCE VENTO who played a key role in crafting this legislation. In addition, former Senator Alan Cranston was instrumental in this effort as well.

I encourage my colleagues to support this legislation.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 518, the California Desert Protection Act. I believe that this legislation offers a compromise that respects the interests and the integrity of all those that use the California desert while continuing to protect the desert's unique natural resources.

The bill we are debating here today is product of a peaceful accord—not a line drawn in the sand. This bill represents literally years of debate and compromise.

In the last Congress, we debated at length a similar measure. In this Congress, the careful consideration of this important piece of legislation continues. The bill has been debated at length. I want to praise the success of the members of the full committee and the subcommittee in providing an open forum for debate of the relevant issues. In addition, the Rules Committee has been extremely diligent in making sure that the debate today is ample yet focused.

Mr. Speaker, this legislation will provide permanent protection and continued enhancement for a unique natural resource—the California desert. The bill designates wilderness areas on the Bureau of Land Management lands in the California desert, establishes three new national parks, and designates wilderness areas within those new parks. In all, the measure designates about 8 million acres of wilderness, making it the largest land conservation and protection measure since the 1980 Alaska Lands Act.

Before we vote on final passage of this measure we will debate and vote on a host of amendments that cover the complete spectrum of interests at stake. We will look at the issue of roads and roadless areas. We will hear about military matters, especially the continuing use of military facilities and the impacts on military overflights. The contributions of Mr. LEHMAN and others ensure that law enforcement is not impaired by the legislation. We also ensure that the legislation is consistent with the needs of the Drug Enforcement Agency, the Immigration and Naturalization Service, the Customs Service, and other Federal, State, and local law enforcement agencies.

The bill and the amendments strive to find the proper mixture of continuing and new grazing arrangements that consider the suitability of grazing based on the site-specific analysis. Hunters and off-road enthusiasts have had and will have their concerns debated and addressed as well. Water rights, land exchanges, mining, and other management issues have all been thoroughly debated.

In short, there are many issues in such an important piece of legislation. These issues have been thoroughly debated in subcommittee, in the full committee, and here today on the floor. I am impressed with the thoroughness of the discussion. While not everyone will be happy with the ultimate outcome, everyone has had the opportunity to make their case in an open and fair forum.

This balanced legislation is the result on a reasonable process. While some seek confrontation by drawing a line in the sand, I believe that the process has produced a sound and principled piece of legislation.

Mr. BROWN of California. Mr. Chairman, I am pleased once again to offer my support for H.R. 518, the California Desert Protection Act. After many years of effort on the part of those who appreciate the special qualities of the California desert we have the opportunity to grant to present and future generations of our citizens a unique and beautiful ecosystem for their benefit and enjoyment. The desert is a fragile system. It requires and it deserves our protection.

Over the years, the expansion of communities in southern California has brought many benefits, but as a result the fragile desert ecosystem in this region has come under increasing pressure. I have long believed that unless we acted to protect this special resource that it would be destroyed. Assertions have been made on the House floor during the various debates that this legislation is solely supported by non-Californians and Californians who are from areas outside the desert region. This is not true. As a native of southern California, I grew up in the desert, and I fully support the California Desert Protection Act.

In 1978 I had the honor of sponsoring the original bill in Congress that sought to establish the east Mojave as a national scenic area. While this bill was not enacted, in 1980 this region of the California desert was designated the Nation's first national scenic area by the Secretary of the Interior.

I feel a special attachment to these lands as a native Californian, born and raised in the desert of Imperial County. I think that all people to some degree feel that they belong to the land and that the land belongs to them. Especially the land of the region in which they live. But we must remember that the land which is the subject of this debate is land that is owned by all of the American people and not only by the citizens of California. I realize that not all of us will be able to enjoy a completely free range of activities on these lands. Some of us will bear a disproportionate part of the immediate costs of these restrictions. But, I believe that the preservation of this delicate system, complete with its specialized array of plant and animal life will in the long run provide an immeasurable benefit to the majority of us. This debate and the passage of this legislation can serve as a first step in the creation of alternative and lasting possibilities in this region. As the population of southern California grows and our communities expand we need to explicitly reserve areas for contemplation, reflection, and recreation. We need these national parks and wilderness areas.

There are those who suggest that we may be the last generation to have the privilege to make choices about resource use and protection. Let us choose to pass on the mystery and beauty of the California desert to our children and theirs by passing the California Desert Protection Act.

Mr. THOMAS of California. Mr. Chairman, I appreciate this opportunity to speak on the California desert proposal, H.R. 518. Though the number of the bill has changed, unfortunately, its content is substantially the same as that of H.R. 2929 from the 102d Congress. As a result, I must once again express my opposition to this legislation and urge all Members to instead support H.R. 2379, the Lewis substitute.

Contrary to what the sponsors of H.R. 518 would have everyone believe, their bill does not represent a compromise, nor does it represent how land management decisions should be made. Certainly the concerns of my constituents, and of others who actually live, work and recreate in the desert, have not been given adequate consideration in the development of this legislation. In fact, all four of the members of the California delegation who represent areas directly affected in H.R. 518 are opposed to the bill.

The real compromise is the bill I am supporting, H.R. 2379, which protects not only the California desert, but the jobs of many who rely on the desert for their livelihood. The drafting of H.R. 2379 involved the kind of public input decisionmaking process that should be employed when major land use decisions are made. It represents the culmination of 15 years' effort to identify areas suitable for wilderness designation in accordance with a congressionally mandated plan, and takes into account the concerns of all groups interested in the desert's future.

H.R. 2379 is the result of 100 public hearings, 16 environmental impact statements, mineral surveys and 40,000 comments reflecting the views of all who use the desert. This study surveyed 7.1 million acres of public land throughout California, and concluded that 4.8 million of those acres did not qualify for designation as wilderness because of existing roads and other factors. Therefore, through this process and as a result of public input, H.R. 2379 provides for the appropriate use and protection of public land in California, and designate 2.3 million acres of true wilderness.

In marked contrast, H.R. 518 appears to make raw acreage figures, not wilderness values or consideration of other interests, the primary determinant for deciding on wilderness. There are numerous sections of this bill that demonstrate how a public process would better serve our needs. I want to mention some of these problems to show what happens when the balanced approach is ignored.

The legislation creates wilderness and park land out of areas I never dreamed would be considered wilderness because they include sewage ponds, the Coachella water canal, private homes, abandoned trailer parks and areas with frequently used roads. When I helped produce the current Golden Trout, Machesna Mountain and Los Pàdres wilderness areas, I never thought it appropriate to include these kinds of things.

The bill creates hundreds of thousands of acres of inholdings—parcels of private and/or state property within the new wilderness and park areas. Inholdings, as anyone experienced with land use legislation knows, are a nightmare for the property owner and the Government. It will cost hundreds of millions of dollars to buy these people out. In many instances we do not have Federal land we can exchange for these properties.

This bill also ignores the mineral potential of the California desert. Eighty-one different minerals can be recovered from the desert. The bill's authors do not even know what they are asking you to give up. Of the 7 million acres covered by H.R. 518, for example, 5 million acres have never been surveyed for minerals. Domestic industries that rely on minerals found in abundance in the California desert will have to seek other sources of supply both in the United States and abroad.

For such reasons, H.R. 581 is not a compromise. It is clearly based on acreage rather than a thorough examination of the various interests and uses involved in the California desert. The wisdom of Congress' decision to mandate the process by which Bureau of Land Management conducted an exhaustive, thorough study of the California desert clearly shows that listening to all the public's interests and blending all of the factors included in the desert's future is the best way to reach a lasting agreement.

Like the authors of H.R. 518, we are all seeking to achieve the same goal: Protection of a unique and remarkable resource. Millions of Americans use the California desert every year under current conditions. In order to ensure that all Americans and their children have a chance to enjoy and benefit from this resource in the future, we need to enact truly balanced legislation, the kind of product that H.R. 518 clearly does not represent.

Those of us who represent the California desert do not accept H.R. 518 and as a result I urge all members to support H.R. 2379, which does represent the real compromise developed over years of effort.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SWIFT) having assumed the chair, Mr. PETERSON of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 518) to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, pursuant to House Resolution 422, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 128, not voting 8, as follows:

[Roll No. 357]

YEAS—298

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—128

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chapman
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Edwards (TX)
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gingrich
Goodlatte
Goodling
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Orton
Oxley
Packard
Paxon
Pombo
Quinn
Roberts
Rogers
Rohrabacher
Roth
Royce
Sarpalius
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Brooks
Gallo
Hoke
Matsui
Nussle
Sharp
Slattery
Wheat

□ 1355

Mr. SARPALIUS changed his vote from "yea" to "nay."

Mr. QUILLEN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MILLER of California. Mr. Speaker, pursuant to House Resolution 422, I call up from the Speaker's table the Senate bill, S. 21, to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

(For the text of S. 21, see proceedings of the Senate of Wednesday, April 13, 1994 (Legislative day of Monday, April 11, 1994), at page 7224).

MOTION OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, pursuant to House Resolution 422, I offer a motion.

The Clerk read as follows:

Mr. MILLER of California moves to strike all after the enacting clause of S. 21 and insert in lieu thereof the provisions of H.R. 518 as passed by the House, as follows:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "California Desert Protection Act of 1994".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) the federally owned desert lands of Southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

TITLE I—WILDERNESS ADDITIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's activities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

DESIGNATION OF WILDERNESS

SEC. 102. In furtherance of the purpose of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps referenced herein, are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred and ninety acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed 1", dated May 1991, and two maps entitled "Argus Range Wilderness—Proposed 2" and "Argus Range Wilderness—Proposed 3", dated January 1989, and which shall be known as the Argus Range Wilderness. If at any time within 15 years after the date of enactment of this Act the Secretary of the Navy notifies the Secretary of the Interior that permission has been granted to use lands within the area of the China Lake Naval Air Warfare Center for installation of a space energy laser facility, and that establishment of a right-of-way across lands within the Argus Range Wilderness is desirable in order to facilitate access to the lands to be used for such facility, the Secretary of the Interior, pursuant to the Federal Land Policy and Management Act of 1976, may grant a right-of-way for, and authorize construction of, a road to be used solely for that purpose across such lands, notwithstanding the designation of such lands as wilderness. So far as practicable, any such road shall be aligned in a manner that takes into account the desirability of minimizing adverse impacts on wilderness values.

(2) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand three hundred and eighty acres, as generally depicted on a map entitled "Bigelow Cholla Garden Wilderness—Proposed", dated July 1993, and which shall be known as the Bigelow Cholla Garden Wilderness.

(3) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and within the San Bernardino National Forest, which comprise approximately thirty-nine thousand two hundred acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Bighorn Mountain Wilderness.

(4) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred and seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Big Maria Mountains Wilderness.

(5) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirteen thousand nine hundred and forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated July 1993, and which shall be known as the Black Mountain Wilderness.

(6) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred and twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", dated May 1991, and which shall be known as the Bright Star Wilderness.

(7) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-eight thousand five hundred and fifteen acres, as generally depicted on two maps entitled "Bristol Mountains Wilderness—Proposed 1", and "Bristol Mountains Wilderness—Proposed 2", dated September 1991, and which shall be known as Bristol Mountains Wilderness.

(8) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-nine thousand seven hundred and forty acres, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", dated July 1993, and which shall be known as the Cadiz Dunes Wilderness.

(9) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-four thousand four hundred acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Cady Mountains Wilderness.

(10) Certain lands in the California Desert Conservation Area and Eastern San Diego County, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", dated February 1986, and which shall be known as the Carrizo Gorge Wilderness.

(11) Certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management, which comprise approximately sixty-four thousand three hundred and twenty acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Chemehuevi Mountains Wilderness.

(12) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on two maps entitled "Chimney Peak Wilderness—Proposed 1" and "Chimney Peak Wilderness—Proposed 2", dated May 1991, and which shall be known as the Chimney Peak Wilderness.

(13) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred fifty-eight thousand nine hundred and fifty acres, as generally depicted on two maps entitled "Chuckwalla Mountains Wilderness—Proposed 1" and "Chuckwalla Mountains Wilderness—Proposed 2", dated January 1989, and which shall be known as the Chuckwalla Mountains Wilderness.

(14) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirty-four thousand three hundred and eighty acres, as generally depicted on a map entitled "Cleghorn Lakes Wilderness—Proposed", dated September 1991, and which shall be known as the Cleghorn Lakes Wilderness. The Secretary may, pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road and utilities within the area depicted as "nonwilderness road corridor" on such map.

(15) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Clipper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as Clipper Mountain Wilderness.

(16) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand five hundred and twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", dated May 1991, and which shall be known as Coso Range Wilderness.

(17) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand acres, as generally depicted on a map entitled "Coyote Mountains Wilderness—Proposed", dated July 1993, and which shall be known as Coyote Mountains Wilderness.

(18) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred acres, as generally depicted on a map entitled "Darwin Falls Wilderness—Proposed", dated May 1991, and which shall be known as Darwin Falls Wilderness.

(19) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-eight thousand eight hundred and fifty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Dead Mountains Wilderness.

(20) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on two maps entitled "Domeland Wilderness Additions—Proposed 1" and "Domeland Wilderness Additions—Proposed 2", dated February 1986 and which are hereby incorporated in, and which shall be deemed to be a part of, the Domeland Wilderness as designated by Public Laws 93–632 and 98–425.

(21) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-three thousand seven hundred and eighty acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the El Paso Mountains Wilderness.

(22) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand nine hundred and forty acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated July 1993, and which shall be known as Fish Creek Mountains Wilderness.

(23) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand one hundred and ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Funeral Mountains Wilderness.

(24) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", dated February 1986 and which shall be known as Golden Valley Wilderness.

(25) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand seven hundred and twenty acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed", dated February 1986 and which shall be known as the Grass Valley Wilderness.

(26) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred and forty acres, as generally depicted on a map entitled "Hollow Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Hollow Hills Wilderness.

(27) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed", dated May 1991, and which shall be known as the Ibex Wilderness.

(28) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-four thousand and fifty-five acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed", dated May 1994, and which shall be known as the Indian Pass Wilderness.

(29) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, and within the Inyo National Forest, which comprise approximately two hundred five thousand and twenty acres, as generally depicted on three maps entitled "Inyo Mountains Wilderness—Proposed", numbered in the title one through three, and dated May 1991, and which shall be known as the Inyo Mountains Wilderness.

(30) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand six hundred and seventy acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated July 1993, and which shall be known as the Jacumba Wilderness.

(31) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred and twenty-nine thousand five hundred and eighty acres, as generally depicted on a map entitled "Kelso Dunes Wilderness—Proposed 1", dated October 1991, a map entitled "Kelso Dunes Wilderness—Proposed 2", dated May 1991, and a map entitled "Kelso Dunes Wilderness—Proposed 3", dated September 1991, and which shall be known as the Kelso Dunes Wilderness.

(32) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred and ninety acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed 1", dated February 1986, and a map entitled "Kiavah Wilderness—Proposed 2", dated May 1991, and which shall be known as the Kiavah Wilderness.

(33) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred nine thousand six hundred and eight acres, as generally depicted on four maps entitled "Kingston Range Wilderness—Proposed", numbered in the title one through four dated May 1994, and which shall be known as the Kingston Range Wilderness.

(34) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand eight hundred and eighty acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Little Chuckwalla Mountains Wilderness.

(35) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately thirty-three thousand six hundred acres, as generally depicted on a map

entitled "Little Picacho Wilderness—Proposed", dated July 1993, and which shall be known as the Little Picacho Wilderness.

(36) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and sixty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated September 1991, and which shall be known as the Malpais Mesa Wilderness.

(37) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred and five acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", dated October 1991, and which shall be known as the Manly Peak Wilderness.

(38) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-four thousand two hundred acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated July 1993, and which shall be known as the Mecca Hills Wilderness.

(39) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred and thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated May 1991, and which shall be known as the Mesquite Wilderness.

(40) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Newberry Mountains Wilderness.

(41) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred and sixty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", dated July 1993, and which shall be known as the Nopah Range Wilderness.

(42) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand two hundred and forty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated October 1991, and which shall be known as the North Algodones Dunes Wilderness.

(43) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand five hundred and forty acres, as generally depicted on a map entitled "North Mesquite Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the North Mesquite Mountains Wilderness.

(44) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand and seventy acres, as generally depicted on a map entitled "Old Woman Mountains Wilderness—Proposed 1", dated May 1994 and a map entitled "Old Woman Mountains Wilderness—Proposed 2", dated October 1991, and which shall be known as the Old Woman Mountains Wilderness.

(45) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-seven thousand four hundred and eighty acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated May 1994, and which shall be known as the Orocopia Mountains Wilderness.

(46) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-four thousand six hundred and forty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed 1", dated February 1986, and two maps entitled "Owens Peak Wilderness—Proposed 2" dated February 1986 and "Owens Peak Wilderness—Proposed 3", dated May 1991, and which shall be known as the Owens Peak Wilderness.

(47) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", dated February 1986 and which shall be known as the Pahrump Valley Wilderness.

(48) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred seventy thousand six hundred and twenty-nine acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Proposed 1", dated July 1993, and a map entitled "Palen/McCoy Wilderness—Proposed 2", dated July 1993, and which shall be known as the Palen/McCoy Wilderness.

(49) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and ten acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Palo Verde Mountains Wilderness.

(50) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated May 1991, and which shall be known as the Picacho Peak Wilderness.

(51) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand six hundred acres, as generally depicted on a map entitled "Piper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as the Piper Mountain Wilderness.

(52) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-six thousand eight hundred and forty acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Piute Mountains Wilderness.

(53) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Resting Spring Range Wilderness—Proposed", dated May 1991, and which shall be known as the Resting Spring Range Wilderness.

(54) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred and twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", dated May 1991, and which shall be known as the Rice Valley Wilderness.

(55) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately twenty-two thousand three hundred eighty acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Riverside Mountains Wilderness.

(56) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand seven hundred acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Rodman Mountains Wilderness.

(57) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-one thousand nine hundred acres, as generally depicted on two maps entitled "Sacatar Trail Wilderness—Proposed 1" and "Sacatar Trail Wilderness—Proposed 2", dated May 1991, and which shall be known as the Sacatar Trail Wilderness.

(58) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one thousand four hundred and forty acres, as generally depicted on a map entitled "Saddle Peak Hills Wilderness—Proposed", dated July 1993, and which shall be known as the Saddle Peak Hills Wilderness.

(59) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand nine hundred and eighty acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", dated July 1993, and which are hereby incorporated in, and which shall be deemed to be a part of, the San Gorgonio Wilderness as designated by Public Laws 88–577 and 98–425.

(60) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-four thousand three hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", dated March 1994, and which are hereby incorporated in, and which shall be deemed to be part of, the Santa Rosa Wilderness designated by Public Law 98–425.

(61) Certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand and eighty acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Sawtooth Mountains Wilderness.

(62) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-four thousand eight hundred acres, as generally depicted on two maps entitled "Sheep Hole Valley Wilderness—Proposed 1", dated July 1993, and "Sheep Hole Valley Wilderness—Proposed 2", dated July 1993, and which shall be known as the Sheephole Valley Wilderness.

(63) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-four thousand four hundred and ten acres, as generally depicted on a map entitled "Slate Range Wilderness—Proposed", dated October 1991, and which shall be known as the Slate Range Wilderness.

(64) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred and eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", dated February 1986, and which shall be known as the South Nopah Range Wilderness.

(65) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand and fifty acres, as generally depicted

on a map entitled "Stateline Wilderness—Proposed", dated May 1991, and which shall be known as the Stateline Wilderness.

(66) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Stepladder Mountains Wilderness.

(67) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand one hundred and eighty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Surprise Canyon Wilderness.

(68) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred and twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Sylvania Mountains Wilderness.

(69) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand seven hundred and twenty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated May 1991, and which shall be known as the Trilobite Wilderness.

(70) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Mountains Wilderness—Proposed 1", dated February 1986 and a map entitled "Turtle Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Turtle Mountains Wilderness.

(71) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately seventy-seven thousand five hundred and twenty acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Whipple Mountains Wilderness.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 103. Subject to valid existing rights, each wilderness area designated under section 102 shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

GRAZING

SEC. 104. Within the wilderness areas designated under section 102, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 133 note).

BUFFER ZONES

SEC. 105. The Congress does not intend for the designation of wilderness areas in section 102 of this Act to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINING CLAIM VALIDITY REVIEW

SEC. 106. The Secretary of the Interior shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within any wilderness area designated under section 102, and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

FILING OF MAPS AND DESCRIPTIONS

SEC. 107. As soon as practicable after enactment of section 102, a map and a legal description on each wilderness area designated under this title shall be filed by the Secretary concerned with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as is appropriate.

WILDERNESS REVIEW

SEC. 108. (a) The Congress hereby finds and directs that except for those areas provided for in subsection (b), the public lands in the California Desert Conservation Area, managed by the Bureau of Land Management, not designated as wilderness or wilderness study areas by this Act, have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1782), and are no longer subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(b) The following areas shall continue to be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976, pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness:

(1) Certain lands which comprise approximately sixty-one thousand three hundred and twenty acres, as generally depicted on a map entitled "Avawatz Mountains Wilderness—Proposed", dated May 1991.

(2) Certain lands which comprise approximately eighty thousand four hundred and thirty acres, as generally depicted on two maps entitled "Soda Mountains Wilderness—Proposed 1", dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989.

(3) Certain lands which compromise approximately twenty-three thousand two hundred and fifty acres, as generally depicted on a map entitled "South Avawatz Mountains—Proposed", dated May 1991.

(4) Certain lands which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed", dated February 1986.

(5) Certain lands which comprise approximately thirty-nine thousand seven hundred and sixty acres, as generally depicted on a map entitled "Kingston Range Potential Future Wilderness", dated May 1994.

(c) Subject to valid existing rights, the Federal lands referred to in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto, and shall be administered by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

DESIGNATION OF WILDERNESS STUDY AREA

SEC. 109. In furtherance of the provisions of the Wilderness Act, certain public lands in the California Desert Conservation Area of the Bureau of Land Management which comprise eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated May 1991, are hereby designated the White Mountains Wilderness Study Area and shall be administered by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976.

SUITABILITY REPORT

SEC. 110. The Secretary is required, ten years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future wilderness designation of, the lands as generally depicted on maps entitled "Surprise Canyon Wilderness—Proposed", "Middle Park Canyon Wilderness—Proposed", and "Death Valley National Park Boundary and Wilderness 15", dated September 1991 and a map entitled "Manly Peak Wilderness—Proposed", dated October 1991.

WILDERNESS DESIGNATION AND MANAGEMENT IN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 111. (a) In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Havasu National Wildlife Refuge, California, which comprise approximately three thousand one hundred and ninety-five acres, as generally depicted on a map entitled "Havasu Wilderness—Proposed", and dated October 1991, and which shall be known as the Havasu Wilderness.

(2) Certain lands in the Imperial National Wildlife Refuge, California, which comprise approximately five thousand eight hundred and thirty-six acres, as generally depicted on two maps entitled "Imperial Refuge Wilderness—Proposed 1" and "Imperial Refuge Wilderness—Proposed 2", and dated October 1991, and which shall be known as the Imperial Refuge Wilderness.

(b) Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) As soon as practicable after enactment of this section, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and Natural Resources and Merchant Marine and Fisheries of the House of Representatives. Such map

and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

SEC. 112. LAW ENFORCEMENT ACCESS.—Nothing in this Act, including the wilderness designations made by this Act, may be construed to preclude Federal, State, and local law enforcement agencies from conducting law enforcement and border operations as permitted before the enactment of this Act, including the use of motor vehicles and aircraft, on any lands designated as wilderness by this Act.

SEC. 113. FISH AND WILDLIFE MANAGEMENT.—As provided in section 4(d)(7) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction of the State of California with respect to fish and wildlife on the public lands located in that State. Management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title and shall include the use of motorized vehicles by the appropriate State agencies.

TITLE II—DEATH VALLEY NATIONAL PARK

FINDINGS

SEC. 201. The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical and wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a national park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK

SEC. 202. There is hereby established the Death Valley National Park, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness—Proposed", numbered in the title one through twenty-three, and dated May 1994 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 203. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 202 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

SEC. 204. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 202. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

WITHDRAWAL

SEC. 205. Subject to valid existing rights, the Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 206. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the additions to the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

GRAZING

SEC. 207. (a) The privilege of grazing domestic livestock on lands within the park shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

DEATH VALLEY NATIONAL PARK ADVISORY COMMISSION

SEC. 208. (a) The Secretary shall establish an Advisory Commission of no more than 15 Members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the Commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the Commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

SEC. 210. BOUNDARY ADJUSTMENT.—In preparing the maps and legal descriptions required by sections 204 and 502, the Secretary shall adjust the boundaries of the Death Valley National Park and Death Valley National Park Wilderness so as to exclude from such National Park and Wilderness the lands generally depicted on the map entitled "Porter Mine (Panamint Range) Exclusion Area" dated June 1994.

TITLE III—JOSHUA TREE NATIONAL PARK

FINDINGS

SEC. 301. The Congress hereby finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK

SEC. 302. There is hereby established the Joshua Tree National Park, as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed", dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness", numbered in the title one through four, and dated October 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 303. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be *adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).*

MAPS AND LEGAL DESCRIPTION

SEC. 304. Within six months after the enactment of this title, the Secretary shall file maps and legal description of the park designated by this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

WITHDRAWAL

SEC. 305. Subject to valid existing rights, Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from the operation of the Geothermal Steam Act of 1970.

UTILITY RIGHTS-OF-WAY

SEC. 306. Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 307. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

JOSHUA TREE NATIONAL PARK ADVISORY COMMISSION

SEC. 308. (a) The Secretary shall establish an Advisory Commission of no more than 15 Members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the Commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the Commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

TITLE IV—MOJAVE NATIONAL PRESERVE

FINDINGS

SEC. 401. The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national preserve;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop services, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans With Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

ESTABLISHMENT OF THE MOJAVE NATIONAL PRESERVE

SEC. 402. (a) There is hereby established the Mojave National Preserve, comprising approximately one million four hundred nineteen thousand eight hundred acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated May 17, 1994, which shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service, Department of the Interior.

(b)(1) There is hereby established the Dinosaur Trackway Area of Critical Environmental Concern within the California Desert Conservation Area, of the Bureau of Land Management, comprising approximately five hundred and ninety acres as generally depicted on a map entitled "Dinosaur Trackway Area of Critical Environmental Concern", dated July 1993. The Secretary shall administer the area to preserve the paleontological resources within the area.

(2) Subject to valid existing rights, the Federal lands within and adjacent to the Dinosaur Trackway Area of Critical Environmental Concern, as generally depicted on a map entitled "Dinosaur Trackway Mineral Withdrawal Area", dated July 1993, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

TRANSFER OF LANDS

SEC. 403. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

MAPS AND LEGAL DESCRIPTION

SEC. 404. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the preserve designated under this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 402. The maps and legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

ABOLISHMENT OF SCENIC AREA

SEC. 405. The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), is hereby abolished.

ADMINISTRATION OF LANDS

SEC. 406. (a) The Secretary shall administer the preserve in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

(b) The Secretary shall permit hunting, fishing, and trapping on lands and waters within the preserve designated by this Act in accordance with applicable Federal and State laws except that the Secretary may designate areas where, and establish periods when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, regulations closing areas to hunting, fishing, or trapping pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife on Federal lands and waters covered by this title nor shall anything in this Act be construed as authorizing the Secretary concerned to require a Federal permit to hunt, fish, or trap on Federal lands and waters covered by this title.

WITHDRAWAL

SEC. 407. Subject to valid existing rights, Federal lands within the preserve, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 408 (a) The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the preserve and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition *costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.*

(b)(1) Notwithstanding any other provision of law, the Secretary of the Interior shall permit the holder or holders of mining claims identified on the records of the Bureau of Land Management as Volco #A CAMC 105446 and Volco #B CAMC 105447 to continue exploration and development activities on such claims for a period of two years after the date of enactment of this Act, subject to the same regulations as applied to such activities on such claims on the day before such date of enactment.

(2) At the end of the period specified in paragraph (1), or sooner if so requested by the holder or holders of the claims specified in such paragraph, the Secretary shall determine whether there has been a discovery of valuable minerals on such claims and whether, if such discovery had been made on or before July 1, 1994, such claims would have been valid as of such date under the mining laws of the United States in effect on such date.

(3) If the Secretary, pursuant to paragraph (2), makes an affirmative determination concerning the claims specified in paragraph (1), the holder or holders of such claims shall be permitted to continue to operate such claims subject only to such regulations as applied on July 1, 1994 to the exercise of valid existing rights on patented mining claims within a unit of the National Park System.

EXPLANATION.—This would allow the holder(s) of the specified claims to continue exploration activities for 2 years after enactment of the bill in order to attempt to prove up those claims. At the end of that period (or sooner if the holder(s) request), there would be a validity determination concerning those claims. If it is determined that the claims would have been deemed valid if the validity determination had taken place on or before July 1, 1994, the holder(s) will be permitted to continue to mine as if they were in operation on that date on a patented claim within a National Park System unit.

GRAZING

SEC. 409. (a) The privilege of grazing domestic livestock on lands within the preserve shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the preserve, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the preserve and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

UTILITY RIGHTS OF WAY

SEC. 410. (a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way, or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: Provided, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than three electrical transmission lines,

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the upgraded transmission line begins, after which time there may be only one electrical transmission line in the lands encompassed by Mojave right-of-way and adjacent right-of-way,

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed,

(D) in the Eldorado rights-of-way and Mojave right-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to preserve resources,

(E) no more than 350 feet of additional land shall be issued, granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to preserve resources, and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on preserve resources.

(3) The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way issued, granted, or permitted to the Southern California Gas Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) The Secretary shall prepare within one hundred and eighty days after the date of enactment of this title, in consultation with the Southern California Gas Company, plans for emergency access by the Southern California Gas Company to its rights-of-way.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(d) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted to Molybdenum Corporation of America; Molycorp, Incorporated; or Union Oil Company of California (d/b/a Unocal Corporation); or its successors or assigns, or prohibiting renewal of such right-of-way, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

PREPARATION OF MANAGEMENT PLAN

SEC. 411. Within three years after the date of enactment of this title, the Secretary shall submit to the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives a detailed and comprehensive management plan for the preserve. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the preserve. Any development, including road improvements, proposed by such plan shall be strictly limited to that which is essential and appropriate for the administration of the preserve and shall be designed and located so as to maintain the primitive nature of the area and to minimize the impairment of preserve resources or ecological values. To the extent practicable, administrative facilities, employee housing, commercial visitor services, accommodations, and other preserve-related development shall be located or provided for outside of the boundaries of the preserve. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the preserve. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

GRANITE MOUNTAINS NATURAL RESERVE

SEC. 412. (a) There is hereby designated the Granite Mountains Natural Reserve within the preserve comprising approximately nine thousand acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of law generally applicable to units of the National Park System.

CONSTRUCTION OF VISITOR CENTER

SEC. 413. The Secretary is authorized to construct a visitor center in the preserve for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the preserve.

ACQUISITION OF LANDS

SEC. 414. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the preserve by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the preserve which are owned by

the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by the California State Lands Commission; and

(2) lands or interests therein within the boundary of the preserve which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the preserve or which is otherwise incompatible with the purposes of this title.

ACQUIRED LANDS BE MADE PART OF MOJAVE NATIONAL PRESERVE

SEC. 415. Any lands acquired by the Secretary under this title shall become part of the Mojave National Park.

MOJAVE NATIONAL PARK ADVISORY COMMISSION

SEC. 416. (a) The Secretary shall establish an Advisory Commission of no more than 15 Members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the Commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the Commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

NO ADVERSE AFFECT ON LAND UNTIL ACQUIRED

SEC. 417. Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law. Neither the location of such lands within such boundaries nor the possible acquisition of such lands by the United States shall constitute a bar to the otherwise lawful issuance of any Federal license or permit other than a license or permit related to activities governed by 16 U.S.C. 460l–22(c). Nothing in this section shall be construed as affecting the applicability of any provision of the Mining in the Parks Act (16 U.S.C. 1901 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), or regulations applicable to oil and gas development as set forth in 36 CFR 9B.

TITLE V—NATIONAL PARK WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 501. The following lands are hereby designated as wilderness in accordance with the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred sixty-two thousand one hundred and thirty-eight acres, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated May 1994 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, and dated May 1994 or prior, and which shall be known as the Death Valley Wilderness.

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand seven hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94–567.

(3) Mojave National Preserve Wilderness, comprising approximately six hundred ninety-four thousand acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated May 1994 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated May 1994 or prior, and which shall be known as the Mojave Wilderness.

(4) Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on a map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 502. Maps and a legal description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the wilderness areas and legal descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and descriptions.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 503. The areas designated by section 501 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VI—MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK

SEC. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY

SEC. 602. (a) There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, Federal lands within the sanctuary, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

LAND TENURE ADJUSTMENTS

SEC. 603. In preparing land tenure adjustment decisions within the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

DISPOSAL PROHIBITION

SEC. 604. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture may not dispose of any lands within the boundaries of the wilderness, parks, or preserve designated under this Act or grant a right-of-way in any lands within the boundaries of the wilderness designated under this Act. Further, none of the lands within the boundaries of the wilderness, parks, or preserve designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District and any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar Acts.

MANAGEMENT OF NEWLY ACQUIRED LANDS

SEC. 605. Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

NATIVE AMERICAN USES

SEC. 606. (a) In recognition of the past use of the parks, wilderness, and preserve areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such parks, wilderness, and preserve areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of park, wilderness, or preserve areas *in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).*

(b)(1) The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area.

(2) Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the Senate, and the Committee on Natural Resources of the House of Representatives on the results of the study conducted under paragraph (1).

WATER RIGHTS

SEC. 607. (a) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 43 U.S.C. 666; commonly referred to as the McCarran Amendment).

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

(e) Nothing in this Act shall be construed to affect the operation of federally owned dams located on the Colorado River in the Lower Basin.

(f) Nothing in this Act shall be construed to amend, supersede, or preempt any State law, Federal law, interstate compact, or international treaty pertaining to the Colorado River (including its tributaries) in the Upper Basin, including, but not limited to the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those rivers.

(g) With respect to the Havasu and Imperial wilderness areas designated by section 111 of title I of this Act, no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise.

STATE SCHOOL LANDS

SEC. 608. (a) Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School Lands (hereinafter in this section referred to as "State School Lands") or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act. The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committees a list of the following:

(1) The State School Lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, including in the following priority:

(A) Lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues.

(B) Federal lands in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(3) The Secretary may exclude, in his discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

(c)(1) If an agreement under this section is for an exchange involving five thousand acres or less of Federal land or interests therein, or Federal lands valued at less than $5,000,000, the Secretary may carry out the exchange in accordance with the Federal Land Policy and Management Act of 1976.

(2) If an agreement under this section is for an exchange involving more than five thousand acres of Federal land or interests therein, or Federal land valued at more than $5,000,000, the agreement shall be submitted to the Committees, together with a report containing—

(A) a complete list and appraisal of the lands or interests in lands proposed for exchange; and

(B) a determination that the State School Lands proposed to be acquired by the United States do not contain any hazardous waste, toxic waste, or radioactive waste.

(d) An agreement submitted under subsection (c)(2) shall not take effect unless approved by a joint resolution enacted by the Congress.

(e) If exchanges of all of the State School Lands are not completed by October 1, 2004, the Secretary shall adjust the appraised value of any remaining inholdings consistent with the provisions of section 206 of the Federal Land Management Policy Act of 1976. The Secretary shall establish an account in the name of the Commission in the amount of such appraised value. Title to the State School Lands shall be transferred to the United States at the time such account is credited.

(f) The Commission may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. In the event that the balance in the account has not been reduced to zero by October 1, 2009, there are authorized to be appropriated to the Secretary for payment to the California State Lands Commission funds equivalent to the balance remaining in the account as of October 1, 2009.

(g) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

EXCHANGES

SEC. 609. (a) Upon request of the holder of private lands (hereafter in this section referred to as the "landowner"), the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of the landowner or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to the landowner and to the Committees a report on the fulfillment of the obligations of the Secretary pursuant to section 12 of Public Law 94–204, as amended, and those Native American property accounts to be fulfilled through that public law by assignment and the proposed methods of fulfilling such obligations, and a list of the following:

(1) Lands of the landowner or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(3) The Secretary may exclude, in his discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than $5,000,000, the Secretary shall provide to the Committees a detailed report of each such land exchange agreement.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committees under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a one hundred eighty-day right of first refusal to exchange for any Federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to the landowner for exchange in accordance with this section.

(e) On January 3, 1999, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all private lands eligible for exchange under this section for which an exchange has not been completed and a list of the Native American property accounts that have not been fully utilized. With respect to any of such lands for which an exchange has not been completed by October 1, 2004 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of each landowner (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by the landowner to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Upon 60-day written notice by the Secretary to the holders of the Native American property accounts that have not been fully utilized, the landowner may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. Upon approval by the Secretary in writing, the credits in the landowner's exchange account may be transferred or sold in whole or in part by the landowner to any other party, thereby vesting such party with all the rights formerly held by the landowner. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE VII—DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS

DEFINITIONS

SEC. 701. For the purposes of this Act:

(1) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(2) The term "public lands" means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management.

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. There are hereby authorized to be appropriated to the National Park Service and Bureau of Land Management to carry out the purposes of this Act an amount not to exceed $36,000,000 over and above. That provided in fiscal year 1994 for additional administrative and construction costs over the fiscal year 1995–1999 period and $300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after the date of enactment of this Act.

TITLE VIII—CALIFORNIA MILITARY LANDS WITHDRAWAL

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated July 1993 and filed in accordance with section 803.

(c) EL CENTRO RANGES.—(1) Subject to valid existing rights, and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundaries of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) but not the mineral or geothermal leasing laws. Such lands are reserved for use by the Secretary of the Navy for—

(A) defense-related purposes in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa) dated March 1993 and a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" dated March 1993.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection

(g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan. Nothing in this title shall affect geothermal leases issued by the Secretary of the Interior prior to the date of enactment of this title or the responsibility of the Secretary to administer and manage such leases consistent with the provisions of this title.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal made by subsection (a) of section 802 or relinquishment of the lands withdrawn by that subsection, Navy contracts for the development of geothermal resources at China Lake then in effect (including amendments or renewals by the Navy after the date of enactment of this Act) shall remain in effect: Provided, That the Secretary of the Interior, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

(h) MANAGEMENT OF EL CENTRO RANGES.—To the extent consistent with this title, the lands and minerals within the areas described in section 802(c) shall be managed in accordance with the Cooperative Agreement entered into between the Bureau of Land Management, Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987.

SEC. 805. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. MILITARY OVERFLIGHTS.

(a) EFFECT OF ACT.—(1) Nothing in this Act shall be construed to—

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) affect the designation of new units of special airspace or the establishment of new flight training routes over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National Wilderness Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) MONITORING.—The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National Wilderness Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with such overflight activities.

SEC. 812. TERMINATION OF PRIOR RECLAMATION WITHDRAWALS.

Except to the extent that existing Bureau of Reclamation withdrawals of public lands were identified for continuation in Federal Register Notice Document 92-4838 (57 Federal Register 7599, March 3, 1992), as amended by Federal Register Correction Notices (57 Federal Register 19135, May 4, 1992; 57 Federal Register 19163, May 4, 1992; and 58 Federal Register 30181, May 26, 1993), all existing Bureau of Reclamation withdrawals made by Secretarial Orders and Public Land Orders affecting public lands and Indian lands located within the California Desert Conservation Area established pursuant to section 601 of the Federal Land Policy and Management Act of 1976 are hereby terminated.

TITLE IX—BUY AMERICAN ACT

SEC. 901. COMPLIANCE WITH BUY AMERICAN ACT.

None of the funds made available in this Act may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act"), which are applicable to those funds.

Amend the title so as to read: "An Act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes.".

The SPEAKER pro tempore (Mr. SWIFT). The question is on the motion offered by the gentleman from California [Mr. MILLER].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 518) was laid on the table.

PERSONAL EXPLANATION

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. NUSSLE. Mr. Speaker, on Wednesday, July 27, I missed the vote on final passage of the California Desert Protection Act—Roll Call Vote No. 357. I would like to take this opportunity to express my opposition to this measure. While I believe the California deserts are a national treasure, I believe H.R. 518 is fundamentally flawed because it grants the Federal Government complete control of millions of acres of land without regard for private property owners rights. Had my vote been recorded, it would have been recorded as "nay."

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 518 and S. 21.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that in the enrollment of S. 21, as amended by the House, the enrolling clerk be authorized to correct section numbers, correct cross-references, and make any other necessary or appropriate technical or conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4675

Mr. LEWIS of Florida. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4675.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERSONAL EXPLANATION

Ms. NORTON. Mr. Speaker, on rollcall No. 356, I was detained, I had a matter in the Senate, ran over here, did not get over here in time. It was a motion to limit debate on the bill and on all amendments, rollcall No. 356. If I had been here, I would have voted "aye."

CHILD SUPPORT ENFORCEMENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I just wanted to advise the House that one of the things that the Congresswoman are working so hard on has now moved forward one step and we are very pleased about that; that is, child support enforcement.

I want to really acknowledge the gentlewoman from the District of Columbia [Ms. NORTON] because she kicked out the whole part on Federal employment. What that part says is that people who are in arrears in child support cannot get Federal jobs or Federal benefits without showing a plan and committing to that plan as to how they are going to pay that arrearage.

□ 1400

I think Americans are ready for people to start taking responsibility for their own children. When we see that over $34 billion a year in child support is not collected, everybody is saying we have to do everything we can.

The Comprehensive Child Support Enforcement Act of 1994 will do this. We have spent 3 years trying to figure out how to do this, and I think it is wonderful that the gentlewoman from the District of Columbia [Ms. NORTON] was the first to report this out. We hope that every other committee in the House will get this out, and we can do some welfare prevention around here and try to do everything we can to hold America's children economically harmless when the family comes apart.

So I challenge all of the rest of the committees to catch up with the Committee on Post Office and Civil Service.

EXPEDITING RETURN OF AMERICAN CHILDREN TO THE UNITED STATES FROM JORDAN

(Mr. KLEIN asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore (Mr. HINCHEY). Without objection, the gentleman from New Jersey is recognized for 1 minute.

There was no objection.

Mr. KLEIN. Mr. Speaker, I come here to the floor today to publicly urge the King Hussein of Jordan to do all in his power to expedite the return of two young children to their home in the United States.

Several weeks ago, there was a horrible murder in my home State of New Jersey. Mohammed Abequa brutally strangled his wife and fled to Jordan with their two young children. Jordanian officials have detained Mr. Abequa, but my concern today is not with the process of his extradition, but with the well-being of these two young children.

These children are American born and American citizens. Their murdered mother served 4 years in the U.S. Army. She loved this country and wanted her children to grow up in the United States. Her life and memory should be honored by the return of her children to their native land.

Their mother's sister, Ms. Nesimeh Dokur, has been granted legal guardianship of the children by the U.S. courts. I have pledged to her that I will do all in my power to bring about the swift return of the children.

Yesterday, I had the pleasure of speaking with the King following yesterday's historic joint session of Congress. I would like to thank the King for his encouragement and expression of sympathy and urge him to help arrange the prompt return.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRAGIC INTENTIONAL SINKING OF REFUGEE FILLED TUGBOAT OFF CUBAN COAST

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I come before the House this afternoon, just like my colleagues, LINCOLN DIAZ-BALART, BOB MENENDEZ, BOB DORNAN, and DAN BURTON did before me, to bring to the public's attention an incident which has been inconceivably hidden from the American public, by most of the international press. I refer to the recent sinking by the Castro regime of a tugboat filled with over 70 Cuban refugees attempting to flee the island.

Mr. Speaker, our community in south Florida has been stunned by this great tragedy. Although we are accustomed to expecting the cruelest and most barbaric acts by the Castro regime, this incident ranks among the most inhumane and the most monstrous the regime has committed in its 35 years of totalitarian rule.

Some might not believe the gory details. A tugboat filled with over 70 passengers was allowed, on purpose, to sail 7 miles from the coast, and then was mercilessly attacked with water cannons and rammed continuously by the Castro regime until the tugboat was split in half.

Fathers and mothers held up their sons and daughters up to full view in hopes of arising some feelings of compassion from Castro's thugs. But to no avail. After ramming and attacking the boat, survivors have reported that the Cuban vessels sailed in circles around the damaged tugboat so as to create a whirlpool effect that would lead to the slow death of the Cuban refugees in the ocean.

But, Mr. Speaker, the obvious incompassion of the regime does not stop here. The regime is actually blaming this barbaric incident on the United States. Yesterday, during a speech given by Fidel's brother, Raul Castro, the regime did exactly this. Among his most incredible statements were: "The lives lost on the bottom of the sea have to be blamed first of all on the United States and their permanent aggressive attitude against our country * * *." Raul Castro then went on to say that the pursuing Cuban boats were just trying to deter the refugee vessel from making what he called a "death trip." Unbelievable, Mr. Speaker.

As usual, the facts do not mean anything for the Communist regime. Although it was not the United States who rammed the boat, it was not the United States who shot water cannons at the boat, nor was it the United States who purposely aided in the acceleration of the Cuban refugees drowning, yet somehow, in some way, this incident, according to the Castro regime, was the fault of the United States.

As the old saying goes, Mr. Speaker, if this were not so tragic it would be ironically funny. But the oppression and complete disregard for human rights against the Cuban people has been occurring in Cuba for the past 35 years.

Yet, as the cameras of the world and the international community's eyes are on the human rights violations in other spots on the globe, those violations which occur in Cuba are somehow forgotten or, worst yet, ignored. The Cuban people's misery is allowed to go unreported. Instead, we find stories in major newspapers, as my colleague DIAZ-BALART pointed out last night, of Cuba's tourism attractions or about the so-called reforms the regime seeks to implement.

Yet some voices clamor for the acceptance of Castro and his bloody regime through the implementation of relations with the regime. Some voices incessantly blame all that is wrong in Cuba on the United States embargo. I bet they're still trying to come up with a new excuse to explain this latest incident by the regime against the Cuban people.

We are tired of excuses; the Cuban people are tired of excuses. It is time for all those who have made up excuses for Castro, and those who lobby for the lifting of the United States embargo on Cuba, to wake up and listen to the voices of desperation of the Cuban people. Castro will not reform; Castro will not change his ways. Castro is only interested in maintaining himself in power without regard to anything or anybody.

In this day and age, Mr. Speaker, when freedom is apparently sweeping the globe, some forget that there are still regimes which put a very small price on the life of its citizens. The Castro regime has and still continues to embody this evil.

But let it be known that we will continue our struggle for democracy in Cuba. We will continue to actively condemn the human rights violation of the regime and the lack of freedom on the island. The Cuban people will not forget, either.

As one of Cuba's greatest sons, Jose Marti, once said, "Ver un crimen en silencio, es cometerlo."—"To witness a crime in silence, is to commit it".

□ 1410

THE 50TH ANNIVERSARY OF THE WARSAW UPRISING

The SPEAKER pro tempore (Mr. HINCHEY). Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise tonight to pay tribute to the courageous people of Poland on their upcoming 50th anniversary of the Warsaw uprising. This is the third in a series of special orders I will give this week to bring attention to this event. I will continue this evening by reading to the membership, excerpts from the book, "Forgotten Holocaust: The Poles Under German Occupation, 1939–1944," by Richard Lucas.

August 5.—The German counterattack began with a massive assault by the Luftwaffe, which dropped incendiary bombs.

Between ground and air action, houses were systematically leveled on both sides of the street, barricades were destroyed, and the entire area became an inferno.

Kaminski's unit, which began its assault at a more leisurely 9:30 a.m. on August 5, only advanced 300 yards. One reason for the slow progress of its attack stemmed from stubborn Polish defenders who were hopelessly outmanned and outarmed. Another reason, however, was the degeneration of the Kaminski counterattack into an orgy of murdering, looting and raping—converting men into a mob of marauders more akin to Attila's hordes than to soldiers of a modern disciplined army.

Most of the responsibility for the crimes in Warsaw has been leveled against the infamous Dirlewanger Brigade and the Russians in Kaminski's Brigade. Though this was true to a large extent, there were also regular, SS, and police formations who were involved in the degraded activities of these early August days.

Oskar Dirlewanger was one of those degenerates who, in saner days, would have been court-martialed out of the German army. Born in Wuerzberg in 1895, he served in the German army in World War I, after which he went on to earn a doctorate in economics. Though intelligent, he was a liar, an alcoholic and a pervert who molested children. Convicted of a sexual assault upon a minor in 1935, he spent two years in prison. When released, he was arrested again on the same charge, but thanks to his mentor, Gottlob Berger, an SS general, he was released and served with the Condor Legion in Spain. In July 1940, he took over a unit of game poachers. Later, the group swelled to battalion strength and was sent to fight Polish partisans as the SS Special battalion Dirlewanger. He was a sadist who treated his own men as brutally as he treated the Poles. Beating them with clubs to maintain discipline was not uncommon. He even casually shot men he did not like. Little wonder that many of his soldiers deserted to the Russians when they had a chance. After 1942, hardened criminals were drafted into his unit, which gave and expected no quarter from the enemy.

Another criminal, Mieczystaw Kaminski, commanded an SS brigade bearing his name, though he dubbed it the "Russian Popular Army of Liberation." He was brought up a Russian, although his father was Polish and his mother German. Kaminski spent years in a Soviet labor camp and like most of them lived and worked in horrible conditions. He vowed never to return to one again. For a time, Soviet authorities forced him to live in exile in Lokot, near Briansk. Being a resourceful fellow, he became mayor of the city, and from that point on his career skyrocketed.

In return for providing the Nazis with food requisitions and maintaining the area against the Soviet partisans, Kaminski established a virtual dictatorship over Lokot.

The clever Kaminski cultivated his own popularity by pandering to the peoples' anti-Soviet feeling, allowing his soldiers freedom to loot and granting rapid promotion to anyone he liked.

The number of non-German operating in the SS and police units was very large: Byelorussian and Ukrainians, for example, continued more than fifty percent of some of them.

The Kaminski and Dirlewanger brigades have the dubious distinction of perpetuating the worst crimes of any units in Warsaw.

What transpired in Wola and Ochota, the western and southwestern districts of Warsaw, during the early days of August must be considered one of the most horrendous tragedies in a tragedy-filled war. On August 5 alone, 10,000 civilians were murdered.

The tragedy for Wola began in the morning of August 4, when Alexandra Kreczkiewicz and 500 of her neighbors of Gorszewska Street were ordered to evacuate their apartments. Children and women cried. Several people were shot at the exit of the building. It was like the Jewish ghetto all over again. The Germans drove Kreczkiewicz and her friends to a potato field where everyone was told to lie down to lessen the chance for escape. A few moments later the group was told to get up, and it was driven to a nearby bridge. "There was no doubt about our fate," Kreczkiewicz related.

When one woman asked where they were being taken, the grim answer came, "German women and children are perishing by your fault; therefore, all of you must perish." The SS men divided the people into ranks and one contingent of 70 people was separated and ordered to go behind the bridge. The remaining group, including Kreczkiewicz, was ordered against the wall between the barbed wire. Soon shots rang out. People died. "At a distance of five meters in front of us," she said, "one of the henchmen, very quietly loaded his machine gun; another was preparing his camera; they wanted to prolong the execution . . . I fell down wounded and lost consciousness."

When she recovered her senses, Kreczkiewicz feigned death. The Germans left a guard over the corpses while they burned the houses in the neighborhood. Scorched by the heat and almost suffocated by the smoke, she thought of how to get out of the hell in which she found herself. She crawled behind a basket of potatoes and inched her way forward when suddenly a cloud of smoke obscured the guard's vision of the area. She quickly got up and ran to a cellar of a house that was on fire. She met a few wounded people who were fortunate enough to have escaped from the pile of corpses. Despite the heat and smoke, the determined group of survivors tunneled their way to a nearby house untouched by fire. They were safe.

The slaughter continued the next day in Wola. Between 11:00 AM and noon, the Germans ordered everyone out of building No. 18 Dzialdowska Street. A pregnant woman with three children was one of the last to leave the cellar where she had been hiding, hoping to spare herself and her family. The Germans escorted the inhabitants of the house to the Ursus factory on the corner of the Wolska and Skierniewicka streets. There, in the factory yard, mass executions took place. The people who stood at the entrance were pushed inside in groups of twenty. A twelve-year-old boy, seeing the bodies of his parents and a little brother through the half-opened door, went hysterical. German soldiers promptly beat him.

Everyone knew what awaited them there. And the agonizing thing was the realization they could neither escape nor buy their lives. The pregnant woman came in last and hovered deliberately in the background, frantically hoping the SS would not kill someone who was about to have a baby. But such considerations did not apply to people like Kaminski's and Dirlewanger's men. They pushed her into the courtyard where she saw heaps of corpses at least three feet high. Bodies were everywhere. Then the Germans pushed her into a second, inner courtyard with a group of twenty people, many of whom were young children not much older than ten and twelve. There was a paralyzed old woman whose son-in-law had been carrying her all the time on his back. Her daughter was at her side. The Germans murdered the entire family. The old lady was literally killed on her son-in-law's back, and he along with her.

The Germans called out the people in groups of four and led them to the end of the second yard where there was a pile of bodies. There the Germans shot them through the back of their heads with revolvers. No sooner had one group been murdered than another group was escorted to the pile of corpses and liquidated. People screamed, begged for mercy, cried and even attempted to escape.

The pregnant woman was in the last group of four. She begged the German soldiers to save her and her children, offering a large amount of gold to them to spare their lives. After they took the gold, she breathed easier, only to find that the officer supervising the execution would not allow her to go free. She and her children were pushed toward the place of execution, where she held her two younger children by one hand and the elder boy by the other. The children were crying and praying. Seeing the mass of bodies the elder boy cried out, "They are going to kill us!" The first shot hit him, the second one the mother, and the next two killed the younger children. The mother fell to one side. The shot was not fatal; the bullet had penetrated the back of her head on the right side and gone through her cheek. She spat out several teeth, her body grew numb. But she was conscious and aware of the horror going on around her. There she lay as other men, women, and children were executed, their bodies falling on her. Late in the day when the orgy of executions finally stopped, she was able to crawl to safety.

The SS booted Maria Bukowska out of her home, which was burned. She, along with several hundred other women of the area, were pushed down the street. Anyone who looked back was immediately beaten. Kaminski's men took watches and jewelry from hapless women, who were allowed to carry suitcases a while longer. When the crowd reached the central market, even these items were taken from them and thrown on lorries which were quickly driven away. Then a car with SS officers drove up. The men ogled several pretty girls in the crowd and promptly seized them. The victims ended up in a church, used as a temporary detention center, where the SS took away the remainder of the belongings. All the young girls, some no more than twelve or thirteen, were left behind for the amusement of the men while the older women were put on a train for Pruszkow, the camp set up by Bach-Zewelski to receive Polish civilians.

The SS also followed a pattern of murdering, looting and raping in Ochota, another western district of the city. On August 4, 50 of Kaminski's mob surrounded some houses on Grojecka Street. Under the pretext of looking for arms, they looted homes and then took 160 unarmed men, including twelve-year-olds, led them into a cellar, and shot them in the backs of their heads. They poured gasoline over the corpses, then threw grenades. The SS repeated the same grisly exhibition early the next morning at another house, this time killing 40 men and boys. The same morning on another street, Kaminski's men kicked 40 people into a cellar and machine gunned everyone. Only three survived.

EXPRESSING DEEP ANGER AT ILLEGAL SEIZURE OF AMERICAN SCALLOPERS BY THE GOVERNMENT OF CANADA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I want to express the very deep anger that I and many of my colleagues feel at the illegal seizure by the Government of Canada of some American scallopers in international waters.

The fishermen of the Northeast, particularly of New Bedford, which I represent, are among the hardest-working, most dedicated people I have ever met. They have fallen on difficult economic times, because they have done their job too well. They have caught too many fish, too many scallops, according to the calculations.

We are all working together to try to alleviate the distress in that situation by a variety of ways. One of the things people have done is to go into international waters, fully in conformance with the laws of the United States which cover them as U.S. citizens, to find new sources. The Canadian Government and the American Government have a difference of opinion about certain technical aspects of the scallops there, and the Canadian Government has now decided unilaterally to resort to the use of force and has physically seized in international waters law-abiding, peaceful Americans who were fully in compliance with the laws of our country.

I am pleased that, after hearing from myself and others, the State Department has officially protested. I am pleased that the chairman of the Committee on Merchant Marine and Fisheries, the greatest expert on maritime issues, I believe, in this Congress, my colleague, the gentleman from Massachusetts [Mr. STUDDS], has joined us in this, and the Senators from our State are also joining us as well as others, I believe, because the Canadian Government simply must not be allowed unilaterally to go to war with unarmed Americans.

Now, many of us have argued that we should be pushing more for the rule of law in the world, that unrestrained unilateral force is not the way to solve legitimate disputes. The Canadian Government has simply repudiated that view. They have used force unilaterally against Americans, and I want to stress this, Americans who are violating no law which those Americans are bound to obey. They are not violating American law, and they were in international waters.

If Canada wishes to negotiate this, I hope we will. We have questions involving the Hague Line, the demarcation line between Canadian and American territorial waters, where the people I represent believe, with good reason, that has worked out much more harshly toward them than had once been anticipated. Perhaps there could be a reopening of that and renegotiation, taking into account various factors. All of those things could be discussed if we were discussing them.

But for the Canadians unilaterally to send ships in and seize lawful American ships is unacceptable, and the State Department must continue its very vigorous project.

And I will add, for a country which just urged us to ratify NAFTA, Canada is a full participant and beneficiary from NAFTA, for them within a few months to resort to unilateral force against Americans who are guilty of no crime except trying to earn their living in a difficult manner clearly belies the spirit we were told would be ushered in by NAFTA.

I can tell you, as a Member of Congress, Mr. Speaker, and I know I am not alone here, that I will feel very disinclined to cooperate with matters of importance to the Government of Canada and the economy of Canada so long as they are maintaining this policy of illegal seizure of Americans.

□ 1420

There are a number of issues where the Canadian Government has expressed its opinion. We have all got letters from time to time. The Canadian Embassy in fact is the first Embassy to move itself nearer Congress. Most of the other Embassies are up by the State Department, further up, downtown. The Canadian Embassy moved toward Congress, a few blocks away, because they recognize the importance, apparently, of good relations with Congress.

They have made a serious mistake by preying on these American ships if they think that is the way to get along with the Congress. I will tell you as a Member of Congress, as a member of the Committee on Banking, Finance and Urban Affairs, as a member of the Committee on the Judiciary, I will be doing everything I can, working with my colleagues, many of whom feel the same way, to let the Canadians know that cooperation must be a two-way street or a two-way ocean. They cannot use force unilaterally against us and expect cooperation and conciliation here in the House.

I will continue to do everything I can to push the executive branch into the firmest possible action and to adopt policies here in the Congress which protect innocent, law-abiding Americans from this use of force.

Canada has made an error. It can correct that error by releasing these people, reimbursing them for the costs unfairly imposed upon them, release their boats and dealing with this in a civilized and internationally lawful way.

I will continue to insist that that be the way we do it.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4453, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1995

Ms. KAPTUR. I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 4453) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER pro tempore (Mr. HINCHEY). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

HEALTH CARE REFORM: PIZZA HUT, McDONALD'S, AND THE FAST-FOOD INDUSTRY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from West Virginia [Mr. WISE] is recognized for 60 minutes as the designee of the majority leader.

Mr. WISE. Mr. Speaker, I am joined by Ms. DELAURO in taking out this special order today. The gentlewoman from Connecticut and I want to talk some about something that I know both of us enjoy a lot, in fact I believe every American does, and that is pizza, certainly one of America's most common meals.

But in enjoying pizza, we need to know something, that while it might not be the best for preventive medicine or preventive health, it is still very enjoyable to eat, of course, the problem with pizza is that it often does not provide for health, provide for health care.

So in talking about pizza—incidentally, I note with interest that during the health care debate for some reason I have become the expert about health care and pizza, mainly because the first claims made by Godfather's Pizza and then the study that came out in the health care reform project about the practices of Pizza Hut in purchasing health care, that I have chosen to focus on pizza and the fast-food industry and pizza particularly.

Now, I think in pizza—always, of course, subject to a good pie chart—I think in pizza there is often told the story of health care because pizza reflects what is often said about health care and it also reflects what is not true about health care.

So I am going to be quoting extensively during this discussion from the health care reform project study as well as some of my own analyses.

First of all, what the health care reform project looked at was the practices of Pizza Hut and McDonald's, two of our largest fast-food producers, and how they were treated in other countries. And what they found was that in four other nations where both these companies serve, that they paid health care costs. Why? Because the Governments require them to.

There is a concept of shared responsibility, the employer and employee are expected to contribute to health care, and the goal is to have everyone with guaranteed private insurance that cannot be taken away.

So the health care reform project looked at Belgium, Germany, Japan, and the Netherlands. What they found out was that Pizza Hut—doing quite well in those countries as it is, I might add, in the United States—what they found out was that in those nations, that these companies, Pizza Hut and McDonald's, paid for health care insurance because the Government requires them to. They do not pay in the same way in the United States.

And yet they argue that if they are forced to pay in the United States, that somehow this is going to cause the loss of tens of thousands of jobs. I think it is worth looking at some of the claims that Pizza Hut and McDonald's make.

Incidentally, as I get to that, I am not necessarily singling out Pizza Hut or McDonald's. I happen to be a patron, my family and I are patrons of both. We like the breadsticks, which come a little slowly to the table, but otherwise it is a pretty good pizza.

But what we do not appreciate is the fact that those who work in Pizza Hut, those who work in McDonald's, and those who work in many other fast-food chains do not have the same health care coverage as many of the customers that come in the door.

So this is not to single out two companies in particular but to use them as examples and to say that it is most likely true in the fast-food industry and in many other small businesses.

Now, let us look at some of the facts: First of all, in response to the Health Care Reform Project study, what Pizza Hut and McDonald's said was that—particularly Pizza Hut—was that if you force us to provide health insurance in the United States in the same way that we are paying in other countries, in other words, we are willing to treat employees in other nations better than we treat employees in this Nation, in our Nation, in the United States of America, but if you force us to do that, then what you will see is a loss of thousands of jobs and one reason is because of skyrocketing prices. "We will have to charge more," they say. In fact, if you look at Germany and Japan, the price of pizza is much higher. An $11 pizza might be as much as $19," and I believe the figure was used, "$23 in those countries." Well, yes, that is true.

What they do not point out is this: That because of the difference in the yen, deutsche mark and dollar and the fact that the yen and deutsche mark are going stronger as the dollar grows weaker, that that means that anything priced in dollars overseas becomes more expensive everyday. So the exchange rate is causing some of that difference.

The second thing they are not pointing out is their prices are higher in those countries mainly because those countries have a higher per capita income. So there is no real correlation.

In fact, if you look, I think it is interesting to note in the practices in other countries, in Germany and Japan—I do not think, while they are going through some recession at this point, no one thinks their economy is ready to bottom out—Germany and Japan both charge the employer 50 percent of the premium cost for insurance and the employee pays 50 percent. In Belgium, one of the other countries studied, the employer pays almost 4 percent of wages and the employee 2½ percent. In the Netherlands the employer pays almost 5 percent of wages and the employee about 3.15 percent.

So let us look at the economics behind pizza. I have spent some time studying pizza. I regret that I do not have my pie charts with me, but another day perhaps.

Most acknowledge that labor costs in making pizza are about 25 to 30 percent. So that means whatever the cost of that pizza, remember that cost is built into it advertising, marketing, food acquisition, management, administration and wages and labor. Labor costs around 30 percent for Pizza Hut, 30 percent for most fast-food industries. In some cases it is actually lower. That means then that on a $10 pizza—and, yes, you can still get a $10 pizza—on a $10 pizza that means about $3.35 is labor. That means then that under the original Clinton bill—and, of course, the Clinton bill is not with us anymore, and the assistance that it provided to small business is even better now under the new proposal—but let us take the Clinton bill. The Clinton bill says that the employer would be responsible for 80 percent of premiums. What many people have chosen not to focus on, particularly the opponents like Pizza Hut, while 80 percent of the premium was to be paid by the employer, in no event was that premium to exceed 7.9 percent, and in some cases, for small businesses under 25 employees, it would be as low as 3.5 percent.

□ 1430

Three and a half percent of payroll; what that means then is, if you have a $10 pizza, and a third of the cost is roughly $3.35, then what you have is you have about $3.35 times—round it off to 8 percent—you got about 24 cents, 20 to 24 cents, of that would be reflected as an increase resulting from health care legislation. That is without, of course, factoring in some offsets. First of all, it is that every insurance policy has built into it, that you and I pay for and every working person, every insurance policy has built into it, about 25 percent of its premium cost is not going to our health care. It is going to pay for the health care of people who do not have insurance, namely the fast food employees and a lot of people like them, so Pizza Hut could save some money on the insurance it provides by providing the insurance for everyone.

Second thing is that it is very likely that workers compensation costs, which are often a large factor in many businesses, would be significantly lower were this legislation to pass because, instead of using the workers comp system, the employer would be able to then send that employee who is injured on the job to get medical care, health care, based upon their health plan, not upon the workers comp plan. So, let us do some factoring then.

Ten dollar pizza. We estimate that, at the most, the increase in cost would be 20 to 24 percent. I priced new toppings incidentally at a pizza restaurant the other day and found out that a new topping or an additional topping is about 60 cents, so that for about one-third the cost of a new topping, Mr. Speaker, we have got health care for everybody who works in that restaurant.

But I do not want to make it sound like I am just singling out pizza, so let us move on to the land of the Happy Meal, to the land of Ronald McDonald, or to any other burger that may be your pleasure. We happen to spend a lot of time, having two young children, with Happy Meals. I say, "You get the burger, small burger, you get the drink, and you get the fries, usually for around $3." Well, let us price that out.

That means for that fast food employer, that $3 meal, one third the cost is labor. So that is about a dollar. Under the original proposals, that would have meant a limitation of no more than 8 percent. So, for 8 cents on that $3 meal, every employee in there would have had health care. Indeed once again you also would have saved workers comp costs and cost shifting, so the Happy Meal apparently is happy in everything but health care.

Mr. Speaker, these are the kinds of put-your-pencil-to-the-paper calculations that are so essential. If I hear one more business person who says—actually let me back off. If I hear one more person who says they speak for the business community, talk about the thousands of jobs that will be lost, the massive unemployment if health care legislation passes, and yet is not willing to take their pen or pencil, and put it to the paper, and see how it affects their business—I grow quite disturbed at this phenomenon because what 9 out of 10 businesses find is that, when they do this exercise, what they find is they come out better than they are today. They have a better policy because they would have a comprehensive policy at a cheaper rate.

Now Pizza Hut has stated in some of the news accounts that that is all right because 70 percent of their employees have insurance somewhere else. They are covered some other way. Well, how is that? They are covered because in most cases the employee is either working another job someplace else that does cover, or the employee's spouse, or some other provider in the family, is covered. But what they are saying is:

> It's all right for the business down the street, which probably isn't as large as Pizza Hut or McDonald's. It's all right for the mom and pop restaurant to do everything possible to provide insurance for its people at a much greater cost while Pizza Hut and McDonald's ignore their shared responsibility.

It is alright, for instance, to have General Motors pay more for insurance, health insurance, than the cost of the steel that goes into every car. That is all right, to shift that cost to somebody else, because that is what we are talking about. We are talking about shifting costs.

If Pizza Hut employees do not get it at Pizza Hut and they are covered by insurance, they are getting it someplace else, usually through the spouse's employer, and that means, once again, somebody else is picking up the tab. I say, if you don't pay for it here, it gets paid for over here.

Finally, Mr. Speaker, let me make the last argument for a while. What about if they do not pay? What about why should we ask our businesses to pay? Because eventually everybody who is not covered is going to get health care, but the way they get it is the most expensive way. It means that you put off doing the basic health care that is essential. You put off the primary care. You put off the prenatal care. You put off the early intervention care. You wait until you are the sickest, and you go into the emergency room of our local hospital where care will be administered to you, and it will cost four times as much, and if you are not able to pay, the cost gets spread out to everybody else who comes into that hospital that year. So once again we all pay.

Mr. Speaker, I just urge people, when they go to a fast food restaurant, to put their own pencil to the napkin. I say to my colleagues, take a look at that menu when you order it, and when they tell you that they would have to increase the price dollars 30 to 40 percent. Figure it out. Say, "Well, the most that anybody has talked about has been 8 percent of payroll." Take a third of what's on that menu, and then multiply that by percent, and in most cases the only increase you're going to see, if any, is a very insignificant one, and then factor in what would it mean if I didn't have to pay 30 percent on my premium for cost shifting? What would it mean to this employer if he or she did not have to pay as much worker comp? What would it mean to our society as a whole if everybody were covered?

That is why we have to be careful when we go into a fast food restaurant and see the sign that says "special today," or perhaps, "We are going to throw bread sticks in free with the pizza." There is no free lunch around here. The bread sticks cost. They are costing the health care, unfortunately, of the employees there. There is no bonus for anybody in that situation.

Mr. Speaker, I appreciate the chance to talk about pizza, always a popular subject. I now yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I want to thank the gentleman from West Virginia [Mr. WISE] for initiating this discussion this afternoon and for his outstanding role throughout the health care debate and as we go into the final weeks of this debate and the final passage of health care reform in this country.

Over the last several months, as we have debated this issue of health care reform and the merits of health care reform, and it has been a national debate, we have found ourselves taking a look at other countries who provide health care for all of their citizens, and the logical question here arises, and a number of my constituents have asked me this question: "If Germany and Japan can give their citizens health care coverage, why can't we?" It is a good question. That question is made all the more disturbing when we consider that some of this country's largest corporations in fact provide health insurance for their employees in Germany and Japan, but not for their employees who work in the United States. This in my view is a double standard, and in fact it is a double standard.

So, Mr. Speaker, if Pizza Hut and McDonald's, as the gentleman from West Virginia [Mr. WISE] has pointed out, can provide health insurance for their workers overseas, again a logical question: "Why can't they provide insurance for their workers here in the United States?" The response from Pizza Hut, and McDonald's and others has consistently been that providing health insurance for all U.S. employees will hurt business, will force them to raise their prices and will lead to a job loss.

☐ 1440

We truly do understand in this body, and my colleague from West Virginia and myself and others who will participate here today, that Pizza Hut and McDonald's and other fast food chains, and, for that matter, other businesses, are concerned about the costs of covering low wage, part-time employees. But the assertion that costs covering employees will hurt business, lead to massive job loss, or cause a rise in food prices, is nothing more than a scare tactic, and we need to look at the facts, some of which my colleague has already pointed out.

In Japan, where employers are required to contribute to their employees' health care, Pizza Hut intends to boost the total number of Pizza Huts in Japan by more than 300 percent within a 5-year period of time.

In the Netherlands, McDonald's now has 100 stores, a 17.6 percent increase over last year. Clearly employer responsibility is not hurting U.S. business in their countries.

Employer responsibility does not hurt job growth either. Employment at Pizza Hut in Germany increased 23 percent from 1992 to 1993. Also in Germany, employment at McDonald's is thriving. In 1992, it had 27,000 employees and revenues of nearly $1 billion. Employer responsibility is not hurting job growth. It is not hurting job growth in Germany and in Japan.

What of the charge by Pizza Hut that the higher costs for their products overseas is a reflection of their requirement to provide health care? One problem that they failed to mention is virtually everything costs a bit more in Germany and Japan than in the United States. But they fail to talk about that.

But this is not to say what we are doing here this afternoon is not to say that requiring the company to cover employees will not have some impact on the price of its product. That is not the point. However, Pizza Hut's claim that their prices would soar from $11 a pizza to $25 a pizza if they have to pay for health insurance is a gross exaggeration. Most estimates, as my colleague has pointed out, will see a likely increase in the cost per pizza of closer to 40 cents a pizza, not $8 as this company has claimed.

What this debate is all about is shared responsibility between employer and employee. Fast food chains should know better than anyone that there is no such thing as a free lunch. If they are not paying for the health insurance for their employees, who is? The answer, of course, is everyone else is picking up that cost.

When a Pizza Hut or McDonald's abdicates its responsibility to pay for employee health coverage, it does not keep their employees from getting sick. They get sick the way everyone else does. Working Americans still must attend to the health care needs of their families, their children still need to have vaccinations, they still need prescription drugs, and their parents need long-term care. But the cost of that health care is more expensive, because working families who are left without insurance by employers tend to put off seeking care until they find themselves in need of emergency care. Emergency room physicians have become the primary care givers for too many of the uninsured working families, and you and I pay for those costs. What we have found is that those who are uninsured are not those who are unemployed. Most of the uninsured are working in small businesses, with under 25 people, whose employer does not have the wherewithal to potentially provide the opportunity for a shared responsibility between employer and employee.

Many unisured workers are hourly employees, like those who work at Pizza Hut and McDonald's and other service industry jobs. And the rest of us with health insurance pay to cover 86 percent of their hourly employees through cost shifting and uncompensated care.

So whose responsibility is it to cover Pizza Hut's employees, or McDonald's employees? Is it Pizza Hut's, or is it ours?

Pizza Hut says that they meet their responsibilities by offering employees health insurance. But offering is not the same thing as providing insurance. And offering something that is out of the reach of most of their employees is an empty gesture at best. They have a plan, they make it available, but they do not pay for anything, and, in fact, only 14 percent of hourly restaurant workers at Pizza Hut participate in the company's insurance program, because those employees cannot afford to pay 100 percent of the costs.

McDonald's does not cover its hourly or part-time workers at its U.S. restaurants. However, they do in fact cover hourly or part-time workers in Belgium, Germany, Japan, and in the Netherlands. And for a company that has wooed the American public for years with the slogan "You deserve a break today," we believe that McDonald's workers deserve a break today on the cost of their health care.

Like McDonald's, Pizza Hut does not cover its hourly or part-time workers at its U.S. restaurants. However, they do cover hourly or part-time workers in Germany and in Japan.

Now, in response to the threat of health care reform in this country that will ask employers to pay their fair share, Pizza Hut has launched a public relations campaign to scare the American public into believing that the Congress is out to take away their pepperoni pizzas, and nothing could be further from the truth. We want them to keep delivering pizzas to the American people, and we want them to deliver health care to the American people.

Providing health care for every American will not come at the expense of American business. In fact, it is our current health care system that is bad for business, and particularly for small businesses. And that is why the CEO's of the big three auto companies came to Washington to make the case for a system of shared responsibility between employer and employee. Why? Because they are doing the right thing by providing health insurance for their employees, but they are also paying for Pizza Hut and McDonald's employees every time one of those employees has to go to the hospital.

So we need to reform our current system. Nobody is talking about rebuilding it, but reforming it, and that is why we need health care reform that builds on our current system of shared responsibility between employer and employee. Nine out of ten people today in this country who are covered by health insurance get it through their place of employment. It is a system that works for employers and employees, and only by bringing everyone into the health care system can we achieve public, private guaranteed health care insurance for everyone at a cost that businesses and working families can afford and that can never be taken away from people.

We need to ask these corporate citizens to play fair in the United States. They are doing their responsibility in other countries, but come home and play fair with the people in this Nation, give them a break on their health insurance costs today. The American public deserves no less.

Mr. WISE. If the gentlewoman will yield, let me get this straight. If I am an American, and I do what society asks me to do in this country, no matter how difficult, I go to work at a low wage job in a fast food outlet, I stand on my feet 8 to 10 hours a day, I don't have much take-home pay, but I am doing what society asks, and I don't have health insurance through my employer, but if I happen to be the same worker in Japan or Germany or Belgium or the Netherlands working for the same company, I get health insurance?

Ms. DELAURO. That is absolutely right, and that is because there is a system in those nations that says that every employer must provide health care. And, as you pointed out, there are shared responsibilities. No one is saying that the employer has got to pick up the entire tab for the employee. But it is shared responsibility. That is essentially what the debate is about in the United States. If they can do it there, they can certainly do it here in this country, and not put Americans' lives in jeopardy, because that is in fact what is does, because people get sick in this Nation.

□ 1450

And many are going without health care because they cannot afford it. And they are not in a situation in their employment where they have that opportunity to share their health care costs with their employer.

Mr. WISE. The real irony in this situation is that the best thing an American Pizza Hut or McDonald's worker could do is to see if it could get one of the German, Japanese, Dutch subsidiaries to open a facility here and thus they would be covered.

Indeed, I have heard that story of a person who was working for a French company that was a French corporation. They were working in the United States. And when they became ill, they were covered by the French company but they could not have gotten insurance working for the American company.

I thank the gentlewoman from Connecticut for her very, very eloquent statement.

Another gentleman who has been very active on this issue is the gentleman from Texas [Mr. GREEN].

I yield to the gentleman from Texas [Mr. GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I thank the gentleman from West Virginia and also the gentlewoman from Connecticut for those words.

I have been active in the health care debate. Coming from Houston, TX, because of serving on the Education and Labor Committee, but also the district I represent has 148,000 families who are working, who are working at those jobs and their employers do not provide it, one of the highest in the country.

These are people who are out working, and they are not on welfare. But they are working and yet they do not have it.

I rise this afternoon along with my colleagues to bring attention to the issue of universal coverage as the essential component of any health care reform that we do.

Universal coverage is the key to lowering the cost and eliminating the cost shifting that has caused the sky-rocketing of health care insurance premiums. The people of the district that I am honored to represent are some of the hardest working people in this country. Yet that alarming 148,000 of working Houstonians and working Texans are from working families without health care coverage. This is from the census data that we received from 1990.

This is a prime example of what is wrong with our current system. These people work and yet have no coverage. We provide them with a system where it would be easier to stop working and qualify for Medicaid. Yet these people continue to work because they know that their work is the way to have a better future for their families.

We should reward their work with health care and not punish them for working by saying, you should go on Medicaid, an additional cost to both States and the Federal Government.

In a recent survey, 74 percent of Americans stated they support universal coverage. The AFL–CIO, the AARP, the AMA, with a combined membership of 46 million Americans, all agree that universal coverage is an essential component of health care. Along with that 74 percent, almost three-quarters of Americans support universal coverage.

Since we have reached some reasonable consensus that whatever bill passes needs to have universal coverage as its goal, we must now look at the methods on how we can reach that care and how we can reach that goal.

First of all, we can do nothing. We can, Congress can adjourn in September or October and say, let us leave the current system as it is and see what we can do and let the system correct itself.

Well, for many years, Presidents from Harry Truman to Richard Nixon have suggested national health care. The problems were apparent then, and all of a sudden the market changed a little bit and then Congress went home and did not do anything. So the problems continued, because the only reason we have any health care in the last year is because of the threat of additional government intervention.

So we can do nothing. We would continue to see skyrocketing premium increases. People would still risk losing their coverage. And our national debt would continue to grow under the strain of increased health care spending.

We could enact a Government-sponsored plan, whether it be called a single payer or any other Government plan that would be provided. And the Federal Government, like in some of the countries that my colleagues have talked about, would provide that insurance.

I have received so many calls, like a lot of us in Congress from our districts, saying, "we know the system is broke, but we do not want the Government to provide it. We don't know if the Government can do anything right. So we do not want to trust it to the Government."

So we are not even advocating a single payer system, although there will be a vote in the next few weeks on that here in the House, because we do not want that Government intervention because people do not necessarily trust the Federal Government. The proposal has some distinct advantages though. It would cover universal care. It would take care of everyone universally. But we also know the distrust that people have. So let us discount the second mechanism for doing it.

We can require an individual mandate. That is one of the proposals that was considered in the Education and Labor Committee. We could require everyone in the United States to provide their health care.

Well, before I was elected to Congress in 1992, I served 20 years in the Texas Legislature, and we tried to deal with automobile insurance with an individual mandate. Like most States in this country, including West Virginia, it is a mandate that you have automobile liability insurance. Today on the roads in Texas, we still have 30 percent of those people who are on the road who have no liability insurance because of the high cost, because of the availability, for lots of different reasons.

So an individual mandate has not worked in automobile insurance even though we have criminal penalties in the State of Texas. And in some States, you could lose your automobile for not having liability insurance. But we still have a lot uninsured motorists. So the individual mandate that is being proposed and will be voted on in the next few weeks here just will not work because it has not worked in other areas of insurance.

What we come back down to then is to continue the system we have today, the success that we have and to build on the success we have of the employer/employee cost sharing that is fairness that we have now. Almost 9 out of 10 of the people who have insurance in the United States today, through the free market, get it through their employer. It is not with a mandate. That would require some fair sharing between employers and employees. Even Pizza Hut that was talked about a few minutes ago, they offer their employees now some type of health care. They just do not want it mandated.

Well, I would like to see those minimum wage workers, those part-time workers, whether it be at Pizza Hut or McDonald's or any other place, be able to have that health care, because 9 out of 10 of the people who have it now get it through their employers. This keeps the free enterprise system that we have, the benefits of it. We have some of the highest quality health care in the world here in the United States. We have people come from all over the world to our health care centers. And particularly in Houston, TX, people come from all over Latin America to Houston for health care. They can pay for it though, and they come. And they pay very top dollar to come to the University of Texas, M.D. Anderson, or to many of our hospitals and our medical centers. What we need to do is build on our current system and expand that for the people I represent, that 148,000 families who work and do not have it, to be able to access that high quality care that we can offer in Houston and all over across the country. It opens up our quality health care system we have now to those hard working Americans that need it.

Today most people who have their insurance get their insurance through their employer, including Members of Congress and the President. If we want to make sure that the system we provide also includes Members of Congress and the President, we need to have some type of employer/employee fair share. We have a 70/30 system now in Congress.

I will be honest with you, before I was elected to Congress and was in a business, we had a union contract that required our employer to pay 100 percent. So I may be one of the Members of Congress who had better health care before I was elected to Congress. But we had 100 percent coverage for dependents. And we have a lot of quality care in the United States today, but this builds on even the system that Congress has and the President has. It is cost sharing system.

This system for all Americans was created by the market forces, by free enterprise. No one is mandated that requirement but it was created. What we need to do is expand it to those other few people who have not been the beneficiaries of our quality system we have now. It is very attractive to the best workers. We want to make sure that it is attractive to all the workers. By creating a system that is an extension of the market-created system we have now, we are retaining the best of our current system, the fairness.

Let us make this work for all the health care system for every one in America.

In closing, I would like to remind my colleagues who may be watching and also the American people that this is the last great people-oriented debate we may have for this century.

□ 1500

The social policy we talked about, Social Security in the thirties and Medicare in the sixties, now we are going to talk about health care for everyone in the nineties—hopefully by the time we leave here, we will have it on the President's desk—that will cover all Americans. When we talk to our children and our grandchildren, 30, 50 years from now, maybe they will look back on it just like we today look back on the sixties and say how did Congress have such a hard time passing Medicare for our senior citizens, or passing a basic pension system in the thirties for our senior citizens.

We cannot imagine 50 years later not having that, or 30 years later not having it. I think that 30 to 50 years from now we may be in the same situation. My children and my grandchildren will be saying, "I can't believe that it took Congress so long to do something."

We need to make sure that Congress leaves with success; that we do not simply make history, that we make history on health care fairness, not just a big political squabble we have here, and we leave Congress in October with some success, and not just with a lot of hot air here.

Other industrialized nations of the world, as my colleagues have pointed out, have taken this step because it is the right thing to do economically and politically. There is a great future for all Americans. If we vote for health care reform that covers everyone, if we pass a plan that contains universal coverage, it will be a better life for all Americans.

Mr. WISE. I want to thank the gentleman. In so many ways he has touched on so many points: Universal coverage, big word, but what is important that the American people understand is that universal coverage is simply guaranteed private, stressed private, health insurance that cannot be taken away, and that it has certain elements to it.

The bills we are looking at, you and myself and the gentlewoman from Connecticut [Ms. DELAURO] and so many others, these bills would say "guaranteed private health insurance that cannot be taken away," freedom of choice to choose your provider, your doctor, and your plan; you want an HMO, you want a provider option, you want a fee-for-service, choose your provider, choose your plan.

Medicare as senior citizens know it and have fought for it would be preserved. They do not need to worry about Medicare, it is intact.

There would be true insurance reform. You could not be denied because of preexisting illness. There would not be discriminatory pricing. You would have rates spread out over the entire population, instead of focused just on a few, often who are sick, and therefore the rates rise sharply.

Finally, there would be shared responsibility. The employer, the employee, and the Government all would share the responsibility for providing this health care.

Mr. Speaker, the gentleman made another point that I think is very, very significant. He spoke about President Nixon, Richard Nixon. I have never heard anyone suggest that Richard Nixon was a rank liberal, someone that was high on the Americans for Democratic Action rating list.

Yet, it was Richard Nixon, President Richard Nixon, who in the early 1970's proposed the first shared responsibility, the first employer mandate. Interestingly enough, it was in much the same way; it would have worked much the same as what has been proposed today.

The gentleman also brought up another very tender subject: Members of Congress. In my town meetings I have heard the refrain coming back to me, "I want to make sure Members of Congress are covered, as well as Members should be covered by the plans that everyone else is subject to, but more importantly, I demand the same care that Members of Congress get."

I want people to have that care. As the gentleman points out, it is not something special. Nine million Federal employees have that policy. Members of Congress pay into the Federal employees' health benefit pool the same way that 9 million others do.

To those afraid of Government bureaucracy, I might add that 9 million Government employees or their dependents have their choice of plans, as many as 300 nationwide. Every year they can change it if they wish. The employer pays and the employee pays. Presently we pay somewhere between 28 and 30 percent of the premium cost.

I know that in our family, we have opted for a fee-for-service plan. You can buy an HMO. You can buy a PPO. You can buy many different varieties.

Out of all this, how large a role does Government have? What kind of giant, awesome bureaucracy is set up to administer this? For 9 million people, there are 145 people involved in administering the Federal employees' health benefits plan, at a cost of one-tenth of 1 percent of what these plans pay out.

I want the American public to have the kind of coverage that Members of Congress and, yes, 9 million other Federal employees and dependents have. Incidentally, it is very likely that the plan that will be on the House floor will permit some kind of buy-in, particularly for small businesses, into that system.

I thank the gentleman very much for the points that he has made.

Mr. GENE GREEN of Texas. If the gentleman will continue to yield, if I could respond just in brief, when I first was elected in 1992 and came to Congress and health care was an issue, I did not agree to vote for the President's plan or any of the plans, or cosign any of them.

However, I voted for one after working in the Committee on Education and Labor for many months on that, to address some of the things you talked about. The freedom of choice of physicians, we have that freedom of choice. I don't want to go home and tell my constituents that we do not have that freedom of choice.

Whatever plan Congress passes, we will have that freedom of choice, probably more so than they have currently, under the current system, if they are out in the marketplace, because we will expand some of those HMOs and those pools where they will have more physicians and more health care providers.

The prescription medication, I receive, like the gentleman does, a lot of letters in my office from senior citizens who are worried about Medicare, worried that they will lose their flexibility on their plan. If Congress does nothing, if Congress does nothing this time, we will lose the benefit that we need for some type of copayment on prescription medication from Medicare, for some type of long-term care for Medicare patients. That is what is in the bill that came out of the Committee on Education and Labor, came out of the Committee on Ways and Means. I'm sure it will come out of the House when we start working on it in the next week.

We need to take care of senior citizens and their concerns because again, like you, I have senior citizens who are on minimum benefits, Social Security. Often their prescription medication right now is the same amount of money they receive per month from their minimum benefit on Social Security. We have to change that. We have to make some changes.

That is part of this bill. It is a major reform. It is a lot to take up but it is not something that we just dreamed up the last year. As the gentleman said, President Nixon in the early seventies actually in his 1969 inaugural speech, Harry Truman in the forties, so it is not something we can say, "Let us put it off until next year. Let us look at it some more."

We can study health care forever, but we need to address it now, because the next session of Congress, sure, we will have to fine tune it. We will have to make some changes, because the health care system is not a block of granite that we can leave in place. It is something we will have to continually mold and work and adjust, and we will have to do that. But we need to get off of dead center where we have been for the last 30 years since we passed Medicare for senior citizens.

Ms. DELAURO. Will the gentleman continue to yield for a moment?

Mr. GENE GREEN of Texas. I yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. I'm sure you hear the same story. Seniors do one of three things with prescriptions. They will go to the pharmacy and they will ask the cost. One of three things will happen. They will decide that it is too expensive and they will not get the prescription covered; or they will get the prescription half covered; because that is all that they can afford to do; or, if they do get it covered, then they may go without eating for a day or two, or they cut back on what they are eating for a day or two.

In all three instances, we are looking at a vulnerable population becoming more vulnerable, because of cost of prescription drugs. My colleague is absolutely right. If we sit here and do nothing, and do not do what is in some of the plans that we are looking at, which is to provide a prescription drug benefit, we are going to find that more and more people are going to be in the situation of deteriorating health because of the increasing costs in prescription drugs.

Mr. Speaker, I might add that, in terms of what we started to talk about earlier, that often pharmaceutical companies will charge four times as much for prescription drugs in the United States than they will for drugs in other countries, where there is some sort of a commission or board or some law that says that that cannot occur. In the same way, we are talking about covering people who are workers, not covering workers in U.S. companies but American corporations covering workers in foreign countries, the same thing.

We have an opportunity here, Mr. Speaker, to pass a piece of legislation that will have a tremendous impact on seniors, as the gentleman pointed out, and others, but also to do something about that people who are not now covered, and to do something about the costs of some of these services.

Mr. GENE GREEN of Texas. Some of the other options I have had seniors do in their prescriptions is that, one, they will get a prescription, and maybe they should take one pill a day, and because they know they only have so much money, then they will say, "I can't afford one pill a day, but I know I need to take it because my doctor said to, so I will only take one every 2 days." They are doing self-diagnosis to spread out that cost.

In Houston we have seniors who drive 6 hours to Mexico to take advantage of some of the cost differences the gentlewoman talked about from foreign countries. I know in the Northeast, in the northern States, they also can go to Canada, but people will drive 6 hours to go to a pharmacy in the Republic of Mexico to take advantage of, in some cases, 20 to 40 percent of the costs that they are paying for it in Houston, TX, and yet it is the same prescription.

In fact, I joked with our colleague from Puerto Rico, we have some of the prescription medication that is made in Puerto Rico with our 936 tax benefit, which you can buy cheaper in the Republic of Mexico than you can here because it is exported from Puerto Rico to Mexico.

□ 1510

So we have a lot of seniors who are trying to make the system work, with their limited resources. We have to be sensitive and remember that those are people who fought in World War II, those are people who have built America to what it is today and we need to respond to that and not make them make that decision on self-diagnosis, or in Houston today, there are people who are cutting off their air-conditioner because they want to save on their electric bill so they can buy their prescriptions. We do not need them to make that choice.

Mr. WISE. As the gentleman points out, Houston, too, I had the privilege of spending 2 years in Houston in law school. Houston is a major medical center, and the problem is that many of those people will put off the prescription drug or the checkup or whatever until it is late in the game. Then they go into the hospital, to one of the major medical centers, they get the best care in the world, the problem is it is the most expensive care. I also note something else. I have heard we do have the best health care system in the world. We have the highest quality. Houston epitomizes it. We have other major centers across the country, such as Los Angeles.

I note with interest that on Sunday, I was in a fast-food restaurant in Clarksburg, WV, I think I am pretty safe in saying that none of the employees in there had health care. But while I am paying for my food, I look over and there is a jar, a glass jar. There is a picture of a little girl in a white party dress that says, "My name is Misty Lewis and I have" in this case a certain kidney disease. "I need money for dialysis." She said, "I need it to save my life. Thank you for your support." We have the best health care system in the world, we have people that fly whether it is to Houston or to Ruby Hospital or travel hours to Charleston Area Medical Center to get the best medical care in the world. In many cases fly hundreds, thousands of miles. Yet we also have children who cannot get 20 miles to get to the care they need because of finances. It is just incredible to me.

The gentleman from Texas mentioned automobiles. West Virginia has been through much the same experience as I think Texas and every other State with compulsory coverage. I find it passing strange that in this country that we have accepted, whether or not it is totally lived up to, but we have accepted the concept of compulsory auto coverage. We have not accepted the concept of universal health coverage. Our cars get far better treatment and coverage than we do, which leads us to this image of a scene in an automobile accident, a couple, Harry and Louise, hit a tree while they are driving, talking about how they do not want Government health care. They hit a tree and tumble out of the car. Ambulance and tow truck arrive at the same time. Ambulance driver goes over and says, "Whoops, they don't have insurance." Tow truck driver goes over, looks at the car, and says, "The car is covered in this State. Get out of my way." The car gets the coverage. The couple do not. It is a ludicrous situation. My hope is that as the gentleman has well expressed it, this is the year for health care.

Ms. DELAURO. I think that the American public needs to be clear. They are receiving a whole lot of information today about what is going on in health care, what this plan is, what that plan is. Listening to people like Pizza Hut and McDonald's and others, fast-food chains talking about how this is going to bankrupt the system, that people are going to be thrown out of jobs. I think we can help to provide a little bit of clarity. Some in the press have done that. The public really should know the truth. In the New York Times in July, the last paragraph of an editorial that says "Pizza Hut's Double Standard", it reads that Pizza Hut and others like it do perfectly well in the countries where shared responsibility for medical care is a matter of law. Why not here? The notion of trying to really pull the wool over the American public's eye in saying that business is going to go out of business if they do this is unfair. That is one of the reasons why we are here tonight. The other is that the public should know that both Pizza Hut and McDonald's, they sit on a steering committee of the Health Care Equity Action League which is an organization that contends that employer responsibility is unacceptable, that they do not want to move in that direction and that they have been working very closely with another organization called the National Federation of Independent Businesses which has been one of the leading proponents against shared responsibility and they have been at the head of that lobby, to try to not have businesses be able to provide health insurance. The fact of the matter is that what we ought to be engaged in is a truthful dialog. As I said earlier on, no one believes otherwise, that in fact they need to have an opportunity to assist business and particularly small businesses with helping them to cover their employees. We are trying to do that with discount assistance for small businesses. The Clinton bill, which is no longer the operative plan, talked about capping the cost for small business as well as large business. The other plan, some of the other plans, the bill of the Committee on Ways and Means, the Labor and Human Resources bill in the Senate talks about assistance to small businesses in doing this. This needs to be a partnership. What we cannot do is to try to trash health care reform on issues that untruths are being told about these issues. We need to have a cooperative partnership relationship with business in enabling them to be able to cover employees so in fact we achieve that private guaranteed health insurance for everyone in this Nation, because only then will we be able to bring the cost down. Only then is it portable, only then will we be able to provide the kind of prescription drug benefits and the beginning of long-term care that we are talking about.

The issue is, let us be truthful with the public. If you can provide this kind of service in other countries which demand that you do it, please do it for the American public.

Mr. WISE. Exactly. And I think the gentlewoman points out something else, too, which is this that may be Pizza Hut and McDonald's, two very large corporations, but by the same token much business in this country supports universal coverage, supports guaranteed private insurance that cannot be taken away, whether it is IBM, the Big Three auto manufacturers, grocery store chains, because they know that it is good for health care but it is good business in economics, too. They also know that when somebody does not pay, then they end up paying even more. That is why our goods that we ship abroad, whether it is an automobile or whatever, can become less competitive because they pay more for health care in the cost of making that car than do those in another country where the cost is spread out. I think that is also why they have supported this concept of guaranteed private health insurance that cannot be taken away, from everybody, because they want universal coverage. That is the only way this system works.

Ms. DELAURO. There is an entire listing of Fortune 500 companies that do in fact support employer-employee cost sharing: A&P, Food For Less, Acme Steel, American Corn Growers, American Auto Manufacturers. As the gentleman said, IBM, H.J. Heinz, Hechinger Co. The list goes on. So there can be a debate and dialog about this and its value in terms of getting everyone in this Nation covered.

Mr. GENE GREEN of Texas. Let me add to that, because we could go over that list. A great many of those companies in my area, from Texas, a great many chemical and oil companies, Arco is a good example that is on that list that came and lobbied, said, "We want some type of universal coverage because we see what the cost shifting is doing to us." Sometimes we get to talking about small businesses, and I know you mentioned the National Federation of Independent Business people. I have a constituent who is a member of that who called my office 2 months ago and talked about how he is a member but he covers his 10 employees because it is fair, but he cannot continue to compete with his competitors unless they are all in the same boat. Same way with wages. If he did not have to pay minimum wage or some type of competitive wages, his competitors did not, we would see that burden shifting, that cost shifting that we see today in health care. That person whether they be a memorial monument company or whether they be a restaurant or anyone else cannot continue to provide health care with the ever-increasing costs we have unless we broaden that coverage to everyone so we do not see that cost shifting. That is why I think we see a lot of those Fortune 500's saying we need to change that.

Let me talk a little and say something about something which was said, often people get so many different versions about what is happening here in Congress. They listen to Harry and Louise and everyone else. Free enterprise and freedom of speech is the greatest thing this country has been founded upon. We also need to recognize that the people who listen to that need to say, kind of wonder, that they are expounding on their issue and sometimes they may not be telling you the whole truth. They may not be wanting to say that sure they have coverage now and they are happy with it but their employer may drop them tomorrow, or they may have a deductible that's $1,000.

So sometimes in the commercial free speech we see or in the noncommercial free speech or even in the letters a lot of people get from the computers here in Washington saying Congress is going to do damage to you, well, sure Congress every day we are in session can do damage.

□ 1520

But we can also do good if those people are constructive and are working with us to identify prescription medications, identify the way we can help with people, and health care is one of those, and not necessarily believe just what you happen to hear on radio talk shows.

Mr. WISE. The irony too is the Pizza Huts, the McDonald's, and other organizations like them taking the position they do is they have the ability to buy insurance, negotiate from strength, for thousands of employees. The small companies the gentleman mentioned that are supplying insurance do not have that bargaining power.

The legislation we support gives small businesses that bargaining power. But there are some that already have it, and choose not to exercise it.

That is why so many businesses, separate corporations do support the health care legislation that all of us here support, because they understand that it makes it fair, that it levels the playing field, and the one who is supplying health care is not put at a competitive disadvantage to those who are not.

My one hope is out of this debate and discussion that the Pizza Huts of the world will come forward and recognize their responsibility. I want to be able to think next time I walk into a Pizza Hut that it is not just a Pizza Hut, but that it is pizza health, and that they are living up to their share of responsibility to make sure their employees are covered, just the way some other business people are, and want to make sure their employees are covered.

Ms. DELAURO. The gentleman was talking about his constituent who was a member of the NFIB. I had a wonderful experience which I mentioned on the floor of this House before of a constituent who has a small cleaning business, whose name is Harry Pappas. I have known Harry for a long time. I used to bring cleaning to his establishment years ago. I had not heard from him since I have been a Member of this body. But he called and he said, "Rosa, I never make a call like this, but," he said, "I received a package of information and it told me to call you to tell you to vote against health care reform because, in fact, this was going to hurt my business. It would put me out of business." And he said, "They also included for me a worksheet to put down the facts and figures in my business to see how much more it would cost if we went this route."

The fact of the matter is that Harry did that, he took the time, as the gentleman said, took the pencil to the paper, took the pencil to the paper and to the worksheet and laid it out, and lo and behold, what he found is that it was going to cost him 17 percent less than he was paying now, and he was trying to take care and he is trying to cover his employees.

So the purpose of his call would up being to encourage me to move forward in voting on health care reform.

The point again is let us give the American public a fair break, the public, small business, and let us be honest with them about what this system means to them. This is an issue that is much too important to have it get clouded over with rhetoric and with falsehoods and with a variety of other kinds of comments on it. Let us provide the data, and let the American people decide whether or not this is something that they want to do.

Mr. WISE. In closing, I would just urge all business, small and large, before they react to the rhetoric, take this pencil or pen, put it to the paper, and they are going to find out that health care is good economics and good sense.

MODIFICATION IN APPOINTMENT OF CONFEREES ON H.R. 2739, AVIATION INFRASTRUCTURE INVESTMENT ACT OF 1993

The SPEAKER pro tempore (Mr. WATT). Without objection, the Chair announces the following modification in the appointment of conferees on the bill (H.R. 2739) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes:

From the Committee on Education and Labor, Mr. MCKEON is appointed in lieu of Mr. GOODLING for consideration of section 418 of the Senate amendment and modifications committed to conference.

There was no objection.

The Clerk will notify the Senate of the change in conferees.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2448, IMPROVING RADON TESTING PRODUCTS AND SERVICES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-622) on the resolution (H. Res. 491) providing for consideration of the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 208, NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-623) on the resolution (H. Res. 492) providing for consideration of the bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes, which was referred to the House Calendar and ordered to be printed.

JAMES CARVILLE'S FOOD CHAIN CHART

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994 and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the minority leader's designee.

Mr. DORNAN. Mr. Speaker, a few weeks back James Carville, at one of these high-powered Washington, DC, breakfasts for the media elite, came up with a flow chart that we call a food chain, that he said was causing all the negative publicity for Bill and Hillary Clinton. I was mentioned in this food chain. The chart is bizarre, to say the least. But it was also highly inaccurate. I asked the parliamentarian if it could be considered a personal attack on me, thereby enabling me to a point of personal privilege, which would allow me to speak for 1 hour and defend my reputation.

I would never do that to interrupt the proceedings of a legislative nature of the House. I did do it once when I was attacked by a former Member who left this body under a cloud to go up to Wall Street and become a billionaire. This Member had attacked me by indicating that I had lied in a biography about serving in Vietnam although I had been on television during the entire Vietnam war. I did go over there eight times as a reporter and got as close to combat as any other reporter I ever saw. In fact, I did something that I never saw anybody do, not even Gunga Din Rather. That was to beg rides on Air Force and Army combat missions, on helicopter gunships and on fast-moving jet fighters flying with friends of mine that I had been in the Air Force with years earlier. Nevertheless, Tony Coelho attacked me, again even though I had been on television in front of the whole world on the Robert K. Dornan Show. I took a point of personal privilege because the charge was so heinous. But I will not have bothered to do it on this.

But for a special order, late at night, to set the record straight, I think it is worth exploring. There is a group at the White House called the Fab Four. They are James Carville, his friend Paul Begala, Mandy Grunwald, and George Stephanopolous, the man Rush Limbaugh calls Mr. Excitement. The Fab Four is led by James Carville. Together they think that they have come up with a food chain chart that shows what causes all of the Clintons' problems.

He has in the top row of the food chain David Hale, an indicted Clinton-appointed judge in Arkansas who, as the organized crime folks would say, is singing like a bird to the special prosecutor not independent counsel, Robert Fiske. Then he has Roger Perry and Larry Patterson. Carville only mentioned these two of the five troopers who were on tape to the Los Angeles Times and the American Spectator, who both reported extensively on what the troopers had to say about womanizing and a certain Southern Governor. Again, he has only two troopers out of five listed. Moving on, imagine going before the elite of the national press and the White House press corps as Carville did at this breakfast, and showing a chart with Gennifer Flowers and Sally Perdue on it. Gennifer Flowers released tapes, and she is marketing hours more of the tapes that are pretty darn incriminating. Sally Perdue said, "Oh, he," the person in question, "smoked marijuana all of the time because it increased his aggressiveness." What are they doing on a chart that Carville brings before the press?

This food chain was lightly reported upon, by the way. Most Americans are hearing this for the first time in this 1,200,000 audience that watches C-SPAN.

Then he has on there Rev. Jerry Fawell, from Liberty Baptist College. Then he has on there Reed Irvine, a solid American who spent most of his years in Federal service, retired, and then founded a great organization that I vigorously endorse, Accuracy in Media.

He says these six sources, the two troopers, the two-women confessing adulterous affairs, a judge who is under indictment and who copped a plea to two or three felonies, a media watchdog and a reverend, that they feed, believe it or not, Cliff Jackson, a Fulbright scholar at Oxford during the 2 years Clinton was also supposed to be there attending school. Remember, Clinton never got his degree from Oxford. Add then there D'AMATO and Sheffield Nelson, who I guess is running again for Governor of Arkansas. He ran against Clinton in 1990.

Johnson-Smick—this is the consulting firm whose newsletter caused the stock market to drop when it reported on some of the speculation surrounding Vince Foster's suicide.

□ 1530

Then they have got me, BOB DORNAN, hence my special order tonight. Then they have Floyd Brown, who runs an organization with David Bossie out in Virginia that accumulates a world of material on everything that comes under the heading of Whitewater. So he has got me right up there with full-time investigators, the current gubernatorial candidate in Arkansas, a DC consulting firm, and a charter friend of Bill from those 2 years in England when he (Clinton) was avoiding the draft three times.

Then we, all the aforementioned, supposedly feed the Star. That is the tabloid that published about a fifth of the Gennifer Flowers tapes, published written transcripts. We also feed Rush Limbaugh; and we feed British tabloids which, by the way are not tabloids in the sense that we would describe the Star or the National Inquirer but are more newspapers like the Sunday Telegraph. By the way, the Sunday Telegraph ran a story a week ago Sunday, front page, on cocaine use in Arkansas, and tying cocaine use to the President's half brother, Roger Clinton. I am told Roger Clinton's band was called Dealer's Choice. Since Roger Clinton had legal trouble over cocaine use, I think it is fair to assume there may have been more than a little double entendre in the name of his musical group, "Dealer's Choice." I think it probably was a little play on words to an inside joke about his high-flying cocaine use with another friend of Bill, Bill Lasater, whose former associate is the current head of the administration of the White House, Patsy Thomasson. All of them are charged in this British newspaper.

By the way, Mr. Speaker, an interesting footnote: England does not have the robust freewheeling interpretation of free speech rights that we have under our first amendment. Many American performers have sued British newspapers for libel and walked away with millions. There was this front-page story a week ago accusing a sitting President of using cocaine when he was attorney general and Governor. I think President Clinton, instead of for the first time in American history setting up a legal fund to take in money to fight charges of sexual harassment, I think Mr. Clinton should take some of those high-powered lawyers, and them to London, get involved with some British barristers, and sue the Sunday Telegraph for this cocaine story a week ago Sunday. If successful he would have the millions of dollars he needs to cover his mounting legal fees for the Paula Jones case and have some left over to help out on Whitewater. Interesting concept, perfectly valid.

Next to the British tabloids is a very hard-charging talk show host, G. Gordon Liddy. He is on about a hundred stations. Rush Limbaugh, on the same line, is on about 650-plus stations. So that pretty well covers America.

Then those people feed the Washington Times, one of the nine best papers in America, the alternative, I like to think untruthful press here in Washington, DC; the New York Post, which was running exclusive stories under Chris Ruddy's byline, who I bumped into in the hall downstairs. He is an aggressive young New York Post reporter now working the Hill scene. Then the American Spectator and its great founder, publisher, editor, Bob Tyrrell, who was, I thought, stupidly and viciously attacked last night on NBC's "Dateline." They kept saying, "You accused the President of adultery," and Bob Tyrrell would say, "No, you keep getting it wrong. I am a reporter. I reported the accusations of the five troopers." Then there is the New Republic, a schizophrenic magazine with a great conservative senior editor, Fred Barnes, and an ultra-liberal friend of mine, Michael Kinsley, the dashing, now-bearded host of Crossfire. When I shaved my beard last week, Kinsley saw an opportunity, and he started growing one. I must say, Michael, you look marvelous. Excuse me, Mr. Speaker, for addressing Kinsley directly. You tell him, Mr. Speaker, he looks marvelous with that new beard; then the Wall Street journal editorial page, going after Bob Bartley there.

So there is James Carville's food chain. He says all of these various levels feed the poor, pathetic, mainstream American press which just gobbles up all of this stuff and then report it to the America people. What a bunch of baloney.

Mr. Speaker, if you turned this chart upside down it would be more accurate.

So I decided to do my own flow chart, to detail who really gets information from whom around here. I am sorry, I do not have a bigger version, but let me translate this for you.

What starts a real media food chain in America? Well, it starts off with people seeking the truth. Is that not what journalism is all about?

And I will jump, cut to the chase here. It ends up with the American people digesting all of this and with an unbelievable historical sense of fairness determining what is correct and what is not. The liberal dominant media culture throws most of it in the ash can.

For example, last night and this morning, except for the great job done by my Republican whip, NEWT GINGRICH, on one of the morning talking-head shows, the bias demonstrated last night in analysis, particularly on PBS and even worse on public radio today, about the Watergate—excuse me, Freudian slip, the Whitewater hearings—was appalling. It is just the most offensive, left-wing, media bias I have ever seen in my life.

So let us look at the real media food chain. You start with the truth. Now, up here on line 1, I will agree with Carville, it is ex-judge David Hale, all five troopers, Roger Perry, Larry Peterson, Danny Ferguson, Ronnie Anderson and L. D. Brown. Ferguson is the one name, along with Bill Clinton, on the sexual harassment suit of Paula Jones. Ronnie Anderson have five children, and three of them are triplets. I kind of give him an excuse pass. He went on the record with the American Spectator and with the L.A. Times and then went underground. With five kids, he has got a right to protect his income. And there is J.D. Brown, the hottest of all the troopers. Sheffield Nelson we have moved up from line 2 to the top line.

How did Carville forget good old Jim McDougal who just did terribly in a congressional primary down in Arkansas, and his wife, Susan McDougal, who is probably going to start to sing like a canary when they go to settle the suit against her by Zubin Mehta out in California? Totally separate scandal where she allegedly ripped off the great musical impresario who brings us those three great tenors, Placido Domingo, Carreras, and Pavarotti; that is the same man that Susan McDougal is accused of bilking for $300,000 or $400,000.

Then there is Sally Perdue, Bobby Ann Williams, Marilyn Joe Jenkins, and the list of about 20 other women who have a story to tell. They are still popping up all over the landscape. Flowers is in a category by herself. She tape-recorded him, and there is Paula Jones. Carville forgot to put Paula Jones on the media food chain chart. I guess she wasn't on the radar screen them.

These people tell their stories. Then it is analyzed by investigative reporters Chris Ruddy, and by JIM LEACH. JIM LEACH and his excellent staff do work that feeds me information. The same for AL D'AMATO. They are both on the Banking Committee. They both have relevant congressional positions from which they can investigate some of these things.

□ 1540

Then there is Jerry Seper of the Washington Times, an aggressive, excellent reporter. I wish everyone in America could subscribe to the Washington Times to get their front page truth, accurate reporting on all matters coming under Whitewater. Then there is L.J. Davis, who did a tremendous reporting job in the New Republic. He said he was knocked on the head with some sort of a blunt instrument that knocked him out for an hour or more when he concluded his reporting in Arkansas. Then there is David Brock, the tremendous young reporter for the American Spectator. Give him a name credit on the line. Then there is Floyd Brown and Dave Bossie, whose name I forgot to add. And then there is Bill Remple and Doug Franz of the L.A. Times. They were on Nightline one night, these two investigative reporters for one of my hometown papers, the Los Angeles Times. One of them slipped in describing the troopers. Talking about the veracity of the first four troopers, one of them said, "We believe completely our troopers." Whose troopers? Arkansas's troopers? No. The L.A. Times' troopers, Remple and Franz' troopers. Franz and Remple had tape recorded material that Jack Nelson, the Washington, DC, senior editor for the L.A. Times, would love to destroy if he could get his hands on it. I believe Remple and Franz have trooper Danny Ferguson on tape so vividly and so clearly that if they were ever to release it to the electronic media or at least to the print-media, I believe that the Paula Jones case would soar back to the front pages and Clinton would probably have to resign the presidency. This presidency is in the hands of the L.A. times.

Now, all these folks give their information gleaned from these sources here at the top, to the New York Post, the British dailies—which is a more accurate name than tabloid—to the Wall Street Journal editorial page, Bartley, Gigot, and company, to the Washington Times, to the New Republic, to the American Spectator, and to the L.A. Times. Notice my name has not appeared yet. I am not on the inside in this investigation like Mr. LEACH and Mr. D'AMATO. I get my information from them.

On this next-to-last line, I have BOB DOLE, BOB DORNAN, Bill Safire, Newsweek, U.S. News, U.S. Times, U.S. Local press, European press, local radio talk show host, Rush Limbaugh and AP. BOB DORNAN and BOB DOLE, we pick up the morning papers or the weekly news magazines and then analyzes it. Rush Limbaugh does this on radio. DOLE goes on the U.S. Senate floor. BOB DORNAN does it right here and now, live in living color, sight, sound, motion, reporting on what I have read. That is how I learned of the James Carville story with his little chart printed in the Washington Post. Then the local radio jocks across the country go to work in all 50 States, all the territories. They are a proliferating breed of town hall meetings, God bless them all, liberals, conservatives, and flaming few moderates among them. AP, AP actually we should move back up to this line because they are a daily reporting service. And there is the media food chain coming down to the American people and to the liberal dominant media culture. The American people absorb it. The dominant media culture throws much of it in the ashcan.

Folks, this is my only copy. I would love to distribute this around the country. I would hope the Washington Post would call me, do a follow-up of Carville's chart that he made up for that elitist inside-the-beltway media breakfast. Then I wish they would publish my chart.

Folks, that is the reality of how we get our news in the United States of America.

Now I would like to address a continuing problem I have had with the L.A. Times. I was explaining to some L.A. Times reporters that were doing a few hit pieces on me last week that all my 8 races, and now in race No. 9 I have never really had a fairly described, tough Democratic opponent. So the L.A. Times takes it upon themselves every other year to go after me, close up the numbers in my race and become the No. 1 weapon in my opponent's campaign against me. Every other year I ask them why, did God designate you, the L.A. Times, to try to take me out?

I told them that I am going to correct before they do it again an article from October 1992 that contains several lies about BOB DORNAN, taking quotes that are not true from my opponents, adding quotes that are hearsay statements from someone else that are not true and rolling them over every 2 years back into this profile story on me that makes me so utterly unbelievable, colorful, and flamboyant, that George Patton, George S. Patton could not match up to the image the L.A. Times has created for me.

Three of the lies they perpetuated again last week and in a major profile 3 weeks before the election of 1992. I am going to correct them now. They come out of the 1980 general election, the 1982 primary, and the 1986 general.

I am told by the Speaker that I have 7 minutes remaining. If I give 2 minutes to each one of these lies, I can at least set the groundwork to take the CONGRESSIONAL RECORD tomorrow, fill it in and then fax it to the L.A. Times and ask them if they are going to continue to perpetuate these three vicious lies.

Lie No. 1 is from the 1980 race. Eric Bailey and Bob Stewart wrote this October 18, 1992, story. When I pointed out these three gross lies to them, they said that they would correct it. Bob Stewart has gone on, so he cannot correct it. Eric can.

Eric, listen to my words: Lie No. 1, these are the exact words out of the L.A. Times: "During his 1980 battle for his old Santa Monica-area district against Carey Peck," C-a-r-e-y, who seemed to disappear off the face of the Earth that year, "son of actor Gregory Peck, it took a Justice Department investigation to clear the challenger," Peck, "of Dornan's allegations that Peck accepted $13,000 in illegal cash campaign donations from James H. Dennis, a convicted felon serving time in an Alabama Federal prison for fraud. Dennis said he agreed to make the accusations when Dornan visited him in prison and promised to get the felon better prison status. Dornan denied that any deal existed."

□ 1550

A vicious, foul, untrue story. I have never corrected this on the House floor. I will now.

No. 1, young Kerry Peck, son of Gregory, did take 13 sequentially numbered, thousand dollar, illegal donations from dead people, and children. Gregory Peck, the Academy-Award-winning actor, and I say this sincerely, unknowingly brought back the envelope with this dirty $13,000 of phony cashiers checks from children and dead people to L.A., and gave it to his son. I assume he did not open the envelope. It originated in Alabama where Senator Alan Cranston, who I also think was unknowing in this, asked Gregory Peck to come out, and help, a young sitting Senator named Donald Stewart. James Dennis sent back this dirty money as a favor to Gregory Peck. This James Dennis was 28 years old, stole a million and a half dollars from the State of California, and, when I went to visit him in an Alabama prison to get to the root of the dirty money that the Peck campaign took, I took with me a lawyer, the warden, the U.S. Attorney from southern Alabama, and an FBI representative. We all met in the conference room at Talladega Prison to get to the bottom of this.

James Dennis never asked for special treatment; I never gave it to him, although a month later his brother was killed in a car crash, and, when he was lingering near death, I was in Israel on a narcotics investigation trip, James Dennis called my staff to ask if they could help him go to his brother's deathside bed. The prison said, "No, there's nothing we could do to help him," and his brother died. They did let him go to the funeral in leg shackles and handcuffs.

Quite a character this James Dennis, an absolute better double for Elvis than any of the professionals out there, only better looking. At 28 he stole a million and a half from the State and put these phony checks back into Peck's campaign. Did the Justice Department clear Peck? They did not. The FEC fined Dennis $30,000 and warned Peck to return the money and not to do it again. The Justice Department, under Jimmy Carter, said they did not want any part of it. After all, the election was over.

You got that straight, L.A. Times?

Those are the facts, and I will flesh them out tomorrow. Here is the next lie.

[From the L.A. Times, Oct. 18, 1992]

While making an unsuccessful run for U.S. Senate in 1982, Dornan accused Barry Goldwater Jr. of being involved in a drug scandal on Capitol Hill and assisted law enforcement officials in an investigation.

Lie, lie, lie, lie. The story on Barry broke in September. Our race was over in June. I never knew anything about it. The younger Goldwater was never charged with any wrongdoing.

Go look at the files of our ethics committee investigation here on that case in 1983 when I was not even in Congress.

L.A. Times, it is a filthy, dirty lie that you said I investigated a friend and busted him for cocaine. I never even knew about it. I was with Barry in England when an Air Force colonel handed me a Newsweek magazine with the story in it in mid-September 1982. Barry and I had both been bested in the race by Pete Wilson.

Lie No. 3; you listening, L.A. Times? Shelby Coffey? And Marty Baron? And Faye Fiore? You listening to any of these lies that your great paper has never corrected? Not great until you correct it.

Mr. Speaker, please tell the L.A. Times to correct this stuff; thank you, sir.

Final big lie, and there are a lot of little lies that I will go into next week:

[From the L.A. Times, Oct. 18, 1992]

At a debate during the 1986 race, Dornan launched a furious series of character attacks on his opponent, then-Assemblyman Richard Robinson. He accused the Democrat of influence peddling.

These are the words of the L.A. Times itself from its own investigation, and they are putting their investigative words in my mouth years later.

L.A. Times: Dornan accused the Democrat of influence peddling, bribery, extortion and dealing with teenage prostitutes in Sacramento, all of that in single quotes because it came from a front-page L.A. Times story that, you bet, I put in a brochure and mailed to every home in my district. Who wouldn't? An angry Robinson denied the charges but lost the election.

Mr. Speaker, I had every right to take out a point of personal privilege and do an hour in the middle of the day. I chose to do it this way and not interfere with our legislative procedures. I will give you an autographed copy of this food chain, Mr. Speaker.

HEALTH CARE REFORM LITIGATION

The SPEAKER pro tempore (Mr. HINCHEY). Under the Speaker's announced policy of February 11, 1994, and June 8, 1994, the gentleman from Oklahoma [Mr. ISTOOK] is recognized for 30 minutes as the designee of the minority leader.

Mr. ISTOOK. Mr. Speaker, I want to address a very severe problem that strikes at the heart of the health care debate that is going on within this Congress and within the Nation right now.

Many of us recall that there was a special task force that was formed by the President. He put the First Lady in charge of that, announced creation of interdepartmental groups. All of this was approximately a year and a half ago when it began. It becomes more and more apparent as time goes on that there has been a great amount of deception that has been practiced in connection with that, a great amount of secrecy attempting to hide from the American people the interests that were involved in promoting the health care plan that the administration is sponsoring, and unfortunately, Mr. Speaker, it appears that that has included lying to Congress in testimony that has been given to a subcommittee of which I am a member.

Mr. Speaker, the gentleman from Iowa [Mr. LIGHTFOOT] and I today have sent a letter to the Attorney General of the United States requesting an investigation into this involving a high administration official, Patsy Thomasson, who is Special Assistant to the President of the United States for Management and Administration and who testified to our subcommittee last year regarding what she claimed and, through her, what the White House claimed was the makeup, the membership, of that task force, and these working groups that were working on the President's health care plan, and how much it cost the American people.

Now, Mr. Speaker, I am grateful for a private group that has been involved in bringing a lot of this to light. A lawsuit was filed last year by the Association of American Physicians and Surgeons, the American Council for Health Care Reform, and the National Legal and Policy Center against Hillary Rodham Clinton, Donna Shalala, the Secretary of Health and Human Services, Lloyd Bentsen, the Secretary of Treasury, Ira Magaziner, a White House adviser, and multiple other members of the administration, seeking something very, very simple, Mr. Speaker. Seeking to have the meetings of that health care task force and its different working groups held in public as they believe, and I believe, is clearly required by the laws of the United States and requiring their documents to be opened to the public, and they have been in litigation in this for months.

First they had a ruling from the district court. The White House appealed it. It came back for further proceedings, and it was now set for trial September 12. On Monday of this week, Mr. Speaker, U.S. Judge Royce Lambert here in the District of Columbia directed that there will have to be a trial for the administration to stand and to answer for what has gone on with this task force with its expenditure of Federal money and who has really been involved in making these decisions. That was definitely a setback for the White House because they have been contending for months that these 500-plus people that were involved in that task force were all Federal employees. They filed a charter saying the expense would be under $100,000, and yet now the plaintiffs in this lawsuit have filed documents with the court showing that 357 people who were members of that task force and the working groups were not Federal employees and contending that about $20 million of taxpayers' money was spent when we were told it might be less than a hundred thousand or, at most, a few hundred thousand, and I am angry, Mr. Speaker, that in testimony to our subcommittee, when we asked about this because we have oversight of the White House appropriations, and they come to us, to our subcommittee, for the money, we were told in testimony by Patsy Thomasson, sent there to represent the White House and the President of the United States, and I quote from documents she submitted to our committee; she claimed, first, the members of the health care task force, which are all Cabinet secretaries of the First Lady, have never been kept secret.

□ 1600

Then she says the reason the names of the working group participants, who were all Federal Government employees, were not immediately released was because they were working very hard on this problem, and we did not want them to be harassed by lobbyists and special interest groups.

She continued in testimony to Congress. She said the working group includes more than 400 people, made up entirely of Federal employees, and repeated a third time in her testimony the working group is made up entirely of Federal employees.

Mr. Speaker, there has been filed in the U.S. District Court a list of over 300 people on those working groups who were not Federal employees, who were being paid by groups such as managed care interests, other health care groups, academia, people from universities and colleges, and people from some multi-billion-dollar foundations, all with interests in health care, all potentially profiting from the Clinton health care plan, that were involved in this. It was not strictly Federal employees.

Because of that, Mr. Speaker, the law says they had to meet in public. They had to keep their records open to the public. And Federal Judge Lamberth, in a 3-hour hearing Monday, which I attended, asked the Justice Department attorneys, look, the meetings of the task force are over. They have a health care plan that has been submitted to the American people. Why do you still insist upon secrecy?

You know what the Justice Department attorney, Mr. Mark Stern, replied to the judge? He said well, why do they still insist on wanting to know? They want to know because it is the law, Mr. Speaker, because we have the right to know. If we are dealing with one-seventh of the American economy, we have a right to know what interests are involved in putting together this plan on behalf of the White House.

The gentleman from Iowa [Mr. LIGHTFOOT] and I have asked today for an investigation.

Mr. Speaker, I yield to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, first of all, I thank the gentleman for yielding. I would like to personally thank the gentleman from Oklahoma [Mr. ISTOOK] for the personal effort that he has put into this, sitting for 3-plus hours through a hearing, and not sending a staffer to do it, to be there to hear firsthand what the judge had to say.

This issue started with us some months ago in our committee when there was at least a sense that maybe what we were being told was not totally accurate. Then there were a number of reports that appeared in the press that would indicate to the opposite of what we had been told, knowing that sometimes the press does not always get it exactly right, very reluctant to push forward with anything as serious as a letter that has been sent to the Attorney General.

But in light of the court hearing, which the gentleman sat through, the fact that in that document, and as the gentleman just read from our hearing testimony in our subcommittee, a direct quote from Ms. Thomasson, that the working group is made up entirely of Federal employees, this was in response to a letter. So it was not off the cuff.

We had asked, just backing up a bit, asked Ms. Thomasson if she would describe for us the makeup of this working group, and she said first of all, I will consult with the White House with regard to your questions about the health care task force and we will get back to you with some type of an answer.

What the gentleman from Oklahoma [Mr. ISTOOK] just read was her answer, where, as he pointed out, the group was entirely made up of Federal employees.

Yet, the judge has a list, I believe some 26 pages, of people who are not Federal employees, who are tied to all kinds of special-interest groups.

For example, here is chief, medical staff, of a particular hospital. Here is a University of Pittsburgh Center for Medical Ethics. Howard University. You can go through here and pick out about anything you want. The Heller School, a portion of Brandeis University. The National Governors' Association.

These are not Federal employees. These are special-interest-group people who have their fingerprints all over this so-called piece of health care legislation that we will be asked to vote on here, as we are being held here so we can get enough votes to do it.

So, in essence, I really appreciate the efforts of the gentleman from Oklahoma [Mr. ISTOOK] in coming up with factual information, into just press reports, not just hearsay, but black and white comments.

Mr. Speaker, I would again like to thank Mr. ISTOOK for yielding. I have another meeting I have to attend, but I think it is critically important that honesty and integrity be a part of this whole operation. If there is anything in this country that people are upset with, it is the perception, and, unfortunately, sometimes backed by reality, of the dishonesty of people in government. When highly placed officials come before a congressional committee and tell us something that is not true, and it has been verified through their own statements and through legal documents, rather than just hearsay, then we, I think, have an obligation, an oversight obligation on behalf of the American people who elected us, to get to the bottom of the issue.

So, again, I really compliment Mr. ISTOOK for the hours that he has put in in making sure that we do have all the legal documents, that we do have the testimony, and we do have the comparisons made, and also members of both of our staffs who worked very hard making sure that the gun was loaded. You do not want to pull the trigger on a blank at this point, underscoring that we are basically asking the Attorney General to appoint a special counsel because of this obvious relationship with the President, which that would happen in any administration.

Again, thank you for yielding.

Mr. ISTOOK. Thank you, Mr. LIGHTFOOT.

Reclaiming my time, you know, when we mention the deceit that has been practiced in this case, I think it is important to notice what is going on in this court case regarding Ira Magaziner, the special advisor to the President, who was widely considered to be the architect of the Clinton health care plan.

Now, Mr. Magaziner filed an affidavit with the court last March, in March 1993. One of the statements in Mr. Magaziner's affidavit, reading from it, page 4, paragraph 11, he told the court; "Only Federal Government employees serve as members of the interdepartmental working groups," which of course is directly contradicted now by the knowledge that over 300 non-Federal Government employees were involved, which means that all the records, under the law, have to be opened.

Now, is this hearing Monday, Judge Lambert, talking about Mr. Magaziner's conduct and the fact that the plaintiffs have asked that Mr. Magaziner be cited for being in contempt of court, the judge twice from the bench commented in regard to what Mr. Magaziner told the court in 1993, in March, said, "It is not true." It is not true. That in order to retain the secrecy that is so precious to the White House, that is so essential to this administration, there were willing to let the court be told something that was not true. And he asked the attorneys for the Justice Department Monday, he said, that has been 15 months ago. Why didn't you ever file a correction, instead of misleading the court for over a year? And the attorneys for the Justice Department had no good reason, and no good explanation.

□ 1610

So Mr. Magaziner, as part of his September 12 trial, may be held in contempt of court for lying to a U.S. district judge, Royce Lambert. And as the plaintiffs in this lawsuit have said in their papers filed with the court,

> The defendant, Ira Magaziner, made false statements and misled this court and the plaintiffs when he testified under penalty of perjury on March 3rd, 1993 that the interdepartmental working group of the President's task force on national health care reform and its cluster groups, working groups and subgroups, were composed only of full-time employees and special government employees of the Federal Government.

Now, for 15 months that has been the heart and soul of this case. That has been what has been in contention and what has dragged it on, dragged it up to an appellate court and back down, what has kept these documents, and I understand that there are 100 boxes of documents that are being held by the White House in secrecy, all because the Judge was told that all the people involved were Federal employees, and thus there was an exemption to the disclosure laws.

Now, at the hearing Monday, the attorney for the Justice Department said, "Well, judge, we are not pushing that point anymore." The judge asked him, "Well, are you withdrawing your contention?" "Well, we are just saying it does not matter anymore."

There were 43 subdivisions, called working groups, with this health care task force. And do you know what the Justice Department has said in its briefs to the court, they said, well, we are sure that 3 of them anyway, that is 3 out of 43, three of them were entirely Federal employees. And yesterday, in open court, the Justice Department attorneys made a stipulation to the judge that they would not contest whether these were all Federal employees or not.

Why was Ira Magaziner telling the courts something that was not true? In order to keep the lid on the secrecy of everything that has happened behind the scenes of the Clinton health care plan. Why did Patsy Thomasson tell something to our subcommittee in testimony to Congress that was not true? To keep the lid of secrecy on the Clinton health care plan and who put it together and whose interests are really involved.

There is going to be a lot to pay when this trial is held September 12. Unfortunately, Mr. Speaker, you and I and the other taxpayers here in this room and across the country are the ones who are paying for it. Because the Justice Department is spending our money to continue to make garbage claims to the court, trying to keep the lid of secrecy on. And they are already being held accountable for tens of thousands of dollars of legal fees for the plaintiffs and it will probably go into hundreds of thousands of legal fees that the Government will be asked to pay. That means the taxpayers will be asked to pay, all so the Clinton administration can try to keep the lid of secrecy on how they put together their health care plan.

How can we vote on something when they want to hide from the Congress and from the American people and from the courts how it was put together? How can anyone in good conscience bring that plan to this floor? Mr. Speaker, I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding. I thank the gentleman from Oklahoma for taking this special order, because he has done extensive work on this issue and brought it to the attention of the House and, certainly, to the attention of this Member.

I did not come down to the floor to make a statement, because the gentleman knows more about what is going on. I came down to the floor because as I was watching the gentleman, several questions were raised in my mind, at least, as to what actually is going on here.

First off, it is amazing to me that the national media does not seem to understand this. I have not read a whole lot about it. In fact, the court case that he is talking about, the trial that is coming in September, I noticed in several of the major papers around the country, received very little play. In fact, a major newspaper I was reading just yesterday put it on the back pages in reporting about this trial that is coming. The national television networks may have reported on it. I do not watch them all the time, but certainly they are not making a very big deal out of this. So the gentleman coming to the floor really highlights what is going on.

The first question that came to mind is he talks about the documents that are being held by the White House: Is it not possible that this House could get a hold of these documents so that we, as a House, can understand what has been going on in the White House in developing the health care reform package? Should not this House, controlled albeit by the Democrats, should not this House be having hearings on this very issue or are they going to use the same excuse that they have always used in the Whitewater affair, that you have to let the legal system run to the end of the rope of the system before Congress ever exercises its responsibility and authority and looking into this?

We are going to make sure that we pass a health care reform bill before we even have hearings on how it was actually written.

Mr. ISTOOK. As the gentleman from Texas, Mr. DELAY knows, I am a freshman Member of this body. So what would I know. But I know that during the last 12 years, whenever there was even the slightest hint that somebody from the administration had deceived or lied to Congress, it was all over the place. There were hearings being held everywhere. Witnesses being subpoenaed; television cameras training in; reporters there to find every word and every nuance that came down.

Here we have testimony to our subcommittee in direct contravention of what the facts are, and it seems to be a very different approach.

Now, maybe someone would suggest that it is because before you had a Democrat Congress, and a Republican administration, and now you have a Democrat Congress and a Democrat administration. You and I would certainly hope that that is not the case. But what other conclusion can reasonable people reach?

This information—we were told by the administration these are the best and the brightest coming in to talk about health care. And they have no special interests involved. They are only from groups like multibillion dollar groups like the Robert Woods Johnson Foundation and the Henry Kaiser Foundation that have been pushing through grants, multimillion dollar grants all over the country toward the type of health care system that the Clinton administration has, that have interests in managed care groups.

There were people from managed care groups, from medical clinics and hospitals and think tank type groups that were not Federal employees but they were all brought in. We were told that was the best and brightest. They put together this plan, even though there are people who will profit from the Clinton plan that were involved in putting it together.

Mr. DELAY. Would not the managed care groups profit from a plan that was first outlined by Hillary Clinton where managed systems would be set up, in essence pushing aside any other sort of insurance and putting all of us under MBO's or the way they put it, managed care systems?

Mr. ISTOOK. Absolutely.

Mr. DELAY. So what in essence they did is they pulled people together that would reflect their own ideology and their own philosophy.

Mr. ISTOOK. And with profit.

Mr. DELAY. And with profit. Pulling people together in secret to write this. I watched the White House, the Whitewater hearings yesterday. Everyone was saying, there is no coverup here. This certainly smacks of coverup.

Mr. ISTOOK. Let me tell you something very important: When the Federal Advisory Commission Act was adopted in 1972, and that is the law that says, when you have a group that is not totally Federal employees but it is federally sponsored and administered and paid for, it has to meet in public, it has to make its papers available to the public and so forth, at that time the report, with the bill that adopted that law, included this statement: One of the great dangers in the unregulated use of advisory committees is that special interest groups may use their membership on such bodies to promote their private concerns.

I think that is exactly what has happened with the task force, and the working group and the cluster groups and the subgroups as they called them that they put together here.

□ 1620

Groups that had a tremendous financial interest, who could gain financially by having a health care plan devised that would help their way of doing business, they got to be the insiders. Look in the Washington Post, on the op-ed page, a column by David S. Broder, and it refers to some earlier writings of Joseph Califano, a former Cabinet Secretary, talking about the fact that the real debate here is over a pot of gold that is worth in excess of $1 trillion because of the value of the expenditures each year for health care in the United States.

If someone can change the system so that they are the ones who profit from the expenditure and the cash flow of this trillion dollars, then obviously they are a special interest, then obviously they have an ax to grind and they have an interest to promote.

I'm not against someone wanting to promote their financial interest, but if they are doing it in a taxpayer-funded group and they are not Government employees, they are supposed to be in the public eye, they are supposed to make their documents and their work products available to the public so we can look, we can look for the reflections of their financial interest in the end product that came out of that group. That is what happened. The White House continues to try to hide it.

Unfortunately for them, Mr. Speaker, through this litigation that is coming to light, the testimony of Ira Magaziner through the affidavit that the judge is saying is not true, in the course of the testimony of Patsy Thomasson to our subcommittee, what are they? They are part of an effort by the White House to conceal those financial interests. I think it is time that it be brought to light.

Mr. DELAY. I agree with the gentleman about bringing it to light, if the gentleman will continue to yield. It is just amazing to me, the lack of oversight this House is exhibiting, particularly in its committee.

I just want to ask one more question, if the gentleman will continue to yield. I was walking over here and missed the gentleman's presentation about Patsy Thomasson's lying to his subcommittee. Did the gentleman talk about what the subcommittee did when they found out that they were given information that was not exactly the truth?

Mr. ISTOOK. At this point the subcommittee has not acted, and I'm not holding that against the chairman, because I have not yet asked him to act, because we have just completed the compilation of this material and sent the letter to the Attorney General this week.

So I think if the gentleman has someone who is lying to Congress, which is a criminal act, of course, that you need to give the opportunity for the criminal justice system to take an interest in it, even though the Attorney General has a conflict of interest personally, because her office is defending Ira Magaziner and defending the very type of statements that Ira Magaziner and Patsy Thomasson have made.

I am happy to yield to the gentleman from New York [Mr. WALSH].

Mr. WALSH. I thank the gentleman from Oklahoma [Mr. ISTOOK]. I would also like to thank him for holding this special order here tonight.

I would just like to comment for a couple of minutes on the importance of this case, and on the importance of the precedent that has been set. We are talking about a working group that was established just after the President took office, headed by Mrs. Clinton, who we all know is the First Lady, is not elected, but has a very, very, very important role in the conduct of this domestic policy.

Mr. Speaker, the way this task force was put together, it would be very easy to direct the result of this task force by who is impaneled.

Mr. ISTOOK. Let me make a comment about that, Mr. Speaker, because it is fascinating, the twists that the Justice Department, on behalf of the White House, is now going through. Since they can no longer say in good faith to the court that these were all Federal employees, what they are contending to the court is this big working group, this 500-plus people, was not really an organized group at all, and they really did not make a report to the President, which directly contradicts earlier affidavits of Mr. Magaziner.

Let me tell the gentleman from New York what they are calling it. This is from the Government's brief, and they argued the same thing earlier. They said, "The working group truly was a horde, rather than a committee."

They told the committee this was not an organized, structured group, this was an anonymous horde of people who just happened to come together at $20 million or so at taxpayers' expense, just happened to come together and work on these things. Is that ridiculous and laughable, or not?

Mr. WALSH. I would submit to the gentleman, if the gentleman will continue to yield, the impression that the American public and this Congress were given was that this was a serious working group empaneled by the President and the First Lady to arrive at a radical change in our health care delivery system that will affect one-seventh of our total economy and 100 percent of all Americans.

Now they are telling us that this was a——

Mr. ISTOOK. A horde.

Mr. WALSH. An anonymous horde of individuals.

Mr. ISTOOK. We are supposed to trust one-seventh of the American economy to an anonymous horde that was unorganized and did not know what they were doing.

Mr. WALSH. I think the judge also asks the right questions: Why at this point, when we are about to broach the subject legislatively, when we are about to vote on legislation that will affect one-seventh of our economy, 100 percent of all Americans, why are they still holding back on the information that was arrived at 18 months ago?

We are going to be voting on a bill within 2 weeks. We have not seen it yet, which is more business as usual. Who knows, maybe this anomalous horde is in the process of putting this legislation together, too. I would suspect that some of those individuals who are on the task force are working right now with the leadership of the Democratic Party to put this bill before us.

Mr. ISTOOK. I think I can answer that.

Mr. Speaker, I think the gentleman will find the answer to that in many of the claims that are coming from the administration right now, and from this little bus tour that is going on and so forth, because they are standing up and saying, "Look, it is special interests that are trying to stop us."

What they do not want revealed to the American people is, it is special interests which are pushing for the Clinton health care plan, and there are financial motives on both sides of that question, I would say to the gentleman from New York: I have no problem with that. I understand.

As Mr. Broder wrote, it is a $1 trillion pot of gold, but I do not think anybody should pretend that they are acting out of nothing but pure motives and the other side is acting out of financial motives. There are financial motives on both sides.

There are motives of compassion and concern with people's lives and ability to live their lives on both sides, but I really take umbrage at this false pretense, this facade that the administration has that somehow their motives are pure and everyone else's motives are suspect.

That is why they are trying to keep the lid of secrecy on. That is why they were willing to go so far as to have someone file an affidavit with the court that the judge is saying is not true, and why you can go so far as to have testimony to Congress trying to mislead Congress as to how this health care plan was put together.

I think that is the answer to that. I think that all of us in this Chamber and all the people in the country need to be aware of that, and they need to insist upon the openness. I do not want the taxpayer to have to pay the legal fees for those who have brought this lawsuit. I think it is time for those who insisted upon secrecy to be the ones to pay for it. If that means that people at the White House get stuck with a couple of hundred thousand dollars in legal fees, that is their problem, and it should not be ours.

Mr. Speaker, I include for the RECORD a letter, with attachments, dated July 27, 1994, which I sent to Attorney General Janet Reno:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 27, 1994.

Hon. JANET RENO,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MS. RENO: As Minority members of the House Appropriations Subcommittee on Treasury, Postal Service and General Government, we request the appointment of a Special Counsel to investigate two possible violations of 2 U.S.C. Section 192 and 18 U.S.C. Section 1001 by Patsy Thomasson, Special Assistant to the President for Management and Administration.

We believe these violations may have occurred during her testimony before our subcommittee on the cost and membership of the President's National Health Care Task Force.

The appointment of a Special Counsel is necessary because much of what is known about the Task Force has come to light through a civil court case which is being defended by the Justice Department. In the case (Civil Action number 93–399 in the U.S.

District Court for the District of Columbia), the Association of American Physicians and Surgeons has sued Hillary Rodham Clinton, Ira Magaziner, and others for violations of the Federal Advisory Committee Act. The AAPS contends the National Health Care Task Force was not made up solely of federal employees and was subject to the public disclosure requirements of the Act. The defendants are arguing the opposite position. A trial has been ordered.

Since the Department of Justice is representing the defendants in the case, it would be a conflict of interest for the Department to investigate Ms. Thomasson regarding the same matter. To avoid any possible conflict of interest, the appointment of a Special Counsel seems prudent.

The circumstances we ask to be investigated are outlined below. Further details on each one are provided in the attached pages.

The first violation involves Ms. Thomasson's statements on the membership of the President's National Health Care Task Force and the Health Care Working Groups. She made multiple assertions of Congress that all Task Force members were federal government employees. These statements appear to have been false. The Plaintiffs have advised the court that 357 participants were not federal employees.

Please note that White House advisor Ira Magaziner is facing a possible Contempt of Court adjudication for making similar misrepresentations in an affidavit to the court. Your Department is defending him. This further illustrates the conflict-of-interest of your office, and thus the need for a Special Counsel regarding Ms. Thomasson.

The second violation involves Ms. Thomasson's statements regarding the estimated costs of the National Health Care Task Force and its working groups. Her statements to Congress regarding this cost appear to have vastly understated the cost to taxpayers.

Attached are: (1) Details on statements made by Ms. Thomasson before the subcommittee, followed by highly contradictory reports that have come to light through the news media and civil litigation; (2) A 26-page list of persons who, contrary to Ms. Thomasson's testimony, evidently served non-federal employees who served on the Health Care Task Force; (3) A partial summation of Task Force expenses exceeding the amount to which Ms. Thomasson testified; and (4) A copy of the relevant federal status regarding false testimony to Congress.

Making misrepresentations or false statements to Congress is a serious matter. As part of our responsibility to oversee public spending, it is essential that the Subcommittee receive clear and accurate information.

We respectfully request the appointment of a Special Counsel to investigate whether Ms. Thomasson knowingly or willingly violated the law by misleading Members of Congress in her testimony.

Sincerely,

JIM LIGHTFOOT.
ERNEST J. ISTOOK.

ATTACHMENT 1

Possible Violations by Ms. Patsy Thomasson of 2 USC Section 192 and 18 USC Section 1001.

CIRCUMSTANCE #1

Statement by Patsy Thomasson before the House Appropriations Subcommittee on Treasury, Postal Service and General Government on March 30, 1993, with regard to the make-up of the Health Care Task Force and Health Care Working Group:

"First of all * * * I will consult with the White House with regard to your questions about the Health Care Task Force * * * and we will get back to you with some type of answer." (The following written response was submitted by Ms. Thomasson through the White House to add to her statement):

Health Care Task Force

"First, the members of the Health Care Task Force, which are all cabinet secretaries and the First Lady, have never been kept secret. The reason the names of the working group participants—who were all federal government employees—were not immediately released was because they were working very hard on this project and we did not want them to be harassed by lobbyists and special interest groups * * *"

"However, Ira Magaziner, Senior Advisor to the President for Policy Development, manages the interdepartmental working group that is charged with gathering information and ideas for the Task Force; the working group includes more than 400 people, made up entirely of federal employees—including more than 90 Congressional staffers.

"The working group is made up entirely of federal employees."

Source: "Hearings before the Treasury, Postal Service and General Government Appropriations Subcommittee, FY 1994," Part 3, pages 389, 483, 484 and 485.

CONTRADICTION

Documents brought to light in the civil suit filed against the government by the Association of American Physicians and Surgeons reveal that large numbers of people who worked on the National Health Care Task Force were not federal government employees. Nor is any discrepancy a minor one. The Plaintiffs most recently contend that 357 persons on the Task Force were not federal government employees. According to an analysis of the documents submitted to the court in "Plaintiffs' Memorandum of Points and Authorities in Support of Motion for Summary Judgment and Permanent Injunction," May 4, 1994, page 186, many members of the Task Force "were not, in any way, employees of the federal government [SGE's and FTE's], and were assigned no official status at all." Attached is the 26-page list, which the Plaintiffs earlier compiled and submitted, of the non-government members of the Task Force and their outside affiliations. This list was drawn from documents previously submitted to the court by the government in that litigation. It identifies 323 separate persons in this category.

The Plaintiffs' memorandum further points out that three Task Force working groups were composed entirely of non-government employees and in fact had no official status with the federal government at all. These working groups were: Cluster Group V, "Ethical Foundations of the New System", Working Group 17, "Bioethics"; Cluster Group XIV, "Numbers Audit", Working Group 34, "Numbers Audit", and Working Group 39, "Minority Issues Review Group."

Even the government, in its May 4, 1994 submission to the court claimed that only "Working Groups 13, 15, 16, 31 and 32 were composed wholly of permanent, full-time federal employees." The government's statement leaves the assumption that at least some of the members of the remaining 38 of the 43 Working Groups, 15 Cluster Groups and 4 Subgroups were not federal government employees.

On July 25, 1994, when directly challenged by U.S. District Judge Royce Lamberth to state whether all Task Force members were federal government employees or not, Justice Department Attorney Mark Stearns was unable to do so.

Mr. Ira Magaziner initially estimated that 98 people would be needed to staff the working groups and that they would be drawn entirely from the White House and various federal agencies. Court documents reveal the actual number of working group members eventually grew to at least 506 people, many of whom represented organization and interests outside the federal government.

In addition, news reports have listed members of the Health Care Task Force working groups as employees of the Robert Woods Johnson Foundation, other interest groups and universities.

According to page one of The Washington Times of March 26, 1993, "A review of group members by The Washington Times has identified a Maryland doctor who has taken paid leave from her job at the state-operated Springfield Hospital Center in Sykesville, near Baltimore, to work for Mrs. Clinton's task force—at a cost to Maryland taxpayers of nearly $20,000."

According to the New York Times of March 19, 1993, one adviser, Thomas O. Pyle, was the head of one of the 15 committees working for the task force on National Health Care Reform. He is also chairman of the Jackson Hole Group, a conclave of health-care executives and policy analysts sometimes described as a brain trust for the Administration. "Trade publications have names of roughly 200 of the more than 500 people working for the task force. Of those who head the 15 working groups, about a dozen are known, including six Federal employees, a state official from California, a professor of sociology and a policy analyst closely identified with an advocacy group for elderly people." "From 1978 to 1991, Mr. Pyle was chief executive of the Harvard Community Health Plan, the largest health maintenance organization in New England." "He said he was still a director of the Millipore Corporation, a multinational high-technology company based in New Bedford, Mass. * * * Millipore sells a wide range of products to drug companies * * *"

It seems abundantly clear that Ms. Thomasson's testimony to Congress was blatantly false, and obviously misled the Congress.

CIRCUMSTANCE #2

Statement by Patsy Thomasson before the House subcommittee on March 30, 1993, with regard to the total costs of the Health Care Task Force and Health Care Working Group:

"Expenses of the working group and Task Force are funded by the Department of Health and Human Services through an interagency agreement with the Office of Policy Development that totals $325,000. The estimate [sic] budget is as follows:

Personnel	$32,000
Transportation of things	1,000
Rental payments to GSA	72,500
Other rent, comm., util	10,000
Printing	60,000
Other services	60,000
Supplies and materials	7,500
Furniture and equipment	32,000
Travel	50,000
Total	$325,000"

CONTRADICTION

The official Charter of the "President's Task Force on National Health Care Reform," dated March 17, 1993, states in clause IV, "Established Costs"—"The estimate cost of the Task Force is expected to be below "$100,000."

The Washington Times, reported March 24, 1994 on the court case brought against the Task Force by the Association of American Physicians and Surgeons states, "The task force spent $4 million on consultants and possibly $16 million more in consulting fees, salaries and expenses," and that "several outsiders * * * were paid $97,000 salaries or $300 an hour in consulting fees."

The Wall Street Journal, in a June 6, 1994 editorial on the court case, stated, "The Task Force spent at least $4 million and possibly as much as $26 million on expenses, salaries and consulting fees."

While the figures reported in the press may not be precise, they, along with court documents, indicate the true costs of the Task Force were far in excess of the amount given in Ms. Thomasson's testimony before the appropriations subcommittee.

More importantly, salary, expense and travel reimbursement documents filed in the court case against the Task Force reveal its true costs to be far more than was represented to Congress by Ms. Thomasson.

Attached is a list of 24 full-time Special Government Employees who served on the Task Force showing the salary and travel compensation they received. Also included in the list are part-time paid members of the Task Force and unpaid members who received travel reimbursement. The list shows that amount of government funds each person received in salary and travel costs.

Government salary expenses for Special Government Employees alone came to almost $550,000. The documents show travel and other reported expenses add up to another $136,000. Full costs reported in documents submitted to the court total over $685,000. These are only the specific costs revealed in records submitted to the court. The true, unreported costs of the Task Force may be much higher.

UNIVERSAL COVERAGE

The SPEAKER pro tempore (Mr. HINCHEY). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the Chair recognizes the gentleman from Washington [Mr. McDERMOTT] for 60 minutes.

Mr. McDERMOTT. Mr. Speaker, as you know, I have made an effort almost every week to talk to my colleagues about one issue in health care reform and how it will affect the American people personally.

I want to talk tonight about an aspect of health care reform that the President made the measuring stick of every proposal—universal coverage.

Tonight, we need to talk about why every American, not just the uninsured, needs universal coverage. We need to talk about what exactly universal coverage means. And we need to talk about why we need universal coverage now.

Universal coverage means every American always has health insurance, insurance that can never be taken away. No matter how your job changes, or whether you are a homemaker or self-employed, or work part time or lose a spouse or move, your health insurance is constant. It is something you can count on. One hundred percent universal coverage is attainable, and contrary to the propaganda you may hear, every other country in the Western world has a system of absolute, guaranteed universal coverage and has for decades. Everyone in other Western countries who needs health care gets it, and those who provide the care get paid for the care they give, period. That's 100 percent universal coverage. Germany has had a system of absolute, complete, guaranteed universal coverage for over a century. Now what are our leaders saying when they suggest that the United States can't really achieve universal coverage? I'll tell you what they are saying. They are saying that Americans aren't as good as the Germans or the French or the Japanese.

They are saying that the American people don't have the will to solve their problems the way the people in other countries—our competitors—do.

They are saying that the American people don't deserve the same protection that people in every other industrialized nation in the world have.

Mr. Speaker, the doubts about whether America can achieve universal coverage or whether it can even occur in this century are unworthy of the American people.

The reality is that we can have universal coverage starting in January, 1996—full, complete, total, guaranteed universal coverage.

And the reality is that every American needs it just as soon as we can pass it.

Let me share a story with you about what having the kind of security our trading partners have means to people who live and work in those countries. I have a friend in my home district of Seattle who is an opera singer with the Seattle Opera Company. She occasionally is a guest performer with a German opera company. From the minute she sets foot on German soil, she and her family have full health insurance in Germany without any concern about what the state of their health insurance is in this country or whether her policy will cover foreign work or travel. Her daughter contracted leukemia and when the mother was performing in Germany, her daughter received full treatment in Germany for her leukemia without any question about when she contracted the leukemia or where her residence was.

There was simply no anxiety about her health coverage or her health care. She had better protection because her mother occasionally performed in Germany than she does in her own country. And Germany spends about half of what we spend per person on health care.

Universal coverage means everyone—everyone—is in the system so there are no more games about who gets care under what circumstances and where. And no more games where you get coverage if you meet one definition but if your life changes, you don't get that insurance anymore.

If everyone is in the health insurance system—and we all know everyone is in—then we don't have to waste any more time, and money, and paper trying to figure out who gets what—and for how long.

So, Mr. Speaker, why does every person and family in America need universal coverage? Because right now most Americans are just one pink slip away from losing his or her health insurance.

Right now, if you lose your job, you lose your health insurance. So you not only have to worry about getting a new job and having some income, but you have to worry that if your child gets sick you may not be able to get her the care she needs.

If your company cancels or cuts back on the benefits it offers in its health insurance package—you and your family are at risk. Right now, if you change jobs or go out on your own in business, you may lose your insurance. Right now, very few people in this country can say with certainty that they absolutely will have health insurance a month from now.

We are the only people in the industrialized world who do not have that certainty. Universal coverage is the only way to get that certainty. But there is another reason to have universal coverage. As a nation, we simply cannot afford to do without it. The poet John Donne said, "no man is an island unto himself." Nowhere is this more true than in health care. Because we don't have universal coverage, everyone who has health insurance pays a higher premium. Because we don't have universal coverage, people get care too late, in emergency rooms, where it costs much more money than it would if they had had timely primary care. And hospitals then look for someone else to pick up the tab. Our whole economy is playing a shell game with health care costs, trying to shift them around to different people who pay. It's called cost-shifting—getting someone else to pay for the people who can't—and it costs the American people a high price.

We will never be able to control health care costs until we have universal coverage. It's that simple. To slow the growth of health care costs, we must have universal coverage. Every other country in the Western world has lower costs than we do, many have better care, and they all have universal coverage. Every year universal coverage is delayed, the costs of health insurance and health care go up.

A study performed for the Catholic Health Association shows that if proposals for insurance reform such as ending the practice of denying health insurance because of a preexisting condition are enacted without universal coverage, health insurance premiums for families earning between $20,000 and $29,000 will go up almost $500 a year. In other words, universal coverage is essential to keeping the cost of health care down.

In New York State, they tried to do insurance reform without universal coverage. The result was that health insurance costs increased and more people lost their insurance after insurance reform than before. If everyone had been in the system, then insurance reform would have worked. The lesson is clear. Universal coverage is the house of health care reform.

We all know that in most cases it is better to own your own home than to rent an apartment. But what usually keeps people from buying their own homes? The down payment. We have to come up with a down payment—the way to get into the house—or, as a nation, we will just have to keep on renting this inadequate and over-priced apartment. An apartment that is too small, that doesn't suit our needs, that drains our resources and keeps us from ever being able to afford the house.

So how do we get into the house? There is no question that the cheapest, the quickest, the most efficient way to get into the health care house is through single-payer reform. This is the way every other country in the industrialized world got into the house, and they are living there much more comfortably than we are in our poor apartment. Single-payer is the way to absolutely guarantee 100 percent universal coverage within 1 year. Even opponents of single-payer acknowledge that only single-payer could achieve full universal coverage with every "i" dotted and every "t" crossed. Only single-payer guarantees unrestricted free choice of provider and eliminates insurance company interference in the physician/patient relationship. Only single-payer guarantees that you can have a lifetime relationship with your doctor if that is your choice. Only single-payer provides complete benefits including preventive care, all outpatient and hospital services, prescription drugs, children's dental care, mental health services, and comprehensive long-term care.

How is single-payer able to do all this? Very simply. If Americans paid their health insurance premiums to a single national health security fund instead of to all their different insurance companies, and then that single national fund reimbursed health care providers directly for their services the way insurance companies do now, we would save enough money on insurance administration to pay for universal coverage and comprehensive benefits for all Americans. With single-payer, we get to universal coverage immediately. So don't let anyone tell you we have to phase it in over 5 years, or to the end of the century, or beyond. We don't need to wait that long. We can't wait that long.

Remember, every year we postpone it, we lose money because we can't control costs. Every year it will cost more to fix the problem. Every year more people will lose their insurance and we will all have more to worry about. And every year universal coverage is delayed, the chances are greater that something will intervene in Congress to just keep on pushing it back. We will simply lose it.

That's what happened in Massachusetts. They set up universal coverage in 1988 to go into effect in 1993. And it still hasn't happened. Americans need universal coverage that is guaranteed now so that Congress can't undo it once its done. We can have universal coverage by 1997, and the American people should settle for no less.

When we look around the world and the events of the last few years, we see historical developments of almost Biblical proportions. The Berlin Wall has come down and Russia is a struggling democracy. Unbelievably, South Africa has ended apartheid and has implemented a democratic government. Our fellow industrialized countries are climbing—and scaling—the Mount Everests of political challenges. Compared to the challenges these Nations have embraced, the difficulty of reforming our health care system so that we can finally get everyone into the system is so small. It is not Mount Everest. It is not even a hill.

We are the greatest nation in the history of the world. We are the richest and we are the most democratic. It is an outrage to say that we cannot do something as relatively simple as get all our citizens in the largest health care system in the world in less time than it took for de Klerk to end apartheid or Gorbachev to bring down the Berlin Wall.

I urge my colleagues to take the small step—not the big step—of guaranteeing universal coverage for American families and to insist on universal coverage by 1997 so that we can finally move into the house that will give us security for the future.

□ 1640

HOW TO WRITE A HEALTH CARE BILL

The SPEAKER pro tempore (Mr. HINCHEY). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, let me just say I want to talk this afternoon about how to write a good health care bill. I was led to decide to give this outline of how to write a good health bill by spending some time this morning on "Good Morning America" and talking about what the Republican bills were trying to do and what their weaknesses were and what I thought the Clinton bill was trying to do and what its weaknesses were.

What struck me was that by the simple act of being candid and saying look, the Republican bills do not do everything, they in fact are stronger on protecting the middle class and on protecting working Americans, they are weaker on reaching the marginal worker and do not do as much as does the Clinton bill; the Clinton bill is stronger on taking care of the marginal worker, but does more to take money away from Medicare and does more to limit the choices of working Americans who have good health insurance. Just by being candid about the fact there were upsides and downsides to both sets of bills, I got a very surprising reaction from people who said it was such a relief to not have somebody just saying mine is perfect and yours is terrible.

On the way back from New York, I began to think about this nutty process we are in the middle of. Here we have an issue which is central to every American, life and death, coverage if you have a serious illness, the shape and nature of our health system, should we focus on preventive care and on wellness and on early detection or should we focus on acute care after you finally get very sick? Should we give the individual control and choice over their doctor, and if so, should they have to pay for that control; or should we insist that the individual go into something like a managed care system, whether it is government or private, and while they lose a certain amount of choice over their doctor or their hospital, they at the same time save a great deal of money?

These are not small questions. Yet watching the last 2 or 3 weeks I think has been a very sad experience for all Americans because instead of calming down and settling down and trying to have a genuine effort between the leaderships of a bipartisan bill, to genuinely have Senator DOLE and Senator MITCHELL and Mr. MICHEL and Speaker FOLEY and the President, and Mr. GEPHARDT and myself, and folks sit in a room and say look, let us try to see how far we can carry America toward a better health system, and let us see how many things we can agree on that have a broad agreement where most people think there have to be changes, instead we are engaged in what is almost an ego game worthy of teenagers.

There is a bus tour going across America. Who cares? What does a bus tour which can be bought and organized and paid for by any large group, whether it is the unions, or it is big business, or it is some ideological group, I mean putting a bus tour together today just means that you have some limited ability to organize, but it means nothing in terms of public policy.

□ 1650

Or we have speeches in which people stand on different platforms and yell at each other across the television sets, but in terms of public policy, none of that really matters. None of that is a good idea.

Then we have the spectacle, and I guess I was led in part to talk about how to write a good health bill by learning yesterday the Senate Finance Committee bill, which I thought I saw being written on July 2, and I was at home for the July 4 break, and I took some time off and spent part of the afternoon watching on C-Span as the Senate Finance Committee marked up what I thought was a bill, and they passed it out that Saturday afternoon. I now have discovered that bill does not exist, that although it is now 25 days later, that they still have not finished writing the bill, so the Congressional Budget Office cannot do its estimates because the bill which they passed over 3 weeks ago does not exist.

Now what do we have? We have the spectacle of the Senate majority leader, who I am told has now dropped his Friday deadline for writing a bill to next Wednesday, although I am told the White House is telling the press they will have votes next Wednesday on a bill which he may not even introduce until Wednesday; I am told by the news media the Democratic majority leader, Mr. GEPHARDT, is working on some document, that there is a 7-page outline of general principles going around, the goal being to somehow magically write a bill, get it analyzed by experts, and bring it to the floor and get it to a fiscal passage vote in 2 weeks.

Now, I just want to say to all of my colleagues, Republicans or Democrats, liberals or conservatives, this is a terrible way to run the most complex society in the world, and it makes no sense. I mean, what do we gain if the Gingrich bill passes by one vote or the Gephardt bill passes by one vote, but they are bad bills? Or they are bills that have such narrow support that they get repealed next year just as happened a couple of years ago when we passed the catastrophic health bill, and a year later we had to repeal it? What are we gaining?

And in the process, look what is happening. The polling numbers indicate more and more Americans oppose any bill that has Clinton's name on it. The polling numbers indicate the country is more and more frightened the Congress will rush to do something dumb, and the spectacle seen around the world of the most complex government, and there is no government in the world which deliberately divides power the way we do, we have a President, and then we have a legislative branch, the legislative branch is divided into two parts, the House and Senate; the House is geographic, or is population-based, the Senate is based on States. So California has many, many Members in the House, but only two in the Senate. Wyoming has only one Member in the House, but has two in the Senate. Senators are elected for 6 years, and only a third are up, and House Members are elected every 2 years, and we only represent the Federal Government. There are State governments and local governments, and under our Constitution all other rights not expressly granted to the Government are retained by the citizens.

We are the most complicated and difficult-to-lead society in the world. Our Founding Fathers deliberately decided they would keep power distributed so no dictator could force the system to work.

For us to try to rush to write a complicated 1,200 or 1,500-page health bill and try to ram it through on a narrowly partisan vote with nobody in the country understanding the bill, no expert having read it, no public hearings, I think, would be tragic, and I think it would be bad government. I think it is bad policy. I think it is bad for America, and I think it is bad for the Congress, and I think all of us are at one level participating in pushing our way to a test of will where you are going to have a real effort to see who can win.

I think it is silly. It is childish.

Instead of having a duel between Senator DOLE and Senator MITCHELL or a duel between the Republican leadership in the House and the Democratic leadership in the House or a name-calling contest between the President and Mrs. Clinton and the Republican leaders around the country, it will be far better for us to take a deep breath, take a step back from the process and say to ourselves, what if we took seriously the health care of the American people, so seriously that we were willing to calm down, quit name-calling, and actually try to write a bill together.

Now, there are a couple of simple principles. What if we were to write a bill that was focused on passing only things that had broad public support and broad public agreement? We would discover, for example, that malpractice reform, that is, lowering the number of lawsuits and lowering the amount of defensive medicine, something which one study indicates would save $76 billion over 5 years, that is pretty popular. Most Americans believe we have too many lawsuits, and they would like to see a less litigious system with fewer lawsuits. So we might include malpractice reform.

There is overwhelming support for the idea that once you have health insurance you should never ever be kicked out because of a precondition, and the insurance companies agree this can be passed, and they can sustain this with almost no difficulty. So we could pass a law in the next few weeks that says that we will have no preconditions ever for people who already have insurance, so the day you get your first health insurance, the first time you go to work, from that day, the rest of your working career you can change jobs, you can take time off, whatever, you are in the system, and as long as you stay in the system, you can never be kicked out for precondition.

That would meet the largest single fear of middle-aged working Americans.

We also know that there is overwhelming support for the idea that small businesses and self-employed people and family farmers and unemployed people should get the very same tax break as the biggest corporations. Today, if you are a giant corporation and you buy health insurance, it is 100 percent tax deductible. If you are self-employed or unemployed or a family farm, it is zero tax deductible. Almost every American agrees that is unfair.

We can find enough savings to be in a position to have the kind of approach that lets us take care of giving the same tax break, the same 100-percent deductibility to small business, to the self-employed, to the unemployed, and to family farms that we give to big corporations. That would solve a big part of the problem. We can do that within the framework of a commonsense bill.

There are other steps we could take. We could expand the number of community health centers so that we would be in a position to reach out to working Americans who are poor and get them an opportunity to have preventive care and to have inexpensive care without having to go to an emergency room. We could say to the States we think that people who are getting Medicaid ought to be in managed care where we begin to have preventive care and wellness programs and lower the cost of taking care of them.

There are some estimates we could save as much as 20 percent of the cost of Medicaid by simply going to managed care for the poorest Americans and getting them into a system where there is, for example, prenatal care, where you have mammograms and check on people, and try to lower the cost.

I am not trying to produce a long list. I am trying to give you a sense that there are very specific reforms that are very real, that are overwhelmingly supported by most Americans, and that could be passed this year without any damage to the system.

We could sit down in a room, either at the White House or here at the Capitol, and I believe that you could have a genuine effort by Senator DOLE and Senator MITCHELL and Congressman MICHEL and Speaker FOLEY and by the President, and you could produce a bill that got 280 or 290 votes in the House and got 60 or 70 votes in the Senate, and the American people would say:

> You know, it is really a positive thing to see our elected officials put the country

above party, to see our elected officials put good legislation above scoring points, to see our elected officials quit maneuvering and quit debating and quit manipulating and actually work together constructively.

Now, neither side would necessarily get everything it wants. Neither side would necessarily have all the breakthroughs. But, frankly, if the President, working with Republicans and Democrats alike, passed a good, solid, middle-of-the-road reform bill and he still wanted to fight for a bigger government Clinton-style plan in January, he could come back to the Congress, and in his State of the Union he could outline another set of reforms on top of the ones we passed, and we could start the process again next year.

But what I think that I find so disturbing is the idea that on an issue which is not just about ideology or symbolism, it is literally about life and death, it is literally about 260 million Americans, it is literally about 14 percent of the largest economy in the world, about $1,300,000,000,000, on an issue of this importance, maybe the most important domestic issue of my adult lifetime, that we are being reduced to a series of petty partisan games. We are being reduced to politicians sort of yelling at each other on national TV. We are being reduced to symbols like a bus tour. We are being reduced to, I think, the most degrading and the most deficient process I have seen in a long time.

□ 1700

I mean every Member ought to just think about: What are your citizens back home watching? They are watching the news every day. They are seeing that there is no bill today, there is no Democratic leadership bill today, there is not going to be a Democratic leadership bill tomorrow. Yet we are going to rush without a single hearing, without any expert testimony, without anybody back home having a chance to tell us what is going on, we are going to rush to try to pass a bill of this size before August 12 or August 13? We must look, to any serious adult in this country, like we have just lost our minds, like it makes no sense at all.

So I wanted to come to the floor and offer—this is just for myself, I have not cleared this with Mr. MICHEL, and certainly have not talked to Senator DOLE about it, I am not even offering it as a Republican. I am just saying as somebody who had some time today to think about things, having thought about the reaction I got on "Good Morning, America," by just being candid and open about the fact that the Republican bill is not perfect and the Democratic presidential bill is not perfect and we both have some strengths and they are different, and we both have some weaknesses, that the reaction, the way people thought it was so refreshing to have some elected officials say just, "Hey, nobody is perfect, but let us try together." I wanted to come to the floor and in as open a way as I could say to the President and to Mrs. Clinton and to the Democratic leadership in the House and in the Senate: Why do we not slow the express down? Let us sit down and talk together, let us see if we cannot find a positive reform bill that an overwhelming number of Democrats and Republicans could sign onto together, that did no damage to the current system, that we could take together to the country and show people with great pride this would be better for America and we could explain what the good parts were and we could explain honestly what the costs were and maybe you would have a sense in the country that we have done something good for a change and maybe the Congress did deserve a little respect.

And I think that that approach would be so much better than pork barrel and log rolling and back rooms and secret deals and the kind of chaos mentioned last Friday in the New York Times, where Members are getting goodies for companies and hospitals and people are being taken care of.

I think we are about to head into 2 weeks that are going to look so demeaning and so tawdry and so negative from the standpoint of the average American that whether a bill passes or not this summer, the image of the Congress and the reputation of Congress will take another deep step down and people will be even more disgusted with the way politicians work in Washington.

So I just wanted to come to the floor tonight and say I think we have a chance to do something right for America. I think all of us, Democrats and Republicans, ought to take a deep breath, step back, give up our pride of ownership in whatever we have done so far, talk together, find the pieces of a good bill that we can all agree on, pass them together.

As a Republican, I am willing to have the President have a big bill-signing ceremony, I am willing to have him get a boost in the polls because I think it is better for America if we actually pass a bipartisan bill rather than go through 2 months of just kicking and fighting and a kind of behavior that is going to lower the prestige of the country, lower the prestige of the Government and, frankly, produce a bill that is going to be a dumb bill.

It is going to be very hard under these circumstances no matter who wins, it is going to be hard to write a good bill that we can be proud of in the long run.

So I extend my hand. I am certainly prepared to sit down with the President or Mrs. Clinton and the Democratic leadership in the House and Senate to work together to try to do something good. And then, frankly, in January, if the people who believe in a single-payer system, if the people who believe in a big-government system want to come back and let us try again, and if they want to pursue their approach, fine. That is their right as Americans. We can have a debate over that in the fall. We will have passed a good first-step bill, we can debate the principles of future reform, the President can come to a State of the Union and announce next year where he wants to go.

But to try to ram it through in the next few weeks in total ignorance, with no one really knowing what is in the bill and knowing what it means and knowing what it costs, that I believe is wrong for America, I think it is wrong for every Member of the House and Senate, and I hope we will not do it.

So I hope the Democratic leadership and the President will take up this offer and I hope maybe as early as tomorrow we could sit down and work together to write a good health bill.

COMMEMORATION OF THE 50TH ANNIVERSARY OF THE LIBERATION OF GUAM

The SPEAKER pro tempore (Mr. HINCHEY). Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I just returned from Guam where I attended the commemoration of the 50th anniversary of the liberation of Guam and I want to take this opportunity to share with this body and with the nation some thoughts on this important event.

Over 1,200 veterans of the World War II battle to liberate Guam returned to our island as guests of the people of Guam to commemorate the sacrifices that freed our island from enemy occupation, the only American community occupied in World War II.

A highlight of the 50th anniversary commemoration was the dedication of a memorial wall that stands as a great testimony to the courage, heroism, and sacrifice, of two groups of people who came together 50 years ago: One was in uniform and the other was in rags, one used weapons of war and the other used tools for survival, one came in from the sea and the other came down from the hills, one left their families behind, and the other tried to keep their families with them, one liberated the island from without and the other liberated the island from within.

In their meeting the great historical drama that Guam alone could play came to pass, as American soil was liberated from enemy hands, the very first American soil to be occupied since the War of 1812.

The battle-hardened American fighting men came to Guam concerned about meeting a determined enemy. One Marine veteran from the 3d Marine

Division, Mr. Ken Rulf of Grand Junction, CO, wrote to me and his perception was typical of the liberators:

> . . . back in 1944 I was a 19-year-old kid who didn't know very much about Guam except that is was important for us to recapture it.

But these men soon came to understand the special nature of this battle among all of those in the pacific, indeed among all the battles of World War II. This was a reoccupation; this was retaking what was once lost, what was once American. And as they saw our people come down from the hills, the soldiers and marines broke down, and they openly wept as they saw Guam's children carrying handmade American flags, imperfect in their design, yet perfectly clear in their representation.

Many veterans of the war in the Pacific, not just those who served on Guam, but also those who served on Guadalcanal, Tarawa, Saipan, Peleliu, the Philippines, Iwo Jima, and Okinawa, have written to me in support of our efforts to honor those who fought in the Pacific theater. While D-day has come to mean Normandy, and while Normandy has attracted national media attention, it is a sad commentary that the Pacific War veterans are left out, are neglected, are forgotten, are denied the honor that this country owes them. As Mr. Emory Aherst of Atlanta reminds us, every island had its D-day too.

Guam has not forgotten—Guam has honored the veterans. Last month here in Washington, we hosted a memorial service and wreath laying ceremony at the Tomb of the Unknown Soldier at Arlington National Cemetery. While the ceremony in Normandy attracted scores of the Nation's leadership to cross the Atlantic, few crossed the Potomac River to attend our remembrance service at Arlington.

Some of the most touching letters I have received were from the widows, sons, and daughters of Pacific War veterans who wrote to say that they never fully appreciated what their husbands or fathers went through, but are now just starting to understand. People like Brad Burke of Birmingham, AL, Mrs. J. Grounds of Corpus Christi, TX, and Pauline Kincaid Sauers of Santa Maria, CA. Each had a story to tell, each remembers a loved one who was a Pacific War veteran.

We will continue to tell the story of Guam and the war in the Pacific as we relate our experiences to comrades, old friends and new friends, and as we remember those who died in the conflict by bombs, mortars, hand grenades and rifle fire, and those civilians who were sacrificed by the brutality of swords and firing squads by an enemy occupier.

And we will continue to tell the story if for no other reason than that the story must be told—to ourselves if not others—for the sake of future generations as well as past ones. The stories which comprise this great historical drama remind us not only that brutality and violence can befall any people, but that all people are capable of courage. The stories teach us great lessons about freedom, sacrifice, and conviction. And if for no one else in the world, we must remain inspired by the history which occurred on Guam, our own history of an American community, occupied and liberated 50 years ago.

CONFERENCE REPORT ON H.R. 4453

Mr. HEFNER submitted the following conference report and statement on the bill (H.R. 4453) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-624)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4453) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 17, 26, 28, and 33.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 9, 12, 22, and 25, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$550,476,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$66,126,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with a amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$385,110,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$516,813,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$504,118,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$249,056,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$170,002,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$267,465,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

Restore the matter stricken by the Senate, amended as follows:

In lieu of the section designation "Sec. 125." in said amendment, insert: *Sec. 126.* and delete the matter proposed by the Senate.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 8, 10, 13, 14, 15, 16, 19, 20, 23, 24, 27, 29, 31, and 32.

W.G. (BILL) HEFNER,
THOMAS FOGLIETTA,
CARRIE P. MEEK,
NORMAN D. DICKS,
JULIAN C. DIXON,
VIC FAZIO,
STENY H. HOYER,
RONALD D. COLEMAN,
DAVID R. OBEY,
BARBARA F. VUCANOVICH,
SONNY CALLAHAN,
HELEN DELICH BENTLEY,
DAVID L. HOBSON,
JOSEPH M. MCDADE,
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
HERB KOHL,
ROBERT C. BYRD,
SLADE GORTON,
TED STEVENS,
MITCH MCCONNELL,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4453) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement of the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

Matters Addressed by Only One Committee.—The language and allocations set forth in House Report 103-516 and Senate Report 103-312 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the

House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or the Senate have directed the submission of a report from the Department of Defense, such report is to be submitted to both House and Senate Committees on Appropriations.

Reprogramming of Authorized Projects.—The conferees note that funding for many military construction projects could not be accommodated in this conference agreement because of budget constraints. However, the conferees expect that the Department of Defense Authorization bill for fiscal year 1995, when enacted, will contain authorizations for projects not included in this conference report. In light of this situation, the conferees direct the Department of Defense to give priority consideration to those authorized but unfunded projects in its fiscal year 1996 budget submission for military construction. In addition, the conferees will consider reprogramming requests for such authorized projects that are executable in fiscal year 1995.

Reprogramming Thresholds.—The conferees consider it necessary to clarify the reprogramming thresholds that shall apply to all current and future projects for both the active and reserve components. The conferees agree that a dual criteria of 25 percent or $2,000,000, whichever is less, shall apply to both military construction and family housing construction projects. The conferees agree to waive the requirement for reprogramming approval for family housing construction in certain cases involving costs associated with Environmental Hazard Remediation, as explained in the Senate Report 103–312.

Demolition of Unused Facilities.—The conferees direct that each of the military services and defense-wide agencies develop a demolition line item and request funds as a part of the fiscal year 1996 Military Construction budget submission. This line item would be used to fund demolition of facilities which are no longer needed that have high ownership costs and/or present a safety or environmental hazard. Although operation and maintenance funds can be used for this purpose, the conferees believe that use of operation and maintenance funds for demolition is given a low priority by local commanders. Therefore, the Department should give serious attention to establishing a demolition line item.

General Reduction.—The conferees agree to a general reduction in the amount of $136,671,000 for military services and Defense-Wide agencies. The general reduction is to be applied to the combination of project savings from favorable bids, reduced overhead costs, cancellations due to force structure changes and cancellations due to the 1995 base realignment and closure decisions. This general reduction shall not cancel any project as contained in the table at the end of this conference report. The conferees note that any project cancellation must be reported to the Committee on Appropriations within 21 days.

Hearing Transcript.—The House conferees are dissatisfied with the Department regarding the excessive time to edit and return House Military Construction hearing transcripts. In one case, it took four months for the Department to return a transcript. This is unacceptable and the conferees expect more timely service in the future.

Hawaii-Oahu Family Housing.—The conferees support the Senate recommendation to return the family housing operation and maintenance funding and program responsibility to the individual military services on Oahu. The conferees agree to reallocate funds among the Services in a lump sum amount, and to allow the services to redistribute the increases and decreases among the various operation and maintenance subaccounts. The distribution of lump sum amounts will not apply in connection with the 10 percent threshold for reporting transfers among operation and maintenance subaccounts.

Cost-Plus-Fixed Fee Contracts.—Section 101 of the General Provisions prohibits funds to be used for cost-plus-fixed fee contracts unless approved by the Secretary of Defense. The conferees are aware that this provision may impede environmental research and cleanup services which are usually done on a cost-plus-fixed fee basis and which are critical to cleanup of hazardous wastes and completion of base closure recommendations. The conferees would urge the Secretary to exercise appropriate waiver authority when hazardous waste research and clean-up services are required.

Base Realignment and Closure—Construction Notifications.—The conferees have provided full funding for military construction and family housing projects as requested for the Base Realignment and Closure accounts. The conferees find it important that the Congress be advised of any programmatic changes involving the construction of projects. For this reason, the Department is required to notify the Committees on Appropriations 21 days prior to initiation of any project not programmed for construction in the fiscal year 1995 budget justifications as printed in the Military Construction Appropriations for 1995 House Hearings, Part 4. The Department shall also notify the Committees on Appropriations, in a quarterly report, of any projects that are canceled. In the same report, the department shall include those projects for which costs, at the time of award, vary by 25 percent from the costs identified in the budget justifications.

Base Realignment and Closure—Budget Justifications.—The conferees direct the Department to include, as a part of the fiscal year 1996 justifications for base realignment and closure, a single consolidated state list of military construction and family housing projects for all rounds of base realignment and closure and for all services and components. The list shall contain project name, estimated costs, and cross reference to justification data (Form 1391).

Defense Information Systems Agency (DISA).—The conferees direct the DISA to submit to the Committees on Appropriations by March 1, 1995 a cost analysis and review of the potential savings associated with consolidation of each data center. The report should explain the differences between the July, 1993 estimate of $309,000,000 for DOD's five year one-time costs for this consolidation versus the $417,400,000 estimate contained in the fiscal year 1995 budget justifications.

MILITARY CONSTRUCTION, ARMY

Amendment No. 1

The conference agreement appropriates $550,476,000 for Military Construction, Army instead of $623,511,000 as proposed by the House and $489,076,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Georgia—Fort Gordon: Battalion Vehicle Facility.—The conferees note that this facility was destroyed by fire and replacement is estimated to cost $3,500,000. Therefore, the conferees will consider a reprogramming request for this project under 10 U.S.C. 2854.

Chemical Demilitarization.—The conferees strongly support the Senate recommendation to transfer the authorization and appropriation for chemical demilitarization facilities to the "Defense-Wide" account. Therefore, the conferees direct the Department to submit all future construction requests for chemical demilitarization facilities in the Defense-Wide military construction account.

Amendment No. 2

Earmarks $66,126,000 for study, planning, design, architect and engineer services instead of $67,700,000 as proposed by the House and $62,926,000 as proposed by the Senate.

MILITARY CONSTRUCTION, NAVY

Amendment No. 3

Appropriates $385,110,000 for Military Construction, Navy instead of $462,701,000 as proposed by the House and $340,455,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Amendment No. 4

Earmarks $43,380,000 for study, planning, design, architect and engineer services as proposed by the Senate instead of $47,900,000 as proposed by the House.

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 5

The conference agreement appropriates $516,813,000 for Military Construction, Air Force instead of $514,977,000 as proposed by the House and $525,863,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Georgia—Moody Air Force Base: Alter Mission Equipment Facility.—The conferees agree that alteration of the Mission Equipment facility be executed utilizing unspecified minor construction funds.

North Dakota—Minot Air Force Base: Repair Ramp.—The conferees agree that the project to replace and repair concrete slabs in the mass parking apron is needed in order that B-52H aircraft and their towing equipment can safely taxi on and off the apron. Such repair qualifies for use of operation and maintenance funds. Therefore, the conferees direct the Air Force to utilize operation and maintenance funds instead of military construction funds for this project.

Amendment No. 6

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$49,386,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement earmarks $49,386,000 for study, planning, design, architect and engineer services instead of $55,900,000 as proposed by the House and $53,886,000 as proposed by the Senate.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 7

Appropriates $504,118,000 for Military Construction, Defense-Wide instead of $467,169,000 as proposed by the House and $561,039,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Hawaii—Tripler Army Medical Center: Parking Structure.—The conferees agree that no funds will be used for planning and design of a parking structure at Tripler Army Medical Center, Hawaii.

North Carolina—Fort Bragg: SOF Company Operations Complex (Phase I).—The conferees agree to provide funding in the amount of $8,000,000 for Phase I of the SOF Company Operations Complex. The Department is directed to include Phase II funding for this project as a part of the fiscal year 1996 budget submission.

Chemical Demilitarization: Carbon Filtration Systems.—The conferees recognize a need to provide for Carbon Filtration Systems at all demilitarization locations. Therefore, the conferees agree to provide funding for these systems at two locations (Anniston Army Depot, Alabama and Tooele Army Depot, Utah). Because of the long lead time to acquire these systems, the Department is directed to request funding for these systems for future demilitarization facilities including Pine Bluff Arsenal, Arkansas and Umatilla Army Depot, Oregon.

Amendment No. 8

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which permits transfer of funds from "Military Construction, Defense-Wide" to family housing.

It is the intention of the conferees that this transfer authority is available for the execution of energy construction projects related to family housing.

Amendment No. 9

Earmarks $51,960,000 for study, planning, design, architect and engineer services as proposed by the Senate instead of $45,960,000 as proposed by the House.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 10

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$188,062,000*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $188,062,000 for Military Construction, Army National Guard instead of $134,235,000 as proposed by the House and $170,479,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

New Mexico—Taos: Armory.—The conferees direct the Department to request funding for this project as a part of the fiscal year 1996 budget submission.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 11

Appropriates $249,056,000 for Military Construction, Air National Guard instead of $209,843,000 as proposed by the House and $257,825,000 as proposed by the Senate.

South Carolina—McEntire ANGB: Add/Alter Communications Facility.—The conferees agree that the project for addition and alteration to the Communications Facility can be constructed utilizing unspecified minor construction funds. As an alternative, the conferees will consider a reprogramming request.

Tennessee—Johnson City: Armed Forces Reserve Center.—The conferees have provided $6,019,000 for the construction of an Armed Forces Reserve Center in Johnson City, Tennessee. The conferees are aware that the city and the Army are in the process of negotiating the location of this new reserve center and the disposition of the old reserve center and the parcel of land it currently occupies. The conferees are further aware that if the old parcel is declared excess to the Department's requirements, the land must either go through the normal General Services Administration's disposal process or legislative authority must be enacted to transfer this land, at fair market value, to the city. In the interim, the conferees expect the Army to award a design contract for this new reserve in fiscal year 1995 and further direct the Army to request any legislative authority that may be necessary to carry out any agreement reached between the Army and Johnson City, Tennessee as to the disposition of the excess reserve facility and parcel of land.

Amendment No. 12

Inserts a center heading for "(Transfer of Funds)" as proposed by the Senate.

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 13

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$57,370,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $57,370,000 for Military Construction, Army Reserve, instead of $39,121,000 as proposed by the House and $40,870,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

New Jersey—Camp Kilmer: Battle Projection Center.—It is the intention of the conferees that the Battle Projection Center programmed for future year construction continue to be located at the Kilmer Reserve Center in Edison, New Jersey.

Amendment No. 14

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers $1,500,000 from the fiscal year 1992 Army Reserve Appropriation to the Army National Guard in order to execute a combined Armed Forces Reserve Center project that was previously authorized and appropriated.

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 15

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$22,748,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $22,748,000 for Military Construction, Naval Reserve instead of $12,348,000 as proposed by the House and $18,355,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Louisiana—Naval Support Activity, New Orleans: Physical Fitness Facility.—The conferees direct the Department to request funding for this project as a part of the fiscal year 1996 budget submission.

Washington—Seattle Joint Armed Forces Reserve Center.—The conferees direct that the funds provided within the Military Construction, Army Reserve account in fiscal year 1994 for the specific purpose of design of a reserve center at Fort Lawton (Seattle), Washington shall be used for the design of a Joint Armed Forces Reserve Center in Seattle, Washington. The conferees further direct the Department of the Army to award a design contract for this facility without delay.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

Amendment No. 16

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$57,066,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $57,066,000 for Military Construction, Air Force Reserve instead of $56,378,000 as proposed by the House and $45,840,000 as proposed by the Senate.

New York-Niagara IAP: Fuel Maintenance Hanger.—The conferees direct the Department to request funding for this project as a part of the fiscal year 1996 budget submission.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Amendment No. 17

Appropriates $119,000,000 for North Atlantic Treaty Organization Infrastructure as proposed by the House instead of $219,000,000 as proposed by the Senate.

FAMILY HOUSING, ARMY

Amendment No. 18

Appropriates $170,002,000 for Construction, Family Housing, Army instead of $160,602,000 as proposed by the House and $173,502,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Amendment No. 19

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,013,708,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,013,708,000 for Operation and Maintenance, Family Housing Army instead of $1,121,208,000 as proposed by the House and $1,065,708,000 as proposed by the Senate.

Amendment No. 20

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,183,710,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates a total of $1,183,710,000 for Family Housing, Army, instead of $1,281,810,000 as proposed by the House and $1,239,210,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments numbered 18 and 19.

FAMILY HOUSING, NAVY AND MARINE CORPS

Amendment No. 21

Appropriates $267,465,000 for Construction, Family Housing, Navy and Marine Corps instead of $269,035,000 as proposed by the House and $229,295,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Amendment No. 22

Appropriates $937,599,000 for Operation and Maintenance, Family Housing, Navy and Marine Corps as proposed by the Senate instead of $853,599,000 as proposed by the House.

Amendment No. 23

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,205,064,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates a total of $1,205,064,000 for Family Housing, Navy and Marine Corps, instead of $1,122,634,000 as proposed by the House and $1,166,894,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments numbered 21 and 22.

FAMILY HOUSING, AIR FORCE

Amendment No. 24

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$277,444,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $277,444,000 for Construction, Family Housing, Air Force instead of $276,482,000 as proposed by the House and $273,355,000 as proposed by the Senate. Funding for specific projects agreed to by the conferees is displayed in the table at the end of this report.

Washington-McChord Air Force Base: Family Housing.—The conferees are aware that the Air Force is in the process of conducting a market analysis for determining the housing requirement comprehensively for the Fort Lewis and McChord Air Force Base (Tacoma) area. The conferees direct the Air Force to expeditiously complete the analysis and develop a land acquisition plan and report back to both Committees on Appropriations. In addition, the Department is directed to request funding for both land acquisition and construction of housing units as a part of its fiscal year 1996 budget submission to meet the 208 family housing unit shortfall.

Amendment No. 25

Appropriates $824,845,000 for Operation and Maintenance, Family Housing, Air Force as proposed by the Senate instead of $801,345,000 as proposed by the House.

Amendment No. 26

Restores House language stricken by the Senate which permits the Air Force to buyout a family housing lease at Comiso, Italy within available funds.

Amendment No. 27

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$1,102,289,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates a total of $1,102,289,000 for Family Housing, Air Force, instead of $1,077,827,000 as proposed by the House and $1,098,200,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments numbered 24 and 25.

Amendment No. 28

Restores House language stricken by the Senate which establishes a cap of $1,800,000,000 for military construction and family housing related to the Base Realignment and Closure Account, Part I.

Amendment No. 29

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by the Senate. Retain the matter proposed by the Senate, amended as follows:

In lieu of the section designation "Sec. 124." in said amendment, insert: *Sec. 125.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restricts funding for non-compliance with the "Buy America Act" as proposed by the House, and rescinds $25.1 million appropriated in fiscal year 1992 and appropriates $25.1 million for certain costs for consolidation of Coast Guard functions in Martinsburg, West Virginia as proposed by the Senate.

Amendment No. 30

Restores House language which states a sense of Congress regarding American-made equipment and products, and deletes rescissions proposed by the Senate.

Amendment No. 31

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by the Senate, amended as follows:

In lieu of the section designation "Sec. 126.", insert: *Sec. 127.*, and retain the matter proposed by the Senate, amended as follows:

In lieu of the section designation "Sec. 126.", insert: *Sec. 128.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language which prohibits contracts with any person affixing fraudulent "Made in America" labels, and conveys certain land in Seattle, Washington as proposed by the Senate.

Amendment No. 32

Reported in technical disagreement. The managers of the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section designation "Sec. 127.", insert: *Sec. 129.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement directs the Secretary of the Army to transfer certain land at Woodbridge, Virginia to the Department of the Interior, as proposed by the Senate.

Amendment No. 33

Deletes language proposed by the Senate which states the Sense of the Senate on projects not requested in the annual budget submission.

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ALABAMA		
ARMY		
REDSTONE ARSENAL		
PHYSICAL FITNESS CENTER	---	2,600
AIR FORCE		
MAXWELL AFB		
STUDENT DORMITORIES	9,600	9,600
DEFENSE-WIDE		
ANNISTON ARMY DEPOT		
CARBON FILTRATION SYSTEM	---	5,000
ARMY NATIONAL GUARD		
MOBILE		
ARMY AVIATION SUPPORT FACILITY	---	7,200
AIR NATIONAL GUARD		
ABSTON ANGS		
RELOCATE 232ND COMBAT COMMUNICATION SQUADRON	---	7,100
BIRMINGHAM MAP		
AIRCRAFT PARKING APRON/HYDRANT REFUELING SYSTEM	15,000	15,000
ADD/ALTER SQUADRON OPERATIONS FACILITY	1,100	1,100
COMMUNICATIONS FACILITY	1,700	1,700
UPGRADE DRAINAGE SYSTEM	2,500	2,500
DANNELLY FIELD (MONTGOMERY)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700
TOTAL, ALABAMA	30,600	52,500
ALASKA		
AIR FORCE		
CAPE LISBURNE		
UPGRADE FUEL STORAGE SYSTEM	2,800	2,800
ELMENDORF AFB		
UTILITY UPGRADE	---	1,000
RAMP UPGRADE	---	4,000
DEFENSE-WIDE		
ELMENDORF AIR FORCE BASE		
HOSPITAL REPLACEMENT (PHASE III)	66,000	66,000
ARMY NATIONAL GUARD		
BETHEL		
SCOUT ARMY AVIATION OPERATIONS FACILITY	---	6,380
AIR NATIONAL GUARD		
KULIS ANGB		
COMPOSITE ENGINEERING MAINTENANCE FACILITY	---	5,300
TOTAL, ALASKA	68,800	85,480
ARIZONA		
AIR FORCE		
LUKE AFB		
STUDENT PILOT DORMITORY	---	4,900
AIR FORCE RESERVE		
LUKE AFB		
COMPOSITE MAINTENANCE FACILITY	---	1,800
SQUADRON OPERATIONS FACILITY	---	1,900
TOTAL, ARIZONA	---	8,600

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ARKANSAS		
ARMY		
PINE BLUFF ARSENAL		
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	97,000	---
AIR FORCE		
LITTLE ROCK AFB		
DORMITORY	---	4,800
DEFENSE-WIDE		
PINE BLUFF ARSENAL		
CHEMICAL MUNITION DEMILITARIZATION FACILITY (PHASE I)	---	3,000
ARMY NATIONAL GUARD		
WARREN		
ORGANIZATIONAL MAINTENANCE SHOP	---	802
SEARCY		
ARMORY	---	2,415
AIR NATIONAL GUARD		
FORT SMITH MAP		
MUNITION STORAGE FACILITY	---	2,200
REPLACE UNDERGROUND FUEL STORAGE TANKS	440	440
TOTAL, ARKANSAS	97,440	13,657
CALIFORNIA		
ARMY		
FORT IRWIN (BARSTOW-DAGGETT)		
NATIONAL TRAINING CENTER AIRFIELD (PHASE I)	---	10,000
NAVY		
CAMP PENDLETON AMPHIBIOUS TASK FORCE		
LANDING CRAFT AIR CUSHION FACILITIES (INCR V)	10,700	10,700
CAMP PENDLETON MARINE CORPS AIR STATION		
AIRFIELD COMMUNICATIONS/ELECTRICAL INFRASTRUCTURE	---	6,290
CAMP PENDLETON MARINE CORPS BASE		
AMMUNITION HANDLING FACILITY	570	570
CHINA LAKE NAVAL AIR WARFARE CTR WPNS DIV		
AIRCRAFT READY FUEL STORAGE FACILITY	6,000	6,000
EL CENTRO NAVAL AIR FACILITY		
POTABLE WATER DISTRIBUTION SYSTEM UPGRADE	1,500	1,500
WASTEWATER TREATMENT PLANT UPGRADE	1,500	1,500
LEMOORE NAVAL AIR STATION		
BACHELOR ENLISTED QUARTERS MODERNIZATION	7,000	7,000
NORTH ISLAND NAVAL AIR STATION		
DREDGING	18,830	18,830
PORT HUENEME NAVAL CONSTR BATTALION CTR		
ABRASIVE BLAST AND PAINT SPRAY FACILITY	4,850	4,850
WATER PROCESSING SYSTEM UPGRADE	4,800	4,800
SAN DIEGO MARINE CORPS RECRUIT DEPOT		
PERSONAL HYGIENE FACILITIES	1,090	1,090
SAN DIEGO NAVAL STATION		
CHAPEL AND RELIGIOUS EDUCATION FACILITY	4,100	4,100
TWENTYNINE PALMS MARCORP AIR-GRND COMB CTR		
SMALL ARMS RANGE MODERNIZATION	2,900	2,900
AIR FORCE		
BEALE AFB		
CONSOLIDATED SUPPORT CENTER	---	10,400
STORM DRAINAGE FACILITIES	1,450	1,450
EDWARDS AFB		
F-22 ALTER ENGINEERING TEST FACILITY	4,550	4,550
UPGRADE HYDRANT FUELING SYSTEM	2,500	2,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
MCCLELLAN AFB		
ADD/ALTER ELECTRONICS OVERHAUL AND TEST RANGE.....	---	8,500
TRAVIS AFB		
DORMITORY..	2,300	2,300
FIREFIGHTER TRAINING FACILITY..........................	1,300	1,300
VANDENBERG AFB		
FIREFIGHTER TRAINING FACILITY..........................	1,550	1,550
SLFI-UPGRADE NATURAL GAS SYSTEM........................	5,000	5,000
DEFENSE-WIDE		
DEF CONTRACT MGMT OFC - EL SEGUNDO		
ADMINISTRATIVE BUILDING................................	5,100	5,100
MCCLELLAN AIR FORCE BASE		
LIFE SAFETY/SEISMIC/UTILITY UPGRADE....................	10,280	10,280
SAN DIEGO (CORONADO NAVAL AMPHIBIOUS BASE)		
SOF PIER UPGRADE.......................................	3,400	3,400
ARMY NATIONAL GUARD		
CAMP ROBERTS		
MODIFY RECORD FIRE/MACHINE GUN RANGES..................	---	3,910
COMBAT PISTOL RANGE....................................	---	952
LOS ALAMITOS		
DIRECT SUPPORT LOGISTICS FACILITY......................	---	4,218
AIR NATIONAL GUARD		
FRESNO ANGB		
SITE RESTORATION.......................................	3,500	3,500
MOFFETT NAS		
ALTER VEHICLE MAINTENANCE FACILITY.....................	400	400
NORTH HIGHLANDS ANG STATION		
REPLACE UNDERGROUND FUEL STORAGE TANKS.................	400	400
AIR FORCE RESERVE		
MARCH AFB		
REPLACE SUBSTATION.....................................	3,900	3,900
TOTAL, CALIFORNIA......................................	109,470	153,740
COLORADO		
AIR FORCE		
PETERSON AFB		
UNDERGROUND FUEL STORAGE TANKS.........................	1,750	1,750
ARMY NATIONAL GUARD		
DENVER		
ARMORY...	---	5,000
ENGLEWOOD		
ARMORY...	---	2,725
AIR NATIONAL GUARD		
BUCKLEY ANGB		
ADD TO F-16 FUEL CELL DOCK.............................	1,300	1,300
AIRCRAFT WASHRACK AND DEICING PAD......................	400	400
TOTAL, COLORADO..	3,450	11,175
CONNECTICUT		
ARMY NATIONAL GUARD		
GROTON		
ADD/ALTER AVIATION REPAIR DEPOT........................	---	9,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
DELAWARE		
AIR FORCE		
DOVER AFB		
PASSENGER PROCESSING TERMINAL	---	5,900
DORMITORY	4,600	4,600
TOTAL, DELAWARE	4,600	10,500
DISTRICT OF COLUMBIA		
DEFENSE-WIDE		
BOLLING AFB		
CHILLER COOLING TOWER	600	600
FLORIDA		
NAVY		
JACKSONVILLE FLT/INDUSTRIAL SUPPLY CENTER		
HAZARDOUS AND FLAMMABLE STOREHOUSE ADDITION	2,200	2,200
PENSACOLA NAVAL AIR STATION		
AIR TRAFFIC CONTROL TOWER	2,100	2,100
AIR FORCE		
CAPE CANAVERAL AFS		
CORROSION CONTROL FACILITY	1,700	1,700
DELTA LAUNCH OPERATIONS FACILITY	7,000	7,000
SLFI-UPGRADE ELECTRICAL DISTRIBUTION SYSTEM	1,750	1,750
EGLIN AFB		
RENOVATE CLIMATIC TEST CHAMBER (PHASE II)	20,000	20,000
DEFENSE-WIDE		
EGLIN AUX FIELD 9		
AQUATIC TRAINING FACILITY	---	2,900
HC-130 PARK APRON	7,500	7,500
MC-130 NOSE DOCK/AMU	---	5,000
SIMULATOR FACILITY ADDITION	4,800	4,800
ARMY NATIONAL GUARD		
CAMP BLANDING		
WASTEWATER TREATMENT PLANT COMPLIANCE REPAIRS	2,083	2,083
AIR FORCE RESERVE		
EGLIN AUXILIARY FIELD 3		
RENOVATE AIRMEN DINING FACILITY	---	2,650
HOMESTEAD ARB		
HYDRANT AND HOT PIT FUELING SYSTEM	---	2,000
MOBILITY PROCESSING FACILITY	---	1,150
RENOVATE BARRACKS (BUILDING 475)	---	2,550
REPAIR PHYSICAL FITNESS CENTER	---	1,400
TOTAL, FLORIDA	49,133	66,783
GEORGIA		
ARMY		
FORT BENNING		
MOBILIZATION DEPLOYMENT WAREHOUSE	4,650	4,650
UPGRADE CARMOUCHE TANK RANGE	---	1,900
FORT GORDON		
BRIGADE VEHICLE MAINTENANCE FACILITY	8,600	8,600
CENTRAL VEHICLE WASH FACILITY	1,650	1,650
CONSOLIDATED MAINTENANCE FACILITY	11,000	11,000
SECURE COMPARTMENTED INFORMATION FACILITY	2,500	2,500
WHOLE BARRACKS RENEWAL	21,000	21,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR FORCE		
MOODY AFB		
DORMITORY	3,800	3,800
SUPPLY/WAR READINESS SPARES KIT STORAGE	---	1,600
UPGRADE AIRFIELD PAVEMENTS	8,000	8,000
ROBINS AFB		
ALTER WEAPON SYSTEMS SUPPORT CENTER	---	4,700
J-STARS ADD TO INTEGRATED SUPPORT FACILITY	3,100	3,100
J-STARS DORMITORY	5,525	5,525
J-STARS EXPANDED FLIGHT KITCHEN	1,850	1,850
J-STARS UTILITIES/MISCELLANEOUS SUPPORT	3,825	3,825
UPGRADE STORM DRAINAGE SYSTEM	2,200	2,200
DEFENSE-WIDE		
FORT MCPHERSON		
MEDICAL/DENTAL CLINIC	---	13,300
ARMY NATIONAL GUARD		
FT STEWART		
REGIONAL TRAINING SITE MAINTENANCE FACILITY	---	2,400
AIR NATIONAL GUARD		
ROBINS AFB		
ALTER B-1 MAINTENANCE HANGER	2,950	---
B-1 CONSOLIDATED AIRCRAFT SUPPORT/HYDRANT SYSTEMS	9,400	9,400
B-1 HANGAR COMPLEX	8,400	8,400
ARMY RESERVE		
FT MCPHERSON		
ARMY RESERVE COMMAND HQ (PHASE II)	---	21,400
NAVY RESERVE		
ATLANTA NAS		
RESERVE TRAINING BUILDING	---	2,650
DOBBINS ARB		
RESERVE TRAINING CENTER ADDITION	---	4,600
AIR FORCE RESERVE		
DOBBINS AFB		
FIREFIGHTER TRAINING FACILITY	1,100	1,100
TOTAL, GEORGIA	99,550	149,150
HAWAII		
ARMY		
SCHOFIELD BARRACKS		
WHOLE BARRACKS RENEWAL (PHASE I)	10,000	20,700
NAVY		
KANEOHE BAY MCAS		
CHILD DEVELOPMENT CENTER	---	4,900
AIR NATIONAL GUARD		
HICKAM AFB		
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000
ARMY RESERVE		
FORT SHAFTER		
ARMY RESERVE CENTER	---	9,500
TOTAL, HAWAII	11,000	36,100
IDAHO		
AIR FORCE		
MOUNTAIN HOME AFB		
DORMITORY	4,950	4,950
RENOVATE AIRCRAFT PARKING APRON	---	11,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD		
POST FALLS		
ADD/ALTER ARMORY	---	2,500
AIR NATIONAL GUARD		
BOISE AIRPORT		
UPGRADE BASE DRAINAGE	380	380
TOTAL, IDAHO	5,330	18,830
ILLINOIS		
NAVY		
GREAT LAKES PUBLIC WORKS CENTER NAVY		
SANITARY SEWER SYSTEM UPGRADE	13,000	13,000
AIR FORCE		
SCOTT AFB		
UNDERGROUND FUEL STORAGE TANKS	2,700	2,700
TOTAL, ILLINOIS	15,700	15,700
INDIANA		
NAVY		
CRANE NSWC		
ELECTRO-OPTICS CENTER	---	7,970
ARMY NATIONAL GUARD		
CAMP ATTERBURY		
AMMUNITION STORAGE POINT	---	7,340
STOUT FIELD (INDIANAPOLIS)		
US PROPERTY AND FISCAL OFFICE WAREHOUSE	---	4,137
AIR NATIONAL GUARD		
FT WAYNE MAP		
AIRCRAFT DEICING APRON	400	400
FIRE STATION AND AIRCRAFT GROUND EQUIPMENT SHOP	1,950	1,950
FUEL SYSTEMS MAINTENANCE AND CORROSION FACILITY	5,200	5,200
HULMAN FIELD (TERRE HAUTE)		
COMPOSITE SUPPORT FACILITY	---	3,200
AIR FORCE RESERVE		
GRISSOM AFB		
CANTONMENT AREA ENVIRONMENTAL COMPLIANCE	2,200	2,200
TOTAL, INDIANA	9,750	32,397
IOWA		
ARMY NATIONAL GUARD		
CAMP DODGE		
BATTALION COMPLEX (PHASE III)	---	4,678
ORGANIZATIONAL MAINTENANCE SUB-SHOP	---	877
AIR NATIONAL GUARD		
DES MOINES IAP		
FIRE SUPPRESSION SYSTEM	---	2,300
MUNITIONS MAINTENANCE AND STORAGE COMPLEX	---	3,900
TOTAL, IOWA	---	11,755
KANSAS		
AIR FORCE		
MCCONNELL AFB		
STORM DRAINAGE FACILITIES	500	500
ARMY NATIONAL GUARD		
FORT RILEY		
ADD/ALTER DYNOMOMETER FACILITY	---	1,700

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
SALINA		
NICKELL BARRACKS TRAINING CENTER (PHASE II)	---	4,260
AIR NATIONAL GUARD		
FORBES FIELD (PAULINE)		
SITE RESTORATION AND FUEL STORAGE TANK REMOVAL	2,950	2,950
RUNWAY UPGRAPE		4,800
UPGRADE SANITARY SEWER SYSTEM	670	670
TOTAL, KANSAS	4,120	14,880
KENTUCKY		
ARMY		
FORT CAMPBELL		
EDUCATION FACILITY (PHASE I)	---	8,100
EXPAND RAILROAD NETWORK	14,400	14,400
TACTICAL EQUIPMENT SHOP (PHASE I)	---	8,000
WHOLE BARRACKS RENEWAL	22,000	22,000
FT KNOX		
MULTIPURPOSE TRAINING RANGE	---	5,300
SIMULATOR FACILITY	---	3,200
ARMY NATIONAL GUARD		
WESTERN KENTUCKY RTC (MADISONVILLE)		
BATTLE TRAINING CENTER (PHASE I)	---	6,500
AIR NATIONAL GUARD		
STANDIFORD FIELD (LOUISVILLE)		
FUEL CELL AND CORROSION CONTROL DOCK	2,950	2,950
TOTAL, KENTUCKY	39,350	70,450
LOUISIANA		
AIR FORCE		
BARKSDALE AFB		
CONVENTIONAL MUNITIONS STORAGE FACILITY (PHASE I)	---	6,000
REPLACE APRON/HYDRANT FUEL SYSTEM (PHASE III)	---	8,200
STORM DRAINAGE FACILITIES	1,500	1,500
ARMY NATIONAL GUARD		
RUSTON		
ARMORY REHABILITATION	---	2,745
AIR NATIONAL GUARD		
NEW ORLEANS NAS		
ADD/ALTER MAINTENANCE HANGAR	---	5,100
NAVY RESERVE		
NEW ORLEANS NAVAL AIR STATION		
ARMING PAD	840	840
AIR FORCE RESERVE		
BARKSDALE AFB		
ADD/ALTER FACILITIES FOR CONVERSION	5,000	5,000
TOTAL, LOUISIANA	7,340	29,385
MAINE		
ARMY NATIONAL GUARD		
AUGUSTA		
ARMORY	---	3,900
AIR NATIONAL GUARD		
BANGOR IAP		
REFUELING VEHICLE MAINTENANCE FACILITY	379	379
REPLACE UNDERGROUND FUEL STORAGE TANKS	840	840
SQUADRON OPERATIONS FACILITY	---	8,800
TOTAL, MAINE	1,219	13,919

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
MARYLAND		
ARMY		
ADELPHI LAB CENTER		
COMPUTER CENTER	6,600	6,600
EDGEWOOD ARSENAL		
ELECTRICAL DISTRIBUTION FACILITY	---	2,600
NAVY		
INDIAN HEAD NSWC		
DENITRATION/ACID MIX FACILITY	---	6,400
UPGRADE POWER PLANT	---	4,000
PATUXENT NAWC		
ADVANCE SYSTEM INTEGRATION FACILITY (PHASE III)	---	10,000
AIR INTEROPERABILITY CENTER (PHASE I)	---	4,200
US NAVAL ACADEMY (ANNAPOLIS)		
REPLACE FIRE STATION	---	1,900
AIR FORCE		
ANDREWS AFB		
DORMITORY	6,300	6,300
DEFENSE-WIDE		
FORT MEADE		
CRITICAL SUBSTATION CONTROL	5,458	5,458
FRIENDSHIP AIRPORT ANNEX II PURCHASE	14,800	---
SUPERCOMPUTER FACILITY (PHASE II)	12,720	12,720
ARMY NATIONAL GUARD		
MONTROSE		
ARMORY	---	4,558
TOTAL, MARYLAND	45,878	64,736
MASSACHUSETTS		
ARMY NATIONAL GUARD		
WESTFIELD		
ADD/ALTER ORGANIZATIONAL MAINTENANCE SHOP	---	1,200
TAUNTON		
ARMORY	---	2,900
AIR FORCE RESERVE		
WESTOVER AFB		
REPLACE TAXIWAY	5,100	5,100
REPLACE UNDERGROUND STORAGE TANKS	1,000	1,000
TOTAL, MASSACHUSETTS	6,100	10,200
MICHIGAN		
ARMY NATIONAL GUARD		
CALUMET		
RENOVATE ARMORY	---	120
FORT CUSTER		
COMBAT PISTOL QUALIFICATION RANGE	---	400
MODIFY RECORD RANGE	---	900
AIR NATIONAL GUARD		
ALPENA COUNTY REGIONAL AIRPORT		
FIREFIGHTER TRAINING FACILITY	750	750
REPLACE UNDERGROUND FUEL STORAGE TANKS	385	385
SELFRIDGE ANGB (MT CLEMENS)		
REPAIR ROADS AND PARKING LOT	---	2,045
UPGRADE HEATING SYSTEM	5,400	5,400
UPGRADE SANITARY SEWER SYSTEM	---	610
UPGRADE STORM DRAINAGE SYSTEM	840	840

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
WK KELLOGG REGIONAL AIRPORT		
FIRE STATION AND AIRCRAFT GROUND EQUIPMENT SHOP...	1,600	1,600
TOTAL, MICHIGAN..	8,975	13,050
MINNESOTA		
AIR NATIONAL GUARD		
MINNEAPOLIS/ST PAUL IAP		
SQUADRON OPERATIONS/AEROMEDICAL TRAINING FACILITY.	---	8,000
MISSISSIPPI		
AIR FORCE		
COLUMBUS AFB		
ENLISTED DORMITORY..	---	10,000
T-1 JAYHAWK MAINTENANCE SUPPORT FACILITY..........	---	3,200
KEESLER AFB		
UPGRADE FIRE SUPPRESSION SYSTEM....................	640	640
7-LEVEL TRAINING CLASSROOMS............................	1,800	1,800
7-LEVEL TRAINING DORMITORY..............................	8,800	8,800
ARMY NATIONAL GUARD		
CRYSTAL SPRINGS		
ARMORY..	---	2,250
WINONA		
ARMORY..	---	1,650
AIR NATIONAL GUARD		
GULFPORT-BILOXI REGIONAL AIRPORT		
TROOP TRAINING QUARTERS................................	---	5,300
OPERATIONS AND SUPPORT FACILITY....................	---	2,250
THOMPSON FIELD (JACKSON)		
FIRE STATION...	---	1,750
TOTAL, MISSISSIPPI..	11,240	37,640
MISSOURI		
AIR FORCE		
WHITEMAN AFB		
B-2 ADD/ALTER APRON, TAXIWAY AND CONVOY ROADS.....	4,600	4,600
B-2 ADD/ALTER DOCK AND HANGAR FIRE PROTECTION SYS.	3,400	3,400
B-2 AIRCRAFT MAINTENANCE DOCKS/HYDRANT FUELING....	15,000	15,000
STORM DRAINAGE FACILITIES................................	1,290	1,290
ARMY NATIONAL GUARD		
COLUMBIA		
ARMORY..	---	1,415
JEFFERSON CITY		
DEFENSE ACCESS ROAD..	---	1,396
AIR NATIONAL GUARD		
JEFFERSON BARRACKS ANG SITE		
REPLACE FUEL TANKS/UPGRADE REFUEL SHOP/PAINT BOOTH	500	500
ROSECRANS AIRPORT (ST JOSEPH)		
CIVIL ENGINEERING MAINTENANCE FACILITY............	---	3,000
ADVANCED TACTICAL AIRLIFT TRAINING CENTER.........	---	2,150
ST LOUIS-LAMBERT FIELD		
REPLACE UNDERGROUND FUEL STORAGE TANKS...........	440	440
TOTAL, MISSOURI..	25,230	33,191

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
MONTANA		
AIR FORCE		
MALMSTROM AFB		
UNDERGROUND FUEL STORAGE TANKS	3,200	3,200
UNDERGROUND FUEL STORAGE TANKS MINUTEMAN III FACS.	4,000	4,000
AIR NATIONAL GUARD		
GREAT FALLS IAP		
ADD/ALTER FUEL CELL AND CORROSION CONTROL HANGAR	1,150	1,150
MUNITION STORAGE FACILITY	---	3,150
TOTAL, MONTANA	8,350	11,500
NEBRASKA		
AIR FORCE		
OFFUTT AFB		
STORM DRAINAGE FACILITIES	1,500	1,500
UNDERGROUND FUEL STORAGE TANKS	760	760
AIR NATIONAL GUARD		
LINCOLN MAP		
PARKING APRON AND HYDRANT REFUELING SYSTEM	14,274	14,274
REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500
TOTAL, NEBRASKA	17,034	17,034
NEVADA		
AIR FORCE		
NELLIS AFB		
RELOCATE WATER STORAGE TANK	---	600
ARMY NATIONAL GUARD		
WASHOE COUNTY (STEAD)		
ARMORY	---	5,520
ARMY RESERVE		
LAS VEGAS		
ARMED FORCES RESERVE CENTER/ORGANIZATIONAL MAINTENANCE SHOP (PHASE I)	---	10,000
TOTAL, NEVADA	---	16,120
NEW JERSEY		
ARMY		
MILITARY OCEAN TERMINAL BAYONNE		
PAVE CARGO STAGING AND HOLDING AREA	4,050	4,050
NAVY		
LAKEHURST NAVAIRWARFARE CTR AIRCRAFT DIV		
POTABLE WATER DISTRIBUTION SYSTEM ADDITION	2,950	2,950
AIR FORCE		
MCGUIRE AFB		
DORMITORY	1,600	1,600
DORMITORY	8,700	8,700
UPGRADE SANITARY SEWER SYSTEM	4,800	4,800
UPGRADE STORM DRAINAGE FACILITIES	1,900	1,900
DEFENSE-WIDE		
FORT DIX		
HOSPITAL LIFE SAFETY UPGRADE	2,000	2,000
AIR NATIONAL GUARD		
MCGUIRE AFB		
CONSOLIDATED AIRCRAFT PARKING APRON	---	9,600
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000
TOTAL, NEW JERSEY	27,000	36,600

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
NEW MEXICO		
NAVY		
WHITE SANDS NAVAL ORD MISSILE TEST STATION		
WEAPONS TEST RANGE	1,390	1,390
AIR FORCE		
HOLLOMAN AFB		
DORMITORY	3,950	3,950
F-117A HANGAR	---	7,000
KIRTLAND AFB		
UNDERGROUND FUEL STORAGE TANKS	3,200	3,200
CHILD CARE CENTER	---	3,500
BASE SUPPORT CENTER/DINING HALL	---	9,500
REPAIR WATER DISTRIBUTION CENTER	---	8,800
UPGRADE ELECTRICAL DISTRIBUTION SYSTEM (PHASE I)	---	3,000
DEFENSE-WIDE		
KIRTLAND AFB		
AIRCREW TRAINING FACILITY	9,600	9,600
AIR NATIONAL GUARD		
KIRTLAND AFB		
REPLACE UNDERGROUND FUEL STORAGE TANKS	900	900
TOTAL, NEW MEXICO	19,040	50,840
NEW YORK		
ARMY		
FORT DRUM		
MULTIPURPOSE RANGE COMPLEX	---	12,600
U S MILITARY ACADEMY (WEST POINT)		
RENOVATE FOOD PROCESSING FACILITY	28,000	28,000
ARMY NATIONAL GUARD		
CAMP SMITH		
UPGRADE WATER AND WASTEWATER SYSTEMS	---	1,820
AIR NATIONAL GUARD		
HANCOCK FIELD (SYRACUSE)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	580	580
NIAGARA FALLS INTERNATIONAL AIRPORT		
REPLACE UNDERGROUND FUEL STORAGE TANKS	640	640
STRATTON ANGB (SCHENECTADY)		
FIRE STATION/GROUND EQUIPMENT/SECURITY/MEDICAL TRAINING FACILITY	---	3,200
TOTAL, NEW YORK	29,220	46,840
NORTH CAROLINA		
ARMY		
FORT BRAGG		
WHOLE BARRACKS RENEWAL	29,000	29,000
SUNNY POINT ARMY TERMINAL		
DREDGE TERMINAL ENTRANCE	16,500	16,500
HOLDING PAD	5,700	5,700
NAVY		
CAMP LEJEUNE MARINE CORPS BASE		
MULTI-PURPOSE TRAINING RANGE COMPLEX	10,400	10,400
OIL SPILL PREVENTION	4,450	4,450
CHERRY POINT MARINE CORPS AIR STATION		
CYROGENICS FACILITY	2,100	2,100
AIR FORCE		
POPE AFB		
AIRCRAFT PARKING APRON LIGHTING	1,500	1,500

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
BRIDGE, ROAD, AND UTILITIES	4,000	4,000
COMBAT CONTROL TEAM FACILITY	---	2,450
FIREFIGHTER TRAINING FACILITY	1,100	1,100
DEFENSE-WIDE		
FORT BRAGG		
HOSPITAL REPLACEMENT (PHASE III)	75,000	75,000
SOF COMPANY OPERATIONS COMPLEX (PHASE I)	---	8,000
ARMY NATIONAL GUARD		
KINSTON		
ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	---	3,519
AIR NATIONAL GUARD		
DOUGLAS MAP (CHARLOTTE)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	690	690
STANLY COUNTY		
COMPOSITE TRAINING FACILITY	---	5,100
AIR FORCE RESERVE		
KINSTON REGIONAL AIRPORT		
HOLDING APRON AND RUNWAY IMPROVEMENTS	---	4,960
TOTAL, NORTH CAROLINA	150,440	174,469
NORTH DAKOTA		
AIR FORCE		
GRAND FORKS AFB		
UNDERGROUND FUEL STORAGE TANKS/MISSILE FACILITIES	5,200	5,200
MINOT AFB		
STORM DRAINAGE FACILITIES	1,500	1,500
UNDERGROUND FUEL STORAGE TANKS	1,400	1,400
UNDERGROUND FUEL STORAGE TANKS/MISSILE FACILITIES	2,950	2,950
TOTAL, NORTH DAKOTA	11,050	11,050
OHIO		
AIR FORCE		
WRIGHT-PATTERSON AFB		
ACQUISITION MANAGEMENT CENTER (PHASE II)	---	18,300
SPECIAL OPERATIONS INTELLIGENCE FACILITY	---	4,900
UPGRADE STORM DRAINAGE SYSTEM	3,350	3,350
DEFENSE-WIDE		
DEFENSE CONSTRUCTION SUPPLY CENTER (COLUMBUS)		
FIRE STATION	2,200	2,200
ARMY NATIONAL GUARD		
RAVENNA		
ARMORY/TRAINING SITE SUPPORT FACILITY	---	4,500
AIR NATIONAL GUARD		
MANSFIELD LAHM AIRPORT		
REPLACE UNDERGROUND FUEL STORAGE TANKS	770	770
SPRINGFIELD MAP		
ADD/ALTER FUEL CELL AND CORROSION CONTROL DOCK	1,250	1,250
MEDICAL TRAINING AND DINING HALL FACILITY	---	4,300
REPLACE UNDERGROUND FUEL STORAGE TANKS	400	400
TOLEDO EXPRESS AIRPORT		
AIRCRAFT DE-ICING APRON	320	320
BASE CIVIL ENGINEER MAINTENANCE COMPLEX	---	2,540
AIR FORCE RESERVE		
YOUNGSTOWN MAP		
INDUSTRIAL WASTE WATER PRETREATMENT FACILITY	500	500
TOTAL, OHIO	8,790	43,330

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
OKLAHOMA		
ARMY		
FORT SILL		
WHOLE BARRACKS RENEWAL	18,000	18,000
AIR FORCE		
ALTUS AFB		
ADD/ALTER DORMITORY	3,750	3,750
TINKER AFB		
CORROSION CONTROL FACILITY (DBOF)	8,400	8,400
EXTEND AND UPGRADE ALTERNATE RUNWAY	---	10,800
STORM DRAINAGE SYSTEM	1,243	1,243
VANCE AFB		
ALTER DORMITORIES	2,300	2,300
FIREFIGHTER TRAINING FACILITY	980	980
UPGRADE AIRCRAFT PARKING APRON	---	5,500
UPGRADE SANITARY SEWER SYSTEM	1,100	1,100
UPGRADE STORM DRAINAGE SYSTEM	1,800	1,800
ARMY NATIONAL GUARD		
OKLAHOMA CITY		
BARRACKS AND CLASSROOMS, OKLAHOMA MILITARY ACADEMY	---	4,463
AIR NATIONAL GUARD		
TULSA IAP		
REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700
AIR FORCE RESERVE		
TINKER AFB		
UPGRADE RAMP/HYDRANT FUELING SYSTEM	---	10,200
TOTAL, OKLAHOMA	38,273	69,236
OREGON		
ARMY		
UMATILLA ARMY DEPOT		
AMMUNITION DEMILITARIZATION FACILITY (PHASE I)	179,000	---
DEFENSE-WIDE		
UMATILLA ARMY DEPOT		
CHEMICAL MUNITION DEMILITARIZATION FACILITY (PHASE I)	---	12,000
ARMY NATIONAL GUARD		
PENDLETON		
AVIATION SUPPORT FACILITY	---	2,000
HERMISTON		
ARMORY	---	1,713
AIR NATIONAL GUARD		
CAMP RILEA		
COMMUNICATION ELECTRONICS TRAINING COMPLEX	---	4,650
PORTLAND IAP		
SITE RESTORATION	1,700	1,700
TOTAL, OREGON	180,700	22,063
PENNSYLVANIA		
ARMY		
TOBYHANNA ARMY DEPOT		
INDUSTRIAL OPERATIONS FACILITY	---	17,000
NAVY		
PHILADELPHIA NAVAL SHIPYARD		
PIER 4 REHABILITATION (PHASE II)	---	6,000
RENOVATION AND MODERNIZATION OF FOUNDRY (PHASE II)	---	4,500
ARMY NATIONAL GUARD		
ARMSTRONG COUNTY/FORD CITY		
ARMORY	---	1,982

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
FORT INDIANTOWN GAP		
ELECTRICAL TARGETING SYSTEM UPGRADE	---	770
FLIGHT SIMULATOR AND AEROMEDICAL COMPLEX	---	4,584
BARRACKS	---	6,200
WESTMORELAND COUNTY/MOUNT PLEASANT TOWNSHIP		
ARMORY	---	3,594
AIR NATIONAL GUARD		
GREATER PITTSBURGH INTERNATIONAL AIRPORT		
REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500
HARRISBURG IAP		
REPLACE UNDERGROUND FUEL STORAGE TANKS	690	690
FT INDIANTOWN ANG COMMUNICATIONS SITE		
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,800	1,800
WILLOW GROVE NAS		
REPLACE UNDERGROUND FUEL STORAGE TANKS	470	470
NAVY RESERVE		
FOLSOM		
RENOVATE RESERVE CENTER (BUILDING 8)	---	2,300
TOTAL, PENNSYLVANIA	3,460	50,390
RHODE ISLAND		
NAVY		
NEWPORT NAVAL EDUCATION AND TRAINING CENTER		
SANITARY SEWER SYSTEM UPGRADES	14,500	14,500
NEWPORT NAVAL WAR COLLEGE		
STRATEGIC MARITIME RESEARCH CENTER (PHASE I)	---	10,000
TOTAL, RHODE ISLAND	14,500	24,500
SOUTH CAROLINA		
ARMY		
CHARLESTON NAVAL WEAPONS STATION		
ARMY STRATEGIC MAINTENANCE COMPLEX (PHASE I)	---	20,000
NAVY		
BEAUFORT MCAS		
F/A18D SUPPORT FACILITIES	---	10,800
PARRIS ISLAND MARINE CORPS RECRUIT DEPOT		
CHILD DEVELOPMENT CENTER	2,550	2,550
RECRUIT TRAINING FACILITY	---	5,800
AIR FORCE		
CHARLESTON AFB		
ALTER DORMITORIES	9,900	9,900
UPGRADE HAZARDOUS WASTE STORAGE FACILITY	1,500	1,500
ARMY NATIONAL GUARD		
EASTOVER		
CLASS IX AMMUNITION STORAGE FACILITY	---	2,300
ARMY RESERVE		
NORTH CHARLESTON		
RESERVE CENTER/MAINTENANCE COMPLEX	---	8,560
TOTAL, SOUTH CAROLINA	13,950	61,410
SOUTH DAKOTA		
AIR FORCE		
ELLSWORTH AFB		
CONSOLIDATED ADMIN SUPPORT COMPLEX (PHASE II)	---	4,500
STORM DRAINAGE FACILITIES	1,450	1,450

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR NATIONAL GUARD		
SIOUX FALLS (JOE FOSS FIELD)		
POWER CHECK PAD/SOUND SUPPRESSION.................	---	2,500
TOTAL, SOUTH DAKOTA..............................	1,450	8,450
TENNESSEE		
AIR FORCE		
ARNOLD ENGINEERING DEVELOPMENT CENTER		
HAZARDOUS WASTE/MATERIAL STORAGE FACILITY.........	1,900	1,900
ARMY NATIONAL GUARD		
CHATTANOOGA		
ARMORY ADDITION AND REHABILITATION................	---	1,604
DUNLAP		
ORGANIZATIONAL MAINTENANCE SUB-SHOP...............	---	715
JOHNSON CITY		
ADD/ALTER RESERVE CENTER..........................	---	6,019
LINDEN		
ARMORY..	---	1,097
MILAN		
UNIT TRAINING EQUIPMENT SITE......................	---	825
MOUNTAIN CITY		
ARMORY..	---	1,742
SPRINGFIELD		
ARMORY..	---	1,115
TRENTON		
ORGANIZATIONAL MAINTENANCE SHOP...................	---	630
WAVERLY		
ADD/ALTER ARMORY (PHASE II).......................	---	321
ONEIDA		
ARMORY..	---	1,230
ROGERSVILLE		
ARMORY..	---	1,820
AIR NATIONAL GUARD		
NASHVILLE		
VEHICLE MAINTENANCE COMPLEX.......................	---	2,250
MEMPHIS		
VEHICLE MAINTENANCE/WAREHOUSE.....................	---	1,900
SIMULATOR FACILITY................................	---	3,500
TOTAL, TENNESSEE.................................	1,900	26,668
TEXAS		
ARMY		
FORT BLISS		
SERGEANTS MAJOR ACADEMY...........................	---	5,600
TACTICAL EQUIPMENT SHOP...........................	---	11,200
FORT HOOD		
CONSOLIDATED MAINTENANCE FACILITY (PHASE IV)......	---	8,800
TACTICAL EQUIPMENT SHOP...........................	---	8,000
WHOLE BARRACKS RENEWAL............................	29,000	29,000
FORT SAM HOUSTON		
SEWAGE TREATMENT PLANT - CAMP BULLIS..............	4,300	4,300
NAVY		
INGLESIDE NAVAL STATION		
MAGNETIC SILENCING FACILITY W/LAND ACQUISITION....	14,110	14,110

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
KINGSVILLE NAS		
AIR OPERATIONS BUILDING ADDITION	---	1,530
AIR FORCE		
BROOKS AFB		
DIRECTED ENERGY FACILITY	---	6,500
KELLY AFB		
ADD/ALTER DORMITORY	2,250	2,250
UPGRADE HYDRANT FUELING SYSTEMS	3,700	3,700
UPGRADE SANITARY SEWER LINES	3,000	3,000
LACKLAND AFB		
ALTER RECRUIT DORMITORY	3,400	3,400
7-LEVEL TRAINING CLASSROOMS	1,800	1,800
SHEPPARD AFB		
7-LEVEL TRAINING CLASSROOMS	3,300	3,300
ARMY NATIONAL GUARD		
FORT WORTH/SHOREVIEW		
ADD/ALTER ARMORY	---	3,041
MARSHALL		
ADD/ALTER ORGANIZATIONAL MAINTENANCE SHOP	---	830
WYLIE		
ORGANIZATIONAL MAINTENANCE SHOP	---	1,261
TOTAL, TEXAS	64,860	111,622
UTAH		
DEFENSE-WIDE		
TOOELE ARMY DEPOT		
CARBON FILTRATION SYSTEM	---	4,000
ARMY NATIONAL GUARD		
CAMP WILLIAMS		
TROOP ISSUE SUBSISTANCE ACTIVITY (PHASE II)	---	2,290
AIR NATIONAL GUARD		
SALT LAKE CITY IAP		
AIRCRAFT WASHRACK AND DEICE FACILITY	400	400
TOTAL, UTAH	400	6,690
VERMONT		
AIR NATIONAL GUARD		
BURLINGTON IAP		
MEDICAL TRAINING/OPERATIONS FACILITY	---	4,800
VIRGINIA		
ARMY		
FORT LEE		
REPAIR ELECTRICAL DISTRIBUTION (PHASE I)	---	11,000
SOLDIERS ONE STOP CENTER	---	4,600
FORT MYER		
WHOLE BARRACKS RENEWAL	7,300	7,300
NAVY		
CHESAPEAKE NAVAL SECURITY GROUP ACT NW		
CHILD DEVELOPMENT CENTER	1,150	1,150
DAM NECK FLEET COMBAT TRAIN CTR ATLANTIC		
CHILD DEVELOPMENT CENTER	1,600	1,600
GUNLINE/WEAPONS TRAINING FACILITY	---	5,400
LAND ACQUISITION	---	4,850
LITTLE CREEK AMPHIBIOUS BASE		
WEST SIDE FIRE STATION	---	5,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
NORFOLK MARINE CORPS SEC FORCE BATT LANT		
BACHELOR ENLISTED QUARTERS	6,480	6,480
NORFOLK NAVAL BASE		
FAMILY SERVICES CENTER	---	5,100
NORFOLK NAVAL STATION		
BACHELOR ENLISTED QUARTERS	16,430	16,430
QUANTICO MARINE CORPS COMBAT DEV COMMAND		
SEWAGE TREATMENT PLANT	19,900	19,900
AIR FORCE		
LANGLEY AFB		
CHILD DEVELOPMENT CENTERS (2)	---	5,500
DEFENSE-WIDE		
DAHLGREN NSWC		
DEPENDENT SCHOOL ADDITION	---	1,560
FT BELVOIR		
CHILD DEVELOPMENT CENTER	4,600	4,600
DEFENSE FUEL SUPPORT POINT CRANEY ISLAND		
MAINTENANCE AND OPERATIONS FACILITY	3,652	3,652
PORTSMOUTH NAVAL HOSPITAL		
HOSPITAL REPLACEMENT (PHASE VI)	120,000	120,000
AIR NATIONAL GUARD		
RICHMOND IAP		
FUEL STORAGE COMPLEX	---	4,500
TOTAL, VIRGINIA	181,112	228,622
WASHINGTON		
ARMY		
FORT LEWIS		
WHOLE BARRACKS RENEWAL	32,000	32,000
WHOLE BARRACKS RENEWAL	32,000	32,000
NAVY		
BREMERTON PUGET SOUND NAVAL SHIPYARD		
INDUSTRIAL WASTEWATER TREATMENT FACILITY	3,200	3,200
UTILITIES AND SITE IMPROVEMENTS	7,840	7,840
EVERETT NAVAL STATION		
BACHELOR ENLISTED QUARTERS	7,450	7,450
CHILD DEVELOPMENT CENTER	2,900	2,900
FLEET RECREATION CENTER	3,000	3,000
HAZARDOUS WASTE STORAGE AND TRANSFER FACILITY	1,500	1,500
PHYSICAL FITNESS FACILITIES	6,840	6,840
WHIDBEY ISLAND NAVAL AIR STATION		
FIREFIGHTER TRAINING FACILITY	1,400	1,400
INDUSTRIAL WASTEWATER PRETREATMENT FACILITY	1,400	1,400
WASTEWATER TREATMENT PLANT UPGRADE	2,400	2,400
AIR FORCE		
FAIRCHILD AFB		
FLIGHT SIMULATOR BUILDING	---	4,000
HAZARDOUS MATERIAL STORAGE FACILITY	1,400	1,400
SQUADRON OPERATIONS/MAINTENANCE	---	6,300
STORM DRAINAGE FACILITIES	2,450	2,450
SURVIVAL TRAINING SCHOOL FACILITY	---	3,750
MCCHORD AFB		
ADD/ALTER CONSOLIDATED SUPPORT CENTER	---	7,700
CONTROL TOWER	---	2,700
AIR NATIONAL GUARD		
FAIRCHILD AFB		
ADD/ALTER SQUADRON OPERATIONS FACILITY	---	1,250

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
NAVY RESERVE		
SEATTLE		
JOINT ARMED FORCES RESERVE CENTER	---	10,400
TOTAL, WASHINGTON	105,780	141,880
WEST VIRGINIA		
AIR NATIONAL GUARD		
E WV REGIONAL AIRPORT (MARTINSBURG)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	500	500
WISCONSIN		
AIR NATIONAL GUARD		
BILLY MITCHELL FIELD (MILWAUKEE)		
REPLACE CENTRAL HEAT PLANT	800	800
TRUAX FIELD (MADISON)		
ADD/ALTER AIRCRAFT GROUND EQUIPMENT SHOP/STORAGE	340	340
VOLK FIELD (CAMP DOUGLAS)		
BASE FACILITIES IMPROVEMENTS (PHASE I)	---	4,900
FIREFIGHTER TRAINING FACILITY	700	700
AIR FORCE RESERVE		
BILLY MITCHELL FIELD (MILWAUKEE)		
FIREFIGHTER TRAINING FACILITY	1,450	1,450
INSTALL AIR EMISSION CONTROL DEVICE	750	750
TOTAL, WISCONSIN	4,040	8,940
WYOMING		
AIR FORCE		
F E WARREN AFB		
UNDERGROUND FUEL STORAGE TANKS/MISSILE FACILITIES.	2,650	2,650
ARMY NATIONAL GUARD		
TORRINGTON		
ARMORY	---	5,300
TOTAL, WYOMING	2,650	7,950
CONUS CLASSIFIED		
ARMY		
CLASSIFIED LOCATIONS		
CLASSIFED PROJECTS	1,900	1,900
TECHNICAL CORRECTION	-1,900	---
NAVY		
CLASSIFIED LOCATION		
AIRCRAFT FIRE/RESCUE STATION AND VEHICLE MAINT FAC	2,200	2,200
AIR FORCE		
CLASSIFIED LOCATION		
SPECIAL TACTICAL UNIT DETENTION FACILITY	2,141	2,141
DEFENSE-WIDE		
CLASSIFIED LOCATION		
COMMUNICATIONS SUPPORT FACILITY/UTILITY UPGRADE	5,300	5,300
TOTAL, CONUS CLASSIFIED	9,641	11,541
GERMANY		
AIR FORCE		
RAMSTEIN AB		
HAZARDOUS WASTE STORAGE FACILITY	1,150	1,150
UPGRADE SEWAGE COLLECTION SYSTEM	11,200	11,200

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
SPANGDAHLEM AB		
CHILD DEVELOPMENT CENTER	2,273	2,273
UPGRADE SEWAGE TREATMENT PLANT AND SEWER SYSTEM	7,200	7,200
TOTAL, GERMANY	21,823	21,823
GREECE		
NAVY		
SOUDA BAY CRETE NAVAL SUPPORT ACTIVITY		
AIRCRAFT PARKING APRON	3,050	3,050
GREENLAND		
AIR FORCE		
THULE AB		
FIREFIGHTER TRAINING FACILITY	2,450	2,450
ITALY		
NAVY		
NAPLES NAVAL SUPPORT ACTIVITIY (CAPODICHINO)		
BACHELOR ENLISTED QUARTERS	19,360	19,360
QUALITY OF LIFE FACILITIES (INCREMENT II)	9,100	9,100
SIGONELLA NAVAL AIR STATION		
BACHELOR ENLISTED QUARTERS	13,750	13,750
TOTAL, ITALY	42,210	42,210
KOREA		
ARMY		
CAMP CASEY		
BARRACKS	---	5,200
BARRACKS	---	24,000
CAMP RED CLOUD		
BARRACKS	---	5,400
TOTAL, KOREA	---	34,600
KWAJALEIN		
ARMY		
KWAJALEIN		
COVER RAW WATER TANKS	5,200	5,200
FUEL CONTAINMENT FACILITY	1,200	1,200
TOTAL, KWAJALEIN	6,400	6,400
PORTUGAL		
AIR FORCE		
LAJES FIELD		
REFUSE INCINERATOR	2,850	2,850
PUERTO RICO		
NAVY		
SABANA SECA NAVAL SECURITY GROUP ACTIVITY		
OPERATIONS BUILDING ADDITION	1,650	1,650
AIR NATIONAL GUARD		
PUERTO RICO IAP		
ADD/ALTER AIRCRAFT CORROSION FACILITY	750	750
REPLACE UNDERGROUND FUEL STORAGE TANKS	590	590
TOTAL, PUERTO RICO	2,990	2,990

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
UNITED KINGDOM		
NAVY		
ST MAWGAN JOINT MARITIME COMMUNICATION CENTER		
CHILD DEVELOPMENT AND YOUTH CENTER	3,900	3,900
AIR FORCE		
RAF LAKENHEATH		
ADD/ALTER DORMITORY	3,700	3,700
F-15E ADD TO MUNITIONS MAINTENANCE FACILITY	850	850
UPGRADE STORM DRAINAGE SYSTEM	2,550	2,550
TOTAL, UNITED KINGDOM	11,000	11,000
OVERSEAS CLASSIFIED		
AIR FORCE		
OVERSEAS CLASSIFIED		
WAR READINESS MAINTENANCE/MANAGEMENT FACILITY	1,300	1,300
WAR READINESS MATERIEL MEDICAL STORAGE FACILITY	2,100	2,100
WAR READINESS MATERIEL OPEN STORAGE FACILITY	650	650
TOTAL, OVERSEAS CLASSIFIED	4,050	4,050
NATO		
NATO INFRASTRUCTURE	219,000	119,000
WORLDWIDE UNSPECIFIED		
ARMY		
UNSPECIFIED WORLDWIDE LOCATIONS		
HOST NATION SUPPORT	25,000	10,000
PLANNING AND DESIGN	62,926	66,126
UNSPECIFIED MINOR CONSTRUCTION	12,000	12,000
GENERAL REDUCTION	---	-40,000
NAVY		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	43,380	43,380
GENERAL REDUCTION	---	-40,000
UNSPECIFIED MINOR CONSTRUCTION	7,000	7,000
AIR FORCE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	49,386	49,386
GENERAL REDUCTION		-40,000
UNSPECIFIED MINOR CONSTRUCTION	7,000	7000
DEFENSE-WIDE		
UNSPECIFIED WORLDWIDE LOCATIONS		
CONTINGENCY CONSTRUCTION	10,411	3,511
ENERGY CONSERVATION IMPROVEMENT PROGRAM	50,000	50,000
GENERAL REDUCTION	---	-16,671
PLANNING AND DESIGN		
SPECIAL OPERATIONS COMMAND	5,713	5,713
BALLISTIC MISSILE DEFENSE ORGANIZATION	530	530
DEFENSE LEVEL ACTIVITIES	12,360	12,360
DEFENSE FINANCE AND ACCOUNTING	---	6,000
DEFENSE INTELLIGENCE AGENCY	450	450
DEFENSE MEDICAL SUPPORT ACTIVITY	26,907	26,907
SUBTOTAL, PLANNING AND DESIGN	45,960	51,960
UNSPECIFIED MINOR CONSTRUCTION		
SPECIAL OPERATIONS COMMAND	4,020	4,020
DEFENSE LEVEL ACTIVITIES	3,000	3,000

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
JOINT CHIEFS OF STAFF	5,873	5,873
DOD DEPENDENT SCHOOLS	4,430	4,430
DEFENSE MEDICAL SUPPORT ACTIVITY	5,025	5,025
SUBTOTAL, UNSPECIFIED MINOR CONSTRUCTION	22,348	22,348
ARMY NATIONAL GUARD		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	1,000	5,900
UNSPECIFIED MINOR CONSTRUCTION	5,167	5,167
AIR NATIONAL GUARD		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	11,532	14,823
UNSPECIFIED MINOR CONSTRUCTION	4,000	4,000
ARMY RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	5,253	5,253
UNSPECIFIED MINOR CONSTRUCTION	2,657	2,657
NAVY RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	1,357	1,800
UNSPECIFIED MINOR CONSTRUCTION	158	158
AIR FORCE RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	3,172	3,438
UNSPECIFIED MINOR CONSTRUCTION	4,018	4,018
TOTAL, WORLDWIDE UNSPECIFIED	373,725	233,254
WORLDWIDE VARIOUS		
ARMY NATIONAL GUARD		
VARIOUS LOCATIONS		
ARMORY UNIT STORAGE BUILDING	840	840
INDOOR RANGE MODERNIZATION	839	839
TOTAL, WORLDWIDE VARIOUS	1,679	1,679
FAMILY HOUSING, ARMY		
ALASKA		
FT RICHARDSON (72 UNITS)	---	5,000
COLORADO		
FORT CARSON (145 UNITS)	16,500	16,500
GEORGIA		
FORT STEWART (128 UNITS)	10,600	10,600
HAWAII		
SCHOFIELD BARRACKS (190 UNITS)	26,000	26,000
KANSAS		
FT RILEY (126 UNITS)	---	12,600
MASSACHUSETTS		
NATICK RESEARCH CENTER (35 UNITS)	4,150	4,150
NEW YORK		
U S MILITARY ACADEMY (WEST POINT) (56 UNITS)	8,000	8,000
TEXAS		
FORT BLISS (105 UNITS)	10,800	10,800
FORT BLISS (110 UNITS)	10,600	10,600
FORT SAM HOUSTON (100 UNITS)	10.000	10.000

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
CONSTRUCTION IMPROVEMENTS	49,760	49,760
PLANNING	5,992	5,992
SUBTOTAL, CONSTRUCTION	152,402	170,002
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	49,083	49,083
MANAGEMENT ACCOUNT	80,340	80,340
MISCELLANEOUS ACCOUNT	1,856	1,856
SERVICES ACCOUNT	58,129	58,129
UTILITIES ACCOUNT	283,933	283,933
LEASING	243,442	243,442
MAINTENANCE OF REAL PROPERTY	404,414	404,414
MORTGAGE INSURANCE PREMIUMS	11	11
OAHU FAMILY HOUSING TRANSFER	---	-107,500
SUBTOTAL, OPERATION AND MAINTENANCE	1,121,208	1,013,708
TOTAL, FAMILY HOUSING, ARMY	1,273,610	1,183,710
FAMILY HOUSING, NAVY		
CALIFORNIA		
MARINE CORPS BASE CAMP PENDLETON (196 UNITS)	28,552	28,552
PUBLIC WORKS CENTER SAN DIEGO (136 UNITS)	18,262	18,262
HAWAII		
MOANALUA TERRACE (100 UNITS)	---	16,000
MARYLAND		
NAVAL AIR TEST CNTR PATUXENT RIVER (HOUSING OFFICE)	863	863
MISSISSIPPI		
GULFPORT CBC (120 UNITS)	---	10,370
VIRGINIA		
NAVAL SHIPYARD PORTSMOUTH (WAREHOUSE AND SELF-HELP)	555	555
TEXAS		
CORPUS CHRISTI NAS (100 UNITS)	---	11,800
WASHINGTON		
NAVAL STATION PUGET SOUND EVERETT (HOUSING OFFICE)	780	780
CONSTRUCTION IMPROVEMENTS	155,602	155,602
PLANNING	24,681	24,681
SUBTOTAL, CONSTRUCTION	229,295	267,465
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	32,233	32,233
MANAGEMENT ACCOUNT	88,827	88,827
MISCELLANEOUS ACCOUNT	1,217	1,217
SERVICES ACCOUNT	48,793	48,793
UTILITIES ACCOUNT	184,845	184,845
LEASING	114,336	114,336
MAINTENANCE OF REAL PROPERTY	383,263	383,263
MORTGAGE INSURANCE PREMIUMS	85	85
OAHU FAMILY HOUSING TRANSFER, NAVY	---	66,300
OAHU FAMILY HOUSING TRANSFER, MARINE CORPS	---	17,700
SUBTOTAL, OPERATION AND MAINTENANCE	853,599	937,599
TOTAL, FAMILY HOUSING, NAVY	1,082,894	1,205,064

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
FAMILY HOUSING, AIR FORCE		
ALABAMA		
MAXWELL AFB (25 UNITS)	2,100	2,100
ARIZONA		
DAVIS-MONTHAN AFB (110 UNITS)	5,940	10,029
CALIFORNIA		
BEALE AFB (76 UNITS)	8,842	8,842
EDWARDS AFB (34 UNITS)	4,629	4,629
LOS ANGELES AFB (50 UNITS) (PHASE I)	---	8,962
VANDENBERG AFB (128 UNITS)	16,460	16,460
DISTRICT OF COLUMBIA		
BOLLING AFB (100 UNITS)	9,000	9,000
FLORIDA		
PATRICK AFB (75 UNITS)	7,145	7,145
IDAHO		
MOUNTAIN HOME AFB (4 UNITS)	881	881
MOUNTAIN HOME AFB (60 UNITS)	5,712	5,712
ILLINOIS		
SCOTT AFB (HOUSING RELOCATION, PHASE III, 300 UNITS)	30,000	30,000
KANSAS		
MCCONNELL AFB (70 UNITS)	8,322	8,322
LOUISIANA		
BARKSDALE AFB (82 UNITS)	8,236	8,236
MISSOURI		
WHITEMAN AFB (HOUSING OFFICE)	567	567
NEW MEXICO		
CANNON AFB (1 UNIT)	230	230
HOLLOMAN AFB (76 UNITS)	7,733	7,733
KIRTLAND AFB (106 UNITS)	10,058	10,058
NORTH CAROLINA		
POPE AFB (120 UNITS)	14,874	14,874
SEYMOUR JOHNSON AFB (74 UNITS)	6,025	6,025
NORTH DAKOTA		
GRAND FORKS AFB (HOUSING OFFICE)	709	709
SOUTH CAROLINA		
SHAW AFB (3 UNITS)	631	631
TEXAS		
DYESS AFB (59 UNITS)	7,077	7,077
UTAH		
HILL AFB (138 UNITS)	---	11,400
VIRGINIA		
LANGLEY AFB (148 UNITS)	14,421	14,421
WASHINGTON		
FAIRCHILD AFB (6 UNITS)	1,035	1,035
WYOMING		
F E WARREN AFB (106 UNITS)	11,321	11,321
CONSTRUCTION IMPROVEMENTS	61,770	61,770
PLANNING	9,275	9,275
SUBTOTAL, CONSTRUCTION	252,993	277,444
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	42,852	42,852
MANAGEMENT ACCOUNT	45,076	45,076
MISCELLANEOUS ACCOUNT	5,794	5,794
SERVICES ACCOUNT	32,724	32,724
UTILITIES ACCOUNT	178,472	178,472

MILITARY CONSTRUCTION (IN THOUSANDS OF DOLLARS)

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
LEASING	112,757	112,757
MAINTENANCE OF REAL PROPERTY	383,644	383,644
MORTGAGE INSURANCE PREMIUMS	26	26
OAHU FAMILY HOUSING TRANSFER	---	23,500
SUBTOTAL, OPERATION AND MAINTENANCE	801,345	824,845
TOTAL, FAMILY HOUSING, AIR FORCE	1,054,338	1,102,289
FAMILY HOUSING, DEFENSE-WIDE		
BELGIUM		
MONS (1 UNIT)	300	300
CONSTRUCTION IMPROVEMENTS	50	50
SUBTOTAL, CONSTRUCTION	350	350
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	2,485	2,485
MANAGEMENT ACCOUNT	223	223
MISCELLANEOUS ACCOUNT	31	31
SERVICES ACCOUNT	391	391
UTILITIES ACCOUNT	880	880
LEASING	24,051	24,051
MAINTENANCE OF REAL PROPERTY	970	970
SUBTOTAL, OPERATION AND MAINTENANCE	29,031	29,031
TOTAL, FAMILY HOUSING, DEFENSE-WIDE	29,381	29,381
BASE REALIGNMEMT AND CLOSURE ACCOUNT, PART I		
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I	87,600	87,600
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II		
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II	265,700	265,700
(BY TRANSFER FROM HOMEOWNERS ASSISTANCE FUND)	(133,000)	(133,000)
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III		
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III	2,322,858	2,322,858
TOTAL, BASE REALIGNMENT AND CLOSURE ACCOUNT	2,676,158	2,676,158
GENERAL PROVISIONS		
SEC. 123 -- PROCUREMENT REFORM	-10,421	-10,421
SEC. 127 -- RESCISSION	---	-25,100
SEC. 127 -- COAST GUARD FACILITY	---	25,100
TOTAL, GENERAL PROVISIONS	-10,421	-10,421

CONFERENCE TOTAL--WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1994 amount, the 1995 budget estimates, and the House and Senate bills for 1995 follow:

New budget (obligational) authority, fiscal year 1994....	$ 9,463,890,000
Budget estimates of new (obligational) authority, fiscal year 1995....	8,346,202,000
House bill, fiscal year 1995....	8,816,672,000
Senate bill, fiscal year 1995....	8,836,724,000
Conference agreement, fiscal year 1995....	8,836,000,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1994	-627,890,000
Budget estimates of new (obligational) authority, fiscal year 1995....	+489,798,000
House bill, fiscal year 1995....	+19,328,000
Senate bill, fiscal year 1995....	-724,000

W.G. BILL HEFNER,
THOMAS FOGLIETTA,
CARRIE P. MEEK,
NORMAN D. DICKS,
JULIAN C. DIXON,
VIC FAZIO,
STENY H. HOYER,
RONALD D. COLEMAN,
DAVID R. OBEY,
BARBARA F. VUCANOVICH,
SONNY CALLAHAN,
HELEN DELICH BENTLEY,
DAVID L. HOBSON,
JOSEPH M. MCDADE,
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
HERB KOHL,
ROBERT C. BYRD,
SLADE GORTON,
TED STEVENS,
MITCH MCCONNELL,
MARK O. HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CRAPO) and to include extraneous matter:)

Mr. BEREUTER.

Mr. SOLOMON in two instances.

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Ms. SCHENK.

Mr. VISCLOSKY.

Mr. MANN.

Mr. BARCA of Wisconsin.

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. PACKARD.

Mr. FIELDS of Texas.

Mr. RICHARDSON.

Mr. FAZIO.

Mr. GILMAN.

Mr. DIAZ-BALART.

Ms. SLAUGHTER.

Mr. OBERSTAR.

Mr. COX.

Mr. BURTON of Indiana.

Mr. GALLO.

Mrs. COLLINS of Illinois.

Mr. HOYER in two instances.

Mr. GIBBONS.

Mr. GUTIERREZ.

Mr. HOCHBRUECKNER.

Mr. WALSH.

Mr. LEWIS of California.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1030. An act to amend title 38, United States Code, to improve the Department of Veterans Affairs program of sexual trauma services for veterans, to improve contain Department of Veterans Affairs programs for women veterans, to extend the period of entitlement to inpatient care for veterans exposed to Agent Orange or ionizing radiation, to establish a hospice care pilot program, to establish a rural health care clinics program, to authorize the Secretary of Veterans Affairs to provide per diem payments and construction grants to State homes for adult day health care services, to establish an education debt reduction program, and for other purposes; to the Committee on Veterans Affairs; and

S. 1146. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes; to the Committee on Natural Resources.

ADJOURNMENT

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, July 28, 1994, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3574. A letter from the Secretary, Department of Housing and Urban Development, transmitting the fifth annual report describing the status of multifamily housing subject to subsection (a) of section 203(k) of the Housing and Community Development amendments of 1978, as amended, pursuant to 42 U.S.C. 1701z-11; to the Committee on Banking, Finance and Urban Affairs.

3575. A letter from the Clerk of the House, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and Rule XLIV, clause 1 of House Rules (H. Doc. No. 103-286); to the Committee on Standards of Official Conduct and ordered to be printed.

3576. A letter from the Comptroller General, General Accounting Office, transmitting GAO's audit of the Foundation's statements of financial position as of December 31, 1992, 1991, and 1990, and the related statements of revenues and expenses and changes in fund balance, and cash flows for the years then ended, pursuant to Public Law 101-525, section 8 (104 Stat. 2308); jointly, to the Committees on Education and Labor and Government Operations.

3577. A letter from the Secretary, Department of Energy, transmitting notification that the report entitled, "Adequacy of Management Plans for the Future Generation of Spent Nuclear Fuel and High-Level Radioactive Waste" is currently being prepared for submission by September 30, 1994, pursuant to 42 U.S.C. 10101 note; jointly, to the Committees on Natural Resources and Energy and Commerce.

3578. A letter from the General Counsel, Department of Commerce, transmitting a draft of proposed legislation entitled, the "Marine Navigation Trust Fund Act of 1994"; jointly, to the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 491. Resolution providing for consideration of the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes (Rept. 103-622). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 492. Resolution providing for consideration of the bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes (Rept. 103-623). Referred to the House Calendar.

Mr. HEFNER: Committee of Conference. Conference report on H.R. 4453. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-624). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONDIT:

H.R. 4839. A bill to require the Secretary of Agriculture to issue regulations concerning use of the term "fresh" in the labeling of poultry, and for other purposes; to the Committee on Agriculture.

By Mr. SAM JOHNSON (for himself, Mr. DOOLITTLE, and Mr. HUTCHINSON):

H.R. 4840. A bill to provide for reform of health insurance, including tax benefits relating to health insurance and medical malpractice and antitrust reform; jointly, to the Committees on Energy and Commerce, Education and Labor, Ways and Means, and the Judiciary.

By Mr. MORAN (for himself, Mr. STOKES, Mr. DELLUMS, Mr. HILLIARD, Mr. FARR, Mr. NEAL of North Carolina, Mr. STUDDS, Ms. PELOSI, Mr. SERRANO, Mr. FILNER, Mr. FOGLIETTA, Mr. SANDERS, Mrs. MALONEY, and Mr. PAYNE of New Jersey):

H.R. 4841. A bill to establish a fund for various programs to strengthen and expand the capacity of State and local governments and other entities to improve the public health; jointly, to the Committees on Energy and Commerce, Education and Labor, and Ways and Means.

By Mr. RICHARDSON (for himself and Mr. THOMAS of Wyoming):

H.R. 4842. A bill to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Natural Resources.

By Mr. TORRICELLI:

H.R. 4843. A bill to establish the National Sports Heritage Commission; jointly, to the Committees on Public Works and Transportation and House Administration.

By Mr. FAZIO (for himself, Mr. ARCHER, Mr. CALVERT, Mr. CHAPMAN, Mr. CONDIT, Mr. DIXON, Mr. DOOLEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. EDWARDS of California, Mr. GENE GREEN of Texas, Mr. HAYES, Mr. HERGER, Mr. HORN , Mr. HUTCHINSON, Mr. LANTOS, Mr. LEWIS of California, Mr. MOORHEAD, Mr. POMBO, Mr. TAUZIN, Mr. THOMAS of California, Mr. THORNTON, Mr. WASHINGTON, Mr. WILSON, and Ms. WOOLSEY):

H. Con. Res. 274. Concurrent resolution expressing the sense of the Congress with respect to the announcement of the Japanese Food Agency that it does not intend to fulfill its commitment to purchase 75,000 metric tons of United States rice; to the Committee on Ways and Means.

By Mr. MENENDEZ (for himself, Ms. VELAZQUEZ, Mr. SERRANO, Mr. DE LUGO, Mr. PASTOR, Mr. DIAZ-BALART, Mr. PAYNE of New Jersey, Ms. ROS-LEHTINEN, Mr. BECERRA, Mr. GUTIERREZ, Mr. DE LA GARZA, Mr. TEJEDA, Mr. RICHARDSON, Mr. MCDERMOTT, Mr. WASHINGTON, Mr. ROMERO-BARCELO, Mr. OWENS, Mr. CLYBURN, Mr. FILNER, Mr. SCOTT, Mr. FOGLIETTA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OLVER, Mr. LEHMAN, Mrs. MINK of Hawaii, Mr. FROST, and Mr. KLEIN):

H. Res. 493. Resolution expressing the sense of the House of Representatives with respect to health care reform and essential community providers; jointly, to the Committee on Energy and Commerce and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

455. The SPEAKER presented a memorial of the Senate of the State of Louisiana, relative to memorializing the Congress of the United States to propose an amendment to the Constitution of the United States which would provide that no Federal tax shall be imposed for the period before the date of the enactment of the tax; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SLATTERY:

H.R. 4844. A bill for the relief of Gulnur Akbal Walmsley; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.R. 4845. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Broken Promise;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 163: Mr. CANADY.

H.R. 193: Mr. BILIRAKIS, Mr. BOEHNER, Mr. CALLAHAN, Mr. COX, Mr. HEFLEY, Mr. KYL, Mr. MACHTLEY, Mr. MCCRERY, Mrs. MEYERS of Kansas, Mr. ROHRABACHER, Mr. ROTH, and Mr. TRAFICANT.

H.R. 654: Mr. HORN, Mr. HUTCHINSON, Mr. JOHNSON of South Dakota, and Mr. SABO.

H.R. 723: Mr. COOPER.

H.R. 746: Mr. SISISKY.

H.R. 1146: Ms. SCHENK and Mr. COPPERSMITH.

H.R. 1277: Mrs. VUCANOVICH.

H.R. 1482: Ms. SCHENK and Mr. COPPERSMITH.

H.R. 1483: Mr. COPPERSMITH.

H.R. 1852: Mr. COPPERSMITH.

H.R. 1859: Mr. COPPERSMITH.

H.R. 1860: Mr. SCHAEFER.

H.R. 2420: Mr. LUCAS.

H.R. 2484: Mr. OLVER.

H.R. 2672: Mr. SHUSTER.

H.R. 2727: Ms. VELAZQUEZ.

H.R. 2882: Mr. COX.

H.R. 2898: Mr. CLAY.

H.R. 3283: Mr. COPPERSMITH.

H.R. 3434: Mr. TORRICELLI.

H.R. 3779: Mr. COPPERSMITH.

H.R. 3906: Mr. MCCLOSKEY, Mr. OXLEY, Mr. LEACH, Mr. SKELTON, Ms. VELAZQUEZ, Mr. HOEKSTRA, Mr. LEVIN, and Mr. SYNAR.

H.R. 3913: Mr. CANADY.

H.R. 3947: Mr. HILLIARD, Ms. VELAZQUEZ, Mr. OWENS, Mr. EVANS, Mr. ORTIZ, and Mr. LEHMAN.

H.R. 4036: Mr. COPPERSMITH.

H.R. 4050: Mr. VENTO and Mr. YATES.

H.R. 4051: Mr. FAZIO, Ms. PELOSI, and Mr. EDWARDS of California.

H.R. 4162: Mr. STUPAK, Mr. HASTINGS, and Mr. JOHNSON of South Dakota.

H.R. 4232: Ms. COLLINS of Michigan and Mr. HASTINGS.

H.R. 4260: Mr. Gilman, Mr. Yates, and Mr. Markey.

H.R. 4289: Mr. Vento and Mr. Edwards of California.

H.R. 4291: Mr. Thompson, Mr. Sabo, Mr. Jefferson, Mr. Bonior, and Ms. Pelosi.

H.R. 4318: Mr. Matsui.

H.R. 4345: Mr. Foglietta.

H.R. 4399: Ms. Shepherd and Ms. Long.

H.R. 4507: Mr. Wise.

H.R. 4590: Mr. Horn, Mr. Hefley, Mr. Stupak, Mr. Lancaster, Mr. Schiff, Mr. Condit, Mr. Porter, Mr. Wynn, Mr. Cox, Mr. Goodling, Mr. Sanders, and Mr. Hyde.

H.R. 4826: Mr. Skeen and Mr. Young of Alaska.

H.R. 4827: Mr. Petri.

H.J. Res. 338: Mr. Barlow, Ms. Snowe, Mr. Sarpalius, Mr. Price of North Carolina, and Mr. Hall of Texas.

H.J. Res. 369: Mr. Castle, Mr. Buyer, Mr. Clay, Mr. Kim, Mr. Moorhead, Ms. Molinari, Mr. Wise, Mr. Saxton, Mr. Skeen, Mr. Livingston, Mr. Tauzin, Mr. Flake, Mr. Mazzoli, Mr. Kanjorski, Mr. Oxley, Mr. Dreier, and Mrs. Fowler.

H. Con. Res. 148: Mr. Shaw and Mr. Minge.

H. Con. Res. 223: Mr. Dickey, Mr. Faleomavaega, and Mrs. Mink of Hawaii.

H. Con. Res. 233: Mr. Hall of Ohio, Ms. Slaughter, Mr. Vento, Mr. Andrews of Maine, Mr. Berman, Mr. Kennedy, Mrs. Mink of Hawaii, Ms. Velázquez, Mr. Cardin, Mr. Neal of North Carolina, Mr. Watt, Mr. Machtley, Mr. Wyden, Mr. Traficant, Mr. Synar, Mr. Payne of New Jersey, Mr. Ackerman, Mr. Kreidler, Mr. Scott, Mr. McHale, Mr. Brown of California, Ms. Eddie Bernice Johnson of Texas, Ms. Eshoo, Mrs. Collins of Illinois, Mrs. Kennelly, Mrs. Meek of Florida, and Mr. Coyne.

H. Con. Res. 247: Mr. Clay, Mr. Gallegly, Mr. Bliley, Mr. Price of North Carolina, Mr. Owens, Mrs. Thurman, Mrs. Byrne, Mr. Baker of California, and Ms. Shepherd.

H. Con. Res. 270: Mr. Stearns, Mr. Doolittle, Mr. Emerson, Mr. Dornan, Mr. Fields of Texas, Mr. Horn, Mr. Ramstad, Mr. Manzullo, Mr. Santorum, Mr. Sam Johnson, Mr. Saxton, Mr. Kolbe, Mr. Bilirakis, and Mr. Solomon.

H. Res. 270: Mr. Linder.

H. Res. 430: Mr. Rangel, Mr. Price of North Carolina, Mr. McNulty, Mr. Royce, and Mr. Frost.

H. Res. 432: Mr. Bryant, Mr. Coleman, Ms. Kaptur, Mr. Hinchey, Mr. Gejdenson, and Ms. Furse.

H. Res. 485: Mr. Cox, Mr. Stearns, and Ms. Dunn.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4675: Mr. Lewis of Florida.

EXTENSIONS OF REMARKS

INTRODUCTION OF RESOLUTION CONCERNING RICE TRADE WITH JAPAN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. FAZIO. Mr. Speaker, last month, the Japanese Food Agency announced that its emergency program to purchase foreign rice would cease immediately.

This announcement means the Japanese will not purchase 75,000 metric tons of California rice, which they had promised to buy. The economic impact of Japan reneging on this rice purchase will result in a loss of $45,000,000 this year to rice growers in the Sacramento Valley.

Further, the negative economic consequences will extend beyond California's borders to other rice growing States. Using USDA guidelines, it is estimated that if the 75,000 metric tons of California rice remains unsold to the Japanese Food Agency, then the carryover of this quantity from the 1993 crop year to the 1994 crop year will cause the U.S. season average farm price for rice to decline by $.36 per hundredweight in 1994, and by $.17 per hundredweight in 1995. These declines would equate to a loss in farm revenue of $56,200,000 in 1994 and $30,800,000 in 1995, for a combined loss of $87,000,000.

Clearly, Mr. Speaker, this development is most troubling. United States Government officials and the U.S. rice industry have worked diligently and exhaustively to establish an open trade relationship with Japan. We have been successful in this effort under the emergency rice purchase program as well as under GATT. However, Japanese Food Agency's failure to purchase the remaining 75,000 metric tons of U.S. rice directly contravenes a good-faith trade agreement. This action places in jeopardy other such agreements reached between the United States and Japan and damages the prospect for future trade relations between our two countries.

For all of these reasons, I am introducing a resolution today denouncing the Japanese Food Agency's decision to renege on its promise to purchase the final 75,000 metric tons of rice from the U.S. rice industry.

The United States was the only country affected by this announcement, as the Japanese have already fulfilled purchase agreements with China, Australia and Thailand. My resolution puts Congress clearly on record that when the Japanese make a deal with the United States, we expect them to follow through. Further, it puts the Japanese government on notice that we will not tolerate any backtracking on other trade agreements we have reached with Japan.

It has taken years to open up access to Japan's rice market and we simply cannot let that progress slip away now. This is too important for the economy and jobs in the Sacramento Valley as well as other parts of the country.

My resolution will let the Japanese know that we are serious about keeping trade commitments, and we will not turn the other cheek when they break their promises.

Mr. Speaker, I already have more than 20 cosponsors on this resolution, both Democrats and Republicans. I hope the House will take this resolution up in the very near future to ensure that the Japanese Government understands the serious nature of this issue.

1ST BAPTIST CHURCH OF SOUTH GLENS FALLS CELEBRATES 200TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. SOLOMON. Mr. Speaker, those of us who live in the 22d Congressional District can boast of living in one of the most historical regions of the country.

In so many cases, the old churches in the district, along with their spiritual functions, often serve as virtual museums of area lore, with their registries and records of baptisms and marriages of historical figures, and growth patterns which reflect and parallel the growth of the area.

One such church, in fact one of the foremost examples, is the First Baptist Church of South Glens Falls, an Independent Fundamental Church affiliated with the Conservative Baptist Association, which is celebrating its 200th anniversary this year.

This church can trace its lineage to 1794, when it was known as the First Baptist Church of Northumberland. In 1831, it became the Moreau Baptist Church. Early meetings were held in homes until 1837, and after that in the Borrows Schoolhouse. Property on the corner of Main and Third Streets was donated by Julius Rice in 1859. The church built on this property opened in 1862. Finally, the name was changed to its present First Baptist Church of South Glens Falls in 1875, and a parsonage was built in 1895.

The church's most noteworthy growth period came during the ministry of Rev. Nevin Korb, who came to South Glens Falls with his family in 1948. A major factor in this growth was the use of radio broadcasts. While an addition was being built in 1954, Sunday School classes and worship services were held in the South Glens Falls Town Hall building.

By 1967, the church could boast of a new building and parsonage. Its present pastor, Rev. Gary C. Stefanski and his family arrived in July, 1993.

Throughout its long history, this church, like so many others in the area, has been the focus of community life and a bastion of the best virtues our society has to offer.

During the weekend of August 5 to 7, the First Baptist Church of South Glens Falls will celebrate those glorious two centuries. Please join me in expressing congratulations and best wishes as the church moves into its third century.

TRIBUTE TO WILLIAM A. HICKEY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to a very special person, William (Bill) A. Hickey, on the occasion of his 80th birthday. Bill Hickey is a man of uncommon talent and uncommon modesty—a true patriot, family man, and gentleman.

Born at home in Washington, DC on August 1, 1914, near Capitol Hill on Seventh Street in the northeast section, Bill attended elementary schools—the First Pierce, named after President Franklin Pierce, also the old Franklin School in Northwest Washington. As a young boy, he served the Times-Herald newspaper to earn a few dollars for pocket money. Bill graduated from Eastern High School in the June class of 1934. The working world came next—the old Palace Laundry, Judd and Detweiller printing plant, and luckily a good job at the Potomac Electric Power Co. [PePCo] where he was employed for 40 years, from 1937–77.

Bill served in the U.S. Navy during a period in World War II as an electrician's mate assigned to the amphibious forces, with service in the Asiatic-Pacific area. Returning home he resumed his duties at PePCo as a field meter tester and found great pleasure in meeting the American public—a great experience. Bill loves people. He was married in June of 1937, a happy marriage with his wife Ruth, which lasted for 53 years until her passing in 1990. The father of five grown children, three daughters and two sons, and six grandchildren, he is a very dedicated family man. Now retired, he participates in veteran, patriotic, civic, and political affairs as his hobby.

Since he is also an avid sports fan, especially of the Washington Redskins, he continues to usher at his young age. Beginning his career with the Redskins in 1957 at the old Griffith Stadium in Washington, DC, he has now been employed by the team owners for 37 years. He presently works, as he has for the last 20 years, in Jack Kent Cooke's mezzanine box at the RFK Stadium, where he loves greeting and talking to all the dignitaries attending the games, including Senators, Congressmen, and former sports greats.

A member of Central Baptist Church in Bladensburg, MD for 42 years, his simple

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

credo is "Do Your Best and You Will Enjoy Life to the Utmost."

In closing, Mr. Speaker, let me once again pay tribute to Bill Hickey as he celebrates this momentous occasion.

INTRODUCTION OF THE INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. RICHARDSON. Mr. Speaker, Representative THOMAS and I are pleased to introduce the Indian Self-Determination Act Amendments of 1994, which would amend the Indian Self-Determination and Education Assistance Act by making key provisions of the act self-implementing and by establishing a model contract. The model contract would govern the terms under which Indian tribes and tribal organizations could assume the operation and management of Federal programs and functions benefiting Indians that are operated within the Department of the Interior and the Department of Health and Human Services, including programs and functions of the Bureau of Indian Affairs and the Indian Health Service.

Mr. Speaker, the Indian Self-Determination and Education Assistance Act was signed into law in 1975 in order to maximize tribal participation in the planning and administration of Federal services and programs, as well as to reduce the Federal bureaucracy within those Indian programs. Despite passage of the act, tribal attempts to assume the operation of Federal programs were hindered by an increased Federal bureaucracy as well as restrictive and unnecessary contracting regulations. The 1988 amendments to the Indian Self-Determination Act were intended to remove these barriers to contracting. The 1988 amendments required the Bureau of Indian Affairs and the Indian Health Service to develop regulations with the participation of Indian tribes by October 1989.

Six years after passage of the 1988 amendments, the agencies have yet to promulgate regulations. Despite the preparation of negotiated tribal-Federal draft regulations, the agencies rejected the negotiated regulations. In January 1994, when the agencies finally published their proposed set of regulations, the proposal bore little resemblance to the negotiated draft but rather contained nearly all of the agencies' positions from their earliest drafts. The regulatory process has cost the tribes hundreds of thousands of dollars, and has led to great confusion within Indian country and among the Federal agencies. Rather than simplifying the contracting process, the proposed regulations would actually complicate the process and raise even greater barriers to Self-Determination Act contracting by tribes.

The bill would prevent the Bureau of Indian Affairs and the Indian Health Service from further frustrating tribal attempts to exercise their right to administer and operate Federal programs which serve their members. The bill would greatly simplify the contracting process, as the 1988 amendments were originally intended to do, and would reduce the Federal bureaucracy that is so pervasive in Federal Indian programs.

Mr. Speaker, this bill comports with the administration's stated goal of reducing regulations. Rather than subjecting the agencies and the Indian tribes to 500 pages of regulations, Mr. THOMAS and I are proposing a 40-page bill to solve the same problems. To quote Henry David Thoreau, "Our life is frittered away by detail. Simplify, simplify." Today we seek to simplify a system that should make it easier, rather than more difficult, for the Indian nations to manage their own affairs.

Mr. Speaker, this legislation is very similar to the bill which the Senate introduced earlier this year and which received the enthusiastic and overwhelming support of Indian tribes across the Nation. This bill reflects the recommendations of Indian country. I urge my colleagues to support it.

TRIBUTE TO THE 493D FIGHTER SQUADRON

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. VISCLOSKY. Mr. Speaker, I rise today to pay tribute to members of the 493d Fighter Squadron who fought to end World War II during the events that unfolded to become D-day. Over the last 50 years, the brave men of the 493d Squadron have continued to commemorate the cessation of World War II by frequently reuniting to share memories and to reminisce about their shared experiences.

In May of this year, 18 members of this amazing group gathered in Europe to retrace the steps they took 50 years ago as American soldiers, marching through France, Belgium, and Germany. The individuals from northwest Indiana representing the 493d Fighter Squadron, included: Melvin Beito, Jacob L. Cooper, Frank Kobli, Marvin B. Dubose, Jesse V. Jamieson, Bill Dilley, Bill Kennedy, Al Long, R.E. McLuckie, Raymond McWilliams, Francis Mullee, George Pullis, Warren Sorensen, William Wells, Warren Welter, Lloyd White, David Wright, and Bertil Munson.

As the group advanced through the countryside they remembered so well, the great sacrifices made by those at D-day remained evident. A squadron member recalled fondly a conversation he held with a WWII German pilot during a commemorative dinner in Germany: "50 years ago we fought as enemies and today, as a result of this new-found freedom, we dine together as friends." Clearly, the world is a better place today as a result of the horrors endured by these brave men on D-day and throughout WWII.

Mr. Speaker, I ask you and my colleagues to join me in saluting the men of the 493d Fighter Squadron. Their courage will most certainly be remembered nationally and internationally, as their contributions have made our country the place it is today. It is my hope that this fine group will continue to reunite to retain the memories of their fight for freedom.

QUEEN CITY'S TASTE OF EBONÉ

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. MANN. Mr. Speaker, the Queen City's Taste of Eboné is doing their part to break down barriers and ease tensions between the races. The greater Cincinnati area will benefit after the July 29–30 Multi-Cultural Block Party. The third annual event will feature cross-cultural booths, music and educational tools from community groups throughout the area.

The goal of the 2-day event is to bring the diverse community together and to facilitate learning about each community's history and heritage. There will be arts, crafts, face painting, jazz and big band music, exhibits, artifacts, storytellers and magicians to help accomplish the group's goals. All the money raised will be returned to the organization to fund the event for upcoming years.

As representative for the First Congressional District of Ohio, I would like to commend each organizer of the Queen City's Taste of Eboné and extend my support for the vision behind the celebration.

TRIBUTE TO J.I. CASE CORP. OF RACINE, WI

HON. PETER W. BARCA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. BARCA of Wisconsin. Mr. Speaker, I rise today to recognize the J.I. Case Corp. for its success and contributions to the State of Wisconsin.

I rise also to honor Edward J. Campbell, who retired from his position as president of the J.I. Case Corp., and to congratulate Jean-Pierre Rosso, who became the new president and CEO on April 4, 1994.

J.I. Case is an important corporate citizen in the city of Racine, which is located in the First Congressional District of Wisconsin. Recently J.I. Case once again became a publicly traded company, which will contribute to the continued success of this corporation. This is a great tribute to both the leadership and workers of this great company.

Edward J. Campbell has spent 20 years with Tenneco, Inc., of which J.I. Case is the largest subsidiary. Mr. Campbell came to Case in the late 1960's and the company turned a profit in each of his first 11 years there. After leaving Case, Mr. Campbell led Tenneco's Newport News Shipbuilding Co. for 13 years, during which the company tripled its sales and increased its profits 20 times. In 1992, Mr. Campbell returned to J.I. Case to help restore the company's profitability, and Case has subsequently enjoyed what is expected to be its fourth consecutive profitable quarter. Additional, Mr. Campbell has overseen a $920 million restructuring program to ensure that the company will remain profitable in the future.

Jean-Pierre Rosso has an M.B.A. from Wharton Graduate School of Business and will be the person replacing Edward Campbell as the president and CEO of J.I. Case. Up until now, Mr. Rosso has served as president of Honeywell, Inc., a position he has held since 1992. Jean-Pierre Rosso's experience as president of Honeywell Europe from 1987 to 1991 will no doubt help create new markets in Europe and the entire international marketplace.

Mr. Speaker, Edward J. Campbell has been an excellent leader of J.I. Case and was instrumental in its renewed success. J.I. Case has a long history in the city of Racine, and the continued success of this corporation will have a positive impact on the economic vitality of this community. Thus, I would like to commemorate Mr. Campbell's achievements, and also issue a warm welcome and congratulations to Jean-Pierre Rosso, whom I have no doubt will continue the success of J.I. Case in the future. I am proud to enter these words of congratulations into the RECORD.

DAVID SHERIDAN, "FATHER OF CATHETERS," TO BE HONORED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. SOLOMON. Mr. Speaker, the name of David Sheridan should be more familiar to all Americans, because so many Americans have benefited from his greatest achievement.

To those familiar with that achievement, Mr. Sheridan is known as the father of the modern catheter. That single device has had a significant impact on medical and surgical practices, and that is one of the reasons a "David Sheridan Day" will be held on Saturday, September 17.

Catheters, as we all know, deliver medications, drain bodily fluids, and serve other vital medical purposes. Although he worked in collaboration with physicians from the Albany Medical Center, Mr. Sheridan is more responsible than any other man for the development of many useful varieties of catheters. In fact, the hospital's diagnostic facility was dedicated in 1987 as the David S. Sheridan Magnetic Resonance Imaging Center in his honor. And when Albany Medical College held its 157th commencement that year, Mr. Sheridan was awarded a doctor of science honoris causa degree.

In 1950, Mr. Sheridan and his family moved into an old farmhouse in the town of Argyle. About 100 feet from the house was a two-story red barn. It was there that Mr. Sheridan, a man whose formal education ended when he had to quit school at the age of 13, developed an idea with so many applications that today, more than 150-million catheters and similar devices are being used in operating rooms throughout the world.

Mr. Speaker, the perseverance and insight of Mr. Sheridan has resulted in simplified medical-surgical procedures and greatly reduced both patient suffering and expense while saving valuable time. For these reasons Mr. Sheridan deserves to be ranked alongside the Pasteurs, the Flemings, the Salks, and other solitary men of vision whose contributions to the medical world can never be measured.

Add to this the fact that he has made the small town of Argyle the catheter capital of the world, generating employment for thousands of local people, and you can see, Mr. Speaker, why we are so proud of Mr. Sheridan.

He will never be as famous as he deserves to be, but let this House at least go on record expressing its own tribute to Mr. David Sheridan, a great American whose achievements have improved the quality of life for the whole world.

SALUTING FEDERAL JUDGE VANESSA DIANE GILMORE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. FIELDS of Texas. Mr. Speaker, I would like to take a moment this morning to recognize Vanessa Diane Gilmore, a Houstonian who recently was named to the Federal bench. At just 37 years of age, Ms. Gilmore is the Nation's youngest Federal judge, and is the only black woman serving on the Federal bench in Texas.

Her young age, her keen intellect, her dedication to duty, and her innate sense of fairness guarantee that Ms. Gilmore—or I should say, Judge Gilmore—will make her mark on our Nation's legal system in the years ahead. I would not be at all surprised, in fact, if the future provides Judge Gilmore with new, expanded and more exciting opportunities to serve her country.

I have been fortunate that since last year, Judge Gilmore has served as a member of my Service Academy Nominations Board. As a member of the Board, she has helped select the most outstanding young men and women from throughout my congressional district to nominate to the Nation's four service academies. I am enormously grateful that despite her new profession, Judge Gilmore has indicated a desire to continue to serve on the board for, at least, the coming year.

For the past 11 years, Judge Gilmore practiced law at the firm of Vickery, Kilbride, Gilmore and Vickery, where she specialized in commercial litigation. Judge Gilmore is a 1977 graduate of Hampton University, Hampton, VA, and a 1981 graduate of the University of Houston Law School. While her legal skills are impressive, it is her willingness to take an active role in helping her fellow Houstonians and to pitch in to improve her community that distinguishes Judge Gilmore.

Her record of civic, community, and professional service is long indeed. She serves on the St. Joseph's Hospital Advisory Board; the Texas Southern University Foundation Board; the Neighborhood Recovery Community Redevelopment Corporation Board; and the University of Houston Law School Alumni Board. A director of the Texas Lyceum Association, Judge Gilmore served as president of the Greater Houston YWCA from 1990 to 1992, and currently serves on the YWCA Advisory Board.

In 1991, Gov. Ann Richards appointed Judge Gilmore to the Texas Department of Commerce Policy Board. When she later became chairman of the board, Judge Gilmore oversaw all of the agency's economic development activities and represented the Governor at economic development meetings.

Judge Gilmore's professional memberships include the Houston Bar Association, the Texas Trial Lawyers Association, the W.J. Durham Legal Society and the State Bar of Texas. Judge Gilmore has long been active in the National Lawyers Council of the Democratic National Committee and has held a number of leadership positions in the local NAACP.

Mr. Speaker, Vanessa Diane Gilmore has given generously of her time and talent to organizations throughout the greater Houston area, and throughout the State of Texas. I am grateful that one of the organizations in which she is interested is my Service Academy Nominations Board. I speak for all the members of the Board when I say that we look forward to Judge Gilmore's continued service on the Board, and her wise counsel in nominating gifted young men and women from throughout Texas' 8th Congressional District to attend the Nation's service academies. I also speak for the Board when I wish her the very best of luck in her new and challenging assignment.

UNITED STATES INVASION OF HAITI UNWARRANTED

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. PACKARD. Mr. Speaker, I rise to share with my colleagues the concerns of a constituent of mine, Mr. Steven Burt of Laguna Niguel, CA. In a letter to me, Mr. Burt expressed his fears of an American invasion of Haiti. Mr. Burt has a personal interest in this issue; his son is a U.S. marine and is currently aboard the U.S.S. Inchon, which currently sits off the coast of Haiti. I have the same concerns as Mr. Burt and I would like to share some excerpts from his letter.

> There are no American citizens being held in Haiti against their will. There is no Communist threat. There is no economic benefits to be won or lost in Haiti. There is no one who will reimburse our warchest. There is, however, a political threat regarding Haiti, and that is the threat to President Clinton's face. Soldiers should not be left to defend the character of a U.S. President. Soldiers should not be left without a Congress that lacks courage.
>
> There is absolutely no reason for my son to be put in jeopardy in Haiti. Democracy and its freedoms must be fought for, first, by native sons and daughters. This is not happening in Haiti . . . show me one piece of rational that I can lay at my son's grave or carve on his tombstone. Then, and only then, will I sleep at night with the comfort that a supreme sacrifice could be justified.

Mr. Speaker, I agree with Mr. Burt's position on this issue. While I support the restoration of democracy in other countries, I will not support military intervention to accomplish this unless vital American interests are clearly at stake. The situation in Haiti does not meet this criteria, and thus a United States invasion of Haiti would be unwarranted. American men and women should not be sent into combat as a substitute for sound foreign policy.

CIPE'S PROJECT IN HUNGARY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to commend the Center for International Private Enterprise, an affiliate of the U.S. Chamber of Commerce and one of the core institutes of the National Endowment for Democracy, on its participation in producing "Crossed Paths: Strengthening the Road to Private Sector Growth." This study was produced as a part of CIPE's legal and regulatory reform in Hungary project with funding from the U.S. Agency for International Development.

The most exciting part of CIPE's project was that it forged a strategic partnership between seven leading Hungarian think tanks and set up an advisory board of Hungarian business, media, and academic leaders. This kind of real partnership is all too rare in our foreign assistance efforts and I commend USAID for supporting this work.

The joint study issued a set of recommendations, including a decrease in corporate taxes of up to 30 percent, major social security reform, and a national land registry and mortgage loan system. The organizations making these recommendations were: the Budapest University of Economic Studies, real estate market; Financial Research, Ltd., financial sector; the Foundation for Market Economy, informal sector; the Institute for World Economics/Blue Ribbon Commission Foundation, privatization process; the Kopint-Datorg Foundation for Economic Research, tax system; and the Public Policy Institute, private sector development and local government.

CIPE will sponsor a conference in Budapest in September, which will produce a more complete analysis. The final report will be disseminated to leading Hungarian policymakers.

To date, the list of recommendations of the report include:

In order to channel more personal savings into privatization, the dumping of government securities must be restricted.

A customer-friendly network of local branch banks must be established where local bankers and small entrepreneurs can prepare business plans together.

The corporate tax should be decreased to 30 percent and the minimum tax must be eliminated.

Capital investments, especially as regards the application of advanced technology, must be promoted with tax allowances and accelerated depreciation.

Basic social security reform is inevitable. The mandatory social security contribution, which entitles contributors to the basic services, should be decreased to between 15 and 25 percent.

Venture capital companies, following the successful example in some Asian countries, and regional or sectoral companies should be formed to promote investment into small enterprises.

In order to boost the market for turnover to land, a new system of land valuation and registration must be developed and adhered to. An inevitable prerequisite for a workable mortgage system is the establishment of an up-to-date, legitimate land registry system.

A national network of mortgage loan and land loan financial institutions must be established having the overriding mandate to serve the needs of the entire agricultural community.

"All in one", one-stop offices must be created where representatives of all the applicable agencies and authorities, together with the banks, are housed under one roof so that a candidate may establish a company with minimal effort.

TRIBUTE TO EUNICE CASTRO

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. DIAZ-BALART. Mr. Speaker, I would like my colleagues to join me in recognition of Eunice Castro's fine work as a journalist for the Galeria section of El Nuevo Herald as well as her authorship of a series of biographical novels—in particular your work on Jose Marti—I would like to extend my sincerest congratulations to her.

The nature and success of Ms. Castro's work truly is commendable. Her writings have served as a bridge to unite the Spanish speaking communities throughout the Americas, and have earned her recognitions from the Argentine and Canadian Governments. Eunice Castro's work has served as an inspiration for many in our community.

I would like to publicly congratulate her and extend to her my sincerest admiration, for all this and much more. I wish Eunice Castro and her family continued success and good fortune.

AMERICA NEEDS TO REGAIN VISION IT TOOK TO ACHIEVE MOON LANDING

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Omaha World-Herald on July 19, 1994.

[From the Omaha World-Herald, July 19, 1994]

AMERICA NEEDS TO REGAIN VISION IT TOOK TO ACHIEVE MOON LANDING

For many Americans, the memories are sharp, inked in black and white like the pictures on the front pages of newspapers across the country.

Neil Armstrong, fresh-scrubbed farm boy from Ohio, Ungainly in a pillowy white space suit, step-hopping down onto the surface of some place that was not the Earth. Dust fountaining up from his boot in slow motion. Footprints on a world where no foot had ever set down before.

Twenty-five years has passed since that moment. Twenty-five years since Apollo 11, years full of significant events—wars, death, births, changes for the better, changes for the worse.

When Astronauts Armstrong, Buzz Aldrin and Michael Collins were strapped into their small space capsule atop an enormous Saturn rocket, they flew more than the first mission to the moon.

The technological wizardry that boosted them so high, so fast was staggering. The Soviet Union had launched Sputnik, the first orbital satellite, hardly more than 10 years before. The United States played catch-up for only a short while. Then it began leading—to the moon.

With the launch, July 16, 1969, went the prayers and hopes of millions of Americans. The mission unified the nation at a time of dissension. People were awestruck at the feat. Everyone wanted it to succeed.

And it did. Armstrong bounced down on the moon's surface. Aldrin followed. They cavorted playfully in the moon's lighter gravity. They planted a rigid U.S. flag where no breeze would ever blow. They gathered moon rocks. They came back to their home planet, Earth, as the first men who had touched another world.

How audacious it was, that journey. How magnificently bold. For millions of years, the moon had hung in the heavens, waxing and waning with the days. Airless, waterless, a place of love songs and dreams.

And aspirations. Just as, not a decade before, Ohioan John Glenn's first orbit of the Earth inspired a generation, so did Armstrong's "small step for (a) man." But where has his "giant leap for mankind" taken the nation?

Where, indeed. Sadly, it seems that the vision that gripped the United States in those days has been mislaid. Apollo 11 encouraged Americans to look at the future, and anticipating that future made them proud.

There are the Apollo projects of today? Visions of the moon, Mars and beyond have been replaced by . . . what? The space shuttle program, while scientifically fascinating, does not inspire wonderment. The orbiting space station, thought by many to be the next step after lunar exploration and the first real step toward Mars, has been delayed and diminished to virtual insignificance.

For the nation, there is no grandeur. There is no sense that the human mind will have to stretch to encompass the future. There is no vision left.

It could return, though. A rededication to the space effort, an expansion of NASA's goals, could get it rolling.

It would take national leadership committed to the future, as was President John F. Kennedy during his three years in office. It would take national will, as was required to maintain a moon-landing program while simultaneously waging a war in Southeast Asia.

And it would take vision that isn't mired in the mundane, something that the Clinton administration hasn't yet displayed.

The United States is the only country capable of doing it. It should be done.

THE CONGRESSIONAL HIGH SCHOOL ART EXHIBITION

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Ms. SLAUGHTER. Mr. Speaker, for the past several years, I have had the pleasure and honor of participating in the opening ceremonies of the congressional high school art exhibition, the extraordinary display of artwork which enlivens the walls of the Cannon Tunnel. It is sponsored annually by the Congressional Arts Caucus, which I chair. Each of the 279 Members of Congress who participated in this unique project this year recognize its valuable role in celebrating the talent and imagination of the many gifted artists from each of their congressional districts.

I was especially delighted to receive such a thoughtful letter from Ms. Stacey Mack, of Niceville, FL, who reminded me of why so many of us take part in this project each year. Her work is the winning entry from the First District, Florida represented by my friend and colleague Mr. HUTTO. It will hang along with other artworks through May 1995.

This exhibition is about celebrating the arts, encouraging our young people, and providing them with a forum to share their ideas, dreams and visions. In the most pleasing way, these high school students give us insight as to what is happening in their lives and around our country—a valuable gift indeed. These young people deserve our recognition and support, and I am pleased to share this young lady's thoughts with you today.

JULY 1, 1994.

MS. SLAUGHTER: My name is Stacey Mack. Last Tuesday, I was given the honor to attend the 1994 Congressional Art Competition in Washington, D.C. I was just writing to let you know how appreciative I was. The meetings we had with the great faces and places of the nation's capital were experiences that I will truly never forget.

As a graduated senior, I am thankful that my artwork was chosen. If it had not, then I would have missed out on a delightful and educating occasion. It is a tremendous honor to have my artwork hung in the U.S. Capitol. I would also like to thank you for going through the trouble to have Mr. Dean Cain as a guest. He was extremely friendly to each and every one of us, and by far served as a "super" man.

All and all I just wanted to thank you and everyone else for all of your work in creating an unforgettable afternoon for 200 high school artists who went home that night smiling.

Sincerely,

STACEY MACK,
Niceville, FL.

MUCH HAS BEEN OMITTED ON THE CYPRUS ISSUE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. BURTON of Indiana. Mr. Speaker, much has been said about the Cyprus issue, but much has been omitted. Turkey strongly supports a lasting negotiated settlement on Cyprus and the establishment of a bizonal, bicommunal Federal State there in which the Turkish Cypriot and Greek Cypriot communities are represented on an equal footing. Turkey supported U.N. confidence building measures [CBM] early on, and encouraged Turkish Cypriots to do so.

Turkish Cypriot President Rauf Denktas—June 16, 1994—accepted all of the points raised by the United Nations in connection with the package of confidence building measures [CBM's] and is ready to sign the agreement as one integrated text.

By contrast, Greek Cypriot Leader Glafcos Clerides has vowed to resign if the U.N. Security Council insists on pursuing the CBM's and has even rejected any further negotiations on the CBM package.

Turkish Cypriots were one of two constitutionally and politically equal components of the binational Republic of Cyprus under the London and Zurich Agreements of 1960. Greek Cypriots, however, considered Turkish Cypriots an obstacle to turning Cyprus into a Greek island and uniting it with mainland Greece. U.N. peacekeeping forces were unable to prevent a succession of massacres of Turkish Cypriots between 1963 and 1974.

Turkey was compelled as a last resort to intervene in 1974 in accordance with its 1960 Treaty of Guarantee obligations when, in the words of the then Cypriot President Archbishop Macharios, "The military regime of Greece * * * callously violated the independence of Cyprus * * * clearly an invasion from outside, in flagrant violation of the independence and sovereignty of the Republic of Cyprus." The Greek aim was the annexation of Cyprus to Greece. This and imminent annihilation of the Turkish Cypriots were prevented solely by the timely intervention of Turkey as one of the three treaty guarantors of Cyprus' independence. The others were Great Britain and Greece.

The intervention ensured the security and freedom of the Turkish Cypriots and resulted in the 20 years of peace the island has experienced since. Over a period of 11 years prior, from 1963 to 1974, Turkish Cypriots had become refugees in their own homeland. Thousands had been killed or maimed, hundreds had disappeared, and a quarter of the Turkish Cypriots rendered homeless by the Greek Cypriot policy of repression.

An externally imposed settlement on Cyprus would be a recipe for renewed intercommunal strife and a loss of life similar to that which occurred before Turkey's intervention in 1974.

Mr. Speaker, any solution to the Cyprus problem must prevent the loss of life incurred before 1974, and provide for the security of all Cypriots.

TRIBUTE TO CHARLES V. CUMMINS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. LEWIS of California. Mr. Speaker, I would like to bring your attention to the fine work and outstanding community service of Charles V. Cummins of Upland, CA. Charlie, who is a long time friend, will be awarded the prestigious Dr. William H. Craig Visionary Award in appreciation of his dedication to San Antonio Community Hospital and his community at a gala dinner-dance held in his honor on October 21, 1994.

Charlie has been a long time supporter of San Antonio Community Hospital. His involvement began as a building fund and capital campaign donor. From April 1978 to December 1986, Charlie served as a member of the hospital's board of trustees. During this time he was active on various committees, and he held the office of treasurer in 1986. In March 1986, he was elected to the board of San Antonio Health Services, Inc., and he is currently serving as treasurer of the corporation.

Over the years, Charlie has been a founding member and president of numerous civic and community-based organizations including the Downtown Business Professional Association, the Ontario Motor Speedway, the Greater Ontario Visitors and Convention Bureau, and the Ontario Rotary Club. In addition, he is serving as president and chairman of the board of the Ontario Chamber of Commerce.

Under President Reagan, Charlie was one of the first appointees and later president of the State board of pharmacy. He has been active politically serving as a delegate to the Republican National Convention, and currently serves on the State Republican Central Committee.

Mr. Speaker, I ask that you join me, our colleagues, Charlie's family, and his community in honoring this unique individual for his continual service to his community. Throughout the years he has shown a commitment to San Antonio Community Hospital as well as the people within his community and it is only fitting that the House recognize him today.

THE FDA MUST PLACE PATIENTS ABOVE POLITICS

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. COX. Mr. Speaker, one of my constituents, Mr. Steve Coonan of Coonan Clinical Labs in Costa Mesa, CA, has been fighting the Food and Drug Administration for approval to market a kit that would allow individuals to test themselves for antibodies to the AIDS virus in the privacy of their own home.

Despite the obvious health benefits of allowing such a product to come to market, the FDA has—for more than 5 years—effectively barred such HIV home test kits from the marketplace.

I commend to my colleagues the following Forbes magazine article by the Manhattan Institute's Peter Huber, which discusses the broader implications of the FDA's murderously paternalistic behavior with respect to HIV home testing.

Given that HIV infection is in some measure treatable and that the spread of the virus is certainly preventable, it's high time that the FDA remove the bureaucratic obstacles it has placed in the way of people who want to learn vitally important things about their own health.

[From Forbes magazine, Aug. 1, 1994]

BLOOD TESTS

(By Peter Huber)

To dramatize the gay artist's problems, Ron Athey sliced into another man's back during a theater performance and splattered blood everywhere. Whether or not federal taxpayers should fund such shows, a performer almost certainly does have a First

Amendment right to draw a bit of blood in the name of his art.

It's equally clear why O.J. Simpson had to hand over to the police blood and hair samples that could incriminate him. Courts resolved long ago that compelling tests like these does not violate the Fifth Amendment right against self-incrimination.

Why then are we forbidden to test our own body fluids, at our own expense, for no one's entertainment or edification but our own? You didn't know you couldn't? Well, you can't. I refer to the do-it-yourself blood test for antibodies to the AIDS virus. This test has been effectively barred from the market by the Food & Drug Administration for over five years.

The stock objections are familiar and wholly unconvincing. Learning by phone (after you send your home-test sample to a lab) that you have been infected by the human immunodeficiency virus may indeed be more of a shock than learning face-to-face. But discovering a signature AIDS lesion on your arm, or testing positive in a hospital after you come down with strength-sapping pneumonia, or after you've infected your best friend, is surely worse. Face-to-face counseling may indeed help when you're getting horrible news. But HIV infection is in some measure treatable, and the spread of the virus is certainly preventable, so developing information as quickly and cheaply as possible must surely be the paramount objective.

The very thought that we should limit when and how people learn vitally important things about their own health, just because they might otherwise rush to the arms of Dr. Kevorkian, seems murderously paternalistic. Sure, knowledge has its perils. But not knowing is more dangerous. If free-speech rights protect Ron Athey's expressive blood, they ought certainly protect occasions where free speech could save lives immediately.

Quite apart from the pragmatic calculus of saving lives, there's a much larger principle at stake. Home medical test kits provide information, no more. They trigger a dialogue between the willing testee and a willing lab technician at the other end of a phone line. If we didn't live in such statist times, and weren't so preoccupied by virtuosi like Athey, state attempts to bar such dialogue would shock anyone even vaguely interested in civil liberty.

But principle doesn't seem to matter much when political constituencies are weak, and they are here. The communities most vulnerable to HIV infection have long been ambivalent about testing. They fear (correctly, no doubt) that information in the wrong hands promotes paranoid discrimination. Meanwhile, David Kessler's FDA is popular in liberal circles, and many "liberals" suddenly turn big-brotherish when the cause of individual freedom is served by big business operating at a profit. So the HIV home-test kit stays off the market.

If the FDA tried to outlaw, or even drag its bureaucratic feet on, a home fertility or pregnancy test, women's rights groups would see to it that Kessler was fired. Pregnancy can be tremendously upsetting; when the blue stick turns pink, some women's thoughts might turn to Kevorkian. Too bad; a woman's right to find out conveniently, and privately, far outweighs her rights to be protected from the hazards of knowing. Government officials can undoubtedly see to it that tests perform as promised, just as doctors and hospitals are licensed to deliver effective therapy, not snake oil. But barring reliable diagnostic information because it might badly frighten someone is unconscionable in a free society. One might equally well ban confessionals, because discussions of the hereafter are sometimes pretty grim.

As HIV home-test kits sink unnoticed into viscous Washington bureaucracies, where are the people who so vigorously defend the teenager's constitutional right not only to discuss abortion with her doctor but to act on the discussion? A "right to privacy" that covers a curette in the uterus but not a needle in the thumb is no right at all.

The only way to find out which kind of principle we're dealing with—a constitutional one or a raw political one—is to go to the Supreme Court and ask. No big drug company is going to risk the FDA's enduring wrath by carrying home-testing to the Supreme Court. But others can and should. An individual hemophiliac, for example, would surely have legal standing to do so. At stake here is your right to attend to your own health, on your own time, in the privacy of your own home, when David Kessler can't make a house call to look after you.

NEW JERSEY PRIDE HONOR ROLL: LEADERSHIP IN A CHANGING WORLD

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. GALLO. Mr. Speaker, we live in a world which is constantly changing, and it is imperative that research and development of new armaments and weaponry is always state-of-the-art.

When our military personnel engage in conflict, or even train for potential conflicts, they must be confident that they are properly equipped to perform precisely and effectively.

Picatinny Arsenal, which I am proud to represent, has always been a great source in the development and engineering of armaments because of the immense dedication and hard work of its men and women.

In keeping with the tradition of the fine people who work at Picatinny, it is my distinct pleasure to recognize a man who has provided leadership during a time of great change and who will leave Picatinny a stronger, and better equipped installation than it was when he arrived.

Brig. Gen. Harvey E. Brown assumed command of the U.S. Army Armament Research, Development and Engineering Center [ARDEC], Picatinny Arsenal, NJ, on June 30, 1992. He has distinguished himself in numerous leadership positions culminating as the commander of ARDEC.

General Brown believed that the public should be well informed to the activities of Picatinny, and he has successfully promoted good community relations between the base and the surrounding municipalities.

His vision for Picatinny was to expand its bases' mission to include state-of-the-art environmental protection and cleanup systems. Keeping in mind the surrounding community, General Brown and I were able to secure the construction of improved facilities for the preparation and scale testing for mines and artillery. These new facilities provide less disruption to surrounding communities.

General Brown also understood the importance of upgrading base facilities to a point where they could compete into the 21st century. The Armament Technology Facility, which was named after Maj. Marie Rossi-Cayton, is a high-tech weapons test center. Also, the base's electrical system was improved in order to bring Picatinny's electrical capacity up to the level needed to provide an adequate and reliable source of power.

On September 30, 1994, General Brown will be retiring from the U.S. Army, however his accomplishments will last forever.

He directed ARDEC's attention toward the Army's vital battle lab and Louisiana maneuvers initiatives. ARDEC became the lead Army Material Command [AMC] agent responsible for synergizing AMC, industry, and academia support to the depth and simultaneous attack battle lab.

For two consecutive years, ARDEC led the way in the Department of the Army and AMC to bring new and innovative acquisition principles to the armament community. The initial effort focused on case telescoped ammunition technology and was the basis for an expanded international cooperative program in this revolutionary capability.

General Brown provided guidance on the development of M919 ammunition for the 25mm medium caliber gun [Bushmaster] used on the Bradley fighting vehicle. He was involved with management of a family of warheads for the Hydra–70, 2.75 inch rocket system, and provided contributions to the development of several reusable mortar training cartridges. His insight led to modifications to the squad automatic weapon [SAW] which eliminated a serious malfunction condition.

Faced with a significant loss of operating funds due to the cuts in key programs, General Brown directed special efforts to "rightsize" and reorganize ARDEC. As a result, approximately 13 percent of the total work force were separated voluntarily without the necessity of a reduction in force or adverse actions. Under his direction, ARDEC was selected as an Army finalist for the Research and Development Center of the Year Award, and received an honorable mention as one of the Army's most improved installations under the Army Communities of Excellence Program.

General Brown has been committed to excellence since he was commissioned in 1963.

Assignments throughout his successful Army career included: Commander, Headquarters and Company A, 801st Maintenance Battalion, Division Support Command, 101st Airborne Division [Air Assault], Vietnam; personnel management officer, in Washington, DC; chief, Personnel Services Division, U.S. Army Ordnance Center and School, Aberdeen Proving Ground, MD; inspector general, 25th Infantry Division and Commander, 725th Maintenance Battalion, 25th Infantry Division, Schofield Barracks, HI; chief, Combat Support Career Division and chief, Maintenance Branch, U.S. Army Military Personnel Center, Alexandria, VA; commander, Division Support Command, 4th Infantry Division [Mechanized], Colorado; commander, 13th Corps Support Command and the assistant chief of staff, G–

4 [Logistics], III Corps, Fort Hood, TX; commanding general, U.S. Army Material Command-Europe, U.S. Army Europe and Seventh Army.

From December 1990 to June 1992, General Brown served consecutively as the deputy commanding general for logistics [22d Support Command] and as the commanding general, U.S. Forces Central Command [Forward]. During Operation Desert Shield/Storm and the following cease-fire campaigns, he commanded and controlled the largest logistical deployment and redeployment in recent time.

General Brown's awards and decorations include: Legion of Merit with two Oak Leaf Clusters, Bronze Star Medal with two Oak Leaf Clusters, Meritorious Service Medal with Oak Leaf Cluster, Army Commendation Medal with three Oak Leaf Clusters, Expert Infantryman Badge, and Parachutist Badge.

He holds a bachelor of science degree in commercial marketing and a master of business administration in business from Oklahoma State University. He is also a graduate of the Infantry Officer Basic Course, the Ordnance Officer Advanced Course, the U.S. Army Command and General Staff College, and the Industrial College of the Armed Forces.

Mr. Speaker, I ask my colleagues to join with me to thank Brig. Gen. Harvey E. Brown for the excellence and dedication he has shown in the service of his country and to wish him all the best in his future endeavors.

DOMESTIC POLITICS IN ARMENIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. HOYER. Mr. Speaker, usually when we read about Armenia in the newspapers, the story concerns the war in Nagorno-Karabakh or the terrible energy shortages caused by Azerbaijan's embargo. But in anticipation of the planned visit to Washington by President Levon Ter-Petrossyan on August 9, I would like to make a few remarks about the domestic political situation in Armenia.

Compared to its neighbors, Azerbaijan and Georgia, Armenia has been a haven of political stability. President Ter-Petrossyan—one of the very few leaders of a former Soviet Republic who was not a Communist apparatchik—has been in office since 1991. The parliament elected in 1990 has not been dissolved, and there have been no coups or armed uprisings. There is a very active political opposition, which participates in parliamentary deliberations, propagates its views through a highly diverse press, and organizes rallies of its followers.

In fact, the opposition has taken full advantage of the freedom to demonstrate against the government with a recent rally drawing some 20,000 people in Yerevan. One of the most serious bones of contention is the question of Armenia's post-Soviet constitution and the mode of its ratification. President Ter-Petrossyan favors a draft that envisions a strong president, which would be adopted by referendum. Opposition parties prefer a parliamentary system, and call for a constitutional assembly to pass Armenia's new basic document. At present, no agreement has been reached on either of these key issues.

In a June 13 address to parliament, President Ter-Petrossyan defended his constitutional preferences and mentioned some other controversial points. For example, he emphasized the need for a unitary State, as opposed to giving the country's regions more decision-making powers and territorial self-government. Many other former Soviet Republics, especially Russia, have experienced a confrontation between center and regions, often involving tensions between majority and minority nationalities. Evidently, Armenia, despite its small size and national homogeneity, must also address this issue.

But the point, Mr. Speaker, is that there is a functioning political process to deal with natural differences of opinion on critically important aspects of State-building that all newly independent countries must confront. The political opposition, while extremely vocal in its criticism of the Ter-Petrossyan government and its policies, has made no effort to overthrow the Government. Armenia has endured 5 terrible years which no society could live through without great strain. Possibly the very need to pull together because of the Nagorno-Karabakh conflict has outweighed the divisive pull of divergent views and has kept the expression of these differences within manageable bounds. Still, it is remarkable that the political fabric has remained as sturdy and as calm as it has.

Most United States aid to Armenia has up to now naturally been humanitarian in nature. But as President Ter-Petrossyan prepares to arrive in Washington, he also undoubtedly has in mind American assistance on ending the hostilities in Nagorno-Karabakh and addressing developmental tasks in Armenia. The United States stands ready to aid Armenia in bringing about, within the CSCE process, a ceasefire in Nagorno-Karabakh and launching political negotations on its future status; and fostering the consolidation of a democratic, pluralist, free market State, which has already been born and is struggling on, despite the most adverse imaginable circumstances.

CONGRATULATING ALFRED BRODSKY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to congratulate Alfred Irwin Brodsky, affectionately known as Buby, who, at the age of 84 years old, will celebrate his bar mitzvah on July 30.

Born on August 19, 1910, Buby Brodsky has lived his entire life around the New York metropolitan area. Married to Dolly Lefkowitz for more than 40 years, Mr. Brodsky has thrived in a number of occupations, including the delivery of milk, door to door, by horse and wagon, sales for Nabisco, the ownership of his own grocery store, and finally returning to the milk industry from which he retired after holding a management position with Dellwood Milk.

Since his retirement, Mr. Brodsky has dedicated his time toward volunteer work. Along the being a volunteer at the Long Island Jewish Medical Center, Mr. Brodsky also volunteers for the New York City Senior Nutrition Program, known as SNAP. With SNAP, he has been certified as a blood pressure technician and provides free blood pressure screenings for senior citizens. In addition, Mr. Brodsky serves meals to senior citizens at their community center and prepares meals to be delivered to homebound seniors. Finally, Mr. Brodsky performs in musical shows that travel to various nursing homes. These shows serve to bring cheer to those seniors incapable of leaving their facilities.

After studying for more than 2 years, Buby Brodsky will fulfill a lifelong dream of having a bar mitzvah. He will be joined on this momentous occasion by his wife Dolly, his two sons, his daughter-in-law, six of his grandchildren and two of their spouses, two great grandchildren, and many of his friends from SNAP.

Mr. Speaker, it is apparent that Alfred Irwin Brodsky is truly a special person. I ask my colleagues to join me in congratulating Mr. Brodsky for touching the lives of so many and fulfilling his lifelong dream.

FOURTH ANNIVERSARY OF THE SIGNING OF THE AMERICANS WITH DISABILITIES ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mrs. COLLINS of Illinois. Mr. Speaker, today at the White House nearly 3,000 people joined the President and Mrs. Clinton, Vice President and Mrs. Gore, and a number of our colleagues to mark the fourth anniversary of the signing of the Americans with Disabilities Act [ADA]. I want to take this opportunity to commend the National Council on Disability for their work in creating the ADA and for now ensuring its implementation. I also would like to commend President Clinton for his wise decision to appoint my friend, Ms. Marca Bristo as the chairperson of this distinguished council.

Four years ago yesterday, the ADA became law. Its passage marked one of this body's finest moments. We came together to extend true civil rights to millions of Americans who had been locked out and segregated from society. People with disabilities issued us a challenge to reaffirm the principles of equality and justice upon which our Nation was founded and I am proud of the way we rose to meet that challenge.

Now, people with disabilities, along with millions of other Americans, have issued another challenge. They have challenged us to affirm by our actions that decent health care is a right for all Americans.

Perhaps the single most significant barrier which remains for the disabled is the lack of access to quality health care coverage. Of course, this barrier is faced by millions of nondisabled Americans as well.

As we rose to the challenge of the ADA for the rights of people with disabilities, I urge my colleagues to rise to this most recent challenge from Americans to guarantee the basic right of every American to quality health care coverage which cannot be taken away.

We will be judged by America for the way we respond to this challenge. I hope that I am as proud of our action on health care as I was of our efforts on the ADA 4 years ago.

DREAMS OF HOME OWNERSHIP NOW POSSIBLE FOR THOUSANDS IN CENTRAL NEW YORK

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. WALSH. Mr. Speaker, on July 22, 1994, the House of Representatives overwhelmingly approved the Housing and Community Development Act of 1994. This is an example of Government passing a good piece of bipartisan legislation. I supported this bill because it will make the American dream of home ownership a reality for many of my constituents in central New York.

I believe one facet of this legislation will benefit people most directly. H.R. 3838 will raise the current FHA-insured loan limit of $67,500, established back in 1979, to $101,575—and higher in areas where housing costs are above the national average—expanding home ownership opportunities for almost 2 million hard-working middle-income Americans who would otherwise be unable to purchase a home.

The higher limits not only help new home buyers, they benefit all of us by fueling new home purchases and strengthening the economy. The construction and real estate industries employ thousands of central New Yorkers and with new home construction dipping in most parts of the country, this action is well timed.

Although opponents contend that raising FHA loan limits will undermine the ability of low-income families to obtain loans, I disagree. Increasing the ceiling on loan amounts will shore up the insurance fund reserve and expand loan services to many who would otherwise be unable to afford a home.

I applaud my colleagues for passing this bill and look forward to witnessing thousands of families realize their dream of owning a home.

FOR THE RULE ON H.R. 4003, THE MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. GIBBONS. Mr. Speaker, pursuant to the rules of the Democratic caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of title II of the bill, H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994, as amended by the Committee.

IN COMMEMORATION OF IRV KUPCINET'S 50TH PURPLE HEART CRUISE

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. GUTIERREZ. Mr. Speaker, I would like to take a moment to let my colleagues know about a special event taking place in my hometown of Chicago this afternoon, and the special person making it possible.

For the 50th year, veterans of our Nation's Armed Forces are taking part in the annual Purple Heart Cruise. Hundreds of these men and women are enjoying a pleasant summer day traveling by boat on the Chicago River, passing by the buildings that make up our city's familiar skyline.

And, making all of this possible is someone who is just as familiar to Chicagoans, and just as much an emblem of our city as any of those landmarks. His name is Irv Kupcinet.

Irv Kupcinet—"Kup"—has been at the center of the action in Chicago during many of the great events over the years.

As one of our town's best known journalists, he has introduced us to Presidents and performers, mayors and maestros, Cubs and comics. On radio, on television, and in the newspaper—he has brought us Bears games at Soldier Field, politics at city hall, and quips from the Pump Room.

His columns from the Sun-Times are must reading for those who want to keep tabs on the comings and goings of Chicagoans.

It is worth pointing out that although Kup has made his career through words, he also is a man of action. And one of his acts has been this annual display of gratitude.

As the Purple Heart Cruise demonstrates, Kup is not simply a journalist, nor is he interested only in the feats of the famous. He wants Chicagoans to know about all of the people who have made this country great. Some of those folks do not have household names. But, as Kup reminds us, they are the ones who made the great sacrifices that protected all of us in times of war and peace.

During the Purple Heart Cruise, there is camaraderie and entertainment and lots of stories retold. But, most of all, there is a message that the sacrifices made by our veterans are not forgotten.

For 50 years, Kup has been making sure that Chicagoans remember that because of these veterans we live in a country that is free and secure.

Mr. Speaker, I have the privilege of serving on the House Veterans' Affairs Committee. I do so with the hope that I can fulfill the obligation that we owe to our Nation's veterans, that I can help serve those who have served us.

When I need an example of how to best act upon that conviction, I can look to the deeds of many people within this Congress. And, I can also look to the deeds of Irv Kupcinet.

I know that many Members join with me in wishing Kup another successful Purple Heart Cruise and thanking him for the work he continues to do on behalf of the veterans of this Nation. And I know that all of you will join me in congratulating Kup on 50 years of the Purple Heart Cruise.

THE LEGACY OF WINFIELD SCOTT STRATTON

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Mr. HEFLEY. Mr. Speaker, on July 30, alumnae and friends of the Myron Stratton Home will honor the memory and accomplishments of Winfield Scott Stratton, founder of the Myron Stratton Home, and a man who gave so much to Colorado and Colorado Springs specifically. In honor of that event, I ask that the address of David P. Strickler, former trustee and attorney of the Myron Stratton Home be printed in the RECORD. These remarks were originally made at the founders day event on July 22, 1924, and they present the fascinating account of Mr. Stratton's legacy.

[Address by D.P. Strickler at the Kiwanis Club Lunch, Sept. 2, 1942]

WINFIELD SCOTT STRATTON AND THE MYRON STRATTON HOME

Winfield Scott Stratton was born July 22, 1848 in Jeffersonville, Indiana, and died September 14, 1902, in Colorado Springs. He was the son of Myron Stratton and directed in his Will that his Home be created, maintained and named the Myron Stratton Home as a memorial to his father.

Winfield Scott Stratton obtained his education in the public schools at Jeffersonville and from the Academy located in that city. He learned the carpenter trade in his father's ship building yards under the tutorship of one Christian Hein, and became an expert draftsman.

When twenty years of age he, like so many other young men of that time, left his home to seek his fortune in the West.

Shortly after arriving in Colorado Springs Mr. Stratton erected a carpenter shop where the Stratton office is now located, which is 117 East Pikes Peak Avenue, and engaged in general contracting, building some of the principal buildings in the city in the early days.

Mr. Stratton prospected for 17 years in the San Juan, Leadville, Breckenridge and other points and although during this time located several mining claims, none of them ever amounted to anything until on the 4th day of July, 1891 he located the Washington and Independence claims in the Cripple Creek Mining District. He named the claim "Independence" because he discovered it on the 4th of July.

During the time he was unsuccessfully prospecting he studied metallurgy, under Professor Lamb at Colorado College, and attended the School of Mines at Golden. He named one of his mining claims "The Professor Lamb" in honor of his instructor.

After he made his strike in the Cripple Creek District he built the first building at the School of Mines that had ever been given to it and a resolution of the State Legislature thanking him for this donation is part of the records of this state.

The Independence claim proved to be very rich and with the money that he obtained from the sale of ore from this claim he first repurchased his old carpenter shop property which he had lost in the Yera Teba venture.

He operated the Independence claim from 1891 to 1899, when he sold it to the Venture Corporation in London for two million pounds, or approximately ten million dollars in our money at that time. The late Verner Z. Reed held the option from Mr. Stratton on this property and obtained approximately one million dollars from the Venture Corporation for the transfer of his option to them.

Shortly following the receipt of this ten million dollars from the English Syndicate as a purchase price for the Independence claim, Mr. Stratton launched into a development program in Colorado Springs. Those associated with him have told me Mr. Stratton believed that it was the duty of anyone who had made a fortune in any given place to use his money in the development of that community and that he was exceedingly critical of those who had made a fortune in the Colorado hills and went to New York or other eastern places and played the stock market.

He purchased the ground upon which the City Hall is now located and offered it to the City upon condition that the City build a new City Hall and that is the reason we now have our present City Hall building. The old City hall stood where the Utilities Building now stands and the second floor was used as a City Hall and the ground floor as a fire station.

He also approached the County Commissioners and offered them a generous price for the old Court House property on condition that they would build a new Court House, and that is the reason we now have our Court House building. The old Court House was located where the Strang Garage now stands. Because of the generous price paid for this property by Stratton, the County was enabled to build the present Court House without the issuance of any bonds.

He purchased the property where the Post Office is now located and offered it to the federal government for 50c on the dollar of its value on condition that the federal government would build the present Post Office building, and that is the reason we have our present post office. He did this, although at that time the post office was located in the Independence Building and the government was paying him rent therefor.

He purchased the street railway company for $500,000 from Mr. Eaton and his associates and then spent one and one-half million in reconstruction of the system and in the purchase and development of Stratton Park.

He did all these things within a four year period of time, because he passed away within about three and one-half years after he obtained his purchase price from the sale of the Independence Mine.

Naturally, Mr. Stratton had suffered many privations in his 17 years of unsuccessful prospecting in the mountains of Colorado and this, I think, caused him to have a particular feeling for those who had not been as fortunate as himself.

It is quite evident that Mr. Stratton was exceedingly critical of the manner in which the public maintained its unfortunates. This appears from that portion of his Will which reads as follows:

"It is my special desire and command that the inmates of said home shall not be clothed and fed as paupers usually are at public expense but that they shall be decently and comfortably clothed and amply provided with good and wholesome food and necessary medical attendance, care and nursing to protect their health and insure their comfort."

Thus by example he set a standard to improve the condition in life of those who are so unfortunate as to make it necessary for them to resort to public aid.

Mr. Stratton stated in his Will as to those who are qualified for admission as follows:

"Those who are by reason of youth, age, sickness, or other infirmity, unable to earn a livelihood, and who are not, by reason of disease, insanity, or gross indecency, unfit to associate with worthy persons of the condition in life above named."

I know there have been various rumors that Mr. Stratton intended this Home only for miners and also that he did not intend this Home for children, but it will be noted that he says in this clause of the Will, "Those who are by reason of youth * * * unable to earn a livelihood" as well as those who are unable to earn a livelihood by reason of age.

The interest of Mr. Stratton in the welfare of unfortunate children is also shown in another provision of his Will reading as follows:

"I direct my said Executors to pay to the Trustees of the 'Institute for the education of Mute and Blind' located at the City of Colorado Springs, in the County of El Paso and State of Colorado the sum of $25,000.00 out of the proceeds of my estate, in trust, however, for the following purposes; and sum shall be invested by said Trustees in good and safe interest bearing securities, interest to be paid thereon to said Trustees annually or semi-annually as they shall direct, and such interest shall be paid by them to the Superintendent of said Institute and by him annually distributed among the pupils of said Institute as rewards for such excellence in scholarship or demeanor, or both, as may be prescribed or required by the said Trustees."

It will also be noted that Mr. Stratton made no restriction whatever as to the occupation of any applicant. It is my thought that if he had restricted applicants to a given occupation he would have specified that of carpentry rather than that of mining, because he certainly was a carpenter.

Mr. Stratton's Will further provides that applicants shall be actual residents of the State of Colorado at the time of their application and that applicants from El Paso County shall have preference over applicants from any other part of the state.

The children are educated at the Ivywild School up through the 6th grade and at Cheyenne School from the 7th grade through High School. The Home rules provide that any child that has made a grade equivalent to the average grade of his class shall be entitled to a collegiate education if he so desires, provided in the judgment of the Trustees the child is qualified to profit by such higher education, and several have taken advantage of this rule.

The Cheyenne School orchestra has won the rating "Superior" in the State High School music contests for years. Thirty-four of its thirty-six members were residents of the Myron Stratton Home at the time of the last contest.

The people of the Cheyenne School District have always been most gracious and hospitable in their association with the children from this Home. How much this means to these children may be somewhat gained from an item in the October issue of "The Myron Stratton Home Tellitall", a paper published at the Home and edited by its graduates and sent to all graduates. This item reads as follows:

"Many of you older alumni will remember the heartbreak of trying to make social adjustments when the Home first started the children to the public schools. That seems to be a condition that has been completely overcome during the last ten years; for this year Douglas Potter, one of our Home boys, is Student Body President of Cheyenne Mountain High School."

The religious education of the children is provided for as follows: the children of Protestant parentage who are too young to attend Sunday School alone are taken in Home busses to the United Brethren Church for Sunday School. The children of Catholic parentage are taken in Home busses to Pauline Chapel in Broadmoor. When the children arrive at an age when they can alone attend a church of their own selection they are permitted to do so. The aged residents are taken in Home busses to whatever church they may desire.

The education of the children in thrift and in the value of money is provided for as follows; the children are not given any spending money. Work is provided to enable them to earn their spending money. Each child is required to save one-half of his earnings, thus the child has a material savings account when he leaves the Home.

Mr. Stratton provided in his Will for the payment of approximately one-half million dollars in legacies to relatives and the rest of his estate should go to the Myron Stratton Home to be expended for the erection and equipping of the Home and for its endowment fund. The residue of his estate applicable to the erecting and equipping of the Home and for the creation of the endowment fund for its maintenance was appoximatley $4,300,000 and this amount has been increased to approximately $6,500,000 at the present time. The Will provides that the Trustees shall maintain the Home solely out of the income. This for the evident purpose of assuring the maintenance of the Home for all time, for if the Trustees would have the right to go into the principal for operating expenses it would only be a question of time when there would naturally be no Home.

I am sometimes asked how the youngsters at the Home get along in after life. Practically all of them have made a success in life, and their patriotism has been amply demonstrated by the fact that there are now about 50 in the armed forces of the nation, approximately all of whom have volunteered.

You older folks will remember the storm of protest that went around with the announcement that the Home would be located at its present site. The ground of the protest was that the Home would gather together the so-called "riffraff" children of the community and that such so-called "riffraff" would contaminate the other children of the community by reason of their necessary association with them. Almost thirty years have now passed away since that announcement was made so that it can be fairly said that the record is now made up. As Al Smith would say: "Let us look at the record." This record shows that the children from the Home have accomplished as much on an average as have the average of the children of these objectors. Furthermore, it seems that these children from the Home are perfectly willing to spill their blood in the diseased and reptile infested "fox-holes" of the South Sea Islands in order that these objectors and their descendents may continue to enjoy the American way of life. But no matter. Let us, "Judge not, lest we be judged."[3]

It is the purpose of the Trustees of the Home to maintain it as a Home and not as an institution, because they believe from the terms of the Will that that was clearly the intent of the testator. We think his intent has been carried out as nearly as can be and still operate such an organization. I beleive the credit therefor is not due to the Trustees but is due principally to the fact that Carl Stratton Chamberlin, nephew of Mr. Stratton, who knew his uncle's wishes, and who was for such a long time Superintendent of the Home, and to the further fact that Lucy A. Lloyd, the present Superintendent, was trained under him as assistant superintendent for 11 years prior to Mr. Chamberlin's death, and is in full sympathy with this viewpoint.

It is sometimes claimed that bequests of a charitable nature are made for the purpose of restitution to the public by those who have made large amounts of money in questionable ways. This certainly cannot be claimed as against Mr. Stratton. First, for the reason that he made his money, not by taking anything away from anyone else, but by adding to the wealth of the nation through the production of gold from the natural resources of the country. It also cannot be claimed for the reason that Mr. Stratton's deeds show him to be exceptionally philanthropic during his lifetime. During the panic of 1893 some jobless men were marching through the country under Coxey and Browne on to Washington to demand redress. Mr. Stratton made an arrangement with the Salvation Army by which the Salvation Army was to house, feed and clothe the unemployed and he was to pay all bills therefor. He expended over $83,000 one winter in such a manner. He always supported the Salvation Army of Colorado Springs, the free lance philanthropic "Parson" Uzzell of Denver, and the missionary priest, Father Volpe, of the Cripple Creek District, by large donations of money. He was the largest single contributor to the building fund of "Parson" Uzzell's tabernacle in Denver. One of his favorite ways of providing for those who had become incapacitated in industry by reason of accident or who had become too old to be able to obtain employment was to purchase surreys, teams, harness and feed, and a tourist license, thus enabling these people to be self-supporting by their own efforts.

Mr. Stratton was also very considerate of his employees. As soon as he acquired his money he set his two foremen up in the contracting business and gave them all of his construction work. Knowing that they did not have the means to pay the payrolls and material bills, he paid such bills and at the conclusion of the work gave them as their profit 10% of the total cost of such building constructed. It is sometimes said that cost plus originated with World War I, but Stratton practiced this with his foremen long before World War I.

When he returned from Europe he gave $50,000.00 to each of his two key employees and bought homes for others. He always paid the best of wages, but he was exceedingly particular as to the quality of work done.

Some of these same stories that Karshner conceded were untrue also appeared in the book entitled "Timberline" written by Gene Fowler.

Frank Watters in his book entitled "The Midas of the Rockies" states that he has thoroughly investigated the record evidence with reference to this story and pronounces it untrue. Mr. Watters, however, makes other statements in his book which are not founded in fact. However, some of the statements made in his book are based upon stories told him by servants and some other people of an irresponsible nature. Mr. Watters seemed to believe these stories. I think this is because he was a very young man and hence had not lived long enough in the world to realize that it is a trait of human nature that all people like to be important and that this includes people of lowly station in life as well as those who have gained prominence and therefore very often people who are associated with men of prominence in the capacity of servants are prone to magnify their own importance by telling tall stories and thereby bask in what might be termed a reflected glory.

I think Mr. Watters also falls into error in his conclusion that Mr. Stratton was an eccentric. I think the very facts that he gives as grounds on which he draws such conclusions prove the opposite. For example, he gives as one of his reasons that Mr. Stratton purchased bicycles at the height of the bicycle craze for all the girl employees in the laundries in town, although at that time he owned the street car system and would, by reason of such purchase, lose their custom upon the street railway. It is true Mr. Stratton purchased these bicycles but he did it solely because the pay which these employees were receiving was, in his judgment, insufficient to enable them to ride his street cars, and he thought they should not be required to walk back and forth from work after their long hours of labor in hot, stuffy rooms. Personally, I cannot see anything eccentric about that. It seems to me that this shows him to be a man of practical commonsense in the exercise of his instinctive philanthropy.

Mr. Watters also, in his book, uses another illustration in his effort to prove that Mr. Stratton was eccentric. This illustration is the fact that although he was a 32nd degree Mason, he built a Catholic Church in Cripple Creek for a Catholic missionary priest by the name of Father Volpe. I can see nothing eccentric about that, for the reason that Father Volpe put in his entire time and spent every dollar he could collect in relieving the distress of the unfortunate in the Cripple Creek District, and Stratton knew that every dollar he gave to Father Volpe would go to help some "poor devil," and none of it be taken out for the operating cost of some governmental bureau.

To call Stratton eccentric because he, being a Mason, and yet desired to aid a Catholic priest in his philanthropic work, is just as foolish as it would be to call Father Flanigan eccentric because he appeared before the Protestant Ministerial Association in Omaha and requested them to appoint a minister to take charge of religious instruction of the boys of Boys Town of Protestant parentage, and Boys Town to pay the salary of such minister. This, I think, proves but one thing, and that is that both Stratton and Father Flanigan are too broad-minded men to have religious prejudices; and nothing more.

It takes neither courage, magnanimity nor courtesy to assassinate the character of the dead. It only takes a realizing sense of personal immunity. I understand that some of these people claim to be Christians. They could learn a better lesson from the pages of heathen mythology. I do not contend that Mr. Stratton was a saint. I am sure Mr. Stratton himself would not have so contended, for certainly he was not a hypocrite. He had the same virtues and the same weaknesses which were usually associated with men who spent much of their time in the hard, lonely and discouraging life of the prospector, and it is my observation in life that such men are more likely to listen to and heed the cry of distress on the part of the unfortunate than are they who live in smug complacency, and spend much of their time in the atmosphere of religious demagogry.

It is also my view that Stratton's deeds were far more consistent with the precepts of Him who said, "Suffer little children to come unto me and forbid them not, for of such is the Kingdom of Heaven," and who also said "Let him who is without sin cast the first stone," than most of those who have been so active in their criticism of Stratton.

It is also my belief that Stratton's deeds and memory will live long after the memory of such critics and their criticisms will have passed into oblivion.

In conclusion, I wish to honor the memory of the Stratton Home trustees who dedicated their lives to this unique home and to the present trustees under the leadership of Carl Ross, who oversee one of Colorado Springs' landmark institutions.

ENDORSEMENTS FOR THE INTEGRATED CHILD HEALTH CARE NETWORKS ACT OF 1994

HON. LYNN SCHENK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 27, 1994

Ms. SCHENK. Mr. Speaker, last week I joined with my good friend and colleague from California [Mr. LEHMAN] in introducing H.R. 4810, the Integrated Child Health Care Networks Act of 1994. This legislation aims to ensure that children in managed care networks receive a basic level of pediatric and specialty pediatric services.

In drafting this legislation, I have enjoyed the input of the National Association of Children's Hospitals and Related Institutions [NACHRI] and the American Academy of Pediatrics [AAP]. These groups, which are on the front lines of children's health care, have released a joint statement of support for my legislation. I submit these words of support for the RECORD.

JULY 26, 1994.

Hon. LYNN SCHENK,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SCHENK: On behalf of the American Academy of Pediatrics [AAP] and the National Association of Children's Hospitals and Related Institutions [NACHRI] we want to thank you for seeking our response to your new legislation, H.R. 4810, the "Integrated Child Health Care Networks Act." Our organizations represent respectively the nation's pediatricians and the nation's hospitals specializing in the delivery of care to children.

We strongly support your efforts through H.R. 4810 to address an important issue that the members of the AAP and NACHRI are raising—"Increasing consolidation of adult health care systems, including enrollment of more and more Americans in capitated managed care plans, has the potential to put children at risk if the new systems fail to focus on children's needs."

Because of this, the AAP and NACHRI are collaborating to promote a vision of how children should receive care in such an environment. We believe that "ideally, every child should receive care through an 'integrated child health care network'—a network of pediatrician, pediatric subspecialists including perinatologists, family physicians, and other health care professionals, which is:

"Expert in meeting the full continuum of children's preventive, primary, acute, subspecialty, postacute, habilitative and rehabilitative, and long-term care, as well as mental health needs;

"Organized to work together to assume responsibility for managing the full continuum of care for a specific population of children, and to provide quality care in a cost efficient manner; and

"Accountable to the public for the health status—the 'wellness'—of the population of children covered, as well as their use of services, according to agreed-upon measures of children's health status and pediatric care outcomes."

We are enclosing a copy of our joint statement which explains in more detail the vision of integrated child health care networks we are developing.

Your legislation translates this vision into the public program that most directly affects children's access to health care—Medicaid—by requiring the Secretary of Health and Human Services to define integrated child health care networks and requiring Medicaid managed care plans to demonstrate how they provide access to care for children through such networks.

This approach makes sense, because today Medicaid is responsible for paying for the health care of one quarter of all of the children in the United States. As a consequence, children represent half of all Medicaid recipients, even though they represent only a quarter of the Nation's population, and they will be affected the most by the rapid shift in Medicaid programs to managed care. Your legislation will ensure a focus on what is in the interests of children, not just the management of Medicaid.

At the same time, H.R. 4810 also serves as a model for private health insurance. That is why we are pleased that you have included authorization for demonstrations of different kinds of integrated child health care networks in private and public sectors. What works for children in one region will be different than in another region, depending on organization of providers, economics of the area, extent of urbanization, and other factors.

We applaud your leadership in articulating in legislation the desire our members know every family has to make sure the health care their children receive is appropriate to their needs. Please call upon our organizations and our members to assist you in promoting the development of integrated child health care networks through H.R. 4080.

Sincerely,

JOE M. SANDERS, Jr., M.D.,
Executive Director, American Academy of Pediatrics.

LAWRENCE A. MCANDREWS,
President and CEO, National Association of Children's Hospitals and Related Institutions.

A STATEMENT BY THE AMERICAN ACADEMY OF PEDIATRICS AND THE NATIONAL ASSOCIATION OF CHILDREN'S HOSPITALS AND RELATED INSTITUTIONS ON INTEGRATED CHILD HEALTH CARE NETWORKS

Increasing consolidation of adult health care systems, including enrollment of more and more Americans in capitated managed care plans, has the potential to put children at risk if the new systems fail to focus on children's needs. In response, the American Academy of Pediatrics [AAP] and the National Association of Children's Hospitals and Related Institutions [NACHRI] are collaborating to promote a vision of how children should receive care in such an environment.

Ideally, every child should receive care through an "integrated child health care network"—a network of pediatricians, pediatric subspecialists including perinatologists, family physicians, and other health care professionals, which is:

Expert in meeting the full continuum of children's preventive, primary, acute, subspeciality, post-acute, habilitative and rehabilitative, and long-term care, as well as mental health care needs;

Organized to work together to assume responsibility for managing the full continuum of care for a specific population of children, and to provide quality care in a cost efficient manner; and

Accountable to the public for the health status—the "wellness"—of the population of children covered, as well as their use of services, according to agreed-upon measures of children's health status and pediatric care outcomes.

Whether it operates as part of a larger system managing health care for adults and children or it operates as a free-standing network serving only children, the integrated child health care network should have an explicit mission devoted to maximizing the health status of each enrolled child by managing budgeted resources to ensure access to high quality, cost effective care.

In order to fulfill such a mission, an integrated child health care network should be characterized by enrollment of all children in a "medical home" with emphasis on prevention and wellness, regionalization of complex and specialized services, financing based on children's health care requirements, medical education and research devoted to children's needs, and active family involvement in the delivery of care.

The AAP and NACHRI are working together to ensure there is a seamless system of care for children, which guarantees their access to appropriate pediatric services. To this end, AAP and NACHRI members are seeking to further define and promote a shared vision of children's access to care through integrated child health care networks.

Mr. Speaker, both versions of health care reform reported by the Committee on Ways and Means and the Committee on Education and Labor include language which would require health plans to provide children with access to pediatric primary and specialty health care providers. These provisions are consistent with the intent of my legislation.

I believe it is important that the House leadership retain these or similar provisions in the final version of health reform. We need to put children first in our health care system, and I look forward to working with NACHRI and the AAP toward this end.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 28, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 29

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Federal Communications Commission (FCC).
SR-253

Governmental Affairs
Regulation and Government Information Subcommittee
To hold joint hearings with the Committee on the Judiciary's Subcommittee on Juvenile Justice to examine the video rating system, focusing on violent video games.
SH-216

Judiciary
Juvenile Justice Subcommittee
To hold joint hearings with the Committee on Governmental Affairs' Subcommittee on Regulation and Government Information to examine the video rating system, focusing on violent video games.
SH-216

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold hearings to examine issues relating to Whitewater.
SD-106

Labor and Human Resources
To hold hearings on S. 2238, to prohibit employment discrimination on the basis of sexual orientation.
SD-430

AUGUST 1

2:00 p.m.

Indian Affairs
Business meeting, to mark up S. 2269, to protect the Native American cultures and to guarantee the free exercise of religion by Native Americans, S. 2075, to authorize funds for and to strengthen programs of the Indian Child Protection and Family Violence Prevention Act, S. 2036, to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and S. 2150, to establish a Native Hawaiian housing program; to be followed by hearings on the proposed Mohican Nation of Connecticut Land Settlement Act.
SR-485

AUGUST 2

10:00 a.m.

Governmental Affairs

Business meeting, to consider pending calendar business.

SD–342

Joint Economic

To hold hearings on economic implications of health care reform.

2255 Rayburn Building

2:00 p.m.

Judiciary

To hold hearings on the nomination of H. Lee Sarokin, of New Jersey, to be United States Circuit Judge for the Third Circuit.

SD–226

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1222, to revise the boundaries of the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, S. 1342, to establish in the Department of the Interior the Essex Heritage District Commission, S. 1726, to provide for a competition to select the architectural plans for a museum to be built on the East St. Louis portion of the Jefferson National Expansion Memorial, S. 1818, to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio as an affiliated area of the National Park System, S. 1871, to establish a Whaling National Historical park in New Bedford, MA, S. 2064, to expand the boundary of the Weir Farm National Historical Site in Connecticut, S. 2234, to amend the Mississippi River Corridor Study Commission Act of 1989 to extend the term of the commission established under that Act, and S. 2303, to provide for the exchange of lands within the Gates of the Arctic National Park and Preserve.

SD–366

AUGUST 3

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1629, to revise the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus, proposed legislation authorizing funds for the National Science Foundation, and proposed legislation relating to mental health and substance abuse programs.

SD–430

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 2101, to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect all underground facilities from being damaged by any excavations.

SR–253

10:00 a.m.

Environment and Public Works

Business meeting, to mark up proposed reforms to the Superfund law.

SD–406

AUGUST 4

9:00 a.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 399 and H.R. 457, bills to provide for the conveyance of lands to certain individuals in Butte County, CA, H.R. 2620, to acquire certain lands in the State of California through an exchange pursuant to the Federal Land Policy and Management Act of 1976, S. 1998, to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, S. 2001, to improve the administration of the Women's Rights National Historical Park in the State of New York, S. 2033, to provide for the exchange of certain lands within the State of Montana, S. 2078, to designate the Old Spanish Trail for potential inclusion into the National Trails System, and H.R. 1716, to amend the Act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek.

SD–366

Governmental Affairs

To hold hearings to examine voter representation for the District of Columbia.

SH–216

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold joint hearings with the Committee on Indian Affairs on provisions of S. 2259, to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of the hydropower by the Grand Coulee Dam.

SD–366

Veterans' Affairs

To hold hearings on the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), and pending legislation.

SR–418

Indian Affairs

To hold joint hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on provisions of S. 2259, to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of the hydropower by the Grand Coulee Dam.

SD–366

AUGUST 10

2:00 p.m.

Veterans' Affairs

Business meeting, to consider the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), and to mark up pending legislation.

SR–418

AUGUST 11

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1991, to provide for the safety of journeyman boxers; to be followed by hearings on the oversight of activities of the Olympic Committee.

SR–253

AUGUST 12

2:00 p.m.

Indian Affairs

To hold hearings on the nomination of Harold A. Monteau, of Montana, to be Chairman of the National Indian Gaming Commission, Department of the Interior.

SD–628

HOUSE OF REPRESENTATIVES—*Thursday, July 28, 1994*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Encourage us, O God, to use the abilities that You have given to every person in ways that serve the common good and are of service to all people. May we not separate our concept of service by isolating our daily tasks from all spiritual thought and prayer, but let us see that we truly serve You, O God, when we do the works of justice day by day and make our contribution to the welfare of others. May the prayers we say with our lips be expressions of the beliefs of our heart, and all that we believe in our hearts, may we practice in our daily lives. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. MILLER] please come forward and lead the House in the Pledge of Allegiance.

Mr. MILLER of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 2182) "An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes," agrees to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. SHELBY, Mr. BYRD, Mr. GRAHAM, Mr. ROBB, Mr. LIEBERMAN, Mr. BRYAN, Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. LOTT, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mr. FAIRCLOTH, and Mrs. HUTCHISON, to be the conferees on the part of the Senate.

UNIVERSAL HEALTH CARE COVERAGE

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, the overwhelming majority of Americans know that there is a health care crisis and that our health care system must be reformed.

The overwhelming majority of Americans also want guaranteed access. They know that health care reform without universal coverage is not real reform at all. Only universal coverage can cure the ills that are killing our health care system.

Without universal coverage, every American will be at risk of having their insurance taken away.

Without universal coverage, middle-class families will have to pay more for less security.

Without universal coverage, both small and large employers that provide health care insurance will be forced to continue to pick up the tab for those who do not.

Without universal coverage, cost will continue to skyrocket.

There are those on the other side of the aisle who say they do not believe universal coverage is necessary. They are many of the same people—all of whom have health care insurance—who have said that there is not a health care crisis.

Mr. Speaker, it is clear that real health care reform must include universal coverage. We must remind everyone that the goal is not to score political points, but to bring real reform to our health care system.

WHITEWATER WHITEWASH

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I believe there is a whitewash of Whitewater going on.

The Committee on Banking, Finance and Urban Affairs that is investigating the Whitewater case has said that they will not talk about the Vince Foster death and his connection to Whitewater. There was a vote taken in the committee 2 days ago on party lines and they squelched any questions pertaining to Mr. Foster's death and his connection with Whitewater. Now today, 2 days later, they have said that they are going to have 10 people from the White House on one panel. One of those people is Hillary Clinton's chief of staff who went into Vince Foster's office 2 or 3 hours after his death and took out all the Whitewater files along with Bernie Nussbaum and Patsy Thomasson. They are putting 10 of them up there at one time and giving the Republicans only 5 minutes to question all 10 of them.

This is a deliberate attempt to obstruct finding the answers to this very important issue, Whitewater. I am saying to my colleagues what Abraham Lincoln said a long time ago:

> It is true that you may fool all the people some of the time; you can even fool some of the people all the time; but you can't fool all of the people all the time.

Mr. Speaker, the truth will come out. It may take some time, but it will come out.

RWANDA

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, the human disaster associated with recent atrocities in Rwanda should shake the conscience and civility of all humanity and Members of this body. This human catastrophe, which has been graphically portrayed in televised footage of the refugee camps in Goma, Zaire, and the massive destruction of Kigali, calls into question many pertinent issues relating to United States foreign policy and the responsibility of the world community of nations.

The question is begged: How much human tragedy and mass genocide must occur before the world recognizes its collective responsibility to act? How many more deaths must we witness in nations like Rwanda before we are compelled to take decisive action? I believe that these questions demand that we probe deeper into the nature and focus of American foreign policy in a post-cold-war era—a time in which we as Americans must rethink and redefine what constitutes American interest.

Despite attempts to treat American economic interest and respect for human rights separately, I believe that appropriate U.S. foreign policy must

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

attempt to harmonize these concepts. In the big picture, a more stabilized and civil world directly serves our interests. In order to maximize and expand global market opportunities for our industries, our trading partners, or potential trading partners, must have stable, free, and civil societies where the rule of law is the standard.

In an ever dangerous world which continues to see bloodshed, famine, and unrest, we must carefully analyze how American military and diplomatic resources are utilized. As Americans, we must solicit other nations to share in a collective responsibility. As a community of nations, we must diligently work to prevent future conflicts from resulting in the same degree of suffering seen in Rwanda.

In defining our new American interest in the post-cold-war era, one thing is certain—we must act. We must act as leaders.

GROW UP, MR. PRESIDENT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, there is something very disturbing about watching the President withdraw from reality and say things that are simply not true as an act of denial. In both the Wall Street Journal and the Los Angeles Times today, there are polls indicating that the public rejects the Clinton plan. Not the Republicans, the public, the American people. That the more they have learned, the more opposed they are to the Clinton plan.

The President's reaction yesterday was to blame Republicans for not cooperating. Senator CHAFEE said correctly last night, it is simply not true. Republicans have been cooperating on passing NAFTA. We are currently cooperating on both MFN for China and in trying to help with the GATT agreement. We Republicans helped sustain the space station. Republicans have helped develop aid to Russia. Republicans are willing to work this evening, this afternoon, at lunch today with the President on health care. But we are not preparing to ram down the throat of the American people a big-bureaucracy, big-tax, left-wing bill that makes no sense. The President just needs to grow up a little bit and recognize that his idea has failed, the time has come to work together as adults, and we are ready.

REPUBLICANS BENT ON DEFEATING HEALTH CARE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO Mr. Speaker, I have in front of me a copy of a memo from a group called the Project for the Republican Future to the Republican leadership in Congress. While the memo is only a few pages long it speaks volumes about a Republican Party bent on defeating the most important legislation of our time: Health care reform.

The memo advises Republicans to reject health care legislation, and I quote "sight unseen." Because, the memo reads: "health care reform is now about politics and absolutely nothing else."

Well, Democrats believe health care reform is not about politics, it is about people—the small business owner struggling to keep pace with health care costs; senior citizens forced to make the choice between prescription drugs or their next meal; the father who lies awake at night worrying that one accident or one illness will drive his family to financial ruin.

These people are what health care reform is about and for Republicans to ignore their needs in favor of a cynical political strategy is unconscionable.

□ 1110

SERGEANT SCHULTZ

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, why does Banking Chairman HENRY GONZALEZ remind me so much of Sergeant Schultz from Hogan's Heroes?

Perhaps it is because of his willing neglect of his basic responsibility of oversight.

Mr. GONZALEZ sees nothing wrong with the questionable activities of the Clinton administration. And he is becoming either a knowing or unwitting accomplice in a coverup of the Whitewater affair.

His actions as Banking chairman in this affair have been inexcusable. At each turn, he has sought to limit, muffle, crack down, or subvert the minority as it seeks the truth on this matter.

He has refused to launch an investigation on his own into the Whitewater affairs, despite widespread media reports of questionable activities.

How sad it is to see the process and the truth suffer in such a way.

Mr. Speaker, HENRY GONZALEZ may see nothing when it comes to Whitewater, but it is hard to see if you refuse to open your eyes.

GUARANTEED COVERAGE AND THE MIDDLE CLASS

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, the American middle class knows what health care reform ought to mean: The promise of guaranteed coverage that cannot be taken away.

Some 70 percent of Americans think Congress should work on reform until we get it right, and to most Americans, getting it right means guaranteeing universal coverage. The opposition favors going only half way toward this goal.

There is no half way to health care reform. Half way falls short of center, and the center is our middle class. What good is reform that will not benefit the majority of Americans?

The opposition seeks to hold health care reform hostage for partisan ends. They want to send Democrats to the voters empty-handed. But Americans view anything less than guaranteed universal coverage as a partisan sham and betrayal. Congress can give Americans the health care reform it wants—let us make sure we do.

INNOCENT UNTIL PROVEN GUILTY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in 1989 Kim Vielma had the IRS office in Bellevue, WA, deny her $2,000 tax shelter. But since she needed surgery, had no money and no savings, they made an agreement with her, signed an agreement and settled it.

She thought it was over, so she moved to Las Vegas. When she got to Las Vegas she got a notice, she was called in and they said, "This agreement is off. This is not Bellevue. We want $25,000," penalties and interest for a $2,000 issue, folks. She said, "How could you do this?" They said, "It is none of your business. Pay it, and if you do not pay now, you will only pay more later."

Shame on Congress. Hide your face. Kim Vielma getting ripped off like this. She had an agreement. They tore the agreement up, threw her to the wolves. "Who are you? You are just a citizen of the United States and what right do you have? You are guilty."

Sign Discharge Petition No. 12. You are innocent until proven guilty in America, including a taxpaper. Think about it.

FEDERAL RIP-OFF PROGRAMS HURTING THE POOR

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, almost every day we hear or read horror stories about the waste and inefficiency of our Federal Government.

It seems that the Federal bureaucracy cannot do anything in an economical way.

The General Accounting Office has now released a report detailing terrible conditions in all the Housing and Urban Development apartment buildings they studied across the country.

These buildings had received Federal subsidies from HUD averaging $700,000 each.

A front-page story in the Washington Post reported that one apartment development received $638,000 for rat-infested apartments for which the rent was 43 percent higher than that at nearby private developments.

Another development received $558,000 while every apartment fell below even minimum standards, only 40 percent were occupied, and some of those were declared unfit for human habitation.

This is a program that spends hundreds of millions across the country.

Once again we see that Federal programs benefit the bureaucrats and enrich Federal contractors, but they really do almost nothing for poor people except to help insure continued poverty.

These millions would do much more for the economy and for low-income people if the funds were left in the private sector.

U.S. FOREIGN POLICY—BASED ON MORALITY OR GEOGRAPHY?

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, today Leyla Zana is in prison, and she faces the death penalty. She along with six elected Kurdish leaders are charged with treason. They all face the death penalty.

What is their crime, Mr. Speaker? It is exactly what I am doing today. They spoke out on the issue of human rights.

Mr. Speaker, these Kurdish parliamentarians are not in Iraq whose treatment of the Kurdish people we have called rightly crimes against humanity. No, these parliamentarians are in Turkey, a country that the United States supports with massive aid and military assistance.

Mr. Speaker, every time Members of Congress protest the conditions of repression and torture and human rights we are told that we must remember that Turkey is strategically important to us. Does our morality depend on geography rather than on conviction?

It is time that Congress demands the release of the six Kurdish parliamentarians.

CONGRESSIONAL PERKS TRANSLATE TO ELECTORAL DEATH

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, 1 week ago, I warned about how the abuse of frequent flyer miles by Members and staffers would hurt us. Today's Roll Call has a front page article on the personal use of frequent flyer mileage. Needless to say, papers in our districts will pick up the story.

Like the gym, parking, the beauty and barber shops, tax advice, and so forth, these are all minor, almost meaningless perks, but they have the voters up in arms.

My bill, H.R. 4444, reforms air travel. I also support Representative ENGLISH's bill to reform air travel. But merely reforming here is not enough, I say to my colleagues. This is only one needed step in the long journey of congressional reform.

We will suffer from this electoral death by a thousand cuts unless we have total reform. First, the gym. Then parking. Then tax advice. Now, frequent flyer miles.

None of us ran for office because of these trivial perks, so let us not be driven from office because of them.

Support total, not piecemeal, reform, I say to my colleagues. Support H.R. 4444, the one-stop shop for congressional reform.

□ 1120

HEALTH CARE REFORM

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, I join my freshman colleagues this morning to call for a concerted effort to enact a health care bill in this session. While there is disagreement on aspects of health care reform, it is important not to lose sight of our goals—one primary goal is universal coverage, which we can deliver, not universal agreement, which we will never achieve.

Universal coverage means that all Americans will have some form of health insurance. I am pleased to note that in every health reform bill, the Americans who live in the territories, such as my home island of Guam, are fully included, and share in the benefits as well as the responsibilities of the health reforms.

Most Americans agree that the status quo is not good enough. I join my colleagues in urging Congress to find common agreement on a bill that delivers health reform.

A study by the Catholic Health Association finds that without universal coverage, middle-class Americans will pay more for health insurance premiums because some reforms will add higher risk groups to insurance pools without significantly expanding those pools, thus driving up costs. The Catholic Health Association conclusion is that universal coverage makes good economic sense for middle class America, and it is the right thing to do.

ALLOW TIME TO STUDY THE CONFERENCE REPORT ON THE CRIME BILL

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, the crime conference committee concluded its work about an hour ago.

The House rules provide that we have at least 3 days to examine the document, this 800-page, $30 billion document, provided the document finds its way to the printer by midnight tonight. That means that by Tuesday, Members of this House who will be returning from their home districts will have very little opportunity to examine this document.

Mr. Speaker, we do not want the disgrace that took place in this House on the conference report on earthquake relief which included such things as $5 million to remodel Penn Station.

This is a big bill. It is an important bill. And we want the House Committee on Rules, No. 1, not to waive that 3-day rule, and we would suggest to the leadership on both sides that Members be given until the end of next week before that matter comes up for an important vote.

THANK YOU TO THE CONFEREES ON THE CRIME BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am delighted to get to come to this well and bring good news. The good news is the crime bill has been completed, and the Violence Against Women Act is in there stronger than ever.

I really salute the House conferees who yielded to the Senate who had much stronger provisions in several cases, and that rarely happens. Nobody wants to give up their turf.

What that means is that the fact that America has three times as many shelters for homeless dogs and cats as it does for battered women and children will now change, that there will be funding for that. There will be training at the local level, and we will say once and for all we must get tough on this.

You cannot continue to batter a person over and over and over again and have the police called and have them just walk you around the block and you go back in and continue the beating. That will not be accepted.

If we do not get violence out of the home and domestic terrorism out of the home, we will never, never get violence off the streets.

So that is good news today, and I really thank all of the conferees for working so hard on it.

PRESIDENT'S PATRONIZING POLITICAL PARTRIDGE FAMILY

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, the television generation finally put one of their own in the White House when they elected Bill Clinton President in 1992.

It is amazing how fast the White House went into reruns.

Just as in 1992 they have again decided to circle the buses like some latter-day "Wagon Train." Instead of "Rawhide" we get "Run-and-Hide." Instead of Rowdy Yates, we get employer mandates.

It is no wonder the administration is replaying "The Fugitive." Support for their plan and their President has dropped so far that the Clinton name has become a drag on the plan. So they have decided to put their plan in drag.

They have dressed it up as new, dropped the Clinton name, but kept all its anti-competitive, anti-employee, anti-family, and downright anti-American elements.

Instead of "Father Knows Best" we get "Big Brother Knows Best." Instead of facing reality, the administration runs from it.

And so we are being treated to a patronizing, political Partridge Family trying to tell Americans that the government knows their health care needs better than they or their doctors do.

BAN ASSAULT WEAPONS

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, I am pleased that conferees on the crime bill have agreed to keep the ban on semiautomatic assault weapons.

There are more than 1 million of these weapons in the United States today.

They are not designed for sport.

They are not designed for hunting.

They are designed to assault and kill.

Just last month, in my State of Washington, 1 man murdered 4 people and wounded 23 others in a matter of seconds.

That's the power of an MAK-90 assault weapon.

Violence is an epidemic in America. It kills more than 50,000 people each year. It costs $3 billion in medical bills alone.

Government cannot eliminate violence or solve all the problems of crime.

Stopping violence starts with each of us, in our homes, schools, communities, and businesses.

But we, in Congress, can do something about the deadliest violence of all. Only assault weapons produce such random, wanton, and ruthless killing—and that is why we must ban them.

FEARS OF RATIONED HEALTH CARE NOT JUSTIFIED

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, there has been a lot of scary talk about the possibility of rationing in a reformed health care system. That is just a political ploy to appeal to people's fears.

Let me tell you about the real fear a family in my district felt when an insurance company—operating under our current system—tried to ration care.

A young wife and mother had severe liver problems. Doctors were left with one last hope—a transplant. The physician started to plan the procedure, the family began to prepare itself.

Enter the insurance company.

They said "no."

"No, we will not cover the cost of this operation."

If not for a caring physician, who very strongly took the company to task, this woman would be dead, her husband a widower, her young children without a mother. That set of circumstances is scary, and it happened under our current system.

Mr. Speaker, we are not going to pass a bill that rations care. We will pass a bill which restores some of the humanity which some in the insurance industry have forsaken in the name of higher profits.

HEALTH INSURANCE FOR EVERYONE

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, as we consider health care reform, I urge my colleagues to remember the 550,000 people we each represent at home. That is our job.

More than 75 percent of our constituents believe it is essential that everyone has guaranteed private health insurance.

They believe we should build on what we now have: a private system where employers and employees share the costs and a choice between doctors and plans.

They know insurance reforms must be passed because their coverage is dropped if they become sick or if they have something currently wrong with them they cannot get insurance at all.

Some 88,000 of my constituents, including 13,000 children, currently have no health insurance. None. And almost every single one of them is from a working family.

It is not fair that hard working families who play by the rules and pay their taxes cannot get or afford insurance. It is equally unfair that when these uninsured turn to our county hospitals, other taxpayers end up picking up the tab.

I urge my colleagues to step up to home plate and hit a grand slam for the middle class. Listen to your people, not the $50 million of media fear tactics funded by the special interests.

Our families and children at home want us to do the right thing for them.

□ 1130

THE NEED FOR HEALTH CARE REFORM

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I would like to direct your attention to an op-ed in last Sunday's New York Times by Adam Clymer. He makes a strong case for health care reform that includes universal coverage.

As Mr. Clymer points out, the economic benefits of universal coverage are substantial and should be apparent to even those Members most opposed to reforming health care.

Unless everyone is insured, it will not be possible to control the soaring costs of health care. Cost shifting will continue to occur and people with insurance will pay the bills of those without insurance.

There are many reasons to push for health care reform: The obligation to help families get care for children, the need to assist people with preexisting conditions. But in addition to medical concerns, we have an economic one, as well.

It is not possible to reform our system overnight, but we have to try. To do better we must have universal coverage. Our economic health may depend on it.

UNIVERSAL COVERAGE AVOIDS HIGHER PREMIUMS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, in the next few days this body will begin the national debate on health care, and I for one believe that we must have universal coverage in any health care reform. If we do not have universal coverage, middle-class Americans will be hurt. Without universal coverage, middle-class Americans will experience higher insurance premium prices. In addition, the current practice of cost shifting would continue and those who have insurance will continue to pay for the health care of those who do not. In short, middle-class Americans will pay more for health care unless we have universal coverage.

Incremental market-based reforms will not fix the problem of escalating health care costs. Incremental reforms will not foster the competition needed to control health care spending. Insurance companies will still have the incentive to insure healthy people and not insure sick people, as my colleague from Ohio just articulated.

To ensure that every American contributes their share to health care costs, we must have universal coverage. The middle class cannot continue to shoulder the burden of health care costs.

Congress must act now and must include universal coverage in health care reform. It is time to help the middle class.

HIGH-TECHNOLOGY SOLUTIONS, INC.: AN ECONOMIC SUCCESS STORY

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHENK. Mr. Speaker, I want to share with my colleagues an economic success story from my hometown of San Diego. High Technology Solutions, Inc., is a small business specializing in electrical and computer support for the defense and commercial sectors.

This business has grown from just 3 employees in September 1990 to 61 employees today, their revenues have grown to $3 million, and next year they expect revenues of nearly $8 million.

High Technology Solutions has prospered because they have taken advantage of small business lending programs and they have aggressively moved from defense to commercial lines of business.

They are just one of many success stories behind our Nation's economic recovery.

HEALTH CARE BLUES

(Ms. McKINNEY asked and was given permission to address the house for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, I rise to tell you if we do not pass health care for all Americans, then middle class Americans will continue to have the health care blues.

Far too long have we permitted our citizens to fall, because there was no guaranteed health care for them.

When some of our most prized heartthrob entertainers needed health care, they found out it was not there.

Performers like Mary Wells, Jackie Wilson, and LaVerne Baker all needed health care reform.

Now is too late for them, but it is not too later for the hard working American families who will benefit from the reform that we are about to pass.

Mr. Speaker, the "go-slow, just say no, scare your pants off" crowd are singing the wrong song for America.

There is no need for Americans to play the health care blues.

Let us pass health care for all.

THE CRIME BILL

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, in communities across the country, last Monday night was just another summer evening.

But in my community, on the south side of Chicago, last Monday night saw yet another life end because of senseless, gruesome violence. The violence and record levels of crime gripping our Nation is paralyzing citizens with fear and interfering with any semblance of normal family life.

Monday night's horror in Chicago claimed 3-year-old Kevin Taylor, who was fatally shot by gangs as he and his family were returning from the grocery store.

The tragedy did not end there. The next day in the same neighborhood, as police were interviewing a witness, gang-related gunfire erupted again.

The witness was struck down while talking to the police officers.

According to police statistics as of Tuesday, the number of murders in Chicago reached 545—100 more than the murder rate of only a year ago.

Gang warfare, supported by an ever-increasing drug flow into this country, is wiping out our communities, leaving permanent scars on the lives of hundreds of innocent, hardworking, law abiding citizens and their children.

Mr. Speaker, these statistics and these tragic tales speak for themselves. Crime is the No. 1 problem in our country. We must support this crime bill and save our children and save ourselves.

HOUSE CONFEREES SHOULD INSIST ON THE HOUSE POSITION ON D.C. SPENDING CUTS

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, in just a few minutes it is my understanding that we will appoint conferees on the District of Columbia appropriations bill to confer with the other body. At that time my friend, the gentleman from New York [Mr. WALSH], will offer a motion to instruct conferees to insist on the House language with regard to the spending cuts that we mandated.

Mr. Speaker, I intend to support the gentleman. It is absolutely imperative that we do this. The other body, what they did was not near as effective as what we have proposed, and it would be a tragedy if we receded to their position. It is a shame that we have to do any of this at all, but since the District has not seen fit to do it themselves, apparently we are going to have to do it for them.

□ 1140

HEALTH CARE REFORM MUST BE BIPARTISAN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, yesterday the President of the United States indicated once again how much he is in favor of going the bipartisan route on health care. We on the Republican side are a little concerned about these ongoing statements, that they mean little except that the President likes to use the words. The fact is that, when the President designed his original health care bill, and did so utilizing a health care task force, which is now under suspicion for having violated Federal ethics rules, when he put together that task force, Republicans were not invited to be a part of that process to formulate the original bill. Therefore, Mr. Speaker, we had every reason to believe this was being done on a partisan basis.

The bill that was crafted by that task force has now been thrown out by the Democratic leadership. The Democratic leadership is now in the process of trying to design their own health care plan. Once again that is being done purely by Democrats. Republicans are not being included in that process.

Mr. Speaker, we have a hard time understanding how the President sees that as bipartisan. On the other hand, there is a bipartisan process under way in which Democrats are meeting with Republicans in an attempt to craft a bill that will be an alternative to the Democratic leadership bill. That is the true bipartisan process under way on health care.

Mr. Speaker, if the President of the United States wants to achieve a bipartisan consensus on health care, what he should do is come into that process and help us craft a bipartisan bill, abandon the Democratic leadership efforts which are aimed at producing a partisan product, come up with a bipartisan bill, and then we might have a real chance of passing health care reform that really meets the needs of middle class America sometime before the end of this session.

POLITICS AND REFORM

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, we have two problems really at hand here. One is that the opposition in this House does not believe in the Government taking the lead on health care reform, and they ought to be honest enough to come forward. We have had these debates before in Social Security. They were unanimously against passing Social Security. They resisted Medicare, and we saw the other night on ABC News members of the Republican Party standing up and saying Medicare was a socialist plot. But there is more to it than just their philosophical objections to the Government's role in health care. There is a political goal here as well.

Mr. Speaker, 2 days ago, Republican strategist Bill Crystal wrote a memo to Republican leaders urging them to defeat all reform, to send the Democrats to the voters emptyhanded. Rather than working with us to try to address these issues, there is a political goal here to try to stop the crime bill, to try to stop health care reform, to try to stop campaign finance reform, for the political advantage. It is a message to our side to unite to pass the crime bill, to pass campaign finance reform and to pass a health care bill that affects all Americans, and to do it now.

APPOINTMENT OF CONFEREES ON H.R. 4649, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995; AND DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. STRICKLAND). Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. WALSH

Mr. WALSH. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mr. WALSH of New York moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4649, be instructed to insist on the House position on amendment numbered 16, reducing the D.C. budget by $150 million.

The SPEAKER pro tempore. The gentleman from New York [Mr. WALSH] will be recognized for 30 minutes, and the gentleman from California [Mr. DIXON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. WALSH].

PARLIAMENTARY INQUIRY

Mr. WALSH. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALSH. Mr. Speaker, do we have the right to close debate?

The SPEAKER pro tempore. The proponents of the motion will have the right to close the debate.

Mr. WALSH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to offer a motion to instruct conferees to hold the House position in conference.

The Senate is requiring the District to cut $75 million from its budget, and is cutting $20 million from the Federal payment. In my opinion, this position does not effectively address the systemic problem of overspending.

The House, in a bipartisan compromise, is requiring the District to cut $150 million from its budget. The compromise also stipulates that if the 1995 cash spending and outlays exceed the cash receipt, the Federal payment for 1996 will be reduced by the amount that the District overspent. In addition, the District must provide quarterly reports of revenues and spending.

I remind my colleagues of the GAO audit on the District of Columbia finances which revealed gross overspending by District agencies—a clear violation of the Anti-Deficit Spending Act.

GAO reported that:

> Although in 1991 the District received permission to borrow $331 million in general obligation bonds, and another $100 million more from Congress, its cash position has declined by $200 million since then;
>
> The District will finish 1995 with a minimum cash deficiency of $21 million. The report also suggests the possibility of a $200 million deficit in 1995 if changes in spending practices and real cuts are not made;
>
> Mayor Kelly claims to have cut employment by 17 percent. However, payroll costs continue to rise. Also, the Mayor made a conscious decision not to make the pension payment this year, forcing a raid of the fund. While an agreement has been reached, the Mayor's initial refusal to pay has cost taxpayers an additional $13 million in interest.

The District of Columbia must get its fiscal house in order. The law states that they must present balanced budgets to the Congress, and they have not.

I mentioned—in a 1991 supplemental request, the District asked for and received an additional $103 million to balance its budget;

In 1992, $28 million was transferred out of the water and sewer fund to the general fund to balance the books;

In 1993, the District changed its property tax year to get five quarters. This act of budget gimmicking directly impacted the Federal formula payment. We paid them roughly $37 million more this year.

In 1994 the refusal to make pension payment.

In 1995—the District will receive $668 million in Federal payment, $52 million directly to the pension fund and $770 million in direct grants. This means the District is receiving a total of $1.5 billion in Federal moneys. Surely a cut of $150 million, less than 5 percent of the total DC appropriations is reasonable.

The House has acted responsibly given the condition and financial state of the Nation's capital. The House bill passed by a very narrow margin—213 to 210—3 votes.

If we do not hold to the House position, there is no guarantee that the D.C. conference report will pass. I for one will not support it.

□ 1150

Mr. Speaker, I reserve the balance of my time.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first indicate that the motion to instruct that my ranking Member, the gentleman from New York [Mr. WALSH] is asking for is the result of an agreement that I entered into in connection with an amendment I offered on behalf of the gentleman from New York [Mr. WALSH] and the gentleman from Virginia [Mr. BLILEY].

Certainly, I cannot disagree with many of the statements that the gentleman from New York [Mr. WALSH] made about the District government. There is an admission by everyone that the District is in a dire financial crisis, and that something has to be done, that is, mainly spending cuts.

We all know that as the appropriation bills pass through this House and as the Senate passes their appropriation bills, we then go to conference. That is where we iron out the details. I think everyone in this House wants to see the financial condition of the District improve so that they can get on their feet in fiscal year 1995. I just disagree with the gentleman when he says that surely $150 million is reasonable, because I do not know for a fact that it is reasonable. I know the Senate has cut the Federal payment, which I feel very strongly about, by $20 million, and I know their mark is below us in the fact that they have cut $80 million in spending, that is, $75 million in unspecified spending, and $5 million for the law school.

Because of this crisis, I think it is entirely inappropriate for us at this moment to say what the exact amount of the cut should be. I assure the gentleman from New York that emotionally and psychologically I am with him, but to just pick a figure at this point when we have to negotiate with the Senate is, I think, not entirely appropriate. I do not know how anyone can say at this moment what the reasonable figure is. I agree there should be spending cuts, but I do not think there is any magic number. It may turn out to be more than that, but I doubt it. The District is now working on a plan, and I think we have a responsibility to examine the plan the

Mayor sends us, although I agree, and I think the House agrees, that the District has to curtail its spending. But it is just wrong for us to pick out an arbitrary figure of $150 million, which is a ballpark guess that was made as the bill was moving through the process.

We are not getting down to the nuts and bolts of this matter. We are all together on the issue, but I do not think we should just arbitrarily pick a figure and say that it is $150 million and that is it. I ask the Members to give us more flexibility. We have to work with the Senate, and it is not an exact science.

I assure the gentleman that I am for the survival of the District financially, and to me that means a cut in their spending, but we do need more flexibility in the conference.

Mr. Speaker, I would also like to take this time to thank the gentleman from Virginia [Mr. BLILEY], who has been very cooperative in this matter, and I hope the Members will allow us some flexibility. We are all operating on good faith here. We are all saying that spending cuts have to be made. I just think that now is not the time to put in concrete any particular number.

Mr. Speaker, I reserve the balance of my time.

Mr. WALSH. Mr. Speaker, I yield myself such time as I may consume to respond briefly to the comments of my distinguished colleague regarding the House position.

This number of $150 million was arrived at through some very, very serious and hard bargaining. It was not arrived at arbitrarily, although the numbers bounded around a little bit. I think most of us agree that based on what we could accomplish, that was the right number. It is less than 5 percent of the total District of Columbia appropriation, and I think it is reasonable by any measure.

For us to realize that we are only able to pass this appropriation bill by three votes and then to go back and agree we are flexible when we go to conference, I think, belies the fact that this barely passed the House of Representatives, and if we change that figure again, I am very concerned that this bill will not pass.

Madam Speaker, I yield 10 minutes to my good friend, the gentleman from Virginia [Mr. BLILEY], the ranking Member of the Subcommittee on the District of Columbia.

Mr. BLILEY. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, today I rise in support of Mr. WALSH's motion to instruct conferees to support the House language in the D.C. appropriations bill for fiscal year 1995. It is imperative that Congress preserve the House version of the appropriations bill for the District. I do not believe it is necessary to remind Members that this bill passed by the slimmest of margins earlier this month and that the one undisputed reason for its passage with the compromise that was so carefully crafted by very concerned Members of this body including Mr. DIXON, Mr. WALSH, and myself. Without the compromise to require $150 million in spending cuts from the District's budget, I believe it is safe to say that this bill would not have passed. The importance of maintaining the integrity of this compromise cannot be overemphasized.

The Senate-passed version includes $75 million in spending cuts and a $20 million lower Federal payment. But don't be deceived by even these provisions of the Senate's bill. The Senate version does not include the House language regarding overspending. The House version requires that if the city overspends in fiscal year 1995, the fiscal year 1996 Federal payments will be decreased by the amount of the city's overspending. The Senate plainly failed to include this protection against overspending and impose any strict penalty for expending more than it takes in once again.

Unquestionably, the Senate version fails drastically short of what I believe is the only responsible thing that Congress can do in light of the District's current financial situation. This body has heard a great deal of discussion about the General Accounting Office's recent report on the city's finances. We have also heard about the city's impending need for financial assistance from someone or somewhere, and about the failure of the city to respond to congressional employed to balance the budget and defer statutorily required payments, with examples of underestimating expenses and overestimating revenue projections, and with accounts of violations of the Anti-Deficiency Act, which have resulted in the city spending more than was provided in the appropriations bill year after year.

GAO has stated that if no action is taken, the deficit in fiscal year 1995 alone could be over $200 million. The long-term outlook for the city is even bleaker. The deficit by the year 2000 is predicted to be $742 million. That amount is at least $50 million more than the Federal payment for next year and represents about 20 percent of the city's budget for next year as well. The city has no alternative but to make some drastic changes in how and where it spends its money because it simply does not have enough resources to continue with the financial management system that has lead the city down this very perilous road toward financial ruin.

As I have indicated, the Senate version clearly cannot adequately address these problems. However, the House-passed version of this bill contains a number of very important provisions. The House requires the city to make $150 million in spending cuts and to report to the Congress as to the nature of these cuts. The House also does not abuse the sensitive provisions of the home rule charter and does not involve Congress in micromanaging the city's budget. It does, however, recognize that there is a serious problem with the manner in which this budget was drafted. Before Congress can responsibly pass an appropriations bill for the city, we must feel satisfied with the reliability of the numbers used in the preparation of this budget. Clearly, without at least this $150 million in spending cuts, the reality of the city staying within the guidelines of this budget are virtually nonexistent.

And let me repeat my warning to every Member of Congress. There is no question that the District will be seeking additional Federal funds. The Mayor has already begun to circulate a plan which is heavily dependent upon assistance from the Federal Government. Quite simply, we cannot pledge one more penny of taxpayers' money without demanding the discipline that will be required by the House position. The Senate's version merely calls for half as much. Clearly this is not adequate.

Congress has given enough. The citizens of this great city have given enough. It is time for the city to give Congress a reason to pass an appropriations that will genuinely reflect the true financial situation of the city. I believe that can only be done if we stand by the House-passed version and insist that Congress demand more accountability from the city. I also believe that there is strong sentiment in the Senate to support the House language. By insisting on the House position, I believe that we can prevail in conference and get a budget to the President as quickly as possible. We need to give the District as much time as we can to rework its budget before the new fiscal year begins. We certainly recognize the fact that the Mayor of the District is working on changes that reflect some of Congress' specifications and we deeply appreciate this. It is imperative that the Council join in those efforts quickly. It will take leadership to meet the challenge. It will take cooperation to find the solution.

Unnecessary delays in the conference and movement toward final passage will not help the District. If we do not maintain the House position, there may be even worse consequences. I urge your support of Mr. WALSH's motion to instruct the conferees to insist on this language and to require the city to do everything it can to get its fiscal house in order.

☐ 1200

Mr. DIXON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, just let me read to you the motion that I made, or a part thereof. I asked that we would disagree to the Senate amendments and agree to the conference asked for by the Senate.

That means that the Senate wants to conference on this bill. They in fact do not want to accept the House-passed bill. I think I can safely say that the gentleman from Virginia [Mr. BLILEY] and I, clearly agree that in this crisis, we should provide the District government with the maximum Federal payment, which in this case is $667 million. The Senate cut that amount by $20 million. I want to bring that up in the conference. I think it is very important. And I know that the gentleman from Virginia [Mr. BLILEY] and I agree with the enforcement mechanism, that is, if the District government does not make the necessary cuts as directed by the conference agreement, that amount of money will be taken out of the following year's Federal payment.

There are other issues in the Senate bill that I disagree with, and I believe the gentleman from New York [Mr. WALSH] and the gentleman from Virginia [Mr. BLILEY] also disagree with those issues.

I guess it is like a broken record, but I want to repeat it: We cannot have it all our way, because the Senate wants a conference with the House. If they wanted to accept our bill, they could have accepted our bill. I am for cuts in spending, but I cannot argue with the Senate conferees to bring the Federal payment up to the House level, to put back in the enforcement mechanism, to strike certain other provisions. We just cannot have it all our way.

Now, I know that a lot of Members feel that $150 million is the appropriate number. I assume the Senate thinks that $75 million is the appropriate number. But the way we have been doing business around here is to negotiate these differences. We are all on the same page as it relates to reductions in spending—the District has to reduce spending.

The recitation of all the problems of the District, which I fully acknowledge, that the gentleman from New York [Mr. WALSH] and the gentleman from Virginia [Mr. BLILEY] have given, do not move us a step further in coming to some resolve on the issue and helping the District through a crisis in fiscal year 1995. That is all that I am saying. And because we, after careful consideration, picked $150 million, the legislative process allowed the Senate in their wisdom to pick $75 million. We want a lot of things done in conference so we have to have flexibility. Maybe $141 million is the correct number, but I do not know at this point. But to say that we are going to stand pat and ask the Senate to yield on this and all of these other items is not in the real world. If the Senate wanted to accept our bill, they could have done that, but they didn't.

Madam Speaker, I yield 10 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Madam Speaker, I thank the gentleman for yielding. I want to strongly associate myself with the gentleman's remarks.

Madam Speaker, I strongly oppose the motion to instruct, but, as my colleagues on the other side of the aisle recognize from the way we have worked together and from my own criticisms of the District, I certainly do not do so because I believe that the District should not make whatever cuts are necessary to sustain its viability. If my colleagues are disappointed that the Congress has come to this moment, surely they can imagine that I am far more disappointed than they.

I urge my colleagues to sustain the bipartisanship that produced the compromise in the House version of the bill, and to show their good faith by treating the D.C. appropriation in the way that we treat other appropriations. Of course, that is always to allow the chairman, particularly in difficult circumstances, the flexibility that is needed.

This should especially be the case with the gentleman from California, Chairman DIXON, who has managed to hold the District's feet to the fire with the GAO report and with very tough hearings, without gratuitously hurting the Capital City.

The chairman needs flexibility and negotiating room precisely because of real differences that matter to both sides in the Senate and House bills. I submit, Madam Speaker, that you simply cannot negotiate if you take the most important item off the table.

Now, the $150 million figure is a figure I embraced as part of the compromise. But I must say, Madam Speaker, it is in the nature of auction bargaining that we got to this figure. We did not get to this figure by relating it to the District's programs or to its expenses. We do not know if the figure will toss the District over the side so that we have to pick up the pieces. All we know is that we had to pick a future, and that is the figure they came up with. I challenge anybody to itemize that figure and justify that figure in any particular terms.

At the same time, I am not prepared to say in conference something close to this figure should not obtain. All I am prepared to say is that it makes no sense to go to conference with this item inflexibly tied to the chairman.

I say also to my colleagues that this is no time for piling on the District. It really did take a lot to begin to get the District's attention, more than should have been required. But can anyone doubt now that we have gotten their attention?

This motion to instruct might have been more appropriate had not Members read the front page of the Washington Post this morning. We finally got the headline that we have been waiting for. That headline says that the District is moving ahead, even before we go to conference, much less out of conference and pass the bill, we are told that Mayor Kelly will do 2,500 buyouts, which in my judgment is the way to quickly downsize the government and begin to get the revenue cuts the Congress wants and the District needs.

We are told that the Mayor believes there are going to have to be even tougher decisions made, cuts in AFDC and general public assistance, at a time when a very large proportion of the D.C. residents depend upon these benefits.

□ 1210

She is seeking council approval of legislation to reorganize D.C. General, and that is where much emphasis needs to be placed. I am going to, myself, be introducing legislation in this Congress that may be necessary. And I am going to be pressing her, and the council, to move swiftly at each step along the way.

I am going to involve myself in D.C. affairs, given what has happened during the course of this year, in a way I have never done before. I never intend for the Congress to be placed in this position again.

We see the kind of success that ought to encourage the House to recognize what it has achieved. For example, the District is having some success with an entirely new public safety fee to generate revenue. Now, generating revenue in a district that has the high taxes the District has took some creativity; 60 percent of our budget goes to schools and cops alone. And we know what the crime situation is like in the District. We have had great outlays for police. Now we have put a fee, not only on residents, but on big entities to say, help us by paying some share of these costs that have escalated.

I want my colleagues to understand that the differences between the House and the Senate bill are not easily fungible, even in numbers. They want $20 million less than the Federal payment. The chairman knows that the District is running out of cash. Our compromise with our colleagues in the minority also recognized that if we take cash from the District, we are really cutting off all of our noses to spite our faces. They are so cash short. We do not know how the Senate got to where it wanted cash from the Federal payment instead, but it wants only half as many cuts.

How the two Houses should mesh should relate not to what the House has decided, not to what the Senate has decided, but to what is in the best interest of the innocent bystanders, the residents of the District of Columbia, who could not get into this struggle, but who are going to have to pay the price. And that and that alone ought to be the standard that guides a vote on this matter today.

Should the emphasis be on providing cash so that we get more money from the Senate in order to keep the District from perhaps going belly up? Or do we need the motion to instruct to pound home the necessity of the cuts? Which is most important should guide how we react to this matter.

The motion to instruct, in my judgment, is far from necessary. Already we are told that the Mayor is close to $100 million in cuts. The gentleman from California, Chairman DIXON, said during debate on the bill that we could need even more in savings than we have. We do not have any idea what is the underlying basis for the $150 million figure. But my objection is not to the House version. I agreed to that compromise. My objection is to weakening the chairman in negotiations with the Senate. All this motion to instruct does, is to undermine his negotiating strength and, ultimately, the House position.

May I remind the House that it is customary to leave a chairman some room to represent vigorously, as the gentleman from California [Mr. DIXON] will, and Members know he will, vigorously, the House position, to leave a chairman room to then negotiate back and forth. That is what is customary.

The gentleman from California [Mr. DIXON] and the ranking member himself, the gentleman from New York [Mr. WALSH], have put in place extraordinary requirements, including quarterly reports. The kind of monitoring of the District that the Congress is going to be doing during the next fiscal year is unprecedented. Nobody can have any doubt at this point that the necessary cuts will be made, given the head start the District has already made and given what is in the bill right now to monitor the District by Members sitting on both sides of the aisle.

Madam Speaker, finally, may I say, I have tried throughout this debate to be an advocate for those who I represent without being an apologist for the District of Columbia. I am more deeply disappointed, than any Member of this House, that we have gotten to the point we are today. I can assure the House, however, that the District, finally, now gets it.

Let us go to conference with a problem-solving attitude, not with a punitive motion to instruct.

Mr. DIXON. Madam Speaker, I have no further questions for time, and I yield back the balance of my time, subject to the fact that the gentleman from New York [Mr. WALSH] would like to close.

Mr. WALSH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, in conclusion, I would like to just state a couple of the differences between the House position and the Senate position and restate why I think it is so critical that the House stick to its position.

First of all, the House language that requires the $150 million spending cut by the District of Columbia provides that the District of Columbia cannot cut its own rainy day fund in order to arrive at that $150 million cut.

In other words, the district has set aside about $22 million for a rainy day fund. We encourage that. We applaud that, but we do not want the district to have the ability to wipe that out and count that as savings. The Senate does not have that requirement.

Mr. DIXON. Madam Speaker, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from California.

Mr. DIXON. Madam Speaker, there has been some confusion about the rainy day fund. Just as I maintain and the gentleman maintains and certainly the gentlewoman from the District of Columbia [Ms. NORTON] maintains, the District's budget at this moment is cosmetically balanced on paper. The rainy day fund is actually misnamed. There is not any money that is left over that they can use. It is clear, from all of their finances, that they will have to use the rainy day fund money in 1995.

It was a mechanism put in place by Chairman Clark and the city council to allow them to exercise some control over a portion of the District's money.

I am sorry they called it a rainy day fund, because that implies it is a surplus that they can do something with on a rainy day.

The reasons I recommended to the committee that we not involve ourselves in the rainy day fund were one, it is not a surplus, and, two, it was an arrangement worked out by the city council and the Mayor that gives the city council some control over how some of the money will be spent.

So I am not arguing with the gentleman, but I just want to correct the gentleman's statement and explain that it is not a rainy day fund. In excluding the rainy day fund from the $150 million spending cut, it was my intention and the committee's intention not to interfere with home rule and the agreement that had been made at the local level. The logical thing for the executive, the Mayor in this case, to do is to say that "Congress directed that these cuts be made and, therefore, I will take it out of the rainy day fund, and, Mr. Councilman, you have nothing to do with it."

I was only preserving that shield of home rule. I am not arguing with the gentleman. I just wanted to make that explanation.

Mr. WALSH. I thank the gentleman for the clarification on that.

But it just further points out the fact that there is all kinds of gimmickry within the budgeting, that we are not getting balanced budgets, that a rainy day fund is not a rainy day fund. The $22 million set aside is not set aside. And this is going to continue. This will continue unless we stick to the House position, which does provide some discipline.

The Senate does not require that if the District deficit spends that they lose dollar for dollar in the following year appropriation bill. There is no discipline in the Senate position.

□ 1220

There is no discipline in the Senate position. So we have to stick to our position. I remind my colleagues with the chairman of the subcommittee, my distinguished colleague, the gentleman from California [Mr. DIXON], and the gentlewoman from the District of Columbia supported this bipartisan agreement and, in fact, argued in favor of this agreement in the House.

I believe there is some flexibility in our position. I have been told over and over that home rule is the most critical issue in this debate. The House position supports home rule. The Senate position does not. So there is some flexibility. We are saying we have got to stick to the House level of cuts and at the same time we honor the principle of home rule that has been held up as such a Holy Grail in all of this debate. That is the House position.

Finally, I would remind my colleagues of the closeness of the vote. Three votes, one, two, three votes. If we reduce the spending cut, then we stand to lose the whole agreement. It could very well go down, the budget, entirely. Then we have really got a problem.

If we back away from our position, we lose our ability to get the financial discipline that we all agree is necessary; that the District of Columbia has not taken upon itself, that the House has decided and deemed that we should.

Madam Speaker, I urge that my colleagues support this motion to instruct the conferees.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. KENNELLY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. WALSH].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALSH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 316, nays 101, not voting 17, as follows:

[Roll No. 358]

YEAS—316

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brooks
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clement
Clinger
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (GA)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lambert
Lancaster
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Swett
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—101

Abercrombie
Ackerman
Bacchus (FL)
Becerra
Beilenson
Berman
Bishop
Blackwell
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Cardin
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dixon
Durbin
Edwards (CA)
Engel
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gephardt
Gibbons
Gonzalez
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kennelly
Kopetski
LaFalce
Lantos
Lewis (GA)
Markey
Matsui
McCloskey
McDermott
McKinney
Meek
Mfume
Mineta
Mink
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Pelosi
Reynolds
Richardson
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Scott
Serrano
Sharp
Skaggs
Stark
Stokes
Studds
Swift
Thompson
Torres
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Whitten
Woolsey
Wynn
Yates

NOT VOTING—17

Andrews (TX)
Carr
Chapman
Doolittle
Gallo
Grandy
Hayes
Hoyer
Klein
Laughlin
Margolies-Mezvinsky
McDade
Rangel
Slattery
Sundquist
Washington
Wheat

☐ 1242

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Rangel against.

Messers. BERMAN, TOWNS, MATSUI, and FLAKE changed their vote from "yea" to "nay."

Mr. GEJDENSON, Ms. ESHOO, Mr. THORNTON, and Mrs. MORELLA changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mrs. KENNELLY). Without objection, the Chair appoints the following conferees: Messrs. DIXON, STOKES, and DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, and Messrs. OBEY, WALSH, ISTOOK, BONILLA, and MCDADE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4426, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1995

Mr. OBEY. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Madam Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. LIVINGSTON moves that the managers on the part of the House, at conference on the disagreeing votes of the two Houses on HR 4426, be instructed to insist on the House position on the Senate amendment numbered 2 concerning the Global Environment Facility.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes in opposition.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Madam Speaker, I yield myself such time as I may consume.

Mr. LIVINGSTON. Madam Speaker, I will not use all of our time.

I just want to say that this is a very straightforward and simple motion which instructs the conferees to keep us at the current House level that was included in the bill when it went to the Senate.

The other body has gone to a much higher level. We would like the conferees to maintain the lowest level.

Mr. OBEY. Madam Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Madam Speaker, let me simply say that I would be happy to accept the gentleman's motion and assure the gentleman we will try to do everything possible in conference to stick with the position outlined by the gentleman.

Mr. LIVINGSTON. Madam Speaker, I thank the gentleman for his statement.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBEY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. OBEY, YATES, WILSON, and OLVER, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, and Messrs. SERRANO, SABO, LIVINGSTON, PORTER, LIGHTFOOT, CALLAHAN, and MCDADE.

There was no objection.

RADON AWARENESS AND DISCLOSURE ACT OF 1994

Mr. MOAKLEY. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 491 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 491

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee on the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Madam Speaker, all time yielded is for the purposes of debate only.

Madam Speaker, House Resolution 491 is an open rule providing for consideration of the Radon Awareness and Disclosure Act of 1994. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee. It makes in order the Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of debate. The rule provides one motion to recommit with or without instructions.

Madam Speaker, House Resolution 491 will allow the House to consider the Radon Awareness and Disclosure Act. This bill expands and improves the radon activities of the EPA to reduce the danger of radon to the American public.

The bill ensures that anyone buying or leasing a house will receive a warning about the dangers of radon before they sign on the dotted line. Buyers will have the opportunity to request a radon test and to insist upon a remedy—if indoor radon hazards are present—before they make their purchase.

The bill also requires EPA to develop standards for new construction in high radon areas, and creates a new program of performance and efficiency standards for radon products and services.

Madam Speaker, radon is a known carcinogen. The Surgeon General, and other top health officials, have warned that radon is the second leading cause of fatal lung cancer in this country, just behind smoking cigarettes.

It is a hazard which can be prevented without a great deal of effort or expense if people have the information they need to make decisions, and some confidence that they have reliable products and services to fix that problem.

House Resolution 491 is an open rule that will expedite consideration of this very important legislation. I urge my colleagues to support the rule and the bill.

Madam Speaker, I reserve the balance of my time.

☐ 1250

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, yesterday the Committee on Rules called an emergency meeting to grant this rule providing for the consideration of the Radon Awareness and Disclosure Act. As it turned out, the emergency was not—the emergency was that there was not enough legislation ready for floor consideration to keep the House busy for the next couple of days. We had one recorded vote on Monday, and yesterday we completed our legislative business in less than 4 hours. This Congress has a lot to do and very little time in which to do it. We need to use that time to address the real emergencies facing our Nation, welfare reform, crime control, items like that.

However, today we are considering this legislation to encourage radon awareness and disclosure and testing, and I do rise in support of this marvelously open rule. The legislation is well intentioned, and I think it is important to insure that the public is fully informed on the consequences of radon exposure, and radon testing should be more aggressively encouraged.

However, I do not support the provisions of this bill which will require ordinary homeowners and others to provide certain information regarding radon to potential buyers during real estate transactions. I do not think that it is wise Federal policy to allow the Environmental Protection Agency to get into the real estate business, nor do I believe that the EPA has the manpower or the economic resources necessary to implement and administer such a massive regulatory program. These matters are best regulated by State and local governments. In fact, 35 States already have some form of radon disclosure requirements, and I am sure that others will follow.

Madam Speaker, I think that there are better ways to inform the public about radon than to make it the responsibility of property owners. This open rule will allow Members to address their concerns over these disclosure provisions. One of the brilliant amendments we will have considered is the Oxley amendment, which cuts out some of that bureaucratic red tape, with other amendments we will see down the line. I do urge adoption of the rule, but I have grave concerns about the bill itself.

Madam Speaker, I would submit the following information to be printed in the RECORD.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONGRESS

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	80	21	26	59	74

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 27, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONGRESS

Rule number, date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: United States Forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-Postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National Defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Madam Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, some things are best handled at the local and State and city level, but if the gentleman from California took a look at this map and saw the dark areas which represent places where radon is found——

Mr. DREIER. Madam Speaker, I cannot see the map. Could the gentleman hold it up?

Mr. MOAKLEY. Madam Speaker, I am sorry, I thought the gentleman's eyes were better.

Madam Speaker, the gentleman's house is right here in the dark area.

Mr. DREIER. I thank the gentleman.

Mr. MOAKLEY. Madam Speaker, I think it is a very important rule. Yes, we have brought it up on the emergency calendar, but it was not the only other business that we wanted to call up the Rules Committee specifically for. We had other legislative matters before us.

Mr. DREIER. Mr. Speaker, let me just say in response to the words of my very distinguished chairman that the other emergency item that was up was the parks concession bill, which fell under that same category as emergency.

Mr. Speaker, I yield such time as he may consume to the gentleman from

Ohio [Mr. OXLEY], the author of the amendment to which I referred. It is one of the most thoughtful amendments we will be considering on this bill.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would just simply state that I support the rule because it does give me an opportunity to offer a commonsense solution to this problem that was caused by the legislation that was initially debated on and voted on in the Committee on Energy and Commerce.

I think the debate will show that efforts at the State and local levels are far more important and better able to address the problem of radon than a Federal solution that gets the Environmental Protection Agency involved in every home sale in this country.

With that, in support of the rule I thank the gentleman for yielding.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. I thank the chairman of the Committee on Rules for yielding this time to me.

Mr. Speaker, we will have an open rule on this bill, and I do support the rule. But I did want to respond to the statements made by the gentleman from Ohio [Mr. OXLEY]. He will be proposing to strike out the guts of this legislation which is to inform people at the time they are about to buy a house that they may want to consider, but it is up to them, whether they want to get a test for radon.

Mr. Speaker, radon is a radioactive gas, it causes lung cancers, it is a serious health problem, and the General Accounting Office said that people really were not doing the testing.

The argument the gentleman advances is that this will interfere with real estate transactions. I point out to the Members that all the industries involved with real estate, including the National Association of Realtors, the National Association of Home Builders, the Mortgage Bankers Association, the National Apartment Association, all these groups support the bill and oppose the idea of the Oxley amendment which would take away from the public, from the consumer, this additional information that would be provided.

Mr. Speaker, I did not want to leave that comment unresponded to. I would urge support for the rule and urge support for the bill and against any amendments to it.

Mr. MOAKLEY. Mr. Speaker, does the gentleman from California have any more vignettes?

Mr. DREIER. Mr. Speaker, I have as many vignettes to offer as the gentleman has maps to offer at this point, if he would like to share any further with us. I have no other speakers who have requested time.

Mr. Speaker, I urge a "yes" vote on this spectacular open rule, and I praise the chairman of the Committee on Rules and my colleagues on both sides of the aisle upstairs who reported out this open rule. It is a very good way to approach this emergency legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 491 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2448.

□ 1259

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House of the State of the Union for the consideration of the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

□ 1300

Mr. WAXMAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today we are considering H.R. 2448, the Radon Awareness and Disclosure Act. This is important legislation that deserves serious attention and quick action.

Radon gas is radioactive and a known human lung carcinogen. It poses a serious environmental threat to American families. The facts speak for themselves:

Radon is the second leading cause of lung cancer in the United States.

Radon causes 14,000 deaths each year—more than drowning and fires combined.

Six million U.S. homes—1 out of every 15—have dangerous radon levels.

Hundreds of thousands of Americans live in homes that have more radioactive radon than would be allowed in a uranium mine.

It is important to point out that these findings are not the conclusions of one or two scientists or one or two studies. The conclusion that radon, a radioactive gas, is a human lung carcinogen and a cause of thousands of deaths each year is a medical and scientific consensus. Let me read you a list of the major scientific and health organizations that agree with this conclusion: National Cancer Institute; National Academy of Sciences; U.S. Surgeon General; Centers for Disease Control; Environmental Protection Agency; National Institute of Occupational Safety and Health; American Lung Association, and American Cancer Society.

Despite the health threat from exposure to the radioactive gas radon, we lack an effective Federal program to protect the public. According to GAO, fewer than 10 percent of the homes in American have been tested for radon hazards.

The legislation we consider today—H.R. 2448—takes a major step forward in protecting families from radioactive radon. It is an innovative, pro-consumer, market-oriented approach to curbing radon exposures. It promises to increase radon awareness and testing dramatically by insuring that consumers receive information about the risks of radon when they need it most—before they buy a home.

The legislation has been endorsed by the Clinton administration, State and local governments, health groups, and the affected business organizations.

In fact, there is no interest group that is opposing this legislation. During the subcommittee markups at my subcommittee and Chairman SWIFT's subcommittee, and at the full committee markup, we negotiated this legislation with every affected interest group. These groups made valuable suggestions and we were able to accommodate their concerns.

As a result, this bill has support from organizations as divergent as the National Association of Realtors and the National Association of Homebuilders, on the one hand, and the Consumer Federation of America and the Sierra Club, on the other.

Let me read to you the list of organizations supporting this legislation:

BUSINESS ORGANIZATIONS

National Association of Realtors; National Association of Homebuilders; Mortgage Bankers Association of America; National Multi-Housing Council, and National Apartment Association.

STATE AND LOCAL GOVERNMENTS

National Association of Counties and Conference of Radiation Control Program Directors.

PUBLIC HEALTH ORGANIZATIONS

American Lung Association, American Cancer Society, American Academy of Pediatrics, and American Public Health Association.

CONSUMER AND ENVIRONMENTAL GROUPS

Consumers Federation of America, Citizen Action, Sierra Club, and U.S. PIRG.

Unfortunately, despite this consensus in favor of H.R. 2448 from across the spectrum, there will be an attempt today to gut this legislation.

The key provision of H.R. 2448 requires realtors and home sellers to give home buyers a radon pamphlet describing the risks of radon before selling the home. This pamphlet is essential to protect the consumer. It informs the consumer about the risks of radon so that the consumer is in a position to decide for him or herself whether to inspect the home for radon.

I want to underscore the point that the legislation does not require radon inspections. Nor does it require radon mitigation. These decisions—whether to inspect for radon and whether to mitigate radon—are left entirely to the buyer and the seller.

The problem we face today is that very few people test for radon because very few people are aware of the health risks of exposure to this radioactive gas. H.R. 2448 fixes this problem by giving people information about radon when they most need it—before they buy a home.

Unfortunately, Mr. OXLEY will offer an amendment to gut this provision. This makes no sense. His amendment fails to protect the consumer; it is opposed by the realtors; and it would deny State and local governments an important Federal program that the State and local governments want. This amendment should be rejected.

In closing, I want to commend the Members of this body who has worked so hard on this bill—the chairman of the Hazardous Materials Subcommittee, AL SWIFT, the chairman of the full committee, JOHN DINGELL, Congressman JIM SLATTERY, and of course, the sponsor of the bill and the leader of radon protection in this body, ED MARKEY.

Madam Chairman, I reserve the balance of our time.

Mr. OXLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to the legislation. At the appropriate time, I will have an amendment that addresses my specific concerns, but I would like to take this opportunity to make some general comments about the bill.

I would like to focus on several of the factual statements that will be made during this debate in support of the bill. We have already heard, for example, the statement that EPA has determined that radon gas is the second leading cause of lung cancer, causing between 7,000 and 30,000 lung cancer deaths each year. That is, in fact, what EPA says, and I do not have any information today to challenge that statement. But I think it's important for my colleagues to understand how EPA came up with these numbers.

The first thing to understand is that EPA's estimates of lung cancer deaths caused by radon in the general population are extrapolated from data on lung cancer deaths among uranium miners. Scientists have identified a strong correlation between uranium mining and lung cancer. Since uranium is a major source of radon, scientists have concluded that radon causes lung cancer.

However, the environment in a uranium mine is much different than the environment in a home. Levels of radon are higher, there are other pollutants in the air, and most of the miners were smokers. Several years ago, at EPA's request, the National Academy of Sciences tried to figure out how much less risk there is from radon in homes as compared to uranium mines. That's how EPA came up with the estimate of 7,000 to 30,000 lung cancer deaths caused each year by radon. But even the National Academy of Sciences admitted that there is still a lot more we need to know about how low levels of radon affect human health. Unfortunately, recent epidemiological studies have provided conflicting answers. EPA has another NAS study to combine the results of these studies to see if there are indications that exposure to low levels of radon is harmful.

It's also important to understand that EPA's estimates of deaths caused by radon in the general population are purely estimates; there is no clinical evidence that exposure to low levels of radon, such as those typically found in homes, causes lung cancer. In other words, so far as I know, no coroner has ever identified exposure to low levels of radon as the cause of death. Obviously, when lung cancer is the cause of death, it is very difficult to know what actually caused the lung cancer, especially if the individual was not a smoker.

Another statement we will hear in today's debate is that 1 in 15 of the homes in the United States have radon levels over EPA's action level of 4 picocuries. That statement is correct. According to a credible EPA study, 6 percent of the homes in the United States have elevated levels of radon. The important thing to remember, however, is that most of these homes are clustered together in specific geographic areas. Radon is not a problem uniformly across the country. It is a regional and local problem and it should be addressed, where possible, with regional and local solutions.

This brings me to my primary concern with this legislation, the real estate disclosure provisions of the bill that would make ordinary homeowners subject to penalties under the Federal Toxic Substances Control Act and which apply to every homeowner in the United States, regardless of whether that homeowner lives in a place where radon is a problem.

I represent an area where radon can be a problem. People are generally aware of this and there are State laws to address the problem. I think that's the appropriate response. At the appropriate time, I'll offer an amendment to correct this particular problem with the bill. I urge my colleagues to give my amendment serious consideration.

Finally, Madam Chairman, I would like to say just a word about two organizations that are supporting this legislation, the National Association of Home Builders and the National Association of Realtors. I understand why the homebuilders are supporting this bill, but I am not so sure I understand why the realtors have endorsed the bill.

With respect to the homebuilders, when this legislation was first introduced, it gave EPA the authority to require State and local building code organizations to adopt standards for minimizing the infiltration of radon gas into newly constructed buildings. The homebuilders and I were both concerned that it would be unworkable to give EPA the authority to enforce building codes throughout the United States. So we worked with Chairman SWIFT and Chairman WAXMAN to develop a compromise. That compromise, which is part of the bill before the House today, does not require any jurisdiction to adopt any particular building standard. However, it does require EPA to develop model standards for radon resistant construction and to work with model building code organizations to encourage States and localities to adopt such standards. The compromise also requires builders in certain high-radon areas to tell the purchasers of new homes whether they used radon-resistant construction techniques. I think this is a fair compromise and that is appropriate for the National Association of Home Builders to support the compromise.

With respect to the National Association of Realtors, I must admit that I do not understand why they are supporting this bill. The bill says that whenever a residential or commercial property is sold or leased, the seller must comply with certain disclosure requirements which are enforceable under the Federal Toxic Substances Control Act. The bill also says that whenever a real estate agent is involved in such a transaction, the real estate agent becomes liable along with the seller or lessor.

I talked with representatives of the National Association of Realtors and they told me that they support the bill because they support disclosure of known hazards in real estate transactions, including potential environmental hazards such as radon.

I agree that sellers should disclose known hazards, but I do not think its necessarily a Federal responsibility to mandate such disclosure. Ohio is one of a growing number of States that have a mandatory real estate disclosure law. When I talked to representatives of the

Ohio Association of Realtors they were confused about why their national representatives would support such legislation instead of working to develop appropriate and tailored disclosure requirements in every State. I continue to share their confusion over why the National Association of Realtors would support this legislation.

□ 1310

Mr. WAXMAN. Mr. Chairman, I yield myself 2 minutes, and I take this time to explain why the National Association of Realtors supports this legislation and would oppose the Oxley amendment.

The realtors support this bill and the disclosure to the respective buyer about the radon problem, simply just telling them about the radon problem and that tests could be taken should they so desire, because it is the right thing to do, it is the responsible thing to do, because they are aware that it is a national public health problem and it makes good business sense for them because they are caught in a dilemma. If the seller tells the realtor not to disclose some information, the realtor has to decide either to not disclose that information in order to please the seller whom that realtor is representing, most likely, or to disclose the information anyway and then anger the seller. But they fear that they will be later sued by someone for not disclosing the information about radon.

We went over this with the National Association of Realtors. Maybe in Ohio, if they had not thought about the issue and heard the arguments, they were puzzled by it, but the fact of the matter was that the National Association of Realtors in looking at this issue decided to go along with the same provision that we have under Federal law today requiring the disclosure of information about lead. That is under Federal law today, and the lead problem, which is a serious problem, especially for children, is one that the consumer would be informed about. The realtors supported it, and everybody supported it. This House adopted it, and it is now law.

The information would be given out in tests, if the buyer so desired, that could be taken before the transaction occurred. The test for radon, just for people's information, comes to around $30 a test. It is a very simple one and an inexpensive one. The mitigation is not that expensive either. But the important point is to get the information to the public.

Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee of the Committee on Energy and Commerce that also has jurisdiction over this issue.

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to underline the point that the gentleman has just made with regard to the fact that we are not breaking any new ground here in terms of asking at the Federal level that there be certain disclosures. I suppose that reasonable people can disagree as to what is a Federal responsibility or a State responsibility, but the fact is that the Congress has already said it is a Federal responsibility. We have done that in legislation passed by this Congress in the past. This merely adds a radioactive gas to the list of things that have to be disclosed.

Mr. Chairman, H.R. 2448, the Radon Awareness and Disclosure Act of 1994 is a fair, effective, and carefully crafted piece of legislation with broad support from consumer groups, environmental groups, public health organizations, State and local government organizations, and business organizations in the housing and real estate markets. This bill attacks the problem of radon exposure in a systematic way. First, the bill places special emphasis on those areas of the country in which we know there is a higher potential for elevated indoor radon levels by targeting the model construction standards to those areas. Second, to address the fact that as few as 10 percent of private homes in America have been tested for radon, the bill ties disclosure and information dispersal requirements to real estate transactions—an especially effective time to encourage testing. Third, the bill establishes a performance program for radon products and services, so that consumers may make safer, more informed choices.

This bill is the result of an extensive process of negotiation to meet the concerns of interested parties. It is important for Members to understand that the bill we consider today has changed significantly from the bill as introduced.

The bill as introduced contained a provision that some interpreted as a mandatory radon test during real estate transactions. The bill we consider today does not require testing. Rather, it requires the seller or lessor of a vulnerable premises to disclose to the buyer or lessee the results of any known radon testing and the presence of any known radon mitigation systems. The seller or lessor must additionally include in the contract a radon warning statement, and give the buyer or lessee a radon information pamphlet.

The bill as introduced provided for mandatory radon resistant construction in high radon areas. That section has been changed; the construction standards are voluntary in this bill. Sellers of new vulnerable premises in high radon areas must disclose to the buyer whether the premises has been or will be constructed in compliance with EPA model standards. This requirement drops for subsequent sales after the premises has been occupied.

Finally, concern was expressed that the penalties provisions of the bill were too severe. This section was also amended and the penalties greatly reduced. The bill no longer contains criminal penalties, nor does it provide for citizen suits against private parties for violations.

The Environmental Protection Agency has determined that radon is second only to smoking as the leading cause of lung cancer in this country. Passage of this effective legislation is much needed to address this serious health hazard. I urge my colleagues to vote in favor of passage.

□ 1320

Mr. OXLEY. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD], the ranking member of the Committee on Energy and Commerce.

Mr. MOORHEAD. Madam Chairman, I rise in opposition to certain portions of this bill.

Before I describe my concerns with this bill, I want to commend the work of Mr. MARKEY, Mr. WAXMAN, Mr. SWIFT, and Chairman DINGELL in moving this legislation to reauthorize EPA's indoor radon program. While there is still one important area of disagreement on the bill, I think it is important to point out that we have worked closely with our colleagues on the Energy and Commerce Committee to make a number of improvements. I especially want to recognize my Republican colleagues, Mr. BLILEY and Mr. OXLEY, the ranking members of the subcommittees of jurisdiction, for their efforts to improve this legislation.

To begin with, let me say that I do not oppose reauthorization of EPA's indoor radon programs. I agree that EPA should be looking at whether radon presents serious health risks. I understand that EPA has provided significant funding for the National Research Council to study whether exposure to low levels of radon causes lung cancer. I think this is important work that should continue.

My concern with this legislation is with the provision on real estate transactions. That section says that before anyone can sell a house located anywhere in the United States, the seller must provide the buyer with several different kinds of information on radon.

As a southern Californian, I have several problems with this part of the bill. First, California already has a law that requires sellers to disclose environmental hazards to buyers, including radon.

Second, radon is not a big problem in California. We have other problems like floods and fires and earthquakes. I do not think that my constituents should be subjected to these Federal radon disclosure requirements when radon is such a comparatively minor problem.

In this respect, California is like a number of other States in the country. For example, Texas, Louisiana, and Arkansas have very low amounts of radon. It just does not make sense to impose these requirements on homeowners across the board.

I am also concerned that this legislation would make ordinary homeowners subject to penalties under the Federal Toxic Substances Control Act. Where radon is a problem, State and local laws should be the way to deal with the problem.

At the appropriate time, Mr. OXLEY will have an amendment to correct this problem with the bill. I urge my colleagues to support the Oxley amendment. And if the Oxley amendment fails, I urge them to vote against the bill.

Mr. OXLEY. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Madam Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY], the primary architect of this legislation.

Mr. MARKEY. Madam Chairman, I would like to thank the gentleman from California [Mr. WAXMAN] and the gentleman from Washington State [Mr. SWIFT] for their long, hard work on this bill to bring it out here on the floor. I would like to thank all of the Members and all of the interests that have spent so much time and effort in dealing with this issue.

This is a quite unique situation. The issue, for example, of tobacco and the role that it plays in inducing cancer, lung cancer in American citizens, has been quite contentious over this past session of Congress. On the one side, there are the health-related groups, and on the other side is an industry that bitterly disputes the conclusions which have been reached by the health groups on the effect which tobacco has upon the lungs of Americans.

Here we have just the opposite case. Here we have agreement between the health groups, the environmental groups, the consumer groups, the home builders, the realtors, and every other interest that would have a view on this issue. And we have resolved it, I think in almost a model of cooperation that should be respected and supported, rather than undermined, even though there are no dissenting voices among those that are affected by this legislation.

Radon does have a role in creating lung cancer in this country. There is no question about it. All of the experts and the industries accept that fact, and they have been willing to in fact accept this compromise legislation.

I think that answers the question as to why these industries have accepted this legislation. It is not some mystery as to why they have accepted it. It is because there is compromise in the legislation. It is because on each one of the major points, the gentleman from California [Mr. WAXMAN] and the gentleman from Washington [Mr. SWIFT] were willing to sit down with the industries to work out their legitimate concerns and to give them the kinds of concessions they said they needed in order to support legislation.

Those concessions were made. It is not onerous, but yet at the same time it does give the information and the protection to Americans against the threat of radon inducing lung cancer in their families. I think this is the kind of process that has to be respected. If it cannot be respected out here on the floor, then legislation is going to be increasingly difficult to pass in areas of this nature.

It is not the American Tobacco Association against the American Lung Association. We do not have that debate out here. We have all parties agreeing. This legislation should be overwhelmingly supported, and any attempts to undermine it with gutting amendments should be resisted vigorously or else we undermine the very committee process that has produced a piece of legislation that has consensus out here on the floor today.

□ 1330

Mr. WAXMAN. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendments in the nature of a substitute shall be considered under the 5-minute rule by section, and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radon Awareness and Disclosure Act of 1994".

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

Mr. WAXMAN. Madam Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Environmental Protection Agency has determined that radon is second only to smoking as the leading cause of lung cancer, resulting in an estimated 7,000 to 30,000 deaths each year.

(2) Testing for elevated levels of radon is relatively simple and inexpensive.

(3) There is not an adequate effort by Federal agencies to encourage testing for radon.

(4) Efforts to encourage testing have had limited results, reaching only a small percentage of homes to date.

(5) The lack of a mandatory certification process leads to inaccurate radon testing, ineffective radon mitigation, erosion of public confidence in the industry, and a waste of consumer investment.

(6) Increased public awareness of the dangers of radon gas and the means to mitigate its effects will lead to more informed decision making and a more productive use of resources.

SEC. 3. DEFINITIONS.

Section 302 of the Toxic Substances Control Act (15 U.S.C. 2662) is amended by adding the following at the end thereof:

"(5) The term 'vulnerable premises' means any frequently occupied space below the third floor of any building (other than a building used for industrial purposes).

"(6) The term 'high radon area' means any county designated by the Administrator as having a predicted average indoor screening level for radon greater than 4 pCi/L, using the methodology described by the Environmental Protection Agency in the report entitled 'Map of Radon Zones: National Report (December 3, 1993)', including any amendments or revisions thereto.".

SEC. 4. NEW CONSTRUCTION.

Section 304 of the Toxic Substances Control Act (15 U.S.C. 2664) is amended as follows:

*(1) By striking the section heading thereof and inserting "**NEW CONSTRUCTION**.".*

(2) By inserting "(a) MODEL STANDARDS AND TECHNIQUES.—" before the first sentence and striking the last 2 sentences.

(3) By adding the following at the end:

"(b) FINALIZATION OF MODEL STANDARDS.—Not later than 3 months after enactment of this subsection, the Administrator shall promulgate model construction standards for controlling radon levels in new vulnerable premises which are located in high radon areas and which are covered by the model standards published by the Administrator on March 21, 1994 (59 Fed. Reg. 13402). Not later than 2 years after the enactment of this subsection, the Administrator shall promulgate model construction standards for controlling radon levels in new vulnerable premises which are located in high radon areas and which are not covered by such proposed model standards. The model standards shall achieve significant radon risk reduction and be technologically achievable and readily implementable. The Administrator may, where appropriate, promulgate model standards for controlling radon levels in new vulnerable premises in other areas designated by the Administrator.

"(c) PROMOTION OF CODE AND STATE ADOPTION.—(1) The Administrator shall work to ensure that organizations responsible for developing national model codes for new vulnerable premises adopt, and State and local authorities which regulate construction of new vulnerable premises adopt and enforce, the model construction standards promulgated under subsection (b).

"(2) If the Administrator determines that an organization responsible for developing national model codes for new vulnerable premises has adopted standards for controlling radon levels in new vulnerable premises that are at least as protective of human health and the environment as the model construction standards promulgated under subsection (b), such standards shall be certified as equivalent to the model construction standards promulgated under subsection (b).

"(3) At the same time that the Administrator promulgates model construction standards under subsection (b), the Administrator shall publish a pamphlet that describes the standards and their costs and benefits. The Administrator shall work with interested parties to achieve the broad distribution of the pamphlet. Such distribution may be coordinated with the distribution of the pamphlet distributed under section 310.

"(d) INCENTIVE FOR VOLUNTARY COMPLIANCE.—(1) In addition to the disclosure requirements of section 310, the following disclosure requirements shall apply to sales of new buildings (or any portion thereof) with vulnerable premises in high radon areas, or other designated areas, covered by model construction standards promulgated under subsection (b):

"(A) Any person who sells such a new vulnerable premises shall, prior to the signing of a sales contract—

"(i) provide the purchaser with the pamphlet on radon prevention in construction published under paragraph (3) of subsection (c),

"(ii) inform the purchaser in writing that the premises are located in a high radon area (or other area designated under subsection (b)) and that the Administrator recommends that such premises be constructed in compliance with the model construction standards promulgated under subsection (b) or other construction standards certified as equivalent to such standards under subsection (c)(2), and

"(iii) accurately disclose in writing to the purchaser whether the premises have been, or will be, constructed in compliance with such model construction standards or other construction standards certified as equivalent to such standards under subsection (c)(2).

"(B) The radon warning statement under section 310 included in any contract for purchase and sale of any such new vulnerable premises shall include an acknowledgement signed by the purchaser that the purchaser has—

"(i) received the pamphlet on radon prevention in construction published under paragraph (3) of subsection (c),

"(ii) been informed in writing that the premises are located in a high radon area (or other area designated under subsection (b)) and that the Administrator recommends that such premises be constructed in compliance with the model construction standards promulgated under subsection (b) or other construction standards certified as equivalent to such standards under subsection (c)(2), and

"(iii) received a written disclosure indicating whether the premises has been, or will be, constructed in compliance with such model construction standards or other construction standards certified as equivalent to such standards under subsection (c)(2).

"(2) If the Administrator determines that a State or local authority which regulates construction of new vulnerable premises in a high radon area (or other area designated under subsection (b)) has adopted and is enforcing in such area either the model construction standards promulgated under subsection (b) or other standards for controlling radon levels in new vulnerable premises that are at least as protective of human health and the environment as such model standards, any person who constructs a new vulnerable premises in such area after such determination shall be exempt from the disclosure requirements of paragraph (1). Any State or local authority may submit to the Administrator State or local standards for controlling radon levels in new vulnerable premises. The Administrator shall determine within 60 days after the date of such submission whether such standards are as protective of human health and the environment as the model standards.

"(3) The requirements of this subsection shall take effect on the later of (A) the date 31 months after promulgation of the model construction standards under subsection (b) covering the new vulnerable premises concerned, or (B) the effective date of the requirements under section 310. Six months before the requirements of this subsection take effect in a high radon area (or other area designated under subsection (b)), the Administrator shall provide notice of such requirements to the State in which such area is located.

"(4) Not later than 1 year prior to the effective date established in paragraph (3), the Administrator shall, after notice and opportunity for comment, publish a list of the areas to which the model construction standards concerned are applicable, together with a map of all such areas.

"(5) A violation of this subsection shall be considered a violation of section 310.

"(e) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this subsection, the Administrator shall report to Congress on the extent to which State and local authorities which regulate construction of new vulnerable premises have adopted and are enforcing the model construction standards promulgated under subsection (b), and new vulnerable premises are being constructed in compliance with such standards. Such report shall contain a list of State and local authorities in areas covered by model standards which have adopted and are enforcing such standards and a list of those which have not adopted or are not enforcing such standards. Such report shall identify any obstacles that may exist to—

"(1) adoption and enforcement by such State and local authorities of such model construction standards, and

"(2) construction in compliance with such model construction standards,

and shall make recommendations for overcoming such obstacles.

"(f) GUIDANCE FOR CERTAIN PREMISES.—Not later than 2 years after the enactment of this subsection, the Administrator shall promulgate guidance for measuring and mitigating radon levels in existing vulnerable premises not covered by the proposed model standards published by the Administrator on April 12, 1993 (58 Fed. Reg. 19097).

"(g) OTHER DISCLOSURE REQUIREMENTS.—The Administrator may consolidate the requirements applicable under this section with the disclosure requirements applicable under other authority of law.

"(h) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.".

SEC. 5. AMENDMENTS TO SECTION 306 OF TSCA.

Section 306 of the Toxic Substances Control Act (15 U.S.C. 2666) is amended as follows:

(1) In subsection (e), by striking "In the event that State applications for funds exceed the total funds available in a fiscal year, the" and inserting "The".

(2) By amending subsection (e) to add the following new paragraph at the end thereof:

"(5) The potential for the activity or project to advance the strategy developed under section 316 (relating to strategy to identify and reduce exceptionally high indoor radon levels).".

(3) In subsection (f), strike "in the third year" and insert "thereafter".

(4) In subsection (g) by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Administrator may set aside a percentage of the grants made to States under this section to be paid by such States to local governments in high radon areas. Such amounts shall be used for eligible activities under subsection (c). In the case of any State not receiving a grant under this section, the Administrator may make grants directly to local governments in such State for such purposes. Subsection (f) shall not apply to any grant to a local government described in the preceding sentence or to any portion of a grant to a State under this section which is paid to a local government as provided in this paragraph.".

SEC. 6. PERFORMANCE PROGRAM FOR RADON PRODUCTS AND SERVICES.

Section 309 of the Toxic Substances Control Act (15 U.S.C 2669) is amended to read as follows:

"SEC. 309. PERFORMANCE AND PROFICIENCY PROGRAM FOR RADON PRODUCTS AND SERVICES.

"(a) PERFORMANCE AND PROFICIENCY PROGRAM.—(1) Within one year after the enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall promulgate regulations establishing a program to require each of the following—

"(A) Any product for the measurement of radon shall meet performance criteria that ensure the effectiveness of such product.

"(B) Any person offering a service to the public for the measurement or mitigation of radon shall meet a level of proficiency that ensures the effectiveness of such service.

Effective on the date 2 years after the enactment of the Radon Awareness and Disclosure Act of 1994, no person may introduce into commerce any product for the measurement of radon unless such product meets the performance criteria established under subparagraph (A) and no person may offer a service to the public for the measurement or mitigation of radon unless such person meets the level of proficiency established under subparagraph (B).

"(2) The program established as provided in paragraph (1) shall include each of the following—

"(A) Procedures for ordering the recall of any product introduced in commerce for the measurement of radon which does not meet the performance criteria established under paragraph (1)(A).

"(B) Procedures for ordering the discontinuance of any service offered to the public for the measurement or mitigation of radon which does not meet the levels of proficiency established under paragraph (1)(B).

"(C) Procedures for establishing adequate quality assurance requirements for each radon measurement product introduced into commerce and for each radon measurement or mitigation service offered to the public.

"(b) EFFECTIVENESS OF PRODUCTS; PUBLIC AWARENESS.—The Administrator shall develop and make each of the following available to the public:

"(1) A list of all radon measurement products which meet minimum performance criteria under paragraph (1)(A) of subsection (a).

"(2) A summary of current radon measurement and mitigation methods and products. Such summary shall include information about the accuracy, effectiveness, cost, and resistance to tampering of such products and methods.

"(c) USER FEE.—(1) Within one year after the enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall promulgate rules imposing user fees on persons who manufacture or import any product described in subsection (a)(1)(A) and for persons who offer any service described in subsection (a)(1)(B). The amount of such fees shall be designed to cover the annual operating costs of the Environmental Protection Agency in carrying out the program established under subsection (a), except

that the Administrator may reduce the amount of such fees during the first 3 fiscal years after the promulgation of regulations under subsection (a) in order to promote the availability of radon measurement and mitigation products and services. Such fees shall be structured such that any person's liability for such fees is reasonably based on the proportion of the program's operating costs that relate to such person, and such person's liability for such fees shall not be based on the income of such person.

"(2) The fee established under paragraph (1) shall not apply with respect to persons who are employees of public and nonprofit child care facilities, schools, hospitals, nursing homes, or other care facilities and who are providing services described in subsection (a)(1)(B) at such facilities.

"(d) Use of Funds.—Amounts received for user fees under subsection (c) shall be deposited in a Radon Service Account established in the Treasury of the United States for use by the Administrator, to the extent provided in appropriations Acts, in carrying out the program established under subsection (a).".

SEC. 7. DISCLOSURE OF INFORMATION CONCERNING RADON.

Section 310 of the Toxic Substances Control Act (15 U.S.C. 2670) is amended to read as follows:

"SEC. 310. DISCLOSURE OF INFORMATION CONCERNING RADON.

"(a) Disclosure in Purchase and Sale or Lease.—

"(1) Radon.—Not later than 1 year after the enactment of this section, the Administrator shall promulgate regulations providing for the disclosure of radon in vulnerable premises whenever any such premises is offered for sale or lease. The regulations shall require that, prior to the signing of a sales contract or lease, the seller or lessor shall—

"(A) provide the purchaser or lessee with a radon hazard information pamphlet as prescribed in subsection (b); and

"(B) disclose to the purchaser or lessee the presence of any known radon measurement report prepared for, or received by, the seller or lessor and any known radon mitigation systems in the vulnerable premises concerned.

"(2) Contract for Purchase and Sale.—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any vulnerable premises shall include a Radon Warning Statement with an acknowledgement signed by the purchaser that the purchaser has—

"(A) read the Radon Warning Statement;

"(B) received a radon hazard information pamphlet; and

"(C)(i) requested and been provided with the opportunity to conduct a test of the premises for radon, on terms and conditions mutually agreeable to purchaser and seller, or

"(ii) agreed to purchase the premises without further testing of the premises for radon.

The acknowledgement shall identify which option (clause (i) or (ii)) the purchaser has agreed to.

"(3) Contents of Radon Warning Statement.—The Radon Warning Statement referred to in this section shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

'The U.S. Surgeon General has determined that prolonged exposure to radon can be a serious health hazard. Testing is available to detect the presence of radon. The seller is required to provide the buyer with any information on radon from tests in the seller's possession and notify the buyer of any radon mitigation systems.'.

"(4) Compliance Assurance.—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a vulnerable premises, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

"(b) Radon Hazard Information Pamphlet.—Not later than 1 year after the enactment of this section, and after notice and opportunity for comment, the Administrator shall publish a radon hazard information pamphlet. The pamphlet shall, at a minimum—

"(1) describe the prevalence and risks of radon exposure at different levels;

"(2) provide information evaluating products and services for the measurement and mitigation of radon;

"(3) advise persons as to how to obtain a list of products for the measurement of radon which meet the performance criteria established under section 309(a)(1) and a list of persons providing radon measurement or mitigation services who meet the proficiency levels established under section 309(a)(1);

"(4) explain that a prospective buyer or lessee has a right to negotiate an opportunity to conduct a test of the premises to detect radon; and

"(5) state that the Administrator recommends that buyers and lessees ascertain the radon level of any vulnerable premises to be purchased or leased.

The Administrator shall from time to time review and revise such pamphlet.

"(c) Penalties for Violations.—

"(1) Civil Liability.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to the reasonable costs of radon mitigation incurred by such person at the vulnerable premises.

"(2) Costs.—In any civil action brought for damages pursuant to paragraph (1), the appropriate court may award court costs to any prevailing or substantially prevailing party, together with reasonable attorney fees and any expert witness fees.

"(3) Limitation on Penalty Amount.—For purposes of applying civil penalties under section 16 in the case of any violation of this section by a seller or lessor, the maximum penalty applicable under section 16 shall be $2,000 in the case of a seller and an amount equal to 2 months rent in the case of a lessor. For purposes of applying such penalties to any such violation, the second sentence of section 16(a)(1) shall not apply.

"(4) Exemption from Criminal Penalties and Citizens Suits.—No criminal penalties shall be imposed under section 16(b) for any violation of this section and no action may be brought under section 20(a)(1) for any such violation.

"(d) Other Disclosure Requirements.—The Administrator may consolidate the requirements applicable under this section with the disclosure requirements applicable under other authority of law.

"(e) Validity of Contracts and Liens.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

"(f) Short Term Leases.—This section shall not apply to any lease which is for a term of one year or less and does not, by its terms, provide for an extension.

"(g) Effective Date.—The regulations under this section shall take effect 2 years after the date of the enactment of this title.".

SEC. 8. AUTHORIZED STATE PROGRAMS.

Section 311 of the Toxic Substances Control Act (15 U.S.C. 2671) is amended to read as follows:

"SEC. 311. AUTHORIZED STATE PROGRAMS.

"(a) Approval.—Any State which seeks to administer and enforce a State program containing the standards, regulations, or other requirements established under section 304(d) (relating to incentives for voluntary compliance), section 309(a)(1)(B)(relating to services for the measurement or mitigation of radon), or 310 (relating to disclosure of information concerning radon), or any combination thereof, may, after notice and opportunity for public comment, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b) of this section. Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 304(d), 309(a)(1)(B) or 310, or any combination thereof, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

"(b) Approval or Disapproval.—Within 180 days following submission of an application under subsection (a), the Administrator shall approve or disapprove the application. The Administrator shall disapprove the application if, after notice and after opportunity for public hearing, the Administrator finds that—

"(1) the State program is not at least as protective of human health and the environment as the Federal program under section 304(d), 309(a)(1)(B) or 310, or any combination thereof, as the case may be, or

"(2) such State program does not provide adequate enforcement.

Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

"(c) Withdrawal of Authorization.—If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this title, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title.

"(d) Model State Program.—Within 12 months after the enactment of this section, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this section. Such program shall encourage reciprocity among the States.

"(e) Other State Requirements.—Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this title.

"(f) Existing State and Local Programs.—The regulations under this title shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local programs and procedures for carrying out such program.

"(g) Fees.—Each State program authorized under this section containing the standards, regulations, or other requirements established under section 309(a)(1)(B) (relating to services for the measurement or mitigation of radon) may include user fees applicable to persons who offer any service described in subsection 309(a)(1)(B) in an amount designed to cover, in whole or in part, the annual operating costs of such program. The user fees under section 309(b) shall not apply to persons subject to user fees under such a State program.".

SEC. 9. ENFORCEMENT AND ADMINISTRATIVE PROCEEDINGS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new sections after section 311:

"SEC. 312. PROHIBITED ACTS.

"It shall be unlawful for any person to fail or refuse to comply with any provision of this title or any rule or order under this title.

"SEC. 313. ADMINISTRATIVE PROCEEDINGS.

"The provisions of section 411 shall apply to regulations issued under this title in the same manner and to the same extent as such provisions apply to regulations issued under title IV.

"SEC. 314. CONTROL OF RADON AT FEDERAL FACILITIES.

"Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for certification, licensing, recordkeeping, or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief) respecting radon in the same manner, and to the same extent as any nongovernmental entity is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines regardless of whether such penalties or fines are punitive or coercive in nature, or whether imposed for isolated, intermittent or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this section include, but are not limited to, fees or charges assessed for certification and licensing, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local radon program. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law relating to radon with respect to any act or omission within the scope of his official duties.

"SEC. 315. REGULATIONS.

"The Administrator is authorized to issue such regulations, including recordkeeping and reporting requirements, as may be necessary to carry out the provisions of this title.".

SEC. 10. STRATEGY TO IDENTIFY AND REDUCE EXCEPTIONALLY HIGH INDOOR RADON LEVELS.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 315:

"SEC. 316. STRATEGY TO IDENTIFY AND REDUCE EXCEPTIONALLY HIGH INDOOR RADON LEVELS.

"(a) DEVELOPMENT OF THE STRATEGY.—Within 9 months of the date of enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall, in consultation with other Federal agencies and scientific experts in radon health effects, detection, and mitigation, using relevant and available information, develop and provide to Congress a strategy using the authorities of the Administrator for identifying areas and buildings within the United States with exceptionally high levels of radon and for reducing such radon levels. The Administrator shall revise the strategy as necessary to incorporate additional relevant information.

"(b) IMPLEMENTATION OF THE STRATEGY.—No later than 9 months after the date of enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall begin to implement the provisions of the strategy required under subsection (a).

"(c) REPORT TO CONGRESS.—21 months after the date of enactment of the Radon Awareness and Disclosure Act of 1994, the Administrator shall report to Congress on the results of Federal, State, and local efforts to implement the strategy developed under subsection (a).".

SEC. 11. MEDICAL COMMUNITY OUTREACH.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 316:

"SEC. 317. MEDICAL COMMUNITY OUTREACH.

"(a) IN GENERAL.—The Administrator, in cooperation with the Secretary of Health and Human Services, shall develop and implement an outreach program to provide information about radon to the medical community.

"(b) INFORMATION.—(1) The Administrator, in consultation with the Secretary of Health and Human Services and the Surgeon General, shall develop informational material concerning radon tailored to doctors in general practice and in specialties related to lung cancer. Such information shall, at a minimum—

"(A) explain the health threats posed by exposure to radon;

"(B) explain the association of radon with smoking and other causes of lung cancer;

"(C) identify appropriate steps to determine exposure to radon in the home; and

"(D) identify sources of additional information.

"(2) Not later than one year after the date of the enactment of this section, the Administrator shall transmit the information developed pursuant to this section to—

"(A) doctors in the United States in general practice;

"(B) doctors in specialties related to lung cancer;

"(C) all doctors employed by the Federal Government;

"(D) all hospital administrators; and

"(E) other physicians and officials determined by the Administrator to be appropriate.

"(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator, in consultation with the Secretary of Health and Human Services, shall report to Congress concerning the implementation of this section and recommendations for measures to improve radon information dissemination to the medical community.".

SEC. 12. UNBIASED PRESENTATION OF RISK INFORMATION.

Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 317:

"SEC. 318. UNBIASED PRESENTATION OF RISK INFORMATION.

"The Administrator, in carrying out his or her responsibilities under this title, shall ensure that the presentation of information on the health risks associated with exposure to radon and radon progeny is unbiased and informative. To the extent feasible, documents made available to the general public which describe the degree of risk from exposure to radon and radon progeny shall, at a minimum, characterize the population or populations addressed by any risk estimates; state the expected risk for the specific population; and state the reasonable range of uncertainty.".

SEC. 13. AUTHORIZATION FOR RADON ABATEMENT PROVISIONS OF TOXIC SUBSTANCES CONTROL ACT.

(a) IN GENERAL.—Title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) is amended by adding the following new section after section 318:

"SEC. 319. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out the provisions of this title (other than section 307) such sums as may be necessary for the fiscal years 1994 through 1997.".

(b) CONFORMING AMENDMENTS.—The following sections of title III of the Toxic Substances Control Act (15 U.S.C. 2661 et seq.) are repealed:

(1) Section 305(f).

(2) Section 306(j).

(3) Section 308(f).

SEC. 14. TECHNICAL AND CONFORMING AMENDMENTS.

The Toxic Substances Control Act (15 U.S.C. 2601 and following) is amended as follows:

(1) In the first sentence of subsection (a) of section 11 strike "mixtures, or products subject to title IV" and insert "mixtures or products subject to title III or title IV".

(2) In paragraph (1) of subsection (b) of section 11, strike "mixtures, or products subject to title IV" and insert "mixtures, or products subject to title III or IV".

(3) In paragraph (1) of section 13(a), strike "6, or title IV" in each place it appears and insert "6, or title III or IV" and strike "7 or title IV" and insert "7 or title III or IV".

(4) In section 16, strike "or 409" and insert ", 312, or 409" each place it appears.

(5) In section 17:

(A) In subsection (a)(1)(A) strike "or 409" and insert ", 312, or 409".

(B) Strike "title IV" in each place it appears in subparagraphs (B) and (D) of subsection (a)(1) and in subsection (b) and insert "title III or title IV".

(6) In section 19 in the first sentence of subsection (a)(1)(A), after "title II" insert ", III,".

(7) In section 20(a)(1) after "title II" insert ", III," in each place it appears.

(8) Subsection (a)(2) of section 305 is amended by striking out "Operation" and inserting "Until a program is in effect under section 309, operation".

(9) Subsection (h)(3) of section 306 is amended by inserting before the period at the end of the first sentence "or, after the date 2 years after the enactment of the Radon Awareness and Disclosure Act of 1994, a proficiency program under section 309".

(10) The table of contents for title III of such Act (contained in section 1 of the Act) is amended as follows:

(A) Amend the item relating to section 304 to read as follows:

"Sec. 304. New construction.".

(B) Strike out the items relating to section 309 through 311 and insert the following:

"Sec. 309. Performance and proficiency program for radon products and services.
"Sec. 310. Disclosure of information concerning radon.
"Sec. 311. Authorized State programs.
"Sec. 312. Prohibited acts.
"Sec. 313. Administrative proceedings.
"Sec. 314. Control of radon at Federal facilities.
"Sec. 315. Regulations.
"Sec. 316. Strategy to identify and reduce exceptionally high indoor radon levels.
"Sec. 317. Medical community outreach.
"Sec. 318. Unbiased presentation of risk information.
"Sec. 319. Authorization of appropriations.".

SEC. 15. ESTABLISHMENT OF PRESIDENT'S COMMISSION ON RADON AWARENESS.

(a) ESTABLISHMENT.—There is established a commission to be known as the President's Commission on Radon Awareness (hereinafter in this Act referred to as the "Commission").

(b) DUTIES.—The Commission shall—

(1) examine public awareness programs in effect on the date of the enactment of this Act which are—

(A) implemented through various segments of mass media; and

(B) intended to raise public awareness of the health threats of radon and the benefits of testing for radon;

(2) act as an administrative and coordinating body for the voluntary donation of resources to assist the implementation of new programs and national strategies for dissemination of information intended to raise awareness of the health threats of radon;

(3) encourage media outlets throughout the country to provide information aimed at increasing radon awareness, including public service announcements and advertisements; and

(4) evaluate the effectiveness and assist in the update of programs and national strategies formulated with the assistance of the Commission.

(c) NATIONAL RADON EDUCATION CAMPAIGN.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency, in collaboration with the Commission, shall establish a national education campaign to increase public awareness concerning radon health risks and motivate public action to reduce radon levels. The national education campaign shall include the use of funds for the purchase and production of public educational materials. The Administrator is authorized to enter into cooperative agreements to carry out this section.

(2) RADON AWARENESS WEEK.—As part of the national education campaign, the Administrator may designate an annual national radon awareness week.

(d) MEMBERSHIP AND OPERATION OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed by the President within 30 days after the date of the enactment of this Act, and should include representatives of—

(A) advertising agencies;

(B) television, radio, cable communications, and print media;

(C) the health industry;

(D) other segments of the business sector of the United States;

(E) experts in the field of radiation science;

(F) consumer groups;

(G) the radon testing and remediation industry; and

(H) other Federal agencies, as designated by the President.

(2) TERMS.—

(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) A member may serve after the expiration of the member's term until a successor to the member has taken office.

(3) BASIC PAY AND EXPENSES.—(A) Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government services are allowed travel expenses under section 5703 of title 5, United States Code.

(4) PROCEDURES, MEETINGS, STAFF, ETC.—The Commission shall establish such rules regarding meetings, including rules regarding quorum, voting and procedure, and regarding staff, experts and consultants as the Commission deems appropriate. The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States. The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) REPORT.—The Commission shall transmit to the President and to each House of Congress a report not later than July 31 of each year which contains a detailed statement of the activities of the Commission during the preceding year, including a summary of the number of public service announcements produced by the Commission and published or broadcast.

(6) TERMINATION.—The Commission shall terminate on a date which is 3 years after the date on which members of the Commission are first appointed, unless the President, by Executive order, extends the authority of the Commission.

The CHAIRMAN. Are there any amendments to the remainder of the bill?

AMENDMENTS OFFERED BY MR. OXLEY

Mr. OXLEY. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. OXLEY: Page 15, strike line 13 and all that follows down through line 9 on page 17.

Page 17, line 10, strike "(b)" and insert "(a)".

Page 18, line 11, after the period insert: "The Administrator shall implement a program to distribute the pamphlet to high radon areas and shall coordinate with the President's Commission on Radon Awareness established under section 15 of the Radon Awareness and Disclosure Act of 1994 with organizations in the real estate and building construction industry and with State and local governments to achieve the broad dissemination of the pamphlet in such areas and in other areas deemed appropriate by the Administrator.".

Page 18, strike line 12 and all that follows down through line 6 on page 20.

CONFORMING AMENDMENT

Page 9, strike lines 3 and 4 and insert:

"(5) PENALTIES FOR VIOLATIONS.—

"(A) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser in an amount equal to the reasonable costs of radon mitigation incurred by such person at the vulnerable premises.

"(B) COSTS.—In any civil action brought for damages pursuant to subparagraph (A), the appropriate court may award court costs to any prevailing or substantially prevailing party, together with reasonable attorney fees and any expert witness fees.

"(C) LIMITATION ON PENALTY AMOUNT.—For purposes of applying civil penalties under section 16 in the case of any violation of this section by a seller, the maximum penalty applicable under section 16 shall be $2,000. For purposes of applying such penalties to any such violation, the second sentence of section 16(a)(1) shall not apply.

"(D) EXEMPTION FROM CRIMINAL PENALTIES AND CITIZENS SUITS.—No criminal penalties shall be imposed under section 16(b) for any violation of this section and no action may be brought under section 20(a)(1) for any such violation.

Mr. OXLEY (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Madam Chairman, this amendment is to section 7 of the bill, which is the section that requires homeowners and other building owners throughout the United States to provide certain information concerning radon to buyers and lessees at the time of the sale or lease of the property.

I want to begin by discussing what this section of the bill does and does not do. The proponents of the bill have stated that the bill does not require anyone to conduct a radon test. That is correct. But what the bill does do is require sellers and lessors to comply with a number of other requirements, all of which are enforceable by penalties under the Federal Toxic Substances Control Act and can result in a homeowner being sued in Federal court.

Let me discuss just one requirement of the bill. The bill says that before a homeowner can sell his house, he must obtain a "radon hazard information pamphlet" from EPA and provide it to the prospective buyer. This requirement applies not just to homes located in parts of the country with high levels of radon, but everywhere in the United States, to everyone who wants to sell a residential or commercial property.

It seems to me that this provision raises several problems. First of all, how are ordinary homeowners supposed to know about this new Federal requirement? As we all know, ordinary people don't read the Federal Register. Ordinary people are used to looking to State and local law for rules on how real estate is bought and sold. This legislation presents a real problem when it comes to giving ordinary homeowners fair notice about the legal requirements that will apply to them.

And that's not the end of the ordinary homeowner's problems. Assuming that a seller knows about the law, he's got to comply with it. That means getting a copy of the "radon hazard information pamphlet" from EPA and providing it to the prospective purchaser. Let me underscore the impact of this particular section of the bill: If this bill becomes law, virtually no residential or commercial property in the United States can be sold until the seller provides the buyer with a copy of EPA's "radon hazard information pamphlet."

It's worth noting that there are more than 4½ million homes sold every year, and countless more homes and businesses leased. Congressman BLILEY and I wrote to EPA several months ago asking how EPA will ensure that copies of its pamphlets are available everywhere real estate could be either sold or leased. It seems to me that this will be an undertaking not unlike what the IRS has to do to get Federal tax forms out every year, except that EPA will have to ensure that its "radon hazard information pamphlets" are available at all times during the year, not just prior to April 15.

EPA's response to our question was less than satisfying. EPA said that it would work with organizations such as the American Lung Association and the Consumer Federation of America to make sure that its pamphlets are made available throughout the United States. While I don't question the desire and the opportunity of these groups to assist EPA in distributing its pamphlet, I would note that the legal burden is on the homeowner and not on EPA or third-party groups. This puts the homeowner in a difficult position because his ability to comply with the law becomes dependent on someone who has no legal obligation.

There are other requirements in this section of the bill that I will mention only briefly. In addition to providing EPA's pamphlet to a prospective buyer or lessee, the seller or lessor must disclose the results of any radon tests that have been conducted in the dwelling. And finally, the seller must include a special "radon warning statement" in the sales contract, and the buyer must acknowledge in writing that he read the warning statement and received a copy of EPA's pamphlet.

The problem with these requirements—in addition to being complicated and confusing—is that they are enforceable through penalties under the Federal Toxic Substances Control Act and a seller or lessor could be sued in Federal court.

I support the goals of this section of the bill, that is, to provide the public with accurate and useful information on the risks from exposure to radon.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

(By unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. Madam Chairman, I don't agree that we need to make ordinary homeowners subject to liability under the Federal Toxic Substances Control Act to accomplish this goal.

What this bill does is create a massive pamphlet distribution scheme that's enforceable under Federal law. I don't think that makes sense. I think it makes more sense for EPA to use its resources to work with States to identify areas where radon levels can be reduced. That's what section 10 of the bill does, by requiring EPA to develop a strategy for identifying areas in the United States that have exceptionally high levels of radon and working to reduce those levels. That's where the real health benefits will come from under this legislation.

And that's what my amendment would do. My amendment would eliminate the mandates and penalties and civil liability on homeowners and other property owners and direct EPA to make its pamphlet available in areas where radon levels are known to be high. It would also direct EPA to work with existing third-party groups to achieve the widest possible distribution of information on radon risks among the general public. What we need are more focused, cooperative efforts and less emphasis on mandates and enforcement. I urge the House to adopt my amendment.

Madam Chairman, I would ask that my amendment be adopted because somebody has to stand up for the homeowner, the homeowner who wants to sell his property and is already worried about too much Federal redtape and regulation in the home selling process.

This is an opportunity for the House to speak loud and clear in support of the homeowners of this country who want nothing more than to provide basic information to the buyers but do not want to be involved in more and more Federal redtape and certainly do not want to be involved in the potential liability that this bill would require.

□ 1340

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Madam Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from California.

Mr. WAXMAN. Madam Chairman, I am curious to know why the gentleman thinks it is a burden on a homeowner to simply say to a prospective buyer, to say, "Here is a pamphlet. It warns you about the dangers of radon, a radioactive gas," why that is any bigger problem than what is now in Federal law, that they be given a pamphlet about lead and information about the fact that there can be a test to see if there is lead in the home.

Mr. OXLEY. Madam Chairman, obviously the potential for liability is huge when we are expecting every homeowner in this country to know that he has to provide this pamphlet when he is selling his home.

Madam Chairman, I would suggest to the gentleman from California [Mr. WAXMAN] that he has a lot more faith in people understanding all of the laws that we pass here every day. So many of those people are going to walk blindly into this and face potential liability.

The gentleman from Massachusetts told us this is a voluntary program. I would suggest it is not a voluntary program. If you are a homeowner and you face potential liability under TSCA and potential civil liability in the courts, that to me is an unwanted burden on the homeowner. We can talk all we want about lead and everything else, but the potential liability for the homeowner is great.

Mr. WAXMAN. Madam Chairman, if the gentleman will continue to yield, under the law now the homeowner has to give information about lead, a pamphlet about that. This bill would say give a pamphlet about radon. I expect the two pamphlets would be combined. There is not a tremendous liability on the part of the homeowner, simply a requirement to give out a pamphlet.

Realtors will all know to advise their sellers to do that, but an individual who sells a home now has to comply with the law on the lead pamphlet. They will get a form for a contract and that form on the contract will say that "You have to give information on radon," just as the form now says "You have to give information on lead." It is just not a big burden. There is no great liability involved.

Mr. OXLEY. Madam Chairman, I would suggest to the gentleman from California that he has not been through too many real estate closings lately, because they are very complicated and confusing.

Mr. WAXMAN. I beg to differ with the gentleman, Madam Chairman.

Mr. SWIFT. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio [Mr. OXLEY].

Madam Chairman, the Oxley amendment does a lot more than simply help the individual homeowner who might want to sell their house by themselves. It essentially eliminates from the bill the entire disclosure section. I must say, I am a little puzzled that anyone would consider this provision of the bill anything new or anything radical.

Madam Chairman, I can recall back in the sixties when the big debate was over truth in labeling and truth in packaging. I remember a Member of Congress who was opposed to doing that at that time because they thought it was a terribly radical idea, pointing out the incongruity in the difference in the size between a pound of feathers and a pound of lead. She went on at enormous length about how this was going to cause confusion in the marketplace and so forth and so on.

Madam Chairman, truth in labeling and truth in packaging is so commonly accepted now that consumers use it regularly, and anyone who seriously tried to say that there was some incongruity between a pound of feathers and a pound of lead would be a laughingstock. Yet here we are in 1994, Madam Chairman, hearing on the floor that disclosure of the possible presence of a radioactive gas in a house one is proposing to buy is some strange, exotic, unusual, unwarranted prospect.

What the bill says is that "you will disclose what you know about Radon." What the Oxley amendment does is to strike that provision and says. "You don't have to tell anybody anything that you may know about a radioactive gas that may exist in the house you are trying to sell to somebody." How can Members vote for that?

In addition, I might point out that the word "liable" has been used kind of like "boo," "liability." Let us examine what the liability is if we violate the disclosure provision. The maximum fine that exists in any ordinary TSCA sanction is $10,000 per day. In this bill, it is $2,000, period.

There are no criminal penalties in this bill, none, no criminal penalties, and compensatory damages for knowing violations are restricted to just the reasonable cost of mitigation. That can run from $1,000 to $2,000.

In the case of a landlord, the minimum fine is even lower, just two months' rent, so it must be clearly understood that this amendment does not simply help Mrs. Murphy, who might want to sell her house without using a real estate agent. It in fact strikes all of the disclosure provisions of the bill.

Madam Chairman, the second thing is that as we hear liability, the liability has been reduced to something that should provide a concern, so that people will not want to knowingly violate this, but on the other hand, is not going to break anybody up in business.

Madam Chairman, one last point that I would like to make, and I think the gentleman from Ohio [Mr. OXLEY] was quite right when he said that buying or selling a house these days is a very complicated business. He says it takes a couple of lawyers, at least, to do it, and I think he is absolutely accurate when he says that.

The idea that we are going to have someone who is going to go out and complete a whole real estate transaction all by themselves is virtually impossible. The idea that they are going to do it without a realtor, without a lawyer, without a standard contract, is preposterous. It will never happen. Any realtor and any lawyer and any standard contract is going to have this language in the contract, so the idea that someone is going to kind of accidentally wander out is impossible.

The CHAIRMAN. The time of the gentleman from Washington [Mr. SWIFT] has expired.

(By unanimous consent, Mr. SWIFT was allowed to proceed for 2 additional minutes.)

Mr. SWIFT. Madam Chairman, the idea that someone is going to accidentally wander out and sell their house without knowledge that these things exist and then somehow get trapped in the liability section is a fantasy. It will never happen, because real estate transactions are complicated, not made complicated by this law, but made complicated by a whole series of State and local and some Federal provisions that already exist, and the requirements that this bill makes with regard to disclosure will be well known by the lawyers, will be well known by the realtors, will be included in all standard contracts, and therefore, the idea that someone is going to innocently become liable is nonsense. It will not happen.

The places we would have to go in order to be able to complete the sale of our homes, no matter how much we tried to do ourselves, will ultimately bring us to someone who has this knowledge and we will be able to comply with the law.

Therefore, Madam Chairman, I urge Members to understand that the Oxley amendment does not just help Mrs. Murphy, it, in fact, strikes the entire disclosure section from the bill, and that the penalties are not massive and onerous, and that compliance with this law is going to happen almost automatically as an individual goes about talking with those professionals one has to deal with in order to sell a home in the modern world.

Mr. BLILEY. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendment offered by the gentleman from Ohio.

Madam Chairman, when you look at the real estate section of this bill, you have to conclude that all it does is use a Federal penalty as a means to distribute a pamphlet on radon. We simply do not need a new Federal penalty scheme for every public information campaign.

Let me explain how I have come to this conclusion. First, the bill gives a buyer the right to ask for an opportunity to conduct a radon test in a house. But that is something that a buyer can do even without this legislation. We do not need a Federal law to give buyers the right to ask questions about the houses they want to buy.

Second, the bill gives the buyer the right to receive the results of any radon tests that have been done. Telling the buyer whether there is radon in the house is something that a lot of State laws are requiring, including in my own State of Virginia. Again, I do not think we need a Federal law to require sellers to tell the truth to buyers.

So the last thing this legislation would do is require the seller to give the buyer a pamphlet. And to make sure this happens, the bill would impose not only penalties on homeowners under the Toxic Substances Control Act but also make homeowners liable for damages in Federal court. In other words, what we have got with this legislation is an enormous regulatory machine to make sure that people hand out a pamphlet.

That is why I like Mr. OXLEY's amendment. Mr. OXLEY's amendment would accomplish the very same thing that the bill would accomplish—maybe even more—but without all of the costs, and the burdens on ordinary homeowners and the unnecessary litigation. At a time when we are supposedly concerned about the size of Federal Government, and with an administration that supposedly favors local solutions to problems, I am amazed and troubled that we are even having this discussion.

How does H.R. 2448 affect Mrs. Murphy?

Mrs. Murphy must comply with the requirements of the bill if she sells any residential or commercial property.

Mrs. Murphy must comply with the requirements of the bill if she leases residential or commercial property for more than a year—or if the lease, by its terms, can be extended for more than a year.

If Mrs. Murphy is covered by H.R. 2448, what must she do? (1) Give prospective purchasers or lessees a copy of EPA's "radon hazard information pamphlet," (2) disclose any radon test results, and (3) for sellers, include a radon warning statement in the contract.

What are the penalties?

For sales, penalties under the Toxic Substances Control Act of up to 2 months rent and possible liability in Federal court for the costs of mitigation.

For leases, penalties under the Toxic Substances Control Act of up to 2 months rent and possible liability in Federal court for the costs of mitigation.

Madam Chairman, I urge my colleagues to support the Oxley amendment.

□ 1350

Mr. WAXMAN. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the reason I rise in opposition to this amendment is to again focus the Members' attention on what is at stake in dealing with the radon radioactive gas problem. This is a health problem. It is a radioactive substance that is the second leading cause of lung cancer in the United States.

Would not most Americans want to know if there is a problem and be able to do something about it before they make the largest investment they may be making in their lives, purchasing a home? Would not they want to know about it before they move their family into a situation where there may be a danger, especially since the danger can be so easily rectified? Easily rectified by less than $1,000, putting a pipe to ventilate that radon gas so that it does not adversely affect them. The reason that so many people do not take these steps is that they just do not know about the problem. And when they should be informed about it is when they are about to buy that home.

The amendment of the gentleman from Ohio [Mr. OXLEY], it seems to me a very unwise idea. It guts the bill. It goes so far as to say that if a seller knows there is a radon problem in that house, the seller can keep that information quiet. That is what the amendment of the gentleman from Ohio [Mr.

OXLEY] would do. The Oxley amendment strikes the sections that simply provide the opportunity for a prospective buyer to get a pamphlet that talks about the radon problem, informs them of that information, and tells them they could get a test if they want to. If they do not want to, that is their business.

This amendment is anticonsumer. It would assure that buyers are not warned about radioactive gas in the homes they purchase. The sellers already have to hand out pamphlets on lead. All sellers, whether they have a realtor or not, have to comply with laws on back taxes, on termite inspections, on lead, whatever it might be; how to apportion the back taxes. These are things the sellers have to know about. It is not so difficult to know about giving out this pamphlet.

Madam Chairman, I want to point out that the importance of this legislation is such that the groups that might be focused on this issue got tougher and we negotiated with them. The realtors had some concerns, legitimate ones, and we worked those out. The homebuilders had concerns, legitimate ones, and we worked them out. They are all supporting this bill and they are all against the Oxley amendment.

I want to read the list of organizations that urge you to vote against the Oxley amendment and for this legislation.

Mr. OXLEY. Madam Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. OXLEY. Madam Chairman, I am not informed that the realtors or the homeowners or anyone else has come out opposed to my amendment. Does the gentleman have some proof of that?

Mr. WAXMAN. We have been in touch with the realtors. We negotiated this bill with them. In negotiating this bill, they supported the provisions of the legislation. They said they would support the bill and oppose amendments that would gut it. They are against the Oxley amendment if they are for the provisions that we negotiated.

Mr. OXLEY. Does the gentleman have something we could see?

Mr. WAXMAN. I have the list in my hand.

Mr. OXLEY. I understand the gentleman has a list, but I am talking about the amendment itself.

Mr. WAXMAN. I must tell the gentleman I have personally talked to the representatives of the National Association of Realtors. I want to point out, we do have a letter that we will be happy to furnish and to put into the RECORD. But these are the groups that are against the Oxley amendment. These are the groups from all perspectives that say this is a good bill, do not mess with it, do not gut it with the Oxley amendment:

The National Association of Realtors.
The National Association of Homebuilders.
The Mortgage Bankers Association.
The National Apartment Association.
The National Association of Counties.
The Conference of Radiation Control Program Directors.
The Consumer Federation of America.
Citizen Action.
The Sierra Club.
U.S. PIRG.
The American Cancer Society.
The American Lung Association.
The American Public Health Association.
The American Academy of Pediatrics.

Madam Chairman, they all have looked at this from different perspectives. They say it makes sense. It makes sense to protect the people that need to be protected and in order to take steps to deal with the problem, they need to be informed of it. Let us not try to keep information from those that ought to have it.

Madam Chairman, I have in front of me a letter from the National Association of Realtors for the information of the gentleman from Ohio [Mr. OXLEY] dated March 10, 1994, to members of the Committee on Energy and Commerce:

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, March 10, 1994.

TO MEMBERS OF THE ENERGY AND COMMERCE COMMITTEE: The National Association of Realtors (NAR) believes that every American should have the opportunity to live in safe and decent housing where risks to health are minimized. To that end, NAR supports H.R. 2448, the "Radon Awareness and Disclosure Act of 1993". We believe that this is a reasonable compromise and urge its adoption by the House Energy and Commerce Committee.

The legislation would provide homebuyers and renters with important information regarding the potential hazards of radon while minimizing the imposition of burdensome and unnecessary requirements on sales transactions. We note some differences remain between H.R. 2448 and the Senate version of the radon legislation. We look forward to continuing to work with you to resolve these remaining differences in a way amenable to all interested parties.

Sincerely,

ROBERT H. ELROD,
President.

Madam Chairman, they think it makes sense, the public health groups say it makes sense, and I think that we ought to support the bill and defeat the Oxley amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

(At the request of Mr. OXLEY and by unanimous consent, Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. OXLEY. I did not hear any mention of the Oxley amendment in the letter. When was that letter dated?

Mr. WAXMAN. If the gentleman will listen again to this. The National Association of Realtors believes that people ought to have this information. "We believe that this is a reasonable compromise," meaning the compromise that is in the bill. And they urge its adoption.

Does the gentleman have any indication that they support his amendment?

Mr. OXLEY. The question was whether they opposed it.

Mr. WAXMAN. Their last statement on the issue is they support the compromise they worked out in developing this legislation.

We went to great lengths to hear their concerns and we dealt with them in a very legitimate way. And they are supporting the bill.

☐ 1400

By supporting the bill I would think they would oppose the gentleman's amendment which guts the information that they think ought to be provided to consumers.

Mr. OXLEY. I would simply point out to the gentleman from California that 23 States have mandatory requirements and 13 States have voluntary disclosure. The gentleman's State, the State of Massachusetts, the State of Ohio, and the State of Washington all have mandatory requirements.

What the gentleman is trying to do is put a mandate on all of the States and all of the homeowners when indeed this kind of issue should remain at the State level.

Mr. WAXMAN. If I can reclaim my time, we are doing what is existing law for the lead information, and we are doing it in a way where the National Association of Counties, which are the local level, thinks it makes sense. We allow the States to adopt their own program, to supersede any Federal program, and it is one where it will be effective. We are proposing something effective because the General Accounting Office says notwithstanding all of the information in the press, only 10 percent of the homeowners have bothered to get tested, primarily because they do not even know of the danger.

Mr. SCHAEFER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Oxley amendment.

The bill, as currently written, will require the Environmental Protection Agency to regulate every real estate transaction in the United States, even lease agreements. We are talking about 4.5 million sales of homes and about 12 million lease agreements every year. I have a difficult time believing that the EPA has either the resources or the desire to undertake this task.

Radon is a serious health consideration—as my own constituents in Colorado know all too well—and there are many positive steps this bill takes to strengthen radon awareness. But H.R. 2448 seriously oversteps these bounds with its heavy-handed disclosure requirements and extreme civil penalties. These provisions are so expansive, so burdensome, that they are unenforceable in the real world. Contrary to what some have said here, this provision is not good for the American consumer, and it is not good Government policy. While headed for the right goal, this bill definitely takes a wrong turn.

The Oxley amendment would simply remove a number of these regressive requirements and penalties and replace them with a more balanced policy of education and awareness. By eliminating the EPA's proposed new role of real estate policeman, the agency will have the resources to focus on more constructive avenues for achieving radon awareness and disclosure. It will also ensure that American taxpayers are not subjected to the threat of Federal penalties every time a buyer closes on a new house for a renter signs a lease This amendment simply gets the bill headed back in the right direction.

Radon is a significant problem across much of our country. The Oxley amendment will be a major benefit for the millions of those Americans whose homes are affected by radon contamination. I urge your support for this helpful and thoughtful addition.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Oxley amendment.

Again, reference was made to Mrs. Murphy in an earlier part of this debate by a proponent of this amendment. I know Mrs. Murphy. Mrs. Murphy is a friend of mine. Mrs. Murphy lives in my district, and I know that when Mrs. Murphy is purchasing a home, maybe the only home she will ever purchase, after having scoured every exit off of every highway in order to inspect every single home that she might decide that she would live in with her children, for the rest of her life, that this is probably the most important decision, the major purchase which she is going to make in her life. It seems to me that if it is possible legally for a seller of a home to withhold the fact that the seller knows that there is an exposure to radon greater than a uranium mine on the premises, and does not disclose it to Mrs. Murphy, then Mrs. Murphy has taken the life savings of that family and put it into a home which they are going to live in forever, regretting having put the children in that kind of a circumstance.

It seems to me that the minimum that Mrs. Murphy is entitled to, and every Mrs. Murphy across the country is that when they make that most important decision that they will ever make where they are going to buy a home for their children to grow up in, next to the schools that they want to be nearby, that they would know their children will be safe inside of that home. That is all this bill requires, and that is all the gentleman's amendment seeks to eliminate, to just take away from Mrs. Murphy that very fundamental information. It seems to me if we are going to give that information for lead, and we have States that recognize the inherent rights of purchasers of homes to have certain fundamental information, if we know that realtors will just hand over the information to the seller as they are getting the contract to sell the home so that they will include it in any packet that is being handed out to the purchaser, then that is very minimal, it seems to me, to shoulder if Mrs. Murphy will have the information she needs to determine whether she wants to put her children, where she wants to put her family for the rest of their lives. I would hope that the Oxley amendment would be resoundingly rejected.

The National Association of Realtors and of Home Builders and the National Cancer Institute all have rejected anything more than the compromise which we bring out here on the floor. They have accepted this compromise that Mrs. Murphy should get this information, and it would be a terrible legislative mistake for this body to then reject that compromise, which the home builders, the realtors have accepted, and to move to a point where Mrs. Murphy has no information to protect her family.

Mr. OXLEY. Madam Chairman, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from Ohio.

Mr. OXLEY. Madam Chairman, I appreciate my friend from Massachusetts yielding.

Mrs. Murphy, who is residing in Medford I am sure would be glad to know that the Massachusetts statute already provides for her protection in mandatory requirements of notification. So the gentleman's apocryphal Mrs. Murphy is indeed already covered under Massachusetts statute, which is the appropriate forum, it seems to me, to provide that kind of protection.

By the way, someday Mrs. Murphy might want to sell that house, and I would suggest to the gentleman from Medford that perhaps the shoe would be on the other foot in that regard, and that she may not have a capability of getting the pamphlet, and would indeed be subject to up to a $2,000 fine. I am sure that the gentleman from Medford would not like that.

Mr. MARKEY. If I may reclaim my time, again the legislation protects all of the Mrs. Murphys of the United States of America, not just those that live in Medford and my district. Moreover, the bill does more than that. It creates performance standards for radon testing and services, requires the disclosure of a radon hazard in residences, creates model State programs and radon programs for grants for States and localities, and it also establishes a Presidential Commission on Radon Awareness, so it does a lot more than anything that any individual State, including Massachusetts, had done thus far, toward the goal of ensuring that all of those Mrs. Murphys purchasing homes have the information they need, and conversely, that when Mrs. Murphy is selling her home if she knows that there is a problem, and she is selling it to another woman, another family and knows that radon there could in fact endanger the children moving into that home, that she has no right to keep that information from the new woman, the new family moving into that home.

Reject the Oxley amendment.

Mr. MOORHEAD. Madam Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Ohio.

Madam Chairman, I think it is a very good thing that most of the Mrs. Murphys around the country are now protected under the State laws of the larger States of the Union so that most of the people reside in States that are protected. In my State of California we have very fine disclosure laws which I strongly support. I have been helped by those disclosure laws on occasion. I think it is important that we let the people know when they buy a house from us about any kind of defect that there is in the house, including radon or any other defect that might be present there.

□ 1410

I do have a great deal of concern, however, that this section treats every part of the United States in the same way. I come from southern California where radon is not a serious problem. I should note that there are a few areas of the State that may have elevated levels of radon, but the State geologists have done a good job of identifying those areas and making people aware of the problem.

In my part of the country, the real problems are earthquakes and fires and even floods and other things of that sort. What this bill would do is make my constituents in southern California spend their time and attention on what the Federal Government thinks is important, not on what my constituents really know is important. I cannot in good conscience vote for a provision that treats every property owner in the United States whether they have a problem with a particular area or not in exactly the same way.

The States can do this job. They know what the problems are in their States, and they are taking pretty darn good care of the problems that are within their States.

The other concern I have with the real estate disclosure provisions of this bill is the impact those provisions would have on the number of lawsuits filed in State and Federal courts. I think everyone in this room knows if you file in Federal court you are going to spend an awful lot of money. There are nowhere near the number of lawyers that traditionally practice in the Federal courts. The price you are going to pay for those legal suits is going to be far more than it would be if you filed in the municipal court or in the State court of a State. This bill is going to push those cases up into the higher courts where you have much longer delays, much more expense. Why can they not sue in the State court where it will do the most good if they need to, where it will take the least amount of time and the least amount of money?

This bill says that if a homeowner fails to comply with the complicated and confusing disclosure requirements of the bill, he or she can be sued in the Federal court for the costs of mitigating whatever radon problem there will be.

This can be, if the amount would be relatively small, be a rather ridiculous situation.

I think that the civil liability provision will attract an enormous number of lawsuits. There are probably millions of disputes that arise every year from real estate transactions. I am quite sure that lawyers will find ways to use the new Federal cause of action created by this bill to litigate more than just disputes related to radon.

Madam Chairman, laws and regulations concerning real estate transactions are best administered at the State and local level. That is where virtually all the real estate laws are at the present time. The States control the transactions within their States.

There is no reason for us to think that State and local governments are not equally concerned about, and equally capable of, responding to the legitimate health and safety concerns of our citizens. These penalty provisions would interfere with the local government's ability to address these concerns.

You know, we have heard this talk about this pamphlet. I do not care whether they distribute a pamphlet or not, if they want to. I do not think 1 person out of 100 would read the pamphlet, but if they wanted to distribute the pamphlet, go ahead and distribute it. It is the other problems that are corelated that give me the most difficulty.

I think we have a good bill without this provision. I think we are moving forward. I do not think this guts the bill, because if all the bill is is passing a pamphlet out and if all the bill is is letting people go to Federal courts instead of State courts, then we do not have much of a bill here.

I urge my colleagues to support the Oxley amendment.

Mr. OXLEY's amendment would correct these problems and encourage EPA to work to distribute public information as widely as possible.

Mr. FIELDS of Texas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of the Oxley amendment. This amendment would strike the Federal penalties and other liability provisions of section 7 and would simply direct the EPA to work with interested organizations to achieve the broadest possible distribution of information on radon.

According to the EPA, 6 percent of homes in the United States are anticipated to have radon levels above the EPA's action level of four picocuries per liter. Most of these high levels are located in identifiable geological regions, such as areas up the east coast and throughout the Midwest. Other parts of the county in the South and in my home State of Texas, contain very small amounts of radon. It does not make sense to require homeowners and other property owners in these parts of the country to spend the same time and effort disclosing information concerning radon.

Texas has already taken action in this arena by requiring mandatory disclosure of radon by law. The seller's disclosure notice by the Texas Association of Realtors has radon listed with a variety of other environmental conditions which must be reported. If the seller misrepresents the condition of the property, then the buyer is entitled to a remedy through the rescission of the sales contract. H.R. 2448 authorizes States to administer their own program, but only if their program provides adequate enforcement. This language could mean that States would have to adopt and enforce all the penalties included in this bill, including penalties on individual homeowners.

Real estate is typically regulated at the State and local level and I strongly believe that it should stay that way. The Federal Government should not be directly regulating real estate transactions.

Madam Chairman, I am not opposed to the intent of this legislation to promote awareness and provide as much information as possible of the potential risks of exposure to radon to prospective purchasers of real estate. We do need to strike this section imposing Federal penalties on ordinary homeowners. I strongly urge my colleagues to support the Oxley amendment.

Mr. CANADY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of my friend, Mr. OXLEY's amendment to the Radon Awareness and Disclosure Act. Let me begin by congratulating the chairman and all those on the Energy and Commerce Committee whose hard work removed many troublesome provisions from this bill.

However, the issue of real estate transaction disclosure requirements remains unresolved. I believe the requirements outlined in section 11 of this bill are unworkable and inappropriate. And I question whether the benefit to the public from these requirements justifies the cost of compliance. I am opposed to the language in the committee-reported bill for several reasons.

First, I see this action as yet another Federal Government intrusion into an issue that has traditionally been within the realm of the States and local governments. Real estate and the requirements of disclosure are often tailored by the individual State legislatures and local entities to suit their individual needs.

Given the geographic differences from State to State and even locality to locality, it is imperative that we retain the necessary flexibility of the current system. This allows local planners to appropriately respond to the level of radon risk in their communities. To introduce the heavy hand of the Federal Government into this problem and impose a one-size-fits-all solution to radon disclosure requirements is clearly not the best way to respond to the radon problem.

To find an example of this, look no further than my State of Florida. Our State government has been aggressive in attempting to mitigate randon levels found around the State. It has already adopted a number of point-of-sale disclosure requirements which are the subject of some controversy among builders in my district. These disclosure requirements are already written into our State's real estate transaction procedures.

To add the EPA and more burdensome Federal requirements to the mix would, in my opinion, be confusing and costly to the homeowner and would serve no real educational benefit to the homebuyer.

Additionally, Madam Chairman, I am very concerned about the provision in this section which makes individual homeowners subject to Federal penalties under the Toxic Substances Control Act. Is it reasonable to expect that every individual homeowner who sells or leases property in the United States will be familiar with the detailed requirements of this complex law?

While I understand progress has been made in committee on reducing the penalties under this legislation, I object to the whole premise. There is only so much we can expect from the homeowner. Is it fair to hold him responsible under threat of Federal penalties for yet another set of point-of-sale disclosures? I don't think so.

The amendment offered by the gentleman from Ohio, in my opinion, is a reasonable approach to this problem. It strikes the federally enforceable disclosure requirements in the bill and encourages EPA to work with the States and other interested parties to ensure that public information materials on radon achieve maximum distribution to homeowners and homebuyers.

Madam Chairman, this bill has come a long way since it was introduced last year. And for that I congratulate my colleagues on Energy and Commerce. The improvements made by the Oxley amendment, however, ensure that the bill will be true to its intent. I thank him for his efforts and urge my colleagues to support passage of the amendment.

□ 1420

Mr. PAXON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of the amendment offered by my colleague, the gentleman from Ohio [Mr. OXLEY].

As a member of the Committee on Energy and Commerce, I have had the opportunity to work on H.R. 2448, the Radon Awareness and Disclosure Act in two subcommittees and in the full committee.

During committee consideration, this bill has been greatly improved and many problems have been worked out. Unfortunately, this legislation in its present form is still unacceptable due to the provisions of section 7.

Section 7 of this bill requires homeowners to distribute information on radon and disclose the results of any prior radon test during a real estate transaction, or be faced with Federal penalties under the Toxic Substances Control Act and possible civil action in Federal court.

I would like to make it very clear to all Members—under this bill, every American who sells or leases their home is opening themselves up to a $2,000 fine by EPA and the possibility of being sued in Federal court by the purchaser.

It is my opinion that the creation of homeowner liability for failure to provide the proper information or disclosure, will actually discourage individuals from testing their homes for radon. Under this bill, the only sure way to be free of all liability would be to avoid radon testing altogether.

Do not misunderstand what I am saying. In some parts of this country high levels of radon gas can be a health hazard. However, the goal of radon awareness legislation should be to inform the public and encourage radon testing in high radon areas.

Unfortunately, H.R. 2448 does not accomplish this goal. Instead of educating the public, this legislation discourage and even punishes homeowners.

For these reasons, I urge my colleagues to support Mr. OXLEY's amendment to strike the real estate disclosure and liability provisions and instead direct EPA to work with interested groups to widely disseminate information on radon to homeowners.

Mr. WAXMAN. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think we are ready to vote on this bill and this amendment, but I would like to point out, in light of the comments of the previous speaker when he suggested we get interested groups together and work out a way to inform the consumers about the dangers of radon, that that is exactly what we have done in this legislation, and that is why the realtors, the homebuilders and others, consumers and environmentalists, public health people, support the idea that we make the information available.

There is no requirement for a test, and what the Oxley amendment would do would be to strike giving the information to consumers. In fact, the Oxley amendment would strike the requirement that if a seller knows about a problem, that he give that information to the consumer as well.

Madam Chairman, I urge support for the legislation and urge opposition to the Oxley amendment.

The CHAIRMAN. Is there further debate on the amendment offered by the gentleman from Ohio [Mr. OXLEY]?

Mr. OXLEY. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. OXLEY] is recognized.

There was no objection.

Mr. OXLEY. I thank the Chair. I will not take all 5 minutes. I appreciate the debate on this issue.

Madam Chairman, this has come down to a real question of special interests versus the public interest. If you want the special interests to determine what legislation passes and they all sign off after they have cut their deals, that is fine, support the legislation without the Oxley amendment. But if you believe in the right of the homeowner to have some degree of ability to sell his home without the tentacles of the EPA and the Federal Government and the potential for fines from the Federal Government involved, then I would suggest that you support the Oxley amendment to give the real interested party here—that is, the homeowner—the ability to sell his house without this kind of legislation hanging around his neck.

Madam Chairman, we went through this same concept, really, with the acid rain debate. If you will recall, back when we debated the clean air bill, we passed the clean air bill before the NAPAP report came out. After the NAPAP report came out, it was clear that most of the wailing about acid rain and most of the scare tactics about acid rain turned out to be fraudulent. In fact, we passed a multibillion-dollar acid rain provision that penalizes my area of the country for no good reason. We are paying that price now.

Now the sponsors of this legislation want to foist this kind of responsibility and potential liability on the homeowner. I say enough is enough.

If you are tired of bureaucracy, if you are tired of the involvement of the Federal bureaucracy in an arrangement to be able to sell your home, you will support the Oxley amendment. If you believe that it is impossible for people in rural areas, Alaska, and other places to get the ability to get that pamphlet or to have the knowledge about the pamphlet, then you will support the Oxley amendment.

If you believe that the lead legislation that we passed which creates criminal penalties for the first time without giving that kind of information out was a good idea, then you will oppose the Oxley amendment. I happen to think the lead provision was a major mistake that is going to come back and haunt this Congress.

We have an opportunity this time to stand up for the homeowners of this country, say enough is enough, support the Oxley amendment, and then we can pass the legislation the way it should have been passed in the first place.

The CHAIRMAN. There being no further debate, the question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OXLEY. Madam Chairman, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to clause 2, rule XXIII, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 359]

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter

Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega
(AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo
(PR)
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff
Zimmer

☐ 1446

The CHAIRMAN. Four hundred and fifteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio [Mr. OXLEY] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 193, noes 227, not voting 19, as follows:

[Roll No. 360]

AYES—193

Allard
Applegate
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
Danner
DeLay
Derrick
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Franks (NJ)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Hunter
Hutchinson
Hutto
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Kanjorski
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lancaster
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Murphy
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Underwood (GU)
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Young (AK)
Zeliff
Zimmer

NOES—227

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Cooper
Coppersmith
Costello
Coyne
Cramer
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega
(AS)
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastert
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo
(PR)
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays

Shepherd
Skaggs
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift

Synar
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld

Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—19

Bachus (AL)
Carr
Conyers
Dreier
Fish
Gilchrest
Hayes

Hilliard
Inhofe
Laughlin
Margolies-Mezvinsky
McDade
Michel

Slattery
Sundquist
Washington
Wheat
Whitten
Young (FL)

□ 1456

Mr. TANNER changed his vote from "no" to "aye."

Mr. SHAYS, and Mrs. ROUKEMA changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1500

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, there is going to be gas on this bill. It might as well be American gas.

Mr. WAXMAN. Madam Chairman, I rise in support of the amendment. The amendment offered by the gentleman from Ohio [Mr. TRAFICANT] is a bipartisan amendment. We have no objection, and urge Members to vote for it.

Mr. OXLEY. Madam Chairman, I move to strike the last word.

Madam Chairman, I have no objection to the amendment. I still stand opposed to the bill, however.

Mr. TRAFICANT. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WISE) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2448) to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes, pursuant to House Resolution 491, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the Committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 255, noes 164, not voting 15, as follows:

[Roll No. 361]

AYES—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Barca
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell

Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement

Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick

Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur

Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle

Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velázquez
Vento
Visclosky
Waters
Watt
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—164

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert

Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Conyers
Cox
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Dickey
Doolittle
Dornan
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler

Gallo
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Hughes
Hunter
Hutchinson
Hyde
Inglis
Istook

Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Long
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Miller (FL)
Molinari
Moorhead
Myers
Orton
Oxley
Packard
Paxon
Penny
Petri
Pickett
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Roth
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—15

Carr
Dreier
Fish
Hayes
Inhofe
Laughlin
Margolies-Mezvinsky
Michel
Serrano
Slattery
Sundquist
Washington
Wheat
Whitten
Young (FL)

□ 1520

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2448, the bill just passed.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL PARK SERVICE CONCESSIONS POLICY REFORM ACT OF 1994

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 492, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 492

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution. Each section of the committee amendment in the nature of a substitute, as modified, shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 5(a) of rule XXI are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 492 is the rule providing for the consideration of S. 208, the National Park Service Concessions Policy Reform Act of 1994.

This is an open rule. It provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources.

Section 302(f) of the Congressional Budget Act is waived against consideration of the bill. That section of the Budget Act prohibits consideration of measures that would cause the appropriate subcommittee level or program-level ceiling to be exceeded.

This is in this case a technical waiver since the rule itself includes an amendment that modifies the base text to correct the budget problem caused by the bill.

The rule makes in order the Natural Resources Committee amendment in the nature of a substitute now printed in the bill—as modified by the amendment correcting the budget problem and printed in the report accompanying the rule—as original text for the purpose of amendment. The substitute shall be considered as read.

The rule also waives clause 5(a) of rule XXI, prohibiting appropriations in a legislative bill, against the committee substitute.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, S. 208 would improve the way the National Park Service awards and manages concession contracts for the provision of goods and services to park visitors. The main purpose of the bill is to open up the concessions industry by instituting a new set of regulations that are designed to spur competition.

As one who believes strongly in the need to support the National Park Service and improve its operations, I commend the gentleman from Minnesota [Mr. VENTO] for his work on updating the 30-year-old statute governing concession contracts. He has made changes in a way that will benefit park visitors and the taxpayers who are the owners of the parks, as well as the businesses that wish to bid on the contracts.

Mr. Speaker, to repeat, this is an open rule. The waivers contained in the rule are technical in nature and have been accepted by the minority on the Rules Committee and have also been approved by the Appropriations and Budget Committees.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill raises many legitimate issues—and I expect my colleagues from both sides of the aisle to engage in vigorous debate as discussion of S. 208 proceeds. In reviewing the commentary from the bill's proponents and opponents, it is clear that there remain significant differences of opinion among Members about the trade-off between competition among park concession contracts and the important issues of continuity of service and possessory interest. Clearly, our national parks require the most careful oversight we can afford them—but we must also continue to ensure that they are available and accessible for all Americans to enjoy.

That is why I am pleased that we have an open rule for consideration of S. 208, allowing Members with an interest in this bill unfettered opportunity to discuss their concerns and propose ways to improve this legislation. I commend Chairman MILLER and ranking member YOUNG—as well as my Rules Committee colleagues—for granting this open rule. I am aware the rule now provides a technical fix to the Budget Act problems we found in the original text of the bill. I understand there is some controversy about the fix. Otherwise, I have no opposition to this rule.

Mr. Speaker, I include for the RECORD data on open rules versus restrictive rules in the 95th Congress, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
103d (1993–94)	80	21	26	59	74

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 28, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R, 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Farmington, UT [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise in strong opposition to the actions of the Rules Committee on S. 208. I appreciate Chairman MILLER'S request for an open rule and the opportunity we will have to offer amendments on the floor. However, the problem here is that this legislation has been amended by the Rules Committee in order to overcome the Budget Act violations of S. 208.

It seems that many Members of this body are misinformed as to the fiscal effects of S. 208. According to the Congressional Budget Office and apparently the Rules and the Budget Committees, S. 208 will not raise the revenues promised by its proponents but will actually result in direct spending. The Chairman may disagree with me but if this bill does actually raise revenues as promised, why was it necessary for the Chairman of the Subcommittee to offer an amendment to the Rules Committee that would circumvent the Budget Act.

The truth of the matter is that the National Parks and Conservation Association [NPCA] has continually claimed that S. 208 would raise $40 million dollars in revenues for the parks. However, I have made numerous requests of the NPCA to substantiate this $40 million figure and they cannot provide any information or evidence that any new revenue will be generated. The CBO says that S. 208 will actually cost money and apparently Mr. VENTO agrees or he would not have offered the amendment in Rules Committee without the knowledge of the minority.

My Republican colleagues received in the mail this morning a dear colleague that was signed by the Citizens Against Government Waste and the National Taxpayers Union. Although I am one of the most fiscally conservative members on this side of the aisle, these groups are simply misinformed on this issue. I fully respect the opinions of the Gentlelady from Kansas but I am afraid that the NPCA has mislead members on both sides of the aisle regarding the fiscal impacts of S. 208. The $40 million cannot be substantiated and I challenge any Member of this body to do so. This is a number pulled out of the air by the NPCA and the lies have to stop now.

Rather than create any new money for the parks, Chairman VENTO'S amendment in Rules Committee will now require that the first $22.6 million that will supposedly be collected must first go to the treasury and not to the parks. The entire emphasis behind concession reform has been to return more money to the parks and now we are taking that money away.

S. 208 is bad legislation that fails to raise new revenues, does not increase competition on 80 percent of the contracts and drives visitor services out of the parks. I thank the Rules Committee for the open rule but the Rules Committee should not be in the habit of amending legislation outside the purview of the authorizing committee. I urge my colleagues to look closely at the committee report and CBO's estimates and to oppose this legislation.

Mr. Speaker, I appreciate the gentleman yielding me the time.

□ 1530

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding to me.

I want to answer his question if I can. Obviously we have a difference of opinion about the legislation, but we should not differ about the fiscal impact of the $22.6 million that he referred to as to those dollars. That is the current, or the projected, CBO estimate of the amount of money that will come from concession contracts in fiscal year 1995, and if you look further, you will find that there is a slight increase in that amount over the 5-year budget cycle that we are required to respond to with regard to the Committee on the Budget.

In order to satisfy the concerns of the Committee on the Budget, because as you know in this legislation the dollars accrued from the increase or what we anticipate will be an increase in concession fees will be used to extinguish something, the property rights, of current concessioners in the park, but in order to satisfy the Budget Act, we had to specify that the amounts that are anticipated under the present policy path would go to the Treasury as they are going there today based on the projected budget amounts that CBO had projected as if there had been no change in policy.

So, indeed, those dollars, the increased number of dollars that are reflected there, is the current policy that we are talking about.

The increased dollars, if any, and my colleague and I have may have differing views with regard to that, would be used by and large for the extinguishing of the possessory interests within the parks and for other purposes, for the franchise fees, and the other dollars would stay in the park, as I think most of us would like to occur. But we had to deal with that baseline, and we will have to do that in similar measures that raise revenues in parks.

I thank my colleague very much for yielding and permitting me to explain that.

Mr. HANSEN. My friend from Minnesota, if I am reading him right, made a statement which is absolutely true, as he normally would, a very distinguished Member of this group, but let me say this: How we should interpret it is this way, prior to going to the Committee on Rules, most Members of this body were of the opinion that the money would flow back to the parks. The parks that are falling apart, that cannot take care of their infrastructures would have dollars given to them so they could build their infrastructure.

We are now saying, well, that is not entirely so, and that is why my friend from Minnesota had to put this amendment in to satisfy the CBO. Is that not correct?

Mr. VENTO. If the gentleman will yield further, I think the money is, when it comes to the Treasury, is not exactly going into a black hole that is lost. The appropriators can appropriate it back out.

Mr. HANSEN. May I say respectfully that is where we would disagree.

Mr. VENTO. I would like to, and I think the gentleman would like to, see all the revenue raised from the parks remain in the parks without having to go through the OMB or go through the Committee on Appropriations; we are saying the policy changes, which I believe will enhance revenue, and the gentleman has spoken a different view with regard to that, will stay in the parks, and our preference would be for all the dollars to stay there from dollar one, whether they are the existing concession franchise fees or whatever improvements and enhancements take place through this legislation, but that in order to satisfy the CBO and the Committee on the Budget and the Office of Management and Budget, we had to deal with the CBO projection, and so that is why it has been modified, and for only that reason.

Mr. HANSEN. I appreciate the comment from my friend from Minnesota.

I do think that people should realize that the idea of reinvigorating the parks, of money flowing into the parks, of the infrastructure of the parks, of what this will do as far as visitation which we will talk about later, I really feel this is a bad piece of legislation, and I would ask my colleagues to vote against it.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I believe what we have in front of us is a rule where the Committee on Rules has done its best to make a fix. We have not done it apparently as cleanly as we hoped we would. We do have an open rule. It is clear we have got a lot of points to debate. We should get on with that.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I urge my colleagues to accept this open rule so we may proceed to consideration of the bill.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 492 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 208.

□ 1536

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes, with Mr. MCNULTY in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 5 minutes.

I, of course, rise in strong support of S. 208, a measure for concession reforms that is supported by, and part of the product of, Vice President GORE's Task Force on Reinventing Government. This measure is supported by the Clinton administration. This measure is strongly supported by the Secretary of the Interior, Bruce Babbitt. This measure is supported by the National Park Director, Roger Kennedy. It is supported by the conservation organizations throughout the Nation, and it has been led by the National Parks and Conservation Association itself. This measure is supported by the Taxpayers' Association and Citizens Against Government Waste.

I might say that this measure, which provides for an entrepreneurial effort to in fact try and invigorate our parks, to use the strength of the free enterprise system and competition which have served this Nation, are long due in terms of this measure.

There was a time, Mr. Chairman, when our parks and some parks today are not able to sustain or attract the private sector in terms of maintaining services to the guests and to the individuals who frequent our national parks. But today many of these concessions, and some of our outstanding crown jewels, our national parks, are big business. They, in fact, have become the trading chips on Wall Street, the trading material between international companies and firms.

Some of these concession contracts are multi-million-dollar, 100-million-dollar, very, very valuable contracts, as there is an effort to try and provide these services, and in essence to cash in on the people's parks, the national parks.

The parks in this Nation were created for the enjoyment of the public. They have been preserved. They are being conserved and rehabilitated. They are not there as profit centers solely for those that would take advantage of a system of regulation that no longer serves the American people or these parks.

The efforts made in the mid-1960's were landmark efforts in terms of policy, but they are not serving us today. In fact, they are a disservice to these parks, and that is why this lineup of conservation, taxpayer groups and this administration and the past administration, led by Secretary Lujan that set much of the foundations for the progressive policy that has been passed by the Senate, is largely endorsed in this bill with some changes.

The fact of the matter is, Mr. Chairman, that people need the concessions that are sometimes in the parks, and these services in order to enjoy them. We have come to realize there are many drawbacks to existing law. Existing law does not foster competition. It thwarts competition, and the existing law provides an absolute right, preferential renewal for someone that has a contract, irrespective, and by and large of how they have conducted themselves, simply by meeting the price of a bidder.

The existing law permits the buildup of a very valuable possessory interest which is based on current value of some investment made; in other words, this is completely at odds with the types of leases and concessions that exist across this country for ballparks, State parks, shopping centers, and for a variety of other things.

□ 1540

It is unique to the Park Service. As I said, at one time when we had mom-and-pop operations in the parks, when it was difficult to attract people to come to those parks, it probably was necessary. Today when these are the bargaining chips on Wall Street in terms of takeovers and mergers, multimillion-dollar value, billion-dollar values represented, it is time we update the law and make it current to what the present situation is.

The possessory interest, buildup of an interest in these parks, makes it absolutely impossible for an individual to buy out that possessory interest and to really compete. So we need to change that, change the law. That is what we are about.

This bill changes the situation to make it workable, to deal with the barriers that exist. This bill recognizes very importantly that when facilities and services can be provided outside a park, that should be the preferable option. This particular legislation does not throw any concessioners out of the park. This legislation does put that concessioner in the free enterprise system in competition.

I know there are a lot of speeches given on this floor in terms of individuals who favor free enterprise, they like to give speeches, but sometimes we find that those who give the loudest speeches and those that proclaim the virtues of free enterprise simply do not want to practice free enterprise.

This bill, as far as it can, attempts to inject some competition into the free enterprise.

We know there has been a sad history out there with regard to service provided in these parks to constituents. We know that has to be improved, that they cannot just be profit centers. We have to look to the preservation of service to people and our communities.

Mr. Chairman, I rise in strong support of S. 208, the National Park Service Concessions Policy Reform Act. This is an important reform bill. The legislation has been a long time coming, and represents a broad, bipartisan consensus. To a large extent, it would give permanent, statutory effect to changes in National Park Service policies that were prompted by our former colleague and former Secretary of the Interior Manuel Lujan, and also reflects important suggestions from the General Accounting Office, the Interior Department's inspector general, and other experts.

Mr. Chairman, the relevant background to this bill, as well as its detailed provisions, are discussed at length in the Natural Resources Committee's report on this bill. Therefore, I will only summarize a number of major points that members should be aware of concerning this measure.

National Park Service concessions contracts are now primarily governed by a 1965 act known as the National Park Service Concessions Policy Act. That 1965 act, developed by our former colleague and distinguished chairman, Mo Udall, and other members of our committee, was a very sound measure for its day and age.

For example, the 1965 act established the policy that park facilities and services "shall be limited to those that are necessary and appropriate for the public use and enjoyment of the national park area in which they are located and that are consistent to the highest practicable degree with the preservation and conservation of the areas." That is an important standard and one that is retained in this bill.

However, some parts of the 1965 act have become outmoded, as improvements in transportation and an increasingly mobile population have made the parks less isolated and less remote.

A prime example is section 6 of the 1965 act, which enables concessioners who acquire or construct structures, fixtures, or improvements on Federal lands within a park to obtain a possessory interest that can be assigned, transferred, or encumbered.

In addition, the 1965 act gives all national park concessioners a preferential right of renewal of their concession contracts so long as they have performed in a satisfactory manner, and allows present concessioners to receive preferential rights to provide new or additional accommodations, facilities, or services in the same National Park System unit.

While these and other provisions of the 1965 act may have been desirable when there was a perceived need to entice firms to seek concession contracts, they now represent very significant and effective obstacles to competition. They substantially undercut the willingness and ability of firms not already holding concession contracts to seek to win such contracts.

The central thrust of S. 208 is to put more reliance on competition in the selection of concessioners—for the benefit of park visitors and also of the taxpayers.

At the same time, the bill retains the provision of existing law that consideration of Federal revenues is to be subordinate to the objectives of proper protection of park resources and provision of necessary and appropriate facilities and services to park visitors at reasonable rates.

In order to increase competition for concession contracts, the bill would do away with the special provisions of current law that enable national park concessioners to amass possessory interests in park facilities.

The current law's "possessory interest" provision is unique to the National Park System. It is not used in our national forests and public lands nor by State park systems, or in typical commercial leasing arrangements. It represents a barrier to market entry by firms that would be interested in seeking concession contracts if they did not have to be prepared to pay the sometimes-substantial initial costs of purchasing these possessory interests.

The bill also would revise the current law's requirement that all national park concessioners have a preferential right to renewal of their contracts. This is also an important step to increase competition. At the same time, the bill would continue these renewal rights for small businesses concession contracts—those grossing less than a half-million dollars annually.

The Natural Resources Committee considered but rejected amendments that would have continued the ability of concessioners to obtain possessory interests in park facilities, and that would have extended the preferential rights of renewal of one class of concessioners—guides, river runners, and outfitters—regardless of the size of their operations.

I think that rejection of these amendments was an appropriate action by the committee and I would urge the House to reject these and similar weakening amendments if they are offered on the floor.

In conclusion, Mr. Chairman, I want to express my appreciation for able efforts of the many Members on both sides of the aisle who have assisted in making it possible for us to bring this important bill to the floor of the House today.

In particular, I want to thank the gentlewoman from Kansas [Mrs. MEYERS] and the gentleman from Florida [Mr. STEARNS] for their leadership on this matter, and also to note the important contributions of the gentleman from Oklahoma [Mr. SYNAR].

Thanks to their efforts and those of the chairman and other members of our committee, we have an opportunity today to significantly increase competition for concession contracts, for the benefit of all the visitors to the National Park System and for the benefit of the American people who own the priceless treasures of our national parks.

I urge the House to pass this measure without any weakening amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the issue of concessions reform has been thoroughly analyzed and debated by Congress for a number of years. While there are numerous areas of disagreement regarding the extent and nature of any necessary reform, throughout the years of discussion and debate, it has been the clear and uncontested testimony of numerous witnesses that the concession program has provided a great public service in parks at a reasonable cost. In that regard, the existing law has been an unqualified success. However, it has also become clear that two aspects of the present law need to be addressed: increased competition and increased return to the Federal Government.

Even discounting the exaggerated reports by the GAO and Interior IG, it is clear in the record that the Federal Government could be receiving greater revenues from the concession program. However, I would hasten to point out that is not an artifact of existing law, but a result of discretionary decisions by Department of the Interior officials. Similarly, only a tiny fraction of contracts in recent years have been awarded to other than current concessionaires on the basis of competition.

Proponents of S. 208 claim that the issues of increased competition and increased revenue to the Federal Government are addressed in this bill. Mr. Chairman, that is totally inaccurate. Under the version of S. 208 we are considering today, there will be no increased competition for over 80 percent of existing concession contracts. Similarly, according to CBO, S. 208 will generate no new funds for the National Park Service. In fact, under an amendment made in order as part of the rule, the amount of money which will be available to parks from concession operations under this bill will be less than it is today.

Mr. Chairman, the real impacts of this bill will be reduced and more expensive visitor services and accommodations. Proponents of this legislation are fond of citing how concessionaires in State parks pay higher franchise fees for the privilege of doing business. Hearst Castle State Park in California is one of the often cited examples where the concessionaire pays a 26-percent franchise fee on food sales.

It so happens that this same concessionaire operates at Muir Woods National Park about 150 miles north, where they pay a smaller franchise fee to the Federal Government. The simple difference between the two operations is that prices for the same items cost 40 to 60 percent more at the State park. The hot dog which sells for $1.85 at Muir Woods costs visitors to the state park $2.85.

Proponents of this legislation have also frequently compared concessionaires in parks to tenants at shopping malls. Again, the analogy is completely faulty. There are two types of tenants in malls, anchor tenants and renters. Anchor tenants typically either own their stores outright or have 50- to 99-year, renewable leases. Renters typically have low costs and are not requested to make major capitol improvements. Neither of these models fit the situation of a park concessionaire, asked to invest heavily on someone else's land, with no guarantee of the continued opportunity to remain in business.

The net effect of this legislation will surely be increased costs for the park visitors and decreased private sector investments in our parks.

Mr. Chairman, it is easy to see why environmental groups which have fought against concession development and services in Grand Canyon, Zion, Bryce, Carlsbad Caverns, Yosemite, Sequoia, and so forth have put so much energy into this legislation. It goes a long way toward their goal of locking up parks and closing off visitor access. Their goals are fundamentally inconsistent with basic law establishing the National Park Service and the desires of the American public. That position never could have prevailed if it had been debated on its merits.

I hope the House can today adopt important amendments which fix the many problems with this bill which jeopardize the quality of the visitor experience of millions of persons annually at our National parks.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. I thank the chairman of the subcommittee for yielding this time to me.

Mr. Chairman, I have served for 17 years with the gentleman from Minnesota [Mr. VENTO] on the Parks Subcommittee. He has done a very diligent, masterful job in addressing a subject that I think periodically Congress should address, the concessions and the facilities in our national parks.

I particularly agree with the gentleman from Minnesota in one of his opening remarks where he stated that America's national parks are for America's families.

I therefore am on the floor today to propose two family-friendly amendments to my good colleague from Minnesota. I have taken numerous vacations for many, many years with numerous children and numerous grandchildren, totalling approximately 30 today.

I know that when I take my children and grandchildren on vacations to national or State parks or other areas, I know what they are looking for. They are looking for fun items, they are looking for excitement, they are looking to swim, yes, they are looking to hike, they are looking for a soft drink or ice cream, they are looking for a hot dog.

These are things America's families are expecting in their recreational parks.

My amendments, which I will address later, are those which I call family-friendly. They will provide more services in the national parks than this bill provides.

In the closing days of the markup in the full committee, not in subcommittee but in full committee, the chairman inserted a provision which would very drastically restrict those family facilities in our national parks.

My amendment will be brought forth to hopefully cure that. I will address that later.

Mr. HANSEN. Mr. Chairman, I yield 4 minutes to the gentleman from Wyoming [Mr. THOMAS.]

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the bill as it is before us today.

Mr. Chairman, I have spent a good deal of time visiting with outfitters, guides, and concessionaires across Wyoming who are extremely concerned about this legislation. If it is approved, it seems to me we run a very grave risk of changing the very way that concessions have been developed through the years and are administered currently on Federal lands and on parks.

Let me make clear that I am not opposed to making changes. There need to be changes.

My notion, however, is that most of those changes, if not all, can be made under the present law. The administration has not made them, this administration, nor previous administrations. Those that administer the program are not willing to take the steps to do that.

The primary objective of the National Park Service concession program is to insure protection of the resources first, to provide the quality service to the public, and to enable a reasonable return. The return is not the first function of these kinds of things. We need to have an incentive that allows people to continue to make the investment, in some cases very large investment, such as at Yellowstone National Park.

Mr. Chairman, this is not an easy thing to do, to have hundreds of millions of dollars from a private investor who is out there without some sort of hoped-for continuation of their good services. Just recently the park at Yellowstone turned the campground over to a concessionaire because there was not enough money in the budget to keep them up. Only in this way could it be done, and they are doing that.

□ 1550

Through the years the system has worked well. If there are problems, they could be fixed the way they are. I think we bring a size 10 solution here to about a size 3 problem, and that is beginning to be sort of the issue that we are faced with on these Federal projects throughout the country.

One of them, of course, is the idea of eliminating possessory interests where there is an opportunity here, with a great deal of investment, that, rather than take it at the market price, should this concessionaire leave, we have a straight line depreciation which may or may not reflect the kind of investment that is there.

But I am especially concerned about the effects of this measure on outfitters and guides across the Nation. The bill encourages a revolving door in this instance and where there is relatively little investment, but a great deal of expertise, and these outfitters of various sizes, most of them are very small, and, by the way, one of the difficulties is the variation in concessionaires. There is a great deal of difference between a TW that had hundreds and millions of dollars invested and the family ranch operator in Teton National Park. This bill puts them all together in the same kind of operation.

Mr. Chairman, I think that we could make some concessions; we tried to do that in committee, that would recognize these small investors, that would recognize these outfitters, and I urge that we do consider that before this bill is passed. This measure is ill conceived as it is and will not help our parks, will not provide additional revenues. The current system is basically sound, and adjustments need to be made there.

Mr. Chairman, I urge Members to vote against this legislation as it now exists.

Mr. VENTO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR], chairman of the subcommittee of the Committee on Government Operations that has worked hard on this measure, and the gentleman is the principal sponsor of one of the initiatives.

Mr. SYNAR. Mr. Chairman, I rise today in strong and enthusiastic support of S. 208, as reported, a bill to make major reforms in the concessions policy of the Park Service. Over the last 5 years, the Government Operations Subcommittee on Environment, Energy and Natural Resources, which I have the honor to chair has held 3 days of oversight hearings and commissioned four separate General Accounting Office studies on government concessions policies and practices. As a result of that work I sponsored H.R. 743 in the last session, a reform bill similar in virtually all major respects to S. 208.

Mr. Chairman, I have waited a long time for this moment I applaud Chairman VENTO and our colleagues on the Natural Resources Committee for bringing this measure before us today. It's good for the taxpayers, it's good for competition, and it's good for the parks.

The current Park Service concession policy is a money loser, which returns to the Treasury just a small fraction of concessioners' hundreds of millions of dollars in gross receipts. The taxpayers have never received a fair share of these often lucrative operations on public lands; it's time we made sure the taxpayers get the break they deserve.

The current policy is also a competition buster which discourages new businesses from entering the market and competing to provide better goods and services to tourists at our Nation's magnificent national parks. Current law restricts competition in several ways.

Remarkably, under the current policy, existing concessioners have a perpetual, preferential right of renewal for their contracts—which may have terms up to 30 years. This preferential right of renewal has stifled competition, especially for the larger, more lucrative concessions, and that guarantee of future business must be repealed for all but the smaller concessioners. In this respect, the bill before us quite properly retains the preferential right of renewal for small operations which are expected to gross less than $500,000 a year.

Under current policy, concessioners also are guaranteed a possessory interest in improvements they make to structures on park property—interests which, under the current scheme, only increase in value over time and must be bought out at inflated prices by a new contractor. We will address this issue of possessory interest buyouts during consideration of the Murphy amendment, which seeks to protect the concessioners' possessory interest in perpetuity. In the meantime, though, let me make a point in response to the argument the concessioners have always made about the "equity" of their current possessory interest protection. The concessioners would have us believe that they make these investments because they just love the parks, and they just love the park visitors.

Well, Mr. Chairman, I think we all know that concessioners don't make these investments out of the goodness of their hearts, because they just love our parks. No, indeed. By and large, they make these investments in order to increase their revenues. It's that simple. And believe me, they have reaped the financial rewards of those investments for many, many years now—without ever having to return a fair share of their revenues to the taxpayers who own these parks.

To my knowledge, the National Park Service is the only Federal agency which still guarantees such unnecessarily generous possessory interest buyouts, and it's time for a change.

These existing policies are a throwback to the days when the Government actually had to offer inducements to concessioners to open up commercial operations in our national parks. Mr. Chairman, those days are long gone, and it is long past time for Congress to insist on drastic reform of this system.

Almost 10 years ago, President Reagan's cost-cutting Grace Commission singled out concessions reform as a target for increased fees and improved services; a decade ago, that Commission called for the end of preferential treatment for existing concessioners and a new system of competition for these lucrative contracts.

But a decade later, as my own subcommittee's oversight hearings showed, the Department of the Interior still does not have a national—or rational—system for managing park concessioners. In some cases, even the most basic information about concession agreements and operations had never been assembled.

The General Accounting Office estimates that there are more than 1,500 concession agreements at national park sites. Many of these concession arrangements have not been reviewed for years; indeed, for many, the Service didn't even know how much they were generating in revenues. Thus, it is not surprising that GAO and the Department's Inspector General both have concluded that the taxpayers are losing tens of millions of dollars every year through inequitable fee schedules and lax oversight.

Overall gross receipts by National Park Service concessioners in 1990 reached almost $600 million; it may be substantially more now. Yet park concessioners, who earn their revenues through the privilege of operating on public lands, return less than 3 percent of their gross receipts to the owners of those lands—the taxpayers.

Maybe that disgracefully low rate of return is the reason the concessioners have never been anxious for the public to know how much money they make off of these public lands. In fact, I would remind my colleagues, several years ago the concession industry actually filed a lawsuit to keep the Interior Department's Inspector General from issuing a report that disclosed how much in revenues were generated by these various concession operations, and how much they paid to the Government in fees. Well, it's not a secret that many of these operations generate tens of millions of dollars a year in revenues; it's also not a secret that those same concession operations may pay only a few thousand dollars in fees.

Compare the national park concessioners' average returns to the taxpayers with fees paid by concessioners at some of the Nation's most popular State parks, or with private and Federal entertainment attractions such as the Meadowlands Sport Complex in New Jersey, the Hearst San Simeon Historical Monument in California, or the Cove Palisades Park in Oregon.

Concessioner fees at these sites range from 10 percent of gross receipts for State park boat rentals, to as high as 65 percent on some merchandize sold at the Meadowlands. And concessioners pay these higher fees without the inducement of long contract terms and preferential rights of renewal.

Mr. Chairman, it's time for a change.

As long ago as 1976, our Committee on Government Operations issued a joint oversight report with the Committee on Small Business which found that National Park Service policies discourage competition and give concessioners too great a voice in concession management. Here's what our predecessors said about the need for Park Service concession reform almost 20 years ago:

> The hearings and investigation of the subcommittees demonstrated that the National Park Service administration of concessions has been inadequate and ineffective; that the concessioners have, in effect, been allowed to do business with little overall control or supervision by the NPS; that concessioners have undue influence over NPS concessions management and policies; that concession contracts are vague, ambiguous, and generally do not adequately protect the Government's interest; that the 1965 concession statute discourages competition for concessions and encourages large corporations to take over an increasing number of concessions operations at the more profitable areas of the National Park System, to the detriment of small business; and that the general public is rarely consulted concerning the management of Park Service concessions.

Mr. Chairman, those criticisms are as true today as they were almost 20 years ago, and that's why we need the reforms embodied in S. 208, as reported by the Natural Resources Committee.

This legislation would cure the defects in the existing concession policy, by requiring real competition for contracts, by weaning concessioners from their unjustified subsidies and buyouts, and by getting a better and fairer return for the taxpayers and directing concession fees back into the parks where they are needed.

Only a strong concession reform bill will ensure that these significant, long overdue changes are made. I urge all my colleagues to support S. 208 and to firmly reject the weakening amendments being advocated by the concession industry.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield for a question, please?

Mr. SYNAR. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, I just wonder if the gentleman would help me compare the Meadowlands with Teton National Park in terms of the length of the season, in terms of the intensity in terms of the market that is available.

My point is there is a substantial difference between those two, it seems to me, in terms of the volume year round.

Mr. SYNAR. Mr. Chairman, there is a substantial difference. Let us take the Meadowlands, for example. I used in my example that 65 percent of some concessions, we are returned 65 percent, compared to the Yosemite concession services where we get 0.75. That does not seem like we are doing a very good job getting the type of royalty and returns that even private and State parks get.

Mr. MURPHY. Mr. Chairman, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Chairman, Yosemite was 7.5 before the National Park Service used the new procedure that is outlined in this bill, and now I understand it is zero. There is no income from the current concessionaire because other concessions have been made to him under these very rules and regulations my colleagues are trying to put in law today.

Mr. SYNAR. Mr. Chairman, let me correct the gentleman's understanding of the Yosemite contract. Under the new consideration of government the franchise fee eliminated was in lieu of capital fund of 4.5 to 5 percent and the elimination of the possessory interest which was very important for us to get control back over to the park.

Mr. HANSEN. Mr. Chairman, I yield 6 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in strong support of S. 208, the National Park Service Concessions Policy Reform Act. As some of my colleagues may know, I introduced virtually identical legislation, H.R. 1493, in the House last year.

Today, we have an opportunity to make substantial improvements to National Park Service concession contracting procedures. S. 208 opens Park Service concession contracts to competition, provides American taxpayers an adequate return from Park Service concessionaires, and dedicates more funding to our parks. At the same time. S. 208 also protects existing contracts and related property values.

S. 208 is protaxpayer and propark. It ensures that the National Park Service will award its valuable concession contracts in a fair manner, through open competition. The bill establishes a floor—or a minimum franchise fee—for new contracts, or those being renewed. After this floor is established by the Secretary of Interior, bidding would be allowed above the minimum.

Currently, no bids are received when a contract is being renewed because the current holder can retain his contract by meeting the highest bid. Consequently, no other prospective bidders are willing to take the time—and money—in an effort to win a contract only to have the current concessionaire meet the best competing bid because of a preferential right to renew.

A recent report by the Interior Department's inspector general found that, of 29 Park Service contract offerings, 28 incumbent concessionaires had no competing offer. It is clear the current law stifles open competition.

Under the current system, when contracts are renewed without competition, franchise fees remain low while concessionaire profits increase. In 1992, concessionaires generated more than $650 million in gross revenue. As a group, concessionaires returned to the Federal Government just 2.6 percent of that $650 million, none of which went to the parks.

In the rare instances that an incumbent concessionaire leaves a park, competition is tremendous. This happened at Yosemite National Park. Since no incumbent concessionaire was in the running, six interested parties submitted a bid to offer services at Yosemite. The winning bid returns to Yosemite the equivalent of a 20-percent franchise fee. In contrast, the previous franchise fee was three-fourths of 1 percent.

Another important provision in S. 208 is the establishment of park improvement funds into which franchise fees collected from the gross revenues from concessionaires are deposited. The bill includes a much needed directive to the Park Service requiring that half of the fees generated in a park be reinvested back into its operating budget of the park. The remaining half is directed to reducing the $2 billion backlog of infrastructure repair in the Park System. It is estimated that $40 million annually will be returned back to the parks.

This is one of the key recommendations that has been made many times by various commissions on reforms for the Park Service, including the Grace Commission. This provision is common sense since many popular parks are being loved to death by the public and are in desperate need of infrastructure repair and upkeep.

S. 208 also changes the policy which grants possessory interest in structures built on Park System land by concessionaires. The current law values these structures at their replacement cost, which increases over time, giving concessionaires a real estate bonanza. As you can guess, estimates of possessory interest are very high because the structures are located in the Park System with a very captive market.

Under S. 208, structures will be valued by the straight-line depreciation method—which is the method used in the GAAP—Generally Accepted Accounting Principles—and in similar real estate transactions. This is the manner in which other concessions are contracted by State parks, in private land development agreements, and is fair to taxpayers and to the concessionaire.

Knowing that there are small "Mom and Pop" concessions that have been in some national parks for many years, the bill exempts these small concessions that gross less than $500,000. These family-operated concessions are very different than the lucrative multimillion dollar concession contracts that are awarded for popular national parks.

It is imperative that the House act on S. 208 because a sizable number of Park Service concession contracts have or will soon be expiring. Without action, contracts will be renewed without competition and the practice of the awarding contracts with anemic franchise fees will continue.

Mr. Chairman, because of preferential right of renewal and possessory interest, we do not have open bidding for the concessions in the Park System. Consequently, we receive less than 3 percent of gross receipts from concessionaires. However, State government parks and others offering concession contracts receive more than 10 percent of gross receipts.

S. 208 and our House bill have received the endorsements of the National Parks and Conservation Association, Citizens Against Government Waste, and the National Taxpayers Union. These two taxpayer watchdog groups have indicated that they will be scoring this vote as a protaxpayer vote.

I do want to make it clear that I am not questioning the good service concessionaires are giving to park visitors. The policies in the 1965 concessions law may have been necessary then to get people into parks, but now they are not prudent. Our national parks are visited by 275 million people annually, and these numbers are expected to increase to ½ billion in 5 years.

Mr. Chairman, this is a bipartisan bill that opens competition, helps our parks, and rewards the taxpayer. I urge my colleagues to vote "yes" on S. 208.

□ 1600

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I would be remiss in my responsibility if I did not take this opportunity to commend the gentlewoman from Kansas [Mrs. MEYERS] for her outstanding service and leadership in this area. As I said in my opening remarks, I feel like the legislation I have introduced in the last session is virtually identical to what we are doing. But I think it is very safe to say that the gentlewoman's leadership on her legislation, that she has introduced, is very similar also.

The gentlewoman ended her speech with what I think we need to remember here: This is a bipartisan effort, that is very responsible, that goes to the heart of what I think many of our taxpayers and constituents have told us, which is to try to run Government a little bit more like a government.

I wanted to take this opportunity to give special recognition to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, if the gentleman will yield, I appreciate the remarks of the gentleman from Oklahoma.

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, just briefly, I would like to point out the essence of the legislation comes to us because of, as the gentleman from Oklahoma [Mr. SYNAR] said, a series of General Accounting Office reports that held this up to the light of day.

What served well in 1965 has not served well today. In fact, it has been headlines in the paper with regard to the amount of franchise fees and the dollars that were coming back to the Treasury, and the exorbitant type of benefits that were flowing to some concessionaires. Not to all. I think by and large the concessionaires in our national parks, some of them were in these locations before they were parks, so they have been an important part in meeting the needs of the American public in terms of enjoyment and really stewardship of those parks. That work with those concessionaires is important.

What the GAO reports pointed out is some very, very bad examples of what was happening, and, I might say, an inspector general's report commissioned by then-Secretary Lujan is what really started him down the path. He tackled the Yosemite contract with the help of the Congress, and I think we really have some continuity here with Secretary Babbitt and others proceeding to bring this to a conclusion.

The concerns are that there has been no record of what was going on, because every individual superintendent had a policy unto himself in the individual park where there were concessionaires. Not all of our parks have concessions. There was no record, no information, no continuity, and the end result was that we had buildings that were publicly owned that were being rented for a pittance. We had no revenues coming back in. We had individuals acquiring a possessory interest in lieu of franchise fees. Not only were they making the profits, but then taking the franchise fees they were supposed to pay to the Park Service and acquiring a possessory interest, and today we have to buy them back. That is the case. There are no records of what occurred.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER], the chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Chairman, I rise in strong support of legislation that will bring much needed reform to policies governing concessions contracts at our national parks.

Current policy is nearly 30 years old and reflects the priorities of a much different time. The changes contemplated by S. 208 will encourage greater competition that we expect will raise more revenue that, under the bill, can be retained directly by the parks to support badly underfunded maintenance and construction needs.

S. 208 passed the Senate by a vote of 90 to 9. Rarely has reform of any policy in the natural resources arena won such a ringing endorsement from the other body. I think this is a reflection of the broad consensus that several years of congressional examination of these issues has produced.

Today, contracts for goods and services in our national parks are awarded in ways that differ significantly not only from accepted practices in the private sector and State and local park systems, but also from contracting methods on lands managed by the U.S. Forest Service and the Bureau of Land Management. This may have made sense at a time when our parks were underdeveloped and undervisited and it was deemed necessary to dangle generous terms in front of prospective concessioners to encourage investment, construction, and visitor services.

In 1994, few would argue that our parks are underdeveloped and undervisited. As visitation throughout the Park System has grown geometrically business opportunities and profits at the parks have risen handsomely. But neither the taxpayers nor the parks themselves have benefited because old policies lock in contracts when length is up to 30 years with franchise fees that average a puny 2.6 percent of gross, smother competition for these lucrative contracts, and then funnel what revenues are generated into the black hole of the general fund. Today, Park Service concessions contracts generate only about $16 million a year for the Treasury. We can do better by our national parks and our citizens who love and visit them.

One of the major culprits in this situation is a system called possessory interest. In national parks, unlike State parks, other Federal lands, or even shopping malls and other private sector developments, the operator of a concession can invest in an improvement to a facility he does not own and claim an appreciating, fair-market value property right for that investment. Nobody else does this. A similar improvement elsewhere earns you a right to the value of the investment itself properly depreciated over time and nothing more.

The result in our parks is that many concessioners have accrued millions of dollars in possessory interest portfolios that pose very high barriers to real competition at contract renewal time. That is because a competitor not only has to offer better service at a better price and a better return to the taxpayer, he or she has to do so while buying out the possessory interest of the existing concessioner.

S. 208 sensibly eliminates this practice, while protecting the rights and property accrued under the existing system.

The bill also allows parks to keep the revenues generated by concession contracts in funds at those parks for use in meeting construction and maintenance needs. We have heard repeatedly on the floor of this House stories detailing the dire straits of the basic infrastructure of the parks. And while I believe that some of the multibillion estimates of the so-called backlog of park construction needs are highly misleading, nevertheless it is incumbent upon Congress to do everything it can to help park superintendents provide for the health and safety of visitors and to protect the natural, cultural, and historic resources for which the parks were established in the first place.

For all those Members who have bemoaned the lack of adequate financial resources to take care of what we have in the National Park System, here is their chance to make a positive contribution to alleviating that problem.

Mr. Chairman, we have a good bill, a long overdue bill that is supported by the administration, by many conservation and environmental groups, and by an exceedingly broad, bipartisan majority in the Senate.

This legislation will reduce the need for more appropriated funds to address park needs, increase revenues for park purposes, and improve our ability to be good stewards of the national heritage our Park System so proudly represents.

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Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE], a member of the committee.

Mr. ABERCROMBIE. Mr. Chairman, when Congress last addressed this issue in 1965, the parks were remote outposts, poorly served by transportation links, and visited by a small fraction of today's. Thirty years ago it made sense to offer incentives to attract businesses to the parks. However, it is now 1994, and park visitation rates exceed a quarter of a billion people per year.

In addition, Federal investments in roads and other programs in the past 30 years have made parks even more accessible, and they are now have attractive business opportunities.

So in my estimation, and in my experience with our National Park System in Hawaii, where we have visitors from all over the world, let alone the United States and Hawaii itself, S. 208 makes a series of very prudent reforms.

It eliminates the concessioner's preferential right to renew contracts if they have gross annual revenues in excess of $500,000 and it reforms the method of calculating the concessioner's possessory interest in order for a more accurate value to be assessed.

I believe that this will protect the liability to the taxpayer.

This measure will return the revenues generated by concessionaires to the National Park System. This will not solve all our problems, but it is certainly a step, a major step in a direction towards addressing the Park System's unmet needs.

The bill, as has been noted, is supported by Government antiwaste groups like the National Taxpayers Union and Citizens Against Government Waste, park groups themselves, propark groups like the National Parks and Conservation Association, as well as, of course, the National Park Service.

It does recognize, and I want to note for the record, the area in which I have some knowledge, and I think it should be something that should go on the record.

I want it noted from the act that "there are established Federal contracting authorities, aside from the 1965 Act, that this bill would repeal and replace, that the National Park Service can use in conjunction with the authority provided by the bill as reported. For example, the Randolph-Sheppard Act allows a Federal agency to 'sole-source' a concession contract or authorize to a State which in turn assigns it to a blind operator. The Committee understands that this authority has been successfully utilized at the U.S.S. *Arizona* memorial," a particular area, Mr. Chairman, which is visited by literally millions of people, "at Pearl Harbor, Hawaii. Repeal of the 1965 Act will not affect such other contracting authorities, and the Committee expects that the National Park Service will continue to utilize them in appropriate cases."

I think that S. 208, as presented by the chairman and the committee, gives every adequate opportunity to take unique circumstances into account.

Mr. GEJDENSON. Mr. Chairman, I rise in support of S. 208, the National Service Concessions Policy Reform Act. I want to commend Chairman BRUCE VENTO and Chairman GEORGE MILLER for all their hard work on this issue. I would also like to acknowledge the gentleman from Oklahoma [Mr. SYNAR] for his efforts to bring reform to park concessions.

Mr. Chairman, when the Concessions Policy Act was enacted in 1965 there was a legitimate need for some of its provisions, including preferential right of renewal and minimal lease payments. Many of the parks attracted few visitors and the Federal Government took steps to attract businesses to develop hotels and restaurants and to provide services to the public. In the mid-1960's, it wasn't profitable to operate concessions in many parks so incentives had to be provided. Circumstances are completely different today.

Our national parks are some of the most heavily visited sites in the world. In 1992, nearly 275 million people visited sites managed by the National Park Service [NPS]. In fact, so many people are visiting major parks, such as Yellowstone, Yosemite, and Smokey Mountain, that park managers are considering reducing visitor numbers in an effort to protect fragile natural resources.

But now, operating concessions in the national parks is a very profitable business. In 1992, concessioners earned $650 million in gross revenue, but paid merely 2.6 percent of that to the Federal Government in the form of franchise fees. If one does the math, this amounts to $17 million, which in my opinion, is a ridiculously low amount when one considers how lucrative these concessions are to those lucky enough to have a monopoly. This is a great deal for concessioners, but not for the American people. I believe reform is long overdue.

Mr. Chairman, with that in mind, I strongly support S. 208 as reported by the Natural Resources Committee. This bill makes important reforms which will benefit the American people without compromising services in our national parks. For the first time, the bill establishes a truly competitive process for bidding for concession contracts by abolishing the right of preferential renewal. This procedure stifled competition because the current contract holder was always allowed to match the lowest bid. The bill does preserve this right of those with contracts which gross less than $500,000 per year. Many people were concerned that eliminating preferential right of renewal would adversely affect river runners and guides which provides specialized services. During consideration of the bill in committee, Chairman VENTO made it clear that only about 23 of the more than 220 concessioners specializing in river running grossed more than $500,000. Therefore, the vast majority of small businesses would be protected under this legislation.

Importantly, the bill requires the Secretary of the Interior to set minimum bids for each contract which guarantees a fair return for the American people. While a fair return is important, it is critical that concession contracts not be awarded to companies which cannot demonstrate that they will be able to operate in such a way as to protect natural resources in the park. This bill makes it clear that in awarding a contract, the Secretary's ultimate responsibility is to ensure that park resources are protected. While generating revenue is important, safeguarding nationally significant historic, cultural and natural resources is paramount and all other goals should be considered subsequently.

As many of my colleagues know, the Park Service has a massive maintenance backlog which must be addressed. Some have estimated the backlog to be in the billions of dollars. Furthermore, tight budgetary circumstances make substantial increases in appropriations impossible. This legislation seeks to provide the Park Service with additional financial resources to address this pressing issue. The bill creates a special fund in the Treasury where franchise fees will be deposited. Fifty percent of the fees will be distributed to the individual parks in proportion to the amount collected in that park and 50 percent will be distributed to the parks based on need. In addition, the legislation authorizes the creation of Park Improvement Funds in certain parks. Under this provision, concessioners would deposit all franchise fees collected in a specific park and expend them on projects designated by the Secretary. These provisions will provide park managers with a valuable new source of revenue to address mounting maintenance problems.

Finally, the bill eliminates concessioners' possessory interest in structures. Possessory interest is a costly relic of the past and has no place in the park system today. While existing contracts which include possessory interests will be honored, new contractors will not receive this special treatment, one that I would note is not afforded to those who operate concessions in ballparks for example. This will bring policy into line with common commercial leases and reduce costs substantially.

Mr. Chairman, this is a well-balanced bill which will ensure that the American people continue to receive the highest level of service in our parks. At the same time, taxpayers will begin to receive a fair return on lucrative contracts held by park concessioners. Most importantly, this legislation requires that natural resource protection and stewardship remain paramount in awarding contracts. I urge my colleagues to support this landmark bill.

Mr. VENTO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has now expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute now printed in the bill, modified by the amendment printed in House Report 103-623, is considered as an original bill for the purpose of amendment and each section is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Concessions Policy Reform Act of 1994".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2-4), which directs the Secretary of the Interior to administer areas of the National Park System in accordance with the fundamental purpose of conserving their scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the enjoyment of future generations, the Congress finds that the preservation and conservation of park resources and values requires that such public accommodations, facilities, and services within such areas as the Secretary, in accordance with this Act, determines necessary and appropriate—

(1) should be provided only under carefully controlled safeguards against unregulated and indiscriminate use so that visitation will not unduly impair park resources and values; and

(2) should be limited to locations and designs consistent to the highest practicable degree with the preservation and conservation of park resources and values.

(b) POLICY.—It is the policy of the Congress that—

(1) development on Federal lands within a park shall be limited to those facilities that the Secretary determines are necessary and appropriate for public use and enjoyment of the park in which such facilities and services are located;

(2) development within a park should be consistent to the highest practicable degree with the preservation and conservation of the park's resources and values;

(3) park facilities and services the Secretary determines suitable to be provided by parties other than the Secretary should be provided by private persons, corporations, or other entities, except when no private interest is qualified and willing to provide such facilities and services;

(4) if the Secretary determines that development should occur within a park, such development shall be designed, located, and operated in a manner that is consistent with the purposes for which such park was established;

(5) the right to provide such services and to develop or utilize facilities should be awarded to the person, corporation, or entity submitting the best proposal through a competitive selection process;

(6) such facilities or services should be provided to the public at reasonable rates; and

(7) if adequate facilities to serve the needs of park visitors exist outside a park's boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded within the park.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "concessioner" means a person, corporation, or other entity to whom a concession contract has been awarded;

(2) the term "concession contract" means a contract, or permit, (but not an authorization issued pursuant to section 5(b) of this Act) to provide facilities or services, or both, at a park;

(3) the term "facilities" means improvements to real property within parks used to provide accommodations, facilities, or services to park visitors;

(4) the term "park" means a unit of the National Park System;

(5) the term "proposal" means the complete proposal for a concession contract offered by a potential or existing concessioner in response to the minimum requirements for the contract established by the Secretary;

(6) the term "Secretary" means the Secretary of the Interior; and

(7) the term "franchise fee" means the fee required by a concession contract to be paid to the United States in consideration for the privileges afforded by such contract to the holder thereof,

which may be expressed as a percentage of revenues derived by the contract holder from activities authorized by the contract, and which shall be in addition to fees required to be paid to the United States for the use of federally-owned buildings or other facilities.

SEC. 4. REPEAL OF CONCESSIONS POLICY ACT OF 1965.

The Act of October 9, 1965, Public Law 89–249 (79 Stat. 969, 16 U.S.C. 20–20g), entitled "An Act relating to the establishment of concession policies in the areas administered by National Park Service and for other purposes", is hereby repealed. The repeal of such Act shall not affect the validity of any contract entered into under such Act, but the provisions of this Act shall apply to any such contract except to the extent such provisions are inconsistent with the express terms and conditions of the contract. Nothing in this Act that is inconsistent with a prospectus issued before April 1, 1994, shall apply to the contract with respect to which such prospectus was issued. The Secretary is authorized to award a concession contract prior to promulgation of new regulations to implement this Act if the Secretary determines that protection of public health and safety warrant such action, provided that such contract is consistent with this Act.

SEC. 5. CONCESSION CONTRACTS AND OTHER AUTHORIZATIONS.

(a) CONCESSIONS.—(1) Subject to the findings and policy stated in section 2 of this Act and the provisions of this section, the Secretary may award concession contracts that authorize private persons, corporations, or other entities to provide services to park visitors and to utilize facilities if the Secretary determines that such award is the appropriate means for such authorization.

(2) Concession contracts shall be awarded only to the extent that the Secretary finds that the services to be provided and the facilities to be utilized pursuant to each such contract are necessary and appropriate for the accommodation of visitors to a park.

(3) The provision of services and the utilization of facilities pursuant to concession contracts shall be consistent with all applicable requirements of law, including laws relating generally to the administration and management of units of the National Park Service, and with the general management plan, concessions plan, and other relevant plans developed by the Secretary for the relevant park.

(b) OTHER AUTHORIZATIONS.—(1) To the extent specified in this subsection, the Secretary, upon request, may authorize a private person, corporation, or other entity to provide services to park visitors otherwise than by award of a concession contract.

(2)(A) The authority of this subsection may be used only to authorize provision of services to park visitors that the Secretary determines have minimal impact on park resources and values and will be consistent with the purposes for which the relevant park was established and with all applicable management plans for such park.

(B) The Secretary—

(i) shall require payment of a reasonable fee for issuance of an authorization under this subsection;

(ii) shall require that the provision of services under such an authorization be accomplished in a manner consistent to the highest practicable degree with the preservation and conservation of park resources and values;

(iii) shall take appropriate steps to limit the liability of the United States arising from the provision of services under such an authorization; and

(iv) shall have no authority under this subsection to issue more authorizations than are consistent with the preservation and proper management of park resources and values, and shall establish such other conditions for issuance of such an authorization as the Secretary determines appropriate for protection of visitors, provision of adequate and appropriate visitor services, and protection and proper management of the resources and values of the National Park System.

(3) An entity seeking or obtaining an authorization pursuant to this subsection shall not be precluded from also submitting proposals for concession contracts.

SEC. 6. COMPETITIVE SELECTION PROCESS.

(a) IN GENERAL.—(1) Except as provided in subsection (b), and consistent with the provisions of subsection (g), any concession contract entered into pursuant to this Act shall be awarded to the person submitting the best proposal, as determined by the Secretary through the competitive selection process specified in this section.

(2) Within 180 days after the date of enactment of this Act, the Secretary shall promulgate appropriate regulations establishing a process to implement this section. The regulations shall include provisions for establishing a method or procedure for the resolution of disputes between the Secretary and a concessioner in those instances where the Secretary has been unable to meet conditions or requirements or provide such services, if any, as set forth in a prospectus pursuant to sections 6(c)(2) (D) and (E).

(b) TEMPORARY CONTRACT.—Notwithstanding the provisions of subsection (a), the Secretary may award on a noncompetitive basis a temporary concession contract if the Secretary determines such an award to be necessary in order to avoid interruption of services to the public at a park. Prior to making such a determination, the Secretary shall take all reasonable and appropriate steps to consider alternative actions to avoid such interruptions.

(c) PROSPECTUS.—(1) Prior to soliciting proposals for a concession contract at a park, the Secretary shall prepare a prospectus soliciting proposals, shall publish a notice of its availability at least once in such local or national newspapers or trade publications as the Secretary determines appropriate, and shall make such prospectus available upon request to all interested parties.

(2) The prospectus shall include, but need not be limited to, the following information:

(A) The minimum requirements for such contract, as set forth in subsection (d).

(B) The terms and conditions of the existing concession contract awarded for such park, if any, including all fees and other forms of compensation provided to the United States by the concessioner, and all information available to the Secretary with regard to the wages, hours, and conditions of employment of the workforce engaged by the concessioner to fulfill the requirements of such existing concession contract.

(C) Other authorized facilities or services which may be included in a proposal.

(D) Facilities and services to be provided by the Secretary to the concessioner, if any, including but not limited to, public access, utilities, and buildings.

(E) The services to park visitors intended to be offered within a park by the Secretary, including but not limited to, interpretive programs, campsites, and visitor centers.

(F) Such other information related to the proposed concessions operation which is not privileged or otherwise exempt from disclosure under Federal law as the Secretary determines is necessary to allow for the submission of competitive proposals.

(d) MINIMUM PROPOSAL REQUIREMENTS.—(1) No proposal shall be considered which fails to meet the minimum requirements included in the relevant prospectus. Such minimum requirements shall include payment to the United States of a franchise fee and shall also include, but need not be limited to, the following:

(A) The minimum acceptable franchise fee, fees for use of any Federal buildings or other facilities, and any other fees to be paid to the United States.

(B) The duration of the contract.

(C) Any facilities, services, or capital investments required to be provided by the concessioner.

(D) Measures that will be required in order to ensure the protection and preservation of park resources and values.

(2) The Secretary may reject any proposal, notwithstanding the amount of franchise fee offered, if the Secretary determines that the person, corporation, or entity making such proposal is not qualified, is likely to provide unsatisfactory service, or that the proposal is not sufficiently responsive to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(3) If all proposals submitted to the Secretary either fail to meet the minimum requirements or are rejected by the Secretary, the Secretary shall establish new minimum contract requirements and re-initiate the competitive selection process pursuant to this section.

(e) SELECTION OF BEST PROPOSAL.—(1) In selecting the best proposal, the Secretary shall consider the following principal factors:

(A) The responsiveness of the proposal to the objectives of protecting and preserving park resources and of providing necessary and appropriate facilities and services to the public at reasonable rates.

(B) The experience, expertise, and related background of the person, corporation, or other entity submitting the proposal, including whether the submitter is the holder of a previous concession contract for similar services at the same park and has established a record of outstanding performance in executing that contract, the submitter's history of satisfactory performance under any other concession contract, and the submitter's compliance with applicable labor law and existing standards regarding wages, hours, and conditions of employment and provision of a safe and healthful workplace in connection with any concession contract.

(C) The financial capability of the person, corporation, or entity submitting the proposal.

(D) The proposed franchise fee: Provided, That consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving park resources including cultural resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates.

(2) The Secretary may also consider such secondary factors as the Secretary deems appropriate. In developing regulations to implement this Act, the Secretary shall consider the extent to which plans for employment of Indians (including Native Alaskans) and involvement of businesses owned by Indians, Indian tribes, or Native Alaskans in the operation of concession contracts should be identified as a factor in the selection of a best offer under this section.

(f) CONGRESSIONAL NOTIFICATION.—(1) The Secretary shall submit any proposed concession contract with anticipated annual gross receipts in excess of $1,000,000 (indexed to 1993 constant dollars) or a duration in excess of ten years to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(2) The Secretary shall not award any such proposed contract until at least 60 days subsequent to the submission thereof to both Committees.

(g) No Preferential Right of Renewal.—(1) Except as provided in paragraph (2), the Secretary shall not grant a preferential right to a concessioner to renew a concession contract executed pursuant to this Act.

(2)(A)(i) Notwithstanding the provisions of paragraph (1), the Secretary shall include a preferential right of renewal in a concession contract covered by this paragraph, but exercise of such right shall be subject to the requirements of this paragraph.

(ii) As used in this paragraph, the term "preferential right of renewal" means a provision in a concession contract allowing a concessioner satisfying the requirements of this paragraph to have the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best offer for a new concession contract for provision of the same services as were authorized by the concession contract that included the preferential right of renewal.

(B) The provisions of this paragraph shall apply only to concession contracts which the Secretary estimates will result in annual gross receipts of no more than $500,000 in any year during the term of the contract.

(C) A preferential right of renewal may be exercised by a concessioner only when such right is included in a concession contract and only where the Secretary has determined both—

(i) that the concessioner has operated satisfactorily during the term of such contract, and

(ii) that the concessioner has submitted a responsive proposal for a new contract which satisfies the minimum requirements established by the Secretary pursuant to section 6 of this Act.

(D) A concessioner who exercises a preferential right of renewal in accordance with the requirements of this paragraph shall be entitled to award of the new concession contract with respect to which such right is exercised.

(h) No Preferential Right to Additional Services.—The Secretary shall not grant a preferential right to a concessioner to provide new or additional services at a park, but may agree to changes in concession contracts that would allow the holders thereof to provide services incidental to or closely related to the services authorized by such contracts, if the Secretary determines that such changes would enhance the safety or enjoyment of park visitors or the protection of park resources and values and would not unduly restrict competition for award of concession contracts.

SEC. 7. FRANCHISE FEES.

Franchise fees, however stated, shall not be less than the minimum franchise fee established by the Secretary for each contract. The minimum franchise fee shall be determined in a manner that will provide the concessioner with a reasonable opportunity to realize a profit on the operation as a whole, commensurate with the capital invested and the obligations assumed.

SEC. 8. USE OF FRANCHISE FEES.

(a) Special Account.—Except as provided in subsection (b), all receipts collected pursuant to this Act shall be covered into a special account established in the Treasury of the United States. Amounts covered into such account in a fiscal year shall be available for expenditure, subject to appropriation, solely as follows:

(1) 50 percent shall be allocated among the units of the National Park System in the same proportion as franchise fees collected from a specific unit bears to the total amount covered into the account for each fiscal year, to be used for resource management and protection, maintenance activities, interpretation, and research.

(2) 50 percent shall be allocated among the units of the National Park System on the basis of need, in a manner to be determined by the Secretary, to be used for resource management and protection, maintenance activities, interpretation, and research.

(b) Park Improvement Funds.—(1) The Secretary shall, where the Secretary determines it to be desirable, establish a Park Improvement Fund (hereinafter in this section referred to as the "fund"), in which, for each fiscal year after fiscal year 1994, the Secretary may deposit some or all of the receipts collected from concessioners to the extent that such receipts exceed the amounts specified in the following table:

"Fiscal year:	*Amount*
1995	*$22,600,000*
1996	*25,500,000*
1997	*27,500,000*
1998	*30,900,000*
After 1998	*35,700,000".*

(2) The Secretary shall maintain the fund separately from any other funds or accounts and shall not commingle the monies in the fund with any other monies. The Secretary may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of such fund.

(3)(A) Monies from the fund shall be expended solely for activities and projects within the park which are consistent with the park's general management plan, concessions plan, and other applicable plans, and which the Secretary determines will enhance public use, safety, and enjoyment of the park, including but not limited to projects which directly or indirectly support concession facilities or services required by the concession contract, but no expenditure from the fund shall have the effect of creating or increasing any compensable interest of any concessioner in any such facilities. A concessioner shall not be allowed to make any advances or credits to the fund.

(B) To the extent consistent with the need to respond to urgent requirements and with priorities established as part of a park's general management plan or concessions management plan, the Secretary shall direct that monies from the fund be utilized in coordination with funds provided by other sources, including donations from the National Park Foundation or other groups associated with one or more units of the National Park System.

(4) A concessioner shall not be granted any interest in improvements made from fund expenditures, including any interest granted pursuant to section 11(b) of this Act.

(5) Nothing in this subsection shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

(6) The Secretary shall maintain proper records for all expenditures made from the fund. Such records shall include, but not be limited to invoices, bank statements, canceled checks, and such other information as the Secretary may require.

(7) A fund established pursuant to this subsection may not be used for any capital expenditure exceeding $2,500,000 in any fiscal year unless such expenditure from a fund has been authorized in advance by Act of Congress. The Secretary shall annually inform the Congress concerning the actual and projected use of moneys in each fund established pursuant to this subsection.

SEC. 9. DURATION OF CONTRACT.

(a) Maximum Term.—A concession contract entered into pursuant to this Act shall be awarded for a term not to exceed ten years: Provided, however, That the Secretary may award a contract for a term not to exceed twenty years if the Secretary determines that a longer term is a necessary component of the overall contract in order to reduce the costs to the United States of acquiring possessory interests or to carry out the policies of this Act and other laws applicable to the National Park System.

(b) Temporary Contract.—A temporary concession contract awarded on a non-competitive basis pursuant to section 6(b) of this Act shall be for a term not to exceed two years.

SEC. 10. TRANSFER OF CONTRACT.

(a) In General.—(1) No concession contract may be transferred, assigned, sold, or otherwise conveyed by a concessioner without prior written notification to, and approval of the Secretary.

(2) The Secretary shall not unreasonably withhold approval of a transfer, assignment, sale, or conveyance of a concession contract, but shall not approve the transfer of a concession contract to any individual, corporation or other entity if the Secretary determines that—

(A) such individual, corporation or entity is, or is likely to be, unable to completely satisfy all of the requirements, terms, and conditions of the contract;

(B) such transfer, assignment, sale or conveyance is not consistent with the objectives of protecting and preserving park resources, and of providing necessary and appropriate facilities or services to the public at reasonable rates; or

(C) the terms of the transfer, assignment, sale, or conveyance directly or indirectly attribute a significant value to intangible assets or otherwise may so reduce the opportunity for a reasonable profit over the remaining term of the contract that the United States would be required to make substantial additional expenditures in order to avoid interruption of services to park visitors.

(b) Congressional Notification.—Within thirty days after receiving a request to approve a transfer, assignment, sale, or other conveyance of a concession contract, the Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of such proposal. Approval of such proposal, if granted by the Secretary, shall not take effect until sixty days after the date of notification of both Committees.

SEC. 11. PROTECTION OF CONCESSIONER INVESTMENT.

(a) Existing Structures.—(1) A concessioner who, pursuant to a concession contract, before the date of enactment of this Act acquired or constructed, or as of such date was required by such a contract to commence acquisition or construction, of any structure, fixture, or improvement upon land owned by the United States within a park, shall have a possessory interest therein, to the extent provided by such contract.

(2) The provisions of this subsection shall not apply to a concessioner whose contract in effect on the date of enactment of this Act does not include recognition of a possessory interest.

(3)(A) Except as provided in subparagraph (B), with respect to a concession contract entered into on or after the date of enactment of this Act, the provisions of subsection (b) shall apply to any existing structure, fixture, or improvement as defined in paragraph (1), except that the value of the possessory interest as of the termination date of the first contract expiring after the date of enactment of this Act shall be used as the basis for depreciation, in lieu of the actual original cost of such structure, fixture, or improvement.

(B)(i) If the Secretary determines during the competitive selection process that all proposals submitted either fail to meet the minimum requirements or are rejected (as provided in section 6), the Secretary may, solely with respect to a structure, fixture, or improvement covered under this paragraph, suspend the depreciation provisions of subsection (b)(1) for the duration of the contract: Provided, That the Secretary

may suspend such depreciation provisions only if the Secretary determines that the establishment of other new minimum contract requirements is not likely to result in the submission of satisfactory proposals, and that the suspension of the depreciation provisions is likely to result in the submission of satisfactory proposals.

(ii) If the Secretary suspends the depreciation provisions of subsection (b)(1) pursuant to this subparagraph, the Secretary may include in the relevant concession contract, as an obligation of the United States, a compensatory interest in any structure, fixture, or improvement with respect to which such depreciation provisions were suspended in an amount not to exceed the fair market value of such structure, fixture, or improvement.

(b) NEW STRUCTURES.—(1) On or after the date of enactment of this Act, a concessioner who constructs or acquires a new, additional, or replacement structure, fixture, or improvement upon land owned by the United States within a park, pursuant to a concession contract, shall have an interest in such structure, fixture, or improvement equivalent to the actual original cost of acquiring or constructing such structure, fixture, or improvement, less straight line depreciation over the estimated useful life of the asset according to Generally Accepted Accounting Principles: Provided, That in no event shall the estimated useful life of such asset exceed the depreciation period used for such asset for Federal income tax purposes.

(2) In the event that the contract expires or is terminated prior to the estimated useful life of an asset described in paragraph (1), the concessioner shall be entitled to receive from the United States or the successor concessioner payment equal to the value of the concessioner's interest in such structure, fixture, or improvement. A successor concessioner may not revalue the interest in such structure, fixture, or improvement, the method of depreciation, or the estimated useful life of the asset.

(3) Title to any such structure, fixture, or improvement shall be vested in the United States.

(c) INSURANCE, MAINTENANCE AND REPAIR.—Nothing in this section shall affect the obligation of a concessioner to insure, maintain, and repair any structure, fixture, or improvement assigned to such concessioner and to insure that such structure, fixture, or improvement fully complies with applicable safety and health laws and regulations.

SEC. 12. RATES AND CHARGES TO PUBLIC.

The reasonableness of a concessioner's rates and charges to the public shall, unless otherwise provided in the prospectus and contract, be judged primarily by comparison with those rates and charges for facilities and services of comparable character charged by parties in reasonable proximity to the relevant park and operating under similar conditions, with due consideration for length of season, seasonal variance, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary.

SEC. 13. CONCESSIONER PERFORMANCE EVALUATION.

(a) REGULATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary, after an appropriate period for public comment, shall publish regulations establishing standards and criteria for evaluating the performance of concessioners operating within parks.

(b) PERIODIC EVALUATION.—(1) The Secretary shall periodically conduct an evaluation of each concessioner operating under a concession contract pursuant to this Act to determine whether such concessioner has performed satisfactorily. In evaluating a concessioner's performance, the Secretary shall seek and consider applicable reports and comments from appropriate Federal, State, and local regulatory agencies, and shall seek and consider the views of park visitors and concession customers. If the Secretary's performance evaluation results in an unsatisfactory rating of the concessioner's overall operation, the Secretary shall so notify the concessioner in writing, and shall provide the concessioner with a list of the minimum requirements necessary for the operation to be rated satisfactory.

(2) The Secretary may terminate a concession contract if the concessioner fails to meet the minimum operational requirements identified by the Secretary within the time limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner.

(3) If the Secretary terminates a concession contract pursuant to this section, the Secretary shall solicit proposals for a new contract consistent with the provisions of this Act.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives of each unsatisfactory rating and of each concession contract terminated pursuant to this section.

SEC. 14. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—Each concessioner shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the concessioner's contract have been and are being faithfully performed, and the Secretary, the Inspector General of the Department of the Interior, or any of the Secretary's duly authorized representatives shall, for the purpose of audit and examination, have access to such records and to other books, documents and papers of the concessioner pertinent to the contract and all the terms and conditions thereof as the Secretary and the Inspector General deem necessary.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—The Comptroller General of the United States or any of his or her duly authorized representatives shall, until the expiration of five calendar years after the close of the business year for each concessioner, have access to and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the contracts or contracts involved, including those related to any Park Improvement Funds established pursuant to section 8(b).

SEC. 15. EXEMPTION FROM CERTAIN LEASE REQUIREMENTS.

The provisions of section 321 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303b), relating to the leasing of buildings and properties of the United States, shall not apply to contracts awarded by the Secretary pursuant to this Act.

SEC. 16. NO EFFECT ON ANILCA PROVISIONS.

Nothing in this Act shall be construed to amend, supersede, or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 17. IMPLEMENTATION.

(a) AUDIT REQUIREMENT.—Beginning with fiscal year 1997, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Secretary's implementation of this Act and the award and management of concession contracts and authorizations described in section 5(b).

(b) BIENNIAL REPORTS.—Beginning on June 1, 1997, and biannually thereafter the Secretary and the Inspector General of the Department of the Interior shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives on the implementation of this Act and the effect of such implementation on facilities operated and services provided pursuant to concession contracts.

(c) INFORMATION FROM SECRETARY.—In each report required by this section, the Secretary shall—

(1) identify any concession contracts which have been renewed, renegotiated, terminated, or transferred during the 2 years prior to the submission of the report and identify any significant changes in the terms of the new contract;

(2) state the amount of franchise fees, the rates which would be charged for services, and the level of other services required to be provided by the concessioner in comparison to that required in any previous concession contract for the same facilities or services at the same park;

(3) assess the degree to which facilities are being maintained, using the condition of such facilities on the date of enactment of this Act as a baseline;

(4) indicate whether competition has been increased or decreased with respect to the awarding of concession contracts;

(5) set forth the total amount of revenues received and financial obligations incurred or reduced by the Federal Government as a result of enactment of this Act for the reporting period and in comparison with previous reporting periods and the baseline year of 1993, including the costs, if any, associated with the acquisition of possessory interests; and

(6) include information concerning any park improvement funds established pursuant to section 8(b) of this Act, including—

(A) the total amount of funds deposited into and expended from each such fund during the preceding 2-year period; and

(B) the purposes for which expenditures from such funds during such period were used.

(d) INFORMATION FROM INSPECTOR GENERAL.—In each report required by this section, the Inspector General of the Department of the Interior shall include information as to the results of the audit required by subsection (a), including—

(1) the status of the Secretary's implementation of this Act;

(2) the extent to which such implementation has furthered the policies of this Act, as set forth in section 2, and has led to an increase or decrease in competition for concession contracts;

(3) the adequacy of recordkeeping and other requirements imposed on establishment and use of park improvement funds established pursuant to section 8(b); and

(4) any recommendations the Inspector General may find appropriate in order to further the purposes of this Act and other laws applicable to the National Park System or to assure that park improvement funds established pursuant to section 8(b) are maintained and expenditures therefrom are used in accordance with this Act and sound business practices.

AMENDMENTS OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. VENTO: Page 16, line 3, after "all receipts" insert "including fees for use of Federally-owned buildings or other facilities".

Page 21, line 9, strike the period and insert the following: ", the value of such possessory interest to be determined for all purposes on the basis of applicable laws and contracts in effect on the day before such date of enactment.".

Page 25, line 21, after "unsatisfactory" insert "overall annual".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, these amendments are essentially technical. They have been discussed with the minority, and I believe they are not controversial.

The amendments would revise the bill to clarify several points, including the treatment of building-use and other fees, the continued applicability of existing provisions of law, and the scope of required reports to the Congress.

These technical amendments are minor, but they will make the bill more clear in several important respects. I urge their adoption.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding to me. These are excellent technical amendments, and I agree with the gentleman wholeheartedly.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota [Mr. VENTO].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MURPHY: Page 3, strike line 24, and all that follows down through line 3 on page 4 (section 2(b), paragraph (7)).
>
> Page 3, line 23, strike "and" and insert a period.
>
> Page 3, line 21, insert "and" after the semicolon.

Mr. MURPHY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. VENTO. Mr. Chairman, I reserve all points of order against the amendment.

The CHAIRMAN. Points of order are reserved at the request of the gentleman from Minnesota.

Mr. MURPHY. Mr. Chairman, my first amendment proposes to delete section 7 of the bill. Let me just briefly read that section. It is only four lines.

> If adequate facilities to serve the needs of park visitors exist outside park boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded within the park.

□ 1620

Mr. Chairman, there was not in the original bill, neither the House bill, nor was it in the bill of the gentleman from Oklahoma [Mr. SYNAR], we held no hearings on this particular paragraph. Let me point out that the words "adequate facilities," and "needs of park visitors," and "outside of park boundaries," how far outside? "Can feasibly developed," what is considered "feasibly?"

Mr. Chairman, what American families want when they go to our national parks is lodging, food, camping, boating, swimming, hiking, rafting, horseback riding, the things that we have been gradually improving in our park services to facilitate the visits of American families, which is what we now have in place.

Mr. Chairman, I fear if this clause is left in this bill, first, we will wind up with a batch of lawsuits against the Park Service, because every time the Park Service in the future wants to make some development within the park perimeters, some group, some person will then file an injunction against the Park Service and say it could feasibly be developed outside the park, it could do this, it could do that. It does not meet the needs of the park visitors. We would just wind up with endless lawsuits.

Next, Mr. Chairman, we would, if we had them immediately outside the park, wind up with a junk yard of facilities lining the entrance into our national parks with no quality control. Any time any facility is built within the Park Service, we have quality control. We tell them what may be built, what may not be built; what may be used, what may not be used; what trail may be followed, what trail may not be followed. We would have no such control when we force all of these facilities outside the park. We could not control them.

Next, Mr. Chairman, what about the facilities? People go into a national park comprised of many, many square miles. What do they have to do when they want to get refreshment or their kids want to take a swim or they want to go camping? Do they then have to journey clear back outside the park every day, go outside and find some facilities where they are now provided in the Park Service?

The distances from the park entrance to desired areas, Mr. Chairman, I have been to Yosemite, Yellowstone, many of the parks, the Grand Canyon, where the park entrance is miles and miles from the facilities we go to. We would have to, therefore, traverse all the way back to the park entrance for any facilities whatsoever.

Mr. Chairman, I am afraid that this amendment is accomplishing what Secretary Babbitt said he would do.

I quote: "On my watch, the Park Service will not build additional lodging facilities within parks * * * On my watch, the Park Service will not be in the road building business," and so forth and so on.

Mr. Chairman, if this amendment passes, the Park Service will no longer be able to provide the American families with what they expect to find when they go to a national park. They will force us totally out of the park system. We talk about losing money for the Park Service. We are going to make a lot of money for concessionaires on the outside. There will not be a dime paid to the Park Service. All the facilities will be built on the outside. There will be no money for the Federal Government.

Mr. Chairman, I think what this will eventually wind up doing is creating inaccessible wilderness areas for only those people who are physically able, who want to endure long hikes and dangerous escapades like climbing mountains and so forth. Yes, they will continue to go in, but the American families will not be able to go in because what their kids want will not be within the parks, they will be outside the park somewhere, some far distance, and we know not where.

Mr. Chairman, I urge my colleagues to seriously consider what this last minute inclusion into the bill did before full committee. It was never put in prior to that. It was not in the Senate bill. No hearings have been held. This was put in, and the only thing I can say, it would be totally antifamily. We would not be able to take our kids to the national parks the way we have been in the past 40 years.

Mr. VENTO. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The point of order is withdrawn.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania.

Mr. Chairman, the amendment we are presenting will ensure that facilities and services will continue to exist within our national parks so that the American people can enjoy our national treasures.

Mr. Chairman, during the subcommittee markup, the chairman added language that states:

> If adequate facilities to serve the needs of park visitors exist outside a park's boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded with the park.

What this language will do is prevent any further replacement, expansion, or construction of new facilities within any of our national parks. Our amendment will strike the Vento language to ensure that park visitors are provided the services and accommodations necessary to enjoy the parks.

How many of us remember in Yellowstone Park, just a few short years ago, we had more coverage than the O.J. Simpson trial, and everyone could see the place burning up there. There was a question of letting it burn.

If Members have been to Yellowstone, Mr. Chairman, instead of those beautiful pine trees, you see toothpicks sticking up. What happened when the Park Service got there? The superintendent of the park, all the people that surrounded Yellowstone, they went to the Old Faithful Lodge and the park superintendent said, "Of all the things we don't want to lose, it is this beautiful lodge that we've got. People come from all over America to see this lodge."

What did they do? They brought the trucks and the workers and they put their hoses up on the roof and they kept them there to protect the lodge. The trees will come back, Mr. Chairman, but the lodge will never come back, built many years ago. Mr. Chairman, everyone who goes there thrills at that beautiful lodge. However, under the Vento amendment, that lodge could not be replaced.

If we go over to Lake Lodge, where people stand there and look at the beautiful Yellowstone Lake, full of cutthroat trout, they go there by the hundreds and it is a beautiful, beautiful lodge. Americans, Europeans, Orientals, come to see that lodge.

Under the Vento amendment, they could not be replaced. Where would they go? They would go outside, as the gentleman from Pennsylvania [Mr. MURPHY] said. We will have no control. How about a Motel 6 right next to it? How about a golden arches to feed them? How about a junk yard for their cars? All of that would be right outside the lodge that they cannot take care of.

Mr. Chairman, let us go down to one of nature's most beautiful things there is on the face of the Earth, 281 miles of the Grand Canyon. We stand there and our hearts are moved as we look at that beautiful thing. Out there years and years ago they built this, and we hang out over the north rim, standing there, thrilled as we look at it. It burned down in the 1930's. If it burned down after this goes through, we would never replace it. Never could we stand on the north rim with our families. We would have to drive all the way from Jacob's Lake to get up to there, which is 42 miles.

Mr. Chairman, I would say to the Members in their offices, please do not let this go through. It is not just the bugs and bunnies and pine trees, but they want to walk in and see these facilities. they want to eat dinner there. They want to buy a few things. They want to rent those lodge rooms. Why would anyone want to go with this language?

Mr. Chairman, our national parks are not wilderness parks, they represent our national treasures, designed to showcase to visitors all of the natural and historic wonders of this country. The Park Service Organic Act of 1916 specifically directs the Secretary of the Interior to provide for the enjoyment of all, the enjoyment of all, not just a few, to see these parks. People come to these parks to engage themselves in parks, to get a hands-on experience. People do not go to parks to stand at the border and look, like it was some kind of museum.

Mr. Chairman, our parks were created for people and their families to educate, to enjoy, and to be involved in what each park has to offer. Park Service statistics clearly show people who visit parks take advantage of the amenities that our concessionaires have provided within the parks. In fact, most of them even go for that reason. Not many people in this world have the time, money, or health to strap on a 50-pound backpack to hike through a park, and that is not what our parks are for.

The administration is clearly trying to turn our parks into wilderness areas, inaccessible to the American public. S. 208 alone will drive many of our concessionaires out of the parks, and the language added by my friend, the gentleman from Minnesota [Mr. VENTO], will also force all of the facilities out of the parks.

Mr. Chairman, if this Congress wants to continue to provide visitor services and amenities within the parks, we must adopt this extremely important amendment. Our national parks are designed to be enjoyed and have access by the citizens of this country, and the passage of this amendment will guarantee that access.

Mr. Chairman, I urge my colleagues to support the amendment of the gentleman from Pennsylvania [Mr. MURPHY]. I surely would disagree about what was said by Mr. Babbitt when he said, "On my watch, the Park Service will not build additional lodging facilities within parks. * * * On my watch, the Park Service will not be in the road building business. Roads are the enemies of national parks * * * ."

On his watch, the parks are going to hell in a handbasket.

☐ 1630

Mr. SYNAR. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I think this is going to be an interesting debate because for the very first time I have heard from my Republican colleagues that they do not think the private sector can do as good a job as the Government, which is usually the opposite position that they take. In the time that I have, I would like to make five arguments on why the gentleman from Pennsylvania's arguments and amendment may not be in the best interest of running our national parks.

First, it is already park policy, if one looks at the 1965 Concessions Policy Act and the Concession Management Guidelines of the National Park Service-48, Let me read that language:

"If adequate facilities exist or can feasibly be developed by private enterprise to serve park visitors' needs for commercial services outside park boundaries, such facilities will not be expanded or developed within parks."

So it has been part of our National Park Service for a long time.

The second reason I think the gentleman's amendment is not necessarily in the best interest is that it flies in the face of what we are trying to do with reinventing government. We are trying to move to further development into the private sector through sound policy and that is exactly what this amendment would not allow us to do.

A third reason the gentleman's amendment may be shortsighted is that it would create unfair competition. One of the things this bill is trying to do is to level the playing field so that competitors for those kinds of concessions, particularly those in the private sector, can feel like they are not at an unfair competitive disadvantage from subsidized government concessionaires.

Fourth is that it will give us an opportunity to do something which all of us agree needs to be done and that is to protect our park resources, particularly controlling visitors and development and the impacts that they have.

Fifth, and most important, something I thought my Republican colleagues would embrace, is it will stimulate local rule economies by creating new jobs and new revenues for those communities that surround and are most impacted by our national parks.

So for these five reasons, that it is already park policy, it is reinventing government, it would be unfair competition, it would help us protect our park services and finally stimulate local economies, I ask the House to reject this amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

The amendment would delete from the bill one of the statements of policy that are intended to guide the National Park Service in connection with the award and management of concession contracts.

The policy statement in question, set forth in section 2(B)(7) of the bill, says that "if adequate facilities to serve the needs of park visitors exist outside a park's boundaries or can feasibly be developed outside such boundaries by private enterprise, such facilities should not be developed or expanded within the park."

Members should be aware, Mr. Chairman, that this is a nearly word-for-word reiteration of an existing National Park Service policy. It is not a new, radical departure. It has been part of the National Park Service's management policies since the 1970's. Instead, the bill's language is merely a formal recognition that the parks are no longer nearly so isolated, so remote, as once was the case, and that as a result it is less necessary for new or expanded facilities to be built within the parks, because it is more likely than it once was that facilities such as hotels, motels, restaurants, and the like can be developed outside park boundaries that will do an equally good job of meeting visitor needs and desires.

Let me stress, Mr. Chairman, that this policy statement relates only to new or expanded facilities. It does not affect existing facilities and it does not prevent the development of new or expanded facilities within the parks. It merely says that before we build such new or expanded facilities within the parks, we should see whether private enterprise, operating outside the park boundaries, can do the job just as well or maybe better.

Mr. Chairman, the part of the bill that this amendment would strike enjoys widespread support. We have received letters strongly endorsing its retention in the bill from a number of firms and groups, including the Small Business Legislative Council, the National Association of RV Parks and Campgrounds, and the Minnesota Association of Campground Operators, to name only a few.

They recognize that while this part of the bill is just a reiteration of existing policy, it is sound and deserving of congressional approval. They recognize that this policy statement should stay in the bill. I agree with them, and therefore I urge the rejection of this amendment.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is another one of those issues which means that the Congress is going to micromanage the national parks in America.

One national park is not like another and that is part of the beauty and the uniqueness of our National Park System. The facts are that 92 percent of all parks in America are already managed as wilderness. That leaves a very small margin, 8 percent, for people, for concessions, for amenities, for others who are not as robust and are as able as many of us to use the outdoors and to enjoy our National Park System. It certainly means that the parks are not overbuilt, surely. It does mean that there is a very small amount left should the Park Service decide that there should be concessions left for people.

It seems to me that by not passing this amendment, we have struck a bargain which provides inflexibility for the National Park Service that should not be there.

We talk about investment of private entrepreneurs and this bill without the other Murphy amendment will absolutely eliminate many small investors in our parks in this country. Certainly there is no money left in the Park Service for further construction or acquisition or operations. They are behind some $5 billion in construction, $2 billion in land acquisition, and $400 million in park operations.

If we want any kind of improvement in our parks throughout the country, we have to rely upon private entrepreneurs and to encourage them to build on public land, which they must have a possessory interest if they are going to be encouraged to do that.

Therefore, this all boils down again, in my opinion, to overmanaging by a group of people here in the Congress who cannot have the flexibility of knowing the difference between Crater Lake and Yellowstone National Park. But the Park Service ought to have the flexibility to manage its business. I suggest that we pass the Murphy amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment by the gentleman from Pennsylvania.

Mr. Chairman, clearly the House should reject this amendment. This amendment tries to destroy what has been current policy now for the past 20 years endorsed by the previous administrations, carried out under the previous administrations and carried out under the current administrations, and, that is, that we ought to seek some balance, that we ought to take a look at what resources are available to us when we provide accommodations or any services within the national parks. If those services are readily available outside the park, we ought to let the private sector go ahead and develop those services, develop those accommodations and not step on their business opportunities with the heavy hand, or heavy foot, I guess I would step on their opportunities with, with the heavy foot of the Federal Government. If it is inconvenient, if it does not meet the needs of the visitors of the park, then we ought to go ahead and try to develop those services and accommodations in the park as we have.

This policy again that is current policy that the gentleman from Pennsylvania [Mr. MURPHY] seeks to strike also allows us to rearrange what is going on into the parks now. In Yosemite, we cannot accommodate the number of people because of the number of the facilities that are there. We think that warehousing, that truck repair, that shop repair could be better done outside of that park.

□ 1640

We ought to seek that warehouse space outside of the park. We think that some of the housing can be combined with different types of housing in the park and housing outside of the park for employees and others.

That is what this policy lets us do. It lets the private sector, in some cases, develop housing for Park Service employees. I thought that was what the other side of the aisle and the gentleman over there are always yelling about, the Federal Government limiting the private sector's opportunities. This allows us to balance that.

We know that the economies around the national parks, whether it is Everglades, or Yellowstone, or Yosemite, that these are some of the fastest growing areas in our country because of the visitation, because of the revenues that they generate. The people in the West at Yellowstone have a community, they have an economy, and we ought not to break that down by insisting that all of the development take place in the parks.

Obviously we also have the ability to enhance the experience of the visitors to these parks if we can balance the development inside of the park and the development outside of the park. There is nothing in the language of this bill, there is nothing in the current policy that says it has to be one way or the other. The National Park Service, the district people, the park superintendents will take it all into consideration and try to make a decision. In Yosemite we are simply better off, if the development is going to take place, that it now take place outside of the park. It is no great distance. It is no great distance if you are going to enjoy the value of the park to go to one of the entrances. But we can no longer sustain new development in the valley of that park.

I think this also gives us an array of services to be presented to American families that they can afford. If we are just going to maintain accommodations available in those parks that are rather expensive, unique hotels that many of the parks have, then we are excluding many people from the economic ability to enjoy the parks. That array of services, that array of accommodations in many instances can be provided easier, less expensively on the outside by the Park Service.

So, I do not quite understand this, because as pointed out by the chairman of the subcommittee, this is current policy. This is not a surprise, this is not something we are trying new. This is an effort to manage the parks by the Park Service, not by the Congress, this was not developed by us, in an orderly fashion with the balance between the private sector and the public sector, and I would hope that we would reject this amendment and we would make sure that our parks are compatible with the communities and the economies that are around them, and that we not expend Federal resources where we close out opportunities for the private sector, or we close out the opportunities for the visitors to the park, or we continue to have resources that we do not have for all of the parks by using them up to build unnecessary accommodations and provide services that can be provided by the private sector.

I urge opposition to the amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is my understanding that the findings and policy provisions in S. 208 do not remove existing concessions from any park, nor does the bill prohibit the Secretary from expanding existing concessions, or adding new ones in parks if such facilities are needed and the services are not available outside the park. The feasibility language in S. 208 is almost identical, in fact, to the National Park Service management policy manual right now.

By removing the feasibility language it will restrict the Secretary of Interior's flexibility to balance commercial development inside the parks while protecting the natural and cultural resources. The amendment may indeed impact local economies that are interested in developing park visitor services outside the boundaries, outside of a park.

I urge my colleagues to oppose the amendment.

Mr. HANSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentlewoman yielding.

Mr. Chairman, we just have a terrible inconsistency here. The general inconsistency goes this way: "On May 23, 1994, Mr. Babbitt said, on my watch, the Park Service will not build additional lodging facilities within parks." I agree with what was stated, they are not going to take those out, but we are not going to replace them is the issue we are missing here. They are not going to be replaced. So if all of these beautiful facilities go down, they do not come back.

We are not talking about little parks in the East. We are talking about huge parks in the West.

What is interesting to note is in a letter that Michael Finley the Superintendent of Yosemite wrote in answer to the gentleman from California [Mr. DOOLITTLE], he said,

> The Secretary of the Interior, Bruce Babbitt, has also reviewed the letter and is supportive of the National Park Service position.

Now what is the position of the National Park Service? Here is what they say, and here is the biggest paradox I have seen all day. Here it comes out and here is the position:

> It is not our intent to adversely affect local economies. Rather, it is to inform you that the National Park Service is no longer seeking development of outside accommodations to support park visitors.

On the one hand they say we want them in the park, we do not want them out of the park; in other words, we do not want them to see the park. It is terribly confusing about this, and this logic flies in the face of everything my colleagues have said.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentlewoman for yielding and for her leadership in this role.

The language says, "Such facilities should not be developed or expanded within the park." We are talking about new facilities. In the event of a damaged facility, obviously decisions would need to be made.

But the point is every park, as the chairman was pointing out to me, is absolutely unique in terms of the distance, the accommodations that surround it, the feasibility. At one time there were no utilities around the parks, there was no water or other processes, but the fact is today these could be substantial businesses. In fact, the fact that you have facilities in parks and expanding facilities sometimes in parks means that it precludes the opportunity for some development, because there is no critical area or mass taking place outside.

So the fact is this is not Babbitt's policy. This was put into the bill by the gentlewoman from Kansas [Mrs. MEYERS]. This was put into the introduction of the bill that DALE BUMPERS, the Senator, introduced, and this was put in the bill by me in full committee. I do not know what Babbitt's position is on this, but this is existing policy of the Park Service, and I thank the gentlewoman for yielding.

Mr. HANSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentlewoman yielding. The problem is no one knows what the administration position is. In the printed page we have two different things.

I ask my friend from Minnesota, if Yellowstone Lodge burned down, under his amendment would we replace it?

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think it would cost obviously a lot because it is a historic structure. But certainly they could replace some facility for lodging in the area. Would it be a historic structure like Yellowstone Lodge or Ahwanee or some of the expensive facilities that even our per diem will not permit us to stay at, I do not think so.

Mr. HANSEN. If the gentlewoman will yield, it seems obviously this is the whole basis of this discussion. If we lose these historic structures, they are lost forever.

It also seems obvious that the intent and purpose behind it is to get them out of there. The administration is absolutely blah. On one hand they say we do not want them in the parks; on the other hand, he comes right out and says, "And we don't want them building outside the parks."

I agree with Chairman MILLER. We should have the warehouses outside of the parks.

The CHAIRMAN. The time of the gentlewoman from Kansas [Mrs. MEYERS] has expired.

(On request of Mr. MURPHY and by unanimous consent, Mrs. MEYERS of Kansas was allowed to proceed for 2 additional minutes.)

Mr. MURPHY. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Pennsylvania.

Mr. MURPHY. Mr. Chairman, I thank the gentlewoman for yielding.

I would like to make this perfectly clear in answer to my chairman's accusation that I intend to repeal the existing park policy. The management park policy of the park clearly states what the Park Service may do. What this bill is doing is taking that park policy, putting it into law and giving any person in the United States who does not like what the Park Service is doing at that given moment the right to go to Federal court, using this section of the law and say it is feasible to do this. The needs of the park visitors are already met, there are adequate facilities. They can go into court and tie it up forever, and every case will go in that way. That is the hidden agenda in this particular clause.

Leave it in the park management policy. I urge Members to leave it in the park management policy and leave it there where it is now. It will be utilized by the Secretary of the Interior, and the Director of the Park Service. But it will not be utilized by every person in the world, in the United States who wants to come and tie us up in Federal court.

□ 1650

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from California.

Mr. MILLER of California. The fact is every person in the United States or an interested party has the ability to do that today under the existing policy.

The actions of the Park Service will still be compared to the policy, and if somebody thinks it is not feasible or is feasible or it serves or does not serve, they have a right today to come in and sue. The gentlewoman is quite correct. It does not create any new additional rights or responsibilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURPHY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HANSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 274, answered "present" 1, not voting 16, as follows:

[Roll No. 362]

AYES—148

Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Johnson (SD)
Johnson, Sam
Kasich
Kim
King
Kingston
Kolbe
Kyl
LaFalce
Lancaster
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Manzullo
McCandless
McCollum
McDade
McHugh
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Murtha
Myers
Orton
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Regula
Roberts
Rohrabacher
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shuster
Sisisky
Skeen
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Walsh
Williams
Wolf
Young (AK)
Zeliff

NOES—274

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Hutto
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Knollenberg
Kopetski
Kreidler
Lambert
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Rogers
Romero-Barceló (PR)
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Underwood (GU)
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

English

NOT VOTING—16

Blackwell
Carr
Clay
Frost
Gallo
Hayes
Inhofe
Laughlin
Margolies-Mezvinsky
Nadler
Reynolds
Slattery
Sundquist
Washington
Wheat
Young (FL)

□ 1715

Mr. FRANK of Massachusetts, Miss COLLINS of Michigan, Mr. BARTLETT of Maryland, and Mr. INGLIS of South Carolina changed their vote from "aye" to "no."

Mr. McCOLLUM, Ms. MOLINARI and Messrs. TAYLOR of Mississippi, TAUZIN, and STENHOLM changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 12, after line 23, insert:

(E) Giving preference to American concessioners.

Mr. TRAFICANT. Mr. Chairman, this is a five-word amendment, gives preference to American concessionaires.

Mr. Chairman, people save up their money, go on vacation. When they get to one of our national parks, if there is going to be a chicken special, hopefully it might be Kentucky Fried.

Think about that.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have no objection to the amendment offered by the gentleman from Ohio [Mr. TRAFFICANT].

This would require, as I understand, that the domestic U.S. concessionaires would be considered to get preference, all of the factors being equal, and I have no objection to that, and I accept the amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, this is a good amendment. We support it on this side.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. HASTINGS). The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS of Wyoming: Page 13, strike line 22 and all that follows down through line 4 on page 15 and insert the following:

(2)(A) Notwithstanding paragraph (1), the Secretary shall grant a preferential right of renewal to a concessioner for a concessions contract which the Secretary estimates will have annual gross revenues of no more than $500,000 or which—

(i) solely authorizes a concessioner to provide outfitting, guide, river running, or other similar services within a park; and

(ii) does not grant the concessioner any interest in any structure, fixture, or improvement pursuant to section 11 of this Act.

(B) Subparagraph (A) shall apply only where the Secretary determines that the concessioner—

(i) has operated satisfactorily during the term of the previous contract; and

(ii) submits a responsive proposal for the new contract which satisfies the minimum requirements established by the Secretary.

(C) For the purposes of subparagraph (A), the term "preferential right of renewal" means that the Secretary shall allow a concessioner satisfying the requirements of this paragraph the opportunity to match the terms and conditions of any competing proposal which the Secretary determines to be the best offer.

Mr. THOMAS of Wyoming (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. THOMAS of Wyoming. Mr. Chairman, I intend to withdraw this amendment. I only introduced it so that I can reemphasize again the difference between the concessionaires that we talk about. The concessionaires that my amendment dealt with are basically river runners or outfitters, folks that do not have facilities inside the park, but I think, and I understand, and I appreciate the effort the leadership is making in the committee to deal with these unique aspects.

Mr. Chairman, I rise to offer an amendment at the desk.

As this bill currently stands, it will devastate many small outfitters and guides across the West. I have heard from outfitters and guides throughout the country that are very concerned about this bill.

Outfitters and guides are not like other concessionaires. They have unique skills and knowledge about the specific areas where they work and do not gain possessory interest in their contracts. In addition, they have extremely short permits lasting only 5 years.

What my amendment would do is grant a preferential right of renewal to those concessionaires who provide outfitting, guide, river running or other similar services within a park and do not have interests in any structure, fixture or improvement in the park. It is similar to language included in the Senate-passed version of this bill.

Under the current language in this bill, only those concessionaires that gross less than $500,000 annually are given a preferential right of renewal.

For over 75 years, the option to renew a contract, based on an outfitters performance, has been the incentive for these individuals to provide high levels of service. This preferential right to renew a contract has been the basis for the entire partnership between the Government and outfitters.

The incentive for operating an outfitting business in the parks, which is extremely high-risk, has always been based on the belief that if you continued to perform good service, you would be allowed to stay in business and have a right to renew your contract with the park.

This bill would completely change this situation and will harm outfitters across the Nation. If this legislation is approved, and bidding for short-term permits is implemented, many outfitters who have special skills and knowledge of their particular areas will be hurt.

A revolving door of new outfitters in a region will be detrimental to safety, service, and overall resource stewardship in the parks.

Destroying the current system and basing it solely on monetary bids will not benefit the public and will hurt the overall quality of service. In addition, it could jeopardize the health and safety of visitors to our parks.

Finally, let me say that I understand the need for competition in the outfitting and guide industry. However, there is currently plenty of competition among these individuals because there are no exclusive contracts. Outfitters and guides already compete with one another on most public lands.

Mr. Chairman, our Nation's outfitters and guides have provided the public with high-quality service for many years. We should not change that policy now.

Mr. Chairman, I withdraw the amendment and ask that this matter be considered as this bill goes to conference.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to commend the gentleman from Wyoming [Mr. THOMAS] for his concern with regards to this, and we are struggling to try and find a combination. As my colleagues know, the Senate measure is different in this regard, so it is something that we will be working on. I look to the gentleman's guidance and counsel with regards to finding a formulation that will work for outfitters. They are different than some of the other concessioners serving the park. They play an integral role, and I commend him for his concern and that of his colleague, the gentleman from Idaho [Mr. LAROCCO] and others, the gentleman from Oregon [Mr. DEFAZIO] who shares a similar concern, and I thank him for not pursuing this amendment here as it was defeated in the committee.

□ 1720

Mr. THOMAS of Wyoming. Mr. Chairman, I withdraw my amendment.

The CHAIRMAN pro tempore. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. MURPHY

Mr. MURPHY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY: Page 21, line 8, (section 11(a)(1)) after the word "therein" strike "to the extent provided by such contract" and insert: "defined as fair market value. Such interest shall not be diminished nor changed by terms of new or amended contracts relating to existing structures, fixtures, and improvements.".

Mr. MURPHY. Mr. Chairman, I offer this amendment calling the Members' attention that what the bill will do is deprive those persons who have been in partnership with the National Park Service for a number of years, since the 1965 act, in partnership in building facilities, boat docks, horse stables, lodges, and camping areas, and this will now deprive them of any possessory interest they may have in those facilities.

The only thing that has kept private investors from putting money into our national parks is the very fact that when they finish those facilities, they do not own the ground, but at least they own a possessory interest in the facility. Later on, when their contract expires or they are outbid by someone else, they at least recover their fair market value.

All I propose to do is amend this to define what possessory interest is as the fair market value.

We have had this provision in the act. Mo Udall was one of the sponsors and movers of that in 1965 when he created this type of possessory interest in the developers of our national parks. What it will do, and it will be a problem for future Congresses, when we destroy the partnership between the private investors and the National Park Service, you, the Members of Congress, will be called upon to come up with the dollars it takes to rebuild or provide those facilities that American families want when they go to our national parks.

Now, if you are willing, if you can possibly succeed in coming years with the austerity that has been imposed upon us by ourselves and our Budget Acts most recently, you will not find those dollars. The partnership will be gone, the private investors, without a possessory interest in recovering some of their investment, they would have to be a pretty darn foolish investor to go in and spend millions of dollars knowing that in 15 years they are gone.

So we will succeed in destroying that partnership. When that happens, you will be called upon to replace those facilities, and my prediction is you will not do it, because you will not be able to financially do it. The National Park System will start to go downhill insofar as the use by American families.

Mr. Chairman, they talk about they write them off. Tax write-offs, let me say before they raise that objection, yes, you build a building that you rent or use, and you can write it off over a period of 15 to 30 years. But in those tax write-offs you only recover 15 to 38 percent of your investment, because that is all you save. If you write something off in your taxes, a house you may rent, you only recover 15 percent of that. Eighty-five percent was your dollars. Now, that means we are asking the developers to throw away 85 cents on the dollar. I again submit, they are just not going to do it.

Now, under the previous Secretary of the Interior, they tried one of these. Here is what they did. In Yosemite National Park they finally pressured the former developers and owners to sell out to somebody else. What they did, we used to get three-fourths of a percent income on the gross take of all the concessions in that park. Now they made a new deal, we get nothing.

They will say oh, well, we get investment. They promised to invest 4 percent. We will see. That contract is less than 1 year old. I would urge the Members, let that contract ripen. Let us see what happens in Yosemite. If it works, then maybe this provision has something to say for it. But if it does not work, 15 years down the line we will have no developers, no users, the partnership will be gone, and the facilities for American families in our National Park System, you better either be a mountain climber, backpack hiker, because there will be nothing left in between.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment.

This amendment strikes at a vital part of the bill and its adoption would gut the legislation. It would in effect postpone indefinitely the elimination of one of the most significant barriers that now exists to real, open competition for national park concession contracts.

It would do that by allowing those concessioners who now have possessory interests in the parks to retain those interests indefinitely, meaning that any competitors who might want to win the contracts for those concessions would be severely handicapped in making a bid.

As I noted in general debate, these possessory interests are unique to the National Park System. They are creatures of the 1965 act that we are seeking to replace through enactment of this reform bill.

One of the most important parts of the bill is the requirement that in the future, improvements in a park be depreciated and that no possessory interests be created.

The bill recognizes that existing possessory interests are a form of property, and it explicitly protects the right of those now having possessory interests to receive the full value of those interests upon the expiration of their current contracts. That is necessary, and that is fair. It combines the move to a new law, and new rules, with protection of the concessioners who have operated under the old rules.

But if we adopt this amendment, we will be saying that for the current concessioners, the old rules will not change.

It says that these barriers to competition will remain, unless and until those who have the benefit of their protection decide to take the barriers down—and there is no guarantee that the barriers will in fact come down soon or ever.

In fact, if this continues, the monopoly of concessionaires that are now in the park will continue into the future indefinitely. This is not the way concessions operate in numerous State parks, in the stadiums and ballparks around this country, in shopping centers, and it certainly is not necessary for the national parks.

The fact of the matter is, Mr. Chairman, that if we persist in this, yesterday we were talking about the backlogs in the parks. One of the backlogs is going to be that these concessions will continue to grow in value. Even as we are trying to purchase lands in parks that are not now parks or deal with backlogs, we will be selling out the national parks to the concessionaires. We will be forever indentured in terms of billions of dollars of development in the parks that will be of private interest in our public parks, in our crown jewels, in the legacy and inheritance of future generations.

Mr. Chairman, this amendment richly deserves to be defeated. I urge the Members to defeat it. It undercuts and eliminates the major tenet of competition in this bill.

Mr. Chairman, the gentleman from Pennsylvania offered a similar amendment in committee and it was wisely rejected. The amendment would have retained the old rules for everyone, and nothing would change. We do not need business as usual. We need a new reform policy. We need to defeat this Murphy amendment, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURPHY].

The amendment was rejected.

AMENDMENT OFFERED BY MR. LANCASTER

Mr. LANCASTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LANCASTER: On page 14, line 14, strike $500,000" and insert in lieu thereof "$3,000,000".

□ 1730

Mr. LANCASTER. Mr. Chairman, there certainly are reforms needed in the way our national parks enter into concessions contracts. There are too many deals in the Western parks where large corporate concessionaires have contracts that do not return a fair value to the Government.

However, I am troubled that smaller concessionaires who have always given valuable services to the public and a fair return to the Government may be put at a disadvantage by this bill. I refer particularly to the changes in renewal rights for contracts.

In North Carolina, several small companies have concessions at our two national seashores. They ferry visitors to Cape Lookout National Seashore, they provide ocean piers at Cape Hatteras National Seashore, and they offer overflights of the Outer Banks from the airstrip at the Wright Brothers National Historic Site.

The bill today grants a preferential right of renewal to concessionaires with gross receipts of no greater than $500,000 annually. This will apply to several of the North Carolina concessionaires.

Unfortunately, it will not apply to the operator of the Oregon Inlet Fishing Center at Cape Hatteras National Seashore. The annual gross receipts for this operation exceed the cut-off established in the bill.

The Oregon Inlet Fishing Center is the base for a substantial fleet of recreational fishing vessels available to the public for fishing in the Atlantic Ocean and the adjoining coastal sounds. In a unique arrangement, the fishing captains and owners of the vessels have formed a corporation that in turn has the concession for operating the Fishing Center. Thus, while the entity holding the concession has revenues exceeding the bill's cut-off, if we look at the situations of the individual boat captains and owners individually, I think they are deserving of a preferential right of renewal. They are local residents, many of them from families who have lived on the Outer Banks for generations.

The Oregon Inlet Fishing Center and its operators have provided great service to the citizens of this country who visit the Cape Hatteras National Seashore. I believe that this concessionaire, and ones similar to it, should retain a preferential right of renewal. My amendment will ensure this, by establishing that concessionaires with annual gross receipts of up to $3 million have such a right.

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment. I appreciate that my colleague and friend from North Carolina has a problem in terms of a cooperative group that breaks the threshold, but his solution to this is one that is very troublesome. We have in the bill the right of preferential right of renewal for contracts under $500,000.

What the gentleman suggests is that he wants to raise that ceiling and his amendment raises it to $3 million for everyone, not just for this particular instance.

Furthermore, Mr. Chairman, I am willing to look at the gentleman's concern insofar as this corporation or cooperative is unique and attempt to try to work with him. But to do it through this method would basically undercut fairness in the bill to the other concessionaires and to serving the park in terms of preferential right of renewal. We would basically be extending the preferential right of renewal.

The preferential right of renewal and the possessory interest issues are the two basic tenets in the bill and the two impediments today in the current system to competition. If we want that competition, then we cannot take the Lancaster amendment. That is why I am asking my colleagues to strongly reject this particular amendment.

Mr. HANSEN. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I think the gentleman has offered a very fine amendment and one that makes a lot of sense. All he is basically doing is raising it from one-half million to 3 million.

Now, the Small Business Administration classifies a small concessionaire as one with gross receipts of less than $5 million. The Lancaster amendment will simply raise the level of protection and include more of the small concessionaires.

For some reason there seems to be a feeling around here that there is some big huge organization, some big corporate giant that is doing all these things, when in effect most of them in these areas are just mom and pop organizations. Some guy starts a river running thing and he does it on the weekends. It gets better and better. Before long he has five boats, then he has ten boats. Then he is a full timer. All these people will come under this thing.

I think it makes a lot of sense in this particular time to help these small concessionaires and go with the amendment of the gentleman from North Carolina [Mr. LANCASTER].

I urge the body to support this very fine amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

I think this would take virtually everyone out from under the reforms that are provided for in the bill and would render the bill essentially meaningless. I would be forced to oppose the amendment by the gentleman.

The CHAIRMAN pro tempore (Mr. HASTINGS). Is there further debate on this amendment?

The question is on the amendment offered by the gentleman from North Carolina [Mr. LANCASTER].

The amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. HASTINGS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 208) to reform the concessions policies of the National Park Service, and for other purposes, pursuant to House Resolution 492, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 30, answered "present" 1, not voting 17, as follows:

[Roll No. 363]

YEAS—386

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Burton
Buyer
Byrne
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velázquez
Vento
Visclosky
Volkmer
Walker
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NAYS—30

Bachus (AL)
Baker (CA)
Bunning
Callahan
Combest
Crapo
DeLay
Emerson
Fields (TX)
Hancock
Hansen
Hefley
Herger
Hunter
Lewis (CA)
Lightfoot
McCandless
McKeon
Murphy
Myers
Oxley
Packard
Rogers
Skeen
Smith (OR)
Stump
Taylor (NC)
Thomas (WY)
Vucanovich
Young (AK)

ANSWERED "PRESENT"—1

English

NOT VOTING—17

Blackwell
Carr
Clay
Gallo
Hayes
Hutto
Inhofe
Laughlin
Margolies-Mezvinsky
McDade
Reynolds
Slattery
Sundquist
Washington
Wheat
Whitten
Young (FL)

□ 1801

Messrs. HUNTER, McCANDLESS, LIGHTFOOT, and HERGER changed their vote from "yea" to "nay."

Messrs. EVERETT, ARMEY, and DOOLITTLE changed their vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ENGLISH of Arizona. Mr. Speaker, because my husband's business is a concession operation at Grand Canyon National Park and operates pursuant to permits issued by the National Park Service as required by the Concessions Policy Act, I have officially recused myself from consideration of the National Park Service Concessions Policy Reform Act, S. 208, as required by House rules. Accordingly, I have and will vote present on all votes pertaining to this legislation.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on S. 208, the Senate bill just passed.

The SPEAKER pro tempore (Mr. ENGEL). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4801, SMALL BUSINESS REAUTHORIZATION ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-627) on the resolution (H. Res. 494), providing for consideration of the bill (H.R. 4801) to amend the Small Business Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION WAIVING THE REQUIREMENT OF THE LEGISLATIVE REORGANIZATION ACT FOR ADJOURNMENT SINE DIE OF THE CONGRESS NOT LATER THAN JULY 31

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-628) on the resolution (H. Res. 495) providing for consideration of a concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4497

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4497.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

COMMUNICATION FROM THE HONORABLE MAC COLLINS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MAC COLLINS, Member of Congress:

HOUSE OF REPRESENTATIVES,
July 28, 1994.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the Northern District of Georgia.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

MAC COLLINS.

WYOMING BUFFALO SOLDIERS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous material.)

Mr. THOMAS of Wyoming. Mr. Speaker, 128 years ago today—July 28, 1866—Congress passed an act, the General Order 56, which allowed a distinguished group of people to participate in war and changed military history forever. I would like to recognize these veterans, who throughout the 1800's, played a key role in settling the American West. These brave soldiers were stationed at Fort D.A. Russell, which today is F.E. Warren Air Force Base in Cheyenne, WY. They participated in everything from protecting the boundaries of Wyoming to escorting President Roosevelt when he, and two of his Cabinet members, visited Cheyenne for a city parade in the early 1900's. It is with great honor that we remember and pay tribute to the American buffalo soldier; also known to the Cheyenne Indians at Ta'Tunka.

Most of these men who were newly freed slaves, fought in both the Indian and Spanish American Wars, assisted in building miles of roads in my State and across the West and explored many areas of the untamed western frontier. They were often issued old equipment and fought in the coldest weather the West had to offer, with integrity, dignity, and commitment to this new country.

When Wyoming became a State in 1890, buffalo soldiers played and marched in parades that took place in Cheyenne. In addition, during the early years of the Cheyenne frontier days—the biggest rodeo event in Wyoming—buffalo soldiers raced chariots to the thrill of spectators. Benjamin O. Davis, Sr., one of the soldiers that escorted President Roosevelt, later went on to become the Nation's first African-American general and Gen. John J. Pershing served with a distinguished buffalo soldier unit during his career.

These veterans played an important part in the history of Wyoming and the West and there are over 21 buffalo soldiers' remains at the base cemetery in Cheyenne. To honor their commitment and sacrifices, there will be a bugler's tribute of taps played today in Cheyenne. I rise today to pay tribute to all of the buffalo soldiers who gave their lives for freedom and expansion in the American West.

Mr. Speaker, I include an article on the Wyoming buffalo soldiers, as follows:

THE BUFFALO SOLDIER AT FORT RUSSELL

(By MSgt. Cornelius "Doc" Settles)

July 28, 1866, the Congress met and passed an act, General Order 56, which changed the history of the U.S. military forever. The troops affected by this act, the buffalo soldiers, went into battle and wrote untold pages of history for freedom. These troops, through the course of their historic journey, were mistreated, ill-equipped, soldiers who proudly patrolled Wyoming during the worst weather conditions the frontier had to offer.

The Native American Cheyenne Indians called them Ta'Tunka. All of them were either sons of or newly freed slaves themselves. Their motto was ready and forward throughout the 1800s. During the Indian Wars, one out of every five soldiers in Texas was a buffalo soldier.

In early Cheyenne Frontier Days celebrations before there were chuck wagon races, these troops, stationed at Fort D.A. Russell, raced chariots to entertain the crowds. One troop, Moses Reeder, even won the CFD bronco contest. When Wyoming became a state in 1890, the buffalo soldiers were on hand to play and march in the parade through downtown Cheyenne. When Teddy Roosevelt, along with two of his cabinet members, came to visit Cheyenne in the early 1900s these troops were his personal escort through the city parade. One of the troopers in that escort later became the nation's first African-American general.

Sgt. Maj. Edward L. Baker, a Laramie County buffalo soldier, left cover under fire and rescued a wounded comrade from drowning during the Spanish-American War in Cuba, July 1, 1898. Pvt. James Settlers, a buffalo soldier from Wyoming, was cited for saving his commanding officer at Wind River, Wyoming.

Three regiments of buffalo soldiers served at Fort D.A. Russell between 1887 and 1916. The 9th and 10th Cavalry Regiments and 24th Infantry Regiment all came here to Cheyenne. Gen. John J. Pershing served with the buffalo soldier units and was given the nickname "Black Jack."

There are over 21 buffalo soldiers' remains in the base cemetery. These soldiers will be acknowledged by a bugler's tribute of taps Thursday.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

NEW INFORMATION ON HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, we have new information on what is going on in Haiti which I think is very important for this body to understand. The administration is bent on what can only end up being a long and hazardous and expensive approach to the situation going on down there. And I might point out that it is a particularly harmful approach for Haitians, and it is an approach that is not yielding any results right now.

What has happened recently is we are now actively seeking the authorization of a new U.N. peacekeeping operation for Haiti. That is somewhat remarkable, but what is more remarkable is that we are also in the process of going to the Security Council and setting up a peacemaking operation. That is a euphemism for an invasion of Haiti under the color of some type of a multinational flag. But basically it will be a United States effort, United States paid for, with United States men and women in the armed services leading the charge and doing the dirty work.

Where do Members of Congress fit into this debate?

That is a very curious question. Members notice we are here in special orders and we are discussing the subject. Why are we not discussing it in the legislative process we normally do of due deliberation? I suspect it may be because the administration really does not want us to be talking much about what is going on down there. I am not sure they are particularly proud of the way they have been handling it.

I think it is time we were notified of what is going on with the United Nations. We are talking about our leadership at the White House consulting with the United Nations while the Congress of the United States, who represents the people of the United States of America, are being pretty well shut out of the debate. There is more dialogue going on with foreigners in the White House about this subject than there is with Members of Congress who represent the people of the United States of America. I suspect that should not go on too much longer because it probably makes as many Americans as mad as it obviously makes me.

Let us talk about what is finally starting to come about regarding this military mission, what they are talking about in the U.N. Security Council. Actually it is a little scary. We have phase 1 and this is going to last for a couple of months. That is 12,000 to 15,000 troops that are going to go down and disarm and pacify the population in Haiti.

Let me say there has been a problem in Haiti for 200 years and in a few months we are going to send 15,000 American troops down there and they are going to solve this problem?

We do not have any commitments, to my knowledge, from any other countries that are going to participate, although we are told there will be some. Nor do we know what the troop strengths of these countries will be. But probably they will be limited.

We are told that the funding for this, because it will be a multinational force, will come from the Department of Defense, not from the Department of State or any of our other peacekeeping funds we have. This will be a special charge against DOD and will further erode the cuts we have already made against DOD this year. As many know, we are concerned about the hollow force we are developing in our country by underfunding the Department of Defense.

□ 1810

This is going to be 1 billion dollars' worth taken away from DOD before we get through.

Then comes phase 2. Phase 2 lasts until January 1996 at least. This will be an officially sanctioned U.N. peacekeeping effort. That means that we can pay for it through the State Department rather than the Defense Department. We will still get the bill. It will be about $200 million a year. That is not including the humanitarian aid. That is just to have the 6,000 or so troops be down there in Haiti trying to preserve the stability which has eluded them for some 200 years in that nation.

I would point out that while we are going to take that on, we presently have 13 ongoing peacekeeping missions right now in the world. The United Nations has 17. I think we know who is paying for most of that and the costs are not insignificant here. Not only are we going to be charged another $200 million a year for just the Haiti project, we are already well in arrears, I think as many know, on our obligations to the United Nations. And some of these peacekeeping efforts are not working very well, regrettably.

I guess the theory is that once the U.N. Security Council has sanctioned this peacemaking force, that the administration is then free to do what they want; they do not have to come to Congress. Specifically they made it a point that they do not have to come to the Congress of the United States of America and suggest what they would like to do or review the plan or discuss, debate or deliberate, because they have already got the might assembled, and all they are waiting for is the green light from the United Nations.

Now, how can we be standing here in Washington, DC, as duly elected representatives of the people of this country, suggesting that it is a good idea for the White House to get a green light to invade a neighboring friendly country, but we are not going to consult with the U.S. Congress? That just does not add up, and I do not think it is something that makes much sense to most Americans.

I see my time is about up. This is an issue that is not going to go away. We will pursue it again.

I will end on the note by saying the four friends of Haiti traditionally working with us, none want to invade Haiti. Invading Haiti is a very bad idea, whether the United Nations thinks it is a good idea or not.

EXPRESSING EXTREME CONCERN OVER RUMORS OF AN AMERICAN INVASION OF HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise this evening again as a member of the Committee on Armed Services to express my extreme concern over the rumors that are circulating rampantly inside the beltway about the possibility of an American invasion of Haiti within the next several weeks. Much of this speculation is fueled by internal memos that have been obtained from officials of the United Nations in a recent briefing that was held in Congressman JACK FIELDS' office. JACK is the ranking member on the Committee on Merchant Marine and Fisheries, which oversees the Coast Guard.

A group of us asked the Coast Guard a number of questions about their operation in support of the current efforts around Haiti, and a representative of the National Security Council was also in attendance at that meeting. I asked him very specifically what the White House response was to the Dante Caputo memo, and Dante Caputo is the U.N. special envoy to Haiti; Members of this body obtained a copy of an internal memo that he circulated to the Secretary General of the United Nations.

The response of the National Security Council is that the White House has no comment on the U.N. internal document, and the reports of meetings that have occurred with the Secretary General.

This evening I asked unanimous consent to enter into the RECORD the entire memo, the transcripts of the meeting, and the internal working documents of the U.N. officials which describe in great detail what the United Nations thinks is going to be the United States response in terms of Haiti. I asked unanimous consent for that, Mr. Speaker, because it is time the American people listen not to the rhetoric of either political party nor to gross exaggerations, but look at what the U.N. special envoy is saying to his boss in terms of what our objectives are and what our real thrust is in terms of Haiti.

It scares me, as a Member of Congress, sitting on the Committee on Armed Services. On page 5 of the internal memo, as Dante Caputo is describing what the opinion of the United States advisers is in terms of Haiti, it says that the United States advisers are of the opinion that the option of the military strategy is not just the lesser evil but it is politically desirable, politically desirable. It goes on to say that the Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decisionmaking capability and the firmness of leadership in international political matters.

Mr. Speaker, this is not what our military is about, sending our troops into harm's way to make political statements. And yet that is what this memo, in fact, states.

It goes on to document meetings that say that America cannot wait until beyond the month of August to take action because of the criticism of their foreign policy on the domestic front, and I quote, "They want to do something. They are going to try to intervene militarily, and they are going to do it before the end of August." He goes on to talk about what would happen if this operation took place, but then what is most troubling to me is on page 2 of an internal document, or an internal meeting, where the Secretary General was questioning Mr. Caputo in response to a question about the existence of other alternatives other than a military intervention.

Dante Caputo replies, and I quote, "that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention became nearly inevitable." So here we have the U.N. special envoy to Haiti telling the U.N. Secretary General that we, this country, headed by our President, actually put a brake on a diplomatic solution in Haiti, because we want to create a situation where we have to intervene militarily.

Mr. Speaker, that is outrageous, and to all the moms and dads and uncles and aunts that have kids in our military, I say to them that this is not the way we should be conducting foreign policy. This is not the way that we should be attempting to exert our influence around the world.

I would urge all of my colleagues and every American citizen concerned about Haiti to read the CONGRESSIONAL RECORD tomorrow, because the entire document that I have referred to will be printed in its entirety for all of America to see.

CONFIDENTIAL

Attention: The Secretary General.
From: Dante Caputo, RSSC.

Over the past fifteen days, I had the pleasure of meeting several times with U.S. Talbott and other officials of the American State Department. I also had some meetings in Paris with M. Alain Juppé, Minister of Foreign Affairs and in Ottawa with Mr. André Quellert, Minister of Foreign Affairs. Moreover, I was able to have some informal conversations with other areas of American political life.

The conclusions that I am drawing today are as follows:

1. The U.S. administration considers that an invasion of Haiti is its best option.

2. The principal objection to this type of action comes from the fact that "if it is easy to initiate this type of action, it is more difficult to exit from it".

3. In order to resolve this dilemma, the U.S. administration will seek to act in the following manner:

a) set up a unilateral action, a surgical action, with the eventual participation of several countries in the region so as to give it a certain legitimacy;

b) put President Aristide back in power;

c) it will seek a quick replacement of the armed intervention forces by the [illegible] whose mandate and structure will have been redefined beforehand.

4. This strategy would allow it to capitalize on the experience with such an operation, transferring the political cost on the UN.

5. In the same fashion, the President of the United States's main advisers, are of the opinion that not only does this option constitute the lesser evil, but that is politically desirable. Thus we think that the current opposition of public opinion to an armed intervention will change radically, once it will have taken place. The Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decision making capability and the firmness of leadership in international political matters.

6. The position of the friendly countries vis a vis this strategy is the following:

France:

France is opposed to the use of force be it multilateral or unilateral. It is ready to participate in a MINUAH under the terms foreseen in July, 1993, that is to say, technical assistance and participation in forming a police force. In an explicit manner, France is opposed to participating in whatever activity that would imply direct police action.

France considers that it is urgent that a meeting of the Four friends take place at the department head or under secretary level, preferably in New York.

France insists as well on Argentina's participation as a fifth friendly country given that it is a member of the Security Council.

Canada:

Canada does not wish to participate in a multilateral armed intervention force. Canada thinks that in the present situation, there is probably no other alternative to that which the U.S. administration will adopt. In this perspective, according to Minister Ouellet, our problem will consist of knowing how to "manage" this new reality. Canada seems equally disposed to participate in a MINUAH whose mandate will have been redefined. Canada also considers it urgent to call a meeting of the Four Friends.

7. The permanent U.S. Mission has undertaken the necessary steps so that the Security Council comes to a decision very soon on the MINUAH's mandate and structure.

May 23, 1994.

From: SG.
oc: OCA Central?

Report of a discussion of the Secretary General with his Special Representative for Haiti at the United Nations Headquarters, Tuesday, May 24, 1994 at 6:30 p.m.

Present: The Secretary General; Mr. Gharekhan; Mr. de Soto, advisor; Mrs. Green; Mrs. Seguin-Horton.

Subject: The situation in Haiti. Possibilities for a military intervention by the United States.

The Secretary General says to Mr. Caputo that he is well aware of his last summary report.

Mr. Caputo explains that he did not dare present any options and policies to the Secretary General in this report. The fact is that he had lately a large number of informal consultations that are all going in the same direction: The Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something: they are going to try to intervene militarily.

The Secretary General wonders if President Aristide could invoke Article 51 of the Charter in order to call for a military intervention.

Mr. de Soto says that the constitution prevents him from doing so.

Mr. Caputo thinks that after having asked for the intervention, Mr. Aristide will condemn it. Moreover, the United States, that wants to obtain the Security Council's blessing, is now actively studying the means to accord a legal protection to this affair.

Mr. de Soto recalls that this idea recently provoked a general protest among the OSA.

What can the United Nations Secretariat do, either to avoid or to encourage this intervention?, asks the Secretary General.

Mr. Caputo predicts a disaster. The United States will make the UN bear the responsibility to manage the occupation of Haiti. "With Aristide as President during two or three years, it will be Hell!" It is not so much the armed intervention itself that we have to avoid. What we do not want, is to inherit a "baby". For the Americans' are fixing to leave quickly. They would not intervene if they had to remain.

Mr. Gharekhan asks Mr. Caputo what he understands by leaving "quickly". One month, replies Mr. Caputo. Who is going to replace the Americans?, asks the Secretary General.

"Us", replies Mr. de Soto. The Americans will be applauded and the dirty work will come back to the UN. The only thing that could discourage the United States would be to not obtain any contributing countries for mounting a multinational operation.

France, according to Mr. Juppé, is opposed to it, confirms Mr. Caputo. As for Canada, it is committed to strictly limiting its contribution to the formation of a new Haitian police.

The Secretary believes that in making an effort, the United States will be able to manage to obtain 2,000 French-African troops and a few troops from the Caribbean.

Mr. Caputo says that the United Nations would have to work with a complex force and that it would be difficult for it to mount an operation in a one-month period. The Latin American countries are not ready to contribute. Mr. Caputo knows that Argentina, for example, is not very favorable to this idea. He also doubts that Mexico, Brazil or Venezuela would be tempted.

This scenario would be fraught with consequences for the United Nations as well as for this region of the world. Dante Caputo emphasizes that it is harmful that at the conclusion of the cold war, no other answer can be found for such a crisis.

In answer to the Minister's question about the consequences of the American intervention in Panama, Dante Caputo replies that it concerned a different time where the cold war was still taking place. Today, we are right in expecting that other types of means be activated. The United Nations will be perceived as being impotent before the region's problems. They will have to face up to a particular difficult post-intervention situation.

To the Minister's question about the existence of another alternative, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention became nearly inevitable.

The Minister remarks that actually, despite the goodwill of the United Nations, it's credibility is jeopardized and the [Haitian] military leaders are "laughing at us". The Minister stresses the difficulties of a strict and effective implementation of planned sanctions and expresses its doubt over the possibility of a complete closing of the border.

The Minister shares Dante Caputo's appreciation of the need to make some arrangements in the event of a unilateral intervention. However, the Minister continues to affirm that Canada will not commit itself to hostile activities in Haiti. Canada is ready to favorably consider a United Nations request favoring a peace keeping operation with the view of consolidating a democratic regime, aid programs, and participation in a better equipped MUNUHA. Basically, the Minister concedes that only the United States can wrestle with the [Haitian] military leaders.

To improve our image relative to President Aristide, the Minister believes that the President should participate in the next meeting of the Four Friends. Regarding this meeting, Dante Caputo maintains that it would be preferable if it be held first of all without the President, and that he not participate except after the meeting. In the perspective of managing the post intervention situation, Dante Caputo thinks that it is important that President Aristide can consider himself to be an integral part of the Four Friends' action.

According to the Minister, President Aristide's credibility risks to be stained, if he is restored after the U.S. intervention.

The Minsiter questions himself over the composition, nature and on the willingness of the countries that would be ready to participate in the MINUHA.

Dante Caputo emphasizes that France expressed the wish to participate in the formation of a police force in Haiti and is reticent to do "monitoring". Ambassador Préchette then recalls the difficulties encountered at the moment of recruiting the components of the operation's police force in 1993. Dante Caputo remarks that the question of this police force's role and mandate should be determined as a function of the whole and notes that the countries interested in taking part remain few, in addition to Canada, the United States, Argentina, and France.

The fundamental question remains the post-intervention role, multilateral action being put aside, indicates Dante Caputo. Ambassador Préchetto replies that in effect, the United Nations will not vote for this type of action, but could be in favor of a "green light" for a coalition of States that would invite countries interested in toppling the [Haitian] military leaders if a very serious incident unfolded. Dante Caputo adds that this American initiative could be blocked by an internal decision process.

The Minister concludes the meeting by recalling that this is an emergency, that Canada wants to play a role, and that he will be guided by the advice and suggestions of Dante Caputo. In the probable case where sanctions would have no immediate effect and would act in the military leaders' favor, the Minister remarks that it would then be necessary to explain why sanctions are being maintained against Haiti.

JULIETTE RÉMY,
May 23, 1994.

The Secretary General recalls that in the past, the United States was able to show that it could mount a multinational force, if only in appearance. "Must we say that we think that a military intervention in Haiti would be negative?"

Mr. de Soto thinks that insinuating the possibility of an armed intervention is working to produce a certain effect in Haiti. The [Haitian] military leaders are nervous. * * *It would thus be politically dangerous to publicly discourage this menace.

According to Mr. Caputo, it must first be proposed that the President of the Security Council ask for a closing of the border between Haiti and the Dominican Republic. This measure will have a certain economic and psychological impact.

The Secretary General wonders how it is possible to really close this border. A very clear commitment on the part of the Dominican authorities must be required, replies Mr. Caputo. The Secretary General thinks that the Dominican government does not have the means to prevent infiltration.

Mr. Caputo considers that the land or sea routes can be controlled if the authorities accept to play the game. In this regard, Mr. Caputo informs the Secretary General that the Americans have proposed to him to accompany them tomorrow to meet President Balaguer in Santo Domingo. Mr. Caputo has not yet replied, but he thinks that he must accept this offer in order to show that he is being active on the diplomatic front.

Replying to a question from the Secretary General, Mr. Gharekhan makes the point that the Security Council specifically mentioned the border in his presidential declaration.

Mr. de Soto thinks that the other friends of Haiti must be made to participate at this meeting, if only through their ambassadors in Santo Domingo.

Moreover, Mr. Caputo pointed out that the Republicans have the tendency to keep their distance vis a vis the idea of intervening, thinking that President Clinton would be committing a monumental error there.

Nobody can tell if such an operation will succeed or fail, notes the Secretary General. In addition to closing the border, continues Mr. Caputo, we will have to keep the same political framework set up two months ago if the United States requests.

The Secretary General asks Mr. Caputo if he still believes that after 17 months spent in his position, if the United States can conduct diplomacy. The Americans are still deeply divided on the Haitian question; there are supporters and detractors of President Aristide.

Mr. Caputo thinks that it is now or never to show the Americans that there is a political alternative to American intervention.

Mr. de Soto wonders if in fact Mr. Caputo should not go to Port au Prince to challenge the military leaders and try to convince Mr. Cédras, who pretends to be a "negotiator".

Mr. Caputo affirms that he is ready to go to Haiti. The problem is that if his visit fails, and that if it is accompanied by demonstrations by the BRAPH and by a definite "no" from Mr. Cédras,we risk provoking an armed intervention.

Mr. Gharekahan thinks that, in effect, the Americans could feel justified to intervene.

According to Mr. de Soto, this would be the case if it were already August, but if we try now, we still have time, he says.

Mr. Caputo declares that he likes this idea because the United Nations seems to be making every possible effort on the diplomatic front on the condition, of course, of obtaining a meeting with Mr. Cédras. In reply to a question from the Secretary General, he has the means to contact him.

Moreover, Mr. Caputo points out that the French insist a lot on including Argentina in the Group of the Secretary General's Friends. Argentina, who was rather tepid two or three months ago, now seems interested in the question.

The French find in effect that the Argentina's presence would allow a better balance * * * Security Council, among the Group of Friends. Venezuela would not be excluded for as much.

Aware of the risk of displeasing Brazil who is also a member of the Security Council, the Secretary General proposes to use the criteria of Argentina's active participation in the search of a solution to the Haitian problem. Isn't Argentina a frigate that sails in the region to check on the embargo's enforcement?

Mr. Gharekhan believes that he remembers that Mr. Goulding was totally opposed to this idea.

In answer to the Secretary General's question, Mr. de Soto says that Mr. Goulding thinks that including Argentina would bother Brazil.

Mr. Caputo suggests consulting Brazil.

Mr. de Soto points out that Mr. Luis de Silva, Brazil's presidential candidate, has come out in favor of intervention * * *.

Summarizing the situation the Secretary General proposes to act in the following manner: 1) Mr. Caputo reports tomorrow at Santo Domingo to discuss the border: 2) He makes contact with Mr. Cédras to set up an appointment with him; 3) He goes to Haiti to strengthen his credibility: 4) The Secretariat contacts Brazil to announce the decision to invite Argentina to be part of the Group of Friends, 5) The Secretariat? invites Argentina.

Evoking the role of the United Nations' mission in Haiti (MINUAH), Mr. Caputo recalls that the American plan is to intervene, leave quickly and pass the torch to the U.N. But, if they saw how difficult it is to mount a U.N. operation on the spot, they would perhaps reflect some more before intervening.

Mr. de Soto emphasizes that the MINUAH mandate exits. The United States has met with officers from the [illegible] Department for Peace Keeping to study means of renewing, redefining, and strengthening the Mission. Replying to the Secretary General, Mr. de Soto indicates that the initial mandate foresees 700 to 800 men. The United States is in the process of broadening the scope of MINUAH to a mission, not only of technical assistance, but also one peace keeping. This would thus be a way to discourage the United States to intervene in showing them how difficult it is to set up the Mission that it would like to see following its intervention.

Mr. Gharekhan thinks that the Secretariat cannot highlight this difficulty since the United States has the means to obtain the necessary troops.

The Secretary General fears that the United States will take a unilateral decision and that it will repeat the Somalian experience. The main question remains knowing what to do to avoid this unpleasant role for the United Nations.

According to Mr. de Soto, the Security Council's backing can be politically costly to the United States in so far as it will cause the United States to make concessions.

The Secretary General points out that the United States can even choose to leave forces behind.

Mr. de Soto says that the closest analogy is the one of Panama. The United States knows that the Latin American countries will protest out of principle while at the same time they will be relieved to get rid of Mr. Cédras.

Suggesting to proceed by stages, the Secretary General concludes that they agree on the five points mentioned above. These points already will allow for movement. Mrs. Green, having asked if Mr. Aristide was going to be contacted, the Secretary General replies in the affirmative. He agrees to telephone Mr. Aristide. He suggests to put off until later the more substantial reflections on the question, but keeps in mind the fact that there is a risk of escalation. It should not be forgotten that the Haitian people suffer because of those sanctions.

FABIENNO SEGUIN-HORTON,
May 25, 1994.

CONFIDENTIAL

NOTE FOR THE FILE

Meeting between Mr. Dante Caputo, SREG for Haiti with Mr. Andre Ouellet, Foreign Affairs Minister of Canada, Ottawa, May 19, 1994.

Present: Mr. Stanley E. Gooch, Assistant Vice Minister; Latin American and Caribbean Desk; Mrs. Louise Préchette, Permanent Canadian Representative at the United Nations.

After being warmly welcomed by the Minister, Dante Caputo stresses, first of all, the different options for a solution and relates, for the Minister's benefit, the reactions observed in Paris and Washington. The first option consists of waiting for sanctions put in place to produce the desired effect: the military leaders' departure. In this regard, France and the United States have the same worry of seeing that the border between the Dominican Republic and Haiti be hermetically sealed.

However, stresses Dante Caputo, the United States would not be ready to wait several months for this to produce the desired effect. The second option, consists of using the sanctions as an instrument to support a political strategy. France is in favor of such a scenario and, in this regard, supports the idea of a high level meeting of the Secretary General's Four Friends Countries. The third option consists of using unilateral force, multilateral force, or a combination of the two. France is opposed to this. Concerning the United States position, such as laid out by Strobe Talbot, Dante Caputo thinks that time is short, and that the situation today cannot last beyond July. Dante Caputo emphasizes that Haiti represents a test case for which the United States has to have found a solution before November. The United States supports the return of a reinforced MINUAH (self defense, protecting sites) without specifying the probable means for the [Haitian] military leaders' departure.

Dante Caputo gives his personal impression of the strategy that the United States would get ready to implement. According to him, the United States cannot wait any longer to obtain the benefits of an action in favor of Haiti for a just cause; it would intervene punctually in order to then cede its place to the MINUAH.

THE 50TH ANNIVERSARY OF THE WARSAW UPRISING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise tonight, as I have done every evening this week, to pay tribute to the courageous people of Poland on their upcoming 50th anniversary of the Warsaw uprising which occurred during the months of August and September of 1944. This is the fourth in a series of special orders that I will give to bring attention to this event.

I will continue this evening by reading excerpts to the membership from the book "The Forgotten Holocaust: The Poles Under Nazi Occupation, 1939 to 1944" by Richard Lucas, in which over 250,000 innocent people were murdered brutally in the streets and homes of the town that they had known since their youth. Their valiant and heroic struggle is one that the West has heard little about, largely because after World War II so much of the history of that region was suppressed, and only now are we coming to learn the magnitude of what happened to people who so very much wanted to share our democratic values over the last half century.

This weekend and next week our Vice President, AL GORE, and a United States delegation will travel to Warsaw to help to commemorate those who lost their lives and to join with the Polish people in remembering this most terrible period of their magnificent history.

☐ 1820

Mr. Speaker, reading from Mr. Lucas' book, he says,

> But the most hideous episode involving Kaminski's men began at 10:00 AM on August 5 at the Radium Institute. After invading the building, they robbed everyone—the nurses and the ninety patients. The Russians under German command even stole hospital equipment, and what they could not cart off, they destroyed. A band of them tore apart the pharmacy and drank the rubbing alcohol until it ran out. Then they consumed ether. The orgy of plundering and drinking degenerated to raping not only the nurses but also the cancer patients, most of them elderly women. By Sunday August 6, the men shot inmates and began to burn the hospital room by room. Some of the patients vainly tried to escape through the windows by tying sheets together. Thirty people died in the flaming rooms of the building or were shot that day. The others managed to save themselves by finding a place in the basement of the building and hiding there. The atrocities at the hospital did not end until the middle of the month.
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> Among the casualties on August 6 were the well-known artist, eighty-two-year-old Victor Mazurowski, and his famous pianist wife, seventy-five-year-old Jadwiga Zalewska-Mazurowska. For not keeping up with the column of refugees, the distinguished couple was shot.
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> The murdering reached so feverish an intensity by August 7 that one eyewitness had the impression everyone in Warsaw would be decimated:
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> When we passed No. 9 Gorczewska Street (a house which belonged to nuns), we were called into the house and ordered to carry out the corpses which were there. The courtyard was a dreadful sight. It was an execution place. Heaps of corpses were lying there; I think they must have been collecting there for some days, for some were already swollen and others quite freshly killed. There were bodies of men, women and children, all shot through the backs of their heads. It is difficult to state exactly how many there were. There must have been several layers carelessly heaped up. The men were ordered to carry away the bodies—we women were to bury them. We put them in anti-tank trenches and then filled these up. In this way, we filled up a number of such trenches in Gorczewska Street, I had the impression that during the first days of the Rising everybody was killed.
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> Warsaw was subjected to one of the most systematic acts of plunder of any occupied city during the war.
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> Although wounded in Warsaw, Kaminski was determined not to lose the opportunity to engage personally in wholesale looting. After one of his fleecing escapades, he sat on a Warsaw balcony, a girl on each knee and drank champagne.
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> Special railway police were sent to Warsaw to insure more expeditious transport of the spoils. The Germans even dispatched an expert to supervise the loading of hospital equipment.
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> During the first ten days of August, about 7,000 railway cars loaded with property arrived in Wartheland. Upon arrival there, the spoils—consisting of machinery, raw materials, food, clothing, medicine and furniture—were placed at the disposal of Greiser, who distributed them among various German groups in the Posen area.
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> Motoring along the western rim of Warsaw on August 5 was a distinguished, impeccably-dressed officer in an SS uniform. He was General von dem Back-Zelewski, the man appointed to quell the insurrection in Warsaw. As he drove by the cemeteries bordering the city, he saw a large pile of civilian bodies. German police were about to set fire to it. Standing nearby was a group of civilians who were to be executed then and there. Bach-Zelewski lurched from his seat, stopped the car, and ordered the executions to stop immediately. Then he repealed Himmler's standing orders. Bach's reasons were not so much humanitarian as they were practical: "A military force which loots and massacres, ceases to fight."
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> Bach did not have too much difficulty getting rid of Kaminski after word of what his brigade had done in Warsaw got back to Hitler's quarters. General Alfred Joll testified, "I reported this fact to the Fuhrer, and he immediately ordered the dissolution of the brigade." True, the atrocities did not disturb the man who had six million Jews murdered during the war. Rather, it was the inefficient and orgiastic way the Russians went about it. After all, there was a prescribed way for Nazis to commit murder.
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> Bach arrested and sentenced Kaminski; the Gestapo in Lodz shot him in the back.
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> The Kaminski Brigade itself was transferred first to Stawki and later to the Kampinos Forest area. It was there on the night of September 2 that a Polish unit led by Lieutenant Colonel Adolf Pilch took revenge for the atrocities committed by Kaminski's men. The Poles threw grenades into the cellars of buildings housing the

headquarters of two of its battalions, virtually annihilating the unit.

By August 11, the western part of Warsaw had been taken.

Bach left City Center, the strongest fortified sector, and Zoliborz in the far north for the last. This strategy, in effect, virtually abdicated to the Poles the initiative in City Center, while Bach-Zelewski concentrated on clearing the western banks of the Vistula. Bach gradually succeeded in splitting up and defeating them in isolated pockets.

The situation for a AK grew more difficult as the days passed. When the decision was made to rise up, the AK had enough ammunition for only a few days and not more than a week. Now two weeks into the battle with no pospect for Soviet relief, Bor kept sending his desperate messages to London, emphasizing his army's plight and asking for supply drops.

The hostility of the Soviets to the AK was summed up in a Polish report of August 16: "Diversive activities helpful to the Soviets are continued in the Radom district. The attitude of the Soviets toward the Home Army is hostile."

As a consequence, the resistance fighters on August 1 were simply not equipped for anything like a long-term struggle against the Germans. They had a total of 43,971 hand grenades, 3,846 pistols, 657 submachine guns, 30 flame throwers, 2 anti-panzer guns, 406 anti-panzer grenades, 12,000 incendiary bottles, 2,629 carbines, 6 mortars, 10 howitzers, and small amounts of ammunition and explosive material. Heavy weapons were nonexistent. With only 2,629 carbines, only about 6 percent of the soldiers could be armed with rifles.

The RAF sent ten supply missions to Warsaw during the uprising; and several other missions, intended for the Polish capital, dropped supplies outside the city. Casualty rates were very high; the Poles alone lost 16 crews. In all, 245 Poles, English and South African airmen were shot down, and only 41 of them survived.

As the level of fighting intensified and casualties mounted on both sides, the number of corpses in the streets made the entire city look like an open cemetery. The "gatherers," as the corpse collectors were euphemistically called, had the awful job of removing the bodies from the streets and buildings. Sometimes the corpses lay there for weeks, and when they were touched by hooked poles used for this purpose they fell to pieces, often exposing swarms of rats who fed on decayed flesh. For this dreadful work, the Germans, whenever they could, used Polish captives.

The Germans quite by accident discovered the Poles were using the sewers. Early in September they started to dig a tunnel of their own from their positions in Saxony Park to the Polish stronghold in the Exchange Building, which they wanted to destroy. During their digging operations, they found a sewer four feet in diameter. At first they simply took their own tunnel under it. But when they heard the sound of movement in the sewer, it dawned on them what was afoot. The Germans then immediately tried to stop Polish use of the subterranean maze by throwing grenades, mines, gas and rubble into the passages. Even hand grenades without their pins were hung so that when an unsuspecting person hit one, he was blown to bits. There were full-scale battles below, as men fought hand-to-hand and drowned each other in excrement.

Bach-Zelewski tried several ploys to get the Poles to stop fighting in August. Concerned that the uprising would spread throughout the country, they tried to offset the murderous image the Germans acquired earlier in the month in Wola and Ochota.

Mr. Speaker, in ending my special order this evening, let me just say that as the Poles and their friends memorialize their forebears, they also remember their history as a freedom-loving people whose democratic values were unique in that region of the world. They did not deserve extinction, and they deserve the respect of today's NATO members and expeditious consideration of their desire to join the councils of freedom-living people everywhere.

SUGGESTED SCHEDULE FOR CONSIDERATION OF HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. HOEKSTRA] is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, tonight I would like to spend a few minutes talking about the process that this House may find itself in as we begin the critical debate on health care.

Last week the Democratic leadership disavowed the Clinton administration's health care plan, but they pledged to forge a new plan that was significantly different and would address many of the concerns that the American people had raised about the earlier versions.

What I would like to point out is perhaps the process that we may be going through as we focus on developing a health care bill. What I have in front of me here is H.R. 3600, which is the health care bill that was brought to the full Committee on Education and Labor, and the process that we went through in the Committee on Education and Labor is that we had 29 days of total hearings, we had 11 days of subcommittee markup, we had 8 days of full committee markup.

The markup time alone—that is, the opportunity to review the bill, propose amendments, debate amendments, and vote on amendments—took us over 2 months. In full committee, over 90 amendments were debated and 51 were adopted, which means that, as good as the authors of this document, the 1,100 pages of material, thought that their original bill was, there was still significant opportunity to refine and improve that bill.

As we now face the daunting task of looking at perhaps another new bill that may be 1,100, 1,200, 1,300 pages, we do not know how many because the bill is not in front of us, but I propose to this House that we, perhaps, adopt some minimum standards for considering this bill, to make sure that as the American people watch the process, they can be assured they have had full opportunity to see this bill, deliberate it, amend and debate it before final passage.

What would a final schedule look like? We have heard some things, some people propose that we may see a bill in the next 3 to 5 days and before we go on recess, which would be another 2 weeks, we would vote on final passage of the bill.

I would propose that that is not enough time to consider a bill that will affect 17 percent of our economy.

What is a more realistic schedule? What is an expectation a proposal that I think we can lay before this House?

Here is a proposal: That by August 1, all the bills, both Republican and Democratic alternatives be introduced with CBO full scoring and that the bills be fully printed and available for review and discussion; that on August 2 through 7, on the floor of this House, each one of the bills be walked through since we will not have the benefit of committee hearings, but that each author be permitted the opportunity to describe and to discuss and outline their bill. Then on August 8 we debate the rule, we debate an open rule that would allow for amendments to the bills as long as they are printed within 24 hours in the CONGRESSIONAL RECORD.

By August 13, we finalize the rule and approve the rule.

And then we go home for our recess, not for a vacation but for the opportunity to provide the American people to see, review, and provide feedback to us on this bill; use the recess to gain input on a new mark on new marks rather than to go back and report to them what we have done here in haste.

We then come back here on September 8, the amendments are due to be printed in the RECORD, and on September 9 we begin debate on the health care bill. We wait, we debate for 5 to 10 days, we vote on the amendments. If we pass a bill, a conference committee occurs during the middle of September and October 5 we have final debate and finally vote on a health care package.

A bill of this importance deserves that kind of opportunity to be heard in front of this Congress and in front of the American people.

What else could we expect? Today I sent out a "Dear Colleague" that says John Hancock signed the Declaration of Independence without reading it first. Will every member in this House agree to read the bill before we have a final vote? Will they agree to read 1,100 pages that reflect an outline of what is going to happen to health care before they vote on that kind of a package?

□ 1830

Third, as we move forward on health care, if we move out a mark similar which we had in Education and Labor, will they agree that before health care takes place in any State, that State will have a public referendum where the voters will choose to participate in the program or not?

CONSIDERATION OF HEALTH CARE REFORM

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I wanted to follow up with Members of the House on the comments made by the gentleman from Michigan [Mr. HOEKSTRA] just a minute ago, and I have just come from an agriculture hearing, a Committee on Agriculture hearing, and we today did a mock markup on GATT, which basically means that we voted on a lot of the substance of the GATT agreement, the General Agreement on Trade and Tariff, and this section was about that thick, 3 or 4 inches thick, and it only dealt with agriculture issues. To my knowledge that was the first time the members of the committee had seen, not just that portion of the bill in its entirely, but the related amendments, and yet I suppose we were supposed to be miracle readers, and could sit over there in 2 or 3 hours and debate while also reading the bill for the first time.

Mr. Speaker, as my colleagues know, maybe trade agreements should go that way, but here we go on health care, and we have had the health care debate going, not just in the 103d Congress, but in previous Congresses. We have the Rowland-Billirakis bill, we have a McDermott bill, we have the Michel bill, we have the Clinton bill. We have some bills right now, as the gentleman said earlier, we should put a deadline on to debate and to vote on. Now I understand that there is a Democrat leadership bill that is coming up. It is all done in secret. Nobody is in there.

As my colleagues know, I know there is some good and bad in sunshine laws, but I think this is an example where we need a sunshine law, where we have such a tremendous issue that is being dealt with behind the doors, behind the scenes, and by one party which, I think, is offensive and outrageous, and the American people need to know that the major bill, the thing that we are not able to add and put on the table right now for review and study, is being crafted secretly in some back room.

Mr. HOEKSTRA. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. Mr. Speaker, perhaps we can reflect back on the NAFTA debate that we had in 1993. We had a NAFTA document, 2,000 pages, a good process, a very difficult process. We had the opportunity to read it. We had the opportunity to debate it. We had the opportunity to go back to our districts to talk to businesses, to talk to labor unions, to talk to a whole series of groups, to fully understand; maybe not fully understand, but get a deeper understanding of what NAFTA would do to jobs in our districts, to jobs in this country, to earning power in this country, and we went through a very lengthy process, and I think, when we got done, I think everybody felt that they had had the opportunity to input, to be heard, and then we made a decision.

Compare that to the process we are looking at now. We are both freshmen. I guess we like that kind of process, understanding what we are going to be voting on. It really scares me, what we could be looking at during the first 2 weeks of August.

Mr. KINGSTON. Mr. Speaker, I like the gentleman's idea of going home, and talking to the voters, to the constituents, to health care providers, the nurses, the physicians, and the insurance companies, the laborers, the homemakers. We need to talk to them about it. They need to know, because, if the gentleman remembers when the President introduced this health care bill, I think it had over 50 percent approval, maybe 57. But once people read that 1,329-page document, the approval rating went straight to the ground because it is all in the fine print, and we have got to have that fine print, not just so that 435 Members of Congress can read it, but so the American people can read it.

Mr. HOEKSTRA. We need the ability to go through and read the fine print so that we can find out what was used to get the last 10 or 15 votes that are going to vote in favor in that bill if it passes with 218 votes.

Mr. KINGSTON. Let me ask the gentleman about that because I know there was a lot of discussion that NAFTA actually passed, not on the merits, but on the allocation of given roads and bridges and keeping certain special interest projects in people's district. I ask, "Do you think that will be the case in health care?"

Mr. HOEKSTRA. We have already seen it. We have already seen it in the bill that came out of the Committee on Ways and Means where there is criteria. There are dollars available for teaching hospitals, for construction, low-interest construction loans, and the criteria, as the gentleman knows, it is kind of like, well, makes it look like it is available for everybody, but it so happens, when we take a look at the criteria and how specific the criteria are, it would only benefit three teaching hospitals around the country, one in Chicago, one in New York, who so happened to be represented by key members of the Committee on Ways and Means.

So, there is beginning to evolve this practice now in health care that is not what is good health care policy, but what is it going to take to get those last votes.

Mr. KINGSTON. So, as it stands right now, we are still having the same debate on health care, but it is going on secretly to cut these bills, but the question of who pays for it, who runs it, which are the two predominant questions, are still unanswered and unaddressed.

Mr. HOEKSTRA. Right.

GOVERNMENT OF, BY, AND FOR THE BUREAUCRATS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, those in this Nation who are not worried about big government had better take a new look. The arrogance, the abuse of power, the waste, the inefficiency, is becoming almost unbelievable.

In the last few days, Mr. Speaker, the Washington Post and the Washington Times have had these news items. First, the headline, "Millions of Letters Undelivered." The story said:

> Postal inspectors recently discovered millions of pieces of undelivered mail in two of Washington's largest post offices, just two of those post offices. Nearly 3,000,000 pieces of mail were discovered at these 2 facilities. How much is there all over this Nation?

Second, from the story about the Food and Drug Administration,

> Gene Oden could not have imagined how much his life would change when 20 Federal agents burst into his office in June 1993 and began seizing products crucial to his dietary supplement business. More than a year later the Food and Drug Administration has yet to file charges against Mr. Oden. Still he has been forced to lay off all but 28 of his 105 employees while he wages war with the FDA hoping to recover more than $1 million in products the agents seized.

Mr. Speaker, when people wonder why drugs cost so much in this country, all they need to do is look at the FDA. The overregulation and bureaucratic mumbo jumbo has helped the big drug giants, but has made it almost impossible for small companies to participate and has driven drug and medicine prices sky high.

Third, the third story, once again from the Washington Post,

> "1,300 hundred IRS agents, workers, accused of snooping at tax returns. Employees used computers to peek at friends' files."

The story told how more than 1,300 employees of the IRS have been investigated or disciplined for using Government computers to browse through tax returns of friends, and relatives and neighbors.

Right on the heels of this came a report in the Washington Times about a traffic incident between Susan Allen, a Washington lawyer, and John Richardson, the husband of the woman who heads the IRS. Here is how Mrs. Allen described what happened.

> His name was John Richardson, but his registration, I told him, said Margaret Richardson. "That's my wife," he said, "and she's the IRS Commissioner, and I hope you paid your taxes."

> I said, "What?"
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> And he repeated, "My wife is the Commissioner of the IRS, and I hope you paid your taxes.
>
> "I couldn't believe he was telling me that," Mrs. Allen said.

Some people go to work for the Federal Government, and suddenly they think they are some type of god. They think they are rulers rather than our servants. We have ended up with a Federal Government that is of, by, and for the bureaucrats instead of one that is of, by and for the people; even the best-intended Federal programs today, even ones supposedly designed to help children, do much more to benefit the people who work for the Government than they do for the intended beneficiaries.

□ 1840

Almost always the pressure to increase spending in any area comes from those who work for the Government, not from the intended beneficiaries. It might not be so bad if we were getting our money's worth, but usually these hard-earned tax dollars are just wasted.

I might point out that the average person today, not the wealthy, but the average, pays almost 50 percent of his or her income in the form of taxes when you count State, Federal, local, sales, property, income, social, gas, excise, and all the other taxes that people pay. Roy Murdock wrote recently in the July issue of National Minority Politics that Washington has sort of a reverse Midas touch. Virtually everything it touches turns to lead.

Why, Mr. Speaker, is there all this waste and inefficiency, all this arrogance and abuse of power? I believe it is primarily because of our civil service system, a system that does almost nothing for good, dedicated employees, but serves now to protect lazy and incompetent ones. We have many good people working for our Federal Government, but we cannot get rid of those who do not work hard or those who treat people badly.

This is why it costs so much more to do something through the Federal Government than it does through the private sector. This is why Edward Randall, the liberal Democratic mayor of Philadelphia, said a couple of years ago, the reason government does not work is because it was not designed to. There is no incentive for people to work hard, so many do not. There is no incentive to save money, so much of it is squandered.

Mr. Speaker, we need to get control of our government in this country once again, and we will not be able to do so unless we downsize the Federal Government and get the functions of this government and the things that people want us to do back to those governments which are closest to the people, which are our local and State governments.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, in the next few weeks, Congress will debate the most important and biggest social issue we have ever faced in our history, the reform of America's health care system. You heard speeches early on from some of my Republican colleagues who would like us to wait, to study this a little longer, to put it off. And yet the American people know we have been engaged in this debate for almost 2 years now. We have thoroughly familiarized ourselves with concepts and ideas to try to take what is good in our health care system and keep it, and to change the things that just are not working for America.

Tonight I would like to address the whole question of the influences that will be on Members of Congress in the next few weeks as the health care reform debate begins. A little later on my colleague, the gentlewoman from Oregon [Ms. FURSE], will take a special order on this same subject. I hope those interested will listen closely to her remarks.

Let me tell you, for those listening, sending a letter to your Congressman can be a very valuable experience as you put your thoughts together. Believe also that Members of Congress see this mail.

Let me tell you about a letter that I received on health care reform. It came from Mike Schuette. Mike is the owner of several grocery stores in Breese, IL. He wrote to me and urged that a health care reform bill include an employer mandate. That is one of the terms you will hear a lot of. An employer mandate is a requirement that employers and employees share the cost of health care insurance.

Mike Schuette, who has many employees in his grocery stores, wrote and said:

> It is our feeling that responsible people need health insurance. We could have pocketed a lot more profit through the years had we not paid for our associates' health insurance. But we feel it would have been money that belonged to our associates.

When Mr. Schuette talked with my office about the issue, he noted that as long as the mandate also applied to big retailers such as K-Mart, he could support an employer mandate and felt it was the right thing to do. He said he could pay for his employees' health insurance and compete with bigger companies, as long as the bigger companies had the same requirement.

Contrast that with K-Mart's attitude. When K-Mart came to see me and sent their lobbyist, as they are entitled to do under our system of government, they had an entirely different story. This huge corporation, K-Mart, enormous, nationwide retailer, told me they just could not afford to pay for their employees' health care coverage. When their executive vice president and general counsel, Anthony Palizzi, testified before Congress, he said:

> I am here today on behalf of K-Mart and retail companies around this Nation to tell you as much as we might like to, retail employers simply cannot absorb the massive costs of health care reform.

So on the one hand, we have the tiny chain of grocery stores, the Schuette stores in Clinton County, IL, which is already responsibly providing health insurance to its employees, and on the other hand, we have these mega corporations like K-Mart which claim to speak for Schuette, incidentally, and they say it cannot be done.

I think maybe big K-Mart could learn a lesson from Mike Schuette, to take the responsible business position to provide health protection for its workers, instead of saying it cannot be done.

A level playing field is good for all businesses and good for competition. But today the competition is not fair. Mike Schuette takes care of his employees. He and his family think it is the right thing to do. Across the street, K-Mart, competing with him, does not, and that is unfair.

Individual businesses have accepted this responsibility, their shared responsibility with their employees to provide health insurance. In the next few weeks you will hear loud and clear from the business lobby in this town that they oppose health care reform. Don't be surprised. Look at the record. This same business lobby opposed Social Security, Medicare, minimum wage, worker safety, and virtually every piece of socially progressive legislation passed through Congress in this century.

As I contemplate my own vote on this issue in the weeks ahead, I am going to be listening closely to Mike Schuette and his family business and many like them who have stepped forward and done the responsible thing. The big business lobby, the special interest that has the money to make all the noise, is not going to have quite the persuasive power as hard working businessmen and women around America, doing the right thing, showing respect for their employees.

THE COMMUNITY OF NATIONS MUST ACT TO PREVENT HUMAN TRAGEDIES IN COUNTRIES LIKE RWANDA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, the human disaster associated with recent atrocities in Rwanda should shake the conscience and civility of all humanity and Members of this body. This human catastrophe, which has been graphically portrayed in televised footage of the refugee camps of Goma, Zaire and the massive destruction of Kigali, calls into question many pertinent issues relating to United States foreign policy and the responsibility of the world community of nations.

Brian Atwood, Administrator for the U.S. Agency for International Development, has said that the ". . . international community has never faced a refugee exodus of such magnitude in so brief a time." With over 2½ million internally displaced people and nearly 2½ million refugees in surrounding nations, this tragedy now poses a significant threat to the regional stability of the horn of Africa.

The fragile nation of Burundi shares the same ethnic composition as Rwanda and stands at the brink of chaos. Uganda, Tanzania, and Zaire host thousands of Rwandan refugees which threatens the stability of each nation. In this context, we must act to not only provide humanitarian relief but also to contain the chaos that threatens to spread throughout the entire region.

I applaud the effort of the administration in its recent operation to respond to the horrific circumstances prevalent in the crowded refugee camps. Currently, U.S. AID is working in tandem with the Joint Military Task Force and the U.N. High Commissioner for Refugees to provide the suffering masses with logistical support, food, medicine, and clean water. We are beginning to take our appropriate leadership role in responding to the chaos which has resulted in the deaths of anywhere from 500,000 to 1 million people.

But we must do more to mobilize other nations to cooperate in this mission. Through our role in the United Nations' Security Council, we must work to galvanize the U.N. system to respond to the degree of chaos consistent with countries like Rwanda. In addition, other nations must be made aware of their obligation to provide support.

Because of the cost associated with these missions, the United Nations must be employed as a critical medium for disaster relief and crisis prevention. This entails active collective involvement.

Questions are begged: Could we have prevented this human tragedy and mass genocide from occurring? What was the world's collective responsibility to act? How many more deaths must we witness in nations like Rwanda or Bosnia before we are compelled to take decisive action? I believe that these questions demand that we probe deeper into the nature and focus of American foreign policy in a post-cold war era—a time in which we as Americans must rethink and redefine what constitutes "American interest."

Despite attempts to treat American economic interest and respect for human rights separately, I believe that appropriate U.S. foreign policy must attempt to harmonize these concepts. In the big picture, a more stabilized and civil world directly serves our interests. In order to maximize and expand global market opportunities for our industries, our trading partners or potential trading partners must have stable, free, and civil societies where the rule of law is the standard.

In an ever dangerous world which continues to see blood shed, famine, and unrest, we must carefully analyze how American military and diplomatic resources are utilized. As Americans, we must solicit other nations to share in a collective responsibility. As a community of nations, we must diligently work to prevent future tragedies from resulting in the same degree of suffering seen in Rwanda.

In defining our "new American interest" and the role of international organizations like the United Nations in the post-cold-war era, one thing is certain—we must act. We must act as leaders of the New World Order.

□ 1850

BOSNIA

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Indiana [Mr. MCCLOSKEY] is recognized for five minutes.

Mr. MCCLOSKEY. Mr. Speaker, I might say it is good to be here tonight immediately precedent to a statement on the same topic I am discussing from our majority whip, the gentleman from Michigan [Mr. BONIOR], one of my particular heroes and a real fighter for human rights and international justice.

It was also, I think, very pertinent to follow the gentlewoman from North Carolina [Mrs. CLAYTON] in her eloquent remarks as to Rwanda.

I might say, obviously, we do have concerns for a safer, more decent, human international order. Needless to say, as the previous speaker indicated, it does not seem to be the case these days.

I know it is not exactly an amazing insight, but the tragedies of Rwanda, Bosnia, the Balkans, Haiti, and other places are really not isolated incidents. Part of the problem is the simple that bandits, thugs, brutal perpetrators of genocide and mass murder all over the world are getting the signal, in essence, that they can get away with it, which leads me into my ongoing concern that we have.

We are on the verge tonight of seeing yet another deadline come and go in the Bosnian-Yugoslavian tragedy.

This afternoon I talked to Prime Minister Silajdzic of Bosnia by long distance from Sarajevo. I do not know if it is on the wire yet, but he told me that no surprise, the Bosnian Serbs at Pale again had rejected the so-called nonnegotiable contact team proposal for a 51 to 49 slit between the Bosian-Croatian Alliance and the Bosnian Serbs.

As we all know, the Bosnian Government and the Bosnian-Croatian Alliance, with all its problems and all the looming inequities and ratification of past injustices, the Bosnian-Croatian Alliance and the Bosnian Government had accepted, and I think sincerely so, this contact proposal plan.

Meanwhile, it has been outrageously and spiritually, if you will, rejected by the Bosnian Serbs. And just to add insult, damage and ongoing murder to injury, the Serbs in the last several days, as we all know, are again shutting down Sarajevo. They are stopping all road traffic in and out, and this is not a matter of minor incident. This means that food supplies are dwindling, and right now there is a run in Sarajevo markets, as to any food and miscellaneous household supplies that are available.

The U.N. flights, which are quite often shut down, as we all know, even when they are going, cannot really adequately feed everyone.

As we all know, in recent days, these peace-oriented Bosnian Serbs have opened up on U.N. flights to the tune of shutting down the Sarajevo airport, indeed, deterring our Secretary of Defense, Mr. Perry, from coming in and one United States plane in recent days, 3 or 4 days ago, took 20, whatever it was, 20 to 40 shells. One American airman was injured.

Yesterday, as we all know, in a great tragedy as to the numerous British troops on the ground, who, along with others, are trying to serve people in that war-ravaged area, but a young British soldier yesterday was murdered by Bosnian Serbs who opened up on a humanitarian convoy with the sad excuse later, regardless of the fact that the Brit, the humanitarian convoy was well marked, they, the Serbs opened up and they have the opinion and, indeed, the example from past practice that they can continue to get away with this.

Meanwhile, the military assault intensifies as to Sarajevo. There is not heavy shelling hitting there yet, but the machine gun fire, automatic weapons, and sniper traffic is increasing. Also, Gorazda, the area of Gorazda is under greater stress with more Serbs incursions in that war-ravaged area.

Meanwhile, Secretary of State Christoper, who was before the Foreign Affairs Committee today, is today or tomorrow, I believe it is today or this evening, is off to Europe to meet with the contact team to decide what to do about this latest Serb rejection and the problems on the ground there in Bosnia.

He states that "the contact team has agreed to increase sanctions on the Serbs. I don't know that that is going to put fear and trembling in their hearts and deter their present murderous practices." He does say, "the contact team is prepared to," and this will be interesting, "provide increased security for the besieged safe enclaves or havens." Obviously, that includes Sarajevo and Gorazda, particularly the group would consider similar, I guess, security treatment for Zepa and Srebrenica.

I guess the question I would have is whether the contact team in that regard will really mean it this time. Will the west provide security for the citizens of Bosnia being slaughtered rather than just on occasion asserting military force in the event that U.N. forces were to be threatened?

As a last resort, and as a last resort, I do not know how far down the road that is, the secretary says, this is at least, I believe, U.S. policy, that the contact group should consider a multilifting of the arms embargo which has obviously tied the hands of the besieged Bosnians.

We need a much greater sense of urgency in ending this tragedy as people grow increasingly terrified in Sarajevo, as ethnic cleansing and genocide continues in numerous other areas of Bosnia, such as Banjaluka and Prijedor.

□ 1900

Prime Minister Silajdzic told me today that unless the West acts now, there is no credibility. Let us hope that come Monday, the U.S. Congress will not have to consider a unilateral lifting of the arms embargo, which the Committee on Armed Services is working on now. Let us hope that the United States leads the contact group this weekend in communicating with the Serbs that their genocidal slaughter will be tolerated no more.

Let us hope that definitive action, if necessary, lifting the arms embargo and pummeling Serb positions and supply lines with air strikes, will be implemented if necessary. The genocidal slaughter in Bosnia and the West's abysmal, reckless passivity in the face of outrageous lawlessness is one of the defining issues of the closing years of this century. Let us hope the United States' so-called contact team, the United Nations, and the European Community now, at last, want to bring a decisive and more humane ending to this sorry chapter.

TIME TO LIFT THE EMBARGO ON BOSNIA

The SPEAKER pro tempore (Mr. ENGEL). Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, first of all let me commend my colleague, the gentleman from Indiana [Mr. MCCLOSKEY], who has been consistent and courageous about his concern about what is happening in the Balkans, and particularly in Bosnia, and thank him for his statement and for raising this concern to our colleagues this evening.

Mr. Speaker, it was exactly 7 weeks ago today that we stood on this floor and debated whether or not we should lift the arms embargo to Bosnia.

Seven weeks ago that we debated whether or not we should end the genocide. Then, as now, we heard a lot of people argue that we shouldn't lift the embargo. That we shouldn't get involved.

A new cease-fire had been announced that day, they said, and we should give the peace process a chance to work. Never mind that the Serbs had broken over 30 separate cease-fires before that.

Never mind that they had made a farce of the whole peace process time and time again.

Never mind that they killed 200,000 Bosnians, systematically raped an entire generation of Bosnian women, and left thousands of people to starve in mass concentration camps.

Never mind all that.

We were told to give them one more chance.

Well, we gave them that chance, Mr. Speaker.

We looked the other way one more time.

And once again, they spit right in our faces.

Over the past 7 weeks, even though Bosnia has unconditionally accepted the terms of peace—the Serbs have made a mockery of the peace talks, and rejected offer after offer, compromise after compromise.

They have broken the cease-fire again and again.

And just yesterday, Mr. Speaker, Serb forces attacked a 10-truck U.N. convoy on the road to Sarajevo and blew up a fuel truck. One British soldier was injured and one was killed. And most heinous of all, when British and French troops braved the road and tried to recover their losses, Serb gunners fired on them.

Let me say that one more time Mr. Speaker: Yesterday, Serb gunners opened fire, not on Moslems, not on Croats, but on British and French soldiers trying to recover their losses.

Mr. Speaker, this is an outrage. This is shameful. How can we let this happen? I wish I could say I was surprised.

I wish I could say I never thought this would happen. But the truth is, Mr. Speaker, we were warned 7 weeks ago, on the very day the latest cease-fire was announced, I stood on this floor and read an ominous warning that the Bosnian Serbs had issued.

Through their news agency, the Bosnian Serb leaders said, and I quote,

> The Geneva Agreement is merely a one-month calm before an unprecedented storm and a prelude to total conflict. After that it will become clear to one and all that there is no formula according to which two victors can emerge from this war.

That's what the Bosnian Serb leaders themselves had to say about their cease-fire. And the first clouds of that unprecedented storm are beginning to gather right now.

In fact, earlier today, the Bosnian Serbs issued another statement regarding the peace process; another statement just as ominous.

In a letter to Russian President Boris Yeltsin, the Bosnian Serb leaders wrote, and I quote:

> Our acceptance of a peace plan would be the beginning of the end of the Serb people on their territories and a prelude to national suicide. We expect you to understand us.
>
> We expect you to understand us.

Well, we understand them Mr. Speaker.

We understand that they don't want peace, they just want more war.

We understand that they intend to wreak more mayhem.

More ethnic cleansing.

More murder.

More rape.

And more torture.

Mr. Speaker, the United States cannot be a silent partner to this any longer.

It's time to lift the arms embargo.

It's time to end the genocide.

And if Serbia keeps hitting targets, in Bosnia, then targets in Serbia itself should be blasted right back.

The only thing that will truly bring the Serbs to the peace table is if they see that their force will be met by force and that further aggression will get them nowhere.

Mr. Speaker, the people of Bosnia are not asking us to send in troops.

They are not asking us to defend them.

They are simply asking for the right to defend themselves.

And we have no right to deny them that.

If we don't lift this embargo and at least let the people of Bosnia defend themselves then the blood of Bosnia isn't just on the hands of the Serbs.

It's on all of us.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Connecticut [Mr. SHAYS] is recognized for 20 minutes as the designee of the minority leader.

Mr. SHAYS. Mr. Speaker, I would like to first respond to some comments made on the floor of the House tonight regarding health care, and to say that I have a great deal of gratitude to our President for calling on Congress to deal with the issue of health care, to lead us toward a universal care, but I am troubled by a lot of the comments that some of my colleagues have shared and maybe feel deep in their hearts about the partisan nature of this debate, and the fact that we must act immediately, or within the next few weeks.

Mr. Speaker, as a Member of Congress, I have spent 4 years working on this issue. The more I know, the more I realize I do not know certain issues and areas. We are talking about 15 percent of our overall budget. We are talking about something that is a matter of clearly life and death. We are talking about ethical decisions. We are talking about jobs of countless millions of people. We are talking about reorienting our economy, potentially, in a way that could be very destructive.

Mr. Speaker, I happen to believe we have the best health care in the world, admittedly, for those who have it. That is for most Americans. I realize some Americans do not have quality health care, and we need to address it.

However, Mr. Speaker, I would like to focus in on what I think most of us on both sides of the aisle agree on. We agree on dealing with the issue of preexisting conditions; the fact that we, as Members of Congress, are not denied coverage because of a preexisting condition. No American should be, provided they are part of a system and are faithful to that system.

Mr. Speaker, we agree that we need to cut the paperwork and administrative costs, the red tape. This is bipartisan. We know that we need to be able to deduct health care costs in our income tax payments. We also know that individuals and small purchasers of health care should have the same ability to purchase health care as a large purchaser, which will involve some kind of community rating by age or geographic area. We agree on these things, and we also know that there needs to be major malpractice and tort reform.

Mr. Speaker, some of us believe that one significant way to control health care costs is through some form of copayment where those with higher incomes pay more on the copayment, that people have to have a stake in health care.

Mr. Speaker, where we have our disagreements I think are in these areas, for the most part, with no criticism, but just a recognition that I think we come from two different directions, and it is going to be hard to meld these two issues. Most Republicans tend to want to see a market model in our health care system where we try to have a market-competitive model. I think a good number of Democrats feel that will not work. They want the Government-regulated model, which Republicans do not feel will work very well.

Mr. Speaker, on those two very basic issues we have our disagreements. I am not sure if it is possible to meld them so we end up with some kind of bill, because they go in two very basic different directions. Mr. Speaker, it may be possible, but for instance, as a Member of Congress, I want universal care, but I want the market model. I am not going to give in to a strong Government-regulated model. I do not want to hurt what we have.

Mr. Speaker, my point, I guess, in making these comments is that there are going to be some very sincere differences between Republicans and Democrats. It is such a gigantic issue, and I hope that the Members in our Chamber who feel deeply about this issue are encouraging the bipartisan nature of it in finding a solution. It should not pass by 218 votes, with 217 going the other way. It cannot work that way. We cannot change our economy so significantly.

Mr. Speaker, I just believe that the bottom line to all this is that with good faith, we may come to where we can agree. Let us move forward on where we can agree, the areas that I mentioned, and then another day we are going to, in my judgment, have to sort out the market and Government-regulated model.

□ 1910

I just want to say, I am one Member on this side of the aisle and I think there are a number who believe in universal coverage but I think it has to be phased in, and I totally reject, however, bills that want to have universal coverage and expand programs. We cannot afford it. We simply cannot afford to have universal coverage and then tell the elderly that they are going to get prescription care, that they are going to get home care, that we are going to be able to afford that, and universal coverage for those who do not have any care directly.

My concern is that there are some bills moving forward that promise to do both, when every Member up here practically knows we cannot do both. We are going to have to pick and choose. I believe in expanded mental health coverage. I believe mental health has a lot to do with physical health. But I am not sure that we have the ability to help fund that right away if we also want universal coverage.

I also just want to make comment to the fact that today the Committee on House Administration moved forward with the Congressional Accountability Act of which there are 250 sponsors of this legislation, Republicans and Democrats, and bless their hearts, over 100 Members of our delegation of 113 freshmen members, Republican and Democrat, who have sponsored this bill. I want to thank the chairman and the ranking member, the Speaker and the leadership on my side and their willingness to work together to get Congress to come under the same laws that people in the private sector have to abide by and the executive branch. We are moving forward with this legislation. If the good will that existed in the Committee on House Administration can be seen in the Committee on Rules and on the floor of the House and ultimately on the Senate, I do not believe that the American people will long be able to say, "Well, why is it, Congressman, that I have to live by laws that you do not have to live by?" That day has to end. I think the best way is for it to end on a bipartisan basis. The fact is we have to abide by the laws everyone else lives by and also we just need to recognize that that is just a basic tenet of a democratic system where Congress cannot be above the law. It is also a fact that we will write better laws if we have to live and experience the laws that everyone else has to.

I am today very grateful to the leadership on both sides of the aisle and to the Committee on House Administration and directly to my colleague in this effort, the gentleman from New Hampshire [Mr. SWETT], and to the freshmen and the other members who have cosigned this bill and have wanted it to move forward.

Now I get into the main piece that I wanted to talk about today for the period of time that I have available, and I want to talk in terms of process and not personalities but to express a deep concern I have, that Congress needs to clean its own house, that we have got to restore our integrity, and if we are not willing to do it, who will?

The first allegations of wrongdoing in our post office were made over 3 years ago and they involved allegedly powerful Members of Congress. The first allegations were made at that time and there has not been any real action. The Committee on House Administration has evidently conducted an investigation and that has been used as an excuse not to move forward with the full body really looking into this issue.

There was an ongoing criminal investigation of particular Members of our body and people who worked here, and used as an excuse that there was a criminal investigation and that we should not focus in on any Member before this Chamber.

There is now an indictment and a pending court case. So the argument is that we should not get into this issue. Then there are arguments that say Congress should not be preoccupied by scandals and all this is a partisan bashing.

Mr. Speaker, I just have to express my deep concern that we have got to move forward. If we are not willing to move forward and tell the truth and not willing to clean our own house, Congress will deserve to be criticized and despised by the people that we represent.

When allegations involving one of the most powerful men in Washington are made, no one seems to be eager to confront the issue and to insist we get to the bottom of the matter. I believe that we are setting a dangerous precedent and practice by refusing to investigate powerful leaders. We send the explicit message to our constituents and our colleagues that it is acceptable to break the law or not to play by the rules if the person accused of wrongdoing is powerful enough. We send a message that as lawmakers we can be intimidated if the person accused of wrongdoing is powerful enough. We send a message that as lawmakers we can be intimidated and also we send the message that Congress, the greatest deliberative body in the world, does not put a premium on setting and maintaining the standards of ethical behavior if the person accused of wrongdoing is powerful enough.

This is not the message in my judgment that Congress should be sending. If Congress does not investigate whether its own rules have been ignored, who will?

With that in mind, the gentleman from Wisconsin [Mr. KLUG] and I wrote a letter on June 22 to ask that we be allowed to meet with the House Ethics Committee to discuss an indictment against a Member of our House, the gentleman from Illinois [Mr. ROSTENKOWSKI], that was made public, and that letter was dated June 22 and never responded to by the House Ethics Committee. Because of the lack of response, I filed a formal complaint in a letter of June 30 outlining my concerns based on the indictment of the gentleman from Illinois [Mr. ROSTENKOWSKI]. I filed a formal complaint. I just want to register that this complaint, dated June 30, has not been responded to by the House Ethics Committee. The process that we have to deal with complaints like this must be addressed. It seemed to me that the gentleman from Wisconsin [Mr. KLUG] and I were deserving of a response to our letter to meet with the Ethics Committee, and it seems to me that clearly once a complaint has been filed, it has now been almost a month since I filed the complaint against the gentleman from Illinois [Mr. ROSTENKOWSKI], and to date I have heard nothing in regard to that complaint.

What I find particularly ironic is that the gentleman from Illinois [Mr. ROSTENKOWSKI] has made the point before the court that this is a matter of House rules and that we need to address this issue through the House Ethics Committee. In other words, his own lawyers in the court are making that argument.

One of the arguments that is being presented to not move forward on this issue is the fact that we would, in fact, interfere with a criminal investigation and now an ongoing court case. But I would like to make reference to the fact that as a member of the HUD investigation, the House Subcommittee on Employment, Housing and Aviation of the Committee on Government Operations, we conducted an investigation of HUD that lasted over a year. During the course of our investigation, we uncovered so much wrongdoing on the part, regretfully, of Republicans under Samuel Pierce's administration that we felt impelled to ask that an independent counsel be appointed. We asked that this independent counsel be appointed, and he has, Mr. Arlen Adams.

We did not stop our investigation. We continued to move forward. But we moved in concert with the independent counsel. The end result is that we passed major reform legislation, H.R. 1 of HUD, and we then let our work go forward with the prosecutor when we had concluded our investigation, passed our legislation for reform, passed our reports about the wrongdoing we had found and gave it to Mr. Arlen Adams, the independent counsel. He has subsequently had 14 convictions following trials or guilty pleas. And he has recovered more than $2 million of fines. The excuse that has been used to not move forward has been that we do not want to end up with what we ended up with in Iran-Contra. But there is a big difference. The big difference was that an individual was given immunity, Oliver North, and he used that immunity and expanded on his testimony. Then when he was prosecuted, the court said he had been given immunity.

Mr. Speaker, there is no reason to give immunity. And as Arlen Adams has said to me directly when I asked him, I said, "Did our committee help or hurt you?"

He said, "Of course your committee helped, so long as you did not give immunity." We were tempted to give immunity to one individual, and he asked us not to, and he told us why.

□ 1920

He said that individual, Deborah Gore Dean, needed to be prosecuted, so no immunity was given to her. We did not find out certain things we would have liked to, but we continued, and the fact is we have had a tremendous success.

I would end my comments by pointing out that today the gentleman from Wisconsin, Mr. SCOTT KLUG, and I have written to Mr. Bowsher who is basically the Comptroller General of the U.S. Government, asking the GAO to do an investigation of our office supply store to see if in fact the allegations that Mr. ROSTENKOWSKI has made that he is one of many who have done these things, to see one, if that is true, and then if in fact it is true to establish that the GAO make recommendations for any other wrongdoing that they may find involving any other Member.

The bottom line is that this should not be an excuse, that other Members have done something in the supply store. The bottom line is if other Members have done this, they too should be prosecuted. Bottom line, the Ethics Committee should follow through on the complaint that I offered, should give me the courtesy of a response and move forward. There is simply, absolutely no excuse for inaction in this way.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ENGEL). The Chair would remind the Members that remarks in debate may not include references to the official conduct of other Members unless pertinent to a Report of the Committee on Standards of Official Conduct or a question of the privileges of the House then under consideration in the House. The Chair would reiterate the caution issued by Speaker pro tempore FOLEY on June 15, 1988, that Members refrain from engaging in personalities in debate by referring to the official conduct of other Members.

WHITEWATER HEARINGS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 40 minutes as the minority leader's designee.

Mr. DORNAN. Mr. Speaker, I am speaking to a group of 300 young American men and women over at George Washington University and I have to be there at 8 o'clock, so this 40 minutes is going to have to be about 22 minutes.

Mr. Speaker, I just left the Committee on Banking, Finance and Urban Affairs committee room, where they are conducting so-called hearings on Whitewater. You had to see the scene there to really believe it. It will be all over the evening news. I have never in my 16 years here seen more than a panel of six people at a witness table. Not on the Foreign Affairs Committee where I served for years, or the Committee on Science, Space and Technology, or the Armed Services Committee where I serve now, or in the Permanent Select Committee on Intelligence upstairs in closed session. Rarely, maybe four or five times a year, you will see six witnesses, and they are usually all focused on one subject. In the Armed Services Committee, and this was the policy in all of the years for the better part of a decade that I was on the Foreign Affairs Committee, we usually have panels of four people because this is the best you can handle when you have 10, 20, or in the case of the Banking Committee, 30-some Members who want to speak or ask questions and are restricted to the 5-minute rule.

The White House must have been a lonely place today because here is who we had down at the Banking Committee. Mr. Bruce Lindsey, assistant to the President. Mr. George Stephanopoulos, senior policy adviser to the President. Harold Ickes, assistant to the President and Deputy Chief of Staff. Mark Gearan, assistant to the President for communications. John D. Podesta, assistant to the President and staff secretary. Clifton Sloan, associate counsel to the President. Neil Eggleston, associate counsel to the President. Margaret Ann Williams, Chief of Staff to the First Lady. Thomas McLarty, former Chief of Staff and charter friend of Bill. Lisa Caputo, press secretary to the First Lady. There were 10 people lined up to, I think, deliberately obfuscate the whole issue. I consider the gentleman from Texas [Mr. GONZALEZ] as a friend of mine, but this is such a transparent attempt to rig the hearings and prevent Republicans from asking hard questions and getting solid answers in return.

And while they are trying to make the hearings boring, they are not going to be boring because of the visual impact of 10 people who are all trying to be questioned only by the majority Members, the Democrats, who are just laying on the compliments. And here is the order of Members for questioning on the Republican side. LEACH who is just a general linebacker. Then MCCANDLESS, LAZIO and RIDGE will handle Mr. Sloan. MCCOLLUM and NUSSLE will handle Eggleston.

ROTH, BACHUS, and CASTLE will question Bruce Lindsey. ROUKEMA and THOMAS will handle Podesta. BEREUTER and GRAMS will handle Ickes. PRYCE, LINDER and KING will handle Margaret Williams. KNOLLENBERG alone gets Stephanopoulos. BAKER gets McLarty. SAM JOHNSON, a hero Air Force fighter pilot, gets Gearan all to himself. And HUFFINGTON, our candidate for the U.S. Senate against Senator DIANE FEINSTEIN, gets Caputo all to himself.

This Whitewater hearing is truly a circus, and I do not mean to drive the audience over to watch it on another channel, except maybe for a quick look. Let me just tell you that going by the news desk I picked up one of our good freshman Members, PETER KING's press release of the day. He is from the Third District, Nassau County. Here is what he says about yesterday's Whitewater hearing session, and you will learn more by this synopsis than you will by actually watching the hearing.

He says:

> The first day of the House Banking Committee's Whitewater hearings exposed yet another pair of widely contradictory stories regarding improper White House contact with agencies conducting criminal investigations of the Whitewater-Madison Savings and Loan Affair. Going into today's session of the hearings,

that is this morning, King said:

> the continuing emergence of conflicting stories from Clinton administration officials indicates that we are still a long way from the truth.

Ah, the truth, the truth. The truth shall set you free.

Well, we will see.

> During his questioning of White House counsel Lloyd Cutler, King pointed out that on October 6, 1993, President Clinton met with Arkansas Governor Jim Guy Tucker,

sitting Governor Jim Guy Tucker:

> who had earlier been named as the possible target of a Resolution Trust Corporation investigation of Whitewater-Madison. According to Cutler, the President was unaware that Governor Tucker was named in the criminal referral.

Do your homework, seven score and six year senior adviser.

> King told Cutler that documents in the committee's possession showed that senior White House adviser Bruce Lindsey was brief in detail on the RTC criminal referrals on September 30, 1993. Furthermore, it is believed that Lindsey, while traveling to the West Coast with the President on October 4 or 5, 1993, briefed him on the criminal referrals.

KING says:

> Someone is not telling the truth. Did Bruce Lindsey, a senior White House staffer and close personal friend of the President, fail to inform him of the criminal referral mentioning Tucker, or did he brief Clinton in full?

I wonder.

> Either Mr. Lindsey and the White House counsel's office are guilty of very shoddy staff work or the President decided to go ahead and meet with Governor Tucker despite the appearance of White House interference with an ongoing criminal investigation.

Quoting again from PETE KING:

> Mr. Cutler's limited inquiry simply failed to get to the facts. Under questioning during Tuesday's hearing, Cutler admitted that his findings on this meeting were based entirely on the uncorroborated testimony of long-time friend of Bill, Bruce Lindsey. The President was never asked about his wholly improper meeting with Jim Guy Tucker. Cutler fully accepted a secondhand version of events and gave testimony to the committee that would have been disallowed as a double hearsay in court.

Can you not just see it now?

"Objection, your honor, double hearsay."

"Sustained," as fast as the judge could bring down the gavel.

"What did the President know and when did he know it," KING asked.

> Why are people close to the President and close to the First Lady not telling the truth? Who is telling them not to tell the truth? These are the questions we must answer in this preliminary round of Whitewater hearings.

You are not going to get to the truth, Mr. KING, or my fellow Americans, Mr. Speaker, with 10 witnesses sitting at the witness table. There is just no way you can go through and ask all of the necessary questions you need to with so many men and so little time, as they say.

HEALTH CARE

Mr. DORNAN. Mr. Speaker, I had intended to speak for 30 minutes today on health care because of something I was reminded of at the back of the church over here at St. Peter's. Yes, I am one of those practicing Catholics who on occasion makes what we used to call romantically a visit in the old days. I made a visit to St. Peter's which has a 12:10 Mass every day, and when voting allows, yes, I slip over to pray for my country. At church I picked up the Standard, which is the Catholic newspaper for this area, and I read a pretty good story. I wish I had brought it with me to put in the RECORD. It is a story on how the Catholic Church has decided to pull out all of the stops and enter the health care debate full score, full court press, all ecclesiastical guns blasting. It is good news for the President on the one hand and it is bad news for the President on the other.

□ 1930

The bad news for the President is that the Catholic Church is going to use its full good will and bona fides to stop taxpayer funding of abortion-on-demand in any health care bill.

The good news for the President is that the Catholic Church has a big-hearted concept of social justice, and they are as strong as Miss Hillary or Bill himself on universal coverage. In other words, if the President and Miss Hillary would dump abortion coverage across the board and not try and weasel around with little conscience clauses, then the Catholic Church, which is about a quarter of our country's population, would support them. Let me clarify the Catholic population because you have to take out all the Judas Iscariots and lousy, weak Catholics who have not been to church in 10 years, 5 years, or only go at Easter and Christmas. They follow the regimen of a lot of other Christian churches in America, who try to go 52 weeks a year and hit those holy days of obligation.

If abortion funding is taken out, the Catholic Church would tell their members to back up the President when he holds up that veto pen and says universal coverage or nothing. I have to say I disagree with the church on this, which is not often, if ever.

Now, before someone calls my office or writes in and says I am a Papist dog, a toady to the Catholic Church, or resurrects that photograph that showed Al Smith, Mr. Speaker, cutting the tape to the Holland Tunnel under the Hudson River and then sold it in the South, passed it off as Al Smith, Governor of New York, opening up the trans-Atlantic underwater tunnel from the Vatican right to the Gracie Mansion there on the East River. Let me say what I think my obligation is as a stumbling but loyal, practicing Catholic to pay attention to my bishops or even to the lowliest of holy priests when it comes to issues before our country.

If all of the bishops say to me, "You are wrong, DORNAN, on Central America. You should support those wonderful Sandinistas. They mean well regardless of their 16 concentration camps. The Contras are off base. So was your friend, Ronald Reagan. Go with our policy on Central America." I would say, "I am sorry, bishops. This is a secular issue. I may have access to more information than you, particularly if I have access to intelligence briefings and, therefore, I must respect your counsel, but I can go the other direction." That applies to issues that are quasi in the social/moral field like capital punishment.

As in O.J. Simpson's case, for instance. If as the alleged killer, O.J. is found guilty and does not get the death penalty for such a brutal, vicious, double murder, then capital punishment is ridiculous in this country, and life imprisonment without parole will become, I think, the tougher of the two punishments. At least with capital punishment you can make your peace with God and get Pat O'Brien to take you to Old Sparky as opposed to living in a cage like an animal in Federal prison for the rest of your time on this planet.

But on capital punishment, a Catholic of good conscience, any Protestant of good conscience, any practicing Jewish member of that great faith, any Moslem of good conscience, they can go any way they want on the issue of capital punishment.

Abortion? Euthanasia? When my church speaks on those issues, I must listen. But, on health care, when it comes to universal coverage, I must disagree.

Here is why I cannot go for universal coverage at this point: When the administration says universal coverage, I do not know about the Catholic bishops, but when the Clintons say universal coverage, they mean mandates. The White House will point to polls showing Americans support universal coverage. I have seen those polls. I accept them as valid polling. Yet the only way to achieve Government-enforced universal coverage is through mandates, taxes, and limits on medical care.

When the public is told how the administration's plan would provide universal coverage, support not only collapses, it collapses quickly right in front of your eyes.

Why do we, and I use that editorial we to mean most Republicans, oppose universal coverage? Because, again, it means mandates. The only way to achieve it is through limits on care and also through taxation.

By insisting on universal coverage, the President is dooming health care reform this year.

If President Hillary Rodham Clinton, H.R.C., which to some of us means Her Royal Czarina, because we think she is not only the functional chief of staff in the White House, keeps chewing her husband out every time he comes back from a Governors' conference, as he did from Boston and says, "Get with the program, Bill, this is where we stand, universal coverage, not 95 percent, the whole enchilada," if they win, then Americans will have Government-set limits on health spending and care. It means less freedom of selection of doctors, particularly of specialists. It means price controls, which means fewer life-saving drugs will be developed, even though we lead the world in the area of research and development. It means mandates, which will lead to higher taxes, layoffs, lower wages, and as the King of Siam said, "et cetera, et cetera, et cetera." On the other hand, we Republicans and conservative Democrats support universal access to health insurance and some commonsense reforms that are widely supported and which will address the true problems in our system of health care.

And there are problems in our current system. We do not need to overhaul one-seventh of the entire national economy, which is 14 percent of our gross domestic product. We need to make some minor adjustments to what is already the best health care system in the world so that we can make health insurance more affordable and accessible to everyone while preserving the quality of medicine and freedom of selection.

Now, the Catholic Church's position on universal coverage is based solely on morality, which is not a bad way to base your position on most issues, but not necessarily on this one. This is a theme echoed by Hillary, reading Tikkun, and coming up with all of those vague Aristotelian theories about the quality of life and modern morality. It got her on the cover of Newsweek or Time with Bill Bennett, which is not too bad to have those two sharing it. Bill sharing it properly by his tremendous cut-and-paste job, the best I have ever seen in my life, of all of the great Aesop's Fables and Pinocchio and everything under the sun on morality and virtues.

I think every family should have a Bible on one nightstand, if they are from a Judeo-Christian heritage, and on the other, as least for the foreseeable future, Bill Bennett's "Book of Virtues."

Bill got on the cover of Newsweek or Time because of his "Book of Virtues." Hillary got there because of talking about the meaning of life. Sounds like a Monty Python film, "The Meaning of Life." So here is Hillary, with the Catholic bishops, as of this week, echoing this theme of morality. Most liberals are on board with that theme, too. Hillary, and others, argue universal coverage is also needed to contain costs. Without universal coverage, they say, those without insurance will still be showing up at emergency rooms across America and throwing themselves across the front doors of hospitals, and many of them severely need instant care; they will continue to pass those costs along to those with insurance, and the costs will continue to increase.

And that is amazing in that photo op a few days ago with Miss Hillary, the First Lady, holding this little child. He looked like he was 3, 4, 5, 6 years of age. She held him and then raised her voice and became very strident when talking about this, her pet issue. It was an amazing moment to see how she has committed her life to this concept of universal care.

It would have been fun to be a fly on the wall, or maybe an Arkansas trooper who still has access to a First Family, watching how Bill was received back from that night in Boston before the Governors when he talked about 95 percent. She must have read him the riot act. He's probably used to it, though.

We mainstream Republicans and conservative Democrats argue that by their own logic, morality is not a rationale, since under the liberals' proposed system, where using Bill's Governors' speech, only 95 percent are covered by insurance, everyone who needs medical care gets it. Of course, this is pretty much how the system works today.

□ 1940

If we need to pay for all these people, as Mrs. Clinton keeps saying, that show up at emergency rooms, then everybody is already getting coverage. That example proves their own point. It is who pays that is the issue.

And this is where all the support for the Clinton plan, even for Clinton-lite, the revised plan that Mr. MITCHELL in the Senate is honchoing, this is where it starts to fall apart, and they lose their support. The simple question is how are we going to pay for universal care? The issue of cost savings can be addressed by harnessing the power of the market; that is to say, the medical savings account.

At this point I am going to place in the RECORD and editorial from last month's Wall Street Journal called Consumer-First Health Care. These types of cost savings measures would not be allowed under the Clinton plan.

All in all, Mr. Speaker, and I say this returning respect to my Catholic bishops, their universal coverage is like a chameleon, like that cat in Alice-in-Wonderland, the more you look at it, it just sort of disappears and you wonder if you are left with a good feeling and nothing else. It is as phony as a three-dollar bill.

So I will close, sticking with my 22-minute time limit here, and I will ask for permission in a second for putting this in the RECORD, it is a Wall Street Journal article today. It says:

> Public, in Health-Care Poll, Disapproves of Performance of Clinton and Congress.

They are even angrier at the Congress than they are at the Clintons.

Listen to this:

> As President Clinton heads to Harry Truman's Missouri home town this weekend in hopes of igniting a final burst of enthusiasm for health-care reform, he faces a public that is decidedly sour on the topic.
>
> A majority of Americans disapprove of the job Mr. Clinton is doing on health care and an even bigger majority disapprove of Congress' performance, a new Wall Street Journal/NBC News poll indicates. 6 in 10 doubt that anything major will pass Congress this year. And 58 percent think that if something does pass, it actually will raise health costs, while 38 percent say quality will decline.

Put me in that category, Mr. Speaker, put me in that 58 percent majority. It does not ask whether or not we were going to lose freedom of selection for doctors or specialists or did not ask the question about rationing.

A little tiny article cites that Clinton's approval rating edges down. The article says:

> Clinton's approval rating continues to edge down.
>
> Americans' opinion of President Clinton's job performance continues to edge downward.
>
> In a new Wall Street Journal/NBC News poll, 49 percent of those surveyed approved of the job Mr. Clinton is doing as President, down from 52 percent a month ago. Meanwhile, the share of those who say they disapprove of the President's job performance has risen to 44 percent from 39 percent.

That is the share of those who said they disapproved of the President's job performance has risen to 44 percent.

The toughest one still remains, handling of foreign policy. Thirty-four percent, that is 9 points below his election figure of 43, not a majority but a plurality, they say 34 percent approve of the president's performance while 54 percent disapprove. That is the highest disapproval for a President on foreign affairs in my lifetime—well, no it rivals L.B.J., in his last year and a half. Those marks are unchanged from a month ago. It can go lower, but I doubt that we will see it even lower than 34 across the board in all these categories.

On the economy, 45 percent approve of his performance. That is a 3-point drop from last month.

So this trip to Independence, MO, is going to be a biggie, and he will probably pick up all 10 of those people who are testifying over in the Banking Committee today, on Whitewater and load them on Air Force One with all the other prepubescent staffers running around there secretly carrying their own copy of the book "Agenda." At this point, Mr. Speaker, I will place in the RECORD that article from the Wall Street Journal today and two other articles, the excellent one on Health Care Assault on the Middle Class, by Peter Ferrara, and one by the Wall Street Journal a week ago, "Mandates Would Hurt the Middle Class."

With that, bingo, there goes my 22 minutes. I yield back the balance of my time, and I will head over to George Washington University.

[The material referred to follows:]

[From the Wall Street Journal]

CONSUMER-FIRST HEALTH CARE

The great medical care debate has reached the stage where all principles are out the window; the only goal is to cobble together some contraption that can garner 218 votes in the House and 51 in the Senate. It is perhaps time, intellectually at least, to step back and ask what the problem is to begin with.

Now President Clinton is going back and forth on "universal coverage," always a quizzical lodestone. In this society, we do not have any meaningful problem of people dying in the street for want of medical care; in that sense we already have something approaching "universal access" to care, whether or not through insurance "coverage." Even in terms of insurance, remember, we already have Medicare and Medicaid, so the uninsured are by definition neither elderly nor poor.

There are problems with portability and pre-existing conditions, as Martin Feldstein discusses nearby, but the big problem is exploding costs. These problems, in turn, relate to the historical accident that linked medical care and employment; health insurance benefits proliferated when wage increases were limited by World War II price controls. The result was that employees pay for health care with what seems to be Other People's Money, a sure-fire recipe for exploding spending and higher prices.

In recent years this trend has been intensified by government programs such as Medicare and Medicaid. Today, 80 percent of medical expenses are paid by somebody other than the patients themselves. The graph nearby shows how out-of-pocket expenditures have declined from some 60 percent of the total health bill in 1960 to 20% today, while government's share has doubled to 46%. This problem is not likely to be solved by yet bigger government programs. The way to control costs and make insurance affordable for more people is to reverse the trend, making patients part of the solution. The trick to a more competitive, economical system is to figure out ways to let patients be both the consumer and the purchaser of more medical services.

As it happens, experiments are under way. At least three companies—Golden Rule Insurance Co., Forbes Inc. and Dominion Resources Inc.—have implemented the Medical Savings Account plan developed by the National Center for Policy Analysis of Dallas. They're showing how market-oriented reforms can hold down costs and still preserve the freedom of choice and innovation for which America's health care is renowned; versions of these plans are included in the House Ways and means Committee bill and Senator Bob Dole's proposal.

Golden Rule, in Indianapolis, specializes in individual medical care coverage. Pat Rooney, its chairman, reasoned that if employees paid directly for a portion of their own care they would get the same level of treatment but would wind up spending less after comparison shopping caught on. He envisioned a plan giving a typical employee the option of sticking with his or her existing coverage or choosing a deductible of, say, $3,000 a year and putting the premium savings into a "medical savings account," which would be drawn down as medical expenses were incurred.

The remaining part of the employee's health contribution would allow the company to buy a catastrophic health care policy to cover all of the employee's medical bills over, say, $3,000 a year. All of an employee's health concerns would be covered, but the employee would have an incentive to comparison shop. Anything left in his $3,000 annual medical savings account would be his to keep tax-free, so long as it was used for insurance premiums between jobs or long-term care.

With these ideas implemented, Golden Rule's 1,300 employees can choose traditional $500-a year-deductible plan or one with a $3,000 family deductible. If they choose the latter, Golden Rule deposits $2,000 into a medical savings account. The first $2,000 of medical bills are paid out of the account, the next $1,000 is out-of-pocket and everything above $3,000 a year is paid by Golden Rule. In 1993, 81 percent of Golden Rule's employees chose the savings account option, and this year the number rose to 90 percent.

The reason is that since 85 percent of Americans spend less than $3,000 a year on medical care, and 73 percent have less than $500 a year in claims, Golden Rule allows employees to keep any balance left in their medical savings account. Today, the total medical bill for Golden Rule employees is about 60 percent of what it used to be under a conventional insurance program.

That's because many Golden Rule employees made dramatic changes in their health-care purchases. Melanie Woodcock reports that a local hospital offered to perform surgery on her for $6,046 after she offered to pay up front in cash. Otherwise, the total bill would have been $9,843. Deanna Irick says she would rarely go to the doctor when sick because she didn't want to pay the $250 deductible. Last year, she used her medical savings account for six-month checkups and treatment for a throat infection, visits she "normally would have skipped." She was able to spend the company's money, which had been put into her savings account, rather than her own. One out of five Golden Rule employees report they used their savings accounts for a medical service they would not have used under their old plan.

Forbes magazine in New York gives employees a $1,200 annual account in addition to their normal insurance. Every time they file $1 in medical claims they lose $2 from the account. Employees get to keep what's left in their account at the end of the year. The paperwork on routine claims has gone down dramatically and the company's health costs fell 17 percent in 1992 and 12 percent last year.

Dominion Resources, a Virginia utility holding company, deposits $1,620 a year into a bank account for the 80 percent of its employees who choose a $3,000 deductible plan rather than a lower deductible. Since 1989, Dominion's health care costs have risen less than 1 percent a year. The average number of claims filed per employee has declined by nearly half, and paperwork costs have been cut dramatically. All three companies use wellness programs to encourage employees not to skimp on spending for physicals and other preventive medical techniques.

Support for medical savings accounts is growing. Six states—Arizona, Colorado, Idaho, Mississippi, Missouri and Michigan—have changed their tax laws to accommodate medical savings accounts. The United Mine Workers union has signed a new five-year contract with a health plan that includes a $1,000 bonus that workers can use to pay for their medical plan's $1,000 annual deductible. Mine workers still have first-dollar coverage, but the first $1,000 they now spend will be their own money rather than their company's.

Many companies currently offer flexible health spending accounts, but under current tax law the money reverts to the employer if it isn't spent at year's end because it would then be taxable income to the employee and not deductible to the employer. There is broad bipartisan support for changing the tax law to level the playing field and give medical savings accounts the same tax advantages as group insurance. Even the bill that passed Senator Kennedy's Labor Committee included a provision urging the adoption of medical savings accounts. Rep. Andy Jacobs of Indiana, the Democrat who won Ways and Means approval of medical savings accounts, says they "could be the most effective medical cost containment measure ever passed by Congress."

Most of the health bills now before Congress remind us of Henry Ford's philosophy behind the Model-T car; "You can have any color you want as long as it's black." Health care reform that includes medical savings accounts would represent real consumer sovereignty: patient self-interest would be harnessed to keep costs down, and workers would build up their own tax-free health care funds for when they were between jobs. Health care security would be enhanced, but not at the cost of quality or freedom of choice. In its current mood, however, Congress may very well not advance health care innovation, but smother it in desperate haste.

[From the Wall Street Journal, July 28, 1994]

PUBLIC, IN HEALTH-CARE POLL, DISAPPROVES OF PERFORMANCE OF CLINTON AND CONGRESS

(By Gerald F. Seib and David Rogers)

WASHINGTON.—As President Clinton heads to Harry Truman's Missouri hometown this weekend in hopes of igniting a final burst of enthusiasm for health-care reform, he faces a public that is decidedly sour on the topic.

A majority of Americans disapprove of the job Mr. Clinton is doing on health care, and an even bigger majority disapprove of Congress' performance, a new Wall Street Journal/NBC News poll indicates. Six in 10 doubt that anything "major" will pass Congress this year. And 58 percent think that if something does pass, it actually will raise health costs, while 38 percent say quality will decline.

HOLLOW VICTORY FOR GOP

But all of that is a hollow victory for Republicans. For whatever problems Mr. Clinton faces, the survey shows that he still has support on a couple of key points, and that the public is judging Republicans at least as harshly.

Two-thirds of those surveyed said they agree with Mr. Clinton that a bill should be vetoed if it doesn't guarantee universal coverage. Backing for the president's approach of requiring employers to pay for health insurance for their workers is softening, but still draws majority support, by a 37 percent to 21 percent margin, people tend to trust Democrats more than Republicans on health care right now, while a majority say Republicans are mostly trying to gain political advantage out of the issue.

"Hollow victories are better than hollow defeats," concludes House Republican Whip Newt Gingrich. But he also acknowledges: "We have only marginally succeeded in explaining what we are for."

Overall, the poll, conducted by Democrat Peter Hart and Republican Robert Teeter, indicates that Americans haven't changed their support for the basic elements of universal coverage and a standard comprehensive benefits package for everyone. But the survey also shows that the president faces a challenge in stirring public enthusiasm: Health-Care reform ranks behind both the economy and crime in the public's current list of top government priorities.

LAWMAKERS BEHOLDEN TO BUSINESS

Above all, the poll suggests that nobody—Democrat or Republican—is getting much political mileage out of health care. Indeed, while just 40 percent of Americans say they approve of the job that Mr. Clinton is doing on health care, a mere 26 percent say they approve of the job Congress is doing.

For lawmakers, there seems to be a gap between public sentiment and their own ability to act. One reason is that the health issue, more than any issue of recent years, is at once both highly personal and complex.

But there's another, internal factor. The current debate has dramatized how lawmakers have become increasingly beholden to business interests that oppose major features of the president's agenda.

Labor, the administration's ally on health reform, is no match any longer for business political action committees, which pump tens of millions of dollars into House and Senate campaigns every two years. In the late 1970s, Democrats relied more on labor PACs than the combined contributions of business PACs. Today, even House Democrats, more liberal than their Senate counterparts, get significantly more from business.

Among Southern Democrats, whose region has the highest rate of uninsured workers, there is little affinity with labor. And if it seems twice as hard to pass an employer mandate in the Senate than in the House, it may be related to the fact that the ratio of business to labor contribution is twice as high in the Senate.

Republicans are most indebted to business, and if anything, the health debate has reinforced this alignment. In fact, some Republican strategists are disappointed that the debate has so focused on business views rather than broader philosophical arguments.

The intense business opposition helps explain why support for an employer mandate has eroded even more quickly in Congress than in the public. In the new survey, 38 percent said they think a requirement that employers pay at least 80 percent of their employees' health coverage must be in a health bill, while another 16 percent said they favor such a mandate but would be willing to give it up to see some legislation passed. But 40 percent said they oppose such a requirement, up from 29 percent last December.

House Majority Leader Richard Gephardt concedes he has only "a shot" at passing a Democratic-backed plan containing such a requirement that employers pay as much as 80 percent of workers' insurance. His counterpart, Senate Majority Leader George Mitchell, is suggesting a smaller 50 percent employer mandate, which would only take effect after the turn of the century and then only if voluntary measures have failed to achieve 95 percent coverage.

In fact, much of the debate now turns on what will happen if the mandate provisions are dropped. Mr. Mitchell, who vowed yesterday to keep the Senate in session six days a week into the August recess if needed, appears to be crafting his bill with this in mind, as he experiments with subsidy schemes aimed at targeted populations, such as uninsured children or workers between jobs. Part of this effort is aimed at boosting participation rates and trying to get closer to the 95 percent goal. But if employer mandates are rejected, it also sets up a framework for a scaled-back bill that would give up any pretense of universal coverage and instead focus on specific problems where Democrats could show progress going into the fall elections.

[From the Wall St. Journal, July 28, 1994]

CLINTON'S APPROVAL RATING CONTINUES TO EDGE DOWN

WASHINGTON.—Americans' opinion of President Clinton's job performance continues to edge downward.

In a new Wall Street Journal/NBC News poll, 49 percent of those surveyed approved of the job Mr. Clinton is doing as president, down from 52 percent a month ago. Meanwhile, the share of those who say they disapprove of the president's job performance has risen to 44 percent from 39 percent.

Mr. Clinton also continues to get particularly low marks on his handling of foreign policy, where just 34 percent say they approve of his performance while 54 percent disapprove. Those marks are unchanged from a month ago. On the economy, 45 percent approve of his performance, down from 48 percent last month.

[From the Wall Street Journal, July 28, 1994]

HEALTH CARE ASSAULT ON THE MIDDLE CLASS

(By Peter Ferrara)

President Clinton and congressional Democrats are now arguing that their proposals for government-run health care should be passed because only their approach will help the middle class. This is one of the gutsiest moves in political history, because Mr. Clinton and friends are now selling as the great virtue of their health care reforms the exact opposite of what those reforms will do. Mr. Clinton's proposal, and its close cousins passed out of liberal controlled committees in Congress, should be rejected precisely because they would ruin health care for the middle class and the elderly in America, in the following ways.

Health Care Rationing: The Clinton plan, and similar proposals out of congressional committees, are based on massive government health care rationing. The key component of that rationing is a system of global budget and price controls. That system would centrally include sharp and arbitrary limits on private health plan premiums.

As a result, the system would sharply and arbitrarily limit the amount that private health plans all across America could spend on health care for the middle class. One recent study concluded that to meet the Clinton spending limits, health care spending by 2005 would have to be reduced by 18 percent from current trends. Another study suggests that such spending would have to be slashed by 24 percent by the year 2000.

With such sharply reduced resources, doctors and hospitals would not be able to maintain the same high quality care as today.

They would have to cut back on the services and care they provide. They would no longer be able to rapidly acquire and offer the latest innovations, newest technologies and most cutting-edge break-throughs, as they do today. They would no longer be able to provide the latest, most advanced, most sophisticated care for the most critically ill. Patients would be subject to delays and long waiting lines to receive tests, surgery and other health care, as the system would no longer have the resources to maintain prompt and ready care.

The middle class and the elderly in America today have far more access to more advanced sophisticated care than anywhere else in the world, but this will be lost under the Clinton plan and related proposals because of the rationing they would impose. These proposals are effectively designed to redistribute health care away from the middle class and the elderly, to give more to the uninsured and favored special interests.

Lost Freedom of Choice: Under the Clinton plan and related proposals, the middle class would have to buy the health insurance coverage chosen by the government, rather than the coverage they may prefer. Consequently, each family would be forced to pay for many benefits that may not be suited to them and that they do not want. These may include unlimited abortion on demand, drug and alcohol rehabilitation, broad mental health benefits, low deductibles, and many routine health services that may be cheaper to pay for directly rather than through insurance.

Higer costs: The Clinton bill and related proposals would force many, probably most, in the middle class to pay more for their health coverage and care, due to several factors. As discussed above, people would be forced to pay for expensive coverage they do not want, and do not pay for today. Mandated drug and alcohol rehab benefits at the state level have been found to raise premium costs by 8 percent. State mandated mental health benefits raise costs by 10 percent. Over time, special interests would only add more and more required, expensive benefits.

In addition, all insurers would be forced to adopt community rating, which requires everyone to pay the same premiums regardless of expected health costs. This would require younger and healthier workers to pay substantially more than today. Under such community rating, premiums for those aged 25-29 would be 50 percent higher than otherwise, and those aged 26–34 would together pay $26 billion more per year.

The proposals also provide sweeping, extensive, new subsidies for the poor, lower income workers, and small businesses to pay for the lavish, required health care coverage. These subsidies would be paid for by the middle class.

The proposal would extend third party insurance coverage to more people and more benefits, adding to the incentives at the root of our health care cost explosion. With a third party insurer paying the bills, consumers don't seek to avoid unnecessary costs, and doctors and hospitals don't compete to reduce costs.

Finally, the proposals would also increase taxes on the middle class. The Committee bills impose new taxes on health insurance premiums that will be paid by the middle class. With Mr. Clinton's support, they also abolish flexible spending accounts that allow workers a tax deduction for health expenses not covered by an employer's health plan.

How to Help the Middle Class: In contrast, the proposal offered by Senate Minority Leader Bob Dole would solve the problems troubling the middle class, without all the middle class carnage described above.

The Dole proposal requires guaranteed renewability for all insurance policies. That means insurers cannot cancel policies after the insured becomes sick, or charge them discriminatory higher rates. Mr. Dole also provides for portability, enabling workers to take their guaranteed renewable insurance with them from job to job.

Mr. Dole allows individuals to deduct the cost of insurance they purchase directly, providing them the same tax advantage enjoyed by workers with employer provided insurance. And allows workers medical savings accounts, which would give workers direct control over health care funds, with back-up catastrophic insurance. Workers would then benefit directly from the resulting incentive and competition to control costs.

Mr. Dole shows that the problems of concern to the middle class can be solved without a government takeover of the entire health care system that would destroy the quality of health care for the middle class, and their freedom and control over such care, as the proposals by Mr. Clinton and congressional Democrats would do.

[From the Wall Street Journal, July 21, 1994]

MANDATES WOULD HURT THE MIDDLE CLASS

(By Martin Feldstein)

President Clinton's campaign to rescue his health care plan emphasizes that his proposed health insurance mandates would be good for the middle class. Although the president repeats this claim in every speech, nothing could be further from the truth. Mr. Clinton said this week that there might be room for compromise on mandates, but if Congress enacts anything like the Clinton health plan, the American middle class would be the big losers.

The Clinton health program would hurt the vast middle class in order to provide insurance to a relatively small number of currently uninsured low-income people and to transfer income to many more low-income people who are already insured. The program would be wasteful and inefficient, a "negative sum game" in which the middle class would lose far more than the poor gain. It can be understood only as a technique for achieving a redistribution of income that could not be enacted in a more straightforward way.

PRIMARY CONCERN

If President Clinton really wanted to help the middle class, he would focus on the health insurance issue that he knows is its primary concern: the ability to maintain existing insurance coverage after a job change or the loss of an employed spouse. Relatively simple legislation could require insurance companies not to cancel existing policies and not to exclude pre-existing conditions when an individual transfers to a new group. Companies that sell insurance could also be required to offer periodic enrollment opportunities for any one who wishes to purchase insurance, with premiums limited by using assigned risk pools to deal with high-risk individuals or groups.

But instead of reforming the existing insurance to deal with the legitimate concerns of the middle class, the president and Mrs. Clinton have pursued the goal of building a massive government-managed system for redistributing health care and income.

The middle class could hardly be the big winners from mandating universal coverage, as President Clinton claims, since more than two-thirds of the uninsured are in families with below average income. Moreover, the relatively small number of currently uninsured middle-class families who would become insured under the Clinton plan would have to pay for that insurance by a decline in their wages.

Virtually all economists agree that most firms that are required to provide health insurance must offset the higher cost of fringe benefits by paying lower wages or laying off workers. The Congressional Budget Office has stated this clearly in its analyses of health insurance options. Even the administration has recognized this in its congressional testimony.

A currently uninsured individual who now earns $40,000 would suffer a wage decline of more than $2,500 because of the Clinton employer mandate. A two-earner couple with $40,000 of combined earnings would experience twice as large a wage decline. These wage cuts might not be immediate, but within a few years wages would inevitably be depressed below what they would otherwise have been. If wages could not fall that much, jobs would be lost as firms respond to the higher overall cost of labor by moving production offshore, subcontracting, and substituting equipment for employees.

Some firms would be able to avoid reducing wages by the full amount of the managed insurance costs because they have the market power to pass along some of the higher employment costs though price increases. When that happens, middle-class consumers as a whole would pay for the expanded insurance.

The currently insured middle class would also be hit in other ways. The Clinton plan would require middle-income families to pay substantial premiums out of their own pockets. For the typical married couple, the required out-of-pocket premium would be $872 a year. The administration has acknowledged that more than 40 percent of Americans could face higher out-of-pocket premiums under the Clinton plan than they do today.

Although the middle class has to pay for its health insurance through reduced wages, the Clinton plan would subsidize the premiums of low-wage firms. These subsidies would translate into higher incomes for millions of lower wage employees who are now insured. The cost of providing these subsidies would be borne by the middle class in the form of extra premium payments and an explicit increase in taxes.

The administration has claimed that it can finance the subsidies to low-income employees with a tax on cigarettes (another hit to the middle class). In reality, the Clinton plan would face a much larger financing gap of about $120 billion a year before the end of the decade. This gap could be financed only by substantially higher taxes on the middle class. Official estimates might understate the financing cost in order to make it easier for Congress to enact the legislation. But once the benefits are enacted, the middleclass taxpayers will have to pay for them.

Little is heard these days of the administration's early claim that, by controlling the cost of care, it could avoid such a financing gap. No one really believed that the administration could achieve cost reductions of the magnitude that it projected. Moreover, middle-class voters were rightly worried that controls on health-care costs would restrict their choice of doctors and hospitals and would force reductions in the quality and quantity of care that they received.

But although such tough cost controls are not part of the president's current sales pitch for his health plan, they would play an important role if the Clinton plan were enacted. Only by controlling middleclass spending on health care can doctors and other health providers be redirected to meet the increased demand from lower-income individuals that would result from expanding their health insurance. And limiting the future growth of government health spending is crucial to the president's goal of containing the budget deficit while increasing welfare payments and expanding other government social programs.

VERY BAD DEAL

So the middle class would not only face lower wages, higher premiums, and a substantial tax increase but would also see a decline in the quantity and quality of middle-class health care. In short, the Clinton health plan would be a very bad deal for the middle class.

If the president is the expert on domestic policies that he claims to be, why doesn't he understand all this? And if he does understand it, why doesn't he level with the middle class and admit that it is being asked to pay more and accept less health care in order to redistribute income and health care to lower-income groups?

UNIVERSAL ACCESS AND UNIVERSAL COVERAGE

The SPEAKER pro tempore (Mr. ENGEL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized for 60 minutes as the designee of the majority leader.

Ms. FURSE. Mr. Speaker, I took out this special order tonight to return to the health care debate and to return it back to the American people. There really is only one special interest in this debate, and that should be the health of Americans. But unfortunately, a lot of other special interests have gotten involved.

Special interests are spending millions of dollars to try to move the debate away from what I believe is the fundamental question, and that is what health care system can we design that meets the needs of the American people? Not what special interests can we keep in play, but how can we develop a health care system that actually meets our needs?

Lately, seemingly everyone has a financial stake, in the billions, and their money is being used to sway the debate. Here in Congress, as we work on health care reform, our eyes must be on the needs of families and children. Unless we keep our eyes on this goal, we will lose an opportunity to establish for all Americans what they need, and that is a system that works, that makes sense, one that provides universal coverage so we end cost-shifting.

I would like to say that universal access, which my colleagues spoke about, everyone, I believe, has access to every BMW dealer in the country but they do not have the opportunity to have the money to buy the car that they have access to.

What we need is a health care system that says you have access and you have the opportunity to use it.

So, universal coverage is very different from universal access.

What I would like to do in this special order with other colleagues of mine is let everyone in this House know and let everyone in the country know that we really are willing and ready and able to vote for real health care reform.

Now, I thought about how could we say what is real health care reform? We have heard so many 30-second spots, heard people taking out, hiring actors to tell us what is or is not health care reform.

So I thought, instead of looking at those emotional 30-second sound bites, I would look at some statistics because I am a believer that in fact statistics can give us a good idea.

So I thought it might be useful to look at statistics of other nations on health care and really what I want to say on health is there are certain statistics that everyone agrees show the health picture of a country. One of them is infant mortality and the other is longevity of women and men in a culture, in a country.

I thought I would look and compare with our northern neighbor because that country, Canada, is very similar to us in a lot of our history and our geography—except that Canada has universal coverage and we do not.

So I thought I would look at how much do we spend per capita and how much does Canada spend per capita on health care?

In the United States we spend $2,867 per capita. Canada spends $1,915. So quite a lot less that Canada spends.

Now, you would imagine that if you spent less, you were going to get worse health statistics. In fact, that is not what I found. What I found was that in Canada the life expectancy of men is 74 years and in the United States it is 71 years.

So you live longer in Canada than you do here.

Women is even more so: 80 years in Canada and 78.9 years in the United States, that women live.

□ 1950

So then I thought, well, I would look at the statistics around infant mortality because one of the things we know is that, if our children survive their first year, that is a sign that our health care is good, we have given good infant care, we have given prenatal care. So, I looked at, remembering that we spent much more in this country per capita, I looked at this comparison. In Canada the infant mortality rate is 6.28. That is 6.28 per 1,000 live births. In the United States it is 9.22. Far worse, 9.22 children in the United States die in that first year per 1,000 births compared to 6.28 in Canada.

What was the difference? The difference was that Canadians have universal access to health care. So, certainly I believe that, if we were spending as much as we are now, we should have better statistics, and I think that that is part of the facts, rather than the special interests, that I would like to have us talk about tonight.

I would like to yield time to my colleague, the gentlewoman from California [Ms. WOOLSEY] to talk about some of the issues that she has investigated and found out about this health care versus special interests.

Ms. WOOLSEY. Mr. Speaker, I am glad to have the opportunity to speak about my special interests, and my special interest is the people of the Sixth District of California, Marin and Sonoma Counties. These are the people that hired me to come to Washington to work for them, and these are the people that I know want health care reform and want a health care reform plan in this Nation.

Mr. Speaker, health care reform is of the utmost importance to the people I represent in Marin and Sonoma Counties. So, Mr. Speaker, I have been holding town meetings on health care all across my district, and hundreds of people have attended. I have also received thousands of letters and phone calls about health care reform from the people who are my special interests, the people I work for in the Sixth Congressional District.

The residents of Sonoma and Marin have made it clear to me that they want guaranteed health care that can never be taken away. They want a health care reform plan that covers all Americans, regardless of employment, income, or marital status. They want a comprehensive benefit package, including a full range of reproductive benefits. Another thing that is very important to people in Sonoma and Marin Counties is the right to choose their health care providers, including alternative providers. Finally, they know that any health care reform plan must be affordable, and must be accountable to the public.

Of all of the health care reform proposals currently under consideration, only one accomplishes all of these goals. And that is H.R. 1200, the American Health Security Act—the single-payer plan. I am a cosponsor with my colleague, the gentlewoman from Oregon [Ms. FURSE] of the single payer plan because it will give the people in Marin and Sonoma everything they want in health care systems, and it saves money as well. The Congressional Budget Office has determined that a national single payer plan would reduce spending on health care by $114 billion annually by the year 2004. Mr. Speaker, no other proposal compares.

I am proud that more than 1 million Californians have signed a petition to put single payer as an initiative on the ballot in California in November. If Congress does not pass a national single payer health plan this year, it is crucial that the final plan that Congress approves gives States the option to establish a single payer system. That way voters, such as my constituents in California, can vote to have a single payer plan in their State.

Mr. Speaker, to ensure that the single payer plan can be successful, if it is voted in at a State level, the final health care plan must protect States that choose a single-payer system by forbidding businesses, regardless of their size or State boundaries, to opt out of the single-payer plan. Many American companies currently have locations in Canada, and are successfully providing their Canadian employees with health insurance under a single-payer system. American multistate employers must do the same within the United States.

Mr. Speaker, the people of Sonoma and Marin want me to fight for the best possible health care system. Their hopes are high, and I do not want to disappoint them. I will continue to fight for health care reform that provides coverage to all Americans that can never be taken away while at the same time ensuring that States can choose to opt into a single-payer system without penalty.

Ms. FURSE. Mr. Speaker, I began by talking about statistics, and statistics are useful, they are necessary for us, but they are dry, and what I think is important about our discussion on health care reform is that every single one of us knows somebody who has a problem in this health care system. That is the reason why my constituents all are decided that we do need change, we do need a new health care system.

I would like to talk about a personal story. Many, many people in America are familiar with the issue of diabetes. Diabetes is a very serious health problem in our country. It affects 14 million people. One of those 14 million is my own very beloved daughter.

Now anyone who has diabetes or knows someone who has diabetes is aware that it is very difficult to get an insurance company who will cover them. The problem is that they say, well, diabetes is a preexisting condition. Well, that is true, it is a preexisting condition. It is something that a person with diabetes cannot change. One cannot change it like they change the color of their hair, and, like my beloved daughter, they have to take good care of themselves, and she does. She takes tremendous care of herself, and what that means is she prevents much more serious disease, but if she cannot get health insurance, and there are many millions of diabetics who cannot, she cannot have that kind of health care that is ongoing, that prevents serious, serious injury.

Now there is another person I would like to talk about. She is a constituent of mine. She is a new mother, and she has this beautiful 8-month-old baby, and her husband is starting a new restaurant in Oregon, and he is working 15 hours a day. My colleagues know what it is like to start a new business, and they have very increasing costs at home, and so my constituent has decided that she has only one choice, and that is she has taken health care coverage, catastrophic health care coverage, for her baby and her baby alone. Neither she nor her husband can afford health care insurance. They have taken it on this precious child of theirs.

Mr. Speaker, when my colleagues think about that child's health, they know that that child needs healthy parents to take care of that child if he should need them. Now, nobody, nobody, should be forced to choose between their child's health and their own. As parents, Mr. Speaker, we always choose our children first; of course we do. But what a terrible choice that is, and, as my colleagues know, it is a terrible choice economically.

I hear people say, "We can't afford health care coverage." Well, I would say to the gentleman who says we cannot afford it that we cannot afford not to have it, because when we provide universal coverage, it means that we do not have this terrible cost shifting, we do not have people going to emergency rooms for health care.

We pay for it. Those of us who are fortunate enough to have insurance, we are paying doubly because we are paying very high costs. But we are also paying for very bad health care.

Now I looked at the district that I represent, that I am so proud to represent. There are 11,000 uninsured children in my district.

□ 2000

Well, the State of Oregon decided to do something about that, and I am very proud of that. The State of Oregon, one of the very few States that decided to completely change and revise its health care system. We went on this unique journey, Mr. Speaker. We crafted a plan. What we did was have meetings with thousands of Oregonians who talked about their needs. We involved physicians, licensed providers, administrators, consumers, everybody. And, you know, that work has paid off. Last year, Secretary Shalala granted Oregon a waiver to move ahead with the Oregon plan. It is an inclusive plan, it is a plan that the people support, and it is proactive. And when Donna Shalala came to Oregon this year, she said Oregonians are the most health literate in the world, because she said we have dealt with this issue. We have put together a health care plan that cannot be taken away.

So I believe, Mr. Speaker, that I have something to say about this issue. I believe that we can do it, we can provide that universal coverage, we can provide it, and we can tell the special interests that there is only one interest, and that is the American people.

I want to say one thing about my Republican colleagues: That never, in the 2 years I have been here, have they produced a health care plan that has universal coverage. Even though the people have said that is what they want, not one House Republican, has authored, sponsored, or cosponsored a plan with universal coverage. It baffles me that they would do nothing to provide guaranteed health coverage for all Americans. It is the thing America looks for, it is the thing that the rest of the world in most industrial nations have, universal coverage. As my colleague' said, the fact that it can never be taken away from you, that it is comprehensive, and that you do not fear losing a job and losing your health insurance.

I think in the next 2 weeks, Mr. Speaker, we will see the dialog. The dialog will be of Americans, not of special interests. We will have a health care plan that meets our needs.

Mr. STARK. Mr. Speaker, the latest interest group to use their billion dollar budgets to defeat health reform is the American Hospital Association.

With their ads—and their direct attempts at frightening senior citizens—the AHA is willing to risk defeating the President's goals of universal coverage and health care cost containment in the hope of filling their bedpans with billions more.

The American Hospital Association's ads distort the Ways and Means health reform plan and are intended only to scare the American people. Despite all their claims, the truth is, if health reform is enacted, all Americans—including seniors, including hospitals, including workers—will be better off.

The target of the AHA has been the Medicare program, and our attempts to bring costs under control.

REDUCING THE GROWTH IN MEDICARE IS NOT UNREASONABLE

Without reform, Medicare spending is projected to grow from $206 billion in 1996 to $307 billion by the Year 2000—a 10.5-percent average annual increase compared with 3-percent growth in general inflation. Even after adopting the Medicare growth reductions included in the Ways and Means bill, Medicare would increase during this same period from $202 billion to $271 billion—still a 7.6-percent increase each year. Further, AHA's claim that these reductions would leave Medicare paying only two-thirds the cost of treating Medicare patients assumes that hospitals do nothing to control their costs.

HOSPITALS ARE IGNORING REVENUE GAINS UNDER THE BILL THAT WOULD OFFSET MEDICARE GROWTH REDUCTIONS

Hospitals will see significant new revenues under the Ways and Means bill. Hospitals loses from providing free care to the uninsured—about $14 billion a year—would be nearly eliminated, and $2.5 billion a year in new revenue would be provided to academic health centers. Another $1 billion a year in capital financing assistance would be provided to hospitals in need of renovation. Combined—under the Ways and Means bill, these changes mean $12.5 billion more in revenue for hospitals.

HOSPITALS CAN ABSORB SLOWER RATES OF GROWTH WITHOUT HARMING PATIENT CARE

Despite the fact that almost 40 percent of hospital beds are empty, profit margins in the industry are at higher levels now than they have been over much of the last two decades. According to the AHA's own data, hospital profit margins were 5.5 percent in 1993, compared to less than 4 percent in the early 1980's, and less than 3 percent in the 1970's. With these kinds of profits, hospitals can, and should slow their cost increases—without harming patients in any way.

THE MEDICARE PROGRAM WILL BE STRENGTHENED UNDER THE BILL

In addition to ensuring the long-term viability of the program and reducing the need for future premium increases, the Ways and Means bill will improve the benefits available to every Medicare beneficiary. A new prescription drug benefit, improved coverage of mammography screenings, a cap on beneficiary out-of-pocket costs, and enhanced assistance to low-income beneficiaries will all be added.

It is important that our debate and decisions be based on accurate information, and a good understanding of the reform plans before us. Ads like the AHA's only skew the facts and further complicate an already complicated process.

HOSPITALS HAVE BEEN SUCCESSFUL AT THIS BEFORE

Finally, sometimes it is helpful to have been around here awhile. The last time we took up the issue of health reform, it is useful to remember that the AHA was instrumental in its defeat.

They had a different tactic at that time, but they were working for the same result.

In 1979, the AHA, by saying that they could do it themselves, was successful in defeating legislation that would have guaranteed to the American public that health care costs would be brought under control.

Today, in 1994, we in Congress are just proposing to do what the hospitals themselves offered to do in 1979—namely, slow the rate of growth in hospitals costs to a more reasonable level. It was Paul W. Earle, Executive Director of the AHA-sponsored "Voluntary Cost Containment Effort" who testified before a Congressional committee and made that promise to all of America.

Achieving health reform in 1994 requires that we in Congress discard the double talk and put a plan that works before the American people.

DO NO HARM IN HEALTH CARE

The SPEAKER pro tempore (Mr. ENGEL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the Chair recognizes the gentleman from Georgia [Mr. GINGRICH] for 60 minutes as the designee of the minority leader.

Mr. GINGRICH. I thank the Chair for recognizing me. The title of my talk tonight is "Do no harm in health care."

You know, the first rule of the Hippocratic Oath for doctors for over 2,000 years has been "Do no harm." If you were not sure what you were doing, then a doctor had an obligation not to harm the patient. And I think as we go into this period of trying to write a health bill, that we should start with that premise, that Congress should learn from medicine, and Congress should do no harm. If we are not sure about something, let us go carefully, because in health care, we are dealing with the life and death of individuals, we are dealing with relationships that can change entire industries.

Done improperly, it is conceivable, for example, the wrong health reform will bankrupt the teaching hospitals of America. Done improperly it is conceivable that the wrong health reform will destroy the hospital system of New York City. Done improperly, many bad things can happen, and they can ruin entire communities, they can ruin industries, and they can risk the lives of people.

Now, I notice that last Saturday, in the Democrat and Chronicle of Rochester, NY, there was an article about Rochester's health system, which is a very famous health system, maybe the leading managed care system in the country. The entire community has community managed care.

This is the title: "Senator Vows to Exempt Rochester's Health System." This is the article from the Rochester Democrat and Chronicle.

> Senator Daniel Patrick Moynihan promised to exempt Rochester's health system from any harm caused by a final national reform plan. When you have a system that is working, when you have a model plan, you keep it that way, Moynihan said in an interview. They go on to say later in the article, it has been proposed, legislation has been proposed allowing Rochester's regional system to operate out of any mandatory or voluntary purchasing alliances.

Now, I just want to raise this point: I am glad that the Representative from Rochester and the Senator from New York want to exempt Rochester from the national health plan. But there are 3,000 counties in America. Should the other 2,999 counties be told, I think there are actually about 3,300 counties, should the other counties be told you do not get to be exempted, but Rochester does?

I picked this up, because I just saw this outrageous effort to exempt a single county, and I was fascinated because I noticed in the Education and Labor version of the health bill that the State of Hawaii was exempted. That is the entire State.

Let me make a clear point here. While there has been a great deal of publicity about Hawaii, and people talk about Hawaii supposedly having universal coverage, the fact is that Hawaii does not have universal coverage. It has about 89 percent coverage. In fact, the State of Connecticut has a far higher percentage of its population covered with insurance than does Hawaii. But apparently one of the Members from Hawaii, a very powerful Representative on the Committee on Education and Labor, was able to get an amendment adopted to that particular health version, which exempted the State of Hawaii. Should the other 49 States have the same right of exemption?

Congressman PETE HOEKSTRA of Michigan sponsored a bill that says there ought to be a referendum in each State. If the people of the State do not vote to be part of the national health plan, they should not be forced into it.

I must say, when you see Hawaii being exempted in one bill, when you see a promise by a very powerful Senator to exempt Rochester in another place, you begin to ask yourself, maybe everybody should be exempted and only the White House should have to serve under the bill. Or maybe only Members who vote yes should have to serve under the bill.

But it raises again a question which I have been raising for several days, which is, with only 2 weeks to go before the August recess, how can the Democratic leadership plan to bring a bill in, which nobody has read, which has had no hearings, which does not really exist yet?

I am told they will be releasing not the bill, but principles tomorrow morning. Apparently, they will then be negotiating to rewrite the principles. And maybe by next Friday they will have begun to write a bill. And the following Monday or Tuesday we will start voting. But Members will be voting in ignorance.

Now, this has already started. There is an article in the Washington Post of July 13 by David Broder entitled "Health Care Disarray." It says the following.

> Two things make the work even more arduous than it sounds. As one of those volunteers told me last week, "This is not legislation where you can take a piece from this bill and a piece from that in order to satisfy different political factions or needs. It has to work as a system or you will do terrible damage."

Broder goes on to write,

> The second problem is that some of the bills approved before the July 4 break are not really bills, but notions or plans approved as concepts. Many of the critical details were left undefined. That is particularly true of the Senate Finance Committee version, which was passed after several confusing, chaotic sessions, as committee members tried to get out of town. The version that the House Committee on Ways and Means finished a few days earlier was also written in short bursts of debate, interrupted frequently by rollcalls on the House floor. Now staff Members are trying to translate those ad hoc decisions into coherent legal language.

Now, notice the contradiction in the two points that Mr. Broder makes.

First he says, quoting a Democratic staffer, or Democratic Member he describes as one of those involved, he quotes them as saying this is not legislation where you can take a piece from that in order to satisfy different political factions or needs. It has to work as a system, or you will do terrible damage.

Having said the first need is to have a systematic approach, let us go back to how he describes the Committee on Ways and Means bill. He said it was "written in short bursts of debate, interrupted frequently by rollcalls," and then describing both the Senate Finance Committee and the Committee on Ways and Means bills, he says, "Now staff Members are trying to translate those ad hoc decisions." Let me repeat, "ad hoc decisions into coherent legal language."

□ 2010

Notice the juxtaposition in two short paragraphs in his column entitled "Health Care Disarray." Mr. Broder talks about it has to work as a system and in the following paragraph describes ad hoc decisions, which are, by definition, of course, not a system.

Now, I reported the other day to the House that we had called to check on the Senate Finance Committee bill and it still has not been written. It was passed, and people could see it being passed on C-SPAN on July 2. So they have now had 26 days to write it, almost 4 weeks. But it is not written yet, because they apparently cannot finalize the language.

Now we are being told that a new set of principles will be announced tomorrow to be voted on within 2 weeks and yet there is no language. Principles are not the same as legislation. Human beings can live or die depending on the legislation. Hospitals, industries, medical care can live or die depending on the legislative language.

The deficit can be dramatically higher or dramatically smaller, depending on the legislative language. I remember several years ago a mistake was made on a Medicaid provision about 3 in the morning and the staff wrote the bill wrong and instead of costing $300 million, it has so far cost, I believe, $49 billion because it was written wrong.

So this idea that we should legislate from a series of outlines without having seen the bill is, I think, utterly destructive.

Robert J. Samuelson, a very sophisticated analyst, one of the leading economic analysts in the country, had the following to say in the Washington Post on July 13.

> Congress should simply start over. The best thing Congress could do now on health care would be to start over next year. The most important social legislation in a quarter century should not be approved as a last minute, poorly-understood patchwork.
>
> From the start the debate has suffered from the Clintons wild promises that they could achieve universal coverage at little extra cost. This has produced five inconsistent congressional bills that all in one way or another fanaticize a health care future that will never happen. Health politics has become bumper sticker politics. Everything is being done for image and immediate bragging rights.
>
> Vast promises are made of new benefits with little effective control on cost. Health spending already constitutes 21 percent of Federal spending and one-seventh of all spending in the economy. The danger of a poorly-crafted program is that although it might be popular in the short run, it could encumber our economy with long-term commitments that we simply cannot afford, warns the Bipartisan Committee for a Responsible Federal Budget.
>
> What really is at stake is the integrity of government. Popular cynicism is no secret. In surveys, Americans express discontent with government, yet surveys also show that Americans want more from government in the way of health care, education, environmental protection and economic security. Politicians pander to the inconsistencies by posing government as a solution to a multitude of problems. The Clintons are practitioners of this style of politics. The trouble is that when the solutions do not match the promises, public disillusion deepens.
>
> Universal coverage is a swell slogan but a meaningless concept. Almost no one today has complete insurance coverage against all health risks. For example, only about 45 percent of the elderly have insurance for long-term care. And the idea that complete coverage can be constructed is a mirage because health care is an infinitely elastic concept. It expands with every new technology, drug or discovered ailment.
>
> Consider between 1982 and 1991 the number of cornea transplants doubled from 18,500 to 41,500. We will never be able to afford everything. Some rationing by income or availability will always exist.
>
> What the debate skirted is the morally awkward issue of whether health care is a right and, if so, what care is a right. The Clintons evaded this question by promising to control costs and expand benefits. The claim was always dubious.
>
> Five outside groups reestimated the Clintons basic package of insurance benefits. All found higher costs than the White House did. For individual coverage, the costs were put from 9 to 26 percent higher. For two-parent families, the costs were 13 to 59 percent higher. No matter. The Clintons set Congress's agenda.
>
> How bad are the resulting bills? Examine the Senate Finance Committee bill described as moderate. Its goal is to raise the share of Americans with insurance to 95 percent by the year 2002. Small firms with fewer than 100 workers could buy health insurance from big purchasing cooperatives. Insurers would have to accept almost anyone who applied. There would be insurance subsidies for everyone with an income of up to twice the poverty line. In 1993, the poverty line for a family of four was $14,335.
>
> What are the bills defects. Here with the top three: One, it creates a huge off-budget entitlement. True, the bill doesn't compel companies to buy insurance. But it does decree what all insurance must cover and the coverage is lavish. Aside from most doctor and hospital bills, it also includes mental health, rehabilitation services, drug and alcohol abuse services, hospice care and family planning services.
>
> Although a national health board would set the details, Congress would have the final say. And it has little reason to resist inevitable demands for new benefits because mandates could be expanded without imposing new taxes.
>
> Two, there is no effective cost control. Indeed, because the bill mandates comprehensive insurance, it would probably accelerate spending. The new spending pressures would overwhelm the tiny measures intended to curb costs, putting small companies in buying pools and instituting a complex, probably unworkable tax on high priced insurance plans.
>
> Three, subsidies for the poor are not financed. No one yet knows how much the subsidies would cost but the tax increases in the bill, the cigarette tax goes from 24 cents a pact of $1.24 a pack, might cover only half the amount. In short, the finance bill would probably speed up health spending, skimp on subsidies and miss its 95 percent coverage target. Other bills are as bad or worse.
>
> The House Ways and Means Committee wants bigger mandates and subsidies. It pays for its subsidies mainly from savings generated by price and spending controls. But no one knows whether the controls would work or be acceptable. A single payer bill has the honesty of avoiding mandates and pays for government insurance with taxes. However, benefits are so generous that by one estimate they would raise health spending by an extra $300 billion by the year 2000. The increase is assumed away with cost controls.
>
> All these bills indulge in make believe. Although they sound good, they would break down in practice. A sensible bill might be put together with some modest insurance reforms, but this seems unlikely, precisely because it would be so politically unexciting. What should not be forgotten in the inevitable clamor to do something is that a bad bill would be worse than no bill at all. Opposing such a bill is prudence, not obstructionism. The country deserves a more candid debate than Congress can provide this year.
>
> It is between those who consider health care a right and those like me who think the first focus should be on cost control.
>
> If it is a right, then put the spending in the budget and pay for it with taxes. If the focus is cost, then curb tax subsidies for insurance or impose strict spending controls. Neither approach would be easy. Any sweeping reform requires public understanding. This is now missing.
>
> "Great innovations," Thomas Jefferson once said, "should not be forced on slender majorities."

Mr. Speaker, I think Mr. Samuelson's column is so important that it is worth focusing on two or three parts. First of all, he says "universal coverage is a swell slogan but a meaningless concept."

I thought the President, for a brief moment Monday, a week ago, admitted that Mr. Samuelson was right when the President went to Boston to the National Governors Association and said "You know, maybe universal coverage cannot mean more than 95-percent coverage. Maybe that is the best we can do." By the end of that day, he was forced by the White House staff to retract what he said, and they put out a number of people who began to say he never said it, or he did not mean it, or it was all a mistake.

I thought for a brief moment that President Clinton was beginning to get the message that Mr. Samuelson meant when he wrote "Universal coverage is a swell slogan, but a meaningless concept."

Note that he described accurately the bills, and as I said earlier, some of the bills do not even technically exist. He is describing the concepts of the Senate finance bill, because the fact is the bill itself has not been written yet.

He says "All these bills indulge in make believe. Although they sound good, they would break down in practice." Mr. Speaker, I think that where we are is, we have 3 futures. One is the effort which, sadly, the President and the Democratic leadership is still committed to, a future in which we try to somehow write an impossible bill in an impossible length of time, and we do grave damage, both to public trust in the Congress and to the public deficit, and to the health care system.

I oppose trying to write a massive, comprehensive bill in a 2-week period with no public hearings, with no public examination, with no public understanding.

Second, we could do nothing. As Mr. Samuelson's headline of his column entitled "Congress Should Simply Start Over," in his opening sentence, "The best thing Congress could do now on health care would be to start over next year."

Mr. Speaker, I think there is a third thing we could do. It would be better than trying to ram through a bad bill by political manipulation, and it would be better than doing nothing. Mr. Samuelson alludes to it when he says "A sensible bill might be put together with some modest insurance reforms." I like that term, "a sensible bill," because I believe we could write a sensible bill.

I believe it is possible for us to take the essence of the Rowland-Bilirakis bill, to take the best ideas of the Michel-Lott bill, to take the best ideas of Senator DOLE's bill, and to write an honest bill which does good things with almost no damage to the system. I think that kind of bill is the best path.

Mr. Speaker, I urge the Democratic leadership, and I urge President Clinton, let us work together to write a bill that is positive, that could get overwhelming support on both sides, that would do good things without doing harm.

We could start with malpractice reform, which one recent study said would save $76 billion over 5 years. Then we could go and add guaranteed insurance for everyone who is in the system, so that you cannot get a precondition. Once you buy insurance and once you are being insured, you could change jobs and you would not lose your coverage.

We could eliminate preconditions for the insured, and that would, for the 85 percent of Americans who already have insurance, that would be a tremendous step.

Mr. Speaker, then we could agree to allow the States to manage Medicaid. This is something governors, both Democrat and Republican, have asked for. It would clearly allow us to lower the cost of Medicaid and to serve poor people at less expense with greater controls by simply having managed care.

Then we could allow the 35 States that currently are not allowed to have senior citizens buy into a managed care plan, 15 States allow it, but for the 35 the Health Care Financing Administration has not approved, simply allow senior citizens to have the choice, because in fact, there are managed care plans today offering senior citizens better coverage with prescription drugs at lower cost. That would be a good step.

We could also provide for group insurance for small business. That would be a good step, because it would lower the cost of insurance for small business. Then, Mr. Speaker, we could extend the same tax deductibility to the self-employed, the unemployed, and the family farmers that we get if we are in a big corporation. That would be a good step.

Also, we could provide tax neutrality, so you could either take the tax deduction yourself, if you wanted to buy the insurance, or your employer could take it, but you would not be trapped in only buying the insurance your employer wants you to have. That would be a good step.

Finally, for those Americans who still would not be covered, we could double the number of community health center patients who are dealt with, and that would take care of another 4 million people who could go to a community health center, instead of going to the emergency room, and that would both save money and increase health care for the working poor.

Every one of the things I just mentioned, I believe, could get overwhelming support from Republicans, and I believe could get overwhelming support from Democrats. I believe it would be possible to have 290 votes for the bill I just described. It would fit what Mr. Samuelson described when he said "A sensible bill might be put together with some modest insurance reforms."

It would be an honest bill. It could be scored by the Congressional Budget Office. We would know exactly what we were doing. We would not harm a single teaching hospital. We would not weaken the New York City hospital system, which is an enormous and complex and very expensive system.

We would not block anybody from leaving their home State to go to the Mayo Clinic, or to go to any other great center. We would not limit choice for individuals, in terms of choice of their doctor and choice of their hospital.

We would not weaken the quality of the best health care system in the world. We would have established no new Government bureaucracies in Washington. We would establish no new Government controls in Washington.

However, we would have improved for every individual who is self-employed, every individual who is unemployed, every family farm, every small business, we would have improved dramatically their access to health care, and we would have guaranteed for the 85 percent of Americans who already have health care that they could change jobs without any fear of precondition, and that they could never lose their insurance coverage if they got a disease or an illness.

Mr. Speaker, every one of those items could be passed by an overwhelming majority. I like the quote that Mr. Samuelson had from Thomas Jefferson: "Great innovations should not be forced on slender majorities."

It seems to me we want to pass a health bill that the American people are convinced does no harm, and the best way to do that is to have a bipartisan effort with the Democratic leadership and the Clinton White House sitting down with the Republican leaders and writing a bill at the leadership level. It will be far better to have a Gephardt-Michel bill in the House, to have a Mitchell-Dole bill in the Senate, to have the President in a position to be for a positive bill. The President would have lowered his sights and would have accepted less than he might like, but he would be accepting things that everyone could agree are good, without imposing things that are destructive. Then we would not have to have Democrats trying to exempt the county that Rochester is in. Then we would not have to have Democrats trying to exempt the entire State of Hawaii.

My challenge is this, Mr. Speaker: If any place is going to be exempted, every place ought to have the right to be exempted. This should not be a matter of power politics, and somebody on the right committee, or somebody with the right friends getting a special deal.

If we are going to start exempting, then every county in the United States should have the same opportunity that some Democrats want to give to Rochester. If we are going to start exempting, then every State should have the same opportunity that some Democrats want to give to Hawaii.

However, Mr. Speaker, if something is so bad that we have to talk about exempting, if something is so destructive, so harmful, so dangerous that we have to start talking about making sure that our particular county is not in it, or our particular State is not in it, maybe we should not do it to anybody. Maybe something so bad, that it requires exemptions, should not be passed in the first place.

Mr. Speaker, let me just say in closing, I think it will be a terrible mistake for the President and the Democratic leadership, I think it will be a terrible mistake for the Congress and a terrible mistake for the country if there is an effort made to ram through a comprehensive health bill without public hearings, without adequate understanding, without a chance for the news media to take it apart, to look at it, without an opportunity for experts to analyze it.

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Mr. Speaker, I want to close by going back to the way in which Mr. Samuelson closed his column.

He said, "Any sweeping reform requires public understanding. This is now missing."

If there is an understanding and if it is a comprehensive bill, what did Mr. Samuelson suggest?

> What should not be forgotten in the inevitable clamor to "do something" is that a bad bill would be worse than no bill at all. Opposing such a bill is prudence, not obstructionism.

So I would say, if we have to, we are prepared to try to stop a bad bill. But that would be a sad thing. Far better to work together to produce a good bill; far better to produce a bill that the American people can have faith in; and far better to write a modest but positive bill that does no harm, that we can publish and let people look at.

I go back to what I suggested a few days ago, because it is the acid test. If we could introduce a bill in writing the last day we are in session, if we could then go home for the 3 weeks of the August recess and allow the country to see the bill, if we could then, having had people look at it in public, having had them take it apart, if we could come back and in the opening 2 or 3 days in September clean up any mistakes we learn about during the recess, improve it a little bit, and then pass it by overwhelming Republican and Democratic majorities, then I think we would have done something worthy of the Congress. Then we could be proud that we had followed the right procedures. And then we could go home and say, yes, this is a start. And next year we will do something that builds on this. But at least what we did was right and harmed no one.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUTTO (at the request of Mr. GEPHARDT), for today after 5 p.m. and the balance of the week, on account of official business.

Mr. LAUGHLIN (at the request of Mr. GEPHARDT), for today through August 5, 1994, on account of medical reasons.

Mr. DREIER (at the request of Mr. MICHEL), for today from 2:15 p.m. until 4 p.m., on account of attending a funeral.

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today after 1 p.m., on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.
Mr. KIM, for 5 minutes, today.
Mr. HOEKSTRA, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.
Mr. DUNCAN, for 5 minutes, today.

(The following Members (at the request of Mr. HASTINGS) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.
Mr. CLAYTON, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. LAROCCO, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. BONIOR, for 5 minutes, today.
Mr. MCCLOSKEY, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. BOEHLERT.
Mr. HANSEN.
Mrs. ROUKEMA
Mr. SOLOMON in four instances.
Mr. BURTON of Indiana.
Mr. MCCANDLESS.
Mr. HORN.

(The following Members (at the request of Mr. HASTINGS) and to include extraneous matter:)

Mr. HAMILTON.
Mr. SYNAR.
Mr. BILBRAY.
Mr. LAUGHLIN.
Mr. RANGEL.
Mr. MURPHY.
Mr. DEFAZIO.
Mr. ROSE.
Mr. PALLONE.
Mr. GEJDENSON.
Mr. TUCKER.
Mr. HOAGLAND.
Mr. ANDREWS of Texas.
Mr. WHEAT.
Mr. ENGEL in 2 instances.
Mr. VISCLOSKY.

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. HOKE.
Mr. STUDDS.
Mr. CRANE.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 32 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, July 29, 1994, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3579. A letter from the Acting Director, Office of Management and Budget, transmitting a draft of proposed legislation entitled, the "Federal Acquisition Labor Law Improvement Act of 1994"; to the Committee on Education and Labor.

3580. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 94-35, authorizing the furnishing of assistance from the Emergency Refuge and Migration Assistance Fund for unexpected urgent needs of Rwanda and Burundi migrants, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

3581. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by James W. Swihart, of Virginia, to be Ambassador to the Republic of Lithuania, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3582. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the fiscal year 1992 report on the Foreign Service Retirement and Disability System and the Foreign Service Pension System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3583. A letter from the Secretary of Energy, transmitting the Department's first annual report entitled, "Report to Congress on Procurement and Identification of Energy Efficient Products," for Federal agencies, pursuant to section 161(d) of the Energy Policy Act of 1992; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on Armed Services. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with an amendment (Rept. 103-601, Pt. 3). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes; with an amendment (Rept. 103-625, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4535. A bill to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes (Rept. 103–626). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 494. Resolution providing for the consideration of the bill (H.R. 4801) to amend the Small Business Act, and for other purposes (Rept. 103–627). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules House Resolution 495. Resolution providing for consideration of a concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year (Rept. 103–628). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4724. A bill to amend title 38, United States Code, relating to veterans housing programs, and for other purposes (Rept. 103–629). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4776. A bill to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes (Rept. 103–630). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4768. A bill to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes; with an amendment (Rept. 103–631, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

Referral to the Committee on Ways and Means of H.R. 4003 extended for a period ending not later than July 29, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BOEHLERT:

H.R. 4846. A bill to amend the Internal Revenue Code of 1986 to provide that the unearned income of children attributable to personal injury awards shall not be taxed at the marginal rate of the parents; to the Committee on Ways and Means.

By Mr. DEFAZIO (for himself, Mr. Swift, Mr. Dicks, Mr. Kopetski, Ms. Furse, Mr. Kreidler, Mr. McDermott, Ms. Cantwell, Mrs. Unsoeld, Mr. Wyden, and Mr. Inslee):

H.R. 4847. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Natural Resources.

By Mr. DICKEY:

H.R. 4848. A bill to control crime; to the Committee on the Judiciary.

By Mr. HAMILTON (for himself (by request), Mr. Gilman, Mr. Lantos, Mr. Berman, Mr. Swift, and Mr. Oxley):

H.R. 4849. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their destruction, known as "the Chemical Weapons Convention" and opened for signature and signed by the United States on January 13, 1993; jointly, to the Committees on Foreign Affairs, the Judiciary, and Energy and Commerce.

By Mr. ISTOOK (for himself and Mr. Inhofe):

H.R. 4850. A bill to require Congress to comply with the laws it imposes on others; jointly, to the Committees on House Administration, Education and Labor, the Judiciary, Government Operations, and Rules.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. Frank of Massachusetts, Mrs. Meek of Florida, Mr. Bacchus of Florida, Mr. Emerson, Mr. Meehan, Mr. Skeen, Mr. McDermott, Mr. Montgomery, Mr. Rangel, Ms. DeLauro, Mrs. Thurman, Miss Collins of Michigan, Mr. Wynn, Ms. Waters, Mr. Lewis of Georgia, Mrs. Clayton, Mr. Watt, Mr. Hastings, Mr. Scott, Mr. Payne of New Jersey, Mr. Owens, Ms. McKinney, Mr. Hilliard, Ms. Norton, Mr. Tucker, Mr. Wheat, Mr. Stokes, Mr. Thompson, Mr. Clyburn, Mr. Jefferson, Mr. Fields of Louisiana, Mr. Mfume, Mr. Conyers, Mr. Flake, Mr. Edwards of Texas, Mr. Frost, Mr. Tejeda, Mr. Bryant, Mr. Sarpalius, Mr. Wilson, Mr. Laughlin, Mr. Pete Geren of Texas, Mr. Gene Green of Texas, Mr. Coleman, Mr. Hall of Texas, Mr. Pickle, Mr. Ortiz, Mr. Chapman, Mr. Andrews of Texas, Mr. de la Garza, Mr. Gonzalez, Mr. Brooks, Mr. Washington, and Mr. Stenholm):

H.R. 4851. A bill to waive the time limitation specified by law for the award of certain military decorations in order to allow the posthumous award of the Congressional Medal of Honor to Doris Miller for actions while a member of the Navy during World War II; to the Committee on Armed Services.

By Mr. MANTON (for himself, Mr. Young of Alaska, and Mr. Studds):

H.R. 4852. A bill to provide congressional approval of a Governing International Fishery Agreement; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. Reed, and Mr. Hughes):

H.R. 4853. A bill to amend the National Sea Grant College Program Act and the Coastal Zone Management Act of 1972 to enhance marine aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself and Mr. Young of Alaska):

H.R. 4854. A bill to amend the National Aquaculture Act of 1980 to promote the development of the aquaculture industry in the United States, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Agriculture.

By Mr. VISCLOSKY (for himself, Mr. Roemer, Mr. Myers of Indiana, Ms. Long, Mr. Buyer, Mr. McCloskey, Mr. Hamilton, Mr. Jacobs, Mr. Sharp, and Mr. Burton of Indiana):

H.R. 4855. A bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings; to the Committee on Public Works and Transportation.

By Mr. NADLER:

H.R. 4856. A bill to improve the Nation's health care by creating a comprehensive medical malpractice prevention program through the creation of independent, publicly accountable State medical boards and more stringent licensing and discipline procedures; to empower health consumers by mandating reporting of certain information regarding health care providers and professionals and by enhancing informed individual choice regarding health care services by providing certain information to consumers; and for other purposes; to the Committee on Energy and Commerce.

By Mr. DORNAN:

H.J. Res. 394. Joint resolution declaring that the preborn are persons entitled to the guarantees contained in the fifth, thirteenth, and fourteenth amendments to the Constitution of the United States of America and prohibiting abortion within the United States; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Mr. Gilman, Mr. Lantos, Mr. Torricelli, Mr. Mfume, Mr. Serrano, and Mr. Bereuter):

H. Res. 496. Resolution condemning the terrorist attack on the Delegation of Argentine-Israeli Associations on July 18, 1994, the terrorist attack on a Panamanian commuter plane on July 20, 1994, and the terrorist bombings near the Israeli Embassy and a building housing Israeli and Jewish organizations in London on July 26, 1994; to the Committee on Foreign Affairs.

By Mr. SAXTON (for himself and Mr. Dellums):

H. Res. 497. Resolution concerning the situation in Rwanda; to the Committee on Foreign Affairs.

By Mr. SCOTT (for himself, Mr. Stark, Mr. McDermott, Mr. Miller of California, Mr. Owens, Ms. McKinney, Ms. Pelosi, Mr. Farr, Mr. Tucker, Ms. Woolsey, Mr. Dellums, Mr. Watt, Mr. Stokes, Mr. Hilliard, and Mr. Romero-Barceló):

H. Res. 498. Resolution making in order, in the consideration by the House of Representatives of H.R. 3600—the Health Security Act—an amendment providing for an AMCARE plan that makes available a Government-sponsored, fee-for-service nationwide health plan to almost all eligible individuals not covered under large group health plans; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Lehman.
H.R. 65: Mr. Farr.
H.R. 106: Mr. Foglietta.
H.R. 127: Mr. Conyers, Mr. Nussle, Mr. Hoagland, Mr. Brown of California, Ms. Velázquez, Mr. Volkmer, Ms. English of Arizona, and Mr. Rogers.
H.R. 146: Mr. Canady.
H.R. 157: Mr. Taylor of North Carolina.
H.R. 166: Mr. Coppersmith.
H.R. 417: Mr. Bunning.
H.R. 494: Mr. Franks of New Jersey.
H.R. 657: Mr. Zimmer.
H.R. 662: Mr. Zimmer and Mr. Dornan.
H.R. 743: Mr. Coppersmith.
H.R. 790: Mr. Coppersmith.
H.R. 999: Mrs. Byrne.
H.R. 1080: Mr. Ewing, Mr. Franks of Connecticut, and Mr. Livingston.
H.R. 1099: Mr. Zimmer.
H.R. 1126: Mr. Canady.
H.R. 1128: Mr. Dornan.
H.R. 1129: Mr. Canady.

H.R. 1164: Mr. LANTOS.

H.R. 1168: Mr. KYL, Mr. COPPERSMITH, and Mr. ROEMER.

H.R. 1319: Mr. ZIMMER.

H.R. 1551: Mr. PETE GEREN of Texas and Mr. ABERCROMBIE.

H.R. 1604: Ms. SCHENK.

H.R. 1621: Mr. ROEMER.

H.R. 1627: Mr. ROSE.

H.R. 1809: Ms. WOOLSEY.

H.R. 1816: Mr. DICKEY.

H.R. 1955: Mr. SANDERS, Mr. SWETT, Ms. FURSE, Mr. Neal of North Carolina, and Mr. NADLER.

H.R. 2219: Mr. ZIMMER.

H.R. 2275: Mr. ROEMER.

H.R. 2340: Mrs. COLLINS of Illinois.

H.R. 2376: Mr. KNOLLENBERG and Mr. ROEMER.

H.R. 2467: Mr. DARDEN and Mr. RUSH.

H.R. 2569: Mr. ZIMMER.

H.R. 2648: Mr. DURBIN, Mr. HALL of Ohio, Mr. WATT, Mr. BARRETT of Wisconsin, Mr. SERRANO, Mr. GENE GREEN of Texas, Ms. VALÁQUEZ, Ms. BROWN of Florida, and Mr. BROWN of California.

H.R. 2680: Mr. COPPERSMITH.

H.R. 2898: Mr. CONYERS.

H.R. 3064: Mr. DOOLEY, Mr. CALVERT, and Mr. HANSEN.

H.R. 3270: Mr. WAXMAN, Mr. STUDDS, Mr. CLAY, Mr. LANTOS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACOBS, Mr. WHEAT, and Mr. CHAPMAN.

H.R. 3293: Mr. HANCOCK and Mr. MCCLOSKEY.

H.R. 3392: Mr. BORSKI, Mr. GRAMS, Mr. HYDE, Mrs. CLAYTON, and Mr. GALLO.

H.R. 3596: Mr. CONDIT.

H.R. 3634: Mr. COPPERSMITH.

H.R. 3691: Mr. CANADY.

H.R. 3692: Mr. SCHAEFER.

H.R. 3780: Mr. PORTMAN.

H.R. 3862: Mr. SHUSTER.

H.R. 3866: Mr. LEHMAN.

H.R. 3871: Mr. PORTER.

H.R. 3875: Mr. BLUTE.

H.R. 3966: Mrs. MORELLA.

H.R. 3971: Mr. MCNULTY.

H.R. 3987: Mr. NEAL of Massachusetts.

H.R. 4116: Mr. HASTINGS, Mr. STUDDS, Mr. RANGEL, and Mr. CLEMENT.

H.R. 4162: Ms. VELÁZQUEZ.

H.R. 4214: Mr. FOGLIETTA.

H.R. 4326: Mr. HANCOCK.

H.R. 4361: Mr. MINETA and Mr. HOYER.

H.R. 4370: Mr. ENGEL and Mr. ACKERMAN.

H.R. 4386: Mr. CHAPMAN, Mr. MCNULTY, and Mrs. CLAYTON.

H.R. 4412: Ms. LAMBERT.

H.R. 4413: Mr. BACCHUS of Florida.

H.R. 4419: Mr. ALLARD.

H.R. 4570: Mr. JEFFERSON, Mr. HILLIARD, Mr. EVANS, Mr. WYNN, Mr. LANTOS, and Mr. HOAGLAND.

H.R. 4590: Mr. YATES, Mr. MCMILLAN, Mr. BEILENSON, Mr. CLYBURN, Mr. DEFAZIO, Mr. HUNTER, Mr. WHITTEN, Ms. VELÁZQUEZ, Ms. WATERS, Mr. NADLER, Mr. BARLOW, Mr. HOCHBRUECKNER, Mr. TOWNS, Mr. FISH, Mr. DORNAN, Mr. BURTON of Indiana, Mr. FARR, Mr. DIAZ-BALART, Ms. MARGOLIES-MEZVINSKY, Mr. MAZZOLI, Mr. MCCLOSKEY, and Mr. MEEHAN.

H.R. 4592: Mr. SMITH of Michigan.

H.R. 4618: Mr. JACOBS and Mr. RANGEL.

H.R. 4657: Mr. QUINN.

H.R. 4669: Mr. JACOBS, Mr. RANGEL, and Mr. SENSENBRENNER.

H.R. 4695: Mr. HASTINGS.

H.R. 4696: Ms. VELÁZQUEZ and Mr. EVANS.

H.R. 4739: Mr. BARRETT of Wisconsin.

H.R. 4741: Mr. DE LUGO and Mr. FALEOMAVAEGA.

H.R. 4767: Mr. THOMPSON and Mr. MFUME.

H.R. 4787: Mr. HASTINGS.

H.R. 4788: Mr. GENE GREEN of Texas.

H.R. 4791: Mr. COX and Mr. WALKER.

H.R. 4802: Mr. COOPER, Mr. LEWIS of Florida, Mr. STUDDS, Mr. EMERSON, Mr. BROWN of California, Mr. SPRATT, Mr. HOBSON, Mr. STARK, and Mr. MORAN.

H.R. 4803: Mrs. MINK of Hawaii, Mrs. UNSOELD, Mr. HASTINGS, Mrs. LOWEY, Mr. WATT, Mr. EDWARDS of California, Mr. FILNER, and Mr. FRANK of Massachusetts.

H.R. 4830: Mr. MCHUGH, Mr. BARRETT of Nebraska, and Mr. DUNCAN.

H.R. 4833: Mr. FALEOMAVAEGA.

H.R. 4841: Mrs. LOWEY.

H.J. Res.: 352: Mr. LEWIS of Georgia, Mrs. LOWEY, Mr. MCCOLLUM, Mrs. MEEK of Florida, Mr. MURPHY, Mr. OWENS, Mr. PAYNE of New Jersey, Mr. MINETA, Mr. PARKER, Ms. BROWN of Florida, Mr. BORSKI, Mr. KLINK, Mr. KILDEE, Ms. COLLINS of Michigan, Mr. SKEEN, Mr. STARK, Mr. SARPALIUS, Mr. THORNTON, Mr. WHEAT, Mr. SCHUMER, Mr. TRAFICANT, Mr. EVANS, Mr. FAZIO, Mr. UPTON, Mr. SERRANO, Mr. MATSUI, Mr. DOOLITTLE, Mr. LEACH, Mr. WYDEN, Mr. JEFFERSON, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. VENTO, Mr. FROST, Mr. STUPAK, Mr. SCOTT, Mr. MARTINEZ, Mr. SAWYER, Mr. CALLAHAN, Mr. CARDIN, Mr. ENGEL, Mr. RICHARDSON, Mr. WYNN, Mr. KLEIN, Mr. ROMERO-BARCELÓ, Mr. RAHALL, Mr. FRANKS of Connecticut, Mr. DINGELL, Ms. ROYBAL-ALLARD, Mr. YOUNG of Alaska, Mr. RAVENEL, Mr. TOWNS, Mr. DE LUGO, Mr. PICKLE, Mr. NEAL of Massachusetts, Mr. EMERSON, Mr. KLECZKA, Mr. HUGHES, Mr. SYNAR, Mr. PICKETT, Mrs. UNSOELD, Mr. PASTOR, Mr. HEFNER, Mr. CLAY, Mr. WASHINGTON, Mr. TUCKER, Mr. GENE GREEN of Texas, Mr. GONZALEZ, Mr. ANDREWS of New Jersey, Mr. BARCIA of Michigan, Ms. ENGLISH of Arizona, and Mr. KREIDLER.

H.J. Res. 366: Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS of Maine, Mr. BAESLER, Mr. BARRETT of Wisconsin, Mr. BATEMAN, Mr. BEILENSON, Mrs. BENTLEY, Mr. BERMAN, Mr. BILBRAY, Mr. BLUTE, Mr. BREWSTER, Mr. BUNNING, Mr. BUYER, Mr. CALVERT, Mr. CRAMER, Mr. CRAPO, Ms. DANNER, Mr. DEAL, Ms. DELAURO, Mr. DELAY, Mr. DE LUGO, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. DIXON, Mr. DUNCAN, Mr. ENGEL, Mr. FINGERHUT, Ms. FURSE, Mr. GEPHARDT, Mr. GILLMOR, Mr. GINGRICH, Mr. GOODLATTE, Mr. GORDON, Mr. HASTINGS, Mr. HEFNER, Mr. HOAGLAND, Mr. HOBSON, Mr. HUTTO, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. SAM JOHNSON, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. LANTOS, Mr. LAROCCO, Mr. LEACH, Mr. LIGHTFOOT, Mr. MCDADE, Mr. MEEHAN, Mrs. MEEK of Florida, Mr. MONTGOMERY, Mr. MURTHA, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. OLVER, Mr. OXLEY, Mr. PALLONE, Mr. PAYNE of New Jersey, Mr. PETERSON of Florida, Mr. PETRI, Mr. PICKETT, Mr. PRICE of North Carolina, Mr. RAMSTAD, Mr. RAVENEL, Mr. REGULA, Mr. ROEMER, Mr. SABO, Mr. SARPALIUS, Mr. SAXTON, Ms. SCHENK, Mr. SCHIFF, Mr. SCHUMER, Mr. SHAW, Mr. SKELTON, Mr. SLATTERY, Ms. SNOWE, Mr. SPRATT, Mr. STUMP, Mr. SUNDQUIST, Mr. SWETT, Mrs. THURMAN, Mr. TORRICELLI, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WYNN, and Mr. YOUNG of Florida.

H. Con. Res. 110: Mr. BAKER of California and Mr. LIPINSKI.

H. Con. Res. 148: Mr. GREENWOOD.

H. Con. Res. 212: Mr. WATT.

H. Con. Res. 234: Mr. ABERCROMBIE, Ms. ESHOO, Mr. KLUG, Mrs. LLOYD, Mr. PASTOR, Ms. PELOSI, and Ms. SHEPHERD.

H. Con. Res. 268: Mrs. BENTLEY, Mr. COBLE, Mr. SAXTON, and Mr. YOUNG of Alaska.

H. Con. Res. 269: Mr. FRANKS of New Jersey and Mr. UPTON.

H. Res. 117: Mr. COPPERSMITH.

H. Res. 213: Mr. CANADY.

H. Res. 291: Mr. SISISKY and Mr. ISTOOK.

H. Res. 430: Mr. BACCHUS of Florida and Mr. HILLIARD.

H. Res. 434: Mr. FROST and Ms. DUNN.

H. Res. 481: Mr. MCCOLLUM.

H. Res. 485: Ms. ESHOO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4497: Mr. INGLIS of South Carolina.

SENATE—*Thursday, July 28, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana.

PRAYER

The Reverend Dr. Scott Jones, Howe Methodist Church, Howe, TX, offered the following prayer:

Let us pray:

Almighty and everlasting God, ruler of all nations, guardian of all who seek justice and resist evil, giver of every good and perfect gift, source of all knowledge and wisdom, we pray today for all the Members of this body, the U.S. Senate, for all its staff and officials, and for all who help in its deliberations. We seek Your help in guiding what they think, say and do.

First, help them to seek the genuine good of all the citizens of our country. Help them to put aside personal gain, group advantages and narrow party agendas, and to seek only what is true and right and good for our Nation as a whole.

Second, we seek the gift of wisdom for those who govern this Nation. Help them to discern Your will and to find the best means of fostering true peace and true justice throughout the world.

Third, we ask for integrity and courage. In the midst of the many temptations common to human beings and especially strong at the seats of temporal power, we ask that You would support each Member and staff person of this body at the highest levels of personal honesty, individual courage, and moral rectitude. Where temptations are strongest, Lord, there give the greatest measure of ethical strength. We acknowledge You as the final judge of all human actions, and pray Your blessing on what will happen here today, and every day.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Florida [Mr. GRAHAM] is now recognized to speak for up to 30 minutes. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

HEALTH CARE REFORM

Mr. GRAHAM. Mr. President, at this point in the national debate over health care reform at least a half a dozen plans have come to the forefront. All of these seem now to have obtained negative majorities. But they all have a common and I believe a flawed premise. It is that the road to national health reform is a single, national, one-plan-fits-all model. This path has taken a number of forms: managed competition, single payer, employer or individual mandate, pay or play, Medicare expansion, market reform. The path has been trampled by detail and controversy over the means, the means that supporters will use. This trampling has almost buried the broad agreement on the necessity of achieving universal coverage and cost containment.

There is, Mr. President, however, a second path, a path which to date has been almost ignored. It is a decentralized structure based on the principles of federalism in which the Federal Government establishes fundamental objectives and the States provide the specifics. In such a system, the Federal Government would establish nationally agreed upon health care performance objectives, standards, and goals, while giving to the States and communities the ability to develop localized tactics to achieve those standards. Such a structure would bring the decisionmaking processes down to the State and local levels where the arrangements for health care are all very different.

Although several plans refer tangentially to a State law, national reform should establish a Federal-State partnership as a central principle rather than an afterthought.

Let me repeat, Mr. President. National reform should establish a Federal-State partnership as a central principle rather than as an aside.

The National Academy of Sciences Institute of Medicine notes:

> States are the principal governmental entity responsible for protecting the public's health in the United States. They conduct a wide range of activities in health. State health agencies collect and analyze information, conduct inspections, plan, set policies and standards, carry out national and State mandates, manage and oversee environmental, educational and personal health services, and assure access to health care for underserved residents. They are involved in resource development. They respond to health hazards and crises.

Mr. President, health care is particularly suitable to the establishment of national goals with decentralized implementation and sensitivity to local culture, geography, and institutional variations. States and communities within States have different health care needs based on societal factors such as the quantity and nature of health care providers. For example, Nebraska, North Dakota, and South Dakota have twice the number of hospital beds per person as Alaska, New Hampshire, and Hawaii; varying demographics, especially for the most health intensive populations. For example, as a percentage of State population, Florida, Pennsylvania, Iowa, Rhode Island, and West Virginia have 50 percent more elderly than do Alaska, Utah, Colorado, and Georgia; current levels of insurance coverage. In Nevada, Oklahoma, Louisiana, Texas, and Florida, approximately one-quarter of the population under 65 is uninsured. However, in Hawaii, Connecticut, and Minnesota, less than one-tenth is uninsured.

Clearly, different State circumstances will require differing solutions and timeframes. For example, what would work in rural areas will not work in urban areas. The means of achieving universal coverage and access are undoubtedly different in Florida than in Wyoming. Even within rural areas, the health care concerns of those along the rural sections of the United States-Mexico border are vastly different than the needs of ranchers in Montana.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

A successful plan would have to accommodate the broad diversity of this Nation. Yale Professors Theodore Mashaw and Jerry Marmor stated in a July 7, 1994, Los Angeles Times editorial:

> Given the diversity of States, their varied experience with health care, and intense local preferences, why enact a single brand of national health care reform, especially if it is the poorly considered compromises that we seem to be headed toward. By moving compromise in the direction of preserving goals rather than defining means, we can allow States the further thought and experimentation that are needed for effective implementation.

Mr. President, presently, there is insufficient field-based experience and consensus to commit the Nation to a single health care monitor. No State—not Hawaii nor California—has had an adequately extensive or sustained experience with a managed care model for all. There is not an empirical base of experience suggesting that such a model should be the centerpiece of a national health care reform.

Unfortunately, it is largely the Federal Government's failure to provide waivers to Medicaid, Medicare, and the Employee Retirement Income Security Act [ERISA] which has limited States' creativity for many years. In the mid-1980's, while I was Governor, Florida was unsuccessful in an attempt to receive a waiver from the Federal Government for a Medicaid buy-in program from the Reagan administration. Florida's current Governor, Lawton Chiles, was in Washington a few weeks ago pushing again for a Federal waiver that will provide 1.1 million uninsured Floridians with health insurance. He has been met with foot-dragging and hohumming from the Health Care Financing Administration. Why has there been such a long consistent pattern of Federal reticence to approve innovation and creativity at the State level?

A New York Times article dated June 12, 1994, may provide an explanation. According to the article, in a June 1993 memorandum, Health Care Financing Administrator, Bruce Flatic warned: "The waiver authority could become a way of relaxing statutory or regulatory provisions considered onerous by the States."

He went on to add that "waivers will be used to slow down nationwide reform."

After 6 month's effort by Governor Chiles, the waiver which he has requested to allow the State, at no additional cost, to provide insurance for the near poor, the working poor, this waiver is still not forthcoming.

The same arguments were made in 1974 when Hawaii passed its comprehensive health reform bill. There was the belief that it was unnecessary because there would soon be national comprehensive reform, and that Hawaii's bold initiative would frustrate national efforts. Instead, Hawaii and other States have become models for health care reform.

In addition, the Federal Government's administrative agencies are not prepared or capable of accepting the mammoth new responsibilities inherent in any unitary program for health care system reform. Medicare's dismal performance in monitoring fraud—a $15 to $20 billion annual hemorrhage by some informed estimates—is a harbinger of what a unitary system could inflict upon a nation: a train wreck with all Americans aboard.

I further add that Congress has not been successful in recent years in confronting major complex public problems. The savings and loan debacle, the 1986 Tax Act, and catastrophic health care, are all examples of how Congress has a greater interest in getting a bill passed than in truly solving problems. We may be at the point in this debate where certain compromised positions will sacrifice effectiveness and reform for a rose garden ceremony. The politically doable is not necessarily equal to the pragmatically desirable.

Earlier this week, I sat at a chair in the Chamber and listened to one of the proposals being described by its advocate. The Senator argued for a plan, in part, because it was the result of a series of compromises on contentious components of reform. As I listened to the compromise being described as a virtue, I analogized this to two aviation engineers who could not decide on a wingspan of an airplane. One says the wingspan should be 100 feet. The other says the wingspan should be 150 feet. So they compromise, with disastrous results. They build a plane with one 50-foot wing and one 75-foot wing. Both engineers are happy, but the plane crashes and burns.

Unlike the engineers, Congress must come up with a design that works and not one that compromises principles and threatens the health of all of its passengers.

The unitary path to reform will likely result in an ineffective amalgamation of compromises or a highly partisan and closely divided final product. The Nation would be ill-served by either result. A narrowly based and unworkable program passed this year would sow the seeds for continued destructive sniping and controversy in the years ahead, and lead to an accelerated erosion of public confidence in the Federal Government.

We cannot repeat the legislative failures of the 1980's. The savings and loan debacle cost us between $150 and $300 billion. It was a significant factor in the most serious recession since the 1930's. A health care debacle would put millions of Americans at risk, damage the world's highest quality health care delivery system and, if medical inflation continues, contribute to record deficits by the end of this decade.

Mr. President, there is a second path. That path is a Federal-State partnership toward reform. This Jeffersonian model is one that has been utilized time and time again. In fact, the interstate banking bill which just passed by the conference committees this week provides for an interstate banking system with national standards and underlines State flexibility to recognize the diversity of communities across the Nation.

Further, when it comes to health reform, States have significant experience, success, and track records they, in fact, have achieved more in the way of reform than Congress has. In the summer of 1993 issue of Health Affairs documents successes at the State level and health reform from Florida, Hawaii, Maryland, Minnesota, Oregon, and Washington. Significantly, these States have adopted reforms that differ in terms of scope, anticipated outcomes, and process.

These variations reflect diverse needs, ideology, and stages of health care evolution in each State. So should national reform. Moving health reform to the States and closer to the people should be a central principle of a national health plan. Only then will we have real accountability and responsiveness to the needs of citizens, business, and providers. Only then are we likely to have a reform which will actually deliver its promise of sustained and straightforward accessibility to high-quality, affordable health care for all Americans.

Mr. President, we might ask how would this second path—a path which had as a central principle a Federal-State partnership—be accomplished? Let me suggest, first, that the Federal Government should establish Federal standards in those areas where uniformity is required and agreed upon. Standards that the Federal Government should set would include universal coverage, cost containment, the composition of a standard benefits package, insurance reform on issues such as community rating, portability, guaranteed issuance, and a State-based public authority to assure implementation and be accountable for these goals.

Certainly, these are goals on which the Congress, the President, the States, and the American people can come to some agreement. However, the Federal Government should separate the ends and goals of health care from the means of health reform. The Federal Government should establish agreed-upon performance objectives to attain these 5 goals. However, for both political and policy reasons, the Federal Government should not impose the detailed means by which the States must achieve the performance objectives. Rather, the Federal Government should set forth performance standards which are achievable and will provide adequate and equitable financial assistance to States for implementation, and then hold States accountable for results.

The fundamental question determining the Federal role in health care implementation should be this: Does the particular proposal under consideration require uniformity in process or procedure to achieve national goals? To repeat, Mr. President, the question which should be asked of every proposal, organization—financial, or regulatory—should be this: Does the particular proposal under consideration require uniformity in process or procedure to achieve the national goal?

There are a set of limited circumstances which, in my opinion, meet this test. These would include Medicare, special populations—such as immigrants—which impose disproportionate impacts on States and local communities, and national tax policy which creates various health care incentives.

The need for national uniformity might also include the special treatment of interstate corporations similar to that now received under ERISA. However, for the vast number of issues, the answer is clearly no. National uniformity is not required to achieve the goal of universal coverage.

For example, to achieve universal coverage in cost containment, States could implement a system resembling Hawaii; States could implement the Clinton administration plan; States could administer national competition without mandatory alliance. They could administer a single-payer system, an all-payer regulation, or a combination of these proposals. Each of these means to accomplish the end has the capability of achieving the goals of universal coverage and cost containment.

To attain the nationally established goals, the Federal Government should make funding available to States in the form of a block grant based on factors such as poverty, State income, other demographics, and health care costs.

The Federal Government should utilize funding to provide rewards to States that move more quickly toward the goals of national reform—guaranteed funding, so long as States continue to move toward those goals—and possibly even impose sanctions on the States failing to meet the goal.

States should choose how to finance their share of the cost of health reform by virtually any means which they find most appropriate to their State. Beyond that, the Federal Government should only provide direction, and get out of the way of State reform. In fact, the States should be allowed to supplement the Federal standards benefits if they so choose, but with their own non-Federal funds. In a decentralized or Federal system, States would have the responsibility to establish and implement programs to achieve national standards.

Among other things, States should have the flexibility in following, or States should be granted the flexibility to establish, the health delivery arrangement that best meets the geographic considerations and needs of its population.

Financing: States should be responsible for any costs beyond that established as the basis of Federal block grant funding. Therefore, States will have a strong incentive to initiate effective cost containment systems whether by use of market forces, a regulated payment system, or a mix of both. In regulation, States have historically, and should continue to be, primarily involved in the training and licensure of health care providers, and have been responsible for the civil justice system, and, thus, medical malpractice reform.

However, States such as Hawaii, Washington, Florida, Minnesota, and Oregon could maintain and build on the successful and popular health care reforms which they already have in place. How do we get there? How do we walk this second road of a partnership of the Federal Government and the States for health care reform?

What is needed, Mr. President, is to convert the various unitary plans which combine both ends and means in a centralized Federal Government approach. We need a plan to convert those various unitary plans from explicit health care road maps to statements of destination.

Due to the late hour of this debate, Congress should look at the objectives of the various plans and pick the proposal that best meets mutually agreed upon goals. Which of the half dozen or more plans before us will in fact give us the greatest confidence that they will achieve the objectives of universal coverage, cost containment, insurance reform, and the other goals which have been stated?

The underlying organizational, financing and regulatory details would only be a temple for States. That would be applicable in the absence of a State's enactment of its own reform structure, or in the wake of a failed State plan. In short, the Federal temple would only serve as a safety net for States. States could opt out of any national design as long as they could demonstrate that they could meet the Federally established standards that we agree upon.

Mr. President, this strategy is not original. In the President's Health Security Act, States were given the option of adopting a single payer in lieu of the purchase of private insurance through mandatory options. If States decline to use the single-payer option, they would be included in the national system.

My proposal suggests a similar foundation of a national system but with a broader range of options to the States. Provided States meet the tests of achieving universal coverage, with guaranteed and affordable comprehensive benefits, they could choose from a variety of financing organization and regulatory arrangements.

Mr. President, in the last election Americans made it clear that health care reform is of primary importance to the Nation. Health care reform is necessary not only to the 38.5 million uninsured Americans, but also for the health of the economy and the health of the rest of America.

Congress is trying to respond. But at this point it appears that there will be one of two results: We will either fail to enact health care reform due to the partisan bickering, or we will pass a compromise that will not work, will detract from true reform, including stifling reform efforts at the State and local levels, and further diminish the public's confidence in the Federal Government.

Mr. President, we badly need—this Nation, our people and our future—a sustained success in health care reform. The well trod road of federalism is that path.

Mr. President, I ask unanimous consent to submit for the RECORD various materials referred to in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Domestic Affairs, Winter 1993–94]

TAKING FEDERALISM SERIOUSLY: THE CASE FOR STATE-LED HEALTH CARE REFORM

(By Jerry L. Mashaw)

It is a good time to take stock of the debate about health care reform. There are nearly as many divergent ideas about the desirable specifics of reform as there are analysts who believe that the system is broken and must be fixed. This much is clear: A country that spends more of its gross domestic product on health care than any other country in the world, yet still fails to provide reasonable assurance of coverage to a substantial, and increasing, proportion of its population, is not doing a good job. We do need reform. What should it be?[1]

The major proposed directions for reform are now reasonably familiar to those who have been following the debate. But as partisans of one reform strategy or another have battled for attention and adherents, some simple facts have often been obscured. The good news is that there is merit to most of the proposals that have been put forward. The bad news is that no one of them is without serious flaws or uncertainties. This combination of good and bad news provides a persuasive argument for national health care reform that leaves great scope for state flexibility in the design of health care systems.

That is the simple message of this article. But to unpack the argument a bit, we must first take a brief look at the pros and cons of the major proposals. We will then see why state planning makes sense and discuss how to avoid some of the potential pitfalls of what I will call a federalist approach.

ON THE ONE HAND, ON THE OTHER HAND

So much attention has been focused on the Clinton administration's deliberations and

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Footnotes at end of article.

reform strategy that we have virtually forgotten the multitude of plans that were being put forward in the last two years of the Bush administration and that are still supported, in various forms, by many important actors and interests. Roughly speaking, these plans can be grouped under four headings: (1) so-called play-or-pay proposals, (2) the Bush voucher plan, (3) single-payer or Canadian-style arrangements, and (4) managed competition.

Play or pay is an attempt to build directly on the current system of employer-based health insurance. Employers would either provide insurance for their employees or pay into a common pool that would in turn provide that insurance. In short, play or pay is an employer mandate system that would attempt to arrest the rapid unraveling of employer-based insurance that now leaves as many as 60 million Americans without insurance at some point each year. It is, indeed, the decline in the percentage of employed persons who have health insurance through their workplace—not unemployment or a decline in support for public programs—that has resulted in a smaller percentage of all Americans being covered now than in 1980.

Play or pay has the advantage of building on the current system, but its disadvantages are many. Mandates are often perverse forms of taxation with undesirable economic effects. Small employers, who can least afford hefty benefits packages and who are collectively the greatest source of job creation, often bear the largest burdens. Moreover, because benefits in a play-or-pay would remain tied to employment, the "portability problem"—the inability to change jobs without losing or impairing insurance coverage—could be solved only by further mandates or regulations. Finally, play or pay, in and of itself, would do nothing about the unemployed, who would have to be insured through a separate fund.

This last issue points to a substantial risk inherent in all play-or-pay schemes. There is a danger that highly paid workers, who are already well-insured and who tend to have lower health risks, would end up with generous packages of employer-based insurance, while lower-paid-workers, who generally have poorer health status and are more costly to insure, would be in a public system that over time would become increasingly costly. The response to that system's rising costs would likely be belt-tightening for the less affluent—that is, less and less adequate coverage for them.

This sort of two-tiered medicine is not what most people have in mind when they speak of universal health insurance. After all, we have a similar situation now, with a lower tier that is increasingly vulnerable to political demands for cutbacks in government spending. The more of us who are included in essentially the same system, the more likely that system will be to provide high-quality treatment and low levels of administrative hassle for everyone.

Play-or-pay proposals also tend to leave much of the administrative complexity and cost of the current health care system intact. Moreover, although it is not impossible to address the various drawbacks of these proposals, the solutions themselves would generate new complications.

Finally, there is no necessary link between play-or-pay reform and cost containment. Reduction in the inflation rate for medical care would have to be achieved through some other regulatory mechanism, which could prove very intrusive—and at precisely the point where most Americans would least like regulation: the point of service delivery.

Politically, play or pay was developed as a path of least resistance. It is an approach built around existing institutions and the anticipated political barriers to doing anything else. Such a strategy could be politically astute in the short run, but it would give us a Rube Goldberg design for health care reform—a design that in the long run could function very badly.

To compete with the play-or-pay plans proposed by Democratic leaders in Congress, the Bush administration developed a different and conceptually much simpler system. Universal coverage would be encouraged by a tax credit or voucher, the value of which would be inversely correlated with family income. Vouchers could be transferred to employers for participation in an employment-based insurance plan or used directly to purchase health coverage. The proposal may have been intended to be the entering wedge for a reform strategy based on an individual mandate, as described by Michael Graetz elsewhere in this issue. And as Graetz's article points out, there is much to be said for an individual mandate approach. Our current scheme of tax-deductibility for employer contributions to health insurance, combined with the exclusion of the value of those contributions from taxable individual income, is a remarkably regressive system of public support for health insurance.

The Bush voucher plan, however, had the defects of its virtues. First, although it would have increased the proportion of the population with health insurance, it did not propose to make coverage universal. Second, the credit-voucher approach would have left some Americans, whatever their expected health risks, with only the insurance that they could buy with their limited subsidies. Others would have remained free—and financially able—to purchase more and better coverage. The predictable result would have been an extreme form of two-tiering. Third, the plan's mechanisms for subvention—sliding-scale credits for the poor and tax deductions for the well-off—would have afforded little relief from the increasingly fantastic costs of insurance to members of the working lower-middle class.

Fourth, there was no obvious cost control mechanism in the Bush proposal, although caps on tax deductibility under employer-based plans could have been added later and cost control was being built into the benefits package through the unfortunate stratagem of cutting back on what most Americans view as adequate coverage. This means of cost control would be likely to exacerbate the extent of tiering as well as the administrative costs and "system gaming" that always accompany attempts to restrict the scope of coverage of any health insurance program. The result over time might well be little or no cost containment

Finally, because the Bush proposals relied on the current insurance system—with its marketing costs, duplications of coverage, and massive administrative bureaucracy—there was little hope that the credit-voucher approach, as proposed, would have significantly affected the absurd ratios of administrative to service-provision expenses in American health care. There may have been a managed competition sleeper in the Bush plan's "Health Insurance Networks" that would have lessened administrative costs, but the proposal did not emphasize this feature. And any savings from this portion of the plan might have been swamped by the costs of the new administrative complexities inherent in means-tested vouchers and deductions.

Meanwhile, a number of senators and congressmen were pushing a quite different alternative: single-payer or Canadian-style reform, a proposal that is far from dead either in the Congress or outside it. The single-payer approach is elegant in its simplicity. All Americans would be covered for all necessary medical expenses. The "government"—probably, in truth, state governments (just as provinces play this role in the Canadian system)—would be the "buyer" of all health care goods and services. Each year, a state would negotiate with providers for an overall budget limit on expenditures, along with a specific schedule of payments for particular procedures. If the budget were overrun in one year, the amounts paid for various procedures would be cut back in the next. The specific amounts to be paid for particular medical services would be hashed out primarily in the medical fraternity—that is, doctors and hospitals would, by negotiating with each other and the government, determine how much of the overall and limited health care pie each would consumer.

For consumers or patients, this system is almost too good to be true. Each patient would have a card entitling him or her to health care as needed—that is when that need was certified by a licensed professional. There would be no limits on choice of doctors or hospitals; doctors and hospitals would not be allowed to charge more than the prices previously negotiated with the government; and private insurance would be available only for those limited services not covered by the national scheme (e.g., cosmetic surgery).

As the Canadians like to put it, a system of this sort is universal (everyone is in the same boat), portable (not tied to either a particular job or place of residence), accountable (public authorities bargain for the populace concerning benefits and their costs), and fiscally prudent (monopsony bargaining by a single payer produces the power to constrain costs, and the necessity to provide other goods and services motivates the government to constrain its health care budget). Administrative complexities are kept to a minimum. Multiple insurance policies, balance billing, experience rating, and pre-clearance for access to tests or care ("managed care") are all unnecessary. While administrative costs are shaved and provider incomes are constrained, choices about how to practice medicine are guided only by professional judgments and patient choices.

For the United States, the difficulties with this system are primarily ideological and political. The first problem is the specter of "big government." In a single-payer system, virtually all of the health care dollars that now run through the private economy would run through the government budget. Experience in Canada and elsewhere should lead us to expect a decline over time in the now-relentless rate of increase in the share of our GDP devoted to health care costs. Nevertheless, the prospect of a one-time shift of vast resources—amounting to 8 to 10 percent of GDP—from private accounts to public accounts has led many to believe that a single-payer approach would be ideologically unacceptable to the American populace. (Opinion polls do not necessarily support this claim.)

A second major problem is that single-payer reform would decimate the private insurance industry. If we had to choose a part of the American health care system to decimate—the choices being providers, patients, or insurers—this would surely be my choice. Nevertheless, putting this industry out of business—except in niches or to the extent that it administers portions of a single-payer apparatus—is thought by many to be politically nonviable. A large number of jobs are at stake here, even if they are in some sense make-work, in that they involved carrying out administrative tasks that a single-payer system would render unnecessary.

There are also worries about queues, fed largely by anecdotes that seriously misrepresent the true picture in Canada and elsewhere. In addition, some have suggested that government finance would stifle the continuous march of technological progress in American medicine—a fear that seems to be groundless as well. Yet, taken together, these various concerns, however mistaken or exaggerated, may be sufficient to make the single-payer approach politically nonviable as a national solution.

At this point enter (stage center) "managed competition." While oxymoronic in its nomenclature, managed competition captured the imagination of the Clinton administration and apparently provides the backbone of its plan. The basic notion of managed competition is the formation of purchasing cooperatives that would provide insurance for the whole population and that, because there would be only one in each local market, would have the bargaining power to force down provider prices.

Universalism can be built into a managed competition proposal in any number of ways, ranging from allowing employers to buy coverage for their employees from the health insurance cooperatives (and setting up a governmental program for those who are unemployed) to establishing a voucher system reminiscent of the Bush plan. Managed competition strategies typically would preclude insurers from experience-rating populations (that is, charging premiums in relation to the relative risks of particular groups) or denying individuals coverage because of their preexisting conditions.

The advantages of managed competition are said to derive from its use of monopsony power (as in a single-payer scheme) to control costs and from its reliance on the competitive provision of services as a mechanism to protect the quality of care and patient choice. Thus, the ideological baggage of managed competition—unlike that carried by the single-payer approach—all seems positive: "market," "choice," and "competition."

However, the problems with managed competition are many. It would rely very heavily on reorganizing the practice of medicine into health maintenance organizations (HMOs) or preferred provider organizations (PPOs). Groups of physicians and hospitals would agree to treat populations of patients for fixed annual fees. In essence, the providers would become the insurers in this system—and would make money only to the extent that they became efficient in managing the care of their patient populations.

A logical corollary of this arrangement is that patients would have less choice about who provides them with medical care and physicians themselves would have less professional autonomy. The superficial ideological attractiveness of managed competition may vanish as both patients and physicians learn more about what managed competition really means. In addition, because managed competition has never been tried anywhere on a substantial scale, it would entail the acceptance of these losses of autonomy for patients and physicians in exchange for an unknown degree of cost containment.

These disadvantages may not be so dire as they sound when stated abstractly. There are many successful HMOs with satisfied customers. Moreover, few of us do much real choosing of our doctors anyway. We may select a general practitioner or internist (if we find one), but a huge proportion of acute care is now provided by specialists or sub-specialists to whom we are referred and about whom we know little. The use of large cooperative purchasers would cut down on administrative expenses and could be designed to assure virtually unlimited portability of benefits, although with some administrative stress.

There are many variations on these four themes and perhaps some approaches that are not captured very well by the typology that has been employed here. Moreover, systems can sometimes be fused. Play or pay and managed competition have much overlapping content and can be brought even closer together or made more distinct by technical design features that go beyond the scope of this discussion. For present purposes, the basic point would be clear enough: There are lots of proposals out there, and each has strengths and weaknesses.

WHY CHOOSE?

Although the discussion in the last section was couched mostly in policy-analytic terms, we should not be misled into believing that deciding how to reorganize American health care delivery and finance is just a matter of resolving technical issues. These choices are highly political. To put the matter slightly differently, because there are substantial uncertainties about how any proposed system would work and because each has different risks and benefits, choosing a plan involves ascertaining what risks people think are worth running for what potential gains. Moreover, there are basic moral and political questions about how egalitarian and comprehensive health care should be and about who should have the authority to make what sorts of choices regarding health care facing what incentives or constraints. Answers to these sorts of questions are the essence of political judgment.

It is precisely here that the basic structure of our federal system can play a crucial role in making health care reform viable, successful, and acceptable to all Americans. Political judgments concerning the desirability of the reform directions we have been discussing are products of personal experience, local economic and social conditions, and political ideology. These factors change substantially as one moves about the United States. If change is to be workable and acceptable, it must take account of the real differences between New York and Idaho, Wisconsin and Louisiana.

For example, because of their long experience and heavy involvement with HMOs, Californians may be perfectly happy with some version of managed competition. Vermonters, by contrast, may find the idea of an HMO appalling and the notion of competition among large health insurance cooperatives laughable given the small size and sparse population of their state. Maryland may prefer an all-payer rate-setting system for cost control, in no small part because it has had significant success over the last decade constraining hospital costs by using that approach. The governor of Kentucky has worked out a complex and comprehensive version of play or pay that might well suit Kentuckians and their particular circumstances.

And so it goes. There is unlikely to be any single best system for the whole of these United States. Regions, states, even localities are different in their demographic characteristics, political cultures, and existing styles of medical practice and health care consumption.

Why not then let states choose how to reform American health care? If it is uncertain how any new proposal would work out in practice, why run a single experiment, which might fail, on the whole country at once? Is it not precisely the genius of American federalism to permit not only experimentation to discover what works, but continuous variation in policy prescriptions over time to accommodate different conditions and different preferences?

My answer to these questions is yes. But I must recognize that there are serious and plausible objections to leaving much of health care planning to the states. In the next section, I will consider some of the major concerns about a federalist approach to reform.

ARGUMENTS AGAINST THE STATES

I do not propose here to consider every conceivable objection to a major role for the states in health care reform, but I do want to describe—and, frankly, dispel—some of the most important. My view is that the problems addressed here, though real, are not so serious that they should cause us to prefer a nationalist to a federalist approach to reform.

First, it is objected that "letting the states do it" would mean that health care would be different, and potentially less "good" (comprehensive, universal, effective, or whatever), in Mississippi and West Virginia than it is in Minnesota and New York. That is true. But it is also true of housing, schooling, access to transportation, and a host of other life-enhancing goods and services that many of us would prefer to see more evenly distributed across the national population. It is also, of course, dramatically true of our existing health care arrangements. We should not delude ourselves that the creation of a "national" plan would stamp out the large differences in the economic or other circumstances of populations across the United States.

Moreover, if, as many analysts persuasively argue, managed competition just would not work in Mississippi or Idaho or, indeed, in about half the states, putting that system in place could hardly produce a big change for the better. Similarly, if Minnesotans are ideologically opposed to means-tested vouchers while Arkansans shudder at the thought of their state government becoming the single payer that manages their health care, why choose a national system that has the potential to make these populations worse off than they currently are? Uniformity is in fact a pipedream, and, as the fictious Mr. Sherlock Holmes discovered, indulging in a large number of those dreams can be detrimental to your health.

What then about the capacities of the states, both administrative and political? Can we really trust the states to adopt and implement reforms that universalize coverage, make it portable for their populations, constrain costs, and maintain quality? We might readily ask those same questions about the national government. And we already know the answers with respect to the current system of private provision. It fails all sensible tests for a good health care system.

But we need not rely entirely on "as compared to what" arguments. For one thing, a federalist approach does not eschew national standards, as we shall shortly discuss. Of equal importance, a number of states have been actively engaged in health care reform efforts of their own, and many are having significant successes—against, as we shall see, very steep odds.

Hawaii is perhaps the best known example. That State has developed an extraordinary amalgam of play or pay, monopoly bargaining, voucher-type gap-filling, and single-payer regulatory control under which the whole population is covered. Quality of care and consumer satisfaction are both high, and health care costs Hawaiians, as a proportion of income, 5 percentage points less than it costs the average mainlander. There are many historical and geographical explanations for these happy circumstances in Hawaii, but none explain away a true success story in American health care provision. Moreover, the cost containment that has been achieved is startling in a state that has the second highest cost of living in the United States.

A quick trip back East will also reveal some excellent results in states such as Maryland and New York. For the past decade, both of those states have been engaged in fairly aggressive rate regulation and "supply-side" controls with respect to hospitals. Their efforts have paid off handsomely. Maryland's all-payer regulation of hospital rates is the most developed and most successful in the country, and New York's rate of growth in hospital spending is now among the lowest. Is New York well-known for low costs and good government? For that matter, is Maryland? And yet, these states, pressed hard by hospital cost escalation that increasingly showed up in their Medicaid budgets, took actions that have constrained costs without, as far as anyone can tell, impairing the quality of care provided their populations.

Many other states have initiatives at various stages of planning, enactment, and implementation (Minnesota, Delaware, Vermont, and Florida, for example). Others, such as New Jersey, have tried to strike out in new directions only to find that they are hemmed in by federal regulations related to Medicare and Medicaid—and particularly by the pre-emption, in the Employees Retirement Income Security Act (ERISA), of state actions affecting self-insuring employers. Indeed, Hawaii's signal success in universalizing care while constraining costs has much to do with its good fortune in having obtained a waiver from the ERISA preemption rule—a waiver that has not been made available to any other state in the Union.

By this point, another quite sensible query may have occurred to many readers: If the states are so good at health care provision or reform, why do we have a national health care crisis? The basic story is conceptually simple. Remember the various types of national health care reform plans that were discussed earlier. One common feature of all of these proposals is their comprehensive nature. To universalize care, make it portable, maintain quality, and constrain costs, you have to have a plan that addresses virtually all aspects of health care delivery and finance.

Under current law, this sort of comprehensive approach is unavailable to the states. Forty cents of every dollar expended on health care is spent by the federal government under rules and regulations that are not subject to state control. To be sure, some states have been able to get waivers of certain Medicaid regulations, and Maryland has managed to get, and utilize effectively, a Medicare waiver as well. But their inability to control large chunks of health care finance is only the beginning of the states' current difficulties. If it is impossible to fold self-insured employers into the system because of ERISA, as it is everywhere except in Hawaii, then states cannot build comprehensive systems. To oversimplify, but not by much, the ERISA preemption means that the people who have the lowest health risks and the highest abilities to pay will be outside of the state systems.

Equally important, a huge proportion of the federal contribution to the expense of American health care comes through the tax code. The tax deductibility of employer expenses for employee health care means that some $65 billion is dumped into the health care system annually in a form that can be maintained only if insurance or self-insurance remains employment-based. This eliminates, for all practical purposes, the potential for states to cut health care insurance loose from its historic, and accidental,[2] moorings in the workplace.

In short, the problem is not just that federal policies have failed to facilitate state solutions to problems of health care delivery and finance; it is that these policies continue to thwart state efforts at almost every turn. Nor, to be frank, has the federal government been responsible about throwing these monkey wrenches into state efforts. The ERISA barrier, which is probably the most serious, was created by a statute that preempts all state regulation while failing to provide any national regulation in its stead. Hence, while states can prevent private insurers from excluding people because of preexisting conditions and can require insurers to community rate, as the states historically have done with the Blues, ERISA prevents them from taking the same steps with respect to self-insured employers. The result has been a flight to self-insurance to avoid regulation—and then the increasingly frequent and distressing discovery by employees that their employer's health insurance can be counted on to provide good coverage only if they remain well.

I do not want to oversell this tale of state responsibility in the face of federal obstructionism. States are not responsible, or even competent, all of the time. And if large amounts of federal monies are going to be put into a national health care system, then it is surely also irresponsible for the national government to allow those monies to be spent with no federal controls or oversight.

I have no quarrel with this position, but it does not entail the conclusion that we must therefore have a national health care system that is uniform across all states and administered primarily from Washington. On the contrary, it should lead only to the conclusion that the federal government should set broad goals or parameters within which state systems are required to operate and then free the states to create those systems that work best for their populations within the constraints of the federal guidelines.

This is hardly a novel institutional structure. We use it in many realms of national domestic policy, ranging from highway construction to environmental protection to day-care. In my view, we would be well-advised to use it again in health care reform. If the federal government would continue its fiscal contribution to American health care—both direct expenditures and tax expenditures—but make maintenance of that contribution conditional upon some straightforward guidelines for state organization of health care provision and finance, we might have the best of both possible worlds: a system that satisfies national aspirations and is responsible with national monies, while it simultaneously responds to the differing conditions, cultures, and preferences of states and their populations.

In principle, these guidelines could be quite simple. A state should not receive the necessary waivers from federal statutes or the maintenance of federal fiscal contributions unless it provides or constructs a universal system that covers all reasonably necessary medical procedures. Benefits in that system should be portable both within and without the state, and there should be a public authority that can be called to account for the operation and quality of the system. The federal government's means for financing its contribution to the system should ensure that if a state's (appropriately adjusted) health care costs per capita, or its health care cost inflation rates, exceed national targets, those excess costs are to be paid 100 percent with state and private, not federal, dollars.

TROUBLE IN CAMELOT?

As does any reform plan, the federalist solution raises its own set of worrisome issues: What would be the effects of multiple and varied rules on national employers? How would the federal government enforce the conditions it sets? How would a federalist approach deal with the reality that states differ in their capacities to achieve universality and cost containment given the current differences among their health care systems on both counts and, more generally, the differences among their economic, social, and institutional situations?

As to the first question, national employers already cope with enormously diverse health care needs and systems across the country. All health care arrangements are intensely local. The claimed need for uniformity is a smoke screen for the real objectives of the big businesses who cite it: either the maintenance of the current system, which gives them some advantages over small businesses (e.g., no regulation of their health care benefits and the potential ability to avoid contribution to the cost of the uninsured) or the construction of a new set of mandates that will disadvantage their smaller competitors even further. The objection to a lack of uniformity should be ignored.

Enforcement, by contrast, is always a problem in state-federal cooperative arrangements, but the size of the problem should not be overstated. Over time, progress generally is made through threats, negotiation, and occasional sanctions. Moreover, a federal statute can easily be structured so that consumers and providers have private rights enforceable in court. The double-whammy of federal bureaucratic pressure and private litigation has a long history of enforcement success in program after program of "cooperative federalism"—though not unalloyed success, of course. Compliance is never perfect with any legal requirement in any legal system.

Differences in state capacities would have to be recognized and taken into account in federalist strategy. Most state-federal systems begin with the submission and approval of plans, move on to implementation and monitoring, and continue over time with endless rounds of negotiations, sanctions as needed, and legislative amendments. Any such system—and health care would surely be no exception—establishes a process, not a completed product. And in that process, states will perform better, worse, or just differently. No sensible federal administrator could expect otherwise.

Doubters and skeptics among the readers of the last three paragraphs may view them as overly optimistic, perhaps even glib. And even the more sympathetic may now be thinking the equivalent of "easy to say, but tough to implement." My response for now is only this: So is everything. All reform is essentially trial and error—or more cheerfully, trial and accidental success. Social engineering is an art, not a science, and mistakes can be very costly.

To take a pessimistic view, if in reforming American health care we are currently about the business of engineering a train wreck, it would be nice not to have the whole country on the train. From a more optimistic perspective, in establishing and operating this grand new experiment, it would be helpful to be able to learn over the years from the experiences of those states where the switches work better and the trains run closer to their scheduled times.

FOOTNOTES

[1] The conclusion that the system is broken seems to generate little disagreement, although I must confess that I believe we can take the bashing of the health care system too far. An industry that grows at twice the rate of the gross domestic product, creates a huge number of high-paying, high-skilled jobs, provides the United States with technological leadership in a major economic sector, and is virtually immune from foreign competition should hardly be treated as public enemy number one.

[2] Somewhat ironically, the origin of employment-based health insurance is attributable in substantial part to employers' desires to avoid wartime wage controls.

NATIONAL HEALTH REFORM: WHERE DO WE GO FROM HERE?

(By Theodore Marmor, Jerry Mashaw, and Jon Oberlander)

I. THE PROBLEM

The debate over health care reform has reached a critical juncture. There is significant opposition in Congress to the administration's plan without consensus on an alternative. There is widespread agreement that health reform is needed but disagreement on the precise shape reform should take. Given these political circumstances, and the associated risk of deadlock, what should supporters of health reform do? How can national health reform be enacted when no majority exists for any single reform plan?

The challenge for reformers is to pursue a strategy that reflects the political consensus on the goals of health reform as well as the lack of consensus on solutions. With no clear majority for any proposal, health reform proponents are divided into factions favoring managed competition, single-payer, expanded Medicare and various hybrids of these approaches. These divisions, however, should not obscure the larger consensus among reformers on fundamental principles: universal coverage, cost containment, and radical reform of private health insurance practices.

A majority for health reform can be formed if supporters of the various reform options are aggregated around their common commitment to these principles. In other words, if a legislative proposal can be developed that brings together all those serious about health reform—be they single-payer, managed competition or whatever—a sufficient majority will be created that can overcome the resistance of health reform opponents. The trick, then, is to pursue legislation that builds on the reformers' consensus on goals while recognizing their differences on how to achieve those goals.

II. THE SOLUTION

One possible solution to the problem of forming a legislative majority amongst reformers whose health policy preferences diverge is to enact legislation requiring universal coverage, cost containment, and insurance practice reform but allowing for multiple strategies for meeting these standards.

Specifically, Congress could pass legislation mandating that the states enact universal coverage, insurance reform and cost control by a specified date but leaving the states a choice about which administrative and health delivery changes they wish to implement. To a limited extent the Clinton plan, with its single-payer option, already recognizes the advantages of state flexibility. We propose, however, to expand on the concept of state-led health reform by enlarging the scope of state discretion and making it a political cornerstone of national health reform.

How would a proposal for state-led health reform work? Congress would enact legislation mandating state compliance with federally-established national health reform standards. By a specified date, states would be required to enact universal health insurance meeting the following standards.

Universality. All citizens must be guaranteed health insurance coverage. Insurance coverage may not be denied for preexisting medical conditions. Community rating is mandated. Insurers may not sever coverage.

Comprehensiveness. Health insurance coverage must include all necessary medical services. Congress should specify a minimum benefit package which leaves states the option of adding coverage for additional services (e.g., dental care).

Portability.

Accountability. States must designate an administrative agency responsible for overseeing their health care system.

Fiscal viability. States must establish a reasonable plan for cost containment. States exceeding national targets for medical inflation will themselves be financially responsible for excess expenditures.

States would submit their proposed plans to a National Health Commission for approval. It should be noted that Congress must enact accompanying legislation (such as reform of the ERISA provisions of self-insuring companies) that allows states sufficient legal discretion to pursue health reform. States should be allowed, with federal approval, to fold Medicare and Medicaid into their health systems.

Federal funding would be available to states meeting the national health reform standards. Funding could be in the form of a block grant varying with state income, demographics, and health cost history. Federal monies would constitute only a portion of the financing base. States could choose how to finance their portion of the health budget.

While the standards for national health reform would be national, states would retain autonomy in choosing how to meet these standards. States could implement a system resembling the Clinton administration's plan. They could also pursue managed competition without mandatory alliances or single payer or all-payer regulation or a combination of these proposals. As long as they satisfied national health reform standards, states would be free to create the health system of their choice.

III. DISCUSSION

What are the political advantages of a state-led or federalist health reform? By mandating principles of reform without imposing a single reform strategy, federalist reform addresses the puzzle of how to take advantage of the majority for health reform when that majority cannot agree on the precise shape of reform. The widespread support for universal coverage, cost containment and insurance reform is embodied in the national health standards. The diversity of opinions on how to achieve these goals is recognized by giving the states flexibility in meeting the standards. Single-payer and managed competition advocates will both find room in state-led health reform to realize their favored system and therefore ought to come together within the same coalition.

The federalist strategy will put opponents of reform on the spot. Legislators whose opposition to reform has been cloaked in objections to specific plans or elements of plans will have to come clean. They will no longer be able to object to national health reform on the basis of dissatisfaction with a particular reform plan; federalist legislation will not impose any one plan on the states. The political dynamics of health reform would be altered. The debate would no longer center, for example, on the desirability of mandatory health alliances. Instead lawmakers will be faced with a straightforward question: "Do you support the goals of national health reform; universal coverage, cost control and insurance market reform?" It will be more difficult to oppose national health reform standards than it is currently to oppose specific plans. The health debate will move to a terrain which is more comprehensible to the public—and where public support for reform will be a stronger political force. And that is crucial.

States vary widely in wealth, demographics, political culture, and medical arrangements. Given this diversity, it is preferable to give states flexibility in setting up health systems appropriate to their respective situations. Managed competition, for instance, is not obviously feasible in states with geographically dispersed low populations; there is insufficient population density to sustain a system of competing health plans. On the other hand, states such as California with substantial HMO experience will be more comfortable with such arrangements. The political perspective on health care is not the same in Vermont as it is in Utah.

Moreover, many states have a significant track record in health reform. State health reform contains many examples of selective success such as Hawaii's universal coverage system and New York's hospital rate regulation. Even as the federal government considers national reform, states such as Florida, Minnesota and Vermont are pushing ahead with their own health reform plans. Most states would likely welcome the opportunity to pursue their own health reform strategies. Given states' socioeconomic and political diversity, their experience with health reform, and their preferences for maintaining their own health systems, does it not make sense to enact national health reform that gives the states the freedom to choose what kind of health administration they want?

The Clinton Health Plan has received criticism for limiting choice. This criticism is largely misplaced. Nevertheless, reforms must confront the problem of reform's association with restrictions on choice in medical care. By leaving the states free to choose their own administrative structure, the criticism the administration's plan has encountered will be ideologically neutralized; health reformers can seize the symbolism of choice. Health reform built on federalism will resonate with the public as a flexible, pragmatic solution to the nation's medical crisis.

As the proliferation of reform proposals in Congress demonstrates, there is more than one route to universal coverage and cost containment. There is a great deal of uncertainty about how these plans would operate in practice. Managed competition has never been tried anywhere on a systemwide level and no state currently employs a single payer model. Given this uncertainty, it makes sense to take advantage of the opportunity federalism gives us by allowing for experimentation with various reform ideas. State-led reform will allow us over time to observe the effectiveness of various options for reform.

IV. CONCLUSION

The fundamental assumption behind the federalist strategy is that there is an existing but divided majority for health reform in Congress. We propose to mobilize this majority by providing a formula for health reform that reflects both reformers' consensus on the goals of national health reform and their disagreement on how to achieve those goals.

Many Legislators who do not agree on the direction of reform do agree on the necessity of reform. By pursuing legislation that simultaneously sets national health reform standards while guaranteeing state flexibility in implementation, a legislative majority committed to health reform but not to any one health reform can, we believe, be coalesced. The federalist strategy offers hope for enacting national health reform legislation in 1994.

FEDERALISM: MAKING IT WORK IN HEALTH CARE REFORM

(By Theodore Marmor and Jerry Mashaw)

I. INTRODUCTION

Our earlier March memorandum—National Health Reform: Where do we go from here?—argued that a federalist form of health reform made substantive and political sense in the current Congressional context. By federalist reform we meant a combination of a limited number of fundamental national standards for universal health insurance and substantial state discretion for choices beyond those architecture fundamentals. The national standards we noted included universality of overage, comprehensiveness of benefits, portability of insurance coverage, public accountability, and reasonable constraints on rising medical costs. Under this form of "strong federalism," the rest of the medical care domain is left for the states: whether or not to change the regulation of medical practice (who can do what with what licenses), whether to encourage changes in the organization and delivery of services (HMOs, PPO's, integrated health systems), how to implement cost controls that limit the rate of increase in medical expenditures (single budgets, all-payer systems, competitive health plans), and so on.

What follows here is an elaboration of what these board claims might mean in practice. We first address the question of what should not vary among the states—what should be uniform in health care reform. We discuss the case for substantial state discretion under the rubric of a simple question: Should one care if states vary in how they deal with this or that feature of a universal health insurance system?

II. PERSISTENT QUESTIONS: FEDERALIST ANSWERS

A. Should states be permitted to vary in who is entitled to health insurance coverage? Put another way, what does universal coverage mean operationally and what, if any, variation is permissible?

The answer, in our view, is simple. Citizens and resident aliens are the proper beneficiaries of guaranteed health insurance and no good case exists for permitting variation in this national standard. There are, however, grounds for treating the health costs of illegal aliens—and the burdens they impose on localities—as a serious, separate issue in spreading the costs of health services.

Universal coverage is a precondition of the economic security expected from reform. We cannot reach that goal without requiring that the great bulk of our citizens and legal residents have health insurance. Adjustments to the realities of illegal entry into the United States is certainly an important feature of national burden-sharing, but not one that should be built into the basic statutory entitlement. After all, the psychological security we hope to produce is for those legitimately within our borders. Dealing with the consequences of having others within our borders is crucial for states like Florida, Texas, California, and new York, but it is part of fiscal federalism, not entitlement to health insurance.

B. What does federalism mean for portability of coverage? If states are the basic administrative units for universal health insurance, the obvious question is of portability. The equally obvious solution is the national requirement that states recognize the terms of other state's health insurance programs. There are many practical issues involved here, but they are second-order ones; Canadian provinces have a half century of experience in doing precisely this in medical care. Conflict, it must be noted, is inevitable with portability requirements. States with different remuneration policies will necessarily have differences with providers of care in other states. Cross-state agreements will be required, but national legislation must require portability, not the details of its implementation.

C. How uniform should health insurance benefits be across states? Put another way, should one care if Minnesota residents have a health insurance plan that differs in its covered services from that of South Dakota? This is far more complicated a question than is usually recognized.

Having a system of universal health care that varies from state to state, but includes a federal financial contribution, raises three quite separable issues: First, there is the problem of raids on the federal treasury by sates that create "luxury" health insurance systems. Second, there is the problem that with different resources, states contributing the same level of fiscal effort cannot create the same comprehensiveness of coverage. Third, there is concern that some states will choose to have "inadequate" health insurance coverage.

The first and second issues are quite easily solved as part of the federal formula for transfers to the states. As in many systems of "cooperative federalism," the national formula should take account of the risk factors, population and financial resources available to states in calibrating the federal government's contribution. Though no calibration can be perfect, it is clearly possible to eliminate major disparities in state capacity by the ways in which federal financial contributions are structured.

Similarly, the federal financial contribution should be in the form of a block grant or capitated amount. States cannot make raids on the federal treasury by choosing luxurious health insurance benefits, if the total amount of the federal contribution for each year is fixed. Spending above that level will have to be done out of funds generated through state policies and the state political processes.

The problem of "inadequate" state systems is in many ways a non-problem. If we assume that the federal government is making contributions that substantially equalize state fiscal capacities, then claiming that a state has chosen an inadequate package of health care benefits says little more than that the speaker disagrees with the state's political choice. There is no agreed-upon "best" health insurance or care system a state could offer. Moreover, both needs and medical preferences vary widely across the United States. The question is why a national system should override a state's perceptions of its needs or, similarly, a state's expression of political preference about the shape of a health insurance package?

Virtually none of the arguments that usually justify national uniformity apply to health care. Certain forms of basic immunization may be required to prevent the spread of disease, but these "externalities" are a modest part of health reform. Moreover, preventive measures may be instituted quite separately from whatever insurance package is provided in particular localities.

There is little reason to expect a "race to the bottom" in health care provision. So long as health insurance is being made universal, the politics of health care in states will not resemble the politics of welfare or Medicaid. Universality can be reinforced by federal conditions that require state subsidy or supplementation for low-income persons—measures ensuring that everyone has access to insurance that is equally affordable to them.

Any argument that it is simply unfair to have state-by-state variations in health insurance benefits seems confused. To put the matter more charitably, it seems to assume some baseline of adequacy for health insurance coverage that is established apart from any process of collective decisionmaking about what adequacy means. In short, it is a criticism of a state's political process rather than a criticism of a state's health insurance program.

Alternatively, such an "unfairness" claim may be that strict equality of health care or (health care insurance) is an aspect of national citizenship. This is, to say the least, a controversial claim. There is a moral case for egalitarianism here, but it is not a necessary feature of acceptable reform. That a particular state wants to spend less on health insurance and more on other things expresses a political judgment with which one may disagree, but it is hard to see how it violates some transcendental right to a specific level of health insurance coverage equal to some other state whose system we happen to prefer.

Finally, there is very little reason to believe that some variation in health benefits from state to state will have major impacts on location decisions either of individuals or of firms. There is a huge literature attempting to discover that one or another social program has some major impact on migration or location. To date, no single factor has any significant explanatory power. There is no reason to believe that health insurance will be any different from other state programs for highways, education or welfare benefits.

In short, a strong form of federalist system would leave very wide discretion among the states to determine the "basic" or "comprehensive" benefits package for themselves.

A separate argument has to do with the terms of competition in states that want to implement the Clinton plan's scheme of managed competition. Some fear that in the absence of a uniform national benefit package, competition would drive plans to vary their benefits to attract enrollees rather than concentrate competition on the cost and quality of the services provided. The truth is that regulating the terms of competition will be difficult in any event. The implementation of risk-adjusted premiums is a far more difficult task than American reformers realize, as known by anyone familiar with the five years of frustration in the Netherlands over trying to do just that. There is less reason to insist on uniformity of benefits (beyond a basic package) and more reason to worry about the implementation of risk-adjustment, we believe.

Moreover, part of the concern here is the predictable struggle of various service providers to have their work included in state benefit packages. Some believe that a uniform benefit package will insulate states from this struggle. We doubt that, but we believe the National Health Board should oversee the activity by sorting out such issues as what is worth including for reimbursement purposes in the national plan and what is not, who should be regarded as medical providers under the national plan and who should not be, and so on. Regardless, this should not lessen the role states now have in regulating the terms of insurance coverage and medical practice.

D. State accountability. The only national standard should be one requiring each state to have a designated agency of accountability. Citizens should know whom to address with complaints, but the authorities need not be uniform across the states. We know from the Canadian experience with health insurance federalism that a largely uniform package or benefits and eligibility is compatible with substantial variation in precisely who is accountable for the provincial administration of universal coverage.

E. Cost Controls. The central question here is whether national reform—with the goal of reducing America's rate of inflation in medical care—requires uniform rates of growth in medical expenditures. We think not, but emphasize that the design questions here are tricky.

One method is to control the rate of increase in federal contributions to state operations. Where this has been done, the relevant lesson is that subnational units must face the full financial consequences of the decisions they make. In short, you can legitimately control the funds flowing to states as part of national policy, but must structure the rules such that states face the political and economic consequences of either expansionary or contractionary policies. What is wrong is to have one unit of government pay and another administer.

On the other hand, if employer-employee contributions are to fund the bulk of medical care expenditures, the fiscal arrangements are a bit more complicated than when ordinary income or payroll taxes are involved. The architecture here requires attention; the models are numerous and each brings with it special difficulties. For now, we would urge concentration first on what would count as the desired performance an second on what levers of reward and penalty the national government can impose. Draconian measures are only apparently attractive; they are largely useless in practice. Modest signals are attractive to states, but are not responsible responses to the national goal of constraining expenditures over time.

CONCLUSION

The case we have made is for a strong version of federalism. How one proceeds depends on whether one begins with a strong federalist model and treats a variety of stat plans as options or whether one presumes the Clinton plan is the preferred model and structures "options" to it. This is the issue we take up now.

STATE FLEXIBILITY UNDER THE PROPOSED PROVISIONS OF THE CLINTON HEALTH SECURITY ACT

I. INTRODUCTION

The proposed Health Security Act offers states the option of adopting a single-payer system (or an alliance-specific single-payer system) if it meets the various conditions of the Act. There is a catch, though. Those conditions narrowly constrain most of the areas in which a state might wish to exercise programmatic discretion.

For instance, the state must provide the comprehensive benefits specified in the Act. While a state may reduce co-payments, it may not compensate for those reductions by increasing co-payments for other goods or services. The state's overall expenditures are limited to a sum that will not exceed an amount determined (by §6003 of the Act) on the assumption that the state is simply a single regional alliance for that particular year. As defined in the Health Security Act, the state must cover everyone who is alliance-eligible and must function like an alliance itself—offering, for instance, reductions in cost-sharing for low-income individuals, data collection quality and anti-discrimination requirements.

Moreover, states are locked into employer-based financing as a principal source of revenue. They are required to raise at least as much from employers as those employers would have been required to pay in premiums for their alliance-eligible employees. Presumably, states have some discretion over how they would phase in their single-payer system during the transition period, but that period is quite short. All states must be participants by 1998; is not, the federal government takes over and administers the Health Security Act's version of managed competition for the state in question. The question, then, is: What amount of flexibility do states have under the Clinton plan?

II. AREAS IN WHICH TO MANEUVER

The major "wiggle room" provided by the single-payer alternative comes in two areas: The extent of delivery system reform and the state's choice of administrative and regulatory arrangements. Even here, however, the state discretion allowed is rather modest. Only a single-payer arrangement is permitted—or the Clinton plan plus one "alliance specific single-payer" arrangement. To be sure, this leaves the state some considerable discretion in how it approaches cost-control (capitated payments, prospective payments or whatever) and quality assurance activities Nevertheless, it excludes systems that would use multiple, but perhaps highly regulated, payers, as in the current New York or Maryland hospital payment systems. It also excludes other major alternatives such as a system of individual mandates and subsidies combined with small market insurance reforms.

Moreover, while the single-payer approach does not commit a state to the Clinton Administration's health plan delivery system, the statute's highly specific coverage provisions give states little freedom to experiment with major shifts of health care resources (perhaps toward preventive care and palliative care)—at least if they plan to finance those shifts by downplaying some other parts of the comprehensive benefits package. In short, while the single-payer arrangement allows states to leave the traditional fee-for-service medical system largely in place, the combination of cost-control constraints and benefits entitlements probably leave them a modest practical opportunity for profoundly rethinking the role and shape of medical care in population health.

III. IDEAS FOR BROADENING THE CHOICES

It may well be that the level of uniformity and federal control central to the Act's single-payer opt-out provisions are politically necessary to its acceptability. If one takes that as a political given, then the question becomes whether additional and parallel "opt-out" arrangements could be provided to broaden the menu of state discretion and thereby overcome some of the objections to the Clinton plan itself.

Broadly speaking, there seem to be two alternative systems of universal comprehensive care, in addition to the single-payer option, that might be provided as corollaries to the Clinton Health Security Act. The first system could be called "multiple regulated payers." In such a system the state would function, not as a single payer, but as a regulator. It could cover all applicants, provide an identical comprehensive basic package of insurance, ensure that all payers play by the same rules, and simplify administration through unified billing procedures, specified fee schedules and other cost-containment measures. This, as we have said, is the way that Maryland and New York currently handle hospital payments and the Federal Republic of Germany handles its whole national insurance program.

To some, the advantage of the multiple regulated payer scheme will surely be the preservation of much of the existing insurance industry, although in a highly-regulated form and one in which most small players eventually will have to merge or drop out of the business. Like the single-payer system, it preserves the existing delivery system more or less intact. The multiple regulated payer system also builds on our several decades of experience with price setting for the medical care industry under Medicare, Medicaid, and several state systems.

Such a scheme could seemingly be made an option in very much the same way as the single-payer system in the current Health Security Act. Obviously some changes would have to be made. For example, the enrollment and issuance of health security card obligations would have to be put on insurers or self-insuring employers rather than on the state as a single-payer. There would be no need to permit states to fold self-insuring employers or Medicare recipients into a multiple-payer system other than to provide the states with the power to regulate these payers as they regulate others. (For Medicare this would of course require the usual waiver, such as the one under which Maryland currently operates for hospital care.) And, because the state would not be the insurer, there should be no exemption from the Health Security Act's requirement that states provide a plan for financial solvency of the regulated payers.

The other major alternative is an individual mandate system with subsidies. It is trickier to design as a state option. If done at the national level, the individual mandate operates by translating the employer tax deductibility of employee health care benefits into personal, refundable income tax credits for the purchase of the defined basic benefits health insurance package. In so doing, it maintains the federal fiscal effort that is now concentrated in the tax code in the form of employer deductibility of health care expenses for their employers. It also translates that federal fiscal effort into a fully portable benefit for individuals. Because states do not have control over the Internal Revenue Code, this feat of fiscal alchemy is more difficult to accomplish on a state-by-state basis. Nevertheless, the situation does not seem hopeless. The question is whether it is worthwhile.

For example, it might be possible to allow states to elect an individual mandate approach if they permitted the individual mandate to be satisfied by an employer's purchase of insurance (or employer self-insurance) that delivered the comprehensive benefits package. Employers who use this device would of course receive the usual tax deductibility, capped at an appropriate level. For those who were not covered by their employers, there could be an individual tax credit, funded by a special tax on employers not providing health care benefits. The tax would be equal to the amount that they would otherwise have paid into an alliance for their alliance-eligible employees under an employer mandate system.

It is hard to believe, though, that this approach would be very attractive as a state option. As described, it begins to look very much like the old "pay or play" system. It is, in substance, an employer mandate disguised as an individual mandate. And, if employer mandates are the objectionable feature of the Clinton plan, this state option hardly removes that feature. In short, if one wants to move to comprehensive insurance coverage via an individual mandate and tax credits, this is probably better done as a national plan, rather than as a state option.

IV. CONCLUSION

In summary, then, the existing opt-out provisions of the Health Security Act provide some room for states to experiment or avoid features of the Clinton proposal that some find objectionable. This option could readily be expanded to include schemes employing multiple regulated payers as well as single payers. Its usefulness does not extend, however, to states that wish to diverge more radically from the Clinton or single-payer approaches.

[From the New York Times, June 12, 1994]

50 LABS FOR REFORM

(By Jerry L. Mashaw and Theodore R. Marmor)

NEW HAVEN.—The debate over health care reform has reached a critical juncture. There is significant opposition in Congress to the Clinton plan without anything like consensus on an alternative.

How can a workable version of national reform be enacted when there's no majority for any single plan? The challenge for reformers is to find a strategy that reflects the political agreement on the goals of health reform as well as the disagreements on solutions.

The reformers are split into factions favoring managed competition, a single-payer system, expansion of Medicare and various hybrids of these approaches. But these divisions should not obscure the broad agreement among reformers on fundamental principles: universal coverage, reliable cost containment and radical reform of health insurance practices.

If a legislative proposal can be developed that brings together all those serious about health reform—no matter what option they favor—a majority can be created to overcome the resistance of reform's opponents. The trick, then, is to pursue legislation that builds on the reformers' common goals while recognizing their differences on how to achieve them administratively. One solution is the federalist option.

After all, the states have already achieved more on reform than Congress has. There is no reason to stop their progress, and every reason to encourage it. The federalist approach would set national standards for health insurance—that it be universal and portable (not based on residence or employment), cover all medical necessities and have effective cost-containment methods plus clear accountability for the quality of the overall system.

Having done that, the Government could promise to continue its current financial contributions to health care so long as the states met its conditions for acceptable plans. That would free states to experiment with any of the options the Administration has outlined—or any others, either existing or under development around the country.

In short, Mr. Clinton and Congress could acknowledge that medical organization and practices vary substantially in different geographical areas, as do demographics and political beliefs. They could develop a plan that motivated state experimentation, rather than mandating a single system for the entire country.

Mr. Clinton could insist that national legislation—Medicare, Medicaid, the Employee Retirement Income Securities Act and the Internal Revenue Code—not get in the way of state innovation, but nonetheless impose sanctions on states that did not conform to broad national standards.

This approach recognizes that the nation does not yet know what works or will work everywhere. It would help the nation learn from successes and failures while avoiding the possible total failure of a plan imposed from Washington.

If Congress adopts an unproven and untested version of the Clinton plan and it turns out to be the health care equivalent of a train wreck, it would be sensible not to have the whole country on the same train at the same time.

[From the Los Angeles Times, July 7, 1994]

GIVE THE STATES A CRACK AT DEVISING REFORM

(By Theodore R. Marmor and Jerry L. Mashaw)

We have reached a point in the congressional struggle over health-care reform where there is enough opposition to defeat the Clinton Administration's plan but nothing like a firm majority for an alternative. With proposals emerging from the House Ways and Means Committee, Senate Finance Committee and three other committees, the press reports are confusing, the policy issues are unintelligible to most Americans and the chances of deadlock are considerable.

Can a workable version of national reform be enacted when no majority exists for any single plan? The answer is yes, but you'd never know it from the compromise proposals now making the rounds. The real challenge for reformers is to find a strategy that reflects whatever agreement there is on the goals of health reform and accommodates the disagreements on means. Instead, in the search for a plan that can pass, the compromisers focus on what seems doable politically rather than what is substantively desirable.

Three of these political compromises—which look appealing on the surface but are badly thought through—current crowd the agenda:

Amending the definition of "universal coverage." Debates on this issue mask a substantive disagreement about how great a role public compulsion, of either individuals or businesses, should play in ensuring coverage. A group in the Senate Finance Committee including John Chafee (R-R.I.) and John Breaux (D-La.) suggests giving up President Clinton's nearly 100 percent goal and substituting a 95 percent coverage "target" by the year 2002. This approach is misguided because it fails to confront either the large-scale insecurity or the cost escalation problems that have driven reform. Who will the 5 percent left uncovered turn out to be? You? Me? The chronically ill? The usually well? Only if we know whether reform was likely to achieve its major goals. The methods proposed to increase coverage if it falls below the target percentage may also be misaimed—either ineffective (another study of the problem) or pointed in the wrong direction (employer mandates, which would fizzle if the uninsured were not workers).

A continuing aversion to straight talk about paying for reform. This was evident in President Clinton's original proposal that employers pay for the health insurance of their employees, reinforcing the delusion that because employers write checks for health insurance, they bear the costs. Then and now, it is we citizens who bear the costs, whether it's through direct taxes, increased prices or forgone wages and employment. The only relevant questions—then or now—concern the fairness and sustainability of the distribution of the costs. We will keep paying a steep price in confusion and discord until this crucial matter is understood. Those who want to avoid all mandates—individual or employer—have given us a scheme that is truly illusory: Tax 40 percent of the most expensive health-insurance plans to provide subsidies for low- and moderate-income Americans. But people in expensive plans may be there because they are ill, not because they are rich. And the game-playing that will go on by people trying to stay below the 60th percentile ought to reemploy any insurance company personnel laid off by other reforms.

Forgetting about the cost-control problems that prompted the reform movement in the first place. The continuing escalation of health costs, which still threatens the affordability of health insurance, has dropped out of the vocabulary of compromise. Words like moderate or centrist typically appear in descriptions of senators like Breaux, Chafee, David Durenberger (R-Minn.), Kent Conrad (D-N.D.), David Boren (D-Okla.) and others, but they don't fit the reforms sponsored by them, because they contain no serious approaches to cost control. Just as it does not make sense to cross a chasm in two steps rather than a leap, it is impossible to have workable health reform without slowing the rate of expenditure increases.

Is there a compromise that builds on agreed goals but permits enough variation of means to assemble a majority for reform? One possibility is state-led reform (in this, California is a leader, with its modified single-payer health-reform initiative on the November ballot). Congress could pass legislation that provided federal assistance to states that enacted universal coverage, insurance law reform and reasonable controls on costs. This would leave states free to choose which administrative and health-delivery changes they wanted to implement. By mandating basic reform principles without imposing their administration, state-led reform builds on the reformers' consensus about goals while allowing for wide differences in the means of achieving them.

States already have a significant track record in health reform, including Hawaii's near-universal coverage and employer mandates. Given the diversity of states, their varied experience with health care and intense local preferences, why enact a single brand of national health reform, especially if it's the poorly considered compromise that we seem to be headed toward?

By moving compromise in the direction of preserving goals rather than defining means, we can allow states the further thought and experimentation that are needed for effective implementation.

HOW WOULD LEGISLATORS DO IT?

(By Carl Tubbesing)

What, if state legislators were constructing it, would a final health care reform plan contain?

Flexibility.

Delaware Senator John Still summarizes the notion of flexibility this way: "There's a perception that states have flexibility in the proposal, but they really don't. The final plan should allow for diversity and accommodate differences among states. Achieving flexibility and protecting against unfunded mandates should be the two primary goals for states as the proposal moves through Congress. The plan should be changed to accommodate state reforms already in place."

Arizona Senate Minority Leader Cindy Resnick emphasizes the need for experimentation at the state level. "Why are there just two choices—managed competition and single-payer? Why not five or six? Would all states be comfortable with the managed competition approach? Arizona is a managed care state. But others have little experience with it and may like it a lot less. States have been aggressive about reform. The federal government needs to encourage experimentation," says Resnick, citing recent efforts in Florida, Washington, Hawaii, Minnesota and others.

Ohio Senator Grace Drake says simply, "I think we should let the states come up with their own solutions. You can't regulate all the states the same way. I met with Speaker Douglas Chamberlain, who's developing his own plan for Wyoming. I asked him, 'How many people live in your state?' He said, '470,000.' I have 330,000 in my Senate district. I said, 'You have more sheep than people.' You can't have an overall plan that tries to force all states into the same plan."

Represenative David Richardson of Pennsylvania and Missouri Representative Chris Kelly, chair of the House Appropriations Committee, wonder why the federal government doesn't just let the states take the lead. "I think most states will adopt major reforms before the federal government will," Richardson predicts. "Why not just let the states decide what approach they want to take?"

"Why should the federal government be doing it?" Kelly asks. "We can learn from each other. Maybe Missouri will screw it up. But maybe North Carolina will get it right. Missouri could learn from North Carolina and make adjustments."

One way of providing flexibility would be for the federal government to establish a framework, but allow for diversity among state plans. This approach echoes through several of the interviews. Senator Drake: "I prefer a Jeffersonian approach. Let the federal government provide a pattern with plenty of room for states to develop plans that suit their needs." Senator Still: "I would prefer that the federal government establish a basic structure. The model should define basic issues, but leave it up to the marketplace and the states to work out all the details." Senator Resnick: "Some would argue that you need a federal framework. Give us a federal outline and let the states provide the details."

What should the framework include? Senator Still provides the most comprehensive list: universal access, portability, no exclusion for preexisting conditions, provision for catastrophic illness, reduced administrative costs and guaranteed renewability. Senator Resnick adds a minimum benefit package to the list; Senator Drake includes coverage for the working poor and the uninsurable.

Some legislators have other ideas for an ideal final package. Illinois Senator Judy Baar Topinka feels strongly that the plan should place limits on the use of technology: "How many MRIs do we need on one block? How many heroic actions to save a life? Where do we put our resources?"

She believes the package should include tort reform. "I feel some resentment toward the president and Mrs. Clinton for taking a powder on tort reform," she says. "If we want health reform to work, we have to address it. They have to have the gonadal fortitude to take care of this." Senator Still, however, does not make tort reform a high priority, and Representative Jeffrey Teitz of Rhode Island believes this traditional state responsibility should remain with the states.

Pennsylvania Senator Allyson Schwartz believes "it is very important that the plan address questions of distribution of services and health professionals in urban and rural areas." Representative Charlene Rydell of Maine prefers a system with much simpler, income-based financing.

These legislators are sure that there will be plenty of opportunity to make their views known to the administration and Congress. They expect the plan to change. And they plan to influence it when it does. Representative Teitz predicts, "Any proposal of this enormity will go through a series of refinements. Even the designers of the plan expect it to change."

"I'm taking them at face value—that this is just a proposal and they are willing to modify it, to do whatever is necessary to get a workable system," says Baar Topinka. Senator Still predicts, "The Clinton plan will change significantly as it moves through Congress. And it should."

Rydell is confident that "the proposal sets the stage for states to work together and with the federal government. I'm optimistic the administration will work with the states and that a consensus will emerge."

Kelly is less optimistic and asserts he will oppose the plan if it is not changed to accommodate state interests. "We are not going to let them cram this down our throats. We could wind up saying 'don't pass it.' I'm not inclined to do that today. But they could force us to go to someone else if they don't negotiate."

All would agree with West Virginia Speaker Robert Chambers that the states should be involved in shaping the final outcome and "ultimately will look at it and judge if the good outweighs the bad."

[From the U.S. General Accounting Office, Sept. 9, 1992]

STATE HEALTH CARE REFORM—FEDERAL REQUIREMENTS INFLUENCE STATE REFORMS

(Statement for the Record by Mark V. Nadel, Associate Director Human Resources Division)

SUMMARY OF GAO TESTIMONY

GAO reported in "Access to Health Care: States Respond to Growing Crisis" (GAO/HRD-92-70, June 16, 1992) that states have taken a leadership role in devising strategies to expand access to health insurance and contain the growth of health care costs. Their approaches range from narrowly focused efforts to reform the health insurance market or contain hospital costs to comprehensive initiatives to achieve universal access to health care coverage.

States attempting comprehensive solutions are hampered by restrictions imposed by federal programs, particularly Medicaid, and by the Employee Retirement Income Security Act of 1974 (ERISA), which preempts state regulation of employee benefit plans, including health plans provided by self-insured employers.

GAO presented testimony on states whose reform plans are affected by federal laws. Hawaii, the only state requiring employers to provide health insurance, is able to enforce this mandate because the Congress exempted the state's 1974 law from certain ERISA provisions. The exemption, however, limits the law to its original form and prohibits changes state officials believe are necessary to improve the effectiveness and equity of Hawaii's system.

In enacting a health care reform package in 1992, Minnesota officials tried to design a plan that would not require relief from federal restrictions, thus limiting the state's options. To fund a state-subsidized health plan for lower-income uninsured residents, the state levied a provider tax that hospitals may pass on to all payers. The provider tax is currently being challenged on the basis of ERISA.

Florida's health plan, enacted in 1992, would require statutory changes to Medicaid and also might require an ERISA exemption. If employers do not voluntarily offer coverage to their employees by the end of 1994, the law contemplates a mandatory system, which could be affected by ERISA. State officials would also like to expand Medicaid coverage to people without employment-based insurance who are near poverty but ineligible for Medicaid.

If Congress decides that reform at the state level is an appropriate path, it should consider reducing the potential barriers to comprehensive state reform. States considering reform perceive restrictions associated with ERISA and Medicaid as potential obstacles. Congress could facilitate state reform efforts by developing approaches that provide states with early assurance that they will receive the federal cooperation necessary to implement change.

Mr. Chairman and Members of the Committee: This statement discusses our report, "Access to Health Care: States Respond to Growing Crisis" (GAO/HRD-92-70, June 16, 1992). Providing health care to every American has become one of the most serious problems facing the nation. The number of individuals without—or with inadequate—health insurance is increasing, while the cost of providing care is growing. Our report responded to a request from Representatives John Dingell and Ron Wyden to describe state initiatives that address the problems of access and affordability in the health care system and to report on federal barriers that limit state options for achieving universal access to health care. Recently you asked us to provide additional information about the need for states to obtain changes in federal laws to implement innovative health care reform.

Several states are developing programs designed to expand access to health insurance and contain the growth of health care costs. None has found this to be an easy process. State political leaders must assemble coalitions of supporters from the variety of interest groups involved in—or affected by—their health care system. To do so, they must frame proposals that will win the support of—or at least be acceptable to—health care providers, employers, taxpayers, and a patient population ranging from those currently well insured through those currently underinsured to those who have no insurance at all.

One barrier these state political leaders face is the preemption provision of the Employee Retirement Income Security Act (ERISA) of 1974. Another is uncertainty over the particular terms that the federal government will require as a condition for a Medicaid waiver. Oregon's recent experience illustrates this latter problem. State officials worked for several years to develop a proposal capable of garnering the political support necessary, but their effort was recently derailed by denial of their request for a Medicaid waiver.

In my statement, I would like to provide some background information on the federal laws that might restrict state efforts to achieve comprehensive reform. Then I will present the results from our recent report describing the reform efforts of several states. I will close by updating the legislative efforts of four states in this rapidly changing health reform environment.

BACKGROUND

When enacted in 1974, ERISA was designed to correct serious problems regarding the solvency of employer-sponsored pension plans, but ERISA covers all employee welfare benefit plans, including health benefits. ERISA established federal standards for these employee benefit plans—although it imposes few requirements on health plans—and preempted their regulation by states. Although preventing states from regulating health insurance plans, ERISA confirmed the states' authority to regulate insurance companies.

ERISA's preemption provision[1] enables employee benefit plans to serve employees in many jurisdictions without becoming subject to conflicting and inconsistent laws of various state and local governments. However, it has also produced a divided system in each state: the federal government has authority to regulate health plans provided by employers who self-insure but not health policies sold by insurance companies, and states can regulate health insurance companies and their policies but not the plans provided by employers who self-insure.

Under the Medicaid program, states receive federal funds only if they meet all relevant federal requirements, including eligibility and benefit plan standards. Medicaid eligibility is primarily tied to eligibility for the Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC) programs. Due to the eligibility restrictions of these two programs, young single people and childless couples are generally precluded from Medicaid coverage.

In addition to categorical eligibility requirements, Medicaid recipients must meet specific income and resource criteria. The income level that states set for welfare programs is usually the standard that applies to Medicaid eligibility. Medicaid eligibility levels vary across states, with only 16 states offering Medicaid to AFDC-eligible families with incomes over 50 percent of the federal poverty level.[2]

Some state reform plans that do not comply with existing Medicaid laws can be implemented by obtaining a waiver from the Health Care Financing Administration (HCFA). HCFA has the authority to grant Medicaid waivers and does so regularly. Some waivers, such as for managed care programs, can be renewed indefinitely. In addition, states can obtain demonstration waivers from HCFA that give them greater latitude to modify their Medicaid programs, but these waivers are for a limited duration and cannot be renewed.

STATES ACTIVELY PURSUE HEALTH CARE REFORMS

State governments have a major stake in financing and providing health care. States are a major purchaser of health care services in this country. On average, over 13 percent of a state's budget is used to fund Medicaid, which, in 1990, grew by 18 percent. An average of 20 percent of a state's budget goes to fund health care programs.

This has led to state governments' taking an increasingly active role in the search for solutions to our national problems of constructed access to health care and rising health care costs. During the first few months of 1992 alone, three states—Florida, Minnesota, and Vermont—enacted ambitious plans to reform their health care systems.

In some states, debate no longer centers on whether to set a goal of ensuring universal access to health care coverage, but on how to achieve it. Hawaii was the first state to try to extend coverage to all its residents, and its uninsured rate is the lowest of all the states. The principal tool that has allowed Hawaii to approach universal access is its 1974 law requiring employers to provide health insurance for employees working at least 20 hours a week. State requirements that virtually all employers provide insurance and that insurers cover all employees result in less uncompensated care and cost shifting. For most residents not covered by employers or Medicaid, the state has a subsidized insurance program, known as the State Health Insurance Program (SHIP), with less extensive benefits.

Minnesota, Florida, and Vermont are among the most recent states to pass laws aimed at providing coverage to all state residents. Minnesota's 1992 Health Right Act phases in several programs to extend access to health insurance to many of the state's uninsured. Key features of the act include creation of a state Health Care Commission, which is responsible for devising a plan to set targets for reducing the growth of health care expenditures, and a state-subsidized, managed-care health plan for lower-income residents not eligible for Medicaid.

Florida's 1992 legislation set a December 31, 1994, goal for universal access to a basic health care benefits package. It created the Agency for Health Care Administration to develop and administer a plan with specific goals and timetables for ensuring access, cost containment, and insurance reform.

Vermont's 1992 Health Reform Act proposes to provide universal access to all state residents by October, 1994. The legislation created the Vermont Health Care Authority, which is charged with preparing two comprehensive reform proposals—one based on a single-payer system and the other based on a multiple-payer system—to be voted on by the legislature. In addition, the Authority is responsible for administering the insurance reform, data compilation, and cost containment provisions contained in the law.

Instead of adopting comprehensive plans, some states have opted for programs targeted to specific uninsured groups, such as low-income children and adults. These states have expanded access to coverage for these populations either through state-subsidized private health insurance, such as Washington's Basic Health Plan, or expanded Medicaid eligibility, such as the Maine Health Program.

Most states have also adopted measures to make it easier for people with high-cost health conditions and for small business owners and employees to obtain affordable health insurance in the private market. Almost half the states have created high-risk pools to make insurance available to the medically uninsurable—people who cannot obtain conventional insurance because of their medical conditions—and to spread the risk of covering them among all insurers in the state.

To address problems in the small business insurance market, states have adopted a broad range of initiatives, including subsidies and regulatory reforms, that attempt to make insurance more affordable and accessible. Thus far, most of these efforts have had only a modest effect on the number of small firms newly offering health insurance to their employees.[3]

While most states have focused their attention on expanding access to coverage, some have made efforts to control increasing costs. Through changes in methods for reimbursing providers, these states attempt to limit the health care system's cost growth and administrative burden. For example, since 1972, Maryland has operated a hospital rate-setting system that reduces hospital costs and provides for nearly uniform payments by all insurers, both public and private. During this period, Maryland's hospital costs per admission fell from 25 percent above the national average to 10 percent below.

In an attempt to reduce administrative costs, New York State is now implementing a system to coordinate health care billing and payment procedures. The state's Single Payer Demonstration Project is expected to reduce claims-processing costs for participating hospitals.

FEDERAL BARRIERS HINDER STATE EFFORTS

One barrier to state health reform efforts is the budget problems experienced by many states, since many of these reform proposals require additional state resources. But states that overcome these budget problems find that their reform efforts are also hampered by federal laws and regulations. ERISA is a barrier because it preempts state authority to regulate employee health benefit plans. While ERISA was primarily intended to correct problems with the solvency of employer-sponsored pension plans, its impact on employer-provided health benefits has grown as more firms have self-insured for health benefits. Over half of U.S. workers are employed in firms that self-insure, and states cannot require such employers to provide a specific health plan or pay state-imposed premium taxes. The funding base for state-sponsored high-risk pools, for example, is limited because the insurance assessments that supplement individual premiums do not apply to

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Footnotes at end of article.

self-insured companies. Without more flexibility in dealing with self-insured firms, states' reform options are limited.

On the other hand, many large employers and union groups fear that any diminution of ERISA could undermine the structure of existing employer-provided health insurance plans. Employers with operations in more than one state are concerned that alternations to ERISA might increase their administrative costs if they must comply with different requirements in different states. Some unions are also concerned that changes to ERISA may lead to limitations of their benefits plans or an increase in cost-sharing burdens.

Medicaid's rules and requirements also present obstacles to state reform efforts. States wishing to implement reforms may need waivers or legislative action to modify Medicaid requirements. Examples of such reforms are integrating the Medicaid program with a state health insurance plan or creating a single organization to administer all payments to health care providers. States find the process of obtaining Medicaid waivers and subsequent renewals to be cumbersome.

However, those administering this process have legitimate concerns that protections contained in the law not be compromised without careful thought. Medicaid regulations exist to ensure that state reform activities do not diminish minimum standards or quality of care for program recipients. In addition, the federal government is concerned that state reform efforts that expand health programs to a broader population might generate additional expenses for Medicaid. For example, some states that want to expand Medicaid to groups that are currently ineligible are seeking additional federal funds, thus increasing costs for the federal government.

In the remainder of this statement, I will discuss the experience of several states, primarily Hawaii, Minnesota, Florida, and Vermont, whose efforts to expand access to health insurance have been affected by federal constraints.

Hawaii needs Federal legislation to refine system

Hawaii is the only state that now requires employers to provide health insurance to employees. Hawaii is able to enforce this requirement because the Congress passed legislation exempting the state's 1974 law from certain ERISA provisions. In part because its law took effect before ERISA was enacted, Hawaii is the only state with such an exemption. The exemption, however, has frozen the Hawaiian law in its original form. The ERISA exemption is limited to Hawaii's Prepaid Health Care Act as it was passed in 1974; the state cannot amend the act unless specific legislation is passed by the Congress.

Hawaii officials believe they have made great progress in their quest toward achieving universal access, but they also told us that they need to improve the effectiveness and equity of the state's system. A small percentage of the population remains uninsured. The state cannot modify the mandated benefits package for employer-provided insurance, require coverage for dependents, or change the cost-sharing formula for premiums. Hawaii is currently seeking amendments to ERISA to permit it to respond to implementation problems or to improve the employer-mandate law.

Other states that have tried to move toward coverage of all their citizens have had to work within ERISA's constraints. States adopting universal access plans more recently than Hawaii did not have the option of requiring employer-provided insurance and had to devise other approaches. One strategy, enacted by Massachusetts and Oregon but not yet implemented, has been to create "play-or-pay" systems that rely on the state's power to tax. Employers are required to pay a tax to help finance state-brokered insurance; if they provide health insurance to employees, they generally receive a credit for the amount they spend on coverage. These laws, however, are expected to face legal challenges based on ERISA, and the outcome is uncertain.

Minnesota's options limited by federal constraints

When Minnesota officials considered different methods of reducing the number of uninsured residents in the state, they decided to construct a plan that would not require relief from federal restrictions. Avoiding federal constraints, however, was itself an approach that limited their options. One reason for ruling out a play-or-pay system, for example, was uncertainty about whether such a system would withstand an ERISA challenge.

A key component of the health package that Minnesota adopted is a state-subsidized, managed care health plan for lower-income residents who are not eligible for Medicaid. In addition to collecting premiums from enrollees, the state will fund the plan with a 5-cent increase in the state cigarette tax and a phased-in provider tax: (1) a 2-percent gross revenue tax on hospitals (effective 1993) and on physicians and other health care providers (effective 1994) and (2) a 1-percent tax on HMOs and nonprofit health service companies (effective 1996). Hospitals may pass the tax through to payers during 1993, to the extent allowed under federal law.

Minnesota officials decided to use a provider tax so that financing would come from within the health care system. Because ERISA preempts states' ability to regulate employee benefit plans, other financing mechanisms, such as a premium tax, would not have reached self-insured employers.

State officials told us that ERISA precludes their taking other actions that could enhance the effectiveness and fiscal soundness of their program. For instance, they would like to discourage employers who currently provide health insurance from dropping coverage for employees who could be eligible for the program, and have discussed techniques such as taxing these employers. They are concerned, however, the ERISA may bar such an approach.

Another idea Minnesota officials are considering is collecting the premiums of program enrollees through a payroll deduction mechanism. They are not sure whether ERISA would prevent them from requiring all employers, including those who self-insure, to collect the premiums for the state. In addition, their fears that their plan might be contested were realized when a self-insured union health plan recently announced that it would bring suit under ERISA to challenge the provision allowing hospitals to pass the provider tax through to payers.

Florida seeks Federal action

In contrast to the Minnesota approach, Florida policymakers enacted a health reform plan whose full implementation would require statutory changes to Medicaid and also might require an ERISA exemption. Florida's Health Care Reform Act stipulates that the state's 2.5 million uninsured should be offered coverage primarily through an expansion of Medicaid and an extension of employer-based insurance. Because the expansion of employer sponsored coverage is initially voluntary, an exemption from ERISA requirements is not needed immediately. Florida officials believe, however, that obtaining such an exemption now would provide a catalyst for voluntary expansion of coverage.

The Florida law asks employers in the state voluntarily to offer coverage to all of their employees by December 31, 1994. A newly created state agency will establish interim targets, by firm size and industry, regarding the percentage of employees and dependents insured and the number of employers offering insurance. In this way, Florida hopes to challenge its business community to expand employee health insurance on a voluntary basis. If substantial progress has been made towards insuring all employees by the end of 1994, the state will continue this voluntary approach. However, if target levels are not met, Florida officials will consider implementing some type of mandatory employer-sponsored health insurance system.

A potential obstacle to the expansion of employer-sponsored coverage is ERISA's preemption of state regulation of employee benefit plans. ERISA precludes Florida from mandating employer-based coverage. In addition, Florida could not levy a premium tax or specify a minimum benefits package for all employers because the state could enforce these requirements only with respect to employers that purchase health insurance, not those who self-insure. Florida officials are considering a play-or-pay requirement, but recognize that employers could challenge such a system under ERISA.

State policy makers think that if the state has the ability to compel all employers to provide health insurance, employers might be more inclined to provide coverage voluntarily. Therefore, Florida officials have proposed that the Congress amend ERISA's preemption clause with respect to health plans.

Another element in Florida's strategy to provide universal coverage is to expand Medicaid to people without employment-based insurance who are near poverty but ineligible for Medicaid. Because approximately 600,000 Floridians are in this category, state officials would like to implement a Medicaid buy-in program that de-couples economic assistance from medical assistance. Medicaid coverage would then be expanded to those who may not be categorically eligible and who have incomes below 250 percent of the federal poverty level. Under this program, state officials expect that participants would share in the cost of premiums and would be offered a benefits package that is less comprehensive than Medicaid's.

It is possible, though unlikely, that this proposal could be implemented through a 5-year non-renewable demonstration waiver. Florida officials, however, told us that they need congressional legislation because limiting the duration of such a complex program to 5 years would not justify the difficulty and expense of implementing it.

Medicaid requirements also may constrain Florida's efforts to control the cost of its health care system. Part of Florida's cost containment strategy is to place its Medicaid population in managed care settings. HCFA is authorized to grant waivers that allow states to implement such programs, but the law also stipulates that Medicaid and Medicare beneficiaries cannot constitute more than 75 percent of an HMO's patient population.[4] In some parts of Florida, this requirement is difficult to achieve, thus hampering the state's attempt to provide more care through HMOs.

Florida officials are also seeking changes to Medicare laws. They would like the Congress to amend the laws to permit wide-scale demonstrations of alternative payer systems, including state administration of all Medicare benefits through a single-payer system.

Vermont anticipates need for Federal relief

Vermont's reform proposal is similar to Florida's in that it defers immediate need for relief from federal restrictions. The cornerstone of the plan is the implementation of either a single-payer or multi-payer universal system by October, 1994. The legislature will decide which system to implement after November 1, 1993. Key components of any Vermont system will include universal coverage, uniform and portable benefits, capital expenditure controls, and global budgeting for hospitals and providers.

Vermont officials believe that ERISA is the largest hurdle for implementing their universal access plan. They are concerned that as the state gains more control of the health system, more employers will self-insure, removing themselves from the system. In addition, they realize that if the state were to implement a single-payer system, at some point they may want to include Medicare within the system. State and federal officials are uncertain whether Medicare could be integrated into such a system under current law.

CONCLUSIONS AND MATTERS FOR CONGRESSIONAL CONSIDERATION

An increasing number of states are trying to expand access to health insurance while controlling increases in health care costs. Their approaches range from narrowly focused efforts to reform the health insurance market or contain hospital costs to comprehensive initiatives to achieve universal access to health care coverage.

Comprehensive state reform solutions have proved challenging to formulate and implement. States not only are having difficulty in building support for their reform efforts, but also are hampered by federal laws and regulations that make it difficult to design and implement innovative health care reforms. State officials have commented that the uncertainty associated with receiving permission to circumvent federal requirements has hindered comprehensive reform.

There is widespread agreement that our health care system needs major changes. Some believe that such change can be achieved most effectively through national reform. Others contend that states should take the lead on reform efforts either;

(1) To gain information on the feasibility of incorporating such changes into a national plan, or

(2) To permit states to design unique plans that are most appropriate for each State's particular characteristics.

If the Congress decides that reform at the state level is an appropriate path, it should consider reducing the potential federal barriers to comprehensive state reform. For a state that is pursuing the difficult process of comprehensive reform, ERISA eliminates some options, such as mandated employer coverage. Additionally, some states are struggling to implement approaches specifically designed to circumvent ERISA, but still fear that their plans might not survive a challenge based on ERISA.

Congress could facilitate state reform efforts by developing approaches that provide states early assurance that they will receive the federal cooperation necessary to implement change. For example, states would need assurance that they could obtain a limited waiver from ERISA's preemption clause in order to develop certain innovative universal access systems. The Congress could define minimum standards—governing such factors as benefits packages, extent of coverage, accountability, and terms under which the waiver application might be revoked—that a state must meet to receive and maintain such a waiver.

Additionally, if the Congress is interested in state demonstration projects that achieve universal coverage through an approach entailing the use of Medicaid funds, the Congress might consider amending or streamlining the waiver process for Medicaid restrictions. This would facilitate the integration of the Medicaid program into state comprehensive reform efforts.

FOOTNOTES

[1] 29 U.S.C. section 1144 (1988).

[2] Recently Congress has passed legislation that expands and enhances Medicaid maternal and child health services. Medicaid eligibility has expanded to improve the access of low-income women, children, and infants to needed health care by not only broadening the allowable service coverage to these groups but also severing the traditional link between Medicaid and AFDC income eligibility criteria.

[3] For a more detailed discussion of state efforts to modify the health insurance market for small businesses, see "Access to Health Insurance: State Efforts to Assist Small Businesses" (GAO/HRD-92-90, May 1992).

[4] A state can request a demonstration waiver that would permit them to increase this percentage.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. Mr. President, what is the business at the moment?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska [Mr. KERREY] is recognized to speak for up to 30 minutes.

Mr. KERREY. Mr. President, I yield such time as necessary to the Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, I am going to speak briefly this morning on health reform and some of the issues that we talked about Tuesday morning in terms of cost containment and coverage.

At the end of it, I hope to have a couple of comments relating to the subject that my colleague from Florida discussed also in terms of State flexibility, and they will probably be very different from my colleague, but it does not in any way reflect on the respect that I have for him because, in many ways, we are of one mind on the failure of this Nation to sort out responsibilities between various levels of government in order to meet the needs of people.

But in health care and in the reform of health care, particularly when we are talking about access to medical services, I think it is a very, very different problem, a different situation, which calls for a different solution, and the Federal missions become very, very important. Even though they are not well understood, they really are very, very critical.

Let me begin where I left off on my comments on Tuesday with trying to distinguish in the whole debate about health care reform, what is reform or change and what is an extension of coverage?

As we all know, there seems to be a great deal of confusion here not only in this town but I suspect across this country, as to whether or not reform is all about extending coverage or whether reform is about changing the current system. It seems to me that most problems people are experiencing are with the current system. Obviously, what they like is also in the current system. Trying to balance that right now is the challenge of health care reform.

But the reform and all of the efforts of the reform, no matter whose plan you might choose, is designed to reduce the costs in this system, maintain and enhance the quality, and increase the affordability; in other words, make it possible for every single American to have what the wealthiest of Americans believe they can have simply because they can afford to buy it. That is reform.

The coverage side means to expand the benefit of this high-quality care, to every single American.

Yesterday in the Washington Post there was an interesting article by Steven Pearlstein entitled "Containing Spiraling Medical Costs Isn't Popular Topic With Reformers," and points out the obvious, which is most Americans—and I will just quote the cut line under the Reischauer picture. Bob Reischauer of CBO says, "Cost containment hurts * * * access makes people happy."

We all know that in this town, change or the prospect of change creates apprehension. Promise of more creates good feelings.

That is the real challenge that we face in reforming the current system.

There are two basic ways, as this Steven Pearlstein article points out, to contain costs of health care or medical care or practically anything else in this country. One is to increase competition among providers and increase choices on the part of consumers. And the other one is to have the Government control the prices. Those are the two basic choices.

In America, if I were to try to state a goal that we would hold out for ourselves in health care, we would say we want access for all Americans to the highest quality care at a lower cost than we are presently faced with today.

So you can contain the costs under either of these two options: Competition, choice, markets; or Government. But under the Government approach, you simply cannot get the high quality because the only way you can get to have more and have better at a lower cost is through productivity, doing things better. And Government productivity is an oxymoron, two mutually inconsistent words.

So the only way you can get more productivity and more affordability is from competitive markets where consumers have the leverage of informed choice. Government price controls simply are not an option.

Now, the article in the Post points out very succinctly that President Clinton last year tried to have it both ways.

He advocates more choice and more competition, but then he regulates the new system that is designed to do it—premium control, fixed expenditure budgets, government alliances, employer mandates, Government boards and commissions, overlaid on top of what he describes as a new functioning market. It does not work.

The premium controls are gone in most plans. In most of the plans that I have seen, the budgets are gone, government alliances are going, employer and individual mandates, we hope, are gone.

So what does that mean? That those of us who advocate competition and choice can declare victory and go home? No. No, we cannot. Why? Because we cannot get to our new goal unless we also change the Government-run, price-controlled system that today in America drives the health care costs right here in the current U.S. system.

Now to understand this, Mr. President, you must understand this: At about the same time 30 years ago when the first Canadian Province went to universal coverage by creating a single-payer system, the provincial government decided they would set fees for the doctors, they would set fees for the hospitals, and they would pay the bills. About the same time the first Canadian Province did that, a single-payer system in Canada, we did the same thing in the United States of America. And while Canada now has a government-run, price-controlled system for the whole country, we, unfortunately, installed a system only for people 65 and older, for the disabled, and for welfare dependent low-income persons.

We know that Government program, the Canadian system, in the United States as Medicare and Medicaid. The unfortunate thing is that it is run in the heart of every community in America. Unfortunately, it is surrounded by an American system in every one of these communities. And in the American system in each of these communities, the Government does not set the fees for the services. The Government does not control the prices to be paid.

So in every community in America today, we have one-fourth of our citizens in a Canadian system and three-fourths in an American system.

So you say, "What's wrong with it?" Well, nothing, until about 10 years ago. So long as the Government paid the same fees for the same services for the Canadian system that the employers and private insurance companies were paying in the American system, there was no problem. No problem. But in 1983, right here on the floor of the Senate, we passed something called the Prospective Payment System, and we said in the government-run Canadian system we are now going to set fixed prices for all the 468 hospital procedures. That meant that the Government was going to control prices for the elderly, disabled, and low income for all of the hospital procedures. At that point, the problems began. Now, the hospitals were only going to make so much money for all of these patients.

So what happened? The doctors saw their patients someplace else and they got paid under the second part of the Canadian system, here in Medicare called part B. If you put your patient in the hospital, you could only get so many dollars from the Government. But if you saw your patient somewhere else under part B, you could get as much as you wanted. Whatever you charged you got paid. And what happened? The hospital payments under part A started to level off and our payments, our subsidy payments, under Medicare part B exploded.

So when the Government froze part B payments in 1985 and 1986, the doctors all responded by seeing twice as many patients or doing twice as many procedures. That is what happened. So that is the effect of price controls in a Government-run system.

What happens then, let us say you try to see twice as many patients or do twice as many procedures. You can get away with that only so long and as the Government starts to reduce its payments to you, as compared with what your actual costs are. You can make up some part of that by doing twice as much, but at some point in time you run out of hours and you have to see patients who are not in the Government system.

So the smart thing is, you see only so many Government patients, and then you see the people that are in the American system. And then what you do with this difference between what it costs you to open your doors and see people and what the Government will pay you, you take that difference and you add that to the bills of the American system patients that you see. And that is what has been going on.

Doctors will see the one-fourth of their patients in the Government system at 59 percent of what they get for other patients, which is what the Government pays the doctors, and they pay the hospitals about 71 percent. As a result, the doctor and the hospital take that difference and try to put it over on their private-paying patients.

So when we in the Government decide we are going to save Medicare money or Medicaid money when we want to get budget savings by cutting Medicare and Medicaid, what happens? We make this cost shift even worse because we are reducing the payments to the doctors and the hospitals and accentuating the shift, where it is possible, over on to the private-paid patients.

Late in the 1980's, all the employers, or many of the employers, said, "Hey, stop. We have had enough of this. It is enough to pay the bills for our own people, our own workers. Don't add on everybody else's payments on top of it."

So since then, we have seen a change. And let me just show you on this chart the nature of that change.

In the 1980's, the payments were roughly the same in both of the systems, but clearly starting in the early 1990's, the lines started to diverge. And if you follow this line, this is the growth in the cost of the Government-run system, just one of them. That is Medicare. And up to 1993, it goes up at the rate of about 10 percent and after that it is now going up at the rate of 11.5 percent a year.

Remember, this is a price control system. The growth in expenditures is not because we are giving providers 11.5 percent more money. It is simply because, in order to see these patients, they are going to do a lot more services and procedures, they are going to charge the system as much as they possibly can in order to pump money into this system.

By contrast, what is going on in the American system? Here is the private insurance line. That line is starting to come down. Here is the Mayo Clinic, which has 1,100 doctors in a huge system, coverage for much of America, but providing care for many of Americans. That line, since the 1990's, has been averaging about a 3.8-percent-a-year increase and in the last 2 years it is less than 1 percent.

So you see, in the American system where three-fourths of the people are, the costs are coming down. But in the Government-run system—the one we run for the elderly, the disabled, and the low income—the costs are going up even faster, even though our payments to the system may not be.

And so, I tell my colleagues to take a look at this, as we get close to the end of health care reform; that if we really want to reform this system, one of the essential ingredients is to do something about the President's promise that every American could have a private health plan that could not be taken away from him.

It is essential to reform that we end the Canadian system that we are running in America—not overnight; allow the people to help us do it. But at least give people in our communities the option to get out of the Canadian system in their community and into an American system that will hold the costs down at a pace as good as the Mayo Clinic to less than 1 percent a year.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY].

Mr. KERREY. Mr. President, I have a speech I will give. I just want to point out that what the Senator from Minnesota has done with his speech, and what I will attempt to do with mine as well, is to refocus attention away from this current public question, which is, "Are we going to have a soft trigger, hard trigger—what kind of mandate might be in there?"

I must say, though I find myself arguing against the mandate of insurance, what is far more important is whether or not the bill we discuss and the bill we debate and the bill we write will reduce the regulatory requirements of the Federal Government and give the market an opportunity to work. There will be many people who are already coming to us asking to be protected from the market, asking to be protected in some way, shape, or form. I believe strongly we cannot make the mistake of driving initial Government demand into the system while simultaneously restricting the supply by protecting people in one way, shape, or form. So, far more important to me in this legislation the majority leader is drafting right now—far more important than the question of a mandate, which I have already indicated I do not like—far more difficult for me will be the presence of lots of regulations that make it difficult for the market to work.

THE GRINCH THAT STOLE HEALTH CARE REFORM

Mr. KERREY. Mr. President, I have a title for this particular speech. It is entitled "The Grinch That Stole Health Care Reform." I want to make it clear I do not have the Republican leader in mind this morning, unless of course he has filibuster in mind. I have in mind, instead, some rather difficult economic and political facts about health care and health care reform.

The difficult economic fact is that we spend too much on health care not too little. And the more we spend the more difficult it becomes for lower income Americans to afford health care services. The difficult political fact is that our most significant Federal post World War II actions have had the unintended effect of adding to health care inflation. Thus, a great double barrelled paradox: Our demand for more and more expensive care and our effort to extend coverage have contributed to the numbers of Americans for whom being uninsured is a dangerous way of life.

The Republican leader may still come grinch-like to this floor to delay action. However, he is not the chief villian here. The grinch I have in mind is all of us. Our collective appetite for health care services and our collective will to do good.

Let me be clear. I want every American to know with certainty that they will get continuous, high quality health care as a birth right. There should be no doubt and no requirement of groveling to prove some special status other than being an American under color of law.

There are tens of millions of Americans who are involuntarily uninsured and tens of millions more who wonder if they will be next. They ration the care they receive because they cannot afford to pay the bills. They deny themselves and their children good health. They do not enjoy the tremendous benefits of access to continuous health care. There is, as a consequence, a moral urgency to end this American fact of life.

However, let me also be clear: Our capacity to afford high-quality care is directly proportional to our productivity. Saying that you have a right to care does not guarantee high quality. That we Americans are going to have to earn. If our non-health-care economy does not make productivity driven gains, our appetite for quality will not be satisfied. No Federal law can guarantee the quality of our care. Only our willingness to work and produce can accomplish this task.

Further, good health is not just an issue of making certain that all Americans know they can get good care. While it is painfully obvious that accidents result in unavoidable and expensive tragedies which will require us to pass the collective hat, it is just as obvious that many of our costs are associated with self-inflicted abuse.

The horror story of an American child born with high medical bills should be balanced with the horrible tragedy of a society where women afflicted with AIDS or addicted to cocaine bring babies into this already difficult world. Rather than encouraging the idea that we are all victims of a system which is unfair we should be encouraging the idea that we are responsible for correcting our destructive personal weaknesses.

After making it clear that I believe health care should be a right, but that high quality care will have to be earned, let me throw one more bucket of cold water on our ardor for reform: Americans spend too much on health care. That is the problem. We spend too much because we spend too little time trying to understand how we could spend less. Except for those who have been given hospital, doctor, or pharmacy bills they cannot pay, most of us do not worry about how much we are spending because someone other than us pays the bills.

Instead of insisting that we be given information about the price and quality of services and products, we have been insisting on getting more of the product which shelters us from worrying about such things: Insurance. The whole battle cry of the health care debate—universal coverage—is a request to be protected from the requirement of having to understand and pay the bills.

Like the boys in the story Pinocchio who were enticed into having a good time at the fair, we have grown sick on the sweets and have become jackasses in our pursuit of better technology which can make us young again. While we have asked for more, more, more, we have simultaneously insisted that our Government erect a barrier between ourselves and the price of the goods.

How have we done this? In many ways. The four horsemen of the health care cost apocalypse are four Federal laws which were enacted to do good things, as they unquestionably do. However, in addition to helping they each drive additional demand into the system and reduced personal accountability to cost.

The four are tax treatment of employer provided health benefits, Medicaid, Medicare, and the dishonest budget methods used by the Federal Government. By treating health benefits as a fringe we encourage individuals to buy expensive plans which look less costly after taxes are paid. By collecting taxes and paying the bills for poor Americans on Medicaid and elderly Americans on Medicare we reduce misery, but we redistribute $280 billion into health care spending. Worse, because we allow the Federal Government to budget without balancing health spending with dedicated health revenues, citizens neither know what they are spending nor who is paying the bills.

I do not believe there is a villain whose activities are singularly responsible for our rising health care costs. There is no doubt that greed causes us to spend more than we should. There is no doubt that money has corrupted the decisions that are made by some providers, some institutions, some lawyers, some businesses, some politicians, and some patients. However, I believe the principal problem is that we have been simultaneously asking for things that are in conflict with one another, and that the central argument of this debate will be whether or not we are going at last to trust that market forces can in fact produce sufficiency in health care, that market forces can in fact accomplish good things. That will be the central question that we need to answer.

Unless you are honestly arguing that the Government should take over health care, and some are honestly doing this, then we must in the spirit of honest disclosure tell the American people that the most important change which must occur if we are going to make this work is to change our behavior. We must learn more, work harder, and lower our expectations of the perfect medical outcome.

I sincerely believe if we reform the market correctly it can help provide citizens with the information they need to obtain high-quality care at a lower price. It will also provide incentives for health professionals to deliver care in a more efficient manner.

By using market forces, we can create an equitable health care system which allows us to subsidize those individuals who need help paying the bills. To be clear again, I am an advocate of interfering with the market to help people who cannot afford to pay the bills. For most people in this country, health care is not a frill. It is a life-or-death necessity.

My hope is that in this debate, we will come and at the end of the day, we will enact legislation that will provide the security Americans are asking for, provide that security in an environment where we recognize honestly that the market has been doing an unprecedented job in the past 3 years and that we ought to use those market forces to do even more good in the future.

I yield the floor.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH CARE AND NATIONAL UNIFORMITY

Mr. DURENBERGER. Mr. President, I think we are waiting for a couple of our colleagues to come to the floor to speak on other matters. But I want to rise to thank my colleague from Nebraska, not only for that statement but to tell my colleagues that when he arrived here as a former Governor, I did not know what to expect.

I was very surprised when, as a member of the Pepper Commission, Senator KERREY took me aside—he was not a member—and asked: "Do you suppose I could come to one of your meetings?" I said, "I don't know why not." He actually showed up and began coming to the meetings. While he could not participate as an active member, he attended those meetings, and he has since reflected not only the commitment that took him to those meetings but also a commitment to deal the imperative that the American people need some leadership from Washington, and the U.S. Senate in particular, to set a vision for the future of health care delivery and universal coverage.

I am so grateful for the last number of months that we have been working together in a bipartisan fashion to craft a bill that reflects not only that vision and that goal but also a practical bipartisan, bicameral way to get there. I am so grateful to him for the leadership that he is providing on the other side of the aisle.

Now that I have made reference to Governors, as I did in my earlier comments, another one of our colleagues who is a former Governor, our colleague from Florida, Senator GRAHAM, spoke earlier this morning on the role of the States in health reform.

As I indicated earlier, if there is a federalism issue around, this has to be it: How do you spend a trillion dollars out of the economy every year, and what is the role of Government in doing it?

Senator GRAHAM and I have spent a lot of time talking about issues of community health, public health, the way in which the medicalization of health care in this country is depriving Governors, depriving local communities, depriving families and people of the opportunities to do community-based health care the way we need to do it. However, I must say that I have a slightly different view than he has on the most appropriate role for State governments in helping all Americans gain access to medical services.

I think there is a critical role within States and in communities to enhance public health, community health, environmental health, housing, nutrition, immunization—all of the basic health needs. But when it comes to access to medical services, people get their medical services in local communities; they do not get them in States. Medical markets and communities are not confined to State borders. Therefore, we desperately need national rules by which these medical markets are going to work in the future.

If you look at where the anticompetitive, anticonsumer laws are in medicine today, they are all at the State level. Every one of them is at the State level because what has happened at the State level is that insurance companies, doctors—all kinds of medical professionals—have used State laws to protect their speciality from competition and to shield medicine from the consumer.

Look at State-legislated mandates, for example. Every insurance plan sold in the State of Tennessee must include chiropractic or must include podiatry. Or, in my State, insurance plans must include coverage for hair loss and for facial reconstruction. You name a new medical speciality, you name a new service, and somehow or another the servers have found a way to enshrine their service and their speciality in our State medical practice acts, called licensure, and in our State legislation, called insurance.

And when someone comes along and says, "We are going to practice medicine differently by sharing the risk, by enhancing the quality of services, by giving consumers more information and more choices," then the fee-for-service indemnity system rises up and enacts laws that say you cannot do that.

There is a current phenomenon called "any willing provider," which means that an integrated health care system, a clinic, the Scott White Clinic in Texas, the Cleveland Clinic in Ohio, or wherever, cannot decide which doctors can associate with them and which cannot. "Any willing provider" says you have to take them all. If some doctor applies, you have to take him. This sort of thing has been enshrined in State legislation all over the country, and it has given us a $1 trillion a year system, on the way to being a $2.2 trillion a year system.

So, Mr. President, as we debate what is the solution to the reform that is before us, I suggest we take an example of one national law that has made it possible for employers and employees working together to bring down the costs of health care.

That law is ERISA. We have the ERISA preemption rule which says that State legislation cannot impact employee benefit programs. So what has happened in health care is that all of these employers, rather than having to buy a $500 or $600 plan filled with all these State benefit mandates, filled with all of these contrivances from the medical industry, have said, "We are not going to buy insurance; we are going to self-insure. Our company will take responsibility, will bear the financial risk of caring for our own employees." Then they go out and hire benefit administrators, third-party administrators, HMO's—whatever the case may be—integrated systems, to change the way medicine is practiced, to improve the quality of access, to improve the services, to improve the prices for their employees.

That is why we see private sector health spending in the chart I referred to earlier, that line decreasing—because we have one national rule that protects people who want to have better care for less money from burdensome State regulation.

As we debate health care in the coming weeks, and begin to talk about why we need a uniform benefit set at the national level, why we need national antitrust rules, why we need national liability rules, that sort of thing. Remember, it is because people do not get their medicine in States, they get it in local communities and those communities overlap—Tennessee and Kentucky; North Dakota and Minnesota; South Dakota and Minnesota, and so on. So people buy their health care in communities, they do not buy it in States. We need national rules so these local markets can provide more and better health services for less money for all of our citizens.

Mr. President, I yield the floor.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Wisconsin.

NOMINATION OF JUDGE STEPHEN BREYER

Mr. KOHL. Mr. President, I come here this morning to speak in behalf and to support the nomination of Judge Stephen Breyer to the U.S. Supreme Court, and to speak briefly—but critically—about the process that I believe will result in his confirmation.

Judge Breyer came before the Judiciary Committee with a reputation as a brilliant legal scholar and a fair-minded judge.

For the most part, the committee's hearings confirmed these judgments. Judge Breyer impressed us with his ability to simplify complex legal doctrines and cut to the heart of fundamental constitutional questions. His answers revealed that he is a moderate, that he is a reasoned man of principle with a commitment to the rule of law; a man who is likely to strengthen the center of the Supreme Court, rather than polarize it.

Throughout the hearings, two main criticisms were levied against Judge Breyer. First, many charged that Judge Breyer acted unethically because he ruled in cases that may have indirectly affected his investments.

I do not believe Judge Breyer acted unethically and I do not doubt his integrity in the least. If judges had to recuse themselves in every case that presented a possible conflict of interest, our courts would become paralyzed. But Judge Breyer could have taken more significant measures to dispel any appearance of impropiety. I am pleased, therefore, that he has promised, at the very least, to divest himself of all insurance holdings as soon as possible, although it is not clear exactly when that will occur.

It was also suggested that because Judge Breyer has spent most of his life dealing with books and theories, he lacks Justice Blackmun's empathy for "the poor, the powerless and the oppressed."

Well, it is true that Judge Breyer did not have an underprivileged upbringing. And it is true that he has spent much of his life as a legal scholar, rather than a hands-on practitioner. But we should not assume that because Judge Breyer has been fortunate, and enjoys the life of the mind, he is unable to care about others.

Judge Breyer seemed to recognize during our confirmation hearings that his actions as a Judge have very real consequences for the lives of the people the law governs. And he appears to be aware that beyond the marble columns of the Supreme Court is a world in which the politically powerless are entitled to as much justice as those Americans who hire the best lawyers and lobbyists.

It may be that Judge Breyer still has to demonstrate his professed commitment to making the law work for the average person. But I believe our confidence in him will be justified.

Having said this, there was much we did not learn about Stephen Breyer, and—despite my confidence in him—this concerns me. Judge Breyer's eloquence often gave him the appearance of answering questions when, in fact, he actually side-stepped them with sugar-coated generalities.

For example, he would not give an opinion on whether courts should be required, at the very least, to consider public health and safety before allowing for secrecy in civil litigation. And he refused to discuss many subjects, including voting rights jurisprudence, gender-classifications, and his own decision on abortion counseling—Rust versus Sullivan—with any degree of specificity.

Whenever Judge Breyer felt the need to avoid answering a question, he would cloak himself in his black robe and claim that the issue was within Congress' domain or that the question took him out of his role as a judge. Yet, at the same time, he did speak openly and freely on other issues which were just as likely to appear before the Court, or just as easily characterized as issues for Congress rather than the courts.

Why? The answer is by now well known: nominees seem only to answer questions when they want to—or when they feel they need to.

I point all this out not to chastise Judge Breyer, whom I respect. But I cannot ignore a nominee's unwillingness to answer reasonable questions. Indeed, the process demands that we should not.

Mr. President, we all know that because a Supreme Court Justice has life tenure, the confirmation process is crucial—it is the public's only opportunity to learn what is in the heart and mind of a nominee. Of course, we also recognize that there are limits to what a potential Justice of the Supreme Court can say before the Senate.

But these limits do not justify the type of hedging that we have seen from some past nominees—evasion that erodes the Senate's ability to faithfully carry out its advise-and-consent responsibilities.

Judge Breyer was probably more straightforward with the members of this committee than many nominees in recent history. In fact, Senator SPECTER went as far as to coin a new standard for nominees to live up to: the Breyer Standard.

In my opinion, however, we still have a way to go before we achieve the candor that the confirmation process demands and deserves. So I would like to impose an even higher standard on future nominees than perhaps would Senator SPECTER.

In the meantime, I commend President Clinton for nominating Judge Breyer—a man of great ability, who has demonstrated an enduring commitment to public service and to the law. I look forward to his tenure on the Court.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized to speak for up to 30 minutes.

REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

Mr. GORTON. Mr. President, I join Senator SHELBY today in calling on the Clinton administration and this Congress to move promptly to enact a significant reform of the Endangered Species Act. The act must be changed to require better science in listing decisions, greater protection for private property rights, and more balance between species protection and human impacts.

To many of my colleagues, the reauthorization of this act may seem to be just another policy debate—one that we can tackle whenever space opens up on the Senate calendar. But for many families and communities in the State of Washington and across the Nation, every day that goes by without a reform of the act means more jobs lost, more mills and factories closed, and more demands on social service agencies already under extreme stress.

We simply cannot afford to wait much longer, Mr. President.

Regrettably, the current administration does not share this sense of urgency. President Clinton and Secretary Babbitt have said that the act is flexible enough to provide for the needs of both people and other species. They have suggested that the ESA only needs minor changes.

But the administration's own experience with the ESA contradicts this point of view.

President Clinton came to the Pacific Northwest during his campaign, promising balance in the application of the ESA to the management of timber harvest on Federal lands. He promised to reconcile the needs of the ecosystem with the needs of the humans whose lives and communities depend on the ecosystem.

The plan he delivered last year is in no way balanced. It does not take into consideration the human element. The plan provides for virtually no new timber sales or harvesting from Federal lands this year or next. It will be years before the minimal and inadequate harvest levels included in the plan are reached.

I should like to believe that President Clinton was sincere when he said he wanted balance. But no amount of sincerity or goodwill can change the fact that the ESA is an expansive, loosely worded statute that preservationist groups have used to bring any number of beneficial activities to a grinding halt.

Mr. President, perhaps the administration's experience with the northern spotted owl has been instructive. Secretary Babbitt and Secretary Brown recently proposed an ESA initiative designed to improve the quality of science used in listing decisions, and to provide greater balance in ESA-related processes. I am gratified to see the administrations adopting policies that I have advocated for a long time.

But even with the best of intentions, I do not think that the President can bring true balance to the ESA process under the existing law. The act is too broad, and the stakes simply too high, to risk on the vagaries of an administrative initiative.

The act itself needs major reform. If we do not act soon, there will be more disasters like the one that has befallen our timber communities. In fact, there already are.

The Northwest is already embroiled in a highly complex debate over how to save threatened and endangered runs of Pacific salmon. While the vast majority of the people in the region badly want to save those salmon runs, some of the recovery measures that have been proposed are exorbitantly expensive, and would devastate many communities that depend upon the Columbia River system.

We have tried within the region to develop a salmon recovery plan that will satisfy the requirements of the ESA without costing hundreds or thousands of jobs. We may yet be successful.

But throughout this planning process, the bar that any recovery plan must clear has repeatedly been raised. We dramatically changed operation of the Federal Columbia River Power System at a cost measured in hundreds of millions of dollars, but a Federal judge said this wasn't enough to meet the requirements of the act. River managers then ordered a costly and controversial spill of water over the Columbia River dams—a spill that many scientists said was likely to kill more fish than it saved. The judge was not impressed.

It is anybody's guess how the courts will rule when the National Marine Fisheries Service issues its final salmon recovery plan. But that is precisely the point—we should not have to guess. There should be some sanity, some predictability, some balance in the ESA process.

Mr. President, we cannot wait any longer. We must have reform. We cannot simply go on funding ESA compliance activities in appropriations bills while ignoring the problems at hand. With many of my colleagues from impacted States, I am losing my patience.

I urge the administration and the leadership to move forward with reauthorization of the ESA—an ESA that treats human values as of at least equal importance as it does species values.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mrs. HUTCHISON] is recognized.

Mrs. HUTCHISON. Madam President, are we in morning business?

The PRESIDING OFFICER. We are in a period of morning business.

THE WATER SUPPLY IN SOUTH TEXAS

Mrs. HUTCHISON. Madam President, we debated and passed unanimously my sense-of-the-Senate amendment to the Interior appropriations bill earlier this week. In my remarks I said, "Not since the Alamo has San Antonio and south Texas been under siege from a faraway Government as it is today."

In fact, the Edwards aquifer is the sole water supply of our Nation's 10th largest city, the city of San Antonio. It is also the very important water supply for a large area of south central Texas. It supplies the farmers and ranchers who create much of our food supply, and it is certainly important to the residents of all of the south central Texas counties.

I want to tell you the catch-22 that the people of south Texas are in because of the Endangered Species Act. The Sierra Club filed a suit to protect the five endangered species living in the Edwards aquifer. They are a blind salamander that is about a inch-and-a-half long, another salamander, and two fish of about that size.

The Edwards aquifer level is going down because we have not had enough rainfall in Texas this year. Only .3 of an inch of rain has fallen since May; normally, they receive 8 inches during this time.

So a Federal judge has said that, under the Endangered Species Act, we may have to limit pumping from the Edwards aquifer. The State legislature, which should have the power to settle differences over the water supply in this area did, in fact, come to a resolution by debating proposals from many counties, from the ranchers and farmers, from the city of San Antonio, and all of the people who depend on that Edwards aquifer. The State legislature created a board appointed by the elected officials, to monitor and determine how the water would be allocated. However, the Justice Department decided that the solution put forward with all of the people involved violates the Voting Rights Act.

We should permit the State and local government's solution to this problem to be put into effect. They do not need help from the Federal Government, or a Federal court to tell them what to do. But because we have had overregulation under the auspices of the Endangered Species Act, we have had Federal intervention.

So Texans are caught between the Justice Department saying that under the Voting Rights Act they cannot have a local resolution to this problem, because board appointed by elected officials replaces some directly elected public officials, and the Fish and Wildlife Service saying, as ordered by a Federal court, that they may have to limit pumping from the aquifer to protect Endangered Species.

What I think we ought to be doing is saying to the State and local government that this is your problem. You have found a solution, a solution that reduces dependence on the aquifer over the long term, and you do not need our help and advice. Most important, you do not need the Federal Government to intervene by limiting the water supply of the tenth-largest city in America, which would have a devastating impact on Air Force bases and on the farmers and ranchers throughout South Texas. But, nevertheless, that is what we have. We are caught in a catch-22.

The Senate passed my sense-of-the-Senate amendment to say let the State and local government handle this, and to say to the Secretary of the Interior that he should be looking for ways to minimize the economic damage and the damage to people in the solution to this problem. He should use his powers to grant an emergency incidental taking permit so that the local government can manage the water without being in violation of the Endangered Species Act.

We have too much Federal encroachment in the name of the Endangered Species Act. There is a second siege on a different specie that is happening simultaneously. The same Fish and Wildlife Service said publicly that they were looking at 33 counties in Texas, over 20 million acres, as the critical habitat of the golden-cheek warbler. This could limit the cutting of cedar, which is a tree that absorbs water in the ground. It takes the water from other crops and other uses that ranchers and farmers need it for. We are talking about restricting use of possibly 20 million acres for this one bird.

Madam President, it is time for us to put some common sense into the Endangered Species Act. The Edwards aquifer was down to a low level in the 1950's, and we were endangering this same fountain darter then, but they had a commonsense solution. They restocked the fountain darters from another spring in the aquifer, and they put them back where they had been before. The fountain darters flourished. The water level came back up naturally, and they have been there ever since.

That is common sense. And it also says that people matter, that economics matter, that jobs matter, that we have to have the ability to go forward with progress, with jobs, and with development, in addition to trying to save species in different ways. We need to consider putting them in safe places, by making sure that we protect them in another environment.

My colleague from the State of Washington has seen the spotted owl do terrible economic damage to a very important industry in his State. Similary, in east Texas we have a woodpecker that is severely hampering the timber industry.

We must keep the overly strict Endangered Species Act from hurting our country. It is do for reauthorization; I hope we will take it up soon. I hope that we will make commonsense amendments to the Endangered Species Act. But I also hope, Madam President, that we will have regulators that have common sense, that we will have regulators who say people are important in this process. Sometimes I think the only endangered species on this Earth that is not being protected is homo sapiens, and that is ridiculous. We must have commonsense solutions.

So I support my colleague from the State of Washington when he says we must take this bill up, we must reauthorize the Endangered Species Act with some commonsense amendments, and that means that we must include economic benefit analyses. We must make people part of the equation, we must make jobs part of the equation, and we must look at protecting species by putting them somewhere else; perhaps for a short period of time, perhaps for a long period of time.

But you know sometimes in nature a species does go extinct. It is survival of the fittest, and sometimes animals themselves kill each other off. Perhaps we can help, but to do that we might have to make more transfers.

I am not saying that I have all the answers, but I am saying we need to address this problem; I am saying that the problem involves making sure that people are part of the equation.

I am going to be here as soon as we can take up and consider the reauthorization of the Endangered Species Act, and I am going to try to make sure that the private property rights in our Constitution are absolutely adhered to, and that our people's property will not be taken without just compensation.

I appreciate the leadership of the Senator from Washington on this issue, and I look forward to seeing if we can put people in the equation once again.

Thank you, Madam President.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to speak for not to exceed 10 minutes, if need be.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN TRIBUTE TO HUGH SCOTT

Mr. BYRD. Mr. President, the U.S. Senate is a unique fellowship in which but a handful of men and women throughout the history of our country have been privileged to serve.

Mr. President, in my thinking, even retirement or electoral defeat do not sever the gossamer strand that ties a man or a woman to this incomparable assembly, and death itself cannot erase the indelible prints that membership in this body leaves on the Senate or on the memories and reputations left by those who have been addressed with the more than honorific title of "Senator."

These truths were again underlined these past few days when former U.S. Senator, Hugh Scott of Pennsylvania, passed away, full of years and memorialized in the hearts of those who admired and remembered him.

In every sense—bearing, intellect, manner, speech, political acumen, and instinct—Hugh Scott was a U.S. Senator.

Hugh Scott and I were both elected in 1958 to the U.S. Senate, and we, therefore, entered the Senate in the same class. Similarly, neither of us was a native of his adopted State—Senator Scott having been born in Virginia, and I having been born in North Carolina. Likewise, both Hugh Scott and I served simultaneously in the Senate leadership, he as the Minority Leader at the same time that I served as Majority Whip.

But Hugh Scott did not enjoy the electoral security that some Senators enjoy, with solid partisan majorities to back them through election after election.

Men's evil manners live in brass.
Their virtues we write in water.

(Mrs. BOXER assumed the chair.)

Some observers have asserted that Pennsylvania is, in truth, two States, with interests as varied, east to west, as Philadelphia and Pittsburgh are, one from the other.

Nevertheless, through three elections, Hugh Scott succeeded in straddling the Appalachian divide that carves Pennsylvania into two regional constituencies, adroitly compromising as successfully as have few politicians in the annals of American political history confronted by such divergencies.

Legislation is the art of the possible. Legislation is the art of compromise. When circumstances demanded it, Hugh Scott could be a politician's politician, staking out a common terrain between opposing positions, where others less perceptive might locate no terrain at all.

A committed ideologue might find little to praise in such a course, but, Mr. President, if politics is indeed "the art of the possible," then Hugh Scott was a master of possibility, for throughout his long and distinguished career in the Senate, again and again, he helped to create resolution in the face of seemingly overwhelming political odds.

Indeed, Senator Scott did not serve in a placid era in American history.

Review with me but a few of the political crags of that tenure: the assassination of President Kennedy; the Vietnam War; the 1964 election campaign; the civil rights struggle; the assassinations of Robert Kennedy and Martin Luther King, Jr.; the Watergate crisis; and the resignation of President Nixon, to pinpoint but a few dramas that beset our country during Hugh Scott's term in office.

That America survived that era is attributable to the wisdom of many people.

But I contend that Senator Hugh Scott contributed immeasurably, through his statesmanship and patriotism, to untangling the mesh and gridlock of that era, to lowering the wrangling voices, and to drawing citizens back to their central allegiance to the well-being of our country as a whole.

Madam President, I know that I speak for all of my colleagues, and especially all of my colleagues who knew him, and for our wives, for Erma, in extending condolences to the family and friends of Senator Hugh Scott on the occasion of their loss, and in again commending the people of the Commonwealth of Pennsylvania for their wisdom in lending the late Hugh Scott to America during a turbulent period in our national history.

Around the corner I have a friend,
In this great city that has no end;
Yet days go by, and weeks rush on,
And before I know it, a year is gone,
And I never see my old friend's face,
For life is a swift and terrible race.
He knows that I like him just as well
As in the days when I rang his bell
And he rang mine.
We were younger then,
But now we are busy, tired men,
Tired with playing a foolish game,
Tired with trying to make a name.
"To-morrow," I say, "I will call on Jim,
Just to show that I'm thinking of him."
But to-morrow comes—to-morrow goes,
And the distance between us grows and grows.

Around the corner!—yet miles away . . .
"Here is a telegram, sir, Jim died to-day."
And that's what we get, and deserve in the end:
Around the corner, a vanished friend.

Madam President, I yield the floor.

Mr. KERRY. Madam President, I ask unanimous consent that I be permitted to proceed for such time as I might consume in morning business.

Mr. KENNEDY. Madam President, reserving the right to object. Would my friend and colleague indicate how much time he is going to use? We have tried, in accordance with the majority leader's instructions, to set times to accommodate Senators. I would be glad to have a reasonable period.

Mr. KERRY. I think no more than about 15 minutes in total.

Obviously, if my colleague wants to proceed on the bill, I do not want to slow that up.

Does he have somebody with an amendment ready to go?

Mr. KENNEDY. Why do we not just try 10 minutes?

Mr. KERRY. Sure.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 10 minutes.

STATUS OF THE WORLD'S FISHERIES

Mr. KERRY. Madam President, I would like to take this time to discuss an issue of grave concern to myself, my colleague from Massachusetts, the Senator from Rhode Island, and others. It is an issue of growing importance, not just to the United States but to countries all over the world; that is the increasing threat to the status of the world's fisheries and the management of our marine resources.

It was not long ago that most people thought that the supply of the ocean resources was inexhaustible. Since the end of World War II, the world's seafood harvests have multiplied nearly fivefold, growing from an annual global catch of about 18 million metric tons to a peak of nearly 100 million metric tons. Scientists tell us today, however, that we are currently harvesting close to the maximum that the oceans will support.

Since 1989, the United Nations Food and Agricultural Organization, known as the FAO, has reported that the world catch is in decline. Fishery statisticians tell us that they have seen a worldwide shift in catch to less valuable species, and most gains in the world harvest levels of the last 10 years have come from increased landings of smaller, lower value species, such as anchovies or mackerel.

Taking this fact into account, the decline in fisheries and the harvest of fisheries all across the planet is extremely alarming. There is one simple fact that every industrial nation needs to address—and not enough are—and that is there are simply too many fishing vessels chasing too few fish.

Even more telling is the fact that, today, despite a signficant increase in the number of vessels at sea and an increase in their fishing effort, there has been a decline in the world's catch. The size of the world's fishing fleets have increased three times in the last decade and modern vessels are now bigger and more efficient than those on the oceans 10 years ago.

Today vessels are equipped with extraordinary state-of-the-art electronics, including sophisticated satellite navigation. They often employ advanced fishing techniques, such as helicopter spotting. This increase in the number of vessels and efficiency has simply outstripped the capacity of the oceans.

Here in the United States, we are struggling to address the problem of overfishing off our own shores. Probably the best known example—and one of particular concern to myself and other New England Senators—is the collapse of the traditional groundfish stocks of cod and haddock in the North Atlantic.

Just last year, the Commerce Department had to implement a very draconian amendment, amendment 5, in order to reduce the amount of time that our fishermen can fish, and, as a consequence, we had to seek emergency economic aid to help those fishermen affected.

The failure of the longstanding New England fishery is having a devastating effect on the economies of coastal communities like Gloucester and New Bedford. I know the Senator from Rhode Island would agree that their fishermen are under enormous pressure, as would the Senator from Maine, our majority leader, and other Senators from other fishing States—California, Louisiana, the Carolinas, and others.

Last week, another traditional fishery in New England made the front page of the Boston Globe. The headline read, "Lobstermen hauling up empty traps; Many fear overfishing." The lobster is a venerated part of New England gastronomy and among our most unique and valuable natural resources. However, like many other New England fishing traditions, it could become part of our past, unless immediate steps are taken to strengthen the conservation of the stocks including more effectively limiting the amount of fishing effort. The answer to the question of who is responsible for the current sad state of our fisheries is not a simple one and has a long history. The New England lobster fishery, for instance, is subject to oversight and regulation by numerous State and Federal bureaucracies, including the State of Massachusetts, the State of Maine, the New England Fishery Management Council, Department of Commerce's National Marine Fisheries Service, and the Atlantic States Marine Fisheries Commission.

The length of the list will tell you why some fishermen say they are overregulated. The fact is, despite being overregulated, tough decisions have not been made; people who have been responsible for trying to curb the process have not done so; and most importantly, fishermen themselves, who for years under the management councils were given the responsibility to make the decisions to conserve, have not been conserving.

So the system has obviously failed. It has not just failed here, it is in great jeopardy in other parts of the world. We have factory ships off our coast that come from all parts of the world. They sit several hundred miles off the coast just outside of our 200-mile exclusive economic zone where they simply stripmine the oceans.

These are enormous problems. My hope is we can work together internationally to identify workable solutions. But we have to address the core of the problem, which is there are too many boats chasing too few fish all around the globe. In the last 20 years, the promise of profit from fishing and government-subsidized building programs by industrialized countries has overcapitalized the fleets in almost all fisheries of the world. I am told Iceland and the European Union could cut their fleets by up to 40 percent, and Norway could cut its fleet by 50 percent, and all three nations would still be able to maintain the fishery harvests at today's level.

That is an extraordinary statement. You could have 50 percent fewer Norwegian ships fishing and they could still come up with as much harvest as they have today.

The other interesting point to note is that, as nations have increased their efforts in an attempt to increase the catch, we have created a perversely uneconomical system, where the world's fleets are now operating at a loss. The FAO reports that in 1989 fishermen spent $92 billion to land $72 billion worth of fish. So not only do we have an uneconomic, perverse market, but we also have a market that is disappearing by virtue of the amount of fishing effort. The FAO now estimates that 13 of 17 major ocean fisheries are in trouble and that roughly 60 percent of the stocks which they monitor are fully utilized, overexploited, or depleted.

I think it ought to be clear to my colleagues why we should be concerned about this particular issue. Obviously, fish rank as one of the primary food sources in the world. There will be social and economic consequences of disastrous proportions if industrial fishing fleets are not controlled. We may have food shortages in developing countries worse than those we already witnessed, where fish already supply up to 40 percent of the dietary protein. If we want to look at crises in the making that we should proactively be doing something to prevent, this is one of them.

Another concern is that we will lose the valuable renewable resource itself, and the associated economic opportunities that go with it. If managed properly, coastal fisheries are a sustainable industry that could be much more productive and much more profitable. But we are going to have to manage them properly in order to make that happen. Many of the most valuable species in the world's seafood markets are becoming harder to find and more costly as the fish stocks are depleted by pollution, by habitat destruction, and the relentless pursuit of the modern fishing fleet. This decline in population of fish has increased the competition among fishing nations for these particular resources.

Nations and fishing fleets have responded to the increased competition in various ways—not all of them positive. Coastal nations have extended their management authority to 200 miles. Now, with diminishing fish stocks, tensions between nations have risen. Just 2 days ago, Canada attempted to extend jurisdiction in the Atlantic beyond the 200 miles in a frustrated attempt to protect its fisheries resulting in the Canadians arresting two New Bedford, MA fishing boats. I believe the Canadians are wrong because the vessels were involved in harvesting scallops which are not a sedentary species as the Canadians claim and, therefore, do not fit under the little-used provision of customary international law that they have tried to make this arrest on. I have called on the State Department to take immediate action to obtain the release of these fishermen and to lodge a formal protest against the Canadian Government. Despite their actions, the Canadians have underscored the need for all countries to work together to protect the world's vital fish stocks. We need to work to make that happen.

In addition to the problems at our borders, distant water fishing fleets are now traveling the world, fishing legally and illegally in an effort to locate the dwindling stocks of valuable species such as bluefin tuna and swordfish. The race for these fish supplies has resulted in a dangerous worldwide trend in which routine fishing disputes are now escalating into major international incidents.

In the Mediterranean and on the high seas, violations of the U.N. moratorium on the use of large-scale driftnets are a continuing concern. The world united in 1992, thanks to the efforts of Senator STEVENS, myself, and the administration, with the United Nations, and banned the use of large-scale driftnets. But regrettably in the Mediterranean today, a large number of the Italian fishing fleet continues to use illegal driftnets, which are miles and miles of monofilament net that simply sweeps the ocean, entrapping all kinds of fish and other marine life. I am sickened to learn of their continued use in a desperate attempt to harvest the remains of once plentiful stocks. I am even more disheartened to hear reports that countries like Italy are attempting to take steps to legalize these activities in the world forum.

Today, the Commerce and State Departments should be put on notice that I and others intend to press for action under the High Seas Driftnet Fisheries Enforcement Act to identify and notify nations suspected of conducting large-scale drift operations. In addition, we must be prepared to implement trade sanctions should such nations not agree to cease their illegal activities. The administration cannot afford to drag its feet. I echo the sentiments of the Senator from Alaska with respect to illegal Italian driftnetters—"All we need is one. If we have one confirmed driftnet that exceeds the limit in use in the world, I think that we ought to tell the United Nations we are prepared to help enforce the moratorium." That says it all.

While worldwide depletion of fishery stocks is a very real threat, we must not underestimate our ability to address the problem. Nor must we fail to recognize that there are success stories on which we can build. First, despite the recent setbacks, we have made substantial progress in eliminating wasteful and destructive driftnets. Second, we now have in place a long-term agreement to allow U.S. tuna fishermen access to the rich tuna resources of the South Pacific. Third, the Senate currently is considering a new treaty and implementing legislation that will establish an international system to license, report, and regulate all vessels fishing on the high seas. Fourth, the United States recently joined with Russia and several other fishing nations to complete a new convention for managing fisheries in the central Bering Sea. Finally, although the condition of Atlantic bluefin tuna stocks is still a concern, I am optimistic that the U.S. investment in strengthening the International Convention for the Conservation of Atlantic Tunas [ICCAT] eventually will pay off in restoring depleted tuna stocks.

With respect to other international efforts now underway, I am encouraged by the efforts of the United Nations Conference on Highly Migratory and Straddling Fish Stocks, as well as FAO efforts to develop an international code of conduct for responsible fishing. Such a code will promote compatibility between the activities and economic interest of responsible fishermen and the ecological principles of conservation. Developing a set of guidelines is important, particularly to reduce overcapacity of world fishing fleets. Without effective efforts to reduce global fleet size, fishing vessels displaced from one fishery will continue simply to migrate to another fishery, often exacerbating overcapitalization problems already present. The heart of the problem is that, in order to prevent long-term environmental damage and develop renewable fisheries, governments must be willing to enforce rules and regulations that forgo short-term unsustainable economic gains and the political pressures that they bring.

The United States must exercise strong leadership in facing the challenge of building sustainable fisheries, not only in U.S. waters, but as a shared world heritage. We have a number of upcoming opportunities for demonstrating that leadership. First, we can complete action on a strong Magnuson Act reauthorization bill, ensuring the recovery and continued use of our domestic fisheries.

Second, I applaud the efforts of the administration to renegotiate the Law of the Sea Convention and look forward to reviewing those efforts when the treaty comes before the Foreign Relations Committee and the Senate. Third, I think the time has come to reexamine the issue of U.S. participation in the Northwest Atlantic Fisheries Organization [NAFO]. Finally, we must push for effective domestic and global enforcement of the existing agreements and treaties. Without firm enforcement in the coastal waters and on the high seas, all of our well-intentioned efforts will be for naught.

We are at a crossroads. We still have time to reverse the current trends and ensure that vital living marine resources are preserved. We must, however, be willing to take the difficult steps both domestically and internationally to move down the path toward creating sustainable global fisheries.

I simply call my colleagues' attention to this extraordinary growing crisis which we must show leadership in trying to resolve.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I merely wanted to rise to congratulate the junior Senator from Massachusetts on his statement on fisheries. The fisheries today are being depleted, depleted, depleted, not only off New England, not only off the United States, but around the world.

I think the consciousness of that has to be impressed on all our people. In addition, there will be signatures on the Treaty of the Law of the Sea tomorrow, and this is very good evidence why a universal law of the sea will help in fishery regulations.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, just very briefly on the same issue, as my colleagues and friends Senator KERRY and Senator PELL have pointed out, we have had a very serious incident in which two boats from New Bedford were seized in Canadian waters in a legal dispute. The issue has not been resolved by the Department of State.

These boats are now being held by Canadian officials. That is a deplorable situation. If we are attempting to try to manage the George's Bank with our Canadian friends, this is just the wrong way for them to go about it. It may be politically popular in Canada to seize American ships before they are going to crack down on their own violations, but it is intolerable from the point of view of American men and women who, after consulting with the State Department, moved ahead to try to make a living.

This is a matter that I know many of us in New England are concerned about. I had the opportunity to talk with the American Ambassador to Canada, Tim Wirth, and I have been in touch with the Canadian Ambassador to the United States, to indicate that we find this to be an unacceptable, inappropriate type of behavior and we are going to work very closely with our President and the Secretary of State to try to address it.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Madam President, is leader time reserved?

The PRESIDING OFFICER. Leader time is reserved.

Mr. DOLE. Madam President, if I could take about 3 minutes of that?

The PRESIDING OFFICER. The Republican leader has that right.

WHITEWATER

Mr. DOLE. Madam President, as the Whitewater hearings get underway, the American people should understand that what they will be watching is a limited and tightly scripted account of only a small piece of the entire Whitewater puzzle. It is like going to a movie theater, paying $6 for a ticket, and getting to see only one 60-second movie preview. That is what this Whitewater hearing is all about.

Will the hearings examine the RTC's internal investigation into Madison Guaranty? No.

Will the hearings cover the Justice Department's handling of the RTC criminal referrals? No.

Will the hearings take a look at Paula Casey's delayed recusal from the Madison case and the David Hale prosecution? No.

Will the hearings cover the diversion of SBA funds to the Whitewater partnership? No.

Will the hearings examine why White House officials rifled through Vince Foster's office shortly after his death? No. Earlier this month, Mr. Fiske apparently changed his mind, telling Congress that his area of inquiry was off-limits, at least for now.

Will the hearings explore the activities of the Arkansas Development and Finance Authority? No.

Will the hearings take a look at whether any of Madison's federally-insured funds were used to pay off campaign debts? No.

And will the hearings examine the Whitewater transaction itself? You guessed it: The answer, of course, is "no."

During the past several months, independent counsel Robert Fiske has been masterful in his role as congressional traffic cop. He has commanded Congress when to go and when to stop, insisting that hearings take a back-seat to his own investigation and exercising an almost complete veto over congressional oversight in the process. To our own discredit, both the Senate and the House have willingly gone along with this charade.

In fact, when historians look back on the year 1994, they will see one of the few occasions in American history when one branch of Government, the Congress, willingly forfeited power to another branch, the executive. Mr. Fiske may be a fine person and a fine lawyer, but he is, without a doubt, one of the most powerful bureaucrats ever seen in American history.

Earlier this week, White House Counsel Lloyd Cutler insisted that no administration official violated any ethical standard as a result of the nearly 30 behind-the-scenes contacts in which insider information about the RTC criminal referrals was shared. Mr. Cutler's ethical dispensation may or may not be justified, but what is beyond dispute is that no ordinary American would have received the same preferential treatment. No ordinary American, cited in an RTC criminal referral, would have received the same advance-warning "head's-up" from the very people charged with conducting the investigation—from the very people charged with conducting the investigation.

And Madam President, if the contacts were on the up-and-up, as Mr. Cutler claims, what was their public purpose? What legitimate investigative goal were they designed to serve?

Madam President, I ask unanimous consent that two editorials—one from the Wall Street Journal and one from today's New York Times—be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOLE. Madam President, I particularly call the attention of some of my colleagues to the editorial in the New York Times called "Censorship, Gonzalez Style." If you watched, as I did, the House hearings on C-SPAN, it was a disgrace. It was a total disgrace. I hope when the Senate Banking Committee starts hearings tomorrow, we will have some serious look at some of the problems.

We are not going to go away. We are going to continue to press for full hearings so the American people can make a judgment on the facts. The New York Times said maybe this is not a cover, maybe it is a question of which word you use. It is certainly an effort not to reveal anything. The majority in Congress is certainly responsible for it, and I think the American voters will know that between now and November.

EXHIBIT 1

CENSORSHIP, GONZALEZ STYLE

Henry B. Gonzalez, the Texas Democrat who heads the House Banking Committee, never really wanted to hold Whitewater hearings in the first place. Now that they are under way he seems determined to make them as unenlightening and unthreatening as possible.

Bowing to Robert Fiske, the independent counsel, Congress had already agreed to exclude the central matter in Mr. Fiske's continuing investigation—whether money from Madison Guaranty Trust, an Arkansas savings and loan, was improperly funneled into the Whitewater land venture or President Clinton's gubernatorial campaigns. That limited the committee to one question: Did Administration officials try inappropriately or unethically to rein in a Federal investigation by the Resolution Trust Corporation into Madison's collapse?

Mr. Gonzalez's devotion to this agreement was demonstrated Tuesday when a Republican asked if the Clintons had paid in full for their share of Whitewater. Lloyd Cutler, the White House counsel, appealed for protection from this important question, and Mr. Gonzalez speedily ruled that he did not have to answer. Mr. Gonzalez was within his rights to silence questions on Whitewater's "Arkansas phase." But the irascible Texan has twisted the already stringent rules to make it virtually impossible for members to develop a continuous, productive line of inquiry into even the narrow matter at hand.

First, he has awarded each member only five minutes of continuous questioning. Further, when a Republican finishes, he must yield to a Democrat and vice versa. This format will surely produce chaos when 10 White House officials appear simultaneously this afternoon, including George Stephanopoulos, Harold Ickes and Thomas McLarty. Republicans will want to know whether they tried to meddle with the R.T.C.'s supposedly independent investigations. But the Republicans will be hard put to mount a sustained cross-examination.

There are 51 committee members; it is therefore conceivable that someone like Jim Leach, the Iowa Republican who has spent the last eight months studying Whitewater, will have just one five-minute shot at 10 people—or 30 seconds per witness. Mr. Leach can "borrow" time from fellow Republicans willing to yield it. But before he uses the extra time, he must yield to a Democrat who could run the questioning off in a different direction.

Mr. Gonzalez is a partisan who believes that Whitewater is simply a Republican political sideshow. His efforts to protect the White House from sustained questioning place a special burden on Donald Riegle, a Michigan Democrat, to open up the Senate hearings that begin tomorrow. They also oblige the Republicans to deploy themselves wisely in the future. They squandered valuable time on Tuesday complaining about Mr. Gonzalez's restrictions, rather than probing Mr. Cutler's odd assertion that he should be regarded as an objective investigator. On the first day, Mr. Cutler and especially Mr. Gonzalez got by with far too many nonanswers and thwarted questions.

THE FISKE HANGOUT

We don't recall offhand whether it was H.R. Haldeman or John Erlichman who suggested dealing with Watergate by a "limited, modified hangout." But the wonderful phrase captures the essence of the Whitewater hearings about to begin today—an exercise intended to create the illusion of openness while revealing as little as possible.

Provided essential political cover by independent counsel Robert Fiske's grandiose view of his own prerogatives, Congressional Democrats have officially limited the hearings to preclude such interesting areas of inquiry as Bill Clinton's Arkansas slush fund for legislative initiatives, Hillary Clinton's commodity trades, Dan Lasater's drug convictions and whatever happened at Mena airport. Questions will be allowed only on matters Mr. Fiske has already certified as nonindictable. Rep. Jim Leach estimated this at 5% of Whitewater. He lowered the number to 2% to 3% when Mr. Fiske declined to bless Congressional nosiness about the handling of Vincent Foster's office papers after his suicide.

The sliver of the case remaining, to be sure, is pregnant with embarrassment for the Administration. It concerns Washington contacts on the regulation of Madison Guaranty Savings & Loan, and press leaks over the past week depict an Administration with a progressive case of mutual recrimination. Will Deputy Treasury Secretary Roger Altman take the fall? Which of various high officials is lying? What did the President know and when did he know it? Amid the often contradictory denials by Washington officials, one thing should be kept in mind.

To wit, that investigators in the field clearly feel they were sat upon to suppress the Madison investigation. A proper investigation would start with RTC Kansas City attorney L. Jean Lewis, and work its way back up the chain of command. It would certainly include the handling of Madison by Paula Casey, the Friend-of-Bill implant as U.S. Attorney in Little Rock, and the circumstances of her appointment. Instead, the hearings will start with denials at the top and work down, maybe. As of yesterday, House Banking Chairman Henry Gonzalez had formally scheduled only one witness: White House 130-day counsel Lloyd Cutler.

To get a sense of the coverup being conducted, consider that Rep. Leach has felt it necessary to bring suit in federal court in an attempt to get documents on Madison from the Resolution Trust Corp. and Office of Thrift Supervision. Such documents were routinely provided to the minority banking staff in previous S&L scandals—Lincoln, Silverado, Centrust, Columbia and others. But when it comes to Arkansas, the supposedly independent regulatory agencies have gone into a protective crouch.

The ranking minority member of the House Banking Committee is entitled only, John E. Ryan of the RTC wrote Mr. Leach, to those documents "otherwise available to the public pursuant to the Freedom of Information Act." Mr. Ryan is the deputy in charge of the RTC after Mr. Altman recused himself. Jonathan Fiechter, longtime acting director of the OTS, took the same position. When Mr. Leach requested the documents for oversight hearings mandated by statute, Chairman Gonzalez wrote the regulators instructing them not to comply. Mr. Leach brought suit for the documents, and Judge Charles Richey is to decide whether the agencies can ignore the law if a chairman tells them to. Lawyers for the agencies now urge the court not to interfere in a dispute within the Congress.

What you have here, it could scarcely be clearer, is a Democratic Congressional majority protecting a scandal-ridden Democratic executive branch, and bending banking regulators to this purpose (assuming they need to be bent). The Congressional majority has a monopoly on Congress's right to learn the truth, lest the minority inform the voters. Judge Richey plainly understands the danger of this doctrine, but in oral arguments said he was troubled by an appellate precedent, even though I thought it was dead wrong then. I'll go to my grave thinking it's dead wrong.

Judge Richey, also, wrote Glenn Simpson in the July 18 issue of Roll Call, "denounced Whitewater independent counsel Robert Fiske for his efforts to limit the scope of the Whitewater hearings that will be held by the Banking Committee later this month, saying Fiske was infringing on constitutionally guaranteed Congressional rights and obligations." The Judge said directly, "I don't believe the independent counsel has the power to tell Congress what they have the power to look into, and when."

It is too much to hope, we suppose, that Judge Richey's view is held by the panel actually overseeing the independent prosecutor law—headed by Judge David B. Sentelle of the D.C. Circuit and including Senior Judges John D. Butzner Jr. of the Fourth Circuit and Joseph T. Sneed of the Ninth Circuit. Interestingly, however, they have not acted on Attorney General Reno's nomination of Mr. Fiske, forwarded July 1, a day after the signing of the new Independent Counsel Act.

That afternoon Senator Lauch Faircloth took the Senate floor to urge "a new, truly independent counsel," who might of course retain Mr. Fiske in some capacity. Senator Faircloth cited Mr. Fiske's involvement in defending Clark Clifford and Robert Altman in the BCCI case, in collaboration with Robert Bennett, the President's lawyer in the Paula Jones case. Also Mr. Fiske's firm representation of International Paper Co., which had land dealings with Whitewater Development. And Mr. Fiske's role in the appointment of Louis Freeh as FBI chief and his private legal work with former White House counsel Bernard Nussbaum. This is not a trivial list; in our own view no one with any role in BCCI should be appointed to anything until we know the full story.

Yet Judge Sentelle's panel should think even harder about whether it agrees with Judge Richey on the balance between prosecutorial and Congressional prerogatives, or whether it wants to endorse Mr. Fiske's view by reappointing him. Does the Judicial Branch really want to take responsibility for the farce about to unfold in Congressional hearing rooms and the nation's TV screens?

JUDGE INGE JOHNSON: BLAZING TRAILS FOR WOMEN LAWYERS

Mr. HEFLIN. Mr. President, in this day and age, when women make up nearly half the student population in our Nation's law schools and practice in large numbers throughout the country, it is hard to imagine a time when they were a rarity in the judiciary and the legal profession. Inge Johnson came on the scene at just such a time, and her story is one that has inspired many over the years.

When Judge Johnson came to the United States in the late 1960's, she had already earned a law degree from the University of Copenhagen in her native Denmark. With the help and guidance of then law school dean at the University of Alabama, Dan Meador, who is currently a professor at the University of Virginia Law School, Inge enrolled in Alabama's comparative law master's degree program in 1969. It was highly unusual to have a foreign student attending Alabama's law school, and this made her something of a curiosity. Dr. Meador remembers the other students being keenly interested in her background. She sparked great interest in the field of comparative law, and developed many close friendships. One of those friendships happened to be with a bright and personable young man from Tuscumbia, AL, by the name of Bill Johnson. This friendship ripened into a courtship and eventually marriage.

After completing the comparative law program at Alabama, Inge returned to Copenhagen, where she practiced law for a while, but soon returned to America to fulfill her dream of practicing here. However, she soon found that one of the requirements for admission to practice in the United States was to have a degree from an accredited American law school. Her determination was great, so she enrolled in the University of Alabama Law School for her juris doctor degree. When she finally received the degree, she had completed the equivalent of 7 years of legal education.

Mrs. Johnson then applied to take the bar examination, but soon found that she had yet another obstacle to overcome in her path to becoming a practicing lawyer in the States: She had to be a naturalized American citizen. She had previously applied for citizenship, but had to meet the residency requirement, which she would not meet for a few more months. The Supreme Court of Alabama came to her assistance by allowing her to take the bar exam since she demonstrated she would become a citizen shortly. After overcoming hurdle after hurdle, Mrs. Johnson became a full-fledged lawyer and shortly thereafter a full-fledged American citizen.

In 1973, Mr. and Mrs. Johnson returned to his hometown of Tuscumbia, AL. Bill's forebearers, particularly the Johnsons and Helen Keller's family, were among Tuscumbia's early settlers.

For many years, Inge was, incredibly, the only woman practicing law in all of northwest Alabama, and very possibly the only one practicing north of Birmingham. She and her husband practiced law together for a number of years under the firm name of Johnson and Johnson.

Sixteen years ago, Inge was elected presiding circuit court judge of Colbert County, of which Tuscumbia is the county seat. Now in her third consecutive term, she did encounter some resistance when she entered the political arena in 1978, when some voters said she should be at home with her children and that a woman could not measure up to the demands of a judgeship. All this was said to a woman who had first gone to school in a country where half the practicing lawyers were women, and where it was not considered at all unusual for a woman to enter the profession. In spite of these sentiments, however, her abilities, qualifications, and determination allowed her to persevere and succeed. And attitudes have changed to the point where statements like this would be almost unheard of today. Besides, she has proven herself to be a nurturing and caring mother.

Inge Johnson and hundreds of other trail blazers like her have enhanced the legal profession in many positive ways that are difficult to measure. There is no doubt that they opened the doors through which some of the brightest legal minds have been able to enter and begin making valuable contributions to society.

I ask unanimous consent that an article appearing in the Times Daily, a daily newspaper for Florence, Muscle Shoals, Sheffield, and Tuscumbia, on the life and career of Judge Inge Johnson be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOHNSON PROMPTED CURIOSITY WHEN SHE ARRIVED

(By Robert Palmer)

TUSCUMBIA.—She didn't begin her law career with the intent to change the perception of female lawyers in the Deep South, but in a roundabout way, Inge Johnson did.

After 16 years on the bench as Colbert County's presiding circuit judge and a decade of experience in private practice in Denmark and Tuscumbia, Johnson believes her presence has had a positive effect on women entering the legal profession in the Shoals.

A native of Denmark, she came to Tuscumbia in 1973 after marrying William T. Johnson Jr., also a lawyer, whose family has had its roots in Tuscumbia since antebellum times. For several years, she was the only woman practicing law in Northwest Alabama and possibly the only woman practicing north of Birmingham.

She said she was surprised by the small number of women enrolled in the University of Alabama Law School when she enrolled there in 1969 to obtain a comparative law degree. In her native Copenhagen, where she had already earned a law degree, almost half the practicing attorneys were women, and it was not considered unusual for a woman to enter the legal profession, she said.

"It didn't dawn on me that being a female in law would be different here, but it was," she said.

After earning a juris doctorate from Alabama, she moved to Tuscumbia with her husband, and they entered practice together. She said her appearance in the courtroom of a Deep South steeped in old traditions attracted curiosity from her male peers rather than hostility or quiet discrimination.

"My peers did not discriminate, though I was worried about it," she said. "They were more surprised than anything else. It was not like trying to break into a fraternity."

However, she soon became frustrated. Her daytime hours were devoted to her work, at night, her time was spent with their first child. Two more would follow over the years.

Johnson said she was in a Colbert judge's office one afternoon and complained that she wasn't hearing the lawyer "gossip" she needed to know because she was not well-known. She also expressed frustration because she did not mingle socially very often with other women because she was devoting her time to establishing her practice.

A seasoned Tuscumbia attorney in the judge's office at the time laughed and told her he would keep her posted on all the "good gossip," she said.

"And he still does to this day," she added.

When she ran for election as judge, her gender became an issue in the campaign, though she said she had hoped to avoid it as unimportant.

WOMEN HAVE EARNED RESPECT

Over the years, she has talked with many area high school students interested in the law profession, especially girls.

"I hope that I've inspired them in some way," she said. "A law career ties in well with family values."

The acceptance of women in law in the Shoals can be attributed to a number of things, she said.

"There have never been any radical feminist lawyers around here. All those I've dealt with have been very cordial and professional. There has been no sticking together and fighting their male colleagues," she said.

"What has characterized women attorneys here is competency, capability and respect. That encourages respect from their male colleagues," she said. "They (women) are darn good attorneys first."

IT IS EASIER TO PREVENT DISEASE THAN CURE IT—PREVENTION IS BASIC TO HEALTH REFORM

Mr. KENNEDY. Mr. President, as we turn our full attention to health care reform, it is important for all of us to remember that it is easier to prevent disease than to cure it. Universal coverage is essential to prevention. Without it, preventive services will not reach many of those most in need.

This idea is so simple and so obvious that it often gets lost in the complex debate on health reform. Prevention is good health policy and good economic policy. It is the stitch in time that saves millions and billions—millions of lives and billions of dollars. Preventive techniques can stop epidemics before they start, or stop them after they begin. Imagine the difference it will make to the Nation if we develop more effective ways to prevent cancer and heart disease, or prevent an epidemic that would kill millions, or prevent low birthweight babies.

We have the potential today, through our community-based, public health care system, to accomplish much of this and more. To succeed, prevention must be a central part of our health system, and it will be under genuine health reform.

To achieve a healthier America, over 130 organizations of business leaders, policy-makers, health-care professionals, academicians, and researchers have agreed on five key prevention principles which should be included in health reform. I ask unanimous consent that this consensus statement may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PREVENTION IS BASIC TO HEALTH REFORM CONSENSUS STATEMENT

Universal access to health and medical care is essential. Without it, preventive services may not reach those most in need. But prevention must be an integral part of our health system, if we are to seriously progress toward reducing the toll of preventable disease and injury and saving taxpayer money. As the debate over health reform intensifies, business leaders, policy-makers, health-care professionals, academicians, and researchers have forged a national partnership to support prevention's health system role. The following key steps should define that role in health reform legislation.

All standard benefit packages should include full coverage of clinical preventive services and appropriate prevention counseling and education.

Stable and adequate funding should be provided to revitalize and support community-based preventive services as well as core public health activities. Funding must include the training and education of public health professionals and support for service delivery infrastructure.

Federal prevention coordination processes should be established to ensure that investments to improve the public's health are based on the best evidence from research and population health data. This may be done through structures such as expert panels addressing (a) clinical preventive services, including benefit plan revisions, (b) community-based preventive services, and (c) prevention-oriented social and economic policies.

A coordinated, confidential public-private data system should be established to assess Americans' health and measure its improvement. The system would identify the most cost-effective means of data collection, and would release only aggregate information, not personal data. Population-based data, gathered across all economic and ethnic groups, would include information on health plans, community health needs, health status, quality of care, etc. This would allow measurement of health outcomes, effectiveness of services, and national changes in health status and health risks.

An incentive-based system should be established to reward employers who successfully implement qualified disease prevention, health promotion and safety programs, and to provide incentives to health plans to improve the health of the communities they serve. Incentive programs should be adaptable by the size and function of different employers.

SIGNATORIES TO THE CONSENSUS STATEMENT

Aetna Health Plans.
AIDS Action Council.
Alliance for Aging Research.
Alliance To End Childhood Lead Poisoning.
Ambulatory Pediatric Association.
American Academy of Pediatric Dentistry.
American Academy of Pediatrics.
American Academy of Orthopedic Surgeons.
American Association for Dental Research.
American Association of Colleges of Nursing.
American Association of Colleges of Pharmacy.
American Association of Dental Schools.
American Association of Occupational Health Nurses.
American Association of Public Health Dentistry.
American Cancer Society.
American Clinical Laboratory Association.
American College Health Association.
American College of Nurse-Midwives.
American College of Occupational and Environmental Medicine.
American College of Physicians.
American College of Preventive Medicine.
American College of Sports Medicine.
American Council for Drug Education.
American Council of Life Insurance.
American Dietetic Association.
American Heart Association.
American Lung Association.
American Medical Student Association.
American Nurses Association.
American Optometric Association.
American Pediatric Society.
American Physical Therapy Association.
American Podiatric Medical Association.
American Psychological Society.
American Public Health Association.
American Running and Fitness Association.
American Speech-Language-Hearing Association.
Arkansas Department of Health.
Association for Health Services Research.
Association for Worksite Health Promotion.
Association of Academic Health Centers.
Association of Junior Leagues International.
Association of Maternal and Child Health Programs.
Association of Medical School Pediatric Department Chairmen.
Association of Reproductive Health Professionals.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Association of State and Territorial Public Health Laboratory Directors.
Association of Teachers of Preventive Medicine.
Association of University Programs in Health Administration.
Blue Cross of Western Pennsylvania.
Bureau of Public Health, West Virginia Department of Health and Human Resources.
Campaign for Women's Health.
Catholic Health Association.
Cecil G. Shaps Center for Health Services Research, University of North Carolina at Chapel Hill.
Center for Consumer Health Education, Inc.
Center for Corporate Public Involvement.
Center for Science in the Public Interest.
Center for the Advancement of Health.
Central States Health & Life Co.
Citizens For Public Action on Blood Pressure and Cholesterol, Inc.
Colorado Department of Public Health and Environment.
Community Health Accreditation Program.
Connaught Laboratories.
Council for Responsible Nutrition.
Division of Health Promotion, Bureau of Public Health, West Virginia.
Employee Assistance Professionals Association.
Every Child By Two.
Florida Department of Health & Rehabilitative Services.
Georgia Division of Public Health.
Health Decisions, Inc.
Health Education Center, Inc.
Health Industry Manufacturers Association.
Health Insurance Association of America.
Health Management Corporation.
Health Net.
IBM Corporation.
Institute for Advanced Studies in Immunology & Aging.
Institute of Science, Technology & Public Policy.
Johnson & Johnson Advanced Behavioral Technologies, Inc.
Kansas Department of Health and Environment.
Lederle-Praxis Biologicals.
Mississippi State Department of Health.
Missouri Department of Health.
National Association For Public Health Policy.
National Association of Black County Officials.
National Association of Community Health Centers.
National Association of Counties.
National Association of County Health Officials.
National Association of Meal Programs.
National Association of Nurse Practitioners in Reproductive Health.
National Association of School Nurses.
National Association of Social Workers.
National Association of State Universities and Land Grant Colleges.
National Business Coalition on Health.
National Black Caucus of State Legislators.
National Black Nurses' Association, Inc.
National Council on Family Relations.
National Family Planning and Reproductive Health Association.
National Foundation for Infectious Diseases.
National Hispanic Council on Aging.
National League for Nursing.
National Mental Health Association.
National Multiple Sclerosis Society.
National Nurse Practitioner Coalition.
National Osteoporosis Foundation.
National Organization on Fetal Alcohol Syndrome.
National Public Health Information Coalition.
National SAFE KIDS Campaign.
National Women's Health Network.
Nevada Division of Health.
New Mexico Department of Health.
New York State Association of County Health Officials.
Older Women's League.
Partnership for Prevention.
Public Health Information Services.
Public Voice for Food and Health Policy.
Prudential Center for Health Research.
Society for Pediatric Research.
South Carolina Department of Health and Environmental Control.
Society for Adolescent Medicine.
Sporting Goods Manufacturers Association.
Summit '93 Health Coalition.
The Congress of National Black Churches, Inc.
The National Black Caucus of State Legislators.
The National Council on the Aging's Health Promotion Institute.
The Society of Behavorial Medicine.
Voluntary Hospitals of America.
Washington State Department of Health.
Worksite Health Promotion Alliance.
YWCA of the U.S.A.

TRIBUTE TO DR. RICHARD GIBB

Mr. KEMPTHORNE. Mr. President, it is with sadness that I note the passing of the former president of the University of Idaho, Dr. Richard Gibb, who died this weekend at the University of Washington Medical Center at Seattle after a brief battle with cancer.

Dr. Gibb is probably best known for successfully guiding Idaho's land-grant university through a difficult financial period. Facing high inflation and a tax limiting measure when he first became U of I president in 1977, Dr. Gibb was still able to develop and implement a core curriculum that earned national recognition for excellence.

He successfully competed against nationally recognized engineering institutions and universities and was awarded a major project by National Aeronautics and Space Agency grant to develop special microchip technology to be used by NASA in guidance systems and to correct computer errors in space. He created the Lionel Hampton School of Music and the college of art and architecture, and led a celebration of the institution's 100th birthday that touched every corner of the State and garnered more than $40 million in donations.

His tenure as president was marked by several major campus construction projects, including the Kibbie Activity Center East End Addition, the J.M. Martin Agricultural Engineering Laboratory and the new wing of the life sciences building, which was named in his honor last year.

Dr. Gibb stepped down from the presidency in 1989 to return to teaching. In the classroom, he was known for actively engaging students in discussions about real life experiences and was available to them outside the classroom as well.

He was active in the Moscow Kiwanis Club, and was also a member of numerous professional and scholarly organizations. Dr. Gibb was an enthusiastic participant in a variety of events at the university.

Dr. Gibb, and the contributions he made to the University of Idaho and the opportunities he provided to Idaho's young people will be greatly missed.

CRIME

Mr. DOLE. Mr. President, earlier this morning, the crime conference completed its deliberations. Unfortunately, it appears that parts of the conference report could have been concocted by a university sociology department, rather than by those concerned with effective law enforcement.

The conferees have apparently resurrected last year's defeated stimulus package by earmarking a staggering $9 billion for more than 15 so-called prevention programs. Midnight Basketball, the Ounce of Prevention Council, drug courts, the Local Partnership Act, the Model Cities Intensive Grants Program—these are just several of the multimillion-dollar pork-barrel projects that are masquerading under the anticrime banner.

On Tuesday, Republican conferees successfully earmarked $3.6 billion for the Edward Byrne Memorial Grant Program, which provides critical assistance to State and local law enforcement, the very people who are on the front lines in the war against crime. Yet, a mere 24 hours later, the Democrat conferees reversed this success, stripping the Byrne Grant funding and tossing it in the prevention pork barrel.

Unfortunately, several important tough-on-crime proposals that passed the Senate last year also didn't make the final conference cut:

New Federal rules of evidence making it easier to prosecute vicious sex offenders. Gone.

Tough mandatory minimum penalties for those who use a gun in the commission of a crime. Gone.

New legal tools designed to assist Federal prosecutors in combating violent gang activity. Gone.

The Terrorist Alien Removal Act, which would have made it easier to deport vicious terrorists who are in our country illegally. Gone.

The mandatory HIV testing of those charged with sex offenses. Gone.

And a proposal requiring violent criminals to make restitution to their victims. Believe it or not, gone.

Many of the tougher provisions are gone.

But, perhaps the biggest cut of all, Mr. President, is in the area of prison funding. Although the House of Representatives authorized $10.5 billion to help the States create more prison space for violent criminals, the conference report takes a far softer approach, reducing the level of prison funding and loosening up the truth-in-sentencing requirements.

And, Mr. President, there are gimmicks: more than $2 billion of the money allegedly allocated for prisons is not financed through the Violent Crime Reduction Trust Fund. So, it is anyone's guess if this funding will ever be appropriated or ever reach the States, where it is needed.

Mr. President, I will take a close look at the final conference report, but from what I see so far, I am afraid that Congress may have just flunked its most important crime fighting challenge, as we have done in the past. From all appearances, we have done just that.

I yield the floor.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,634,714,547,116.98 as of the close of business Wednesday, July 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,777.21.

TRIBUTE TO LARRY ARGIRO

Mr. SARBANES. Mr. President, I rise today to pay tribute to Mr. Larry Argiro, a longtime Federal servant and creative leader in acoustics research and design for the U.S. Navy. Mr. Argiro recently retired after a remarkable 47 year career, and we in Maryland will truly miss his leadership and technical expertise at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment [NSWC].

Larry Argiro began his career with the Navy in 1947 as a P–1 electronics engineer and immediately became involved in noise reduction research. From the start, Mr. Argiro demonstrated a strong commitment to assisting the Navy in meeting the increasing need for acoustic technologies in the post-World War II era, a time when the submarine was fast becoming an integral part of our Nation's approach to naval warfare strategy. In the years since, Mr. Argiro has immersed himself in this growing demand for acoustic technology by devoting his enthusiasm, creativity, and an exceptional technological knowledge to enhancing Navy submarines, nuclear submarines and antisubmarine warfare ships.

Mr. Argiro took over as head of the trials and analysis branch at Annapolis in 1963, where he and his staff of over 50 scientists and engineers conducted various research projects and developed innovations in acoustic signal processing and machinery noise technology. Three years later, Argiro was named director of the machinery silencing division at the Center where he spent 21 years managing 100 engineers in noise reduction research for nuclear submarines and antisubmarine warfare ships. Larry's colleagues and supervisors not only attest to his tremendous commitment, but also to the number of important breakthroughs in acoustics technology that emerged from the Annapolis laboratory during his tenure as director of the machinery silencing division.

In 1986, Mr. Argiro assumed the leadership of the machinery research and development directorate in the Center's propulsion and auxiliary systems department. There, he not only maintained his pattern of outstanding progress in machinery dynamics and silencing, but he also became involved in several other important innovations and projects including the analysis and design of new power systems, ship automation control, shipboard energy availability and conservation, electrical integration, and electric and magnetic sensing.

During Larry's tenure, the Machinery Research and Development Department at the Naval Surface Warfare Center has developed a substantial portion of the most advanced, environmentally sound, and affordable machinery for surface ship combatants and submarines in the world.

I have had the chance to get to know Larry through working and visiting with him on several occasions at the Annapolis laboratory. I know firsthand of his commitment to preparing the Navy for the 21st century and I am pleased to have this opportunity to express my appreciation for his incredible depth of knowledge and gracious demeanor. His career is certainly one marked by achievement and I know his leadership will be missed.

THE REASSIGNMENT OF COLONEL WASHABAUGH, AIR FORCE LEGISLATIVE LIAISON

Mr. MACK. Mr. President, I rise today to recognize an individual who has provided outstanding support and assistance to the U.S. Congress. Col. Mark Washabaugh, Office of the Secretary of the Air Force, legislative liaison, Inquiry Division, was reassigned from the Pentagon to Randolph AFB, TX, on May 31, 1994. Many of my colleagues and I have directly benefited from his exceptional service in the Air Force's congressional inquiry office.

As a branch chief in the Inquiry Division, Colonel Washabaugh demonstrated the utmost competence and efficiency in handling a variety of unique situations and constituent concerns. His skillful leadership resulted in the successful resolution of numerous cases during an 18-month tour.

A seasoned traveler, escorting myriad congressional members and their staffs, Colonel Washabaugh upheld the highest standards of professional conduct. His thorough and efficient planning assured these trips were a complete success.

Mr. President, I congratulate Colonel Washabaugh for a job extremely well done and wish him the very best in the future. His commitment to excellence brings great credit upon himself and the U.S. Air Force.

TRIBUTE TO CHRISTOPHER FISH

Mr. D'AMATO. Mr. President, I rise today to pay tribute to Christopher Fish. Christopher Fish joined my staff in October 1991 after having worked as an intern. During his tenure in my office he worked in the mailroom and later became my executive assistant and intern coordinator. His service and loyalty to me was invaluable. Chris will be leaving our staff to attend Syracuse University Law School. My best wishes to Chris as I know his future will be a bright one. Mr. President I would like to submit the following comments in the CONGRESSIONAL RECORD from members of my staff.

Chris: Based on my experience, you will encounter many high pressure, stressful situations during law school and as a practicing attorney. There will be countless times when you would gladly give your last dollar to be anywhere else. Let me assure you, though, nothing will compare with your experience in trying to find Dulles Airport with the Senator that Friday afternoon! We'll miss you. Best wishes.—Phil Becthel

Chris Fish is a person that leaves a positive impression on most people he meets. My first encounter with Chris was in January 1994 when I started my fellowship in Senator D'Amato's office. Chris was one of the first people I met and as he worked in the desk next to mine, he taught me how to get the job done efficiently and effectively. His mere presence, hard work and dedication flows from his persona and fills the office in a productive manner. Many times I witnessed his unique ability to focus on the highest priority tasks at-hand despite the many distractions. I am glad to have the opportunity to work with him. I know he will continue to make us proud.—Manny Cappello

From interns to staffers we have had many fun times, and some very trying times, but things have seemed to always work out in the end. The years have flown by so quickly. It was only yesterday that we started as interns with David, Megan and "Big Red", but things change and people move on. It is easy to let friendships fade away so let's work hard to prevent that from happening. When you are studying late at night just remember we are probably still at our desks pulling the late shift. Don't forget us little people and that the road to Syracuse Law School begins at the Dulles Toll Road. Good luck.—Mike Giuliani

Chris Fish, what a "class act!" It was a pleasure to be one the same team with you. My days here in the office were brighter only because of your presence, which I will sorely miss. My very best wishes to you in all of your future endeavors.—Tina Gray

CF—Remember the trips: Where is this place, again? Claudia needs a what? Doesn't Design Cuisine deliver? This treadmill looks fine. Why don't we take Salamone, so we don't get a ticket? Senator, we've crossed border into West Virginia, now what? You want me to drive over what?! Claudia, the car needs brakes, a battery, a radiator, new taillights, new tires, and there's something wrong with the phone. You are the man. Good luck and let's go Orange!—Joe Kolinski

The good time, fun loving role that Chris played in the office will be hard to replace. His sense of humor made the long work days easier to get through. He was a good coworker and an even better friend. I wish him the best of luck in Law School and beyond. Drop by often!—Rich Mills

When I arrived in Washington to begin my internship in Senator D'Amato's office I did not know anyone in the entire city of Washington, D.C. let alone my new office. But thanks to Chris, who accepted me as an intern, the transition to a strange city and a new environment was made exceptionally easy. Chris was always available to answer questions and his friendly demeanor was ever-present. I soon came to value the friendship of Chris and to this day I owe a great deal of gratitude to him. The absence of his presence in our office will certainly be felt, and I wish only the best in all of his future endeavors.—Rob Ostrander

In January of 1992 I started as an intern for Senator D'Amato. The first person in the office that opened up to me was Chris Fish. This became symbolic for how Chris was as a person. He was more than a fellow staff member and good friend. He had that rare quality of walking into a room and getting everyone motivated to do something. A lot of the staff looked to Chris as a catalyst for action. He reached out to many and was great at organizing and hosting many of the office social events. He was a good friend who will be missed by our office. I know that in law school he will bring the same energy and enthusiasm to the people around him that he brought to our office. Chris thanks for being a truly unique individual. We will miss you.—Roger Panetta

Good luck in your future. Your service will not be forgotten.—Mike Petralia

Chris Fish came to us a few years ago eager to learn, ready to help, and willing to give his best. Over the years, these are the qualities that have gained him the respect and admiration of his friends and colleagues. It is no doubt that Chris will do well as he pursues a law degree and that he will excel in the years to come. I wish you well, Chris, and we'll all miss you.—Peter Phipps

When it is Saturday night and you have been studying tort reform for nine hours just remember one thing * * * You're the man!! Good luck kid.—John Salamone

There is a certain bond that grows out of standing in the mail room together. It can't be explained, and no one should try. Chris Fish is a great friend. There are many times when he was there to help me out of tough spots, and I will always be grateful for his friendship. Good Luck.—Kraig Siracuse

When I first came down to Washington and didn't know anybody he made sure I was part of the group. I'm not sure that was a good thing, but thanks for doing it. Thanks also for your help in coordinating the schedule when our paths collided. Best of luck at Syracuse. Remember—it's tort, not tart.—Harvey Valentine

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1513, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1513) entitled the "Improving America's Schools Act of 1994."

The Senate resumed consideration of the bill.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2418

(Purpose: To provide local school officials control over violence in classrooms and on school property, and for other purposes)

Mr. GORTON. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. LIEBERMAN, Mr. BURNS, Mr. CRAIG, Mr. BOND, Mr. MURKOWSKI, and Mr. BENNETT, proposes an amendment numbered 2418.

Mr. GORTON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER SCHOOL VIOLENCE.

(1) IN GENERAL.—In any school that receives Federal funds, if a student brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of, school policy, or has demonstrated life threatening behavior in the classroom or on school premises, then the student shall be subjected to the disciplinary actions as determined by the local educational agency.

(b) INDIVIDUALS WITH DISABILITIES.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(1) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during", and

(2) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of, school policy, or a child with a disability who has demonstrated life threatening behavior in the classroom or on school premises, then the child may be placed in an interim alternative educational setting for not more than 90 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(c) SUNSET PROVISION.—This section, and the amendments made by this section, shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals With Disabilities Education Act.

(D) DEFINITIONS.—For the purposes of this section, the term "life threatening behavior" is defined as "an injury involving a substantial risk of death: loss or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent; or an obvious disfigurement that is likely to be permanent."

Mr. GORTON. Madam President, this amendment is presented on behalf of myself and the distinguished Senator from Connecticut [Mr. LIEBERMAN].

I ask unanimous consent that Senators BURNS, CRAIG, BOND, MURKOWSKI, and BENNETT be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Madam President, during the final vote on Goals 2000, after the conference committee on that bill had summarily dropped a school violence amendment which I proposed and which was accepted by the Senate, I vowed to press for legislation during the next education bill to come before the Congress to make it safer to walk the halls and sit at the desks of our Nation's schools.

On behalf of parents, educators, and students, I am here today to fulfill that promise. Violence is tearing our society apart and is destroying educational opportunities for America's young people.

It is time we took the steps necessary to regain control of our Nation's schools. In Washington State, for example, violent crimes by youths have doubled in number in the past decade, despite a 3-percent reduction in the youth population. Our superintendent of public instruction recently released her annual report of weapons in Washington State schools for the 1992–93 school year. A total of 2,237 incidents of possession of firearms or dangerous weapons on school premises were reported by school districts and approved private schools.

The prevalence of such incidents is constantly increasing, as is the variation and types of weapons. We must address this problem now. We must ensure the safety of our children in school and provide a learning environment free of violence and disruption.

According to the national crime survey, each year nearly 3 million thefts and violent crimes—1 crime every 6 seconds—takes place on or near school grounds. The same study suggests that 67 out of every 1,000 teenagers are victims of a violent crime each year.

I have a strong personal stake in the debate over education reform and school safety. My wife, Sally, and I have just been blessed with the birth of our sixth grandchild. As a grandparent, I am deeply apprehensive about their safety in our schools and on our streets. Perhaps in the Halls of Congress we can feel immune from what is going on in our local communities. The threat of violence in our schools and communities is tragic. While we in Congress simply debate this issue, teachers, and school officials have lost the right to control their classrooms. Violent and disruptive students who prevent others from learning cannot be disciplined effectively by reason of Federal rules and for fear of lawsuits.

According to the Washington State Parents and Teachers Association, Federal regulations make it difficult to create a safe, orderly environment in our schools. Educators are unreasonably hampered when they try to prevent or reduce violence. They find that Federal regulations inhibit their ability to design and implement commonsense discipline in their schools. This call for reform came through loud and clear earlier this year in a statewide education conference I held in Fife, WA. The primary concern expressed to me by the almost 200 parents, teachers, principals, students, business people, and other community leaders was the growing problem of violence in our schools.

The participants urged the need to get the Federal Government off the backs of local educators and to let them do their jobs. Educators must be allowed adequately to address the problems of violent and criminal behavior in their schools. They must be able to restore discipline and reduce violence in our schools and in our communities. It is time for us to make school violence a top priority and to stop inhibiting its suppression. We must regain control of our classrooms now. We can begin by giving the authority to school officials to do their jobs.

Madam President, this local-control-over-school-violence amendment, cosponsored by Senator LIEBERMAN and several others at this point, does just that. It increases the authority of the educators and our local schools to address serious disciplinary problems. Today, our education system provides a dual system of discipline. Some students who are involved in bringing dangerous weapons to class or who demonstrate life-threatening behavior are properly disciplined while others are not.

It is destructive and discriminatory to have one set of rules for regular students and another for special education students protected under the Individuals With Disabilities Education Act. This sends an unclear and unfair message to all our students. Educators in Washington State emphasized to me that the stay-put provision of section 615 of the Individuals With Disabilities Education Act is a source of discontent and frustration. These educators who deal with disciplinary problems on a daily basis tell me that their hands are tied by the stay-put provision.

The stay-put provision in part B of IDEA was established to protect the educational placement of students with conditions that require them to receive special education and related services. It established a mechanism to place students in an educational program within the school system. Once placed, the student cannot be removed for more than 10 school days without parental consent or unless the school obtains a court injunction for a permanent change in placement for the student.

Court interpretations of a well-intended provision of the Individuals With Disabilities Education Act make it extremely difficult to remove or suspend any IDEA protected student from the classroom more than 10 days without lengthy and expensive special hearings. The protections for IDEA students were created in 1975 when acts of violence that occur in today's schools across the Nation could not have been imagined. Today's reality combined with these IDEA protections leave all students, including others with disabilities, and teachers at risk.

In 1988, the U.S. Supreme Court ruled in Honig versus Doe that public schools may not expel or remove disruptive, emotionally disturbed children from their classes for more than 10 days, even to protect others from physical assault, unless they get permission from the parents or a judge. The decision, of course, is based on IDEA, not on the Constitution. If we amend the Individuals With Disabilities Education Act, as this amendment does, Honig versus Doe becomes irrelevant.

The stay-put provision in the Individuals With Disabilities Education Act makes it difficult to remove from the classroom a student with a disability who has attacked a teacher or a student or who has brought a weapon into the classroom. The reasoning behind the provision—to protect students with disabilities from having their educational placement changed without regard to their individualized education plan—is impossible to defend when the disabled student threatens the life and safety of other students and teachers. These 1975 protections were enacted at a time at which it could not have been known students would be bringing dangerous weapons into the classroom. School safety is seriously jeopardized by this rule now that guns and violence are widespread.

To my colleagues, I implore you to join with me in confronting this dual system of discipline in our schools. By supporting this amendment, we will be providing educators with tools to remove from the classroom seriously violent students who are currently protected from this change of placement under IDEA. Rather than having to readmit a student after the statutory maximum 10-days waiting period or obtain a court injunction, educators will have the authority to place such a student in an interim educational program until the school district determines the appropriate educational placement, which it must do within 90 days.

This "local control over school violence" amendment applies to all students, not just to those with educational disabilities. It increases the disciplinary power of our local school officials to deal with weapons offenses and life-threatening behavior. The section addressing the Individuals With Disabilities Act makes it permissible immediately to remove a student who brings to a school or a school-sponsored event a weapon that violates school policy. It also allows the removal of a student who has demonstrated life-threatening behavior in the classroom or on school premises. It requires that the child be moved and put in the interim alternative setting until a decision is reached. If parents call for a due process hearing, the child stays in the interim placement rather than in the classroom where further disruptions could occur. Again, this provides our teachers and the school districts much-needed local disciplinary control.

Opponents claim that this attacks the disabled. This is just not true. This amendment is not designed to deprive anyone of his or her opportunity to learn. It is designed, rather, to protect the majority of the students in our Nation's schools from the threat of serious violent behavior.

Some argue that we should wait until next year when all of the Individuals With Disabilities Education Act is reauthorized to offer this amendment. Why should we neglect the pressing safety problems in our Nation's schools today? How many more destructive incidents must occur before Congress takes action? But even so, in order to address some of my opponents' concerns, we have included a sunset provision in the amendment. This amendment will sunset when the Individuals With Disabilities Education Act is reauthorized unless, of course, it is extended and expanded.

In my opinion, and I believe my colleagues will agree, no student, whether or not he or she is disabled, has the right to bring a dangerous weapon to class or to school property or to a school-sponsored event, nor should any student be able to engage in life-threatening behavior in the classroom without appropriate disciplinary action being taken. This type of behavior is destructive to the learning environment of all our children and must not be tolerated. We must ensure the safety of the students in our Nation's schools. No student can learn in an environment of fear. The ability of school districts to remove these students increases the safety for all students. As Members of Congress, we have the authority to restore a balance to the current dual system of discipline in our schools.

Madam President, this Senator has discussed this problem with a large number of educators in my State. Those educators have shared incident after incident of violence and disruption taking place in their schools every single day. Let me share a few examples to demonstrate the dual system of discipline. Take, for example, the situation in Washington State where a first grader brought a large screwdriver to school, put it to the throat of another first grader and said he was going to run it through the child's throat. The student was a special needs student and special education laws came into play so that the child was put back into the same classroom. The parents of the traumatized student withdrew their child and threatened to file a lawsuit. The offender was able to continue subsequent acts which continued to terrorize other students.

Or a fourth grade student who concealed a knife in her backpack, extorted lunch money from other students by threatening that she would use it on them. When she did pull the knife and physically intimidated a schoolmate, the school was able to begin the disciplinary process, only to discover when the parents came in that she had been a special education student 2 years earlier in a previous school district and the present school had no record of the placement. The parents appealed the disciplinary action and the girl was sent back to class pending settlement.

Or a fifth grade physically handicapped student in the regular classroom, special education qualified due to physical disability, threw tantrums and hit a teacher for up to 40 minutes at a time. Again, the school was severely limited in potential sanctions because of the special education mandate.

Or a sixth grade student who brought a gun to school, used it to threaten and intimidate, waving it around and telling students who he would kill. The gun turned out to be a facsimile, though it is metal, dark in color, and looks very real. Parents claim, because of his learning disability, he was "just joking around." Here again is a situation where, due to special education status, the student was returned to class.

More instances: A behaviorally disturbed special education student physically abused his classmates. On one occasion the teacher restrained the child and was herself kicked and punched several times. After a lengthy process, the student was suspended for 5 school days. Upon his return, the same activities began again with the addition of threats to the life of the teacher. The student could be suspended only for short periods of time during the remainder of the year. The teacher resigned her teaching position with the district.

Madam President, these unfortunate incidents are occurring in school districts across the country. Let me share with you an article that appeared less than 2 months ago in the Los Angeles Times describing a situation in Orange County in which a 6-year-old kindergartener who allegedly bit teachers, threw a desk, hit and spit at students, and sent a teacher and her aide out on medical leave and was sued by the Huntington Beach School District. The injuries were not found serious enough for the student to be removed. As a result of the stay-put provisions in the IDEA, a judge forced the school to keep this student in the classroom. Parents of 12 of the 31 children in the class temporarily removed their children for fear of endangerment. In this case, as in others, the right of all schoolchildren for a violence-free classroom was not taken into account.

In some cases IDEA is manipulated by students who have never been recognized as having a disability but receive protection after engaging in unacceptable school behavior. For example, in February of this year, a 17-year-old student at El Capitan High School in a California district who took a handgun to school in clear violation of State law and school district rules was allowed to stay in school pending resolution of a disability issue.

The school would have to prove that there was a high likelihood that the boy's presence on campus would create a violent situation in order to remove him for longer than the mandatory 10 days. It must also be determined whether the student is a victim of "attention deficit disorder" and, therefore, deserving a special education status.

In other words, Madam President, the very antisocial actions are claimed to demonstrate disability and to prevent discipline by schools.

This ingenious legal theory will allow dangerous students to remain on campus simply because of an allegation of disability, and all they may have to do is to allege entitlement for special education. Because the school district's decision to deny special education, and appealed as high as the Supreme Court, a student using the loophole may stay in school indefinitely.

In this respect, we have the same or similar situation which was discussed to the shock of other Members on the floor here not long ago about the fact that disability payments are made under some portions of the Social Security Act to children who are disruptive in school because the disruptive activity itself is considered evidence of disability and, therefore, allows for an extra Social Security subsidy for those students and their parents.

Our schools, and our school authorities, need help now, and the help they need is the authority to do their own jobs without being interfered with from Washington, DC. But we are not going to provide the proper educational atmosphere for our students until we restore authority to our school authorities to do the job that they need to do.

Madam President, this is an extremely limited amendment. School authorities in my State and across the country wish to be freed from Federal regulations on school disruption on a very, very broad basis. With a great deal of caution however, we have limited this amendment to weapons violations, and to life-threatening behavior which in turn is defined as it is under the guidelines for the sentencing commission for those who are to go to prison.

I am certain that next year or the year after—whenever we get to the renewal of the IDEA act—there will be a debate on whether or not we should not grant more authority to our local schoolteachers and school board members.

This law, and the refusal to agree easily to this amendment, are an expression of mistrust in the people who teach our children and who run their schools. We give lip service to local control. But when it comes right down to it we do not want that local control to be followed. If we are to have safe schools, we must allow these decisions to be made by the authorities and in the communities most affected by them.

As a result, five national educational associations have strongly endorsed this amendment.

They include the National Association of Secondary School Principals, the National Association of Elementary School Principals, the National School Boards Association, the American Federation of Teachers, and the American Association of School Administrators. Strong support from the education community in Washington State where the push for this amendment began is widespread. I have the support of the Washington Association of School Principals, the Washington School Directors' Association, the Washington State PTA, the Committee for the Right To Keep and Bear Arms, the Clover Park School District, and the Wapato School District.

Madam President, I submit for the RECORD the letters of support that I received from these groups and I request that the RECORD include them as if they were read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

July 26, 1994.

Re Support for Senator Gorton's local control over school violence amendment to S. 1513.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The above national education organizations urge you to vote in favor of Senator Gorton's Amendment to S. 1513 which would modify the stay-put provisions on the Individuals with Disabilities Education Act (IDEA) to ensure school safety. With the growing wave of violent incidents in our schools, educators need to be able to take reasonable measures to protect all students, teachers and other school personnel from bodily harm while still meeting the needs of children with disabilities for a free appropriate public education.

While only a minority of the students commit violence, a troubling number of incidents occur where students with disabilities do assault or otherwise threaten the safety of other students and school staff for reasons that may or may not be related to their disability. Under current law, school officials do not have adequate authority in these situations to ensure school safety.

The stay-put provisions of the IDEA prevent school administrators from suspending students for more than ten days without the permission of a judge or the child's parents. And even if the school district goes to court, the school district's burden of proof is so high that they often cannot take the common sense steps they need to protect students.

When Judge Judith Keep recently ruled that IDEA forced her to order a school in El Capitan, California to readmit a student who had taken a gun to school, she stated IDEA is "a wonderfully noble Act [but] can * * * undercut a school's ability to discipline students." Indeed, the U.S. Department of Education has argued that even congressionally-mandated expulsion polices for students who bring guns to schools do not supersede the stay-put provisions of IDEA.

The Gorton Amendment provides a balanced and reasonable first step to correct these problems and protect the safety of all students—those with disabilities as well as those without. In cases where the disabled student demonstrates life threatening behavior, school officials could take a student out of the classroom and place the student in an alternative educational setting for up to 90 days. If the parents contested the placement, school safety would still be preserved; the student would remain in the interim educational placement until a final placement decision was made. The amendment also provides a means for Senator Dorgan's recently enacted mandatory expulsion and alternative education policies for students who bring weapons to school to apply under IDEA.

The inadequacies of current law are significant and dangerous and need to be resolved as soon as possible by the Congress. Waiting another year—or longer—for the regular IDEA reauthorization to be complete is not an adequate response to the pressing safety problems in our schools today. The Gorton amendment appropriately balances the needs of all students for a safe place to learn and strive to achieve the ambitious national education goals set by Congress in Goals 2000. We urge you to vote in favor of the Gorton amendment to S. 1513.

Sincerely,

AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS.
AMERICAN FEDERATION OF TEACHERS.
NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS.
NATIONAL ASSOCIATION OF SECONDARY SCHOOL PRINCIPALS.
NATIONAL SCHOOL BOARDS ASSOCIATION.

AMERICAN FEDERATION OF TEACHERS,
Washington, DC, July 20, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The American Federation of Teachers supports your amendment to S. 1513 with respect to modifying the stay-put provisions of the Individuals with Disabilities Education Act.

The AFT believes your amendment will not diminish the rights of disabled students under I.D.E.A. Rather, it will offer disabled and other students appropriate protection from violence by a small number of students who bring weapons to school or demonstrate life threatening behavior in the classroom or on school premises. Furthermore, it will continue due process rights and require continuing educational services in an interim alternative placement for any student exhibiting such behavior.

The AFT also supports your amendments concerning student records and parental responsibility. It is important to allow the transfer of disciplinary records among schools and to encourage the participation of parents in disciplinary actions affecting their children.

Sincerely,

ALBERT SHANKER,
President.

NATIONAL SCHOOL BOARDS ASSOCIATION,
Alexandria, VA, July 13, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The National School Boards Association (NSBA), on behalf of the more than 95,000 local school board members nationwide, would like to offer its support for your amendment to S. 1513 which would modify the stay-put provisions of the Individuals With Disabilities Education Act (IDEA). We also support your amendment which would clarify current educational privacy law so that educators can transfer student records more easily in order to insure student safety.

The plague of violence is having a growing impact on children and youth across America and in many schools is endangering student safety. We support the amendment to IDEA because, in some cases of violence by students with disabilities, school administrators do not have the authority to act decisively to insure the safety of other students.

Your amendment to the stay-put provisions of IDEA will allow school administrators to remove a temporarily violent student from the regular classroom while still providing the student with a free, appropriate public education. Because the amendment will protect the civil rights of students with disabilities while enhancing the ability of school authorities to insure student safety, we support adoption of the amendment by the Senate.

We also support your amendment to the Family Educational and Privacy Rights Act which clarifies that school administrators can transfer the records of students who pose safety risks to other students. In this way we can be certain that other schools have the information necessary to take appropriate actions to insure student safety. We urge Senators to support this amendment.

We believe that these two proposed changes in law would enhance school safety and we urge the Senate to support them.

If you have questions regarding this issue, please contact me at 703-838-6704.

Yours very truly,

EDWARD R. KEALY,
Director, Federal Programs.

THE NATIONAL ASSOCIATION OF
SECONDARY SCHOOL PRINCIPALS,
Reston, VA, July 7, 1994.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: On behalf of the 42,000 members of the National Association of Secondary School Principals, I want to express our support for the three amendments you intend to offer to S. 1513, "The Improving America's Schools Act of 1994." These amendments are an important step toward improving parental involvement in our schools, particularly regarding the issues of school discipline and providing greater latitude to school officials coping with violence on school premises.

First, your Sense of the Senate amendment is an important statement about the integral role that parents must play in ensuring an effective learning climate in our schools. Parents whose children display violent behavior toward teachers, fellow students, and school employees must not only be informed, but they must support school officials in their effort to effect appropriate disciplinary action. We strongly urge that this Sense of the Senate amendment be adopted and become a part of the Senate's ongoing consideration with regard to improving schools.

Second, the amendment designed to assure that school officials are fully informed about a student's past record of violent behavior must have the Senate's support. Principals across the nation are charged with the responsibility of assuring the safety and wellbeing of all those within the school facility. This amendment would give school officials the necessary information to enable them to fulfill that important charge. Too often schools receive students whose record of violent, even criminal, activity is not made available to principals. These recordkeeping barriers must be broken and principals and other school officials must have access to information that has the potential of undermining their effort to ensure a safe school.

Finally, we strongly support the amendment to the Individuals with Disabilities Education Act (IDEA), addressing the violent behavior of some disabled children. This amendment seeks to allow school officials to separate violent children in a special education program from the classroom or the school premises should they demonstrate life threatening behavior. Currently, the IDEA grants parents veto power over the change of placement in a school's special education program. While this entitlement assures absolute parental involvement in a child's educational placement, it often hampers a principal's effort to provide a safe learning environment.

The nation's principals believe that this is a critical issue with regard to public confidence in our local schools. It is profoundly discrediting to our institutions for a dual system of justice to be administered on such a regular basis, with one system for our disabled children and an entirely different system to the other students. This duality must be halted if we are to genuinely assure our communities that their schools are safe havens of learning.

Although some would advocate waiting to amend the IDEA until next year, the nation's secondary principals believe that action should be taken now as part of an overall effort to make our schools safer. We look forward to working with you in assuring that these important amendments are adopted by the United States Senate and ultimately, are part of the final version of ESEA.

Sincerely,

DR. TIMOTHY J. DYER,
Executive Director.

AMERICAN ASSOCIATION
OF SCHOOL ADMINISTRATORS,
Arlington, VA, July 19, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: The American Association of School Administrators (AASA), would like to thank you for your proposed school safety amendments to S. 1513, the reauthorization of the Elementary and Secondary Education Act. Schools should be safe havens from the violence in the rest of our society. We hope that your amendments and the safe schools programs in S. 1513 will help make every school a warm safe place for children to learn.

The amendment regarding the "stay put" rule is of particular interest to AASA. We support your amendment. Stretching the suspension period to 90 days permits a more orderly process of fact finding and looking for alternatives than the 10 days in federal regulations. We, however, are concerned that your amendment will experience difficulty because the criteria for suspension are not precise enough. What constitutes a weapon or life threatening behavior will provide a basis for defeating the amendment.

If the amendment falls and the vote is close enough to initiate negotiations, we urge you to use terms that are defined in the code of federal regulations and observable behaviors as the criteria for suspension.

Sincerely,

BRUCE HUNTER,
Senior Associate Executive Director.

THE ASSOCIATION OF
WASHINGTON SCHOOL PRINCIPALS,
Olympia, WA, June 17, 1994.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: We are beginning to sense a bit of optimism in the struggle to reduce youth violence in the state of Washington. One obvious key to our success will be the ability to share necessary information among agencies and between schools with respect to those students who have been convicted of a violent act or have a history of violent behavior. This sharing of information is essential in order for proper school placement and supervision of the student involved, as well as for reasonable protection of all other students. Parents, students and public demand and deserve safe schools.

The Association of Washington School Principals for your willingness and persistence in championing the cause of safe schools and communities as well as for your overall support for public education. We have met with other educators, parents, representatives of state government, the juvenile rehabilitation, and parent advocates to discuss the issues surrounding the sharing of student records, particularly as related to identified special education students. The principals' point of view follows.

We are very supportive of your three suggested amendments to current status language. Your recommendation provides a mechanism to appropriately remove violent or potentially violent students from school. No student, with or without handicapping conditions has the right to commit violent acts in our schools. The right of the parent to advocate for the child in interim/alternative placement is protected, while at the same time allowing professionals in the school to remove the violent offender where necessary.

Unfortunately, under current statute, in situations where parents refuse and agreement to the recommended alternative/interim placement cannot be reached, that violent student remains in the educational setting under provisions of "stay-Put." Interim placement for up to 90 days without parent consent allows adequate opportunity for final resolution while protecting the vast majority of our students.

We certainly support your proposal for involvement of parents of children who display violent behavior in determining their disciplinary action and enforcement.

Finally, we appreciate your addition to section 438 of the General Provisions Act which clarifies the right and obligation of school officials to share student discipline records as appropriate. Our request for such clarifying language is generated by the ongoing misperception regarding what FERPA does or does not permit.

These are significant changes which will greatly assist us in reducing incidents of violence in Washington's public schools. Again, thank you and best wishes.

Sincerely,

WALTER BALL,
Associate Executive Director.
BRIAN BARKER,
Associate Executive Director.

WASHINGTON STATE
SCHOOL DIRECTORS' ASSOCIATION,
Olympia, WA, June 17, 1994.

Hon. SLADE GORTON, U.S. SENATE, HART SENATE OFFICE BUILDING, WASHINGTON, DC

DEAR SENATOR GORTON: The Washington State School Directors' Association, representing the 1482 locally-elected school board members in our state's 296 school districts, is very supportive of your proposed student safety amendments to S. 1513.

These proposed amendments address three issues of importance to our members:

1. It clarifies that students may be removed from a classroom setting if their actions threaten themselves or others, while not specifying the precise duration of that removal (suspension or expulsion):

2. It assures that if the offending student is in a special education program that said student will not be denied an educational opportunity, but instead be placed in an alternative setting pending disciplinary decisions (due process must be followed); and

3. It also assures that federal laws on student discipline or weapons violations shall not supersede state or local regulations.

This is a good and helpful amendment. WSSDA appreciates the assistance and the willingness to seek our input that we have observed from your office, and specifically from Jennifer Parsons, on this important matter. And I might add that the other proposed amendments regarding school and parental responsibility also look very good to us.

Thank you very much.

Sincerely,

DWAYNE SLATE,
Associate Executive Director.

WASHINGTON STATE PTA,
Tacoma, WA, July 13, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: The Washington State PTA supports the School Violence Amendment to the Individuals with Disabilities Act which you are sponsoring. We appreciate your concern about the issue of violence in our public schools. As both parents and educators expressed at your Education Summit in January, the issue of youth violence is a priority for all of us who are advocates for children.

Educators and parents stressed that there are federal regulations which make it difficult to create a safe, orderly environment in our schools. Educators are unreasonably hampered in their efforts to prevent or reduce incidents of violent behavior. They find that regulations inhibit their ability to design and implement discipline in their schools.

As Section 602(a)(20) of the IDEA does include parents in the Individual Educational Placement team, which will determine placement for violent students, the Washington State PTA feels confident that parents' rights have been protected in this plan. Parents need to be involved in the decision making process, but also need to be accountable for the actions of their children who display violent or threatening behavior toward others.

We understand that parents of disabled children are concerned about the effect of this amendment on the rights of their children. However, parents and teachers have observed that when a student displays violent behavior in the classroom, which the teacher is unable to address by removing that student from the classroom, the educational performance of all students is adversely impacted. The educational performance of special needs students is severely diminished, as well. Thus, the Washington State PTA believes that this amendment will provide needed protection for all students.

We applaud your support for the safety and welfare of the students of Washington.

Sincerely,

CARA LOCKETT,
President.

WAPATO PUBLIC SCHOOLS,
Wapato, WA, July 8, 1994.

Hon. SLADE GORTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: The purpose of this letter is to support your efforts in amending S. 1513 and the Individuals with Disabilities Act. Though you will undoubtedly face strong opposition on the Senate Floor, your proposed amendments are timely and much needed in the educational community if we are to complete our task of restructuring America's schools.

Of particular interest is your proposal to amend the Individuals with Disabilities Act (IDA). No one in education will argue against the right of special education students to receive equal educational opportunities. However, it seems that in our rush to insure these rights we have forgotten the rights of other students to receive those same opportunities on an equal basis.

Inclusion models which place special education students in regular classrooms work well for the majority of children. They adjust well and participate with other students in mainstream activities. Unfortunately, a minority of special education children can and do become violent, abusive or disruptive. In these cases all children lose their opportunity for quality education.

Under current law schools have extremely limited options in dealing with these children. Extensive documentations and hearings generally result in short term removal. Once the child returns to the classroom the cycle begins again. This is particularly frustrating with students who tend to be violent.

Two examples of this type of situation come to mind. In the first a behaviorally disturbed special education student physically abused his classmates. On one occasion the teacher restrained the child and was herself kicked and punched several times. After a lengthy process the student was suspended for 5 school days. Upon return the same activities began again with the addition of life threats to the teacher. The student was suspended for short periods of time during the remainder of the year and the teacher resigned her position with the district.

The second incident involved a middle school boy with a long history of aggressive behavior toward teachers and students. Because of his special education qualification the district was again limited in its ability to provide optional learning environments. In this case the student was ultimately removed from school. Not by the school but the courts after he participated with some other youths in nearly beating a man to death in downtown Yakima.

There are thousands of stories similar to this taking place daily in our nation's schools. The result can be seen in an ever increasing exodus from public to private educational institutions. Your proposed IDA amendment might be the first step in helping to curb this trend.

It can be argued that the amendment does not go far enough, that we need even more options beyond the 90 day alternative. To this I would reply that any change which helps us do our job is better than the current situation. Also, the first step has to come before we are able to move further.

We applaud you in your efforts and wish you the best of luck in bringing about passage of these amendments. I know that at least the IDA amendment will meet with opposition, but hopefully its sufficiently moderate to meet with the approval of a majority of your colleague.

Again our support for your efforts on passing these amendments and our thanks for your work of behalf of public education.

Sincerely,

RICHARD FOSS,
Associate Superintendent.

CITIZENS COMMITTEE FOR THE
RIGHT TO KEEP AND BEAR ARMS,
Bellevue, WA, July 14, 1994.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: Thank you for introducing the Local Control over School Violence amendment to S. 1513. This amendment addresses the very real problem of violent behavior in our schools. The Citizens Committee for the Right to Keep and Bear Arms fully supports your amendment to S. 1513 and other legislation that identifies and helps to control the type of dangerous behavior that has made many of our public schools more like war zones than educational facilities.

As you know, the Citizens Committee for the Right to Keep and Bear Arms has long been a supporter of bills that identify and restrict specific criminal and violent behaviors and activities. Bills of this type enhance public safety without treading on basic civil liberties.

The Individuals with Disabilities Education Act is a well intentioned act, but in many cases it has taken away from schools and educators the ability to control behavior that destroys the educational environment and places all of our youth at risk. The Local Control over School Violence amendment to S. 1513 will help to correct that flaw.

If there is anything we can do to help the Local Control over School Violence amendment along the road to passage, please don't hesitate to contact me.

Sincerely yours,

PAUL M. WILLIAMS,
Executive Director.

CLOVER PARK SCHOOL DISTRICT,
Tacoma, WA, June 28, 1994.

JENNIFER PARSONS,
Office of Slade Gorton, Hart Building, Washington, DC.

DEAR JENNIFER: At your request, several administrators have reviewed the draft language regarding Youth Violence. In our opinion, these changes will significantly increase the ability of school administrators to deal with violence/assaultive students. We commend the Senator for his interest in this important issue and his diligence in attempting to modify Federal law to deal with it.

Unfortunately, due to the end of the school year I was unable to get any antidotes for you. Good luck to you and the Senator as you work on this important matter.

Yours truly,

KAREN A. FORYS,
Superintendent.

Mr. GORTON. Madam President, let me share with you some excerpts from these letters of support.

AFT—The American Federation of Teachers believes that your amendment will not diminish the rights of disabled students under IDEA. Rather, it will offer disabled and other students appropriate protection from violence by a small number of students who bring weapons to school or demonstrate life threatening behavior in the classroom or on school premises. Furthermore, it will continue due process rights and require continuing educational services in an interim alternative placement for any student exhibiting such behavior.

National School Boards Association—Your amendment to the stay-put provision of IDEA will allow school administrators to remove a temporarily violent student from the regular classroom while still providing the student with a free, appropriate public education. Because the amendment will protect the civil rights of students with disabilities while enhancing the ability of school authorities to ensure student safety, we support adoption of the amendment by the Senate.

National Association of Secondary School Principals—We strongly support the amendment to the Individuals with Disabilities

Education Act, addressing the violent behavior of some disabled children. This amendment seeks to allow school officials to separate violent children in a special education program from the classroom or the school premises should they demonstrate life threatening behavior. * * * Although some would advocate waiting to amend the IDEA until next year, the nation's secondary school principals believe that action should be taken now as part of an overall effort to make our schools safer.

WA State PTA—We understand that parents of disabled children are concerned about the effect of this amendment on the rights of their children. However, parents and teachers have observed that when a student displays violent behavior in the classroom, which the teacher is unable to address by temporarily removing that student from the classroom, the educational performance of all students is adversely impacted. The educational performance of special needs students is severely diminished, as well. Thus, the Washington State PTA believes that this amendment will provide needed protection for all students. We applaud your support for the safety and welfare of the students of Washington.

Madam President, included in the committee amendments are two other of my proposals to address school violence. The first is a clarification of the current law explaining what information can be placed in the student's cumulative record and transferred to the next school the student will attend. The second amendment is a sense-of-the-Senate provision that encourages parental responsibility in connection with disciplinary actions involving their children.

STUDENT RECORDS

I have been told by many educators in my State that the maintenance and transfer of student records are often inadequate. These educators claim that student records indicating that the student is a serious disciplinary problem are often not being transferred among schools so that the cumulative student record often doesn't reflect the reasons why the student was expelled. For example: If a student brings a weapon to class or displays behavior that has the potential to inflict severe bodily harm and the student is expelled from school and enrolls in a new school—the new school is often not informed of the student's past discipline problems. Even more disturbing is the fact that the information is often not accessible.

Teachers and principals want to have this information on new students entering their school who have a history of bringing a weapon to class or the potential to cause serious harm to the teacher or other students. They need this information in order to control their classrooms.

The Family Educational and Privacy Rights Act [FERPA], deals with the release of educational records and protects the rights of students. There is definitely a problem with the statutory interpretation of this act. Many educators do not realize that Federal law [FERPA] already allows for the maintenance and transfer of records. School records are not being updated and transferred because school districts find the language unclear and are fearful of lawsuits. A clarification of FERPA will define the law to educators clearing up any misunderstanding surrounding student record maintenance and transfer. It states that nothing in section 438 of the General Education Provisions Act prohibits schools from maintaining records about students who pose safety risks or from disclosing such information to other schools attended by those students.

A clarification of the FERPA language will substantially assist our educators because it will now be clear what information can be placed in the permanent record and where this information can be transferred. This is an important step in allowing our nation's educators to know the background of the students entering their schools in order to prepare for discipline problems.

PARENTAL RESPONSIBILITY

As a parent and grandparent, I believe that parents should take responsibility for their child's actions and become involved in the school disciplinary proceedings. This amendment reaffirms the importance of parental involvement in the children's learning process. Parents of children who display violent behavior must be informed of the misbehavior and should support school officials in taking appropriate disciplinary action. The role of parents in both the education and discipline of their children is essential to enhancing learning and must be encouraged.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. DORGAN). Is there a sufficient second?

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent—with the approval of the author of the amendment—that this amendment be temporarily set aside so that we can consider the amendments of the Senator from Pennsylvania, [Mr. SPECTER].

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2419

(Purpose: To provide demonstration projects to test the effectiveness of private management of public education programs)

Mr. SPECTER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2419.

Mr. SPECTER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 538, on line 2, strike "; and" and insert the following: ", including contracts with private management companies;".

On page 538, on line 5, before the period add the following: "; and

"(IX) contracting out the management of troubled schools to private management firms".

On page 780, line 9, strike "and".

On page 780, after line 11, before the "." insert the following: "; and

"(I) establish partnerships with private educational providers whose comprehensive technology systems address the need of children in poverty."

On page 1000, line 10 strike the "and", and insert the following:

"(R) demonstrations that are designed to test the effectiveness of private management of public educational programs, with at least one demonstration carried out in each of the ten Department of Education regions, and with funds used to support planning, start-up costs and evaluation; and"

On page 1000, line 11, strike "(R)" and insert: "(S)".

On page 1165, before Part G, insert the following new section:

"SEC. . PRIVATELY MANAGED SCHOOLS.

"Nothing in this Act shall be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms."

Mr. SPECTER. Mr. President, this amendment would establish at least 10 demonstration projects to test the effectiveness of private management of public educational programs.

The thrust of the amendment is to see how effective private management of public education would be in dealing with the very, very serious problems in the American school systems today. We have in our school system some 43 million schoolchildren, and there is no doubt that the educational programs in our schools are failing to meet the challenge.

We have seen a number of cities adopt private management of schools, such as Boston, MA; Worcester, MA; Lowell, MA; Wichita, KS; Austin, TX. The Baltimore experience, so far, looks promising, although the experience is not sufficient to be conclusive. The District of Columbia private school system had considered private management and decided not to because of some underlying political controversy.

Last Saturday's New York Times details the very serious situation in the Newark school system, where the State of New Jersey Education Department was preparing for a Newark's schools. What we have seen of privatization has been attractive, and it is the thrust of this amendment to have at least 10 pilot projects, 10 demonstration projects, to be able to test this out in some detail.

I first became interested in this whole approach when I found that the distinguished president of Yale University, Benno Schmidt, left his position to take an executive post with a private administrative operation for schools. When I first heard about the privatization of schools—running schools for a profit—my initial inclination was in the negative. And then, after a while, I thought it over and decided if a private administrative operation can attract the talent like the president of Yale University and various other talented people with other companies, why not give it a try. In the Goals 2000 bill, Mr. President, we have a limited provision that allows States, if they wish, to use some of that Federal funding to test out privatization.

But this amendment would go substantially further in allowing these 10 demonstration projects to come into existence to test the effectiveness of the private management of the public educational program.

It is not necessary to talk at great length about the problems in American education or about the need for improvement in American education to prepare the young people of our country for the 21st century.

Education may not be the panacea for America's problems, but nothing comes closer to giving us a very real and lasting solution. The challenge is to find new and better ways to teach the country's 43 million school children. That takes new ideas. It also means finding new approaches to free up teachers and school administrators from noninstructional duties, allowing them to devote more time and resources to the task of educating our children. As a member of the U.S. Senate subcommittee that this year recommended more than $27.4 billion for education programs, I take this challenge seriously. That is why in January, I called a hearing to learn more about an idea now being tested by a handful of school districts—contracting with private firms to manage some facets of public school education.

Among those at the hearing were school superintendents, union representatives, education policy experts, and the heads of two private management firms, including former Yale president, Benno Schmidt. Each gave his or her own unique perspective on the idea. In Baltimore City, 12 schools are currently being managed by a private firm. At the hearing, Baltimore city Superintendent Dr. Walter Amprey reported seeing an increased level of parent involvement and greater interest in computerized instruction. Perhaps most importantly, Dr. Amprey views the link between public education and business as a way to unite the hands of educators and at the same time instill accountability in our education system.

When I first heard of proposals by private companies to administer public schools for profit, my reaction was decisively negative. But, when I reflected on it, I thought: why not? If public school administration could attract talented people like Benno Schmidt, and have the benefit of his initiative and ability, it could be a decisive net benefit to the public schools.

Actually, the idea was not entirely new. The past several years have seen the emergence of a number of for-profit private firms offering to assume certain aspects of school operations, including day-to-day administration, teacher training, and other noninstructional activities. Typically, these companies manage the school for the same cost as is currently spent by the public schools, about $5,900 per pupil. Initially, the companies invest their own capital in upgrading the learning environment by repairing and modernizing the school building, cleaning, painting, and installing state-of-the-art computers. After that initial investment, the onus is on the companies to reduce school operating costs. A portion of the money saved through management efficiencies is returned to the school; the remainder is profit to the management firm.

But, as Albert Shanker, president of the American Federation of Teachers accurately points out, the concept of private management of public schools has yet to prove itself. And anyone who views this as a quick fix is bound for disappointment.

The amendment which I am offering today, will provide funds for demonstration projects to find out if private firms have something to offer today's schools. The amendment would authorize at least 10 demonstration projects to test the effectiveness of private management of public educational programs. Projects would be spread over the 10 Department of Education regions of the country, with funds being used to support planning and start-up costs. At the end of the demonstration program, an independent evaluation of each project will be done which will provide a true picture of how effective private management firms have been in educating children. The amendment will also amend other provisions of the bill to assure that State and local educational agencies could use Federal funds to contract with private management firms if they wish to do so.

Admittedly, any reform is difficult, and any change from past practice is likely to stir controversy. But given what is at stake for the future well-being of this country, a public-private partnership, such as that offered by private management companies, with input from teachers, students, parents, and administrators deserves careful consideration.

Mr. President, the managers of the bill, as I understand it, have agreed to the amendment. So I shall not spend any further time at this point elaborating upon it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I support the amendment of the Senator from Pennsylvania. I do have serious concerns about the idea of encouraging wholesale private management of schools. Schools are not businesses, and I do not believe competition is the answer to the problems of the public school system.

However, in some cases schools are badly in need of help. In these cases, schools may choose to take advantage of private management in a carefully controlled way, I think it is appropriate to allow schools to use the Federal education fund for this purpose, so, Mr. President, I urge that the amendment be accepted.

The PRESIDING OFFICER. Are there other Senators wishing to be heard on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2419) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

AMENDMENT NO. 2420

(Purpose: To establish a grant program to provide workplace and community transition training to youth offenders in prisons, and for other purposes)

Mr. SPECTER. Mr. President, I send an amendment to the desk on behalf of myself and Senator PELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. PELL, proposes an amendment numbered 2420.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

(a) FINDINGS.—The Congress finds the following:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be derived from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) Definition.—The term "youth offender" means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) Grant Program.—The Secretary shall establish a program in accordance with this section to provide grants to the States to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continues through prerelease and while on parole.

(d) Application.—To be eligible for a grant under this section, a State agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that they include measures of—

(A) program completion;

(B) student academic and vocational skill attainment;

(C) success in job placement and retention; and

(D) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) Program Requirements.—Each State agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually of related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) Student Eligibility.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) Length of Participation.—A program receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a high school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) Education Delivery Systems.—Correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this program.

(i) Allocation of Funds.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of eligible students in such State bears to the total number of eligible students in all States.

(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

(1) $18,000,000 for fiscal year 1995; and

(2) such sums as may be necessary for fiscal year 1996 and each fiscal year thereafter.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, the thrust of this amendment is to provide for an authorization to allow Federal funds to be spent for educating youthful offenders up to the age of 25, who are eligible for parole or release within 5 years.

The recidivism in America is well known. The problems of career criminals are also well known, with career criminals committing about 70 percent of the offenses.

Career criminals commit two or three robberies or burglaries a day. When I was district attorney of the city of Philadelphia for some 8 years, I found this group of career criminals to be the bane of law enforcement, really wreaking havoc on law-abiding citizens. It is no surprise that when someone who is illiterate leaves jail, without a trade or a skill, that that individual returns to a life of crime.

There has been relatively little sympathy for the offender in terms of trying to take the offender out of the crime cycle. But there is considerable concern about taking the offender out of the crime cycle in order to protect the public.

The amendment here would provide up to $1,500 in education, for tuitions and books, and up to $300 for career development, and counseling on drugs and health education. This provision is necessary because the crime bill makes all prisoners ineligible for the Pell grant program.

There is a great deal of talk about "three strikes and you are out," which I believe is overly simplistic. I say that based upon the experience that I had as district attorney of Philadelphia, when I tried to get judges to impose life sentences on habitual offenders. When that moment of sentencing comes, unless there is a sense on the part of the sentencing judge that it is fair to impose a life sentence, it simply does not happen.

Where we have realistic rehabilitation—that is literacy training so someone who leaves jail will be able to read and write, and job training so there is a way for that individual to support himself or herself—then if the person gets into future trouble, becomes a second offender and a third offender, then I think it is realistic to have life sentences for career criminals.

We do have an effective bill in the Federal system providing for mandatory sentences up to life in jail for career criminals who are found in possession of a firearm. That was a bill which I introduced in 1981 and finally was enacted in 1984, and it was expanded in 1986.

This amendment is directed at a very limited segment of the population, those who are 25 or younger, and who are eligible for parole or release within 5 years.

The amendment provides for an authorization of $18 million for the first year. I believe that there will be funds available from the appropriations subcommittee where I serve as ranking

Republican, and I think that this amendment would be a very, very positive step forward in providing this realistic rehabilitation for a narrow target group—the young offenders, up to 25 years of age, who are eligible for parole or release within 5 years.

Mr. President, there are approximately 1 million people incarcerated in prisons, jails, and juvenile facilities in this Nation. Of these incarcerated individuals, more than 75 percent have not completed high school, and most have few if any job skills. In some States, 60 percent of prison inmates cannot read at the sixth grade level.

It is my belief that criminal offenders, especially the juvenile, first and second offenders, should be given a chance at rehabilitation and gainful employment. That chance can only come through education.

With the provision to eliminate Pell grants for prisoners, that is contained in both the House and Senate versions of the crime bill, other resources to break the cycle of recidivism are needed. Young nonviolent offenders need a second chance, and education is the only opportunity they will have to receive that chance.

The amendment which I offer today, would authorize $18 million to provide the young offender, up to 25 years of age, who is eligible for parole within 5 years, to acquire an education while incarcerated. Up to $1,500 per young offender would be provided to States for tuition and books. An additional $300 would also be available for career guidance, substance abuse counseling, health education, and parenting skills training. States would be required to evaluate the effectiveness of the education, and study the impact of that education on recidivism rates, in order to qualify for funds under the program.

Given the impact that education and job training can have on repeat offenders, this amendment will help save money in the long run.

It is my understanding that this amendment has been accepted by the managers.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. PELL. Mr. President, I would just like to congratulate the Senator from Pennsylvania on the offering of this amendment. I think it is an excellent one. It will lead to reduction in the rate of recidivism that is so apparent among our prisoners today.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank both the Senator from Pennsylvania and the Senator from Rhode Island for this amendment. They have made a strong case for it.

Not long ago, I was up in Massachusetts at Mount Wachusett Community College, which had been providing the Pell grant programs for some State prisoners. I had a chance to talk to those who were involved in the educational programs. They recounted to me the numerical comparison between those who had some opportunity for continued education versus those who did not.

We made a judgment in this body to terminate these programs, and I believe that decision was regrettable. But it was an overwhelming vote here in the Senate.

This amendment is an attempt to target some resources on younger individuals who, as described by the Senator from Pennsylvania, are moving out into the community. To the extent that is possible, this amendment aims to at least give these individuals additional educational opportunity, so that they have a better chance of success in the world outside of prison. I think this amendment makes eminently good sense. As we all know, when you take the profile of individuals who are on death row, you will find that the great majority of them have never completed a high school education.

This is a very modest program. I think it is worthwhile. It is an important program, and I urge the Senate to accept it.

The PRESIDING OFFICER. Is there further discussion of the amendment.

If not, the question is on agreeing to the amendment.

The amendment (No. 2420) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

AMENDMENT NO. 2421

(Purpose: To authorize a demonstration to test the effectiveness of prenatal education and counseling on student pregnancy outcomes)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2421.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On Page 1,000, before line 13, insert the following:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students, emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

Mr. SPECTER. Mr. President, this amendment would address the problem of pregnancies in the teen population by authorizing a demonstration project designed to test whether involving schools in providing prenatal education and counseling to pregnant students could have a positive effect on pregnancy outcomes.

Mr. President, this is a subject that I have been concerned about for more than a decade, when I saw for the first time a 1-pound baby, which was a very startling revelation to me—a 1-pound baby, a child about as big as the size of my hand, 16 ounces, sometimes 18 ounces, sometimes 20 ounces.

Such a child coming into this world is a human tragedy, because at such a low birthweight, there are medical problems that stay with that child for the balance of the child's life.

It is also an enormous financial drain, with the costs for very low birthweight children running in excess of $150,000 per child, sometimes as much as $200,000, until the child leaves the hospital. The cost involved in these 1-pound babies, low birthweight babies, is multibillions of dollars.

It is a subject which my bill—Senate bill 18, on comprehensive health care—addresses; a bill which I introduced on the first day of the 103d Congress back on January 21, 1993, and a measure which I intend to press, if and when health care legislation comes to the floor. Parenthetically, I hope it is very, very soon.

This amendment is directed at the problem generally by providing for prenatal education and counseling to pregnant students in schools. There is a great deal of controversy on the overall subject of sex education, a very complicated subject which is left for another day. But there is no doubt but when a young woman is pregnant there is absolutely no reason why that young woman should not be counseled in what it takes to care for herself during the pregnancy and what it takes for the care of the expected child.

Dr. Koop has outlined a program of a minimum of four prenatal visits and one postnatal visit, which would vastly improve the problem of these low birthweight babies.

It seems to me that the community health centers simply cannot reach this teen population, and at a minimum there ought to be information and counseling to these young women, so that they have the basic information to get proper nutrition for themselves and their expected child.

Senator MOYNIHAN has been a leader in the Senate and has identified the problem of unintended teen babies, children giving birth to babies, as the most important problem facing our country, an issue which we have to address in many contexts.

This is a modest step in terms of the counseling. But it could be very, very important to tens of thousands of women, and tens of thousands of children to be born to these young women who come into the world weighing 1 pound—16, 18, 20 ounces. It is tough enough coming into the world weighing 8 pounds 10 ounces, which I understand my birthweight had been, let alone coming into the world weighing only a pound.

I think this could have a very profound effect on many, many lives in America.

When one talks of social ills in America today, the problem of increasing numbers of births to adolescents is always at the top of the list. Between 1986 and 1991, the rate of births to teens aged 15 to 19 rose 11.9 percent, from 50.2 percent to 62.1 births per 1,000 females. We must find programs to address the teen pregnancy problem and to reduce the rising costs associated with teen births, particularly low-birthweight births.

Low birthweight is the leading and most preventable cause of infant mortality. Each year about 7 percent, or 287,000, of the 4,100,000 American babies born in the United States are born of low birthweight, multiplying their risk of death and disability.

Infants who have been exposed to drugs, alcohol or tobacco in utero are more likely to be born prematurely and with low birthweight. These children are at increased risk of dying in their first year of life or suffering from long-term disabilities. I became interested in this problem, after visiting hospitals in Pittsburgh and Philadelphia and seeing 1-pound babies, whose chances for survival were severely jeopardized. If you weigh 16 or 20 ounces, it is a human tragedy.

Beyond the human tragedy of low birthweight there are the financial consequences. In 1990, the hospital-related costs for caring for all low-birthweight newborns totaled more than $2 billion, over $21,000 on average. For infants of extremely low birthweight hospitals costs often exceed $150,000.

It is generally recognized that prenatal care that begins early, continues throughout pregnancy, and is appropriate to the mother's level of health risk can effectively prevent low-birthweight births and improve birth outcomes.

Because teenage mothers are less likely to eat nutritiously or to get prenatal care, and are more likely to smoke or drink than older mothers, they are also more likely to give birth to low-birthweight infants.

This amendment would help to address this problem by authorizing a demonstration project to test whether involving schools in providing prenatal education and counseling to pregnant students, could have a positive effect on pregnancy outcomes. Education and counseling would emphasize the importance of prenatal care; the value of sound diet and nutrition habits, and the harmful effects of smoking and alcohol and substance abuse on fetal development. It is essential that we take advantage of every opportunity to provide pregnant women with information to ensure a healthy pregnancy outcome. My amendment ensures that an opportunity to provide this information is not missed.

Again, I understand that the managers of the bill have agreed to accept the amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I urge the Senate to accept this amendment. It encourages the Secretary, as part of the legislation to fund and support innovative and creative programs for schools, to undertake the kind of initiative described in the amendment.

In the health legislation that was passed out of our Committee on Human Resources, we have a very important provision for the development of school health information and services, which was worked out in a bipartisan fashion. I am very hopeful that that provision will eventually see successful passage.

I think that there is a great need for the services described in this amendment. The need is particularly great in the urban areas of this country, not only with regard to teenage pregnancy, but also with regard to young children who are exposed to both substance abuse and physical abuse. These children grow up in a very harsh and difficult climate, and have very important and serious health needs, both physical and mental.

We have shaped into our health legislation a modest but important down payment in terms of making a range of different health services available, with parents and community personnel to be involved in shaping the program. I think there is a great need for these services.

I am, therefore, very hopeful that we can have an even more expansive and elaborate program than the one outlined in this amendment. But this amendment will certainly give a clear indication that these kinds of initiatives will be supported. I think there is a very serious need for them and I welcome the opportunity to support the initiative.

I urge that we accept the amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Massachusetts for his support and comments.

This amendment would provide allowable use of funds for innovative education, as the Senator from Massachusetts states.

There has been a suggestion made that a slight addition be added to the amendment, the language "could have on students."

So at this time, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 2421), as modified, is as follows:

On Page 1,000, before line 13, insert the following:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students, emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development could have on students.

Mr. SPECTER. Mr. President, if there is no other debate, I ask that the amendment be adopted. I understand it is agreeable to the manager on the Republican side of the aisle.

The PRESIDING OFFICER. Is there further discussion of the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2421), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mrs. FEINSTEIN].

ZERO TOLERANCE FOR GUNS IN SCHOOLS

Mrs. FEINSTEIN. Mr. President, I rise to speak about an amendment which you authored and I cosponsored, Mr. President, which is entitled "Zero Tolerance for Guns in Schools." From the time that we presented this amendment publicly, I am very pleased that the chairman of the committee has accepted the amendment and that the Senator from Massachusetts has included that amendment in bill language.

I think it is appropriate, though, that we both speak about this amendment. I would like to make a few remarks and then replace you in the chair so that you will have an opportunity to do the same.

Mr. President, I took a look at the Congressional Research Service report on each State and what those States did with respect to guns in schools, what policies States had to regulate guns in schools. What I found was a wide variation, a wide panoply, if you will, of rules and regulations; some more effective than others.

So then I took a look at my own State. Do we really have a problem with guns in schools in California?

Mr. President, I must report to you, most sadly, we have a major problem of guns in schools, despite the fact that the California legislature passed a law which said schools have the right to put forward legislation. Again, the legislation varies and the penalties vary.

The thought has occurred to me that we should have a well-stated policy all across this United States that schools are for children to learn and that we will not tolerate guns in schools.

If you receive Federal money as a school, you must have in place a zero tolerance for guns in schools. If a youngster brings a gun to school, that youngster under this provision would be expelled for 1 year. Now, the principal has an ability, in our amendment, to make an exception if there is good reason to make that exception. But the point I believe we want to establish is that you cannot learn in school if someone is sitting next to you with a loaded .45 or loaded .38, or whatever the weapon may be.

The San Francisco Chronicle on July 11 did a poll. What they found—I do not have a big chart—but, "Bay High Schoolers Surrounded By Guns, Violence; Survey Finds Weapons In School." "Students in the San Francisco Bay Area who say they have carried a weapon to school: 22 percent." This is a national survey that finds that 13 percent carry weapons to school.

What our amendment would say is henceforth this is not permissible. Henceforth, if you carry a weapon to school, regardless, there is a penalty and it is expulsion for not less than 1 year.

I might tell you, 3 weeks ago I went into a classroom in Hollywood, CA. This was not a troubled community. This is Hollywood, CA. It was a fourth grade classroom. And every youngster in that classroom spoke eloquently about how afraid they were to go to school.

I asked the question, "How many of you hear gunfire?"

I thought maybe a sprinkling of hands would go up. Every single child's hand went up in that classroom.

I said, "How many of you have seen an adult attack another adult?" And 60 percent of the hands went up in the classroom.

What we are trying to do, Mr. President, and I believe you agree with me, is say in every way, in every shape, in every form, we need to begin to address violence in our society—whether it is in a crime bill now in conference, whether it is in an education bill now on the floor of the U.S. Senate, whether it is in Commerce bills or Ag bills or any other kind of bill. We know there is a problem out there with violence. I go home and I find the State legislature is talking about how much money they can appropriate for metal detectors in schools—metal detectors in schools. Youngsters should not have to go through metal detectors to go to school. What we are doing in this amendment—and I am so grateful to the committee chairman for accepting the amendment—is saying there is no place, there is no excuse, there is no rationale to have a gun in a public school in the United States of America.

It is legislation whose time has come. And I believe it is legislation for which legions of American children are going to be grateful.

In the $13 billion in this bill, every school will have to subscribe to a policy: No guns. If you bring a gun, you are out for a year.

So, I thank the Chairman for his leadership in this issue. I was pleased to join with him. I am thankful to the Senator from Massachusetts. I am also thankful for the many letters and phone calls I have had from all across this Nation saying thank you for finally doing something—at last—so our children can go to school in safety.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, let me associate myself with the remarks of the Senator from California.

I take this opportunity to do so because it is almost unique that we can agree on an issue related to firearms in our country today. But I do so because she is absolutely right. America's schools must be safe havens for education and learning and that cannot be accomplished if the over 250,000 handguns that it is reported each day come to our public schools are allowed to continue to come to them. There is absolutely no reason why that would occur.

Except there is a reason. And I think it is a reason important for us to understand. While there may be the element of machoism in today's society for people, even in their youth, to carry guns in order to be so viewed by their peers for doing so, there is, amongst some of our young people, the element of fear, fear that they might be harmed. And they would choose to use a gun in their defense for that purpose.

That is a tragic but very true statement. So I think, while this legislation and the effort of the two Senators involved is well-founded, and I support it, clearly we must go beyond just that in our society to recognize there is something fundamentally wrong. School students did not always bring handguns to school. If they had a dispute, they solved it with their knuckles. That happened in the schoolyard, when Billy pushed Johnny for whatever reason.

Tragically, today there is a mindset in our society that one provokes violence in a way that is lethal. That is because that schoolchild the Senator from California is talking about has literally spent thousands and thousands of hours watching television in which acts of real violence were committed. By the time that student graduates from elementary school, he or she will have viewed over 250,000 examples of extreme violence on television.

So why are they bringing guns today? Partly because it is in the culture. It is in the culture that they have been viewing for so long that we have tolerated extreme acts of violence to be viewed on our televisions. That is why 30 years ago it did not happen, even though a handgun or a long gun might have been available to a young person.

Senator KOHL and I recognized this problem some months ago when we were debating the crime bill here and introduced legislation that would make it prohibitive for a juvenile to own or possess a handgun—a gun, for that matter—except under very limited circumstances. So this takes the effort one step further, as it should.

But let us remember that this is merely a Band-Aid on a much, much larger problem in our society. While the Senator from California and I would disagree about rights and access and ownership and all of that kind of thing, obviously we do not disagree on the fact that a very real problem exists in society and there must be very real consequences for individuals' acts. And the very real consequence is spelled out in this bill: Expelled for 1 year if you bring a gun to school. For the first time we are saying to our young people, if you act outside the law, you will be treated accordingly.

For the last 30 years we have pampered. We said, oh, it is not the individual who is in error, it is society that is in error for allowing them to have tools to provoke acts of violence because individuals are not necessarily violent.

For the first time—in a little way—we are saying it is an individual act and the individual is responsible, the juvenile is responsible and we are going to treat them accordingly. And that is appropriate—as it should be. I find myself in support of this provision of the act. I think it is an important step forward. Clearly the schools of America have to be safe for learning. It is not a place to bring a gun.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The manager, the Senator from Massachusetts?

Mr. KENNEDY. Madam President, I will be glad to yield to my colleague. I see on the floor Senator MOSELEY-BRAUN, who has an amendment. We have until noontime. Then I understand the Senate will be in recess out of respect for our recently departed friend and colleague, Hugh Scott of Pennsylvania. Then we will resume again at 3.

I want to take a moment to indicate to the membership where we are. I know Members want to speak on certain measures—if we can get them worked out and accepted, whatever time we have can be utilized for debating items that may be in controversy. But obviously Members have the right to speak on any of the matters they desire.

So I hope we could at least get Senator MOSELEY-BRAUN's amendment laid down prior to the time of 12 o'clock. Then we can deal with that issue, finding out during the recess time whether it is going to necessitate a rollcall; and then, just after we dispose of that, it is my hope that we can consider Senator SIMON's amendment regarding the longer school year. Then following that we would get into the formula amendment of Senator COCHRAN, which I think will take the time of the afternoon when we will have the greatest attention and interest.

That will be the way that I hope we will proceed. Again, I hope that if other Members have amendments that they will be in touch with us so that we can process them during the time of the recess, and we will be able to move the legislation forward in a timely way.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Madam President, I will be brief so there will be time for the Senator from Illinois to offer an amendment.

I appreciate the remarks of the Senator from California [Mrs. FEINSTEIN]. Senator FEINSTEIN and I have worked many, many months on this legislation. It became law in Goals 2000. It will now, with the help of Senator KENNEDY and Senator JEFFORDS and the committee, become law when this bill is eventually signed by the President. We very much appreciate that.

I understand that some do not necessarily like this amendment. It is not their favorite amendment. But the fact is, the Senator from California [Mrs. FEINSTEIN] and I feel very strongly that you cannot discuss learning unless you first address safety. Kids cannot learn in school when they fear for their safety.

Things have changed in American schools, regrettably. I went to a very small school. I graduated in a high school class of 9 in a town of 300 people. That was a small town, a small school. Senator CRAIG talked about the old days. In the old days, the major problems in school were truancy and speaking out of turn and pushing someone.

What are the problems in today's schools? Go to any school and ask, especially in the major cities. The problems are guns and violence and drugs and teenage pregnancies. Things have changed radically.

On the question of safety, if we do not address the issue of guns in schools, we can spend a lot of money on academic programs, but kids are not going to be able to learn because they are going to sit there during the day and worry about their safety.

I would like to say that Senator MOSELEY-BRAUN is a cosponsor of our amendment. We appreciate that very much. I recently visited a school 10 or 15 blocks from this building. I met with a wonderful principal, Mr. Neal. He runs a good school. He has one of the best reputations in this city. I met with wonderful kids in that school who come from the projects and from backgrounds that are difficult. The school has bars on all of its windows. I walked through a metal detector. The first person I saw was not a smiling teacher. It was a security guard at a metal detector.

I left that school thinking how much I regret that it has come to this. I like this principal and I hope these kids do well and I met teachers who were wonderful.

Only weeks after that, in that same building, down near the cafeteria where I visited, some kid bumped another at a water fountain and the other pulled out a pistol and shot the kid four times. The fact is, this scene is going on all over this country, and we must address it.

We have constructed a proposal that says there will be no more excuses and there will be zero tolerance, and every student and every parent across this country ought to understand something fundamental and simple: You cannot bring a gun to an American school. If you do, there will be a certain and exact penalty. We provide a 1-year expulsion.

Our proposal has sparked a lively debate. Some say you are out of line, this is very unreasonable. I say, look, we are way past the time where we make excuses for bad behavior. Anybody who thinks they can legitimately bring a gun through the front door of a school is not thinking at all. If we are going to have people who bring guns to school because they do not think and who settle disputes in schools with handguns or other shooting devices, then, in my judgment, they deserve a certain punishment.

I hope that everybody in this country understands a year or two from now that our law says nobody is going to bring guns to school. Do not even think about bringing a gun to school. The penalty is too great. We provide an exception on a case-by-case basis. If there is something unusual, the head of the school district can make a decision that this case is exceptional: The kid meant no harm, it was a mistake; they are going to go hunting after school; there is a starter pistol in the backpack for the gym program. If it is a legitimate mistake, the school administrator can make that exception.

One other point. Senator FEINSTEIN and I do not propose to be concerned about firearms used in an ROTC program, about firearms used in a hunter safety course, or about firearms used in connection with historical re-enactment. People asked me questions about that. No, we are not talking about that. We are talking about students who bring guns to schools.

The Senator from California, I think, has been doing a wonderful job on these issues. I am pleased to work with her on this legislation. It is now law, as enacted in Goals 2000, and I hope this will remain law when this bill is signed by the President. We will have changed the mindset and changed the attitude all across this country as to whether anybody ought to dare try to bring a gun to school. Then we will have restored some safety in America's classrooms. We will have fostered an environment in which American children can learn the way I know they are capable.

I understand some other amendments will be offered prior to the 12 o'clock hour. I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, at the outset, I would like to associate myself with the remarks of my colleague from North Dakota, as well as the Presiding Officer's remarks, in support of the guns in school legislation. I could not agree with you more.

While my colleague said I was a cosponsor, I do not think I am yet, so I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER (Mr. DORGAN). Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2422

(Purpose: To amend the Higher Education Act of 1965 to require institutions of higher education to disclose participation rates, and program support expenditures, in college athletic programs, and for other purposes)

Ms. MOSELEY-BRAUN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN], for herself and Mr. KENNEDY, proposes an amendment numbered 2422.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1357, after line 25, insert the following:

SEC. . HIGHER EDUCATION ACT OF 1965.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective student and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.—

"(1) DATA REQUIRED.—Each institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually submit a report to the Secretary that contains the following information:

"(A) For each men's team, women's team, and any team that includes both male and female athletes, the following data:

"(i) The total number of participants and their gender.

"(ii) The total athletic scholarship expenditures.

"(iii) A figure that represents the total athletic scholarship expenditures divided by the total number of participants.

"(iv) The total number of contests for the team.

"(v) The per capita operating expenses for the team.

"(vi) The per capita recruiting expenses for the team.

"(vii) The per capita personnel expenses for the team.

"(viii) Whether the head coach is male or female and whether the head coach is full or part time.

"(ix) The number of assistant coaches that are male and the number of assistant coaches that are female and whether each particular coach is full time or part time.

"(x) The number of graduate assistant coaches that are male and the number of graduate assistant coaches that are female.

"(xi) The number of volunteer assistant coaches that are male and the number of volunteer assistant coaches that are female.

"(xii) The ratio of participants to coaches.

"(xiii) The average annual institutional compensation of the head coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the head coaches of women's sports teams, across all offered sports.

"(xiv) The average annual institutional compensation of each of the assistant coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the assistant coaches of women's sports teams, across all offered sports.

"(B) A statement of the following data:

"(i) The ratio of male participants to female participants in the entire athletic program.

"(ii) The ratio of male athletic scholarship expenses to female athletic scholarship expenses in the entire athletic program.

"(2) DISCLOSURE TO PROSPECTIVE STUDENTS.—An institution of higher education described in paragraph (1) that offers admission to a potential student shall provide to such student, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1), and all students offered admission to such institution shall be informed of their right to request such information.

"(3) DISCLOSURE TO THE PUBLIC.—An institution of higher education described in paragraph (1) shall make available to the public, upon request, the information contained in the report submitted by such information to the Secretary under paragraph (1).

"(4) SECRETARY'S DUTY TO PUBLISH A REPORT OF THE DATA.—On or before July 1, 1995, and each July 1 thereafter, the Secretary, using the reports submitted under this subsection, shall compile, publish, and submit to the appropriate committees of the Congress, a report that includes the information contained in such reports identified by (A) the individual institutions, and (B) by the athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(5) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means all nonscholarship expenditures.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on July 1, 1994.

Ms. MOSELEY-BRAUN. Mr. President, Senators KENNEDY, SIMON, HARKIN, MIKULSKI, and I introduced several bills last September as a cooperative effort to address the widespread gender inequities in our Nation's schools. These bills, which are collectively known as the Gender Equity in Education package, include the Equity in Education Amendments Act, the Women's Educational Equity Restoration Act, the Fairness in Education for Girls and Boys Act, and the Equity in Athletics Disclosure Act.

Mr. President, all four of these bills are important because they will help the Secretary of Education enforce title IX of the Education Amendments of 1972, the principal Federal statute prohibiting sex discrimination in education.

S. 1513 includes much of the gender equity in education package. However, one major component, the Equity in Athletics Disclosure Act, is not yet included in the Improving America's Schools Act. The amendment now before the Senate will make this final gender equity initiative a part of S. 1513.

Mr. President, title IX of the Education Amendments of 1972 has helped to eliminate many discriminatory policies—such as rules that only boys could take shop classes. Yet, because institutions of higher education are not required to disclose gender equity information regarding their intercollegiate athletic programs, many are still not in full compliance.

In fact, the National Collegiate Athletic Association [NCAA], the American Council on Education [ACE], and my colleague from Illinois—Congresswoman CARDISS COLLINS—have all documented the prevalence of gender inequities in intercollegiate athletics.

In 1992, the NCAA conducted a one-time study on gender equity in men's and women's intercollegiate athletic programs at all Division I-A schools. As expected, this study found that female college athletes receive less than 18 percent of the athletic recruiting dollar and less than 24 percent of the athletic program operating dollars. This report also found that the average scholarship budget for men's teams is $1.3 million but only $500,000 for women's teams.

Mr. President, the American Council on Education [ACE] has also documented gross gender inequities in intercollegiate athletic coaching staffs. In a recent survey of 1,410 post-secondary institutions, ACE found that women represent only 8 percent of athletic directors and only 6 percent of sports information directors.

Over the last 3 years, Congresswoman COLLINS has also used her position as chairwoman of the House Commerce, Consumer Protection, and Competitiveness Subcommittee to highlight the gender inequities which plague intercollegiate athletics.

In three separate hearings, student athletes and coaches alike have testified that women's teams often have poorer facilities for training; worse hours for practice and competition; inferior travel accommodations; and little, if any, promotional support.

Mr. President, the American Association of University Women have supported this legislation strongly and they say:

> By requiring colleges and universities to disclose their expenditures and participation rates in women's and men's sports programs, this bill would help address a key problem of bias against women and girls in schools.

I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION
OF UNIVERSITY WOMEN,
Washington, DC, July 18, 1994.
Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: On behalf of AAUW's 150,000 members nationwide, I am writing to express our strong support for including the Equity in Athletics Disclosure Act (S 1468) in the Elementary and Secondary Education Act. By requiring colleges and universities to disclose their expenditures and participation rates in men's and women's sports programs, S 1468 would help address a key problem of bias against women and girls in school.

As you know, Title IX of the Education Amendments of 1972 prohibits sex discrimination in institutions receiving federal funds. Yet a 1992 National Collegiate Athletics Association study found that male athletes receive more than two-thirds of all college scholarships and five times more money in their recruitment budget. S 1468 would provide the foundation for making Title IX effective in our college and university athletic programs by improving access to information about compliance for individual schools.

Reseach reported in "The AAUW Report: How Schools Shortchange Girls" shows that extracurricular activities play an important role in teenagers' socialization and self-concepts. Unfortunately, during secondary school, boys' participation in athletics is still almost twice that of girls. Although girls enjoy participation in sports as much as boys do, they often shy away because of the way they see themselves in relation to sports. We believe the lack of female role models in athletics and the lesser opportunities these girls see in their schools and in their futures greatly contributes to their reticence and biased notions of sports. If we hope to enhance girls' participation in athletics, with all its attending benefits, we must provide for equitable opportunities at all levels of education.

We commend you for your leadership on this issue. Please contact April Osajima on our staff if we can be of any assistance.

Sincerely,

JACKIE DEFAZIO.

Ms. MOSELEY-BRAUN. The amendment addresses this gender inequity by requiring institutions of higher education that receive Federal funds to disclose information on participation rates, coaching staffs, and program expenses for each of their men's and women's intercollegiate athletic teams.

The amendment would also require institutions to disclose upon request this information to the general public and to students who need this information in order to make informed decisions regarding their education. It would also require them to provide this information to the Secretary of Education, who would then report it to the Congress.

Mr. President, the NCAA has begun to address the problem of gender inequity through its 1992 study.

Mr. KENNEDY. Will the Senator yield for a moment?

I see that the hour is just moving to 12 o'clock, at which time we are going to recess in respect for the memory of our colleague, Senator Scott.

I ask unanimous consent that when we resume, the Senator from Illinois be recognized to complete her statement on this very important amendment.

Ms. MOSELEY-BRAUN. Mr. President, I have exactly another 30 seconds worth of dialog. If it is all right, I would just as soon conclude at this time.

Mr. KENNEDY. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Again, very briefly, the NCAA has taken its own initiative, but it needs help. It is very clear that they need the support for disclosure of this information.

Previously, when the NCAA attempted to get this information, they received 20 percent voluntary compliance. This legislation will give 100 percent information disclosure regarding fairness in our athletic programs.

I would like to conclude my remarks by saying we will never be able to achieve excellence in education unless we eliminate gender bias. This legislation goes a long way in providing us with the basis to do so.

I thank the Chair. I thank the chairman for his allowing me time to continue.

Mr. KENNEDY. Mr. President, I see that the hour of 12 noon has arrived. I think there will be a brief further discussion about this when we resume at 3 o'clock. We may very well have the vote at that time and then follow, hopefully, the sequence which I have outlined earlier. And we hope, as I said, that Members who have other amendments will inform the staff or Senator JEFFORDS and myself.

RECESS UNTIL 3 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will stand in recess until the hour of 3 p.m.

Thereupon, at 12:02 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LIEBERMAN.)

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending business is the amendment offered by the junior Senator from Illinois [Ms. MOSELEY-BRAUN].

Who seeks recognition?

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I see my friend and colleague, the Senator from Illinois, on the floor.

We had anticipated that we would move ahead with the amendment of Senator MOSELEY-BRAUN. But just to move the whole process forward I ask unanimous consent that it be temporarily set aside, and that we consider the amendment of the senior Senator from Illinois.

Mr. GORTON. Reserving the right to object, may I ask what the status is with respect to the amendment of the Senator from Washington?

Mr. KENNEDY. Mr. President, as I understand, the Senator's amendment is preserved. At any time we can call it back. As I understand it, regular order brings back the amendment of the Senator from Washington. I had understood that there were continuing negotiations that were taking place on the Senator's amendment. We were just attempting to expedite.

Mr. GORTON. The amendment, the basic underlying issue, has been set aside for an amendment by Senator MOSELEY-BRAUN, and now the Senator seeks to set aside that one for a third amendment by the senior Senator from Illinois.

Mr. KENNEDY. The Senator is correct.

Mr. GORTON. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Illinois [Mr. SIMON].

AMENDMENT NO. 2423

(Purpose: To establish the Longer School Year Incentive Act of 1994)

Mr. SIMON. Mr. President, in behalf of Senator BYRD, Senator PELL, Senator CHAFEE, Senator KOHL, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. BYRD, Mr. PELL, Mr. CHAFEE, and Mr. KOHL, proposes an amendment numbered 2423.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1205, between lines 4 and 5, insert the following:

"PART D—LONGER SCHOOL YEAR

"SEC. 13401. SHORT TITLE.

"This part may be cited as the 'Longer School Year Incentive Act of 1994'.

"SEC. 13402. FINDINGS.

"The Congress finds as follows:

"(1) A competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries.

"(2) Despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy.

"(3) For most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year.

"(4) In the final four years of schooling, students in schools in the United States spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so spent in Germany, the 3,280 hours so spent in France, and the 3,170 hours so spent in Japan.

"(5) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television.

"(6) More than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem.

"(7) Over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year.

"(8) Funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts.

"(9) Experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"SEC. 13403. PURPOSE.

"It is the purpose of this part to allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"SEC. 13404. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to States or local educational agencies to enable such States or agencies to support public school improvement efforts that include the expansion of time devoted to core academic subjects and the extension of the school year to not less than 210 days.

"SEC. 13405. APPLICATION.

"Any State or local educational agency desiring assistance under this part shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

"SEC. 13406. FUND ALLOCATION.

"(a) FUNDING.—Of the funds appropriated pursuant to the authority of section 13501 for each fiscal year, the Secretary may reserve not more than 50 percent of such funds for such year to carry out this part.

"(b) AVAILABILITY.—Funds made available under subsection (a) for any fiscal year shall remain available until expended.

On page 1193, line 21, insert "and not used to carry out part D for such year" after "year".

On page 1194, line 2, insert "(other than part D)" after "title".

On page 1195, line 17, insert "(other than part D)" after "title".

On page 1195, line 25, insert "(other than part D)" after "title".

On page 1198, line 4, insert "(other than part D)" after "title".

On page 1198, line 7, insert "(other than part D)" after "title".

On page 1198, line 13, insert "(other than part D)" after "title".

On page 1198, line 20, insert "(other than part D)" after "title".

On page 1198, line 24, insert "(other than part D)" after "title".

On page 1199, line 3, insert "(other than part D)" after "title".

On page 1199, line 16, insert "(other than part D)" after "title".

On page 1199, line 18, insert "(other than part D)" after "title".

On page 1199, line 23, insert "(other than part D)" after "title".

On page 1200, line 1, insert "(other than part D)" after "title".

On page 1200, line 15, insert "(other than part D)" after "title".

On page 1200, line 24, insert "(other than part D)" after "title".

On page 1201, line 5, insert "(other than part D)" after "title".

On page 1202, line 20, insert "(other than part D)" after "title".

On page 1202, line 22, insert "(other than part D)" after "title".

On page 1203, line 6, insert "(other than part D)" after "title".

On page 1203, line 18, insert "(other than part D)" after "title".

On page 1204, line 2, insert "(other than part D)" after "title".

On page 1204, line 4, insert "(other than part D)" after "title".

On page 1204, line 10, insert "(other than part D)" after "title".

On page 1204, line 18, insert "(other than part D)" after "title".

On page 1204, line 22, insert "(other than part D)" after "title".

On page 1205, line 5, strike "D" and insert "E".

On page 1205, line 6, strike "13401" and insert "13501".

Mr. SIMON. Mr. President, this sets aside up to $100 million of discretionary spending under title 13 by the Secretary of Education for the purpose of encouraging longer school years. We all know that education has to receive a higher priority if we are to do for the future what we ought to do for this country. That includes hours in school, and it includes days in school.

For example, today in Japan you go an average of 243 days a year. In Germany, you go an average of 240 days a year. We go an average of 180 days a year. Why do we go 180 days a year? In theory so our children can go out and harvest the crops.

I see my friend from Washington on the floor, my friend from Mississippi on the floor, from Massachusetts, and from Rhode Island on the floor. The children in those States, and in an agricultural State like Illinois, are no more going out and harvesting crops in the summertime. I live at Route 1, Makanda, IL, population 402. Even in Makanda, IL, they are not going out and harvesting the crops.

If you look at the hours in school, the average hours of high school instruction per year—it is not simply the days, it is the hours we spend in school also. In Germany it is 882 hours; France, 820 hours; Japan, 792 hours; the United States, 365 hours. Can we learn as much in 180 days as our friends in Japan do in 243 or in Germany in 240? To ask the question is to answer it. We know the answer to that question.

Title 13 is designed to bring innovation and flexibility. But the reality is it has not brought much of any of those things. It has just been kind of a largess for school districts. If that is what we want to create, we can.

But it is interesting that a recent study by the Education Department said that this could be a powerful vehicle for educational reform if it were focused more. The study specifically recommended that local school districts "concentrate chapter 2—it used to be chapter 2, it is now called title 13—funds on one specific activity or program relating to reform, or an educational priority, in order to maximize the potential of funds would make a difference."

We have to face up to some reality. Let us just say that the Secretary of Education decides to use all $100 million. In the billions that we spend in this country, $100 million is not very much money. Let us just say the Secretary determines we can pay $30 per student to assist schools that go from 180 days to 210. That is the period that we are asking for in this amendment that would be increased to. If they do it, they could get $30 per student, not a lot of money. It is enough money to cause every school board to talk about it; to consider it, and a very few schools are moving in that direction now. We need to do more. We need to emphasize education much more than we have been.

Other nations are putting their resources into education as we are not. We make great speeches about education on the floor. Every Senator is an education Senator. Every President is an education President. Every Member of the House is an education House Member. This is a chance to really do something, to really improve education in our country. My hope is that the amendment will be adopted.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY. Mr. President, I am looking for our good friends and colleagues to address this issue. I for one personally think that it is well worth trying to encourage an extended school year. We have been attempting to work out the different provisions of the legislation. We have taken the old title II and moved that into a teacher training program. And now the amendment comes which will take a very sizable amount of resources.

Can the Senator explain to us? In terms of its relationship, is he carving out this amount of money from title 13?

Mr. SIMON. No. It simply says the Secretary of Education may designate up to $100 million. So if the Secretary designates zero dollars, there is no violation. If the Secretary designates $10, there is no violation. This gives the Secretary some flexibility. But obviously it is a signal from Congress to do this.

Mr. KENNEDY. Mr. President, with that understanding, I would urge the Senate to accept the amendment.

Mr. PELL. Mr. President, I would like to add a word of support for this idea. I know I have felt very strongly about this for years. I always carry this agenda book with me, and in here I have some of these figures: The Soviet Union has 210 days; Canada, 200; Thailand, 220, and on ad infinitum.

I think it is a wonderful amendment. I would like to see it stronger and with more money. But this is about the amount that can be digested. It is excellent work.

Mrs. KASSEBAUM. Mr. President, I apologize to the Senator from Illinois and the Senator from Massachusetts. I did not quite understand. Did the Senator say there would be no chapter II money that would be withdrawn?

Mr. SIMON. This is the old chapter II. It is title XIII now. What it does is, it says up to $100 million may be designated by the Secretary of Education for this purpose.

Mrs. KASSEBAUM. Mr. President, I think all of us are intrigued by, if not supporting of, a longer school year. But I also am a strong believer that this is a local decision. I think that once we start adding money for encouraging a longer school year, we are going to be into major policy decisions that I think are best left up to a school district and to a State.

Mr. SIMON. If my colleague will yield. Yes, we are leaving this up to the local schools. But what we have found through the years is that when we have a little carrot out there to help schools, whether it is vocational education or whatever it is, it does help move people in the right direction when we see a national need. I do not think anyone can dispute the figures Senator PELL just used, and that we are way behind other countries in terms of hours and school days.

So this is a nudge—and I have to confess, a slight nudge —in that direction.

Mrs. KASSEBAUM. Mr. President, I know that Senator JEFFORDS is on his way to the floor. I think he wants to address this issue.

Mr. KENNEDY. Mr. President, with that understanding, I ask that we temporarily set aside this amendment.

The change in this amendment is rather than having a separate fund, that would be designated. For now it is purely permissive and is purely discretionary, up to the Secretary. I think we are going to have to probably work this through in terms of the conference, in any event. This is somewhat different in terms of what was initially proposed. I am glad to wait until Senator JEFFORDS comes here. But it is, as I understand it, significantly different than either adding another $100 million or carving out that amount of money from the programs that were in existence. But I am more than glad to wait for the Senator from Vermont.

Mrs. KASSEBAUM. Mr. President, I would like to set this aside until he has a chance to comment.

Mr. GRAMM. Reserving the right to object. I had intended to speak for a moment on the crime bill and on health care. Maybe we can hold this unanimous consent request until I have spoken. That would give the Senator from Vermont an opportunity to come over here and speak. Given that I intend to have the floor for about 10 minutes, perhaps it would save the Senate's time to simply allow me to speak, and then if Senator JEFFORDS appears, the debate can continue on that amendment.

Mr. KENNEDY. I am glad to accommodate. The Senator from Illinois has another amendment relative to this bill, that he wanted to process. We are trying to move this process forward. We only had a limited time this morning and, quite appropriately, we took time this afternoon. We are now at the hour of 3:15, and we have a number of important amendments.

Obviously, people can, under the Senate rules, speak. We are attempting to move this process forward. So we have been trying to ask the cooperation of the Members. I certainly cannot preclude any Member from speaking.

We reached the situation last evening at 8 o'clock where the managers were here and prepared to deal with serious matters, and we were unable to get the Members here to consider these issues.

This is an enormously important education bill. We have to abide by the Senate rules, obviously. I would like to see if we could not make further progress. Obviously, the Senator is entitled to speak at any time.

Mr. GRAMM. Well, Mr. President, I would be happy to try to accommodate my colleagues. Why do I not try to go ahead and truncate what I wanted to say about the crime bill and health care and, in the meantime, if somebody wants to call the Senator from Vermont, and he were to come over, he could speak. If he did not, certainly I would have no objection to a unanimous consent request to set the amendment aside.

Mr. KENNEDY. Well, the Senator is entitled, as matter of right, to address the Senate. The Senator from Illinois has another amendment on which we can begin at this time, even while we are waiting for the Senator from Vermont to get here. The Senator can gain recognition and speak. We are hopeful of trying to accommodate the leadership on both sides. This was a bill that had a 16-1 approval rating. It is enormously important legislation, and Members can speak on it.

The manager would prefer that we deal with the amendments that are relevant. But any Member is entitled to address the Senate on any other measure.

Mrs. KASSEBAUM. I wonder if the Senator from Texas will yield a moment for a parliamentary inquiry?

Mr. GRAMM. I yield the floor temporarily.

Mrs. KASSEBAUM. What is the standing of Senator MOSELEY-BRAUN's amendment?

Mr. KENNEDY. That has been temporarily set aside. I know the Senator wanted to address that issue. I, of course, would like to resolve that issue as well.

Mr. GRAMM. Mr. President, if I might reclaim my time, I would have already spoken and left.

The PRESIDING OFFICER. The Senator is correct.

THE CRIME BILL CONFERENCE REPORT

Mr. GRAMM. Mr. President, I wanted to express my deep disappointment in the early descriptions of the conference report that was agreed to early this morning on the crime bill. I believe that when the American people have an opportunity to look at this agreement, they are going to share my disappointment.

There are a lot of issues that I could talk about, beginning with the President's support for executive branch policy that will bring racial quotas into the death penalty in America as part of an effort to put the crime bill together. But today I simply want to talk about three areas that I am very much concerned about, areas where I believe the conference committee has not reflected the will of the American people.

On the floor of the Senate, I offered a set of amendments to require 10 years in prison, without parole, for possessing a firearm during the commission of a violent crime or a drug felony; 20 years without parole, in prison every day, for discharging a firearm during the commitment of a violent crime or a drug felony; life imprisonment, without parole, for killing somebody; and the death penalty in aggravated cases.

A version of that amendment was adopted overwhelmingly by the U.S. Senate, as it has been adopted overwhelmingly for a number of years.

When we went to conference with the House of Representatives, that amendment has reportedly been dropped.

Therefore, it is not part of the crime bill.

For several years I have offered an amendment requiring 10 years in prison without parole for an adult who uses a child in the commission of a drug felony or who sells drugs to a minor. I believe that the American people overwhelmingly support that provision. But in the conference meeting last night, I am told that that provision, which has been adopted by overwhelming votes on many occasions in the U.S. Senate, was again dropped. Therefore, it will not be in the crime bill.

But perhaps the thing that I am most unhappy about is the report of the action that was taken with regard to mandatory minimum sentencing. I have been alarmed from the first day of the Clinton administration by the difference between the President's rhetoric on crime and the action of his own Justice Department. The President in his very first speech to a joint session of Congress talked about getting tough on criminals. Yet the Attorney General and the Justice Department have spent every day they have been in office trying to overturn mandatory minimum sentencing for drug felons.

In an effort to try to compromise, in an effort to work in the best spirit of bipartisanship, as I am sure my colleagues who were leading the debate when we debated the crime bill would attest, I agreed to a compromise that said, in essence, those convicted of a drug felony who have no criminal record, and if the drug felony did not involve a minor, if they were not carrying a gun, if they were not a leader of the drug conspiracy, and if no one was injured in the crime, that the judge can take that into account in giving them a reduced sentence.

Mr. President, that was not an easy compromise for me to make because when someone is selling drugs to a child, this is a violent crime, in my opinion. But in the best spirit of bipartisanship, I helped work out that agreement, an agreement that would have covered, interestingly enough, only about 100 people a year.

Now, the conference committee has reportedly agreed to a provision that will allow people with previous drug convictions to be let out of jail and that according to some estimates retroactively could affect 10,000 convicted drug felons who are in prison today. They could be released by a bill that we call an anticrime bill.

I cannot understand, Mr. President, how we can be talking about getting tough on criminals and yet think of passing a bill which apparently has now been approved by the conference committee and will come back to the Senate with a provision that will retroactively go back and release drug felons who are in prison today under mandatory minimum sentences. Many of them are in prison because they were helping to sell drugs to children, and yet they will be let out of prison by a successful effort now by this administration to overturn mandatory minimum sentencing for drug felons.

When the President is standing up and saying let us get tough on criminals, when the President is saying three strikes and you are out, how many people knew the President was saying let us go back and change the law and allow thousands of drug felons who are in prison today out of prison because this administration believes that we were too tough on them by putting them in prison to begin with?

I do not believe that that provision reflects the will of the American people.

So, Mr. President, let me tell you what I intend to do on this one issue.

First of all, I am going to offer these provisions on every bill that I can for the remainder of this Senate. On those bills, I am going to offer these three provisions: 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony; 20 years for discharging it; life imprisonment for killing someone; the death penalty in aggravated cases. That is one amendment. Another one will require 10 years in prison without parole for selling drugs to a minor or using a minor in a drug conspiracy.

Finally, I am going to do my best on each and every bill to overturn the administration's successful effort to let possibly thousands of drug felons who are in prison today out of prison.

I do not believe that that in any way reflects the will of the American people, and I think it is greatly at variance with the President's own rhetoric on this subject.

So I intend, at this point, to oppose the crime bill which, although it has some good provisions, while it has provisions that I have written and provisions that I have supported, I cannot support a crime bill that is going to overturn mandatory minimum sentencing for drug felons and which may potentially allow according to some estimates as many as 10,000 drug felons who are in the Federal penitentiary back out on the streets because the administration believes that we were too tough on them.

I also intend to see that we have an opportunity to vote on these amendments again and again until ultimately they are the law of the land.

HEALTH CARE

Mr. GRAMM. Mr. President, to accommodate my colleagues, let me just say a couple things about health care and about this bus tour.

I think it is very revealing that now consistently everywhere this bus tour goes in support of a phantom bill, which has yet to be written, there are over twice as many people turning out who oppose the President's plan as people who are turning out to support the President's plan.

That was reflected yesterday in a poll carried by AP where now only 33 percent of the American people support the President's health care plan.

I do not recall, Mr. President, in my 15 years in public life, of a single circumstance where a major legislative proposal which at one time had the support of as many as 70 percent of the American people has in 1½ years seen that support decline to only 33 percent.

I submit that it has not declined because the President does not have a big megaphone with which to sell it. I submit that support has not collapsed because the President is not a great salesman or because the First Lady is not a great saleslady. I submit that support has collapsed because the American people are not willing to tear down the greatest health care system in the history of the world and reinvent it in the image of the Post Office.

We can adopt a health care bill in the Senate and the House and make it the law of the land, but we cannot do it until the President gives up on the idea that we are going to have a health care program that is run by the Government. That is an absolute nonstarter.

When my mama gets sick, I want her to talk to a doctor. I want her to talk to a doctor of her own choosing. I want her to have a say in her health care, and I do not want her to have to talk to and get permission from some Government bureaucrat in order to get health care. On that issue there is not going to be any compromise.

(Disturbance in the visitors galleries.)

The PRESIDING OFFICER. The gallery will come to order. The Senate will please suspend until the Sergeant at Arms has restored order.

The Chair would request that the public in the gallery please maintain silence so the Senate can continue with its proceedings.

Mr. GRAMM. Mr. President, I know that a decision has been made to extend the health care debate into the recess period, and I am sure there are those who believe that there will be Members of the Senate who, with a recess pending, will say: "I've got all these plans, and I would like to save the greatest health care system in history. I am opposed to socialized medicine. But I promised my wife and my children that I would go on vacation."

So, therefore, given the choice, the American health care system is going to have to suffer.

But I want to assure my colleagues that I for one have canceled my vacation. I am willing to be here to debate this issue. There will be no unanimous-consent agreement limiting debate on the health care bill. The full rights of every Member will be preserved. We are going to have a full and extensive debate.

I have to believe, Mr. President, that when we have so many Cabinet members and agency heads out driving around the country on these buses to support a bill that has yet to be written, when nobody knows what is in it, we have moved from a debate about a health care plan to a debate about a political agenda.

I know the President believes that he has to get a health care plan passed. But Congress does not have to pass just any health care plan.

I personally doubt that we are going to pass a health care bill under the current circumstances before the Congress adjourns for the August recess. I believe we need time to know what is in the bill that we are debating. And to paraphrase the chairman of the Appropriations Committee from his speech yesterday, we need to look at this bill closely; when we are building a new house, we need to be sure that the plans reflect the resources available and that the builder be prepared to adapt his master plan to changing circumstances.

So anybody who thinks they are going to force a health care bill through this Senate by holding us through the August recess had better rethink it, because that plan is not going to succeed if I can do anything about it.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, we have set aside the Simon amendment for the longer school year. We have also the Gorton amendment and the gender equity amendment.

The Senator from Illinois has a further amendment on the Women's Equity and Education Act. I hope we would address that and then go to the Cochran amendment on the formula, which I think will be a major area of discussion and debate, since there are three or four different formulations of it. That is enormously important, obviously, to the States.

And then during that period of time, we will see how we can address some of these other items. We are preserving everyone's rights, obviously. In terms of making the greatest progress on the bill, we have talked to the Senator from Mississippi and others that have formula amendments and they are prepared to go. I think that that is something which is extremely important in terms of the legislation. So we will try and move in that direct direction.

Hopefully, we can dispose of this other Simon amendment and then move towards the formula amendment.

The PRESIDING OFFICER. The Chair would advise the Senator that the Senate has not formally set aside the amendment of the Senator from Illinois.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we temporarily set aside the previous Simon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

AMENDMENT NO. 2424

(Purpose: To increase the authorization of the Women's Educational Equity Program to $5 million)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for himself, Mr. HATCH, Mr. KENNEDY, Mr. PELL, Mr. HARKIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. BINGAMAN, Mr. LEAHY, Mr. METZENBAUM, and Mrs. BOXER proposes an amendment numbered 2424.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 995, line 10, strike "$2,000,000" and insert "$5 million".

Mr. SIMON. Mr. President, what this amendment does, frankly, is it increases the authorization for the Women's Educational Equity Program from $2 to $5 million. That is still $4 million below where we were before. The Appropriations Committee in the Senate has already approved $3.9 million.

I offer this amendment in behalf of Senator HATCH and myself, and a number of Members of this body. It is very clear that we face an educational equity problem in this country as regards the female population in terms of students, in terms of administration, and in other areas. The program is doing solid work for a very, very small amount of money. I hope the Senate could accept the authorization.

The PRESIDING OFFICER. Is there further debate?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to speak for a moment to the amendment of the Senator from Illinois. We have discussed this in both the committee and here on the floor.

While this amendment is only a modest increase in the authorization for the Women's Equity and Education Act from, if I am correct, $2 to $5 million in authorization, I would have to speak against the amendment, although I am not going to request a vote, because I question whether this is an area in which we should be spending any Federal dollars at all.

If I could just for a moment, Mr. President, say that while what is called the WEEA Program, the Women's Equity and Education Act, targets a perceived problem in education—gender bias in our schools—as a woman, I can attest to the fact that I did not really feel that I was disadvantaged in schools because I was a woman. And I went all through public schools in Topeka, KS.

There are areas, certainly, where there is discrimination. But I am not sure that we can address it here with another additional amount of money in a Federal initiative.

I think the presumption that girls are "shortchanged" in school is supported only by a small body of research which has questionable findings.

For example, a study by the American Association of University Women found that girls receive less attention from teachers than do boys in the classroom, often resulting in lower self-esteem on the part of girls. What the study did not mention was that this perceived attention resulted from the fact that the boys received 8 to 10 times as many reprimands in the class as the girls. It was not positive attention.

So, I am not sure, Mr. President, that these things do not get balanced out and, in fact, by perhaps making too much of something, we only create a problem where perhaps it did not exist before.

With regard to academic achievement, boys typically score higher in math and science than girls, that is true, but girls get higher scores in reading and writing. Moreover, more girls go on to college and more receive master's degrees than their male counterparts.

So I am just not sure that this actually holds up when we look at the whole picture. I know this is a popular issue with many of my colleagues and it is a difficult one to vote against in a program that claims to level the playing field for women and for girls in school. However, I do believe that we have no right to play on this particular field in the first place. It should be in our own local school districts and in our school boards, where we should be engaged in trying to correct any uneven playing fields.

For that reason, I have great reservations. I will not ask for a vote, Mr. President, but I think it is important to note that we get into these issues and get into increasing funds for the best of intentions when actually I think we would be far better off leaving well enough alone.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I support this proposition. I think it is justified and worthwhile.

In the mid-1970's, a number of us tried to get the National Science Foundation to develop outreach programs to enhance women's achievement in math, science, chemistry, biology, and physics.

If you look over those individuals, for example, that were getting grants from the National Science Foundation, really probably less than 10 percent involved women in many of the technical sciences. I think what basically we were saying was that this country was losing an enormous asset, in terms of the ability and the interest and the commitment of a major segment of our society.

This particular program is an extremely modest program. The appropriation is already up to $4 million. This would just barely cover the appropriation.

What it is basically trying to do is enhance women's achievement in the classroom. It is basically targeted in terms of enriching the teacher's sensitivity, awareness, techniques and approaches in terms of bringing out the best in terms of women in the classroom.

The resources which have been used to date have demonstrated to be successful. It is an extremely modest program. I know there are those concerned about it. I appreciate the position that has been taken here by our friend, the Senator from Kansas, but I hope that the amendment would be agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I would like to rise associating myself with the comments of the ranking member, Senator KASSEBAUM of Kansas.

My concern here is that we have already seen with this bill a number of Members come to the floor and add a few million here and a few million there. As Everett Dirksen said, that begins to become real money fairly quickly.

The problem is that in this bill there is a huge amount of new programmatic activity which we do not have the money to pay for. There is also a large number of programs which remain in this bill which the President himself suggested should be eliminated.

So the allocation of funds within this bill to the core activities which are needed to be done in this bill—which might be able to be increased, for example, if we did not have all these new programs—is constantly being chipped away instead by all these additional ideas that come to the floor.

Now I am sure many of these ideas are very worthwhile. In fact, I like many of these ideas.

But, the fact is we do not have a bottomless pocket here. We are having to make choices and make priorities, and to have Members continually coming down here and suggesting let us put another couple of million here and let us put another $10 million here, as already has happened a couple of times in this bill, is, in my opinion, fiscally irresponsible.

I will be offering an amendment later in the day, hopefully, when I have the opportunity and in the proper order, to eliminate all the new programs that have been added to this bill so we can get back to the basic core function which this piece of legislation is directed at, which is a very appropriate function and which is a very important function.

Chapter 1 dollars have played a major role in helping disadvantaged children get better prepared for and participate in school systems. But all these additional programs that are being put on here, many of them being wonderfully conceived ideas, simply are draining our ability to do the basic core programs. And we are not doing our job as a Senate of prioritizing what we can spend money on in a time of tight fiscal atmosphere.

We are running, as everyone knows, a fairly significant deficit in this country. So every time we come up with a new idea which is a good idea and say, let us spend some money on it, we have to borrow that money from the American people and from the children of the next generation.

I do not think it is fair to the children we are allegedly trying to assist to educate that we should load more debt onto their backs in order to constantly add new programs, many of which are so small, so minuscule they really cannot have a major impact across the Nation and really are issues, as the Senator from Kansas appropriately pointed out, more appropriately reserved to the decision process and the allocation of resources process at the local school board level.

So I do not support this amendment. I understand there is not going to be a vote on it. I will not ask for a vote on it. But I do want to raise the flag here, that we are setting off on another instance of: Let us add another new program, let us add a few dollars to this program, let us increase that program, when in fact we are not doing our job to underwrite the basic programs of education in this country which we already have on the books.

I point to one startling program as an example of that which is 94-142, which is grossly underfunded and which, as a result, is skewing the resources at the local community level.

So I hope we will not support this program, although I guess it is going to be accepted by the leadership. But when we get to my amendment, which raises this whole issue in a very definitive way—do we want to add $770 million worth of new programs to this bill—that Members will be sensitive to the fact that every time they add a new program it puts a drain on the capacity to do the other activities of this bill in an effective way.

So that amendment is coming. I just want to put people on notice of it. I yield the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent Senator MURRAY be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I simply point out Senator KASSEBAUM said most of these decisions are made at the local level, and she is absolutely correct in that. But, for example, history books—only 2 percent of those who are featured in history books are women. You cannot correct that through the local school board. You need to correct that at the national level.

There are small things like that that really become significant in the long run. I hope my colleagues will vote for this.

Mr. BIDEN. Mr. President, 7 years ago, I suggested that American school children needed to spend more time in school—an additional 30 to 40 days each year. The reason is simple: America will not be able to compete in the global economy, much less thrive in it, if we give our children vastly less education than our competitors give theirs.

And, make no mistake about it: our children spend far less time in school than the children of other nations. On average, American children attend school 180 days each year. Meanwhile, other nations—America's economic competitors—send their children to school much longer. In Japan, it is 243 days; in Germany, up to 220 days; and in Hong Kong, 195 days.

This much we have known for years. But now we learn that it is not just a matter of days. In early May, the National Commission on Time and Learning, which was created by Congress in 1991, reported that in the four high school years, students in Japan, France, and Germany spend more than twice as many hours in core academic subjects—subjects such as math and science—as students in the United States. The Commission concluded that America's school children are—as the title of the Commission's report so aptly describes it—"Prisoners of Time."

As I see it, if we are to provide the future generations of Americans with the ability to compete in the global economy of the 21st century—a competition based not on brawn but on brains—our choices are few.

We can have inherently smarter students—students who can learn in 180 days what it takes the rest of the world over 200 days to learn—which we do not have.

We can have significantly more accomplished teachers—which is difficult to achieve.

Or, we can do what will inevitably be unpopular with students as well as teachers and probably some parents—but is inevitable if we are to solve the problem. And that is: send our children to school longer.

That is why the National Commission on Time and Learning in its May report recommended what I have argued for the last 7 years: America's children need to spend more time in the classroom learning.

Today, the Senate has the opportunity to put the Federal Government on record in support of a longer school year. The Simon amendment would authorize $100 million in grants to local schools that choose to extend the school year to at least 210 days—30 days longer than the current average year.

It is important to emphasize that this amendment does not require schools to adopt a longer school year. Some have pointed out during this debate that the length of the school yer should be a local decision. And, I am willing to accept that argument. But, nothing in this amendment requires a longer school year. It merely will help those local schools that on their own choose to have a longer year.

Another argument that I often hear against a longer school year is that the issue is not quantity but quality. On one level, that argument is right. It is important for all students to have a quality education, regardless of the length of the school year. But, as economist Lester Thurow has noted, those who argue quality over quantity are trying to reform education not with what is easy to do—"work longer and harder"—but with what is hard to do—"work smarter."

Having children spend more time in the classroom is not the only answer to a better system of education in this country. And, this amendment itself goes only part way in addressing the issue of a longer school year. But, it is a start, and it will provide local schools with some financial help to lengthen the school year. I urge my colleagues to support the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2424) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I understand we are close to being able to vote on the gender equity amendment. That is the amendment of the junior Senator from Illinois. I understand in just in a moment or two the Senator from Kansas will be here to speak to this issue. Then, hopefully, we can move ahead in a vote.

Basically, I hope the amendment of the Senator from Illinois is accepted. Some years ago we had an amendment from the Senator from New Jersey, Senator BRADLEY, and myself that provided information to parents about what happened to many of the young people who attended universities on scholarships and whether they graduated.

Some of our finest universities, with some of our best athletic programs, have an extraordinary record of achievement and accomplishment in graduating young men and women who had athletic scholarships, who had very good academic achievement and great success on the athletic fields, who went on to some very important opportunities in the future.

We had also some examples of situations where individuals or students were given scholarships and once their useful life on the athletic field had expired, these individuals were effectively drummed out of the universities. And we also provided information as well in terms of various crime statistics so parents and applicants would have a good idea as to the nature of crime, both on campus and off campus.

The amendment of the Senator from Illinois really builds upon what has been an accepted concept, and that is giving additional information to the public. Her amendment deals with gender equity in athletics. It requires institutions of higher education to disclose to prospective students, the public, and the Department of Education information related to the support for men's and women's sports, participation rates of men versus women in sports, the number of coaches, recruiting expenses, average coaching salaries for men and women. It discloses this to prospective students and also to the public—and a report to the Secretary of Education.

I know there will be some who feel this will be onerous on universities. The fact of the matter is the universities have to comply with equity in terms of women's athletic programs—certainly since the Grove City title IX, and also the Grove City Supreme Court case, which we overturned here in the Senate to make sure there was going to be compliance.

Effectively, all this does is make that information available. If they are not going to provide for this kind of equity, of course, that is a different situation. There are remedies to try to make sure they do. This really is to make it available. It assumes the colleges and universities are doing so, and all this amendment does is just make sure that information is out there and shared with the public so they would know.

I support the amendment of the Senator from Illinois. I see she is here on the floor. I am very appreciative of her accommodation in terms of offering her amendment and speaking to it. We have had a time interruption because of the recess—appropriately so—earlier in the afternoon. I think momentarily we are going to be prepared to dispose of that amendment.

The PRESIDING OFFICER. The Chair advises the pending amendment is the amendment offered by the senior Senator from Illinois regarding the longer school year.

Mr. KENNEDY. Mr. President, I ask that be temporarily set aside and we have before the Senate the amendment of the Senator from Illinois.

Mr. BUMPERS addressed the Chair.

AMENDMENT NO. 2422

The PRESIDING OFFICER. The pending amendment becomes the amendment offered by the junior Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I spoke on this amendment earlier today and was detained in judiciary hearings until just a minute ago.

I just would like to applaud and congratulate the Senator from Massachusetts for his leadership in this area, for his strong support of the equity in athletics and disclosure amendment, and urge its favorable consideration by my colleagues.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I rise in opposition to the amendment of Senator MOSELEY-BRAUN. I have enormous respect for the sincerity of the Senator from Illinois. I can fully appreciate what she is trying to address in this amendment.

If I may just speak for a few moments as to why I am concerned about this amendment. One, not only do I think it adds additional bureaucratic confusion and burdens on institutions of higher education, but if this is to be addressed, I think it should have been addressed in the higher education bill rather than elementary and secondary legislation.

I suggest also that it is duplicative of Federal laws that are already in existence.

The premise of the amendment is that fewer dollars are spent on female athletes and coaches of many institutions of higher education, if I understand correctly. Again, there is the recognition of gender discrimination and the premise that the Federal Government should do something about that.

If the charge is that there is discrimination in college athletic programs against women's sports, any civil rights claim is covered by title IX, which guards against sex discrimination in any Federal education program. The Office of Civil Rights of the U.S. Department of Education enforces title IX, and it can request any data without this amendment.

I suggest this amendment also duplicates similar, but less burdensome, requirements in the Higher Education Act Amendments of 1992 which require institutions that offer athletic scholarships to report similar information. However, this amendment expands this paperwork burden and extends it to any institution that participates in Federal student aid programs.

I just feel that, while with the best of intentions, it really adds an enormous burden of reporting requirements and, as far as students are concerned, I venture to say that for most students and institutions, an athletics program is only one of many factors to be considered in deciding which college to attend.

In addition, a student is free to request such information from the institution without this amendment. Perhaps the Senator from Illinois hopes by this to develop records which show institutionally that going back even earlier in the process in elementary and secondary education we build up a gender discrimination that is then perceived in higher education.

I am not going to ask for a vote on this amendment, Mr. President, but I am disappointed that we, again, continue to add burdens on our institutions of learning that I feel should not be added or imposed on our institutions of higher education or our elementary and secondary schools.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Kansas has yielded the floor.

Ms. MOSELEY-BRAUN. Mr. President, I have the highest regard and respect for the commitment of the Senator from Kansas as well. I ask the Senator from Kansas, is she not aware that the Higher Education Amendments of 1992 do not cover Division III schools or Ivy League schools, and this amendment, of course, would be a level playing field, it would be across the board and, again, where there are omissions in other previous acts.

Mrs. KASSEBAUM. Yes, Mr. President, I do acknowledge that is the case, that this would require reporting from all institutions. And as I say, I am not going to ask for a vote, but I do, again, question the burdensome requirements that it will impose.

I yield the floor, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, I wish to address the Senator from Illinois and simply ask her a question about the amendment.

I have read through it. I tend to agree with my colleague from Kansas that this is a lot more reporting and paperwork. Assuming we are going to have the paperwork, I would like the Senator from Illinois to explain to me why one of the statistics that is to be included every year is not the income which the institution receives from each of these various sports.

That may not be the only consideration as to how money is distributed, but it certainly is at least relevant to that. And I strongly suggest, I would be much more favorably disposed toward the amendment if one of the things in the report, so students could make an appropriate comparison, was how much money actually comes into the institution, which is paying out all this money, from each of these sports which is otherwise required to be reported?

Ms. MOSELEY-BRAUN. Mr. President, I thank my colleague from Washington very much. It is almost ironic that he would ask that question. I was just asked that very question by a minister who is visiting from my home State. We were talking about it, and he said, "Is there a difference between how much the boys teams bring in versus the girls teams?" He was kind of joking about it. I responded by saying the girls teams can make as much money as the boys teams do if they are given a chance.

The Senator is correct. The amount of money that the teams make is not included as reporting, the notion being that we have not yet gotten to the point where income disparities in terms of earning potential of the various team sports was at issue. Our concern was in terms of equality of opportunity to participate, not equality of opportunity to earn money from it participation in team sports.

The Senator's point is well taken. There may well be differentials in the amount that is earned by the boys teams versus the girls teams. But I think in the first instance we have an obligation to eliminate gender bias in terms of opportunities for students to participate.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator certainly understands this Senator would suggest that the amendment would be considered to be more fair and more all encompassing if the Senator from Illinois would modify it to include those figures. It certainly cannot hurt potential students or anyone else reading these figures to have a full understanding of the way athletic departments are funded.

This was meant to be a friendly suggestion. One would think it would improve the amendment to ask for the inclusion of those figures.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator may be persuaded in that position. I personally do not find it enormously convincing. The whole point, in terms of the history of women in sports, is that they have been seriously shortchanged over a long period of time. We have had great difficulty in seeing that there was going to be some attention that was going to be given to women in sports.

I have no objection to having that kind of inclusion, but it just seems to me that the amendment is driving at another factor. We can grant and acknowledge that sports, particularly football; basketball, particularly in the big 10; and others, are the great moneymakers in terms of colleges and universities and in terms of professional sports. If that is the issue, we stipulate that.

The real question is, are we as a society going to, over a period of time in addressing many of the issues of gender inequity, really see, as a result of information that effectively is required under existing law, that it is going to be made available to the public?

I inform the Senator from Illinois, perhaps we could accept the amendment and then the Senator from Illinois and the Senator from Washington can talk additionally about whether they would agree, whether they would desire to have it perfected and we can address that at another time.

Ms. MOSELEY-BRAUN. Will the Senator from Massachusetts yield? Mr. President, I say to the Senator from Washington, I actually took his friendly suggestion. It is my understanding, and correct me if I am wrong, that if a friendly modification such as that means that the Senator from Washington would be prepared to support the amendment, if so modified—and he is nodding his assent—in that regard, I sent my staff over to work with the Senator's staff on language. Again, I would like to have the amendment accepted as quickly as we can agree on the modification as proposed.

Mr. GORTON. I thank the Senator from Illinois.

Mr. KENNEDY. Then what we will do is temporarily set that amendment aside, along with the others.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Illinois [Ms. MOSELEY-BRAUN], is set aside.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Massachusetts, [Mr. KENNEDY], is recognized.

Mr. KENNEDY. Mr. President, I see the Senators from Mississippi and Arkansas here. I hope we can get about the debate now on the formulas. It is 4 o'clock. I appreciate the desire of our colleagues to address the Senate on different matters. This is a very important bill, and I am glad to and will stay here during the course of the evening, until we come to grips with this.

I asked the Members to come down last evening. We have so asked them this morning. We have asked them earlier in the afternoon. I hope we can deal with the formula, which is a very legitimate issue and question and move forward with the debate on that item. It is important.

I know there are members who do have amendments. We are going to ask them to come on down. We are going to move on through. It is 4 o'clock. Unless they are going to come down, we are going to ask for third reading on this measure. We have tried to accommodate Senators. The majority leader has. And if we are not going to find Members here, I am going to ask the majority leader if we cannot move ahead. We have tried to accommodate Members. We have remained on the floor. We would like to address what are the central issues on an item of enormous importance to the young people in this country.

Mr. GORTON. Will the Senator from Massachusetts yield?

Mr. KENNEDY. Yes, I would be glad to yield.

Mr. GORTON. I believe that he, or his representatives and I and the Senator from Vermont have now agreed on a procedure to deal with what is the order, the amendment which I introduced this morning, and I think at least tentatively from the perspective of the Senator from Vermont and myself, we could quite soon agree to a time arrangement under which we voted successively on the two amendments at, say, 6 o'clock. I think that is time to get everyone here who wants to speak on those amendments. And so if he can clear that on his side, I think I can clear that from the perspective of my own amendment. We could be on something of substance. We could get it done. We could have those votes and go on to something else. I am working on a minor amendment to the amendment of the Senator from Illinois. As soon as that is worked out, we could take that up and pass it in about 30 seconds.

Mr. KENNEDY. Let me say the Senator from Washington has been extremely patient and willing to work with the Members here. We will inquire of the interested Senators on this issue. I hope that we could do that prior to the hour of 6. We will certainly talk with the Senator and do it in a way in which Senator HARKIN and others would want to do it. But I would like to try, if we are able to move that in a timely way, to do so. But we will certainly work out that time with the Senator.

Mr. GORTON. We are ready to go. We are ready to proceed.

Mr. KENNEDY. The Senator is ready to go now.

Mr. GORTON. Yes.

Mr. KENNEDY. As I understand from staff, the other interested parties are prepared to go as well.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas, [Mr. BUMPERS], is recognized.

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment——

Mr. JEFFORDS. Mr. President, what is the pending business?

Mr. BUMPERS. I send an amendment to the desk on behalf of myself——

The PRESIDING OFFICER. If the Senator will withhold for a moment, the pending business is amendment No. 2423.

Mr. BUMPERS. Mr. President, I ask unanimous consent the pending amendment be temporarily set aside so that I may offer an amendment.

Mr. JEFFORDS. Reserving the right to object, if I may inquire, the pending amendment, I believe, is the Gorton amendment?

The PRESIDING OFFICER. The Simon amendment.

Mr. JEFFORDS. The Simon amendment. May I inquire—reserving my right to object—of the Senator from Arkansas as to the length of time his amendment will take and whether this is something that can be accepted or whether it is going to require considerable debate?

Mr. BUMPERS. Mr. President, I cannot be very definite about this. It is a very important amendment. And my guess is it is going to take a while.

Mr. JEFFORDS. It is my understanding it is a formula amendment.

Mr. BUMPERS. Yes, it is a chapter 1 formula change.

Mr. GORTON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope that we might accommodate Senators. We have been trying to get—this formula issue is going to have to be debated. It has reached sort of the heart and soul—we do not want to disadvantage any Members, but we are in the process of notifying other Senators who were interested in other issues, and I would hope that we could move ahead on it. As soon as we are able to contact others, we will try and at least see if we cannot resolve those items which are pending.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Still reserving the right to object, we now have Senator HARKIN coming on the Gorton amendment. The amendment has been set aside. The Senator from Washington is ready to go. We are ready to agree on a unanimous-consent and get it out of the way so we can clear it and then spend the rest of the time probably on the formula amendments.

So I would urge that we be allowed to get back to the Gorton amendment and resolve that and then proceed on to the formula. We have two formula advocates here, and it would seem to me it would be more logical to bring it in that kind of order.

Mr. KENNEDY. Mr. President, I appreciate the Senator's comments. I see the Senators from Arkansas and Mississippi in the Chamber. We have been trying to urge them to come over here for some period of time. And now, as they are experienced legislators and familiar with the way this process works, we are going to then move ahead and vote on the Gorton amendment and the Harkin amendment, as I understand it.

Mr. GORTON. Mr. President, will the Senator yield?

Mr. KENNEDY. Yes.

Mr. GORTON. Mr. President, we are certainly prepared to debate, and we are certainly prepared to enter into time agreement on it. In order not to waste any time, I am prepared and really prefer that the manager simply call for the regular order and bring up our amendment. The agreement is this: That the Gorton amendment will be debated and dealt with at the same time the Senator from Vermont is going to explain his alternative amendment to it. We will try to get one time agreement on both of them and vote on them respectively.

Mr. KENNEDY. Mr. President, if I could suggest a way of proceeding, that the Senator from Arkansas withhold offering the amendment, and we could start the debate on it. That preserves the position of the Senator from Washington. We are all interested parties. We will try to resolve this. I think that will be the best utilization of the Senate's time. Otherwise, we are going to be in a period of quorum calls.

I think there is really not much of a mystery about the basic concept. I know the Senator will want to address the substance of it. But if we could proceed in that way, I think it would save us a good deal of time this evening.

Mr. BUMPERS. Will the Senator yield for a question? Is the Senator from Washington prepared to offer and debate his amendment?

Mr. GORTON. The amendment of the Senator from Washington is the regular order. The Senator from Washington is prepared to make a brief additional statement to the one that he made this morning. I will let the Senator from Vermont speak on the other side. We have notified the other proponents, and I understand the Senator from Iowa [Mr. HARKIN], is on the same side as the Senator from Vermont. He is on his way to the floor. I would just as soon start on the Gorton amendment, and the companion Jeffords amendment, and finish this as quickly as we can.

The answer is I am prepared to start that now.

Mr. BUMPERS. Mr. President, let me say to the Senator from Massachusetts that I want to be helpful. I know how frustrating it can be in the chair he is sitting in and waiting for action. Now he perhaps has more action than he wants. I am reluctant to serve our amendment by beginning the debate and going to these others and coming back to it. I think the Senator can understand.

Mr. KENNEDY. All right. I would suggest we start the debate and conclude the debate on the amendment of the Senator from Washington.

I would ask that the interested Senators on this issue come to the floor because when the Senator from Washington concludes, we are going to move ahead on this in terms of having the votes on it. So those Members who are interested, we are urging them to come to the floor. We have tried to accommodate on this issue since early this morning. I think we have as I understand a way of proceeding. I would hope that we would accommodate and listen to the Senator from Washington—those who have differing views, which I personally do. But I know there are other Members. Then I hope we are going to resolve this issue so that we can move ahead.

Mr. BUMPERS. Mr. President, I wonder if the Senator from Massachusetts would yield. Will the Senator be willing to entertain a unanimous-consent agreement so we do not have a hiatus and move expeditiously, as he suggested, with the unanimous-consent agreement that the regular order be following disposition of the Gorton amendment and the Bumpers amendments? I promise that I will be here and ready.

Mr. JEFFORDS. If I can, just to get on this process, I ask unanimous consent that we proceed immediately to the Gorton amendment, and that after some time to be agreed upon, we vote on the Gorton amendment; immediately after the Gorton amendment, an amendment to be offered by myself, Senator JEFFORDS, would be in order for debate and the time to be limited and to be voted on notwithstanding whatever the result is on the Gorton amendment.

Ms. MOSELEY-BRAUN. Mr. President, will the Senator yield? I lodge an objection to that request. The amendment on equity in athletics is still pending. We can agree on a modification. If we can have that adopted by a voice vote and then go to the Gorton amendment, as stated in the unanimous consent request, I would be prepared to withdraw my objection.

Mr. JEFFORDS. I have no objection to that being part of my unanimous consent; that immediately prior to going to the Gorton amendment, we take care of the amendment of the Senator from Illinois.

Mr. KENNEDY. Mr. President, we are going to go back. We are trying to accommodate the Members. Now I am going to ask for the regular order, and we are going to follow the rules of the Senate. We have attempted to accommodate different people on different times in different ways. The Members are entitled to know that we are going to proceed by the Senate rules.

I am very grateful to all of those who have tried to be helpful. But we have now different matters that are before the Senate. We have the Senate rules, and we are going to follow those particular rules, and dispose of those amendments in an orderly way. We will do the best we can and stay here as long as we can. I am grateful. This in no way reflects in terms of others who have tried to accommodate. But we just have too many Members who have interests, and in order to preserve all of their rights, we are going to follow the Senate rules.

Mr. President, what is the regular order?

The PRESIDING OFFICER. Regular order is the Gorton amendment.

Mr. KENNEDY. Regular order is the Gorton amendment.

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Then we will proceed.

The PRESIDING OFFICER. That is now the question before the body.

Mr. GORTON. Mr. President, the Senator from Illinois has been most generous to me, and as I understand it, all she needs to do is modify her amendment. I do not believe there is any more debate, and we can pass it in 30 seconds. I do not want to keep her here 2 hours for that.

I ask unanimous consent that we allow the Senator from Illinois to modify her amendment and bring it to a voice vote, with the understanding that it requires no further debate, and it will be agreed to. We can have it done in 30 seconds.

Ms. MOSELEY-BRAUN. I thank the Senator from Washington and the Senator from Massachusetts.

AMENDMENT NO. 2422, AS MODIFIED

Ms. MOSELEY-BRAUN. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 2422), as modified, is as follows:

On page 1357, after line 25, insert the following:

SEC. ___. HIGHER EDUCATION ACT OF 1965.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.—

"(1) DATA REQUIRED.—Each institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually submit a report to the Secretary that contains the following information:

"(A) For each men's team, women's team, and any team that includes both male and female athletes, the following data:

"(i) The total number of participants and their gender.

"(ii) The total athletic scholarship expenditures.

"(iii) A figure that represents the total athletic scholarship expenditures divided by the total number of participants.

"(iv) The total number of contests for the team.

"(v) The per capita operating expenses for the team.

"(vi) The per capita recruiting expenses for the team.

"(vii) The per capita personnel expenses for the team.

"(viii) Whether the head coach is male or female and whether the head coach is full time or part time.

"(ix) The number of assistant coaches that are male and the number of assistant coaches that are female and whether each particular coach is full time or part time.

"(x) The number of graduate assistant coaches that are male and the number of graduate assistant coaches that are female.

"(xi) The number of volunteer assistant coaches that are male and the number of volunteer assistant coaches that are female.

"(xii) The ratio of participants to coaches.

"(xiii) The average annual institutional compensation of the head coaches of men's sports teams, across all offered sports, and the average annual compensation of the head coaches of women's sports teams, across all offered sports.

"(xiv) The average annual institutional compensation of each of the assistant coaches of men's sports teams, across all offered sports, and the average annual compensation of the assistant coaches of women's sports teams, across all offered sports.

"(xv) The total annual revenue generated from attendance at athletic contests across all men's teams and women's teams.

"(B) A statement of the following data:

"(i) The ratio of male participants to female participants in the entire athletic program.

"(ii) The ratio of male athletic scholarship expenses to female athletic scholarship expenses in the entire athletic program.

"(2) DISCLOSURE TO PROSPECTIVE STUDENTS.—An institution of higher education described in paragraph (1) that offers admission to a potential student shall provide to such student, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1), except that all such students shall be informed of their right to request such information.

"(3) DISCLOSURE TO THE PUBLIC.—An institution of higher education described in paragraph (1) shall make available to the public, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1).

"(4) SECRETARY'S DUTY TO PUBLISH A REPORT OF THE DATA.—On or before July 1, 1995, and each July 1 thereafter, the Secretary, using the reports submitted under this subsection, shall compile, publish, and submit to the appropriate committees of the Congress, a report that includes the information contained in such reports identified by (A) the individual institutions, and (B) by the athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(5) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means all nonscholarship expenditures.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on July 1, 1994.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois, as modified.

The amendment (No. 2422), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MOSELEY-BRAUN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, at 10:30, probably 10:30 this morning, I laid down the Gorton-Lieberman amendment on school violence. It was debated briefly at that time. It is obviously controversial.

I understand that the procedure that we will attempt to follow in this case, for the convenience of all Members, is that we will now discuss that amendment, and Senator JEFFORDS and others will discuss an alternative amendment on the same subject.

We hope that the unanimous consent agreement will be reached under which there may very well be a time agreement. But, in any event, the two amendments will be voted on in sequence. They relate to one another. There does not need to be additional time after the vote on my amendment before the vote on the Jeffords amendment. That obviously has not been completely worked out yet. But that is the goal of I believe the proponents of both amendments.

Mr. President, my amendment, simply to summarize briefly what I said this morning, is an amendment to restore a significant measure of control over seriously violent conduct in schools to local school district authority. Specifically, the amendment covers the weapons violations in schools, life-threatening acts, and activities in school on the part of students with those life-threatening activities, narrowly defined as it is defined in the sentencing guidelines.

These, of course, are forms of authority which the public schools of the United States have exercised from time immemorial until the U.S. Congress began to involve itself in individual school discipline.

There are two parts to the amendment. One is a general statement of the delegation of authority over offenses of this sort to the schools. The second is the amendment to the Individuals With Disabilities Education Act of 1975, which amends that act so that the same rules, with some restrictions, apply to those who are disabled, pursuant to which they can be removed from the school situation for up to 90 days, as long as they are provided with an alternative opportunity for education by a particular school district.

Now, under IDEA, a student, no matter how violent, no matter how life-threatening his or her activities, no matter how offensive a weapons violation, cannot be removed from school for more than 10 days without the permission of the offender's parent, or a court order, which under Federal law, generally speaking, must come from a Federal court. This means, in practical terms, for our school authorities, that their disciplinary authority is almost negligible in this case.

We have myriad cases in which dangerous students are consistently and constantly returned to school after very, very short suspensions. We have many instances in which the parents, against whose children an offense was committed, feel they have to take their children out of schools because of the inability to provide for this type of incident. In some instances, teachers are resigning their positions because they can no longer control their classrooms.

This Senator—speaking on behalf of teachers, school administrators, parents and school directors, as a result of what I learned in January, very surprisingly, at an education summit—would very bluntly prefer to grant much more authority to local school districts. General disruption in the classroom ought to be the subject of discipline by local school authorities. It should not be interfered with by laws passed by the Congress of the United States.

But in order to narrow the focus on only the most dangerous activities, the amendment I have introduced, together with Senator LIEBERMAN and others, only applies to weapons violations, and narrowly defined life-threatening kinds of activities on the part of these students.

This Senator recognizes that for some reason or other, this is extraordinarily controversial. But for the life of me, I cannot understand why it should be so controversial. Only two reasons occur to this Senator. One is that this Congress simply does not trust teachers, school administrators, and members of school boards, to make even these most fundamental decisions about the way in which their own schools are operating. Secondly, the answer is that next year the Individuals With Disabilities Education Act is up for reauthorization, and we ought to defer a discussion of this subject until that time.

In response to the latter objection, this Senator has sunsetted the provision in his amendment to expire automatically when IDEA is, in fact, reauthorized. We know that the mere fact that it is up for reauthorization next year does not mean it will be reauthorized. It could be another 1, 2, or 3 years. We will discuss this subject now. I suspect this Senator will want a much broader delegation of authority to school districts then.

But, in any event, this amendment will be subsumed in whatever is passed in such a reauthorization. Until then, however, I do not believe that just because this law is holy writ, and with all of the problems our schools face, that they should have to wait another year, 2 years, or 3 years, for a degree of authority, which almost every rational person thinks they ought to have at the present time.

The choice—single or double—which the Senate will make, as a result of the informal agreement reached with the managers of the bill, is that Senator Jeffords will put forth an amendment which differs in two respects from my own. First, it will excise from my amendment any reference to life-threatening activities. In other words, the Jeffords amendment will not allow school districts to avoid all of the detailed provisions of IDEA in connection with life-threatening activities on the part of students.

I think that explanation of the difference should show Members how they ought to vote. Why in the world we should not allow school districts authorities greater than their very narrow authority right now, when life-threatening activities take place in their classrooms, I cannot figure out.

The other difference is that our amendment has sections applying to all students, delegating an even broader authority for those students who are not disabled. That section, as I understand it—I have not seen its final form yet—is not included in the Jeffords amendment. So Members will make a modest step forward if they were to pass only the Jeffords amendment. At least it does something with respect to weapons violations. It does nothing with respect to life-threatening situations in our schools.

But we will get to vote on both of these amendments. It is, I suppose, consistent to vote for both of them, or for neither, or to vote for one and not vote for the other. But the fundamental difference between the two is whether or not we think there should be some change in the bureaucratic, court-written system now of disciplining students who engage in life-threatening actions during the course of their time in schools.

Mr. President, this whole thing is getting more and more bizarre as we go on. In another connection, we have at least one report of a court case in which the disability claimed to protect the student is the fact that the student brought the gun to school. The student brings the gun to school, the school attempts to discipline him—and he is not a disabled student—and he claims that the mental condition that caused him to bring the gun to school is itself a disability, so he cannot be disciplined, or cannot be disciplined beyond the very narrow parameters of the present law.

This is just too much to take, Mr. President. It is time that we allow school district authorities a greater degree of discretion with respect to students who bring weapons to school or engage in life-threatening behavior with respect to other students or their teachers.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CRAIG. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

TIME LIMITATION AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senator GORTON's amendment be laid aside, that Senator JEFFORDS then be recognized to offer a first-degree amendment on the same subject as Senator GORTON's amendment No. 2418; that there be 45 minutes under the control of Senator JEFFORDS and 30 minutes under the control of Senator GORTON, or his designee; that upon the use or yielding back of the time the Senate proceed to a vote on Senator GORTON's amendment to be followed by a vote on Senator JEFFORDS' amendment, and that the votes take place without any intervening action or debate, with no amendments in order to either amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Does the Senator want to ask for the yeas and nays?

Mr. GORTON. Are not the yeas and nays ordered?

Mr. KENNEDY. On the Jeffords amendment.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays on the Jeffords amendment.

Mr. GORTON. Mr. President, reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GORTON. Senator CRAIG is now speaking on a somewhat different subject. Is this UC to begin upon the completion of Senator CRAIG's remarks?

Mr. KENNEDY. I ask unanimous consent that it be in order at the conclusion of Senator CRAIG's remarks.

Mr. GORTON. No objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair will inform the Senator that the regular order, a request for the yeas and nays, is not before the body.

Mr. KENNEDY. When the Senator does offer his remarks it will be in order to ask for the yeas and nays.

The PRESIDING OFFICER. It would be in order at that point.

Mr. KENNEDY. Could we ask unanimous consent that it be in order at this time?

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. I have not offered this amendment at this time. I will ask unanimous consent that I be allowed to offer the Jeffords amendment at this point.

Mr. CRAIG. Mr. President, I stand in support of the Gorton amendment this afternoon. Earlier, before we went into recess, I also spoke in favor of the Feinstein-Dorgan amendment relating to guns coming to the schools of America, and the willingness on the part of this Senate to say in a very straightforward way that that is just not acceptable.

The Gorton amendment says that it is not acceptable, that we do not recognize violence in the classroom, and that we do not give local school authorities the opportunity for appropriate discipline in the discouragement of that kind of activity.

So for a few moments this afternoon, I would like to interrelate a concern that I have, which I think is spoken to in the Gorton amendment, and is also addressed in the Feinstein amendment, which is that it is clearly time for our country and this Senate to speak directly to the responsibility of the individual and the need to allow local authorities to be able to discipline and to respond accordingly to the act of the individual, instead of to this rather general approach we have had over the years that somehow individuals were products of society, and that we had to be careful in how we handled them because they were simply disadvantaged in the nature in which they had been socially adjusted.

If they were misadjusted, somehow that was not the fault of the individual. It was the fault of society, and we must accordingly respond.

Mr. President, that is kind of part of the debate that is involved here this afternoon and why there are some Senators who would like to modify the Gorton amendment.

The Republican leader was on the floor just a few moments ago speaking to his frustration over a crime conference that struck from a crime bill some very strong efforts to react to and to control individuals in this society who have decided to be deviant from the laws and the norms of our society and somehow either go undisciplined or in some way almost rewarded for their deviate acts.

That is probably why we are debating education today and in the midst of that educational debate we are talking about guns. It is almost unique that we would be doing so. But the reason we are is because over 250,000 guns a day come to our public schools, and our local school officials' hands are nearly tied in their inability to act responsibly, directly, and quickly to that kind of an issue.

Something is wrong.

The Senator from Washington is attempting to respond to it. The Senator from California is attempting to respond to it. The Senator from the Dakotas is attempting to respond to it.

So for a few moments this afternoon I would like to react to it with a statement that I thought about for sometime in relation to an action that is underway by this administration as it relates to the control of criminal violence in our country, and while it does not seem to fit in the educational context, I think it does fit because it is most appropriate that we discuss it here this afternoon.

I think some of you may remember the summary that was featured in the article in U.S. News & World Report in April, and it also mentioned certainly a colleague of ours from the West, Congresswoman BARBARA VUCANOVICH of

Nevada on the House floor during the debate on the gun ban.

It is the product of an interagency working group on violence, appointed by this administration, a group composed of representatives from the Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Justice, Labor, as well as the Domestic Policy Council and the Office on National Drug Policy.

Why should anyone take notice of this kind of activity? Why should I be discussing it this afternoon in context to this particular bill? Here is why, because I think that there are some important statements here that are very frustrating to me but are reflective of why we are here debating the issue as we debate it today.

Mr. President, I was discussing a report on violence that was produced by a group of individuals inside the Clinton administration, and I do believe it does fit the debate and the discussions that we are involved in today.

Now, the question is, why should we take notice of this particular report and why does it fit in the context of our debate today?

For one thing, some of the suggestions in the summary are already implemented and are working their way through the process of the executive branch or Congress. Others may still be under review. But, more important, these suggestions in the report that relate to violence in America tell us a lot about the mindset of this administration and the President's closest advisers and why somehow this Senate does not want to give to local school authorities the direct ability to discipline deviants or students who would choose to act against the well-being of fellow students.

I am particularly interested in the section of the summary of that report that deals with firearm violence. Before turning to what this section says, let me tell you about what it does not say.

What is completely missing from this section is any acknowledgement of firearm benefits.

Now, I am not talking about sports and hunting. Somehow today as people discuss firearms in America they only want to say that under the second amendment it is sports and hunting that is appropriate. Those may be benefits enjoyed by millions of Americans. But this report is supposed to be about violence and not recreation.

What I am talking about is the fact that guns save lives and prevent injuries, crime and violence in our country every day. This report completely ignores the fact that guns are used for self-defense at least as often and statistics will suggest substantially more than they are used in violent acts with a criminal purpose in mind.

Our Founding Fathers knew that firearms secured liberty. Millions of Americans since their time have understood that concept. Today, perhaps half of America's households own guns. We take our gun ownership for granted, just as we take for granted that our Government would never force us to give up our means of self-defense.

Now comes this report. Not only does it list a variety of schemes for regulating firearms, but it even gives strategies for reshaping the way people think about firearms in America. Those strategies include building a scientific basis for justifying gun control and exploiting human psychology to build antagonism toward guns. While we are dealing with education, there is nothing wrong with what this bill is attempting to do. It sets simply parameters of ownership in this case in light of juveniles and in all acts of the juveniles of America over time we said certain things were appropriate and certain things were not appropriate.

But what is interesting is that this administration is saying and this report clearly says that with the rest of America we need to talk about a paradigm shift to move the debate on guns away from philosophy and into a discussion of accident statistics.

In other words, Mr. President, this report urges the administration to forget that liberty is at stake and that there is another side to the gun debate and to this debate except violence.

This report does not suggest any research into the defense or the defensive use of firearms. It does not suggest methods for promoting gun ownership for purposes of marksmanship and responsible actions.

Instead, it portrays the gun as a menace to society. In the section entitled "Description Of The Problem," it refers to a "flood of guns," and an "epidemic of gun violence." And it suggests that the Federal Government ought to take such appropriate action to curb firearm injuries that it took with highway safety.

All of sudden it becomes this manageable thing out there, that if you simply write the right Federal laws it is as easy to manage as highway safety.

Aside from the constitutional problems that this argument obviously has—and they have obviously ignored it—there are the problems I just mentioned: Unlike motor vehicles, firearms actually play a role in preventing injuries and death, if properly used. There is also the problem that virtually all motor vehicle injuries are as a result of an accident—while only a tiny fraction of gun injuries are accidental.

But let me get in to the specifics of the report.

The report's recommendations include excise taxes on guns and ammunition—that has already been debated on the floor; it has been talked about, at least—licensing, registration, bans on manufacturing, and reducing the number of licensed firearms dealers.

Let me read a few excerpts from this report.

By the way, this is a report that was kept under lock and key. The press could not get their hands on it until just recently. Other individuals who tried to acquire it were told that it was not available. We finally demanded its presence in our office and it was brought to us.

Let me quote from the report.

> To complement the above measures, effective firearm control should consider limiting production of certain new firearms and ammunition, especially the most dangerous weapons. In addition to bans on new production of assault weapons (as in Senator Feinstein's amendment to the Crime Bill), consideration should be given to placing higher taxes on handguns, which remain the weapon of choice among criminals, accounting for approximately 80% of all firearms homicides.
>
> It is also possible that increased excise taxes on handguns and particularly dangerous ammunition would help offset the cost of providing medical care to gunshot victims and support state regulatory and enforcement efforts to prevent firearms injuries. If additional taxes are going to be imposed, consideration should be given to setting them at a cost per gun or bullet, rather than a percentage of manufacturers' prices, because cheap guns and expensive guns can do equal damage.
>
> By themselves, restrictions on new manufacture and sales of various firearms will not reduce our huge existing arsenal of firearms, or keep those firearms away from criminals and those who may cause harm. State or local amnesty or buy-back programs may help reduce the arsenal as suggested by the recent experience with the Toys R Us swap program, as would elimination of the government practice of selling to civilians the firearms that are seized in crimes. New requirements that firearms purchasers be licensed and/or be mandated to register their firearms, combined with stricter enforcement of laws prohibiting sale of firearms to certain groups of people, could significantly reduce access to guns by those who should not have them. Increasing dealer liability for negligent sales would also help.

But that is not all. The working group has a lot more recommendations:

> In addition to, or as an alternative to, a licensing scheme (where firearms purchasers might have to pass a gun safety test and a background check to receive a permit to buy any firearm or ammunition), the federal government should consider creating a class of "restricted weapons." This list would include all handguns and semi-automatic long guns that are not otherwise outlawed and could be purchased or carried only by persons holding valid registration certificates. These restricted weapon certificates could be issued by the local police or licensing authorities only after applicants had passed a background check for felonies, violent misdemeanors, mental illness, etc.; demonstrated a satisfactory knowledge of the safe and responsible use of firearms; accepted liability for injuries resulting from the negligent use or storage of these weapons; and showed that the firearm would be used only for specified legitimate purposes. Restricted weapons could be possessed only in one's home, one's place of business, on the premises of a target range (depending on the terms of the registration certificate), or while being transported to or from any of the

above. Possession of an unregistered, restricted firearm or unlawful public carrying of a restricted firearm would be a punishable federal offense. Developing this class of restricted firearms would thus divide firearms into three groups: banned, restricted, and unrestricted (i.e. long guns which are not semi-automatic).

Tighter restrictions on retail firearm sales must be supplemented by efforts to block the two streams by which criminals most often obtain their firearms—the illegal black market and theft. Such a regulatory scheme might look as follows: The federal government would regulate secondary transfers of all firearms to prevent their delivery to those prohibited by law to have weapons. To transfer a firearm, an unlicensed person would be required, along with the transferee, either to go to the premises of a licensed dealer and document the transfer in the dealer's records, or to mail a transfer application to the local police (including the name and residence of both the transferor and transferee). The transferee would be required to certify that he is not a prohibited purchaser (as he must now do in order to buy a firearm from a licensed dealer), and, in the case of a handgun, to wait five days for a background check. To control theft from licensed dealers, the federal law would require dealers to store their firearms securely. The regimen would involve stricter penalties for gun theft, as well.

To ensure dealer compliance, we suggest reducing the number of licensed firearm dealers (currently numbering almost 250,000) by implementing higher fees such as the Bureau of Alcohol, Tobacco, and Firearms has recommended (the Brady law mandates fees of $200 for a three year license, and the ATF is considering fees as high as $600 per year) and tighter application standards beyond what has been accomplished by the Brady law.

Also the federal government, as well as the states, should redouble efforts to monitor and regulate licensed dealers. Furthermore, we could consider adopting on a national basis the Virginia law prohibiting licensed dealers from selling more than one firearm per month to any single individual. The Brady law requires that dealers notify state or local law enforcement authorities of multiple sales of two or more pistols or revolvers in any five day period to an unlicensed person.

These schemes are offered in the name of making it harder for the wrong people to get guns. But Mr. President, there is nothing in any of these schemes that limits their effect to the wrong people. On the contrary, each and every one of these ideas would restrict the ability of the right people, or the law-abiding people, to obtain firearms for legitimate purposes—including the prevention of crime, injury or death.

In this country, we don't restrict the freedoms of everybody in order to prevent the crimes of a few. For instance, we do not require reporters to submit their writings to a Government board for approval before publication to prevent false reporting. That is called first amendment rights. We respect due process for everyone, even though some criminals may benefit from it. We do not require people to get Government clearance before they join associations, even though some associations might be formed for criminal purposes.

Those are basic freedoms protected by the Constitution, just as the right to bear arms.

The report does not stop there, Mr. President. It also suggests "reducing the lethality of firearms."

3. Reduce the lethality of firearms. The manufacture and importation of firearms that are inherently unsafe and excessively lethal continues in the United States. Federal law requires imported weapons to adhere to design and safety standards; however, current federal policies do not impose the same design and safety standards on domestically manufactured weapons and ammunition. Many handguns now manufactured in the United States for civilian use would fail these tests.

The recent approval of the Feinstein amendment to the Senate's Crime Bill, which would prohibit the new manufacture and sale of 19 specified assault weapon models and any copycat versions, together with the existing ban on production of certain armor-piercing ammunition, demonstrates a willingness to ban extremely dangerous firearms and ammunition. Both efforts have substantial public support. We should consider the further steps of adopting specific performance standards that would prohibit manufacture of firearms capable of firing more than a certain number of rounds or a certain number of bullets per second as well as ammunition that, under specified firing conditions, pierces armor, expands more than a certain percentage upon impact, or ignites upon contact.

Additionally, the federal government should require domestically-manufactured firearms to incorporate the same safety features as imported firearms; We should encourage or mandate the use of trigger locks, limit magazine sizes, and continue to fund research into "Smart Gun" technologies capable of rendering firearms unusable except by their owners.

Again, the basic problem with this entire concept is that it would miss the people who are the problem, and restrict the freedoms of the people who do not cause criminal violence.

The report also suggests building a scientific basis for justifying gun control:

4. Support research to develop a sound scientific basis for preventing firearm injuries:

(a) Undertake research through the CDC and NIJ to better understand the risks and benefits of firearm ownership, the patterns of acquisition, ownership and use, and the causes of firearm injuries.

(b) Establish a National Firearm Injury Reporting System at CDC.

Mr. President, it is significant that the recommendations focus this so-called scientific effort on the Centers for Disease Control. That organization has been criticized by medical professionals for its political bias, including its stated political objective of making the private ownership of guns not only illegal, but socially unacceptable. Before the Government spends a dime, we can predict exactly what conclusions CDC will reach on any research involving gun violence.

Let us talk about the most cynical and disturbing section of this report: recommendations on reframing the public debate on firearms.

5. Reframe the public debate on firearms.

(a) Change the stage from politics and philosophy to science: We need to reframe the public discussion about firearms injuries, from a political or philosophical debate on "gun control" as an all-or-none binary intervention to a discussion based on scientifically documented risks and benefits of firearm access and rigorously evaluated policy options. This is a paradigm shift.

It would indeed by a paradigm shift, Mr. President—to get Americans to put liberty in second place, behind safety and the convenience of the Federal Government.

One thing this report neglects to mention is that the right to bear arms is not some abstract notion of the Founding Fathers. It is based on human experience in combating tyranny. An armed citizen has the power to resist threats from other citizens or the Government.

It is no surprise that the Federal Government is uneasy even about guns in the hands of law-abiding citizens. That is exactly what the Founding Fathers wanted: a very real check on the power of the Government over the people.

There are some people—even some in the Senate—who refer to the right to keep and bear arms as an anachronism. They do not think we could possibly see Government tyranny today.

Those people are turning their backs on the lessons of history—not just the history of this country, but the history of the world.

Generation after generation, country after country, governments have committed atrocities against their people—atrocities that could only be committed after the people were disarmed by gun control laws.

I do not suggest that all those who support gun control condone genocide or tyranny. However, after considerable study and reflection, I must suggest that history shows gun control creates an opportunity for oppression that does not exist with an armed public.

That is why this recommendation is so disturbing. To put aside all philosophical and political considerations would be to ignore the lessons written in blood throughout human history. Those are lessons we should never forget.

Let me move on to the next recommendation.

(b) Place specific changes in the context of multiple interventions: We need to let people know that progress in preventing firearms injuries will come just as the great progress we made in reducing motor vehicle deaths came not by banning cars, but from building safer cars, safer roads, getting drunk drivers off the roads, and enforcing licensing requirements. No one measure is the answer. The Brady law is one small step forward. It is not "either . . . or" it is "this and this and this . . ."

Can it be more clear, Mr. President? This is exactly what we are seeing today from the administration and its antiliberty friends in Congress. It is not a single bill, but a thousand variations of the same theme of making guns, not people, responsible for criminal violence.

The next recommendation has my vote for the most cynical, coldly-calculated and manipulative recommendation in this entire report:

> (c) Focus on children: Nobody will oppose programs to prevent children from shooting children. Need to focus on reducing access by children to firearms.

How well President Clinton's advisers know the American public.

They certainly are correct: If you frighten people into thinking their children are threatened, they will do as you want. They might even accept restrictions on their own personal freedom, if they can be convinced it will protect their children.

Well, that explains the administration's constant drumbeat about guns in schools. Whether or not the statistics are true, we can be sure there is an agenda behind it.

Senator KOHL and I produced an amendment to the crime bill to limit juvenile ownership and possession of guns.

Finally, Mr. President, we come to the last, and perhaps the most disturbing, of the firearms-related recommendations:

> (d) Stress the importance of changing behavior and the social environment as additional ways to prevent firearm violence: We need to rebuild the social capital and address poverty, discrimination, lack of jobs, lack of education, lack of hope, and drugs and alcohol abuse. We have learned a lot of lessons about how to change behaviors as well as focusing on the firearms themselves. You can't take guns away from men who are frightened, from women who are scared, or from communities which are scared without giving them reassurance and a sense of security.

For me, this puts in perspective the President's interest in 100,000 new police on the streets of America. Maybe that is the kind of reassurance and sense of security that this administration thinks will create the right climate for taking guns away from law-abiding citizens.

The reason I bring this to the attention of the Senate today and in context of the debate of violence in the classrooms of America—which in part can be because of a lack of discipline or control that somehow our courts and this Congress has wrestled away from local school boards and State officials in being able to control deviant students, as they attempt to establish an educational environment—is we are going to debate the crime bill in a few days. Hopefully, we will see a conference before us. In that context, I hope that we can make sense of bringing about some good criminal law for this country.

We passed a Brady bill recently. We said that was it, or at least some of the gun control advocates said, that was it. The report says "No measure is the answer. The Brady bill is a small step." And then it said—and this is the report—"We want this and this and more" in an absolute form of attempting to establish a new mindset for control. It says, "A focus on children."

Believe it or not, they want to use children, to educate children, if you will, to manipulate the mind.

I do not often come to the floor and talk about these kinds of things, but this report by this administration has it in print. And when they found out what their people had said was controversial, they tried to hide it.

So let me say, in conclusion, Mr. President, after I wrestled this report out of the hands of this task force, I now have it available in my office. I think it is interesting reading for Senators and other people who are interested in public policy, but, most importantly, interested in trying to bring about good law that controls criminals, that creates the kind of environment that the Senator from Washington is trying to create, that allows discipline in our society, instead of somehow using the argument that we are out of control and in that environment need to take away certain rights from individuals that are now current and constitutional.

Those are important debates. What the Senator from Washington does is constitutional. What the Senator from California did was constitutional.

But let me suggest that the report of this administration skirts on the edge of ignoring our rights and our Constitution.

AMENDMENT NO. 2425

(Purpose: To provide local school officials control over violence in classrooms and on school property, and for other purposes)

The PRESIDING OFFICER. Under the previous order, the clerk will report the Jeffords amendment.

The bill clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 2425.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—In paragraph (3) of section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking 'During' and inserting '(A) Except as provided in paragraph (B), during'; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting for not more than 90 days, consistent with State law.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) CONSTRUCTION.—Nothing in title XVII of the Elementary and Secondary Education Act of 1965 (relating to Gun-Free Schools) shall be construed to supersede the Individuals with Disabilities Education Act or to prevent a local educational agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting, as provided by State law, policy, or otherwise determined by such local educational agency.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, as I understand it, now there is a time allocation.

The PRESIDING OFFICER. The Senator is correct. The Senator from Vermont has 30 minutes, the Senator from Washington has 45 minutes on the amendment—excuse me, the Senator from Vermont has 45 minutes and the Senator from Washington has 30 minutes.

Mr. KENNEDY. As I understand it, there will be a debate on both of those amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. At conclusion of that time there will be back-to-back votes, the first vote on the amendment of the Senator from Washington and the second vote on the amendment of the Senators from Vermont and Iowa.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I yield 10 minutes to the Senator from Iowa. I will be happy to yield more as time goes by.

The PRESIDING OFFICER. Mr. HARKIN is recognized for 10 minutes.

Mr. HARKIN. Mr. President, let me see if I can, for the benefit of Senators who are here and those who may be in their offices, try to lay out the scenario that we have here.

We have two amendments pending, a Gorton amendment and a Jeffords amendment. The first vote will be on Gorton, then a second vote on Jeffords.

What are the differences here? First of all, if I did not know the Senator from Washington better—and I know him well and he is a good man—I would say this amendment is a mean-spirited amendment. But I know the Senator better than that. I know he is genuinely concerned about violence in schools, as I am, and as we all are.

I also know the Senator from Washington would not in any way want to take away rights held by the most discriminated against and disadvantaged in our society—children with disabilities. No, I do not think the Senator from Washington would want to tell the most disadvantaged members of our society, children with disabilities, "I am sorry, you have no due process rights."

What is the issue here? The issue is whether or not the careful balance that has been struck in the Individuals with Disabilities Education Act, providing due process rights to children with disabilities and their parents and the interests of the schools—whether that careful balance will be ripped apart—that is the essence, basically, of at least one part of the amendment offered by the Senator from Washington.

Really, the Senator from Washington has two parts to his amendment. The first part is dealing with children with disabilities who bring weapons to school. When we passed the Gun-Free Schools Act, the amendment offered by Senator DORGAN and Senator FEINSTEIN was added as a part of the bill. It covers, basically, children who bring weapons to schools. But it leaves out children with disabilities.

The Senator from Washington brings children with disabilities under that Gun-Free Schools Act and says no matter what, disabled or not, if you bring a weapon to school then you can be removed from your current education placement and placed in an alternative placement for 90 days. To that extent, I have no problem with the amendment. Weapons are well defined. You know if a kid has a gun. To that extent we support it and that is what the Jeffords amendment does. The Jeffords amendment encompasses children with disabilities under the Gun-Free Schools Act.

So what is the difference between Jeffords and Gorton? It is the second part of Gorton that I believe is so harmful to children with disabilities. Here is what it says. In his amendment my colleague talks about a weapon. Then he says, "or a child with a disability who has demonstrated life-threatening behavior in the classroom or on school premises."

It is the inclusion of the phrase "life-threatening behavior" that rips apart the Individuals With Disabilities Education Act, and the due process rights of our children and their parents. Because what happens, then, is if this child demonstrates life-threatening behavior, they can be kicked out of school for up to 90 days. And then, if the parent of the child decides to contest that in a due process hearing and decides to go to court, why, then the child will be kept out of that school until the whole process is finished. That could be a year. We know how long it takes, sometimes, for court cases to be heard.

The Senator then tries to define life-threatening behavior. This is what galls me more than anything else. The Senator defines life-threatening behavior as "an injury involving a substantial risk of death, loss, or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent, or an obvious disfigurement that is likely to be permanent."

Where did this definition come from? This came from the sentencing guidelines for convicted criminals. We are not talking about convicted criminals here. We are talking about the most discriminated against members of our society, children with disabilities. And we are going to say: Life-threatening behavior?

Life-threatening function? It says here, "a substantial impairment of the function of a bodily member." What about a kid who has epilepsy and has an epileptic fit and falls over and hits his head? That is life threatening.

Or "mental faculty that is likely to be permanent." What about an autistic kid who sometimes beats his head against a wall? That could be life threatening or could be threatening to permanently damage that kid's mental faculty. It has nothing to do with whether that kid is a criminal or not. It has something to do with whether that kid is disabled or not. So we are not talking about convicted criminals. We are talking about the most disadvantaged members of our society.

Then the Senator sunsets it and says we will sunset this provision until we reauthorize the Individuals With Disabilities Education Act.

We have settled law in this area. We have a Supreme Court case, which I will talk about momentarily. It is working well. What the Senator from Washington would do with this amendment is stir the pot until we are able to report out a reauthorization of the Individuals With Disabilities Education Act, which my subcommittee on disability policy will report out sometime next year. But what this would do would be to open the doors for school districts to be able to define life-threatening behavior so as to throw children out of school because they are disabled.

You might say, schools would not do that, would they? Mr. President, that is exactly why we passed the Education of the Handicapped Act; why we superseded that with the Individuals with Disabilities Education Act. History is replete with kids with disabilities being shunted aside and thrown out of our schools and not educated simply because they acted a little bit different, or because they had a disability.

Again, in Iowa we have Mike McTaggart, the principal at West Middle School in Sioux City. He put it this way. He said, "I have no problems with the education guidelines." Mr. President, I ask the Senator from Washington to listen to this. Before Mr. McTaggart became principal of the school in Sioux City, their school had 692 suspensions; 220 of those were disabled. But Mr. McTaggart took over the school. He instituted policies of guidelines for the teachers reaching out to the parents to bring the parents in to talk with them, setting up individual education programs for the students. And what happened after he took over? The next year they had 122 suspensions; zero were disabled kids. From 220 in 1 year to zero the next year. That is because we had a principal who understood what it meant to have these guidelines in practice for disabled children. This is what the amendment offered by the Senator from Washington would rip apart.

Again, I repeat, the Jeffords amendment—to the extent the Senator from Washington wants to reach to those children who bring weapons and guns to schools, I have no objection to that. He is right on target.

But to the extent that the Senator from Washington wants to say that any child with a disability who exhibits a life-threatening activity can be thrown out of school, Mr. President, that is blatantly wrong. It is wrong, and we cannot allow that to happen.

Everyone cares about making our schools safe. No one cares more about having safe schools than parents with disabled children, because it is their kids that are usually the most vulnerable, the most picked on, the ones most threatened in our schools. Parents with kids who are disabled care very much about safe schools.

Mr. President, we are all concerned about the school officials, to ensure they have a safe environment conducive for learning, especially for kids with disabilities.

The amendment offered by the Senator from Washington is opposed by many key education groups: The National PTA; the National Education Association; the National Association of State Boards of Education; the Council of Chief State School Officers; the National Association of State Directors of Special Education; the Council for Exceptional Children; the Councils of Administrators of Special Education; the Consortium of Citizens with Disabilities; and the National Parent Network all oppose the Gorton amendment.

This amendment, as I said, tears apart the fabric of IDEA. Earlier in the day, I said to the Senator from Washington and to others that I have chaired the Disability Policy Subcommittee with great pride since 1987. Not once have I brought a bill dealing with disability issues to the floor of the Senate to have it amended. I do not do that, because I believe disability issues are so important that they should not be subjected to partisan wrangling or to inflammatory speeches or anecdotal types of stories that may inflame passions.

Since 1987—and I say this with great pride—we have worked together with Members from the opposite side of the aisle, with Senator DURENBERGER, who has been my ranking member since then. We have brought in disability groups. We have brought in school officials. We work these things out before so we have a consensus agreement and we have support, so when we bring a bill out here on disabilities issues, as I said, we never had an amendment.

I do not intend to have one on IDEA because we intend to work it out and we will cover these issues. But let us do it next year when we reauthorize the Individuals with Disabilities Education Act. Let us not do it on this bill. So we should reach a consensus.

Lastly, the Gorton amendment ignores a Supreme Court ruling, a 7-2 ruling, in 1988. It was a very conservative Supreme Court. The only two dissenting Justices objected on mootness grounds, not on the essence of the case. The case is Honig versus Doe, right on point with the issue I am talking about. It had to do with a school district that threw some kids out because they were acting up because they were disabled. I have to say this because, if you listen to the Senator from Washington, you would think that these schools and the teachers and superintendents have nothing available to them if kids act up and act in a threatening manner.

Let me read what the Supreme Court said in that 7-2 decision:

> The "stay-put" provision "does not leave educators hamstrung." The Department of Education has observed that, "while the child's placement may not be changed. . . this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others." Such procedures may include the use of study carrels, timeouts, detention or the restriction of privileges. More drastically, where a student poses an immediate threat to the safety of others, officials may temporarily suspend him or her for up to 10 school days.

So already if a child with a disability acts up, the school can suspend them for up to 10 days:

> This authority, which respondent in no way disputes, not only ensures school administrators can protect the safety of others by promptly removing the most dangerous of students, it also provides a "cooling down" period during which officials can initiate IEP review.

That is, the Individual Education Program review:

> * * * a cooling down period * * * and seek to persuade the child's parents to agree to an interim placement. And in those cases in which the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gives school officials an opportunity to invoke the aid of the courts which—

And I have to add this emphatically—

> which empowers courts to grant any appropriate relief.

So the school can do all of these things. Basically what the Gorton amendment does is it overturns a 7-2 Supreme Court decision in 1988, as I said, by a very conservative Reagan Supreme Court.

In closing, Mr. President, let us not disturb this balance. For every story that the Senator from Washington can tell or any other Senator can tell about a disruptive student in a school and the problems that causes, I can tell a story about a child with a disability who acted up because the school did not provide that child with an individual education program.

I have case after case after case, hundreds, thousands of cases where kids with disabilities, because the school did not want to deal with them, were kicked out without any due process of law.

What the Individuals With Disabilities Education Act does is it provides that balance, that carefully crafted balance to give the schools the authority—up to 10 days, separate classrooms, study carrels, detention and, if need be, to go to court to get any relief necessary, at the same time to provide that the parents can keep their child in that school studying during that period of time.

I would hate to see that careful balance disrupted by some stories of violence in schools. We are all opposed to that. We all want to stop the violence in our schools, but, please, in doing so, I plead with my fellow Senators, do not take it out on the most discriminated against of our kids, our disabled children. Do not do that. We fought too long and too hard to get them their rightful place in the Sun in our country. Do not knock them down again.

Mr. BURNS addressed the Chair.

Mr. GORTON. I yield 5 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I do not think there is anybody in this entire United States who understands this subject better than the Senator from Iowa, nor has been a better champion of that. I value his counsel, but I also rise today as a supporter of the amendment.

When the Senator speaks of balance, I think we have to put it in the context of a learning environment. I have heard from my schools in Montana that when that balance is upset, we have to take into consideration who else is in that environment to learn—it is a learning environment—and that takes that away.

Teachers in our schools are often threatened, even physically attacked by students, and these violent students often victimize other classmates as well and, in doing so, they also put themselves in jeopardy. Yet, in many cases these violent students cannot be removed from schools because of the provisions of this act, and also there are advocacy groups—God bless them and we have to have them—that just will not let it happen. I do not think it was the intention of this bill's authors to allow dangerous students to remain in the classroom. In fact, I know it was not. I know how thoroughly they crafted this legislation and how they feel about it. We have to take a look at the learning environment. Yet, because of this law, a small number of students can jeopardize the learning process and the safety of teachers and students.

This amendment allows school officials to take that student out of that environment and put him or her in an environment where it is safer not only for the school but also for the student him or herself. It has to be done. You just cannot willy-nilly take the student from the class.

This is a vast improvement of the current situation, and I strongly support returning the decision to remove dangerous students from the classroom back to the local level. Our children deserve the chance to learn and our teachers deserve the chance to teach in a safe environment.

Yes, we will reauthorize IDEA in the next Congress, but this amendment is a giant step in the correct direction until we do.

I thank my colleague from Washington, Senator GORTON, for introducing the amendment and I urge my colleagues to support it.

Mr. President, I yield back the remainder of my time.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I yield myself 3 minutes from the time allotted to the Senator from Vermont.

The PRESIDING OFFICER. The Senator has 26 minutes and 40 seconds.

The Senator is recognized for 3 minutes.

Mr. DURENBERGER. Mr. President, I rise today in opposition to the amendment by my friend from Washington, Senator GORTON, concerning disciplining disabled children, and to support the amendment offered by my colleague from Vermont, Senator JEFFORDS.

The amendment by my colleague, Senator GORTON, is well intentioned. I have known him as long as he has been here on his two trips to this place and I know a man of both experience and conviction. But from my own experience, and particularly my experience with the bill which is entitled the Individuals With Disabilities Education Act, and some of the difficulties that my colleague from Iowa has already spoken to, that we have dealt with in terms of issues of due process, I must characterize his amendment as well intentioned but as disregarding the due process procedures which are set forth in the Individuals With Disabilities Education Act. It would permit arbitrary action by school officials regarding the discipline of children with disabilities, and that is the very thing that IDEA is supposed to prevent.

IDEA establishes a process, a process that allows a school district to unilaterally exclude children with disabilities who exhibit dangerous and disruptive behavior from the classroom for up to 10 days. During that period of time, school officials can meet with families to determine how to deal with the student's situation. If a child is removed for more than 10 days, parents can seek a due process hearing and/or other appropriate remedies.

While this process, Mr. President, is probably not perfect—in fact, I am sure it is not—it does balance the rights and the interests of involved parties. We are, all of us, concerned about violence in our schools, but the Gorton amendment is not the best way to respond to this problem. It could inadvertently prove harmful to those disabled students whose behavior appears to be disruptive but does not in actuality pose a serious threat to other persons.

I believe we should focus on those students who truly pose a danger to other students and teachers. For that reason, I believe that the amendment by my colleague, Senator JEFFORDS, focuses on those students and reasonably addresses the problems of school violence. It builds on the Gun-Free Schools Act of 1994, which is already part of the Goals 2000 legislation. The act provides that local education agencies may not receive Federal education funds unless they have a policy requiring expulsion from school for at least a year for students who bring guns to school. The Jeffords amendment includes a sunset provision that becomes effective when the IDEA reauthorization is signed into law.

We need to find out, Mr. President, whether violent behavior by students with disabilities is a serious problem. It is my hope that all of us—lawmakers, educators, parents, and students—can sit down together next year during the IDEA reauthorization to find a way to resolve this issue. I know my colleague from Washington will be here. I know he will be involved at that time in that issue, and I think his contributions at that time will be much more valuable than the one he is suggesting now. So I urge my colleagues to oppose the Gorton amendment and support the Jeffords amendment regarding discipline of children with disabilities.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, just a brief remark while I await the arrival of my colleague and cosponsor of this amendment, Senator LIEBERMAN.

First, of course, this Senator is very much in agreement with the steps that are taken in the Jeffords amendment, an amendment which was only offered as a result of the pressure imposed by the amendment proposed by this Senator and which, ironically, amends IDEA just as precisely as does the Gorton amendment. And if the additional provisions of the Gorton amendment do not provide due process, neither do the provisions of the Jeffords amendment to exactly the same degree.

The answer, of course, is that the Jeffords amendment does provide due process, as does the one proposed by this Senator as well.

The difference between the two of us is, first, a trust in the ability and faithfulness of individual school authorities to make determinations about the learning environment of their schools.

That we should be discussing in this mostly empty body a national set of rules which we impose on every school in the land without the slightest knowledge of what takes place in those classrooms, overriding the judgments of individual teachers and principals and school board members, to this Senator answers the question all by itself. Of course, we should not be doing so. We can operate with the greatest of good will, as is clearly the case with the Senator from Iowa, and still make mistakes, and those mistakes are made every day by those who are violent in school, those who bring weapons to school, those who engage in life-threatening behavior in school, driving out of the schools very often sometimes teachers, sometimes other peaceful students.

That is the real world. And it is to provide some degree of balance that this amendment was introduced. Would it reverse the wonderful work of the superintendent in Iowa? Of course, it would not. It would have given that superintendent in Iowa a greater degree of flexibility in solving his own problems than he has under the present law.

Will this amendment mean that if there is a court challenge, a student can be kept out of school indefinitely? Of course not. There is a 90-day limit whether there is a court challenge or not.

Does this mean that these students will get no education? Of course not. In order to utilize the provisions in the Gorton amendment, the school district must provide an alternative education atmosphere even for the disruptive and violent disabled students.

Now, a few days ago we simply had in our proposed amendment authority for school districts to deal with life-threatening behavior. The very groups that are now protesting against our definition protested against that phrase because they felt it was far too broad, that it allowed too much authority for individual school districts, and so we came up with the narrowest definition of life-threatening behavior we could find, that in the criminal sentencing guidelines, which is deliberately narrow so that people cannot be sent to jail for this kind of activity unless it truly is life-threatening.

So now for having come up with the narrowest definition of life-threatening behavior, in order to attempt to oblige the other side, we are criticized for it. But essentially, when it gets right down to it, these opponents say that school districts should not have the authority to remove from a regular classroom to a special classroom students engaged in truly life-threatening activities for a period of 90 days without going to a Federal court to do so.

That is really what the difference is for. If you do not trust your school authority to be able to determine a life-threatening behavior on the part of students to themselves or most often to the other students, and get those students out of the classroom for 90 days, then you do not trust your school administrators or teachers to do anything. They should not be teaching or administering schools.

A vote against my amendment says that we cannot trust anyone in the United States except ourselves, a Federal bureaucracy, and the U.S. district court judges to suspend a student from school for more than 10 days for life-threatening behavior.

Mr. President, I just do not believe that of our school authority. The people who are on the front line want this kind of authority. They deserve more authority than this amendment gives them. We may debate more authority at some time next year. But they certainly deserve this now.

One final comment on the Supreme Court decision, Honig versus Doe. Of course, we are changing the result of Honig versus Doe. It is not a constitutional decision. It is a decision interpreting the Individuals With Disabilities Education Act, interpreting it quite correctly, interpreting it very narrowly because that is what Congress meant according to the Supreme Court. But as in other Supreme Court decisions on statutory interpretation, if we change the statute, the Supreme Court will change its decision. It was not saying it thought it was a good idea. It is saying this is what Congress passed, we suggest that Congress change that law, and allow school district authority a reasonable degree of discretion in bringing peace and order to their classrooms.

I note the presence on the floor of my principal cosponsor, the Senator from Connecticut. I will yield to him such of my remaining time as he may need.

Mr. BENNETT. Mr. President, before we hear from the Senator from Connecticut, will the Senator from Washington yield for a question?

Mr. GORTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 18 minutes and 50 seconds.

Mr. GORTON. Yes. I yield.

Mr. BENNETT. Mr. President, I would ask the Senator from Washington from his legal background if the circumstance currently applying to those students under the Individuals With Disabilities Education Act constitutes a different class under the criminal statute for people under that act than ordinary students who are not under that act?

Mr. GORTON. No. This is not a criminal statute, I say to my friend from Utah. It establishes two very distinct classes of students: The nondisabled student who is subject to the full discipline of the school, and the disabled student over whose discipline the school district has very, very narrow authority. As this Senator said earlier, we are now getting the claim that the very fact of violent activity or bringing the gun to school is evidence of disability so that the student cannot be disciplined.

Mr. BENNETT. The Senator in his explanation has given me the understanding that I was seeking which is that in effect two different classes of students have been created, perhaps not under a criminal act. But in administrative fact you have created a circumstance where disciplinary actions for one class are not appropriate for another class.

Mr. GORTON. Are not legal for another class.

Mr. BENNETT. Not legal for another class, and it seems to the Senator from Utah that this creation of two separate classes is very detrimental to any kind of orderly control of a student circumstance.

I thank the Senator for his clarification.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN].

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. I thank the Chair. I ask unanimous consent that Charles Rothwell, who is a fellow in my office, be allowed floor privileges for the duration of the debate on the School Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, whose time is the Senator speaking on?

Mr. GORTON. Mine.

Mr. LIEBERMAN. It is my understanding that I was speaking on the time under the control of the Senator from Washington.

Mr. President, I am a cosponsor of this amendment with the Senator from Washington. I am a cosponsor because I have received mail and calls from principals and teachers in Connecticut complaining about the current state of the law.

Mr. President, let me just step back and put this in context. If you ask the American people today whether they think this country is headed in the wrong direction or the right direction, almost 70 percent say the wrong direction. This has puzzled social commentators and pollsters because the economy is in recovery and the economy is supposed to determine so much of the public's attitude.

But in my opinion, the major reason the public sees America going in the wrong direction is that they see a loss of values in our country, a loss of standards, and a loss of discipline. There is a sense that too much of our country is out of control, and that we can no longer take for granted some of the basic assumptions that we as Americans used to make about what it meant to live in this great and civilized society.

One of the basic assumptions that I grew up with, that sadly is no longer true in so many cases, is that a parent can send a child to school and not worry about the safety of the child on the way to school or in school. The facts here are startling. My colleagues indicated them earlier.

Let me mention a few. A study by the Centers for Disease Control and Prevention through their epidemiologic surveillance systems tell us that in 1990, 20 percent of all students reported carrying a weapon to school at least once in the last preceding 30 days. That increased to 26 percent in 1991. In 1990, 31 percent of all male high school students carried a weapon to school during the preceding 30 days, and that increased to 40 percent in 1991.

Mr. President, we have heard and read and seen of too many cases of violence committed against students in the schools, and too many cases of violence committed against teachers.

The other thing is I must be getting old, although I do not think so. But you know, we took for granted that when you went to school you treated the teacher with respect. As a matter of fact, there was some fear of the teacher and the principal. That was not so long ago. Today, as I talked to teachers, I find—not all, obviously—but all too many telling me that it is impossible in the first instance to maintain a basic level of order in the classroom so that they can even have a chance to teach the students what parents send their schools to learn. Beyond that, the guns in the classroom, violence, and acts of aggression committed against teachers are unthinkable in our country generally.

So we have a problem of crime and safety in our schools. It is a problem that this Chamber has recognized, both in one of titles of the bill before us, and in fact in title V of this act, and in fact in the anticrime bill which has just emerged from conference this morning.

So I think as we approach the amendment offered by the Senator from Washington, which I am cosponsoring, we have to acknowledge that there is a problem. Let us go to what he and I are trying to do, which is to create, not even a level playing field, but a playing field that at least makes it somewhat more likely that teachers and school administrators will be able to maintain order in the schoolroom, to protect their safety and the safety of other students, let alone to create the basic preconditions in which teaching and learning may occur.

I heard my colleague and friend from Iowa speaking before. He has been a great leader in the effort to obtain equal rights and opportunities and protections for those who are disabled in our society, and I respect him greatly for that. It just seems to me that the provisions of the IDEA, the Individuals With Disabilities Education Act, passed in 1975—almost 20 years ago—have been used in a way that does not recognize the reality that I have just described in too many classrooms and schools in America today and, in that sense, the noble purposes of that act are being misused.

Mr. President, let me read you part of a letter I received from a teacher in Connecticut, who describes the IDEA as, "The law that was passed by Congress was indeed a good and needed law, but it has been made into a dangerous and ineffective law." He tells the story about students who have gone through a pupil planning and placement team, the PPT, process, and are then labeled "socially and emotionally maladjusted", SEM students. Students are usually brought before one of these PPT processes because they act out in one form or another. That is, they break the rules of the school in the classroom repeatedly. They are diagnosed as SEM and are given special help by a sociologist or school psychologist, which is all appropriate, and they may be put in special classes. This teacher says, "So far so good. The problem develops when they continue to break the rules. A different set of standards are now applied," just as the Senator from Utah has suggested. "Punishment for the same infraction for a special education student and a mainstream student differ, with special education students escaping with much less of a punishment."

Here is a basic problem—and, again, I am reading from this teacher from East Hartford, CT: "The expectations of behavior of a special education student is lower. The rules are changed, the punishments differ. How do we ever expect this student to become socially and emotionally adjusted to the norms and rules of society when they are not required to?" the teacher asks. He says, "I am not talking about matters of style; I am referring to dangerous activities which threaten the safety of the entire school population. In East Hartford," this teacher goes on, "students who carry knives to school are expelled for 180 days. That is permitted by State law. However, a special education student"—that is, one who has been adjudged so under the socially and emotionally maladjusted category, or other categories—"would only be given a maximum 10-day suspension, without extraordinary and cumbersome and expensive measures by the school system." He goes on to say, "We are sending the wrong message to our kids, and they know it." He says, "As a teacher, I know that these students think, they can't touch me. They act all over the school as if they are immune to the rules and norms of school and classroom behavior. Indeed, why shouldn't they? They are immune."

I do not present this as the final word on the subject. I present it as the cry from the heart of a teacher trying to be a teacher, who feels that this well-intended law is now being misused to the detriment of the safety of the students and teachers and administrators in the school system, let alone the ability to teach.

Mr. President, what the Senator from Washington has done is just to give—again, in fact, obviously the IDEA law dictates to the local school system. We are trying to free the local school system from that Federal control and let them discipline students a little more like they would without any Federal control, to hopefully reestablish some sense of order and respect for teachers and school administrators. In fact, we do not create a totally level playing field. In the case that the teacher from Connecticut cited, a student with a knife is expelled for 180 days, but that is not so for a student covered by the IDEA program. Under this amendment, that student, for 90 days, is put into a special educational setting, and the process goes from there.

Mr. President, the bone of contention here—because I know the Senator from Vermont and others agree there should be an expulsion when a gun or weapon is carried to school—is this whole question of extending or removing the special protections when a student has committed a life-threatening act. This is a pretty tight definition of life-threatening act. I know some of those who oppose the amendment Senator GORTON and I have sponsored feel it would be misused and teachers and administrators will pick on students who are disruptive who should not be picked on. But that switches the traditional burden here in a way that does not make sense and, to me, is very disruptive. It suggests that we have to begin with a distrust of the educators and put the burden on them, as opposed to giving them the benefit of the doubt when dealing with disruptive students.

I believe from the bottom of my heart that the typical teacher and administrator is not going to misuse the disciplinary powers they have against a child who would come under these special protections, because they know the burden they face in court if they do. Let us talk about the definition of life-threatening behavior in this proposal. Defined as "an injury involving a substantial risk of death, loss, or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent, or an obvious disfigurement that is likely to be permanent." It is a tough definition, I understand. A student under the IDEA program could, I have heard stories like this from teachers in Connecticut; and any student could, but we are talking about the differing capacities to punish a student—could grab a teacher, push her up against the wall, call her names, and not come under the more level playing field of discipline that this amendment would create, because that is not life-threatening behavior.

I understand the tremendous work that the Senator from Iowa and others have done in this area, and I understand that the Individuals With Disabilities Education Act is up for reauthorization in the next Congress. But it seems to me that this is a matter of real urgency. I hear it from teachers and principals in Connecticut. I think we ought to act here to give them the authority they need, with the confidence that they will use it with good judgment, understanding that in this amendment there is a sunset provision that says that this amendment, if it passes, shall be effective until the date of enactment of the reauthorization of the Individuals With Disabilities Education Act. In other words, there is a sunset provision here. So it will receive full consideration, or reconsideration, by the committee and by this Chamber during the reauthorization process of the IDEA.

There is a crisis out there, and it is a crisis of fundamental values, and I think it calls for immediate action.

Mr. HARKIN. Will the Senator yield?

Mr. LIEBERMAN. I yield to my friend from Iowa.

Mr. HARKIN. Mr. President, I thank my friend from Connecticut for yielding. I know he has the interest of the kids at heart. I know he is a well-meaning individual, and I know that the Senator from Connecticut would not in any way want to again kick down kids with disabilities any more than they have been in our society.

I know we have problems of violence in our schools. I know we hear from teachers. I hear from them, too. But we also hear from parents with children with disabilities who are having all kinds of problems getting schools to adhere to the law.

I mentioned before the Senator arrived on the floor of a principal at a school in Iowa. The year before he became superintendent they had 220 disabled kids expelled from school. He came and took over. The school instituted the individual education programs, got the teachers and the parents together. The next year zero kids were expelled who were disabled.

Again, a lot of administrators say it is easier to get rid of them and get them out of there.

Mr. LIEBERMAN. Mr. President, I thank my friend from Iowa. I appreciate what he is saying.

Of course, as I said before, I respect greatly his leadership and record in this area. I say to him that this particular definition of life-threatening behavior was chosen because it is a tough definition; that is, it is demanding. It creates a high standard so that it will not send a message out mistakably to teachers and school administrators that simple disruptive behavior can remove the special protections.

Disabled for this case is mostly talking about socially, emotionally maladjusted kids received under IDEA.

Again, it leaves out a range of behavior that most of us and most parents who send their kids to school find horrific. Again, I heard the stories from the teachers, where students are picked up and pressed against the wall and students threatened.

This happens from kids in the IDEA program and a lot of kids outside. We are just saying if that happens, or something worse, the teacher ought to have the ability to discipline.

We are not evening out the playing field totally. We are simply saying that a student exhibiting this life-threatening behavior has to be placed in an alternative education program for not more than 90 days. That student will still receive special treatment as compared to the students not in this special program.

Mr. President, I gather my time is up. I thank the Chair.

I ask support for the amendment and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized, 23 minutes remaining.

Mr. JEFFORDS. How much?

The PRESIDING OFFICER. Twenty-three minutes are remaining.

Mr. JEFFORDS. Mr. President, I would like to try to simplify this matter as much as I can.

We have had a lot of discussion, minutes and hours of discussion, but I think we should get down to the very simple aspects of what we are talking about here. I think my colleagues will see the merit of voting for the Jeffords amendment and against the Gorton amendment.

The question is, do you make any distinction for children with disabilities? Under the Gorton amendment, if there is a gun involved with bodily harm, or a threat of bodily harm, you are out. It is as simple as that. You are out for a year, whether it is related to the disability or unrelated to the disability. And that distinction is important. There is no difference. You are out for a year.

My amendment treats disabled children differently from nondisabled children. If the offense is related to the gun, but unrelated to the disability, you are out for a year, the same as the Gorton amendment. On the other hand, if it involves a gun and you are a disabled child and it is related to your disability, you are out for 90 days during which time they can determine as to whether or not you will be in an appropriate educational situation to the extent under IDEA. Rather than 10 days, it will be 90 days. During that period they can determine what additional remedies ought to be provided. That is if a gun is involved.

Let me explain that kind of a situation to you and give some meaning to it. Suppose a child is very mentally retarded, of minimum IQ, and his friends think it would be fun to play a trick. They have a gun. It is unloaded. There is not going to be any real threat or harm. They say, "Why don't we play a trick on little Jane? She is a pain, and she is really a miserable little child. So why don't you take this and, just to teach her, go up and point that gun at her and see what she does?"

Well, under the Gorton amendment that child is gone for a year out of school. Under our amendment the child would be under IDEA. The 90-day provision would apply rather than the 10-day provision so that it can be determined if there was actually a threat. What kind of action should we take during that period of time?

That takes care of the gun situation, and I would hope that my colleagues would see the merit in giving flexibility and not interfering with the provisions of IDEA for a child under those circumstances. I do not believe any of my colleagues would say under those particular situations, that child ought to be thrown out of school for a year.

Let us go to the case of a situation involving the threat of bodily harm and related to the disability. Under those circumstances, the person would be under IDEA's 10-day provision, but I would point out that under the Supreme Court decision that has dealt with these kind of problems, there is much that can be done to ensure that there is no bodily harm or threat of bodily harm created where they can take the actions necessary in order to prevent a recurrence of that particular incident. I will read to you a summary of the Supreme Court decision in Honig versus Doe, 1988:

> The Supreme Court dealt with the issue in Honig v. Doe, where it held that the statutory provision was clear in its requirement that the child "shall remain" in the current educational placement pending the completion of due process procedures. However, the Court found that Congress did not leave school administrators powerless to deal with such violent students since the following procedures were allowed: The use of temporary suspensions for 10 days, interim placements where parents and the school are able to agree, and the authority for school officials to file a suit for appropriate injunctive relief where an agreement cannot be reached. The Supreme Court found that IDEA balanced the rights of the child with a disability to remain in school by denying a school the unilateral power to expel such children with the rights of the school to maintain a safe learning environment. However, although these procedures allow for control of violent children with disabilities, it has been argued that they are cumbersome, hindering the ability of school officials to maintain a disciplined environment conducive to learning.

However, there is a different issue with respect to the rights of others as to continuing their education, but it is clear that under the Jeffords amendment, and not under the Gorton amendment, disabled children will be not disrupted unless it is in the situations which I described, that is if it is related to the gun. However, there is a change. There are 90 days to evaluate and take these things into consideration rather than the 10 days. However, if it is related to a disability and related to bodily harm or threat, you are under IDEA, with all of the protections which I mentioned that the Supreme Court of the United States had found available.

So I want to say this. We have had a lot of discussion on this issue. There is a lot over emotion connected with it. But there is nothing that will make our disability community more anxious, and more concerned, than to know that these poor unfortunate children with disabilities will be arbitrarily, without hearing, and without any attempt to protect themselves, be thrown out of school under the Gorton amendment.

So I would hope you will keep in mind—I suppose you can vote for both amendments if you want to, and under the procedure you can. But if you have compassion and understanding for people who have children with disabilities who would be concerned and worried that their child may be placed in a position like I mentioned earlier, through no fault of their own, but because of an impairment in their thinking or some other problem, reject the Gorton amendment which will throw them arbitrarily out of school for a year.

So I hope, after looking at this, that my colleagues realize that it has nothing to do with the situation with a gun, and unrelated to the disability. Under those circumstances, the Gorton amendment and the Jeffords amendment are the same.

On the other hand, in those kinds of circumstances where a disability of the child is involved, should they not be given some special consideration?

That is all we are asking in the Jeffords amendment. If you are compassionate, and believe that children with disabilities need a little extra care, a little extra feeling, a little extra attention to the problem, then you ought to vote for the Jeffords amendment to ensure that they get the protection that is presently guaranteed them under the law.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes remaining.

Mr. HARKIN. How much time does the other side have remaining?

The PRESIDING OFFICER. The time has expired on the other side.

Mr. JEFFORDS. I yield such time as the Senator would desire.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, it is impossible to understand the detrimental effect of the Gorton amendment on children with disabilities without having a better understanding of the congressional intent in enacting IDEA and the specific components of the legal framework.

In 1975, when Congress passed the Individuals With Disabilities Education Act [IDEA] more than one-half of the Nation's children with disabilities were not receiving appropriate educational services and one out of eight of these children was excluded from the public school system altogether. According to a study conducted by the U.S. Department of Education, 82 percent of emotionally disturbed children were unserved in 1974–75.

The history of the act makes it clear that Congress was deeply concerned that school officials were using disciplinary procedures to exclude and deny appropriate education to children with disabilities. Congress determined that the best way to assure that its mandate that every child with a disability receive a free appropriate public education was carried out was to establish procedural protections for parents to guard against unilateral school district action.

The specific provisions of the act require the school districts to provide a free appropriate public education for each child with a disability, regardless of the nature or severity of the child's disability in conformity with the child's individualized education program [IEP]. The IEP is a program "specially designed to meet the unique needs" of the child with a disability.

Placement decisions must then be made by individuals knowledgeable about the child and the meaning of the evaluation data.

In short, the whole thrust of the IDEA is to make the placement fit the unique needs of the child and to do so through meaningful parent participation in partnership with educators.

Under IDEA parents are afforded a number of procedural protections when disagreements with school officials arise. In the words of the U.S. Supreme Court in Honig versus Doe these protections are "designed to ensure parental participation in decisions concerning the education of their disabled children and to provide administrative and judicial review of any decisions with which those parents disagree."

Specifically, under the IDEA a parent can challenge a decision by a school official and request a due process hearing before an independent hearing examiner. The parents also have a right to appeal this decision to the courts.

Pending the resolution of the appeals, the child is entitled to stay-put in his or her then current educational placement unless the public agency and the parents of the child agree otherwise.

It is the stay-put provision that Senator GORTON is attempting to gut through his amendment. This is the provision that several school officials tried to gut several years ago in the Honig versus Doe case.

The issue in Honig versus Doe, concerned the interpretation of the stay-put provision. More specifically, the issue in the case boiled down to whether there is a dangerous exception to the stay-put provision

Senators CHAFEE, JEFFORDS, KENNEDY, along with myself and other Members of Congress, in a friend of the court brief, urged the Court to conclude that there was no such exception. As the brief pointed out, "The legislative history overwhelmingly illustrates Congress' desire to prohibit unilateral school actions."

Consistent with the urging of the Congressional brief, the Court concluded that Congress

> * * * very much meant to strip schools of the unilateral authority they had traditionally employed to exclude disabled students from school . . . and directed that in the future the removal of students with disabilities could be accomplished only with the permission of the parents or, as a last resort, the courts.

The Court also concluded that Congress took these actions because of findings that school officials used disciplinary measures to exclude children from the classroom.

Senator GORTON would lead you to believe that school official's hands are tied by IDEA; that they have no recourse against dangerous children.

Mr. President, this is not true. Period. Let me quote from the Supreme Court decision: the stay put provision "does not leave educators hamstrung."

> The Department of Education has observed that, 'while the child's placement may not be changed [during any complaint proceeding], this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.' Comment following 34 CFR 300.513 (1987). Such procedures may include the use of study carrels, time-outs, detention, or the restriction of privileges. More drastically, where a student poses an immediate threat to the safety of others, officials may temporarily suspend him or her for up to 10 school days. This authority, which respondent in no way disputes, not only ensures that school administrators can protect the safety of others by promptly removing the most dangerous of students, it also provides a "cooling down" period during which officials can initiate IEP review and seek to persuade the child's parents to agree to an interim placement. And in those cases in which the parents of a truly dangerous child adamantly refuse to permit any change in placement, the 10-day respite gives school officials an opportunity to invoke the aid of the courts under 1415(e)(2), which empowers courts to grant any appropriate relief.

As I explained previously in my remarks, Mike McTaggart, principal at West Middle School in Sioux City, IA put it this way, "I have no problems with the special education guidelines. The Court decisions make sense to me." We heard from several administrators from the State of Washington. One told us that in 10 years he never had to go to court for an injunction. The threat alone was sufficient with even the most recalcitrant parents. He went on to say that "the law does not put us in an unreasonable situation but does provide an important protection for students with disabilities."

The U.S. Department of Education has explained the current policy regarding disciplining children with disabilities in letters responding to individual inquiries. Unfortunately, these interpretations are not widely disseminated and therefore many educators around the country are totally unaware of the options they actually have.

Current policy regarding the disciplining of children with disabilities is consistent with Honig versus Doe case.

In brief the policy is as follows:

First, a school district can unilaterally exclude children with disabilities from the classroom for dangerous or disruptive behavior, no question asked, for up to 10 days. During this period, the school district can use normal disciplinary procedures and meet with the family to determine what alternative strategies, including alternative placements, might be more appropriate.

Second, if the removal is for more than 10 days, it is considered a change of placement.

Third, if parent and school officials agree on the need to change the placement or the child's IEP, the process stops here and the modifications are implemented.

Fourth, a parent that disagrees with the school district's proposed actions may file a complaint, seek a due process hearing, and insist that the child "stay put" in his or her current placement pending the resolution of the appeals.

Fifth, at all times, school officials can use "normal" disciplinary procedures such as study carrels, timeouts, or other restrictions if it is determined that the child's behavior was not related to his or her disability. If the child's behavior is related to the disability, these procedures can be used if they are consistent with his or her IEP.

Sixth, if the school district believes that it would endanger other students to return the child to his or her current placement, the school district can go to court and seek an order permitting a change in placement.

In sum, the legal framework of IDEA established by Congress with its focus on providing meaningful parent participation through the reliance on due process protections was enacted to put a stop to the shameful history of exclusion, segregation, inadequate education, and expulsion of children with disabilities.

The Gorton amendment punches a gaping hole in this legal framework.

The current legal framework carefully balances the rights of parents and school officials in order to bring about agreement between the parties. Parent/educator partnership is the linchpin of the law. The law encourages communication and dialogue, particularly in the development of the IEP. However, people don't always agree. When potential disagreements surface additional tools are included to nudge the parents and educators to keep talking. Parents can assert that their child must stay put pending appeals. The school district can assert its authority to override this right and obtain a court order to remove the child.

Thus, each party has a tool at their disposal which they can use or threaten to use. In an overwhelming majority of cases, the availability of these tools forces both parties to come to an agreement.

This amendment destroys that balance by taking away the parents' tool and allows the school district to make unilateral unchecked decisions. My colleague from the State of Washington will tell you that his amendment is very narrow because it only deals with life-threatening behavior. This amendment is not narrow. Under this amendment all a school official has to do is assert that any behavior is life-threatening and the school official can unilaterally change a disabled child's placement. Thus, the stay-put provision is effectively repealed by this amendment.

By allowing unilateral placements, there is a strong likelihood that in far too many school districts around this country we will return to the bad old days of exclusion, isolation, segregation, and the denial of appropriate services for children with disabilities.

What an irony that this should occur the week disabled people around the country are celebrating their independence day, for on July 26, 1990, President Bush signed into law the ADA.

In sum, the Gorton amendment, by effectively repealing the stay put provision upsets the careful balance between the rights of parents and school officials.

The Gorton amendment is also bad policy. It will result in an increase not a decrease in violence in the schools. Let me explain.

The fundamental point made in the Chafee-Jeffords-Harkin friend of the court brief in the Honig versus Doe case was that we do not have to choose between school chaos and denying appropriate education to children with disabilities to maintain decorum in the schools. The brief stated:

> Congress believed that the system could be modified in a manner that would protect the interests of all students and school personnel by requiring the development of appropriate programs, providing supportive or related services, training of personnel, and tailoring educational programs to the unique needs of the individual child with a disability.

The brief went on to explain that allowing a dangerousness exception to the stay-put provision—as proposed by the Gorton amendment—would:

> * * * establish extremely bad public and educational policy. School districts would have no incentive to actually develop an appropriate program to address the needs of a disruptive student pending due process procedures * * * Compliance with the law encourages utilization of state of the art educational strategies,* * *.
>
> Suspension for behavior related to a child's disability puts the blame on the disabled child instead of on the inadequacies of the system. This is exactly what Congress sought to avoid in enacting IDEA.

A child with a disability whose needs are not being met or properly addressed may suffer from cumulative frustration and confusion and may, as a result, present behavior problems.

Under the current law, the parent could assert that the child's disruptive behavior is a manifestation of the failure of the school system to provide an appropriate education and insist that the appropriate services be provided.

Under the Gorton amendment, the school system could remove the child by alleging that the behavior is life-threatening even when the disruptive behavior is the direct result of the system's failure to provide necessary services. The school system could then isolate the child; provide few, if any, services; or place the child in a restrictive setting where he learns even more aggressive and violent behavior.

More violence, not less, will be the outcome. This outcome is intolerable. In the words of the Chafee-Jeffords-Harkin brief:

> Punishing a disruptive child by exclusion for weeks, months, and even years during the pendency of administrative and court proceedings when the school district could provide modifications to the child's program is to excuse system failure by projecting blame onto the student.

This is not some hypothetical possibility. It is real and it is happening today to children with disabilities in school systems that act in violation of existing law.

Let me give you an example. Titus is a disabled student. For 6 years he had received special education services. His grades were average. He was not a behavior problem. When he entered seventh grade and changed schools, the school system stopped providing special education because of an administrative error and without notifying his parents.

During this year he was failing all his courses. Without the special education services, his learning disability prevented him from comprehending what the teachers were talking about. One day Titus was involved in a fight at school with another student. The fight occurred when another student made fun of the fact that he was failing his courses.

Titus was illegally expelled from school without following any of the IDEA procedural protections for 7 months. By the time his mother sought legal assistance, he was suffering from severe depression and became increasingly suicidal. By the time he returned to school—a year after the illegal explulsion—he needed treatment for manic depression. Titus soon engaged in criminal activity and was convicted of a felony.

In prison, his teachers made the following statement to his lawyers: "Titus is always very cooperative. Why were his emotional and learning difficulties so poorly addressed in school.

Titus' antisocial behaviors are the direct result of the failure of the school system to provide him with a free appropriate public education to which he was entitled and the failure of the system to comply with the due process protections in the law.

How many more Titus' are we going to have under the Gorton amendment.

The Gorton amendment overturn a 7 to 2 Supreme Court decision interpreting the Individuals With Disabilities Education Act [IDEA] as a floor amendment to S. 1513, a bill reauthorizing the ESEA without hearings, discussion, and attempts to reach consensus among the concerned parties.

The amendment has been drafted without any meaningful understanding of the nature and magnitude of the problem of violence by children with disabilities. We simply do not have any data. In fact, what is known suggests that disabled children are most frequently the brunt of violence not the perpetrators.

This amendment will exacerbate tensions between parents and schools officials in a time when we should be doing everything in our power to facilitate partnerships and trust. This amendment is creating outrage, anger, fear, and bitterness in the souls of parents of children with disabilities across this country. Every day they live with the challenges of bringing up a child with a disability at home.

It is unacceptable to blame a child who acts out for what, in many instances, may be a lack of appropriate education and related services, the lack of appropriate behavior management techniques, and the lack of teacher training.

Next year we are going to reauthorize the Individuals With Disabilities Education Act. Current law may not be perfect and, in fact, we may need to make certain modifications. As chairman of the Subcommittee on Disability Policy I am committed to conducting a thorough review of the issue. Let's not act in a hasty fashion; let's do it right as part of the reauthorization of IDEA. Let's not fix one problem and create new ones because we did not take the time to fix it right.

Finally, this amendment should be opposed because it is divisive in an area where bipartisanship and consensus building is the norm. I have been the chairman of the Subcommittee on Disability Policy since the beginning of the 100th Congress.

When I took over the chairmanship from our former colleague, Lowell Weicker, he implored me to carry on the tradition of this subcommittee of seeking bipartisan consensus on matters before the subcommittee. I am pleased to report that over the past 7 years we have succeeded on reaching a bipartisan consensus on every provision of every bill. I believe that we succeed because we listen to and work with all concerned parties, including representatives of school boards, school administrators, teachers, parents, and the disability community.

I pledge to my colleagues that we will make the same effort to address the issue of disciplining children with disabilities as part of the reauthorization of IDEA, including a thorough review of the stay-put provision and, if considered necessary, amend this provision of the IDEA.

So I close by saying please, let us take care of the weapons. We can take care of the weapons in the Jeffords amendment. But let us not kick children with disabilities down one more time. These children are only asking for a fair chance. They are only asking that the schools follow the laws that we have put down, here in Congress, to provide them with a free appropriate public education. It has been 4 years since the adoption of the Americans

With Disabilities Act, Madam President. Let us not turn the clock back. Let us turn down the Gorton amendment and let us adopt the Jeffords amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, is there a minute remaining?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute.

Mr. JEFFORDS. I yield.

Mr. KENNEDY. Madam President, I thank both Senator JEFFORDS and Senator HARKIN for an excellent presentation. I hope the Senate will resist the Gorton amendment. We have taken the Dorgan amendment on guns. We have taken the Gorton amendment on violent students on record—we have taken a Gorton amendment about parental involvement and disciplinary actions, and we are overriding the IDEA with regard to guns. We have made every effort to try to respond to the problems of violence. I think the excellent presentation that has been made by the Senators from Vermont and Iowa should be the position that the Senate accepts on this amendment.

I hope the Senate will reject the Gorton amendment and support the Jeffords-Harkin amendment.

AMENDMENT NO. 2425, AS MODIFIED

Mr. JEFFORDS. Madam President, I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection? Hearing none, the Senator may proceed.

Mr. JEFFORDS. The copy is at the desk.

I will read it. On page 3 of my amendment:

Strike lines 3-11 and insert in lieu thereof the following:

(b) Nothing in the Individuals With Disabilities Education Act shall supersede the provisions of the Gun-Free Schools Act (section1501 of the Elementary and Secondary Education Act) when the child's behavior is unrelated to his or her disability.

The PRESIDING OFFICER. The amendment is so modified.

The modification to amendment (No. 2425) is as follows:

On page 3 strike lines 3-11 and insert in lieu thereof the following:

(b) Nothing in the Individuals With Disabilities Education Act shall supersede the provisions of the Gun-Free Schools Act (section 1501 of the Elementary and Secondary Education Act) when the child's behavior is unrelated to his or her disability.

VOTE ON AMENDMENT NO. 2418

The PRESIDING OFFICER. All time having expired, the question occurs on amendment 2418 offered by the Senator from Washington, Senator GORTON.

The yeas and nays have been ordered. The clerk will call the roll on the Gorton amendment.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 60, nays 40, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—60

Baucus
Bennett
Biden
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Dorgan
Faircloth
Feinstein
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Johnston
Kempthorne
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Robb
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—40

Akaka
Bingaman
Boxer
Bradley
Chafee
Daschle
DeConcini
Durenberger
Exon
Feingold
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Riegle
Rockefeller
Sarbanes
Simon
Wellstone
Wofford

So, the amendment (No. 2418) was agreed to.

Mr. GORTON. Madam President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2425, AS MODIFIED

Mr. HARKIN. Madam President, I would like to enter into a colloquy with my colleague, Mr. JEFFORDS. It is my understanding that the provisions of the Senator's amendment are fully consistent with guidance provided by the U.S. Department of Education in a recent opinion on the application of the Gun-Free Schools Act to students covered under the Individuals with Disabilities Act?

Mr. JEFFORDS. The Senator is correct in his understanding.

Mr. HARKIN. I ask unanimous consent to have printed in the RECORD the U.S. Department of Education interpretation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GUIDANCE CONCERNING STATE AND LOCAL RESPONSIBILITIES UNDER THE GUN-FREE SCHOOLS ACT OF 1994

The Gun-Free Schools Act [Act] states that, as a condition of receiving any assistance under the Elementary and Secondary Education Act, local educational agencies [LEAs] must have in effect a policy requiring the expulsion from school for a period of not less than one year of any student who brings a firearm to school, except that the LEA's chief administering officer may modify the expulsion requirement on a case-by-case basis. Under this provision, an LEA would be permitted to discipline students with disabilities in accordance with the requirements of Part B of the Individuals with Disabilities Education Act [IDEA] and Section 504 of the Rehabilitation Act (Section 504), and thereby maintain eligibility for Federal financial assistance.

Question. When does the Gun-Free Schools Act take effect?

Answer. The requirements of the Gun-Free Schools Act took effect on March 31, 1994.

Question. What provisions must the revised policy contain?

Answer. The policy must require the expulsion from school for a period of not less than one year of any student who is determined to have brought a weapon to a school under the jurisdiction of the LEA. In order to comply with existing requirements of IDEA and Section 504 regarding discipline of students with disabilities, an LEA must include in its policy the exception that permits its chief administering officer to modify the expulsion requirement on a case-by-case basis.

Question. Do the requirements of the Gun-Free Schools Act conflict with requirements that apply to students with disabilities?

Answer. Compliance with the Gun-Free Schools Act may be achieved consistently with the requirements that apply to students with disabilities as long as discipline of such students is determined on a case-by-case basis in accordance with the disability laws. Students with disabilities may be expelled for behavior unrelated to their disabilities as long as the procedural safeguards required by IDEA and Section 504 are followed. IDEA also requires that educational services must continue, although they may be in another setting, for students with disabilities who are properly expelled.

If it is determined that the student's action in bringing a firearm to school is related to the student's disability, IDEA and Section 504 do not permit the LEA to expel the student. However, under IDEA and Section 504, a student with a disability may be suspended for up to ten days. LEAs may also seek a court order to remove a student who is considered to be dangerous. In addition, the child's may be changed in accordance with procedures under those laws to address concerns for the safety of that child and other children.

Question. Is an LEA required to expel any student who brings a firearm to school, without exception?

Answer. No. The Gun-Free Schools Act provides that the LEA's policy may allow its chief administering officer to modify the expulsion requirement for a student on a case-by-case basis. An LEA may comply with the requirements of IDEA and Section 504 under the provision for case-by-case modification.

Mr. HARKIN. I am also concerned about how the amendment is intended to apply to a child with a disability who does not understand the consequences of his or her behavior and for whom the current placement is the best possible place to teach the child about the danger of weapons and to deter the child for ever bringing firearms to school. If this child is removed from the current placement, the damage to the child could be lifelong without in any way increasing the safety of the other children. I don't want a school district to feel compelled to remove a disabled child who will not pose a future threat of weapons possession if properly monitored and educated in his current placement.

Mr. JEFFORDS. I agree. This amendment will give the local school district the ability to make case-by-case determinations based on the facts and circumstances of a particular case, consistent with the underlying purposes of IDEA. We do not want to punish children because of their disabilities if the public policy of increased safety is not furthered. This amendment allows appropriate action where the safety of other children is at stake.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2425, as modified, and offered by the Senator from Vermont [Mr. JEFFORDS]. The yeas and nays have been ordered. The clerk will now call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—100

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

So the amendment (No. 2425), as modified, was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

• Ms. MIKULSKI. Mr. President, I am pleased to offer my support for the reauthorization of the Elementary and Secondary Education Act. This legislation provides funding for all major Federal elementary and secondary programs. It is a good bill and an important one.

I especially like this reauthorization bill because, first, it improves the old chapter I program; second, it provides for more extensive teacher training; third, it also addresses school violence, and fourth, it contains gender equity provisions throughout.

First, Mr. President, I would like to commend the chairmen, Senator KENNEDY and Senator PELL, for their work on revamping the chapter I distribution formula, now title I, the largest federally funded education program for disadvantaged students in poor areas. I know it was not easy. It is a complicated formula and it is difficult to satisfy the needs of all States.

I know that in Maryland title I helps Maryland's disadvantaged students to get the education they need and deserve.

The Labor Committee's formula streamlines the title I Federal program into one formula and targets the money to more economically disadvantaged students. That is a step in the right direction.

Second, Mr. President, this bill expands the Eisenhower Teacher Training Program to include training in other core subjects. Yet, this bill still recognizes and emphasizes the original purpose of the Eisenhower program, to train teachers in math and science. I support professional development for our teachers because they are the backbone of our educational system. They must be up to speed on all subjects, especially math and science.

By age 13, the math and science achievement of American students lags behind that of students in other countries. Yet, if we are going to keep pace with the rest of the world in developing new technology, or students—and our teachers—will need strong math and science skills.

I have worked hard in my VA-HUD Appropriations Subcommittee to see that math and science education programs are funded because I know the importance of training all students for the future.

Third, this legislation expands the Drug Free Schools and Communities Act to encourage school safety programs. Title V of this bill provides funds for violence prevention programs in our schools, such as early intervention programs, counseling, mentoring and before and after school programs.

Mr. President, this is an extremely important section of this legislation because we must do everything we can to make every school in America free from drugs and violence.

I have seen the way that crime has infiltrated our schools and our community. In January of last year, I held a town meeting with students at Canton Middle School in Baltimore.

These assertive 12, 13, and 14 year olds were mainly concerned with one issue—crime. Mr. President, 12 year olds should be concerned about getting their homework done, not about running from gunfire on the playground or on their way home from school.

We cannot tolerate any more of what is happening on our streets and in our schools. We need to say yes to kids who say no to drugs and yes to homework. We need to make investments in our youth before the trouble begins.

Finally, to help create an environment more conducive to learning, I am especially pleased that this bill incorporates a package of bills introduced by myself and my colleagues on gender equity.

I, and my colleague, Senator HARKIN, have included language in this legislation to make sure that teachers are sensitive to the needs of all students. I know teachers do the best job they can. We want to be sure, however, that no student is overlooked and that all students are treated equally in the classroom—girls and boys. So, in this legislation teachers will also have access to professional development programs on gender equality training.

I added language to this bill to build on the concept of making our schools safe. The language I added suggests that schools make the elimination of sexual harassment and abuse a part of its mission to create a healthy school environment for girls and boys.

Let me give you one example of why this language is important. Last April, for example, in Montgomery county, MD, the county public schools and Montgomery County Commission for Women sponsored a hearing on sexual harassment in education.

Forty brave witnesses, including students, parents, and teachers, presented disturbing testimony about harassment between staff members, between staff and students, and peer harassment—among students.

One young girl said that instead of recognizing harassment as a problem, girls are usually taught how to handle it.

Fortunately, Montgomery County made a commitment to examine this issue and has designed a policy for handling harassment and procedures for responding to complaints.

But, other places are not so lucky. Training and education is needed so that our schools are safe and healthy environments for learning. An abusive environment is no place for students to learn. My goal is to make every classroom and every school in the United States conducive to learning for all students.

To that end, Mr. President, I would like to make one final point. I am a strong supporter of an initiative called Character Counts. This is an initiative to bring back some of the community building spirit that this country has lost. It encourages building individual capacity among our young people so that they can be a productive part of a larger community. I am proud to cosponsor the amendment offered by my colleagues, Senator DOMENICI and Senator DODD.

To me character education means trustworthiness, fairness, justice and caring, civic virtue and citizenship; those aspects of continuity that will help us to not only cope with change, but to embrace change, and lead us into the 21st century.

We need to advocate for a society based on virtue and value and not a society where every aspect of our cultural communication reward and exploits violence and vulgarity.

That is not what the United States is about, and that is not what built the United States of America. What built the United States of America was virtue and value, not violence and vulgarity.

People have known this for years. It is the habits of the heart that de Tocqueville spoke about. It is all about neighbors caring for neighbors, personal responsibility, personal respect for yourself and respect for others. It is about social responsibility, the desire to be part of a neighborhood, a community, and to truly be a citizen of the United States of America.

So I am happy to lend my voice and my efforts to this cause that I believe transcends party and geographic lines. I am happy to be a part of this coalition.

Finally, Mr. President, I have only mentioned a few of the good things in this bill. It improves teacher training, enhances school violence prevention programs, and increases the awareness of gender equity concerns. But, most importantly, it reauthorizes secondary education programs through 1999 intended to help the poorest students.

The education of our youth is an investment we cannot afford to overlook. It is what is best for our children and our future. I am pleased to support this legislation and I look forward to its passage.●

AMENDMENT NO. 2423

The PRESIDING OFFICER. The question now recurs on the Simon Amendment No. 2423.

The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that upon disposition of the Simon amendment Senator BUMPERS be recognized to offer his formula change amendment; that there be a time limitation of 2 hours for debate on that amendment, equally divided and controlled in the usual form, with no amendments in order, nor to any language which may be stricken; and that at 9 p.m. the Senate vote on or in relation to the Bumpers amendment.

Mr. BYRD. Madam President, reserving the right to object, and I hope I will not, I have two amendments which will be accepted, but I have a few things I want to say about them. If we are still going to be on the bill tomorrow, I will be happy to wait until tomorrow.

Mr. MITCHELL. Madam President, if I might inquire through the Chair of the Senator from West Virginia, the Senator says he has something to say about them. How long does the Senator intend to take on the two amendments which will be accepted, I understand?

Mr. KENNEDY. Yes.

Mr. MITCHELL. How long would the Senator like?

Mr. BYRD. I think what I would have to say might be between 20 and 30 minutes, even though the amendments are going to be accepted.

Mr. MITCHELL. Would it be agreeable to the Senator to have his amendments accepted and make his statements immediately after the vote on the Bumpers amendment this evening?

Mr. BYRD. No. I do not want to be contrary, I say to the distinguished majority leader, but nobody will be listening then, and they may not be listening now, but at least they will not be home.

Mr. MITCHELL. We are going to be in session after the Bumpers vote so there will be as many Senators listening then as now.

Mr. BYRD. Mr. President, I do not want to wait until 9 o'clock to put in my amendments.

Mr. MITCHELL. Of course, we have a large number of Senators we are trying to accommodate here, as I know the distinguished chairman is aware, having done it many times himself.

Mr. BYRD. Why do not we do this if it will be agreeable to all sides, including Mr. BUMPERS: Give me 20 minutes. If the majority leader could work that into his request, that following the acceptance of the amendment by Mr. SIMON that I have 20 minutes on two amendments.

Mr. MITCHELL. Madam President, I then modify my request so that following the disposition of the Simon amendment, Senator BYRD be recognized for 20 minutes to offer two amendments, which I am advised by all concerned will be accepted; that following the disposition of those amendments, which will then be approximately 7:15 Senator BUMPERS be recognized, and that the rest of the agreement remain as stated except that the vote on or in relation to the Bumpers amendment occur at 9:15 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. I thank our colleagues for their cooperation.

Mr. BUMPERS. May I ask what just happened?

Mr. MITCHELL. Senator BUMPERS will be recognized to offer an amendment at approximately 7:15; that we have 2 hours equally divided and have a vote on or in relation to Senator BUMPERS' amendment at 9:15 this evening.

Mr. BUMPERS. What about me between then?

Mr. MITCHELL. The Simon amendment will be accepted and Senator BYRD will offer two amendments which will be accepted.

Mr. BYRD. Madam President, if the distinguished majority leader will yield, I have a feeling of remorse.

The distinguished majority leader has bent over backward, and so has the manager and ranking manager, to accommodate me. I want to accommodate them.

I will offer my amendments immediately after the disposition of the Simon amendment. My amendments will be accepted. And I will do as the distinguished majority leader suggested. Sometime this evening I will make my eloquent remarks and just ask unanimous consent that they be inserted in the RECORD prior to the vote on my amendments.

Mr. MITCHELL. That is very thoughtful. But since we have reached this agreement, rather than reopening it, which would take more time, I suggest the Senator go ahead and, frankly, from the standpoint of several Senators who want to attend a function, a few more minutes might well be beneficial to them.

So if it is agreeable to Senators, we have the agreement, I think it is best that we now execute the agreement rather than spending time talking about the agreement.

Mr. BUMPERS. Should by some miracle of miracles these amendments be adopted and accepted prior to 7:15, would I be free to offer my amendment then?

Mr. MITCHELL. Yes, the Senator would be. The agreement does not specify the time. I estimated the time based upon what Senator BYRD indicated he would require.

And we are going to continue. We are hoping to get a finite list of amendments to this bill and continue thereafter in an effort to make further good progress on this bill.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2423, AS MODIFIED

Mr. SIMON. Madam President, I submit a revision of my amendment.

The PRESIDING OFFICER. The Senator does have a right to modify his amendment, and the amendment is so modified.

So the amendment (No. 2423) was modified, as follows:

Insert on p. 1030 and renumber accordingly:

"PART O—LONGER SCHOOL YEAR

"SEC. 13401. SHORT TITLE.

"This part may be cited as the 'Longer School Year Incentive Act of 1994'.

"SEC. 13402. FINDINGS.

"The Congress finds as follows:

"(1) A competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries.

"(2) Despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy.

"(3) For most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year.

"(4) In the final four years of schooling, students in schools in the United States spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so spent in Germany, the 3,280 hours so spent in France, and the 3,170 hours so spent in Japan.

"(5) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television.

"(6) More than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem.

"(7) Over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year.

"(8) Funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts.

"(9) Experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"SEC. 13403. PURPOSE.

"It is the purpose of this part to allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"SEC. 13404. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to States or local educational agencies to enable such States or agencies to support public school improvement efforts that include the expansion of time devoted to core academic subjects and the extension of the school year to not less than 210 days.

"SEC. 13405. APPLICATION.

"Any State or local educational agency desiring assistance under this part shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

Authorization: For the purpose of carrying out this part there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be recessary for each of the succeeding fiscal years.

Mr. SIMON. Madam President, that is the amendment that we discussed at some length earlier encouraging the lengthening of the school year by local school districts. There was a question about where the funding was coming from. That was the matter of controversy that has now been worked out.

I believe there is no opposition to this amendment now.

The PRESIDING OFFICER. Is there any further debate on the Simon amendment?

The Senator from West Virginia.

Mr. BYRD. May I inquire of the distinguished Senator from Illinois as to whether or not I am a cosponsor.

Mr. SIMON. Let me assure that Senator BYRD is a cosponsor, along with Senator PELL, Senator CHAFEE, and Senator KOHL.

Mr. BYRD. I thank the Senator.

Madam President, I am pleased to cosponsor the amendment offered by Senator SIMON to provide financial incentives to States or local education agencies to increase the amount of time that students spend in the classroom.

States and local school systems are experiencing some very tough financial times, and, of course, it costs money to extend the school year or the school day. However, it will cost us much more as a nation if we continue to shortchange both our students and our teachers by not encouraging them to increase the amount of time that they spend together in the classroom.

I have long been an outspoken advocate for the pursuit of excellence. I have long believed that learning is a lifelong process. Therefore, it has long been a mystery to me how we can expect our children to excel when increasingly they spend so little time on core academic subjects.

According to the report "Prisoners of Time" issued by the National Education Commission on Time and Learning, American students spend, on average 180 days in school. The traditional school day is about 5.6 hours of classroom time. Further, the report pointed out that while the school day was originally designed for the core subjects, in actual fact, today, only about 3 hours of each day is spent on core subjects. The remainder of the day is spent in other activities, such as drivers' training, homeroom, study halls, lunch, and pep rallies. In short, the Commission's report found that our educational system is hampered by the clock, and as such is not addressing the needs of the students, the teachers, the community, or the Nation.

We are in an age in which scientific, technological, and mathematical abilities are critical for maximum national economic progress and international competitiveness. This Nation must have engineers, mathematicians, and scientists to keep us on the cutting edge of emerging technologies. We must also have scholars who understand the workings of government and the lessons of history. Clearly, our schools are not doing the job that they must do if we are to run first in the global economic race. There are too many distractions in our schools. More time must be given to serious students who want to learn and to serious teachers determined to teach. The Japanese school year is 243 days long, and we can readily see the evidence of the benefits of that longer school year in the academic performance of Japanese students.

The German school year is 240 days long. Shouldn't we be getting a message here? Our kids go to school only 180 days and only about half of those days are spent in serious study.

That is roughly 60 days a year spent on core studies. No wonder our students are falling behind. We have been talking about the need to do something to improve the quality of education in our schools for some time, but talking has gotten us nowhere.

How can we expect teachers to teach and children to learn when the average amount of time in a school day allotted to serious study is just 3 short hours?

The minds of our young people are being wasted. American kids seem to be majoring in television, soap operas, hard rock, videos, and horror movies, rather than algebra, science, or history.

We must get back to basics. The basics of reading, writing, and arithmetic need to be skills that are mastered early. Without the basics, students cannot even begin to master the more difficult skills that will be required in order for them to be productive members of society and to have any hope of a successful life.

Educators and parents alike are finally starting to understand the urgent need to improve the quality of our education system. Quality cannot be achieved when only 3 hours per day are devoted to learning the basics. This amendment will provide assistance to States and local school systems which want to try to improve the quality of their education efforts by extending the school day or the school year. This is a good amendment, and I urge its adoption. Let us spend more time on learning in our public schools before the time runs out for our children and for the Nation.

The PRESIDING OFFICER. Is there further debate?

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, just for 1 minute. This idea makes a great deal of sense, and we want to work very closely with the Senator from Illinois and also the Senator from Rhode Island, [Mr. PELL] who has talked about this for many, many years.

Senator FEINGOLD, I think, had some questions about the earlier kind of amendment, and I expressed that to the Senator from Illinois.

I would hope that we will move ahead and accept this amendment. If for some reason those concerns have not been allayed, and I believe they have, but if they have not, then I will come back to the Senator from Illinois and ask for at least an opportunity for him to be heard and his concerns be addressed later during the night.

I thank the Senator.

Mr. JEFFORDS. Madam President, I would like to also say that I have no objection to the Senator's amendment, on one condition that he will make me a cosponsor.

Mr. SIMON. Madam President, I ask unanimous consent that the Senator from Vermont [Mr. JEFFORDS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] also be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont and the junior Senator from Illinois are added as cosponsors.

Is there any further debate on this amendment?

Observing none, the question is on agreeing to the amendment.

The amendment (No. 2423), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. REID). Under the unanimous-consent agreement, the Chair now recognizes the Senator from West Virginia.

PIECES OF HUMAN CLAY

Mr. BYRD. I thank the Chair. Mr. President, I do not pretend to be a pedagogical expert, skilled educator, or a psychologist. However, I am a lifelong student, a man who loves the challenge of acquiring new knowledge, and I am a parent and grandparent, dedicated to bequeathing to the rising generation of Americans as much of our cultural, scientific, creative, and artistic heritage as one generation can pass on to another.

Further, I am frankly alarmed that, in this age of television, affluence, and mass culture, many of our youth appear to be less competent in absorbing their heritage than their counterparts in prior generations were, and that, worse, American public school children are chronically ranking far below their contemporaries in many European and Asian societies in their mastery of academic subject after subject.

Unless we call a halt to mediocrity in our school systems, unless we draw a decisive line in the educational sand now, and unless we demand concrete results and discernable improvement in the performance and achievement of our public educational systems, Mr. President, I fear for the future of our country, for the quality of life of the next generation of Americans, and, indeed, for the economic and political position of the United States in the fast approaching 21st century.

Throughout the history of America, millions of our forefathers and mothers rested secure in a faith that America was providentially destined. They believed, as the Romans did, that their country was providentially destined for success as a nation and as a society—that, like unto the Israelites of the Old Testament, our immigrant ancestors had left foreign shores to plant new seeds and harvest abundant crops in this Promised Land. Indeed, taking their cues from that Old Testament, many of our ancestors believed that America, like the Chosen People of the Old Testament, enjoyed a sacred Covenant with Providence that guaranteed America's ongoing triumph, no matter the odds against them.

Unfortunately, Mr. President, like the "cows of Bashan" mentioned in the Old Testament that took their ease in luxury and rested on their assumed privileged status, too many recent Americans appear to have forgotten that not only did our ancestors have faith in their destinies, but they also worked to guarantee the quality of those destinies for themselves and for their posterity.

And in too many of our schools, students whose progenitors sacrificed, struggled, and suffered to win the privilege of obtaining the opportunity of getting a formal education—too many of these students today resent having to learn to read, having to learn mathematics, having to study science, having to learn to write, having to study history, and even having to go to school.

Conversely, in country after country overseas, the future rivals of today's American school children hold their opportunities to be educated as a priceless heritage—indeed, the keys to their futures.

Frankly, Mr. President, I am frustrated and angry that we have poured so many billions upon billions of dollars over the past half century into our schools systems, only to reap apparently lower and lower returns on those investments.

I can remember the days, when I was in the House of Representatives, when there was great opposition to Federal aid to schools. It was a great issue in the country, a great issue in the Congress. But finally we decided we would march down that road. As I say, we have poured billions into education, and we are not seeing the results that were hoped for.

I do not pretend to know exactly all that is wrong with American public education.

> If to do were as easy as to know what were good to do, chapels had been churches, and poor men's cottages princes' palaces. It is a good divine that follows his own instructions: I can easier teach twenty what were good to be done, than be one of the 20 to follow mine own teaching.

But I want to share some of my perceptions and to explain my reasons for hoping that in the educational proposals contained within the legislation that we are considering now, perhaps something at last might be achieved to guarantee that the rising generation of American school children might reap some of the educational dividends and results that will be necessary for the survival in the international competition that, I guarantee, they will be facing in the years 2010, 2025, 2040, and beyond.

I think this legislation has been greatly improved by some of the amendments that have been offered and carried here, among which are the amendments by Mr. SIMON, Mr. JEFFORDS, Mr. GORTON, and others.

But I guarantee that in the decades to come, our children will be facing international competition that will curl their hair if they are unprepared to meet that competition.

> There are many events in the womb of time that will be delivered.

And so, our young people need to be prepared.

Some generations ago, schools—and I can remember starting school in a two-room schoolhouse. Some generations ago, before my time, schools were for the privileged—largely the sons and daughters of the nobility, the wealthy merchant classes, and the professionals, both here and in Western Europe.

Indeed, until relatively recently, reading, writing, science, and the arts were the domain of cultural, economic, and political elites.

But the Calvinist fathers of New England, and prescient elders in other communities across a growing America, wrestled with the complacent and the selfish—the penurious and the shortsighted—to open up educational opportunities for more and more American children, regardless of the material circumstances of their families or the ethnic distinctiveness of their backgrounds.

That was the impetus for public education in America—the desire to put all children on an equal footing as each boy and girl began his or her pilgrimage into maturity—for the good of the entire community and for the success of the whole country.

Thus, children whose grandparents might have tended pigs—whose grandparents might have tended pigs for counts and landgrafs in Bavaria, or harvested grain for wealthy land owning gentry in the north of England—neither with any hope of advancement in society—those children, your parents, your forefathers and mine, learned, and trained, and disciplined themselves to become doctors and lawyers, scientists, and bankers, and even Senators and Presidents in this new country.

Such achievements did not come without pains. But the men and women who exercised their privilege of going to school at public and community expense raised the United States of America to the pinnacle of world power, economic dominance, and material wealth.

But somewhere along the line—there is an old song, I used to play it on the stringed instrument, "Somewhere Along the Line"—somewhere along the line, learning for the sake of learning seems to have lost its appeal to certain pedagogues.

Solon, who was one of those seven wise men of Greece, Solon the Lawgiver said, "I grow old in the pursuit of learning."

Was it the siren writings of Jean Jacques Rousseau, who championed the theory of human perfectability through schooling and coddling? Was it John Dewey and John Dewey's apparently overenthusiastic disciples who sought to create a new religion and to educate out of children any supposed propensities to such archaic notions as "sin" and "depravity" by substituting psychological tinkering for mastery of subjects and disciplined learning?

Whatever its etiology, in the lifetimes of many here, schools that once taught rigor and excellence have been reduced to teaching children to "feel good about themselves." In order not to assault tender young psyches, challenging textbooks featuring classic literature and increasingly sophisticated scholarship have been cast aside in behalf of sophomoric textbooks filled with pictures—not narrative, but pictures; we all like to look at pictures—"dumping down," the process is called—that depend too often on vulgar dialogue, "street talk," slang, and even pornographic plots, all in the name of "realism," "holding the students' interest," or "preparing the kids for the real world." It is silly.

Mr. President, civilization is a fragile treasure. the crumbling pyramids and collapsed temples of Ancient Egypt, the vine-smothered palaces and courts of the Yucatan, and the toppled pillars of Imperial Rome demonstrate how easily and how carelessly one or two generations of a culture can forever—forever lose and forfeit even the most elevated society.

My hope is the educational reforms that we are considering in the legislation before us today is that just perhaps—just perhaps—we are not too tardy in setting America's educational system right before we, too, follow Ancient Egypt, the Mayans, and the Ancient Romans down the path of national decline and cultural suicide.

My hope in the educational reforms in the legislation that we are considering is that, once again—once again, we might offer American school children textbooks that bristle—bristle—bristle with challenge, that provide insights and facts and truths that will wake up young minds to the magnitude of learning, that will chart the way to higher and higher study and deeper and deeper engagement with the mysteries of scholarship and research.

Further, I want an end to the violence that is increasingly besetting schools across this country.

No child who carries knives, pistols, and other weapons to school for the purpose of intimidating or bullying his fellow students, or for wreaking revenge on another student for some imagined slight or insult, or for punishing a girl friend for turning him down for a date—no student who brings weapons to school—deserves an education at taxpayer expense.

Like churches, synagogues, and other places of worship, schools should be sacred precincts—"temples for the mind"—in which Truth is supreme and those who seek truth are free to learn, search, and expand their minds, without fear and without anxiety for their very lives.

Hoodlums have turned some of America's schools into terror camps, with teachers living in fear for their lives and innocent children—innocent children becoming casualties in scholastic "free fire" zones.

Mr. President, I feel for the poor teachers who have to stand in today's classrooms and quake in fear that some hoodlums in the room are going to maim or assault and batter, or even kill, perhaps. How can one teach in such an atmosphere? How can students learn in such an atmosphere? Most of our students in the schools are wholesome, fine students. Most of them are there to learn.

We hear too little about the students who are in the laboratories and in the libraries. Most of them are striving for excellence. But in such an atmosphere, they must be on nerve's edge, they must be cowered from fear of the bullies who might beat and batter them.

Mr. President, in the legislation before us, we, in the name of the American people, are laying down the ultimatum: Either students leave their weapons at home and come to school to learn or they do not come to school at all.

In this legislation, in large measure, we are struggling for America's future. We are struggling in the hope that America will, indeed, have a future. The most basic lesson that history teaches is that unless each generation is initiated into the truths that every past generation has learned, a civilization cannot expect to survive.

Our schools are the kilns of our future. The hour is late, the rot is far advanced, ignorance is winning new battles for the minds and souls of children across our country. The Rubicon is before us.

For the sake of our children, for the sake of our culture, for the sake of the continued promise of America, let us give American education the therapy that it requires before a new Dark Age descends further on our schools, and generations of men yet unborn some day wander among our cities, great monuments and university ruins, musing at the people who once lived in these skyscrapers and asking why America fell.

Mr. President,

I took a piece of plastic clay
And idly fashioned it one day
And as my fingers pressed it still
It moved and yielded to my will.
I came again when days were past,
The bit of clay was hard at last.
The form I gave it, it still bore,
And I could change that form no more.

I took a piece of living clay
And gently formed it day by day.
And molded with my power and art
A young child's soft and yielding heart.
I came again when years were gone,
He was a man I looked upon.
He still that early impress wore,
And I could change him nevermore.

That is what we are talking about: pieces of human clay.

Mr. President, I have only a few minutes remaining. I have two amendments which I shall offer—they are to be accepted—if I can briefly explain them.

One of the amendments would require that "the Secretary shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B)."

The amendment would require that "Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including the estimated costs for implementing any recommendation."

Mr. President, we really do not have the data on which to base legislation and chart our course. As we look to the future, as we look to future legislative actions, we need data on what is occurring in our schools. We need the kind of information that the Secretary would acquire to conduct an evaluation of the national impact of programs that are assisted under title V of this bill. The amendment would expand the evaluation to include all other recent and new initiatives to combat violence in schools. We cannot afford to continue programs that are not working. At the same time, if programs are having a significant effect on reducing school-related violence, we need to know that, too, so that we can build upon their success.

And to continue to effectively assess the problem of violence in schools and determine the scope of the problem, this amendment would require, as I say, the Secretary to collect data to determine the frequency, the seriousness and the incidence of violence in the elementary and secondary schools.

The last major study of violence in schools was the former National Institute of Education's Violent Schools/Safe Schools Study commissioned by Congress and issued in 1978.

The other amendment provides that "No funds shall be made available under this act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency."

And "For the purpose of the section, the terms 'firearm' and 'school' have the same meaning given to such terms in section 921(a) of title 18, United States Code."

This is a serious problem that the amendment is attempting to address, the problem of guns and other weapons appearing in the classrooms and hallways of our Nation's schools. The amendment would require every local educational agency to establish policy requiring school officials to refer to the criminal justice or juvenile delinquency system any student who brings a firearm to school. Possession of a weapon on school property is a crime, and when a crime occurs, the police ought to be notified.

Unfortunately, Joseph Maddox, Chief of Police for the Penn Township Police Department noted in the winter 1994 edition of School Safety Magazine:

> Often when crimes occur at school, the decision is made to address the problem by means of school discipline, as opposed to dealing with the criminal justice system.

School discipline is fine, but it is simply not enough. Every thinking American should be outraged by the guns in our schools. And even if the police choose not to make a report or decline to submit the case for prosecution because of the nature of the offense, the police should, nevertheless, be notified.

Individuals who bring dangerous weapons to schools are committing a crime and they ought to be dealt with by our juvenile or criminal justice system. To do anything less is to send a message of tolerance for breaking the law and of a less-than-serious attitude about the safety of other students. This type of odious behavior cannot be tolerated, and we, in this Chamber, have an obligation to do something to ensure that it is not tolerated. We must get the guns out of our schools, and while we are about it, we must also get the individuals that bring the guns out as well. My amendments would help to accomplish both goals.

So let us think about preserving the good apples in the barrel, not just about preventing further spoilage of the bad ones.

Mr. President, one of the most important things we can provide to our young people—those who will soon take up the reins of leadership in our country—is the ability to obtain an education. We owe our young people that. We owe them the chance to learn in a school free from guns and free from violence. We owe our teachers relief from the fear of being shot while they are simply trying to teach a class.

We have come to a sad state of affairs when metal detectors have to be installed at the schoolhouse door. Let us end this climate of violence in our schools by ending the tolerance for lawbreaking students. Let the police deal with these youthful criminals so that our teachers and the good students in our schools do not have to.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that at 9 a.m. on Friday, July 29, the Senate proceed to executive session to consider the nomination of Stephen Breyer to be an Associate Justice of the Supreme Court; that there be 6 hours for debate to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees; that following the using or yielding back of time, the Senate vote, without any intervening action, on the nomination; that if confirmed, the motion to reconsider be tabled, and the President be immediately notified of the Senate's action; and the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Reserving the right to object, I just say it has been cleared on our side of the aisle and we have no objection to the request.

I withdraw the reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, although not included in the agreement, I wish to state my intention that when the Senate votes on the Breyer nomination tomorrow, it will be the last vote of the day.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would just like to indicate that I hope the Senate will accept the Byrd amendments. The first amendment requires, as the Senator has pointed out, the collection of data on school violence in elementary and secondary schools and submitting a report to Congress by January 1998.

The second one requires the LEA's to refer to criminal justice or juvenile authority any student who brings a gun to school.

Let me just mention, I hope both amendments will be accepted.

I will take 1 minute of time.

We have in my own State in Lawrence, MA, an enormously interesting program that has been stimulated by the district attorney where they work with the school officials, the youth service, the educators and the social service agencies and have prioritized and ranked the juveniles who are the most threatening and have been the repeaters in terms of violence.

They have accelerated the attention for those who have been the most violent and also have worked with those to free some of them from various gangs and gang activities.

It has had a profound effect and impact on stability in the school and also in terms of incidence of violence within the community.

So this kind of amendment will, one, give information, so if others want to develop not just community policing, this is really a community sort of prosecution, and it has been well accepted and appreciated by all the different community leaders there.

I think the kind of amendment that the Senator has offered can help and assist in getting that kind of information and that kind of awareness for other communities across the country.

So, Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The amendments have not yet been sent to the desk.

Mr. JEFFORDS. Mr. President, I also would like to join in commending the senior Senator from West Virginia for not only the excellent amendment but the excellent discussion on the problem of education. I agree with him wholeheartedly that before we act we must have the information and data necessary to do that. This will help us in that quest.

AMENDMENT NO. 2426

(Purpose: To direct the Secretary to collect data on violence in elementary and secondary schools)

AMENDMENT NO. 2427

(Purpose: To provide that no funds shall be made available under the Elementary and Secondary Education Act of 1965 to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency)

Mr. BYRD. Mr. President, I thank both managers. Inasmuch as they have expressed a willingness to accept the amendments, I send the amendments to the desk. I ask unanimous consent that they be considered en bloc, agreed to en bloc, and that the motions to reconsider be laid on the table en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

The clerk will report the amendments.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD] proposes amendments numbered 2426 and 2427.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2426

On page 874, line 9, strike "The State" and insert "(1) BIENNIAL EVALUATION.—The Secretary", and indent appropriately.

On page 874, line 14, insert after "subpart" the following: "and of other recent and new initiatives to combat violence in schools".

On page 874, between lines 16 and 17, insert the following:

"(A) Collection.—The Secretary shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate data submitted by the States pursuant to subsection (b)(2)(B).

"(B) REPORT.—Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

AMENDMENT NO. 2427

On page 1165, between lines 21 and 22, insert the following:

"SEC. 10607. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

The PRESIDING OFFICER. Without objection, the amendments are agreed to pursuant to the unanimous consent request.

So the amendments (No. 2426 and 2427) were agreed to.

AMENDMENT NO. 2428

(Purpose: To amend the title I formula)

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Arkansas is now recognized. Under the unanimous-consent agreement, each side will have approximately 51 minutes.

Mr. BUMPERS. Mr. President, I ask unanimous-consent that the unanimous consent agreement as to the time on this amendment be vitiated and that the time of the vote be set at 9:30.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. With the understanding the time be evenly divided.

Mr. BUMPERS. Evenly divided.

Mr. KENNEDY. Reserving the right—

Mr. BUMPERS. The unanimous consent agreement was 9:15.

Mr. KENNEDY. If the Senator would start. As I understand it, we are checking this with the majority leader. I will not object to it, but why not start in.

I am informed that it is agreeable.

The PRESIDING OFFICER. Hearing no objection, that is the order. The vote on this matter will occur at 9:30. The time remaining will be divided in the usual form between the Senator from Arkansas and the managers of the bill.

Mr. BUMPERS. Mr. President, on behalf of Senator COCHRAN and myself, I send an amendment to the desk and also announce as cosponsors Senators KEMPTHORNE, PRYOR, WALLOP, SHELBY, CRAIG, GRAMM, LOTT, BINGAMAN, THURMOND, BURNS, and HUTCHISON.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. COCHRAN, Mr. KEMPTHORNE, Mr. PRYOR, Mr. WALLOP, Mr. SHELBY, Mr. CRAIG, Mr. GRAMM, Mr. LOTT, Mr. BINGAMAN, Mr. BURNS, Mr. THURMOND, and Mrs. HUTCHISON, proposes an amendment numbered 2428.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 553, line 10, strike "(i)".

On page 553, line 15, beginning with "effort factor" strike all through the period on page 553, line 17, and insert "relative income per child factor described in subparagraph (B).".

On page 554, beginning with line 4, strike all through page 556, line 15.

On page 556, line 23, strike "product of the effort" and insert "income per school-age child".

On page 556, beginning with line 24, strike "under" and all that follows through "year" on page 557, line 2.

On page 557, between lines 9 and 10, insert the following:

"(C)(i) Except as provided in subparagraph (D), the relative income per child factor shall be determined in accordance with the following formula:

$$R=1.0-0.4\left(\frac{c}{n}\right)$$

"(ii) For the purpose of the formula described in clause (i), the term 'c' shall be a fraction, the numerator of which is the 3-year average of total personal income as reported by the Bureau of Economic Analysis for a county, and the denominator of which is the amount determined under the second sentence of subparagraph (A) for the county multiplied by the number of children aged 5 through 17 in the county.

"(iii) For the purpose of the formula described in clause (i), the term 'n' shall be a fraction, the numerator of which is the sum of the 3-year averages of total personal income as reported by the Bureau of Economic Analysis for all counties in all States, and the denominator of which is the sum of the products of the amount determined under the second sentence of subparagraph (A) for each county in each State multiplied by the number of children aged 5 through 17 in such county.

"(iv) For the purpose of the formula described in clause (i), the term 'R' shall be not more than 0.8 and not less than 0.2.

"(D) The relative income per child factor for the Commonwealth of Puerto Rico shall be 0.6.

"(E) The Secretary shall use the most recent data available to the Secretary to calculate relative income per child factors under this paragraph.

Mr. BUMPERS. Mr. President, yesterday, Senator COCHRAN and I sent out a "Dear Colleague" letter, which quoted the committee report on this bill. The committee said:

S. 1513 admits "the most urgent need for education improvement is in schools with high concentrations of children from low-income families."

And yet the committee formula on a program initiated during the Lyndon Johnson administration about 30 years ago to bring children who live below the poverty line up to mainstream standards in our public schools achieves almost the opposite result. It is one of the most perverse formulas I have ever seen. I have been a devoted fan of title I since I served on the school board in Charleston, AR. And, while I was Governor of Arkansas, I depended heavily on money we received from the Federal Government under title I, that was allocated to the States to help educate poor children.

And now, Mr. President, the committee proposes a formula to distribute over $7 billion to the States of this Nation. Let me give you an illustration of what it does. Remember, poverty is in the poor States. I invite my colleagues to look at the map behind my distinguished colleague from Mississippi, Mr. COCHRAN. Everything black on that map is where the deepest poverty in the Nation is. That is where the most poor children live.

I have a parochial interest because my State is one of the poorest States in the Nation. But, Mr. President, the chart lists the 10 poorest States in America.

Look at it. Alabama, 23 percent poverty, and under the committee bill they receive $710 per poor child. Senator COCHRAN and I would give them $63 more per child. Compare poor Alabama with Delaware, which has 11 percent poverty, less than half of Alabama, and they get $1,185—40 percent more than Alabama—per child.

Here is my beloved Arkansas, and 24 percent of the children in my State live below the poverty line. They receive, under the committee bill, $704 per child. But Maine, for example, with 13 percent poverty, gets $972 per child—$268 per child more than our poor State with 24 percent of our children living in poverty.

Arizona, Kentucky, Louisiana, Mississippi, New Mexico, South Carolina, Texas, and the only State among the 10 poorest States of America that even makes it out of the $700 category in the committee proposal is West Virginia. Compare that with the home State of the chairman of the committee, our good friend, the manager of this bill, Massachusetts, which has 13 percent poverty, and they get $1,023 per poor child.

I live in one of the wealthiest counties in the State of Maryland, and Maryland has 11 percent poor children, and they get $1,033 per child, well over $300 per child more than my State receives, more than Mississippi and Alabama and Georgia and all those States, where these deep pockets of poor children reside.

Wisconsin, 14 percent poor children. They get $1,023. I could go on with all these States that are affluent.

Mr. President, this amendment is not something I just conjured up in the middle of the night. This amendment tracks precisely what the General Accounting Office said was wrong with this bill.

Let me repeat that. This is not just a brainstorm that Senator COCHRAN and I had. This is what the General Accounting Office said, in analyzing the committee bill, was wrong with the bill.

We put a lot of stock around here in what the General Accounting Office says. Senator COCHRAN and Senator BINGAMAN wrote to the General Accounting Office and asked for their analysis. This is not one of those full-blown investigative reports. This is just an analysis.

Do you want me to tell you how this happened? These formulas are immensely complicated, and I am not going to try to boggle anybody's mind with them. But I will tell you what happened in the committee formula. The committee formula penalizes the poorest States in America who will never, under this formula, significantly improve their plight. But I will tell you how it happened; how the most affluent States in America make out like bandits, and the poorest States in America, where all the poor children are, get what is left.

The committee came up with two new factors. One is called the "effort factor," and one is called the "equity factor."

The effort factor takes the average per-pupil expenditure in your State, divide it by the average per pupil expenditure of the Nation as a whole, and if you come out above 100 percent you get a bonus. They set a floor of 95 percent, and a ceiling of 105 percent.

What does that mean? That means, if Arkansas only spends 75 percent of the national per-pupil expenditure, we have to get to 95 percent before we get consideration in the formula for effort.

This may not happen in my lifetime. Not only is this formula discriminatory in the extreme, but it remains that way as long as it stands because the poor States simply can never reach the floor, no matter how hard we try and how much effort we expend. We cannot reach it.

But, if you are one of the more affluent States, and you are spending 140 percent of the national average on your children, you can let up, relax, and cut spending. As long as you do not go below 105 percent of the national average, you are in the clover. No matter how hard we work, there is no gain. No matter how lax the more affluent States become, as long as they do not get below the 105 percent national per-pupil expenditure, they lose nothing.

The second factor is "equity." Equity deals with the disparity of expenditures within a State. Disparity means that the more affluent counties in a State are spending more on education than the poorer counties in a State. But that has very little to do with a State formula. That is because most schools are funded primarily on a property tax, and some counties have a higher property tax than others.

So we do have a disparity between the Mississippi Delta where the most pervasive poverty in America exists in Louisiana, Mississippi, and Arkansas, parts of Tennessee, Illinois, Kentucky, Missouri, and the northwest part of the State, which is one of our most affluent areas.

So they say to the States in order to encourage them to equalize expenditures on children, we ought to take some money away from you if the disparity between northwest Arkansas and southeast Arkansas is too great no matter how poor southwest Arkansas is.

And they put another floor and ceiling on this equity factor. The floor is 95 percent, and the ceiling is 105 percent.

Do you know what that means, Mr. President? That means that as long as the disparity in our districts is under 95 percent, they can never get consideration for equity payments. And I will not live long enough for that to happen. It is a double whammy to the poorer States. They do not have the means to achieve equity or effort consideration so they cannot increase their share under the formula.

On the other hand, in the more affluent States, if they do not have a disparity problem, they can relax.

Let me tell you again. If this were just DALE BUMPERS talking about this formula, I would expect you to say, "Well, he is upset because Arkansas does not fare well." You would be right. I am upset because it is a pervasive, discriminatory formula.

But here is what the General Accounting Office said about the equity and disparity factors:

> This represents a new policy direction for the program to one of providing an incentive for States to equalize per-pupil educational spending. While a laudable goal, this measure may not be the best way to go about accomplishing this objective, and may be contrary to the purposes of the chapter 1 program.

The General Accounting Office goes on to say:

> The equity bonus factor provides greater per-pupil funding in States with the smallest sub-State spending disparities, and these States tend to have fewer educationally-disadvantaged students.

Translated, what that means is it is the most affluent States that are likely to have the least disparity because they have fewer poor students. The reason we have great disparity is because we have counties with unbelievable poverty, and then we have some prosperous counties. So we do indeed have big disparities. But this equity bonus factor locks in a formula which says to the people of my State that you will never get an extra dime under this formula.

The General Accounting Office goes on to say—and I want everybody to pay special attention to what the General Accounting Office said:

> If the Federal Government is going to have a policy of encouraging States to equalize local school spending disparities within their boundaries, then it should also have a policy of reducing cross-State spending disparities. It makes little policy sense to tell the States to do something if the Federal Government is not willing to do it itself. Reducing cross-State disparities requires that differences in States' or counties' financing capabilities should also be included in the formula. Yet, this was not done.

Mr. President, what does the General Accounting Office say about the effort bonus factor, the per pupil expenditures of the States as a percentage of national per-pupil expenditure?

> By including per-pupil expenditures in the formula twice, effort is incorrectly measured, and its effect is improperly magnified. No State school aid program that rewards effort, does so in this fashion.

They go on to say:

> If a measure of per-pupil expenditures is to be used as an effort of rewarding formula, the formula should also contain a Federal percentage factor to properly take into account the capacity of LEA's to fund local education spending.

In summary, the General Accounting Office says the formula under which this terribly perverse result occurred is fatally flawed because it is the more affluent districts who get all the money under this formula. It is those States that are the most affluent, where there are the least number of poor children and, therefore, the least number of disparities between school districts and spending on our poor children. And they will continue to get more of title 1 money, and my State will continue to get less because we cannot make any greater effort than we are making.

I daresay, based on our per capita income, we are making a lot bigger effort than a lot of the more affluent States who have a much higher per capita income than we have.

So, Mr. President, the reason I am shouting is because I feel so passionately about what this does to my State and other poverty-stricken States. President Clinton and I spent virtually 4 years doing nothing but trying to help an area known as the Mississippi Delta, the 10 poorest congressional districts in the State. We have done everything in the world and, incidentally, we are making some progress. Those people are beginning to see a little light at the end of the tunnel.

I can tell you that this formula provides little help. It says no matter what we do, it is not going to make much difference. There is no way we can ever climb out of the hole that this inequity puts us under.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, I have listened with great interest to the Senator from Arkansas describe his understanding of this formula and what its implications are with regard to Arkansas. His State was provided under this fiscal year 1994 allocation some 69.9 million. Under the current law in fiscal year 1995, 76.7 million. Under our Committee formula, it would be 76.5 million. I listened to him talk about the impact of this program, about the poor and poor children.

I think, obviously, all of us would like to do a great deal more in terms of poor children, and I think it is always regrettable when we find ourselves in a situation where we are depriving some poor children to advantage other poor children. That is, I think, one of the more unfortunate aspects of any of these formula debates.

I can remember that in our own Committee on Labor and Human Resources, where we were trying to divide up a limited amount of funds and decide whether to have Meals on Wheels at congregate sites or delivered at home. You can feed three times as many people at congregate sites than at home. But, nonetheless, many people at home need that food. So you end up with needy, poor people fighting over very scarce resources. That has certainly been the case in terms of the title I programs, Head Start programs, the WIC Program, and many of the programs, including the Pell grant program, that have tried to be a lifeline for many of the neediest children and students in our country. So it is always a regrettable situation when we get into those kinds of debates and discussions.

I have to say that the administration has attempted to provide additional funding. They have in Head Start, and they have tried in the Chapter 1 Program, and in the other school reform programs. Hopefully, we will have a time in the not-too-distant future where we are moving seriously to increase help and assistance to poor children all over this country.

I have to take serious exception with the good Senator from Arkansas about which formula is going to benefit the poor children, however. As a result of the Senator's formula, in States such as Florida with 350,000 poor children, New York with 600,000 poor children, California with 970,000 poor children, the effect of the Senator's amendment is to reduce Florida by $37 million, New York by $48 million, and California by $49 million compared to what the Committee recommended.

So before we start getting so worked up about how unjust this formula is for poor children, look at what is going to happen to the poor children—if this is accepted—in these various States. There are tens of thousands, hundreds of thousands of children in those areas. As a result of the amendment of the Senator from Arkansas, we are going to see those children deprived; those children will be deprived.

As the Senator pointed out, these are balances in terms of how we are going to try and make some kind of adjustment. I daresay in the States that he talked about—Louisiana and Mississippi—we see a significant increase, under the Committee formula, over existing law. So he is not going to get any argument from this Senator about trying to do more for Mississippi and more for Louisiana. He would like to do more and so would I, but not at the expense of poor children in these other States.

So, Mr. President, what have we tried to do? We looked at the old formula which had concentration grants. To receive these grants, you had to have 6,500 poor children in your particular district, or have at least 15 percent of your children be poor. Some communities had 14, some 13, some 12 percent, and some had 6,000 poor children; they were left out. We saw inequities in those areas. In the basic grant program, we said if you have 10 poor children, you get some funding, and that went to some of the most affluent districts in this country; and we are gradually phasing those districts out of the program.

What have we replaced those with? We have provided a weighted formula, and that means giving high poverty districts a higher per pupil grant than low-poverty districts. Why? For the reasons the Senator pointed out, and the GAO points out: that the areas of greatest need are where you have the high concentrations of children in poverty. These are the areas that have the most need. These are places like Baltimore, New York, Philadelphia, Detroit, Boston, and Washington, which are among the ten poorest cities in the Nation, and many others; those places have high concentrations of poverty. The GAO said they are the areas that need the greatest help and assistance. So we used the weighted formula to take that into account.

Then we have the cost factor, which varies from State to State according to the State per pupil spending. This tells us the cost of providing an education in each State. This exists in the current formula, but we made adjustments somewhat to benefit States such as Mississippi and Louisiana.

Then we included in the formula an effort factor that gives the States a bonus for high fiscal effort; that is, if they spend a lot on education relative to their ability to spend. That is an incentive for those areas that are going to provide more for education.

Then we added an equity factor that gives States a bonus for equalized spending among school districts. This provides assistance to States that are trying to reduce the disparity in spending. Well, in my State, we are attempting to reduce the disparity, but in a different way; we say to school districts, "If you want to tax your people and spend a little more, we will not hold that against you." We lose out under that because you continue with the disparity. But some States benefit from some factors, and some benefit from others; it's a balance. We have also included a 100 percent State level hold-harmless for this fiscal year so no State will see an actual reduction in funds when the new formula takes effect.

Now, you can draw all kinds of formulas here. Mr. President, we have, I know, 8 or 10 different formulas. I have been around here long enough to know that you can offer a formula that benefits 26, 28, or 30 States and try and roll the Senate on this.

And I daresay I have an amendment that I can put out there that would benefit my State even more and benefit 30 States at the cost of other States. But I am reminded of a distinguished statesman in 1982, one of our colleagues here, who pointed out the purpose of title I is to provide supplemental education programs for poor children so they will have an opportunity to learn to the same high standards as other children. It was not created to be an income redistribution program which equalizes the difference in per capita income.

The committee formula as well as the current formula is the result of a delicate political compromise.

During the litigation of the chapter I formula in 1982, 50 Senators in Congress filed an amicus brief on behalf of the State contesting the use of 1980 census data. That brief was led by then-Senator Denton and included Senator BUMPERS and it stated the following:

> In constructing the compromise in 1978, Congress acted deliberately and carefully to build a balanced package. Congress tried to include something for each geographic region, something for urban areas, something for rural areas, something for rich States, something for poor States, something for large States, something for small States, and thus shifting even a single building block of the formula will unbalance the entire structure.

Mr. President, those are words of wisdom indeed. They apply to the formula then and they apply equally to the formula approved by the committee now contained in S. 1513.

I daresay, Mr. President, there are States where this whole process and this formula has not worked fairly, and that has been true, I think, in particular in California and also in the State of Texas.

We have tried to talk with those Senators about trying to provide additional kinds of help and assistance. We have migratory legislation that helps and assists the migrants that move through those States and one or two other programs where these States are substantial beneficiaries. There are other impacted States. The State of Georgia does not do well under this formula but in terms of the impact aid assistance that it gets, Georgia does do well and can assist many of the similar kinds of children.

We have tried to look at the total range of different Federal aid, whether in the areas of Indian education, which benefits States like New Mexico, or other programs that affect poor children and benefit other States that do not do quite as well in this formula.

So, Mr. President, in any of these various considerations, whatever we do, there are areas which we know—all of us—that there are needy and poor children that still are not having the kind of attention and assistance that any of us would like.

Under the Bumpers amendment, however, we have States that have some of the lowest State child poverty rates in the country, 10.7 percent statewide child poverty rate in one State. And under the Bumpers amendment, that State gets the same kind of per pupil allocation as the high-poverty States that he's listed out here.

How do you figure that? How do you think of that?

Mr. President, as I started off, I regret this debate because I have too much respect and affection for all those who are sponsors and leaders on the other side. They are all talking about people that I care very deeply about and that we would like to help and to assist, and those are the neediest children in our country.

I take no satisfaction in this debate and discussion, and we always find that these are difficult and complex issues. Maybe those are not the best ways. Obviously, there is a balance. There are many considerations.

You can vary and change each of those ingredients in just a very small or minor way, just by a few percentage points, and you will see the swings of millions of dollars away from poor children in one place to another.

So as I mentioned, I regret that we are in the situation where we are struggling for the allocations of resources.

I know my friends and colleagues from Arkansas and from Mississippi and from other States that are out here, the people that are making this case, are the ones that care the deepest about those children, and those that are debating on the other side I think are among those that have the deepest commitment.

So I appreciate and I respect and admire the arguments which are made, but I do think that there is sufficient justification for the existing formula that it should be retained.

Mr. President, how much time remains on each side?

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Massachusetts has 45 and ½ minutes; the Senator from Arkansas has 39 and ½ minutes.

Mr. BUMPERS. Mr. President, does the Senator from Rhode Island wish to speak?

Mr. PELL. I request 3 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am afraid that some of us must oppose the amendment offered by Senator COCHRAN and Senator BUMPERS. It has the effect of producing dramatic swings in funding largely to accommodate regional demographics. Such a shift could threaten the widespread support for title I funding that exists today regardless of the region of the country from which one of us comes. Actually, it could result in States ending up with a larger piece of the pie and others with a smaller piece. But it should be borne in mind that no State loses under a hold harmless provision.

By contrast the committee formula is well balanced and fair. Those who benefit come from the North, South, East and West. The committee worked pretty hard with the formula to acknowledge that State spending on education should be linked to both the cost of education and to the State's fiscal capacity. The adjustments already in the committee-reported formula add several Southern States, some of which are not wealthy but do make a major investment in education and deserve to be rewarded.

The pending amendment also includes a second fiscal capacity effort in which need is measured without sufficient consideration of the differences in the cost of living in different areas of our Nation. Several large States with very large concentrations of poverty experience significant losses of funding, something I believe we should avoid.

Also, the amendment—and here I am talking about the amendment—strikes the incentives in the committee formula that help States that spend heavily on education relative to their overall fiscal capacity, and it helps those States that have brought a substantial level of equity to their State education finance programs. I fear that removing both the effort and equity incentives would send a wrong message to the States. It would create a situation where States that do not devote a large portion of their resources to the education of children would, in the end, receive the most title I funds. This obviously is not fair and I know we all would wish to avoid it.

I urge, therefore, that our colleagues join me in opposing the amendment.

The PRESIDING OFFICER. Who controls time?

Mr. BUMPERS. Mr. President, I yield to the Senator from Mississippi 20 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me start off my remarks by inviting attention to this chart that is displayed behind my desk here.

It shows in yellow those States which will do better under the Bumpers-Cochran amendment than they do under the committee bill. They will get more money under the chapter I program.

The States in white will get less under the Bumpers-Cochran amendment than they will under the committee bill, but this does not mean that they do not get a lot of money. Some of those States already get very high percentages of funds in relation to the number of poor students in those States.

There are 30 States in yellow which do better under the Bumpers-Cochran amendment. There are 20 States in white.

The other thing that is shown on this map is the location of the students throughout the country who suffer from the highest poverty rates. Those are the poorest students in America, and you can see by looking at this map where they are located.

The purpose of bringing that to the attention of the Senate is to confirm what the distinguished Senator from Arkansas said when he talked about where the money goes under the amendment we are proposing as compared to where the money goes under the committee proposal.

Mr. President, children who live in poverty are the most vulnerable children. They are the ones who are the most likely to do poorly in school. They are the ones who are most likely to drop out. They are the most likely to end up with low-wage jobs or with no job at all. They are the most likely to go to prison. They are the most likely to end up on welfare.

In testimony before the Labor Committee, Secretary Riley pointed out that 82 percent of those in prison in America today are school dropouts.

Poor students in high-poverty schools perform worse than poor students in low-poverty schools.

As a matter of fact, the performance of all students in a school, regardless of their economic circumstance, suffers because of a high concentration of poverty. This achievement gap between the students in the high- and low-poverty schools widens as the children move through elementary grades into junior high school.

In 1965, the Congress passed legislation to allocate Federal funds to help provide remedial education instruction to the poorest school districts in America.

Congress recognized the impact that concentrations of low-income families have on student achievement and the ability of school districts to support adequate educational programs.

The chapter 1 program has evolved from that beginning, and it has made a tremendous difference in the lives of millions of children over the past three decades.

In another statement to the committee, Secretary Riley, said earlier this year:

> When you have a flood that threatens a levee, you give most of your attention over to sandbagging the weakest part of the levee. You don't spread your sandbags around. You concentrate. Well, that has to be true with education as well, and we have a flood of problems in our high poverty schools.

But under the committee bill, chapter 1 is insufficiently targeted to high-poverty communities and schools. The scarce resources are spread very thin, and will dilute our efforts to make a real difference.

The ineffectual targeting of these funds will leave the poorest districts with insufficient funds to serve all of their high-poverty schools and low-achieving children.

While I commend very sincerely the committee and its membership for the hard work they put into this bill and the commitment the chairman and ranking member have shown to the children of America, I do not believe the Improving America's Schools Act as proposed, fulfills the original promise of title 1. It does not adequately concentrate the funds where they are needed most, in the poorest schools. Our resources must be focused in those areas that have a particularly high number of educationally disadvantaged and low-income students.

Included in the statement of purpose of the committee bill is the following declaration;

> The most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools.

In order to fulfill the purpose, the bill calls for distributing resources, in amounts sufficient to make a difference, to areas where needs are greatest.

But does the bill accomplish its stated purpose? Do these funds get to the children who need them most?

The answer, I am afraid, is "no."

The bill provides a generous funding effort bonus, which was described very well by the distinguished Senator from Arkansas. It goes to those States that spend the most on their students from State resources. This so-called effort factor is also used in the cost factor elsewhere in the bill and has the effect of rewarding wealthy States because they have the resources to spend more on their students.

Now, in my State of Mississippi, as in other States where the tax base is relatively low compared to the more wealthy States, you may be surprised to find that we spend a much higher percentage of tax revenues on education than most other States do. I think Mississippi is in the top 10.

And do they get anything for that effort, that effort to allocate the highest percentage of their tax revenues to education? No, under this bill they do not get anything for that. That is not counted as effort.

You only get rewarded for effort if you are rich to start with. That is what this committee formula does. Not only does that penalize the poorest States, it does not take into account the number of school-aged children a State is responsible for educating. That is contrary to the very purpose of the act.

The bill also creates a new equity bonus. This factor uses a coefficient of variation among school districts—which is the average difference in district spending per pupil from mean or overall average district per pupil expenditure in an individual State. If this sounds confusing—it is.

Try to figure out how to measure that and what it measures. I will be surprised if any 2 of the 100 Senators would come out with the same answer.

Mr. President, this equity bonus is bad policy. The bonus purports to promote State-wide equalization of funding by the States with floor and ceiling limits that keep it from having any real leverage.

The only real effect the equity bonus has is to increase the funding that will be allocated to the State of Iowa.

Now I know that is not the intent. I did not say that was the intent. I said it was the only real effect.

The Bumpers-Cochran amendment has been developed from an analysis done by the Government Accounting Office. It is consistent with the purpose of the chapter 1 program, and it conforms to the policy of helping those who need the help most.

This amendment redirects chapter 1 funds to those States with the greatest percentage of school-aged children living in poverty. That is what it does. It ensures that each State continues to receive sufficient resources to continue and operate its programs. It does not penalize these States in white. They still get a lot of money out of this program.

The amendment does not affect the within State targeting formula, either, which will provide better targeting to the poorest schools within a State.

I want you to look at this bar graph and what it shows. It shifts very little, really, from the States that derive funds under this bill that are so-called wealthier States to those that are poorer.

Here is a general depiction of what current law gives those States. That is what the committee bill would do. It leaves them relatively unchanged as far as their positions with each other is concerned.

But what the Bumpers-Cochran amendment does is lift poorer States more nearly to the level of the amount that larger States and wealthier States are getting per student in poverty. And that is the difference between Bumpers-Cochran and the committee formula.

Let me just give you one example of the changes that are made by the Bumpers-Cochran amendment.

A poor student in the State of Mississippi would receive $817 in chapter 1 funds in remedial instruction assistance. Under current law, that same student would receive $711. In contrast, a poor student in Connecticut would receive $927 instead of the $998 he or she would receive under current law. The committee bill, however would increase the Connecticut student's share to over $1,000.

So the Bumpers-Cochran formula replaces the committee "effort" and "equity" factors with a more accurate measurement of children in poverty to be served. The Bumpers-Cochran amendment uses a "relative income per school-aged child factor" which is calculated simply by dividing adjusted county income by the number of school-aged children. And we can all figure that out. It is not mysterious or convoluted as the committee bill's equity formula is.

Ours is the only formula under consideration that fulfills the promise of the chapter 1 program by targeting our resources to high-poverty areas. The chapter 1 program is not a general-aid-to-schools program. It was and is intended to meet the needs of children in poverty and to improve their educational opportunities and give them the chance—to give them the chance—that children in wealthier schools have.

Under our formula, 28 States do better in the first year than they do under the Pell-Kennedy formula and 3 stay the same. In the third year, when the hold harmless is reduced to 85 percent, 30 States do better than under the Committee formula. The 10 States with highest concentrations of poverty receive increases; the 10 States with the smallest percentages of poor children receive reductions.

I urge Senators to help us provide better opportunities for the most disadvantaged students in America and vote for this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield the Senator from New Mexico 8 minutes.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-seven minutes.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I appreciate the time being yielded by the Senator from Arkansas. I congratulate the Senator from Arkansas and the Senator from Mississippi for the amendment, which I support. This amendment does seek to improve the formula which the committee has proposed for the distribution of title I funds from the Federal level to the States. It improves it by making the formula more related to poverty, and it eliminates two very highly questionable elements that are included in the committee's proposed formula; that is, the elements of effort and equity, which the Senator from Arkansas and the Senator from Mississippi both discussed.

Before describing the deficiencies in the committee's formula, I want to just refer to the charts that have been referred to by my colleagues and point out how this issue affects my own State of New Mexico.

If you look at the chart that the Senator from Arkansas has put by his chair, you can see that the child poverty, the percent of children living in poverty in my State of New Mexico is among the highest of any States listed on that chart. There are two others higher, Mississippi and Louisiana. Mississippi is at 33 percent, Louisiana is at 30 percent, and then New Mexico is at 26 percent.

The map which the Senator from Mississippi has put up I think makes the point very dramatically. I have a small copy of that here. He has here a map that shows in black the distressed counties, which are defined as "twice the U.S. poverty rate, low-income, or 3 years of unemployment." That is how they determine that. When you look at where the black on that map occurs, an awful lot of it occurs in the State of New Mexico. Clearly, the children in my State are significantly impacted by how this debate is resolved tonight.

I have been very disturbed by the formula which has been incorporated in the committee substitute—disturbed because, at the Federal-to-State level, the formula, in my view, does not achieve the targeting which we are trying to accomplish: to poor students, especially those students who attend schools with high concentrations of poverty, which we have been saying throughout the more general debate are so important in this bill.

The formula does work for the goal of targeting within-State allocations. However, it does not do so in the portion of the formula that deals with the allocation from the Federal Government to the States, and that is what Senator BUMPERS and Senator COCHRAN are trying to correct. The reason it does not do this is because, though it does include a weighting factor which looks to numbers and percentages of children in poverty, it also includes these other two factors which are unrelated to poverty or to the targeting to poverty. The two factors, again, are the effort factor and the equity factor.

The equity factor penalizes States which are not very equalized, as measured by the measurement set out in the formula as the coefficient of variation. This gets fairly arcane, to try to describe all the detail of this. But, suffice it to say that, clearly, there is a great weight put on this equity factor, which, as I said before, does not target poor children, which is the main purpose of the overall title I legislation that we are trying to pass here.

We have very limited Federal resources to help our poor children, and, clearly, to direct those resources to States which may or may not have a need for them solely on the basis of an equalization factor does not make sense. We need to target that funding on the basis of income in those States and on the basis of their ability to help their children.

On the issue about resources, I had a group of principals in my office today from my home State. They repeatedly expressed concern about the fact that less than 2 percent of our Federal budget goes to education. Clearly, when we have a very, very small amount of the Federal budget going to education, we need to do everything in our power to see that those funds go where they are most needed.

The other factor used by the committee, and eliminated by the Bumpers-Cochran amendment, is the effort factor. That factor simply, again, does not belong in a title I formula because it invariably results in penalties for poor States, and this is, after all, intended to help poor States. If we want to measure effort, why do we not measure a State's total resources and compare it to a State's total expenditures on education? Use that measure of effort, and my State of New Mexico comes out in the top 10 States. Or look at how much a State taxes itself compared to its own tax base. If you use that measure, Mississippi gets a very substantial boost.

But if you use the committee's measure, which compares per capita income to per pupil spending, then every single one of the States with the highest child poverty rates in the Nation, with the exception of West Virginia—all of those States do worse. Why is this so? States with low per capita incomes can simply not afford to dedicate as high a proportion of their spending to education as richer States do. They have to take care of sewers and roads and public safety as well as education. They just do not have as much to spend. Furthermore, their citizens have lower incomes and are unable to be taxed at the level that States with wealthier citizens are able to tax.

I would be very pleased to see this amendment adopted and see the emphasis on effort and equity eliminated from the formula.

I am also happy to see the income factor brought into this formula, as the Bumpers-Cochran amendment would. That factor brings into the formula a recognition that it is low-income areas that have the most difficulty in supplying remedial services to their poor children. By and large, these are the same areas that have the most profound problems—the most profound problems—of dropouts and teen pregnancies and low-birthweight babies and poor academic achievement. It is clearly true that big cities with high per capital incomes, such as New York and Boston, have their problems as well. But the fact is that rural America—the States with the highest child poverty rates are in rural America, and generally they do not have the resources.

A recent report by the Department of Education on the condition of education in rural schools states that rural schools have limited fiscal resources to address rising education costs and that increases in poverty have disproportionately impacted rural children.

Thus, the formula which looks to income, and not to things like effort and equity, is much more logical as a way of providing funds for poverty.

I understand the interest of the committee in school equity. It has been a long time interest of mine. Last year, I proposed a bill to establish a Commission on School Financing to study this issue and how more equitable school financing could be promoted not only within States but across the country. Although my proposed legislation did not find support from the committee at that time, the committee did hold hearings on school finance equity. We heard from several witnesses—all of whom were quite eloquent with respect to the vast disparities in school funding and the resulting disparities in educational opportunity for students.

However, those witnesses could not describe for us a single measure of school equity—it was clear from that hearing and from the research I have done that different conditions in different areas could require different levels of spending. One dollar spent in a homogeneous suburb would not equal $1 spent on a remote school serving children from an Indian reservation or $1 on children in the inner city.

Recognizing the complexity of this issue, I have asked the General Accounting Office to study the issue of school finance equity, how it can be measured and achieved, and methods of encouraging it at the State and local level. That work will take many months and will encompass many tasks. It is a complicated issue.

But the committee has made it a simple issue—it has adopted the coefficient of various approach to school equity. While it may be the only objective measure we have of equity at the moment, it is certainly not a very good one. Let me quote from the Congressional Research Service memorandum of July 26, 1993, on Variations in Expenditures Per Pupil Among Local Educational Agencies with the States which describe the limitations and disadvantages of using Census Bureau expenditure data for calculating expenditure disparities—that is, the COV—among State LEA's

> These calculations do not adjust for differences among LEA's in pupil needs, which in many cases are recognized by categorical State and Federal aid programs which provide additional funds to LEA's with high proportions of special needs pupils. For example, expenditures per pupil might be relatively high in an LEA because it has a high number of disabled, limited English-proficient, or poor children, such that the States' school finance program provides additional sums on behalf of such pupils. There might also be additional costs associated with population sparsity or density, for which these calculations also do not account * * *.
>
> There are significant differences among LEA's in a State in the costs of providing educational services. In particular, salaries for teachers and other staff vary widely among LEA's in many States. While salary variations might partially reflect differences in teacher "quality," they are also influenced by such factors as overall labor supply and demand conditions in each area, average experience of the LEA's teacher, general living costs, or the extent and effectiveness of teacher unions * * *.

These reasons, plus problems with the data collection process itself—that is, that data are often stale and reported inconsistently within States—make this COV disparity test a rough and often misleading measurement of a State's equalization.

Yet, based on this very rough measure of equity, the committee moves millions of dollars away from States which may or may not be meeting pupil's needs in an equitable fashion to the handful of States which have successfully equalized—by reason of either a rigorous equalization scheme, or by virtue of small size or homogeneity as CRS notes is the case with Rhode Island and Delaware, or by virtue of having predominantly broad-based, county-level LEA's which is noted by CRS with respect to the relatively low equalization coefficient of North and South Carolina, Florida, and West Virginia. States that have large county wide LEA's will encompass disparity within the LEA and the differences between LEA's will be considerably less—thus the COV which is the basis for the equity factor, will be considerably lessened.

To reiterate, we have very limited Federal resources to help our poor children—why should we direct those resources to States which may or may not have a need for them—solely on the basis of an equalization factor that may be more the result of geography or LEA size than deliberate equalization efforts?

For these and a host of other reasons the equity factor as applied by the committee is simply not the way we should go if we want to do something about school equity. And I most certainly do.

The other factor used by the committee and eliminated by the Bumpers-Cochran formula is the "effort" factor. That factor simply does not belong in a title 1 formula because it invariably results in penalties for poor States and this is, after all, a poverty program.

If we want to measure effort—why don't we measure a State's total resources and compare it to a State's total expenditure on K–12 education? Use that measure of effort and New Mexico comes out in the top 10 States. Or look at how much a State taxes itself compared to its tax base. Use that and Mississippi gets a big boost. But use the committee's measure—which compares per capita income to per pupil spending and every single one of the States with the highest child poverty rates in the Nation—all save West Virginia—does worse. Look at Feinstein formula—those States all improved considerably when this element removed. Why is this so? States with low per capita incomes can simply not afford to dedicate as high a proportion of their spending to education as richer States—they have to take care of sewers and roads and public safety along with education—they just don't have as much to spend. Furthermore, their citizens having lower income, they are unable to tax at the levels that States with wealthier citizens are able to tax.

So I am very happy to see effort and equity go. And I am happy to see the income factor brought in. That factor brings into this formula a recognition that it is low-income areas that have the most difficulty in supplying remedial services to their poor children. By and large those are the areas that have the most profound problems of dropouts, teen pregnancy, low birth weight babies, and poor academic achievement.

It is true that big cities with high per-capita incomes such as New York and Boston have these problems too—but those cities frequently have more resources to try to deal with those problems than do the poor areas. The fact is that rural America—and States with the highest child poverty rates are rural States—generally does not have those resources. The recent report by the U.S. Department of Education on the condition of education in rural schools states that rural schools have limited fiscal resources to address rising education costs and that increases in poverty have disproportionately impacted rural children. Thus a formula which looks to income and not to things like effort and equity is much more logical approach to providing funds under a poverty program. And that is what this is supposed to be—a poverty program—although it is difficult to tell that when the committee propounds a formula which gives a bigger percentage increase to title I funding to Connecticut with 10.2 percent child poverty rate, than to Alabama with a 23.3 percent rate.

We have serious problems in this country—our educational system is failing to help our most vulnerable citizens—poor children. If we seriously intend to help those children we have to recognize that our precious Federal resources have to go where the need is greatest—and that might not be our own particular State. In the committee I proposed and voted for a formula which would have provided New Mexico with less money than the committee formula—but I did it because I thought it was the right thing to do—because my formula got more money to more poor kids. The Bumpers-Cochran formula shifts title I resources away from States with high income counties and lower concentrations of child poverty and to the poorer States. We all know of hideously poor areas in our States and all want as much help for those areas as we can get—but we cannot ignore the kind of evidence of need which Senators BUMPERS and COCHRAN have brought to us today.

In my State over 1 in 4 children lives in poverty; in Senator COCHRAN's almost 1 in 3 children is poor. It is time to finally send our money where the children living in concentrations of poverty live and to send that money in amounts sufficient to make a difference in their educations.

I urge my colleagues to support this amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

As we mentioned before, in this formula we have tried to consider a variety of factors. But this is not a redistribution of income program. That has never been the purpose of this program. The purpose of this program is to try to positively impact the lives of children who are particularly disadvantaged. That has been the spirit of the program, and that is what we have tried to do in our formula.

In fact, we have considered a variety of factors: the weighted formula factor to aid areas with high concentrations and high numbers of students in poverty; the cost factor; the State effort factor; and the equity factor.

The fact of the matter is, New Mexico receives a 14 percent boost in our formula over current law. New Mexico also receives $8.3 million under title I of the Bureau of Indian Affairs set-aside. That also represents money for poor children. In effect, New Mexico's poor children are counted once under Title I, and if they are children of Indians, they are counted again. They do not do that in other States, but they do in New Mexico. And we still increased their funding 14 percent in our formula. That is not even to mention the $34.5 million that New Mexico receives in impact aid. We did not say, "Well, because they get the impact aid, we will give them less Title I money."

While people are getting so worked up about the inequities of our formula, we might pause to ask what the logic and rationale of counting poor children twice in New Mexico is. Understand, I am not opposed to how it works. I think the challenges for Native Americans are some of the most difficult, compelling challenges children anywhere face. However, when we are coming out and talking about justifying all of our positions on this, I find it somewhat difficult to agree with my colleague from New Mexico. I certainly agree that impact aid is important; we receive about $5 million in my State too, and we are glad to get every dollar of it. And I think we should be careful to keep the whole picture in mind during this debate: Title I, impact aid, and other programs as well.

I think, Mr. President, that the effect of this amendment would be to significantly reduce the kind of assistance to children delivered in major poverty areas. Under this amendment, California will receive $50 less for every poor child. That figure reaches $100 per pupil in New York, and over $100 per poor child in the State of Florida. Puerto Rico loses $12 million under this formula and has a child poverty rate of 66 percent, twice the poverty rate of any State in the Union.

We may not have it perfectly right, but I daresay, even the Washington Post wrote approvingly that:

> The Clinton administration has been pushing hard for a better formula. . .. The Senate Labor and Human Resources Committee last week produced a compromise that would phase out some of the misdirection in two years, partly by changing the formulas by which states can reduce a school's allocation one year to the next (currently, it's very slow), and partly by cutting a few steps out of the elaborate State-to-county-to-district-to-school process by which the funds reach their ultimate direction.

As I said, it is difficult to argue with the concept of getting additional funds into areas where there are poor children. I made that argument before, and I am not going to state it again.

If I could yield to the Senator from Illinois and then the Senator from Iowa. How much time remains, Mr. President?

The PRESIDING OFFICER. Thirty-eight and a half minutes.

Mr. KENNEDY. I yield 10 minutes to the Senator from Illinois, and 10 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. SIMON. Mr. President, I know it is easy when you are on this floor and you put a formula together and you get the numbers, to get 50 votes. But I have from time to time voted for formulas where the State of Illinois was not a beneficiary because I believed it benefited the Nation. And that is the kind of situation we are in right now.

Take a look at that map behind Senator COCHRAN. It is very impressive. There is only one minor thing that is wrong with that, it ignores the poverty numbers. In the city of Chicago, there are 313,000 poor kids in the public schools. If you look at this map, it does not even get a dot on there. I look down at my State, and I see three small rural counties and they are on the map. Something is wrong. The Robert Taylor Homes in Chicago probably has more population than any one of these three counties. It is just totally ignoring the numbers.

I heard the distinguished Senator from Arkansas say this is the worst formula he has ever seen. Let me tell you how we have improved the current law. Under the current law, in my State of Illinois, the North Brook/Glenview District, which has 1 percent of students in poverty, gets $12,309 per student in poverty. The city of Chicago, which has 313,000 poor students, gets $453 per pupil. Lake County, the Lake Forest School District, a very wealthy school district, gets $3,900 per pupil. The Waukegan School District with 5,714 poor students gets $165.

I could go on.

This really is a fair formula. I do not see our friend from Arkansas on the floor, but the cosponsor is the Senator from Mississippi. I would be interested, if he can respond, the current law gives 43 percent of these funds to the highest poverty districts. The Senate bill, the formula we have, makes it 54 percent. What is the percent under the Bumpers-Cochran amendment, if my colleague can give me the answer?

Mr. COCHRAN. Mr. President, if the Senator will yield, the percentage the Senator is asking for is what percentage of what?

Mr. SIMON. Is what?

Mr. COCHRAN. What is the percentage referred to? I heard your percentages. You said current law is 43 percent, the committee bill is 60 percent, or something like that.

Mr. SIMON. Twenty-five percent of school districts with the highest poverty rates. This focuses on them.

Mr. COCHRAN. What our bill does is target the money to those with the highest percentage of poverty within their districts.

Mr. SIMON. What I am trying to get at is the flaw in the Senator's amendment. He is focusing on percentages rather than numbers. The map shows that. The city of Peoria—I do not remember the numbers in poverty there, but it is a very high percentage. It does not even make it. Milwaukee, WI, has some poor people, poor students in Milwaukee, WI. Sorry, it does not make it on this map. I think we have to recognize a deficiency there.

Second, I would underscore to my colleague from New Mexico, for whom I have great respect, if we are going to do just what benefits our State, each one of us, then I am not going to vote for American Indian education. Now the reality is I support it because I think it is important. But Illinois does not get a penny from that. If each of us is going to be so provincial that we say if this does not benefit my State another $10 I am not going to vote for it, we are not going to benefit the Nation.

I cannot tell you how, when there is a poor child in Milwaukee, WI, and that poor child does not get help, that it is going to hurt Illinois. But I know, intuitively, that is the case. And so we put a formula together that ignores the numbers.

Yes, we may pick up 51 votes here, and I suppose the odds are that we will, but we do not serve the Nation well. I hope we have the courage to do the right thing.

This formula may not be perfect; no formula is. It is always a lot of compromise. But this formula really concentrates on helping poor children, and that is what we ought to be about in this body.

Mr. BUMPERS. Mr. President, I wonder if the Senator from Illinois will yield.

Mr. SIMON. Very briefly for a question.

Mr. BUMPERS. I was in the Cloakroom, and I heard the Senator ask me and Senator COCHRAN how our formula works.

Mr. SIMON. Yes.

Mr. BUMPERS. It is weighted like yours except for two things: equity bonus factor and the effort bonus factor, both of which the GAO says will take us in the opposite direction of what we are trying to accomplish.

Mr. SIMON. I have not read the GAO report, but let me talk about the equity factor. If there is anything in here I criticize, it is that we did not put enough for the equity factor. The disparity that we have between rich and poor school districts in our States is something we ought to be addressing and we are not addressing. We address it just slightly here, and we ought to be addressing it more.

The second is the effort factor, and I would make a correction to my friend from New Mexico on this. This is State spending on education relative to States' fiscal capacity. It is not that you are spending a flat amount per pupil. I think these are both very properly in this formula. I think we have put together here something that makes sense for the Nation.

Real candidly, it may not make sense temporarily for your State, whatever State you are from. But it really makes sense for the Nation. I am sensitive to the people of the State of Illinois, and I try to fight for the people of the State of Illinois, and, yes, my State does benefit slightly from this. But my title is not Illinois Senator; it is United States Senator. We have to look at the national interest as we cast this vote.

I yield my time.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa is recognized for 10 minutes.

Mr. HARKIN. Mr. President, we have a lot of formula fights around here, and none of them are ever perfect. However, I believe the Pell-Kennedy formula is fair and it is balanced. I think any effort to change it ought to be rejected. It is more fair and more balanced, I believe, than the one being proffered by the Senator from Arkansas and the Senator from Mississippi.

I was listening to what the Senator from Illinois was saying. I noticed Iowa here. We have some counties down here in southern Iowa with poverty rates exceeding 20 and 25 percent. They are not depicted on there.

I see Florida. Florida has a lot of intense areas of distressed counties, yet they lose money. They lose money under Bumpers and Cochran. So does Colorado, and they have a lot of these little black dots, if that is what you are looking at there. They lose money under Bumpers and Cochran.

I heard my friend from Mississippi say a little while ago that the Pell-Kennedy formula only helped rich States. Well, I am sorry. Go back and look at it. Our formula helps West Virginia, helps it quite well, and that is certainly not a rich State.

I think the alternative formula misses the mark. Let me try to explain what the Pell-Kennedy formula does again. The Federal-to-State allocation includes a weighting provision to provide additional funds to areas of high numbers or percentages of low-income children. That is in the Pell-Kennedy formula.

However, there is an additional part of the formula that includes incentive payments for State effort and equity. With the addition of these incentives, this formula breaks new ground.

Some say they are unnecessary. I disagree. I think we have to recognize a few simple realities. First, the underlying premise of title 1 programs is that it will provide supplemental services for the education of economically disadvantaged students. Unfortunately, in far too many schools the resources are insufficient and title 1 is not providing the supplemental services that were envisioned.

Second, the Federal Government right now provides about 6 percent of the revenues for elementary and secondary schools—small but very important. In 1980, it was 11 percent, and that has fallen to 6 percent, and with the budget constraints, it is probably not going to go up very much more than now.

Some States have placed a high priority on education and providing State resources for K through 12. Schools in all these States are heavily financed by local property taxes, and so what happens, Mr. President? We know what happens. If you have high property values, you have good schools. If you have poor areas, you have bad schools.

Now, some States have taken very aggressive action to equalize funding so that all children will have an equal opportunity to succeed. However, other States have not addressed these huge financing differences.

So what we have built into the Pell-Kennedy formula is a carrot, a reward to say to States: Look, if you will do a better job at equalizing your formulas, you will get better help. That is what the effort and equity provisions are for, to reward and encourage these States.

Read Jonathan Kozol's book "Savage Inequities." He portrays the differences that exist in our Nation's schools.

In our country, property taxes fund local schools. So if you have a wealthy district, you have good schools; poor districts, you have poor schools.

Now, in my State of Iowa—and I am very proud of it—in the 1970's, our State legislature passed very aggressive laws to equalize this, to say that if you have a rich district, you are going to get less of the State aid for schools than if you have a poor district. That started in the 1970's. I think it is one of the reasons why our Iowa students K through 12 always place in the highest in all of the tests—math and science and everything else. Iowa students always place highest because we have equalized it to the greatest extent possible. There are other States that have not done that.

I ask the proponents of this amendment, the Senator from Arkansas and the Senator from Mississippi, how have your States done in equalizing their benefits to these poor school districts? Take a look at it. That is what we are saying here. If your State has made a good effort, you will get a little bit more. We are trying to provide that incentive. I say it to the Senator from Arkansas, too. That is all we are trying to do. We do not have enough money to spend in every rich district in the country, so we are trying to get the States to make a little bit more of an effort.

That is all the Pell-Kennedy formula does. You can talk about how many States win and how many States lose, but the Pell-Kennedy formula is fair. It may not be perfect. Obviously, if each of us could draft a formula, we would draft it to benefit our States. But that is not the case here. We drafted a careful formula to do two things: provide money for concentrations where that is necessary, to meet the needs of those kids in highly concentrated areas, and, second, to try to give some incentive to States to do better on their own in equalizing their formulas. That is why I would urge my colleagues to support the Pell-Kennedy formula and to reject the proposed change in that formula.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Eighteen minutes.

Mr. BUMPERS. And how much time does the——

The PRESIDING OFFICER. Twenty-four minutes.

Mr. BUMPERS. Mr. President, Senator COCHRAN and I are not trying to punish the more affluent States, but if you look at the map, you can see where the poverty is. You see those black areas? That is where twice as many people live below the national poverty rate. That, friends, is poverty. And what does this formula do to redress that? It gives more money to the more affluent States. It is true that poor States get a little bit more, under the committee formula.

While most States get a little bit more under the committee's proposed formula, it is because there is a $7 billion-plus authorization. But please do not do us any more favors like this. We cannot stand it. I am reminded, in looking at that map of Willie Sutton. Someone asked him, "Why do you rob banks?" He said, "Because that is where the money is."

This program is intended to help poor children and the money ought to be going where the poor people are, and it is not. Take the State of Massachusetts—and I am not picking on the floor manager's State—but take the State of Massachusetts with 6 million people, and Arkansas with 2½ million people; 24 percent of our children are in poverty, and 13 percent of the children in Massachusetts live in poverty. We get $704 under the committee bill. Massachusetts gets $1,023, 40 percent more than we get per child. They get between $40 million and $50 million more even though they have only slightly more poor children than we have.

Do not do me any more favors like this.

In Arkansas, we are at 70 percent of the per-pupil expenditure of the national average, which is a little over $5,000 per pupil. Thirty-one States are below the national average. But if you, like Arkansas, are at 70 percent, and you are about third or fourth from the bottom in per capita income, I promise you my children will be dead before they match the 95 percent level for effort the committee bill has demanded. The committee says that until you reach 95 percent of the national per-pupil expenditure average, you cannot get another penny under this formula.

You think about that. And when you are trying to reach such massive figures as the difference between 70 percent and 95 percent of the national average, the children in my State will be dead before they get another nickel under this formula.

What did the General Accounting Office say about the so-called equity bonus on disparities? In my State we have a property tax which pays about 50 percent of our education expenditures. You might not like it, but that is the way it is. We have a property tax. The more affluent counties spend more money on schools, but not because of a State requirement. The State actually sends more money to the poor counties than they do to the more affluent counties. But if the counties that have a little more money and want to spend a little more on education and increase their property tax a little bit more, why should they not? They should. But they should not ever plan on getting any more money under this formula because they will never reach the 95-percent level in the equity bonus set out by the committee, or the so-called "equity bonus per person" expenditures per child.

Here is what the General Accounting Office said. I want you to listen to this. This is what the General Accounting Office said about the equity bonus factor:

> The equity bonus factor has a floor on it that eliminates the incentive for improvement in States with the greatest spending disparities.

The Senator from Illinois made much of the fact that the committee is trying to get the States to eliminate the disparities in spending on students, and that is a very laudable goal. But the formula in effect says, don't worry about it, you will never reach it.

The General Accounting Office says there is no incentive to improve—and there is not—especially for those poor States. Then why have such a factor?

I will tell you exactly why it is in there. It is in there to make sure that the wealthiest States in America—New York, Maine, Connecticut, Rhode Island, Pennsylvania, Illinois, Ohio—get the money. They get the money, and they will continue to get more. I thought the Civil War was over. However, the States on that map with all those black dots will never benefit from this formula.

Mr. President, somebody had to come early and stay late to think up this formula. How in the world can you justify the most affluent States of America, which I just named, getting anywhere from $1,000 to $1,200 per poor child, and the State of Arkansas getting $704, the State of Alabama getting $710, and the State of Mississippi getting $742? How do you justify that? Answer: you cannot.

We probably will not prevail on this vote. A few in this body have gone to dinner, will walk in not having heard the debate, and will walk down to the floor managers, and, say, "How should we vote?"

It is so discouraging, Mr. President. You do not see any little black dots in Massachusetts. You do not see any little black dots in New York. You do not see any in Iowa. You do not see any in Indiana. Look where they are. Why do you think I have worked as hard as I have on this amendment? Because this is a demonstration of a significantly inequitable formula.

There is one thing I want to say about this that is good. The committee said if you do not have 5 percent of children in poverty in your school district, you get nothing. That is a step in the right direction.

Mr. President, I yield the floor, and reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened carefully to the Senator from Arkansas. I draw his attention to the fact, for example, under his formula the State of Utah—which has the third or fourth fewest poor children in the country, third or fourth lowest number of poor children in the country—and under the Bumpers formula, they have one of the highest increases; one of the highest increases. They go up 9.8 percent, and they have 10.9 percent poor children.

So, with all respect, I would have the facts, and tell those to the mothers of children in California or New York or Florida where you have hundreds of thousands; 350,000 poor children in Florida; 600,000, 970,000, and every one of those poor children under the Senator's formula goes down. You wonder why we work so hard at the formula.

We might not have it perfect, Mr. President. But if you start balancing these various factors out—this is just looking over the list. I was beginning to become convinced, until I started looking over the facts of this: 10.9 percent; three other States have lower numbers; 9.8 percent increase, and one of the fewest numbers.

Mr. President, we have tried. All right. Go back to the percent of income—Utah is 15,000; Arkansas, 15,006; and, Utah 15,007—and we find that the income is virtually the same, one of the lowest numbers of poor children in Utah, one of the highest increases under the Bumpers formula.

Yet, we see the dramatic reduction in the coverage of where the concentration of poor children are. As we have said, and as the Senator from Arkansas said, this is not a redistribution formula, this is not a redistribution; it is a program that should be targeted on the children, targeted on the cost of education, targeted on the efforts that are being made in those States to provide funding for the education, and targeted on the efforts of the State to reduce the disparity. Those are the factors that we have included in there. You can vary those to some extent. You can say "just poor children" and come out one way. It does seem to me that this is a balanced formula.

As I say, I regret the fact, and I wish we had additional kinds of resources to be able to deal with all of those. But, quite frankly, when you look at how the formula works in those particular instances—and I did not have the chance to go through others, but I think there are others—look at how it even works on Puerto Rico. Under this formula, Puerto Rico loses $12 million, and they have a child poverty rate of 66 percent, which is twice the rate of any State in the Union. I do not know how they fell through the cracks when you are talking about the number of poor children. But that is the effect. There are going to be more poor children that are going to be adversely affected under this program.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 19 minutes remaining.

Mr. KENNEDY. I yield 5 minutes to the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. I thank the chairman. There is one State the chairman left out. If this formula is so all-fired perfect, I say to my friend from Arkansas, here is New Hampshire with one of the lowest poverty rates—7 percent—and they get an increase. If it is all-fired perfect, how come that happens?

To follow up with what the chairman said, the Senator from Arkansas leaves the implication out there that somehow the formula we came up with does not help poor States. Well, tell that to Mississippi. Mississippi, under the Pell-Kennedy formula, is better than current law—not as good, obviously, as what the Senator from Mississippi wants, but it is better than current law; Louisiana, better than current law; West Virginia, better than current law; South Carolina, better than current law. These are all poor States. We just did not give as much as what the Senator from Arkansas wants.

Second, let us turn to this chart. I have been looking at this, and I was quite intrigued by it. I saw the big chart on the other side. I looked at the little one here with all these little black dots on it. I could not quite figure it out at first, but now I have it figured out. It is a very ingenious little chart, all these little black dots, with a lot in Arkansas and a lot in Mississippi. I looked down here at New Mexico and Arizona, and I saw big counties with these big black dots out there. I read what those black dots mean. It says "a distressed county with twice the U.S. poverty rate, low income and/or 3-year unemployment."

So what could happen is you could have a county out here in West Virginia—it is colored black there—with twice the U.S. poverty rate—I will take the extreme—which might have two people living in the county. But you could have a county up here in Massachusetts, or in Chicago, and it could have 5,000 kids, maybe not twice the poverty rate but may be one-and-a-half times the poverty rate. It does not show up here. This chart is as phony as a $3 bill. It does not give you an indication of where the real need is, because you might have just a few people in one of those counties out there and, yet, you have high concentrations in New York, or Chicago, or Miami, or even, yes, Los Angeles, south Los Angeles. This chart really does not tell it all.

I believe the Pell-Kennedy formula is fair. It does not provide for these big swings in States, which this amendment will do. What the effect of this amendment, I fear, will be is that it will start to pit States against one another, with poor kids in one State against poor kids in another State. Hopefully, that is what we tried to fight against in the formula we came up with.

Last, the Senator from Arkansas is a good pleader. If I ever have to go to court, I want him as my attorney. He makes a great argument. But if you look behind the argument, you have to ask yourself in these States: What is the State doing in its effort to equalize, to make sure that those areas of the State where they have high property taxes, high-income areas, where the State is saying you have a responsibility to fund other parts of the States, where we have low property taxes and poor people and low incomes? That is part of the formula we build in here, and I believe it is vital that we send that strong message to the States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. BUMPERS. Does the Senator from California wish to speak?

Mrs. FEINSTEIN. I do. If there is time, I might speak at this time, or I will speak later.

Mr. BUMPERS. You are opposed to the amendment, are you not?

Mrs. FEINSTEIN. That is correct.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 15½ minutes.

Mr. KENNEDY. I yield 7 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I understand the emotion and the passion behind the comments of the Senator from Arkansas, and I must say I feel some emotion and some passion about this subject, too. As a matter of fact, I had my staff pull the text of Ecclesiastes, chapter III, which says there is a point in time for everything, and a time for every affair under the Heavens. It goes on to say that there is a time to be born and a time to die, a time to plant and a time to uproot the plant.

I think that tonight is the time really to join the fight on chapter I, because I am one of those that joins Senator BUMPERS in a dissatisfaction over chapter I. I would like to, hopefully, without too much passion and emotion, make the case, because the way I look at it, it comes down to one basic elemental truth: a poor child is a poor child. You can have redundant factors, and you can have hold-harmless formulas, but if the money does not follow the poor children of the Nation, an enormous disservice is done. And the money does not follow the poor children of the Nation under the Kennedy-Pell formula.

As Senator KENNEDY pointed out, my State has the largest number of poor children in the Nation—969,762 poor children. Yet, we are a high-cost State, not a poor State. And there are pockets of poverty all over the State. A poor child in California, under the Pell-Kennedy formula, would get $783. A poor child in Connecticut—and a poor child is a poor child—would get $1,025. A poor child in Massachusetts, $1,024. A poor child in New York, $1,082. A poor child is a poor child. A poor child in Rhode Island, $1,064. In Connecticut, there are 53,000 poor children. In Massachusetts, there are 120,570. In New York, there are 597,134. In Rhode Island, there are 20,539.

My point is that the money does not follow the poor children, and that is the flaw with whatever formula any committee comes up with. The time has come to change the formula. In Texas, it is $729 a poor child, not $1,000, with 803,000 poor children.

So my State loses $21 million, a State that has a deficit of $5 billion, that cannot raise local taxes because of proposition 13, that has a budget deficit that is $5 billion in debt, and that spends 40 percent of its budget on the education of children.

So the more children you have that are poor, the more you are disadvantaged under this formula. It is just fact. It happens that way. You can add cost, you can add effort, you can put redundancy on redundancy, and all it does is keep money from where the poor children are in the Nation and where they are moving. The fact is poor children move.

That is what appeared to me last year when Senator KENNEDY and I entered into a colloquy, and this year the proposal is going to be worse. Only 2 percent of chapter 1 funds go to school districts in which more than 75 percent of students are poor. Less than half of chapter 1 funds goes to schools considered to be high poverty areas.

We will receive 11 percent of all chapter 1 grants, $667 million out of $6.3 billion. While the number of poor children in my State grew by almost 250,000 children, almost 40 percent between 1980 and 1990, there was no adjustment in California's allocation for 13 years or any other States. For California the failure to use updated data cost $126 million in 1993 and cost growth States a total of over $400 million in that year alone.

The money does not follow the child. A poor child is a poor child. The money should be directed on an absolute formula grant as to where the poor children really are in this Nation, and they should follow those children. It should be updated periodically. It should not have to wait 10 years or 13 years. If we follow this same rationale, by the year 2000 there is going to be enormous discrepancy—if we follow this same formula.

So, I would like to just point out a couple of things in my State that are going to happen. This is a projected increase between 1990 and 2005. We will have a greater than 40 percent increase in poor children in these areas; San Diego, San Bernadino, Riverside, the Los Angeles area, in the entire central valley, Fresno. More and more by then, California will be dominantly people of color, poor—which already is happening—more and more immigrants, more and more illegal immigrants.

In the areas that are slashed diagonally, there will be a 25 percent to 40 percent increase, and in the areas this way a 25 percent increase in poor children.

So the situation is only going to compound dramatically under Kennedy-Pell in terms of numbers.

The difference in per-pupil resources is created by something in the chapter 1 formula called the cost factor, and that raises or lowers State allocations by up to 20 percent. As an example of one of the school districts getting the less funding——

The PRESIDING OFFICER (Mr. ROBB). The time yielded to the Senator from California has expired.

Mrs. FEINSTEIN. Is it possible to have yielded a few more minutes?

Mr. KENNEDY. I had thought the Senator was going to speak in opposition to the Bumpers amendment, mistakenly. I have others who want to address that.

I think in fairness to those, particularly since those States are going to be affected, maybe the Senator from Arkansas will yield time.

Mrs. FEINSTEIN. That is fine. I have all night. I can wait.

I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. How much time do I have?

Does the Senator have someone who wishes to speak?

Mr. KENNEDY. Senator JEFFORDS wished to speak. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for up to 5 minutes, with the time charged to the time of the Senator from Massachusetts.

Mr. JEFFORDS. Mr. President, I rise in support of the title 1 formula.

Vermont really does not have anything to gain or lose by either formula. We are going to get the same amount under the Bumpers-Cochran as we did under the Kennedy formula, the committee formula.

But I believe that it is important for those of us on the committee to take a look at the problems and priorities of the Nation on a more global scale and put regional differences aside.

The formula we are considering today is a result of 2 years of investigation on the part of the committee, 2 years of crafting a formula which incorporates and combines suggestions from policy experts, children advocates, the administration, the General Accounting Office, and others, and represents a constructive new direction for Federal chapter 1 funding.

Most importantly, the committee formula represents an intricate balance between several interrelated factors; State poverty, the cost of providing educational services, State tax efforts for education, and the degree to which a State has equalized funding across State lines. This last factor I consider particularly important.

I urge my colleagues not to tinker with one part of the formula, for it will affect the delicate balance that has been created.

The formula recognizes that it costs more to educate poor children when they attend schools which have high numbers of concentration of poor students and provides grants up to 40 percent higher to serve students in those types of schools. It recognizes that the cost of providing educational services to children also varies from State to State on account of cost-of-living differences between those States and the cost-of-education difference between those States.

Furthermore, for the first time, the formula provides rewards and incentives to those States which carry a high tax burden for education, and to those states which have achieved a sufficient degree of equity in funding for public schools across the State. And that has been a very severe national problem. We should reward those States that have tried to do something about the equalization of funding among the States.

No formula will account for the needs of every State. I think the chairman did an excellent job crafting a formula that puts policy before politics, and in doing so sets a bold and positive new policy for Federal education funding.

Let me just make a few points about the competing formula which has been advocated here by Senators BUMPERS and COCHRAN. This formula ignores the effort and equity factors put forward by the committee. As I said, these are very important factors for a new formula, factors which I believe represent a constructive new Federal policy.

In the committee formula, States are rewarded when they show a high fiscal effort to support education, regardless of their wealth. States are rewarded when they have made progress towards equalizing funding across district lines.

My State and many States will tell you it is incredibly difficult, and we failed this year in our effort to make our system better. The formula we are debating now will eliminate the factors and, in my mind, will be a significant step backward in developing a formula for the future.

While no formula is perfect, this one would reward those who spend the least on education for their children in those States where the Federal Government already picks up more than their fair share of the tab.

Many of these same States have significant amounts of federal money coming from various programs across the spectrum. Vermont, I know from my own analysis of our situation, has less Federal money coming in from other Federal programs, education and otherwise, than many of the States who would benefit under this formula.

In addition, while the formula would benefit my own State only slightly, it would destroy the chapter 1 program in several States where the problems of poverty are severe. That is why I would be against it and recommend a vote against it.

For instance, California with nearly one-eighth of the poor children in the country, would lose nearly $50 million under the competing formula.

Mr. President, I again want to echo that I feel it is critically important that we establish new Federal policy, and the formula this committee has worked on has done an excellent job to bring new factors in that will provide a much more equitable situation for our schoolchildren, especially those in poverty.

Mr. President, I yield the floor and yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, how much time do I control?

The PRESIDING OFFICER. The Senator from Arkansas controls 8 minutes and 40 seconds. The Senator from Massachusetts controls 2 minutes and 3 seconds.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, my friend from Iowa, one of the dearest friends I have in the U.S. Senate, called the map which sits behind Senator COCHRAN, phony. You think about that. I know that he is a well-intentioned person. I know that he cares about poor people. I know his heart is in the right place.

But how can he call those black dots, where the poverty rate is twice the national average, phony? I would like to take the Senator from Iowa over into the Delta of eastern Arkansas and take him to about 10 or 15 counties where those black dots are. It is not two poor people, as he suggested. It is thousands and thousands of poor children, mostly black.

The Senator from Iowa said, if we stay like this, we are just going to pit States against each other. You could not have fired on Fort Sumter and come up with a worst case of pitting States against States than the committee formula.

I have pointed out at least twice, and maybe three times, in the course of the evening that the big bucks, $900 to $1,200 per poor child, are going to New York, Massachusetts, Pennsylvania, Connecticut, Rhode Island, Indiana. No black dots in those States. They have poor children, but they do not have the concentrated poverty that I am talking about. It is not just the concentration of poverty, it is the concentration of poor children.

I do not begrudge New York, Massachusetts, or any of those States the amount of money they get under this formula. I want them to educate their poor children as well.

Why is a poor child in New York or Pennsylvania or even Vermont worth $1,200 each and a poor child in my State only worth $700? Talk about pitting State against State.

And the Senator from Massachusetts said, "Well, look at Senator BUMPERS' and Senator COCHRAN's formula. My goodness gracious, look at Utah. Poor little old Utah, with about a million people and an 11 percent poverty rate, 2 percent less than the State of Massachusetts, and they are getting just about the same amount of money Massachusetts is getting."

Well, look at Utah.

Our formula is not perfect. It is designed on what the GAO said was the best you could do.

I was practicing law one time and another lawyer told me a story about a guy that had just been charged with murder. And he told the cop, he said, "Why are you looking at me? Look at that jaywalker. Why don't you arrest him? The guy committed murder and he says, "Get that jaywalker."

And here we have, "Look at Utah. Why don't you look at Utah? Don't look at New York and Connecticut and Rhode Island and Massachusetts and all the other States that make off like bandits. Look at Utah."

Mr. President, there is one unassailable fact: the wealthy get wealthier under this formula.

If this were just a Senator from Arkansas speaking, pay no attention. It is the investigative arm of Congress on whom we rely for almost everything, the General Accounting Office. What do they say? They say that this formula to disburse $7 billion-plus, to try to help poor students in the schools of America, has the very opposite effect. Not me, the General Accounting Office.

They say the equity bonus factor inserted in the committee's formula, under the guise of saying we want disparities eliminated will have the very opposite effect. It will not eliminate the disparities.

And in light of that, they said, "Why is this even in the formula?" And with regard to the so-called effort bonus factor, where you take the average per pupil expenditure in your State and compare it with the per pupil expenditure as a national average, 31 States are below the national average.

My State is at 70 percent. The committee bill says, "Until you get up to 95 percent, you are stuck at $704."

Do you know what that would require in a State like mine? It would require something like a 20-percent property tax increase; a 2-cent sales tax increase. We cannot do it. We are a poor State. That is the reason I am pleading.

But the committee says this is the fairest formula they could come up with. And what they are saying is, "Senator, your children will lie in their graves before the State of Arkansas will ever get to 95 percent of the effort. And, therefore, as long as this formula is in effect you will never get another penny under the so-called effort equity bonus."

What did the General Accounting Office say about that? There is no incentive for the poor States, where most of the poverty children are, to try to reach it, because they cannot. It is not an incentive. Neither the effort to eliminate disparities within States has an incentive in this, nor does the incentive to get people to spend more per pupil in this bill. On the contrary, both of them are disincentives.

And so let me just say, in closing, to my colleagues, if you are from Massachusetts, New York, Ohio, Illinois, Pennsylvania, Rhode Island, or Connecticut, you would be an idiot to vote against this. It is what we call in Arkansas "a bird nest on the ground."

And if it passes and it becomes law, to all the States that we are talking about, you are locked in. It would take a mammoth effort to ever get another nickel under this formula.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator has 21 seconds remaining.

Mr. BUMPERS. I yield to the Senator from Mississippi the remainder of my time.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for up to 15 seconds.

Mr. COCHRAN. I thank the Senator for yielding.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the GAO addressed to me and the Senator from New Mexico [Mr. BINGAMAN], on an evaluation of the formula alternatives before the Senate now.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
HEALTH, EDUCATION AND HUMAN SERVICES DIVISION,
Washington, DC, June 7, 1994.

B-257503
Hon. THAD COCHRAN,
U.S. Senate.
Hon. JEFF BINGAMAN,
U.S. Senate.

The Senate is considering a new formula for distributing federal assistance for the educationally disadvantaged under title I of the Elementary and Secondary Education Act amendments of 1994. The new formula, described in Senate bill S. 1513, would distribute federal aid for the educationally disadvantaged on the basis of four factors. In response to your request, this letter provides our views of these four factors in light of the program's objective to target funds to children with the greatest need.

Under S. 1513, funds would be allocated under one formula, which contains four factors:

The first is a weighted measure of poor children that serves as a proxy for the number of educationally disadvantaged children. The weighting scheme provides a higher per child allocation to school districts in counties with high poverty rates and high numbers of children in poverty.

The second is a state average per pupil expenditure factor, a measure of total state and local spending on education per pupil, that serves as a proxy for state costs of providing chapter 1 services.[1] Under current law, this factor cannot exceed 120 percent or fall below 80 percent of the U.S. average. Under S. 1513, this factor would range between 115 and 85 percent of the average per pupil expenditure in the United States.

The third is an effort bonus based on state per pupil spending expressed as a percentage of state income, which is a proxy for the level of "effort" the state makes in funding elementary and secondary education in the state. However, this factor must range between 95 and 105 percent of the nation's average effort, rewarding those states with the greatest effort with a bonus in their chapter 1 per pupil funding.

Fourth, an equity bonus generally based on the coefficient of variation in per pupil education spending in the state[2] serves to reward states that have low disparities in per pupil spending in the state; states with great disparities will be penalized. This factor must also range between 95 and 105 percent; states with the lowest disparities are weighted 105 percent, giving them a bonus in their chapter 1 per pupil funding.

In summary, while the goals of S. 1513 are laudable, the new grant allocation formula may not be appropriately designed to increase targeting to high poverty areas and to reward states that reduce inequities in per pupil spending. An unintended consequence of adopting the new formula may be to produce less—rather than more—targeting to educationally disadvantaged children.

EXTRA WEIGHTING FOR AREAS WITH HIGH POVERTY LEVELS COULD BE INCREASED

The bill's proposed formula provides extra weighting, which results in somewhat higher funding per child, to target additional funds to serve children in areas with high concentrations of poverty. In a 1992 report, GAO recommended that counts of children receive greater weight in high poverty areas to better reflect the greater number of educationally disadvantaged children in these areas.[3] However, the weighting scheme adopted in S. 1513 may not provide high enough weight to sufficiently target dollars to counties with high concentrations of educationally disadvantaged children. For example, the need for chapter 1 funding in high poverty counties may be as high as 150 percent of the need in low poverty counties, but the weighting scheme in S. 1513 is insufficient to provide allocations that will compensate for this 150 percent difference in need.

STATE AVERAGE PER PUPIL EXPENDITURE IS A POOR PROXY FOR COST OF CHAPTER 1 SERVICES

Our earlier report also criticized the current cost factor because it overstated cost differences and unfairly benefitted wealthier states that can afford to spend more on education. S. 1513 tries to correct this bias to some extent by reducing the range of this factor from between 80 and 120 percent of the U.S. average to between 85 and 115 percent. However, we believe that the current measure of per pupil expenditure is a poor proxy for the cost of providing chapter 1 services.

EFFORT BONUS FACTOR MAY NOT TARGET HIGH NEED STATES

The effort bonus may target more aid to states with lower concentrations of children in poverty and less to states with the highest concentrations of such children. Such targeting would be contrary to the objective of the program, which is to target more money to those places with greater concentrations of poverty and, hence, more educationally disadvantaged children.

The rationale for using an effort factor is to introduce a financial incentive into the formula for low spending states to increase their effort to adequately fund their educational systems. However, placing a floor on this factor of 5 percent less than the national average substantially reduces the impact of this incentive. Because of the 95-percent floor, a low spending state that increases its effort may get little additional benefit in the form of a larger chapter 1 grant. Similarly, by placing a 105-percent ceiling on this factor, a high spending state that decreases its effort may not have its chapter 1 grant reduced substantially.

EQUITY BONUS FACTOR MAY NOT PROVIDE INCENTIVES FOR STATE REDUCTIONS IN SPENDING DISPARITIES

Finally, the equity bonus factor, while well intended, is not likely to serve its intended purpose—as an incentive for a state to decrease in-state per pupil spending disparities—for three reasons:

(1) Chapter 1 funding is such a small portion of total school spending that it is unlikely that it will cause states to change their school aid formulas to produce smaller spending disparities.

(2) The floor placed on the factor so that it cannot be less than 95 percent substantially weakens the incentive for states to reduce per pupil spending disparities for precisely those states with the largest inequities.

(3) The restriction that the factor can be no more than 105 percent significantly reduces the penalty for states with the smallest variation in per pupil spending whose performance deteriorates.

The equity bonus may tend to target less aid to some states with larger spending disparities in per pupil funding and generally higher rates of child poverty and educationally disadvantaged children while targeting more assistance to some states with the smaller spending disparities and generally

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Footnotes at end of letter.

lower concentrations of child poverty and educationally disadvantaged children. This would happen because some states with smaller spending disparities also generally have smaller economic disparities and, hence, fewer poor children.

ADDING A FUNDING CAPACITY FACTOR WOULD IMPROVE FORMULA

One way of both targeting high poverty areas and promoting greater equalization is to include a measure of county or state funding capacity in the allocation formula. For example, in our 1992 report, we recommended the inclusion of an income factor that would target localities with limited capacity to fund remedial services. Such a factor would target more—rather than less—assistance to areas with the highest concentrations of educationally disadvantaged students.

Copies of this correspondence will be provided to interested parties upon request. If we can be of any further assistance please call me on (202) 512-8403 or Jerry Fastrup on (202) 512-7211.

Sincerely,

CORNELIA M. BLANCHETTE,
Associate Director,
Education and Employment Issues.

FOOTNOTES

[1] Under S. 1513, chapter 1 is redesignated as title I.

[2] The coefficient of variation in per pupil spending is a statistical measure of the degree to which per pupil spending varies in a given state.

[3] "Remedial Education: Modifying Chapter 1 Formula Would Target More Funds to Those Most in Need" (GAO/HRD-92-16, July 28, 1992).

TARGETING CHAPTER 1 FUNDS—AN EVALUATION OF FORMULA ALTERNATIVES

BACKGROUND

The goal for funding Compensatory Education Services was established at 40 percent of state per pupil spending when Chapter 1 was authorized in 1965. This need standard is reflected in the current Chapter 1 formula which allocates federal funds in proportion to 40% of state per pupil spending.

Appropriations for Chapter 1 amount to only 35% of remedial education spending needs, leaving 65% either unfunded or at the discretion of states and local school districts to make up the funding gap.

Low-income school districts are at a funding disadvantage due to their relatively weak local tax bases. They must undertake substantially larger tax burden to meet the 40% funding goal for remedial education.

CHAPTER 1 REAUTHORIZATION ISSUES RELATED TO THE SCHOOL FINANCE EQUALIZATION ISSUE

S. 1513 brings federal policy into the school finance equalization issue by including an "equity" factor that rewards states that have low spending disparities among local school districts.

The S. 1513 equity factor is a flawed indicator of states' success in achieving equalization and should not be used because it directs limited federal resources to low-need states.

Chapter 1 funds should be allocated from the Federal government to the States using an equalizing formula that offsets the funding disadvantage of low-income schools. This can be accomplished by introducing an income factor that targets Chapter 1 funds to low-income areas.

The income factor proposed in the Bumpers/Cochran Amendment is the same type of factor most states use in allocating their school aid funding, including, for example, Massachusetts, Kansas, New York, Mississippi, and Utah.

COMPARISON OF VARIOUS FORMULA ALTERNATIVES IN TERMS OF TARGETING ADDITIONAL AID TO HIGH POVERTY STATES

Formulas Compared:
(1) Current Law
(2) S. 1513 (Committee)
(3) S. 1513: no effort (Feinstein)
(4) S. 1513: no effort or equity factor
(5) S. 1513: no bands on equity factor (Hatch)
(6) Current Law with income factor (Bumper/Cochran)

TABLE 1.—FUNDING PER CHILD IN POVERTY

Formula	13 High poverty States	13 Low poverty States
Poverty rate (percent)	23.6	11.2
Current law	$736	$902
Percent difference from current law:		
S. 1513	+0.1	+0.6
No effort or equity factor	+2.6	−2.2
Feinstein	+3.2	−0.4
Hatch	+3.9	+2.3
Bumpers/Cochran	+10.2	−6.1

Conclusions: In terms of targeting increased aid to high poverty states,

The committee formula is virtually no different from current law. Current law provides $736 per poor child to the high-poverty states and $902 per child to the low-poverty states. S. 1513 provides slightly more to both groups and, by implication, less to the states in the middle group.

The Bumpers/Cochran option is the only formula under consideration that substantially increases targeting to high-poverty areas, increasing aid to high poverty states by 10% while reducing aid to low-poverty states by 6%.

Eliminating the tax effort and equity factors from S. 1513 provides a modest increase in targeting to high poverty states (an additional 2.6%) and reduces aid the low-poverty states a modest 2.1%.

The Feinstein and Hatch proposals provide additional assistance to the high poverty states but this is accomplished by reallocating aid from the middle group of states. The Feinstein proposal reduces aid to low poverty states by only 0.4% while the Hatch proposal reallocates aid from the middle group to both high- and low-poverty states.

EQUALIZATION ACHIEVED UNDER VARIOUS FORMULA ALTERNATIVES

The tax burden local school districts would have to undertake to reach the 40% funding goal for Chapter 1 is much greater in low-income school districts. Their greater tax burden reflects the economic disadvantage they face in funding remedial services.

Under the current law formula, low-income states would have to tax themselves at rates 35% above the national average. In contrast, the low-poverty states could meet the spending goal with tax rates nearly half the national average (see table 2).

TABLE 2.—LOCAL TAX BURDENS REQUIRED TO FULLY FUND REMEDIAL SERVICES UNDER THE CURRENT CHAPTER 1 FORMULA

[U.S. average=100]

	Percent—	
	Poverty rate	Tax burden
13 High poverty States	23.6	136
13 Low poverty States	11.2	52

The goal of school finance equalization is to distribute grant funds so that all school districts are able to makeup the funding shortfall with equal tax burdens.

How equalizing a particular formula is can be determined by comparing the extent to which they offset disparities in tax burdens required to fully fund remedial education expenditures needs.

Table 3: Reduction in financing disparities under various formula alternatives compared to current law

Formula alternative:	*Disparity reduction (percent)*
S. 1513	4.0
Feinstein (no tax effort)	6.4
S. 1513 no effort or equity factors	5.6
No floor or ceiling on equity favor	5.6
Bumpers/Cochran	15.5

These results lead to the following conclusions:

All the formula options make only modest improvements in offsetting the financing disadvantage of high poverty states.

The committee formula (S. 1513) makes the smallest improvement in equalizing the allocation of chapter 1 funds, reducing tax burden disparities by just 4%.

The Bumpers/Cochran alternative makes a significant improvement, equalizing tax burden disparities 15.5%.

The G formula reduces financing disparities the most, 19.3%.

The Feinstein, LA1 (the Committee formula without the tax effort and equity factors), and the Hatch formula alternatives provide only slightly more equalization than the committee formula but considerably less than the Bumpers/Cochran alternative or the G formula.

The attached table provides information on the tax burden disparities of all 50 states.

The PRESIDING OFFICER. All time under the control of the Senator from Arkansas has expired.

Who yields time?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator controls 1 minute and 40 seconds.

Mr. KENNEDY. I yield the remaining time to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for up to 1 minute and 40 seconds.

Mr. SPECTER. Mr. President, I oppose the amendment offered by Senator BUMPERS and Senator COCHRAN because the committee amendment is an equitable formula. It rewards the States which have made a greater effort to fund education and it also accommodates the States with concentrations of poor people.

Frankly, I prefer the existing law to the new committee amendment because my State, Pennsylvania, does a little better under existing law.

But I oppose the Bumpers-Cochran amendment, candidly, because my State does substantially worse under the Bumpers-Cochran amendment.

Under the committee formula, contrary to what the Senator from Arkansas said, there are many of the States which are not affluent that do better under the committee amendment than under current law—Kentucky, Louisiana, Mississippi, Arkansas, Georgia, West Virginia.

The committee amendment has been worked out after consideration, after hearings, after a great deal of thought.

There are other formulas in the wings to be offered by other Senators. These formula changes have been calculated so that their own individual States will receive more funds. If we start to remanufacture the formulas based on what does best for each of our States, we are going to end up with 50 different suggestions.

My strong recommendation to this body is to accept the committee amendment and reject the pending amendment.

Mr. DOMENICI. Mr. President, I am pleased to cosponsor the Cochran/Bumpers amendment regarding chapter 1 funding. The Chapter 1 Program is currently our largest education program we have to serve our disadvantaged students. When Lyndon Johnson created this program back in 1965, he probably never imagined it would be this large or serve as many students as it does today.

But part of the problem with the Chapter 1 Program is that it does serve so many students. And some of the students served under this program would hardly be classified as poor or disadvantaged students. Under the current formula, chapter 1 funds are going to 93 percent of all school districts, and 66 percent of all public schools.

According to a July 18, 1994 article in U.S. News and World Report, only 2 percent of the $6.2 billion we currently spend on this program go to school districts in which more than 75 percent of the students are poor. Less than half go to high-poverty areas. More alarming, the article continues, $310 million goes to school districts in which fewer than 5 percent of the students are poor.

With this in mind, I am pleased we are now taking the opportunity to ensure that we do a better job sending increasingly scarce Federal resources to the school districts that need them most—the very poor. Students who are poor are disadvantaged in more than just a financial sense. They often lag behind their peers in academic as well as social skills. Chapter 1 programs have given many students the assistance they need to achieve on a more level playing field.

The formula we have in the committee substitute does make some significant steps toward targeting chapter 1 funds toward needy students. I am pleased with some of the innovative changes in the formula, such as assigning students weights according to percentages and numbers of children in poverty, and using a cost factor—which factors into the formula a State's average per pupil expenditure—makes a good start toward ensuring funds get where they are needed most.

However, I do not believe the effort and equity factors—both of which are new elements in the formula—are accurate indicators of children in poverty to be served. That's why I am pleased to support this amendment, which uses a relative income per school age child factor. This factor is calculated by taking into consideration the county's income per child and comparing it with the national standard. Injecting this element into the formula results in Federal resources going where they are most needed by targeting those areas with higher numbers of children and lower incomes.

Mr. President, while my home State of New Mexico will receive additional funds under this alteration in the formula, I want to point out that New Mexico stands to gain under almost any change in the formula including the one in the committee substitute. Unfortunately, when funding formulas are based on poverty, as is the chapter 1 formula, New Mexico will almost always do very well. However, regardless of the amount New Mexico would receive under this formula, I feel this formula is the most equitable and fairest of any of the changes in the formula we will see before us.

I thank the Senator from Mississippi and the Senator from Arkansas for their diligence in this matter, and I am pleased to lend my support to this amendment.

THE TITLE I FORMULA

Mr. CHAFEE. Mr. President, I believe that the formula for title I allocations that is included in S. 1513 is fair. Title I provides funds to local school districts to help them to meet the educational needs of low-achieving students in poor neighborhoods. Until now, the funds were allocated, through States to the local level, based on a formula that considers the State-wide average expenditure per pupil, the number of children below the Federal poverty line, and the number of children whose families are receiving AFDC.

Under the formula proposed by S. 1513, the allocation to the States would be based on the number of poor children multiplied by the State expenditure per pupil, except that each child is assigned a weight based on county poverty rates or numbers of poor children. In other words, the higher the poverty rate, the higher the average child grant a State would receive. The new formula also considers effort and equity. These factors reward States that spend heavily on education in relation to their fiscal capacity. The title I formula is extremely complicated, but one thing is clear. The proposed formula will send a message to States that those who make education a high priority will be rewarded for doing so.

The formula in S. 1513 provides each State with at least as much as they received this year, through a hold harmless provision. So, there are no losers with this approach. As I understand it, the amendment before us would result in dramatic swings in funding that are linked entirely to regional demographics.

This afternoon, I met with three elementary school principals from my State. Each of them reported receiving substantially less funding this year then they did in years past. Under the proposed amendment, these schools would experience even greater reductions. The Bumpers-Cochran amendment would result in a loss of $1.5 million for Rhode Island's neediest children.

I oppose this amendment and urge my colleagues to do the same.

Mr. HATCH. Mr. President, I support the Bumpers-Cochran amendment to the title I formula in S. 1513.

The use of county income data as a factor to determine a State's allocation would help a lot of States in need.

I believe my colleagues have presented a commendable proposal. However, this is not the only meritorious approach to the difficult issue of school finance reform.

As my colleagues are aware, I have prepared my own amendment to the title I formula which I believe has merit as well.

Senator FEINSTEIN has circulated a proposal that is sound.

Mr. President, I believe as well that the formula in S. 1513 is a credible and valid formula.

I don't think there is only one way to go on this. The one sure way to have a formula fight is to get locked in on a specific theory or factor.

I support the Bumpers-Cochran formula because it meets my criteria for measures such as school funding formulas.

My criteria is quite simple, Mr. President.

First, the formula must be supported by sound policy that can be argued compellingly and substantively. The Bumpers-Cochran formula accomplishes this. I certainly believe my amendment achieves this and so does the formula included in S. 1513. There are legitimate points in favor of each of these ideas.

Second, the formula must be good for my state of Utah.

When the policy is solid—and I have not yet seen an amendment to this formula where the policy is not solid—then the question becomes one of how Utah fares under the formula in question.

As my colleagues will see, the Bumpers-Cochran formula does benefit Utah relative to the formula in S. 1513.

Therefore, I plan to support it.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the hour of 9:30 having arrived, the question occurs on amendment 2428.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—46

Baucus
Bennett
Bingaman
Bond
Boren
Breaux
Bumpers
Burns
Cochran
Cohen
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Dole
Domenici
Dorgan
Exon
Faircloth
Gramm
Hatch
Heflin
Hollings
Hutchison
Johnston
Kempthorne
Kerrey
Levin
Lott
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Rockefeller
Sasser
Shelby
Simpson
Thurmond
Wallop

NAYS—54

Akaka
Biden
Boxer
Bradley
Brown
Bryan
Byrd
Campbell
Chafee
Coats
D'Amato
Dodd
Durenberger
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Grassley
Gregg
Harkin
Hatfield
Helms
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Lugar
Mack
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Reid
Riegle
Robb
Roth
Sarbanes
Simon
Smith
Specter
Stevens
Warner
Wellstone
Wofford

So the amendment (No. 2428) was rejected.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I appreciate the cooperation that we have had during the afternoon and the early evening. It is my understanding there are two more formula amendments, Senator HATCH from Utah and Senator FEINSTEIN from California. It would be my preference, and I think Senator JEFFORDS', since we have been talking about these matters, and I think the Members are familiar with it, that we would deal with those issues this evening. Senator GREGG had an amendment just to strike existing programs which would take a short time, and then there is one further amendment that I am familiar with. That is Senator Danforth's amendment.

So we would like to try to accommodate the schedule of the leaders to move ahead. Obviously, the schedule is going to be decided by the leadership. But we are prepared to move ahead on those matters, and we would like to be able to do so with the idea of getting some resolution—I see Senator FEINSTEIN here. She was prepared to vote this evening.

Mrs. FEINSTEIN. Yes. I want a rollcall vote.

Mr. KENNEDY. Could we do that in an hour?

Mrs. FEINSTEIN. Yes. Probably, yes.

Mr. KENNEDY. Senator FEINSTEIN is prepared to agree to a time limitation and to a vote.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. I ask unanimous consent that Senator FEINSTEIN now be recognized to offer her amendment; that there be a 1-hour time limitation on the amendment equally divided in the usual form; that no amendments be in order either to her amendment or to any language that may be stricken, and that upon the conclusion or yielding back of time the Senate vote on or in relation to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

SEVERAL SENATORS. I object.

Mr. HATCH. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah reserves the right to object.

Mr. HATCH. It was my understanding that the Hatch amendment would go next, and I think it might resolve the matter if we do it. I am hopeful it would.

Mr. MITCHELL. How much time would the Senator like?

Mr. HATCH. I would say we can certainly do it in an hour, maybe even less.

Mr. MITCHELL. Mr. President, I put the same request except that I propose that it be the Hatch amendment as opposed to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object.

Mr. JEFFORDS. I object.

The PRESIDING OFFICER. The Senator from Wyoming reserves the right to object.

Mr. WALLOP. Mr. President, it may not occur to either the Senator from Massachusetts or Maine, but the hour is 10 o'clock, and therefore I object.

The PRESIDING OFFICER. Objection is heard.

The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Yesterday morning, the Senate spent nearly 3 hours in what was an unnecessary delay on the matter, and I predicted at the time that either last evening or this evening we would get to a point where we were making progress on the bill and people would say, well, it is too late to proceed. If we had been able to devote those 3 hours yesterday morning to the bill instead of the pointless delay which occurred, we might not be in this position.

Mr. President, Senators can, of course, object to any proposed agreement and can prevent votes on amendments from occurring. The only recourse which the majority leader has is to compel votes on procedural matters. I have done so only sparingly and with great reluctance and will not do so this evening.

But I will simply say to my colleagues that more than a month ago I wrote a letter to every Senator. I read the letter in this Chamber. I placed the letter in the Congressional RECORD. I advised Senators well in advance that we have a certain amount of business which we have to complete. If we continue to encounter delays during the day, then we have no alternative but to conduct our business in the evening.

What simply cannot be accepted is the circumstance where we have delays during the day and then we cannot act in the evening.

Mr. President, I will modify my request. Senator HATCH was of the impression his amendment was going to be next. So I will ask unanimous consent that Senator HATCH be recognized to offer his amendment; that there be a 1-hour time limitation on the amendment equally divided in the usual form; that no amendments be in order either to his amendment or to any language that may be stricken, and that the vote on the Hatch amendment occur at 10 a.m. on Monday.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mrs. FEINSTEIN. Reserving the right to object, then would I have an opportunity for my amendment?

Mr. MITCHELL. Mr. President, I further request that following disposition of the Hatch amendment, on Monday, Senator FEINSTEIN be recognized to offer her amendment under a comparable 1-hour time limitation and that upon the use or yielding back of that time the Senate vote on or in relation to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified? The Chair hears none, and it is so ordered.

Mr. MITCHELL. I thank my colleagues. The next vote will be on the Breyer nomination tomorrow, upon the completion of the time. The Hatch amendment will be debated this evening. The vote will occur at 10 a.m. Monday. Then there will be 1 hour of debate on the Feinstein amendment, and then a vote on the Feinstein amendment. I thank my colleagues.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Under the previous order——

Mr. MURKOWSKI. Mr. President, may I address the leader?

The PRESIDING OFFICER. Under the previous order, the Senator from Utah will be recognized to offer an amendment.

Mr. MURKOWSKI. Mr. President, ordinarily Senator Jake Garn would have had this obligation, but I am not quite clear on the majority leader's statement relative to what time the vote would occur tomorrow.

Mr. MITCHELL. Under the agreement entered, debate would begin at 9 a.m. There will be 6 hours for debate equally divided. If all time is used, the vote will occur at 3 p.m. If time is yielded back, the vote will occur prior to 3 p.m. in direct proportion to the amount yielded back.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. MURKOWSKI. Mr. President, so it is the majority leader's intention then to have the last vote tomorrow no later than 3 p.m.?

Mr. MITCHELL. Well, under the order, unless unanimous consent is granted to extend the time, the vote will occur at 3 p.m., if all time is used. If all time is not used, it will occur prior to that.

So the answer is, yes, it will occur no later than 3 p.m. I hope and expect that it will occur before then. I do not believe all the time need be used, but that is up to individual Senators.

Mr. MURKOWSKI. Mr. President, the Senator from Alaska would object if the unanimous consent were asked beyond 3 p.m.

Mr. MITCHELL. I do not intend to ask it.

Mr. MURKOWSKI. I understand.

Mr. MITCHELL. It is a very regular practice for Senators to come in the Chamber and ask unanimous consent for more time, so I suggest the Senator be here and diligent during the day.

Mr. MURKOWSKI. The Senator from Alaska will be here at 3 p.m. I thank the chair.

Mr. MITCHELL. No. No, I suggest the Senator be here at 9 a.m..

Mr. MURKOWSKI. I will be here for the vote.

I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. Mr. President, with regard to the Breyer vote at 3 p.m., I do not know what my friend, the ranking member of the committee, Senator HATCH, has determined, but to the best of my knowledge there is not the necessity of using all 6 hours. So I just want to let people know that the managers of the bill will not be offended if people do not use all 6 hours because at least two dozen of you asked me whether or not I am going to "Keep that going 'til 3 o'clock."

I am ready to vote at 9:30, and we go in at 9 a.m. So I just want you to know that anyone wishes to vote earlier, encourage your friends to just show up earlier to vote. You may all be able to leave, and we may be able to move this much more quickly.

Mr. CHAFEE. Mr. President, this week we have begun consideration of the Improving America's Schools Act, and I am pleased to be an original cosponsor. This bill provides more than $12 billion in Federal assistance to State and local educational agencies, primarily to assist children at risk—including children in poverty and children with limited proficiency in English—to attain the high academic standards being developed as a result of the Goals 2000: Educate America Act, which was approved earlier this year.

I am particularly pleased with the reauthorization of the Even Start Family Literacy Act, which I authored in 1987 and which was enacted into law as part of the 1988 Elementary and Secondary Education Act. This began as a very modest program, first authorized at $50 million. In 1992, the program was reauthorized at $100 million, and this year, we go even further by authorizing Even Start at $120 million.

Even Start provides services to children, from infants to 7-year-olds, and their families. One of our Nation's gravest challenges is the persistence of illiteracy. I introduced the Even Start Program because illiteracy tends to be passed from one generation to the next. Tragically, even parents with the best intentions tend to pass their illiteracy on to their children. Study after study indicates that children who are read to during their preschool years, learn to read more easily than children who are not read to. Children of nonreaders too often grow up to be nonreaders, and these children begin school at a distinct disadvantage.

Even Start strives to break this cycle of illiteracy by funding literacy programs directed specifically at nonreading parents and their preschool children. We all agree that parents are their children's first teachers, and that children, whose parents are involved in their education, flourish. Even Start helps parents to develop the skills needed to participate, in a meaningful fashion, in the education of their children.

The Even Start Program includes core services, such as adult literacy training, training for parents to prepare them to assist in their children's education, and early childhood education. Additional services may include child care services, testing and counseling, education of parents and their children in their own homes, and transportation. Even Start helps in our efforts to achieve three of our Nation's educational goals: Goal one "all children will start school ready to learn," goal six "every adult American will be literate * * *," goal eight "every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional and academic growth of children."

Even Start tackles the dilemma of parents who are unable to help their children succeed in school because of their own literacy problems. Imagine the anguish of parents who know they should be reading to their children, but cannot; who cannot interpret or response to notes from teachers or bulletins; and who must stand by helplessly while their children struggle to handle the challenges of school all alone. Imagine the despair of the child who gets no reinforcement at home for what he or she learns at school. Even Start attacks this problem from both sides, by assisting the child and the parent.

Funds authorized by S. 1513 for Even Start will be targeted toward teenage parents, 78 percent of whom are likely to live in poverty. Teenage parents and their children are of special concern, because too often these teen parents have no alternative but to drop out of school. Without a program like Even Start, the children of these parents would be likely to fall into the cycle of illiteracy.

In addition to the Even Start Family Literacy Program, S. 1513 reauthorizes a number of worthwhile programs that I wholeheartedly support, including the national writing project, which helps teachers to improve their writing skills and the teaching of writing skills; the Star Schools Program, which provides grants for telecommunications partnerships for distance education services in math, science, and foreign languages; the Magnet Schools Program, which has been successful in discouraging segregation; The Dropout Prevention Demonstration Program that I introduced with Senators Stafford and PELL, to identify likely dropouts and to encourage children who have failed to complete high school to return to school; The Blue Ribbon Schools Program, which authorizes the Secretary of Education to identify and reward individual schools for achieving excellence; and the Jacob Javits Gifted and Talented Program, which assists schools in providing special programs for our most talented students.

I am pleased that the Safe and Drug Free Schools Act has been reauthorized. The role of our schools has changed drastically in the past three decades, and schools have taken on extraordinary new burdens. Children of all ages, in every State across the Nation, have access to guns. When I was Governor in my State, the worst one might hear of at the schools was a fistfight. A gun incident, or shooting, was unheard of. Rhode Island is not a major urban area. Yet this year we have seen a dozen gun incidents in our schools.

What is the only route for school administrators to take? To ensure the safety of all who are in the school, administrators are forced to divert scarce funds from books to $4,000 metal detectors. In July 1992, 25 percent of the 45 largest school districts were using metal detectors; today, 69 percent are using them.

The Safe Schools Act authorizes Federal grants to school districts to fight violence in their schools. The presence of guns in schools diminishes the work of educators across the country. This bill takes steps to ensure that our heavily burdened schools are free of guns and the violence that results.

S. 1513 also encourages professional development. We have asked our Nation's schools to reach for the stars, to encourage our children to achieve high standards in every core academic area. Our teachers must be prepared to meet this challenge. The bill assists teachers in doing so by providing funds for ongoing training and teacher development.

I am particularly pleased that the committee included the Library Media and Technology Act, which I cosponsored. The technology at work in the automatic teller machines of most banks exceeds the technology present in most of our Nation's schools. This is an unacceptable situation. Our Nation is paving the way for the Information Highway and our schools must be ready to bring our students down this road.

S. 1513 encourages our schools to continue their efforts to achieve excellence and to prepare our children for the challenges of the 21st century by emphasizing programs that we know work. This bill encourages and assists local schools to develop the reforms and high standards called for in Goals 2000. So, Mr. President, I want to express my strong support for S. 1513 and urge my colleagues to do the same.

Mr. HATFIELD. Mr. President, off reservation boarding schools represent the last hope for many of the at-risk native American youth who live there. Whether emotional young people strive to succeed or fall into the path of destruction can depend directly upon the quality of individual experiences with the teachers and counselors who hold the power to shape their lives.

Many of the problems these schools face are very familiar: Alcohol and drug abuse, parental neglect, emotional suffering, and patterns of delinquency. As in any school system, without programs that meet their specific needs, at-risk youth are not adequately educated and are destined to failure. Total opening enrollment at off-reservation schools was over 2,600 students last year. But, closing enrollment was only slightly over 1,500 students. Some of the schools have dropout rates near 50 percent.

Reports analyzing these schools around the country raise many questions regarding their administration and funding. The amount spent per student at off-reservation boarding schools, such as the Chemawa Indian School in Salem, OR, varies from $10,000 to $15,000 per year. By comparison, the Oregon Department of Corrections estimates their per-inmate cost in youth institutions at $47,450 per year.

The issues here are complex and the budgets are extremely tight. But, I believe that we can not afford to overlook a 50 percent dropout rate—the social and economic costs are too high to ignore. Also, we must not forget that around 15 percent of the children in these schools are classified as gifted and talented students. How are the missions of the schools addressing their high potential for achievement?

In a recent hearing in the Indian Affairs Committee, we took a closer look at these schools. At that time, there was widespread support from administration officials and others to move toward a therapeutic school model that would be better tailored to meet the needs of these children by restructuring the residential and academic programs and enhancing the social and mental health focus of the schools.

Because some of these schools are struggling to move this direction already, I support this amendment to encourage the administration to set up demonstration programs in those schools. While I remain concerned about the lack of resources that all of these schools face, I believe that this amendment can be a step in the right direction toward ensuring that limited funds are used in the best manner possible for the well-being of these children.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah is recognized to offer an amendment.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. If the Senator will permit me to obtain an agreement——

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments be the only first-degree floor amendments remaining in order to S. 1513, the elementary and secondary education authorization bill; that they be subject to second-degree amendments, provided they are relevant to first degree to which offered; provided, further, that upon disposition of the amendments the bill be read a third time; and that the Labor committee then be discharged from further consideration of H.R. 6, the House companion; that all after the enacting clause be stricken and the text of S. 1513, as amended, be inserted in lieu thereof; that H.R. 6 be advanced to third reading; and the Senate then vote on passage of the bill with the above occurring without any intervening action or debate; that upon disposition of H.R. 6, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; and that the Senate measure then be indefinitely postponed.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

The text of the agreement follows:

S. 1513 (ORDER NO. 495)

Ordered, That when the Senate resumes consideration of S. 1513, to Improve America's Schools, the following amendments by the only first-degree amendments in order; that they be subject to second-degree amendment provided they are relevant to the first degree to which offered:

Biden—Crime.
Biden—Relevant.
Brown—Relevant.
Conrad—Indian Education.
Craig—Relevant.
Craig—Relevant.
Craig—Relevant.
Danforth—Same Gender Education.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dole or designee—Relevant.
Dorgan—Indian Education.
Dorgan—Relevant.
Dorgan-Feinstein—Gun-Free Schools.
Feinstein—Relevant.
Feinstein—Relevant.
Feinstein—Relevant.
Feinstein—Relevant.
Graham—State reimbursement.
Gramm—Crime.
Gramm—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
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Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
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Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Gregg—Relevant.
Hatch—Formula Change.
Hatch—Formula Change No. 2429.
Helms—Relevant.
Helms—Relevant.
Helms—Relevant.
Hutchison—Relevant.
Hutchison—Relevant.
Jeffords—Relevant.
Jeffords—Relevant.
Kassebaum—Relevant.
Kassebaum—Relevant.
Kennedy—Relevant.
Kennedy—Relevant.
Kennedy—Relevant.
Lautenberg—Relevant.
Lautenberg—School drivers.
McCain—Agency Requirements.
Mitchell—Relevant.
Mitchell—Relevant.

Nickles—Relevant.
Pressler—Relevant.
Pressler—Relevant.
Pressler—Relevant.
Simpson—Relevant.
Smith—Funding.
Smith—Relevant.
Stevens—Native Alaskan Education Program.

Ordered further, That debate on amendment No. 2429 shall be limited to 1 hour equally divided in the usual form, with no amendment in order thereto or to any language that it might propose to strike, and that a vote shall occur on the amendment at 10:00 a.m., Monday, Aug. 1, 1994.

Ordered further, That upon the disposition of amendment No. 2429, Senator Feinstein be recognized to offer an amendment on which there shall be 1 hour of debate equally divided in the usual form, with no amendment in order thereto or to any language that it might propose to strike, and that a vote shall occur on the amendment upon the use or yielding back of time.

Ordered further, That upon disposition of the listed amendments, the bill be read the third time and the Labor Committee then be discharged from further consideration of H.R. 6, and the Senate proceed to its immediate consideration, and all after the enacting clause of H.R. 6 be stricken and the text of S. 1513, as amended, be inserted in lieu thereof; that H.R. 6 be read the third time and a vote occur on passage, without intervening action or debate.

Ordered further, That upon the disposition of H.R. 6, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; and that S. 1513 be indefinitely postponed. (July 28, 1994.).

Mr. MITCHELL. Mr. President, I send the list of amendments to the desk.

I thank my colleagues, and I especially thank the Senators from Massachusetts and Vermont for their diligence in pursuing this.

And I thank the Senator from Utah for his courtesy.

Mr. HATCH. Mr. President, why do I not just put the amendment into the RECORD and the speech in the RECORD tonight so people will know what it is about, and we will spend time on it, if the Senator from Massachusetts so desires.

Mr. MITCHELL. I will proceed in whatever manner the Senator from Utah wishes.

Mr. KENNEDY. That is fine.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I would like to say we will be in session all day Monday with votes during the day and into the evening in an effort to make further progress and, hopefully, complete action on this bill on that day.

So Senators should be aware of that and plan their schedules accordingly.

I thank my colleague.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2429

(Purpose: To amend the Title I formula in S. 1513, the "Improving America's School Act of 1994")

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. BENNETT, proposes an amendment numbered 2429.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 554 line 21, strike all through line 15 on page 556 and insert in lieu thereof the following:

(iii)(I) Except as provided in subclause (II) the equalization factor for a local educational agency shall be determined in accordance with the succeeding sentence. The equalization factor determined under this sentence shall be calculated as follows: First, calculate the difference (expressed as a positive amount) between the average per pupil expenditure in the State served by the local educational agency and the average per pupil expenditure in each local educational agency in the State and multiply such difference by the total student enrollment for such agency, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Second, add the products under the preceding sentence for each local educational agency in such State and divide such sum by the total student enrollment of such State, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Third, divide the quotient under the preceding sentence by the average per pupil expenditure in such State. The equalization factor shall be equal to 1 minus the amount determined in the previous sentence.

(II) The equalization factor for a local educational agency serving a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall have a maximum coefficient of variation of .10.

Mr. HATCH. Mr. President, I rise today to offer an amendment to what has become known as the equity bonus of the title I formula included in S. 1513. My amendment would treat all States equally under the equity bonus included in S. 1513. I believe, Mr. President, that an equity factor certainly is the one place to treat all States equally.

I want to begin my making it clear to my colleagues that my amendment does not change any of the other three factors that comprise the four-part title I formula. In crafting my amendment, I wanted to work within the framework established by Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS. I have been very pleased to work with my distinguished colleagues on this bill. I appreciate the hard work done by the majority and minority leaders on the full committee and subcommittee and their respective staffs. They are dedicated professionals who care deeply about improving the education of American children.

Yet, I believe this formula can still be improved.

My amendment very simply removes the arbitrary floor and ceiling that limits the overall effect of this formula factor. These boundaries have the effect of grouping States into one of three tiers, each tier having a single multiplier for the purpose of computing the formula. Each State, therefore, does not benefit individually.

I am referring to my proposed modification as an equalization factor so as not to confuse my colleagues. My amendment proposes an equalization factor that treats States equally and is based on a factor that States can control: the equal distribution of resources among local school districts in the State.

The principal measure in both the S. 1513 equity bonus and the Hatch equalization factor is known as the coefficient of variation. This is defined as the difference between the local education agencies [LEA's] within a State having the highest and lowest per pupil expenditures. This coefficient of variation [COV], according to the Congressional Research Service is widely considered to be one of the best measures of school finance disparities.

Since they say imitation is the sincerest form of flattery, let me note several ways in which the Hatch equalization factor is the same as the S. 1513 equity bonus in addition to the use of COV measure.

This measure for the average disparity in expenditures per pupil among the local education agencies of a State—meaning the COV—has accounted for differences in enrollments for these local education agencies and applies an extra weight of 0.4 for the number of poor children. This is the same as the S. 1513 formulas equity bonus.

My amendment includes a 100-percent hold harmless for the first year and caps the amount a State can gain at 115 percent. This is the same as in S. 1513.

My amendment recognizes the strain placed on particular States severely affected by a reduced tax base as a result of Federal installations and ensures that these federally impacted States are not penalized under the Hatch equalization amendment to the title I formula. This is the same as in S. 1513.

My amendment would benefit three-quarters of the States. If they haven't seen it already, I would draw my colleagues' attention to the chart I have placed in the rear of the Chamber. As my colleagues will observe, 38 of the 50 States benefit under the Hatch equalization amendment to the title I formula and four States receive the same amount of money.

It would be nice to find a formula that would benefit every State. It would certainly be my desire that every State could be a winner. But, unfortunately, the budget process notwithstanding, Congress hasn't figured out how to overcome the basic rules of mathematics. Given a specific amount of money, different formulas must produce winners and losers.

I believe, however, that the modification to S. 1513 I am suggesting pays significant dividends to education in the large majority of States while hurting the fewest possible number of States.

Mr. President, I believe this equalization factor, which treats all States equally is a solid formula for the following reasons:

First, an unequal distribution of resources denies needed resources to poor and minority children.

Some of my colleagues may argue that my equalization factor treats poor kids unfairly—that what we ought to be doing is directly targeting resources to poverty-stricken schools.

I would argue that an equalization factor is a poverty factor. I believe that the unequal distribution of resources among school districts disproportionately affects poor and minority students. One of the main goals of this reauthorization has been to target poor kids. A stronger equalization factor helps accomplish this.

A report prepared by the Policy Information Center of the Educational Testing Service, titled "The State of Inequality," concludes that,

> Thus, it can be established with national data that educational resources are unevenly distributed. It is also clear that, on average, students in poorer areas are likely to have fewer educational resources than those in wealthy areas. There are also wide variation in the effectiveness of schooling, after differences in socioeconomic status are considered.

Further studies have also determined that high-poverty and minority students have fewer opportunities to take critical gatekeeping courses in math and the hard sciences, thus preventing access to institutions of higher learning.

A report prepared for the House Committee on Education and Labor, titled, "Shortchanging Children: The Impact of Fiscal Inequity on the Education of Students At Risk" found that, "Inequitable systems of school finance inflict disproportionate harm on minority and economically disadvantaged students."

A Rand report concludes, "The most effective way to overcome the adverse effects on the disadvantaged of disparities in state and local education expenditure is to eliminate the disparities themselves."

Some would argue that equalization of resources would penalize kids in poor, urban areas, who need greater resources than kids in wealthy, safer suburban neighborhoods. As the CQ Researcher points out, however,

> * * * In the past three decades the non-academic scope of schools, especially inner-city schools, has expanded considerabily. Schools now offer, among other things, special programs for handicapped and immigrant children. And the role of schools has evolved from providing instruction to children to dealing with all facets of students lives, from teen pregnancy to increasing violence. The sad fact is that in some schools, some of the increase in per-pupil spending has been for metal detectors and security guards.

The point I am trying to make here, Mr. President, is that when you differentiate expenditures for classroom resources, from expenditures for other purposes, urban schools spend far less for classroom needs.

This is why I support a weighted factor for poor kids. I completely agree that, under this formula, poverty LEA's should be given a boost.

Not only does the Hatch equalization factor retain the .4 weight for poor children that is in the S. 1513 equity bonus, but it also retains the weighted child factor as part of the four-part formula.

I should also note that my amendment proposes no change in the bill's formula that distributes title I resources within a State or the formula that allocates funds from the district to individual schools. Both of these calculations target funds to high-poverty school districts and to high-poverty areas within districts.

So, some of my colleagues are asking, if the formulas are so similar, what difference does it make.

I believe my Federal to State distribution is better than the proposal in S. 1513 because, first, equalization has been documented as a way to assist low-income LEA's, and my amendment encourages States in that direction without being dictatorial about it; and second, all States are able to capture all the benefits of their equalization efforts on an individual basis. They are not thwarted by an arbitrary cap.

The one problem with the limitations on the equity bonus in S. 1513 is that it does not permit this formula factor to do what it should do—direct State and local resources, as well as Federal, where they are most needed.

I repeat, all my amendment does is treat all States equally under the title I formula.

Second, title I is ineffective if it merely layers resources where the resources are inadequate

Title I should ideally be providing additional resources for needy children. Unless resources are equalized, one of the primary principles under which this initiative was undertaken will be lost. The layering of resources where resources are already inadequate will not meet the needs of disadvantaged children. Title I was meant to provide additional resources, all else being equal. Title I was not meant to compensate for an inadequate financial commitment to poorer LEA's on the part of States.

The purpose of Title I is to give educationally and economically disadvantaged students additional assistance: teachers, textbooks, and additional education resources. These resources were never intended to comprise the entirety of aid to an educationally or economically disadvantaged student.

However, it has recently been concluded that the chapter 1 program does not spread resources on an already even playing field. In fact, often, too often, chapter 1 is the field. Mr. President, this must change if all students are going to be successful in meeting the national education goals.

Research completed by Rand's Institute on Education and Training determined that, "The potential effectiveness of chapter 1 depends on its supplemental character, which in turn depends on equality of base expenditure across LEA's."

This report concludes that, "In sum, the present chapter 1 funding mechanism has not been designed to make Federal aid supplemental, except in the narrowest, most local sense, in the face of an inequitable system of general education finance."

These conclusions are supported by testimony delivered before the Senate Labor and Human Resources Committee on August 3, 1993. William Taylor, a Washington attorney and children's advocate, drew from the report by the Independent Commission on chapter 1 entitled, "Making Schools Work for Children in Poverty."

Finally, the failure to deal with educational inequity makes chapter 1 an inefficient program and prevents it from achieving its goals. Chapter 1 has been built on the fiction of a level playing field, that is, that Federal funds are provided as a supplement for economically disadvantaged children to an educational program that is already adequate for them. In many places, this is not the case.

Indeed, a review of the report issued by the Commission reveals that they concur on the issue that chapter 1 should supplement where resources are equal, not subsidize an unequal distribution of resources.

Mr. President, some might argue that my equalization factor should not be the only determining factor in allocating desperately needed title I funds. To them I say, I totally agree with you. The equity bonus included in S. 1513 is only one factor in a four-factor formula.

I also agree that there are many other factors which contribute to a State's ability to finance education. I wish again to remind my colleagues that all I am doing here is attempting to have States treated equally and fairly, which the three-tier grouping does not do.

Mr. President, I repeat: Economically disadvantaged and minority kids are adversely affected by the disparities in educational financing. Title I should be used to give added resources to these economically and educationally disadvantaged kids. We need to change the status quo, and certainly the formula included in S. 1513 does that. But, by making one simple adjustment, we can make it so much more effective.

Third, failure to improve the equal distribution of resources will prevent all kids from making progress achieving the national goals for education.

The current level of inequity makes progress toward achieving the national education goals for all students unlikely, thereby preventing real educational reform.

I would like to read from the testimony presented on July 26, 1993, in the Labor and Human Resources Committee by Dr. Bob Berne, a professor at the Robert F. Wagner Graduate School of Public Service, who has studied equity in school finance for over 15 years:

> * * * the current inequities in our school finance system are every much [sic] as serious a national education problem as inadequate early childhood education, overly bureaucratized schools, non-existent or low educational standards, and substandard preparation of our teaching force. In fact, if the finance inequity issues are not addressed simultaneously with these other problems, the solutions, if they can be found and implemented, will only benefit a subset of our students.

The unequal distribution of resources affects all kids. Unless we make equity a priority, then the goals we have codified for teachers, students, parents, and schools will not be realized.

Fourth a fair equalization factor will promote bottom-up education reform that will help all kids make progress towards achieving the national goals.

Real education reform must take place at the grassroots level. A series of edicts issued from Washington, DC is not going to improve education for Americans. State and local education agencies must take on this daunting challenge. This is one of the major reasons why I support having an equalization factor that treats all States fairly.

The degree to which a State equalizes funding for education is a factor that a State can control. A State that equalizes is a State that will benefit under a fair equalization factor.

Also, equalization is a factor that can be quantified. So much of what the Congress is asking the State and local education agencies to do requires a judgment based on a series of qualitative analyses. A fair equalization factor does not rely on subjective determinations.

A fair equalization factor does not rely on mandates or guidelines for how a State should achieve equalization. I, for one, would oppose a measure that specified how a State was to engage in equalization. On the contrary, I believe States are perfectly capable of figuring this out for themselves.

Fifth, including an equity factor in the title I formula could help prevent costly, time-consuming lawsuits.

On July 13, 1994, the Washington Post reported that "the New Jersey Supreme Court declared the state's method of funding public schools unconstitutional, saying that it did not go far enough in eliminating disparities in spending between rich and poor school districts. This ruling is the latest in a series of high-profile cases around the country * * *"

In its ruling the court stated unanimously that funding disparities within the State created a "separate class of students within the state * * *. 'Many [are] undereducated, isolated in a separate culture, affected by despair, sometimes bitterness and hostility, constituting a large part of society that is disintegrating.'"

Twenty-four States currently face lawsuits over the unequal distribution of resources. Washington Post, July 13, 1994. The practice of suing a State because of financial disparities has a long history, spanning over 30 years. Several States have had their school finance systems declared unconstitutional. One thing, however, is apparent: every State is vulnerable to legal challenges based on financial disparities. My point, here, Mr. President, is that this issue is not going to go away. Furthermore, I believe we are today in a position to encourage action in this area and, hopefully, to help head off unproductive and costly legal battles.

The report from the Educational Testing Service, "The State of Inequality," has concluded that:

> The issue of inequality in providing public education and inequity in its financing has, for at least two decades, been framed as a legal issue debated and decided in State courthouses * * * . It is a policy issue for executive and legislative branches as well, at all levels of government.

We have an opportunity today to help address what has been called the savage inequalities that exist within our Nation's schools.

All my colleagues understand the problem. I urge them to support my amendment to help do something about it.

Mr. President, I am prepared to debate this matter for an hour on Monday then, if it is all right with the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator. I think in terms of the membership, I doubt if we would be able to have much of an impact on our friends and colleagues tonight. So I will look forward tomorrow morning to reading the speech with great diligence.

Mr. HATCH. I thought the Senator would. I have to say I am looking forward to it. I hope the Senator puts his speech in the RECORD so I can read it. I know it will not be nearly the debate unless the Senator from Massachusetts has an audience on the floor.

Mr. KENNEDY. Mr. President, I understand I will be able to put in some remarks in response to the statement.

Mr. President, we have been debating these issues all evening, and I doubt if there is much that we could add to the discussion tonight.

I will include in the RECORD some remarks in response to the Senator's amendment.

I understand we have been accorded time on Monday morning to debate this prior to the Senate making a judgment on it at 10 a.m. So that is the way that we will proceed. As the majority leader has indicated, we will have a full day on Monday. Hopefully, we will finish the formula amendments in the morning. Senator DANFORTH has an amendment, Senator GREGG has an amendment, and Senator GRAHAM has an amendment as well. We will plan to have a full day on Monday through Monday evening.

Again, I thank all of the membership for their courtesy and for their cooperation this evening. We look forward to completing the legislation, hopefully, on Monday and no later than Tuesday.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BRUCE BARTLETT'S COMMON-SENSE ARGUMENT AGAINST TAXING CIGARETTES TO PAY FOR HEALTH CARE

Mr. FAIRCLOTH. Mr. President, as a life long farmer and businessman, I feel it is important to be honest with the American people about the hoax being played on them by supporters of funding socialized medical reform with the revenue from increased cigarette taxes. The reformers claim that their plan can be funded by jacking up the tax on cigarettes, while at the same time promoting good health by discouraging people from smoking. That doesn't make common sense. The two goals are mutually exclusive.

In North Carolina alone, 88,000 people work directly in the tobacco business;

growing it, auctioning it, or manufacturing cigarettes. North Carolina farmers sold over $1 billion worth of tobacco at auction last year. And over 150,000 North Carolinians work in jobs indirectly dependent on tobacco. According to Price Waterhouse, the proposed $.75 tobacco tax increase will put 12,676 North Carolinians out of work, in addition to thousands of others around the country.

Those people will be put out of work because consumers will smoke fewer cigarettes. Common sense tells us that any revenue derived from a product with declining consumption will itself naturally decrease over time. Unfortunately, the administration and the socialized medicine establishment deliberately avoid acknowledging that fact.

The issue, however, is honestly discussed in an article by Mr. Bruce Bartlett, "Cigarette Taxes, Smuggling, and Revenues", which appeared in the June 3, 1994 edition of Tax Notes. Mr. Bartlett, a senior fellow of the Alexis de Tocqueville Institution, makes an excellent and succinct case against relying on a tax to both reduce consumption and raise revenue. Furthermore, Bartlett relates the experience of Canada, and how that nation's cigarette taxes reached the point that organized crime stepped in and created smuggling operations rivaling those of the Prohibition era in the United States.

Mr. President, I ask unanimous consent that Mr. Bartlett's article be entered into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CIGARETTE TAXES, SMUGGLING, AND REVENUES

(By Bruce Bartlett)

I. INTRODUCTION

In 1993, President Clinton asked Congress to raise the tobacco excise tax by 75 cents per pack of cigarettes to help fund his national health insurance program. More recently, a congressional subcommittee has proposed an even larger increase of $1.25 per pack, also to fund health insurance. Meanwhile, a number of states, such as Maryland, are proposing increases in state tobacco taxes as well.

Although these proposed cigarette tax increases largely are being fueled by antismoking concerns about the impact of smoking on health, they are also driven by fiscal necessity. Increased cigarette tax revenues would fund 17 percent of the Clinton health plan, for example. And throughout the United States, tobacco taxes are an important element of state budgets. However, because higher cigarette taxes are motivated by contradictory motives, there is some question as to what the appropriate tax burden on tobacco should be.

On one hand, those who favor the ultimate abolition of smoking clearly would favor the highest tax rate possible, regardless of the revenue effect, to encourage as many people as possible to quite smoking. On the other hand, fiscal requirements would suggest a moderate tax rate to minimize any reduction in cigarette sales and raise maximum revenue. Thus, the fiscal and nonfiscal goals of tobacco taxation are in conflict with each other.

The purpose of this paper is to review some of the economic issues related to tobacco taxation in the interest of furthering public debate on this important question.

II. BACKGROUND

Contradictory actions regarding the regulation of tobacco are nothing new. As early as 1621, the British Crown had forbidden the American colonies from exporting their tobacco anywhere except to England. The purpose was to keep down prices for colonial tobacco and allow the mother country to capture high profits by reselling it on the world market. However, the low prices discouraged colonial production and caused great hardship among tobacco growers. So, to mitigate the effects of the English monopoly on the purchase of colonial tobacco, in 1625 the Crown further ordered that only American tobacco could be sold in England, thus excluding Spanish and Portuguese tobacco from the British market, and forbid the growing of tobacco in England.

We thus see an early example of how the Crown's merchantilist desire to enrich England at the expense of the colonies was frustrated by the actions of the colonists, requiring the Crown to introduce a subsidy, in the form of a monopoly on sale in the British market, to offset the burden that had been imposed on the colonists.

A. First Tobacco Taxes

In 1685, England imposed an import tax on tobacco for the first time. Subsequently, the rate was increased to such an extent that smuggling became a serious problem. In fact, by the early 1800s, revenue from tobacco taxes was falling even though population and consumption were rising. In 1826, however, a legislative drafting error caused the tobacco tax to be cut by 25 percent. The effect was to so reduce smuggling that revenue from the tobacco tax actually increased.

The possibility that tax or tariff rates might be so high as to reduce their revenue yield had been noted by Jonathan Swift as early as 1728:

I will tell you a secret, which I learned many years ago from the commissioners of the customs in London: They said, when any commodity appeared to be taxed above a moderate rate, the consequence was to lessen that branch of the revenue by one half; and one of those gentlemen pleasantly told me, that the mistake of Parliaments, on such occasions, was owing to an error in computing two and two to make four; whereas in the business of laying heavy impositions, two and two never make more than one; which happens by lessening the import, and the strong temptation of running such goods as paid high duties.

By 1776, Swift's observation had been endorsed by Adam Smith, who wrote in "The Wealth of Nations":

"The high duties which have been imposed upon the importation of many different sorts of foreign goods, in order to discourage their consumption in Great Britain, have in many cases served only to encourage smuggling; and in all cases have reduced the revenue of the customs below what more moderate duties would have afforded. The saying of Dr. Swift, that in the arithmetic of the customs two and two, instead of making four, make sometimes only one, holds perfectly true with regard to such heavy duties."

The founding fathers also were concerned about this problem. In the "Federalist Papers," Alexander Hamilton wrote extensively about how high taxes and import duties encourage smuggling, to the detriment of the Treasury's revenue. In Federalist No. 22, for example, Hamilton said, "If duties are too high, they lessen the consumption; the collection is eluded; and the product to the treasury is not so great as when they are confined within proper and moderate bounds." In Federalist No. 35, he wrote, "Exorbitant duties on imported articles would serve to beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself."

B. Sumptuary Laws

Despite the negative impact that high tax rates have often had on revenues, such taxes have continued to be imposed throughout time because they also serve a nonrevenue purpose: to control behavior. In this respect, the tax laws are often akin to sumptuary laws, which have existed since immemorial to regulate the consumption of various commodities. In medieval times, these laws could be extremely detailed, strictly regulating such things as clothing according to one's precise rank in society. Then, as now, such laws were often justified by the need to protect the lower classes from wasteful extravagance or other evils. Today, taxes on alcohol and tobacco are often called sumptuary taxes for this same reason.

In the 20th century, the desire to control individual behavior and prevent the consumption of commodities deemed harmful has often taken the form of outright prohibitions. The best example of this is the federal prohibition between 1920 and 1933 on the sale or distribution of alcohol. Today such outright prohibitions are largely confined to narcotics, such as heroin and cocaine. However, taxes can also be used to prohibit consumption. Hugh Dalton explains how:

"If, as the rate of a particular duty is increased, the revenue yielded increases, the duty is predominantly a tax. But when the rate is increased above the point at which the yield in revenue is a maximum, it is clear that some element of penalty is present, and we finally reach a duty of prohibitive amount, whose yield is very small or non-existent. This is closely akin to a simple prohibition of production or importation, with a penalty for infraction."

C. Prohibition

Prohibition, however, was a total failure. Although motivated by the same genuine concerns about health and public safety that today motivate concerns about smoking, the effort to prohibit alcohol consumption altogether proved to be too costly for society to bear. In particular, Prohibition gave rise to a massive increase in crime. Among the reasons for this increase are the following:

Despite Prohibition, millions of Americans still desired to obtain alcoholic beverages.

Because such beverages could no longer be produced legally by legitimate producers and because of higher costs associated with illegal production, prices for alcohol increased sharply.

Higher profit margins led new producers to enter the industry, leading established firms to use violence to protect their market share.

Such profits also drew many ordinary citizens into criminal activity simply because of their desire to consume alcohol.

Wide public acceptance of alcohol consumption, high profits, and criminal organization eventually led to corruption of public institutions, including the police and the courts.

In short, Prohibition led directly to an increase in crime. This fact is shown graphically in Figure 1, which shows the homicide rate before and after Prohibition.[1] As one can see, the onset of Prohibition before World War I caused a sharp increase in murders. Within a few years of the repeal of Prohibition, however, the homicide rate had dropped as sharply as it had risen. This strongly suggests that Prohibition itself, for the reasons outlined above, was the direct cause of increased crime.

III. CIGARETTE BOOTLEGGING

As noted earlier, taxes can act like prohibitions when they raise prices to such an extent that they discourage consumption and reduce tax revenues to below what more moderate rates would bring in. Cigarette taxes have long been known to have such an effect. In particular, the fact that state taxation of cigarettes varies greatly from state to state has given rise to organized cigarette bootlegging—buying cigarettes in low-tax states for resale in high-tax states. As Table 1 illustrates, the range of tax rates between high- and low-tax states can be as much as 63.5 cents per pack (between Virginia and the District of Columbia). Moreover, as in the case of Virginia and D.C., there are often wide variations in tax rates between contiguous jurisdictions, thus making bootlegging an easy crime to commit.

Table 1.—State Cigarette Tax Rates (cents per pack)

State	*Tax*
District of Columbia	65.0
Hawaii	60.0
New York	56.0
Washington	54.0
Massachusetts	51.0
Minnesota	48.0
Connecticut	47.0
Illinois	44.0
North Dakota	44.0
Rhode Island	44.0
Texas	41.0
New Jersey	40.0
Wisconsin	38.0
Oregon	38.0
Maine	37.0
California	37.0
Maryland	36.0
Iowa	36.0
Nevada	35.0
Nebraska	34.0
Florida	33.9
Arkansas	31.5
Pennsylvania	31.0
Alaska	29.0
Utah	26.5
Michigan	25.0
New Hampshire	25.0
Ohio	24.0
Delaware	24.0
Kansas	24.0
Oklahoma	23.0
South Dakota	23.0
New Mexico	21.0
Colorado	20.0
Louisiana	20.0
Vermont	20.0
Montana	18.0
Mississippi	18.0
Arizona	18.0
Idaho	18.0
West Virginia	17.0
Missouri	17.0
Alabama	16.5
Indiana	15.5
Tennessee	13.0
Georgia	12.0
Wyoming	12.0
South Carolina	7.0
North Carolina	5.0
Kentucky	3.0
Virginia	2.5

Source: Tobacco Institute.

A 1977 report from the Advisory Commission on Intergovernmental Relations indicated that cigarette bootlegging was one of the fastest rising crimes in the U.S. Among the reasons:

Cigarettes are relatively easy to handle and transport, and smuggling them across open borders is difficult to detect.

Penalties for cigarette bootlegging are generally light and are not an effective deterrent to bootleggers.

Cigarette bootlegging is not a federal offense and the interstate nature of the problem hampers state and local law enforcement efforts.

Potential profits in cigarette bootlegging are so great that a wide variety of people are attracted to this illegal activity.

Because of the high profit potential, organized crime has become heavily involved in bootlegging.

The ACIR concluded that high-tax states were losing $391 million per year in revenue due to cigarette smuggling (equivalent to $540 million today).

Other research confirmed the growth of cigarette smuggling. A study of tax evasion by economists Carl Simon and Ann Witte found that in 1975 cigarette smuggling netted between $100 million and $200 million. New York was a major market for bootlegging, with smugglers netting $30 million to $50 million in that state alone. The magnitude of such losses even led to a major effort in New York to cut the cigarette tax specifically to reduce crime. Supporters of the effort estimated that state and local governments combined were losing $100 million per year due to smuggling and that organized crime was earning $1.5 million per week in the process. In an editorial, The New York Times backed the proposal, arguing that it might even lead to an increase in tax revenue:

> Moved by pure greed, the state has raised the tax on cigarettes so high * * * that half the smokers in New York City buy bootlegged cigarettes, usually without knowing it. The money that should flow as tax payment to government goes instead into the pockets of well-organized criminals and their truck-driving colleagues. * * * Since the state's present taxes took effect in 1972, revenue from cigarette taxes has dropped far below estimates even though smoking has not. The difference is so great that a reduction in the tax rate to put the smugglers out of business would probably produce greater income for the state. It is estimated that a 9-cent reduction in the tax would take the profit out of smuggling and stimulate the growth of normal, tax-paying patterns of distribution. It would also, in time, end the threat of gangster control of large parts of the cigarette business.

Although passage of a federal law against interstate cigarette smuggling in 1978 (Public Law 95-575) has reduced bootlegging, it remains a serious problem.

IV. INTERNATIONAL EXPERIENCE

The recent experiences of Europe and Canada illustrate the potential for tax differentials to stimulate smuggling on a massive scale when tax rates get too far out of line. In Europe, this resulted from the elimination of all tariffs among members of the European Community starting on January 1, 1993. With the elimination of all tariffs, different rates of domestic sales taxes—especially value added taxes (VAT)— took on new economic significance. It was now easier than it had ever been before to drive across national borders to buy goods at a lower tax rate than that in one's own country. Indeed, entrepreneurs quickly set up retail operations just across borders, catering to those seeking such tax bargains.

A. Canada

The experience of Canada is even more dramatic. Owing to imposition of a VAT in 1991, as well as higher rates on tobacco, the price differential between Canadian cigarettes and those sold in the United States rose to over $35 (Canadian) per carton. Organized, as well as casual, smuggling skyrocketed. According to an industry-sponsored study, one in nine cigarettes smoked in Canada in 1991 had evaded Canadian taxes. As a result, Canadian governments lost approximately $1 billion (Canadian) in revenue that year alone. The study also noted that consumption of contraband cigarettes was increasing rapidly and that such smuggling was giving rise to a vast criminal network, to which ordinary people were turning a blind eye. The study concluded:

> Many ordinary Canadians feel no compunction about breaking tax-related law. Canadians now wink at cigarette smugglers the same way Americans did at bootleggers in the 1920s. Smokers and non-smokers alike not only feel the high taxation rates on tobacco products are unfair, but have now engaged in the smuggling of tobacco solely for profit with little regard for the law and law enforcement officers. As long as the disparity in prices between Canada and the U.S. exists, smuggling organizations will become increasingly more sophisticated to avoid detection from the authorities. Once these organizations become established and, from our intelligence they have indeed become so, it becomes virtually impossible to dismantle them. As we have reported, commercial smugglers have merely adapted their operations to maintain the flow of supply to their distributors. Unless prices are substantially reduced, it appears Canada's tobacco smuggling problem will not disappear.

Among the major smuggling networks are the Mohawk Indians, whose reservation straddles the New York/Canada border, and who may be responsible for half of all contraband cigarette sales in Canada. (The Mohawks also do a healthy business selling contraband cigarettes in New York.) Fishermen are another major source of bootleg cigarettes. And, of course, organized crime is heavily involved. Canadian police have identified Asian gangs known as Triads as being especially active in cigarette smuggling. The use of violence in their activities is commonplace. The mayor of the border town of Cornwall, Ontario, was even forced into hiding recently due to threats on his life from organized crime, after launching a campaign against cigarette smuggling.

Interestingly, the original source of most contraband cigarettes is Canada itself. Legitimate cigarette manufacturers, who produce cigarettes specially for the Canadian market, have lately been exporting cigarettes to the United States in large numbers. In just the first seven months of 1993, Canada exported 9.7 billion cigarettes to the U.S.—an 88-percent increase. Since there is no apparent demand for Canadian cigarettes in the United States, the presumption is that virtually all of these cigarettes were ultimately smuggled back into Canada.

B. Smuggling Encourages Tax Evasion

By the end of 1993, the Canadian government was becoming alarmed by the extent of cigarette tax evasion, which was contributing significantly to its fiscal problems. Said Canadian Finance Minister Paul Martin, "More and more people consider it acceptable not to pay taxes." In December, Canada's Minister of National Revenue, David Anderson, suggested that perhaps the tobacco tax rate ought to be cut so as to reduce smuggling. "Tobacco taxes have gone up so sharply in the last three or four years that people feel it is very much an overtaxed commodity," he said.

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[1] Figure 1 not reproducible in the RECORD.

In January, opposition to high cigarette taxes went beyond passive tax evasion and developed into a political revolt. On January 24, 75 store owners in the border town of St. Eustache, Quebec, who had seen their sales and profits suffer as a result of smuggling, began selling contraband cigarettes at cut-rate prices, in open defiance of the police. A large crowd turned out to buy the cheap cigarettes and to protest Canadian taxes.

Such blatant defiance of the law is unusual in Canada and government leaders were becoming alarmed. In particular, there was concern that cigarette tax evasion was having a spill-over effect, leading to evasion of other taxes as well. It was noted that since imposition of the VAT in 1991 use of cash in the economy had surged, which is often a sign of a growing underground economy, where cash, rather than checks or credit cards, is the preferred medium of exchange. Tax evasion was said to be rampant in certain businesses, such as home renovation, where such evasion could cut costs by up to 50 percent. A poll found that one in four Canadians considered tax evasion to be acceptable, and 30 percent saw nothing wrong with smuggling.

Finally, in February, the government decided to cut the cigarette tax by $5 per carton and also enacted measures to encourage the provinces to cut their cigarette taxes as well. At the same time, an $8-per-carton tax was levied on cigarette exports to discourage round-tripping, and the corporate tax rate was increased for tobacco companies. The tax on cigarettes in Quebec was expected to fall from $44 per carton to $23. Combined with the proposed increase in U.S. tobacco taxes, this action is expected to sharply reduce the profit incentive in smuggling cigarettes across the Canadian border.

V. CONCLUSION

The lessons of history and foreign experience make it clear that there is a limit to excise taxation. When rates get too high they simply lead to smuggling and tax evasion. They may even reduce government revenue to below what more moderate rates might raise. The prime beneficiary is organized crime.

It is difficult to say whether President Clinton's proposed 75-cent-per-pack increase in the federal cigarette tax would have the kind of impact that higher cigarette taxes had in Canada. Obviously, purchasing cheaper cigarettes in Canada is not a viable alternative. However, one should not underestimate the ingenuity of the American people in evading taxes—there is already an underground economy in the United States of probably 10 percent of GDP, some $600 billion per year. And the failures of our nation's wars on alcohol in the 1920s and on drugs more recently do not inspire confidence that governments effectively can prevent people from evading cigarette taxes if rates are set too high.

While it is true that most other countries tax cigarettes more heavily than does the United States, even with President Clinton's proposed increase, it should be remembered that rates charged do not necessarily correspond to rates paid. Especially in developing countries, virtually all economic activity takes place in the underground economy. High statutory tax rates on incomes and commodities simply are not paid. Thus, comparisons between the United States and other countries in this regard are not necessarily meaningful.

The effectiveness of a given tax to accomplish its objective may also be related to the question of fairness. If it were believed that the government was unfairly picking on smokers just because smokers are politically vulnerable, many nonsmokers would sympathize with their plight and look the other way at efforts to evade cigarette taxes. Sympathy for smokers by nonsmokers may also result from the fact that tobacco taxes are extremely regressive, taking far more out of the pockets of those with lower incomes than those with high incomes, as indicated in Table 2.

TABLE 2.—TOBACCO EXPENDITURES AS A SHARE OF INCOME, 1991

Quintile	Average income	Tobacco expenditures	Percent
Lowest	$5,981	$181	3.0
Second	14,821	274	1.8
Third	26,073	310	1.2
Fourth	40,868	339	0.8
Highest	81,594	285	0.3

Source: Bureau of Labor Statistics, Consumer Expenditure Survey.

Given that many people will not quit or reduce smoking in response to higher taxes, the effect of such taxes will be to reduce their real incomes, leaving them less money to spend on food, shelter, and other necessities, for themselves and their dependents. It thus is quite possible that higher cigarette taxes could lead to suffering and depravation among many innocent nonsmokers, such as dependent children. For these reasons, one can be opposed to higher taxes on tobacco products without necessarily endorsing smoking.

There is also the question of revenue. As noted at the beginning of this article, the sumptuary effect of tobacco taxes is clearly in conflict with their revenue purpose. Insofar as such taxes reduce smoking, they reduce tax revenue as well. The most recent evidence indicates that a permanent 10 percent increase in the price of cigarettes reduces consumption by 4 percent in the short run and 7.5 percent in the long run. (The difference is mainly due to the impact on young people who are discouraged from taking up smoking in the first place.) Thus, both the Clinton administration and the Congressional Budget Office have forecast that cigarette tax revenues will rise by about half of the percentage increase in the cigarette tax rate.

Meanwhile, a number of states have found that recent increases in cigarette taxes have failed to raise as much revenue as anticipated. Although this may partly be due to more aggressive antismoking campaigns, bootlegging has also been cited by state tax officials as a major factor. California officials are especially concerned about an increase in smuggling across the Mexican border, where seizures of cigarettes have increased by 887 percent since 1991; smuggling accelerated after a tripling of the state cigarette tax in 1989. And this was before passage of the North American Free Trade Agreement (NAFTA), which presumably will make cross-border cigarette smuggling easier. Interestingly, many of the cigarettes seized are not Mexican brands, as had been the case earlier, but American brands that previously had been exported to Mexico.

In conclusion, there are strong reasons for being cautious about raising cigarette excise taxes. Bootlegging is already a serious problem at the state level and a 75-cents or $1.25-per-pack increase in the federal tax on top of already high state rates may only stimulate more of this activity. Moreover, the potential for cross-border smuggling between the Mexico and the United States cannot be dismissed casually, given the recent experience of Canada and the passage of NAFTA. In the end, not only will revenues suffer, but we could see spillover effects in the form of increased crime and its attendant violence and an increase in overall tax evasion. Higher cigarette tax revenues thus may be offset by lower revenues from other taxes.

NOW IS THE TIME FOR THE LAW OF THE SEA CONVENTION

Mr. PELL. Mr. President, tomorrow, July 29, will be a historic day. In New York, the U.S. Ambassador to the United Nations—Madeleine Albright—will sign an Agreement that will bring our country closer to a major bipartisan foreign policy goal: the conclusion of a widely acceptable Convention on the Law of the Sea. The Agreement was adopted today in the General Assembly by a vote of 121 nations in favor, none opposed; 7 countries abstained.

The signing of the Agreement also brings me a large measure of personal satisfaction; U.S. oceans policy has been a major interest of mine throughout my Senate career. In September 1967, I introduced the first in a series of resolutions related to oceans policy issues. That resolution, Senate Resolution 172, called for the negotiation of a treaty that would extend the international legal order for the oceans beyond the then-existing international regime. At the time, I was particularly concerned about the possible appropriation of the resources of the seabed floor by other nations or groups of nations as well as the possible deployment of weapons of mass destruction on the seabed floor.

I amplified these views further in November of the same year in Senate Resolution 186. That resolution laid out specific principles to govern the activities of states in the exploration and exploitation of ocean space.

In addition to presaging the Law of the Sea Convention, these resolutions, and related measures that I introduced, led to the negotiation of the Seabed Weapons Convention which forbids the emplacement of weapons of mass destruction on the seabed floor. In essence, this reversed the normal treaty making process by instructing the executive branch on the parameters of a treaty to be negotiated. Although little known, I believe that this Convention was extraordinarily significant, shutting down one potential avenue for the U.S.-Soviet arms race which in the late 1960's and early 1970's was particularly intense.

When formal negotiations on a new Law of the Sea Convention began in 1973, I participated as frequent Senate observer, following them through their conclusion in 1982 and the Reagan administration's announcement that the United States would not sign the Convention because of concerns over part XI of the Convention relating to deep seabed mining.

Now, more than a decade later, the Convention will enter into force on November 16, 1994, since the requisite 60 countries have already ratified. With the signing of the Agreement modifying the deep seabed mining provisions of part XI in New York, our country is in a position to reap the many benefits offered in the Convention. Without this Agreement, the Convention would enter into force in November, leaving the United States and other industrialized countries outside of this important regime. With this Agreement, the principles of the Law of the Sea Convention will be universally applied by developed and developing countries alike.

This is fully consistent with past U.S. policy. In 1980 in the Deep Seabed Hard Minerals Act, the Congress stated that:

> (I)t is in the national interest of the United States and other nations to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of ocean interests, including exploration for and commercial recovery of hard mineral resources of the deep seabed.

In 1982, the Reagan administration announced that it was prepared to support ratification of the Convention, provided that its concerns with part XI could be resolved. Unfortunately, the administration was not able to achieve the changes that it had sought in time for the United States to sign the Convention. As a result, neither the United States nor the other industrialized countries signed the Convention.

During the Bush administration, with the prospect that the Law of the Sea Convention would enter into force, however, informal consultations were begun at the United Nations with the aim of resolving concerns with part XI.

This aim appears to have been achieved. Indeed, a large number of developed countries have indicated their intention to sign the agreement as have a number of developing countries. The way should now be open for the United States to become a party to the Law of the Sea Convention. I ask unanimous consent that a paper describing the manner in which the objections of the United States to the original provisions of part XI pertaining to the deep seabed mining regime be included in the RECORD at the conclusion of my remarks.

There are numerous benefits for the United States in the Convention.

First and foremost, the Convention will enhance our national security. The Convention establishes as a matter of international law freedom of navigation rights that are critical to our military forces. A letter from Secretary of Defense William Perry and Secretary of State Warren Christopher states:

> As one of the world's major maritime powers, the United States has a manifest national security interest in the ability to navigate and overfly the oceans freely.

A study by the Department of Defense and the Joint Chiefs of Staff found that U.S.:

> * * * national security interests in having a stable oceans regime are, if anything, even more important today than in 1982 when the world had a roughly bipolar political dimension and the U.S. had more abundant forces to project power to wherever it was needed.

I would emphasize that these are not my judgments, but the judgments of the professionals whose job it is to ensure our Nation's security.

I have heard some arguments that the Convention's provisions on freedom of navigation are not really important because they already reflect customary international law. I strongly disagree with that argument. It rests our national security on the shifting sands of customary international law.

Customary international law is inherently unstable. Governments are likely to be less scrupulous about avoiding new precedents under customary law than they are about avoiding such actions in violation of a treaty. Moreover, not all governments and scholars agree that all of the critical navigation rights protected by the Convention are also protected by customary law. They regard many of those rights as contractual and, as such, available only to parties to the Convention.

I would note for example, that it was not long ago that the United States claimed a territorial sea of only 3 miles. Now it is 12. I am certain there are countries that would like to expand their territorial sea even further. Only the Convention establishes limits on countries, claims to territorial seas and for that matter exclusive economic zones or EEZ's as a matter of international law.

These navigational rights are of very real importance to our Armed Forces. There have been recent situations where even U.S. allies denied our Forces transit rights in times of need. For example, during the 1973 Yom Kippur war our ability to resupply Israel was critically dependent on transit rights through the Strait of Gibraltar. Again, in 1986, U.S. aircraft passed through the strait to strike Libyan targets in response to that government's acts of terrorism directed against the United States.

I do not doubt that, if necessary, the U.S. Navy will sail where it needs to to protect U.S. interests. But, if we reject the Convention, preservation of these rights in nonwartime situations will carry an increasingly heavy price for the United States. By remaining outside of the Convention, the United States will have to challenge excessive jurisdictional claims of states not only diplomatically, but also through conduct that opposes these claims. A widely ratified Convention would significantly reduce the need for such expensive operations. It would also afford us a strong and durable platform of principle to ensure support from the American people and our allies when we have no choice but to confront claims we regard as illegal.

The Convention's provisions on freedom of navigation are also vitally important to the U.S. economy and the thousands of U.S. workers whose jobs are dependent in some way on exports and imports. We live in an interdependent world and 80 percent of trade between nations in this interdependent world is carried by ship.

Oil is one example of this. In 1993, 44 percent of U.S. petroleum products supplied came from imported oil. This oil was carried on tankers that pass through straits, territorial waters, and exclusive economic zones of other nations on a daily basis. The United States has a vital interest in the stability of the international legal order that serves as the basis for this commerce. It also has an interest in avoiding higher prices for consumers and job losses that can result from costly coastal state restrictions on navigation. Universal adherence to the Law of the Sea Convention would provide the predictability and stability which international shippers and insurers depend upon in establishing routes and rates for global movement of commercial cargo.

The benefits of the Convention extend to many other areas. Protection of submarine cables is one example. The new fiber optic cables that connect the United States to other countries are crucial for international communications and our increasingly information-based economy. These cables are enormously expensive. A new fiber optic cable connecting the United States to Japan can carry up to one million simultaneous telephone calls, and is valued at $1.3 billion. The total value of existing cables is measured in the many billions of dollars. When these cables are broken, U.S. companies, and ultimately U.S. consumers, incur huge repair costs. The Convention contains new provisions that strengthen the obligation of all states to take measures to protect the cables and cable owners.

The Convention also provides a framework within which to address many of the pressing fisheries and marine environmental challenges we face today. It establishes firm and enforceable duties to protect the marine environment and to ensure the conservation of living resources, including marine mammals and high seas fisheries.

Mr. President, the Convention contains many other benefits. I hope that the Convention and the Agreement will be transmitted to the Senate for its advice and consent this fall and that we can have hearings in the Committee on Foreign Relations early next year. Those hearings will provide an opportunity to explore the Convention in depth.

Mr. President, I would like to turn for a moment to an issue that is of importance to the Senate as an institution. Since there is insufficient time before November 16, 1994—the date the Convention enters into force—to bring the Agreement into force, the Agreement states that it shall be applied provisionally from November 16, 1994, until its entry into force. Provisional application shall terminate on November 16, 1998, if it has not entered into force by that date.

Concern has been raised that provisional application undercuts Senate prerogatives. This is obviously an issue of great importance for the Senate and one to which I have devoted some thought. Certainly I do not want to see the prerogatives of this institution encroached upon, even if it is for a cause that I support.

That being said, I believe that provisional application of the Agreement in acceptable in this instance.

I would note at the outset, that the concept of provisional application of an agreement is not new. There is precedent for provisional application of agreements in the United States. Moreover, article 25 of the Vienna Convention on the Law of Treaties specifically provides for provisional application of agreements.

Most important in this instance is that the United States will apply the Agreement in accordance with existing laws and regulations. I want to emphasize that point. Existing legislation provides sufficient authority to implement likely U.S. obligations under the Agreement during the period of provisional application. No new obligations will be assumed by the United States beyond those authorized by U.S. law. Only the Agreement will be provisionally applied, not the Convention as a whole.

The fundamental purpose for provisional application is to prevent the older more onerous version of part XI from automatically entering into force on November 16, 1994, with the rest of the Convention.

Provisional application will allow the United States to advance its seabed mining interests by participating in the International Seabed Authority from its inception. The new Agreement gives the United States considerable influence over such decisions, which will be lost if the United States cannot participate.

Further, without provisional application, the modifications made by the Agreement could only come into force in accordance with the cumbersome amendment procedures contained in the Convention itself. Those procedures could prevent those modifications from ever from coming into force.

Mr. President, this has been a rather lengthy presentation, but this is an issue about which I feel very strongly. I believe this Agreement and the underlying Convention—both the culmination of efforts by Democratic and Republican administrations—contains substantial benefits for our country. We stand on the threshold of a new era in oceans policy. In that era U.S. national interests in the world's oceans will be protected as a matter of law. This is a success of U.S. foreign policy that will redound to our Nation's benefit—and to the world—in the decades to come.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MODIFICATION OF THE DEEP SEABED MINING PROVISIONS OF THE LAW OF THE SEA CONVENTION

Part XI of the Law of the Sea Convention—relating to deep seabed mining on the high sea—was one of the most contentious issues discussed during the negotiations of the Law of the Sea Convention and the issue that ultimately led the Reagan Administration to decide not to sign the convention. The Bush and Clinton Administrations shared the Reagan Administration's concerns with Part XI. However, in 1989, then-U.S. Ambassador to the United Nations, Thomas Pickering was authorized by the Bush Administration to investigate developing countries' willingness to discuss changes to Part XI. This began a series of informal consultations under the auspices of the U.N. Secretary General.

The consultations, which concluded on June 3, 1994 in New York, made significant progress in meeting United States objections, as well as those of other industrialized countries, with respect to the deep seabed mining provisions of Part XI of the Convention. It is anticipated that an agreement modifying Part XI will be adopted by the United Nations General Assembly on July 27–28 and open for signature on July 29, 1994. Secretary Christopher has informed the Senate that the United States will sign this Agreement on July 29 and transmit it and the Convention to the Senate for its advice and consent at the end of the 103rd Congress.

PREVIOUS OBJECTIONS TO THE DEEP SEABED MINING REGIME

The 1982 seabed mining regime of the Convention failed to provide the United States, and other states with major economic interests that would be affected by deep seabed mining, a voice commensurate with those interests. It was based on principles for the organization of economic activity that would have interfered with market forces and effectively preempted private investment in deep seabed mining. Consequently the 1982 regime would have impeded access to deep seabed resources when market conditions warranted their development.

In order to carry out Part XI, the Convention established the International Sea Bed Authority (the "Authority") as the international body chartered to organize and control seabed mining. The Authority included the following subsidiary bodies: an Assembly, made up of all States Parties to the Convention, to establish general policies for the Authority, a 36 member Council as the executive organization, a Secretariat to support the operation of the Convention; and "the Enterprise" to be the commercial operating arm of the Authority. The Authority, through the Council, had broad powers to regulate deep-sea bed mining.

The specific problems with the 1982 seabed mining regime identified by the Reagan, Bush and Clinton Administrations fell into two broad categories: institutional issues; and economic and commercial issues. Institutionally the U.S. had objected to the fact that it was not guaranteed a seat on the Council of the International Seabed Authority. It also objected that developing countries would dominate the organization by virtue of their numbers and the voting rules, including the relationship between the Council and the Assembly.

On the economic and commercial front, the U.S. objected to the requirement that commercial enterprises, as a condition to the awarding of mining rights, had to transfer their mining technology to either a competing operating arm of the seabed authority known as the Enterprise, or possibly to developing countries. The U.S. also objected to the Enterprise benefiting from discriminatory and competitive advantages over other commercial enterprises through funding of its initial operations by state parties via loans and loan guarantees, and by a 10-year holiday from paying royalties. Additionally, objections were raised to the regime's production control arrangements which limited the level of the production from the seabed in order to protect land-based producers of the minerals that would be produced from the seabed. Finally, the U.S. objected to the regime's onerous system of financial payments that would be owned by commercial miners, in particular a U.S. $1 million annual fee payable beginning with the exploration stage.

In addition the U.S. objected to the fact that the Convention's provisions could be amended thereby binding the U.S. without its consent. The U.S. also objected to the possibility that future revenues from deep seabed mining might be distributed to liberation movements.

HOW UNITED STATES OBJECTIONS HAVE BEEN RESOLVED

The Agreement concluded in the Secretary General's consultations in New York on June 3, 1994 will provide the United States and other industrialized countries influence commensurate with their interests: it will ensure that free market principles govern the administration of the resources of the deep seabed; it will recognize claims to seabed mine sites established on the basis of exploration work already conducted by U.S. and other companies; and, it will provide for study of the potential environmental impacts of deep seabed mining.

United States negotiators have stated that in response to the specific objections of the United States, the agreement to modify the deep seabed provisions of Part XI will:

Recognize free market principles in the administration of the regime.

Increase the influence of the United States and other industrialized countries within the Authority by: (1) guaranteeing a United

States seat in the Council; (2) allowing the United States and two other industrialized countries, acting in concert, to block decisions in the Council; (3) preventing the Assembly from acting independently of Council recommendations; and (4) establishing a finance committee, including the five largest contributors to the organization's budget, which must make decisions by consensus;

Ensure that future amendments to the regime could not be adopted over United States objections;

Eliminate provisions compelling the transfer of seabed mining technology;

Allow the U.S. acting alone to veto any plan to distribute revenues to states or other entities, such as national liberation movements;

Eliminate the power of the organization to limit production from the deep seabed to protect the interests of land-based producers and, in its place, establish restrictions on subsidization of seabed mining based on GATT provisions;

Grandfather in seabed mine site claims by three U.S.-led multinational consortia on terms "no less favorable than" the best granted to Japanese, French, Russian, Indian or Chinese claimants, which have already been registered;

Eliminate the U.S. $1,000,000 annual fee miners would have had to pay prior to commercial production; and

Constrain the Enterprise by: (1) requiring a future decision by the Council (which the U.S. and a few allies could block) to make it operational; (2) subjecting it to the same requirements as other commercial enterprises; (3) eliminating the requirement that parties to the convention fund its mining activities; (4) providing that it operate through voluntary joint ventures with other commercial enterprises; and (5) eliminating provisions that would compel other commercial enterprises to provide it with technology.

In addition to responding to the specific U.S. objections, the new seabed mining regime will streamline the Authority and emphasize the need to ensure an efficient organization in keeping with the recognition that commercial mining is not imminent.

Mr. DURENBERGER. Mr. President, I understand that I may proceed as in morning business.

The PRESIDING OFFICER. The Senator is correct.

NOMINATION OF STEPHEN BREYER TO THE U.S. SUPREME COURT

Mr. DURENBERGER. Mr. President, I rise in support of the nomination of Judge Stephen Breyer to the U.S. Supreme Court.

I have always taken very seriously my responsibility as a Senator to advise and consent on presidential nominations. In my mind, my role is not to confirm only those nominees who agree with me on political issues. I have never applied a litmus test on any subject, such as abortion and the death penalty for example, even though I have strong convictions about both.

Regardless of the party in the White House, I have always asked three questions to determine whether presidential nominees deserve confirmation. First, does the nominee have the experience necessary to do the job? Second, does the nominee have the temperament to serve honorably? And finally, does the nominee have the character to be entrusted with the responsibility?

Without a doubt, Stephen Breyer has the experience necessary to serve as a Supreme Court Justice. He has had an exemplary career in the executive, legislative, and judicial branches. He has served on the Federal bench for 14 years, and spent the last 4 years as chief judge of the First Circuit Court of Appeals.

On the question of temperament, I believe Judge Breyer is qualified to serve on America's highest court. His decisions on the Federal bench have the reputation of being thoughtful and well-reasoned, without suggesting any particular political agenda. I trust he will continue to apply the law neutrally and fairly.

And finally, based on the evidence that is available, I have concluded that Judge Breyer has the character necessary to be entrusted with a seat on the Supreme Court.

I am aware that questions have been raised about Judge Breyer's membership in Lloyd's of London—a syndicate that underwrites insurance for corporations with potential liability for environmental cleanup costs—at the same time he was reviewing toxic waste cases as a Federal appeals judge.

But there is no evidence that his decisions had a direct impact on any of his investments, and I believe Judge Breyer's assertion that his impartiality was not affected in any of those cases.

Rather than showing a defect in character, I believe this was a case of bad judgment. My distinguished colleague from Indiana, Senator LUGAR, has raised several valid points about the judgment that Judge Breyer exercised with respect to this investment.

However, I have concluded that this single error in judgment should not, in itself, preclude membership on the Supreme Court. I do not think that a reasonable measure of any person is the worst mistake they ever made. Instead, I look at the entire record of accomplishment, his record of reasonable decisions, his record of diligent work for justice, his temperament and his character. By that measure, Stephen Breyer is worthy of a seat on the Supreme Court. That is why I will vote to confirm this nominee.

JUDGE STEPHEN BREYER'S BOOK "BREAKING THE VICIOUS CIRCLE: TOWARD EFFECTIVE RISK REDUCTION"

Mr. DURENBERGER. Mr. President, in 1993 Judge Breyer published a book with the title, "Breaking the Vicious Circle: Toward Effective Risk Reduction." The central premise of his book is that the efforts of the federal Government to reduce risks to public health and the environment are not well focused and produce inconsistent and illogical results.

The cause of this problem in Judge Breyer's view is the disjointed decisionmaking process that we in the Congress and as a nation use to choose the risk reduction policies that are actually imposed. The sources of risk to human health and the environment come to the attention of the public and the Congress one-at-time. They are considered by a multitude of committees and subcommittees in the legislature. They are regulated under a series of statutes with disparate goals and objectives. The statutes are carried out by several departments and agencies of the executive branch.

In Judge Breyer's view, the result is a confusing and wasteful web of regulations that do not achieve the greatest risk reduction for the dollars we invest. He points to a swamp in New Hampshire that is cleaned up to extraordinary levels under the Superfund Program, while Boston Harbor remains polluted. He cites a fivefold discrepancy in risk assessment outcomes between EPA and FDA methods. He reports examples of risk reduction regulations that may actually increase health risks from other sources.

Judge Breyer is not alone in raising these concerns. In 1987, the EPA itself published a study called "Unfinished Business" which suggested that Government and private sector resources were being wasted because Government policy too often regulated low-level risks while larger threats went unaddressed. And in 1990, the Science Advisory Board of EPA came to a similar conclusion in its report, "Reducing Risk."

No one could argue with the proposition that we ought to allocate the resources we devote to risk reduction as carefully as possible. And everyone would agree that decisions based on solid scientific information are usually better than decisions guided by hunches, superstition or bias.

However, we must often make decisions before all the evidence is in. Congress is constantly called upon to make decisions that allocate billions of public and private dollars toward one problem or another often before the science on causes and solutions is settled. We make difficult choices that are criticized from every direction.

Judge Breyer proposes a new superagency with wide-ranging authority to reallocate Government efforts as a solution to these problems. But there is no technical, scientific or bureaucratic fix for our condition. There is no philosopher king or group of senior bureaucrats who can relieve the Congress of the difficult job of setting priorities in a world of competing interests and limited knowledge. And there is no reason to believe that Congress has chosen incorrectly in the past.

A complete response to the concerns that Judge Breyer raises in his book would fill many pages of the RECORD. I would make just two brief points, today.

First, this is not a technical problem that can be solved by appointing an agency with broader powers and better staff. Allocating budgets, imposing regulatory costs, is an act of expressing values, and in a democracy we do it by voting.

There is not one objective yardstick on which one can rank the relative importance of all these competing objectives. How much do you spend on children' health, before you start spending money to save endangered species? This is a question of preferences that in our system of government is assigned to elected members of the Congress, not appointed members of science boards.

Second, even where one yardstick of risk can be applied, for instance the risk of contracting fatal cancer, it does not necessarily follow that allocating resources to achieve the largest risk reduction is an absolute guide to policy. I believe that the public is more willing to accept small risks widely distributed, than large risks focused on the few. It is not just the absolute mortality, but also the equity, the distribution of the risk, that informs the public's sense of priorities.

The public gets incensed about hazardous waste sites and leaking underground storage tanks because they are immediately devastating to their victims, even if those victims are few in number, and hundreds more could be saved by spending the same dollars cleaning up indoor air quality. Allocating public and private resources to achieve the greatest reduction in risk for each dollar spent is not the best public policy, because it fails to reflect the public's sense of equity and justice. How much an industry should be required to spend to prevent its externalities from imposing unjustified costs on others is, unless one takes an absolutist view, a value-laden decision that can only be made in the context of our entire social experience.

I am all for more science. And the Congress has a fundamental obligation to spend the taxpayers' money as wisely as possible. We often make mistakes. But I do not agree that the anecdotes cited in Judge Breyer's book call into question either the process we have used to select environmental priorities or the allocation of resources now reflected in the budget and regulations of EPA and the other agencies we charged to protect public health and the environment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

CONFIRMATION OF STEPHEN BREYER TO THE SUPREME COURT

Mr. PELL. Mr. President, I am pleased to support the nomination of Stephen Breyer to become an Associate Justice on the United States Supreme Court and I believe that President Clinton has made a wise and timely choice in choosing him for the upcoming vacancy on the Court.

In stating my support for Judge Breyer, I salute President Clinton for his primary role in making this nomination. The President has had two opportunities to fill vacancies on the Supreme Court and he has made outstanding choices in first nominating Ruth Bader Ginsburg last year and now Stephen Breyer. His choices reflect moderation and respect for the Court's role as the supreme arbiter of laws for all citizens in this country, regardless of political leanings and agendas. He has likewise taken the lead in appointing similarly qualified and diverse candidates to the lower courts. The President deserves great credit for carrying out with such attention and care his solemn duties with regard to appointing members of the Judiciary.

Specifically regarding Judge Breyer, he has gone through a confirmation process which has been pleasantly harmonious, and bipartisan. He is much praised for his intellect, moderation, compassion, temperament, dedication to principle, respect for the law, and his ability to forge consensus rather than encourage division. I join in these assessments of his record. I am also confident that he will bring these much-needed qualities to a Supreme Court which has been subject to polarization in recent years. A calm hand and a reasoned voice will be welcome and if history is any guide, Judge Breyer will provide just such an influence.

Accordingly, I wholeheartedly support the confirmation of Judge Breyer for the Supreme Court, congratulate him on the accomplishments of his career, extend every good wish as he assumes the duties and responsibilities of his post, and look forward to a long and distinguished tenure for him on the bench.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. OBEY, Mr. YATES, Mr. WILSON, Mr. OLVER, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, Mr. SERRANO, Mr. SABO, Mr. LIVINGSTON, Mr. PORTER, Mr. LIGHTFOOT, Mr. CALLAHAN, and Mr. MCDADE as the managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DIXON, Mr. STOKES, Mr. DURBIN, Ms. KAPTUR, Mr. SKAGGS, Ms. PELOSI, Mr. OBEY, Mr. WALSH, Mr. ISTOOK, Mr. BONILLA, and Mr. MCDADE as the managers of the conference on the part of the House.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3119. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Forest Service for fiscal year 1993; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3120. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report on the status of multifamily housing; to the Committee on Banking, Housing, and Urban Affairs.

EC–3121. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation entitled "The Marine Navigation Trust Fund Act of 1994"; to the Committee on Environment and Public Works.

EC–3122. A communication from the Secretary of Energy, transmitting, pursuant to law, notice relative to the report entitled "Adequacy of Management Plans for the Future Generation of Spent Nuclear Fuel and High-Level Radioactive Waste"; to the Committee on Environment and Public Works.

EC–3123. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation entitled "The Advisory Committee Termination Act"; to the Committee on Governmental Affairs.

EC–3124. A communication from the Director of Employee Benefits of the Farm Credit Bank of Baltimore, Maryland, transmitting, pursuant to law, the annual reports of Federal Pension Plans for calendar year 1993; to the Committee on Governmental Affairs.

EC-3125. A communication from the Vice President (Human Resource Management), Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC-3126. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, a draft of proposed legislation entitled "The Federal Acquisition Labor Law Improvement Act of 1994"; to the Committee on Labor and Human Resources.

EC-3127. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "Rail-Highway Grade Crossing Safety Act of 1994"; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-607. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 69

"Whereas, in order to achieve national ambient air quality standards (NAAQS), the CAA requires ozone nonattainment areas classified as serious to implement, at the state's or the driving public's expense, an enhanced automobile emissions inspection and maintenance program pursuant to standards set by the U.S. Environmental Protection Agency (EPA); and

"Whereas, Section 182(a) of the CAA requires EPA to issue "guidance" to the states providing them with "continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer;" and

"Whereas, the states, including Louisiana, have been effectively denied the flexibility provided in Section 182(a) by EPA arbitrarily withholding approval of any other program than its "model program"; and

"Whereas, the EPA's "model program" was formulated based on a hypothetical computer generated model using now outdated emissions data from 1980 model auto test fleet using assumptions which are seriously questionable based on recent data from real-world conditions; and

"Whereas, the implementation in the real world of Louisiana of EPA's hypothetical "model program" will most likely cause long waiting lines at inspections stations with the greatest cost and inconvenience impacting the driving poor; and

"Whereas, the program's benefits are highly speculative, uncertain, and very questionable as evidenced by a recent study conducted by EPA which showed that its basic assumptions regarding highway emissions are seriously flawed when real-world data such as traffic conditions and air conditioning use, are adequately considered; and

"Whereas, EPA's "model program" requires testing at one location and repair of "dirty" automobiles at another location, with long waiting liens likely at each; and

"Whereas, studies show that up to twenty-five percent of tested vehicles are falsely failed and on which no repairs are needed to bring such a vehicle up to standards; and

"Whereas, recent air quality monitoring indicates an improvement to such an extent that if classified now the Baton Rouge nonattainment area would not be required to implement an enhanced program, nevertheless the EPA's Part 51 rules do not provide credit for such "voluntary" improvements; and

"Whereas, although both federal and state governments want cleaner air, implementation of the "model program" is premature. As evidenced by the Government Accounting Office recent report that "EPA's enhanced I&M program could benefit from further research on technology, costs, and motorists' behavioral responses, which would be more prudent than committing the entire nation to a $5 billion per year program while major information gaps remain: Therefore, be it

"*Resolved*, That the Legislature of Louisiana does hereby memorialize Congress to seek suspension of the enhanced automobile inspection and maintenance program; or pressure USEPA into revising its mobile source rules to allow states reasonable flexibility in designing their programs as intended by the CAA amendments of 1990; or amend the Clean Air Act to provide for reclassification of a nonattainment area like the Baton Rouge ozone nonattainment area in which substantial progress toward ozone attainment has already been made; or take steps to allow other relief as may be required to allow for a more reasonable solution to Baton Rouge's air quality problems. Be it further

"*Resolved*, That the Congress encourage the EPA to implement the flexibility and waiver process ordered by the President in Executive Order No. 12875 issued on October 26, 1993. Be it futher

"*Resolved*, That a copy of this Resolution be transmitted to the presiding offices of the U.S. Senate and House of Representatives, to each member of the Louisiana congressional delegation and to the secretary of the Department of Environmental Quality ."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROCKEFELLER:

S. 2331. A bill to amend title 38, United States Code, to extend or make permanent certain authorities and requirements under that title; to the Committee on Veterans Affairs.

By Mr. HATFIELD (for himself and Mrs. MURRAY):

S. 2332. A bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2333. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel a certificate of documentation for the vessel *SHAMROCK V*; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS (by request):

S. 2334. A bill to improve safety at rail-highway grade crossings and railroad rights-of-way, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWN:

S. 2335. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require that OMB and CBO estimates for paygo purposes to recognize the increased revenues generated by economic growth resulting from legislation implementing any trade agreement; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 246. A resolution relative to the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 2331. A bill to amend title 38, United States Code, to extend to make permanent certain authorities and requirements under that title: to the Committee on Veterans Affairs.

VA AUTHORITIES EXTENSION ACT OF 1994

• Mr. ROCKEFELLER. Mr. President, as chairman of Committee on Veterans' Affairs, I am pleased to introduce a bill that would make permanent two authorities relating to activities of the Department of Veterans Affairs, and extend a third.

Mr. President, the first provision would give VA permanent authority to waive military retired pay forfeiture requirements in the case of registered nurses employed by VA in shortage situations. The second provision would make permanent procedures to be followed in the case of special pay agreements for physicians and dentists employed by VA—including both basic pay and special pay—that would provide for total annual pay exceeding the amount for a person in Executive Level, grade I. The third provision would extend for 2 years VA's authority to enter into enhanced use leases of VA real property.

Mr. President, the provisions contained in this bill are technical ones which are necessary to enable VA to continue practices which Congress has previously authorized. The bill would make permanent certain temporary authorizations, and extend a third. I hope and expect that my colleagues in the committee will support this measure, and that we will report this bill for consideration by the Senate in the near future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORITY FOR WAIVER OF REDUCTION OF RETIREMENT PAY FOR REGISTERED-NURSE POSITIONS.

Section 7426(c) of title 38, United States Code, is amended by striking out the second sentence.

SEC. 2. PERMANENT REQUIREMENT FOR REVIEW OF AGREEMENTS FOR SPECIAL PAY FOR PHYSICIANS AND DENTISTS.

Section 7432(d) of title 38, United States Code, is amended by striking out paragraph (4).

SEC. 3. EXTENSION OF AUTHORITY TO ENTER INTO ENHANCED-USE LEASES.

Section 8169 of title 38, United States Code, is amended by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1996".●

By Mr. HATFIELD (for himself and Mrs. MURRAY):

S. 2332. A bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

BONNEVILLE POWER ADMINISTRATION REFINANCING ACT

Mr. HATFIELD. Mr. President, today I am pleased to introduce legislation which will end the decade-long battle to increase the electric power rates of the Bonneville Power Administration [BPA] in the Pacific Northwest. The legislation will resolve, once and for all, the perception by some that electric rates in the Pacific Northwest are subsidized by the Federal Government, and will discourage future proposals to raise electric rates to levels which would injure the region's economy.

The legislation is comprised of two primary elements: First, it provides for the refinancing of approximately $6.7 billion of Bonneville's low interest, appropriated debt, and replaces it with new debt that carries current market interest rates. Second, it provides an additional $100 million to the Federal Treasury, money that will be raised by BPA from its electrical customers.

In return for this arrangement, the Northwest's electrical ratepayers seek a permanent guarantee that the costs of repaying the Federal investment in the Columbia River hydroelectric system will not be altered further in the future. This is a proposal which is fair to both taxpayers and ratepayers and should be considered favorably by the Senate.

This legislation has its roots in a decade of proposals made by successive administrations to alter the repayment of the Federal investment in the Nation's hydroelectric system. As budget deficit grew, a cash-starved Federal Government looked to all sources of revenue generation to produce more dollars. The power marketing administrations, which produce large sums of annual revenues, became easy targets for those who look only at the bottom line. Little or no consideration was given to the impacts on local economies or the overall impact on Federal revenues. Let me recount some of the history associated with this issue.

In 1985, the first proposal to alter Federal power marketing administration repayment practices was offered by President Reagan. Under that initial proposal, electric rates for the Bonneville Power Administration would have increased from between 50 to 80 percent. The interest rates on outstanding investments would have been raised to current rates, and the methodology for defining the amount of repayment due in any given year would have been altered.

Then, in 1986, the Reagan administration proposed selling the power marketing administrations to the highest bidders. The methodology for selling the PMA's was never determined, however, and the potential impact of the proposal was impossible to calculate. It is safe to say, though, that the purpose of the initiative was to create at least as much money for the Treasury as the earlier proposal.

From 1987 through 1990, the Reagan and Bush administrations proposed various repayment schemes that would have resulted in PMA rate increases of 10 to 40 percent. In 1991 and 1992, the Bush administration lowered its sights and submitted a revised proposal which would have raised rates approximately 12 to 15 percent.

In 1993, the Clinton administration proposed increasing rates for the PMA's such that an additional $100 million would be generated annually. Because the costs of this proposal were not allocated between PMA's, it was impossible to identify the exact rate impact.

While none of these proposals ultimately was successful, each created a cost for the economies which depend on PMA electric power. Electricity is the cornerstone of much of the Nation's economy, particularly in the Pacific Northwest. The high reliability and low cost of electric power provides the United States, and especially the Pacific Northwest, with a global competitive advantage which benefits the entire Nation.

As each of these proposals was made, uncertainty over the future cost of electricity was created. In the Pacific Northwest, where over half the electric power consumed is marketed by the Bonneville Power Administration, these proposals cast a cloud of uncertainty over future electric power prices. Rate increases of the magnitude contemplated by the proposals would devastate the economy of the region by discouraging investment in infrastructure, including modernization of new plants and equipment, and close factories and businesses which operate on the margin, many of which were attracted to the availability of low cost hydroelectric power in the region.

In fact, the benefit of these proposals was overstated by every administration because the potential for lost tax revenue as a result of business failure or lack of investment was never taken into account.

Let me make it perfectly clear that I have opposed each and every one of these proposals over the years, and believe that they were, at best, misguided, if not hypocritical. Water projects throughout this country were built with no expectation of payback by the users of the facilities. Unlike these other situations, in the case of hydroelectric generation, the users are paying back the investment, with interest, based on the terms agreed to at the time the investment was made. Accordingly, there is no subsidy associated with the Federal Power Marketing Program. This situation is often, and aptly, compared to a home mortgage. Attempting to alter unilaterally the terms of these financial arrangements years after the investment was made, based on current financial conditions, is predatory and unfair.

But, Mr. President, this is politics and not business. The lure of short-term fixes to generate cash during periods of huge budget deficits will not vanish in the night. It is time, therefore, to resolve this matter and put it behind us, despite the fact that 50 U.S. Senators signed a letter in 1990 opposing repayment reform, and that every proposal that has been made has been rejected by the Congress.

The development of this legislation actually began over 3 years ago. In 1991, I urged BPA and its customers to develop proposals to resolve the issue permanently. Customers of other power marketing administrations also were invited to work with the Pacific Northwest, or to develop proposals on their own. In 1992, after a year of study and consultation involving Bonneville, its customers and the customers of other power marketing administrations, a study document was produced. That study identified a range of alternatives, including one to refinance BPA's debt to increase the rate of interest it pays to the Treasury.

When that study was completed, another meeting of BPA and other PMA customers was held in my Washington, DC office to discuss the ramifications of the study. At that meeting, a variety of views were expressed as to whether PMA customers wanted to continue to fight each and every repayment alternative in the future, or if it was time to find a permanent solution. The Pacific Northwest's representatives voiced their interest in supporting an appropriate proposal, provided that it ensured long-term certainty to end the long-term threat of further rate increases on Bonneville's appropriated debt. Customer representatives for all PMA's also were encouraged to consider options which would benefit their systems, and support for any such changes was expressed.

A significant opportunity to advance the BPA proposal occurred last year with the release of Vice President GORE's National Performance Review [NPR]. To the Vice President's credit, the Department of Energy and others in the administration recognized that a new and realistic approach to repayment reform could be formulated. The NPR took the dramatic step of recommending the BPA debt refinancing proposal originally identified in the study developed by Bonneville and its customers. The NPR, however, also included a $100 million premium as an additional cost the BPA ratepayers would be required to pay—over and above the annual principal and interest payments on the appropriated debt. While this premium is distasteful, it will, over the long-term, benefit the Pacific Northwest ratepayers, and is a price worth paying.

The most fundamental concern with the $100 million premium is that it may suggest to some there is a subsidy of PMA customer electric rates. Let me be perfectly clear on this issue. There is no subsidy. Accordingly, the $100 million may be viewed as nothing less than extortion. In my opinion, however, the $100 million price tag is analogous to the costs a business might experience when settling litigation.

While the subsidy issue is important, it is merely a side show to the real issue, that being the urgent need of the Government to reduce the Federal debt. Considering the need to raise additional revenue, there may well come a time when the Congress will conclude that the path of least resistance is to embrace the dubious notion that subsidies for PMA customers exist. Given the inherent risk in that outcome, the $100 million premium is quite attractive. But, this transfer of wealth from Pacific Northwest ratepayers to U.S. taxpayers is supportable only if it is accompanied by a long-term guarantee there will be no future increases in the cost of repaying the Federal investment in the Northwest hydroelectric system. The NPR initiative included such a guarantee.

The NPR initiative led to hastily drafted legislation which was introduced in the Congress last October. That proposal would have allowed BPA to raise money in the private capital markets to fund the refinancing of its debt. The Congressional Budget Office, in its testimony before the Senate Committee on Energy and Natural Resources, indicated that the NPR proposal would lead to an increase in the Federal budget deficit. While this was disappointing, other alternatives remained available for consideration.

We are now on a different path. The legislation I am introducing today provides for the refinancing of BPA's appropriated debt through the U.S. Treasury rather than the private capital markets. It is my understanding this resolves the fundamental issue which concerned CBO and caused it to score the previous proposal as an increase in the deficit.

Let me take a moment to describe the specifics of the legislation. The legislation will require that BPA's outstanding repayment obligations on appropriations be reconstituted by resetting outstanding principal at the present value of the current principal and annual interest that BPA would owe to the Federal Treasury, plus $100 million. Enactment of the bill will represent agreement between Northwest ratepayers and the U.S. Government that the subsidy criticisms are resolved permanently. Interest rates on the new principal will be reassigned at the Treasury's current long-term interest rates. Interest rates on new investments financed by appropriations, which are now administratively set equivalent to long-term Treasury financing costs, will be required by law.

The legislation also proposes that certain credits be granted to BPA's cash transfers to the Treasury in connection with payments BPA would make under a proposed litigation settlement between the United States and the Confederated Tribes of the Colville Reservation. It is my understanding that it is the administration's view that these credits, taken together with the one-time judgment fund payment, represent an equitable allocation of the costs of litigation settlement between BPA ratepayers and Federal taxpayers. Section 9 of the legislation complements legislation submitted by the administration on the Colville settlement. This new legislation contains repayment credit provisions that are different in timing but achieve the same results in terms of the present value cost to ratepayers and taxpayers.

This proposal addresses only the repayment of the Bonneville Power Administration and not other power marketing administrations. As noted earlier, every attempt was made to keep the customers of other power marketing administrations apprised of our intentions to resolve the repayment issue. We have encouraged them to find solutions which also would resolve permanently their own concerns. If the customers of other PMA's are in a position to make changes that will ensure long-term certainty for them, they are invited to join this effort.

Besides providing a $100 million premium to the Federal Treasury, this legislation provides an additional benefit to taxpayers. Competition within the electric power industry is increasing dramatically, particularly since the passage of the Energy Policy Act of 1992. That competition is felt most keenly at the wholesale level because the Energy Policy Act provided greater transmission access at that level. Bonneville is unique in that it operates essentially only in the wholesale arena. Competitors are attempting to attract BPA's customers away with some limited success. One primary reason given for departing the BPA system is that rates may escalate dramatically and swiftly in the future as a result of repayment reform. The elimination of this risk not only benefits Bonneville, but also provides greater assurance that the repayment of the Federal investment will be accomplished on time and in full.

Finally, this legislation also benefits taxpayers by assuring that any future investments in the Northwest hydroelectric system will be repaid with interest rates reflecting the Treasury's cost of money at the time the investment is made. This will assure that no additional or lingering charges of the existence of a Federal electrical subsidy are made with respect to future investments.

Mr. President, the administration was exceptionally helpful in developing this legislation, and I especially appreciate the assistance provided by the Office of Management and Budget and the Department of Energy. I understand that the administration is continuing to review certain aspects of the bill, and that various revisions may be necessary. I look forward to continuing to work with the administration over the next several weeks to identify any provisions in need of further clarification, and hope that all remaining issues can be resolved to our mutual satisfaction.

I ask unanimous consent that the bill and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bonneville Power Administration Refinancing Act".

SEC. 2. DEFINITIONS.

Section 3 of the Federal Columbia River Transmission System Act (16 U.S.C. 838a) is amended—

(1) by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively;

(2) by inserting after paragraph (a) the following new paragraph (b):

"(b) The term 'capital investment' means a capitalized cost funded by Federal appropriations that—

"(1) is for a project, facility, or separable unit or feature, of a project or facility;

"(2) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

"(3) excludes a Federal irrigation investment; and

"(4) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of this Act."; and

(3) by adding after paragraph (d), as redesignated by paragraph (1), the following:

"(e) The term 'old capital investment' means a capital investment whose capitalized cost—

"(1) was incurred, but not repaid, before October 1, 1995; and

"(2) was for a project, facility, or separable unit or feature, of a project or facility placed in service before October 1, 1995.

"(f) The term 'repayment date' means the end of the period within which the Administrator's rates are to ensure the repayment of the principal amount of a capital investment.

"(g) The term 'Treasury rate', for a fiscal year, means a rate that the Secretary of the Treasury determines as soon as practicable after the beginning of the fiscal year and that is equal to the average prevailing market yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity. The average yield is computed as the average during the preceding fiscal year using the daily bid prices. When the average yield so computed is not a multiple of one-eighth of 1 percent, the rate is the multiple of one-eighth of 1 percent nearest to the average yield.".

SEC. 3. RECONSTITUTION OF OUTSTANDING PAYMENT OBLIGATIONS.

The Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) is amended by adding at the end the following:

"NEW PRINCIPAL AMOUNTS

"SEC. 14. (a) Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

"(1) the present value, calculated using a discount rate equal to the Treasury rate for fiscal year 1996, of the old payment amounts for the old capital investment; and

"(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

"(b) The Administrator shall determine the new principal amounts for old capital investments. The Administrator shall obtain the approval of the Secretary of the Treasury of the Administrator's determination of the new principal amounts and the Administrator's assignment of the interest rate to the new principal amounts, on the basis of consistency with the provisions of section 14 and 15 of this Act.

"(c) For the purposes of this section, the term 'old payment amounts', in the case of an old capital investment, means the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if the Bonneville Power Administration Refinancing Act were not enacted, assuming that—

"(1) the principal were repaid—

"(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment; or

"(B) in the case of an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

"(2) interest were paid—

"(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment; or

"(B) in the case of an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at the Treasury rate for the fiscal year in which construction is initiated on the project, facility, or separable unit or feature the old capital investment concerns.

"INTEREST RATE FOR NEW PRINCIPAL AMOUNTS

"SEC. 15. As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 14 of this Act bears interest annually at the Treasury rate for fiscal year 1996 until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

"REPAYMENT DATES

"SEC. 16. As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 14 of this Act is no earlier than the repayment date for the old capital investment provided for under section 14(b)(1) of this Act.

"PREPAYMENT LIMITATIONS

"SEC. 17. During the period beginning on October 1, 1995, and ending on September 30, 2000, the total new principal amounts of old capital investments, as established under section 14 of this Act, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

"INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION

"SEC. 18. (a) The principal amount of a capital investment for a project, facility, or separable unit or feature, of a project or facility placed in service after September 30, 1995, includes interest in each fiscal year of construction of the project, facility, or separable unit or feature the capital investment concerns at a rate equal to the 1-year rate for the fiscal year on the sum of—

"(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year; and

"(2) accrued interest during construction.

"(b) The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature the interest calculated, accrued, and capitalized under subsection (a).

"(c) For the purposes of this section, the term '1-year rate', for a fiscal year, means the 1-year Treasury agency borrowing rate as determined by the Secretary of the Treasury for use during the first month of the fiscal year taking into consideration the average of market yields on outstanding marketable interest-bearing obligations of the United States with approximate periods to maturity of 1 year.

"INTEREST RATES FOR NEW CAPITAL INVESTMENTS

"SEC. 19. The unpaid balance on the principal amount of a capital investment for a project, facility, or separable unit or feature, of a project or facility placed in service after September 30, 1995, bears interest—

"(1) from the date the project, facility, or severable unit or feature the investment concerns is placed in service until the earlier of the date the capital investment is repaid or the end of the repayment period for the capital investment; and

"(2) at a rate determined by the Secretary of the Treasury for use in assigning interest rates to new capital investments during the month that includes the date the project, facility, or separable unit or feature the new capital investment concerns is placed in service, taking into consideration the average of market yields on outstanding marketable interest-bearing obligations of the United States with periods to maturity comparable to the repayment period of the capital investment.

"CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY

"SEC. 20. (a) Notwithstanding any other law, the Administrator shall apply against amounts payable by the Administrator to the United States Treasury a credit in the amount and for a fiscal year as follows:

"(1) $15,250,000 in fiscal year 1996.

"(2) $15,860,000 in fiscal year 1997.

"(3) $16,490,000 in fiscal year 1998.

"(4) $17,150,000 in fiscal year 1999.

"(5) $17,840,000 in fiscal year 2000.

"(6) $4,100,000 in each succeeding fiscal year so long as the Administrator makes annual payments to the tribes under the settlement agreement.

"(b) For purposes of this section:

"(1) The term 'settlement agreement' means the agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the tribes on April 16, 1994, and by the United States of America on April 21, 1994, which agreement resolves claims of the tribes in docket 181-D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims.

"(2) The term 'tribes' means the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe.

"CONTRACT PROVISIONS

"SEC. 21. In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services and that is in effect after September 30, 1995, the Administrator shall offer to include or shall offer to amend to include, as the case may be, provisions specifying that after September 30, 1995—

"(1) the Administrator shall establish rates and charges on the basis that—

"(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 14 of this Act;

"(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 15 of this Act;

"(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

"(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

"(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 14 of this Act and to pay the interest on the principal amount under section 15 of this Act, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

"(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by sections 14 through 21 of this Act; and

"(4) the contract provisions specified in sections 14 through 21 of this Act do not—

"(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States; or

"(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

"(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources; or

"(ii) design rates.

"SAVINGS PROVISIONS

"SEC. 22. (a) Sections 14 through 21 of this Act do not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the 'Administrator's net proceeds,' as defined in section 13 of this Act.

"(b) Sections 14 through 21 of this Act do not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.".

SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission services over certain federally owned transmission facilities. Among other obligations, BPA establishes rate to repay to the U.S. Treasury the federal taxpayers' investments in these hydroelectric projects and transmission facilities made primarily through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed as the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. This legislation, the Bonneville Power Administration Refinancing Act (the "Act"), amends the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) (the "Transmission Act") with the intention of resolving permanently the subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on BPA's power and transmission rates.

The legislation accomplishes this purpose by resetting the principal of BPA's outstanding repayment obligations at an amount that is $100 million greater than the present value of the principal and interest BPA would have paid in the absence of this Act on the outstanding appropriated investments in the FCRPS. The interest rate applicable to the reset principal amount is based on the U.S. Treasury's long-term interest rate in effect at the time the principal is reset. The resetting of the repayment obligations is effective October 1, 1995, coincident with the beginning of BPA's next rate period.

While the Act increases BPA's repayment obligations, and consequently will increase the rates BPA charges its ratepayers, it also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation substantially improves the ability of BPA to maintain its customer base, and to make future payments to the U.S. Treasury on time and in full. Since the Act will cause both BPA's rates and its cash transfers to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $50 million over the current budget window.

SECTION 1. SHORT TITLE

The short title for this Act is the Bonneville Power Administration Refinancing Act.

SECTION 2. DEFINITIONS

This section amends the definitions section, section 3, of the Transmission Act.

The Transmission Act is amended to add a new paragraph 3(b), which clarifies the repayment obligations to be affected under this Act by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to establish rates to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid by the Administrator through the sale of electric power, transmission or other services; and, investments financed either by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Transmission Act.

The Transmission Act is amended to add a new paragraph 3(e), which defines those capital investments whose principal amounts are reset by this Act. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility, or separable feature or facility was placed in service before October 1, 1995. Thus, the capital investments whose principal amounts are reset by this Act do not include capital investments placed in service after September 30, 1995. The term "capital investments" is defined in new section 3(b).

The Transmission Act is amended to add a new paragraph 3(f), which defines "repayment date" as the end of the period that the Administrator is to establish rates to repay the principal amount of a capital investment.

The Transmission Act is amended to add a new paragraph 3(g), which defines the term "Treasury rate" as a long-term rate determined by the Secretary of the Treasury based on marketable interest-bearing securities of the United States having terms to maturity of 15 years or more. The Secretary of the Treasury determines the Treasury rate for a specified fiscal year by reference to the preceding fiscal year's average of daily bid prices on such securities. For example, the "Treasury rate for fiscal year 1996" would be determined by reference to the average of daily bid prices in the twelve months comprising fiscal year 1995. The term Treasury rate, in particular the term Treasury rate for fiscal year 1996, is used to establish both the discount rate for determining the present value of the old capital investments (section 14(a) of the Transmission Act, as amended by this Act) and the interest rate that will apply to the new principal amounts of the old capital investments (section 15 of the Transmission Act, as amended by this Act). The term Treasury rate is also used in section 14(c)(2)(B) of the Transmission Act, as amended by this Act, to determine the interest that would have been paid in the absence of this Act on old capital investments, whose facilities are brought into service between the end of fiscal year 1993 and the end of fiscal year 1995. For example, if an old capital investment is brought into service in fiscal year 1994, the Treasury rate that would apply under new section 14(c)(2)(B) to that investment would be the Treasury rate for fiscal year 1994. The Treasury rate is not to be confused with other interest rates that this Act directs the Secretary of the Treasury to determine, specifically, the short-term (one-year) interest rates to be used in calculating interest during construction of new capital investments (section 17 of the Transmission Act, as amended by the Act) and the interest rates that apply to capital investments the related facilities of which are brought into service after September 30, 1995 (section 18 of the Transmission Act, as amended by the Act).

SECTION 3. RECONSTITUTION OF OUTSTANDING PAYMENTS AMOUNTS

Section 3 further amends the Transmission Act as follows:

New principal amounts

The Transmission Act is amended to add a new section 14, which establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. These investments were made by Federal taxpayers primarily through annual appropriations and include investments financed by appropriations to the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and to BPA prior to implementation of the Federal Columbia River Transmission System Act. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the FCRPS) by (a) calculating the present value of the stream of principal and interest payments on the investment that the administrator would have paid to the U.S. Treasury absent this Act and (b) adding to the principal of each investment a pro rata portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1995, the actual calculation of the reset principal will not occur until early 1996, because the discount rate will not be determined, the BPA's final audited financial statements will not become available, until later in that fiscal year.

As prescribed by the term "old capital investments," the new principal amount is not set for appropriations-financed FCRPS investments the related facilities of which are placed in service in or after fiscal year 1996; for Federal irrigation investments required by law to be recovered by the Administrator from the sale of electric power, transmission or other services, or for investments financed by BPA current revenues or by bonds issued or sold, or authorized to be issued and sold, under section 13 of the Transmission Act.

The discount rate used to determine the present value is the Treasury rate for fiscal year 1996 and is identical to the interest rate that applies to new principal amounts for the old capital investments. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate.

The discount period for a principal amount begins on the date that the principal amount associated with an old capital investment is reset (October 1, 1995) and ends, for purposes of making the present value calculation, on the repayment dates provided in this section. The repayment dates for purposes of making the present value calculation are already assigned to almost all of the old capital investments. For old capital investments that will be placed in service after October 1, 1993, but before October 1, 1995, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2—"Power Marketing Administration Financial Reporting," as in effect at the beginning of fiscal year 1994. These ideas are captured in the definition of the term "old payment amounts."

The interest portion of the old payment amounts is determined on the basis that the principal amount would bear interest annually until repaid at interest rates assigned by the Administrator. For almost all old capital investments, these interest rates were assigned to the capital investments prior to the effective date of this Act. (For old capital investments that are placed in service after September 30, 1993, the interest rates to be used in determining the old payment amounts will be the Treasury rate for the fiscal year in which the construction of the related project or facility, or the separable unit or feature of a project or facility, was initiated. Section 3(g) of the Transmission Act, as amended by this Act, provides the manner in which these interest rates are established.) Thus, for purposes of determining the present value of an interest payment on a capital investment, the discount period for the payment begins on October 1, 1995, and ends on the date the interest payment would have been made.

The *pro rata* allocation of $100,000,000 is based on the ratio that the nominal principal amount of the old capital investment bears to the sum of the nominal principal amounts of all old capital investments. This added amount fulfills a key financial objective of the Act to provide the U.S. Treasury and Federal taxpayers with a $100,000,000 increase in the present value of BPA's principal and interest payments with respect to the old capital investments. Since the $100,000,000 is a nominal amount that bears interest at a rate equal to the discount rate, the present value of the stream of payments is necessarily increased by $100,000,000.

Paragraph (b) of section 14 of the Transmission Act, as amended by this Act, provides that the Administrator will determine the new principal amounts and obtain the approval of the Secretary of the Treasury for such determinations. The Administrator will calculate the new principal amount of each old capital investment in accord with section 14 on the basis of (i) the outstanding principal amount, the interest rate and the repayment date of the related old capital investment, (ii) the discount rate provided by the Secretary of the treasury, and (iii) for purposes of calculating the pro rata share of $100 million in each new principal amount under section 14(a)(2) of the Transmission Act, as amended by this Act, the total principal amount of all old capital investments. The Administrator will provide this data to the Secretary of the Treasury and obtain approval by the Secretary that the Administrator's calculation of each new principal amount and the Administrator's assignment of the interest rate to the new principal amounts is consistent with the provisions of this Act.

The approval by the Secretary of the Treasury will be completed as soon as practicable after the data is provided by the Administrator. It is expected that the Secretary of the Treasury will identify possible errors in the Administrator's calculations and raise and resolve these issues in consultation with the Administrator. Due to the ministerial nature of these one-time determinations and approvals under this section, it is expected that the confirmation by the Secretary will not require substantial time.

Interest rate for new principal amounts

The Transmission Act is amended to add a new section 15, which provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for fiscal year 1996 determined by the Secretary of the Treasury under section 3(g) of the Transmission Act, as amended by this Act. The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the end of the repayment period for the investment.

Repayment dates

The Transmission Act is amended by adding a new section 16, which in conjunction with the term "repayment date" as that term is defined in section 3(f) of the Transmission Act, as amended by this Act, provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date used in making the present value calculations in section 14 of the Transmission Act, as amended by this Act. Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Section 16 of the Transmission Act, as amended by this Act, confirms that the Administrator retains this obligation notwithstanding the enactment of this Act.

Prepayment limitations

The Transmission Act is amended by adding a new section 17, which places a cap on the Administrator's authority to prepay the new principal amounts of old capital investments. During the period October 1, 1995, through September 30, 2000, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100,000,000.

Interest rates for new capital investments during construction

The Transmission Act is amended by adding a new section 18, which establishes in statute a key element of the repayment practices relating to capital investments the facilities of which are placed in service after September 30, 1995. The new section 18 provides the interest rates for determining the interest during construction of these facilities. For each fiscal year of construction, the Secretary of the Treasury determines a short-term interest rate upon which that fiscal year's interest during construction is based. The short-term interest rate for a given fiscal year applies to the sum of (a) the cumulative construction expenditures made from the start of construction through the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the end of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury and is the one-year agency borrowing rate as determined by the Secretary of the Treasury for use during the first month of the fiscal year taking into consideration the average of current market yields on outstanding marketable obligations of the United States with approximate periods to maturity of one year. These ideas are included in the definition of the term "one-year rate."

This method of calculating interest during construction equates to common construction financing practice. In this practice construction is funded by rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility constructed. Accordingly, new section 18 of the Transmission Act provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator has no obligation with respect to the payment of this interest until construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

Interest rates for new capital investments

The Transmission Act, is amended by adding a new section 19, which establishes in statute an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for capital investments the related facilities of which are placed in service after September 30, 1995. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, new section 19 provides that the interest rate assigned to capital investments made in a project, facility, or separable unit of feature of a project or facility, provided it is placed in service after September 30, 1995, is a rate that more accurately reflects the repayment period for the capital investment. The interest rate applicable to these capital investments is a rate determined by the Secretary of the Treasury taking into consideration the average of yields of certain marketable securities of the United States during the month in which the related project, facility, or separable unit or feature is placed in service. The marketable securities to be used by the Secretary of the Treasury in the interest rate determination are securities whose remaining maturities are comparable to the repayment period for the capital investment. BPA will obtain the applicable interest rate from a table of interest rates provided by the Secretary of the Treasury. The interest rates in this table shall be for various maturities and shall be determined by the Secretary of the Treasury by taking into consideration the average of the yields on marketable securities of the United States that have maturities comparable to the various maturities. Each of these investments would bear interest at the rate so assigned until the earlier of the date it is repaid or the end of its repayment period.

Credits to the Administrator's payments to the U.S. Treasury

The Transmission Act is amended to add a new section 20, which provides that the Administrator shall receive credits to annual cash transfers that would otherwise be made by the Administrator to the U.S. Treasury.

The credits are tied to annual payments to be made by the Administrator under a settlement of certain claims against the United States by the Confederated Tribes of the Colville Reservation, which claims relate to the construction and operation of Grand Coulee Dam. The credits, together with a lump-sum payments by the United States to the Tribes, represent an equitable allocation of the costs of the settlement between BPA ratepayers and federal taxpayers. The credits provided under this section shall be applied against interest payments or others payments to be made by the Administrator to the U.S. Treasury. The payments to the U.S. Treasury available for crediting include, without limitation, interest payments associated with capital investment, are reset under this Act; interest on bonds issued by BPA to the U.S. Treasury, and interest payments in connection with FCRPS investments that are placed in service after September 30, 1995.

New section 20 of the Transmission Act also provides that it will apply "notwithstanding any other law." This clause assumes that new section 20 will supplant a similar provision in proposed Federal legislation validating the settlement agreement, should that legislation be enacted before this Act. The proposed short title for the settlement agreement legislation is the "Colville Tribes Grand Coulee Dam Settlement Act."

Contract provisions

The Transmission Act, is amended to add a new section 21, which is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. With regard to such investments, paragraph (1) of new section 21 requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other than the interest payments or principal repayments authorized by this Act. Paragraph (1) of new section 21 also provides assurance to rate payers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision assures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Whereas paragraph (1) of new section 21 limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, paragraph (2) of section new 21 requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. Thus, the Administrator may not impose a charge, rent or other fee for such investments, either while they are being repaid or after they have been repaid. Paragraph (2) of new section 21 also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to section 15 of the Transmission Act, as amended by this Act.

Paragraph (3) of new section 21 is intended to assure BPA rate payers that the contract provisions described in paragraphs (1) and (2) of new section 21 are not indirectly circumvented by requiring BPA rate payers to bear through BPA rates the cost of a judgment or settlement for breach of the contract provisions. The subsection also confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by new section 21. Section 1304 of title 31, United States Code, is a continuing, indefinite appropriation to pay judgments rendered against the United States, provided that payment of the judgment is "not otherwise provided for." Paragraph 3 of new section 21 of this Act assures both that the Bonneville fund, described in section 838 of title 16, United States Code, shall not be available to pay a judgment or settlement for breach by the United States of the contract provisions required by new section 21, and that no appropriation, other than the judgment fund, is available to pay such a judgment.

Paragraph (4)(A) of new section 21 establishes that the contract protections required by new section 21 do not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Paragraph (4)(B) of new section 21 makes clear that the contract terms described above are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other new costs or allocate costs and benefits. This Act, including the contract provisions under section 21, does not preclude the Administrator from recovering any other costs such as general overhead, operations and maintenance, fish and wildlife, conservation, risk mitigation, modifications, additions, improvements, and replacements to facilities, and other costs properly allocable to a rate or resource.

Savings provisions

The Transmission System Act is amended by adding a new section 22. Subsection (a) of this section assures that the principal and interest payments by the Administrator as established in this Act shall be paid only from the Administrator's net proceeds. Subsection (b) confirms that, except with respect to the prepayment limitations under section 17 of the Transmission Act, as amended by this Act, the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2333. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel a certificate of documentation for the vessel *Shamrock V*; to the Committee on Commerce, Science, and Transportation.

"SHAMROCK V" CERTIFICATE OF DOCUMENTATION ACT OF 1994

Mr. KERRY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel SHAMROCK V, (United States official number 900036).

By Mr. BAUCUS (by request):

S. 2334. A bill to improve safety at rail-highway grade crossings and railroad rights-of-way, and for other purposes; to the Committee on Environment and Public Works.

RAIL-HIGHWAY GRADE CROSSING SAFETY ACT OF 1994

• Mr. BAUCUS. Mr. President, today I am introducing, upon request, a bill to improve safety at rail-highway grade crossings and railroad rights-of-way. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail-Highway Grade Crossing Safety Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are approximately 170,000 public and 110,000 private at-grade rail-highway crossings in the United States;

(2) during 1993, there were nearly 4,900 accidents at these crossings;

(3) it is necessary to improve safety at our Nation's rail-highway crossings and along rail rights-of-way;

(4) there are insufficient public funds to provide for the installation of warning systems that are automatically activated by approaching trains at all public crossings;

(5) many of the Nation's public rail-highway crossings are unnecessary and should be closed;

(6) rail-highway crossing consolidation will reduce the potential for rail-highway crossing collisions and will allow states to concentrate on improving safety at the remaining crossings;

(7) incentives are needed to encourage state and local governments to increase the consolidation of rail-highway crossings; and

(8) increased funding must be provided to educate motorists in their responsibilities at crossings in order to realize the full benefits from the public investment in rail-highway crossing warning systems.

SEC. 3. RAIL-HIGHWAY GRADE CROSSING CLOSING PROGRAM.

(a) Section 120(c) of title 23, United States Code, is amended by inserting "rail-highway crossing closures," after "vanpooling."

(b) Section 130 of title 23, United States Code, is amended by relettering subsection (h) as (j) and adding new subsections (h) and (i) to read as follows:

"(h) INCENTIVE FUNDS FOR CLOSING CROSSINGS.—

"(1) Subject to paragraph (2) of this subsection, any state after adopting a policy requiring the review of the need for all new public at-grade rail-highway crossings, may, in its discretion, use the funds authorized under this section to provide an incentive payment to a local jurisdiction upon the permanent closing by the jurisdiction of a public at-grade crossing.

"(2) The incentive payments authorized by paragraph (1) of this subsection may not exceed $7,500, provided that the funds are matched by an equal payment from the railroad owning the tracks on which the crossing is located.

"(3) The local jurisdiction receiving funds under this subsection shall use the Federal funds portion of the incentive payment for transportation safety improvements only.

"(l) PUBLIC BENEFITS AND COSTS ANALYSES.—Within 18 months after the date of this Act, the Secretary shall establish guidelines to enable states to determine the public benefits and costs resulting from any new rail-highway grade crossing."

SEC. 4. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended by striking everything after "Operation lifesaver.—" and inserting in lieu thereof the following: "Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings, and to help prevent trespassing on rail rights-of-way and the resulting injuries and fatalities, provided however, expenditure of any funds in excess of $300,000 shall be contingent upon receipt of matching funds from non-public sources."

SEC. 5. GRADE CROSSING CORRIDOR SAFETY INCENTIVE PROGRAM.

Section 104 of title 23, United States Code is amended by adding a new paragraph (4) to subsection (d) to read as follows:

"(4) GRADE CROSSING CORRIDOR SAFETY INCENTIVE PROGRAM.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $15,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year to carry out a program to provide a financial incentive to States that would review and implement grade crossing safety improvements on a corridor basis in accordance with section 130(k) of title 23, United States Code."

Section 130 of title 23, United States Code is amended by adding subsection (k) to read as follows:

"(k) GRADE CROSSING CORRIDOR SAFETY INCENTIVE PROGRAM.—

"(1) The Secretary shall carry out a program to provide an additional financial incentive to States that would review and implement grade crossing safety improvements on a corridor basis. This financial incentive would be in addition to those funds available in accordance with the preceding subsections.

"(2) Funds authorized to be appropriated to carry out this subsection shall be available for obligation at the discretion of the Secretary. The Secretary shall issue investment criteria for approving projects under this section.

"(3) All provisions of chapter 1 of title 23, United States Code, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this subsection, except as determined by the Secretary to be inconsistent with this subsection. Funds authorized to be appropriated to carry out this section shall remain available until expended."•

By Mr. BROWN:

S. 2335. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require that OMB and CBO estimates for paygo purposes to recognize the increased revenues generated by economic growth resulting from legislation implementing any trade agreement; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

TRADE AGREEMENTS LEGISLATION

• Mr. BROWN. Mr. President, I rise today to introduce a bill that adopts a dynamic budget scoring for trade agreements.

Mr. President, the Senate will soon be voting on legislation to implement the Uruguay round of the General Agreement on Tariffs and Trade [GATT]. In order to approve the Uruguay round GATT, Congress will have to choose between increasing taxes, restraining spending, or waiving the budget rules.

According to a report to be released tomorrow by the Joint Economic Committee, GATT will create over $30 billion in economic growth in the first 5 years after its enactment. This growth would generate sufficient revenues to offset the projected loss on tariff revenue. U.S. Trade Representative Mickey Kantor also has testified before Congress that he expects the GATT to generate tax revenue sufficient to cover the expected $11 billion loss over 5 years. Unfortunately, the budget pay-as-you-go rules prevent the Congressional Budget Office from taking such economic growth into account.

The Clinton administration has recently proposed a series of measures to make up for the loss of revenue. However, the administration's proposals rely heavily on tax increases and not on budget cuts. Some budget cuts proposed by the administration also are included in its welfare reform proposal.

Mr. President, I support the paygo process because it helps keep the deficit from growing even larger. However, it does not make economic sense to only look at revenue reductions and ignore the revenue increases that will occur because of economic growth generated by trade agreements.

The legislation I introduce today adopts a dynamic budget scoring for trade agreements. Dynamic budget scoring allows the OMB and CBO to take into account the increased revenues generated by the trade agreements, so they may be used to offset lost revenues when tariffs are lowered.

Mr. President, let me make it clear that this bill only applies to trade agreements, and the increased revenues generated by GDP growth resulting from the legislation implementing a trade agreement cannot be used as offsets beyond the total of lost revenues. If the offset does not fully cover the lost tariff revenues, we will still need to pay for the difference.

Mr. President, Americans need more open borders, not higher taxes. We must reject any proposal to raise taxes on working Americans to pay for trade agreements that will generate tax revenues. By adopting dynamic budget scoring, we can eliminate the need for tax increases as an option to pay for GATT and other future trade agreements.•

ADDITIONAL COSPONSORS

S. 277

At the request of Mr. SIMON, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 277, a bill to authorize the establishment of the National African American Museum within the Smithsonian Institution.

S. 340

At the request of Mr. HEFLIN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 549

At the request of Mr. DOMENICI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 784

At the request of Mr. HATCH, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 784, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1658

At the request of Mr. HATCH, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alaska [Mr. STEVENS], the Senator from Washington [Mr. GORTON], the Senator from Vermont [Mr. JEFFORDS], the Senator from North Carolina [Mr. HELMS], the Senator from

Utah [Mr. BENNETT], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1658, a bill to establish safe harbors from the application of the antitrust laws for certain activities of providers of health care services, and for other purposes.

S. 1793

At the request of Mr. KEMPTHORNE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1793, a bill to provide an exemption from citation by the Secretary of Labor under the Occupational Safety Act to employers of individuals who perform rescues of individuals in imminent danger as a result of a life-threatening accident, and for other purposes.

S. 1887

At the request of Mr. BAUCUS, the names of the Senator from Maine [Mr. MITCHELL], the Senator from New Hampshire [Mr. GREGG], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Oklahoma [Mr. BOREN], the Senator from Missouri [Mr. DANFORTH], and the Senator from Tennessee [Mr. MATHEWS] were added as cosponsors of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1898

At the request of Mr. RIEGLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1898, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 1979

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1979, a bill to require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964, and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

S. 2183

At the request of Mrs. HUTCHISON, the names of the Senator from New Hampshire [Mr. GREGG] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2246

At the request of Mr. DORGAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2246, a bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments.

S. 2258

At the request of Mr. DECONCINI, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2258, a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes.

S. 2275

At the request of Mr. EXON, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2275, a bill to amend subtitle IV of title 49, United States Code, relating to interstate commerce.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2298

At the request of Mr. LEAHY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2298, a bill to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

SENATE JOINT RESOLUTION 157

At the request of Mr. SASSER, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maryland [Mr. SARBANES], the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. NUNN], the Senator from California [Mrs. BOXER], the Senator from Idaho [Mr. CRAIG], the Senator from Maine [Mr. COHEN], the Senator from Virginia [Mr. WARNER], the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Missouri [Mr. DANFORTH], the Senator from Missouri [Mr. BOND], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate 1994 as "The Year of Gospel Music."

SENATE JOINT RESOLUTION 167

At the request of Mr. SIMON, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 167, a joint resolution to designate the week of September 12, 1994, through September 16, 1994, as "National Gang Violence Prevention Week."

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. GRAMM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America.

SENATE RESOLUTION 246—RELATIVE TO THE DEATH OF THE HONORABLE HUGH SCOTT, FORMERLY A SENATOR FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 246

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

AMENDMENTS SUBMITTED

IMPROVING AMERICA'S SCHOOLS ACT OF 1993

GORTON (AND OTHERS) AMENDMENT NO. 2418

Mr. GORTON (for himself, Mr. LIEBERMAN, Mr. BURNS, Mr. CRAIG, Mr. BOND, Mr. MURKOWSKI, and Mr. BENNETT) proposed an amendment to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER SCHOOL VIOLENCE.

(a) IN GENERAL.—In any school that receives Federal funds, if a student brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of, school policy, or has demonstrated life threatening behavior in the classroom or on school premises, then the student shall be subjected to the disciplinary actions as determined by the local educational agency.

(b) INDIVIDUALS WITH DISABILITIES.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(1) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during", and

(2) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who brings to or possesses on school property or at a school-sponsored event a weapon as such term is defined in, and in contravention of school policy, or a child with a disability who has demonstrated life threatening behavior in the classroom or on school premises, then the child may be placed in an interim alternative educational setting for not more than 90 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(c) SUNSET PROVISION.—This section, and the amendments made by this section, shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals With Disabilities Education Act.

(d) DEFINITIONS.—For the purposes of this section, the term "life threatening behavior" is defined as "an injury involving a substantial risk of death; loss or substantial impairment of the function of a bodily member, organ, or mental faculty that is likely to be permanent; or an obvious disfigurement that is likely to be permanent.

SPECTER AMENDMENT NO. 2419

Mr. SPECTER proposed an amendment to the bill S. 1513, supra; as follows:

On page 538, on line 2, strike "; and" and insert the following: ", including contracts with private management companies;"

On page 538, on line 5, before the period add the following: "; and

"(IX) contracting out the management of troubled schools to private management firms"

On page 780, line 9, strike "and"

On page 780, after line 11, before the "." insert the following: "; and

"(I) establish partnerships with private educational providers whose comprehensive technology systems address the need of children in poverty."

On page 1000, line 10, strike the "and", and insert the following:

"(R) demonstrations that are designed to test the effectiveness of private management of public educational programs, with at least one demonstration carried out in each of the ten Department of Education regions, and with funds used to support planning, start-up costs and evaluation; and"

On page 1000, line 11, strike "(R)" and insert: "(S)".

On page 1165, before Part G, insert the following new section:

"SEC. . PRIVATELY MANAGED SCHOOLS.

"Nothing in this Act shall be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms."

SPECTER (AND PELL) AMENDMENT NO. 2420

Mr. SPECTER (for himself and Mr. PELL) proposed an amendment to the bill S. 1513, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

(a) FINDINGS.—The Congress finds the following:

(1) Over 150,000 youth offenders age 20 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) DEFINITION.—The term "youth offender" means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) GRANT PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants to the States to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) APPLICATION.—To be eligible for a grant under this section, a State agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that they include measures of—

(A) program completion;

(B) student academic and vocational skill attainment;

(C) success in job placement and retention; and

(D) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) PROGRAM REQUIREMENTS.—Each State agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 21 years of age or younger.

(g) LENGTH OF PARTICIPATION.—A program receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a high school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) EDUCATION DELIVERY SYSTEMS.—Correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this program.

(i) ALLOCATION OF FUNDS.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of eligible students in such State bears to the total number of eligible students in all States.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $18,000,000 for fiscal year 1995; and

(2) such sums as may be necessary for fiscal year 1996 and each fiscal year thereafter.

SPECTER AMENDMENT NO. 2421

Mr. SPECTER proposed an amendment to the bill S. 1513, supra; as follows:

On page 1,000, before line 13, insert the following:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students, emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

MOSELEY-BRAUN (AND KENNEDY) AMENDMENT NO. 2422

Ms. MOSELEY-BRAUN (for herself and Mr. KENNEDY) proposed an amendment to the bill S. 1513, supra; as follows:

On page 1357, after line 25, insert the following:

SEC. ___. HIGHER EDUCATION ACT OF 1965.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I-A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) AMENDMENT.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.—

"(1) DATA REQUIRED.—Each institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually submit a report to the Secretary that contains the following information:

"(A) For each men's team, women's team, and any team that includes both male and female athletes, the following data:

"(i) The total number of participants and their gender.

"(ii) The total athletic scholarship expenditures.

"(iii) A figure that represents the total athletic scholarship expenditures divided by the total number of participants.

"(iv) The total number of contests for the team.

"(v) The per capita operating expenses for the team.

"(vi) The per capita recruiting expenses for the team.

"(vii) The per capita personnel expenses for the team.

"(viii) Whether the head coach is male or female and whether the head coach is full time or part time.

"(ix) The number of assistant coaches that are male and the number of assistant coaches that are female and whether each particular coach is full time or part time.

"(x) The number of graduate assistant coaches that are male and the number of graduate assistant coaches that are female.

"(xi) The number of volunteer assistant coaches that are male and the number of volunteer assistant coaches that are female.

"(xii) The ratio of participants to coaches.

"(xiii) The average annual institutional compensation of the head coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the head coaches of women's sports teams, across all offered sports.

"(xiv) The average annual institutional compensation of each of the assistant coaches of men's sports teams, across all offered sports, and the average annual institutional compensation of the assistant coaches of women's sports teams, across all offered sports.

"(B) A statement of the following data:

"(i) The ratio of male participants to female participants in the entire athletic program.

"(ii) The ratio of male athletic scholarship expenses to female athletic scholarship expenses in the entire athletic program.

"(2) DISCLOSURE TO PROSPECTIVE STUDENTS.—An institution of higher education described in paragraph (1) that offers admission to a potential student shall provide to such student, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1), and all students offered admission to such institution shall be informed of their right to request such information.

"(3) DISCLOSURE TO THE PUBLIC.—An institution of higher education described in paragraph (1) shall make available to the public, upon request, the information contained in the report submitted by such institution to the Secretary under paragraph (1).

"(4) SECRETARY'S DUTY TO PUBLISH A REPORT OF THE DATA.—On or before July 1, 1995, and each July 1 thereafter, the Secretary, using the reports submitted under this subsection, shall compile, publish, and submit to the appropriate committees of the Congress, a report that includes the information contained in such reports identified by (A) the individual institutions, and (B) by the athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(5) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means all nonscholarship expenditures.".

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect on July 1, 1994.

SIMON (AND OTHERS) AMENDMENT NO. 2423

Mr. SIMON (for himself, Mr. PELL, Mr. BYRD, Mr. CHAFEE, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, and Mr. KOHL) proposed an amendment to the bill S. 1513, supra; as follows:

On page 1205, between lines 4 and 5, insert the following:

"PART D—LONGER SCHOOL YEAR

"SEC. 13401. SHORT TITLE.

"This part may be cited as the 'Longer School Year Incentive Act of 1994'.

"SEC. 13402. FINDINGS.

"The Congress finds as follows:

"(1) A competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries.

"(2) Despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy.

"(3) For most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year.

"(4) In the final four years of schooling, students in schools in the United States spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so spent in Germany, the 3,280 hours so spent in France, and the 3,170 hours so spent in Japan.

"(5) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television.

"(6) More than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem.

"(7) Over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year.

"(8) Funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts.

"(9) Experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"SEC. 13403. PURPOSE.

"It is the purpose of this part to allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"SEC. 13404. PROGRAM AUTHORIZED.

"The Secretary is authorized to award grants to States or local educational agencies to enable such States or agencies to support public school improvement efforts that include the expansion of time devoted to core academic subjects and the extension of the school year to not less than 210 days.

"SEC. 13405. APPLICATION.

"Any State or local educational agency desiring assistance under this part shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

"SEC. 13406. FUND ALLOCATION.

"(a) FUNDING.—Of the funds appropriated pursuant to the authority of section 13501 for each fiscal year, the Secretary may reserve not more than 50 percent of such funds for such year to carry out this part.

"(b) AVAILABILITY.—Funds made available under subsection (a) for any fiscal year shall remain available until expended.

On page 1193, line 21, insert "and not used to carry out part D for such year" after "year".

On page 1194, line 2, insert "(other than part D)" after "title".

On page 1195, line 17, insert "(other than part D)" after "title".

On page 1195, line 25, insert "(other than part D)" after "title".

On page 1198, line 4, insert "(other than part D)" after "title".

On page 1198, line 7, insert "(other than part D)" after "title".

On page 1198, line 13, insert "(other than part D)" after "title".

On page 1198, line 20, insert "(other than part D)" after "title".

On page 1198, line 24, insert "(other than part D)" after "title".

On page 1199, line 3, insert "(other than part D)" after "title".

On page 1199, line 16, insert "(other than part D)" after "title".

On page 1199, line 18, insert "(other than part D)" after "title".

On page 1199, line 23, insert "(other than part D)" after "title".

On page 1200, line 1, insert "(other than part D)" after "title".

On page 1200, line 15, insert "(other than part D)" after "title".

On page 1200, line 24, insert "(other than part D)" after "title".

On page 1201, line 5, insert "(other than part D)" after "title".

On page 1202, line 20, insert "(other than part D)" after "title".

On page 1202, line 22, insert "(other than part D)" after "title".

On page 1203, line 6, insert "(other than part D)" after "title".

On page 1203, line 18, insert "(other than part D)" after "title".

On page 1204, line 2, insert "(other than part D)" after "title".

On page 1204, line 4, insert "(other than part D)" after "title".

On page 1204, line 10, insert "(other than part D)" after "title".

On page 1204, line 18, insert "(other than part D)" after "title".

On page 1204, line 22, insert "(other than part D)" after "title".

On page 1205, line 5, strike "**D**" and insert "**E**".

On page 1205, line 6, strike "**13401**" and insert "**13501**".

SIMON (AND OTHERS) AMENDMENT NO. 2424

Mr. SIMON (for himself, Mr. HATCH, Mr. KENNEDY, Mr. PELL, Mr. HARKIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. BINGAMAN, Mr. LEAHY, Mr. METZENBAUM, Mrs. BOXER, and Mrs. MURRAY) proposed an amendment to the bill S. 1513, supra; as follows:

On page 995, line 10, strike "$2,000,000" and insert "$5 million."

JEFFORDS AMENDMENT NO. 2425

Mr. JEFFORDS proposed an amendment to the bill S. 1513, supra; as follows:

At the end of title IV, insert the following:

SEC. . LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—In paragraph (3) of section 615(e) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking 'During' and inserting '(A) Except as provided in subparagraph (B), during'; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting for not more than 90 days, consistent with State law.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.".

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) CONSTRUCTION.—Nothing in title XVII of the Elementary and Secondary Education Act of 1965 (relating to Gun-Free Schools) shall be construed to supersede the Individuals with Disabilities Education Act or to prevent a local education agency that has expelled a student from such student's regular school setting from providing educational services to such student in an alternative setting, as provided by State law, policy, or otherwise determined by such local educational agency.

BYRD (AND DODD) AMENDMENT NO. 2426

Mr. BYRD (for himself and Mr. DODD) proposed an amendment to the bill S. 1513, supra; as follows:

On page 874, line 9, strike "The Secretary" and insert "(1) BIENNIAL EVALUATION.—The Secretary", and indent appropriately.

On page 874, line 14, insert after "subpart" the following: "and of other recent and new initiatives to combat violence in schools".

On page 874, between lines 16 and 17, insert the following:

"(2) DATA COLLECTION.—

"(A) COLLECTION.—The Secretary shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States-pursuant to subsection (b)(2)(B).

"(B) REPORT.—Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

BYRD AMENDMENT NO. 2427

Mr. BYRD proposed an amendment to the bill S. 1513, supra; as follows:

On page 1165, between lines 21 and 22, insert the following:

"SEC. 10607. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

BUMPERS (AND OTHERS) AMENDMENT NO. 2428

Mr. BUMPERS (for himself, Mr. COCHRAN, Mr. KEMPTHORNE, Mr. PRYOR, Mr. WALLOP, Mr. SHELBY, Mr. CRAIG, Mr. GRAMM, Mr. LOTT, Mr. BINGAMAN, Mr. BURNS, Mr. THURMOND, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1513, supra; as follows:

On page 553, line 10, strike "(i)".

On page 553, line 15, beginning with "effort factor" strike all through the period on page 553, line 17, and insert "relative income per child factor described in subparagraph (B).".

On page 554, beginning with line 4, strike all through page 556, line 15.

On page 556, line 23, strike "product of the effort" and insert "income per school-age child".

On page 556, beginning with line 24, strike "under" and all that follows through "year" on page 557, line 2.

On page 557, between lines 9 and 10, insert the following:

"(C)(i) Except as provided in subparagraph (D), the relative income per child factor shall be determined in accordance with the following formula:

$$R=1.0-0.4\left(\frac{c}{n}\right)$$

"(ii) For the purpose of the formula described in clause (i), the term 'c' shall be a fraction, the numerator of which is the 3-year average of total personal income as reported by the Bureau of Economic Analysis for a county, and the denominator of which is the amount determined under the second sentence of subparagraph (A) for the county multiplied by the number of children aged 5 through 17 in the county.

"(iii) For the purpose of the formula described in clause (i), the term 'n' shall be a fraction, the numerator of which is the sum of the 3-year averages of total personal income as reported by the Bureau of Economic Analysis for all counties in all States, and the denominator of which is the sum of the products of the amount determined under the second sentence of subparagraph (A) for each county in each State multiplied by the number of children aged 5 through 17 in such county.

"(iv) For the purpose of the formula described in clause (i), the term 'R' shall be not more than 0.8 and not less than 0.2.

"(D) The relative income per child factor for the Commonwealth of Puerto Rico shall be 0.6.

"(E) The Secretary shall use the most recent data available to the Secretary to calculate relative income per child factors under this paragraph.

HATCH (AND BENNETT) AMENDMENT NO. 2429

Mr. HATCH (for himself and Mr. BENNETT) proposed an amendment to the bill S. 1513, supra; as follows:

Beginning on page 554 line 21, strike all through line 15 on page 556 and insert in lieu thereof the following:

(iii)(I) Except as provided in subclause (II) the equalization factor for a local educational agency shall be determined in accordance with the succeeding sentence. The equalization factor determined under this sentence shall be calculated as follows: First, calculate the difference (expressed as a positive amount) between the average per pupil expenditure in the State served by the local educational agency and the average per pupil expenditure in each local educational agency in the State and multiply such difference by the total student enrollment for such agency, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Second, add the products under the preceding sentence for each local educational agency in such State and divide such sum by the total student enrollment of such State, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Third, divide the quotient under the preceding sentence by the average per pupil expenditure in such State. The equalization factor shall be equal to 1 minus the amount determined in the previous sentence.

(II) The equalization factor for a local educational agency serving a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall have a maximum coefficient of variation of .10.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that the Subcommittee on Public Lands, National Parks and Forests will consider an additional measure at its hearing scheduled for August 4, 1994, beginning at 9:30 a.m.

The additional measure is S. 2249, a bill to amend the Alaska Native Claims Settlement Act, and for other purposes.

Bacause of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Kira Finkler of the Subcommittee staff at 202-224-7933.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee markup of the Small Business Administration Reauthorization and Amendments Act of 1994. The markup will be held on Tuesday, August 2, 1994, at 10 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, deputy staff director of the Small Business Committee at 224-5175.

SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, the Committee on Agriculture, Nutrition and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion will hold a hearing on proposed changes to the National Dairy Promotion and Research Board in S. 1557 and S. 1564. The hearing will also consider the beef industrywide long range plan of the Cattlemen's Beef Promotion and Research Board. The hearing will be held on Friday, August 5, 1994 at 10 a.m. in SR-332. Senator DAVID BOREN will preside.

For further information contact Brian Ellis at 224-4721 or Jeannine Kenney at 224-5323.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9 a.m. on Thursday, July 28, 1994, in executive session, to discuss the proposed package offer to be made to the House on the DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, July 28, 1994, at 10 a.m., to continue considering its recommendations for legislation to implement the Uruguay round of multilateral trade negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Thursday, July 28, at 9:30 a.m., for a hearing on civil agency financial audits.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, July 28, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 28, 1994 at 2:00 p.m. to hold a hearing on Department of Justice oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Davis-Bacon reform, during the session of the Senate on July 28, 1994, at 10:30 am.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Sickle Cell Disease Research: An Update," during the session of the Senate on July 28, 1994, at 2:30 pm.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on July 28, 1994, off the floor after the first vote, for an executive session to consider the nominations of Gilbert F. Casellas, Paul M. Igasaki, and Paul S. Miller, to be members of the Equal Employment Opportunity Commission, and Kenneth M. Jarin, to be a member of the National Council on the Arts.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY, AND GENERAL LEGISLATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation be authorized to meet during the session of the Senate on Thursday, July 28, 1994 at 2:30 p.m. to hold a hearing on pesticide legislation pending before the committee—S. 985, S. 1478, and S. 2050.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., July 28, 1994, to receive testimony on S. 2121, a bill to promote entrepreneurial management of the National Park Service, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GERNIKA AND BOISE, SISTER CITIES

• Mr. KEMPTHORNE. Mr. President, this weekend, the mayor of Gernika, Spain, will lead the first official Basque delegation to visit Idaho's capital city since the establishment of a sister city relationship between Gernika and Boise. Last October, Boise Mayor Brent Coles sent a delegation, headed by Secretary of State Pete Cenarrusa, to the Basque country with an offer to host a delegation visit to Idaho in honor of this sister city relationship.

On December 19, 1992, just prior to joining the United States Senate, I had the honor as mayor of Boise to join with the Honorable Eduardo Vallejo de Olejua, mayor of Gernika, in proclaiming our sister city relationship and sanctifying the natural bond which exists between our two cities.

Boise boasts a rich Basque heritage, including the largest population of Basques outside of Spain; 90 percent of the Basque families living in Boise, which is home to the largest population of Basques outside of Spain, came from the area surrounding the city of Gernika.

The city of Gernika is the sacred city of Basque democracy and has, for centuries, stood as a beacon to all freedom loving peoples of the world. Likewise, Boise has always stood for individualism, democracy, and freedom.

Over the years, there have been numerous exchanges and frequent trips between Gernika and Boise based upon our shared populations and close family ties. In Boise, we enjoy the richness of the Basque culture and the joy of their spirit as evidenced by the Oinkari Dancers, the Basque Museum and Cultural Center, Jaialdi, Onati Restaurant and the Bar Gernika. Boise is known as the 8th Province of the Basque Country.

Gernika, the city of the Tree of Gernika, and Boise, the City of Trees, share a common culture and a common love of democracy and freedom.

Mr. President, as this historic meeting occurs in Boise this weekend, I'm sure my colleagues in the U.S. Senate would wish to join me in recognizing this significant visit by the mayor of Gernika and his accompanying delegation. At the same time, I'd also like to acknowledge the longstanding tradition of good will between these two communities that we are seeing strengthened by this sister city relationship.•

PROJECT FIRST

• Mr. SIMON. Mr. President, I have long been concerned about intolerance in our society. The diversity of our culture is one of our greatest strengths, but unfortunately we have found that with diversity often comes intolerance. But that does not need to be the case. In Illinois, one high school is proving that tolerance can be taught.

University High School at Illinois State University, has been conducting an experiment designed to teach high school students to work with each other and to make their diversity a source of strength instead of conflict. Project FIRST [Freshmen Initiative Restructuring Schools Together] uses cooperative learning, integrated classrooms and team teaching techniques to teach students to work with people of different backgrounds toward a common goal. It also uses literature to introduce students to the topic of tolerance, and invites students to relate what they read to their own lives. According to a recent study of students and teachers, the results of this experiment have been good. Freshman attendance has been up, and student participants report that the project brings them closer together and allows them to know more about their similarities and differences.

Project FIRST is an example of the kinds of innovative educational programs that we should be encouraging across the country. It not only motivates students in their studies but also introduces the issue of tolerance into the classroom, where important progress can be made.•

A TRIBUTE TO SETON HALL UNIVERSITY SCHOOL OF LAW

• Mr. LAUTENBERG. Mr. President, I rise today to call the Senate's attention to several recent events at New Jersey's Seton Hall University school of law. After just four decades of operation, the school has clearly become one of the rising stars among this Nation's law schools.

The road to success has not, however, been easy. Just a few years ago, Seton Hall University was seriously considering moving the school from its location in downtown Newark. After serious discussion and debate, the university decided that its future was tied to the city's and the decision was made to build a new, state-of-the-art law center facility in Newark.

That was the right decision. In a recent study of 18,000 law students at 165 accredited law schools conducted by the National Jurist, an independent monthly magazine, and the Princeton Review, Seton Hall University school of law ranked second in overall student satisfaction.

Seton Hall also ranked second in terms of student satisfaction with the law center facilities themselves, and third in student satisfaction with the law library, computerized equipment, and other research facilities.

These rankings far exceed those attained by some of the most established and prestigious law schools in the county.

As Dean Ronald Riccio said of the results of the survey, "I have always felt that the best judge of the quality of any law school is the students. They know what a good program is."

As important as student satisfaction is, we all recognize that it is not the only measure of a school's success. Another is the quality of the work produced by those students. In that regard, according to a recent survey conducted by the University of Miami, the Seton Hall Law Review ranked, along with the law reviews published by Yale and the University of Virginia, as the fifth most cited law journal in the country in terms of opinions written by judges from the 13 Federal circuit courts of appeal.

Another indication of the school's success is the fact that, in 1995, the Oliver Wendell Holmes Lecture—a prestigious event which law schools throughout the country compete to host—will take place at Seton Hall.

Finally, in another first for Seton Hall, the school's Black Law Students Association's moot court team defeated the team from Georgetown Law Center to win the Frederick Douglass National Moot Court Competition.

Mr. President, we in New Jersey have long been extremely proud of the accomplishments of this school, its students and its alumni. It is very gratifying to see that Seton Hall University School of Law is now attaining the kind of national recognition it deserves.•

WORLD WITHOUT POWER

• Mr. SIMON. Mr. President, Anthony Lewis had a column in the New York Times recently commenting on something I have talked about briefly on the floor of the Senate from time to time, that I have never seen another journalist write about.

We have a reluctance to face up to the problems of risk-taking in the Armed Forces as we try to provide a more stable and secure world. It is an easy thing on which to duck politically.

The reality is, you do not volunteer for the Chicago Police Department without recognizing that you are taking a risk. And if there is a fatality, as there occasionally is, no one says that since someone on the Chicago police force has been shot in dealing with a gang problem in one section of the city, we should take the police out of that section of the city. We recognize the essential role, as well as the dangerous role, that people on the Chicago police force assume.

Those who volunteer for the Armed Forces of the United States play a somewhat similar role on the international scene.

Anthony Lewis says: "The United States is the one remaining superpower. If it cannot use force to prevent disasters, then the world is truly condemned to chaos."

I could not agree with him more.

I missed reading the article that he refers to by Edward Luttwak, but I plan to read it.

In the meantime, my colleagues should read the Anthony Lewis column if they have not.

Mr. President, I ask to insert the column into the RECORD at this point.

The column follows:

WORLD WITHOUT POWER

(By Anthony Lewis)

Rwanda is many things: a human catastrophe, a testament to the danger of ethnic hatred, a devastating symbol of man's inhumanity to man. But beyond all that it is a sign of the New World Disorder: a world in which no great power takes responsibility for preventing a descent into chaos.

When an organized group of militant Hutus began slaughtering Rwanda's Tutsi minority in April, no outside power was prepared to intervene. Pleas by the Secretary General of the United Nations, Boutros Boutros-Ghali, got no response.

In the end the human tragedy was so great that the United States Government has felt compelled to mount an enormous relief effort. It will cost many times what earlier intervention might have, not to mention the cost in Rwanda lives.

There were reasons for the Clinton Administration's disinclination to intervene in April or May. Rwanda is remote from American military bases and outside traditional areas of American interest. Separating the parties in so savage a civil conflict would have been difficult.

But there was plainly another element in the American decision to stay out. That was the now ingrained reluctance to use the armed forces of the United States in any situation where they may suffer casualties.

Edward N. Luttwak, a conservative analyst at the Center for Strategic and International Studies in Washington, discusses the new military shyness in the current issue of Foreign Affairs. His article, brief and pungent, is essential reading for both liberals and conservatives.

In Somalia, Mr. Luttwak notes, the death of 18 professional soldiers—who presumably went into the military knowing that they might have to risk their lives—forced a total change in U.S. policy. In Haiti, a handful of thugs on the docks frightened off an American vessel; the impression of U.S. weakness bedevils the Haitian problem to this day.

What we are seeing, Mr. Luttwak argues, is a "refusal to tolerate combat casualties." And the phenomenon is not confined to the United States or other democracies where television images may drive public opinion. The old, totalitarian Soviet Union invaded Afghanistan but then acted with extraordinary timidity—for fear of public reaction against casualties.

The two recent cases where significant powers risked sizable casualties were the Falklands war and the Persian Gulf war. In the first, Margaret Thatcher's leadership took Britain into a romanticized echo of empire. In the gulf there were real interests, and President Bush effectively mobilized opinion behind the war.

But the gulf war story suggests that we are now willing to risk casualties only for a large and dramatized cause. And that, Mr. Luttwak says, "rules out the most efficient use of force—early and on a small scale to prevent escalation." He might have been writing presciently, about Rwanda.

What is the reason for the new sensitivity about possible casualties? Mr. Luttwak's theory is that it reflects the smaller size of families in the developed world. In earlier centuries people had many children, some of whom were expected to die young anyway, so death in battle was more acceptable.

That may be a psychological explanation. But there is a more immediate political one in this country: Vietnam. We fought a war that more and more Americans came to regard as a mistake, costing thousands of lives even after we decided to get out.

Since Vietnam the Pentagon has been hypersensitive about public opinion. Under Gen. Colin Powell as Chairman of the Joint Chiefs, it adopted a doctrine that allows the use of American forces in only extremely narrow circumstances. Military leaders have become the biggest resisters in the use of force.

Those of us who came to oppose the Vietnam war naturally applaud the cautiousness of military leaders. But like any doctrine, this one can be overdone. Right now, for example, Zairean officers are demanding payments to let relief planes for Rwanda refugees land. The United States should use its muscle without hesitation to stop such a practice by the corrupt forces of President Mobutu Sese Seko.

The United States is the one remaining superpower. If it cannot use force to prevent disasters, then the world is truly condemned to chaos. And Americans, Edward Luttwak writes, will have to learn how to be blind—"to passively ignore avoidable tragedies and horrific atrocities."•

IN RECOGNITION OF THE RETIREMENT OF MICHAEL I. HANDLEY

• Mr. RIEGLE. Mr. President, I rise today to recognize the outstanding career of Michael I. Handley, who is now retiring after four decades of service to the Communications Workers of America.

Born in Alcoa, TN, on March 19, 1925, Mr. Handley volunteered for the Navy during World War II. After the war, he worked for several years with the Southern Bell telephone company.

Michael Handley began his union career in the early 1950's. By 1958, he had become president of the Knoxville, TN, Communications Workers of America [CWA] Local 3805.

Mr. Handley has been my constituent, off and on, over the past 30 years. He first came to Michigan in 1967 as a District 4 representative for the CWA, a position he held for 5 years. Then in 1972, Mr. Handley moved to Georgia to serve as south Georgia director of the CWA. Two years later, he became assistant vice-president for CWA's District 3, and he remained there for 4 more years. Finally, in 1978, Mr. Handley and his family returned to the Michigan-Ohio area, working for CWA District 4, 2 years later he was appointed director of the Michigan CWA, and in 1982 he was named assistant vice-president for District 4, which includes Ohio, Indiana, Illinois, Wisconsin, and Michigan.

In addition to his work for the Communications Workers of America, Michael Handley has served in numerous community service positions, and has dedicated his time and efforts toward making his community better. He is presently a board member of the Greater Detroit Area Hospital, the United Way of Michigan, and the Michigan State AFL–CIO Executive Board, and is an active member of the Detroit United Fund. In addition to all that, he is also a commissioner on the Michigan Air Pollution Control Board.

I know that I speak for many when I say that Mr. Handley, together with his wife Amy, has been a reliable and consistent force for progressive change in the American work force, and that his tireless efforts on behalf of working men and women will not be forgotten. On behalf of the people of Michigan, I wish Mr. Handley a long and prosperous retirement.•

BUDGET DEFICITS AND THE SOCIAL SECURITY ADMINISTRATION

• Mr. SIMON. Mr. President, Robert Myers recently published an article in the Valley News Dispatch that I recommend to each and every one of my colleagues.

Many of us know Robert Myers as a renowned expert on the Social Security Administration. He served as chief actuary of the Administration from 1947 to 1970, and as Deputy Commissioner in 1981 and 1982. From 1982 to 1983, he served as the Executive Director of the National Commission on Social Security Reform. He has been referred to in this body as a "person of legendary integrity and authority."

Robert Myers' article discusses the future of the Social Security System. He concludes that "the most serious threat to Social Security is the Federal Government's fiscal irresponsibility." Here are his words:

> If we continue to run deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the Social Security trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness * * *.

Mr. Myers prescription is straightforward: Enact the Balanced Budget Amendment. "Passing the balanced budget amendment," he states, "would protect current employees from paying more today and getting less tomorrow, when they'll need it most." These are wise words—words we ignore at our peril.

Mr. President, I ask that the entire text of Mr. Myers' article be printed in the RECORD.

The article follows:

[From the Valley News Dispatch]

BUDGET DEFICITS COULD THREATEN BENEFITS' VALUE

(By Robert Myers)

Franklin Delano Roosevelt's Social Security program is one of the great social policy successes of this century. Fifty-eight years after the program was voted into law, the Social Security trust funds not only are self-sustaining; they also have significant excesses of income over expenditures. As a result, the program's trust funds will continue to help millions of elderly, disabled and survivor beneficiaries for generations, so long as the rest of the federal government acts with fiscal prudence.

Unfortunately, that's a big "if."

The federal government's ambitions are virtually always more expansive than its bank balance. With the government running stubborn deficits year after year, fiscal hawks have begun eying Social Security's balance sheets—with an accumulated excess of $378 billion at the end of 1993—as a deep pocket into which the government could dip to make up its current horrendous budget deficits and national debt.

For a number of reasons, that would be a terrible mistake. It is also why I favor the balanced budget amendment. Such an amendment would prevent the federal government from spending more than it earns, and it would reduce the temptation to plunder Social Security to make up for shortfalls in other government programs.

Many people claim that if the balanced budget amendment were to be adopted and if the federal government could not meet its obligations, Social Security recipients would pay the difference through reduced benefits. This, indeed, could occur. However, on grounds of integrity, logic and fair play, I strongly doubt that Congress would take such an alarming step.

Cutting Social Security expenditures alone would not accomplish the goal of reducing the national debt; it would merely shift the burden from the general public to the Social Security trust funds, which are safely invested in interest-bearing government bonds. Also, cutting expenditures while continuing to tax Americans for benefits they would no longer receive, would be unfair.

If Social Security benefits are reduced, then Social Security taxes should be reduced as well. And if someone in Congress did propose reducing benefits—with or without a tax reduction—the political outcry would likely be deafening. Social Security currently guarantees the nation's 26 million retired workers, who otherwise would have to fend for themselves, an income of about $675 a month for life, plus cost of living adjustments in the future. That doesn't count the monthly benefit checks for spouses and children of retirees; for workers who are disabled; and for the surviving spouses and children of workers who have died.

All told, some 43 million Americans rely on Social Security for some part of their income. They comprise a constituency that no member of Congress could easily ignore.

The most serious threat of Social Security is the federal government's fiscal irresponsibility. If we continue to run deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the Social Security trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would sharply diminish the real value of the trust funds and, even more important, the real value of the benefits for million of beneficiaries.

Passing a balanced budget amendment would protect current employees from paying more today and getting less tomorrow, when they'll need it most.•

ORDER OF BUSINESS

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF THE HONORABLE HUGH SCOTT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 246, a resolution relating to the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania, introduced today by the majority leader, the Republican leader, and others; that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 246) was agreed to, as follows:

S. RES. 246

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Friday, July 29; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9 a.m., with Senators permitted to speak therein for up to 5 minutes each, with Senator GRAMM of Texas recognized to speak for up to 10 minutes; that at 9 a.m., the Senate proceed into executive session to consider the nomination of Judge Breyer, as provided for under the provisions of a previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as provided for under S. Res. 246, as a mark of further respect for the late Honorable Hugh Scott.

There being no objection, the Senate, at 10:18 p.m., recessed until Friday, July 29, 1994, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1994:

THE JUDICIARY

DIANA E. MURPHY, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT, VICE JOHN R. GIBSON, RETIRED.

SHIRA A. SCHEINDLIN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE LOUIS J. FREEH, RESIGNED.

DOMINIC J. SQUATRITO, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT; VICE, A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. DAVID M. MADDOX, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. RICHARD F. TIMMONS, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. WILLIAM W. CROUCH, [redacted]

EXTENSIONS OF REMARKS

HEALTH CARE AND THE TRIAL ON SEPTEMBER 12

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HANSEN. Mr. Speaker, I rise today to express my concern over the administration and Democratic leadership's attempt to force a health care bill through Congress before the outcome of a very important trial on September 12. The trial I am referring to, involves First Lady Hillary Rodham Clinton, Ira Magaziner and other top health care aides, who flagrantly used Federal dollars to conduct secret meetings of the Clinton health care task force and then refused to supply factual information to the court as to who attended, what was discussed and how much it cost the taxpayers.

On Tuesday, after reviewing thousands of documents and hearing oral arguments, U.S. District Judge Royce C. Lamberth ordered the administration to face civil charges in his court. I think it is irresponsible of this body to move on legislation before the outcome of the trial is known.

In Federal court, on July 26, the White House abandoned their 18-month effort to hide its members of the health care task force and virtually admitted that it was made up of representatives of proreform interest groups. White House lawyers said in court that the task force was an anonymous horde that had no influence on Clinton's health care plan. If these working groups were anonymous and loosely invited to attend, then why the secrecy? And if they didn't influence the basic provisions of the Health Security Act, then, the big question is: Who did?

President Clinton's plan is the foundation of the bills being considered by the House today. When the list of about a thousand participants in the White House working groups was finally made available, the managed care industry and nonprofit organizations were strongly represented in high profile roles. Today, the influence of these people is still very apparent. Let me give you a few examples:

Mark Smith is executive vice president of the Henry J. Kaiser Family Foundation and chaired a subpanel for the Clintons on HIV and AIDS. What's interesting is the Foundation has spent at least $10 million campaigning for drastic reform and continues to fund various health care polls in favor of managed care. Kaiser is one of the largest health maintenance organizations in the country and, coincidentally, Mr. Smith is now being considered by the administration as the next AIDS czar.

The Robert Wood Johnson Foundation was represented on numerous subpanels within the health care task force working group. This Foundation has funded a number of health care town meetings led by Mrs. Clinton and also paid NBC $2 million to air a recent 2-hour special about health reform. The special was noticeably orchestrated and strongly favored massive health reform like the President's plan.

Aetna's Richard Connell, Benjamin Curtis, Ken O'Donnell and Jim Pickering were all included in the deliberations, as were representatives from Telesis, which was formerly owned by Ira Magaziner. The list goes on.

Just like Whitewater, the White House has conveniently censored, back dated or tampered with many documents which would enlighten the public as to who the members of the so-called working group were, what was actually discussed and how it was paid for. In fact, pages 15 through 26 of a memo explaining the organization of the White House task force were left out of documents the White House supplied to the court.

Eventually, the pages were handed over, however, thousands of others have yet to be seen. Judge Lamberth has instructed the White House to supply the documents by August 3 in preparation for the trial—doesn't this sound familiar?

This administration has continually obstructed justice by side-stepping the law and releasing information when they believe it is in the best interest of their case, or promotes their own agenda. What about the people's agenda?

Judge Lamberth asked a very perceptive question at the end of the oral arguments this week. The Washington Times quotes him as saying,

> In light of where we are in health care reform, what's the great secrecy of all these recommendations? Why are we going through all of this?

I concur with the Judge and would like to ask the same question. Why is this such a big secret? What is the administration trying to hide?

Kent Masterson Brown, the plaintiffs attorney, answered that nonprofit organizations, managed care industry and others who stand to advance their social agendas, gain power, or profit from health reform, had secretly helped craft the President Clinton's health plan which is still alive under other names on the Hill.

If Federal law was violated, the public deserves to know. The result of a trial involving Mrs. Clinton and White house staff is important to Americans and the security of their future.

This Congress is on the verge of taking drastic measures in health care reform which are based on a plan presented by this administration. The public needs to know exactly who cooked up this plan and how it will affect a vital component of each of our personal and financial lives.

The foundation of current health care proposals is this bill, the Health Security Act. This proposes drastic changes to the way we deliver and pay for health care in this country and places mandates on every single person within U.S. borders.

This is serious stuff and before we move forward on major health care reform, we should stop and learn about its roots. I firmly believe the fruits of this administration's efforts to dramatically reform health care should not be borne without understanding its origin. The trial will expose the bill's true heritage.

I call upon my colleagues in the House and the Senate to halt deliberations on this issue. No votes should be taken until all of the information surrounding the case against Mrs. Clinton has come forward under oath in Federal court. We have a responsibility to the public and I urge my colleagues to use good judgement and exercise integrity by representing the folks who sent you back here, they deserve to know the truth.

INNER-CITY POUGHKEEPSIE HIGH SCHOOL SENDS ENTIRE GRADUATING CLASS TO COLLEGE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, I've heard one of the most amazing and encouraging stories recently, and I'd like to share it with you.

The 22d Congressional District borders on the city of Poughkeepsie. Poughkeepsie High School is a typical inner-city school, with all the disadvantages that entails, including poverty and a poor environment for learning. Yet, all 160 graduates this year are headed for college.

But the story was told best by Dan Davidson, an editorial writer for the Albany Times-Union, to whom I yield by placing the column in today's RECORD. I hope all Members will enjoy this inspiring story.

WHY SOME PUBLIC SCHOOLS MAY SUCCEED IN EDUCATING

It is pretty much established doctrine that it is not the public schools that are responsible for their failures. Rather, the blame for high dropout rates, growing illiteracy and falling academic achievement is "society's" fault. It results from the breakup of the family, if not the weakening of neighborhood and community ties, with perhaps an admixture of national malaise.

Such is the consensus. All of which, it seems to me, has pretty much been given the lie by this year's graduating class of Poughkeepsie High School. The senior class there, all 160 of them, are headed to college.

These are not the children of privilege. The majority at inner-city Poughkeepsie High are minority—and poor. Few come from families that can boast a college graduate. Many of these kids have suffered from racism, or its vestiges. The home life of others is absent

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a trace of encouragement, when it is not worse.

Yet, all have applied for admission to a college—and all have been accepted.

This is in large part the work of one man. He is Paul Jankiewicz, a most special kind of guidance counselor who has made it his mission to give these students "a sense of hope" and let them know of "the opportunities that are there for them."

Given many of these students' backgrounds, the limited education of their parents, and the narrow circle of their acquaintances, if these students don't learn about themselves and the wider world in school, they will likely not learn much about it at all. How could it be otherwise?

All kids, says Dr. Jankiewicz, can learn. But for many learning must be preceded by their hearing a "can-do" message instead of that "can't-do" message most of them have been getting from every quarter.

"I won't accept anything less," is the message Dr. Jankiewicz drums into his charges beginning in the ninth grade. They are told they are going to college and that they have no choice in the matter. By the time they have reached their senior year, almost all of them believe it.

Mr. Jankiewicz repeatedly asks the students what college they're going to. He chases them around the building, corrals them, and inquires about their college application, whether it has been sent in. If a student proves elusive, this guidance counselor will look for him (or her) on the street or visit him at his home.

When students are finally accepted by a college, Mr. Jankiewicz sees to it that the news gets the attention it deserves. Announcements are made on the public address system; notices are posted on the bulletin board. In that way, he explained last week, the students on their way to college are encouraged while the younger students have examples to follow—and know what will be expected of them.

Mr. Jankiewicz has a "secret," but it is neither faddish nor the product of any teacher's college. It is his own version of "tough love."

He is, evidently, tough enough. Those who offer excuses for their derelictions are subject to ridicule. ("That's not a good enough excuse. Take a better one out of my excuse jar.") He will tell those who make too little effort that they are SAPs (spoiled American princes—or princesses) and bums (or bummettes).

One student complained to his parents about being called a bum. Dr. Jankiewicz gave no ground. That student, he believed, had to be challenged to do better.

And all of them need someone to believe in them. All of them need love. They most especially need that. He has told other teachers that if they do not love themselves and do not love their students, they should not be teaching.

What is remarkable about Mr. Jankiewicz's approach is that there is so little new—or faddish—in it. Indeed, there is much that is old-fashioned, especially his insistance that educators go back "to teaching the old virtues and vices."

Whatever the merit of that proposal (I suspect it is considerable) the example of Poughkeepsie High, by itself, demonstrates that virtually no kid who comes from a troubled or broken family is beyond hope, beyond learning. All these lives may lack are teachers like Mr. Jankiewicz who can point (and push) them in the right direction.

Most of the efforts to reform public schooling over the past two decades were very likely misdirected. The students may not need new teaching methods, stylish curricula or state-certificate-bearing teachers. They may simply need dedicated teachers—teachers who care enough about their students to look them up at their homes.

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. BOEHLERT. Mr. Speaker, quickly and easily, Congress can act to protect children victimized by current tax laws.

I am introducing legislation today, modifying the Tax Code for children who earn income from personal injury awards.

Under current law, these children pay taxes on this income at the marginal rate of their parents. The Tax Reform Act of 1986, which sought to discourage incentives to shift income-producing assets among family members, overlooked this unique and unfortunate situation.

The parents of Kristen Parisi bravely brought this matter to my attention. Peter and Anita Parisi of Whitesboro, NY, reported that their 9-year-old daughter was left paraplegic as a result of a devastating automobile accident in 1990. By 1992, she was awarded a settlement to help pay for medical and extraordinary living expenses she will incur as she gets older.

Kristen's settlement was constructed to accrue interest to provide for her future living expenses. Yet, Kristen must pay Federal income tax on this interest based on the salaries of her parents.

This is policy that is unfair and incognizant of the very special needs that Kristen and children like her have. The tax policy punishes families who are responsible preparing for the future. These families are trying to keep themselves solvent, while constructing a durable settlement that grows with their children and contributes to expenses associated with their rehabilitation or survival.

Moreover, in this case, the Parisi's are not trying to camouflage assets by pouring them into their children's account. This is an insult to any family of modest means whose child has been permanently injured through no fault of his or her own.

The law must be changed. Even the Internal Revenue Service [IRS] is sympathetic to this situation and is asking for legislative action to remedy it. I am attaching a copy of its letter to me explaining the need for narrowly drafted legislation to help these children.

I understand that our tax committees in Congress are exceedingly busy with the health care challenge in the coming weeks. But before this session ends, we should at least be able to adopt reasonable measures to revise the Tax Code and provide for fundamental fairness for our children in need.

I am also soliciting the support of the Children's Defense Fund, the American Bar Association, and other groups interested in tax reform, children, and disabilities.

DEPARTMENT OF THE TREASURY,
Washington, DC, May 23, 1994.

Hon. SHERWOOD BOEHLERT,
Member of Congress, Utica, NY

DEAR MR. BOEHLERT: This is in further response to your letter to the Internal Revenue Service enclosing correspondence from your constituents, Mr. and Mrs. Peter Parisi, regarding the tax treatment of their daughter's trust fund.

Before the Tax Reform Act of 1986, if income-producing assets were transferred to a minor child, income earned on those assets was taxed to the child at the child's rate. Congress believed those rules provided inappropriate tax incentives to shift income-producing assets among family members. In particular, under prior law parents whose income would be taxed at a high marginal rate were encouraged to transfer income producing property to a child to ensure that the income was taxed at the child's lower marginal rates. In order to reduce the opportunity for tax avoidance through transfers of income producing property to minor children, Congress enacted a provision as part of the 1986 Act to tax the unearned income of a minor child under age 14 at the parent's marginal rates. This also reflects the belief that the family, in particular parents and dependent children, is the appropriate unit for determining tax liability.

We are aware of situations such as your constituents' daughter's where the minor child's unearned income is not attributable to property transferred by family members. We are sympathetic to her situation. Unfortunately, legislation would be required to provide an exception from the general rule for unearned income received by a minor.

We hope that this information is helpful to you in responding to your constituent. Please let us know if we can be of further assistance in this matter.

Sincerely,

MICHAEL B. LEVY,
Assistant Secretary
(Legislative Affairs).

VOTES MISSED ON H.R. 3838, HOUSING AND COMMUNITY DEVELOPMENT AUTHORIZATION

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SYNAR. Mr. Speaker, last week my colleagues voted to support the final passage of H.R. 3838, Housing and Community Development Authorization. This legislation reauthorized for 1995 and 1996, most existing housing programs administered by the Department of Housing and Urban Development and the Farmer's Home Administration [FmHA]. Included were measures that would provide loans to families in need, allow HUD to provide incentives for tenants to get jobs and continue working, and regulatory relief for soundly run local public housing authorities. H.R. 3838 embodies the ideas central to reform efforts: work, responsibility, and flexibility for State programs.

During the last days of debate on H.R. 3838, my attendance was required in Oklahoma and I was unable to vote on an amendment by Congressman JAY KIM of California which would have prohibited illegal immigrants from receiving benefits under the Federal Emergency Management Agency's emergency food and shelter programs; an amendment by Congresswoman Marge Roukema of New Jersey which would not apply Congressman Kim's amendment during federally declared disasters; Congressman Serrano's amendment which required Federal funding to States to enforce Congressman Kim's amendment; and on final passage of H.R. 3838. Had I been present, I would have voted for final passage of H.R. 3838, Congresswoman Roukema's amendment, and Congressman Serrano's amendment. I would not have voted for Congressman Kim's amendment. The Roukema and Serrano amendments would continue to allow relief to States which in times of emergency must deal with the needs of all families. Without these amendments to Mr. Kim's amendment, the cost shift to States and local charities during times of need, like when floods raged through the Midwest last year, would be unbearable.

The fact that people are immigrating illegally to this country is a big problem. In 1990, Congress created the bipartisan Commission on Immigration Reform. The Commission is to report recommendations to Congress September 30 of this year. The solution to the illegal immigration problem is not to take financial options away from States during times of emergency, but to better enforce our boarders and immigration laws that prevent illegal immigrants from entering and remaining in the country. I look forward to the recommendations from the bipartisan Commission.

PLIGHT OF CITIZENS OF ANGOLA

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. BILBRAY. Mr. Speaker, I rise to call the attention of the House to the plight of the citizens of Angola. We have all seen the horrible pictures of human death and disease coming out of Rwanda. In order to avoid a repeat of this situation in Angola, the United States and the international community must unite behind the country democratically elected Government to help bring an end to 19 years of civil war in Angola.

Angola's President José Eduardo dos Santos, was elected in September 1992 in an election declared free and fair by the United Nations. The opposition National Union for the Total Independence of Angola [UNITA] led by Jonas Savimbi, not satisfied with the election results, renounced the election and, therefore, democracy by resorting to armed attacks.

The U.N. Security Council has strongly condemned the attacks by UNITA, stating that they were a clear violation of Security Council resolutions and international laws. The Security Council has further called upon UNITA to immediately cease its armed attacks and abide by the rules of international humanitarian law.

We in the Congress have recently witnessed the triumph of democracy of South Africa and the sordid tragedy of Rwanda. Angola now faces a choice: to travel down the road to democracy and peace to take the dark, forbidding road of conflict and bloodshed. We must help Angola choose the path to peace and avoid a repeat of the disaster in Rwanda.

The negotiations in Lusaka have reached an unfortunate stalemate despite the commitment and many concessions put forward by President dos Santos. Mr. Speaker, the President of Angola has proven to be a visionary and effective leader for his country. He is the best hope for a lasting peace in a country that has endured 19 years of fighting. It is time for the United States to do whatever it can to ensure that both sides the Lusaka Agreement and that the agreement is properly implemented and enforced.

At this point in the Record, I would like to recommend to my colleagues an article written by President dos Santos that appeared in the Christian Science Monitor on June 29, 1994.

[From the Christian Science Monitor, June 29, 1994]

ANGOLA SEEKS PEACE WITH UNITA REBELS

(By Jose Eduardo dos Santos)

Reconciliation, reform, and renewal are the guiding principles behind Angola's efforts to bring peace and a better life to all our people. We know there is a wide gap between making peace and making peace work, and we are trying to bridge that chasm by building a solid structure for Angola's future.

We are negotiating peace with full dedication, but we are not waiting until the talks in Lusaka, Zambia, are completed before embarking on the future. We realize there is only so much we can do in the absence of a peace agreement, no matter what we and our friends would prefer. But even if the unthinkable happens and the negotiations fail, we intend to carry out our program to the greatest extent possible.

The seeds we are planting need the sunshine of peace to flourish and make our young democracy bloom. But even if we must begin in the shade, we are ready.

Our nation has been deeply divided for too long. It cries out for reconciliation. As the democratic revolution of the 1990s swept much of the world, we moved quickly to end our civil war and hold elections. The September 1992 voting was internationally recognized as free and fair. Tragically, the National Union for the Total Independence of Angola (UNITA) rejected the outcome and has been trying ever since to overrule the voters by waging a civil war far bloodier than in Yugoslavia, Armenia, South Africa, Rwanda, and Burundi.

We have tried to be generous at the peace table in the spirit of national healing. Conscious of our responsibility, the Angolan government is striving to achieve understanding in a peaceful manner while protecting people and their homes from rebel violence.

We have been generous in offering UNITA a significant place in government at the national, provincial, and local levels. Our May 27th proposal has been lauded by the United States and most United Nations Security Council members, as well as impartial observers at the Lusaka talks, and they have urged UNITA to "follow suit."

We are prepared to welcome UNITA into the government and provide housing and jobs for war veterans, refugees, and displaced persons from all sides. We are committed to the reintegration of rebel forces into Angolan society because we believe that helping former soldiers is essential to removing the seeds of war.

To make reconciliation succeed, we have embarked on a reform program to improve the quality of life—economically, socially, and politically—for all Angolans. We are accelerating the transition to a free-market economy, privatizing most state businesses, bringing down inflation, tightening monetary supplies, correcting pricing mechanisms, cutting deficits through vigorous budget control, and slashing state bureaucracy. We are creating a legal, economic, and political climate attractive to foreign investment.

Special attention is being paid to renewal, repair, and reconstruction of our agricultural, housing, transportation, energy, and water systems, as well as to professional training. This will be done in all corners of our country, particularly those under rebel control, so that shortages of these vital elements do not become pretexts to sabotage the peace agreement.

It is a source of great national pride that President Clinton acknowledged the historic achievement of our elections and recognized our government by establishing full diplomatic relations on May 19, 1993.

Our commitment to democracy is genuine and permanent, not a propaganda declaration rendered transparent by a refusal to accept the decision of the voters.

We have embarked on a new relationship with the U.S. Angola is America's second-largest foreign trade partner in sub-Saharan Africa. The Angolan government has approved a Memorandum of Agreement with the Overseas Private Investment Corporation that will open the doors for direct American investment. The U.S. has been generoU.S. in providing humanitarian relief, but that has been only a fraction of what it spent in the last decade to arm our enemies. Now that we are friends, we look forward to expanding our alliance as partners in building peace.

We are prepared to take risks for peace, and we look to our stronger friends to help us minimize those risks.

Many Angolans, weary of holding out the olive branch only to have it shot off, question whether we should be so forthcoming because it may be perceived by our enemies as a sign of weakness, encouraging them to take future grievances and demands to the battlefield. But we are steadfastly committed to a negotiated settlement and are prepared to make significant compromises because we want more than a piece of paper; we want a real working peace.

We cannot afford to make mistakes because they could prove fatal for our country and our burgeoning democracy. With the friendship and support of the U.S., I am confident we can build the national consensus to permit us to go the extra mile along the perilous path we have charted.

REFORMING WELFARE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 27, 1994, into the Congressional Record.

REFORMING WELFARE

Most of the people I talk to think the welfare system requires radical change. They say that welfare costs too much, saps the spirit of recipients, and discourages work and marriage. In many ways the current system is at odds with the core American values of work, family, and responsibility. It does not reward work; too often it discourages work. It does not strengthen families; it penalizes two-parent families. It does not instill personal responsibility; it lets many absent parents off the hook. It does not promote self-sufficiency; it often encourages dependence.

THE CURRENT SYSTEM

Welfare is made up of several need-based programs: Aid to Families with Dependent Children (AFDC), the Earned Income Tax Credit (EITC), Medicaid, and food and housing benefits. AFDC provides cash assistance to needy families in which one parent is either absent, disabled, deceased, or unemployed. Those receiving AFDC are eligible for Medicaid benefits, which cover doctor and hospital costs for the poor and long-term disabled. Many also receive food stamps and housing subsidies. EITC offers a tax credit for the working poor employed in the private sector.

Five million households, including 9.6 million children, currently receive welfare benefits, a 31% increase since 1989. The recent surge is largely due to the recession, the scarcity of good-paying jobs for the unskilled, and the rise in households headed by single mothers. AFDC recipients are typically mothers with little education or work experience and with small children at home. The average welfare family has two children. In 1991, 38% of the recipients were white; about the same percentage was black and approximately 17% Hispanic. Over a lifetime more than one third of all recipients receive benefits for less than two years, about one quarter for eight years or more.

States administer AFDC and set eligibility standards and maximum benefit levels. The federal government pays at least 50% of a state's AFDC benefits and administrative costs. In fiscal year 1993, combined state and federal AFDC benefits totalled $22.6 billion, with families receiving on average $377 per month $263 in Indiana. In 1993, AFDC costs represented 1.1% of federal spending and 3.4% of state spending.

RECENT REFORMS

In recent years a flurry of reforms have been tried, all of them intended to make welfare a bridge to self reliance. These include federal work and training programs such as the Work Incentive (WIN) program, expansion of the EITC, and the comprehensive 1988 Family Support Act. This law required states to set up an education, training and jobs program (called JOBs—Job Opportunities and Basic Skills) for recipients, to provide transitional Medicaid and child care benefits for those who begin working, and to garnish wages of absentee parents for child support payments. The JOBS program is targeted on those most likely to become long-term AFDC recipients.

Due to shrinking budgets, states have been unable to take full advantage of federal matching funds available for the JOBS program. Still, some initial evaluations are encouraging. In studies of some California and Florida counties, earnings gains among those in the JOBS program exceeded gains by those not in the program by 7% to 53%. Welfare benefits among those enrolled in JOBS also declined, and exits from AFDC increased.

CURRENT EFFORTS

But more needs to be done. In considering additional reforms, one theme to take into account is that society's obligation to help those in need is balanced by the recipient's obligation to society. Another is to make work pay, in order to cut welfare costs and promote self-sufficiency. A third theme is to strengthen the family. I am critical of welfare regulations which sometimes divide families by limiting benefits when the father lives in the house. I also believe child support enforcement must be further tightened. Other themes are to pay more attention to education and to allow states greater flexibility over certain aspects of welfare policy.

To achieve such reforms, some advocate strengthening the JOBS program already in place. Others encourage new penalties and rewards, including time limits on AFDC benefits for those physically able to work, denial of additional benefits for additional children, subsidized jobs for those unable to find work, and further expansion of the EITC. Many such reforms are being tried at the state level, including Indiana.

The Clinton Administration's new welfare reform proposal focuses on making work pay. The core of the proposal is a mandatory education-and-training program for able-bodies beneficiaries born after 1971. Participants would be encouraged to look for jobs and would be given job search assistance, and benefits would be cut off after two years. Those unable to find a job would be offered community service or subsidized private-sector jobs. The President's plan also calls for a campaign against teenage pregnancy, improvements in child support enforcement, loss of benefits for parents who refuse to participate in job-training programs, increased child care for the working poor and other incentives for recipients to work.

EXPLANATION OF H.R. 4825

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. MURPHY. Mr. Speaker, I rise today to explain H.R. 4825 which I introduced on July 25. This reform legislation will establish fairer appellate procedures for handling Federal employee claims for compensation for work-related injuries.

Throughout my 18 years in Congress I have been diligent in my quest to make the Department of Labor's Office of Workers Compensation Programs more responsive to the needs of injured Federal workers. As chairman of the Subcommittee on Labor Standards, Occupational Health and Safety which has oversight of Federal workers compensation program, I have observed that the OWCP has structural and procedural problems and is in need of meaningful reform.

The OWCP is very competent at the task of resolving a high volume of relatively routine cases expeditiously and with a high degree of professionalism. Unfortunately, once the case proceeds beyond the routine, the needs of the injured are placed in jeopardy.

One of the most frustrating aspects of the FECA program to the vocal cadre of dissatisfied claimants is the lack of real administrative due process. The way the current system is administered, there is not even the appearance of impartiality in the appeals procedure. If an individual doesn't like the OWCP determination on a claim, the disappointed claimant must request a review by another OWCP employee who works for the same boss. Unless the first case officer is acting contrary to law or his superior's instructions, why would we expect a different result or an independent attitude from someone else reporting to the same director.

The purpose of this legislation is to conform the FECA appeals procedure as near as possible to the three-tiered system which has worked so well in the Black Lung and Longshore and Harbor Workers Compensation Programs. In these two programs. intermediate administrative appeals are conducted by an administrative law judge under the procedural safeguards of the Administrative Procedure Act. While we have received complaints that the eligibility criteria for these two programs are too stringent, we never receive the allegations of conspiracy and malfeasance that regulatory plague the Federal Employees Compensation Program.

Last year, House Education and Labor Committee Chairman William D. Ford and I asked the Comptroller General of the United States to have the General Accounting Office investigate the U.S. Department of Labor's administration of the Federal Employees Compensation Act. Although the report was inconclusive as to the impropriety of decisions by the FECA program or the Employees Compensation Appeals Board, the mere possibility of collusion caused me to prepare this reform legislation.

The House Majority Leader, in the waning days of the first session, introduced reform legislation calling for a more effective, efficient and responsive Government. A portion of this legislation provided for a deterrence of fraud and abuse in the FECA Program. The Government Reform and Savings Act of 1993 mandates fines and imprisonment of any individual convicted of fraud in the application or receipt of benefits. Now today, I offer for the consideration of the Congress this bill that will further reform FECA to allow for an administrative law judge to conduct appellate hearings of OWCP decisions.

I call upon my colleagues on both sides of the aisle to join me as cosponsors of this important workers compensation reform legislation.

BUSINESSMAN-ELECTED OFFICIAL JOHN A. MURPHY IS MOURNED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, one of the finest public servants I have ever known passed away after a long illness.

John A. Murphy, 89, was long active in local political life, having served as a councilman and supervisor in the town of Hoosick and as Rensselaer County legislator.

But like every other community leader I have had the pleasure to know, John Murphy was much more than a local politician. He was the manager of local supermarkets for many years and also operated a grocery store in Hoosick Falls.

Mr. Murphy was an active communicant of Immaculate Conception Church and was an active member of the Knights of Columbus. For many years he was a strong booster of St. Mary's Academy in Hoosick Falls, from which he graduated in 1921. He also belonged to the Elks Lodge and Derby Club in Hoosick Falls.

If he was best known for the elected offices he held, it was because he was universally respected and an inspiration to me when I began my own public life.

Mr. Speaker, I ask this House to join me in expressing condolences to his wife, Loretta, and to the rest of the family for their great loss. John A. Murphy was a great American, he was a great friend, and he will be sorely missed by all who knew and loved him.

HONORING TWO CONSTITUENTS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ENGEL. Mr. Speaker, I would like to take this opportunity to recognize the contributions of Howard B. Neufeld and Joan Nina Birn, two of my constituents who are to be married on August 7, 1994.

Mr. Neufeld is the administrator of the Judith Lynn Home for Adults, one of the finest adult care facilities in New York. He has also served the community as president of Young Israel of Co-op City, president to the Co-op City Jewish Community Council, treasurer of the Bronx Jewish Community Council, and a board member of the Bronx Jewish Relations Council. In all his endeavors, Mr. Neufeld has worked to foster understanding and cooperation among people in the community.

Joan N. Birn works as a data processing analyst at the Teachers Insurance and Annuity Association—College Retirement Equities. Fund. She has also served the community ably as a member of the Remona Chapter of Amit Women and a board member of the Beth Jacob Beth Miriam School.

As they go forward through life together, I know Howard Neufeld and Joan N. Birn will continue to use their talents to serve the community and enrich their own relationship. I wish them the best of luck and much happiness in their marriage.

LEGISLATION RESOLVING BONNEVILLE POWER ADMINISTRATION'S FEDERAL DEBT

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. DEFAZIO. Mr. Speaker, today I am joined by 10 of my Northwest colleagues in introducing legislation designed to resolve the longstanding battle over the Bonneville Power Administration's debt to the Federal Treasury. This bill is fair to the U.S. Treasury and fair to Northwest electric ratepayers.

Northwest electric ratepayers have been under attack from three successive administrations, starting with President Reagan's attempt to sell the Bonneville Power Administration to private investors, and going straight through to Vice President AL GORE's Government reinvention proposal, which would have raised BPA's rates unacceptably. Speaker FOLEY and Senator HATFIELD deserve a lot of credit for protecting the Northwest from those attacks. Now is time to settle the matter once and for all.

Very simply this bill will refinance the present value of Bonneville's appropriated Treasury debt at prevailing interest rates. In addition, we in the Northwest are agreeing to pay the Treasury $100 million as a refinancing fee. It is a steep price, we believe, but will provide us a guarantee against future attacks on our debt repayment terms.

I am pleased to say that the administration agrees with this approach and has agreed, by and large, with the terms of this bill. We still have some details to work out, but the largest share of the work is behind us.

One significant provision in this bill allows BPA to include a provision in its power sales contracts with its utility customers that will enable Northwest utility customers and their ratepayers to make claims against the U.S. Treasury in the event any future Congress or administration seeks to alter the terms of this debt refinancing agreement. We believe this is a necessary protection for our ratepayers against specious claims of Federal subsidies.

Allegations of so-called Federal subsidies for Pacific Northwest electric ratepayers have created a substantial degree of uncertainty for the Bonneville Power Administration and the region's economy. This bill will settle that issue for the foreseeable future and represents an important element in our efforts to keep the region's economy strong and growing.

GABE PRESSMAN: A JOURNALIST FOR ALL SEASONS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. RANGEL. Mr. Speaker, I'd like to bring to your attention and to the attention of my colleagues here in the House, the story of one of the finest journalists ever to cover a story, walk a beat, and who helped pioneer broadcast journalism to what we know today. That TV newsman is none other than Gabe Pressman.

Gabe Pressman is a true go-getter—that's his style. He helped to invent local broadcast journalism and was the first broadcaster in New York to take to the streets to cover stories. Pressman is one who still tries to make a good story out of complicated and controversial community issues.

His journalism career really began in 1949, where after a 3-year stint in the Navy, followed by journalism school and freelancing in Europe as well as working in newsrooms around New York and New Jersey, Pressman began working in the city hall bureau of the New York World Telegram. In 1954, he began working for WRCA radio and WRCA–TV, which would later become WNBC and WNBC TV. As it happened, this would be Gabe's transition to television and this is where he would remain.

If one were to describe Gabe Pressman, it would be said that he believes in hard news coverage—that news reporters should be known not only for their completeness, but for their credibility—that news reporters should genuinely care abut the city in which they cover and know it well and that no obstacle is ever too great in getting a news story. This is the Gabe Pressman that everyone knew—this is the Gabe Pressman that we know today.

TEXAS A&M UNIVERSITY DEVELOPS AND BROADENS RELATIONSHIPS WITH MEXICO

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. LAUGHLIN. Mr. Speaker, I call the attention of the House to the efforts of Texas A&M University to develop and broaden relationships with Mexico. Texas A&M has been a leader in strengthening ties with universities, agencies, and the private sector in Mexico. Particular emphasis in these activities have been in the areas of telecommunications, information technology, environment, the applied sciences, and engineering. As a result of these initiatives, Texas A&M University has from time to time recognized qualified and talented individuals in Mexico who have played important roles in these efforts. Such a person is Ing. Jose Alberto Celestinos.

Ing. Jose Alberto Celestinos Isaacs is recognized for his contribution to the development of the petroleum and chemical industry in Mexico, and for his vision and leadership in stimulating important new initiatives between Mexico and the United States in conjunction with the North American Free-Trade Agreement. Ing. Celestinos has held many positions of increasing responsibility, culminating in his current role in which he directs all activities relating to refining production for Pemex, Petroleos de Mexicanos.

Ing. Celestinos, a chemical engineer who is a native of Tampico in the State of Tamaulipas, received his academic training from the National Autonomous University of Mexico and the National School of Chemical Sciences. He has spent most of his professional career since 1955 with Pemex, but for 5 years, from 1977 to 1982, guided the refining and chemical petroleum directorate of the Instituto Mexicano del Petroleo [IMP]. IMP is recognized internationally for the strength of its research and development activities in petroleum related fields. Ing. Celestinos has served in important academic roles as well and holds the positions of professor of physics at the Nautical School of Tampico and professor of electrochemistry at the Iberoamericana University in Mexico City. He has published internationally in the fields of expertise relating to improving the efficiency of petroleum refining processes to yield reduced emissions and better energy utilization and environmental protection. He has organized several global conferences addressing these topics. Ing. Celestinos is active in numerous professional organizations in the fields of chemistry, petroleum engineering, and chemical engineering. Ing. Celestinos has received recognition from many organizations for his contributions to improving chemical processes, limiting hydrocarbon emissions and emphasizing ecological awareness.

Furthermore, Ing. Celestinos is also recognized here for his emerging leadership for building strong and meaningful ties between Mexico and the United States, especially in the critical fields of information technology and telecommunications relating to the energy sector. Through his vision, the critical flow of information in these important fields promises to grow and flourish to the clear benefit of both of our countries. Ing. Celestinos has our gratitude and recognition for these crucial efforts.

IN MEMORIAM: PATRICK J. HILLINGS, FORMER MEMBER OF CONGRESS

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. McCANDLESS. Mr. Speaker, one of my most distinguished constituents, former Member of Congress Patrick J. Hillings, finally succumbed to cancer, after a long and valiant battle, and passed away on July 20.

Pat served in this body for 8 years in the 1950's, having been elected to the district vacated by the late President Richard Nixon when he was elected to the U.S. Senate. They worked closely as a House-Senate team on behalf of southern California. Pat's subsequent lifelong relationship with the late President brought much joy to both their lives.

Pat's post-Congress professional life as an attorney also brought joy to the many immigrant families who were guided through the labyrinthian legal system of naturalization; he clearly enjoyed bringing families together, and he did an excellent job of it for many years, working closely with his dear wife Celia, who worked with him side by side as his paralegal assistant.

A native Californian, Pat Hillings loved his family, his country, helping people, and traveling across this great land. He was a unique individual, and he left indelible impressions on all whose paths he crossed. Our deep sympathies are extended to his wife and his children during this difficult time.

SALUTE TO ELI LILLY AND CO.

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. BURTON of Indiana. Mr. Speaker, I wish to commend Eli Lilly and Co., the well-known pharmaceutical manufacturers from my district in Indianapolis, IN, for their unprecedented response to the terrible tragedy unfolding in Rwanda. Eli Lilly is donating enough antibiotic medication to care for over 1 million refugees suffering in Goma, Zaire. A huge donation of gastrointestinal disease-fighting medicine is also being donated.

Eli Lilly and Co. deserve our gratitude and a hearty salute for their good citizenship and humanitarian concern. I commend this news release on the matter to the attention of my colleagues.

LILLY RUSHES ANTIBIOTIC AID TO MORE THAN ONE MILLION RWANDAN REFUGEES

Eli Lilly and Company late yesterday began shipment of enough antibiotic product to provide relief to more than one million Rwandan refugees. This aid represents the largest product donation in Lilly's history and is believed to be the largest one-time pharmaceutical product donation ever.

"This effort is yet another example of Lilly's commitment to giving, especially in times of human tragedy. We are responding to the dire needs of the Rwandan refugees and are assisting with our strength in the area of infectious disease," said Randall L. Tobias, chairman and chief executive officer.

Distribution of the product will be coordinated through relief organizations, including MAP International and the American Red Cross. This donation will provide individual courses of antibiotic therapy for nearly 1.3 million Rwandan refugees.

The United States Food and Drug Administration (FDA) facilitated and supported Lilly in its initiative to donate the new twice-daily dosage form of Ceclor®, the world's largest selling oral antibiotic. This sustained released formulation of Ceclor, which, when approved by the FDA, will be called Ceclor CD, is currently available in several international markets.

Under the special circumstances of the Rwandan relief effort, the FDA granted Lilly permission for export of the product which is pending approval.

In anticipation of FDA approval of Ceclor CD, Lilly had increased its production of this formulation. Regulatory approval has been delayed to the point that existing inventory will be too close to the expiration date for marketing purposes, and the product will not be able to be sold in the U.S.

Lilly determined that the best immediate use of the available drug is for the Rwandan relief effort. The delayed approval situation afforded Lilly the unique ability to provide aid on an unusually large scale for the biggest refugee disaster in modern history.

In addition to the donation of the antibiotic, Lilly has donated approximately $2 million worth of Axid®, a medicine used to treat ulcer and gastrointestinal diseases.

Lilly is a global research-based pharmaceutical corporation headquartered in Indianapolis, Indiana, that is working with its customers worldwide to help ensure that diseases are prevented, managed, and cured with maximum benefit and minimum cost to patients and society.

STAATSBURG, NY, FIRE DEPARTMENT CELEBRATES 100TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, those of you have been to my office know that the walls of the reception area are lined with fire helmets. It's my small way of paying respect to volunteer firefighters, having been one myself for 20 years in my hometown, and therefore knowing what a great job they do. Today, I'd like to single out one of those volunteer fire companies, the Staatsburg Fire Department, which is celebrating its 100th year of service this Saturday, August 6.

Mr. Speaker, in rural districts like the New York 22d, the only available fire protection comes from volunteer companies, which are made up of people from every income level and walk of life. What they all have in common is civic pride and a high level of dedication. In New York State, for example, volunteer firemen save countless lives and billions of dollars worth of property. Volunteers attend frequent training classes to upgrade their skills, and the result shows in their quick responses to fire alarms and their professionalism in extinguishing fires.

Nothing is more all-American, as far as I'm concerned, than volunteer firefighting. It's exactly this desire to treat one's neighbors like family and to come to their aid in times of danger that sets Americans apart.

The Staatsburg Fire Department has been typical in that regard for one century now. They will celebrate that century with exhibits, demonstrations, sports and some great food, and I'm looking forward to joining them.

Mr. Speaker, I ask you and all Members to join me in a salute to the Staatsburg Fire Department for its 100 years of outstanding fire protection.

HONORING CHARLES TOKER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ENGEL. Mr. Speaker, It is with great pleasure that I recognize today the contributions made by Charles Toker to the communities I represent as he celebrates his 60th birthday this month.

As a native of the Bronx, Mr. Toker has dedicated much of his life to assisting the development of the borough. For nearly 30 years, he worked for Chemical Bank, except for a brief period in the 1970's when he worked for the Beaumont School for Special Children. He was a founding member of an athletic club and has often entertained others through his musical skills.

Mr. Toker is also a dedicated father, grandfather and neighbor, and everyone who has been touched by his positive personality are grateful for his friendship. On behalf of all the people who have come to appreciate and respect Charles Toker, I wish him continued success and good health.

TRIBUTE TO JOHN J. DRISCOLL

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. GEJDENSON. Mr. Speaker, the State of Connecticut has lost one its most popular and charismatic labor leaders. John J. Driscoll died on Thursday, July 21, at the age of 82. John's decades of dedication to our State's working families earned him the title of "Mr. Labor."

In 1935, Mr. Driscoll became the first secretary-treasurer of the Connecticut Congress of Industrial Organizations. He later went on to serve as president of the Connecticut AFL–CIO, a position he held for nearly a quarter-century before his retirement in 1985.

After leaving that post, Mr. Driscoll taught at the University of Connecticut. He also remained committed to Connecticut citizens, working tirelessly to help those who lost their jobs due to plant closings.

Mr. Driscoll was made a Knight of St. Gregory by Pope Paul VI for his work with the Diocesan Labor Institute, and was awarded Italy's Star of Solidarity for his efforts in flood relief. He is survived by his wife Margaret, a son, and grandson.

The loss of John Driscoll will be felt deeply throughout Connecticut. His determination and compassion are an example for us all.

LEINER HEALTH PRODUCTS

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. TUCKER. Mr. Speaker, I would like to take a moment to recognize the U.S. Pharmacopeial Convention, Inc. [USP] and Leiner Health Products. The congressionally mandated USP has spent 2 years developing voluntary standards for vitamins and minerals to give consumers the ability to identify products that have been produced to exacting standards. Leiner Health Products has become the first and to date, the only company to produce products to meet these pharmaceutical-level standards.

The USP is a nongovernmental, voluntary organization that has been setting standards to ensure the integrity and uniform quality of drug products since 1820. Recognizing the growing importance of nutrition and supplements to the Nation's health, USP began 2 years ago to develop the first quality standards ever established for vitamins.

USP is to be commended for this move to protect the consumer and Leiner Health Products should receive particular recognition for becoming the first company to bring these standards to the marketplace. There have been debates in this chamber about labeling requirements for nutritional supplements, but there can be no argument about the need for consumers to be assured that the products in the package are manufactured to the highest standards of purity, potency, disintegration, and dissolution. The USP standards mean that consumers can be sure that the formulation is precise and that product performance and quality will be at the levels usually reserved for pharmaceutical products.

This did not come without a commitment. Leiner recently invested $40 million in upgrading its facilities in Garden Grove, CA, and is opening a new facility in Carson, CA which will eventually provide some 700 new jobs. Leiner Health Products plans to invest another $10 million in its quality control laboratories to meet the new standards.

GENERAL WAX: "I'D LIKE TO HAVE ABOUT 200 C–17S RIGHT NOW"

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HORN. Mr. Speaker, several weeks ago, as the House prepared to debate on an amendment to restore the line for the C–17 military transport plane in the fiscal year 1995 defense authorization bill from four to six planes, I spoke on the House floor about the important capability that the C–17 will provide for our forces well into the next century.

In my statement, I quoted virtually every senior civilian and military leader as they emphasized the need for the C–17, both to meet the requirements of our military personnel as they project force throughout the world and to fulfill critical humanitarian missions. A chart, which the Air Force had developed, starkly showed just how much more could be done with the C–17 than could be achieved by other alternatives. And senior military officers cited examples of the additional capability the C–17 could have provided in Somalia or Bosnia.

The unique capabilities of the C–17 which make it so valuable, particularly in less developed parts of the world, include its ability to land on shorter, austere airfields and the ability to get the critical cargo off the plane and to those in need. And the C–17 does all of this far more quickly than do other transport aircraft.

The tragic situation today in Rwanda provides another example of the difference the C–17 could make in an emergency. In the July 25, 1994, USA Today, Brig. Gen. Charles Wax, commander of the worldwide control center for U.S. transport and tanker planes, made it clear that he anxiously awaits the C–17 and the critical capability it provides.

USA Today reporter Steve Komarow, in the article, "U.S. Gears Up for Major Relief Effort," writes:

> Wax says Goma [Zaire] is an example of where the not-yet-ready C–17 transport would be useful. "One C–17 would represent about 3½ to 4 C–141 loads," he says. "I'd like to have about 200 of them right now."

The action by the House and Senate in approving the President's request for six C–17's in fiscal year 1995 is an important step toward providing the size C–17 fleet our military commanders say they need to meet their military and humanitarian missions. I hope that House and Senate conferees now working to resolve differences in the two versions of the defense bill will provide necessary funding and settlement language so that our troops in the field will have the airplane they say they need—the C–17—to meet their needs both now and well into the future.

General Wax would like 200 C–17's, and he would like them as soon as possible. He is not alone. The C–17 is a top priority for the Air Force and the Department of Defense. As General Wax's statement about the Rwandan refugees so clearly reflects, it should be a top priority for all of us as we seek ways to assist those who would benefit from the capability it provides.

SALUTING THE 75TH ANNIVERSARY OF THE KANSAS CITY CALL

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. WHEAT. Mr. Speaker, on July 22, the Kansas City Call, a minority-owned newspaper in Missouri's Fifth District, celebrated its 75th anniversary. Known for its commitment to social justice and racial equality, the Call has been a mainstay in Kansas City's black community for four generations and has gained national recognition for maintaining the highest standards of journalistic integrity.

The editor and publisher of the Call, Miss Lucile Bluford, is a national figure in her own right, known for her commitment to civil rights and her voracious pursuit of the truth. Miss Bluford began her career in journalism more than half a century ago. In the 1920's, when she was beginning to decide on a career, Miss Bluford opted to pursue her dream of writing for a newspaper, even though opportunities for black women at that time were few and far between.

A champion of equal rights for all people, Miss Bluford continues to use the Call as a voice for social change. As she stated in her editorial printed in the Call's 75th anniversary edition, "Our job over the years has been not to print news about the happenings in the community, but to advocate and to campaign for justice, first-class citizenship, democracy and fairness."

And, Mr. Speaker, Miss Bluford is joined by Donna Stewart, who must also be commended for the energy, commitment, and intelligence she has displayed as managing editor of the Call.

Over the span of 75 years, the Call has covered the issues at the heart of the community. From its anti-lynching campaigns of the 1920's, to its successful fight against racist policies at the University of Missouri in the 1930's, to its present-day battle against black-on-black crime, the Call has kept readers abreast of each of these pressing social issues week in and week out. It will surely continue to be a voice for social justice for many years to come.

After 75 years of not missing an issue, the Call's commitment to serving the community continues undaunted. For as is noted in its diamond anniversary edition, the Call will continue to speak "for the right of every citizen, regardless of color, to have decent housing, employment, good schools, and equal opportunities."

I am proud to convey my best wishes and warmest congratulations to the Call on its 75th anniversary. As the Call looks forward to its next 75 years, I am confident that it will continue to build on its established record of seeking truth and social justice, and serving as a shining light and moral compass for our community.

IN TRIBUTE TO CHARLES R. MATHEWS

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mrs. ROUKEMA. Mr. Speaker, our communities and our country have always relied on the contributions of individuals who rise above and beyond the call of duty to make a difference in the lives of others. I pause today to join the town of Newton, NJ, in paying tribute to one such hero, Charles R. Mathews. On July 1, Charlie Mathews retired after serving as an elected municipal official in the town of Newton for over 40 years.

Since 1952, Charlie Mathews has dedicated his energies and efforts to improving the quality of life in the town of Newton. He began his service as town clerk, registrar of vital statistics, and court clerk. During his first years in office, Charlie clearly demonstrated his desire to serve the public good. In 1956, when the residents of Newton adopted a new, council-manager form of government, Charlie Mathews was instrumental in helping the town to adjust to the growing pains associated with changing the form of government. At the same time, he also assumed the duties of finance director. Charlie served Newton in these offices for a total of 8 years before he resigned to enter private business.

In 1962, Charlie Mathews decided to return to public service in the capacity of elected office. That year, Charlie won his first 4-year term on the town council. The following year he accepted his first term as mayor. In the 30 years since, Charlie Mathews was reelected to 4-year council terms a total of eight times and also served as mayor eight times.

Whether in elected office or appointed position, Charlie has worked tirelessly to improve the quality of life for his friends and neighbors in Newton. He oversaw the development and improvement of housing and transportation services for the town's senior citizens. He was instrumental in the planning and construction of new recreational facilities, a municipal building and fire house. He encouraged the expansion of the region's education facilities including the relocation of the Sussex County Community College in the town of Newton. Charlie's dedication and abilities have been recognized throughout the State of New Jersey and in 1984 he was inducted as the president of the NJ State Leagues of Municipalities.

Mr. Speaker, the people of Newton, NJ, owe a debt of gratitude to Charlie Mathews for his hard work and friendship. On Friday, July 29, they will gather to recognize and salute his 40 years of service. I ask my colleagues in the House to join with them and me in saying a simple "Thank you and Godspeed" to Charlie Mathews. He has made us all proud.

STISSING MOUNTAIN 11TH GRADERS LEARN FROM WORLD WAR II PARTICIPANTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. SOLOMON. Mr. Speaker, I recently came across more detailed information about an event that intrigued me when I first heard about it last spring.

The students of U.S. History and Government II H Class at Stissing Mountain Junior-Senior High School in Pine Plains, NY held a day-long seminar with veterans of World War II.

Teacher William Brewer wanted to familiarize his students with the causes and effects of America's isolation between the world wars, the threat posed by totalitarian aggression to U.S. security, the personal impact of the war on various participants, the domestic adjustments made during and after the war, and the post-war efforts to maintain the peace.

During the seminar, the students met with veterans of United States forces and of the German Wehrmacht who moved to this country, and to several survivors of Holocaust. These individuals shared their experiences and memories with the students, who were fascinated with the first-hand accounts they heard.

This is the third year Mr. Brewer has organized these seminars for 11th graders. The students collect essays of their impressions in albums and present them to the school library, providing future students with a valuable study resource.

Mr. Speaker, this outstanding project makes history come alive in a way that teaches students the sacrifices and heroism the World War II generation displayed to preserve our freedoms.

Mr. Speaker, I ask all Members to join me in praise of Mr. Brewer and his students for their participation in this worthy school project.

RAILGRADE CROSSING SAFETY ENHANCEMENT ACT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing legislation—with all of my House colleagues from Indiana as original cosponsors—that is critical to the safety of people in the Hoosier State, as well as across the country. This bill, the Railgrade Crossing Safety Enhancement Act of 1994, is identical to legislation, S. 2286, which was introduced in the Senate by my colleague from Indiana, Senator LUGAR.

The Railgrade Crossing Safety Enhancement Act of 1994 would give States that do not have seatbelt and helmet laws on the books the flexibility to use Federal surface transportation funds diverted to nonconstruction safety education programs for the installation of warning devices at rail crossings.

Under section 153 of the Intermodal Surface Transportation Efficiency Act of 1991, States that do not have laws enforcing seatbelts for motorists and helmets for motorcycle riders must devote 1.5 percent of their Federal surface transportation funds to nonconstruction safety education programs beginning in fiscal year 1995. This percentage increases to 3 percent in fiscal year 1996 and in future fiscal years. This provision limits States' ability to apply these funds for other legitimate safety enhancing projects.

While I support safety education programs, I believe that public safety would be further enhanced by providing States the flexibility to use these diverted funds for one specific, additional purpose: the installation of protective warning devices at rail crossings.

I have a great deal of personal interest in this issue because, several years ago, my mother was involved in a serious rail crossing accident. This year alone, several hundred people across the country will be killed and thousands more injured as a result of vehicle-train collisions. While rail crossing accidents declined last year, the number of fatalities from these accidents increased in 1993 by 8.1 percent.

This problem is particularly acute in Indiana, which ranked third in the country in crossing accidents in 1993, and fourth in people killed. These statistics are especially dire for the communities I represent in northwest Indiana because of the concentration of railroads traversing the area. In 1992, 33 people were killed at crossings in Indiana, one-third of which were in the northwest region of the State. Between 1986 and 1992, 68 people died at railroad crossings in our area. Given these statistics, it is difficult to deny the serious safety hazard posed by unsafe rail crossings.

This legislation is not designed to undermine the safety regulations contained in ISTEA. Railgrade crossing improvements differ from other highway safety projects because they provide a visible and quantifiable return on investment. The sole purpose of safety improvements at grade crossings is to reduce accidents and save lives.

States with a high number of rail crossings and crossing accidents would benefit from the additional flexibility this bill provides. In 1993, 40 percent of grade crossing accidents in the United States—and 31 percent of fatalities—occurred in States that did not meet the Federal safety belt and helmet law requirement in ISTEA.

With this legislation, Governors could request that all or a portion of the diverted surface transportation funds be used to install protective devices at hazardous rail crossings as part of a comprehensive, statewide rail safety improvement and rail safety education initiative.

The purpose of section 153 of ISTEA is to improve safety on our Nation's highways. Because the only conceivable purpose of rail crossing safety equipment is safety, I believe this measure conforms to the original spirit and intent of section 153.

This critical legislation was developed with the full cooperation and support of the Indiana Department of Transportation and the Northwest Indiana Planning Commission. I would like to thank all of my Indiana colleagues for joining in this effort to give greater flexibility to States' safety initiatives. In closing, Mr. Speaker, I would ask you and the rest of my House colleagues to cosponsor this important bill and work together to see that this crucial provision is signed into law.

INTRODUCTION OF THE NATIONAL AQUACULTURE DEVELOPMENT ACT 1994 AND THE MARINE AQUACULTURE ENHANCEMENT ACT OF 1994

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. STUDDS. Mr. Speaker, fish stories are generally about the one that got away. Fortunately, this one is not. It is about fish farms, or aquaculture, an industry that has developed despite the indifference of the Federal Government and an industry that, with a little encouragement, has the potential for tremendous growth.

In Massachusetts, aquaculture has expanded to such a degree over the past decade that shellfish farms have become commonplace on Cape Cod, the islands, and the south shore. With the decline in many traditional commercial stocks and the depletion of haddock and cod, fishermen, who have been leery of aquaculture, are beginning to realize what the Massachusetts aquaculture pioneers already knew: for many, it can be a way to earn a living and support their families while continuing to supply fresh seafood to the American public.

While the success of the industry has been laudable, there are obstacles to even greater growth. Today I am introducing two bills intended to remove these obstacles and promote the development of the aquaculture industry in the United States.

The National Aquaculture Development Act of 1994 is a comprehensive response to problem areas identified by the industry. These include the need to clarify Federal agency responsibilities and authorities for aquaculture; streamline and coordinate regulations and permits; provide greater access to programs available to more traditional farmers; and offer better education and information.

In addition, the bill reauthorizes the National Aquaculture Act of 1980 for an additional 3 years and authorizes appropriations for the three agencies with primary responsibility for aquaculture—Agriculture, Interior, and Commerce—to carry out their responsibilities under the act.

The second bill, the Marine Aquaculture Enhancement Act of 1994, is directed at specific problems faced by the salt water segment of the industry. A 1992 study by the National Academy of Sciences concluded that mariculturists face a host of problems unique to the environment in which they operate—our oceans and bays. These include conflicts with other users, the potential for environmental impacts on the marine environment, and the establishment of economically feasible operations.

Many of these conflicts result from a lack of resources at the State level to plan for and develop regulatory frameworks to guide aquaculture development in the coastal zone. In addition, no Federal regulatory framework exists to govern aquaculture in Federal waters. My bill addresses these issues by providing incentives for States to develop programs in the coastal zone and establishing a framework for issuing permits in Federal waters that will minimize conflict with other users while ensuring that the marine environment is adequately protected.

The bill also establishes a marine aquaculture research and extension program within Sea Grant to provide grants that will encourage the development of new technology that can make operations more economically productive and minimize environmental impacts.

Enactment of the National Aquaculture Development Act and the Marine Aquaculture Enhancement Act will remove many barriers to the growth of a thriving national aquaculture industry, an industry, that, if encouraged, can provide many Americans with good jobs and good food. I urge Members to support and cosponsor these initiatives.

CONTROLLING COSTS ARE THE KEY TO TRUE HEALTH REFORM

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ANDREWS of Texas. Mr. Speaker, as the deadline for health care reform quickly approaches, it seems that Congress is deadlocked on how best to remedy the ailing health system. In a recent article by the Progressive Policy Institute, David Kendall writes that the core reason for this impasse is due to the displacement of the true goal of reform: controlling costs. I commend the following article to my colleagues:

BREAKING THE HEALTH REFORM DEADLOCK—THE COMPETITIVE PATH TO UNIVERSAL COVERAGE

(By David B. Kendall)

The great health care reform debate of 1994 is dissolving into chaos. No less than five Congressional committees are working on different proposals, none of which seems capable of attracting a critical mass of political support. The balkanization of the debate has mystified the public and made it harder to fashion a coherent reform that stands on its own internal logic.

Yet the case for fundamental reform remains compelling: America's health care system is highly inflationary and denies too many people access to affordable care. The Progressive Policy Institute (PPI) believes that President Clinton is right in pressing Congress to enact systemic reform this year.

The Administration, however, has contributed to the impasse by allowing the debate to bog down in the controversy over employer mandates as the means to universal coverage. While universal coverage is a central goal, the first and overriding imperative is to attack the problem at its root: exploding costs. The rapid escalation of health care costs is driving middle-class insecurity about shrinking benefits, the increase in the ranks of the uninsured, the budget deficit, and lagging corporate investment as health care claims a growing share of business resources.

In "Mandate for Change," PPI defined the central challenge of health care reform:

Far more fundamental is the choice of how to restrain our health system's runaway costs. Many of the political right . . . suggest "the market," without fundamental reform, can cure the health care system's ills. Some on the left suggest that "the market" does not apply to health care, and so the government must step in to set limits on health care prices, and perhaps to become the sole health insurer as well.

This is a false choice. The proper role of government, on health care and elsewhere, is neither to let broken markets run amok, nor to replace the market with bureaucratic mechanisms that set prices and allocate resources. Rather, government's primary role should be to improve the market's ground rules in order to decentralize decision making, spur innovation, reward efficiency, and respect personal choice.[1]

The real danger today is that Congress will concentrate on immediately delivering the most tangible benefits—guaranteed health care coverage and perhaps new additional entitlements as well—while deferring the hard work of restructuring health care markets to constrain runaway costs.

To get health care reform back on track, President Clinton needs to define the common ground on which a broad, bipartisan consensus can be forged. In PPI's view, managed competition is the most plausible common denominator in the health care debate, the least intrusive and most effective means to the end of affordable coverage for all. The essential architecture of the competitive approach can be found in the Preisdent's bill and in its two nearest relations: the Cooper-Breaux and Chafee-Thomas bills.[2] The market-based approach is the most likely to constrain medical inflation without government micromanaging of the health care economy and, for that reason, to win broad public backing.

The report examines the three managed competition bills that occupy the vital center of the health reform debate. It also draws on the pioneering work of the Jackson Hole Group, led by Paul Ellwood and Alain Enthoven, especially new refinements outlined in "Managed Competition II."[3] PPI proposes four steps for resolving the key differences among the bills—for illuminating the competitive path to universal health care.

Those steps are:

1. Restrain costs through choice and competition, not government price controls. In health care reform, government's chief responsibility is to fix broken markets, not to set prices and allocate resources. Yet the Administration proposes a shotgun wedding of market incentives and bureaucratic command and control that would undermine the very competition it tries to create. In contrast, true market-based reform decentralizes responsibility for controlling costs to millions of consumers and providers. This is the logic of managed competition, which relies on these key elements: insurance reform to prevent risk-skimming; a standard benefits package; health plan report cards; a cap on tax subsidies for employer-paid health insurance; elimination of the proposed ceilings on employers' health care costs; and the exclusion of inefficient providers by health plans.

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[1] Footnotes at end of article.

2. Establish competitive health purchasing groups to organize markets, not regulate them. Market-based reform requires a new institutional framework: purchasing groups that pool the buyer power of small businesses and individuals. The Administration's health alliances have been correctly criticized as new regulatory agencies; the better alternative is to create member-governed purchasing cooperatives that offer a menu of competing plans and report on quality so that consumers can make informed decisions. A network of competing purchasing groups would prevent regulatory encroachment on markets and solve the three key problems facing small businesses: risk-skimming by insurance companies, the lack of health plan choices for small business employees, and high administrative costs.

3. Finance reform on a pay-as-you-go basis, not with unfunded entitlements. A decentralized, market-based approach to health care reform would not create a vast new government entitlement. The history of such entitlements shows clearly that their costs are difficult if not impossible to control: For example, only seven years after they were created, the Medicare and Medicaid programs cost four times more than government projections. Untrammeled entitlement spending is driving the federal budget deficit. Nonetheless, the Administration's bill would create a legal entitlement to comprehensive health benefits and add new entitlements for prescription drugs, long-term care, and health benefits for early retirees. Rather than create entitlements that are likely to be underfunded, we should finance health care reform on a pay-as-you-go basis. We should establish a balanced health security budget that continuously reconciles public spending for health care with revenues designated to pay for reform.

4. Achieve universal coverage step-by-step. From the standpoints of both equity and efficiency, universal coverage is integral to managed competition. But health care reform must end with universal coverage, not begin there. The reason is simple: If we expand demand by adding 39 million new consumers before restructuring markets to make them more efficient, prices will rise dramatically. Yet the Administration courts this danger by insisting on an immediate employer mandate. The following timetable illustrates how a step-by-step approach might work.

1995–1999: Phase in subsidies for needy families gradually as reforms restructure health care markets for greater efficiency. Using a balanced health security budget, savings from the tax cap, and reforms in Medicare and Medicaid would pay for subsidies for low-income households.[4] The priority should be full coverage for those in poverty. Next, those above the poverty line should receive subsidies on a sliding scale; that is, the higher the income, the smaller the subsidy. Subsidies should extend to income levels as high as 240 percent of poverty to allow for a gradual decrease. (Too rapid a decrease might discourage people from working harder to increase their earnings.) When fully phased in these subsidies will extend assistance to about 26 million people or two-thirds of the uninsured. The dramatic result of market reforms and subsidies is that 97 percent of all health care spending would be covered through insurance.[5]

2000: Fully fund subsidies and put in effect an individual mandate. If revenues are not sufficient to ensure full subsidies by the year 2000, Congress would have to act under expedited procedures to make up the shortfall. Once subsidies to needy families are fully funded, we can in good conscience require everyone to obtain coverage. An individual mandate would add more young and healthy individuals to the insurance pool, thereby lowering everyone's premiums and reducing cost shifting. Those who cannot show proof of coverage (either on their tax forms or when they show up for treatment) would face a stiff sanction of one year's premium plus a 20 percent penalty.

2003: Take additional steps, including an employer mandate if necessary, to achieve comprehensive coverage. Even after market reforms, full subsidies for low-income families, and an individual mandate, some people may still be uninsured. That is because the individual mandate may prove difficult to enforce and may lead some unscrupulous employers to drop coverage for their workers. If by 2003 there is still a significant cost-shifting problem because too many Americans remain uninsured, Congress should take additional steps to capture these remaining free riders. Such steps may include stepped up penalties for free riders, further expansion of subsidies or an employer mandate. The trigger for Congressional action might be the failure to achieve coverage as extensive as Hawaii's (92 percent for the non-elderly). A target of 100 percent coverage is neither realistic nor wise. Instead, we should define universal coverage as reaching that point at which the marginal cost of expanding coverage exceeds the economic benefit of doing so.

The step-by-step approach is preferable to an immediate mandate because it disaggregates America's 39 million uninsured into two groups: Those who cannot get coverage either because they are poor or because insurance companies will not cover them, and free riders who can afford coverage but don't buy it. It is more cost-effective to deal with these groups separately than with a blanket mandate. However, an individual mandate will be necessary to prevent free riders from taking advantage of the system, and the employer mandate should be held in reserve in case the other measures fall short.

Managed competition is not the only school of thought about how to fix America's ailing health care system: There is substantial support among Congressional liberals for a Canadian-style single-payer system. Rather than importing foreign models, however, the challenge facing the United States is to leapfrog the health systems of other advanced countries and create a distinctively American system that combines the best of U.S. medicine and capitalism. Market-based reform would preserve America's status as the world leader in medical technology, leave to decentralized markets rather than public bureaucracies decisions over resource allocation, and give individuals the power and responsibility to control health care costs through their own choices.

President Clinton is right: Americans want fundamental health care reform. What they do not want is a government takeover of the health care system. The President's challenge therefore is to use government's power in a more creative and sophisticated way. Instead of expanding government bureaucracy and regulation—the old Democrat approach—President Clinton should embrace the New Democrat logic that informs many of his other initiatives: using government's power to improve the ground rules for market competition.

The New Democrat approach also avoids the ideological polarization that has so often frustrated the country's attempts to confront its problems. It holds promise of building a broad coalition in the vital center of American politics. History shows that America's great social reforms have been enacted by wide, bipartisan majorities. Congress passed Social Security by a 10-to-1 margin in 1935 and Medicare by a 3-to-1 margin in 1965. It is time for the President to bring together leaders from both parties to forge a broad, bipartisan agreement for health care reform.

FOOTNOTES

[1] Jeremy D. Rosner, "A Progressive Plan for Affordable, Universal Health Care," in "Mandate for Change," Will Marshall and Martin Schram, eds., p. 108.

[2] Representative Jim Cooper (D–Tenn.) and Senator John Breaux (D–La.) are sponsors of the Managed Competition Act, H.R. 3222/S. 1579. Senator John Chafee (R–R.I.) and Representative Bill Thomas (R–Calif.) are sponsors of the Health Equity and Reform Today Act, H.R. 3704/S. 1770. Senator George Mitchell (D–Maine) and Representative Richard Gephardt (D–Mo.) are sponsors of the Administration's bill, the Health Security Act, H.R. 3600/S. 1757.

[3] Managed Competition II," the Jackson Hole Group, March 18, 1994. See also Paul Ellwood, Alain Enthoven, and Lynn Etheridge. "The Jackson Hole Initiatives for a Twenty-First Century Health Care System," Health Economics," Volume 1, 1992.

[4] The following examples illustrate how the financing might work: According to CBO, the revene from the tax cap in the Cooper-Breaux bill would range from $5 billion to $15 billion in 1999, depending on the size of the standard benefits package. The Medicare savings in 1999 would be $13 billion in the Cooper-Breaux bill and $28 billion in the Administration's bill. On average, then, these sources would raise $30 billion. The cost of the Cooper-Breaux subsidies (to 200 percent of poverty) would range from $11 billion to $34 billion over projected Medicaid spending in 1999, again, depending on the size of the benefits. On average, these subsidies would cost $23 billion, which would leave revenue available for subsidies up to 240 percent of poverty..

[5] Expanding Insurance Coverage Without a Mandate," Lewin-VHI, May 18, 1994.

UNITED STATES-INDIA RELATIONS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. PALLONE. Mr. Speaker, last month, the internationally known publication India Abroad printed an article written by our colleague from New Jersey, [Mr. MENENDEZ], in its Congressional Viewpoints section. Mr. MENENDEZ' article offers a concise and balanced overview of the potential for a new and exciting era in relations between the world's two largest democracies, the United States and India. As Representative MENENDEZ' article points out, the recent visit to Washington by Prime Minister P.V. Narasimha Rao gave added momentum to the general warming trend in our bilateral relations. His article also makes the important point of urging American policymakers—including some Members of this body—to work in a more constructive manner in resolving the differences between our two nations.

As founding members of the congressional caucus on India and Indian-Americans, the gentleman from New Jersey and I are working to promote confidence-building measures that will elevate the Indo-United States partnership on economic, political, and security matters to a higher level. With the end of the cold war and the adoption of sweeping economic reforms by India, there is every reason for India to be one of our top foreign policy priorities. We are also committed to better representing the needs and interests of our Indian-American constituents, and encouraging their increased participation in the political arena.

I hereby submit our colleague's words for the RECORD.

RAO'S VISIT SIGNALS NEW ERA

(By Representative Robert Menendez)

The recent visit to the United States by India Prime Minister P.V. Narasimha Rao will, hopefully, mark the beginning of a new era in U.S.-Indian relations.

Unfortunately, relations prior to the Prime Minister's visit have not been entirely satisfactory. Comments and actions by leaders in both nations have had the effect of straining ties between the world's most populous democracy and the world's oldest democracy.

Rao's trip was the first visit of an Indian Prime Minister to the United States in seven years. I was very impressed with how well he dealt with all of the contentious issues during his meetings in Washington. His meetings with President Clinton and Vice President Gore went well and helped to emphasize the positive aspects in the bilateral relationships.

The Prime Minister took the correct approach when he stressed that we must set Cold War frictions aside and build a new relationship based on a wide range of economic, cultural and diplomatic interests.

In particular, Prime Minister Rao took important steps to expand trade between our two countries. He stressed that India is a natural trading partner for the United States and emphasized his desire to see continued growth in our economic relations. Prime Minister Rao was given the rare honor of addressing a joint session of the United States Congress so that members from both the Senate and House of Representatives were able to interact with him. As a member of the "India Caucus" in the House, I was particularly pleased by the warm reception accorded to him by the Congress.

The Prime Minister's address was most appropriate and set the tone for even better relations in the future. As I listened to his words and reflected upon the improving relations with India that are likely to follow, I was reminded that it was not that long ago that a number of my colleagues, led by Representative Dan Burton (Republican of California), had sought to cut aid to India.

Many of the supporters of the Burton amendment boycotted Rao's speech. I felt that it was inappropriate for these members of Congress to refuse to come to listen to Rao's speech. Even if they disagree with specific policies by the Indian government, they should have shown the courtesy due to a world leader of Rao's stature by attending this session. In addition, they missed a singular opportunity to hear, first hand, how the relationship will develop and grow.

I had opposed the Burton amendment in the past and will do so if it is offered again in the future. My opposition is based upon my belief that this approach would establish an entirely wrong precedent for U.S. relations with India. The aid in question was intended to pay for such programs as health care, childhood immunization against malaria and cholera, and for AIDS education. In addition to selecting the wrong target for cuts, I felt cutting aid to India is a misguided attempt to isolate India at a critical time in its political, economic, and cultural development.

I certainly respect Burton's concern for human rights issues throughout the world. However, I felt that this approach to addressing these problems was not appropriate. Drastically cutting U.S. assistance to India unless it repeals five of its own domestic security laws will not help the cause of human rights in India. In fact, I am convinced that passing this amendment would only have strengthened the hands of those extremist and fundamentalist groups within India bent on tearing that secular democracy apart.

When the Burton amendment was under consideration by the House, I argued that by punishing and isolating India this amendment will hinder India's efforts to arrive at solutions to the difficult and complex problems in Kashmir and Punjab. These two Indian states face civil insurgencies involving terrorist acts that represent a fundamental challenge to India's national sovereignty.

Additionally, India has the world's sixth largest economy. Only a strong democratic India will be able to secure the recent reforms it has undertaken to open its economy, making it one of the world's most promising markets for U.S. products. Burton's amendments have only narrowly been defeated. He is likely to reintroduce similar measures in the future. Continued vigilance and political activism by the Indian-American community and other friends of India will be required to ensure that these types of amendments are never enacted.

Not all of the actions by the United States government of interest to the Indian-American community involve foreign policy or trade concerns.

For example, I was a strong supporter of the Hate Crimes Sentencing Enhancement Act. This act was modeled on a similar New Jersey law which I helped to draft after a spate of violent acts against Indian Americans in 1987.

The act will increase federal sentencing guidelines, adding an average one-third more prison time for felons convicted of targeting their victims on the basis of race, religion, nationality, gender or sexual orientation. While we can't stop prejudice with a law, we can send a clear message from society that bias crimes are particularly heinous and will be punished accordingly.

I am proud to be a founding member of the recently established India Caucus, a network of House and Senate Members who support strong ties with the Indian-American community and between our nations. I am pleased that participation by Indian Americans at all levels of government is now at an all-time high. It is gratifying that three Indian Americans are now serious candidates in Congressional races and that other Indian Americans are becoming more politically active throughout the country. In the past few years the Indian-American community has certainly become more involved in the American political process. However, the community must continue to become even more active.

As a strong supporter of good relations with India, I was distressed at the relatively sparse attention given to Prime Minister Rao's visit. Certainly the Indian press covered every moment of the trip, but the general media should have done a better job of informing the American people about this most significant diplomatic visit.

In sum, the American government takes many actions that directly affect relations with India and the lives of Indian Americans. Within the next few months, the Congress will consider such issues of direct concern to Indian Americans. The only way to affect how these decisions are reached is to become involved. I applaud the efforts of Indian Abroad to support this approach and encourage each member of the Indian-American community to expand his or her potential influence by becoming personally engaged in the political process.

(Representative Robert Menendez sits on the subcommittees for International Operations and Western Hemisphere Affairs of the House Foreign Affairs Committee.)

AMERICAN LEADERSHIP IN THE NEW SECURITY ENVIRONMENT

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. HOKE. Mr. Speaker, on Wednesday I had the privilege of hearing Dick Cheney, the former Secretary of Defense and House Republican conference chairman, deliver some remarks concerning the role of American leadership in the new security environment, and I was very impressed by his insight and vision. What follows are excerpts from this speech.

I commend the speech to my colleagues as both a highly perceptive critique of the current administration's foreign policy and an incisive prescription for American leadership in the 21st century.

AMERICAN LEADERSHIP IN THE NEW SECURITY ENVIRONMENT

(By Dick Cheney)

On January 20, 1993, Bill Clinton was given an opportunity any of his predecessors would have envied. He became the first American President to take office as Commander-in-Chief of the world's only superpower.

Under Ronald Reagan and George Bush, we had rebuilt America's defenses. We had won the Cold War. We had rolled back Saddam Hussein's aggression in the Persian Gulf. We had banished the disillusionment of the Vietnam era and restored public respect for the military. We had demonstrated that with sound civilian leadership the magnificent men and women of our armed forces can defeat any adversary. Our military's morale was high and its resources mighty, even with the force reductions after the end of the Cold War.

As the Presidency passed into Mr. Clinton's hands, America had the tools and the credibility to quell crises and capitalize on opportunities. And world peace and freedom depended on it: Nothing was more vital to hopes for peaceful transformation to democracy and free markets in Russia and Eastern Europe than the credibility of American leadership. No efforts to shield the civilized world from the spread of ballistic missiles and nuclear, chemical and biological arms could succeed without American preparedness and American leadership. No deterrent was more effective against powerful tyrannies like North Korea than the clarity and constancy of American leadership.

But in just 18 months, Bill Clinton has squandered the legacy he inherited—and the world has become a more dangerous place. North Korea's communist dictatorship threatens the free world's interests with nuclear proliferation, conventional war in Asia, or both. The development of enduring democratic and market institutions in the former Soviet Union and eastern Europe is in peril. Our strategic relationships with Japan, China, and western Europe have begun to fray. American troops were not adequately supported in Somalia. And now the President appears ready to send American soldiers into Haiti to install an unstable leftist regime.

The United States faces a full-blown crisis of national security leadership. Bill Clinton has given us one of the last competent administrations in the field of national security and foreign policy that we have had in this century.

The fact is, when Bill Clinton charged into the White House in 1993, he had thought a lot about expanding the domestic powers and costs of government—but when it came to international diplomacy and security, he didn't have a clue.

As I see it, national security leadership has four requirements: vision, strategy, constancy of purpose, and good stewardship of our military forces. Bill Clinton's Administration fails on all four counts.

First comes vision. A leader ought to have moral imagination about the way things ought to be. But national security leadership is not simply a pastime for dreamers. We also have to see realities and possibilities as they are. America has a responsibility to take a practical leadership role in building and expanding zones of peace among the world's democracies, but while doing this, we need to perceive in sharp focus our own priorities and interests—and to advance them proudly. And we must remember two essential points: That peace and freedom in the world depend upon American leadership, and that American leadership depends upon maintaining the world's finest fighting force.

Bill Clinton entered office with gaping holes in his understanding of international economic, political, and military dynamics. More fundamentally, he exhibits no coherent sense of America's purpose and role in the world. Those on his national security team who are not novices are returnees from the Carter Administration. As though the 1980s had never happened, these appointees still nurse groundless notions that anti-Western radicals are our kind of people—just a bit more passionate in political style. They still think that when totalitarians decide to sit down at a negotiating table, they are people just like us. When the President and his national security aides communicate with foreign governments and publics, they project neither the values of the American people nor our common sense. Again and again, Bill Clinton has let domestic political interests drive his foreign policy without any conception of what is in the long-term interests of the United States.

Bill Clinton's second major flaw in international leadership is a lack of strategy. On taking office he let loose a scattershot of initiatives with no apparent regard for context or consequences. His initial policies were about as thoughtful and detailed as bumper sticker slogans.

With Japan, he made trade the be-all and end-all issue. The Clinton team's overheated rhetoric needlessly raised tensions and hurt our political and security relationship with Japan at a sensitive time of change in that country's political history. This, while producing little on the trade front—the one thing Clinton seemed to care about.

In eastern Europe and the former Soviet Union, candidate Clinton charged America was not doing enough to aid the transition to democracy and free markets. The presidents of Poland, the Czech Republic, and Hungary—the most valiant and successful nations in the transformation from Communism—asked President Clinton to support their bid for early integration into NATO. But Clinton rebuffed them, allowing Moscow to veto this effort to secure their independence.

Meanwhile, the Clinton administration has been inconsistent in its support for economic reformers in Russia itself and throughout the former Soviet empire. Par for the course, Bill Clinton made wildly exaggerated promises of direct financial aid. Then his Deputy Secretary of State, Strobe Talbott, abruptly pulled the rug out from under the known champions of free market transformation in Moscow when he said that Russia needed "less shock and more therapy." Moreover, it is not lost on the men and women laboring to dismantle socialism in their own countries that Bill Clinton's top domestic priority is to collectivize one-seventh of the United States economy—our health care markets.

The third essential quality of leadership in statecraft is constancy of purpose. No one has ever found this to be one of Bill Clinton's strong suits. The President is continually changing his mind regarding important foreign relationships or ongoing foreign crises—and he never fails to keep everyone the world over, friend and foe, informed of his latest vacillation.

The longest-running and most confused set of policy flip-flops has been with regard to Haiti. There is simply no other way to describe the Clinton record on Haiti than as an abject national embarrassment.

Last year President Clinton burned into our consciousness the lingering image of a United States Navy warship, the Harlan County, being chased out of Port-au-Prince harbor by a bunch of demonstrators. It's an unhappy metaphor for much of the Clinton record worldwide: Under Bill Clinton's helm, expect the American ship of state to turn tail at the first sign of trouble.

But worse than last year's fiasco in Port-au-Prince harbor would be an ill-advised use of force. President Clinton will be making a calamitous mistake if he carries out his threats to launch United States forces into Haiti.

While invading the island should not be a difficult exercise for American forces, what would we do with the country once we captured it? The last time American forces invaded Haiti, they ended up having to stay for 19 years.

I take the strongest exception to the Clinton administration's declaration that Haiti is "of vital interest to the United States." Haiti represents no significant threat to our interests nor is it an asset to U.S. policy. Haiti is not a base for international terrorism, nor is it a significant transit point for drugs destined for the United States. This impoverished country has never consolidated the basic institutions for the kind of civil society needed to build democracy—an independent judiciary guaranteeing the rule of law, a press free from government bullying, a free enterprise system untrammelled by government influence and control. Replacing the military regime with the leftist Aristide will not suddenly bring those institutions into being. Risking U.S. soldiers' lives and spilling Haitian blood to enthrone Aristide offers precious little chance of yielding gains for true democracy and human rights in Haiti. Jean-Bertrand Aristide is intolerant of opposition and has spoken approvingly of the use of violence against democratic opponents. He is not—I repeat, not—the Thomas Jefferson of Haiti.

Both Clinton's vacillations around the globe and his apparent determination to take ill-advised military action in Haiti send dangerous signals to outlaw regimes which genuinely threaten our interests.

The most perilous immediate threat, of course, is from North Korea. President Clinton has used bold words to assert that under no circumstances will North Korea be allowed to acquire nuclear weapons. But North Korea's dictators go right along pursuing their nuclear program.

After having observed for a year and a half so much self-defeating American behavior—so many fiascos and flip-flops, so much bluster followed by inaction, so many misplaced priorities—why should North Korea take Bill Clinton's warnings seriously? And can we really accept Jimmy Carter's assurance that "the crisis is over"?

The administration already has squandered vital time and credibility in dealing with the North Korean threat. If the President is to prevent a catastrophe in Korea, he needs to stop the wishful thinking and begin exercising some leadership.

The President should issue a clear, unmistakable warning to the North Korean leadership that any attack upon South Korea will be an attack upon the United States, and will be met with overwhelming military force, resulting in the destruction of North Korea and its government. They must not be allowed to assume that a war on the Korean peninsula will be fought on their terms.

President Clinton should enhance the defenses of South Korea and improve the capability of both South Korean forces and our own forces stationed there. He must get some effective diplomatic work done with China—to assure its cooperation with our effort to isolate North Korea. He must move Japan to cut off the vital hard currency it now allows to flow to North Korea. He must lead the international community to impose airtight sanctions.

A President's most important commodity as Commander-in-Chief is his credibility. Bold talk that is never followed up by bold action leads our adversaries to conclude we do not have to be taken seriously. The cost of reclaiming that credibility once it is lost is likely to be paid in terms of American lives. In these dangerous times, a President must always say what he means and mean what he says.

Let me address the fourth and final defect in Bill Clinton's world leadership: his failure in good stewardship of our vital national security resources—in particular his failure to support an adequate peacetime military capability for the United States. Some people say the problem of the Clinton national security policy is a mismatch between strategy and resources. I don't agree with that. The Clinton strategy and its resources are closely matched. The President has an inadequate strategy—and he has paired it with inadequate resources.

Remember, we already had carried out major reductions in U.S. defense spending before President Clinton took office. Since then, to indulge their appetites for a bigger welfare state, Bill Clinton and the Democratic Congress have made new, far deeper defense cuts. For a five year period, they are cutting an additional $150 billion more from defense than the significant cuts planned by President Bush. At the same time the Administration is trying to fund activities out of the defense budget that do nothing to improve our military capability, such as "defense conversion" and "U.N. peacekeeping."

The result is a serious erosion in the quality and capability of our military forces. Our field commanders report our troops are not getting needed training hours for lack of funds. Jet engines for the Air Combat Command are going unrepaired for lack of spare parts. There are increasingly serious shortfalls in readiness and sustainability. Test scores for our recruits are falling. For the first time in a decade, the Marine Corps has failed in two successive months to meet its recruitment quota.

Particularly unpardonable is Clinton's failure to ask for adequate funds for active military cost-of-living pay adjustments. He has sought to curb military pay even as growing numbers of military families are having to turn to food stamps to make ends meet. Maintaining adequate pay and a good quality of life for the troops has to be our Number One defense priority.

We are seeing shades of the shameful days of Jimmy Carter's "hollow military." In 1980 American voters sent a powerful rebuke to the liberal Democratic Congress and the administration responsible for that era of military weakness. But we do not have to wait until 1996 to take corrective action against the Clinton failures in military leadership.

Republicans in Congress this year offered the American people a clear choice—a straightforward plan for making military strength a budget priority. Republicans in the House of Representatives offered a budget alternative that would have spared our military forces the recklessness of the Clinton cuts. The Republican budget resolution provided an adequate cost-of-living adjustment for our servicemen and women's pay. Republicans would have kept adequate funding for training and maintenance. The Republican proposal called for moving forward with a vital program gutted by President Clinton and the congressional Democrats—the program for defenses against ballistic missiles.

The Clinton Democrats are blinded by an ideological animus against President Reagan's visionary Strategic Defense Initiative. Clear perception and leadership demand that we build a ballistic missile defense system as soon as possible. Ballistic missile technology is not hard to acquire: Being one of the world's poorest, most isolated and technologically backward countries did not stop North Korea from becoming a ballistic missile power. Even now, American forces and friends abroad are within range of potentially hostile forces armed with ballistic missiles. The last thing we need is to wake up one morning to an intelligence surprise—to find that a radical regime has acquired a long-range ballistic missile, capable of striking New York or California. I urge the President to move to give our country theater missile defenses without further delay—and then to proceed with national missile defenses.

The President must not let outdated diplomatic instruments get in the way of defenses to protect the people of the United States from missile attack. In particular, it would be a grave mistake to transform the old ABM Treaty into a multilateral affair. Most important, America must pursue in its own national interest the attainment of defenses against ballistic missiles. We must not let anything—including the ABM Treaty—stand in the way.

What resources we will have for the defense budget and who will make those decisions is a matter of greatest timeliness. Americans who want to keep our military from becoming perilously weak do not have to wait until 1996 to make changes. Voters can replace anti-defense Democrats with pro-defense Republicans in Senate and House elections this November. Republican victories this fall protect our defenses from Bill Clinton's worst instincts before he can do much more damage. Republican majorities in the Congress could even provide some adult supervision on national security for the Clinton White House staff.

Let me say just one other thing about this White House and its treatment of our military men and women. Whenever one gets one's hopes up that the Clinton White House has broken with its practice of demeaning American military personnel, we hear word of another new insult. Earlier this year, it was the spectacle of a uniformed Marine saluting a golf bag when Bill Clinton's director of White House administration misused military helicopters for a trip to the country club. Then last month we heard of uniformed military officers being asked to serve hors d'oeuvres at a White House reception. For a man who campaigned on putting people first, I wish Bill Clinton would find a way to put our troops first for a change.

When Republican leadership returns to the White House, I am confident we will have a Commander-in-chief who understands his responsibility to maintain the morale and combat effectiveness of our military forces, including when to commit them to combat. He will know he must never do so unless he is prepared to do whatever is required to achieve victory.

It is my great honor to be with you today to talk about how we can go about once again giving our country unrivalled strength and standing in the world—strength and standing that will help shape a freer and more peaceful future.

The key is leadership! The men and women of our armed forces deserve it. The nation deserves it. And I deeply appreciate your commitment to bringing it about.

TRIBUTE TO BILL SCHWARTZ

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. CRANE. Mr. Speaker, I would like to pay tribute to a very special friend of the fraternity system, William P. Schwartz. On August 13, he will be honored for 40 years of service with Sigma Alpha Mu fraternity [SAM]. Bill may be considered the dean of the interfraternity system worldwide.

Bill has been on the executive staff of Sigma Alpha Mu since 1955, which is the longest tenure for an executive in the interfraternity world. He served in various positions with SAM until he became its executive director in 1962, the post he currently holds. Since 1973, he also has served as editor of the Octagonian—the international publication of SAM.

Bill has long served other fraternal organizations as well. He is a past president of the Fraternity Executives Association, Cofounder of the Association of Fraternity Advisors, and has held various positions with the National Interfraternity Conference.

For his work with college youth, Bill has been honored by Tau Kappa Epsilon, Lambda Chi Alpha, Phi Kappa Theta, and Theta Chi. From his own Sigma Alpha Mu, he has received the Distinguished Service Award. He also has been awarded the Gold Medal, the highest honor of the National Interfraternity Conference.

Bill was born in Oklahoma City, OK in 1928. After high school, he enlisted in the army and served with the occupation forces in Japan after World War II. Upon his return to the United States, he entered the University of Oklahoma, graduating in 1952. Since then, Bill has always found time for involvement in a host of civic and religious activities, usually centered around the youth of his community.

Once again, I would like to honor and thank Bill Schwartz for his lifetime of work and dedication for Sigma Alpha Mu fraternity, the interfraternity system and the youth of this country.

RECOGNITION OF NATIONAL PARENTS' DAY

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. ROSE. Mr. Speaker, I would like to take this opportunity to declare my support for National Parents' Day and the development of national programs to help stabilize the American family.

Our colleagues, Congressman DAN BURTON and Congressman FLOYD FLAKE, introduced House Resolution 236, which the House unanimously adopted on March 11, 1994. This resolution declared today, July 28, 1994, as National Parents' Day in America. This resolution represents the overwhelming consensus that America's families are the foundation on which this Nation was built. Commemorating a National Parents' Day will send a strong message to the American people that responsible parenting is the cheapest and most effective solution to eliminating many present day social ills.

With all the problems facing our communities today, it is no surprise that American families are constantly struggling to stay together. Children are dealing with overwhelming problems such as crime, drug and alcohol abuse, violence, divorce, homelessness, and poverty. The statistics show that these social problems are taking a toll on our children when you look at the dropout rates, teen pregnancy, teen suicide, and the growing number of children on death row. These are just a few of the dilemmas that parents today must face. These problems place tremendous pressures on parents who are trying to juggle dual roles with a full-time job and a full-time family. I hope that many Americans, especially children, will take the time to pay tribute to all parents: biological, adoptive, foster parents, and grandparents that are raising a second generation. These parents are committed to strengthening and sustaining their roles as part of the solution to ending this crisis.

National Parents' Day is an opportunity to recognize and award those parents who have dedicated their time and energy to helping and encouraging strong parenting. This day will honor outstanding parents in our communities all across America, making them visible role models. It also acknowledges and thanks those organizations, community leaders, and people in the media who through their programs and features exemplify the ideals of House Resolution 236.

Earlier today, many television celebrities were honored on the steps of the Capitol for their acting roles as responsible parents in TV programs. Stars like Bill Cosby and Phylicia Rashad of "The Cosby Show," Florence Henderson of "The Brady Bunch," and Harriet Nelson of "Ozzie and Harriet." Unfortunately, all of these shows are no longer in production although they can be seen in syndication.

The point is this. Our children are influenced by their environment and the things they see every day, including television. It is imperative that more family-oriented programming be added to the nightly lineup so that positive role models are reinforced on the tube.

History has demonstrated that the traditional American family is the cornerstone of our society. But as the times change, so must our definition of family. Who is to say that a single parent is not as good a parent as one that has a partner? Or that a parent that adopts a child does not love that child as much as the natural birth parent? If we are to survive as a nation, we must emphasize moral character and responsibility through family values. Sacrificial love is a key element in the development of these values. An example of this sacrificial love is demonstrated by a family in my congressional district that I helped adopt a child.

Alan and Cathy Cooper adopted an 8-month-old Albanian child in March 1992. Unfortunately, because of the political turmoil in that country, it took several years for the adoption to be finalized. However, through their persistence and sacrificial love for this child, the Coopers were able to become parents and bring their boy home earlier this year. They proved that they would go to the ends of the Earth to see that this child was protected and loved. It is this kind of selfless act, unconditional love, that needs to be restored in many of our families.

Through programs like Big Brother/Big Sister, Project We Care and the National Institute for Responsible Fatherhood and Family Development we are on our way to making the American family a stable and secure environment for future generations. We, as Members of Congress, have an obligation to ensure that our social structure remains strong through these and other programs that encourage family development. Government and private sector business policies should reflect the changing structures of American families so that the children are not penalized. But well-intentioned Government programs are not the only solution. Parents are the answer.

Recognizing a National Parents' Day will remind every individual of the crucial role parents play in shaping the lives of our children. Mr. Speaker, please join me and my colleagues in recognizing July 28, 1994, as National Parents' Day.

IN MEMORY OF ROBERT E. BEST, PUBLISHER AND HUMANITARIAN

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 28, 1994

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to the late Robert E. Best, a renowned publisher and community leader from Sullivan, IL. Robert Best left us last fall, but his community spirit and contributions to the journalism field will not be forgotten. After Mr. Best's death, his newspaper, News Progress, published a fitting tribute to Mr. Best and his work as a publisher and humanitarian. It would be my honor to enter into the CONGRESSIONAL RECORD this tribute that captured the essence and life of Robert E. Best.

[From the Best Newspapers in Illinois, Inc., Nov. 24, 1993]

DEATH OF NEWS-PROGRESS PUBLISHER LEAVES VOID

(By Lisa Muirheid)

The death Sunday night of Robert E. Best, publisher of the News-Progress, leaves a void in the community he served and the profession he loved, friends and colleagues said this week.

Mr. Best, 62, died at St. Mary's Hospital in Decatur after suffering a heart attack about 9:30 p.m. Sunday at his home in Sullivan.

In his 32-year career as an Illinois publisher, he earned many honors. He served terms as president of both the Illinois Press Association and the Southern Illinois Editorial Association. In 1987, he was inducted into the Southern Illinois University Journalism Hall of Fame as a "master editor."

Born to Ellis J. and Nellie C. Murphy Best on July 25, 1931, in Jefferson City, Mo., Robert E. was the oldest of three children.

He earned a bachelor's degree in agriculture from the University of Missouri at Columbia and did graduate work there in journalism. He attended the university on a Navy ROTC scholarship and served three years in the Navy, largely aboard the USS Telfair, a troop transport ship that made tours of Southeast Asia. He left the service as a Naval lieutenant, junior grade.

He married Marion Denny on Dec. 28, 1954, in Evanston, Ill. The two have worked side by side as publisher and editor of a newspaper in Sullivan since they purchased the Moultrie County News in October of 1961.

Marion Best survives along with their two children, Kathleen L. Best, a reporter in the St. Louis Post-Dispatch Washington Bureau, and Robert R. Best, chief pressman and photographer at the News-Progress.

The newspaper will stay in the family. All three members plan to be involved in the transition phase. Marion Best will serve as publisher, R.R. will continue as chief pressman and head photographer and Kathy will help out on the editorial desk during the month of December.

Mr. Best is also survived by a sister, Ann Mattli, of Poplar Bluff, Mo., and brother, Edward Best, of Martinez, Cal.

After 12 years of running the Moultrie County News, which was one of two competing weeklies in Sullivan for 91 years, the Bests purchased the Bethany Echo and the Findlay Enterprise in 1973. In December 1978, fellow publisher Byron Brandenburger sold them the Sullivan Progress, the weekly newspaper they had competed with for advertising and news for 17 years. Two years later they purchased the subscription list of the Lovington Reporter, the only other weekly in the county. In June 1981, all the papers but Findlay were incorporated into the weekly News-Progress.

One year after purchasing the Moultrie County News in 1961, the Bests attended their first Illinois Press Association convention to pick up the first of more than 100 awards the paper has won over the past 32 years. In 1984, the News-Progress was the first semi-weekly to win the Illinois Press Association's Kramer Trophy for editorial excellence.

Mr. Best wrote more than 1,200 columns and 2,400 editorials during those years. He has served as co-chairman of the IPA Legislative Committee after his tenure as president.

"Bob was acutely sensitive to the Illinois citizen's 'right to know' and he was at the forefront in protecting that right," said Joe Firstl, who served as a co-chair on the committee with Bob. "He was a dedicated newspaper man in every sense of the word. He always put himself out for the newspaper publisher and anyone who wanted to know how to get the what, where, when, why and how."

Firstl remembered many weekend days spent on the telephone with his partner.

"We would spend hours trying to figure out what a legislator had in his mind when a bill was introduced and how we could collectively combat the sometimes evil forces which act against the Illinois citizens and publishers. We would go over every bill word-for-word. I will miss that man very, very much.

Mr. Best was also an active member of the National Newspaper Association. He served as the Illinois state chairman and on many other committees, including membership and long range planning.

"I learned so much from him and he was so willing to share all of his knowledge," said longtime friend and former employee Sharon White. "Shortly after I began working at the paper someone asked me if Bob was difficult to work for because he always seemed so gruff. I had to tell her he was the biggest pussycat I had every known."

A neighbor and confidant for many years, Bill Stubblefield said when he thinks of Mr. Best, he remembers how his neighbor enjoyed "a whole bunch of things."

"He always kind of made me mad because he knew a little bit about everything. Usually when we get into discussions—as we called them—he was right," Stubblefield said, adding he would never have admitted that to Mr. Best's face.

"He enjoyed working, his computers, his family, his stupid cats and gardening. He just seemed to enjoy everything—and he was good at a lot of them. He loved to raise dumb things in the garden then find recipes to cook them in. It never ceased to amaze me the interests he had. There was a really broad scope," Stubblefield said.

"Discussing" was one of the activities Bob Best enjoyed most.

"I knew Bob for over 20 years. We didn't always agree on everything, but we respected each other's opinion. Bob had a way of asking questions about issues that needed resolutions. He started people thinking and soon they were solving the problems," said Sullivan city councilman and businessman Ron White.

"We have been through some miles together, Bob and I, and I am truly sorry we will not have the chance to journey together into the future," White said.

Mr. Best's friendship with the Whites began before their work on Little Theatre projects. Mr. Best was a founding member of the Friends of the Little Theatre on the Square after the theatre's dark season in 1980. According to Sharon White, he literally created the organization.

"One day after Guy Little Jr. announced he was leaving Sullivan and it seemed the Little Theatre on the Square would close, a congressmen called Bob from Washington and asked what the community was doing to keep this unique asset from being lost," she explained. "Not wanting the potentially valuable opportunity to slip away, he quickly ad libbed. I was standing near his desk when he said, 'Yes, there is a grassroots volunteer community organization that could use your help. They call themselves the Friends of the Little Theatre . . . and I believe Sharon White is the president'."

White said her jaw dropped and Mr. Best smiled a mischievous smile. She quickly found out he was willing to help dig her out of the hole he had put her in.

"Bob and Marion—and their checkbook—were always there with their support and encouragement. He believed so much in this community. I don't think anyone even knows how much he did. He's going to leave a big hole in this community," Sharon White said.

Guy Little, whose Little Theatre on the Square was the deciding factor that led Bob and Marion Best to Sullivan in 1961, said the loss of his friend is just another reason why it is important to not take anything for granted.

"I worked with him so closely when I was managing the theatre. He was always helpful, supportive and patient. It was a terrible, terrible shock," Little said. "We need to treasure and appreciate every moment we have."

While it was generally well deserved, one thing Mr. Best was not fond of was flattery and too much praise.

In 1991, he accepted the Distinguished Service Award from the Illinois Press Assn. He did so after a four-page biography was read to a packed banquet room.

His first response before accepting the award was: "And I know how to edit and somebody should have let me do that."

"Bob was a man who didn't like publicity for the many projects that he helped succeed," said Ron White. "He was a wise and intelligent man who could see solutions behind problems and encouraged his friends and acquaintances on how to come up with solutions for themselves."

White also commended Mr. Best for support of both Sullivan businesses and Sullivan school activities.

"He was proud that he had a part in helping the high school students revive the student newspaper and win many awards in only their first year of publication," White said.

Bob Best was a man with a great deal of knowledge to share. Sometimes he did it quietly and at other times, with the thunder of a bolt of lightening. He knew a lot and he shared a lot. The only thing he didn't teach those that knew him was enough, friends said.

Sharon White said a great deal in one short sentence.

"I wasn't done with Bob Best yet."

Neither were we.

HOUSE OF REPRESENTATIVES—*Friday, July 29, 1994*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May the spirit of gratefulness and appreciation, of gratitude and thanksgiving, be with us, O God, as we remember people who have blessed us by their concerns for us and all we do. We remember especially those friends whose support and succor is available at any time, whose love and devotion encourages and strengthens, whose respect we cherish and whose good will is a precious gift. As You, O gracious God, have made us one people to dwell together in peace, so unite us with those near and dear as we express the harmony and unity that is Your will for us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Colorado [Mrs. SCHROEDER] come forward and lead the House in the Pledge of Allegiance.

Mrs. SCHROEDER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes; and

H.R. 4603. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4602) "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mrs. MURRAY, Mr. NICKLES, Mr. STEVENS, Mr. COCHRAN, Mr. DOMENICI, Mr. GORTON, Mr. HATFIELD, and Mr. BURNS to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4603) "An Act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. BYRD, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. KERREY, Mr. DOMENICI, Mr. STEVENS, Mr. HATFIELD, Mr. MCCONNELL, Mr. COCHRAN, and Mr. GRAMM, to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive up to 15 requests on each side for 1-minute speeches.

EQUAL ACCESS FOR ALL TO HEALTH CARE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this is an incredible country where Americans every day are willing to put their lives on the line for other Americans and for their full rights under the Constitution. Unfortunately, today two of those Americans lost their lives in Florida. Two Americans who were escorting women into family planning clinics were shot and killed today. That says to me as we go into this health care debate, we must all stand for the full constitutional rights of women to access to health care. Anything we do that sends any kind of message that women's rights are at all marginal only encourages those people who think they have the right to take the law into their own hands and shoot those who are out there trying to guarantee this constitutional right for women.

I think universal includes women. It must include women in health care. We must do it for these two Americans who lost their lives today. Anything else would only perpetuate this kind of a terrorizing scene that we have seen much too much of in America.

BANKING COMMITTEE INVESTIGATES WHITEWATER

(Mr. KING asked and was given permission to address the House for 1 minute.)

Mr. KING. Mr. Speaker, last night the Democratic majority on the Committee on Banking, Finance and Urban Affairs demonstrated conclusively to the American people how desperate they are to keep the American people from learning the truth about Whitewater. As I was pursuing a line of questioning of Maggie Williams, the First Lady's Chief of Staff, showing conclusively that either she or Roger Altman, the Deputy Secretary of the Treasury, is not telling the truth regarding White House involvement and interference in the Whitewater investigation, Chairman GONZALEZ attempted to gag me and MAXINE WATERS, the gentlewoman from California, interrupted me and told me to shut up.

Mr. Speaker, this, even for the gentlewoman from California, went to a new low. I want her to know as long as I am on that committee and so long as I am in this House, she is not going to tell me to shut up, she is not going to tell the American people to shut up, and I am not going to stop until we get to the root of Whitewater.

The gentleman from Texas [Mr. GONZALEZ] has to realize and the Democratic members of that Whitewater committee have to realize they can no longer continue to cover up the truth from the American people. They cannot shout down elected representatives.

I would just say to the gentlewoman from California [Ms. WATERS], can you imagine the reaction if anyone had told her to shut up, what she would be claiming, the allegations she would be making? There is no double standard in this House. What she did is wrong, and I am going to stay on her until this is over.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HUMANITARIAN AID MISSIONS COULD AFFECT ADVERSELY THE UNITED STATES MILITARY PREPAREDNESS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Madam Speaker, nothing gives American citizens a greater sense of pride and satisfaction than to see the flag of this great Nation planted in a foreign country and the troops of our Nation providing humanitarian aid and assistance to people who are suffering and people who are starving. We saw it very recently in Kurdistan. We saw it in Somalia. We have seen it in Guantanamo Bay with troops providing help for Haitian refugees, and we are now seeing it in Rwanda.

But, Madam Speaker, it must be said that the U.S. Army is not the Red Cross, and the U.S. Navy is not the Salvation Army. Those are two outstanding and wonderful organizations dedicated to providing succor and aid to people around the world, but they are not military organizations, and our military organizations are not humanitarian organizations.

When as it is stated in today's Washington Post some people at the Pentagon are concerned about the effect of humanitarian aid missions upon our national preparedness and our national defense, we have to take warning. I would say we must keep up the good work, but we cannot let that good work affect adversely our being militarily prepared to defend our Nation.

LISTENING TO HEALTH CARE CONCERNS

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, normally over the last few weeks, we have been doing a lot of talking about health care. But maybe we should also make a conscious effort to listen closely and carefully to the people we represent.

On July 25, WFLA radio in Tampa, FL, conducted a listener poll on health care. The results? Of the callers, 90 percent preferred our present system of mostly private medical care. Only 6 percent of those responding liked the Clinton plan and barely 4 percent supported a single-payer, Canadian style system.

This radio poll was not scientific. I make no claim that these numbers represent what everyone in America thinks about health care reform. But neither are these results meaningless. Instead, I believe they are an indication that many people want to rely on the private sector—and not the Government—to provide health care. They prefer to let what is working now continue to work.

Altogether, there is a tendency for some to view health care reform as a matter of educating the public as to what is good for them. They think "if only they know more, they will go along * * *." I disagree. I think this issue is fundamentally a matter of us learning from them.

□ 1110

INNOCENT UNTIL PROVEN GUILTY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, what version of the Constitution will Congress endorse today, the Son of Sam version or the mom and dad version? Will it be government by threat, government by fear, or will we get back to government by due process?

I am talking about the Internal Revenue Service, ladies and gentlemen, because when the Internal Revenue Service points a finger and accuses a taxpayer of fraud, you are guilty and you have got to go to court and prove you are innocent. But the Son of Sam, a serial killer, is innocent, and the burden of proof is on the government.

Unbelievable, ladies and gentlemen. It is time to take the Constitution and the Bill of Rights back. Sign Discharge Petition No. 12. A taxpayer in America should get the same constitutional protection that at least a serial killer gets.

Think about it.

DEMOCRATS MEET SECRETLY TO WRITE NEW HEALTH BILL

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Madam Speaker, here we go again. After all of the promises of ending gridlock with bipartisan cooperation, the Democrat leadership has spent the past few weeks secretly meeting behind closed doors to work on a new version of the Clinton health care plan. Excluded from the meeting, rank and file Democrats, the press, the public, and above all, Republicans. Were special interest groups there? I do not know. But maybe what is more important than who was at the meeting is what is in the bill.

Who has read it? Who will get a chance to read it? Will we get a chance to read it before we vote, and will our constituents get a chance to review it and give us input before that vote takes place?

Ladies and gentlemen, I am a newcomer to Congress, but this is no way to run a country. I belong to a hopeful and an optimistic bipartisan group of legislators in this House who want to vote on the Rowland-Bilirakis alternative, which we think is a good health care bill. It targets the needy and it does not give big government more power.

PROVIDING RELIEF FOR INSLAW, INC.

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Madam Speaker, today I am introducing legislation for the relief of INSLAW, Inc., and William and Nancy Hamilton, the owners of INSLAW. These citizens have been grievously harmed by acts and omissions of our Government for more than a decade. Justice Department officials at the highest levels have taken the Hamiltons' property and used it without compensating them for its use and have thwarted their every attempt to obtain justice.

In 1982, INSLAW won a 3-year, $10 million contract with the Department of Justice to install case management systems in the U.S. attorneys' offices. The company soon came enmeshed in a series of contract disputes when the Justice Department began withholding increasingly larger amounts of money until INSLAW was forced to file for chapter 11 bankruptcy in 1985. INSLAW survived bankruptcy and emerged from chapter 11 with a loan from the IBM Corp., an INSLAW business partner.

INSLAW filed suit against the Justice Department in U.S. Bankruptcy Court in June 1986. On September 28, 1987, Judge George Bason of the Bankruptcy Court ruled that the Justice Department "took, converted, stole" INSLAW's software "through trickery, fraud and deceit" and thereafter unlawfully attempted to cause INSLAW's liquidation.

In November 1989, senior U.S. District Judge William Bryant of the District of Columbia affirmed the Bankruptcy Court's $8 million judgment against the Justice Department, ruling that "[t]he cold record adequately supports his findings under any standard of review." The U.S. District Court decision was reversed by the U.S. Court of Appeals for the District of Columbia in May 1991 on technical jurisdictional grounds. The appeals court ruled that INSLAW has proceeded in the wrong court.

On September 10, 1992, the House Judiciary Committee, completing a 3-year investigation, made the following statement in its report, House Report 102-857, the INSLAW Affair:

> * * * the Committee's investigation largely supports the findings of two federal courts that the Department "took, converted, stole" INSLAW's enhanced PROMIS [software] by "trickery, fraud and deceit," and that this misappropriation involved officials

at the highest levels of the Department of Justice.

According to sworn testimony before the committee, high level Justice Department officials conspired to steal the PROMIS software and secretly convert it to use the domestic and foreign intelligence services. The committee noted in its report:

> This testimony was provided by individuals who knew that the Justice Department would be inclined to prosecute them for perjury if they lied under oath. No such prosecutions have occurred.

Madam Speaker, we need to move now to refer this matter to the U.S. Court of Federal Claims so that the Hamiltons and INSLAW can get a fair hearing under the congressional reference procedure and finally obtain the justice which has been so long denied.

DEMOCRATS STONE WALL ON WHITEWATER

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Madam Speaker, the handling of the Whitewater investigation at the House Committee on Banking, Finance and Urban Affairs has been a travesty. We have watched artificial time limits used to prevent the truth from being pursued. We have watched majority members of the committee tell Republicans to shut up when Republicans were attempting to ask important questions.

The Democrats then have the audacity to come out from behind their stone wall and proclaim that Whitewater is no big deal. "Where is the smoking gun," I heard one Democrat ask on TV this morning. The answer is clear. We suspect that the smoking gun is somewhere behind the Democrats' stone wall.

HEALTH CARE DEBATE IS NOT A GAME

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extent his remarks.)

Mr. OLVER. Madam Speaker, newspaper headlines across the country treat health care reform as one big game. To the Wall Street Journal, "The stage is set for the health care battle." The New York Times is keeping score. "Clinton wins one on health care." And the Washington Post calls health care "an election issue."

Madam Speaker, our health care debate is not a game. It is about people. It is about people like the couple from a small town in Worcester County, MA, who last week responded to my survey on health reform.

The woman pleads for health insurance that is affordable for everyone, this year, not 10 years from now, and with all employers paying a portion of employees' health care costs.

Madam Speaker, they have put their house up for sale. Her husband is disabled, and they cannot afford to keep their home while paying a COBRA premium of $461 a month. They had to make a choice: Their home or their health.

Madam Speaker, we are reforming care to save that couple their home.

VETERANS PREFERENCE

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Madam Speaker, the administration's rhetoric versus reality gap grows ever wider. Barely a month after reaffirming its support for the Veterans Preference Act, the administration has betrayed our veterans. The Department of Justice has decided to lodge an appeal against an Administrative Board decision upholding the law in a layoff of postal workers.

The Veterans Preference Act of 1944 establishes one of the most fundamental of veterans legal rights by giving wartime and disabled veterans first consideration for certain jobs and preference for retention in reductions in force.

According to an article in the Washington Post yesterday, a spokesman for the American Legion, denounced the decision to appeal as "hypocritical." Other veterans' groups are also outraged.

Madam Speaker, despite attempts to repair the administration's image with veterans and the military, including a stage-managed Presidential trip to Normandy for the 50th anniversary of D-day, Attorney General Janet Reno has shattered any illusions on where the administration really stands.

REPUBLICANS CONTINUE STRATEGY TO DEFEAT HEALTH CARE REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, yesterday on the floor, I read parts of a strategic memo from the Project for the Republican Future to the Republican leadership in Congress. It is an incredible document that advises Republicans to defeat health care reform—the theory being that health care's defeat will translate to Democratic defeats in November.

It is hard to believe that Republicans would be willing to sacrifice the most important initiative of our time in order to keep Democrats from getting any credit for it. But here it is in black and white, and I quote: "We should send them to the voters empty-handed."

In its zest to win elections, The Project for the Republican Future seems to have forgotten America's future. They have forgotten the 40 million uninsured; forgotten the 80 million Americans with preexisting conditions; forgotten millions of small businesses who pay 30 to 50 percent more than their larger competitors for health care.

If Republicans are successful in their effort to thwart the public will and defeat health care reform, it will not be Democrats left empty-handed, it will be the American people.

MANDATES ARE A TAX BY ANY OTHER NAME

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Madam Speaker, recent press reports indicate that Democrat leaders are continuing to advocate the idea of an 80:20, employer-employee contribution to fund their as yet unseen health care reform proposal.

They just do not get it. Mandates at 50 percent, 80 percent or even 100 percent are a tax that employers will pass onto their customers and their employees. And those lost dollars that employers cannot realize from someone else will force them to reduce their work forces.

Translation: Bad news for the American economy.

Would it not be ironic if my colleagues, who are in so much of a hurry to throw any sort of health care reform package together, ended up passing a measure that crippled one-seventh of our economy.

Madam Speaker, none of us here want to be remembered for reckless reform measures that polarized our economy, sapped the economy spirit of small business people and stalled the economy back into recession.

We need to accomplish meaningful health care reform that helps all Americans, not just the political objectives of a few select individuals.

Let us slow down the process, and make sure all the numbers and percentages are right. Reform of our health care delivery system does not need haphazard mandates—it needs calm, rational legislation.

□ 1120

TIME TO END THE WHITEWATER HEARINGS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Madam Speaker, I want to share with the Members of this House an editorial opinion from one of my district's papers, the Marietta Times in Marietta, OH.

> Time To End Whitewater Hearings
>
> The House should devote its energy toward the massive agenda that's on hold while members of the Banking Committee conduct the Whitewater hearings.
>
> What's the point of diverting so much effort from the business of the nation? We've gotten the explanations from the White House and others involved in the ill-fated land deal that occurred before Bill Clinton took office.
>
> While some may have delusions that this is the '90s version of Watergate, it looks like that argument won't hold water. No one has been charged with a crime. It appears there was plenty of bad judgment, though. But its not worth a full-blown committee hearing and the all-out efforts of the panel's talented staff. Imagine what this group of inquisitors could accomplish if they re-directed their energy to health care or fighting crime.

Madam Speaker, I hope we listen to this commonsense message from the heartland of America, Marietta, OH.

ACCEPT SENATE PROVISION ON VIOLENCE IN THE SCHOOLS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Madam Speaker, last night the Senate added an important provision to the Elementary and Secondary Education Act giving local schools broader authority to deal with weapons and violence in the classroom. This amendment is similar to legislation that I have introduced in the House, the Student-Teacher Protection Act.

The amendment by the senior Senator from Washington allows local schools to take necessary disciplinary action against any student who brings a deadly weapon to school or who commits a life-threatening act of violence. Currently, students who are covered under the Individuals with Disabilities Education Act—the IDEA—cannot be removed from the classroom for more than 10 days without a court order, regardless of the severity of their offense.

While the overwhelming number of Individuals with Disabilities Education Act students are dedicated learners who deserve our admiration, we have seen an increasing number of cases at the local level of dangerous behavior by a small number of students. This has been a significant concern in several of my local school districts, and I have been pleased to work with the Senator from Washington on this matter.

I urge the House conferees on this bill to accept this important Senate amendment and provide safer schools for all our students and teachers.

UNIVERSAL HEALTH CARE WILL STRENGTHEN OUR ECONOMY

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Madam Speaker, I would be very happy to see some of my colleagues on the Republican side of the aisle come forward with a proposal that would provide guaranteed universal coverage for all Americans by the year 2000.

We have started off on the other side with complaints there was not a problem; from not having a problem, they attack the process; they talk about the calamity that we are about to create. Let us see what you would do. Give us a proposal on how to cover people with preexisting conditions, how to help people who work for corporations like McDonald's and Pizza Hut that do not insure their employees.

Do not give me your calls of calamity. The same people were here when we passed the budget and said it would ruin the economy. We have created more jobs in the last 16 months than the previous 4 years under a Republican administration. You said calamity would come from Social Security and Medicare. They are the things that hold this country together.

The charges during the Medicare debate are very similar to the charges we hear today. The reality is universal health care will strengthen our economy and move our country forward.

INTRODUCTION OF LEGISLATION ALLOWING BUSINESSES TO CLAIM NEW EQUIPMENT AND MACHINERY AS BUSINESS EXPENSE

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Madam Speaker, I think I have some good news. We just received a report from the Tax Action Analysis. It is the tax policy arm of the Institute for Policy Innovation.

According to this study, it would result in almost 3 million new jobs. So in addition to new jobs, it results in added real GDP growth from my bill that I introduced, H.R. 539. It results in increased take-home pay.

Let me just give you a summary of the analysis of this bill that allows business to claim on their tax forms that the new equipment and machinery that they buy can be considered a business expense. First, higher investment would increase capital formation in the United States by $8.9 trillion. Second, this larger stock of U.S. capital would lead to the creation of 2.7 million new jobs. Third, more capital and labor would yield an extra $3.5 trillion in gross domestic product between 1995 and the year 2000.

Finally, this greater economic activity would boost long-term annual growth.

Madam Speaker, I elicit my colleagues to cosponsor this bill.

EXPRESSING GRATITUDE TO THE HONORABLE BRUCE VENTO

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Madam Speaker, I rise today to express my gratitude to our colleague from Minnesota [Mr. VENTO], whose considerable work in both housing and community development was critical in helping to draft and gain passage of the recent Housing and Community Development Act of 1995, particularly the provisions creating the Geno Baroni Recognition Awards for outstanding achievements by community-based revitalization groups across our country.

These awards will honor the visionary work of a crusader for the disenfranchised, and in memory of their namesake, will fund and facilitate neighborhood self-help by building upon the existing capacity building program under section 4 of the HUD's Demonstration Act of 1993.

As a defender of ordinary people, Monsignor Baroni passionately believed that real change begins with ordinary people working together at the local level, by working with blacks, ethnics, Hispanics, and people from all walks of life. He urged them to transcend their differences and work together to form coalitions to pursue their common agenda.

Thank you, Congressman VENTO.

FORCE-FEEDING THE CLINTON HEALTH PLAN

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Madam Speaker, after reading the Washington Post this morning, it is clear that despite the opposition of the American people, the Democrat leadership intends to force-feed us the Clinton health plan.

Earlier this year, the CBO agreed that the Clinton plan should be completely on-budget. The mandated premiums are taxes, and the massive new entitlements are outlays.

From the start of this debate I have fought to ensure that any health entitlement is subject to budget discipline. With $200 billion deficits we cannot afford another out-of-control entitlement.

Earlier this year we put an on-budget requirement in the budget resolution, only to have it removed by the Democrat leaders. They will no doubt continue their fight against honest budget treatment. I wonder why?

I will not let this issue be swept under the rug. When ClintonCare comes to the floor I am prepared to offer an on-budget amendment.

The best medicine for America in the health care debate is honesty. Federal mandated premiums are tax increases.

THE TRAGEDY IN PENSACOLA

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHENK. Madam Speaker, I rise today with mixed emotions ranging from sadness to outrage. At 7:25 this morning in Pensacola, FL, a radical anti-abortion activist shot and killed two men and wounded a woman outside a family planning clinic. The two men were escorts who accompany women entering the clinic; the woman, a clinic employee.

The alleged gunman, Paul Hill of Pensacola, is the director of the radical group "Defense America of Pensacola," a group that advocates the use of force against both clinics and doctors, in other words, a terrorist group.

Madam Speaker, this Congress has passed legislation guaranteeing free and safe access to family planning clinics. We must now prosecute these terrorists to the full extent of the law.

We have made much of the so-called radical right; my colleagues, this is the horrible face of the radical right.

Madam Speaker, I pray for the families of the victims, and I pray that this type of tragedy will not occur again.

SUPPORT THE CONGRESSIONAL ACCOUNTABILITY ACT

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, today the Congressional Accountability Act is before the Rules Committee. This bill, H.R. 4822, will make certain laws applicable to Congress. I support H.R. 4822, I say to my colleagues, both in letter and in spirit.

But we cannot let H.R. 4822 be the end of our efforts in congressional reform. H.R. 4822 will come before the House the week of the eighth, most likely under suspension. This does not allow us the opportunity to strengthen it further by amending away the perks and privileges of Congress.

While I applaud the efforts of my colleagues, Mr. SHAYS and Mr. SWETT, again I ask for support for my congressional reform bill, H.R. 4444.

My bill brings Congress under laws that H.R. 4822 does not and also does away with the perks and privileges of office that have resulted in the voter revolt brewing across the country.

H.R. 4822 is a needed first step, and I support it. Support H.R. 4444 to finish the journey to total congressional reform.

□ 1130

REDACTED

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Madam Speaker, during the first Whitewater hearing, we have heard a lot of complicated terms and legalistic phrases.

One of these terms is redact. What the heck does redact mean?

Well, according to the dictionary definition, it means to make ready for publication, to edit or revise. In connection with the Whitewater investigation, redact takes on an even more interesting definition.

Administration officials certainly did redact documents before giving them to Republicans. Entire pages whited out, 40 page memos, completely blank.

Thus, when it comes to Whitewater, to redact means more than simply editing. It means to keep the truth from the American people.

Madam Speaker, we need less redact and more reassurance that the American people will hear the truth.

CONDUCT AT WHITEWATER COMMITTEE HEARING

(Mr. WATERS asked and ws given permission to address the House for 1 minute.)

Ms. WATERS. Madam Speaker, last evening a Member of this House, PETER KING, had to be gaveled out of order at the Whitewater hearings of the Banking Committee. He had to be gaveled out of order because he badgered a woman who was a witness from the White House, Maggie Williams. I am pleased I was able to come to her defense. Madam Speaker, the day is over when men can badger and intimidate women.

Mr. SENSENBRENNER. Madam Speaker, I demand the gentlewoman's words be taken down.

The SPEAKER pro tempore (Mrs. MEEK of Florida). The gentlewoman from California [Ms. WATERS] must suspend and be seated.

The Clerk will report the words.

Ms. WATERS. ——

The SPEAKER pro tempore. The gentlewoman will please desist and take her seat.

Ms. WATERS. ——

The SPEAKER pro tempore. The Chair is about to direct the Sergeant at Arms to present the mace.

□ 1150

The SPEAKER. The Clerk will report the words.

The Clerk read as follows:

He had to be gaveled out of order because he badgered a woman who was a witness from the White House, Maggie Williams. I am pleased I was able to come to her defense. Madam Chairwoman, the day is over when men can badger and intimidate women.

The SPEAKER. While in the opinion of the Chair the word "badgering" is not in itself unparliamentary, the Chair believes that the demeanor of the gentlewoman from California was not in good order in the subsequent period immediately following those words having been uttered.

Accordingly, the Chair rules that without leave of the House, the gentlewoman from California may not proceed for the rest of today. The Chair would ask whether there is objection to the gentlewoman from California receiving the right to proceed in good order.

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, does that mean that all of the words will be taken down subsequent to the point that she was ruled out of order and stricken from the RECORD?

The SPEAKER. None of those words will be in the RECORD, the Chair will state to the gentleman. None of the words will be in the RECORD subsequent to that since she was not recognized.

Mr. SOLOMON. I thank the Chair.

Mr. Speaker, I have no objection.

Mrs. SCHROEDER. Reserving the right to object, Mr. Speaker, I am a little puzzled by the word "demeanor." I was in the Chamber at the time, and I did see the Chair try to gavel the gentlewoman down, but I can understand why she could not hear, because there were so many people at mikes and I think she was confused by that. So I am a little troubled about that. How can you challenge "demeanor"?

The SPEAKER. The Chair wishes to advise the gentlewoman from Colorado that it is the opinion of the Chair that the chair at the time was attempting to insist that the gentlewoman from California desist with any further statements and sit down. She did not accord cooperation to the Chair and follow the Chair's instructions. Consequently, it is the find of the Chair that her demeanor at that point in refusing to accept the Chair's instructions was out of order.

The Chair wishes to ask if there is objection to the gentlewoman from California proceeding in good order.

Mr. WALKER. Reserving the right to object, Mr. Speaker, do I understand that the Chair is putting the question to the House under unanimous consent of the gentlewoman being able to proceed for the rest of the day?

The SPEAKER. That is correct.

Mr. WALKER. I thank the Chair.

The SPEAKER. Without objection, so ordered.

There was no objection.

NOW IT'S THE FOREST GUMP PLAN

(Mr. HERGER asked and was given permission to address the House for 1 minute.)

Mr. HERGER. Mr. Speaker, life seems to be imitating art in the health care debate as the Clinton administration's strategy calls to mind this summer's movie blockbusters.

The Clinton plan may be dead, but the Democratic leadership is busy crafting a Forest Gump plan. It's like a box of chocolates, since we do not know what we are going to get.

Meanwhile, the First Lady has boarded the scariest bus trip since the movie "Speed" to sell the as-yet unknown plan.

The public recognizes promises of something for nothing as "true lies." No wonder congressional support for a Government takeover of health care is melting fast. Members who support it will be blown away at the polls this November.

CLINTON HEALTH CARE BILL UNDER A NEW NAME

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, I say to my colleagues that the demise of the Clinton health care bill has been greatly exaggerated. Last week Democrat leaders from the Senate and the House met with President Clinton and declared the Clinton health care bill dead. But we are going to have a new bill.

The new bill happens to have all the same elements of the Clinton health care bill. We are still going to have employer mandates. It is going to cost a lot of people their jobs. It is going to cost those who keep their jobs, and there will be reductions in their wages and reductions in their fringe benefits. We are still going to have global budgets, and it will mean nothing more than rationing.

So I would say to my colleagues that the American people know that the Government is too big and spends too much. Let us not make the Government bigger and keep spending more, while at the same time injuring the health care delivery system that most Americans today find highly acceptable.

ABORTION CLINIC KILLING

(Ms. FURSE asked and was given permission to address the House for 1 minute.)

Ms. FURSE. Mr. Speaker, I rise today to call attention to a horrible tragedy that has occurred this morning in Pensacola, FL. Two people were shot and killed and another person was injured outside an abortion clinic today, and a well-known abortion protester was arrested.

This is not the first time this kind of violence has occurred. This is a coordinated effort of intimidation and terrorism. Last year David Gunn was shot to death outside a Pensacola abortion clinic, and an Oregon woman is in prison for shooting another abortion doctor. Let us not forget that abortion is legal in this country.

Mr. Speaker, this violence must stop. This Congress has passed and the President has signed into law the Freedom of Access to Clinic Entrances. This makes it a Federal offense to physically obstruct access to a clinic. I call on my colleagues to set aside their partisan differences and to work to protect doctors' and workers' right to a safe environment and a woman's right to these legal services. We owe the American people no less.

THE PENSACOLA ABORTION KILLINGS

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, when I got back to my office this morning after the caucus and heard about the shootings in Pensacola, FL, at the clinic, my heart wept for those victims and their families.

Mr. Speaker, I weep for this country. There is a growing atmosphere of hatred and of violence that this Nation cannot long endure.

Mr. Speaker, we must tell the men and women of our country, we must tell the fathers and mothers and tell the grandmothers and grandfathers that it is time for us to set a better example for the children of this country. It is time for us to break the chain of violence and hate.

Mr. Speaker, hate is not a family value.

□ 1200

TRAGEDY IN PENSACOLA

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, for those of us who believe strongly in a woman's right to choose, today is our worst nightmare. We have been winning the battles in the courts, but we are at risk of losing the war at the clinics.

This shooting is a direct assault on the rights of all American women. The gunfire in Pensacola is just the latest in a series of attacks against patients, clinics, and doctors. Make no mistake: anti-choice extremists are waging a nationwide war on the right to choose.

In Pensacola they use a gun. Here in Washington they hope to use health care reform. The goals are the same: to take women backward, to marginalize women's health care, to restrict access to reproductive services.

We cannot allow them to succeed.

Health care reform is an historic opportunity to affirm the right to choose by guaranteeing basic health care for all American women. This is an opportunity we cannot afford to lose.

THE PUBLIC HEALTH IMPROVEMENT ACT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, every day, we take for granted that the water we drink, the food we eat, and the air we breathe are not contaminated; that the food in our local restaurants is safe and that we are protected from communicable and infectious diseases. Yet, as a nation, we spend far less on these and other core public health activities that prevent disease, illness, disability, and injury than any other industrialized nation, and our patterns of morbidity and mortality reflect this. In fact, public health expenditures have decreased by 25 percent relative to national health expenditures over the last decade.

An estimated 70 percent of all health expenditures are attributed to preventable conditions. Yet, we continue to spend far more on costly curative treatment of these conditions than we do on prevention of them. Last year, we spent as much on treatment of preventable motor vehicle accident victims as we did on Medicare; the economic burden of preventable cardiovascular disease was greater than what the U.S. Government collected in corporate tax revenues.

Today, I am introducing the "Public Health Improvement Act." This bill promotes and finances prevention of illness and accidents and promotion of public health through two distinct approaches: it strengthens the capacity of local and state public health departments to carry out core functions, and it expands access to preventive and primary care services for vulnerable and medically underserved communities. This bill invests Federal dollars in the beginning years of life, and focuses on prevention, so that they'll be lives of quality rather than at the end of life, with its focus on the most costly of cures and procedures.

Think how excited we would be over the impact of a new surgical treatment that would correct millions of cases of heart disease; a new drug that would cure an epidemic likely to infect millions of Americans; a new perinatal therapy that would help over thousands of low-birthweight babies survive. But we already have the knowledge to prevent the heart disease; to prevent the epidemic; to prevent the low birthweight baby—that is real health care progress; that is what our public health system has the potential to accomplish, and that is the crux of the Public Health Improvement Act. Expanding access to health insurance will not resolve the major public health problems facing our nation today, most of which are behavior-related. AIDS, substance and alcohol dependency, cardiovascular disease, accidents, violence, tobacco-related disease, and environmentally induced illnesses are outside the purview of the doctor's office. I urge my colleagues to focus on improving health status and reducing the economic burden of unnecessary illness and disease. I urge you to support the Public Health Improvement Act.

TRIBUTE TO THE HONORABLE PETER T. KING, MEMBER OF CONGRESS

(Ms. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MOLINARI. Mr. Speaker, the gentleman from New York, PETER KING, is a legislator of utmost integrity. He is fair and he is honest, with men and women. He is tough and he is conscientious on issues facing men and women. And he is a credit to all the voters who bring him to this Chamber, today, and especially during the investigation of the Whitewater hearings.

My colleagues, it is not always easy being a woman in today's society, but we can't always use it as an excuse when we are challenged. And we should never use it as an attack, when it could hurt and impugn the integrity and the respect of an individual like Congressman PETER KING.

I stand here in the well as a woman who is very proud to consider him a close friend and, in many ways, someone I seek to follow in the legislative battles that are conducted on the floor.

INTRODUCTION OF THE EMPLOYMENT ENHANCEMENT REFORM ACT OF 1994

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, I rise this morning with my colleagues, JOHN KASICH, JOHN MICA, and 20 of our colleagues to introduce legislation to improve the Federal job training effort.

The Employment Enhancement Reform Act of 1994 will simplify and streamline the flow of Federal job training dollars to the States to better serve unemployed Americans and hasten their reentry into the work force.

The act consolidates over 90 Federal job training programs into one flexible block grant program. States will have one set of job training definitions and regulations to implement, and one funding stream to monitor. The result: More resources devoted to job training services and fewer dollars being wasted on administrative costs.

States will also have the flexibility to target job training funds where they are needed most and to be creative in providing this training. A single, more efficient job training effort will also reduce the deficit by $7 billion over 5 years. This legislation will make our job training dollars work better and put people back to work. I urge my colleagues to join us in this effort.

U.S. DEFENSE BEING WEAKENED BY DISPERSAL OF TROOPS ABROAD

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I am very concerned about the President's announcement on Rwanda today. First of all, because, to the best of my knowledge, there has been virtually no consultation with the Congress. Second, because we now have, in a Clinton administration which is cutting defense, Americans troops preparing to invade Haiti. We have a blockade or embargo around Haiti which is drawing forces away from drug interdiction to interdicting supplies to Haiti. We have American troops around Iraq. We have Americans now being sent into Rwanda. We have a proposal to send potentially 25,000 Americans to Bosnia as peacekeepers. Finally, we are reinforcing Korea where there is still a grave danger of a crisis which could explode into war.

I just wish that the administration would carefully look at what it is doing to weaken defense while further dispersing Americans across the planet.

I would urge my colleagues to look at what we are doing to airlift. All over the planet, every time you see an American airlifter showing up, we are wearing out the airplanes, we are wearing out the crews, and we are, frankly, exhausting our military. We are engaged in a process of hollowing out, and I think it is very, very dangerous.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair will remind visitors in the gallery that it is contrary to House rules to show any manifestation of support or opposition to the proceedings of the House.

WAIVING PROVISIONS OF THE LEGISLATIVE REORGANIZATION ACT OF 1946 REQUIRING ADJOURNMENT OF CONGRESS BY JULY 31

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 495

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House a concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year. The previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may use. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 495 provides for consideration in the House of a concurrent resolution waiving the requirement of section 132 of the Legislative Reorganization Act of 1946. The rule orders the previous question on the concurrent resolution without intervening motion.

Mr. Speaker, my colleagues may be wondering what we are doing here. An obscure section of the Legislative Reorganization Act of 1946 established a joint rule of Congress. The joint rule requires that Congress adjourn sine die by July 31 of each year. It takes a concurrent resolution adopted by both Houses each year to authorize continuation of the session past July. The joint rule grants privileged consideration to the necessary concurrent resolution but only in odd-numbered years.

In even-numbered years the concurrent resolution is not privileged, so the normal course is to bring up the matter under unanimous consent. Yesterday there was an objection. That is why we need a rule today.

The requirement to adjourn by July 31 may have made sense in 1946. Back then the fiscal year ended in June and perhaps it was realistic to expect to adjourn before August. But Congress has not adjourned sine die before August in almost 40 years—July 27, 1956, was the most recent time. In fact, we have not adjourned sine die before October in almost 35 years—most recently on September 27, 1961.

Frankly, we ought to repeal section 132. That would eliminate what has become an unnecessary, irrelevant procedure each year. We could continue in session until we are ready to adjourn and then consider an adjournment resolution under the regular order; adjournment resolutions are privileged in the House.

I have tried to delete section 132 for many years. In fact, the House passed legislation I introduced in the 101st Congress but it went nowhere in the Senate. In recent years I tried to accomplish this through an amendment to the legislative branch appropriations bill but certain Members on the other side of the aisle objected. And I will continue to pursue the means to repeal this obsolete joint rule.

Now what would happen if we don't pass the concurrent resolution authorizing us to stay in session? The only precedent I can find dates back to 1949. Speaker Rayburn, in August 1949, overruled points of order questioning the authority of the House to meet in the absence of a concurrent resolution. The state of war from World War II remained in effect and Speaker Rayburn noted that section 132 allows Congress to continue its session in the event of war.

But legitimate questions might be raised about the validity of the actions of this Congress in session beyond July, in the absence of a concurrent resolution.

I don't want to prolong the debate. It is necessary to pass this rule and pass the concurrent resolution and I urge my colleagues to do so.

Mr. Speaker, I yield to the gentleman from New York for purposes of debate only.

□ 1210

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished chairman of the Rules Committee for yielding me this time.

Mr. Speaker, I rise in opposition to this rule not because I think we can realistically adjourn the Congress on July 31 of this year as required by the 1946 Legislative Reorganization Act.

Instead, I oppose this rule to protest the fact that we have not had a comprehensive reform of this Congress since the enactment of that 1946 act.

Nothing more underscores the need for a bold overhaul of this Congress than antiquated provisions such as this which have not been revisited for nearly a half a century. In many respects we are still a mid-20th century Congress attempting to deal with the problems of the 21st century.

Is it any wonder the American people are losing respect for their Congress when they see us nearing the end of a Congress and still trying to devise major legislation on such pressing issues as health care, welfare, crime, and campaign reform?

Mr. Speaker, the authors of the 1946 Legislative Reorganization Act, had the best of intentions when they established the goal of adjourning each session of Congress no later than the end of July of each year.

What they were trying to say was that we should do a better job of getting our work done earlier so that we could return to our districts and constituents for the balance of the year and get back in touch, with their real problems and needs. Only in that way could we return in January refreshed and better able to truly represent the best interests of our districts and Nation.

There are those who would argue that the day of the citizen legislator are long gone, and that Congress must have full-time, professional politicians working in a full-time Congress. But, when I hear those arguments I am frankly revolted.

To me that is running up the white flag on democracy and selling-out the people we represent. And don't think for a minute that our constituents haven't noticed this shift in the nature of their Congress. That is precisely why the people are so disgusted with us and are threatening to kick so many incumbents out of office this November.

They are not impressed with full-time, professional politicians or full-time Congresses. They want Representatives who are truly a representative cross-section of the citizenry so that they will have a truly representative government.

And to have that, they know that we must return to our districts more often and really listen to what is concerning them and how they think we can better represent them in making the laws they must live under.

Mr. Speaker, the Joint Committee on the Organization of Congress, of which I was privileged to be a member, was very sensitive to these concerns and very sensitive to the declining public support for this institution.

The final report of the House members of the joint committee issued last December pointed out that the joint committee was created back in 1992 because, and I quote, "the issues facing Congress had changed greatly in the last 50 years while the internal structure had not."

And the report goes on,

> Members were increasingly frustrated with the process. And the public's usual skeptical attitude toward Congress plunged toward cynicism and major discontent as reflected in public disapproval ratings which hit an all-time high of 77 percent in the summer of 1992.

That's when the joint committee was created—in the summer of 1992. And yet, here we are in the summer of 1994, with public disapproval ratings still running high. We've done nothing to reverse that dangerous attitude. The recommendations of the Joint Committee to reform this institution continue to languish in various committees of this House—some 6 months after they were introduced in bill form last February.

Today, the Rules Committee is taking one piece out of that reform bill in a futile attempt to demonstrate movement. Yet all it demonstrates is the truth of my prediction that the leadership is embarked on a 3-D strategy to kill comprehensive reform—divide, dilute, and delay.

How can we go back to our districts and face the voters when we have sat on our hands month, after month, after month and done nothing to modernize this institution and make it run better? Do you really think they will be bought-off with a few crumbs that won't do one thing to improve the operation of this Congress?

Mr. Speaker, I suspect this House would come much closer to meeting the July 31 adjournment date we are waiving by the resolution if we made a few major changes we have recommended.

I am talking about changes that would require that we organize each House and its committees earlier and report bills and pass major legislation by midyear instead of the year's end; changes to reduce the number of overlapping committees and subcommittees and staff and Member assignments; to outlaw ghost voting in committees and one-third and rolling quorums.

In short, I am talking about changes to make this a more deliberative, responsive, accountable and representative institution. Nobody says that democracy can ever be made perfectly efficient. It is inherently inefficient.

But we have made it even more inefficient by our huge congressional bureaucracy and internal turf fights that have tied things in knots around here.

Some 12 House committees alone have been working on a single health care bill—over half the House committees. Is it any wonder we do not yet have a coherent and workable health care bill on the floor of this House?

In conclusion, Mr. Speaker, I urge a "no" vote on this resolution as a protest against the abject failure of the House Democrat leadership to even permit a vote on a comprehensive congressional reform plan that will solve the problems that keep us here for months on end with little to show for it.

Mr. MOAKLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], a very valuable member of the Committee on Rules who has worked on congressional reform.

□ 1220

Mr. GOSS. Mr. Speaker, I thank the distinguished ranking member of the Committee on Rules from New York, the gentleman from New York [Mr. SOLOMON], for yielding me this time.

Mr. Speaker, I think it is very clear that we are being asked here to waive a requirement to adjourn sine die by the appointed date of July 31. That is a relatively straightforward issue and clearly we are going to have to do that. But in the process of the remarks the gentleman from New York has made, it is very clear that it sounds like we need to make some changes, because times have changed and our workload has changed and we need to have a good opportunity and a good forum to deliberate that change. What made sense back in 1946 may or may not make sense today. But I think the gentleman from New York is right in saying that comprehensive reform has been blocked by the Democratic leadership. The efforts of the Joint Committee on Reform are not going forward in a bipartisan way, the way they were intended or the way we expected. The Democratic leadership has intervened and said, "No, we are going to trifurcate it, bifurcate it, divide it up and chop it." And because of this we are never going to get anywhere. It is going to end up looking like chopped liver and it is not going to do the job when we get through.

I think I am like most Americans when I say I am a little skeptical of the promises of Democratic leadership to say, "Well, we're going to get the comprehensive reform." About 77 percent of Americans do not think that Democratic leadership is committed to comprehensive reform and this is one more example that they really are not.

I want to talk about another type of reform, and another matter that has come upon us. It is sort of ironic that yesterday was the 79th anniversary of the invasion of Haiti. And to celebrate that fact, Haitians demonstrated in front of the American Embassy yesterday and, I understand, into the morning hours of today. So here we are talking about when we are going to adjourn this House at some point this summer. At the same time, the White House is again talking about invading Haiti—Seventy-nine years, four generations later—I think the United States would have learned by now. They do not like American invasions in Haiti and such a move will not accomplish anything right now. So here we are with the White House talking about another invasion of Haiti.

It turns out, Mr. Speaker, that most Americans do not want to invade Haiti. It turns out actually that most Members of this House apparently do not want to invade Haiti, and I do not think I want to invade Haiti. I agree with those people. I think it is a very bad idea. But I certainly think it is a very, very poor idea that there would be any type of military action in Haiti taken out at a time when the Congress was not in session. I believe that it is the responsibility of Members of both bodies to be available for deliberation, consultation, advice, consent and a vote when we talk about using our men and women in uniform and putting them in harm's way. There has to be a justification for that and that is part of our say-so and that is what the people of this country have elected us to talk about.

So I am going to urge that we do not adjourn without some type of provision for calling us back in session should there be some type of a military intervention by United States military in Haiti.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], the distinguished chief deputy whip, and a member of the Congressional Task Force Reform Committee.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me the time.

We have a problem. The problem is that Congress is broke and we ought to fix it. Much of what is broke in the Congress is right here in this book, in the rule book. There is a lot of things that we ought to change simply because they no longer work. The gentleman from Massachusetts in his speech on this particular rule was absolutely right. It do not think anybody believes that Congress can get its work done by July 31 anymore. So this is something we would have to do. The problem is that we never get a chance to do it. Why? Because much of the rest of what is broke in Congress, the Democrats in Congress do not want to consider. They do not want to consider revising the committee structures. They do not want to consider getting rid of the rule that says that people can vote in committee without actually being there. They do not want to do any of these things. We put together a committee that a lot of us worked hard on, the Hamilton-Dreier committee. A lot of us worked hard to come up with a set of reform proposals. And guess what? It is bleeding to death in the Committee on Rules. We may get out one little piece of it sometime next week. But the rest of the proposal is dying because we are not getting the stuff done that we should get done. We are not fixing what is broke. It is high time that we understand that this particular item that we have before us is not isolated. This is one more example of the fact that we simply have to make this institution work better. We are not going to do that in my view, because I think when we get to September and October, we will find that we just do not have time to take up this very controversial idea of reforming the House. So we will end up having not done anything to reform the process once again. That is disturbing. It brings us to the ludicrous kind of thing that we have today where we have to come to the floor on the question of waiver.

What did we want to do last night? They wanted to do this by unanimous consent last night so that they did not have to go through this kind of embarrassment and have this actually discussed on the House floor. We ought to be discussing this kind of thing because this is exactly what middle-class America has decided is wrong with this Government and with this Congress. Middle-class America has decided the Government is too big and spends too much and they know that one of the reasons why that is a problem is right here in the U.S. Congress and we will not clean up our act. It is high time we clean it up. If we are going to help the American people get back the dream that they think they have lost a while back, it is going to have to happen because we clean up our act here and we are not prepared to do that yet.

This particular bill ought to be passed, we ought to be able to go ahead with our work. But for Pete's sake, if anything describes the fact that this place is broke and we ought to fix it, it is what we are doing here right now.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Chester, OH [Mr. BOEHNER].

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

Mr. Speaker, I think the gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules, said it all when he introduced the resolution that he brought to the floor that we are debating now.

This is the 1946 Congressional Reorganization Act that we are trying to waive the rule that we should adjourn by July 31. But let us go back to the 1946 Congressional Reorganization Act. That is the last time there was serious reorganization of the way this body does its work. The committee system has not changed. The rules have not changed much.

Can you imagine any business in America, any other organization in America that has the same operating structure they had in 1946? The same management structure they had in 1946? Operated under the same procedure since 1946? That is what we have in Congress today.

Many of us have been pushing for real reform of this institution. Why? Because the American people keep saying, "Congress, go this way." The American people look up and see Congress going this way and they cannot understand why.

Part of it is because the leaders in this institution have tremendous control over what happens. They use and abuse the rules of this House every day to literally control the outcome of what this Congress produces. That is not what the American people want and it certainly is not what the Founders of our country wanted.

In this effort to reform Congress, the Speaker decided he would move a reform bill last October and promised us we would have a reform week. it did not come. They said, well, we will do it in November of 1993. It came and went as well. And earlier this year after repeated attempts at trying to bring reform to the floor, we were told, well, by Easter we will do it. Well, Easter has come and gone and we are still waiting for reform of this institution.

Mr. Speaker, the time for action is now. The system that we have in Congress is fatally flawed. It is not allowing the American people's will to come to this floor. So I say to my colleagues, I understand the need for the resolution today, but the question is, when are we going to have real reform of this institution?

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington [Ms. DUNN], another member of the joint committee who served and made every meeting that we held over that whole year period.

□ 1230

Ms. DUNN. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

Mr. Speaker, this Legislative Reorganization Act that we are now being asked to waive, that is the adjournment by July 31 in even years, brings to my mind how ludicrous the whole situation of congressional reform is here in the House of Representatives.

A year and a half ago the committee I was pleased to be a member of, the only freshman member of, began a series of 6 months of meetings on congressional reforms. It is now brought to my mind that we have not done a complete reform of the House rules since 1946.

I think the folks in my district, the Eighth District of Washington State, will not be surprised to hear that yet again reform has been put on the back burner, yet again we are told that we may have a chance to consider some of the reforms that we determined were absolutely necessary to this House during our hearings last year, that we were stonewalled from presenting by December 31, which had been the intent of the resolution that put our reorganization committee together. This Legislative Reorganization Act of 1946 tells me that it has been a heck of a long time since we have taken an in-depth look at the rules of the House of Representatives. Still in the United States Congress there are no open meeting laws. My Congressional Sunshine Act is one that would be put before the House if we were able to consider in toto our reform package. It would require that all meetings and conferences that are held here in the House of Representatives be open to the press or to the people who pay for that system. Right now we can hold closed meetings by a simple majority vote of a committee, and the folks who pay for this process are kept out of meetings as serious as the Ways and Means Committee where they write tax policy that the people are forced to pay for.

There is no delineation between debate on the floor or in committee meetings. We often have a conflict in whether we are on the floor or whether we are in committees.

I would say that this is an issue that the Democrat and Republican freshmen agree on. We should set aside a time for deliberative debate on the floor of the House versus what goes on in our committee meetings. As it is, now we are racing back and forth on three or four critical things we must be doing at one time so that we have to choose the most important when we should be able to offer all our time and our services. It could be done through a computer scheduling system, not a difficult deal, but it shows the arcaneness of the rules around here.

Lastly, there has been no reform of the committee system. We must do this. It takes far too long for important issues to the public to come before committees.

Mr. Speaker, I have hope that eventually we will be able to consider our reform package, even if it is only after the beginning of next year's session when we expect to welcome 30 new Republican freshmen onto the floor of this House who will be finding a coalition for reform waiting for them.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Claremont, CA [Mr. DREIER], who is a member of the Committee on Rules and who was cochairman of the Joint Committee to Reform this Congress.

Mr. DREIER. Mr. Speaker, I thank my friend from Glen Falls for yielding the time, and appreciate not only his leadership on the Rules Committee, but also the time and effort he put into that 1-year committee, the Joint Committee on the Organization of the Congress that had 37 hearings, 243 witnesses, Members of Congress, former members, outside groups who came before us saying that the important thing for the U.S. Congress to do is to bring about the reforms which the American people believe are important, and what I continue to believe a majority of this House and our colleagues in the Senate would like to see happen.

What we are doing now is debating whether or not we should move this date, a time in the 1946 Legislative Reorganization Act. Frankly, it underscores the need to reform the place, because it has been virtually half a century since a bipartisan, bicameral, equal number of Republicans, equal number of Democrats committee has been put together to do this.

My colleagues on the joint committee have talked about some of the changes that the American people want so that this institution can become more accountable to them and more deliberative, including things like eliminating proxy voting. Chairman MOAKLEY is here, and he knows very well we do not have proxy voting up in the Committee on Rules, and I praise him for maintaining the fact that we do not have proxy voting there. But, unfortunately, other committees in the House have proxy voting, and we have case after case where it is really abused. I consider it an abuse when Members' votes are cast and they do not have any idea what those votes are. That happens on a regular basis in committees other than the Rules Committee and the Appropriations Committee and I guess the Ethics Committee and the Veterans' Affairs Committee. But most all of the other committees in the House use proxy voting, and frankly, most all of the other committees abuse proxy voting.

The American people have to show up for work. I think Members of Congress should show up for the votes that they cast. The argument given as to why they do not go is very simple, "Gosh, I've three markups going on at the same time."

We will have an opportunity if we could bring about this reform of Congress package, a chance to deal with that. There are 266 committees and subcommittees in the House and Senate. It seems to me that might just be a couple too many for the 535 of us.

But, Mr. Speaker, we have a chance to bring about reform of the committees structure. I know it is difficult. I know we have to deal with personalities in doing that, and I know that it is an uphill battle. But if we are going to truly become more accountable and more deliberative, the way the Founders envisioned it, and the way the American people want us to be, it is essential that we proceed with that reform package under a generous rule which allows for us to consider these different ideas.

So, Mr. Speaker, I am strongly opposed to what we are doing here because it underscores the fact that the change of the reform committees needs to be moved forward immediately. I hope very much, I would say to my distinguished chairman, Mr. MOAKLEY, that we can move H.R. 3801 to the House before we adjourn for the August break. I know that different arrangements have been made indicating that we will have the package brought up sometime before we adjourn for the election.

Unfortunately, as I listen to that strong commitment that has been made, I am reminded of commitments that I had that this would be done before the end of calendar year 1993, and when that date slipped I was promised it would take place early in the spring of 1994, then late in the spring of 1994, then early in the summer of 1994, and now we are approaching the end of the summer and we are being promised that this will be brought up in the fall before we adjourn for elections.

Mr. Speaker, it seems to me that it is a real mistake for us to be doing it this way. This is a wrong way for us to be doing this. We should be keeping H.R. 3801 intact. We should not be allowing this divide and conquer strategy to be utilized to perpetuate the status quo, which unfortunately is exactly what happened.

I urge a "no" vote on this rule, and I thank my friend for yielding the time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Peoria, IL. [Mr. MICHEL], our distinguished Republican leader who is going to be retiring this year, and who is going to be sorely missed.

Mr. MICHEL. Mr. Speaker, I cannot resist the opportunity to make some appropriate, what I think would be appropriate comments at this juncture. A number of years ago when I was a freshman Member, there used to be an elderly gentleman from Illinois, Noah Mason, who used to sit right in the aisle on that second row there, and that was his reserved seat. He was a former school teacher and served on the Ways and Means Committee.

In those early days, whenever we got to July 31, he used to rise in his chair and say,

> Mr. Speaker, I want to serve notice on the House that this is July 31st. Under the Reorganization Act of 1946 we ought to be going home. So I just want to let you all know, I'm leaving tonight and spending the rest of the year with my constituents.

That is the way it ought to be, 7 months here and 5 months back home with the folks.

I will tell colleagues, Noah Mason would be a hero to the American people now, especially those Americans who might prefer to put off some of the legislative proposals that are currently before the House. According to the Legislative Reorganization Act of 1946, the House is supposed to adjourn sine die this Sunday.

□ 1240

Now, let me give you the direct quote: "Section 132(a). Unless otherwise provided by the Congress, the two Houses shall adjourn sine die not later than July 31 of each year."

As we all know, Congress will not adjourn today, even though, according to the latest polls, most Americans wish we would go home, listen to their fears and concerns, and do a better job representing their interests.

As it stands now, the Congress will continue to work in August, September, and October, passing laws, spending money, and enacting mandates.

It is altogether fitting that today the majority waive one of the reform provisions of the Legislative Reform Reorganization Act of 1946, as the Democratic leadership ponders how to sink the Joint Committee on the Organization of Congress' reform recommendations.

The Democratic majority cannot abide by old reforms, so it is no wonder they would rather not enact some new ones.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

It is Friday, and I know Members are trying to get home and do what we have been talking about, talk to the people back home so that they will have an understanding of what they should be doing here. So I will not delay the House. I am not going to ask for a recorded vote. I will shout "no" on the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MOAKLEY. Mr. Speaker, pursuant to House Resolution 495, I call up the concurrent resolution (H. Con. Res. 275) waiving the requirement of section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year, and ask for its immediate consideration.

The SPEAKER pro tempore. The clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 275

Resolved by the House of Representatives (the Senate concurring), That, notwithstanding the provisions of section 132(a)(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain or for adjournment sine die.

The SPEAKER pro tempore. Under the rule, the previous question is ordered on the concurrent resolution.

The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4801, SMALL BUSINESS REAUTHORIZATION AND AMENDMENT ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 494 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 494

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4801) to amend the Small Business Act, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committee on Small Business now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of the bill modified by the amendments recommended by the Committee on Small Business now printed in the bill and by the additional amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. No other amendment shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to my dear friend, the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

During consideration of this resolution, Mr. Speaker, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 494 is a rule that provides for the consideration of H.R. 4801, the Small Business Reauthorization and Amendment Act. The resolution provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Small Business Committee. The rule waives all points of order against consideration of the bill and makes in order an amendment in the nature of a substitute as an original bill for the purpose of amendment. The substitute consists of the bill as modified by the Small Business Committee amendments now printed in the bill and other amendments printed in part 1 of the report to accompany the rule. The substitute shall be considered as read.

The rule makes in order no other amendments except those printed in part 2 of the report to accompany the rule, to be considered in the order and manner specified in the report, with debate time also specified in the report. The amendments are not subject to amendment, are considered as read, and are not subject to a demand for a division of the question. All points of order are waived against the amendments in the report. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4801 provides authorizations for fiscal years 1995 to 1997 for programs administered by the Small Business Administration, the primary Federal agency with the mission to administer programs that provide assistance to small businesses. A major function of SBA is to make capital available for those small businesses which cannot normally secure financing in the private sector. The bill authorizes $175 million in direct loans, $12.32 billion in loan and debenture guarantees and $1.8 billion surety bond guarantees for fiscal year 1995.

The bill makes improvements in the Microloan Program which provides loans averaging $10,000 per borrower. The bill would delete limitations on the number of intermediaries or lenders per State under the program, delete the dollar limitation on these intermediaries and direct equitable allocation of program funds between urban and rural areas.

The bill improves loans for export purposes by allowing lines of credit without the current 3-year repayment requirement. The bill also provides up to a 90-percent guarantee on large export loans by allowing guarantees of standby letters of credit and by allowing larger portions of SBA loans to be used for working capital purposes.

The bill establishes an Accredited Lenders Program for Certified Development Companies. These lenders would receive priority in the processing of their loan applications. The bill establishes the Premier Lenders Program for Certified Development Companies under which participants would be able to approve SBA guaranteed loans of behalf of the SBA directly.

The bill provides assistance in the development of women-owned businesses by establishing an Office of Women's Business Ownership at SBA and by establishing an Interagency Committee on Women's Business Enterprise.

The bill also establishes a 3-year pilot program to provide procurement opportunities for businesses with 10 employees or less and requires SBA to prepare a report to Congress on the impact of all Federal regulatory and tax requirements upon small businesses. Finally, the bill authorizes SBA to provide training on new manufacturing practices to small businesses to assist them in carrying out Federal contracts for the production of manufacturing components.

Mr. Speaker, House Resolution 484 is a fair rule that will expedite consideration of this important legislation. I urge my colleagues to support the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1250

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and my colleagues, I rise in strong opposition to this restrictive rule. The rule makes in order several amendments which may improve the bill. However, the bill does not address the palpable fear in most of the small business community that the Clinton administration and its allies in the Congress are about to ram an outrageous employer mandate down our throats.

The rule before us denies Mr. ROHRABACHER of California the opportunity to offer his amendment providing that no amounts in this bill may be used to provide financial or other assistance to illegal aliens.

Mr. Speaker, the Small Business Administration was established to look after the interests of small business in Washington. It was not created to be a regulatory agency but rather an ombudsman for the backbone of American business, and that is small business in America.

Similarly, in the legislative branch the Small Business Committee role is one of an advocate, not a regulator. Why then, Mr. Speaker, is the SBA, the Small Business Administration, promoting positions detrimental to the small businesses which they are charged to represent?

As we speak, Democrat leaders and a handful of committee chairmen are meeting behind closed doors to draft a health care reform bill that they hope to bring to the floor before the August district work period, before any American has a chance to look at it outside of the beltway here.

The plan advocated by the President and under consideration by the Democrats would reportedly require employers to pay up to 80 percent of the cost of health insurance for their employees, and everybody knows this is an outright job killer. Two million jobs, probably.

As its contribution to this debate, the Small Business Administration has produced documents favoring the Clinton-style Government-controlled health care plan. This is the SBA, the advocate of small business.

I believe this is contrary to the mission of that agency.

The gentleman from California [Mr. KIM] over here has offered an excellent amendment to deal with the untenable position that small businesses have been put in by the Clinton-controlled Small Business Administration. His amendment—and I wish Members back in their offices would listen to this—his amendment would simply state the sense of Congress that health care employer mandates may adversely affect the ability of many small businesses to remain in business in order to meet their obligations under the programs authorized by this act.

Small businesses in America create 75 percent of all the new jobs every single year, annually, in this country. If that goes through, instead of creating 75 percent new jobs, one small business creating 2 new jobs, that small business is going to lay off 1 or 2. That is how you get the 2 million, which raises the deficit by $40 billion every time the unemployment rate goes up 1 percent. You trigger in social programs that the city, county, town, village, State, and Federal level of $40 billion for each 1 percent. The amendment that he would offer would further state that none of the funds authorized to be appropriated by this act shall be used by the SBA to promote the inclusion of employer mandates in any national health care reform legislation.

Mr. Speaker, this germane amendment designed to address the terror that exists in small businesses today about the Democrats' health care reform was denied upstairs in the Committee on Rules; perfectly germane amendment, but it is not going to be allowed to be debated and voted on on this floor.

The ranking Republican on the Small Business Committee, the gentlewoman from Kansas [Mrs. MEYERS], sitting to my right, pointed out in the Committee on Rules yesterday that Small Business Committee bills usually come to the floor under suspension of the rules or under an open rule. In my 16 years here I have never seem a Small Business bill come to this floor under any kind of rule other than an open rule, which means Mr. KIM would have been able to offer his amendment and so would the rest of us.

This restrictive rule is an unprecedented procedure for a committee that usually has bipartisan support, and that is a shame.

The action of the Rules Committee in denying the Kim amendment makes it clear that small businesses do not have a seat at the drafting table for Democrats drafting a proposal here today.

Consider the lengths to which the Rules Committee went to make sure this amendment never hit the floor. Amendments were first required to be submitted to the committee in advance. That is unprecedented, never happened before in a small business bill.

Ten were submitted, five Democrats and four Republicans. That certainly was not a flood of amendments, as this is a relatively bipartisan bill. The bill itself is not a bad bill, it is a pretty good bill.

The Rules Committee could have made in order all of those amendments and under the House's light floor schedule this week—you know, we wrapped up business yesterday at 1:30, last night about 6—all amendments could have been debated and voted on in a reasonable amount of time.

But instead the Rules Committee resorted to power politics as usual.

The Democrat leadership blocked Mr. KIM's amendment on employer mandates precisely because they knew the bill would pass overwhelmingly on both sides of the aisle, a majority of Democrats voting for it, certainly all of the Republicans voting for it. Yet the Democrat leadership blocked it from being voted on on this floor.

Mr. Speaker, many of my constituents have asked how were such poor health care reform proposals developed? In the legislative and executive branches, the common thread has been secrecy and strong-arm tactics.

The First Lady's health care task force, now disbanded, is in deep legal trouble. As you recall, it was myself and a few others that got the hidden task force members out of the White House and gave it to the Wall Street Journal.

Earlier this week a Federal judge ordered the President's senior health adviser, including the First Lady, to stand trial on civil charges for producing a health care plan in absolute secrecy and possibly in violation of Federal sunshine laws.

It should be no surprise then that a poor executive process would lead to a poor legislative program.

Members are greatly concerned that when a health care bill eventually reaches this floor, they will not be given a separate vote on issues of employer mandates. The mandate will be included in an enormous omnibus package, and there may be 2 or 3 substitutes but there will not be 1 vote up or down on employer mandates. I would bet the kitchen sink that that is what happens.

If Members think that the Committee on Rules, the strong arm of the Democratic leadership, will allow that separate vote, boy, they sure have got another think coming.

Mr. Speaker, for those of you who have heard complaints in your town meetings back in your districts about brutal Government-imposed mandates, here is your chance to express the will of the Congress right here today. Make no mistake about it, a vote for the previous question on this rule we are debating right here is a vote for employer mandates on small business owners across this country. So do not try to weasel out; if you come over here when I ask for a vote on the previous question and you vote "yes" on that previous question, you are voting to jam down the throats of small business an 80 percent payroll tax on top of small businesses in this country and you are going to be held accountable for it.

So when the vote comes up, ladies and gentlemen, you vote "no" on that previous question and stand up for small business, just like the gentleman from New York just stood up.

Mr. Speaker, I would submit the following material to be printed in the RECORD:

The following are the recorded votes taken in the House Rules Committee on July 28, 1994 on H.R. 4801, the Small Business Reauthorization and Amendment Act of 1994. These votes are relevant to the debate on the rule providing for consideration of the bill, H. Res. 494 (House Report 103-627).

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 4801, SMALL BUSINESS REAUTHORIZATION AND AMENDMENT ACT OF 1994, THURSDAY, JULY 28, 1994

Open Rule—This amendment to the proposed rule provides for one-hour of general debate and an open amendment process. (Vote: Defeated 4-7). Yeas—Solomon, Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Bonior, Hall, Gordon, Slaughter. Not Voting: Frost, Wheat.

Kim (CA)—Sense of Congress that employer mandates would be destructive to small businesses and that the SBA should not use any funds authorized in the bill to promote the inclusion of employer mandates in health care reform legislation. (Vote: Defeated 4-6). Yeas—Solomon, Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Bonior, Hall, Slaughter. Not Voting: Frost, Wheat, Gordon.

Rohrabacher (CA)—Provides that no amounts provided in this Act may be used to provide financial or other assistance to illegal aliens. (Vote: Defeated 5-6). Yeas—Solomon, Quillen, Dreier, Goss, Beilenson. Nays—Moakley, Derrick, Hall, Gordon, Slaughter. Not Voting: Frost, Bonior, Wheat.

Adoption of Rule—(Adopted 7-4). Yeas—Moakley, Derrick, Beilenson, Bonior, Hall, Gordon, Slaughter. Nays—Solomon, Quillen, Dreier, Goss. Not Voting: Frost, Wheat.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	81	21	26	60	74

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 29, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993).
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE], chairman of the committee.

Mr. LAFALCE. I thank the chairman of the Committee on Rules for yielding this time to me.

Mr. Speaker, I just want to say that I admire tremendously the histrionic ability of the gentleman from New York [Mr. SOLOMON]. He has done a great job of emoting it.

The only difficulty is that this is the Small Business Administration Reauthorization Act, it is not the health care bill. The problem is that some Members have wanted to take what has been a totally nonpartisan effort over the years, the reauthorization of the SBA Programs, and make it into a political contest over what should or should not be in the health care bill.

I think you can have some debate on the rule, but I think that debate on the rule should be when the health care bill comes up. At least all the remarks of the gentleman up to now, virtually all of them, have been in connection with health care issues.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. I surely do.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, you know, nobody would like to make it more bipartisan than me. If we had been given an open rule, as the gentleman from New York [Mr. LAFALCE] has brought to this floor many times during his career—and he has been here a couple of years longer than I have—he has never brought a rule to this floor that has been restrictive.

□ 1300

This is a germane amendment. It is an amendment that would be allowed under normal rulings of the house. Let me read it to my colleagues:

None of the funds authorized to be appropriated by this act shall be used by the Small Business Administration to promote the inclusion of employer mandates.

I mean what is wrong with that? I mean it is germane according to the Parliamentarian sitting over there. I ask, "Why can't we have a debate on that and vote on it?"

Mr. LAFALCE. First of all, that was not the original amendment that was offered. The original amendment that was offered was a sense of Congress resolution with respect to certain health care issues.

Mr. SOLOMON. That is part of it, too. I did not read the first part of it. I just read the——

Mr. LAFALCE. All right; so that is part of it also——

Mr. SOLOMON. And it is germane.

Mr. LAFALCE. No, it is not germane. That belongs to the health care bill, and that is what we should be debating on.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. LAFALCE. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, let me just say I had the privilege of serving my first years in the Congress as a member of the Committee on Small Business, and we have regularly seen this bill come up under an open amendment process.

Now the distinguished committee chairman has just said that the Kim amendment is nongermane, when, in fact, it has been ruled germane by the Parliamentarian. It is determined that, as we focus on small business issues and the impact that the Small Business Administration has on that segment of our economy which creates jobs, that possibly we ought to look at this issue rather than letting the Democrat leadership simply say, because we are afraid of having a vote on the House floor on employer mandates, we are not going to be allowed to deal with that until we face the health care bill.

I think it is wrong, I think it is wrong, I think we should have that opportunity to do it, and this previous-question battle is the one chance we will have to vote on employer mandates, and I thank the gentleman from New York [Mr. LAFALCE], my friend, for having yielded to me.

Mr. LAFALCE. Reclaiming my time, Mr. Speaker, the point is this is the SBA reauthorization bill. The issues they are concerned about, employer mandate, are appropriately considered in the debate on health care. We hope to take the health care bill up sometime between, say, August 9 and August 12. I hope we will be able to do that. At that time their arguments on the rule with respect to employer mandates on small business would be most applicable. We will join issue on that time. Now we are talking about the 7A Loan Guarantee Program. Now we are talking about the SBIC Program, et cetera.

In fact, of all the amendments that are being offered by the minority, I am going to be accepting them on the one chief issue in controversy in committee which precluded a unanimous vote of the committee, the SBIC Program. I have come into a compromise. I have entered into a compromise with the ranking minority member. It is that some spirit that has enabled me to come to the floor year after year after year with an open rule. That spirit though has been violated because of the intensity of the debate on health care and an attempt to inject the health care debate into this reauthorization.

So, Mr. Speaker, for that reason I am going to conclude my remarks and hope we can go to a vote.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I just want to point out that I just went up and took this amendment up to the Chair to see whether or not we had some misunderstanding here about the germaneness of this amendment.

This amendment is an entirely germane amendment. There is absolutely nothing in this amendment that is not germane. It is an amendment that is entirely in order because it goes only to the subject matter of the Small Business Administration. It talks only about Small Business Administration funds.

So, Mr. Speaker, to suggest that there was something out of order about this amendment is to suggest something which just is not the case.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me just say, as the gentleman knows, we have been told that there are not going to be open amendments to any health care bill that comes on the floor. At best there might be a Democrat based text proposal, maybe a Republican substitute. But there is not going to be allowed individual amendments on employer mandates like this. That is why we need a vote today.

Mr. Speaker, it is germane; we ought to be voting on it.

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for that, and I mean he is absolutely correct, and what disturbs me here is the fact that we are getting an argument that somehow this was a procedural problem when in fact it was absolutely something where the Committee on Rules has made a specific determination they do not want this issue on the floor. This is something they do not want discussed on the floor, and so, therefore, we ought not allow it.

This is not a case of process, procedure or anything else. This is just a case of keeping off the floor a debate that they do not want to have to go through, and that is Congress acting at its worst because they simply, they simply, are keeping the membership from having a discussion on something which, under any other circumstances, would be entirely germane.

Mr. Speaker, that is using the power of the Committee on Rules in exactly the wrong way.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I simply would like to underscore once again:

Is it true we would anticipate a restrictive rule on health care, and so this may be the only vote that the full membership will have on the issue of employer mandates? Am I correct in assuming that?

Mr. WALKER. I think the gentleman from California [Mr. DREIER] is absolutely correct——

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. The gentleman would not yield to me, but I would be happy to yield to the gentleman from New York.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, the amendment that is presently in my hand that was given to me, that is being discussed today, is not the amendment that was filed, to be offered. The amendment that was filed to be offered was strictly a sense of Congress——

Mr. SOLOMON. Mr. Speaker, would the gentleman yield on that?

Mr. LAFALCE. I yield to the gentleman from New York.

Mr. SOLOMON. Let us be very reasonable. As the gentleman knows, when Members prefile amendments, as is required under this situation, if there is an amendment that is not germane because of some technicality, the Members are allowed, on the gentleman's side and ours, quite often to modify it to make it germane.

We spent hours down here working with the Parliamentarian to get the germane amendment. The Committee on Rules refused to let him offer it.

Mr. LAFALCE. This did not enter into my hands, nor did I ever see it, until approximately 60 seconds ago. Before that time we were talking about a filed amendment that was absolutely nongermane, and again the point is the gentleman wants to have a debate on health care issues in connection with the SBA reauthorization bill, which should sail through this House probably, by unanimous vote. It is unfortunate that we are politicizing something that in my entire tenure as chairman of this committee has not been politicized up until now.

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. DREIER] be allowed to sit in for me for a few minutes and control the time on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Overland Park, KS [Mrs. MEYERS], the ranking member of the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in opposition to this rule. H.R. 4801, the Small Business Administration Reauthorization and Amendment Act of 1994 is basically a noncontroversial and important piece of legislation. There were only a handful of amendments filed with the Committee on Rules, most of which were acceptable to the majority and the minority. Historically the legislative proposals that are crafted in the Committee on Small Business have strong bipartisan support, and these same proposals generally come to the House floor under an open rule or suspension of the rules. There is simply no reason for H.R. 4801 to be brought to the floor with anything less than open rule.

Two Republican Members, the gentleman from California [Mr. KIM] who serves on our committee and the gentleman from California [Mr. ROHRABACHER], filed amendments with the Committee on Rules that were not made in order. These were the only amendments not made in order. Presumably they were not made in order because the chairman of our committee found the amendment unnecessary, or opposes the amendment, or because the Committee on Rules did not want the issue to be discussed on the floor. However I would say that the issue of mandates for small business is the most important small business issue that is concerning small business today or that will be before the Congress this year involving small business.

□ 1310

Mr. Speaker, to say that it is not germane or that somehow it has absolutely no place to be considered in this authorization bill is, I think, just incorrect.

Mr. Speaker, I may not support all of the amendments that were filed with the Rules Committee or that would be offered to H.R. 4801 under an open rule, but I support the right of any Member to offer an amendment. The Small Business Committee must regularly work together on a bipartisan basis for the protection and promotion of small business. Arbitrarily limiting the amendments that can be offered on small business legislation is in absolute opposition to that principle.

Mr. Speaker, I am very disappointed that anything less than an open rule was requested for H.R. 4801, and that the Rules Committee saw fit to grant this closed rule. This sets a negative new precedent for Small Business Committee legislation, and I urge the House to reject this closed rule.

Mr. DREIER. Mr. Speaker, may I inquire of the chairman of the Rules Committee whether there are any speakers on the other side.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, in answer to the gentleman's question, no, the speakers on this side will reserve their time on the employer mandate issue for the bill that should be on the floor at the time, the health care bill.

Mr. DREIER. Mr. Speaker, as we continue to talk about the impact of employer mandates on the small business sector of the economy, I yield 5 minutes to my friend, the gentleman from Diamond Bar, CA [Mr. KIM], the author of the very important amendment which we hope will be made in order when we defeat the previous question.

Mr. KIM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in strong opposition to this rule.

I came here as a freshman, as a former businessman, thinking that I would have an opportunity, a genuine opportunity, to help the small businesses of this Nation. However, yesterday I found out that this is not necessarily the case. I was absolutely shocked.

Yesterday I offered an amendment which was simple and straightforward. My amendment expresses the sense of Congress that employer mandates would be detrimental to small businesses and prohibits the SBA, a government agency which is supposed to act as an advocate for small business, from spending taxpayer dollars to promote employer mandates. I offered my amendment yesterday because the SBA has spent nearly $100,000 last year alone to make a slick brochure telling every small business owner that employer mandates is good for them.

The reason behind my amendment is simple. Employer mandates would be bad for small business. Every credible study predicts that employer mandates will cost substantial job losses. Even the economic adviser of the President himself predicted that over 600,000 jobs would be eliminated as a result of employer mandates. Every study shows that there would be huge job losses if employer mandates are implemented.

We do not have to rely on academic studies to understand why employer mandates would be a bad idea. All we have to do is listen to any small business owner and any small business employee in the Nation.

Over the last 2 months the White House has sponsored seven different small business conferences attended by owners of small businesses and employees of small businesses in seven different States. In six out of seven of those State conferences small business owners voted unanimously to reject employer mandates.

My point is simple. Employer mandates is a bad idea, one that small business owners overwhelmingly reject, and they are frightened that the SBA, which is supposed to be an advocate for small business, should be spending its own budget money going around the country telling small business owners that employer mandates would be good for them.

That is why I offered my amendment to prohibit the SBA from spending taxpayer dollars to promote a policy which would be detrimental to the very small businesses it is supposed to represent.

However, the Rules Committee decided yesterday to reject my amendment and prohibited me from even offering it on the floor. Even the Parliamentarian said this is a germane amendment.

Why was this done? Why was it rejected? They said we should not be debating the health care reform issue on the small business bill. They argued that my amendment was not appropriate at this time. Well, I may be new in town, but this is an old game. The House is supposed to debate issues, and that is what the fight on this rule is all about. If we cannot debate the activities of the Small Business Administration now, when can we debate them?

All I am saying is that the SBA should not spend the funds authorized to be appropriated by the Small Business Reauthorization Act to promote employer mandates which would really eventually hurt small businesses themselves. I do not understand why we should not be allowed to debate this issue today. How can we debate the issue later at the time Congress is considering the health care issue? Should I offer my amendment at that time, saying that the SBA should not spend money any more at the time of the health care debate?

I will bet that if I offered my amendment on the health care bill, the Rules Committee would tell me that my amendment is out of order because it is not appropriate to debate SBA issues while considering a health care bill.

This is exactly the kind of blatant hypocrisy I came here to fight.

In case my colleagues are wondering, let me tell them the real reason why they do not want to have a vote on this amendment. They are terrified. They are terrified that this body might vote to reject this job-killing proposal. In fact, they are so terrified that they will not even let a perfectly germane amendment come to the floor for debate.

Mr. Speaker, shame on us. This is why the American people are so angry and frustrated at the Congress. For this reason I urge my colleagues to defeat this rule so we can have a fair and honest debate on my amendment. I think we owe it to the owners and employees of the small businesses of this Nation.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I have no requests for time at the present time.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have a very simple vote that is coming before us. It is on the previous question. If Members are in favor of employer mandates, they will vote yes on the previous question. It they are opposed to employer mandates, they will vote no on the previous question.

I have just had a discussion with the distinguished ranking Member of the Committee on Small Business, my friend, the gentlewoman from Kansas [Mrs. MEYERS], who has told me that the single most important small business issue this year is employer mandates in the health care area.

It seems to me I have heard that many requests have been made throughout this year to have the Small Business Committee hold some hearings on the impact of employer mandates, the No. 1 issue for small businesses, on the small business community. I am told that hearings are scheduled now for August 4. It seems to me quite frankly that that is a little late in the game since the issue of health care has been debated throughout really the last year and a half.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend, the gentleman from New York.

Mr. LAFALCE. Mr. Speaker, the Small Business Committee has had a number of hearings on health care.

We have had representatives from the small business community testify on health care, such as the NFIB, such as the U.S. Chamber of Commerce, and such as the National Association of Manufacturers, and they were certainly allowed to discuss it, and the issue——

Mr. DREIER. Mr. speaker, I would like to take back my time.

Mr. LAFALCE. We have had witnesses testify on the issue——

Mr. DREIER. Mr. Speaker, I take back my time.

Mr. LAFALCE. Mr. Speaker, I say to the gentleman——

The SPEAKER pro tempore. The gentleman from New York is out of order. The Chair recognizes the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I take back my time, and I would like to inquire of my friend, the gentleman from New York, the distinguished committee chairman, have the hearings the Small Business Committee held been focused on the issue of employer mandates and their impact on small business?

Mr. LAFALCE. That certainly has been one of the primary issues that the Small Business Committee has covered in testimony before the committee.

Mr. DREIER. So there have been hearings on the employer mandate issue?

Mr. LAFALCE. Yes, and they will testify——

Mr. DREIER. If this is the case, I am sorry, I will say to my friend, the distinguished chairman of the committee. If hearings have been held by the Small Business Committee specifically targeted at the issue of employer mandates, then I regret what I said——

Mr. LAFALCE. The issue was——

Mr. DREIER. No, Mr. Speaker, I was asking whether employer mandates was the issue——

Mr. LAFALCE. Mr. Speaker——

Mr. WALKER. Regular order, Mr. Speaker.

Mr. DREIER. Mr. Speaker, I reclaim my time, and I yield to the ranking member of the Small Business Committee, my friend, the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have had some hearings on the impact of mandates in Hawaii, and I think most people would agree that the experience there would not be exactly applicable to the entire United States.

Mr. DREIER. No, everyone has concluded that.

□ 1320

Mrs. MEYERS of Kansas. Also in that same hearing, we heard about the experience in Cleveland where a great many employers have banded together on health insurance. But that is not mandated, of course. That was just a hearing on how it affected those in Cleveland.

I do not think that we have had a hearing on the impact of mandates on small business in this country.

Mr. DREIER. I am happy to yield further to the distinguished chairman of the committee to respond to the ranking member.

Mr. LAFALCE. If I can refresh the recollection of the distinguished minority ranking member, I recall a representative from the Small Business Legislative Council, a representative from the National Federation of Independent Business, a representative from the U.S. Chamber of Commerce, a representative from the National Association of Manufacturers, et cetera, et cetera, testifying on the issue of health care, and including as a principal part of their testimony, as a principal part of the question and answer that ensued, the impact of an employer mandate on small business.

Mr. DREIER. Mr. Speaker, reclaiming my time, the issue we faced here, I guess there has been some talk in the Committee on Small Business and the General Economy about the issue of employer mandates. It sounds to me as if there was not a specific hearing held to discuss the issue of employer mandates. I guess since it is the number one issue that is concerning the small business community, it has been raised.

Well, that is the reason we are having this previous question battle right here. The fact of the matter is the Committee on Rules denied this new Member of the House, who has come fresh from the business community as a small businessman to serve here, the right to even offer his amendment that would deal with the issue of employer mandates.

I think it is an extraordinarily unfair treatment of a new Member, and I am going to urge defeat of the previous question.

Mr. Speaker, I would like to yield to another Member whose amendment was denied. I offered it myself up in the Committee on Rules, and they said it was already covered in the bill. But frankly the amendment, my friends, would go further in dealing with a very important issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, another reason to oppose this rule is the fact I was denied my attempt to offer an amendment that would strengthen the language in this bill and make it absolutely clear that no money in this bill would be used to provide benefits to illegal aliens. The language in the bill, there is current language in the bill, but it is not adequate to do the job. If there was agreement on the issue that no benefits should be extended to illegal aliens, I should have been at least provided an opportunity to present an amendment that would make that absolutely clear.

Over and over and over again we hear on the floor that, oh, we are all in agreement; money should not be wasted on giving benefits to illegal aliens.

We have limited resources. We do not even have the resources to provide these benefits for our own people. We all agree with you, DANA. We should not be providing benefits to illegal aliens. But then again, every time I try to propose an amendment like this, I am knocked out of the ballpark by the fact that I cannot even propose an amendment that makes it clear in the language of the bill that the benefits should not be going to illegal aliens.

Mr. DREIER. Mr. Speaker, reclaiming my time to say what I was explained to by the majority up in the Committee on Rules, they said this issue is already dealt with in the bill. But, quite frankly, as we looked at it, it was not strong enough to deal with that very serious problem we have. And the Rohrabacher amendment is just one of the reasons we should vote against this rule.

But the fact of the matter is our previous question battle is over a very important small business issue. The number one small business issue that we have out there today is are we going to support in this House the imposition of employer mandates on the small business sector of our economy. The gentleman from California [Mr. KIM] says that we should not.

If you support the idea of ensuring that employer mandates are not imposed on the small business sector, we have one choice today, and that is to vote no on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5(b)(1) of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 215, nays 169, not voting 50, as follows:

[Roll No. 364]

YEAS—215

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barlow
Barrett (WI)
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—169

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Lancaster
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
Meyers
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—50

Bacchus (FL)
Becerra
Boehner
Brooks
Carr
Clay
Clement
Collins (MI)
Dickey
Flake
Ford (TN)
Gallegly
Gallo
Gephardt
Geren
Gibbons
Glickman
Grandy
Hansen
Houghton
Hutto
Inhofe
Inslee
Kyl
Laughlin
Livingston
Lloyd
McDade
McKeon
McMillan
Mica
Murphy
Owens
Pickle
Quillen
Ravenel
Reynolds
Ridge
Roemer
Rowland
Shaw
Slattery
Smith (IA)
Stark
Sundquist
Synar
Thornton
Towns
Washington
Wheat

□ 1346

The Clerk announced the following pairs:

On this vote:

Mr. Becerra for, with Mr. McKeon against.
Mr. Synar for, with Mr. Quillen against.

Mr. LEWIS of Kentucky and Mr. BARCIA of Michigan changed their vote from "yea" to "nay."

Mrs. MINK of Hawaii and Ms. PELOSI changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. SOLOMON was allowed to speak out of order.)

LEGISLATIVE PROGRAM

Mr. SOLOMON. Mr. Speaker, my purpose in speaking is to ascertain the schedule for the rest of the day.

Mr. Speaker, I understand that the pending vote on the rule which I will ask for will be the last vote of the day, depending on the gentleman from South Carolina [Mr. DERRICK], and I would yield to him to confirm that.

Mr. DERRICK. Mr. Speaker, if we have a recorded vote on the final passage of the rule, which we expect to have, that will be the last recorded vote of the week.

Mr. SOLOMON. For today?

Mr. DERRICK. The gentleman is right.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 221, noes 161, not voting 52, as follows:

[Roll No. 365]

AYES—221

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Foglietta
Ford (MI)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak

Swett
Swift
Tanner
Tejeda
Thompson
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—161

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hall (TX)
Hancock
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McHugh
McInnis
Meyers
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—52

Bacchus (FL)
Bateman
Becerra
Boehner
Carr
Clay
Clement
Collins (MI)
Dickey
Flake
Ford (TN)
Gallegly
Gallo
Geren
Glickman
Grandy
Hansen
Houghton
Hutto
Inhofe
Inslee
Kyl
Laughlin
Livingston
Lloyd
McDade
McDermott
McKeon
McMillan
Mica
Murphy
Owens
Pickle
Quillen
Ravenel
Reynolds
Ridge
Roemer
Roth
Rowland
Saxton
Schroeder
Shaw
Slattery
Smith (IA)
Sundquist
Synar
Thomas (WY)
Thornton
Towns
Washington
Wheat

□ 1417

The Clerk announced the following pairs:

On this vote:

Mr. Becerra for, with Mr. McKeon against.
Mr. Synar for, with Mr. Quillen against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROEMER. Mr. Speaker, I was not present for the votes on rollcalls Nos. 364 and 365, due to the birth of my son, Matthew Bennett Roemer, on July 29, 1994. Had I been present, I would have voted "yea" on rollcalls Nos. 364 and 365.

LEGISLATIVE CALENDAR

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. I requested this time in order to proceed and inquire of the distinguished majority leader the program for the balance of this day and the program for next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield.

Mr. MICHEL. I yield to the majority leader, the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman for yielding.

Mr. Speaker, obviously there will be no more votes today.

On Monday the House will meet at 10:30 a.m. for morning business. Then the House will meet at noon. We will consider 11 bills on suspension, and they are listed on the sheet. I think the gentleman can see the different bills that will be presented on that day.

H.R. 4768, Veterans' Education and Training Act;

H.R. 4776, Veterans' Employment Act of 1994;

H.R. 4724, Veterans' Housing Amendments of 1994;

S. 725, Traumatic Brain Injury Act;

H.R. 4535, Unlisted Trading Privileges Act;

H.R. 2826, providing for an investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974;

Senate Joint Resolution 195 to designate August 1, 1994, as "Helsinki Human Rights Day";

H.R. 1690, to authorize certain elements of the Yakima River Basin Water Enhancement Project;

H.R. 4448, to amend the act establishing Lowell National Historical Park;

H.R. 3898, to establish the New Bedford Whaling National Historical Park in New Bedford, MA;

H.R. 4158, to establish the Lower East Side Tenement Museum National Historical Site.

Mr. Speaker, there will be votes Starting at about 5 p.m., on Monday, and I suspect that we will have votes until about 8 p.m. There could be a number of votes.

H.R. 4506, a motion to go to conference on energy and water appropriations for fiscal year 1995. There would be a motion to instruct on that, I am told.

H.R. 4453, military construction appropriations, fiscal year 1995 conference report, and obviously any suspensions that will require votes after having been debated during the day.

On Tuesday, August 2, and the balance of the week: The House will meet at 10:30 a.m. on Tuesday on morning business, then at noon on Tuesday. Then we have a private calendar.

The House meets at 10 a.m. Wednesday, Thursday, and Friday.

We will be taking up the Maritime Administration authorization subject to a rule, H.R. 4003; also Little Traverse Bay Bands of Ottawa Indians and Little Band of Odawa Indians Act, subject to a rule, Senate 1357; S. 1066, restoring Federal services to the Pokagon Band of Potawatomi Indians; the Omnibus Crime Control Act, subject to a rule; the Federal Crop Insurance Reform Act, a subject to a rule; Export Administration Act, complete consideration; provide for the management of the Presidio, subject to a rule; foreign operations appropriations for fiscal 1995, conference report; Social Security Administrative Reform Act of 1994 conference report, subject to a rule; community development financial institutions/interstate bank branching conference report, subject to a rule; Congressional Accountability Act, subject to a rule; regarding China MFN, subject to a rule. Conference reports may be brought up at any time. Any further program will be announced later.

I would also say to the gentleman that when we are finished, the distinguished chairman of the Committee on Rules will be making an announcement regarding requirements for the filing of bills and alternative bills on the health care legislation next week.

□ 1420

Mr. MICHEL. Might I first inquire: The gentleman made mention of delay of the votes on suspensions and the regular legislative business on Monday, probably beginning at about 5 p.m. and going on for several hours conceivably.

Mr. GEPHARDT. That is correct.

Mr. MICHEL. That suggests a question relative to the rest of the week on the time frame. There is a certain traditional thing that takes place on Tuesday evening around here. Does that mean we would adjourn by a certain time on Tuesday or—and then, of course, Wednesday, Thursday, and whatever we have to——

Mr. GEPHARDT. If the gentleman would yield, on Tuesday we not only have the annual baseball game, we also have a number of States that have primaries. So we are going to try to arrange for as few of votes as we can possibly engineer on that day, and we will be quitting in time for the annual baseball game.

Mr. MICHEL. And then would Members be on notice to spend some late nights, Wednesday, Thursday?

Mr. GEPHARDT. The gentleman is correct.

Mr. MICHEL. The gentleman made mention of the chairman of the Committee on Rules making an announcement. Would it be appropriate for this leader to ask the majority leader several questions pertinent to what we might consider to be an announcement?

Mr. GEPHARDT. I would be happy to do that when the distinguished chairman makes the announcement. I will be available here, and we will try to answer any questions.

Mr. MICHEL. I think we probably ought to because obviously there will be some observations and comments we would like to make at the time to buttress and assure the Members how the program, as we envisioned it at least preliminarily, would unfold and Members' rights being protected in that process, and I would be happy to yield at this juncture unless the gentleman wants to request his own time.

Mr. DERRICK. I thank the gentleman for yielding.

Mr. Speaker, it is the intent of the leadership of the House to bring the health care bill to the floor the second week in August. Obviously health care reform is a matter of immense scope and complexity. People want to know the details of the various proposals which will be presented to the House for a vote.

We have been asked by Members on both sides of the aisle to make the text of these measures available to the membership for scrutiny and advanced consideration on the floor. That is the only fair and wise policy.

Accordingly, Mr. Speaker, we are asking Members who have alternate health care bills which they would like considered during the upcoming health care debate to submit those proposals to the House, proposals to the House Committee on Rules, by 6 p.m. on Wednesday, August 3. The committee offices are in H-312 in the Capitol.

Let me just make a couple of points here: First, the committee is asking for legislative language to be submitted by the deadline, not a description of the major concepts. Second, at this time the committee is not asking for single-issue amendments, but entire substitutes to be filed by the August 3 deadline.

I want to thank my colleagues for their cooperation in this effort to make available in advance the text of competing bills.

Mr. MICHEL. I thank the distinguished gentleman.

Might I inquire then of the majority leader if those groups or entities that have something to offer in the field of health care in the form of a substitute or entire proposition, as distinguished from individual line item amendments, be prepared to present those to the committee by 6 p.m. on Wednesday.

Mr. GEPHARDT. That is correct.

Mr. MICHEL. And the gentleman did make mention earlier, in our earlier conversation, of the possibility of refinements to those propositions on the following day, Thursday. Is that a possibility?

Mr. DERRICK. Mr. Speaker, if the gentleman would yield, there will be further time for that.

Mr. MICHEL. I want to yield to my distinguished friend from Illinois who has done so much work on our side in helping to craft a bipartisan proposition here, but we are up against the gun when it comes to the facilities of the legislative counsel because we are talking about lengthy measures, very technical in language, and to make certain that we have—we are really writing what we think we have, we are at some disadvantage with the limited staff of legislative counsel. Maybe I might yield at this juncture to more clearly refine that inquiry to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the distinguished minority leader for yielding that I might inquire.

One of our problems in trying to draft language is there are other enterprises going on at the same time on the other side of the aisle and other places dealing with health care that have consumed a great deal of time and resources of the legislative counsels. It has been very difficult to get somebody to draft that language or go over language that is drafted. I would hope that, if we present all propositions to the Committee on Rules by 6 p.m. on Wednesday, that all groups that are trying to draft legislation to present propositions to the Congress for consideration have the opportunity, equal opportunities, to get their propositions drafted.

Mr. DERRICK. That, I am sure, will be provided.

Mr. GEPHARDT. Mr. Speaker, if the gentleman would yield, we obviously want to have these bills done. The only thing we cannot ensure is that, if there are other groups other than a bipartisan group or the Republican group that wants to offer something, and overtax unduly, or kind of unreasonably, the legislative counsel, we are going to have to deal with that problem, and we ought to stay in close communication and find out where we are day by day so that we can try to hit this goal.

We will work with the other side in every way that we can.

Mr. HASTERT. Mr. Speaker, I appreciate the comments by the distinguished majority leader. I think we need to keep in contact day by day. Obviously there are very limited resources and a huge job to do for all those people that are concerned, and we want to be able to get that language in a timely basis, but on the other hand, if we get it in at the very—if we are pushed to the end of the line, then all of a sudden we are pushed to a situation where we cannot present that language in legislative form, which the distinguished chairman of the Committee on Rules has mentioned, and we do not want to be in that situation.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for his contribution, and let me pursue, if I might, a little bit further with the majority leader.

If everything goes according to plan with the propositions that will be presented to the Committee on Rules by 6 p.m. on Wednesday, with possible refinements on Thursday, when would the Committee on Rules actually then be meeting on the crafting or making a determination with respect to the rule under which we would consider one or more of these propositions? I assume it will be the following week when we will really come to grips with it, and I would also then remind the distinguished majority leader of our earlier conversations throughout the year of how we would hope to leave by our recess date of, say, August 12 and whether or not this comports and can be accommodated within that time frame.

Would the gentleman make an observation on that?

Mr. GEPHARDT. If the gentleman would yield, we are trying to get to the Committee on Rules sometime the week after next, in the early part, and try to get to this bill as quickly as we can. It probably will be a number of days, a few days, under consideration on the floor, and we are going to do everything we can to meet our schedule. But obviously we cannot give Members a specific time of a specific day that we are going to be finished at this point. There is no way to do that.

Mr. MICHEL. I can appreciate that, and I suspect, after the measures have been formally introduced on Wednesday, and refinements by Thursday, by Thursday and Friday, and morning hour, Members will be talking about the proposals. It would not be a formal debate, but certainly it is no secret that during morning hour Members are free to make whatever comments they might wish to make, and I frankly think it would be good if they were pretty much concentrated in that field because that is what we are all leading up to, is trying to come to some agreement and finalize, before we do have a recess, this biggest and most important of all measures to come before this session, and I am happy to yield.

□ 1430

Mr. GEPHARDT. If the gentleman would yield further, I would hope we have a debate starting early, with different groups that have bills exposing those bills to the public in morning hour and in special orders. We could even begin some back and forth and give and take in those periods. We will obviously have a full debate on the floor. It may even be that Members will not have so many committee meetings in that period and can sit on the floor and listen to the debate. Hopefully this will be a high moment for the House of Representatives as we go through this very important legislation.

Mr. MICHEL. I am happy to hear the distinguished majority leader express it in that form and fashion.

Mr. ARMEY. If the gentleman will yield, if I might address a question or inquiry to the Committee on Rules, clearly we have an extraordinary circumstance here.

As I understand it, the Committee on Rules anticipates having bills filed with it by Wednesday of next week, and that the Committee on Rules would expect these bills to be in legislative language, which we understand could be a problem with drafting, and perhaps we could expect that to be overcome. The Committee on Rules obviously is then willing to entertain two or more different bills, if anybody can get them drafted and get them in.

Mr. DERRICK. The deadline on Wednesday applied to substitutes. You will be able to perfect them at least the next day.

Mr. ARMEY. In addition to that, in the ordinary course of conducting the Nation's business, the Members at large would have a bill that has been reported out of committee, and in that report a clear understanding of the chapter and verse details of the bill, and much time to prepare amendments to be offered to the floor if accepted by the Committee on Rules.

In this case I understand we have a bill that will be introduced to the Committee on Rules by the majority leader on behalf of himself and the President, the Clinton-Gephardt bill, as it were, which no one will have seen until it gets to the Committee on Rules. How then would I, as a Member of Congress that might seek to amend that bill, be accommodated by the Committee on Rules in my effort to make the request to make amendments to that bill with respect to such things as mandated benefits, defined benefits packages, taxes, or any of the things that might be of interest to my middle income American taxpaying citizens back home?

I am sure that there must be some way that I can approach the Committee on Rules with a request, given that I cannot see the language from which to draw my amendment in technically acceptable form until after it is reported out by the Committee on Rules. Is there some way I can make an amendment on the floor, a request for such a thing?

Mr. DERRICK. We ask that you have all substitutes, including the majority leader's substitute, before the Committee on Rules by 6 o'clock on Wednesday. There will be plenty of time for a look at the substitutes, there will be plenty of time to perfect them with amendments, and we will probably take up the rule on the eighth, I would imagine, but the first of the following week. I think that is going to give everyone ample time.

Mr. ARMEY. If the gentleman will continue to yield, is the gentleman saying I am being assured that I can look at the bill that is submitted, because I have only a rough outline of the bill right now by Mr. GEPHARDT, and have time where I could make, as an individual Member, not a substitute bill, but an effort to amend that particular bill?

Mr. DERRICK. Yes.

Mr. ARMEY. I have the gentleman's assurance I will have that opportunity to make that request?

Mr. DERRICK. You do.

Mr. ARMEY. I appreciate that, and I am sure that that assurance is extended to all the Members of the body.

Mr. DERRICK. It is.

Mr. ARMEY. In light of our special relationship, I do think we need to clarify that.

Mr. DERRICK. It is.

Mr. MICHEL. I yield further to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I thank the distinguished minority leader for yielding. I have had a couple of Members come up to me since our conversation and say they are either working on a Republican bill, or others that they have been bumped from the drafting process. It is really important, again, to the distinguished majority leader, that we have the ability to get bills drafted, and that we not be bumped from that procedure and lineup. So I am looking forward to working with the gentleman on that. If you have a comment, I would appreciate it.

Mr. GEPHARDT. If the gentleman would yield, we are more than willing to do that on a day-by-day basis. My only admonition is if there are three Republican bills and five bipartisan bills, and we are expecting to get all of those drafted by next Wednesday, we are going to have problems. If, however, there is one Republican bill and one bipartisan bill, and that is essentially what we are talking about, then I think it is feasible to get through this.

Mr. HASTERT. I will offer to the distinguished majority leader that we will work to make sure that we have those priorities in place, but look forward to working with you on that issue.

Mr. GEPHARDT. I thank the gentleman.

If the gentleman will further yield, I wish to announce that Chairman LAFALCE has decided to not go forward with the small business reauthorization bill tonight on general debate and other matters without votes. That will be rescheduled for next week, likely Tuesday.

HOUR OF MEETING ON MONDAY, AUGUST 1, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday next.

The SPEAKER pro tempore (Mr. TAYLOR of Mississippi). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

NOTIFICATION REGARDING FILING OF AMENDMENTS TO H.R. 4822, THE CONGRESSIONAL ACCOUNTABILITY ACT

(Mr. DERRICK asked and was given permission to address the House for 1 minute).

Mr. DERRICK. Mr. Speaker, this is to notify Members of the House of the Rules Committee's plans regarding H.R. 4822, the Congressional Accountability Act. The committee is planning to meet the week of August 1, 1994, to take testimony and grant a rule on the bill.

In order to assure timely consideration of the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 4822 should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 5 p.m., on Tuesday, August 2.

The Rules Committee is contemplating making in order as base text the bill as amended by the Committees on House Administration and Rules. That text will be available in the House Administration and Rules Committee offices, as well as in the legislative counsel office, after 2 p.m. today.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 4822.

□ 1440

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. REED). Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HAITI

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, it is said that those who ignore history are destined to repeat it. And it is perhaps curious to note that yesterday was the anniversary date of the 79th invasion of Haiti by American Forces back in 1915. Anybody who studies that particular misadventure would surely hope that we are not going to repeat that 79 years later.

So, Mr. Speaker, my advice to those who are advocating an invasion of Haiti today, as those at the White House are, I suggest to them that they go back and read some history.

Our Marines were in Haiti for 19 years; almost a full generation. During that time, they did little to promote democracy in that country that was enduring.

Yes, it is true that the American taxpayers in those 19 years contributed many dollars to the infrastructure of Haiti. Unfortunately, those infrastructure improvements have long since gone to seed. About all that remains of that 19-year occupation of that friendly neighboring country, Haiti, just to the south of Florida, is the ill-will toward the American military that was inspired by that occupation resulting from the invasion by the Marines in 1915.

I see no justification to repeat that at this time. There is no threat to the United States of America from Haiti. The Haitian Navy is incapable of going to sea, literally incapable of going to sea. They have no boats that float. They have no airplanes that fly. They are not going anywhere. They are on an island in the middle of the Caribbean. What are we talking about invading them for?

I know that those who follow the issue closely understand that the issue is domestic politics. That is not a sufficient reason to risk the lives of our men and women in uniform in this country. Heaven forbid we ever do that.

It is interesting that at this time the administration is standing on its head, bending over backward, jumping through hoops, whatever you want to say, to get the approval of the U.N. Security Counsel to invade Haiti. But they are not asking Congress. They are not asking the Congress of the United States, which is filled with people who represent Americans, people who come from all over this country, stay in communication with their constituents, and try and represent the will in a representative form of government here. And the people in America do not want to invade Haiti either. Any poll you take a look at shows somewhere between two out of three and five out of six Americans saying, do not invade Haiti. It is a bad idea. There is no reason to do that.

So there apparently is no support in this country. The administration at the White House is willfully voiding the opinion of Congress, apparently it is willfully avoiding the American public. There is no congressional support that I am aware of to invade Haiti. Thank heavens.

It is interesting that there is not much hemispheric support either. The traditional four friends of Haiti, that would be the United States, Canada, France, and Venezuela, Canada, and France do not want to invade Haiti either. So it is a little hard to understand where this initiative to invade Haiti is coming from.

We know it is the White House. It is very hard to understand why. We apparently understand that President Aristide, who is the duly and popularly elected President by apparently two out of three votes, about 67 percent, and I was there. It was a very enthusiastic election, and he is the rightful President of that country. But even he has not committed to go back to Haiti in the event there were an invasion. So that makes it even more puzzling that there should be an invasion.

On top of all this, there are some duly-elected leaders in Haiti today. Members of Congress down there. They call it parliament, their chamber of deputies and their senate. There is about 48 of them who have written us letters up here and said, come on down. Let us talk and negotiate a settlement to the Haitian problem. We would like not to be invaded. We believe we can talk to you folks in Congress and work out a solution to this problem.

And do you know what? We have not responded. We have not responded to that invitation. The administration has simply said that they do not wish at this time to negotiate. They are only talking about invading unless things go exactly their way.

That, to me, means we are missing a great opportunity to find a peaceful solution, responding to the invitation of these 48 democratically elected members of their chamber of deputies and senate.

This was the tract that Lawrence Pezullo, who was previously the Special Assistant to the President on Haitian Affairs, was trying to follow. As you recall, Mr. Pezullo got in some trouble by being politically incorrect in pursuing this policy and he is now fired.

I believe we need to respond to this invasion. I understand my time has run. I hope that those who are interested in this subject are listening closely and will convey the same message: There is no need to invade Haiti; do not invade Haiti.

MERIDIAN, MS, AIR NATIONAL GUARD UNIT CITED FOR ITS CONTRIBUTION TO THE TOTAL FORCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, Lt. Gen. Malcolm Armstrong, commander of the 21st Air Force, visited the 186th Air Refueling Group in Meridian, MS, on July 24 and expressed his appreciation for the role this Air National Guard unit is playing in our "Total Force" policy that incorporates active duty, National Guard and Reserve units side by side to help us maintain a strong national defense.

His visit came while the 186th was undergoing a Quality Air Force Assessment [QAFA]/Aircrew Standardization and Evaluation Visit [ASEV] inspection. He and Col. Alan Briding from headquarters, Air Mobility Command, commented on the accomplishments of the 186th. I wanted to share their remarks with my colleagues.

Following are the comments of General Armstrong:

> I'm delighted to have the opportunity to come down and accept a debrief of this quality. It is particularly gratifying for a unit that has been through the kind of turbulence that you've been through in the last couple of years with all of the construction on your part of the airfield here. But, I love to see dirt flying, because once we finally get the dust settled, you'll have some better, more effective and more efficient facilities to work out of. So, that's one of those inconveniences that we're all pleased to grit our teeth and carry on through with.
>
> And, of course, it is particularly gratifying to me to come to a Guard unit or a Reserve unit, in this case a Guard unit, that upholds the standards of appearance and professionalism that you've established. Sometimes we lose a little bit of that in some of our units . . . and not always in a Guard or Reserve unit either, by the way. But it is particularly gratifying to come and see that. General Wallace, I want to take my hat off to you and your folks, and certainly Colonel Feinstein because that is clearly a direct reflection of the attitude of leadership in an organization. It tells me that, when the chips are down, you folks having been hard-nosed with yourselves over and over on professionalism, will in fact get the job done no matter what the pressure is that is there, I mean, if you've been watching TV lately, there's plenty of pressure out there for us. We are getting into Rwanda big time right now. We're shipping off some more airplane loads of people from McGuire this morning, some last night, some the night before, going in there. We are tanking in and out of there a lot. We've set up a tanker task force at Moran; and you may get your chance. I don't think this is going to be over very quickly. Perhaps the intense portion of the airlift will be over quickly, because hopefully, if we can just get a lot of water in there we can begin to save some lives. But its going to take an awful long time for those people to get themselves redistributed and to go back and harvest their crops and get themselves properly fed and back to some similance of health.

And the U.S. and its allies are going to be involved in that, and we should be involved in that. So you may very well get a chance at that.

But my message to you is; it is clear to me, and I compliment you for it, that you folks are hard on yourselves. You're hard-nosed about taking a professional approach to every single aspect of your military mission, and you're proud of it, and you want to make sure you look like it as well as act like it, and you've done a fine job of that, and I really appreciate that. I'm pleased to see that this is the best . . . we don't give reports; or report grades, but this report is the best report that I've read to date on any unit; United States Air Force, or Air National Guard, or U.S. Air Force Reserve.

In addition to General Armstrong's strong endorsement of the unit, Col. Alan J. Briding, representing headquarters, Air Mobility Command, had the following comments regarding the 186th Air Refueling Group:

The group was very proactive in its conversion from RF-4's to KC-135R's and made the transition well ahead of schedule. Twenty-first Air Force ASEV results depict an exceptionally well-prepared aircrew force. Morale appears to be excellent. Pride in past achievements and determination to become the benchmark tanker unit in the command flow from the top and permeate throughout the group. Every indication the QAFA team looked at suggests that the 186 ARG will maintain its superior operational performance record.

Available performance indicators, the health of key processes, and the SORTS program all indicate that the 186 ARG is an exceptional unit and is fully capable of accomplishing its assigned missions.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and because there is no designee of the majority leader, the gentleman from Virginia [Mr. WOLF] is recognized for 25 minutes as the designee of the minority leader.

SANCTIONS AGAINST THE PEOPLE'S LIBERATION ARMY

Mr. WOLF. Mr. Speaker, I want the Members, if any who are still around in town listening, but people to know that next week we are going to bring up the Pelosi bill which deals with putting sanctions against the People's Liberation Army. Now, people say, who is, what is the People's Liberation Army?

They are the ones that killed thousands of people in Beijing during Tiananmen Square. They are the ones, every American citizen should know it, who are flooding in this Nation assault weapons which are killing American men, American women, and American children. Did you know, I ask my colleagues, that the People's Liberation Army which rolled over the young men in Tiananmen Square and has been responsible for so many barbaric things, barbaric to Americans who fought in the Korean War. Do you remember the oppressiveness of the People's Liberation Army in the Korean war? Think back.

If you have anyone in your family who fought in the Korean war, the People's Liberation Army were the barbarians of North Korea. If you have anybody in your family that fought in Vietnam or know anybody that fought in Vietnam, many of the weapons coming in that killed Americans came from the People's Liberation Army.

If you are young and you are just recent, then many of the weapons that Saddam Hussein, from Iraq, used to kill American men and women came from the People's Liberation Army of China.

You say, what does that have to do with this? Well, next week we are going to have a sanctions bill which will prohibit goods coming in to the United States that are made by the People's Liberation Army.

Now, I think most Americans know, but just to state for the record again, let me just tell you what. I was there several years ago and we visited this prison, Beijing prison number one. These prisoners, there were 40 Tiananmen Square prisoners working in this prison. They were making slave labor goods, knocking out textile workers throughout the United States and in South Carolina and North Carolina and Georgia and Virginia and every other place, with slave labor goods coming in and competing with American products. And they pay them nothing. Slave labor.

I should also say for the record that I am a free trader. I have never voted for a protectionist bill since I have been in Congress. Not once. I was a strong supporter of NAFTA, strong supporter of good trade. I think trade makes a difference. But in China's case, we want to sanction not all of China but the People's Liberation Army.

This man here represents the thousands that are in Chinese gulags. I think most Members know, but just to reiterate it again, that the Chinese government has arrested Catholic bishops. You would not think they would arrest Catholic bishops, priests and ministers, and they have leveled Tibet.

□ 1450

In Tibet, the Buddhist monks and those of the Buddhist faith have been persecuted. One of our colleagues, the gentleman from New Jersey, Congressman CHRIS SMITH, went to China this year, took Holy Communion from Bishop Su, a Catholic bishop. Several days after CHRIS SMITH took holy communion, they arrested Bishop Su.

What I want to bring this debate back on is next week, we should clearly support the bill that sanctions, that goes against the People's Liberation Army that was involved in the Korean war and responsible for the deaths of a lot of Americans in Korea. Do you want to be with the People's Liberation Army? No. Responsible for the same thing in Vietnam. Responsible for sending weapons.

Right now as we now speak, the People's Liberation Army and China are pumping weapons into Southern Sudan where they are killing black Christians and they are killing them because they are Christians. The same army we are going to get to vote next week, do you want to give them special trade benefits to knock out American textile workers and shoe workers and toy manufacturers, or do you want to sanction?

Let me say a word to those on my side of the aisle. As a Republican Member, I think we have so much to be proud of, that we are the party of Lincoln. We are the party of great compassion and interest with regard to human rights. I would not want to see my party, I would not want to see the Republican party lose its soul. "Want is to profit a man if he gains the whole world and loses his soul?" We read in the Bible. I would not want my party, I would not want the other party, but I particularly would not want the Republican party to lose its soul by siding with the bandits, the bandits and the barbarians of Beijing that control the People's Liberation Army. We are going to get a chance next week. The Catholic Conference supports this bill, the Pelosi bill. Fundamentals, evangelicals around this country support the bill.

I will tell you, the Christians that we meet with in China certainly support the bill. The human rights interests in this country support the bill. The Chinese dissidents in this country who have families back there support the bill. The AFL–CIO supports this bill. The clothing workers support this bill. Organized labor supports this bill. This bill ought to pass.

To those on the Republican side, I just think we have to be careful. I know sometimes you want to be with business and, say, a business lobbyist comes in. But this business is a moral issue. It is for the heart and soul of the Republican party. It would be like in the time of the Civil War of Lincoln then selling out and not taking a stand with regard to slavery. It would be like a situation whereby we know what was right and we then decided to kind of close our eyes to the bishops that are still in jail, to the human rights dissidents that are still in jail, to the ministers that are still in jail, to the Buddhist monks that are still in jail, to those that are being tortured every day. Now, a bigger issue is the overall MFN. We are also going to vote on a bill, a bill of the gentleman from New York [Mr. SOLOMON], God bless him, it is a wonderful bill which I am going to speak for and support, which would take away MFN from all the goods coming into China. I think that is the appropriate way to go. I am going to support it. But Members can vote yes on that or vote no. But we come down to the basic sanctioning, punishing the People's Liberation Army. Clearly the right vote I believe is a vote for the Pelosi bill, which will do that.

In closing, there are two final points. Some people say, "Well, I'm for human rights, but sanctions, well, they just don't work."

"I'm for human rights, Congressman WOLF, but sanctions, they just don't work."

You can tell Scharansky, who is now living in Israel, who used the support when we took MFN away from the Soviet Union, you tell Scharansky that sanctions do not work. You tell Sakharov that sanctions do not work. We would laugh at you today if he were here to say that sanctions do not work. You tell the Romanians in Romania, Father Calciu who got out of prison after being in prison for 19 years, 19 years, and we used MFN to get him out. You tell Father Calciu that sanctions do not work. Look Father Calciu in the eye and say, "Father, I know you have been in there for 19 years, but it wasn't the sanctions that got you out," and Father Calciu will tell you:

Young man, young lady, it was the sanctions that got me out. It was the prayers to the good Lord and it was the sanctions that got me out.

Lastly, tell Nelson Mandela that sanctions do not work. Tell him that they did not work. I listened to white South Africans and black South Africans interviewed on a National Public Radio show several months ago. "I was opposed to sanctions," this one South African said, "I was opposed to sanctions, but I was wrong. It made a difference."

Tell Nelson Mandela that sanctions did not work. I am going to develop this theme all next week, but in closing, I will cover one last point.

Many of the arguments used against the bill to take away MFN from the People's Liberation Army, to sanction this corrupt group that everyone agrees, we have unanimity that they are bad, this group, there is this powerful argument that I have found that was offered during World War II and before World War II with Nazi Germany. Would we today be saying, would any Member have the temerity, the courage or the stupidity to come and say that we should not put sanctions on the Nazi army, on the SS?

Of course they would say that, clearly. We have documents to show that during 1933 and 1934 and 1935, Cordell Hull and others said, "No, let's not upset the Nazis, let's not speak out on this issue." That somehow if we speak out on this issue, we will upset the Germans. My God, if there is one mistake we made and we have made many in this country, the United States should have been speaking out boldly in 1933 and 1934 and 1935 and 1936 and 1937 and 1938. We are the leader of the world. We are the leader of the free world because of our military strength. We can thank Ronald Reagan for that and I think we can thank George Bush for that and we can thank many preceding Presidents for that.

The reason that we also are number one in the world is because we lead not only with power, with raw power of might and missiles, we lead with power of example, the power of example. America is a great country because of that. The Declaration of Independence, written by Thomas Jefferson, from my State: We hold these truths, truths, to be self-evident. That all men are created equal.

It does not say all American men and women. It says all men, Chinese men. All men, Chinese women. All men are endowed, are endowed, endowed by their Creator with inalienable rights of life, liberty, and the pursuit of happiness.

I think we are going to be faced with a tremendous moral dilemma next week. There are going to be some who want to and let me just stipulate for the record, they are good men and women on both sides of the aisle, on both sides of this issue, all truth and honesty does not rest with one side, and I will stipulate there are good people and good arguments on the other side, but when it comes to the People's Liberation Army, we are going to have to decide, do we want to vote in support of more assault weapons and guns that they sell, and you know they are laughing at us. I bet the People's Liberation Army leadership is just laughing at us. And do you know, I guess the American people know, I think the Congress knows, that the People's Liberation Army has offices here in the United States? They do industrial espionage and military espionage against our Government, but they are laughing at us. We are going to have to decide, do we stand with the Catholic bishops of China. Do we stand with the protestant ministers of China? Do we stand with the peasants that meet in house churches so they can worship Christ? People that when you ask them of anything about the Government, they say, I do not want to get involved in politics, I just want to worship Christ. I want to be in my house church. I just want to worship in freedom, who will literally do anything for a Bible. Do we want to stand with the people who will do anything for a Bible, who want to worship Jesus Christ in their house or do we want to stand with the People's Liberation Army? Do we want to stand with the People's Liberation Army that gave weapons to Saddam Hussein that killed American soldiers or do we want to stand with those against? Do we want to stand with the People's Liberation Army that is aiding the terrorists around the world and putting arms into southern Sudan whereby they are killing these black Christians who have no food, no weapons, nothing? Or do we want to stand with the Catholic bishops who support this bill?

□ 1500

I think history sometimes repeats itself, and sometimes each generation has to learn a lesson. But I just wondered what the debates would have been like in 1993 or 1934 if we had gone back and had the same circumstances. I would hope looking back that we would have said that Adolf Hitler was evil. I would have hoped that we would have sanctioned the Nazi army and the SS. I would have hoped that we would have done it, and I would hope that we will do the same thing next week when this Congress has an opportunity to come and to vote on whether or not you should stand with those of Amnesty International, the Catholic Bishops, the persecuted, the Dalai Lama from Tibet, the Buddhist monks, those people who are fighting for human rights in Belize, the people who want to keep these Chinese assault weapons out, who want to stop the intelligence and foreign espionage by the People's Liberation Army, or do you want to help stand with the people who want to appease the People's Liberation Army. It would be my prayer and hope that as we develop this issue through the weeks that the Congress will stand for human rights.

I want to add several things. There have been a number of Chinese who have been arrested since the President delinked MFN. As Members know, we used to have MFN, and every year we would say to the Chinese Government, "If you have not made improvement in your human rights, we are going to take away MFN."

President Clinton delinked it. He took it away, and since that time the conditions for the Christians, the non-Christians, the Buddhists, all people, human rights in China have gotten worse.

Second, it was somewhat amusing because they said that President Clinton said, and I can remember President Clinton criticizing President Bush so much during the campaign, and if we recall, he criticized Bush on Haiti and now he has flip-flopped five different times on Haiti. I do not know what his policy is. But he criticized President Bush on Bosnia, and now he has been on every side of that issue in Bosnia. He criticized President Bush on the arms embargo and said that he would lift the arms embargo during the campaign. He said he wanted to lift the arms embargo and criticized President Bush in some very dramatic statements. Now he had done a 180-degree turn, and flip-flopped, and do you know what he got for it? Several weeks after Clinton delinked MFN, the President of the United States, President Clinton, tried to call the President of China and the President of China would not even take his telephone call, would not even take his telephone call.

So we are going to have an opportunity hopefully to reverse that policy, not again on all of the human rights or on all of the MFN. We will be dealing next week solely with the Pelosi bill that deals solely with the People's Liberation Army that justifiably we know have done all of these bad things, and government-run industry in China.

I would like to add one additional thing so that Members will know it. We now have conclusive proof that in China they have what they call an organ sale program. When they kill religious dissidents and people in prison, they shoot them, and when they fall down the doctors are there, and they operate, and they take their kidneys out, they take their corneas out and things like that, and then they sell them. This is the type of group that we are dealing with.

Our opposition would argue that the Declaration of Independence says, "We hold these truths to be self-evident, that all Americans are created equal." But our Founding Fathers had a more noble vision of American values.

Our opposition would conduct a foreign policy that says, "Pull up the ladder, I'm aboard." But our Founding Fathers held deeper principles than protecting the almighty dollar when that same dollar strengthens regimes which oppress their own people.

And this debate is really about people. People who are suffering persecution, imprisonment, and even death for the sake of their faith or political beliefs. People like Bishop Su, a Catholic leader in China imprisoned for 15 years and beaten so hard with a board that the board was left in splinters.

People like Father Calciu, imprisoned under the brutal Romanian Dictator Ceausescu for more than 20 years—rearrested one Easter after delivering a powerful series of Lenten sermons on freedom. The leverage of most-favored-nation status for Romania led to Father Calciu's release and eventually led to the downfall of Ceausescu.

And people like Wei Jingsheng. Wei is China's most prominent democracy advocate whom you will remember as the prisoner released just months before the end of his 15-year sentence in a public relations ploy by Beijing to gain the Olympics. During his 6 months outside of prison, Wei spoke out boldly for human rights, writing op. eds. for the New York Times and daring to meet with Assistant Secretary of State John Shattuck in February. In the face of Beijing's renewed repression against democracy activists, Wei openly told Western reporters that the United States must keep its word and revoke MFN without true progress on human rights. "If you retreat, you lose," he said. For his courage, he was rearrested on April 1 and his whereabouts remain unknown.

The people like Wei who have the most to lose were urging the United States to remain firm before President Clinton's MFN decision. They, like those of us supporting either partial or full MFN revocation today, believed that the time to change U.S. foreign policy is after we have kept our word, not before. They told me repeatedly that their brothers and sisters suffering in China were depending on us. They wondered out loud in my office why we are tempted to ally ourselves with China's past instead of China's future. A prominent Chinese democracy leader told me he strongly believes that upon Deng's impending death, the student and worker-led democratic movement will ally with a large segment of the military to usher democracy into China. He marveled that Chinese leaders are investing their significant sums in the West—foreseeing the changes to come—while American corporations are seeking billion-dollar contracts supporting a political system that may be about to change drastically.

In Eastern Europe, the Soviet Union, and, most recently South Africa, United States trade leverage eventually worked—bringing down repressive Governments, encouraging the oppressed, and emboldening the future leaders of those countries in their struggles for democracy.

Ask South Africa's Nelson Mandela, Poland's Lech Walesa, or the Czech Republic's Vaclav Havel—all former prisoners turned Presidents—whether they appreciated the pressure of United States trade leverage on their oppressive Governments.

In particular, I'd love to hear Nelson Mandela's response to the other side's argument that the United States must not forgo profits to advance the cause of freedom. Of course, you'd have trouble reaching him right now. He has the burden of crafting his own foreign policy, precisely because we stayed the course in South Africa.

But, at our deepest gut level, we must ask ourselves as a nation if trade at any price is worth more to us than our American values? What's at stake here is the credibility of our moral leadership on the world stage.

The height of American hypocrisy is to preach our cherished values of freedom of religion and speech, while we prize the lost dollar over the lost life.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. INSLEE (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. CLEMENT (at the request of Mr. GEPHARDT), after 2 p.m. today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MEYERS of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. HOEKSTRA, for 5 minutes, today.

Mr. WOLF, for 5 minutes, today.

(The following Members (at the request of Mr. DERRICK) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Mr. EVERETT in two instances.

Mr. FIELDS of Texas.

Mr. SMITH of New Jersey.

Mr. GINGRICH.

Mr. PACKARD.

Mr. SOLOMON.

(The following Members (at the request of Mr. DERRICK) and to include extraneous matter:)

Mr. GLICKMAN.

Mr. HOYER in two instances.

Mr. JACOBS.

Mr. HAMILTON.

Mr. REED.

Mr. DE LA GARZA.

Mr. SERRANO.

Mr. ZELIFF.

Mr. WHEAT.

Ms. PRYCE of Ohio.

Mr. ROSE.

Ms. ESHOO.

ADJOURNMENT

Mr. WOLF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Monday, August 1, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3584. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3585. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3586. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10-289, "District of Columbia Workers' Compensation Act of 1979 Amendment Act of 1994," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3587. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–290, "Retired Police Officer Redeployment Salary Limit Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3588. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–291, "District of Columbia Taxicab Commission Establishment Act of 1985 Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3589. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–292, "Compensation Merit Personnel Reemployed Annuitant Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3590. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–293, "National Voter Registration Act Conforming Amendment Act of 1994," pursuant D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3591. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–294, "Policemen and Firemen's Retirement Relief Board Amendment Act of 1994," pursuant D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3592. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–295, "Lie Detector Tests for Pre-Employment Investigations Temporary Amendment Act of 1994," pursuant D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3593. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–296, "Rental Housing Conversion and Sale Act of 1980 Reenactment and Amendment Temporary Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3594. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–301, "District of Columbia Association Attraction and Retention Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3595. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–302, "Technical Amendments Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3596. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by David George Newton, of Virginia, to be Ambassador to the Republic of Yemen, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3597. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of Justification for Presidential Determination (94–34) regarding the drawdown of defense articles and services from the stocks of DOD for emergency military assistance to the Dominican Republic, pursuant to Public Law 101–513, section 547(a) (104 Stat. 2019); to the Committee on Foreign Affairs.

3598. A communication from the President of the United States, transmitting a report on Federally funded international exchange programs and training activities of the U.S. Government, pursuant to Public Law 013–236, section 229(a); to the Committee on Foreign Affairs.

3599. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the transfer of property to the Republic of Panama under the Panama Canal Treaty of 1977 and related agreements, pursuant to 22 U.S.C. 3784(b); jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

3600. A letter from the Acting Director, Office of Management and Budget, transmitting a draft of proposed legislation to provide, in accordance with the Federal Advisory Committee Act, for the repeal of advisory committees no longer carrying out the purposes for which they were established; jointly, to the Committees on Government Operations, Agriculture, Natural Resources, Armed Services, Science, Space, and Technology, Energy and Commerce, Education and Labor, the Judiciary, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GIBBONS: Committee on Ways and Means. H.R. 4003. A bill to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the U.S.-flag merchant marine, and for other purposes; with an amendment (Rept. 103–544, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN of California: Committee on Science, Space, and Technology. H.R. 4008. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal years 1994 and 1995, and for other purposes; with an amendment (Rept. 103–583, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GIBBONS: Committee on Ways and Means. H.R. 3396. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide security for workers, to improve pension plan funding, to limit growth in insurance exposure, to protect the single-employer plan termination insurance program, and for other purposes; with an amendment (Rept. 103–632, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ISTOOK (for himself, Mr. HORN, Mr. CANADY, Mr. ZIMMER, Mr. LEVY, Mr. UPTON, and Mr. MCHALE):

H.R. 4857. A bill to make small business concerns eligible to participate in the health benefits program under chapter 89 of title 5, United States Code; jointly, to the Committees on Energy and Commerce, Post Office and Civil Service, and Education and Labor.

By Mr. MARKEY (for himself and Mr. FIELDS of Texas):

H.R. 4858. A bill to amend the Securities Act of 1933 and the Investment Company Act of 1940 to promote capital formation for small businesses and others through exempted offerings under the Securities Act and through investment pools that are excepted or exempted from regulation under the Investment Company Act of 1940 and through business development companies; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey:

H.R. 4859. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation and disposal of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GEPHARDT (for himself, Mr. OBEY, Mr. WHEAT, Mr. ANDREWS of Maine, Mr. FRANK of Massachusetts, Mr. SARPALIUS, Mr. HUGHES, Mr. RAHALL, Mr. FROST, Mr. CLAY, Mr. KANJORSKI, Mr. BARRETT of Wisconsin, Mr. BROWN of Ohio, Mr. DEFAZIO, Mr. DEUTSCH, Mr. EVANS, Mr. FILNER, Mr. HINCHEY, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KLECZKA, Mrs. MEEK of Florida, Mr. POSHARD, Mr. STUPAK, Mrs. THURMAN, Mr. VENTO, Mr. POMEROY, Mr. BRYANT, and Mr. TORRES):

H.R. 4860. A bill to amend the Internal Revenue Code of 1986 to improve the collection of taxes of U.S. persons moving production abroad and foreign persons doing business in the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. ZELIFF (for himself, Mr. KASICH, Mr. MICA, Mr. ALLARD, Mr. ARMEY, Mr. BLUTE, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. COX, Mr. HANCOCK, Mr. HERGER, Mr. KOLBE, Mr. LINDER, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. MILLER of Florida, Mr. SHAYS, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. ZIMMER, and Mr. GEKAS):

H.R. 4861. A bill to provide for the consolidation of Federal employment assistance programs, to provide increased notice of the availability of the earned income tax credit, and to repeal the temporary FUTA surtax; jointly, to the Committees on Education and Labor, Veterans' Affairs, Ways and Means, and Agriculture.

By Mr. DE LA GARZA (for himself, Mr. ROBERTS, Mr. ROSE, Mr. LEWIS of Florida, Mr. VENTO, and Mr. MILLER of California):

H.J. Res. 395. Joint resolution to proclaim August 9, 1994 as "Smokey Bear's 50th Anniversary"; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H. Con. Res. 275. Concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ROSE:

H.R. 4862. A bill for the relief of Inslaw, Inc., a Delaware Corporation, and William A. Hamilton and Nancy Hamilton, individually; to the Committee on the Judiciary.

By Mr. TAUZIN:

H.R. 4863. A bill to authorize the sale and reregistration of certain vessels; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. SYNAR.

H.R. 50: Ms. PELOSI, Mr. FOGLIETTA, Mr. SANDERS, and Mr. WAXMAN.

H.R. 147: Mr. CANADY.

H.R. 174: Ms. BROWN of Florida.

H.R. 214: Mr. CANADY, Mr. DORNAN, and Mr. COPPERSMITH.

H.R. 229: Mr. BARLOW.

H.R. 441: Ms. SCHENK.

H.R. 566: Mr. LIVINGSTON.

H.R. 657: Mr. DORNAN.

H.R. 799: Mr. SANTORUM.

H.R. 957: Mr. VENTO.

H.R. 961: Mr. BARCA of Wisconsin.

H.R. 1080: Mr. COMBEST.

H.R. 1110: Mrs. BENTLEY and Mr. BLUTE.

H.R. 1171: Mr. HILLIARD.

H.R. 1286: Ms. MARGOLIES-MEZVINSKY, Mr. KLINK, and Ms. SCHENK.

H.R. 1322: Mr. ROGERS.

H.R. 1483: Mr. ROEMER.

H.R. 1500: Mr. MARTINEZ, Ms. ROYBAL-ALLARD, and Mr. KLUG.

H.R. 1518: Mr. KINGSTON, Mr. STEARNS, and Mr. ZIMMER.

H.R. 1604: Mr. KYL.

H.R. 1607: Ms. SCHENK.

H.R. 1887: Mr. ROEMER.

H.R. 2014: Mr. ROEMER.

H.R. 2019: Mr. TOWNS.

H.R. 2092: Mr. MEEHAN, Mr. ROSE, Mr. HOCHBRUECKNER, Mr. MACHTLEY, and Mr. HOAGLAND.

H.R. 2227: Mr. BARRETT of Wisconsin.

H.R. 2512: Mr. CRANE.

H.R. 2680: Mr. ZIMMER.

H.R. 3128: Mr. ROEMER.

H.R. 3163: Mr. KLUG, Mr. KINGSTON, Mr. HAMILTON, and Ms. MARGOLIES-MEZVINSKY.

H.R. 3270: Mr. SMITH of Oregon, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. GORDON, Mr. LEVIN, Mr. BECERRA, and Mr. SKEEN.

H.R. 3457: Mr. ROEMER.

H.R. 3523: Ms. SCHENK and Mr. ORTIZ.

H.R. 3560: Mr. SCHAEFER.

H.R. 3712: Mr. SKELTON.

H.R. 3716: Mr. KYL.

H.R. 3814: Mr. PORTMAN.

H.R. 3913: Mr. SCHAEFER.

H.R. 3951: Ms. DANNER, Mr. BEVILL, and Mr. COMBEST.

H.R. 3958: Mr. ZIMMER.

H.R. 3967: Mr. MCHALE.

H.R. 4040: Mr. CLYBURN, Mr. CONYERS, and Mr. BOUCHER.

H.R. 4088: Mr. BILIRAKIS.

H.R. 4091: Mr. JEFFERSON and Ms. ROYBAL-ALLARD.

H.R. 4138: Mr. ROGERS.

H.R. 4162: Mr. FALEOMAVAEGA and Mr. DEUTSCH.

H.R. 4198: Mr. MCCOLLUM.

H.R. 4230: Mr. LEWIS of Georgia.

H.R. 4386: Mr. HALL of Texas and Mrs. BYRNE.

H.R. 4411: Mr. SCOTT.

H.R. 4413: Mr. FARR.

H.R. 4421: Mr. GALLEGLY.

H.R. 4517: Mr. EVANS.

H.R. 4684: Mrs. MORELLA and Mr. FRANK of Massachusetts.

H.R. 4699: Mr. JEFFERSON, Mr. PASTOR, and Mr. JOHNSTON of Florida.

H.R. 4702: Mr. MCDADE, Mr. GENE GREEN of Texas, and Mr. LEVY.

H.R. 4739: Ms. LOWEY and Ms. VELAZQUEZ.

H.R. 4767: Mr. SANDERS.

H.R. 4805: Mr. GLICKMAN.

H.R. 4831: Mr. SAXTON.

H.J. Res. 1: Mr. ANDREWS of Maine.

H.J. Res. 287: Mr. FISH, Mr. SMITH of New Jersey, Mr. LEVY, Mr. FINGERHUT, Mr. FLAKE, Mr. DELLUMS, Mr. STUPAK, Mr. PRICE of North Carolina, Mr. HASTINGS, Mr. KREIDLER, Mr. WASHINGTON, Mr. DIAZ-BALART, Mr. SANGMEISTER, Mr. WALSH, Mr. SLATTERY, Mr. EMERSON, Mr. YOUNG of Florida, Mr. ROMERO-BARCELO, Mr. SKEEN, Mrs. FOWLER, Mr. BATEMAN, and Mr. GILMAN.

H.J. Res. 337: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BATEMAN, Mr. DURBIN, Mr. ROWLAND, Mrs. MORELLA, Mr. JEFFERSON, Mr. PRICE of North Carolina, Mr. CLEMENT, Mr. HUGHES, Mr. GINGRICH, Ms. CANTWELL, Mr. MEEHAN, Mr. HASTINGS, Mr. SKEEN, Mr. MONTGOMERY, Mr. HEFNER, Mr. BLUTE, and Ms. MARGOLIES-MEZVINSKY.

H. Con. Res. 166: Mr. SAM JOHNSON, Mr. HINCHEY, Mr. UNDERWOOD, Mr. ORTIZ, Mr. MINGE, and Mr. MCCANDLESS.

H. Con. Res. 223: Mr. HASTINGS, Mr. GEJDENSON, and Mr. DE LA GARZA.

H. Con. Res. 246: Mr. ACKERMAN, Mr. DE LUGO, Mr. BLACKWELL, Mr. FARR, Mr. CONYERS, Mr. FALEOMAVAEGA, Mr. UNDERWOOD, Mrs. MINK of Hawaii, Mr. HILLIARD, Mr. OBERSTAR, Mr. MURPHY, Mr. MCCLOSKEY, Mrs. BYRNE, Mr. STOKES, Mr. GEJDENSON, and Mr. WATT.

H. Con. Res. 249: Mr. MATSUI, Mr. KING, Mr. SMITH of New Jersey, Mr. DELLUMS, Mr. FROST, Mr. BEILENSON, Mr. FRANK of Massachusetts, Mr. GORDON, Mr. MCCLOSKEY, Mr. ROYCE, Mr. WAXMAN, Mr. MCDADE, Mr. ROHRABACHER, Mrs. MALONEY, Mr. BILBRAY, Mr. SOLOMON, Mr. SCHIFF, Mr. BATEMAN, Mr. NADLER, Mr. SAXTON, Mrs. UNSOELD, Mr. SERRANO, Mr. BERMAN, Mr. EVANS, Mr. ZIMMER, and Mr. SHAYS.

H. Con. Res. 256: Mr. GREENWOOD.

H. Con. Res. 270: Mr. SMITH OF OREGON, Mr. DUNCAN, Mr. LIVINGSTON, Mr. BEREUTER, Mr. CALLAHAN, Mr. HANCOCK, Mr. GILCHREST, Mr. ROBERTS, Mr. BARRETT of Nebraska, Mr. BLUTE, Mr. ISTOOK, and Mr. BARTLETT of Maryland.

H. Res. 266: Mr. CANADY.

H. Res. 389: Mr. VALENTINE, Mr. MEEHAN, Mr. CLEMENT, Mr. RAHALL, Mr. SHARP, Mr. YATES, Ms. MCKINNEY, Mr. SANGMEISTER, Mr. HASTINGS, Mr. SHAYS, Mr. WATT, Ms. DELAURO, Mr. POSHARD, Mr. KASICH, and Ms. MARGOLIES-MEZVINSKY.

H. Res. 430: Mr. DEUTSCH.

H. Res. 472: Mr. FRANKS of New Jersey, Mr. MILLER of Florida, and Mr. UPTON.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 12 by Mr. TRAFICANT on the bill H.R. 3261: Jim Bunning and Charlie Rose.

Petition 17 by Mr. SHAW on House Resolution 386: Michael Huffington.

Petition 18 by Mr. HASTERT on House Resolution 402: Thomas H. Andrews.

Petition 19 by Mr. EWING on House Resolution 415: Don Sundquist.

Petition 22 by Mr. INHOFE on House Resolution 409: J. Dennis Hastert.

SENATE—*Friday, July 29, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * the Lord * * * said unto Abram * * * I will make of thee a great nation, and I will bless thee * * * and thou shalt be a blessing * * * and in thee shall all families of the earth be blessed.*—Genesis 12:1–3.

*Pray for the peace of Jerusalem * * *.*—Psalm 122:6.

God of Abraham, Isaac, and Ishmael, God of our fathers, as we listened to Prime Minister Rabin of Israel and King Hussein of Jordan speak at the joint meeting Tuesday morning, it was like a dream in which we were immersed in nearly 3,000 years of Biblical history. For more than 25 centuries, the Middle East has struggled with conflict. Now, two great leaders, in the presence of Congress, the Nation, and the world, join hands in a commitment to seek peace. Hallelujah!

We were reminded, gracious God, that the three great monotheistic religions in history have vested interests in Jerusalem. Peace in Jerusalem is the precursor to peace in the world. And we pray for that peace. Grant wisdom and courage to the leaders of Israel, Jordan, Syria, and Palestine, and overrule every attempt that is made to frustrate their efforts for peace.

We pray in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 29, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business not to extend beyond 9 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

ABOUT SENATOR HUGH SCOTT

Mr. WARNER. Mr. President, there is a particular facet of Hugh Scott's life and conduct which is most dear to me as a Virginian representing our Commonwealth in the U.S. Senate.

Throughout his political career in Pennsylvania and his private life after leaving the Senate, Hugh Scott was proud of his Virginia heritage, as a graduate of Randolph-Macon and of the University of Virginia Law School. Coincidentally, he roomed there 1 year with another distinguished colleague, John Stennis, of Mississippi.

In addition to his personal attachment to Virginia and its institutions, Hugh Scott was dedicated to fostering the reality of a viable Republican Party in Virginia. He was a great personal help to our first Republican Governor, Linwood Holton, with whom he always stayed closely allied over the years. Together with Governor Holton, Senator Scott was a key adviser to me as I assumed the positions of Undersecretary and Secretary of the Navy. He always found time to help me as a patient mentor and a trusted resource as I began to explore my own interest in elective office.

No one has ever given me better or more thoughtful counsel. And no advice I have taken has ever been more valuable than that he gave me over these many years.

Hugh Scott was a gentleman in the best and most classic sense of that word. His personal code of honor was beyond reproach and his partisan advocacy was based on fact and principle—not on conjecture or personality. His firmly grounded civility was matched by ferocity in pursuit of his objective. And the appellation affable tiger was his personal favorite.

Hugh Scott possessed tremendous energy from which we, in the Senate, benefited mightily. And that energy characterized his private life as he pursued deep and scholarly interests, particularly in Chinese art.

And running as a thread through all these activities, public and private, were his deep-seated love of Virginia and his devotion to the enduring themes and values he formed as a young person.

During his service as Senator Republican leader, there was on his inner office door a small hand typed "Prayer of a Breton Fisherman: Oh, God, Thy Sea is so great; and my boat is so small."

On the inside of that door was a metal plaque showing the University and an excerpt from a famous poem about the gentlemen who attended it:

THE HONOR MEN

(By James Hay, Jr. '03)

> The University of Virginia writes her highest degree on the souls of her sons. The parchment page of scholarship—the colored ribbon of a society—the jeweled emblem of a fraternity—the orange symbol of athletic prowess—all these, years hence, will be at best mementoes of happy hours—like the withered flower a woman presses between the pages of a book for sentiments sake.
>
> But—
>
> If you live a long, long time, and hold honesty of conscience above honesty of purse;
> And turn aside without ostentation to aid the weak;
> And treasure ideals more than raw ambition;
> And pursue no woman to her tears;
> And track no man to his undeserved hurt;
> And love the beauty of noble music and mist-veiled mountains and blossoming valleys and great monuments—
> If you live a long, long time and, keeping faith with all these things hour by hour, still see that the sun gilds your path with real gold and that the moon floats in dream silver;
>
> Then—
>
> Remembering the purple shadows of the lawns, the majesty of the colonnades, and the dream of your youth, you may say in reverence and thankfulness:
> "I have won the honor of honors. I have graduated from Virginia."

Mr. President, I cite these two highly personal vignettes because they illustrate the manner in which Hugh Scott lived his life: Each and every day; trust in God, and conduct yourself as a gentleman.

Mr. President, I also request permission to insert further pertinent material in the RECORD at this point. This includes the statements of two valued friends: his longtime chief aide, Martin G. Hamberger, and Richard G. Quick, who served the Senator in many ways.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

LIPSEN & HAMBERGER,
ATTORNEYS AND COUNSELORS AT LAW,
Washington, DC, July 22, 1994.

LETTER TO THE EDITOR.

DEAR EDITOR: The death of former U.S. Senate Republican Leader Hugh Scott of Pennsylvania ought to serve as an occasion to remember his national leadership as a moderate Republican who fought vigorously for the center from his position as Republican National Chairman in 1948 and continuing through his service as Senate Republican Leader from 1969 through 1976. Hugh Scott's spirited defense of the Office of the Presidency during the Watergate Era has tended to identify him with that time in a way he does not deserve.

It is far more productive and relevant today to understand Hugh Scott in terms of his dedication to the highest principles of public service and personal ethics. During the Vietnam Era he stated he was neither Hawk nor Dove, but rather an Owl. And it was wisdom which guided him throughout his career. He was a fighter for Civil Rights beginning in the 1940s; and through the federal legislative struggles of the 1960s, he was always in the forefront of achieving Civil Rights goals. Senator Scott was a leader in making Eisenhower the first modern Republican President.

Hugh Scott was in most ways a "pre-media" Senator, but his sharp wit and excellent turn of phrase made good copy and great sound bites. And in times when bringing federal dollars home to Pennsylvania projects was not criticized, he didn't hesitate to make a reality of this 1970 campaign theme: "The Most Powerful Senator We Ever Had!"

The fundamental characteristic of his public service was his dedication to making government not just responsible but also responsive to the needs of the people. And I am certain that Hugh Scott's last words for all of us would be as he often said:

"Face the future with an eye for excellence, a hand for the helpless, a head for the truth, and a heart for the People."

Sincerely,

MARTIN G. HAMBERGER

REMARKS OF RICHARD G. QUICK

Those of us who were privileged to serve U.S. Senator Huge Scott as he represented the Commonwealth of Pennsylvania are indeed fortunate to have had such an experience in our lives. His example of leadership and compassion, demand and understanding, was a great tool in shaping our own perspective and choices about who and what we would become.

For me, a non-political person from a small town in Central Pennsylvania, association with "Scott of Pennsylvania, the most powerful Senator we ever had" opened an entire new vista of recognition and possibilities. I was but one of many who enjoyed this vista because of him. And he inspired us to do our best to perform for him and Pennsylvanians in a way worthy of his and their trust.

There was no doubt about why he was the first Pennsylvania Senator to be popularly elected to three terms—every day was a work day on which to get something more accomplished for the People. And he worked at those tasks with great patience and foresight. He was willing to accept political risks and to act boldly because he believed that the good judgement of the People would result in good government being the best politics. Having the opportunity to help in that work and to enjoy the benefit of his teaching as we progressed was the most profoundly satisfying experience of my life.

IN PRAISE OF SUMMER INTERNS

Mr. MOYNIHAN. Mr. President, I rise in recognition of my summer intern staff.

These fine young men and women volunteered their time and energy this summer, and did a most outstanding job. Mr. President, in recognition of a job well done, I ask that a list of their names be printed in the RECORD:

Matt Cloud, Kelli Crawford, Chirstophe Delville, Paul Dickson, Roseanne Foster, Erin Goldberg.

Erica Goldschmidt, Kapil Gupta, Ethan Hein, Tara L. Jones, Joey Koch, Sam Meirowitz.

Maragent Phee, Baldwin Robertson, Jennifer Ross, Kinda Serafi.

TRIBUTE TO MARGE LAITOS

Mr. PRESSLER. Mr. President, I rise to pay tribute to Marjorie Laitos of Rapid City, SD, who recently passed away. She was affectionately known as Marge to those of us who were her friends.

Marge was a very special lady. She made a lasting impression on anyone who met her. Marge was an educated, well-read woman who effectively articulated her views. I have many fond memories of my visits to her home and our discussions about various issues.

My friendship with Marge predates the beginning of my service in the U.S. Senate. I first met Marge while I was a Member of the House of Representatives. Over the years she provided me with invaluable advice and assistance. When I first was elected to the Senate, Marge helped to establish my Rapid City field office and worked as a member of my Rapid City staff for several years. I am very grateful for her loyal support and friendship.

Marge was conversant in a wide range of subjects. Her interests were diverse—Egyptian history, geology, paleontology, archaeology, the environment, and natural history—to name just a few. She also was proud of her Scottish heritage and even traveled to Scotland to pursue her genealogical research.

Although she was actively interested in many fields, her avocation was Egyptology. Several years ago she fulfilled a lifetime dream of traveling to Egypt to visit the historical and cultural sites there. She had read about and studied them for many years. Following that trip, Marge later wrote a book, "Bon Bons, Baksheesh and Me," which described Egyptian history and culture in the context of her travel experiences.

Being a published author is an achievement in itself. However, Marge's family was her greatest source of pride and enjoyment. She was a caring wife, mother, and grandmother. She not only encouraged and supported her children in their educational endeavors, but also practiced what she preached. As an avid reader, Marge was an inspiring role model for the continued pursuit of knowledge throughout one's life.

Over the past few decades, we have witnessed a trend whereby some in our society have placed a lower priority on good manners, proper grammar, and standards of conduct. Marge was certainly the exception to this trend. She was poised, gracious, and resolute.

Marge always rose to the occasion and did what needed to be done to help her husband, Jan, with his military career, her children with their education, and the good causes in which she believed. She was a gracious host, a fascinating conversationalist, and an articulate champion of her beliefs.

But most of all, Marge was fun to be around. I will always remember her hearty laugh and her witty sense of humor. We can all draw lessons from her zest for learning and her enjoyment of life. Marge was a "Renaissance woman" in the best sense of the term.

She was a friend of mine and a great South Dakotan. She will be greatly missed by all of us who knew her.

OPPOSITION TO THE SIMON AMENDMENT NO. 2423 ON A LONGER SCHOOL YEAR

Mr. FEINGOLD. Mr. President, I want to voice my disagreement with an amendment to S. 1513, the Elementary and Secondary Education Act, which was accepted last night. I recognize that there are enormous time pressures on the managers of these kinds of measures to expedite consideration of various amendments, but we continue to pass these kinds of amendments for new spending without meaningful scrutiny. This amendment in particular caught my attention because I simply don't believe in this time of enormous fiscal constraints, we should be spending scarce Federal dollars for this purpose.

The Simon amendment, which allows the Secretary of the Department of Education to award grants to school districts that want to implement longer school years, is authorized at $100 million. A few hours earlier, I met with educators from my State who expressed their opposition to the Simon amendment, and the concept of a longer school year. This proposal is advanced by those who believe that American schools ought to operate in every facet like schools in Japan and Germany. They are vested in a largely unfounded belief that a longer school year will magically result in higher academic achievement for our students. Standing on its own, a longer school year will not yield better results, without regard for rigorous concentration on core academic subjects, or any consideration for spending more time each day in the classroom. This is, I believe, another "quick fix," a superficial cosmetic concept that will do little to improve classroom instruction and learning.

Given scarce resources within the context of a Federal education program that is struggling to define its proper role in State and local education systems, the use of Federal resources for the purpose of lengthening the school year is an inappropriate expenditure. If school districts want to have a longer school year, then let them choose the resource—local, State, or Federal. My view is the limited Federal resources ought to be focused on results yielding programs and policies—many of which are already contained in S. 1513, like professional development for teachers, national education goals for math and science, Head Start, title I for economically and educationally disadvantaged students, educational technology, and women's educational equity programs.

THE GATT IMPLEMENTING LEGISLATION

Mrs. KASSEBAUM. Mr. President, the administration is preparing legislation to implement the Uruguay round agreement of the General Agreement on Tariffs and Trade. This week, the Finance Committee is reviewing provisions and offering its advice. Other committees have undertaken to do the same.

I rise today to express my firm belief that the administration should submit a Congress a clean bill. The implementing legislation should contain no provisions except those necessary to implement the Uruguay round agreements.

Congress has agreed to consider the Uruguay round implementing legislation under special fast track rules, which require an up-or-down vote without amendment. We agreed to this procedure in recognition that delicate balances would be struck by our negotiators as they pursued our national interests in this complex, multilateral negotiation.

Fast track is a powerful tool, and its limits must be narrowly drawn. I am concerned about proposals to include extraneous provisions in the implementing legislation. There has been discussion, for example, of including new fast track negotiating authority and of establishing labor or environmental criteria for future negotiations.

Provisions such as these may have merit, but that is not the point. They are extraneous and unnecessary to implement the Uruguay round agreement. They should stand on their own; they do not belong in the implementing legislation.

There is much good in the Uruguay round agreements, which extend the longstanding American commitment to pry open foreign markets. After 7 long years, our negotiators secured agreements that will bind additional countries to the rules of fair trade by which we long have abided. They will for the first time protect the rights of important American industries trading in services or reliant upon intellectual property. And, they will give all of our exporters unprecedented access to the world's fastest growing markets, particularly in Asia and Latin America.

At the same time, many questions about the Uruguay round agreements must be addressed as the implementing legislation is developed and the congressional debate unfolds. For example, how will this agreement affect the delicate balance of our Federal system when State laws conflict with our trading obligations? How will if affect the Federal budget? What are the strengths and weaknesses of the new structures put in place to administer these trade agreements?

These agreements are important, and Congress should meet them head on. We should debate their benefits and shortcomings and address the sincere concerns raised in Washington and throughout the country. And, in the end, Congress must meet its constitutional duty to decide whether these agreements are an appropriate means of regulating our Nation's foreign commerce.

But I strongly believe that the Uruguay round agreements must rise or fall solely on their own merits. It would be unfortunate indeed, if the important issues of the Uruguay round were cluttered—or overshadowed—by unnecessary and extraneous matters.

THE PASSING OF HUGH SCOTT

Mr. SIMPSON. Mr. President, I rise to express a very deep and profound sadness at the passing of our dear friend, Senator Hugh Scott. I first met him at the Republican National Convention in Chicago in 1952, when my father was a delegate from Wyoming, and Hugh Scott, then serving in the U.S. House of Representatives, was one of the emerging statesmen of our country.

Six years later he was elected to the U.S. Senate. He served with my father when dad was here from 1962 to 1966. They enjoyed each other very much although their voting patterns were somewhat dissimilar, considering they were both in the same party. But, respect and admiration was always the hallmark of their friendship.

When I came to the U.S. Senate, Hugh was one of the first to greet me and wish me well and to ask how he could be of assistance. I always appreciated his good counsel and friendship. He was a wonderful man who possessed great civility and had a wide range of scholarly interests.

He struggled on in these last years, but loved to come to various Senate-related functions. Although physically limited he always had a sparkle in his eye and was delighted to participate in "things of the Senate."

He will be deeply missed. He was a gentleman, a scholar, a legislator, and a friend. We shall miss him greatly. We wish his dear daughter, Marian, and his dear grandchildren who he loved so very dearly, our deepest regards and respects.

My wife, Ann, joins in these expressions of sympathy and regard.

SR-71 BLACKBIRD SUMMARY STATEMENT

Mr. BYRD. Mr. President, the Senate Armed Services Committee and the Senate Defense Appropriations Subcommittee included funds to establish a modest, 3-plane contingent of SR-71 Blackbird reconnaissance aircraft. When it was retired in 1989, the SR-71 was the only survivable, penetrating, manned reconnaissance system in the U.S. inventory providing photographic and radar imagery and electronic intercept. It remains to this day the only survivable, penetrating, manned reconnaissance aircraft. The other aircraft systems operated by the United States, the U-2 and the RC-135, do not have the speed and altitude to overfly a potentially hostile opponent. Expensive efforts to develop unmanned aerial vehicles are still in development and will not be fielded for years.

This capability is still needed. We needed it in the Persian Gulf war, when battlefield commanders could not get enough imagery from satellites to answer all of their intelligence questions. The United States had to use lower-quality civilian Landsat and SPOT satellite imagery to produce the special maps that were needed to prosecute the war against Iraq. As capable as our satellite systems are, in a crisis the additional capability provided by the SR-71 could prove invaluable.

I have been assured that for $100 million from within the budget request, three of these aircraft could be brought back into service within a year with their existing photographic and electronic sensors. A vital, new radar imaging system would also be included within that amount. This would include a 30-day deployment with approximately 10 operational missions. We believe that this austere capability could be maintained for approximately $50 million per year, and surged if required to support a conflict. In my opinion, this is a very efficient stop gap measure, complementing existing satellite and aircraft systems, to assure that U.S. troops have the capability they need in a conflict.

Some critics of the SR-71 question whether the United States has the "political will" to use the SR-71 against another country, since a decision was made not to overfly Iraq in 1991. I reject the notion that we have learned nothing from that conflict. Far better for the political authorities to have an instrument in hand to use if necessary than to deny them the opportunity to use it by assuming that the nation's leadership will never have the political will to overfly a nation if our intelligence needs, and our combat forces at risk, demand it. Reestablishing a limited contingent of SR-71 Blackbird reconnaissance aircraft is a prudent move, and one that I fully support.

Mr. President, I ask unanimous consent that following my statement additional material referred to in the statement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

SR-71 BLACKBIRD

Mr. BYRD. Mr. President, in the last few years, the world has been beset by troubles. One of these troubles has already required the deployment of U.S. military forces in a war against Iraq. Another troubling situation is still bubbling away on the Korean peninsula, sometimes at a low simmer, sometimes looking like it is coming up to a boil. One of the critical lessons we learned from the Persian Gulf war is that, in a threatening situation or during the conduct of a war, a military commander cannot have too much information, too many maps, or too many "looks over the hill" to see what the enemy is doing. The Department of Defense's "Final Report to Congress on the Conduct of the Persian Gulf War" in 1992 noted that "Imagery was vital to Coalition operations, especially to support targeting development for precision guided munitions and Tomahawk Land Attack Missile attacks, and for BDA [bomb damage assessment]. Operations Desert Shield and Desert Storm placed great demands on national, theater, and tactical imagery reconnaissance systems. The insatiable appetite for imagery and imagery-derived products could not be met." The U.S. Defense Mapping Agency had to use Landsat and SPOT data to create maps for the U.S.-led coalition's use in that war.

Mr. President, our national ability to meet that "insatiable appetite" has not improved in the intervening years. The "Final Report to Congress on the Conduct of the Persian Gulf War" went on to note that "The SR-71 could have been useful during Operation Desert Shield if overflight of Iraq had been permitted. In that case, the system would have provided broad area coverage of a large number of Iraqi units * * * During Operation Desert Storm air operations, the SR-71 would have been of value for BDA [bomb damage assessment] and determining Iraqi force dispositions." It is for this reason that I have again, as I had in a letter to the Secretary of Defense before the war with Iraq, broached the subject of bringing the SR-71 Blackbird reconnaissance aircraft out of forced retirement.

In 1991, my suggestion to then Secretary of Defense Cheney was not adopted. The SR-71 program had been terminated as a full-fledged operational activity involving 12 aircraft in 1990 on the grounds of cost, lack of need due to the end of the cold war, and the promise of follow-on systems then in development. The follow-on to the SR-71 has since then also been canceled. The SR-71 Blackbird remains our sole manned, survivable, penetrating reconnaissance aircraft. The Congress, however, specifically directed that this capability be preserved. In June, 1990, the Secretary of the Air Force directed the Air Force to "place three SR-71A aircraft and six associated reconnaissance sensors and electronic countermeasure suites into long term storage, rather than a "flight ready" status, as a hedge against a protracted conflict some time in the future." This was a far-sighted move. I believed in 1991 that we should have taken advantage of that foresight, and I continue to believe that we should take advantage of this fortuitous circumstance and create a contingency capability for the SR-71 in the face of the potential for conflict that continues to exist on the Korean peninsula. Our military forces deserve access to every tool that we can provide, particularly tools of such demonstrated capability and need.

Unmanned Aerial Vehicles, or UAV's, have been touted as a penetrating and survivable follow-on to the SR-71 and, indeed, in a few years they may be developed to that point. Very high expenditures are under consideration for a family of various UAV's, amounting to $2.2 billion over the next five years. The funds for UAV development have come in part at the expense of upgrades and overhaul to other existing airborne reconnaissance platforms like the U-2 and RC-135, which unlike the SR-71 are not survivable over hostile territory. While potentially useful, the current program of UAV development is extremely ambitious and may not be fully attainable in the current constrained budget environment. The SR-71 is a cost effective stopgap that makes use of existing, but still state of the art, equipment to fill an inarguable gap in battlefield intelligence. I do not view it as a competitor of UAV's—I support funding for an effective tactical UAV program.

The SR-71 as an aerial surveillance system complements other "national technical means," as satellite systems are euphemistically termed. A 1991 report by the Office of Technology Assessment, "Verification Technologies: Cooperative Aerial Surveillance," cites a 1990 report to the Department of Defense that states "the existence and utility of reconnaissance satellites is accepted . . . Satellite orbits are highly predictable. It is taken as a given by each side that the other will refrain from some activities, which would otherwise by observable, during a satellite pass—once or a few times a day, say for a total of 20 minutes. The long advance predictability of reconnaissance coverage makes it possible to hide, by careful advance scheduling, even very large and elaborate activities. Each side might worry, in the extreme case, that preparations for war or treaty breakout could thus be hidden." The scheduling and route flexibility provided by aircraft platforms such as the SR-71 make it very nearly impossible to avoid detection. Properly employed, there should be no advance warning of when or where an SR-71 might fly. Given the repute of the North Koreans in concealing their facilities and installations even in peacetime, this flexibility might be essential should tensions escalate or hostilities erupt on the peninsula.

"National technical means" of intelligence collection will remain essential, but have some limitations, as I have just illustrated. Another weakness of current satellite intelligence systems, but a strength of the SR-71, is the ability to provide synoptic broad area coverage of large swaths of ground, needed for monitoring overall enemy force dispositions and for specialized and updated mapping. Prior to the Persian Gulf War, the United States acquired Landsat and SPOT satellite images from which to build maps, because U.S. intelligence systems were swamped trying to monitor Iraqi military activities. Buying Landsat and SPOT imagery for these needs was a stopgap measure. We might not be so fortunate the next time a crisis arises. Nor may we benefit from six months to prepare for a conflict, as we did during the Persian Gulf conflict. Military reconnaissance missions' requirements for timeliness often exceed the current capabilities of civilian satellite systems. According to a 1993 Office of Technology Assessment report, "The Future of Remote Sensing From Space: Civilian Satellite Systems and Applications," Landsat satellites pass over any given place along the equator once every 16 days, while SPOT passes over once every 26 days. Each system may require weeks to process orders. The report goes on to state that "existing civilian satellite data are not adequate to create maps with the coverage or precision desired for military use."

The same report also notes that because other nations control some of the most capable civilian satellite imaging systems, they could in the future deny the United States access to their systems. Additionally, since all countries generally follow a nondiscriminatory data policy, any purchaser can buy imagery at the same price and on the same delivery schedule. This means that in the future, Iraq or some other belligerent could purchase Landsat, SPOT, and other civilian satellite imagery to prepare their own battle maps for their troops or for their own future cruise missile systems. During the Persian Gulf conflict, both the SPOT and Landsat organizations cut off Iraq's access to satellite imagery, but such cooperation is not assured in the future as more and more companies and countries attempt to enter the satellite imaging business.

The SR-71, on the other hand, could have provided photographic coverage of Iraq in under three hours of flying time. It could have covered the country at regular intervals—daily or every several days, if necessary—to help update battle maps showing the widely dispersed Iraqi troop positions. Such missions might also have helped to reveal other Iraqi activities involving their nuclear, biological or chemical weapons industries that were uncovered only with great effort after the war. With electronic intercept sensors available for the SR-71, Iraqi air defense equipment could have been pinpointed prior to bombing raids. And with a different camera, the SR-71 could have followed bombing missions in to provide post-bombing damage assessments. An existing radar suite allows the SR-71 to support U.S. forces even in bad weather or at night, helping to keep in unblinking eye on every movement of enemy forces.

In any future conflict, the capabilities of the SR-71 would augment support to U.S. combat forces. A limited contingency capability involving three aircraft can be reconstituted for as little as $100 million, and maintained in standby status for under $50 million per year, according to estimates provided by the Defense Airborne Reconnaissance Office and by the contractor. The contractor is confident enough in these estimates to willingly accept a cap on the amount provided for the reconstitution of this capability. Over $700 million worth of spare parts remain in storage, ranging from spare engines to spare tires. By basing the contingency aircraft with the NASA-operated SR-71 fleet that is used for scientific studies, additional savings are possible from sharing support equipment. In this scenario, twelve months of operations would include one 30-day deployment in which 10 overflights would be conducted. If or when military tensions escalate, the operating tempo could be readily increased to meet the needs of the local commanders.

More creative use of the SR-71 is possible even while the aircraft remain in contingency status. In March 1993, for instance, the United States used Landsat and SPOT data to create maps of the former Yugoslavia in order to support airdrops of food and medical supplies to towns and cities under siege in eastern Bosnia. With the greater resolution and finer detail achievable with SR-71 imagery, greater precision in airdrops would have been possible. Similarly creative use of the system is possible in support of humanitarian efforts now underway in Rwanda and Zaire, without drawing national collection systems away from other areas of interest.

Finally, I would note that an overflight by an SR-71 can be a potent signal to a potential adversary of the seriousness of U.S. intentions. Even moving an SR-71 into a region underscores U.S. intentions to support possible military actions by every means possible. It is a mechanism that the President can use selectively to demonstrate national will as a political instrument. Imagine the message received by an adversary when an unarmed, non-hostile SR-71 aircraft sweeps across their country at high speed—a portent of future waves of bombers that could follow. It is a message that no satellite blinking across the night sky can send.

During the period leading up the Persian Gulf war, a political decision was made not to overfly Iraq, despite the potential intelligence that might be garnered for the United States and the coalition forces. But to conclude from that decision as some have that no American political authorities will ever have the "political will" to overfly another country, even when the vital interests of the United States demand it, denies the idea that any lessons were learned from the Persian Gulf war experience. A New York Times article from July 4, 1994, says that "senior officers questioned whether the United States had the political will to use the aircraft against North Korea, its likeliest target." I reject the assumption that we are incapable of learning from the past. It is not the job of military officers or professional intelligence officials to second guess the political "will" of our elected national leaders. Far better for the political authorities to have an instrument in hand to use if necessary, than to deny them the opportunity to use it by assuming that the nation's leadership will never have the political will to overfly a nation if our intelligence needs, and our combat forces at risk, demand it. Reestablishing a limited contingent of SR-71 Blackbird reconnaissance aircraft is a prudent move, and one that I firmly believe that we should make.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, January 24, 1991.

Hon. RICHARD CHENEY,
Secretary of Defense, Washington, DC.

DEAR MR. SECRETARY: The need for intense and accurate coverage of the Iraq-Kuwait theater of operations through advanced reconnaissance methods is obviously an important ingredient in our successful limitation of casualties and an early end to the conflict with Iraq. I have been concerned that the decision taken last year to terminate the SR-71 "Blackbird" reconnaissance aircraft has denied the nation an asset which leaves us with a gap in intelligence-gathering that could have been avoided, and might well still be repaired.

I understand that the capabilities of the SR-71 aircraft, in terms of invulnerability to enemy fire, all-weather intelligence gathering, flexibility and speed argue for an immediate review of reinstating several aircraft for use in Desert Storm. In addition, I understand that the cost of reassembling the system, amounting to several aircraft could be held to roughly $100 million, and that at least one operational aircraft could be flying missions in a short time. I certainly feel that such cost would be worth the effort to reinstate a limited system for use in Desert Storm, and would enthusiastically support your efforts to return the SR-71 to service.

I request that you reopen the question of putting a small SR-71 group (1-3 aircraft) back into service at this time, and explore how that might be done expeditiously and with minimal risk. In addition, I request that you examine the possibilities of stationing the group in the Middle East theater in order to reduce costs and increase mission flexibility.

Thank you for your willingness to review this matter.

Sincerely,

ROBERT C. BYRD.

HEADQUARTERS, USAF,
31 August 1990.

Subject: SR-71 Storage:

1. Although SR-71 program termination was directed by Congress in Nov 89, subsequent congressional language requested the Secretary of Defense preserve the option of restoring limited SR-71 operations, should the need arise. In Jun 90, the SECDEF directed the Air Force to "Place three SR-71 aircraft and six associated reconnaissance sensors and electronic countermeasure suits into long term storage, rather than a "flight ready" status, as a hedge against a protracted conflict some time in the future. The Air Staff has since reviewed the available options for storage of SR-71 aircraft and associated sensors and defensive systems. To comply with SECDEF guidance, while minimizing initial and recurring costs, AF/CC approved the following game plan.

2. Aircraft and associated systems storage will be accomplished as follows:

a. Provide indoor storage of three aircraft at Palmdale Calif facilities. Provide limited contractor inspection maintenance services to ensure physical integrity of aircraft.

b. Store six of each type complete sensor systems at contractor facility or other suitable location.

c. Continue the Memorandum of Agreement with the 3246 Test Wing, Eglin AFB FL, allowing storage and use of DEF Systems for test purposes, subject to recall for SR-71 use.

3. All remaining SR-71 unique spare parts, oil, hydraulic fluid and support equipment will be retained to support NASA's proposed 500 hour flight test program. In accordance with the transfer loan agreement, these assets will remain subject to recall by the Air Force should a decision be made to reconstitute a limited SR-71 capability. The twenty two remaining spare engines will continue to be stored at Palmdale.

4. Sufficient JF-7 fuel to support the NASA operation will be retained by the Air Force. A minimum of six months lead time would be required to provide JP-7 manufacture, should a limited operational capability be restored.

5. On behalf of the entire Air Staff, we commend all agencies and personnel involved in the worldwide effort to wind down

this program and retire a superb aircraft that has served the nation well for many years. It was a tremendous task, carried out in a very timely and efficient manner by all concerned. The final actions outlined above will preserve these primary physical assets without which reconstitution would be impossible.

[From Conduct of the Persian Gulf war: Final Report to Congress, Pursuant to Title V of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (P.L. 102-25), Appendix C. Intelligence, April 1992]

JSTARS

The Joint Surveillance Target Attack Radar System (JSTARS) provided useful information concerning Iraqi forces during the 29 January Iraqi attack on Al-Khafji. Iraqi follow-on forces were tracked by JSTARS and destroyed by Coalition air power—north of the Saudi border. Information such as this was provided to ground and air commanders in near-real-time via the Army's JSTARS Interim Ground Station Modules (IGSMs). IGSMs were deployed with Army Component, Central Command (ARCENT) headquarters, ARCENT Forward Command Post, ARCENT Main Command Post, 1 Marine Expeditionary Force headquarters, VII Corps, XVIII Airborne Corps, and the Air Force Component, Central Command Tactical Air Control Center.

Just before the Offensive Ground Campaign began, JSTARS confirmed that Iraqi forces remained in their defensive positions against which the attack had been planned. During the attack itself, JSTARS detected the positioning of Iraqi operational reserve heavy divisions into blocking positions in response to the VII Corps advance.

Imagery was vital to Coalition operations, especially to support targeting development for precision guided munitions and Tomahawk Land Attack Missile attacks, and for BDA. Operations Desert Shield and Desert Storm placed great demands on national, theater and tactical imagery reconnaissance systems. The insatiable appetite for imagery and imagery-derived products could not be met.

The SR-71, phased out in 1989, was evaluated for possible reactivation to alleviate the imagery shortfall. The SR-71 could have been useful during Operation Desert Shield if overflight of Iraq had been permitted. In that case, the system would have provided broad area coverage of a large number of Iraqi units. however, since overflight of Iraq was not allowed, it would have provided no more coverage than available platforms. During Operation Desert Storm air operations, the SR-71 would have been of value for BDA and determining Iraqi force dispositions. During Operation Desert Storm ground operations, the SR-71 would not have made greater contributions than other platforms, given the speed of the advance. unique aircraft requirements also would have limited potential SR-71 operating locations.

[From the Office of Technology Assessment, July 1991]

VERIFICATION TECHNOLOGIES—COOPERATIVE AERIAL SURVEILLANCE IN INTERNATIONAL AGREEMENTS (EXCERPT)

CUING

As with collateral intelligence gathering, the potential role for aerial surveillance in cuing or targeting is controversial. It is arguable that using overflights to direct other systems may go against the spirit of an accord; but some types of cuing can reinforce the main goals of an agreement. This is the case when overflights uncover ambiguous activities or objects that are beyond the airborne sensors' ability to resolve. If the inspecting country did not have any other way of determining the legitimacy of its discovery, the result might be unfounded recriminations or an unanswered threat, thus raising tensions or danger. However, if the location of the discovery could be passed on to human inspectors or NTM, the ambiguity might be easily resolved.

But cuing can also be used in a way that is obviously antithetical to the spirit of most agreements: the same information that can localize an ambiguity for further observation may also be used to target the items being observed (or others not related to an accord) for military attack or covert operations. Target information can be specific, e.g., coordinates of a fixed site; or it can be general, e.g., the operational behavior of mobile systems or groups of forces. Aerial surveillance could also be used to provide accurate tactical maps for military or other purposes. These are further examples of how transparency may not be a wholly beneficial objective.

AERIAL SURVEILLANCE AND OTHER MEANS OF OBSERVATION

The utility of aerial surveillance to gather information in support of an agreement is not unique. Many of its features are shared with NTM and OSI. The selection of which monitoring systems to use, and in what combinations, will be determined by the negotiating parties based on the ability of each measure to detect the desired signatures, the synergistic effects of different sensors, the degree of cooperation possible between parties, the capabilities and capacity of NTM, the political advantages of open cooperation, the intrusiveness of the measure, and financial costs.

AERIAL SURVEILLANCE AND NTM

There is considerable overlap in the potential roles of aerial surveillance and NTM. Both kinds of systems can take imagery from overhead and over wide areas. However, while aerial surveillance as described here is cooperative, NTM is generally unilateral or alliance-based. Cooperative measures can be (and have been) negotiated to enhance NTM capabilities, but the sensors and platforms themselves can operate independently of any agreement.

Among the potential advantages that aerial surveillance holds over at least some NTM assets are greater flexibility, possible real-time physical access to the sensors, direct cooperation between parties,[31] and relative political and technological insensitivity.

An aerial surveillance regime could be negotiated to be more flexible than some NTM, varying flight profiles by timing, ground track, and altitude. As a recent report to the U.S. Defense Department stated.

"The existence and utility of reconnaissance satellites is accepted by both sides. Satellite orbits are highly predictable. It is taken as a given by each side that the other will refrain from some activities, which would otherwise be observable, during a satellite pass—once or a few times per day, say for a total of 20 minutes. The long advance predictability of reconnaissance coverage makes it possible to hide, by careful advance scheduling, even very large and elaborate activities. Each side might worry, in the extreme case, that preparations for war or treaty breakout could be thus hidden."

With a sufficiently narrow preflight notification period making it impossible to conceal a violation of an agreement before a plane might arrive, aerial surveillance might be able to plug gaps in NTM coverage. Airborne platforms might have the flexibility to adjust their flight profiles to optimize sun and sensor look angles, and to change altitude to maximize a sensor's resolution or field of view. Aircraft might also be permitted to fly under cloud cover or loiter over areas of interest.

In addition, overflights could have the advantage, if negotiated, of real-time interaction between the sensors and the inspectors. An inspector manning a sensing device on a plane could maintain, fine-tune, retarget, or change the focal length of the instrument if something interesting caught his or her attention. The inspector could also-mark and annotate important sightings to facilitate postflight analysis.

And as mentioned above, because observers are in constant contact with host country escorts, a cooperative atmosphere can be nurtured that is wholly missing from NTM. The confidence that arises from this may lay the foundation for more significant accords. And denial of requested flights could signal a less cooperative relationship, heightening vigilance by other means.

Lastly and perhaps most importantly, information collected by an overt airborne sensor—particularly if parties inspect or share sensors—could more easily be released publicly to confirm compliance, build general confidence, or support charges of noncompliance. Direct release of NTM data is contrary to government policy and is done so only in the most extreme cases. Even in these cases, the evidence of violation displayed is likely to be degraded to avoid giving away information about which system uncovered the violation and how advanced the NTM sensors really are.

The primary advantage of NTM assets is that they are largely independent of political events and negotiations. If an important agreement is abrogated or if surveillance flights are refused, aerial surveillance could leave a country blind to critical developments. NTM would remain unaffected, because it does not usually depend on the cooperation of the country under observation. NTM employment is also not constrained by sensor-limiting compromises, formal notifications, or flight plans. A second advantage of NTM assets is that they can monitor more than one agreement at a time.

Of course, the choice for the United States and the Soviet Union probably will not be between aerial observation and NTM. The questions are more likely to be: what can aerial observation add to current NTM and how can they interact effectively? According to the NATO Open Skies proposal, aerial surveillance is supposed to "complement" NTM.

Besides filling gaps in NTM coverage and capabilities, overflights might be used to cue NTM to particularly interesting sites and to clarify ambiguous NTM information. Overflights or their notification might also be designed to trigger activity that would be detectable by NTM. For example, NTM might be able to spot a large mobile TLI during its transit from an area to be overflown to shelter elsewhere. In some areas, aerial surveillance might even be used to free up NTM assets for other targets.

AERIAL SURVEILLANCE AND OSI

Unlike NTM or aerial surveillance, an OSI is an inherently close-up, but local, affair. OSIs, like aerial surveillance, are also cooperative measures, requiring the consent of the inspected state. On-site inspectors can go places and do things that would be impossible for other monitoring systems. For example only an OSI can take radiation measurement of a warhead from close enough to negate concerns over shielding; only an OSI can examine the interior of a closed-out production facility. Yet on-site inspectors are limited in the territory they can cover during a given inspection. A similarity between aerial surveillance and OSI, not shared with NTM, is that they both take place inside the earth's atmosphere and thus can both take part in air sampling. All forms of monitoring, with the right technology, could take pictures and read identifying tags on TLSs.

It is in the areas where aerial surveilliance and OSI are dissimilar that they may work best interactively. At a minimum, OSI can cover the declared inspection sites, while aerial surveilliance flights (and NTM) survey the potentially vast territory not subject to inspection. If ambiguous or suspicious activities or objects are detected during these flights, an inspection team might be sent to visit the site, perhaps while the aircraft loiters overhead.[42] A broad aerial search could trigger a more time-consuming, but more precise, inspection. Conversely, overflights might be used to examine several inspectable sites at a time.

AERIAL SURVEILLANCE FOR COUNTRIES WITHOUT ADVANCED NTM

Until fairly recently, countries with little or no NTM have had to rely on the generosity of the superpowers for a detailed view of the world, including information about the compliance of their neighbors with international agreements. The superpowers' monopoly on advanced NTM limited the quality, quantity, and timeliness of NTM information available to third parties. Yet increasingly, countries have other options: participation in consortia to develop independent NTM or the purchase of commercial imagery from other countries. France, Italy, and Spain are investing in the Helios military reconnaissance satellite system to be operational in early 1994. The United States, France, and the Soviet Union sell relatively low-grade satellite imagery. In the future, international organizations might pool national resources to deploy reconnaissance satellites to monitor agreements or increase global transparency.

Cooperative aerial surveillance might also be used to fulfill the informational need of some countries. With the negotiation of mutual overflights, these countries would at last obtain an independent source of compliance observation and confidence building. If the cost of an aerial surveillance regime remained beyond their reach, they might spread the cost among like-minded countries by maintaining a fleet of common aircraft or by promoting aerial surveillance by international organizations. If they are willing to negotiate the use of an advanced airborne sensor suite, they might even eventually narrow the current informational gap between themselves and the superpowers. This capability will still be limited to overflights of participating states, so participants would still lack the NTM owners' ability to monitor the territory of potential adversaries without their consent.

Granting foreign countries the right to overfly U.S. territory has important implications for the U.S. Government. Such overflights will, to a certain extent, level the informational balance between these countries and the United States, ending an American advantage over all countries except the Soviet Union. How important this leveling is must be determined by U.S. policymakers. It may be the necessary price to get other countries to sign on to important treaties that had traditionally been left to the superpowers to verify. It may also be the price of a more open world. (See table 4-2 in chapter 4 for a listing of the asymmetric advantages and disadvantages of countries negotiating Open Skies.)

[From the Office of Technology Assessment, July 1993]

THE FUTURE OF REMOTE SENSING FROM SPACE: CIVILIAN SATELLITE SYSTEMS AND APPLICATIONS

MILITARY USES OF CIVILIAN REMOTELY SENSED DATA

Data from civilian satellites systems such as Landsat, but more notably SPOT and the Russian Almaz,[1] have considerable military utility. They can be used to support:

Military operations—For example, the use of Landsat and SPOT data gave the United States and its U.N. allies a marked advantage over Iraq in the Persian Gulf Conflict. The U.S. Defense Mapping Agency used these data to create a variety of maps for the U.S.-led battle against Iraqi forces. More recently, in March 1993, the United States has used Landsat and SPOT data to create maps of the former Yugoslavia in support of air delivery of food and medical supplies to besieged towns of Eastern Bosnia.

Reconnaissance—The recent use of data from civilian satellites for military reconnaissance demonstrates that post-processing, skilled interpretation, and the use of collateral information can make these data highly informative. For this reason, the civilian satellites' utility in reconnaissance exceeds that which might be expected on the basis of ground resolution.[2] The highly conservative rules of thumb normally used to relate ground resolution to suitability for particular reconnaissance tasks underestimate the utility of moderate resolution multispectral imagery.

However, reconnaissance missions' requirements for timeliness often exceed the current capabilities of civilian satellite systems. Landsat satellites pass over any given place along the equator once every 16 days; SPOT passes over once every 26 days. In addition, both systems may take weeks to process orders and military data users generally require much shorter response times. Because civilian mission generally have less stringent requirements than military ones, civilian satellite systems will continue to fall short in this regard unless they begin to cater expressly to the military market or improve revisit time for other reasons, such as crop monitoring or disaster tracking. As noted in chapter 4, one way to increase timeliness without adding additional satellites is to provide sensors with the capability of pointing to the side. SPOT has the capacity for cross-track imaging, and can reimage targets of interest in 1 to 4 days.

Arms Control—Civilian satellite data have limited, but important utility for supporting arms control agreements. Although some facilities have been imaged by civilian satellites, many other arms-control tasks are beyond the capabilities (particularly resolution) of civilian satellites. Their greatest weakness in most military applications—lack of timely response—is of less concern in the arms control arena, where events are typically paced by diplomatic, not military, maneuvers.

Mapping—Mapping including precise measurement of the geoid[3] itself, is a civilian mission with important military applications. These include simulation, training, and the guidance of automated weapons. Existing civilian satellite data are not adequate to create maps with the coverage or precision desired for military use. The military use of data from civilian land remote sensing satellites would be greatly enhanced by improved resolution, true stereo capabilities, and improved orbital location and attitude of the satellite. Military map makers and planners would also find use for data acquired with a civilian synthetic aperture radar system, which can sense Earth's surface through layers of clouds.

Because other nations control some of the most capable civilian remote-imaging satellites, they could deny the United States access to some imagery for political reasons, or operate their systems in ways inimical to U.S. interests. Investment in improving U.S. technical strength in civilian remote-imaging could allay these fears. However, attempting to stay far ahead of all other countries in every remote sensing technology could be extremely expensive, and would therefore be difficult to sustain in an environment of highly constrained budgets for space activities. From the national security perspective, staying ahead in technologies of most importance to national security interests may be enough.

Because all countries now generally follow a nondiscriminatory data policy,[4] in which data are offered to all purchasers at the same price and delivery schedule, foreign belligerents can buy Landsat data to further their wars against each other. These data, coupled with information from the Global Positioning System (GPS), might even be used to prepare for a war (or terrorism) against the United States or its allies. As technical progress continues to improve spatial and spectral resolution, the military utility of successive generations of civilian remote sensing satellites will also improve. Although such uses of satellite data may pose some risk to the United States or its allies, the economics and political benefits of open availability of data generally outweigh the risks.

The wide availability of satellite imagery of moderate resolution, and inexpensive computer tools to analyze these images, broadens the number and types of institutions and individuals with access to information about secret sites and facilities. Such information contributes to a widening of the terms of the political debate over future military policies in the United States and elsewhere.

Because the military value of remotely sensed data lies in timely delivery, the United States could cut off access to data as soon as the countries' belligerent status is made clear, as in the Persian Gulf Conflict where both SPOT Image, S.A., a French firm, and EOSAT, Inc., cut off data to Iraq. In that case, the French were part of the allied team opposing Iraq. However, the United States and France (or another country that operates a remote sensing system capable of being used for military purposes) might be on opposing sides of a future dispute.

THE BROADENING OF ACCESS TO MILITARY INFORMATION

The commercial availability of militarily useful remotely sensed imagery has sparked the interest of many interested in military affairs. Landsat and SPOT images have appeared in the media, and have been used to

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support news stories about military action or potentially threatening behavior.[5]

Individuals who have used these images to make significant deductions regarding military activity include Johnny Skorve, whose photographic explorations of the Kola Peninsula using SPOT and Landsat images fill two volumes; Bhupendra Jasani, who has used SPOT data of the territory of the former Soviet Union to investigate military questions including INF Treaty compliance and reporters for several news organizations. These efforts have shown that the resolution provided by SPOT and Landsat, while poor compared to the rule-of-thumb requirements often stated for some military tasks, is more than sufficient to provide useful and even intriguing military information.

Civilians have also explored the military use (as distinct from utility) of civilian satellites by studying the records of SPOT Image, S.A. The corporation does not identify its customers, but its catalogue does list pictures already taken by latitude, longitude, and date. Peter Zimmerman makes a convincing case, on this basis, that SPOT has been used for military purposes.

These investigations of military matters share at least one trait in common: they do not require especially timely data. As described in appendix C, it is lack of timeliness, not of resolving power, that most limits the military use of civilian satellites.

FOOTNOTES

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[1] In October 1992, Almaz, which had been transmitting data from its synthetic aperture radar, fell back into the atmosphere and burned up.

[2] Ground resolution is a useful but simplistic measure of the capability to identify objects from high altitude.

[3] The figure of the solid Earth.

[4] This principle was originated by the United States when it decided to sell Landsat data on this basis. See U.S. Congress, Office of Technology Assessment, Remote Sensing and the Private Sector, OTA-ISC-TM-239 (Washington, DC: U.S. Government Printing Office, April 1984) for a discussion of the relationship of the U.S. nondiscriminatory data policy to the "Open Skies" principle.

[5] See U.S. Congress, Office of Technology Assessment, Commercial Newsgathering from Space, OTA-ISC-TM-40 (Washington, DC: U.S. Government Printing Office, May 1987).

[From the New York Times, July 4, 1994]

SPY PLANE THAT CAME IN FROM COLD JUST WILL NOT GO AWAY IN THE SENATE

(By Tim Weiner)

WASHINGTON, July 1—The sleek black supersonic spy plane called the SR-71 Blackbird is a museum piece, a mighty relic of the cold war gathering dust. So what is $100 million to resurrect the plane doing in the Senate's bill authorizing $263.3 billion in military spending for the coming year?

The bill contains hundreds of millions of dollars for other weapons and programs the Pentagon says it does not want, like money to keep building the $2.2 billion a copy B-2 bomber. The money keeps flowing for many reasons: Keeping a military contractor solvent or defense workers on the job in a powerful politician's home district, for example.

But the renaissance of the Blackbird is a special case, less about pork than about power and prerogative. The will of one man made it happen: Robert C. Byrd, the West Virginia Democrat who heads the Senate Appropriations Committee.

In reviving the Blackbird, Mr. Byrd appears to have adopted some of the Pentagon's stealthier and more secretive techniques.

SURPRISE FOR PENTAGON

Prominent members of the Senate's Armed Services and Intelligence Committees, along with top Pentagon officials, were taken unawares by Mr. Byrd's move, the Senator's aides acknowledge. Vice President Al Gore; the national security adviser, Anthony Lake, and the chairman of the Joint Chiefs of Staff, Gen. John M. Shalikashvili, knew nothing about the plan when they were visited last month by the senior members of the Congressional Intelligence Committees, according to several Congressional staff members.

Neither Mr. Gore nor Mr. Lake nor General Shalikashvili voiced any enthusiasm for Senator Byrd's plan to take the plane out of mothballs and send it flying over North Korea's suspected nuclear sites. The Pentagon believes that its existing satellites and spy planes can do the job.

Senior intelligence officers working for the Joint Chiefs of Staff said that it would take at least a year to refurbish the aircraft and retrain their crews, that the cost would be far greater than $100 million and that no one in the Pentagon wanted the Blackbirds, other intelligence officials said. The senior officers questioned whether the United States had the political will to use the aircraft against North Korea, its likeliest target, they said.

But the combination of Senator Byrd's prestige, the current worries raised by targeting North Korea and the failure of the Pentagon to produce a secret aircraft to replace the Blackbird have won the battle thus far.

FIGHT BEGAN 4 YEARS AGO

The Blackbird is not built in West Virginia nor do Senator Byrd's constituents depend on Lockheed, the plane's manufacturer, for jobs. But the plane was killed by the Defense Department over Senator Byrd's objections and its resurrection, if approved by Congress, would be a small personal triumph for the Senator.

The story begins four years ago, when Mr. Byrd fought the Pentagon's forced retirement of the Blackbird, a unique aircraft that flew faster than 2,500 miles an hour and used sophisticated cameras to snap pictures of foreign targets. That fight was one of several battles begun in the late 1980's over secret spending for classified programs like the Blackbird's flights over North Korea, China and other lands targeted by United States intelligence.

Mr. Byrd, a Senator since 1959, president pro tempore of the Senate since 1989 and a zealous defender of Congressional prerogatives, joined the battle as a matter of principle.

He contended that the Defense Department, aided by the secrecy that shields classified projects, was refusing to spend huge sums appropriated by Congress for certain programs and flouting Congressional instructions to stop spending money on others. The Bush and Reagan Administrations routinely ignored classified Congressional directives on secret spending, he said in 1990.

When the Pentagon canceled the Blackbird in 1990, citing the huge cost of operating and maintaining the fleet, it assured Senator Byrd and a handful of his senior colleagues on the Armed Services and Intelligence Committees that it was working on a very fast, very expensive, very secret reconnaissance plane to be a successor to the Blackbird.

MISSED IN GULF WAR

But that program collapsed after consuming several hundred million dollars, according to Members of Congress and their aides. And despite rumors that another successor is secretly in the works, they said, nothing of the sort is on the horizon at the secret Air Force base in Nevada where classified prototypes of state-of-the-art aircraft are flown.

Though no supersonic secret reconnaissance aircraft remain in the Nation's arsenal, and by many accounts the Blackbird's ability to target specific sites quickly was sorely missed during the 1991 Persian Gulf War, the Central Intelligence Agency and the Pentagon have several other ways of taking pictures of foreign soil from the sky, including a variety of classified intelligence satellites and the well-known U-2 spy plane. A multibillion-dollar investment in a new series of hugely expensive spy satellites is under way.

So Pentagon officials were chagrined last week when they read the following language in the Senate's defense authorization bill: "The committee sees no reason, in principle, why the Department of Defense could not also operate the SR-71 in an austere manner." The committee recommended $100 million to revive three Blackbirds, the bill said. The money was inserted by the subcommittees of the Appropriations Committee Mr. Byrd heads. Senator Sam Nunn, the Georgia Democrat who heads the Armed Services Committee, was also instrumental in moving the idea forward.

The provision now goes to a conference with the House, whose bill does not include the item. Its prospects are uncertain.

IS $100 MILLION ENOUGH?

Even those who support reviving the Blackbird predict it may be a far more expensive proposition than a mere $100 million.

"It's going to be pretty difficult to do that kind of mission with that kind of money," said Tom Alison, a retired SR-71 Blackbird pilot who works as a curator at the National Air and Space Museum, which owns one of the planes. "If they didn't feel they could afford it five years ago, then I don't understand why they think they can afford it now."

But Richard D'Amato the counsel for national security policy at the Senate Appropriations Committee, said the idea was "generated by Senator Byrd because there is a gap in our abilities the unique capability that the Blackbird provides."

"The idea wasn't generated only by Korea but in like situations, in the Middle East." he said.

While acknowledging that senior Pentagon officials and many of Senator Byrd's colleagues were "blindsided" by the move—and that many of them maintain that the plane is "an antique, a museum piece"—he said three of the planes could be ready to serve the nation by next summer for $100 million or less.

And $100 million is, as everybody in Congress knows, a mere drop in the world's biggest single pool of public capital, the Pentagon's budget.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody does anything about it. Congress talks a good game about bringing Federal deficits and the Federal debt under control, but there are too many Senators and Members of the House of Representatives who unfailingly find all sorts of excuses for voting to defeat proposals for a constitutional amendment to require a balanced Federal budget.

As of Thursday, July 28, at the close of business, the Federal debt stood—down to the penny—at exactly $4,638,859,244,759.68. This debt, mind you, was run up by the Congress of the United States—the big-spending bureaucrats in the executive branch of the U.S. Government cannot spend a dime that has not first been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And pay no attention to the declarations by politicians that the Federal debt was run up by one President or another, depending on party affiliation. Sometimes they say Ronald Reagan ran it up; sometimes they say George Bush. I even heard that Jimmy Carter helped run it up. All three suggestions are wrong. They are false because the Congress of the United States is the culprit.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was going on. A billion minutes ago, not many years had elapsed since Christ was crucified.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of 4,638 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at 4 trillion, 638 billion, 859 million, 244 thousand, 759 dollars, and 68 cents.

QUORUM CALL

The ACTING PRESIDENT pro tempore. The Chair in his capacity as a Senator from North Dakota suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If the Senator from Utah will suspend, morning business is now closed.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9 a.m. having arrived, the Senate will now go into executive session to consider the nomination of Stephen G. Breyer to be an Associate Justice of the Supreme Court of the United States.

NOMINATION OF STEPHEN G. BREYER, OF MASSACHUSETTS, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Stephen G. Breyer, of Massachusetts, to be an Associate Justice of the Supreme Court of the United States.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, with the permission of the distinguished chairman of the Judiciary Committee, I will proceed first on the Breyer nomination. Part of the reason for that is that I am also the only non-Banking-Committee member on the Whitewater committee, and that investigation starts at 10 this morning. So my dear friend and colleague from Delaware suggested that I go first on the statements on the Breyer nomination to the Supreme Court.

The ACTING PRESIDENT pro tempore. Under the previous order, the debate on the nomination is limited to 6 hours and is equally divided and controlled in the usual fashion.

The Senator from Utah may proceed.

Mr. HATCH. Mr. President, I will vote for the confirmation of Judge Stephen Breyer to be Associate Justice of the Supreme Court. Let me briefly outline the reasons why.

President Clinton and I are unlikely ever to agree on the ideal nominee to be a Supreme Court Justice. Indeed, there have been many prominently mentioned potential nominees whom I would in all likelihood have vigorously opposed. But I do believe that a President is entitled to some deference in the selection of a Supreme Court Justice. If a nominee is experienced in the law, is intelligent, has good character and temperament, and gives clear and convincing evidence of understanding the proper role of the judiciary in our system of government, I can support that nominee. I am satisfied that Judge Breyer meets this test.

For the past 14 years, Judge Breyer has distinguished himself on the U.S. Court of Appeals for the first circuit. Known for his careful, scholarly opinions on a range of difficult issues, he has earned a reputation as a moderate pragmatist. His hearing testimony reinforced this reputation.

A danger of judicial pragmatism is that it may give short shrift to formal or institutional constraints on judicial action. Indeed, some of Judge Breyer's own jurisprudential musings present, in my view, an unduly open-ended approach to judicial decisionmaking—an approach that is open to manipulation and abuse by judges less moderate and less conscientious than Judge Breyer. My confidence that Judge Breyer will not himself succumb to the siren calls of judicial activism rests on his overall judicial record and on my high regard for his intelligence and integrity.

Several features of Judge Breyer's hearing testimony and judicial record warrant highlighting:

First, while I and other Senators were concerned by Judge Breyer's Free Exercise ruling in *New Life Baptist Church Academy* v. *Town of East Longmeadow* (885 F.2d 940 (1st Cir. 1989)), I took comfort from judge Breyer's recognition that "[t]here is nothing more important to a person or to that person's family than a religious principle, and there is nothing more important to a family that has those principles than to be able to pass those principles and beliefs on to the next generation." (Unofficial transcript, July 12, 1994, at 73:12–16.)

It was precisely because I share this view that I was the lead sponsor, along with Senator KENNEDY, of the Religious Freedom Restoration Act, and Judge Breyer stated that he understood the strong protections that Congress intended to give to religious liberty under that act.

Second, on the subject of the establishment clause, Judge Breyer rejects the extreme secularist view that the establishment clause mandates an absolute wall of separation between church and state. Judge Breyer instead recognizes that there are "vast areas" where religious institutions can neutrally receive benefits from the Government. (Unofficial transcript, July 14, 1994, at 102:12.)

He adopts a pragmatic, not an ideological, approach to these issues.

Third, Judge Breyer recognizes that the death penalty is constitutional. He rejects the activist position taken by Justices Brennan and Marshall, and more recently by Justice Blackmun, that the death penalty violates the eighth amendment.

Fourth, although Judge Breyer's jurisprudence regarding so-called unenumerated rights is in key respects open-ended and manipulable, he gives every indication of being cautious and restrained in this area. He testified that he remains open to the historical evidence showing that the ninth amendment is best understood not as a font of affirmative rights but as a reminder that people's rights are residually protected by virtue of limitations on the Federal Government's enumerated powers. (Unofficial transcript, July 13, 1994, at 228:21–229:19.) He further stated that the ninth amendment was not incorporated into the 14th amendment and therefore does not apply against the States. (Id., at 229:20–230:6.)

In addition, he agreed that the reasoning and methodology of Justice Goldberg's concurrence in the Griswold case would not, and I emphasize "would not," extend constitutional protection to such things as abortion and homosexual conduct. (Id., at 230:7–24).

Fifth, regrettably, President Clinton has announced a litmus test on abortion. I note that there were many persons on the other side of the aisle who falsely accused President Reagan and President Bush of adopting a litmus test on abortion. That this accusation was false is proven by the fact that three Justices appointed by Presidents Reagan and Bush comprised part of the majority in the Planned Parenthood versus Casey decision. In any event, there has been an embarrassing silence about President Clinton's avowed litmus test. I am disappointed that only 2 years after the 5 to 4 ruling by the Supreme Court in Casey, Judge Breyer stated that he views "some kind of" right to abortion as settled. (Unofficial transcript, July 13, 1994, at 178:22).

But his record indicates that he will be far more understanding of society's power to protect the rights of the unborn than the Justice whom he will replace. In fact, in his one case directly involving State regulation of abortion, Judge Breyer voted to uphold a parental consent statute. Alone in dissent, he voted to bar the abortion clinics from offering more evidence in support of their claim that the statute was unconstitutional. His view was that even if the evidence to be offered was taken as true, that would not alter the conclusion that the statute was constitutional. (*Planned Parenthood League of Massachusetts* v. *Bellotti*, 868 F.2d 459, 469 (1st Cir. 1989) (Breyer, J., dissenting)).

Judge Breyer's academic writings also reflect a sensitivity to the rights of the unborn. For example, in an article on genetic engineering, Judge Breyer emphasized that "one must be particularly sensitive to the risk of injury to the fetus, who cannot look after himself." (Breyer & Zeckhauser, "The Regulation of Genetic Engineering," 1 Man and Medicine 1, 9 (1975).)

Sixth, I find it curious that many of the same people who are so adamant about protecting so-called rights that are not set forth in the Constitution are dismissive of economic rights that are expressly provided in the Constitution—as, for example, in the takings clause. While I do not put Judge Breyer in this category, I am concerned that certain of his comments could be read as demoting the takings clause and other economic rights to second-class status. As Chief Justice Rehnquist stated in a recent opinion for the Court in *Dolan* v. *City of Tigard* (No. 93–518 (U.S. June 24, 1994)), there is "no reason why the takings clause of the fifth amendment, a much a part of the Bill of Rights as the first amendment or fourth amendment, should be relegated to the status of a poor relation." (Slip op., at 17.)

There is no need here to explore other areas, such as Judge Breyer's fine opinions in such areas as antitrust and administrative law and the fourth amendment. Suffice it to say that while I do not agree with all his opinions and views, I am confident that he will be a fair and very able Justice.

Finally, let me note that the committee thoroughly investigated Judge Breyer's background, including charges relating to his Lloyd's investment. While I do not question the good faith of those making these charges, the committee's investigation has satisfied me that these charges are meritless.

For these reasons, I am going to support Judge Breyer's confirmation to the Supreme Court.

I might mention there are other reasons as well. Let me just add, as a postscript, that I have known Judge Breyer now for approximately 15 years. I knew him when he was an aide to Senator KENNEDY on the Judiciary Committee, and I knew him when he was chief counsel of the committee.

I have to say, in those days, as a younger man, as somebody who worked for Senator KENNEDY—who is a very strong Democratic leader in this body—he proved himself to be a person who would help to develop consensus, who would work with both sides, who worked in a primarily bipartisan way, who did things that were intelligently accomplished, and who, of course, served not only Senator KENNEDY well but the committee as a whole well.

I have tremendous respect for that. I followed his career since. I remember when President Carter was defeated and it looked as though the Judiciary Committee was going to deny Judge Breyer, or should I say, then Stephen Breyer, the staffer, the judgeship opportunity on the First Circuit Court of Appeals.

I can remember what happened then. After President Reagan was elected, of course, a number of us were willing to put him on that court because of his sterling reputation because we knew him well and we thought he would make a great judge, which has proven to be true over the last 14 years.

So I feel very strongly about Judge Stephen Breyer. I feel very strongly that he will make a fine Justice on the Supreme Court, and I have a personal high regard for him and his family. I wish him well. I hope that as many of our Senators as possible will vote for this judge to be Justice on the Supreme Court because I think he deserves it.

Finally, I would like to compliment the President because I have worked with a number of Presidents with regard to Supreme Court nominations, all of whom have been good to work with. But President Clinton has been especially considerate of his particular responsibility of appointing Supreme Court Justices. I think part of that probably comes from the fact that President Clinton is a lawyer himself, has taught constitutional law, has been a Governor and, of course, has had to work around constitutional principles for most of his professional life.

So he has a high regard for this position. He has a high regard for the Supreme Court of the United States of America and, in my conversations with him, he had a very high regard for doing what is right in this area. There were pushes and pulls, as there always are in these constitutional battles over who is going to sit on the Court, among other things, and there were pushes and pulls on this President. I found in every instance that his desire was to get the very best person he could who would have a reasonable chance of being accepted by the Senate and confirmed by the Senate and who would bring distinction and ability to the Supreme Court of the United States of America.

I want to compliment the President for that. I compliment him for working very strongly with the majority and Senator BIDEN, and others, Senator KENNEDY in particular. I compliment him for working with the minority as well and to make us part of that equation. I think it has paid off for the President because almost everybody has acclaimed this nominee and, frankly, I hope that he will be confirmed overwhelmingly on the floor today.

I do not want to disparage the feelings of some who have expressed opposition to Judge Breyer in this body or in the media. Some of the issues that have been raised are certainly issues that we have considered in the committee, and we have considered them a lot more significantly and in much greater detail than some in the media have indicated.

We have found that there are no justifications for the criticisms of Judge Breyer in these areas. I suppose we all make mistakes, and I suppose we can all be criticized.

In the case of Lloyd's, it may have been an investment mistake, but keep in mind Judge Breyer's wife is from Great Britain; her family is a prominent family over there. Lloyd's of London was considered to be, at the time, the finest insurance company in the world by many in England and elsewhere, even in this country, and it has fallen on harder times. That, nobody, including myself, could possibly foresee.

So there are many other things that can be said on that issue. I do not intend to get into it. Suffice it to say that this is an honest man. He is a man of immense qualifications. He is a man of immense integrity. He is a person who has a tremendous judicial and legal mind. He is a person who is fair and open. He is a person who, I think, will have an appropriate temperament for the Court, and he is a person in whom I have a great deal of confidence. I think he should be confirmed.

I do not know of anybody in this body who takes nominations to the Supreme Court any more seriously than I do. Certainly, I think all Senators take these nominations very seriously. But this is very important to our country. This is the third branch of Government. This is a coequal branch of Government, and we have to get the very best people we can to serve in these positions. In this case, with this President and this administration, I find that Judge Stephen Breyer is an excellent choice, and I will support him with everything I have.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, counsel to me has indicated that—I do not think I said this—but they felt that I said the investment in Lloyd's of London was a clear-cut mistake. If I did say that, that is not what I meant. It may have been an investment that did not turn out well. But, in all honesty, it was not a mistake.

Lloyd's of London was considered to be one of the finest insurance institutions in the world by almost everybody, including people in this country, but especially people from Great Britain. We cannot impose a standard that people cannot make bad investments. People do. I have been known to make a few myself, although pittances in comparison. The fact is that my wife feels that almost all my investments have been bad.

I did not mean to convey that. If I did, I want to correct the RECORD at this time so that no one will misconstrue what I am saying.

Our investigation of that certainly went into all the details pertaining to it. Frankly, I think Judge Breyer has been candid about the investment and about what has happened, and he has done everything in his power to contain any damage that could possibly come to him and to his particular estate. And according to experts, he has backed up his approach to it by having acquired insurance that should cover any potential exposure that he may have.

But even if it does not, an investment turning sour is not necessarily a disqualifying event with regard to a judgeship nomination.

So I want to make sure that the RECORD is clear because if I did say that, I did not mean to say that.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, is the time equally divided?

The ACTING PRESIDENT pro tempore. The Senator would need consent.

Mr. HATCH. I suggest the absence of a quorum but the time be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent that Lisa Heinzerling and Bill Banks be given the privileges of the floor throughout the Breyer nomination.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATCH. I suggest the absence of a quorum with the time divided equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, it is a great honor and privilege to support the nomination of Judge Stephen G. Breyer to be an Associate Justice of the Supreme Court.

The Constitution establishes our democracy and protects the basic freedoms of all our citizens. The Framers recognized that an independent judiciary was necessary to enforce the individual liberties guaranteed by the Constitution, and they created the Supreme Court as the ultimate guardian of our rights and liberties. Few responsibilities we have as Senators are more important than our responsibility to advise and consent to the nominations by the President to the Supreme Court.

Judge Breyer is extraordinarily well qualified to serve on the Nation's highest court. Throughout his long and distinguished career, he has demonstrated an outstanding intellect, unquestioned integrity and temperament, and a deep and abiding commitment to the Constitution and the rule of law.

He compiled an outstanding academic record as an undergraduate at Stanford University, as a Marshall Scholar at Oxford, and as a student and member of the Law Review at Harvard Law School. After serving as a law clerk to Supreme Court Justice Arthur Goldberg, he joined the Antitrust Division at the Department of Justice, where he pioneered innovative approaches to enforcing the antitrust laws, not only to protect consumers from unfair practices, but also to prohibit housing discrimination.

He then joined the faculty at Harvard Law School, where he became one of the Nation's leading experts on economic regulation and administrative law, devoting his energy and talent to improving our free enterprise system and our democracy.

In 1973, he took a leave of absence to assist Watergate Special Prosecutor Archibald Cox in that historic investigation.

The following year, he became Special Counsel to the Senate Judiciary Committee's Administrative Practices and Procedures Subcommittee when I was chairman of the subcommittee. I have known Judge Breyer well ever since, and I have no doubt that he will be an outstanding member of the Supreme Court.

His brilliance and skill at working productively with Senators from both political parties were indispensable to our bipartisan effort in the 1970's to deregulate the airline industry and the trucking industry. Judge Breyer dedicated himself to assuring that all Americans would have safe and efficient air travel at the lowest possible prices for the public, and that shippers and consumers alike would have the benefits of lower prices in the trucking industry.

Judge Breyer returned to Capitol Hill in 1979 as chief counsel of the Judiciary Committee, when I was chairman. He gained the respect and affection of every member of the committee—Republicans and Democrats—because he was scrupulously fair, and because he consistently and creatively sought to find common ground to achieve the greatest good for the American people.

The bipartisan admiration for Judge Breyer was apparent in 1980, when his appointment to the Court of Appeals for the First Circuit was the only judicial nomination confirmed during the lame duck session of Congress at the end of the Carter administration.

As a member and later as chief judge of the court of appeals, Judge Breyer has distinguished himself as a preeminent jurist. His opinions are brilliantly reasoned and clearly written. They construe the law in a practical fashion to protect the fundamental rights and liberties of all Americans.

As one of the first members of the Sentencing Commission, Judge Breyer is widely credited with developing tough but fair guidelines to assure that criminals who commit similar crimes receive similar sentences. He excelled at the tough and thankless task of forging consensus on these difficult issues.

As a judge, he has also continued his commitment to legal education and legal scholarship. He has continued to teach courses at Harvard Law School, and he has also continued to write and publish important articles and books analyzing questions of law and government.

Judge Breyer is one of the Nation's foremost scholars of the regulatory process, and his expertise in this complex area will be a major asset to the Supreme Court.

His recent book on regulation drew praise from leading experts on all sides of the debate. He has sought to assure that the public health and safety are protected, while avoiding needless inefficiency and waste in government. Not everyone agrees with all his views, but I believe everyone will agree that his views have contributed immensely to our understanding of these complex issues in our modern society.

In addition, Judge Breyer is one of the leading exponents of the view that laws should be construed in the manner that Congress intended. If confirmed, he will add a needed and practical perspective to the many important questions of statutory interpretation that come before the Supreme Court.

Judge Breyer's 3 days of testimony before the Judiciary Committee earlier this month revealed to the Nation what we in Massachusetts have known for decades. Judge Breyer is a brilliant and fair-minded judge, dedicated to construing our laws to enhance the lives and protect the basic rights of every citizen.

He views the Constitution as a living charter to protect the individual against excessive government intrusion.

He is respectful of the religious traditions of the American people and committed to ensuring that all Americans remain free to follow their conscience, free from governmental interference.

He recognizes the key role of the Federal courts in remedying discrimination in all its forms.

He views the antitrust laws as important statutes designed to promote and enhance economic competition, so that consumers enjoy the highest quality goods and services at the lowest possible prices.

And he believes in the importance of environmental health and safety laws to protect the lives of all Americans. On that point, I would like to introduce into the RECORD a letter from Mr. Douglas Foy, the executive director of the Conservation Law Foundation, the leading public interest environmental law group in New England. Mr. Foy writes:

> Stephen Breyer has fashioned a remarkable record on environmental matters that have come before the First Circuit Court of Appeals. His opinions reflect an unusual sensitivity to natural resource concerns, whether in matters involving air and water pollution, offshore oil and gas drilling, the cleanup of Boston Harbor, or protection of the Cape Cod National Seashore. The Court's line of decisions on the obligations imposed by NEPA are leading precedents, reflecting a penetrating understanding of the law's requirements and of agencies' cavalier efforts to avoid its application. Judge Breyer brings a New Englander's common sense to natural resource matters, and couples that common sense with an impressive understanding of administrative procedure and agency foibles.
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> * * *
>
> My only regret is that Judge Breyer cannot sit on the Supreme Court and the First Circuit at the same time.

I would like to address myself very briefly to the questions raised and belabored in some quarters regarding Judge Breyer's investment in Lloyd's of London. The Judiciary Committee thoroughly examined the Lloyd's issue.

The committee's investigators reviewed hundreds of pages of documents relating to it, and Judge Breyer was extensively questioned about it during the committee's hearings.

The Judiciary Committee obtained opinions from leading experts on judicial ethics and environmental insurance litigation. The overwhelming majority of those consulted concluded that Judge Breyer violated no ethical rules.

Judge Breyer publicly disclosed his Lloyd's investments each year, so that litigants could decide for themselves whether to seek his recusal in any particular case. He always recused himself from any case where Lloyd's was a party, or where it appeared from the court papers that Lloyd's insured a party in the litigation or otherwise had a direct interest in the outcome. He has never sat in any such case.

After carefully reviewing the evidence, every member of the Judiciary Committee concluded that Judge Breyer had acted in full compliance with the ethics rules, and every Member voted in favor of his nomination.

The Bar Association of the city of New York and the American Bar Association each found that Judge Breyer had unquestionable integrity. Indeed, the ABA gave Judge Breyer its highest rating. Its letter to the Judiciary Committee attests to the high esteem in which Judge Breyer's integrity is viewed by those who have served with him on the Federal courts. I would like to read an excerpt from the ABA letter:

> Chief Judge Breyer has earned and enjoys an excellent general reputation for his integrity and character. No one interviewed by the Committee had any question or doubt in this regard. His colleagues in the First Circuit, where he has served for fourteen years, the last four as Chief Judge, commented on his character and integrity in terms such as these: "He is absolutely first rate, a remarkable combination of one who has character and is intelligent, yet is a personable and likeable human being"; "He combines acute intelligence and a deep sense of humanity. He is a down to earth human being who is very smart. This is simply a superb appointment."

In closing, I would like to read briefly from a letter by Judge Leon Higginbotham, who recently retired from the Court of Appeals for the Third Circuit after a distinguished career as one of the most respected jurists of his generation.

> I write on the basis of my having served for 29 years as a federal judge on either the District Court or the Court of Appeals, before my resignation in March 1993. * * * I served on the Judicial Conference of the United States with Judge Breyer. Upon special designation prior to my retirement, I had the pleasure of sitting with him and some of his colleagues on the United States Court of Appeals for the First Circuit. I have read with care and relied on many of his opinions.
>
> On the basis of these total experiences, I am confident that he is one of the most prominent, insightful and responsible federal judges I have ever met. He will bring to the United States Supreme Court an extraordinary intellect, a high respect for precedent and the rule of law, a sensitivity to patent injustices, and remarkable collegial skills to cause the Supreme Court to function with as much public institutional harmony as is possible. I feel certain that, after five years, he will be regarded as one of the most outstanding justices in the history of the United States Supreme Court.

Joseph Story, Oliver Wendell Holmes, Louis Brandeis, Felix Frankfurter—for nearly two centuries, Massachusetts has sent brilliant justices to the Supreme Court who have combined outstanding legal scholarship with a commitment to making the law work to enhance the lives of ordinary Americans.

I have every confidence that Stephen Breyer will join that illustrious list of the finest justices ever to serve on our highest court.

I congratulate President Clinton in this outstanding appointment, and I urge my colleagues to vote to confirm the nomination.

Mr. President, I ask unanimous consent that the letter dated June 30, 1994, from Douglas Foy, executive director of the Conservation Law Foundation be printed on the RECORD, along with the letter from the American Bar Association Standing Committee on Federal Judiciary dated July 11, 1994, a letter dated July 11, 1994, from A. Leon Higginbotham, Jr., and a brief discussion and a series of letters regarding Judge Breyer's investment in Lloyd's be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSERVATION LAW FOUNDATION,
Boston, MA, June 30, 1994.

TO WHOM IT MAY CONCERN: Stephen Breyer has fashioned a remarkable record on environmental matters that have come before the First Circuit Court of Appeals. His opinions reflect an unusual sensitivity to natural resource concerns, whether in matters involving air and water pollution, off-shore oil and gas drilling, and clean-up of Boston Harbor, or protection of the Cape Cod National Seashore. The Court's line of decisions on the obligations imposed by NEPA are leading precedents, reflecting a penetrating understanding of the law's requirements and of agencies' cavalier efforts to avoid its application.

Judge Breyer brings a New Englander's common sense to natural resource matters, and couples that common sense with an impressive understanding of administrative procedure and agency foibles. Much of the development of environmental law in the next decade will revolve around the application and enforcement of pivotal federal laws (such as the Clean Air Act, National Energy Act, Magnuson Act, and ISTEA), by agencies, in the states and regions. Stephen Breyer is precisely the kind of judge to whom we should entrust review of agency compliance with those laws. My only regret is that Judge Breyer cannot sit on the Supreme Court and the First Circuit at the same time.

Sincerely,

DOUGLAS I. FOY,
Executive Director.

AMERICAN BAR ASSOCIATION, STANDING COMMITTEE ON FEDERAL JUDICIARY,

July 11, 1994.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, Washington, DC.

Re: Hon. Stephen G. Breyer

DEAR MR. CHAIRMAN: This letter is submitted in response to the invitation from the Senate Committee on the Judiciary to the Standing Committee on Federal Judiciary of the American Bar Association (the "Committee") to present its report regarding the nomination of the Honorable Stephen G. Breyer to be an Associate Justice of the Supreme Court of the United States.

The Committee's evaluation of Chief Judge Breyer is based on an investigation of his professional qualifications, that is, his integrity, judicial temperament and professional competence. Consistent with long standing policy, the Committee did not undertake any examination or consideration of Chief Judge Breyer's political ideology or his views on any issues that might come before the Supreme Court.

To merit the Committee's evaluation of Qualified or Well Qualified the Supreme Court nominee must be at the top of the legal profession, have outstanding legal ability and wide experience and meet the highest standards of integrity, professional competence and judicial temperament. The evaluation of Well Qualified is reserved for those found to merit the Committee's strongest affirmative endorsement.

I am pleased to report that the Committee finds Chief Judge Breyer to be Well Qualified for appointment as an Associate Justice of the Supreme Court of the United States. This determination was unanimous.

In conducting the investigation members of the Committee personally interviewed more than 300 federal judges, including present and retired members of the Supreme Court of the United States, members of the Federal Courts of Appeals, members of the Federal District Courts, Federal Magistrate Judges, Federal Bankruptcy Judges, and members of State Courts. The investigation included all colleagues of Chief Judge Breyer on the United States Court of Appeals for the First Circuit, all Federal District Court Judges from the District of Massachusetts, and all the justices on the Supreme Judicial Court of Massachusetts. Numerous federal and state court judges from the other states in the First Circuit were also interviewed.

Members of the Committee personally questioned several hundred other individuals, including practicing lawyers throughout the United States, former law clerks and lawyers who have appeared before Chief Judge Breyer. Committee members also interviewed law school deans, faculty members of law schools and constitutional scholars throughout the United States, including professors at Harvard Law School, where Chief Judge Breyer has served on the faculty since 1967.

The Committee also had available the report prepared in 1980 by the Committee in connection with the investigation of Chief Judge Breyer for appointment to the United States Court of Appeals for the First Circuit. He was at that time found by a majority of the Committee to be Qualified and by a substantial minority Well Qualified for appointment to that Court.

It has been the practice of the Committee to ask groups of distinguished legal scholars and Supreme Court practitioners to review independently all of the opinions written by nominees for the Supreme Court. This practice was followed again here and Chief Judge Breyer's opinions were reviewed by: (1) a Reading Group of distinguished lawyers chaired by Rex E. Lee, formerly Solicitor General of the United States and presently President of Brigham Young University, consisting of a diverse group of 10 lawyers, all of whom have practices and argued cases in the Supreme Court; and (2) a Reading Group chaired by Professor Nicholas S. Zeppos of Vanderbilt University School of Law, consisting of 26 members of that law school's faculty. Members of the two Reading Groups who participated are listed on Exhibit A to this letter.

The two Reading Groups reported to the Committee their independent analyses of Chief Judge Breyer's opinions and other writings. These reports were evaluated by the members of our Committee, who also read opinions of Chief Judge Breyer and his published writings on a variety of legal subjects.

EVALUATION

Integrity

Chief Judge Breyer has earned and enjoys an excellent general reputation for his integrity and character. No one interviewed by the Committee had any question or doubt in this regard. His colleagues in the First Circuit, where he has served for fourteen years, the last four as Chief Judge, commented on his character and integrity in terms such as these: "He is absolutely first rate, a remarkable combination of one who has character and is intelligent, yet is a personable and likeable human being"; "He is eminently well qualified, of the highest character"; "He combines acute intelligence and a deep sense of humanity. He is a down to earth human being who is very smart. This is simply a superb appointment."

Temperament

Chief Judge Breyer's judicial temperament also meets the highest standards set by the Committee for appointment to the Supreme Court.

His colleagues on the First Circuit and on the Harvard Law School faculty who have worked with him for up to twenty-five years, Federal District Court judges, former law clerks, his secretary of almost fourteen years, and counsel who have argued cases before him, uniformly give Chief Judge Breyer the highest praise for his demeanor, temperament, and manner of treating people. The Court of Appeals Judges in the First Circuit universally credit Chief Judge Breyer for the strong collegiality that exists in the Circuit, for his remarkable ability to build consensus, for his sensitivity and good grace, and for his outstanding leadership skills.

Represenstative comments from his colleagues on the First Circuit Court of Appeals include these: "He does not browbeat, and he is a genius at forging consensus and compromise"; "He has a wonderful temperament"; "He is universally well liked and respected by all of us on the Court"; "He can soften rigid positions with gentle humor"; "He is a master at getting consensus on court decisions"; "He has very good judgment, is stimulating to be around, and is not arrogant."

District Court Judges in the First Circuit also praised Chief Judge Breyer's judicial temperament: "He is a great leader"; "He is humane, not impressed with his own intelligence, which is extremely powerful"; "He has great sensitivity toward lower court judges . . . he doesn't hold anyone up to ridicule, as other appellate judges do sometimes"; "As Chief Judge of the First Circuit he has been superb, a true leader"; "He is very well liked by all the members of the First Circuit community. The Court's strong collegiality is directly attributable to Steve Breyer's wonderful personal skills"; "He is a brilliant judge"; "He conducts himself beautifully on the bench—bright and a perfect gentleman."

To the same effect are the comments of his colleagues on the Harvard Law School faculty, his former law clerks and the lawyers who have argued cases before him. Chief Judge Breyer clearly possesses and exhibits the highest level of judicial temperament.

Professional Competence

Chief Judge Breyer's educational background amply prepared him for service on the Supreme Court of the United States. He attended public schools in San Francisco, graduated from Stanford University in 1959 with highest honors in philosophy, attended Oxford University as a Marshall Scholar, receiving First Class Honors, and graduated from Harvard Law School in 1964, Magna Cum Laude. He served as Articles Editor of the Harvard Law Review. After law school he served as Law Clerk to Supreme Court Justice Arthur J. Goldberg.

Following his Clerkship on the Supreme Court, Chief Judge Breyer began a career with the Federal Government and then an academic career at Harvard Law School, where he has been a member of the faculty since 1967.

His service with the Federal Government included the positions of Special Assistant to the Assistant Attorney General (Antitrust); Assistant Special Prosecutor, Watergate Special Prosecution Force, U.S. Department of Justice; Special Counsel, Administrative Practices Sub-Committee, U.S. Senate Committee on the Judiciary; and Chief Counsel, U.S. Senate Judiciary Committee. He was appointed to the First Circuit Court of Appeals in 1980, and became Chief Judge in 1990. During the years 1985–89 he was a Member of the United States Sentencing Commission, and played a major role in the drafting of the Sentencing Guidelines. His twenty-seven year affiliation with Harvard Law School has included the positions of Assistant Professor, Professor, and, since becoming a Judge on the First Circuit Court of Appeals, Lecturer.

He has developed and maintained broad interests. Throughout his career he has participated actively in legal organizations and has lectured extensively about legal education. He is an active Member of the American Law Institute, and has also been a Member of a Carnegie Commission group studying the relation of science and the courts (Task Force on Science and Technology in Judicial and Regulatory Decision Making). He has participated actively in the work of the American Bar Association (ABA), in particular as a Member of the Council of the ABA Administrative Law Section and the select ABA Committee on Ethics in Government.

During his fourteen years as a Judge on the First Circuit Court of Appeals he has written approximately 600 opinions and numerous books, monographs, and articles which are most impressive, and which establish quite clearly that he is a scholar of the first rank. In addition to his extensive writings, he has delivered numerous Honorary Lectures during the past eleven years, including the prestigious Holmes Lectures at Harvard University which were published in book form by Harvard University Press in 1993 in a volume entitled "Breaking the Vicious Circle: Toward Effective Risk Regulation."

The legal opinions that he has written during his fourteen years on the First Circuit Court of Appeals cover wide-ranging subjects. He has taken special interest in Administrative Law (which he has taught at Harvard Law School), in government regulatory matters, most notably airline deregulation, and the Sentencing Guidelines. Chief Judge Breyer was praised repeatedly during the Committee's investigation for his excellent writing skills. His colleagues on the First Circuit call him "brilliant" and "a genius" in crafting legal opinions. Federal District Court Judges, even those he has reversed in appellate opinions, praise highly Chief Judge Breyer's writing and analytical skills. Numerous Federal District Court Judges remarked that Chief Judge Breyer writes so clearly (without footnotes) that a District Court Judge knows precisely what is expected of him or her in an appellate opinion written by Chief Judge Breyer. Chief Judge Breyer's writings reflect a high level of scholarship required of a Justice of the Supreme Court of the United States.

The comprehensive reports submitted to the Committee by the two Reading Groups of scholars and Supreme Court practitioners confirm the Committee's own conclusions concerning the scholarship and writing ability of Chief Judge Breyer. The Chairman of one of the two reading groups summarized his colleagues' assessment of Chief Judge Breyer's opinions and other writings as follows:

"Judge Breyer is a person of enormous intellectual ability with an outstanding ability to write clearly and persuasively. His opinions reflect a wide breadth of knowledge about the law and an overriding commitment to deeply principled and objective decision making. His work is evidence of a judge keenly aware of the power and corresponding responsibility that go with his office."

The Chairman of the other Reading Group summarized his colleagues' assessment of Chief Judge Breyer's writings as follows:

"Judge Breyer's scholarly ability was praised by virtually every Committee member. He was found to 'display the intellectual habits associated with the most respected thinking of our times: a preference for the complex over the simple and the particular over the general, a willingness to suspend judgment, and a robust tolerance of conceptual ambiguity.' His opinions, furthermore, repeatedly demonstrate 'a realistic assessment' of 'evolving case law,' and 'are generally well-researched and complete without being pedantic.' 'Whenever there is a significant debate about . . . applicable legal principles, Judge Breyer exhibits a determined effort to analyze and apply the governing doctine . . . his work product is not only scholarly, it is also free from recrimination or insinuation, even when he seems plainly skeptical. Judge Breyer's opinions are careful . . . , tolerant and polite.' "

The same Reading Group Chairman perhaps best summarized the reasons why both Reading Groups have praised the excellence of Chief Judge Breyer writing and scholarship in the following words:

"He is a lawyer's lawyer and a judge's judge. He is careful, scholarly, dispassionate, and objective. Furthermore, he recognizes that there are limits to his own abilities, as a jurist, to resolve every dispute engendered by the contentious press of modern life."

Our Committee is fully satisfied that Chief Judge Breyer meets the highest standard of professional competence required for a seat on the Supreme Court. His academic training, his broad experience in the Federal Government, his service on the faculty of a distinguished law school, his scholarly writings and his distinguished service for fourteen years (four as Chief Judge) on the Court of Appeals dealing with many of the same kinds of matters that will come before the Supreme Court, fully establish his professional competence.

CONCLUSION

Based on the information available to it, the Committee is of the unanimous opinion that Chief Judge Breyer is *Well Qualified* for appointment to the Supreme Court of the United States. This is the Committee's highest rating for a Supreme Court nominee.

The Committee will review its report at the conclusion of the public hearings and notify you if any circumstances have developed that would require a modification of these views.

On behalf of our Committee, I wish to thank you and the Members of the Judiciary Committee for the invitation to participate in the Confirmation Hearings on the nomination of the Honorable Stephen G. Breyer to the Supreme Court of the United States.

Respectfully submitted,

ROBERT P. WATKINS,
Chair.

PAUL, WEISS, RIFKIND,
WHARTON & GARRISON,
New York, NY, July 11, 1994.

Hon. JOSEPH R. BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Building, Washington, DC.

DEAR SENATOR BIDEN: On my own volition, I write this letter to note my great professional and personal admiration for Judge Stephen G. Breyer and to express my wish that your Committee promptly affirm his nomination for the position of Associate Justice of the United States Supreme Court.

I am presently a professor at Harvard University and of counsel with Paul, Weiss, Rifkind, Wharton & Garrison. I write on the basis of my having served for 29 years as a federal judge on either the District Court or the Court of Appeals, before my resignation in March 1993. Prior to my appointments to the federal courts, I served as a Commissioner of the Federal Trade Commission, a Commissioner of the Pennsylvania Human Relations Commission, a partner in a small private practice law firm—consisting of solely African American lawyers—and, in the early 1960s, I was President of the Philadelphia Branch of the NAACP.

I served on the Judicial Conference of the United States with Judge Breyer. Upon special designation prior to my retirement, I had the pleasure of sitting with him and some of his other colleagues on the United States Court of Appeals for the First Circuit. I have read with care and relied on many of his opinions.

On the basis of these total experiences, I am confident that he is one of the most prominent, insightful and responsible federal judges I have ever met. He will bring the United States Supreme Court an extraordinary intellect, a high respect for precedent and the rule of law, a sensitivity to patent injustices and remarkable collegial skills to cause the Supreme Court to function with as much public institutional harmony as is possible.

I feel certain that, after five years, he will be regarded as one of the most outstanding justices in the history of the United States Supreme Court. I urge the Committee's prompt confirmation of his nomination.

With warmest regards and highest esteem, I am

Respectfully,

A. LEON HIGGINBOTHAM, Jr.

JUDGE BREYER AND LLOYD'S—BACKGROUND AND FACTS

Numerous misleading statements have been made in recent weeks about Judge Stephen Breyer's investments in Lloyd's, the London insurance company. The Judiciary Committee thoroughly investigated all aspects of this complex issue and concluded that there is no reasonable basis to question Judge Breyer's integrity or his qualifications for the Supreme Court. There is no factual basis for assertions that Judge Breyer is likely to suffer massive losses from the investment, that he will be unable to escape from the investment for many years, or that the investment reflects poor judgment. To the contrary, as the following five points make clear, the facts are entirely inconsistent with any such assertions.

1. Judge Breyer is not trapped in the Lloyd's investment for a long period of time. Judge Breyer withdrew from his Lloyd's investment in 1988, with the single exception of a 1985 syndicate (Merrett 418) which remains "open." All current indications are that Judge Breyer will be able to terminate his last remaining involvement with Lloyd's in the near future. The Merrett Syndicate is expected to close in approximately one year. According to Lloyd's General Counsel, an entity known as "NewCo" is being formed to assume the remaining liabilities of syndicates like Merrett 418 in exchange for their retained reserves. Even if it becomes necessary to ask for additional modest contributions from investors, the establishment of NewCo is expected to terminate—absolutely and finally—all of Judge Breyer's remaining exposure for Merrett 418's liabilities.

2. Judge Breyer is not even likely to face substantial personal financial losses from his investment in Lloyd's. Demonstrating the very prudence that critics suggest he lacks, Judge Breyer took the precaution of purchasing personal stop-loss insurance to cover any losses he might realistically incur because of his Lloyd's investment. The $37,000 deductible has already been paid. The policy

will cover all further losses up to $225,000. According to the underwriter's current projections, Judge Breyer's total liability will be approximately $44,000. Even the "worst case" losses of $168,000 to $187,000 projected by Chatset's Guide, a leading independent authority on syndicate liabilities, are well within Judge Breyer's insurance coverage. In addition to his $225,000 stop-loss insurance, Judge Breyer has approximately $220,000 in profits from his investments in Lloyd's. Thus Merrett 418's losses would need to be more than double even the most pessimistic current projections before Judge Breyer incurs any net additional personal loss whatever.

3. Assertions that Lloyd's investors have unlimited liability are highly misleading. Investor's losses (or profits) are always directly proportional to the size of their contributions to the total pool of money invested in the syndicate. In light of Judge Breyer's relatively modest initial investment in Merrett 418, he would be responsible for only 1/5600 of the total losses. With his stop-loss insurance and his substantial retained earnings, Judge Breyer will not incur any additional personal loss unless his share of the syndicate's liability exceeds $445,000. Thus, for Judge Breyer to suffer even another penny of loss, the total liability of the syndicate must exceed approximately $2.5 billion (5600 $445,000). Losses at that level are far beyond even the largest estimate. In fact, the total loss of all the hundreds of Lloyd's syndicates in Lloyd's worst year in history (1990) amounted to $5.5 billion. For Judge Breyer to lose all of his remaining personal assets, Merrett 418's losses would have to exceed $8 billion—a figure that has no credibility whatever in light of the known facts.

4. At the time Judge Breyer invested in Lloyd's, it was considered a stable and prudent investment. During the late 1970's and 1980's, when Judge Breyer invested in Lloyd's, sophisticated investors considered Lloyd's a sound, prudent, and—based on its historic track record—conservative investment. For most of its 300-year history, Lloyd's has returned substantial profits to its members. Given this established reputation as a sound and prudent investment, it is no surprise that Lloyd's attracted a large number of highly prominent investors in Great Britain, including many senior British judges and more than forty members of Parliament. In addition, over 3000 Americans, many of whom also are in positions of prominence, have invested in Lloyd's.

5. Judge Breyer's investment in Lloyd's will require his recusal from only a small number of cases on the Supreme Court, if any. As Judge Breyer testified before the Judiciary Committee, he will be required to recuse himself from any case which is likely to have a "direct and predictable" effect on his investment, but not from cases having only remote or speculative effects. Even a broad application of this standard is unlikely to require his recusal from all but a very few cases before the Supreme Court.

In light of these facts, Judge Breyer's investment in Lloyd's does not detract from his impeccable qualifications to serve on the Supreme Court. He will serve with outstanding distinction as a member of that Court, and he deserves to be confirmed by the Senate.

JULY 25, 1994.

LLOYD CUTLER, Esq.,
Counsel to the President, The White House, Washington, DC, USA.

JUDGE STEPHEN BREYER'S MEMBERSHIP OF THE CORPORATION OF LLOYDS

DEAR MR. CUTLER: A mutual friend has suggested that it might be helpful if I were to write to you in connection with Judge Breyer's membership of Lloyds, particularly in a relation to its relevance to the suitability of Judge Breyer's nomination as a Justice of the U.S. Supreme Court. This I am pleased to do.

As a former member of the British diplomatic service, an investment banker for fifteen years with two of the UK's most prestigious merchant banks, an executive director of the Bank of England in charge of international affairs for nine years and currently a non-executive director of two insurance companies, I have been acquainted in general terms with the affairs and reputation of Lloyds for most of my working life. Furthermore, my wife was an external name at Lloyds for much the same period of time as Judge Breyer; as her financial advisor I have taken a particular interest in the fortunes of Lloyds over the past two decades, which includes both good times and bad times.

I understand that two assertions have been made in relation to Judge Breyer's Lloyds membership: that it was an error of judgement on his part for have joined Lloyds in the first place, and to have joined the Merrett Syndicate 418 in 1985; and that there must be doubt about the effect on Judge Breyer's financial situation of the potential future losses from Syndicate 418 since its 1985 underwriting year has remained open.

This letter addresses both those points.

Over a great many years Lloyds has been regarded as a sound and prudent investment. Losses have been recorded in the past but generally over its long history Lloyds has returned good profits.

Many members of the British establishment have been and still are members of Lloyds. It is a well-known and accepted fact that membership of Lloyds is not inconsistent with the highest judicial, political or other public office. A number of judges and politicians continue to be members of Lloyds. There was no reason in 1976 for anyone to believe that joining Lloyds as an external name would not prove over the long-term a sound a profitable investment.

Likewise, in relation to joining Merrett Syndicate 418 in 1984 (in order to underwrite business in 1985), due diligence would have shown that the syndicate was regarded as being under experienced and competence management. It could not have been viewed as careless or unwise to join it at that time, whatever misfortunes may have befallen the syndicate subsequently.

Judge Breyer has acknowledged that this Syndicate 418 has recorded heavy losses, which may increase as long as the Syndicate's 1985 underwriting year remains open. Nevertheless, Judge Breyer has stop-loss cover of 125,000 which, in my judgement, should afford him adequate protection from future losses in this syndicate, as they have been projected on a worst case basis by the most widely used and reputable commentator on the affairs of run-off syndicates. Incidentally, the taking of stop-loss cover in itself demonstrates a prudent and responsible approach to the risk-taking that is an inevitable part of membership of Lloyds or indeed of most other kinds of investment.

I trust that the foregoing will be of assistance. Please do not hesitate to let me know if I can be of further help.

Yours sincerely,

A.D. LOEHNIS.

LEBOEUF, LAMB, GREENE & MACRAE,
New York, NY, July 25, 1994.

Re Judge Stephen G. Breyer.

LLOYD CUTLER, Esq.,
White House Counsel, The White House, Washington, DC.

DEAR MR. CUTLER: You have asked whether Judge Breyer's present stop loss coverage of $225,000 and his funds and deposits at Lloyd's of $220,000 would be sufficient to cover any further losses that Merrett's Syndicate 418 for 1985 year of account might incur. I believe that it is highly unlikely that his share of losses on that syndicate for that year of account could exceed this combined total of $445,000. He had a $25,000 share of the syndicate's total syndicate capacity of approximately £140 million, 04 .000178. Thus, for Judge Breyer to suffer any loss in excess of $445,000, the total liability of the syndicate would need to exceed $2.5 billion. Mr. Merrett indicates that total losses to date and reserves for future losses for Judge Breyer's proportionate share of the syndicate would be approximately $44,000. For these losses to increase more than 10 times, or 1,000%, after the syndicate has been in existence for more than nine years, would be an unprecedented event in the history of the Lloyd's market.

Lloyd's is in the process of forming NewCo, a limited liability reinsurance company, which will accept the liabilities of all syndicates at Lloyd's for the 1985 and prior years of account. It is planned that NewCo will be operational no later than the end of 1995. It is not yet known what, if any, additional premium, other than a syndicate's present reserves, will be charged by NewCo. Once NewCo is established, and Syndicate 418 has transferred its liabilities for the 1985 account to it, Judge Breyer's relationship with Lloyd's will be terminated.

If you need anything further, please let me know.

Sincerely yours,

SHEILA H. MARSHALL.

NEW YORK UNIVERSITY SCHOOL OF LAW,
New York, NY, July 8, 1994.

LLOYD CUTLER, Esq.,
Counsel to the President, White House Counsel's Office, Washington, DC.

DEAR MR. CUTLER: You have asked me to answer the following question: Did Judge Stephen Breyer violate section 455 of title 28 of the United States Code ("§455") by sitting on eight cases involving CERCLA when he was a "name" in a Lloyd's of London syndicate that insured against environmental pollution among other risks?

I have been asked to assume (a) that Judge Breyer did not know and could not have known the identities of the syndicate's insureds or the terms of their policies; (b) that Judge Breyer did know or could have known that environmental pollution was one of the risks against which the syndicate insured; and (c) that Judge Breyer was exposed to a possible loss of 25,000 pounds, had insurance against additional loss of up $188,000, and that reasonable estimates are that his actual loss will not exceed the insurance coverage though they could.

In answering your question, I am going to disregard the assumption in (c) and assume instead that at the time Judge Breyer sat on the eight CERCLA cases he had at least

25,000 of financial exposure and possibly more.

I have reviewed the eight CERCLA cases. In my opinion, Judge Breyer did not violate §455.

A judge may not sit in a case in which the judge or certain family members have a "financial interest, however small" in a "party" or in the "subject matter in controversy." §455(b)(4), (d)(4). Judge Breyer had no financial interest in the parties to the CERCLA case nor in their subject matter. An example of the latter would be a judge's stock ownership in a company that, though not a party to a proceeding, was the subject of control between the actual parties.

Where the judge has an interest other than a "financial interest" in a party or in the subject matter in controversy, different rules apply. The judge is not then disqualified "however small" his or her interest. The size of the judge's "other interest" then matters: It must be "substantia[l]." §455(b)(4).

This difference recognizes two truths: the public is less likely to suspect a judge's impartiality when the judge's interest is other than in a party or the subject matter in controversy; and if any "other interest," even insubstantial ones, could disqualify judges, the scope of disqualification would be too broad with no public gain. "[W]hen an interest is not direct, but is remote, contingent, or speculative, it is not the kind of interest which reasonably brings into question a judge's impartiality." *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1313 (2d Cir. 1988) (construing §455(a), discussed below).

Section 455(b)(4) and (b)(5)(iii) recognize the different policies when a judge's interest is not in a "party" or in the "subject matter in controversy." These provisions require recusal only when the judge (or certain family members) have "any other interest that could be substantially affected by the outcome of the proceeding." §455(b)(4).

This different standard has two distinguishing elements. First, the effect on the judge's interest must be substantial. Second, the word "could" has been repeatedly construed to require that the effect of "the outcome of the proceeding" on the judge's interest must not be "indirect" or "speculative." *In re Placid Oil Co.*, 802 F.2d 783, 786-77 (5th Cir. 1986). Construing §455(b)(4) in *Pacid Oil*, the Court wrote: "A remote, contingent, and speculative interest is not a financial interest within the meaning of the recusal statute . . . nor does it create a situation in which a judge's impartiality might reasonably be questioned." Id. at 787.

The Court's last reference, to "impartiality," brings us to §455(a), which requires recusal when a judge's "impartiality might reasonably be questioned." While §455(a) and §455(b) overlap, they are not congruent. *Liteky* v. *United States*, 114 S.Ct. 1147 (1994). Nevertheless, here, I reach the same conclusion under both provisions.

Placid Oil is an instructive case. It was brought against 23 banks, seeking recision of credit agreements and other relief "based on a number of alleged wrongful acts of the Banks." Id. at 786. Plaintiffs sought recusal of the district judge, who was alleged to have "a large investment in a Texas bank that may be affected by rulings in this case." Plaintiffs argued that "any rulings adverse to the Banks will have a dramatic impact on the entire banking industry and thus on [the judge's] investment as well," thereby giving the judge a "financial interest in the litigation." Id. The Circuit rejected the recusal effort:

"We find no basis here for requiring recusal. We are unwilling to adopt a rule requiring recusal in every case in which a judge owns stock of a company in the same industry as one of the parties to the case. * * *" Id.

This position was followed in *Gas Utilities Co. of Alabama, Inc.* v. *Southern Natural Gas Co.*, 996 F.2d 282 (11th Cir. 1993), *cert. denied*, 114 S.Ct. 687 (1994).

I see no evidence that the decisions in Judge Breyer's CERCLA cases "could" have a direct and substantial effect on his interest in a syndicate that has insured against the risk of liability for environmental pollution. Without parsing every case here, I found their holdings to be relatively narrow, some quite limited. For most of the cases, it would be impossible to say how the holding could affect Judge Breyer's own interests or those of the syndicate in which he invested. For all of the cases, the Judge's interest is "not direct, but is remote, contingent, or speculative." *In re Drexel Burnham Lambert*, supra at 1313.

Given the twin requirements of substantiality and the caselaw definition of "could" as used in §455(b), Judge Breyer did not have to recuse himself in the eight CERCLA cases. He did not violate §455.

Sincerely yours,

STEPHEN GILLERS.

GEOFFREY C. HAZARD, JR., LAW SCHOOL, UNIVERSITY OF PENNSYLVANIA,

Philadelphia, PA, July 11, 1994.

Hon. LLOYD N. CUTLER,
Special Counsel to the President.

DEAR MR. CUTLER: Your have asked for my opinion whether Judge Stephen Breyer committed a violation of judicial ethics in investing as a "Lloyd Name" in insurance underwriting while being a federal judge. In my opinion there was no violation of judicial ethics. In my view it was possibly imprudent for a person who is a judge to have such an investment, because of the potential for possible conflict of interest and because of possible appearance of impropriety. However, in light of the facts no conflict of interest or appearance of conflict materialized. I understand that Judge Breyer has divested from the investment so far as now can be done and will completely terminate it when possible.

1. I am Trustee Professor of Law, University of Pennsylvania, and Sterling Professor of Law Emeritus, Yale University. I am also Director of the American Law Institute. I have been admitted to practice law since 1954 and am a member of the bar of Connecticut and California. I am engaged in an active consulting practice, primarily in the fields of legal and judicial ethics, and have given opinions both favorable and unfavorable to lawyers and judges. I was Consultant and draftsman for the American Bar Association Model Code of Judicial Conduct promulgated in 1972, on which the rules of ethics governing federal judges are based. I have also been Reporter and draftsman of the American Bar Association Model Rules of Professional Conduct, promulgated in 1983, and before that consultant to the project for the ABA Model Conduct of Professional Responsibility. I am author of several books and many articles on legal and judicial ethics and write a monthly column on the subject.

2. I am advised that Judge Breyer made an investment as a "Lloyd's Name" some time in 1978. He has since terminated that investment except for one underwriting, Merrett 418, that remains open. He intends to terminate that commitment as soon as legally permitted. I have further assumed the accuracy of the description of a Lloyd's Name investment set forth in the memorandum of July 3, 1994, Godfrey Hodgson. My previous understanding of the operation of Lloyd's insurance, although less specific than set forth in the memorandum, corresponds to that description.

3. I have assumed the following additional facts:

(a) As a "Name" Judge Breyer did not have, and could not have had, knowledge of the particular coverages underwritten by the Merrett 418 syndicate. It would have been possible for a Name to discover through inquiry that environmental pollution as a category was one of the risks underwritten by the syndicate.

(b) Judge Breyer had "stop-loss" insurance against his exposure as a Name, up to $188,000 beyond an initial loss of 25,000 pounds. This is in substance reinsurance from a third source against the risk of actual liability.

(c) A reasonable estimate of the potential loss for Judge Breyer is approximately $114,000, well within the insurance coverage described above. However, there is a theoretical possibility that his losses could exceed that estimate.

(d) The Merrett 418 syndicate normally would have closed at the end of 1987. It remains open because of outstanding liabilities to the syndicate that were not later adopted by other syndicates. These outstanding liabilities include environmental pollution and asbestos liability.

4. I am advised that Judge Breyer as judge participated in a number of cases that one way or another involved the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the Superfund statute. None of these cases involved Lloyd's as a party or by name in any respect. None appear to have involved issues that would have material or predictable impact on general legal obligations under the Superfund legislation. Most of the cases are fact-specific and all involve secondary or procedural issues. I have assumed that the description of these cases in the attached list is fair and accurate.

5. In my opinion, Judge Breyer's participation in the foregoing cases did not entail a violation of judicial ethics. None of the cases involved Lloyd's as a party or as having an interest disclosed in the litigation. None could have had a material effect on Judge Breyer's financial interests. None had a connection direct enough with Judge Breyer as to create a basis on which his impartiality might reasonably be questioned, as that term is used in Section 455 and in the Code of Judicial Ethics.

6. There is a close analogy between the kind of investment as a Name and an investment in a mutual fund. A mutual fund is an investment that holds the securities of operating business enterprises. Ownership in a mutual fund is specifically excluded as a basis for imputed bias under Section 455 and the Code of Judicial Ethics. This exclusion was provided deliberately, in order to permit judges to have investments that could avoid the inflation risk inherent in owning Government bonds and other fixed income securities but without entailing direct ownership in business enterprises. A Names investment is similarly an undertaking in a venture that in turn invests in the risks attending business enterprise. Just as ownership in a mutual fund is not ownership in the securities held by the fund, so in my opinion, is investment as a Name not an assumption of direct involvement in the risks covered by the particular Lloyd's syndicate.

7. In my opinion it could be regarded as imprudent for a judge to invest as a Lloyd's Name, withstanding that no violation of judicial ethics is involved. The business of insurance is complex, sometimes controversial, and widely the subject of public concern and suspicion. The insurance industry is highly regulated and insurance company liability often entails issues of public importance. In my opinion it was therefore appropriate for Judge Breyer to have withdrawn from that kind of investment so far as he could legally do so, simply to avoid any question about the matter. That said, I see nothing in his conduct that involves ethical impropriety.

Very truly yours,

GEOFFREY C. HAZARD, Jr.

WILEY, REIN & FIELDING,
Washington, DC, July 11, 1994.

LLOYD CUTLER, Esquire,
Counsel to the President, White House Counsel's Office, Washington, DC.

DEAR MR. CUTLER: You have asked us to evaluate whether any case decided by Judge Stephen Breyer under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9601 *et seq.*, could have substantially affected the financial interests of insurers. We represent insurers extensively in connection with insurance coverage matters arising under CERCLA. In addition to representing individual insurers, we and our colleagues represent the Insurance Environmental Litigation Association ("IELA"), a trade group of 21 large property/casualty insurers that appears as amicus curiae in numerous environmental coverage cases at the appellate level.[1] Mr. Brunner has over a decade of direct experience in representing the interests of insurers in disputes arising under CERCLA. Ms. Sawtelle, in addition to representing insurers, has an extensive background in CERCLA and environmental matters generally, having served as an EPA official (as Special Assistant to the Director, Office of Solid Waste, from 1985 to 1987) with responsibility in this area, and having represented numerous potentially responsible parties ("PRPs") in private practice since 1981. As a consequence, we are able to provide you with a realistic appraisal of the significance of CERCLA cases for insurers generally and Lloyds of London syndicates specifically, based on a great deal of experience evaluating CERCLA matters for insurers and others.

We have reviewed all eight cases in which Judge Breyer has passed on CERCLA issues.[2] In our opinion, none of these cases had a material or predictable financial impact on insurers generally or on Lloyds syndicates in particular. Any consequences for insurers were highly speculative and dependent on many independent intervening factors. Any conceivable impact on the financial interests of insurers from these cases resulted only from the court assuring that PRPs received proper procedural protections, or that the statute's provisions were applied properly, before parties were held liable for costs that might possibly be determined to be insured by some insurer. None of the cases determined the obligation of any insurer nor of any PRP for which an insurer might be liable. In real world terms, Judge Breyer's financial interest in these cases as a result of his status as a Lloyd's investor was probably more attenuated than his interest as a federal taxpayer in numerous cases involving financial claims against the Federal Government. In both circumstances, the interest is so diluted, so contingent and so indirect as to be of no consequence.

Of the eight CERCLA cases on which Judge Breyer has sat, four did not involve even potentially insurable interests of PRPs. *Maine* v. *Department of the Navy*, 973 F.2d 1007 (1st Cir. 1992), involved a claim for civil penalties sought by Maine against the (uninsured) Federal Government. Similarly, *Reardon* v. *United States*, 947 F.2d 1509 (1st Cir. 1991) (*en banc*), involved the constitutionality of CERCLA's procedures for attaching liens to real property and in no way addresses the extent of financial liabilities under CERCLA. *All Regions Chemical Laboratories* v. *EPA*, 932 F.2d 73 (1st Cir. 1991), concerned the imposition of a civil penalty on a chemical company for failure to report a chemical release; such penalties clearly are uninsured. In much the same vein, *Johnson* v. *SCA Disposal Services, Inc.*, 931 F.2d 970 (1st Cir. 1991), applied the doctrine of res judicata, precluding relitigation of matters already determined by a court, to a case that happened to involve CERCLA claims but without any distinctive precedential significance for CERCLA cases.

Only four cases on which Judge Breyer has sat have even considered the rights or obligations of potentially insured PRPs under CERCLA. In each instance, the significance for insurers has been, at most, highly indirect. *United States* v. *Kayser-Roth Corp.*, 910 F.2d 24 (1st Cir. 1990), cert. denied, 498 U.S. 1084 (1991), addressing the potential liability of a parent company for its subsidiary's waste disposal practices, is likely irrelevant to insurers in most instances but, if not, could be either "good" or "bad" for a particular insurer, depending on the circumstances of the later case. Indeed, the likelihood of a perceptible impact on insurers is both speculative and remote.

Similarly, the potential impact on the insurance industry of the issues in *United States* v. *Ottati & Goss, Inc.*, 900 F.2d 429 (1st Cir. 1990), was de minimis. The case principally involved whether a court must, in an injunctive relief context, adopt any cleanup remedy selected by EPA unless it found that selection to be arbitrary or capricious or, alternately, whether it may itself decide what the remedy should be. Judge Breyer, writing for the unanimous panel, upheld the decision of the court below that the court may fashion the remedy. This holding did not make any determination of a PRP's obligations but merely prescribed the procedure and degree of deference due to certain preliminary EPA actions. There was only an attenuated impact on PRPs and an even more attenuated connection to insurers.

Waterville Industries Inc. v. *Finance Authority of Maine*, 984 F.2d 540 (1st Cir. 1993), involved the application of CERCLA's so-called "secured creditor exemption." Judge Breyer joined in the court's unanimous opinion holding that this provision—which exempts from the class of liable "owners or operators" those who, without participating in the management of a contaminated facility, hold indicia of ownership primarily to protect a security interest—applied to a particular sale-and-leaseback arrangement. The court's opinion, which was consistent with a number of other courts' rulings, was highly fact-specific and thus not likely to have a material or predictable impact on the insurance industry. Moreover, this dispute involved private parties only, each of whom is no more likely than the other to have insurance.

Finally, in *Dedham Water Co.* v. *Cumberland Farms Dairy, Inc.*, 889 F.2d 1146 (1st Cir. 1989), Judge Breyer joined in the court's unanimous decision that CERCLA liability arises when the release of hazardous substances from the defendant's facility cause the plaintiff to incur response costs, rather than when the releases cause contamination on the plaintiff's property. This case did not present an issue that would have a material impact on the insurance industry's CERCLA obligations because in a wholly private dispute such as this, either or both sides might have insurance. (In a subsequent opinion in the Dedham case, Judge Breyer dissented from the majority regarding whether a new trial was required; this opinion was unrelated to the provisions of CERCLA. *See In re Dedham Water Co.*, 901 F.2d 3 (1st Cir. 1990).)

In sum, then, our review makes clear that no case in which Judge Breyer participated had any substantial or predictable effect on his interest as an investor in Lloyd's of London or on the financial position of insurers generally.

Sincerely,

THOMAS W. BRUNNER,
SUSAN D. SAWTELLE.

FOOTNOTES

[1] The views expressed herein are our own and are not stated on behalf of IELA or any other client of our law firm. We do not represent any syndicate participating in Lloyds of London.

[2] *Dedham Water Co.* v. *Cumberland Farms Dairy, Inc.*, 889 F.2d 1146 (1st Cir. 1989); *United States* v. *Ottati & Goss, Inc.*, 900 F.2d 429 (1st Cir. 1990); *United States* v. *Kayser-Roth Corp.*, 910 F.2d 24 (1st Cir. 1990), *cert. denied*,498 U.S. 1084 (1991); *Johnson* v. *SCA Disposal Services, Inc.*, 931 F.2d 970 (1st Cir. 1991); *All Regions Chem. Labs. Inc.* v. *United States EPA*, 932 F.2d 73 (1st Cir. 1991); *Reardon* v. *United States*, 947 F.2d 1509 (1st Cir. 1991); *Maine* v. *Department of Navy*, 973 F.2d 1007 (1st Cir. 1992); *Waterville Indus., Inc.* v. *Finance Auth. of Me.*, 984 F.2d 549 (1st Cir. 1993).

LEWIS AND ROCA LAWYERS,
July 12, 1994.

LLOYD N. CUTLER, Esq.
Counsel to the President, The White House Counsel's Office, Washington, DC.

Re: Judge Stephen G. Breyer.

DEAR MR. CUTLER: In connection with the pending hearings on Judge Stephen G. Breyer for the Supreme Court, I submit the attached statement requested by you on a problem of disqualification of judges.

Yours very truly,

JOHN P. FRANK.

Enclosure.

JUDGE STEPHEN G. BREYER DISQUALIFICATION MATTER

I. IDENTIFICATION—JOHN P. FRANK

Mr. Frank is a partner at the Law firm of Lewis and Roca, Phoenix, Arizona, who has been heavily involved in disqualification matters over the decades. He is the author of the seminal article on that subject in the 1947 Yale Law Journal. He was subpoenaed by the Senate Judiciary Committee to testify as an expert on disqualification in connection with the nomination of Judge Haynsworth to the Supreme Court in 1969. In the aftermath of that episode, the Congress took to rewrite the Disqualification Act, creating the present statute, 28 U.S.C. §455. Simultaneously, a commission under the chairmanship of Chief Justice Roger Traynor of California for the American Bar Association was rewriting its canon of judicial ethics. Mr. Frank became, informally, Senate representative in negotiations with the ABA Traynor Commission to achieve both a canon and a new statute which would be nearly the same as possible, Senator Bayh and Mr. Frank appeared before the Traynor Commission. Mr. Frank worked out a mutually satisfactory canon/bill with Professor Wayne

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[1] Footnotes at end of article.

Thode of Utah, reporter for the Traynor Commission. The canon was then adopted by the Traynor Commission and essentially put into bill form by Senators Bayh and Hollings, major witnesses for the bill on the Senate side were Senators Bayh and Hollings, and Mr. Frank. On the House side, Judge Traynor and Mr. Frank jointly lobbied the measure through. Mr. Frank is intimately acquainted with the legislative history and well acquainted with subsequent developments.

The foregoing outline is my final conclusion on this subject. I am aided not merely by numerous attorneys in my own office, but also by Gary Fontana, a leading California insurance law specialist of the firm of Thelan, Marrin, Johnson & Bridges of San Francisco.

II. ISSUE

In his capacity as an investor, Judge Stephen G. Breyer has been a "Name" on various Lloyds syndicates up to a maximum of 15 at any one time over an 11-year period from 1978 through 1988. This means, essentially, that he is one of a number of investors who have put their credit behind the syndicates to guarantee that claims arising under certain insurance policies directly written or reinsured by the syndicates are paid. If the premiums on the policies and the related investment income outrun the losses, expenses and reinsurance, there is payment to the Names. If there is a shortfall, the Names must make up the difference. For an extensive description of the Lloyds system, see Guide to the London Insurance Market, BNA 1988, and particularly chapter 3 on underwriting syndicates and agencies. As the full text shows, this is a highly regulated enterprises, a matter of consequence in relation to views of Chief Justice Traynor expressed below.

The syndicates commonly reinsure North American companies against a vast number of hazards. Among these probably are certain hazards arising in connection with pollution which may relate to the "superfund," a financing mechanism of the United States for pollution clean-up. A question has been raised as to whether, in any of the various cases in which Judge Breyer has sat involving pollution, he may have been disqualified. The identical question could arise in connection with any number of other cases in which Judge Breyer has sat because the syndicates have infinitely more coverage than pollution. The selectivity of the current interest is probably due to nothing but the colorful nature of pollution or the failure of some inquiring reporter to see the problem whole.

A very significant factor is that the Lloyds syndicates are not merely insurers or re-insurers. They are also investment companies and much of their revenue comes from investments in securities.

III. ANSWER

Should Judge Breyer have disqualified in any pollution cases in which he participated because of his Name status?

Answer: No.

IV. DISQUALIFICATION STANDARDS AS APPLIED TO THIS SITUATION

A. Party Disqualification

Under the statute, if a judge has an interest in a party, no matter how small, he must disqualify. Knowledge is immaterial; a judge is expressly required to have such knowledge so that he can meet this responsibility. Since the statute, judges have had to narrow their portfolios; "I didn't know" is not even relevant.

We may put this strict criteria of disqualification aside because neither Lloyds nor any of the syndicates is a party to any of these cases. This is of vital importance because this is the one strict liability disqualification criterion in this situation.

B. The common fund exception

Congress in §455 did not mean to preclude judges from investing; this was fully recognized both in §455 and the canons; H.R. Rep. 1453, 93d Cong., 1st Sess. at 7 (Oct. 9, 1974). Judges have a range of income expectations and an investment is quite appropriate. Investment is restricted only where it would lead to needless perils of disqualification.

In that spirit, §455(d)(4)(i) recognizes that judges may invest in funds which are themselves investment funds and while the judge cannot sit in any case which involves the fund, he is exempted from a duty of disqualification in matters involving securities of the fund unless he participates in the management of the fund, Sen. Hrg. 1973 at 97, which Judge Breyer did not do. "Investments in such funds should be available to judges," *id.* This section was intended to create "a way for judges to hold securities without needing to make fine calculations of the effect of a given suit on their wealth," *New York Develop. Corp.* v. *Hart*, 796 F2d 976, 980 (7th Cir. 1986). As Chief Justice Traynor said of this exception, it is "because of the impossibility of keeping track of the portfolio of such a fund," Sen. Hrg. 1973, House of Rep. Subcomm. Jud. Com. on S. 1064, May 24, 1974 (hereafter H.R. Hrg. 1974), p. 16.

The relevant section is as follows:

"(i) Ownership is a mutual or common investment fund that holds securities is not a 'financial interest' in such securities unless the judge participates in the management of the fund;"

1. A large Lloyds syndicate is a "common investment fund." There is a definition in Reg. §230.132 of "common trust fund," which is a particular type of bank security specifically exempted from the Securities Act of 1933 pursuant to Section 3(a)(2). The only useful portion of that definition is "maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more [bank] members . . ." A "common enterprise" is one of the four elements of an "investment contract" as set forth in the *Howey* case:

"[A]n investment contract for purposes of the Securities Act means a contract, transaction or scheme whereby a person [1] invests his money, [2] in a common enterprise, and [3] is led to expect profits, [4] solely from the efforts of a promoter or third party . . ." SEC. v. W.J. Howey Co., 328 U.S. 293, 298 (1946). The common enterprise requirement is usually satisfied by a number of investors who have a similar stake in the profitability of the venture.

2. While the precise form of common fund involved here was not contemplated in the statute, functionally a Lloyds investment is the same as any other common fund investment. It is an investment in a common fund in which the judge has no practical way of knowing on what he may make a return.

V. THE NON-PARTY EXCEPTION CRITERIA

Under §455(d)(4), "financial interest" covers "ownership of a legal or equitable interest, however small" and then moves on to an additional thing, "or a relationship as director, advisor, or other active participant in the affairs of a party." This, too, is under the "however small" criterion, Sen. Hrg. 1973 at 115. This disqualifies the judge if he is a creditor, debtor, or supplier of a party if he will be affected by the result; but this only applies to a party, id. 115. A different standard is applied under §455(d)(4)(iii) to any "proprietary interest" similar to mutual insurance or mutual savings. Here the disqualifying interest must be "substantial"; the "however small" standard is inapplicable. There is more latitude here than in the other relationships and these can be usefully described as the "non-party" involvement of the judge. I have elaborated on this topic in Commentary, 1972 Utah Law Review §77, which has reflected the views of Professor Thode of the Utah Law School, reporter on the canon, and which is referenced in the legislative history of §455, Sen. Hrg. 1973 at 113.

This covers the relationship of the judge not in terms of his direct financial interest in a party (as to which his disqualification is absolute and unawareness is not relevant)[1] but rather covers non-party interest. For classic illustration, if the home of a judge is in an irrigation district and if he is passing on the validity of the charter of the irrigation district itself, the answer to that * * *.

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In *Department of Energy* v. *Brimmer*, 673 F.2d 1287 (Temp. Emerg. Ct. of Apps. 1982) the court held a judge hearing a case involving an Entitlement Program, who had stock ownership in other Entitlement Programs, was not disqualified. In reaching this conclusion the court used a two step analysis; 1) did the judge have a financial interest in the subject matter in controversy, and, if not, 2) did the judge have some other interest that could be substantially affected by the outcome of the litigation.

The court held the judge did not have a financial interest in the subject matter of the litigation, with a brief analysis:

"The use of the term 'subject matter' suggests that this provision of the statute will be most significant in *in rem* proceedings. *See* E. Wayne Thode, Reporters Notes to A.B.A. Code of Judicial Conduct, 56 (1973). We hold that the judge does not have a direct economic or financial interest in the outcome of the case, and thus could hear it without contravening the constitutional due process."

Here is where Judge Breyer drops completely out of the disqualification circle. In the financial relationship of any of his cases to the totality of his dividend potential, his Name is utterly trivial and, in any case, he not only does not know that a litigant is insured with the syndicates but, realistically, has no practical way of finding out. As the legislative history clearly shows, it is intended in these situations, generally speaking, that for a judge not to be kept currently informed is an affirmative virtue, or else the persons controlling the investments, as in a common fund situation, would have the power to disqualify a judge by making an investment and forcing the knowledge on the judge. This was deliberately considered in the legislative history as a hazard and was guarded against. An opinion, closely analogous, shared by several district judges, is whether Alaskan district judges must disqualify in cases claiming "amounts for the Alaska Permanent Fund, from which dividends can flow to, among others, district judges. Held, no disqualification; the amounts are too remote and speculative, *Exxon Corp.* v. *Heinze*, 792 F. Supp. 77 (D. Ala. 1992). For perhaps the leading case that a judge should not disqualify for a contingent interest where he is not a party but, speculatively, might get a small dividend some day, *see In re Va. Elec. Power Co.*, 539 F.2d 357 (4th Cir. 1976).

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[1] See, In re Cement Antitrust Litigation (MDL No. 296), 688 F. 2d 1297, 1313 (9th Cir. 1982) (judge was disqualified when his wife had a minor investment in a party, "After five years of litigation, a multi-million dollar lawsuit of major national importance, with over 200,000 class plaintiffs, grinds to a halt over Mrs. Muecke's $29.70.").

VI. APPEARANCE OF IMPROPRIETY

This leaves the generalized provision of §455(a) that a judge shall disqualify where "his impartiality might reasonably be questioned." This is commonly caught up in the phrase which has a long history, pre-§455 ABA and U.S. Supreme Court opinions. The amorphous quality of the phase makes it hard to deal with decisively. However, the phrase has gained technical meaning in both the legislative history and the cases; categorically it does not mean that pointing a finger and expressing dismay is enough. Moreover, when, as developed above, certain types of investment are expressly allowed under the statute, it will be difficult to make them "improper."

The 1974 Act eliminated the "duty to sit," permitting the judge to disqualify where his impartiality may reasonably be questioned. Both Justice Traynor and Mr. Frank advised the Senate committee that this disqualification was to be determined by "what the traditions and practice have been," Sen. Hrg. 1973 at 15. These do not authorize disqualification for "remote, contingent, or speculative interest," or "indirect and attenuated interest"; In re Drexel Burnham Lambert Inc., 861 F.2d 1307, reh'g den. 869 F.2d 116, cert. den. 490 U.S. 1102 (1988); TV Communications Network, Inc. v. ESPN, Inc., 767 F. Supp. 1077 (D. Colo. 1991).

It is here that the common fund exception has great bearing by analogy. Such an investment involves the same factors which motivated the common fund exception. That is to say, the statutes mean to preserve the right of judges to invest and clearly except from the rigorous disqualification standards investments in common funds where the judge has no effective way of knowing precisely what interests may be within the scope of the investments. Functionally an investment in Lloyds is the same as an investment in any common fund with general holdings. In these circumstances, there cannot be an "appearance of impropriety" in an investment which is just the same, functionally, as those expressly protected.

VII. THE DISQUALIFICATION CLAIM, IF ACCEPTED, WOULD PRODUCE UNREASONABLY AND UNINTENDED RESULTS

As noted in the preliminary observations to this memorandum, the concern here is grossly excessive. The syndicates have a broad reach. The returns to the Names could be affected by numerous other matters beside pollution claims. For a comprehensive discussion of the proposition that there is no ground for disqualification because a case may affect general rules of law, see New York City Develop. Corp. v. Hart, 796 F.2d 976, 979 (7th Cir. 1986) ("Almost every judge will have some remote interest of this sort.")

Almost any case relating to the business community could relate to Lloyds in some remote way, and any number of cases can relate to other reaches of the business community. Even the criminal cases, in at least some instances, can have significant business fallout, as for example, the RICO cases. To say that Judge Breyer should have recused himself from all pollution cases would logically be to say that judges should not invest in a business generally.

I reiterate that neither the canon nor §455 meant to preclude investment by judges. The focus on the pollution cases is excessively sharp because, if there were disqualification here, there would necessarily be disqualification as to too many other aspects of investment. This would defeat the purpose of the canons and the statute.

VIII. CONCLUSION

Judge Breyer properly did not disqualify in the pollution cases which came before him.

JOHN P. FRANK.

JULY 13, 1994.

Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR BIDEN: As one who has worked in the field of lawyers' and judges' ethics for almost three decades, I write to oppose the confirmation of Chief Judge Stephen Breyer as a member of the Supreme Court. My opposition is based upon Judge Breyer's violation of the Federal Disqualification Statute, 28 U.S.C. §455.

We have heard much in recent years about a "litmus test" for judges. The reference has been to the nominees' positions on substantive issues, and the test has fluctuated with the politics of the moment. If there is one test that should be constant, however, it is that the record of a nominee for judicial office should not be tainted by a serious violation of judicial ethics. Judge Breyer fails that test.

THE DISQUALIFICATION STATUTE (§455)

The Federal Disqualification Statute (§455) was enacted by Congress to ensure respect for the integrity of the federal judiciary. Discussing the statute in the *Liljeberg* case, the Supreme Court said that "We must continuously bear in mind that to perform its high function in the best way, 'justice must satisfy the appearance of justice.'"[1]

The problem, the Supreme Court explained, is that "people who have not served on the bench are often all too willing to indulge suspicions and doubts concerning the integrity of judges."[2] Section 455(a) was therefore adopted to "promote confidence in the judiciary" and to eliminate those "suspicions and doubts."

Accordingly, §455(a) expressly requires that every federal judge "shall" disqualify himself from any case in which his impartiality "might" reasonably be "questioned."[3] This statutory language is intentionally broad, requiring the judge to avoid the "appearance of impropriety whenever possible."[4]

Writing for the Supreme Court just this year, Justice Scalia said that §455(a) covers all forms of partiality, and "require[s] them all to be evaluated on an objective basis, so that what matters is not the reality of [partiality] but its appearance."[5] And Justice Scalia added: "Quite simply and quite universally, recusal was required whenever 'impartiality might reasonably be questioned.'"[6]

This objective standard—which is to be applied "universally" and "whenever possible,"—means that the judge cannot remain in a case on the ground that he, personally, is a person of integrity who would not be affected by a personal financial concern. Rather, the question is whether the "average judge" would be offered a "possible temptation" not to "hold the balance nice, clear and true."[7]

That last quotation goes back to cases decided even before §455 was enacted—cases like *Tumey*, *Murchison*, and *Lavoie*.[8] Those cases hold that constitutional due process requires the judge to disqualify himself unless his interest is "so remote, trifling, and insignificant" as to be "incapable of affecting" an individual's judgment.[9]

JUDGE BREYER'S VIOLATION OF THE STATUTE.

I have quoted at some length from controlling Supreme Court cases like *Liteky*, *Liljeberg*, *Tumey*, *Murchison*, and *Lavoie*, because, so far, they have been virtually ignored in these hearings. Neither Professor Stephen Gillers nor Professor Geoffrey Hazard has discussed these cases in their letters to the Committee in which they conclude that Judge Breyer did not violate the Statute.[10]

Judge Breyer was a member, or Name, in the Lloyd's Merrett syndicate 418 in 1985, insuring asbestos and pollution losses.[11] His exposure to liability continues to this day. As of 1993, the total losses on that account were $245.6 million. Other Names have had their fortunes wiped out in total Lloyd's liabilities approaching $12 billion. For years, therefore, the Names have been understandably jittery.

The New York Times has described Judge Breyer's membership in Lloyd's as "A Tricky Investment."[12] Although Judge Breyer has assured this Committee that he will get out of his membership as soon as possible, this is a questionable pledge. He himself has testified that he has been trying to extricate himself for years. And according to Richard Rosenblatt, who heads a group of hundreds of American Names who are "afraid of being wiped out," it would cost Judge Breyer more that $1 million to insure himself against his personal share of his syndicate's losses.[13] Even then, he would remain liable if his insurer could not pay.[14]

Judge Breyer and the White House have assured this Committee and the public that Judge Breyer's reasonably anticipated liability is negligible. And the ethics experts who have "cleared" Judge Breyer have based their opinions on just such misleading assumptions. As Professor Hazard says, he was told to assume that Judge Breyer's possible losses are well within "stop-loss" insurance coverage that the Judge already has. For similar reasons, Professor Gillers has commented that his own opinion is "rather narrow."[15]

But consider Mr. Rosenblatt's estimate that insurance coverage of Judge Breyer's liability would cost more than $1 million. That reflects the calculation of hard-headed actuaries, not overly optimistic politicians eager to minimize the true dimensions of the Judge's difficulties.

Having said that, let me emphasize that my opinion is not dependent upon the precise size of Judge Breyer's liability.[16] As Professor Hazard said in his opinion, the business of insurance is complex, sometimes controversial, and "widely the subject of public concern and suspicion." Unfortunately, Professor Hazard did not recognize that his own description of Judge Breyer's position as an insurer echoes the Supreme Court's description of the purpose of §455—to avoid public "suspicion and doubts." Predictably, and properly, "public concern and suspicion" have been focused on the integrity of the judiciary because of Judge Breyer's failure to disqualify himself when the Statute required him to do so.

As the White House has admitted, Judge Breyer "knew" or "could have known" that environmental pollution was one of the risks he was insuring as a Name. (In fact, he was notified of this by his syndicate.) But, they contend, he did not know precisely which of his cases involved those risks. In effect, they

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Footnotes at end of article.

argue that Judge Breyer could not know for sure whether a particular pollution defendant standing before him was carrying the Judge's blank check in his pocket.

But under §455(c) of the Disqualification Statute, the Judge had an absolute responsibility to "inform himself about his personal . . . financial interests."[17] (Professors Gillers and Hazard ignore this requirement in their opinion letters.) Thus, the bizarre defense of Judge Breyer is that he violated his statutory duty to know the details of this personal financial interest, and therefore he didn't violate his statutory duty to disqualify himself.

In fact, Judge Breyer did violate the statute in failing to disqualify himself. Take, for example, *United States v. Ottati & Goss, Inc.*[18] Two years after *Liljeberg* explained the broad scope of §455(a), Judge Breyer failed to disqualify himself from *Ottati & Goss*—even though the case involved the Environmental Protection Agency's powers to impose liability on polluters like those the Judge knew he was insuring.

In *Ottati & Goss*, the issue was whether the EPA could impose remedies against polluters, subject to judicial revision only on a finding that the EPA had arbitrarily and capriciously abused its powers. Lower court decisions were split on the issue. A decision by the First Circuit would be on important precedent.

Judge Breyer expressly recognized this in his opinion in *Ottati & Goss*, saying that the case raised a question with "implications for other cases as well as this one." And he said again: "The EPA's * * * argument [has] implications beyond the confines of this case."

That was enough to require that Judge Breyer disqualify himself. In effect, he was in the position of deciding his own case, or, at least, of setting a precedent that could affect his own liability.

How the Judge ultimately decided the case has no effect on his duty to disqualify himself. His decision in *Ottati & Goss* compounds the appearance of impropriety that the Statute forbids, because the Judge wrote an opinion weakening the power of the EPA to impose liability on polluters. And his opinion, predictably, has been influential, causing the EPA to change its own regulations.

Similarly, Judge Breyer participated in *Reardon* v. *United States*,[19] where the First Circuit again made it more difficult for the EPA to impose liability on Polluters. In *Reardon*, the EPA had removed tons of contaminated soil and put a lien on the property to secure payment of its costs. The loss represented by that lien is the same kind of loss that Judge Breyer was liable to reimburse as an insurer. And the decision held that the EPA did not have the power to impose the lien.

Is it not clear that Judge Breyer's impartiality "might" reasonably be "questioned" in *Ottati & Goss* and in *Reardon?* Would not his participation cause "suspicions and doubts" about the integrity of judges? In that not precisely the problem that the Congress intended to resolve with §455(a) of the Disqualification Statute?

One contention put forth by the White House is that Judge Breyer was not asked to disqualify himself by a litigant. That is irrelevant. The Statute does not permit a judge to wait to see whether a litigant has smoked out his interest and makes a motion for disqualification. Rather, the Statute is "self-executing," requiring the judge to take the initiative. As Justice Scalia said for a unanimous Court in *Liteky*, the Statute "placed the obligation to identify the existence of those grounds upon the judge himself, rather than requiring recusal only in response to a party affidavit."[20]

Another contention is that the Judge's membership in Lloyd's is "analogous" to being an investor in a mutual fund, and therefore is exempt from the statute under §455(d)(4). There are two important differences between being a name in Lloyd's and being an investor in a mutual fund. One is that mutual funds are typically highly diverse. But Lloyd's is solely involved in insurance, and the Judge knew that one or more of his insurance liabilities related to environmental pollution. Another major difference is that an investor in a mutual fund cannot lose more than the principle invested. In Lloyd's, on the contrary, one's entire fortune is at risk, as hundreds of Names have found to their dismay in recent years.

It has also been argued that §455(a) is not the right section to apply. The contention is that the correct section is §455(b)(4), which (on one reading) requires that the judge's interest "could" be "substantially affected by the outcome of the proceeding." There are three answers to that argument.

First, those who make that contention have been assuming, contrary to fact, that the Judge's potential liability is negligible. (See discussion above).

Second, §455(b) does not require that the Judge's interest be "substantial" if it is an interest in the "subject matter in controversy." In that event, the judge must disqualify himself "however small" his interest might be. §455(b)(4). And some read the phrase "subject matter in controversy" to include the remedy—such as the lien in *Reardon*—if that is what the litigation is about. One could similarly say that the subject matter of the controversy in *Ottati & Goss* was the enforcement powers of the EPA. Thus, Judge Breyer was required to disqualify himself under §455(b)(4) in both those cases "however small" his financial interest in the outcome might be.

Third, the "substantially affected" provision of §455(b)(4) does not preclude application of the basic provision, §455(a). and §455(a) can require disqualification when the Judge's impartiality "might reasonably be questioned" even when the amount of financial interest is not in fact substantial. In *Liljeberg*, for example, the Supreme Court relied principally upon §455(a) even while recognizing that §455(b)(4) also applied.

Ignoring the Supreme Court cases in point, Professor Gillers has placed his primary reliance on *In re Placid Oil Company*.[21] But *Placid Oil* is obsolete, having been decided two years before *Liljeberg* (discussed above). With no analysis whatsoever, the appeals court in *Placid Oil* said in a single conclusory sentence that the judge's interest in that case did not create a situation in which a judge's impartiality might reasonably be questioned. The court also said that the judge's interest at issue was, in fact, "remote, contingent, and speculative"—unlike Judge Breyer's position in *Ottati & Goss* and *Reardon*. Professor Gillers' reliance upon the obsolete and limited holding in *Placid Oil*, while ignoring *Liljeberg* and all of the other Supreme Court authorities, renders his opinion highly questionable.

The court in *Placid Oil* also says that a judge is not automatically disqualified if he has any stock at all in a company that is in the same industry as a litigant. That certainly remains true. But Judge Breyer has much more than a minor interest in a company in the same industry. He is an insurer with a potential liability that he cannot avoid for less than $1,000,000.

In addition, Judge Breyer, with his wife, holds investments of over $250,000 in chemical and pharmaceutical companies. Moody's Investors Service says that these are "among the highest risks" for Superfund liability.[22]

Judge Breyer has also held significant long-term investments in several liability insurance carriers that, according to the Financial Times, have been "haunted by the prospect of big claims for environmental liability," especially Superfund.[23]

In 1994 his biggest single U.S. investment is American International Group. According to Best's Review—an industry trade magazine and investment adviser—A.I.G. is "depending on * * * judicial trends" on Superfund for its future financial health.[24]

The Judge also owns stock in General Re Corporation. That company's 1994 annual report warns investors that their future earnings could be affected by "new theories of liability and new contract interpretations" by judges on Superfund.[25]

Judge Breyer appears to have been accommodating these concerns. And his investments in such companies—unlike that in Lloyd's—are investments that a judge with ethical sensitivity could, and would, have gotten out of and stayed away from.

CONCLUSION

Chief Judge Stephen Breyer has more than once violated the Federal Disqualification Statute—a Statute that was designed to ensure the constitutional requirement that "justice must satisfy the appearance of justice." In violating that Statute, he has, predictably, caused the very "suspicions and doubts" about the integrity of judges that the Statute was enacted to avoid.

These violations of his judicial responsibilities raise serious doubts about how Judge Breyer would conduct himself as a Justice of the Supreme Court. And his refusal to recognize anything more serious than "imprudence" reinforces those doubts.

In addition, Judge Breyer's violations, and his insistence that he has done nothing improper, raise the concern that as a member of Supreme Court, Judge Breyer would vote to weaken the Federal Disqualification Statute, thereby encouraging other federal judges to disregard the intent of Congress in enacting that law.

For these reasons, I oppose confirmation of Judge Stephen Breyer to the Supreme Court of the United States.

Very truly yours,

MONROE H. FREEDMAN,
Howard Lichtenstein Distinguished Professor of Legal Ethics.

FOOTNOTES

[1] *Liljeberg* v. *Health Services Acquisition Corp.*, 108 S.Ct. 2194, 2205 (1988), quoting *In re Murchison*, 75 S.Ct. 623, 625 (1955).

[2] Id.

[3] 28 U.S.C. 455(a).

[4] *Liljeberg* at 2205, citing legislative history.

[5] *Liteky* v. *U.S.*, 114 S.Ct. 1147, 1153-1154 (1994) (emphasis in the original).

[6] Id. The Supreme Court was unanimous on these points.

[7] *Liljeberg*, at 2205, n. 12, quoting previous cases.

[8] *Tumey* v. *State of Ohio*, 47 S.Ct. 437 (1927); *In re Murchison*, 75 S.Ct. 623 (1955); *Aetna Life Insurance Co.* v. *Lavoie*, 106 S.Ct. 1580 (1986).

[9] The quote goes back to Justice Cooley's treatise, Constitutional Limitations.

[10] Professor Gillers cites *Liteky* only for the point (which is immaterial to his conclusion) that "[w]hile §455(a) and §455(b) overlap, they are not congruent."

[11] The information was first revealed publicly in an article in Newsday on June 24, 1994.

[12] N.Y. Times A:1, A16, July 13, 1994.

[13] Id.

[14] Id.

[15] Gillers to Freedman, Lexis Counsel Connect E-mail, July 10, 1994.

[16] See the original article in Newsday, June 24, 1994.

[17] This is in contrast to the second clause of the same subsection, which requires only that he make a "reasonable effort" to inform himself about the financial interests of members of his household.

[18] 900 F.2d 429 (1990).

[19] 947 F.2d 1509.

[20] *Liteky* at 1153.

[21] 802 F.2d 783 (5th Cir., 1986).

[22] I am relying here upon the reporting and analysis of Bruce Shapiro in The Nation, p. 76, July 18, 1994.

[23] Id.

[24] Id.

[25] Id.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, July 15, 1994.

Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN BIDEN: The White House Counsel's Office has given me a copy of Professor Monroe Freedman's letter to you of July 13, 1994, and asked me to reply to it. Since the letter takes issue with my July 8, 1994 letter to the White House Counsel, I appreciate having this opportunity to do so. The issue, of course, is whether Chief Judge Stephen Breyer violated 28 U.S.C. §455 when he sat in certain pollution cases while he was also a "Name" in a Lloyd's syndicate. I will assume general familiarity with the facts and the prior correspondence.

Professor Freedman is in my opinion in error when he charges Judge Breyer with illegal conduct. Professor Freedman has misconstrued the governing rules and ignored governing precedent. I shall explain how presently. First, though the Committee should be aware of a critical doctrine that has not yet been identified.

Section 455, which derives from the 1972 ABA Code of Judicial Conduct, states the Congressional rules for recusal of a federal judicial officer. The section has two kinds of rules: categorical rules and standards. The categorical rules require no judgment. They either apply or they do not. The standards, by contrast, require judgment.

An example of a categorical rule is §455(b)(5)(1), which would require a judge to step aside if the judge's "spouse, or a person within the third degree of relationship to either of them. . . . Is a party to the proceeding. . . ." This circumstance either exists or it does not. If it does, recusal is required.

The two provisions of §455 that have been cited in connection with Judge Breyer (until Professor Freedman injected a third, discussed below) contain standards, not categorical rules. The first standard is that part of §455(b)(4) that requires recusal if the judge (as an individual of fiduciary) or certain relatives of the judge have "any other interest that could be substantially affected by the outcome of the proceeding." The second standard is §455(a), which requires recusal if the judge's "impartiality might reasonably be questioned."

As should be clear, these two standards require a judge to interpret imprecise words like "could," "substantially affected," "might" and "reasonably." The meaning of these words (and the standards that contain them) are, of course, clarified as cases construe them, but they have never, and were not intended to, become fixed categories.

When we deal with standards, we deal with a continuum. In some matters, it will be self-evident that a judge's "impartiality might reasonably be questioned" or that a proceeding's "outcome" could "substantially" affect a judge's interests. In other matters, the opposite will be clear. But in many cases, different judges will apply the standards differently.

That doesn't mean that one judge is right and the other judge wrong. It means only that as with all flexible standards there will be room for disagreement. The way that the judicial system accommodates this reality is pertinent to the questions before the Judiciary Committee.

Appellate courts routinely defer to a judge's decision regarding application of a standard by upholding the decision unless it was an "abuse of discretion." *Town of Norfolk* v. *U.S. Army Corps of Engineers*, 968 F. 2d 1438, 1460 (1st Cir. 1992); *Pope* v. *Federal Express Corp.*, 974 F.2d 982, 985 (8th Cir. 1992). This test recognizes that there is significant room for disagreement in the application of a standard. Reasonable minds may differ and neither will be wrong.

While Professor Freedman holds that Judge Breyer should have recused himself in certain of his pollution cases, I and others who study the law of judicial disqualification have reached an opposite conclusion. That difference of opinion is rather strong evidence that the situations confronting Judge Breyer did not self-evidently require his recusal, but were instead situations in which reasonable minds might differ on the application of the standard. Judge's Breyer's conduct was not, therefore, an abuse of discretion and Judge Breyer did not violate §455 notwithstanding that another judge might have elected differently.

Not only do I believe that Judge Breyer's decision to sit in the pollution cases was reasonable, I believe it was right. In the balance of this letter, I will explain why §455 did not disqualify Judge Breyer and where I think Professor Freedman goes wrong.

I have already quoted from §455(b)(4). A judge must not sit if the judge (including certain relatives) has "any other interest that could be substantially affected by the outcome of the proceeding." The words "any other interest" are to be distinguished from a separate basis for recusal if a judge has a "financial interest in the subject matter of the proceeding or in a party to the proceeding." Such a "financial interest" requires recusal "however small." Section 455(d)(4).

No one has suggested that Judge Breyer had a "financial interest" in a party to proceedings before him. Professor Freedman has rhetorically asked, however, whether Judge Breyer had a "financial interest" in the "subject matter" of proceedings before him. (Freedman letter at p. 8.) This suggestion is wrong, as I shall discuss below.

In order to trigger §455(b)(4)'s reference to "any other interest," several facts must be true (and the judge's failure to recognize their truth must be an abuse of discretion). These facts are that the (i) the judge has an "other interest" that (ii) "could be" (iii) "substantially affected" by (iv) "the outcome of the proceeding."

Judge Breyer had an investment in Lloyd's. I assumed in my letter to Mr. Cutler that he had unlimited financial exposure on that investment. That satisfies factor (i). However, it does not satisfy factor (iii), even though I am assuming that Judge Breyer's financial exposure is unlimited.

The word "substantially" refers to the effect on the "interest" that the "outcome of the proceeding" "could" have. Professor Thode, the Reporter for the ABA Judicial Conduct Code from which this part of §455(b)(4) was drawn, has written: "Here the issue is not whether a judge has a 'substantial interest,' but whether the interest he has could be substantially affected by a decision in the proceeding before him." E. Thode, Reporter's Notes to Code of Judicial Conduct 66 (1973) (hereafter "Thode").

In measuring the possible effect of the "outcome of the proceeding" on the judge's interest, we must construe the word "could." As stated, "could" is not a precise word. "Could" could mean "could conceivably" or it could require a closer nexus between the outcome of the proceeding and the effect on the judge's interest. The courts have construed "could" to require a closer nexus.

My letter to Mr. Cutler cites two cases that require a "direct" connection between the outcome of a proceeding and the judge's interest. By contrast, a "remote, contingent, and speculative interest" will not suffice. *In re Placid Oil Co.*, 802 F.2d 783, 786–77 (5th Cir. 1986); *Gas Utilities Co. of Alabama, Inc.* v. *Southern Natural Gas Co.*, 996 F.2d 282 (11th Cir. 1993), cert. denied, 114 S.Ct. 687 (1994).

While Professor Freedman suggests (p. 9) that *Placid Oil* is "obsolete," because of the Supreme Court's decision in *Liljeberg* v. *Health Services Acquisition Corp.*, 486 U.S. 847 (1988), two year later, this is wrong. First, the Eleventh Circuit, cited *Placid Oil* in 1993 for the very point made here. Other courts have cited it, too, after *Liljeberg*. See, e.g., *McCann* v. *Communications Design Corp.* 775 F. Supp. 1535 (D. Conn. 1991).

Second, the facts of *Liljeberg* are dramatically different from those in *Placid Oil*. In *Liljeberg*, a university with which the judge had a fiduciary relationship would (as a result of contractual obligations and real estate values) gain millions of dollars if the judge awarded the rights to a certificate of need for a hospital to the defendant. That gave the judge, as fiduciary, an interest "however small" in the subject of the litigation (the certificate) and also an interest that could be substantially affected by the outcome of the proceeding. The facts of *Liljeberg* show a "direct" effect on the judge's interest as a fiduciary, and of course the effect was substantial.

Permit me to make this clearer with an example. Assume that the outcome of a case will nearly certainly cause a $100 decline in the value of the judge's stock interest. The effect, then, is "direct," but the judge's financial interest is not "substantially affected" because the amount is too small. Now assume an omniscient observer could tell us that the outcome of a proceeding will have 1/1000th of a chance of causing the judge's stock interest to decline by $100,000. There, the effect is substantial but it is not "direct."

Professor Freedman cites two cases in which he concludes Judge Breyer should not have participated. Did the Judge abuse his discretion by concluding that the decisions in these cases could not have a direct and substantial affect on his financial interest in Lloyd's? That is the question.

One issue in *United States* v. *Ottati & Goss, Inc.*, 900 F.2d 429 (1st Cir. 1990), the issue Professor Freedman cites, was whether a federal judge had to grant the EPA the precise injunction it requested (so long as the request was not arbitrary) or whether instead the judge had broader discretion. Judge Breyer held that the judge had broader discretion.

Professor Freedman writes that Judge Breyer should not have properly decided that case because it "involved the [EPA's] powers to impose liability on polluters like those the Judge knew he was insuring." (Freedman letter at p. 6.) This is just wrong. It is not the standard. Professor Freedman cannot say with any degree of confidence that the decision in *Ottati & Goss* would have a direct and substantial effect on the judge's interests. Furthermore, Professor Freedman leaves out an important part of the case. The EPA had two routes for seeking judicial injunctions. It had proceeded under one of them. Judge Breyer expressly acknowledged that if it had proceeded via the other route (seeking enforcement of a nonarbitrary EPA order), "the court must enforce it." *Id* at 434.

Now think about the chain of events one would have to envision to get from the holding in *Ottati & Goss* to the conclusion that Judge Breyer's interests could be directly and substantially affected. One would have to say that because a trail judge will have discretion whether to grant an EPA injunction when the EPA proceeds along one route rather than another, it could happen that in another case the EPA would elect the first route in an action against an insured of Judge Breyer's Lloyd's syndicate, that the judge in that case will deny EPA the injunction it seeks (relying on the discretion Judge Breyer's opinion affords), that the syndicate would not have to pay to comply with the particular injunction EPA wanted, and that the effect from all this on Judge Breyer's pro rata financial interest in the syndicate would be "substantial." That chain of events is what the caselaw means when it uses the words "remote, contingent, and speculative."

Professor Freedman also cites *Reardon* v. *United States*, 947 F.2d 1509 (1st Cir. 1991) *Reardon* is even a more farfetched example than *Ottati & Goss*. Judge Breyer sat on an en banc court that held that, absent exigent circumstances, due process required "notice of an intention to file a notice of lien and provision for a hearing if the property owner claimed that the lien was wrongfully imposed." Id. at 1522. Professor Freedman wrongly says that the decision "held that the EPA did not have the power to impose the lien." (letter at p.7.) It did, so long as it gave notice of its intention to do so and afforded a hearing thereafter.

Professor Freedman connects *Reardon* to the situation at hand this way: "The loss represented by that lien is the same kind of loss that Judge Breyer was liable to reimburse as an insurer." (letter at p. 7.) This is beyond "speculative." What "loss" is Professor Freedman referring to? Think about the extended chain of events one should have to describe to get from the *Reardon* holding to Judge Breyer's interests. The EPA would have to give notice of an intent to impose a lien on property of an insured of the Judge's Lloyd's syndicate. Then, before the EPA could file its lien, the recipient of the notice would have had to defeat that effort by making a quick disposition of the property, thereby defeating the EPA's security interest. As a result of that disposition somehow (I'm not clear how) the syndicate would escape its insurance responsibility and the pro rata savings to Judge Breyer in particular would have to be substantial. *Reardon* simply does not support Professor Freedman's conclusion.

Before I leave §455(b), I want to recognize that a "remote, contingent, and speculative" interest is not the same as no conceivable interest whatsoever. A system of judicial recusal must balance between the risk of real or apparent personal interest, on the one hand, and an unduly broad standard that disqualifies a large number of judges (or severely limits their investments), on the other. A broad standard would lead cautious judges to step aside no matter how improbable an effect on their interests. I believe the courts have struck the right balance. But the line will sometimes be unclear, calling on the judge to exercise discretion.

On occasion, by definition , even a remote interest will become a reality. Today's issue of Newsday reports that a loser in a case before Judge Breyer sued *a* Lloyd's syndicate for reimbursement of its expenditures under an insurance policy the loser had with Lloyd's. The syndicate may or may not have been Judge Breyer's syndicate. Let's assume it was Judge Breyer's syndicate. That is part of the price of a balanced rule. A rule that prohibited a judge from sitting if a decision could have any conceivable effect on his or her interests would have its own (in my view less appealing) price.

In addition, I have been asked to assume that Judge Breyer did not and could not have known the particular insureds under his Lloyd's syndicate. Section 455(b) quite clearly requires knowledge.

Professor Freedman also relies on §455(a), which requires recusal if a judge's "impartiality might reasonably be questioned." Apparently, Professor Freedman believes it to have been an abuse of discretion for Judge Breyer not to recuse himself under this provision.

Section 455(a) requires recusal when an "objective, disinterested, observer fully informed of the facts underlying the grounds on which recusal was sought would entertain significant doubt that justice would be done" in the particular case. *Union Carbide Corp.* v. *U.S. Cutting Service, Inc.*, 782 F. 2d 710, 715 (7th Cir. 1986). I do not believe that conclusion can be reached on the facts of the cases in which Judge Breyer sat. Certainly, it was not an abuse of discretion to reject application of §455(a) as so defined.

A stronger objection to §455(a) exists. As I mentioned in my letter to Mr. Cutler, while not congruent, §455(a) and §455(b) do overlap. As a matter of statutory interpretation, it is improper to resort to §455(a) when Congress has specifically legislated criteria for recusal in the particular circumstances described in §455(b) and these criteria are absent. As the Court wrote in *Liteky* v. *United States*, 114 S. Ct. 1147, 1156 n.2 (1994), "it is poor statutory construction to interpret (a) as nullifying the limitations (b) provides, except to the extent the text requires."

Here, §455(b)(4), as construed in caselaw, requires that the outcome of the proceeding before the judge have both a direct and substantial effect on the judge's interests. *Liteky* tells us that we should not use §455(a) to "nullify" these requirements. Specifically, here, we should not use §455(a) to require recusal where the effect is "remote" or "speculative" or "contingent." In any event, the same test is employed to reject recusal under §455 (a). *In re Drexel Burnham Lambert, Inc.*, 861 F.2d 1307, 1313 (2d Cir. 1988) (remote, contingent, or speculative interest does not reasonably bring judge's impartiality into question.)

Let me conclude by addressing two other of Professor Freedman's points. First, he suggests that Judge Breyer might have had a "financial interest" in the "subject matter" of the cases before him because the *legal issue* he decided could arise in a case involving his Lloyd's syndicate. Professor Freedman does not even adopt this view himself. He says merely that "some have read" the phrase "subject matter in controversy" to include the remedy, like the lien at issue in *Reardon*. He also writes that "[o]ne could similarly say" that EPA enforcement powers in *Ottati & Goss* were the "subject matter" of that controversy.

"One" could, of course, "say" many things, just as "some" may have "read" the statute a variety of ways. But the fact is that no authority supports the view that a judge can have a "financial interest" in a question of law. As Professor Thode explained, the "subject matter" language "becomes significant in in rem proceedings." Thode at 65. Another example is *Liljeberg*, where the university on whose board the judge sat had a financial interest riding on the holder of the certificate of need, which was the subject matter before the judge. This is not a case like *Tumey* v. *State of Ohio*, 273 U.S. 510 (1927), cited by Professor Freedman, where the adjudicator had a financial interest in the very fine he imposed on the defendant because he would receive part of it.

Professor Freedman suggests (p. 5) that Judge Breyer violated his duty to keep himself informed of his financial interests. Section 455(c). My letter was premised on two assumptions about what Judge Breyer knew or could have known and what he did not know and could not have known. I charged him with knowledge of what he could have known but he can't be faulted with not knowing what he could not have known.

Thank you for this opportunity.

Sincerely,

STEPHEN GILLERS.

Mr. KENNEDY. Mr. President, I withhold the remainder of the time. I suggest the absence of a quorum, and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, it has been a number of years now that I have had the privilege and responsibility, as chairman of the committee or ranking member of the Judiciary Committee, to be involved in the confirmation hearings of Supreme Court nominees. One of the things that always impresses me after it is all over is that my staff and I spend so much time—usually months—reading every single solitary document the nominee has ever written. I do not mean that figuratively, I mean that literally—at least every one we are aware of; interviewing individuals, listening to testimony—in the case of Judge Breyer, 22 hours of his testimony—before the committee. I do not talk to my brother that long, and he is my best friend. I am always amazed at what a broad and deep picture we get of an individual when that process is over.

Quite frankly, the only aspect of being chairman of the Judiciary Committee I do not like is the nominating process, because I almost feel like I am being too intrusive, almost learning too much about an individual—not so much about their personal lives, but about what they think, and how they have acted in their adult life, and how they have conducted themselves professionally.

I must say that in the case of Judge Breyer, after this long and detailed process, where I personally will have spent literally hundreds of hours in detail roaming through his writings, asking him questions, discussing constitutional methodology and theory with him and cases, I came away from the hearing—and I come to the floor—with the same feeling that the entirety of the Judiciary Committee left those hearings and the process with: That this is a man of high integrity, unblemished achievement, and consistent, constant, relentless excellence in whatever he undertook. This guy was everything from, literally, an Eagle Scout to—I think he was, if not the editor in chief—the article editor with the Law Review at Harvard law school.

I am sure he—like everyone in this country—has had his share of personal pain, travail, and trouble, but you would not know it from this man's record. He has succeeded at everything he has undertaken.

So I approach this nomination, as I approached the five other nominations that preceded it during my tenure as chairman of the Judiciary Committee, with two goals in mind. The first goal is to meet the committee's formal obligation given to it by the Senate to scrutinize the nominee's credentials, abilities, and to make recommendations to the full Senate about the nominee's worthiness to sit on the Supreme Court.

That sounds a bit presumptuous, for all of us to talk about the worthiness of someone to sit on the Court. But I will remind all of us that this is one of the three branches of Government, and it is incredibly powerful. A woman or man placed on the Court, as we all know, is there for life, assuming good behavior. It requires an impeachment to get a person off the Court.

Everything the Court does affects our daily lives. This is the only opportunity the public at large has to try to look into the background, philosophy, attitude, judicial temperament, and moral standing of the individual, just like they look into us, as they should, every 6 years, and House Members every 2 years, and the President every 4 years. We stand for election. And people say to us, well, we like you or we do not like you. We like this about you or do not like this about you.

That is what a democracy is about. When you think about it, there is no such undertaking other than this process for a branch of Government that has affected the lives of the people over 200-plus years, equally as the Senate, House or President of the United States has. And so it is, in one sense, in a personal sense, a high responsibility, and not a particularly welcome one on all of our parts, to look into the background of someone. But it is a responsibility. Under the advice and consent clause, it is one that we do, must, and should take seriously.

That was the first goal of the committee to do, look into and examine—the minority staff, majority staff, and the investigators, and I will not even guess how many hours they put in. If I put in a couple hundred, I am confident, without exaggeration, they put in thousands of hours in figuring out—if you take all the staff who worked on this—what this man is about, and what his philosophy is, and what the likelihood is for him to be able to perform his duties well for the Court. It is like an election. We are about to have an election, like we have in a democracy for a President or a Member of Congress. This is the election.

The Founding Fathers decided we are the electors, the ones who decide. The President nominates, like a party nominates a candidate. A man or woman is nominated by the President and comes before the electors, the people that sit in here. Again, it is not a job we relish, but it is a job we have been constitutionally assigned.

So that was my first goal, to do that thoroughly and well, so we can come back to this body and say to all of you who served in the body, that after our intensive and extensive look at this man, this is what we think he is about.

My second goal in each of these hearings and nominations has been a larger one, to consider the work of the Supreme Court as a whole by conducting a public hearing about how the Court affects and determines the values by which our Nation defines and redefines itself over time and the means by which Government can act to express and defend those values.

So, as nominees have appeared before me, I have tried to engage them in a dialog about the most important issues facing the Supreme Court and, consequently, facing the Nation.

I found, over the years, that the urgency of the issues has waxed and waned from one nomination to the next, but none has ever disappeared entirely.

Thus, I have added new concerns even as I have continued to press on others more familiar to everyone. So that it was with Judge Breyer. I pressed him on the same areas I have pressed other of his predecessors and on new areas as well, because there are new areas of concern and there are new areas of activity on the part of the Supreme Court affecting the lives of Americans.

In the late 1980's, the Nation watched to see whether the Supreme Court would limit the right of the individual to make certain highly intimate decisions free from Government interference or, as one former Justice said, the "right to be let alone."

In considering the nomination of Judge Robert Bork, therefore, I focused on the scope of personal rights not named in the Constitution, so-called unenumerated rights. As the Chair will recall, Judge Bork, a brilliant jurist and a brilliant professor, argued with some degree of intellectual consistency and with some power of persuasion that there were no constitutionally guaranteed rights—I am oversimplifying it in the interest of time—there were no constitutionally guaranteed rights any individual had unless the Constitution named them, unless they were enumerated, named in the Constitution.

And if that were so, then many of the rights we take for granted and we assume are protected by the Constitution, everything from who we can marry, to whether or not a married couple can choose to have a child or not by using birth control, very intimate personal decisions not named—there is no place in the Constitution that uses the word "marriage" or "husband" or "wife," no place in the Constitution that uses the phrase "birth control," but the Constitution in its interpretation by the Supreme Court in the past has been read to say, yes, these are rights that are protected constitutionally.

And as to Judge Bork, whether he viewed those should not be read that way, his basic philosophy and the principle he espoused was, if it is not named, it does not exist and it should be left to the democratic institutions to determine whether to guard those rights or not.

So it was a big deal. It was a big deal because one of the leading intellectuals in American jurisprudence was before the U.S. Senate seeking to go on the Court espousing this view.

More recently, in the late eighties, we have seen new challenges mounted to the rights of individuals as protected or nonprotected within the Constitution. In the early 1990's, we have seen new challenges mounted by the most power economic interests in America to reduce the ability of Government to protect the rights and interests of the vast majority of the American people. Obviously, that is my characterization.

Thus, in the hearings on Justice Clarence Thomas's nomination, I pressed Judge Thomas on his view about the "takings clause." Everyone now knows what it was. When I kept using the phrase back then, he said, why is Biden asking the thing about the takings clause, the takings clause of the fifth amendment. Every time anyone hears the fifth amendment, they think of someone raising the right hand and saying, "I take the fifth," meaning "I do not want to say anything."

There is another noninconsequential clause within that fifth amendment, and it is called the takings clause, and it defines the circumstances under which any government entity can, in fact, impact upon your right to use your property.

A case in point: The State of Delaware wants to widen the highway, a 2-lane highway, a crown top road, to a 4-lane highway. Well, under the right of eminent domain they can come along and take some of your farmland or some of your front yard, but they have to make a showing that the reason they are taking your property is for the public good. They are taking this little road, making it a big road, and that is what the public wants and needs. So, they take your property to build a road. When they do that, they have to pay you for the value of the property they have taken.

But over the centuries what has developed in our English jurisprudence system was the notion about how, if you are using your property in a way that is a nuisance to your neighbors—in modern terms, about how you are using your property, if your oil is seeping out of your underground oil tank that heats your home and it is contaminating the pool water of your next door neighbor or contaminates the property of your neighbor—now you are a "nuisance" as they used to refer to it in the English common law. You are a nuisance. You are bothering me by the use of your property.

Can the Government come along and say—in addition to your being able to sue the person who is creating the nuisance—"By the way, people cannot have a tank that leaks or people cannot have factories that spew out of the factories choking dust or carcinogenic substances or bad things?"

What happens when the Government comes along and says in that circumstance, "By the way, factory owner, all factory owners in the State of Delaware are required to make sure what they have coming out of their smokestack is not harmful, because you have something coming out of your smokestack that is harmful?"

So the Government says, "Fix it or we shut down your factory." And that could cost you millions of dollars. We have taken your property. If we shut down your factory, we have not physically taken title to it, but we have taken your property. We have taken value. Or we say, "Put a scrubber on that smokestack, collect all that terrible stuff before it goes into the air." That costs you, say, $1 million. Well, we have taken a million dollars out of your pocket, made you put it on that smokestack. Now, we have taken your property.

Under the Constitution, what does that mean? You have a taking problem.

I will not go into a lot of detail on this. But the Court basically has said over the years, over the centuries, "Look, when we take your property that way, that is really not taking your property. That is legitimate regulation." I am not using legal terms now in terms of art but trying to explain the concept here. And it is a dangerous thing to do to try to condense it this way. It will not do full justice to the theory here. But I am taking your property. The State of Delaware passed this law. The United States of America has passed this law.

Now, the landowner says: "Wait a minute. You took my farmland because you widened the road, and you paid me for that." And they say: "Yes, we took it because it was for the public good, and it was not because you were doing anything bad." But, you say, "That was only worth $200,000, and you paid me for that, but now you took 1 million bucks out of my pocket making me put all these pollution control devices on my chicken houses and on my compost piles, and all these things. That cost me a million bucks. So you paid me $200,000 for the land you took, but you are not going to give me any money for the million bucks you made me spend?"

The Court says: "No, we are not going to do that because there is a legitimate purpose that the Government has for the common good of the people to regulate for your public health and safety of the folks out there."

So, the debate. All of a sudden these folks who used to use the 14th amendment in the so-called Lochner era to give excessive rights to property owners and people who wanted to contract—remember back in the days when they struck down all those New Deal laws saying you cannot have child labor laws, you cannot have laws that protect people in the work environment, and the Supreme Court kept striking those down? The Supreme Court kept using a thing called the 14th amendment to say, "Hey, you know, the 14th amendment says you have a right to your property, a right to due process, and by the way, if you want to contract with that 14-year-old kid or you want to contract with that baker or that baker wants to open up a shop and wants to work 18 hours a day, you cannot pass a law saying bakers cannot work but 12 hours a day because the dust they inhale is bad for their health. You cannot do that. You cannot regulate the public health and safety that way. You are violating their 14th amendment rights.

By the mid-1930's they came along and said that is crazy; that does not make sense. We ought to be able to help people with their health and their safety without it being a constitutional violation.

Well, we thought that was gone. We thought the monster had been buried. Guess what. It is back.

The use of the 14th amendment that way in Lochner, it is back. It is back in the guise of the fifth amendment and the takings clause. Because now there is a new school of thought that basically says, "Let's go back and relook at that fifth amendment and that takings clause thing where it says you can't take somebody's property without paying them. We ought to count all regulations within that category."

So now if I tell you you have to put a scrubber on your smokestack that is going to cost a $1 million, a lot of new legal scholars of the Chicago School of Economics are coming along, saying, "I'll tell you what. The Government can tell me not to spew that stuff out—I do not argue with that—but if it costs me money to keep the air clean, you have got to pay me. Just like you pay me for my farmland, you have got to pay me to keep the air clean."

And that is a big deal. That is a big deal, because that for the taxpayers is billions of dollars.

Can you imagine what happens if we say, OK, in a Clean Water Act, we are going to have the water clean and here is the standard of what constitutes clean?

Let us take my State. We have farmers plowing their fields. And that is the big industry in my State. I know my friend from Iowa is here. He has some farms almost as big as my State. But it is the biggest industry in my State, farmers, bigger than the chemical industry, bigger than anything else in my State.

And so you have a farmer down in Dover, DE, and he has a field or she has a field that she is working that is right next to the Playtex factory. There is a Playtex factory down there; or, right next to the General Foods factory, which is down there. And General Foods, they are not, but let us assume they are spewing stuff out of the processing plant that was leaching on to the fields of the farmer. Right now, the farmer has the county council and the State which says, "By the way, you can't do those kinds of things." So the farmer is protected.

But the way this new school of thought would have it—and, granted, I am oversimplifying this, but the principle is accurate. What a lot folks want to say now is, "Ah ha, farmer, the State can't do that and regulate that factory from spewing onto your field. You have got to do one of two things: You sue them. You prove that you have been hurt by that and you sue them. It is between you and that big factory. Or, the State can go ahead and tell them they can't spew this stuff onto your field but you have got to pay them the cost of keeping them from doing that, which means everybody's taxes, including yours, gets raised. We are going to raise your taxes to pay that factory for not polluting your field."

It is a big deal in terms of dollars. And so that is this whole new debate which, I promise you, you all are going to hear a lot more about.

It is the intellectual and practically most important debate engaged in in the last 20 years in American jurisprudence. And it is just starting.

And, by the way, I am not suggesting there is anything nefarious about those who are on the other side of this debate. I mean, the intellectuals and the leading scholars, I am not saying they are bad folks. It is just a different way of how do you read that little old thing called the takings clause. It is a multibillion decision. If you read it the way I read it, you come out one way. If you read it the way some folks want to read it, it has multibillion dollar implications for the taxpayers of America.

So the reason I bothered to go into that is to show you that these esoteric things that we sit in the committee spending hundreds of hours preparing for and scores of hours asking witnesses about have overwhelming consequences on how average Americans can live their lives, just by reading the takings clause a different way. All the folks here in Washington today, tourists, can have their lives radically affected—not necessarily all bad.

If you own a big factory, you are in good shape. By the way, if you are a small property owner, you could, in certain circumstances, be in good shape, too. It could help you.

But the bottom line, to use that trite expression, is we are talking about moving billions of dollars.

Zoning regulations. You live in a residential neighborhood. How many people who live in a residential neighborhood want the owner of the next door property to buy up the guy's property next door to him, and now he owns two houses, to say, "I'm going to tear them down and build a 32-story building?"

"You can't do that and live here. This is my neighborhood. We all know you have got zoning laws. You can't build a 32-story building in my neighborhood. They are all four-bedroom houses here. We have kids running around."

What do you do? Up to now, we have said the county which comes along and says, as long as they apply to everybody, nobody in these kinds of circumstances can build 32-story buildings. But there are a lot of people now arguing that is a taking, those zoning regulations are takings.

"You are taking my property. I have a two-story building on it. But if I can build a 32-story building on it, I will make 16 times as much money when I sell it. I can charge people rent to come into this building. I can make a lot of money. And you are telling me I cannot make money. It is my property, is it not? I live here. If I want to put a 32-story building on it, it is none of your business."

Well, under these new standards that are evolving in the minds of many right now, all the county has to do is say, "No. Can't build that kind of building in this section of the county."

Well, these folks say, "Well, OK, you can tell me I can't build a 32-story building, but you have to pay me. Pay me. If I can prove to you I could have built a 32-story building and make my property worth $20 million and with a two-story house on it, it is only worth $510,000, you owe me the difference between $20 million and $510,000. So, taxpayers, pay me."

So, when people say you do not want the Government to take your property without paying you, I do not know of any red-blooded American who would not say, "That's right. Don't want the Government taking my property. They better pay me."

So all my friends on the right say, you know that mantra is used and everybody goes, "You're right."

But if I look at you and say, "By the way, do you want a 32-story building on your property next door to your house? That is OK, you can keep it from being next to your house. But, by way, pay them not to build it," I imagine their attitudes would change substantially.

Again, I have used extreme examples to make the point, but that is the nature of the debate.

And so, my concerns changed from unenumerated rights and privacy with the Bork hearings, which was what was the onslaught at the time.

We got to the Clarence Thomas hearings and it was all about this new theory that was being proffered. Some of the press said—which is true—about me: "BIDEN: Boring." I am boring a lot. "But why is BIDEN asking a lot of these questions about the takings clause?" Then I noticed the same newspapers saying 3 years later, headline: "Major Takings Clause Case."

You know, the Supreme Court has decided cases along the lines I am worried about.

Well, I am here to tell you there is another concern coming our way, and that is the concern about the expansion of so-called "economic rights" at the expense of important rights that we have thought to be sort of sacrosanct. The hearing about balancing the takings clause, the balance between the rights of all people versus the economic rights of few.

My concerns about the expansion of "economic rights" at the expense of other important rights have, unfortunately, proven well-founded, as demonstrated by the recent decision of the Supreme Court in Dolan versus Tigard and other cases.

So in questioning Judge Breyer, I pressed him with renewed urgency on the question of how much protection should be afforded the economic rights of the few.

These are issues—the scope of personal freedoms and the assault on the public welfare in the name of economic rights—that have concerned me before and where I have pressed other nominees.

These concerns are, if you will, "constitutional" concerns—concerns that certain elements would use constitutional interpretation to restrict important personal rights and, at the same time, expand the economic rights of the few powerful folks in America.

This year I have had, also, new concerns, concerns that these same elements may try to restrict our freedom and demean our personal dignity and moral values, not through constitutional interpretation but through the interpretation of statutes passed by Congress and signed by the President.

For example, in recent years Congress has sought to define and enforce the constitutional guarantee of equal protection of the laws through legislation. But in the last decade the Supreme Court has turned toward a grudging interpretation of those statutes we pass.

By "grudging" I mean, when we say we want to protect that liberty, the Court says, "Wait a minute. They want to protect the liberty rights, equal rights of the handicapped?" And instead of looking at it, the Court says, "We understand they want handicapped people to have these basic rights," because that is how we say it here. They, under new rules of interpretation, canons of interpretation they call it—and they are cannons in effect—take out a magnifying glass and say, "Wait a minute. I am not sure they really wanted to protect that right. Because if they really wanted to protect that right they would have said it. If they wanted to protect this right under this circumstance they would have dotted that 'i,' crossed those two 't's, and put in two extra commas. So we are going to interpret the statute to say they really did not mean to protect the equality rights of that group of people."

In the last decade the Supreme Court has tended toward this grudging interpretation of statutes passed by the Congress and signed by the President, and in my view ignoring the intent of Congress, and instead developing restrictive, judge-made rules for reading the statutes. So I asked Judge Breyer about two Supreme Court decisions that seemed to me to illustrate this grudging trend, the Patterson case and the Dellmuth case. In both cases the Court refused to apply the civil rights statutes, passed by us, signed by Presidents—Democrat and Republican—in a commonsense manner that gave full effect to the intent of Congress in ensuring equal treatment for black Americans and for handicapped children. That is what these two cases were about. One about a black American; one about a handicapped child. In the hearings I also had a second related concern.

By the way, to illustrate this, in the Patterson case there was a Civil War statute that had been passed after the Civil War that said when you are going to hire somebody, as an employer you cannot go out and say, "You know, you have on a gray suit. I do not like gray suit people. And, by the way, I do not like people who can type that fast. And, by the way, I do not like the color of your eyes. So I am not going to hire you." Or, "You are black and because you are black I am not going to hire you."

We said that is wrong. A former Congress, 100 years ago, said that is wrong. You cannot do that.

So they said, "When you contract with somebody you have to contract with black folks the same way as you contract with white folks." It is a pretty good idea. It was revolutionary in 1877, but commonplace today.

To oversimplify the case, along came this case, the Patterson case just a little while ago. And a black person said, "They hired me, but once I got hired, they harassed me, they treated me with no dignity because I was black. They made no bones about that."

And so they said, "Under this statute that was passed, I am entitled to have them stop doing that and make them hire me and make them keep me and make them treat me right."

And the Court came up with one of these. It took out a microscope—a magnifying glass, "Let us see, now. What did they really mean by that?" And they came up with the following interpretation, which I think in a commonsense way is perverse.

It said, "You know, you are right. When you look at that statute you cannot say you will not hire that man because he is black. You have to hire him if he is otherwise qualified, just like you would a white person. But once you hire him, he is on his own. You can fire him because he is black. You can harass him because he is black. All the statute means is you just cannot 'not hire him.'"

And people said, wait a minute, how did you get that?

And the Court said, with their magnifying glass, "The canons of interpretation."

We have the following, but I will not go into it. I will put it in the RECORD. I ask unanimous consent that a more scholarly dissertation on this case be printed in the RECORD, but it is important everybody understand it.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. They took out their magnifying glass and in a grudging way said, "Wait a minute. This statute only means hire."

Think about that. Think about anybody in this place writing the statute saying, "you cannot * * * not * * * deny someone employment because they are black. But once you hire them you can pull them in the office and say you black SOB, you are fired because you are black."

Does that make any sense? Could anybody possibly have meant that?

But what the Court recently has been saying is, if you mean you cannot fire them, if you mean that you cannot harass them on the job, you should say: "By the way, it is wrong to deny someone employment because they are black. And then once they are hired it is wrong to treat them badly. And if you want to fire them you cannot fire them because they are black, so help me God."

That is the only thing that seems to satisfy this bunch across the street, now. So the point I am trying to make is the last 10 years in these hearings we have been focusing on: Are judges who are about to go on the bench, through the way in which they interpret the Constitution, going to be able to deny people basic human rights? And the Senator from Illinois, myself, and others have been scrutinizing nominees to make sure that is not their view.

But I say to my friend from Illinois, he is on the floor and he is a member of the committee and he knows it, now we have to scrutinize it another way. We beat that back but now they come at it through another door. "We are not interpreting the Constitution here, Senator. We are merely interpreting a statute," they say. "And we want to make sure precisely what you mean, and therefore you say precisely what you mean. Because we know you folks in Congress, you women and men, you just let your staff do this stuff anyway," according to Judge Scalia. "You do not know anything." In that sense he shares a lot in common with the American people, about what they think about us. But the point is, they say, "You men do not know much, you women do not know much, so we are going to look at language and make sure it says precisely."

What are those rulings called? "The clear statement." But one of the leading scholars in the area has another phrase. He calls them, "superstrong clear statements." Translated: You better say everything you mean, even if it is clear from the words you use that you mean exactly the same thing. You better say it.

It is a little bit like saying, as one of my staff members, a professor at Georgetown, said to me—she said when she was explaining this to me, we were going through these cases: "It is like my turning to you, Senator, and saying, 'Can you tell me the time?' And you interpreting that to mean is she asking me, do I know how to tell time? And I would look at her and I would say, 'Well, yes, I could tell you the time.' When obviously the reason she is looking at me and saying, 'Can you tell me the time?' she means I do not have a watch; I do not know what time it is; would you please tell me what time it is, if you know."

But the way the Supreme Court is interpreting these statutes, they are interpreting like, if I said can you tell me the time, some on the Supreme Court are saying, "Yes, we can." That is the difference. So now, through interpretation of statutes, some on the Court are setting up these canons and rules that have the same effect that some before have wanted to obtain through the Constitution, constricting the rights we value so much. That did not work too well, not very much in favor. So now those who are looking at constricting those rights that the Congress, by the Constitution through the 14th amendment, section 5 is being told, "Look, we are guaranteeing these rights and you implement how to guarantee these rights," say: You, the Congress, you come up with a mechanism that says this is how we are going to guarantee them, this is how we are going to give life to this notion of equality.

So in these hearings, we spent a lot of time talking about that.

In recent years, a very influential group of scholars and judges, known as the law and economics movement, has proposed legal problems should be resolved from a purely economic perspective so that the only values that count are economic values and not the sort of moral values and norms that we, as a people, often prefer, like the high value we place on human life even when it does not make good sense in a purely economic sense.

These new rules of interpretation, I say to the Presiding Officer, are used in a way to say what the Congress must have really meant is what makes economic sense. Let me give you an example—and I see colleagues on the floor wishing to speak. I will put the rest of my statement in the RECORD.

The Senator from Iowa, the best nonlawyer I have ever run across—this man is not a lawyer but you will not be able to tell that from the way he discusses the Constitution and the law. I mean that sincerely. He is also, I think, on the Labor Committee——

Mr. GRASSLEY. And Agriculture Committee.

Mr. BIDEN. And the Finance Committee. In the Finance Committee, he deals with subjects that relate to Social Security, entitlement programs and the like. And my friend from Illinois is on the Labor Committee.

I will bet you they can each, in their involvement with issues in their committees, tell you times they have voted for and proposed maintaining programs that on a purely economic basis do not make any sense, if you run just pure, raw economics, an economic model.

Case in point: In health care, as I understand it—and my friend from Illinois knows so much more about the health area than I do, and the health industry—but if I am not mistaken, an incredibly large percentage of all the dollars Americans spend on health care is spent in the last couple months of a person's life. So that means people who are 70, 75, 80, 85 years old who only lived in many cases 2, 3, 5, 7, 10 months longer because of heroic, and serious, expensive medical procedures and undertakings, they—to put it in the negative sense—eat up a significant portion of all the money that is spent on health care.

So if you want to be a sharp-pencil, eyeshade guy who is going to sit there and tap out just the raw numbers, you can say, now wait a minute—I think it is 26 percent in the last how many months?

Mr. SIMON. Last few weeks.

Mr. BIDEN. In the last few weeks of an individual's life, we spend 26 percent of all the money we have spent in health care. If you are utilitarian, which is not a bad thing, per se, to be, and you say, "How can we help most people most of the time?" we would say, "OK, doesn't it make more sense to take that 26 percent that only keeps people alive a couple more weeks—doesn't it make sense to take that 26 percent—and spend it on kids who are between the age of 1 day old and 6 years old? Because if you get them on the right track then, their health is going to be maintained better their entire life. Or does it not make more sense to take that money and spend it on immunization programs? Will not more people, on balance, live longer if we did that?"

And the answer is yes, it is true.

But what is our Judeo-Christian ethic? We say we will do all we can to keep our parents and our grandparents, who have made this country, alive as long as we can within reason.

The day these hearings started, there was a big front-page article in my statewide newspaper at home. It had nothing to do with Judge Breyer or the law. It had to do with health care and this issue.

It quoted a man who had to spend $67,000, I think it was, out of his pocket above his health insurance to keep his grandmom alive an extra, I think it was, 6 days. I will put in the RECORD the exact article. But I think it was 6 days. So this reporter asked: "Was it worth it for you to spend $67,000, hock your house, your car, get a second mortgage to keep your grandmother alive only another 6 days?" Do you know what the man's response was? "Yes, it was worth it to keep her alive long enough to see her great granddaughter born."

That is a value that does not lend itself to an economic analysis. I do not criticize those who say economically we should disregard that. I do not. But as a society, at least up to now, we have adopted a value system, and we who serve in this body are supposed to reflect that value system. Under our system, the value is it is worth paying a disproportionate amount of money to keep our parents and grandparents alive.

I have been corrected. There is no amount of money listed in the article. They just imply there was a lot of money spent. So I do not know the exact amount.

But what do we do? We have this new school of law and economics. They are a bunch of very bright women and men, and they are sitting in offices that look like ours and they are doing something worthwhile. They are trying to figure out how we deal with these major problems facing us.

They have come up with a theory. The theory says: Look at the economic impact, and if it does not make economic sense, then—I am overstating it in the interest of time—then adopt a rule of interpretation. If the Congress did not specifically say we want to waste this money for this value, assume that they meant that if it does not add up economically, they did not mean it. That is what these interpretive rules are now. That is the direction they are going.

Is it for a judge through interpretation to tell us here that just because it does not make economic sense it does not reflect a basic value?

It is a basic value that the American people within this democracy have a right to say, "Yeah, we're going to waste that money, if that's what you call it; yeah, we're not going to be economically sound, if that's what you call it, because it is important to us."

I spent 59 days in an intensive care unit hooked up to all those machines. I want to tell you something: Had someone walked in and said, "You know, from purely an economic standpoint, Senator, it doesn't make a lot of sense for us to be spending this exorbitant amount of money out of your insurance to keep you hooked up to all these machines. You have been hooked up 57 days. We are going to give you 1 more day," I doubt I would have said, "By the way, you are right. Where do I sign? This does not make economic sense, and my chances are not that good," which they told me they were not. "Let me sign right here."

If they came to you and said, "By the way, your"—child, husband, wife, your son, daughter, mother, father—"the prospects of us making it work for them are 30 percent and the cost is the following, you only have a 30 percent chance of keeping your child alive, do you want to hock your house to try?" I wonder how many of you would say, "Let me sit down with my wife and look at the economic impact of this. Yes, well, let me see, only a 30 percent chance, we have an equity of *X* amount in the house, we can sell it today at the market value of such and such. I think maybe it is not economically sound, so don't try."

That is not how we think. But that is how these folks think. They are not bad folks. They are not uncaring folks. They just see these massive problems we have—and they are—and they say we ought to look at these things from the lens of law and economics.

That is OK as long as they are political scientists, as long as they run for office. I do not think anybody should not be able to go out in Davenport, IA, and Wilmington, DE, and say, "Elect me because I believe in this new theory"—not new—"I believe in this theory that before I spend a dollar of your money, before I vote for anything, I am going to be satisfied it makes pure economic sense, whether it relates to the health of your children, whether it relates to your farm."

It does not make any sense from an economic standpoint to build those levies and dikes, in my view—I support building them, by the way, because I think it makes broader sense. It does not make economic sense to the folks in Delaware—we are going to let you have beach insurance to let you build all those houses on the beach. God sends those nor'easters every year, and every year it takes away all that sand. A couple years later it shifts it back. But in the meantime your house is gone.

But I run for office and say, "I am not going buy into any of that stuff. If it does not make pure economic sense, I am not going to vote for it. Elect me." I respect that. If that is what the people want, fine.

But what I do not respect is a judge who sits up there on a dais, like you do, and when we make those imprudent economic decisions here in this body, saying, "Now, let me look at this. I acknowledge that Congress may have done this. But the way I am going to do this is I am going to make a canon of interpretation. I am going to come up with a new rule of how I look at legislative language. And the rule is I am going to assume that Congresspersons would not possibly have passed a law that was not just purely economically sound. And so I am going to look at that statute. And it does not seem economically sound to me to do it this way, so I am going to assume that they must not have meant that is what they wanted."

What is the effect? The effect is the exact same if they disregard the statute. The effect is the right, the value, the thing that we, the elected officials, say we think is worth protecting at such and such a cost or any cost is wiped away.

So my point is I questioned Judge Breyer a lot about it, because that is the new wave here; that is where the fight is going to be in the next 15 years on the Supreme Court—statutory interpretation. So I wanted to know whether Judge Breyer, who has written some things that were he running for office I would never vote for him—there is not a shot in the world I would vote for Judge Breyer if he were running for the U.S. Congress, Senate, and/

or county councilman, because he wrote this book, and this book says theoretically this is how we should handle these very difficult problems.

Well, I would like him as a political science professor, but I do not want him as a judge if he is going to take that little book—do we have a copy of the book? Bring the book down for me, please.

If I walked into his class at Harvard and he had this little old book, "Breaking the Vicious Cycle," sitting on his desk, I would say this is going to be a fascinating class. I am going to like this class. It is going to be interesting. Or if he ran for public office and he said the values I stand for are in this book, I vote no. If he is a judge and he sits there while he is judging and, figuratively speaking, has that book sitting at his right hand on the bench, I am not voting for him either.

So I questioned him a lot about this little book—a brilliant piece of work by the way. I am not being facetious. It really is. It makes a very strong case for how we should more intelligently deal with these economic dilemma. And I think it is a serious contribution to the public debate. But it is a serious breach in my view, if he takes this book from the public debate to the bench and says, "This is how I am going to rule. I am going to look through this prism, and I am going to interpret what PAUL SIMON and the rest of his colleagues did in the Senate based on whether it comports to the theories I put forth in this book."

So I spent a lot of time asking him about that, and I am convinced he understands the distinction between the theories in this book and what he is appropriately able to do as a judge.

The one big safeguard—and I will yield now—the one big safeguard built in here is Judge Breyer has also written a lot on another item, on statutory interpretation. And he has written a lot—580 cases he has decided as a circuit court judge, many of them relating to this kind of issue as well.

He has taught as a professor—one of the leading professors in America. He has judged—one of the leading judges in America. He has said, "Look, I understand the congressional process. I understand the legislative process." And he does. He worked here. And he says, and he has shown, and he has argued, and he has debated with Judge Scalia and others, that we should let the people's will, their values—whether or not they make economic sense at the moment—prevail; that as a judge he has no right to take what he believes he would do were he sitting here, and superimpose that on what he will do from the bench like the one you are sitting at.

And so after 22 hours of testimony, of him speaking, and after those 500-some cases being read by me and/or a synopsis of them being given to me, I am convinced that there is a firewall between this, what I call economic elitism, and his judging and his view as to how he is obliged to interpret statutes here.

I think he also revealed himself to be an enthusiastic and engaging interpreter of the law and Government, who understands that there are people behind every legal dispute, whether describing the thick coal columns supporting the cities and those who live in them above the surface of a mine, or in discussing a property rights case, or in noting that there is nothing more important to a family than the freedom to be able to pass on religious beliefs from one generation to the next, in discussing the first amendment's establishment clause.

Whatever he discussed and whatever he has written about and whatever his life has been, it has always been formed by the impact on individuals.

That is a very important ingredient for me. And it I think bodes well for all of us. These qualities will serve judge Steve Breyer very well on the Supreme Court. He has proved himself a thoughtful academic, well known to the Harvard community; a practical problem solver, well known to those who have worked with him here in Congress. He is a man who has unparalleled respect from those in his community, those with whom he has worked, and with those—and by the way, this is not cronyism. You have 18 members of the Senate Judiciary Committee, about half of whom have worked with Judge Breyer when he was on the committee, Democrats and Republicans. And one thing everyone—everyone—has spoken to who has worked with him, Democrat or Republican, is his fine temperament, his judicial temperament, his fairness, his equanimity and his brilliance.

Mr. President, it is without any reservation that I recommend, after 22 hours of hearings on the Senate Judiciary Committee, testimony by Judge Breyer and a number of witnesses, some who have testified against, some who were for, that I, without reservation, recommend Judge Breyer to this Senate and strongly encourage my colleagues to vote "yes" when the vote is called on confirming Judge Breyer to be an Associate Justice of the Supreme Court.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY], is recognized.

Mr. GRASSLEY. Mr. President, I would ask to defer to the Senator from Illinois without losing my right to the floor for a period up to 3 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. I thank my colleague from Iowa.

Mr. President, I join the chairman of the Judiciary Committee in urging a favorable vote. I might add that being chairman of the Judiciary Committee is not an easy spot in these things, and JOE BIDEN does a superb job of chairing these hearings.

Just several qualities. I speak with a little bit of prejudice because I have known Judge Breyer from back in 1973, a year and a half before I came to Congress. I had the chance to get acquainted with Judge Breyer and his family. In terms of fairness, I do not think there is any question he is going to do a good job. In terms of just intrinsic ability, as Senator BIDEN says, those who have worked with him up on Capitol Hill know that he has that ability.

In terms of compassion, feeling for people, I think that is important so you do not make those kinds of economic judgments. But the chairman of the committee was talking about just on pure economics, and an indication of that is his daughter is an editor of a publication that I confess I never heard of before the hearing, called "Who Cares?"—trying to encourage those of us who are more fortunate to be helpful to those who are less fortunate in our society.

Then finally, just one other point. It may seem like a small point, but I think it is important in the long run. That is, he writes with clarity. It is often discouraging to read a Supreme Court decision and wonder how the Justices reached a certain decision because the clarity is simply lacking. He is a wordsmith who writes with clarity. And I think he will add an important ingredient to the Court in that way.

So I am pleased to support him. I think it is a good appointment, to the credit of President Clinton. I think he will bring credit to the Court.

I thank my colleague from Iowa.

Mr. GRASSLEY. Mr. President, I think and hope that I have applied a consistent set of criteria in evaluating the nominees to the Supreme Court. After making that evaluation, I have made the same determination that I did in the committee to support Judge Breyer.

In this process, I consider whether the nominee exhibits the necessary intellect and integrity required of a Supreme Court Justice, and also whether that individual understands the role of a Judge within our constitutional system.

Judge Steven Breyer has served as an appellate judge for 14 years. He has great knowledge of the law, and obviously, as he demonstrated so well before the committee, a superior intellect.

I also believe that Judge Breyer has the integrity necessary for public confidence in the judiciary, and it is necessary for us to maintain that confidence. Integrity is an integral part of the credibility of the system. I think the committee properly inquired into matters that go to Judge Breyer's character. Some of those have been highlighted, and will be highlighted yet in this debate, particularly as they relate to some issues that Senator LUGAR will be addressing.

The committee investigated fully the nature of Judge Breyer's investments, and in all respects those investments were legal and ethical, as they related to Judge Breyer's official duties.

I believe that our examination shows that Judge Breyer possesses the integrity required of a member of our highest Court.

In his testimony, Judge Breyer addressed a wide range of legal issues. I was gladdened to find that he views the constitutionality of the death penalty as settled law, because the person he replaces has all of a sudden had a change of heart on that issue.

Of course, on another matter, I am not pleased that he considers the right to abortion to be settled law. Regardless of these two issues, one I agree with him on, one I do not agree with him on, I recognize that a President—in this case, a newly elected President—has with his mandate from the people a right to select the nominee to the Supreme Court. Judge Breyer maybe would not have been nominated by a Republican President. I doubt if he would have been. But I do believe that a President, Republican or Democrat, is entitled to some level of deference, particularly if the person has integrity, judicial temperance, and the ability to read the Constitution and the law as the writers intended it. Then, as far as I am concerned, a President has deference who to select.

Judge Breyer's constitutional opinions are good evidence that he generally practices judicial restraint. But in his testimony before the committee, he expressed a more expansive view of the Constitution than maybe I would like to have had him express. For instance, he testified that the

> Constitution was written to protect basic freedoms, which are basic values, which are related to the dignity of the human being. The dignity of the human being is not something that changes over time.

There are Judges who take this view that the Constitution protects human dignity, strictly in the abstract, you cannot find any fault with that. But there is connected with this premise a reasoning that is very expansive of the Constitution, way beyond what our writers intended, that anything, almost anything, that furthers human dignity is a constitutional right. I certainly do not read the history of our Constitution as being anything so expansive intended on the part of our writers. And I hope that Judge Breyer does not. But his testimony in this regard is cause for concern.

I was more pleased with his response to my question on the issue of illegitimacy. I believe that the Court misinterpreted the Constitution when it held that classification systems that various States had prior to the sixties based on illegitimacy are normally invalid. The inability of the law to discourage illegitimacy in this way, I believe, has played a direct role in the increase of out-of-wedlock births in the last 25 years, and all those negative consequences that go with that.

Judge Breyer told me that changes in the factual basis for the earlier decisions would be relevant to him if earlier precedents were challenged. There are now large amounts of sociological evidence that this trend in the family is creating a lot of social pathologies that have terrible human and economic consequences.

So I am glad to hear what Judge Breyer said: that maybe the Courts could have been wrong in the sixties. I believe this is the first time, at least in my years in the Senate, that a Supreme Court nominee has testified that he would be open to overruling a particular line of constitutional decisions.

Judge Breyer and I agree on another matter, that legislative history—this is something that Senator BIDEN addressed with great thoroughness—that legislative history is important in interpreting statutes. Judge Breyer agrees, but I am surprised that he views canons of construction so hostilely. Such rules allow courts to reach uniform decisions on the meaning of statutes. These rules also make sure that Congress does its job of legislating as clearly as possible, as we ought to.

I do not think we give enough attention to that. But those rules discourage us, I imagine, from passing the buck on very tough social questions, maybe even economic questions, to the Court. Without these rules, the likelihood of judicial disagreement as to the meaning of statutes will increase, and so will circuit splits. I hope Judge Breyer will reconsider his view on this subject.

During my questioning, I was concerned about some of Judge Breyer's record in the circuit court on the issue of child pornography. As a member of the sentencing commission, Judge Breyer was the only dissenting vote against a proposal to increase the base level offense for child pornography. And that made me wonder whether Judge Breyer was sufficiently committed to fighting child pornography. I wondered whether he knew of the harm that comes to children who are the victims of this crime, and I wondered whether he would accept the well-established rule that child pornography is not entitled to any constitutional protection.

I asked Judge Breyer at the confirmation hearing about his vote as a member of that sentencing commission. He told me that his vote against the motion to increase the base-level offense for child pornography did not rest on a view that child pornography was not a serious crime. Instead, he had a pattern throughout that process of the sentencing commission to apply a general sentencing principle to all crimes relating to base level for offenses. And once Judge Breyer explained his vote, my concerns were alleviated.

Additionally, I am satisfied that Judge Breyer accepts the well-established view that child pornography is not protected by the first amendment. And based on his answers at the hearing, those of us who are strongly opposed to child pornography, and the victimization of the child that goes with it, can be comfortable with Judge Breyer.

Judge Breyer was asked by several Members—not myself, but I did follow up with a written question—about his view on home schooling. There was an attitude expressed at the grassroots that he is very hostile to a growing form of education in America called "home schooling," although home schooling has been protected by the Supreme Court under the Constitution since the 1920's. In each of his oral answers, Judge Breyer stressed that the constitutional protection for home schooling was based upon the free exercise clause of the first amendment. In short, his answers based constitutional protection for home schooling on the right of parents to pass religious beliefs on to their children. He tended to answer those questions in the very narrow scope of a relationship of home schooling to religious freedom. Well, of course, this troubled me, as I stated, because thousands of parents educate their children at home for reasons unrelated to religious beliefs.

Judge Breyer's oral answers, I think, might have been read to exclude constitutional protection for home schooling that is not based on religious belief, despite longstanding constitutional precedent to the contrary.

So I submitted a written question to determine his view on whether all forms of home schooling are constitutionally protected. His response in the affirmative, which cited the relevant cases of longstanding and of a constitutional nature, satisfied me. I hope it will satisfy those out there at the grassroots who are concerned about that subject.

I am also generally pleased with Judge Breyer's decision on constitutional criminal law cases. Judge Breyer has applied the law. He has not let criminals off based on a generalized sympathy for defendants. For instance, he does not interpret exceptions to the warrant requirement in a narrow way. Although some of my colleagues criticized Judge Breyer's opinion that permitted a warrantless search of a ceiling alcove adjacent to a motel room, even though the suspects were handcuffed, I thought he applied clearly established law. Under fourth amendment law, a search may be conducted incident to an arrest without a warrant. The police did that. While the scope of a search is limited to the reach of the suspect, the entire residence may be searched where there is a specified belief that dangerous conditions exist elsewhere in the residence. In this case, the fact that the police had a gun pointed at them that was unaccounted for provides those dangerous conditions, even if a suspect might have been handcuffed.

So this case shows to me that Judge Breyer is within the mainstream in constitutional criminal law.

Judge Breyer's criminal statutory opinions are a little more mixed, Mr. President. His decision in a case involving the meaning of "inhabitant," which I asked him about, is virtually a textbook model of how statutes should be interpreted. Judge Breyer examined the history of the statute; he examined the way the word was used at the time; as compared to language in other statutes; the purpose of the statute; and the fact that no source ever found that someone who planned to be in this country for only a few hours was an "inhabitant."

That whole series related to the interpretation of the word "inhabitant" and how thoroughly Judge Breyer went on to evaluate it through legislative history, not just through wording in the statute. Judge Breyer properly evaluated the legislative history, refusing to credit statements of individual legislators that flatly contradicted the statutory language.

On the other hand, Judge Breyer's decision in the Paleo case is troubling. There, Judge Breyer found that criminals could challenge their prior convictions that made them eligible for enhanced penalties under the Armed Career Criminal Act. This was true, he found, because the Government has no interest in punishing people for unconstitutional prior convictions. Judge Breyer thus engaged in a frequent technique that is used by judicial activists: he wanted to minimize the Government's interest in passing legislation so as to avoid the plain meaning of the statute.

To me, in this particular instance, it is about as plain as plain can be. It is very clear. In essense, we said "three previous convictions" means "three previous convictions." And the Government's interest in getting dangerous criminals off the street without those criminals delaying the imposition of enhanced sentences by challenging prior convictions, I think, is very substantial and was very substantial in this case.

Judge Breyer reached his result in this Paleo case without addressing the fact that other enhancement statutes explicitly permit defendants to challenge their prior convictions. We in Congress know how to draft statutes that permit challenges and those that do not. He also did not address the Supreme Court cases that distinguish between the absolute denial of counsel and the ineffective assistance of counsel. And he did not discuss a Supreme Court precedent on a prior version of the statute.

Judge Breyer's view of the statute was rejected by the Supreme Court in the Custis case in May. I hope that Judge Breyer will come to realize that the Supreme Court's interpretation of the statute was the correct one. His responses to my questions regarding Paleo do not provide me with very much comfort in this area, albeit maybe a limited area of criminal law. I stress the issue because of its importance to what we are going to be dealing with very shortly in the crime bill because of the "three strikes" provision that is within that crime bill.

Mr. President, in view of this nomination being before us and how I have discussed it, and all the considerations that have been brought to date, including my reconsideration of some points that Senator LUGAR addressed and mailed to us and that we have read about in the media on his view on this, because I have a great deal of respect for Senator LUGAR, I wanted to give those issues some further thought.

But I still stay with a positive view of Judge Breyer, and even though I have some concerns that I have addressed here, I view this nomination with hope. I suppose my concerns are not related to the issues that Senator LUGAR has brought up so much as there are some areas in some aspects of the law.

But I think overall this nominee, at least for those of us on this side of the aisle, is much less of a judicial activist than we would expect for a President of the other party to nominate.

For that reason, I want to vote for him in the sense that I do not consider him to be a judicial activist. So I support this nomination even though I do it with some reservation.

After he gets on the Supreme Court, then I want to see more of the judge who wrote the 14 years of well-crafted opinions than the judge who testified about a so-called expansive view of the Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to speak in opposition to the confirmation of Judge Stephen Breyer, and I would like at the outset of this statement to outline the case that I will make in order that Senators may follow the argument and then I will supplement these initial contentions with data from the press, from books, written on Lloyd's of London and in specific terms and correspondence involving Judge Breyer.

Let me just say at the outset, Mr. President, as my colleagues pointed out in opening this debate, confirmation of a Supreme Court Justice is for a lifetime term. There are no further opportunities for reevaluation after the vote that we have at 3 o'clock this afternoon.

Unlike our terms of 6 years and those of our colleagues in the House of 2 years, or many terms for Governors of 4 years, at that point there can be and are reevaluation of how things worked out not only in terms of our demeanor, but specific issues that come before the country.

Clearly, the Founding Fathers saw a lifetime term as a basic point of the independence of the judiciary. I do not argue with that. I commend that. But I remind Senators that this is forever. This is for the lifetime of this nominee so long as he may wish to serve. Therefore, if there are reservations they need to be spoken now.

The most important activity of a Justice of the Supreme Court is the exercise of good judgment in his deliberation and in his votes on issues before the courts.

I will speak, Mr. President, to the issue of the good judgment of Judge Breyer this morning. That I think is a central point at issue.

Furthermore, Mr. President, there are human predicaments in which past judgments and financial affairs of a candidate should preclude that candidate from seeking to perform a specific form of public service.

My argument, Mr. President, is not that Judge Breyer lacks qualifications for significant public service. Indeed, the record is replete with that service, and many have commended it. But Judge Breyer is not necessarily entitled to this specific role of public service, that is a lifetime career on the Supreme Court, beyond reservation and reevaluation, given the facts of his judgment and of his investments, which I will outline in due course.

Specifically, Judge Breyer is trapped in a troubled Lloyd's of London insurance syndicate from which he is unlikely to escape for a long period of time. It is beyond contention that the judge has been trapped, Mr. President. There is clearly an argument as to how the escape might be made and how either Judge Breyer's losses might be terminated or what are bound to be a long string of necessary recusals from various cases that will come before the Court, plus discovery of all of the ways in which Judge Breyer might have a conflict of interest in these cases.

The judge's affiliation with the specific Lloyd's syndicate, Merrett 418, will mean substantial personal financial losses for him and his family over several years and will force him necessarily to recuse himself from many cases that come before the Supreme Court of the United States involving insurance, pollution, asbestos suits, other issues, surrounding broad reinsurance of Lloyd's syndicates. He exercised extraordinarily bad judgment in signing documents that placed him under the jurisdiction of English law and exposed him and his estate to unlimited liability.

I will go further into unlimited liability, Mr. President, but it means just what it says—unlimited, down to the last button, an extraordinary misjudgment for someone reportedly as astute, as intelligent, with a worldly view, as many of my colleagues have pointed out this morning, as he has looked at issues of commerce.

He entered agreements with underwriters that he did not know, involving matters clearly beyond his expertise and perhaps beyond the knowledge of what the underwriters were doing and yet pledged to them unlimited liability of his resources.

The growing troubles of Lloyd's of London should have been known to him as a sophisticated lawyer and investor. I make this point, Mr. President, because early in the debate this morning the distinguished Senator from Massachusetts, Senator KENNEDY, has pointed out that Lloyd's of London was a pillar of strength, a remarkable institution, and clearly the many years of its history do bear out that general statement.

But, Mr. President, by the early 1980's Lloyd's was troubled, and I shall point out circumstances occurring in the world, both in the United States and in England, that had already led to anxiety by those in Lloyd's and those who were investing in Lloyd's's about the future.

Acceptable investment alternatives should have been known to Judge Breyer, if they were known to anyone, as specified under Section 455 of the United States Code, title 28. That, Mr. President, is the section that deals with conflicts of interest with recusal, with the very specific ways in which a judge must take a look scrupulously at his personal finances and those of his spouse and his children to make certain there can be no complaint of conflict of interest.

Senators have asserted that Judge Breyer was not challenged by others demanding his recusal. But that is not the point, Mr. President. The obligation is on the judge. He himself must recuse himself. He must make the examination. This is not left to the good fortune of others who may discover a potential conflict of interest and demand conduct of the judge.

Judge Breyer's examination of the insurance documents he signed with Lloyd's of London was negligent. His poor judgment now places him in an unnecessarily embarrassing predicament which erodes public trust.

But, Mr. President, and this is the heart of my case this morning, whatever may have been Judge Breyer's faulty judgment, the problem now shifts to each of us who must vote on this nominee this afternoon. And Senators will have to bear in mind whatever else may be said in support of Judge Breyer, and his qualifications for service are substantial, each Senator who votes this afternoon should know that Judge Breyer has serious financial entanglements with the Lloyd's syndicate that will continue for years.

The Supreme Court sits at the pinnacle of the United States court system, and that system contains thousands of plaintiffs in cases involving litigation over pollution, asbestos, insurance and investment failures. If the financial resources of insurance companies, including Lloyd's of London, are insufficient to meet claims and court judgments in the future, the only recourse will be a monumental court or congressional rescue of a failing international insurance system. I make that point, Mr. President, because that is fairly predictable.

Senators have spoken this morning about the takings clause of the Constitution, about the ideas of property and person, about a number of issues, but issues that are clearly headed in our way in this body or to the Supreme Court are those involving the fact that claims still unknown, in addition to claims now known, add up to more reserves than international insurance companies appear to have.

And specifically in the case of Lloyd's of London, officials there have been rather direct in anticipating what they call a congressional fix.

Now, Senators ought to understand that, as we were thinking in humanitarian terms earlier this morning about individual plaintiffs who might face injury, the depiction they have in mind is that you cut off the liability, that you limit the exposure, that you save the reinsurance operation in the world by denying claims.

The contention would be that judges and juries and courts and perhaps Congress in the Superfund legislation, various EPA statutes, simply went well beyond the bounds of the resources available for all of the things that we were attempting to cure. And so, a rather large amount of law is likely to be involved in this monumental undertaking which rumbles clearly through the court system of the United States. It is not only predictable, it is observable.

Now, in the face of that, Mr. President, to confirm Judge Breyer to the Supreme Court, with this public knowledge that I am discussing this morning and will discuss for a while longer, that we as Senators now have of his financial quandary and of potential Supreme Court cases, that step would be imprudent on our part. My advice, respectfully given to the President of the United States, would be that he should have nominated someone else of equal qualifications as Judge Breyer—and such persons can be found in the United States—but who did not have the financial and very difficult investment baggage carried by the judge.

I appreciate in a very poignant way this is a personal tragedy for Judge Breyer. His ambition to be on the Supreme Court is obvious and his qualifications are substantial. But there is no entitlement to serve in this specific capacity if one bears these specific burdens.

Mr. President, I sent that outline to colleagues so they might examine it, and I hope they all have. But yesterday I issued another statement which begins to fill in a part of the outline.

I said, Mr. President, after a series of U.S. court decisions in 1980—and I cite 1980, Mr. President, because Judge Breyer's insurance underwritings as a Lloyd's name, as a person who shares in the underwriting of Lloyd's syndicates—these decisions of Judge Breyer took place between 1978 and 1988, in which apparently he attempted to terminate the relationship, unsuccessfully as I will point out, but he made that attempt. So between 1978 and 1988, on several occasions, not just in the final, fatal Merrett 418 syndicate, Judge Breyer was involved in signing his name to unlimited liability.

But in 1980, U.S. court decisions found that insurance policies must be strictly construed in favor of the injured and to promote coverage. The Court of Appeals of the District of Columbia held that all periods of insurance coverage were liable from inhalation of the first harmful asbestos fiber to incidents of asbestos-related diseases 30 years later.

That was a very significant decision, because this has led to what are known as the long-tailed liabilities of Lloyd's; long-tailed because the difficulty for the asbestos victim may be of 30 years' duration.

And once the courts had ruled that you cannot simply cut off the victim after the first year and before, really, the totality of the damage is done, but, rather, all periods are involved, that changed the actuarial rules of the game very substantially.

The California Supreme Court in 1980 had decided to shift the burden of proof from plaintiffs, who had been required to show that they had been harmed, to the defendant manufacturer. That is a very sizable shift. And in the case of Sindell versus Abbott Laboratories, plaintiffs were allowed to plead that they had been harmed by the drug DES, which had proved to be carcinogenic, even if they could not prove which manufacturer was responsible. The courts, therefore, were left to sort out who should pay and the period of exposure. The awards were very substantial from that exercise and occupied the courts in a very conspicuous way, Mr. President.

A substantial share of the financial burden of these claims, and the claims from other cases similar to these that came along in those days, fell on Lloyd's of London under its broad reinsurance policies. Lloyd's of London came into play because it is the reinsuring agent.

To take a very specific example, Mr. President, in the event that a company believes that it might have any kind of insurance liability and it insures with a company in the United States for that liability, as every commercial firm in this country must do, the insurance firm that takes that insurance may very well say, "We want to potentially limit our losses. We don't want unlimited liability." And, therefore, they assign or they buy a policy for a premium from Lloyd's of London to cover everything, say, over $10 million or everything over $1 million, depending on the size of the firm. In short, the insurance companies went to Lloyd's, and Lloyd's wrote premiums for the most extraordinary of cases. It had a reputation of doing this for over two centuries.

But if you should ask why should the asbestos cases or problems of DES have impacted upon Lloyd's of London or Judge Breyer, it is because the Lloyd's of London took the liability, and the Lloyd's of London files, like Judge Breyer, took on the liability, thus providing the capital with which the insurance company reached out to take on these cases.

Now, American lawyers were quick off the mark and they were vigorous in pursuit of asbestos victims in particular, with some setting up x ray equipment, vans parked outside of factories, and others using direct mail to mention recent asbestos victim awards in the six- and seven-figure range.

By the early 1980's—and I stress again the time period, Mr. President, because my point is that Judge Breyer, as a judge, as a sophisticated legal observer, as certainly a reader of the newspapers, would have been aware by 1980 that things had shifted markedly; the burdens to the company, not to the victim in terms of being a defendant; long suits, 30 years mentioned for asbestos in particular; long lines of attorneys, vans parked outside asbestos victims' places of employment. And by the early 1980's, U.S. courts have logged more than 25,000 asbestos cases awaiting hearings.

Now, in the midst of all of this legal and insurance change and turmoil, Judge Stephen Breyer repeatedly—repeatedly—signed on as a Lloyd's name from 1978 to 1988, assuming, on each occasion and with documents clearly in front of him, unlimited liability "down to the last short button," as the Lloyd's people point out.

Furthermore, he signed documents acknowledging that British law would pertain in any disputes arising from his obligations, an unusual thing for an American judge, a sitting judge, after his confirmation in the late 1980's to the Federal bench, to do.

In fact, the U.S. Court of Appeals for the Second Circuit ruled in 1991, and I quote from the ruling of that court:

> Plaintiffs went to England to become members of a distinctly British entity, invested in syndicates operating out of London, and entered numerous contracts, all of which stated plainly that Lloyd's affairs and plaintiffs' investments would be administered in England and subject exclusively to British law.

That was a part of their judgment which denied Lloyd's name who now were injured and were suing trying to get relief and that was denied by the U.S. Court of Appeals for the Second Circuit.

I would contend at the very least prudence would demand that a U.S. circuit court judge stop investing in such a troubled and complex enterprise. He should, instead, have followed section 455 of United States Code, title 28, which gives American judges clear guidelines for acceptable investments which do not get into conflict-of-interest allegations. And acceptable investments include mutual funds, for example.

A Lloyd's of London underwriting with unlimited personal liability and a very specific field of endeavor, namely insurance or reinsurance, is not by any stretch of the imagination a mutual fund—or a prudent investment. Section 455 does not come close to this. Judges that have had much less exotic responsibility than Judge Breyer have understood section 455 very clearly.

I contend that Members of this body, if not bound by section 455, ought to have a very clear understanding of what is involved here. I come at this debate this morning as a person who was involved in business and in farming. I am not an attorney. I have never consulted section 455 prior to this debate on Judge Breyer.

But at a very early point—and I suspect that point arrived for many of us—as a candidate in the Republican primary for mayor of Indianapolis, I was advised, thank goodness, by people who had pretty sound judgment, that if I had any, even New York Stock Exchange securities, I ought to dispose of those—even the small number of shares that I had in General Motors because Alison Division was a local firm and I admired and respected and had worked for that firm in the summertime. I disposed of those because at some point someone would say, "In your public judgments you are guided by the investment you have in a firm for gain. You have an equity position in a firm for gain." I disposed of those securities as a matter of common sense.

I would say most judges have done so a long time ago. This is an exotic case, a sitting Federal judge signing Lloyd's of London underwritings for 10 years and finally getting caught in a disaster for him and, I believe, for us in terms of the involvement that continues on in this predicament.

It has been suggested by some that no convincing explanation has been offered of how Judge Breyer's environmental rulings could have benefited him. But I suspect that is hardly the question. It is a much cleaner ethics situation than that. Judge Breyer has to find out in advance his investment situations and his potential difficulties. For us, at least, we must look toward the future, and the international situation hovering over Lloyd's is a very bleak future.

This judge will not be out of Lloyd's for a long time, and as I pointed out earlier, the Supreme Court sits at the pinnacle of those difficulties.

Mr. MURKOWSKI. I wonder if my friend would yield for a question?

Mr. LUGAR. I will yield briefly to the distinguished Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from Indiana. I compliment him for bringing out the significance of that guarantee in the case of Judge Breyer.

It is my understanding that the implications of the guarantee are unlimited, and could carry on beyond his lifetime and into his estate and his heirs, whatever the ultimate liability associated with the claims that are outstanding?

Mr. LUGAR. The Senator is correct.

Mr. MURKOWSKI. If I may follow up, could the judge transfer those assets that he currently has in his estate to his wife or his family to shield them from the possible claim? Or is that prohibited under the arrangement that he has with Lloyd's, covering the current guarantee, which I would assume may be joint and several?

Mr. LUGAR. I would defer answer to that, really needing more legal advice of what the judge's options are. He has been exploring them substantially. But I am not certain what his research may be and I will not speculate on that.

Mr. MURKOWSKI. But, if I may follow up, one might assume that Lloyd's would require a guarantee substantive enough to ensure that there was an actual claim on his assets or his estate, and he would not have the flexibility of simply transferring those assets, if indeed it appeared that those assets might be threatened?

Mr. LUGAR. That is fully possible. Lloyd's has been aggressive in pursuing the amounts that are due under these reinsurance contracts. The courts are filled, really, with these suits.

Mr. MURKOWSKI. And I would assume that one would recognize the significance of giving an unlimited guarantee associated with an investment. While, obviously, the potential return is perhaps significant and very difficult to measure, nevertheless a prudent person would consider the risks and the implications of an unlimited guarantee.

Has there been or does the Senator from Indiana have any knowledge of Judge Breyer's explanation of why he, perhaps, did not think that this was as significant as the risk turns out to be?

Mr. LUGAR. To my knowledge, the judge was not asked during the committee hearings or in any literature that I have seen.

As I will point out as I proceed through my speech, an article by Mr. Jim Glassman of the Washington Post drew my attention, and perhaps that of other Senators, to the nature of this investment and how imprudent it appears.

Mr. MURKOWSKI. I thank my colleague from Indiana for allowing me to interrupt his presentation. I am very concerned about this as well, because I think it shows where the judge perhaps became an insider in this investment, as is often the case where you depend on other sophisticated partners to guide you. Nevertheless, one would expect a nominee to the Supreme Court to have that extra perception to understand the implications of an unlimited guarantee. I look forward to hearing my colleague's continued evaluation of this.

I do want to say this Senator from Alaska is very uneasy about this nominee, not on the basis of his qualifications on the bench or his record on cases, but because of the lapse of judgment associated with entering into an agreement involving unlimited liability. Having been in the banking business a long time I can tell you, once you give your unlimited guarantee you have given it until the obligation is satisfied. And if you are on joint and several, it does not make any difference whether there are four or five others. One might think you would have to share proportionately. They can go after your assets and exhaust them in any manner or form. And of course that may affect the judge having to recuse himself on issues before the Supreme Court.

It is a very troubling issue. I commend the Senator from Indiana for the depth of his analysis. I wish him well.

Mr. LUGAR. I thank the Senator. Mr. President, while on that subject the Senator from Alaska has raised, let me just point out that Judge Breyer's unlimited liability pertains only to precisely his share of the underwriting.

White House counsel has pointed out it is approximately one-five-thousandths of the Merrett 418 syndicate. Even though it is unlimited for that one-five-thousandths, he at least does have that limitation.

Likewise, White House counsel has pointed out that Judge Breyer has stopped loss insurance as deposits on tap there with Lloyd's anticipating losses and that Tetsat, the accounting firm in Great Britain that tries to make estimates of what kind of long-tailed losses are going to occur, estimated that Judge Breyer's losses will be 3½ to 4 times what they have been at the present time, based upon their best guess, which takes him up somewhere around $180,000, in the worst case scenario that the White House sees.

The dilemma is that the White House may not have seen far enough. The common idea cast about, not in hearings but I think informally among Senators, is that Judge Breyer is going to work very hard to get himself out of this predicament in 1995, next year. Indeed, there is a firm or an idea of a firm called NewCo, which is to be a vast reinsurance firm in which those who are in a predicament like Judge Breyer try to fence in the dilemma. It is a Lloyd's idea because they are finding it very difficult to get investors for the future, with the thought that reinsuring and rolling over all of this means a compounding problem for them, literally a snowball out of control.

The dilemma for Judge Breyer specifically, and for the American names who are active along with Judge Breyer, and others, is that it is doubtful that those who have a stake in this will want to invest that much more money in reinsurance to stake out the unknown. In other words, how could these investors have any idea ultimately of the last asbestos suit or the last Superfund suit? As a matter of fact, they do not.

Senators ought to understand that. There has been a rather bland assurance by White House counsel and by others soothing about Judge Breyer's predicament that he really cares about this, and he sure does. He got out in 1988, and I will recite a letter in my testimony shortly from Judge Breyer to his agent in London—trying to figure out what in the world to do—last December long before he came to this nomination.

But he has a horrendous problem because the nature of reinsurance is that you keep trying to reinsure the unknowable. As the flood waters come up over the dike, you have to reinsure again. The problem for Lloyd's is there may not be, in all of Lloyd's, enough reserves to face the claims that are on the horizon for them.

That is what led me to make a comment which really requires a lot more explanation. Lloyd's, and many other people in the insurance business, are looking to this body—us—in addition to the Judge Breyers of this world, and the Court, for a fix. How do you ever stop the flood set in motion by the number of suits that are out there, as well as those still to come?

Mr. MURKOWSKI. Mr. President, one would assume, if I may just follow up on the point of reinsurance, if the judge were successful in attempting to negotiate some type of reinsurance, his personal guarantee, unlimited as it is now, would follow because they certainly would take no less than what they have now, and that is an unlimited guarantee.

So the judge would not be getting out of the extended liabilities associated with this unlimited guarantee.

Mr. LUGAR. When the reinsurance scheme fails, you are back to square one again with Merrett 418. The idea is that somehow this is fixable. The judge has explored, as we know, on public record, various ways of trying to buy out of the situation; one scheme for $250,000. I have correspondence from Mr. Rosenblatt of the American Names, which says it might cost the judge $1 million. But even then, you do not know, until these long-tailed claims have come in, whether the reinsurance thing itself failed.

Mr. MURKOWSKI. Who would want to buy out the judge's position for a million dollars, and be saddled with the unlimited liability associated with the guarantee, which is an ongoing unlimited guarantee? No one would buy that unless there was a tremendous price paid for it.

Mr. LUGAR. Mr. President, that is why I come to the conclusion that the analysis of how Judge Breyer is going to get out of this has almost the same faults as Judge Breyer's analysis of getting into it.

This is one of these horrendous predicaments overtaken, and I cited a few cases of how the law changed. The defendant became the firm, not the plaintiff or the individual person who is suffering. We took a 30-year view of liability, not a very short run. The courts simply found, in fact—and the most conspicuous failure clearly known to Judge Breyer was the bankruptcy of Johns Manville in 1982. That really opened it up for the world. It may have been an insider game before that time. Johns Manville, a very large American corporation, went under and is still under. Lloyd's of London is almost going to go under because of the Johns Manvilles of this world, and everybody else involved in these sorts of businesses.

When we passed Superfund, we set in motion a whole series of predicaments that ricochet out there, and will do so for a long time.

In this body, we are discussing reform of Superfund. Reform gets to some of these issues: How do you cap the losses and the liabilities that are out there? Hard to do, as the papers are replete with stories of how it is hard for us, the 100 of us, to renegotiate that very important point.

Let me say, for most Members—and I would acknowledge these articles specifically—the Lloyd's Superfund business came to our attention in two articles in the Washington Post, one by Mr. Benjamin Weiser in the June 17, 1994, edition in which he entitled it: "Lloyd's of London's Big Losers, Some American 'Names' Face Financial Ruin."

Very specifically, Judge Breyer's predicament came to our attention in an article in the Washington Post of July 20, 1994, written by James K. Glassman, entitled, "For High Court Nominee Breyer, an Injudicious Investment."

Mr. Glassman, in his summation, said:

> But something about Breyer worries me more. How smart and judicious can someone really be if he invests in a mess like Merrett 418? Is he dumb or merely oblivious? Or does he just love to gamble with his family's fortune? Also, imagine the prospect of a Supreme Court Justice facing bankruptcy because of Superfund and asbestos claims. Even if he recuses himself from such cases on the High Court, he'll be embarrassing not only to himself but the institution.

Mr. President, in favor of Judge Breyer, I will say, at least on paper, his net worth and that of his wife is apparently in the $6 million to $8 million range, we are advised. White House counsel has said, surely even if the judge's payments to Lloyd's mount upward and upward and go on for years, he is not going to run through $6 million or $8 million. I have no idea, as the distinguished Senator from Alaska, how the Breyers have arranged their affairs as to the liability of family members in this respect.

My question is not the bankruptcy of Judge Breyer, and I pray that will never come to pass; it is the judgment of the judge, his judgment that we ask of somebody on the Supreme Court of the United States, and preferably not a judgment entangled in any way by the monumental looming problems of Superfund and the asbestos claims.

The New York Times, in its lead editorial of June 26, 1994, just this week, starts out with a headline: "A Cloud on the Breyer Nomination."

The New York Times editorial said:

> Eager for swift confirmation of the Supreme Court nominee Stephen Breyer, Senators of both parties are rushing to a floor vote without fully investigating significant ethical issues connected to the nominee's investments. This irresponsible failure by the Senate leaves Judge Breyer with a cloud still hanging over his nomination.
>
> Judge Breyer, who is Chief Judge of the U.S. Court of Appeals in Boston, answered the Senate Judiciary Committee's questions for 3 days and won unanimous clearance for a floor vote scheduled for tomorrow. But the committee failed to fully explore the judge's participation in pollution cases, despite his investment in a Lloyd's of London venture that heavily insured asbestos and toxic pollution risks in this country.
>
> At issue is Judge Breyer's compliance with the Federal recusal statute, which requires judges and justices to disqualify themselves when their impartiality "might reasonably be questioned."

Mr. President, members of the Judiciary Committee have cited a number of legal scholars who wrote to the committee, I presume at the invitation of the committee, to discuss the ethics of Judge Breyer.

But not all of those legal authorities reached the same conclusions. I wish to read from the letter written to Chairman BIDEN on July 13, 1994 by Prof. Monroe H. Freedman, Howard Lichtenstein Distinguished Professor of Legal Ethics at Hofstra University.

He says:

> Dear Senator BIDEN. As one who has worked in the field of lawyers' and judges' ethics for almost three decades, I write to oppose the confirmation of Judge Stephen Breyer as a Member of the Supreme Court. My opposition is based upon Judge Breyer's violation of the Federal Disqualification Statute, 28 U.S.C. Section 455.
>
> We have heard much in recent years about a "litmus test" for judges. The reference has been to the nominees' positions on substantive issues, and the test has fluctuated with the politics of the moment. If there is one test that should be constant, however, it is that the record of a nominee for judicial office should not be tainted by a serious violation of judicial ethics. Judge Breyer fails that test.
>
> The Federal disqualification statute (Section 455) was enacted by Congress to ensure respect for the integrity of the federal judiciary. Discussing the statute in the Liljeberg case, the Supreme Court said that "We must continuously bear in mind that to perform its high function in the best way 'justice must satisfy the appearance of justice.'"
>
> The problem, the Supreme Court explained, is that "people who have not served on the bench are often too willing to indulge suspicions and doubts concerning the integrity of judges." Section 455(a) was therefore adopted to "promote confidence in the judiciary" and to eliminate those "suspicions and doubts."

Let me just say, Mr. President, the professor continues:

> I have quoted at some length from the controlling Supreme Court cases * * * because, so far, they have been virtually ignored in these hearings.

He is speaking of the judiciary hearings and is speaking of the cases Liteky, Liljeberg, Tumey, Murchison, and Lavoie.

> Neither Professor Stephen Gillers nor Professor Jeffrey Hazard—

These were also professors who wrote to the Committee—

> discussed these cases in their letters to the Committee in which they conclude that Judge Breyer did not violate the Statute.
>
> Judge Breyer was a member, or Name, in the Lloyd's Merrett syndicate 418 in 1985, insuring asbestos and pollution losses. His exposure to liability continues to this day. As of 1993, the total losses on that account were $245.6 million. Other Names have had their fortunes wiped out in total in Lloyd's liability $12 billion. For years, therefore, the Names have been understandably generated.
>
> The New York Times has described Judge Breyer's membership in Lloyd's as "A tricky investment." Although Judge Breyer has assured this committee that he will get out of this membership as soon as possible, this is a questionable pledge. He himself has testified he has been trying to extricate himself for years. And according to Richard Rosenblatt, who heads a group of hundreds of American Names who are "afraid of being wiped out," it would cost Judge Breyer more than $1 million to insure himself against his personal share of the syndicate's losses. Even then, he would remain liable if his insurer could not pay.
>
> Judge Breyer and the White House have assured this committee and the public that Judge Breyer's reasonably anticipated liability is negligible. And the ethics experts who have "cleared" Judge Breyer base their opinions on just such misleading assumptions. As Professor Hazard says, he was told to assume that Judge Breyer's possible losses are well within "stop-loss" insurance coverage that the Judge already has. For similar reasons, Professor Gillers has commented that his own opinion is "rather narrow."
>
> But consider Mr. Rosenblatt's estimate that insurance coverage of Judge Breyer's liability would cost more than $1 million. That reflects the calculation of hardheaded actuaries, not overly optimistic politicians eager to minimize the true dimensions of the judge's difficulties.
>
> Having said that, let me emphasize that my opinion does not depend upon the precise size of Judge Breyer's liability. As Professor Hazard said in his opinion, the business of insurance is complex, sometimes controversial and "widely the subject of public concern and suspicion." Unfortunately, Professor Hazard did not recognize that his own description of Judge Breyer's position as an insurer echoes the Supreme Court's description of the purpose of Section 455—to avoid public "suspicion and doubts." Predictably, and properly, "public concern and suspicion" have been focused on the integrity of the judiciary because of Judge Breyer's failure to disqualify himself when the statute required him to do so.
>
> But under Section 455(c) of the Disqualification Statute, the Judge had an absolute responsibility to inform himself about his personal * * * financial interests * * *. Thus, the bizarre defense of Judge Breyer is that he violated his statutory duty to know the details of his personal financial interest, and therefore he didn't violate his statutory duty to disqualify himself.
>
> In fact, Judge Breyer did violate the statute in failing to disqualify himself. Take, for example, United States v. Ottati & Goss, Inc. Two years after Liljeberg explained the broad scope of Section 455(a), Judge Breyer failed to disqualify himself from Ottati & Goss—even though the case involved the Environmental Protection Agency's powers to impose liability on polluters like those the Judge knew he was insuring.
>
> In Ottati & Goss, the issue was whether the EPA could impose remedies against polluters, subject to judicial revision only on a finding that the EPA had arbitrarily and capriciously abused its powers. Lower court decisions were split on the issue. A decision by the First Circuit would be an important precedent.
>
> Judge Breyer expressly recognized this in his opinion in Ottati & Goss, saying the case raised a question with "implications for other cases as well as this one." And he said again: "The EPA's * * * argument [has] implications beyond the confines of this case."
>
> That was enough to require Judge Breyer to disqualify himself. In effect, he was in the position of deciding his own case, or, at least, of setting a precedent that could affect his own liability.

And I quote the professor further:

> How the Judge ultimately decided the case has no effect on his duty to disqualify himself. His decision in Ottati & Goss compounds the appearance of impropriety that the Statute forbids, because the Judge wrote an opinion weakening the power of the EPA to impose liability on polluters. And his opinion predictably has been influential, causing the EPA to change its own regulations.

Now, Mr. President, I will not go through the additional analysis of the professor. But let me just say that one other point I suspect needs to be made about the nature of Judge Breyer's investment under Section 455, and I quote Professor Freedman further:

> Another contention is that the Judge's membership in Lloyd's is "analogous" to being an investor in a mutual fund, therefore exempt from the statute under 455(d)(4). There are two important differences between being a Name in Lloyd's and being an investor in a mutual fund. One is that the mutual funds are typically highly diverse. But Lloyd's is solely involved in insurance, and the Judge knew that one or more of his insurance liabilities related to environmental pollution. Another major difference is that an investor in a mutual fund cannot lose more than the principle invested. In Lloyd's, on the contrary, one's entire fortune is at risk, as hundreds of Names have been found to their dismay in recent years.

In a rather colorful description, Mr. President, of this predicament Lance Gay writes in the Washington Times of today, July 29, 1994, a lead paragraph:

> Here is a deal of a lifetime. I dug a large hole in my backyard and invited friends and strangers alike to come and throw all of their savings and deeds and their homes into it. The best investment opportunity you will find, too good to pass up, Lloyd's of London, and just your cup of tea. All you have to do is commit all of your worldly belongings to Lloyd's, and you can become a Lloyd's name and member of one of the most exclusive clubs.

I point out that it has become a lot less exclusive throughout the 1980's. As a matter of fact, the cachet attached to that was irresistible. And the Lloyd's names rose to over 30,000. They are disappearing by the thousands as rapidly as people are able to jump ship fully knowledgeable that they are unable to explicate themselves.

Mr. President, all of this, of course, comes to Judge Breyer's attention at various stages. He wrote on December 13, 1994, last year to the Director of L. W. Stearns, Limited, who served as an agent for Judge Breyer apparently with regard to his more recent Lloyd's under writings.

Judge Breyer is asking first of all if it is possible for the agency to release the letter of credit, that he deposited 5,000 pounds already in Lloyd's hoping that somehow that this can release, as he puts, more money. But the poignant paragraph is on the second page, fourth paragraph. I quote from Judge Breyer's letter to them.

> What are the prospects of my leaving Lloyd's? I resigned in 1987. My reasons * * * are related to my job, namely, Federal Judge, and the disqualification that membership requires, to any Lloyd's losses (for there then seemed to be none) yet, apparently—

In Judge Breyer's language—

> I am captured for the rest of my life, despite the small likelihood that losses will exceed my stop loss. Is anyone proposing to do anything about this kind of problem? Should it not be possible, for example, to buy a reasonably priced policy promising to pay any excess liability arising say a decade from now over and above my 125,000 pound stop loss coverage, and, having done so, leave Lloyd's? I should very much appreciate any help you can give me with these questions. Since I must respond about the settlement offered before the end of January, I should be particularly grateful for a speedy reply.

The poignant aspect of this are not only Judge Breyer's difficulties here, but it is the fact that he really does have a situation he still does not apparently understand.

Let me, Mr. President, try to bring more understanding of that.

I received a letter from the law firm of Robbins and Keating, Mr. A.R. Robbins, writing this letter, and he writes:

> Richard Rosenblatt, the President of the American Names Association—

That is Lloyd's name.

> Requested that I send you a copy of the Lloyd's of London General Undertaking required to be signed by Names of Lloyd's during the 1983–1988 period by the justice bars and underwriting members. The attached form was adopted by the Council of Lloyd's, the governing body, for application in 1987 underwriting years, and subsequently all names required to sign the document, as well as the standardized document, or to continue or to commence underwriting at Lloyd's for the 1987 underwriting year, and subsequent * * *.

And so forth.

In the course of this letter, Mr. Robbins points out:

> Once committed, the name cannot cancel or withdraw from these commitments until they are paid, adequate reserves are fully reinsured. If reinsurance, however, cannot be provided with specific syndicates in which named participant pays, then it must remain open until the claims run off; until they are paid, which may take many years, and involve very large liabilities, specifically if the syndicate had inherited reinsurance of old policies which were written on a current basis with unlimited liability, and with the agent of the Lloyd's policies—

That is, an agent of policy; broad language.

> construed to cover asbestos, and long-tailed claims which date back as early as 1939. It has been reputed that Merrett is meritorious to respond to one of the worst syndicates. These provisions are intended to operate in tandem to deny U.S. names access to U.S. courts giving them recourse only to the courts of England.

As I point out, Mr. President, the remedy for Judge Breyer, therefore, does not lie in the courts of the United States. It lies in England. But still it is a very unusual thing for an American judge to sign with some sophistication, at least in the American system.

Mr. President, let me quote from a letter dated July 13, 1994, by Mr. Rosenblatt of the American Names Association. He says:

> I have no personal opinion as to whether or not Judge Breyer should be confirmed by the Senate. The purpose of this letters is to clarify some misunderstandings about Lloyd's. There are few people in this country, or anywhere else who understand Lloyd's and the calamity which has befallen the entrapped innocent American Names. It has been said that there are two kinds of Names: those who are ruined, and those do not know they are ruined. Possibly, Judge Breyer falls into the latter category.
>
> His statement tend to show that he doesn't understand the nature or scope of his predicament. According to the New York Times he stated that he can get out and that he "in February * * * wrote to lawyers in London emphasizing his strong desire to get out Merrett 418, saying he wanted to avoid syndicates involved in American tort liability * * *". He is in for life, and his heirs are in unless something is done by U.S. courts, regulatory bodies, or legislation.

Mr. President, back to the fixes that I have indicated earlier on, widely contemplated by many:

> The American Names Association, of which I am Chairman, has almost 700 members, and all are in the same dilemma as Judge Breyer, with the exception that they understand the nature of their dilemma. There is no way to get out of Merrett 418, or any of the other hundreds of open years syndicates. There are, inside Lloyd's, some schemes where, ostensibly, a Name could buy unlimited reinsurance for an extremely high price. The problem with this is that the syndicate which might sell such insurance may be himself in danger of collapse, as is all of Lloyd's. In that case, Judge Breyer would find itself back with all of his unlimited liabilities for the rest of his life, is children's lives, and so on, having also lost the cost of this expensive reinsurance. One does not get out of Lloyd's by dying, as the estate remains liable. Bankruptcy would be the only sure way to get out of Lloyd's.
>
> Judge Breyer has referred to the possibility of getting out in 1995.

Judge Breyer is not the only one. Lloyd Cutler, White House counsel, and other persons are trying to reassure the Senate that 1995 is the time to finally bring an end to this.

> This would be in connection with a scheme developed by the brokers and agents who have gained control of Lloyd's, and which is called "NewCo".

I would point out, Mr. President, that Lloyd's no longer is entirely financed by these unlimited liability names, like Judge Breyer. But, in fact, one-sixth of the capital now comes from corporations who have prudently taken limited liability. So you have this odd mixture of corporations with pretty hardheaded managers limiting their liability, along with the amateurs, the names.

> This is a theory that the worst hit Names would deposit large sums of money in order to form a "ring fence" around all of the old open syndicates, and then this entity would take care of all of the losses up to that time. It is a fantasy that the worst hit Names would be in a position to voluntarily raise the kind of money which would cover all of the asbestos, pollution, product liability, and all of the possible losses from the past, which could amount to hundreds of billions of dollars. The principal beneficiary of such a structure, would be the future members of Lloyd's,

They would be the beneficiaries,

> rather than those making this gigantic sacrifice. The theory is not practical, and has been raised purely to satisfy current needs to

> get past Government authorities, and to impress gullible future investors.
>
> Lloyd's was opened up to American investors, purely to shift unquantifiable future losses away from the insider controlling group. Our organization—

In speaking of the American Names,

> has accumulated tens of thousands of documents which prove that Lloyd's has become a giant ponzi, which includes misrepresentation and multi-level marketing schemes, all of which violate our state and federal securities laws as well as insurance laws.

I make that point, Mr. President, and I underline Mr. Rosenblatt's rather poignant plea, as one of the Names, to point out that the idea cast about this Senate debate that an investment in Lloyd's was a sound, prudent investment, is disastrously wrong. Members really need to understand the nature of that type of a situation.

> Lloyd's enjoys immunity—

Mr. Rosenblatt continues:

> from suit by Act of Parliament. Americans did not know, and were not informed by Lloyd's. Our organization is commencing a lawsuit in the U.S. challenging the fraudulent nature of these agreements. This case may well reach the Supreme Court.
>
> The problem with Marine Syndicate 418—

and the one the nominee belongs to,

> stems from the fact that it is not really a marine syndicate. It is a "long-tail" syndicate, which means it may be many years before the true nature of the losses will be known. Since there is no way for a Name to get out of these latent liabilities, short of bankruptcy, the situation is termed "unquantifiable loss."

Mr. President, in the course of this statement, I have tried to establish that I doubt the good judgment of Judge Breyer when I survey the wreckage that I have laid before the Senate this morning. But it is not simply a personal tragedy for Judge Breyer, of which he may still not understand the nature of his dilemma; if Judge Breyer is naive, we as Senators have a responsibility for something more. The bland assurance that Judge Breyer invested in a sound institution—Lloyd's of London—and has some bad luck, Senators have pointed out that we have all had investments that did not work out. Who here has guessed right all the time? This was not simply an unsound investment, or two or three; Judge Breyer signed away everything—unlimited liability—in a foreign land, subject to foreign law. And now, as I have quoted from his letter to his agent last year, he wonders what can keep him from being a captive to this situation forever. A very tough predicament for an American judge.

I have cited Professor Freedman's testimony that there is at least contention by some legal counsel that Judge Breyer already violated section 455. In any event, if he were to come onto the Supreme Court, he has a rigorous job of scholarship to do. He must find out what all Merrett 418 does, in short, very broadly, and how many cases are coming through the courts and through appeals now that are touched by that. He has an absolute obligation to do that. I simply ask, is it useful for the Senate to confirm somebody who must recuse himself from a substantial body of law and judgments? Would it be useful for the Members of the Senate to come to the Senate burdened with situations, and on the first day recuse themselves from votes on this floor? That is not very substantial representation for our States, and I contend that Judge Breyer must give some thought to whether he can give really a full measure of devotion to the task he seeks.

Finally, Mr. President, I come back to my plea that even at this late date, the President of the United States surely ought to consider the record that is before us. If Judge Breyer made difficult judgments, they are in the past. We must make a difficult judgment today. Senators cannot claim that they did not know of all of this. For at least the past hour, I have tried to recite it in the most concise way that I can. I cite to Senators the book, "Ultimate Risk," by Adam Raphael. Unfortunately, it was published only recently in London and is not available, I gather, to most Senators. But, clearly, it is a book that goes definitively into the Lloyd's problem and specifically the dilemmas facing Judge Breyer.

I am hopeful that even if Senators read "Ultimate Risk" after the vote, they will be knowledgeable about what we face, because the problem is not just Judge Breyer, it will be the Senate and the catastrophes and Superfund and all of the case law involving asbestos claims and all of the problems of reinsurance that are coming along the trail. They are going to hit us as well as the Court. I hope that when they do, the team on the field is able to enter with clean hands, without allegations of conflict of interest, and certainly with more confidence in the judgment of the American people.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, the Senator from Indiana has given a very detailed statement on his concerns. When the Senator from Indiana speaks in this Chamber, he is listened to very carefully. Although I could not be here for the opening of his presentation because we had a caucus on the health care legislation, I was here for most of his presentation. I am on the Judiciary Committee, and I did hear Judge Breyer's testimony, including the closed session. There are a few comments which I would like to make in response to what the Senator from Indiana has had to say.

I think that, fairly, Judge Breyer has to be evaluated on the totality of his record. He has to be evaluated on his academic record, which is outstanding—Stanford and Harvard Law School. He has to be evaluated on the basis of his work with the Law Review at Harvard, his scholarly writings in law journals, his books, and his work for the Judiciary Committee, where he came into personal contact with many members of the committee—not this Senator, because I was elected in 1980, his last year of service—and then his work on the court of appeals for the first circuit. I have read many of his opinions, and, in my judgment, he is a very, very distinguished legal scholar. So that his activities with Lloyd's of London and the investment which the Senator has detailed, I think, fairly have to be considered in the total context of his record, which is extraordinary in terms of scholarship, ability, and intellectual capacity.

On the issue of prudence, we must consider that Lloyd's of London has had a very profitable 300-year history, but as the Senator from Indiana has outlined in his account, there have been losses. A question arises as to what could be anticipated by someone like Judge Breyer, who made an investment.

The laws on asbestos were unfolding and Johns Manville was a big red flag. But what was a man in Judge Breyer's position to know about the specifics of Lloyd's investments, or what was he to inquire upon?

When you talk about the Superfund law, which the Congress passed in 1986, if someone made an investment in the late 1970's and into the 1980's, it is hard to figure out what the Congress will do next. We ourselves do not know what we will do next. So that when liability is imposed as a result of Superfund, which imposes liability going far beyond the time of an investment, really on the land itself, how can Judge Breyer's prudence be questioned for not anticipating what the Congress of the United States would do at some future date?

Judge Breyer testified to this effect:

> When I went into Lloyd's, I viewed it as a very conservative investment in which in fact you were exposed to insurance companies that sell and insure and buy anything in the world.

He went on to say:

> As a practical matter and as a theoretical matter, I believed, and I still believe, that my risks and benefits would consist of several thousand dollars of income each year, and sometimes several thousand dollars. By that I mean under $10,000 or $12,000, certainly possibly having to write a check. There was a deposit at Lloyd's that possibly was even meant for the worst case that went up to about $150,000.

As the Senator from Indiana has stated, the liability of Judge Breyer is one five-thousandths of what would happen to his Lloyd's syndicate.

There has been a statement on the floor by the Senator from Alaska about joint and several liability, and unlimited liability, which do not apply in this case. Joint and several liability means that any individual who is liable jointly and severally could be liable for whatever Lloyd's might be involved in. But I think there is agreement that in this case Judge Breyer's liability is not joint and several, but it is pegged at one five-thousandths of what losses this particular investment might incur.

What are the facts? As best we know them in the estimates that have been given by authorities who presented the evidence to the Judiciary Committee, in the worst case scenario Judge Breyer's exposure is $187,000. The underwriter projects the losses for his share at substantially less than that, at $50,000. He has personal loss insurance of $188,000. He has already paid the $37,000 deductible, and insurance will cover the next $225,000 in losses, and Judge Breyer has retained earnings of $220,000 held by Lloyd's.

Now, beyond that, as the Senator from Indiana himself has noted, the assets of Judge Breyer and his wife are very, very substantial, as Senator LUGAR articulated, in the $6 million to $8 million category.

It is important to know that Judge Breyer's wife's assets could not be reached. He could retain both his home and his pension fund, and his future earnings would be beyond reach.

So even projecting the very, very speculative considerations here, there is an outward limit realistically as to what Judge Breyer would have to pay, and it is far, far less than his assets. And he does have insurance to cover those losses.

You can always say that the insurance company which is covering his losses might be insolvent, but that raises another level of speculation. And the question is whether it is reasonable to deny Judge Breyer confirmation by the U.S. Senate based on this one factor alone.

The Senator from Indiana has spoken at some length about the issue of conflict of interest, and that was a subject which the committee inquired into in some detail. The provisions of the relevant statute as to conflict of interest I submit clearly have not been violated, and that is the opinion given by the legal scholars who made an evaluation on the issue of ethics and on the evaluation of the statute.

But rather than rely on the experts, I think the Senate Judiciary Committee and the individual Senators have an independent duty to take a hard look at the law and evaluation as to what the facts are. The relevant provision of section 455 of title 28 of the United States Code, the recusal statute, makes it a conflict if there is any interest that could be substantially affected by the outcome of the proceedings.

I questioned Judge Breyer on decisions handed down by the First Circuit which could affect Superfund liability, where even though Lloyd's was not an insurer in that particular case, the case might establish a principle which could have an effect on Lloyd's liability in some other case.

I think that that is always a risk which is involved when a judge sits on a case, even though none of his investments may be a direct party, that the ruling could affect some other potential party that he might not even know about. And as I said at the hearing, I believe that there ought to be further legislative consideration as to whether the standards of section 455 are adequate, whether it is necessary to have a broader exclusion so that judges or other Federal officials would not make such investments.

But I think on the face of this statute, which is defined as any other interest that could be substantially affected by the outcome of the proceeding, that in the cases on which Judge Breyer sat there is reasonable certainty that this section was not violated, not only by the terms of the experts who testified and submitted letters, but by an examination of the cases on which Judge Breyer sat.

When the Senator from Indiana refers to his own personal experience when he was sworn in as mayor of Indianapolis in 1967 and decided not to have any stocks on the New York Stock Exchange, not even General Motors, I think that is a judgment that an individual may choose to make.

From my own perspective, the forms are so complicated that they are not worth the time and effort. But I think it would be an undue restriction to say that someone who had an investment in General Motors ought to be compelled to give that up if he is to be a Federal judge, or if he is to be a U.S. Senator. And I state that I do not have an investment in General Motors or any similar company or in any company except an investment which was made in a small retirement fund that I had from my former law firm.

It is not easy to encourage people to come into public life with all of the problems which are attendant to being in public life. The microscopes are very high powered, and I think it is fair that they ought to be for a nominee to the Supreme Court of the United States. But to say that there cannot even be an investment in something like General Motors, while it might be the personal preference of the Senator from Indiana, my own view at this moment is that that goes too far.

But I do believe, by way of brief repetition, that the disqualification provisions of the statute ought to be reexamined, that we ought to take a look to see if there is some remote benefit to stock interest that a judge may have even though that interest is not represented by any specific party in the litigation.

The totality of the issue on Lloyd's of London, Mr. President, I think boils down to at least my conclusion that when Judge Breyer made his investment, based on the 300-year history of the case, it was understandable that he would think it was a conservative investment, as he testified, and that he did try to extricate himself in the mid-1980's, to leave the investment, and that he cannot be held accountable for the additional liability which may be imposed or was imposed by the Congress in 1986, long after he made the investment.

If you take a look at the hard facts of the case, there is a very, very remote possibility that his liability would exceed his insurance, and that his overall assets will not be jeopardized even under the worst-case scenario, as outlined by the Senator from Indiana, and that there are assets which are beyond the reach of the Lloyd's of London liability if in fact the sky were to fall in.

The totality of Judge Breyer's record, Mr. President, I think has to be evaluated in deciding whether we choose to confirm Judge Breyer. My conclusion is that he ought to be confirmed. I say that based upon his capability and his record and the way he responded to questions at the Judiciary Committee hearing.

We have had a practice in the past several years that nominees have answered only as many questions as they have to. We saw a situation with Justice Scalia where he would not even say that the bedrock case of Marbury versus Madison was beyond reconsideration by the Court. That is the case which gave the Supreme Court the authority to be the final arbiter of the Constitution.

When Justice Scalia appeared before the Judiciary Committee, his confirmation was virtually assured because of the facts of that particular year. We had just gone through a very tough confirmation hearing with Chief Justice Rehnquist and it was prudent for Justice Scalia not to respond to much, and he responded to virtually nothing.

We had Judge—later Justice—Souter come before the committee. He responded to very few questions. I asked him a question about whether the Korean situation was a war, and he said he did not know. He declined to answer. That, I think, is an important question.

When Judge Breyer was asked the question, he responded in a direct way that the Korean incident was a war. Why is that important? Because the Supreme Court may be in a position of being the final arbiter on conflicts between the Congress and our sole and exclusive authority to declare, and the President's powers as Commander in Chief.

This floor, which is empty at the moment, has been filled in recent days on very lively debate about whether we ought to invade Haiti. There is a sense-of-the-Senate resolution that the President ought not to invade Haiti. I and others have said that if the President wants to retain that option, he ought to come to the Congress and ask for it; that his powers as Commander in Chief are really for an emergency situation only; and that if he wants authority, it ought to be the Congress which grants that authority, just as the Congress passed a resolution authorizing the use of force in Kuwait.

So on a question which really has very, very serious ramifications, Judge Breyer was forthcoming.

When it came to the issue of the death penalty, which is a subject of really great concern—some 37 States in the United States have the death penalty—there are many who believe, myself included, that the death penalty is a very valuable weapon in the arsenal against criminal violators. And I have concluded that based on the experience that I had as district attorney of Philadelphia for some 8 years.

When we asked Justice Ginsburg whether she had any conscientious scruples against the death penalty, in a context where her confirmation was virtually assured, so many Senators having spoken in advance, she in fact said it was none of the Senate's business and she would apply the law. But then we see later opinions coming out where the impact of the death penalty is cut back. So I think that is a fair question to ask.

And Judge Breyer was forthcoming on that issue.

We asked him questions on the critical matter of the separation of church and state. He said that he agreed with Jefferson's statement that there is a wall of separation between church and state. That is a matter of tremendous importance, as is the free exercise clause, in light of the case of Smith versus Oregon, where the Supreme Court of the United States did not impose the highest standard of strict scrutiny on the free exercise of Congress, and Congress had to legislate on the subject. There are some today who say that the constitutional doctrine of separation of church and state is a lie of the left; that there is no such doctrine.

So it is very important in evaluating the qualifications of a nominee and the reliance on precedents to have that kind of a question answered. And Judge Breyer was forthcoming on that question and many, many others, without reviewing the full transcript.

I had expressed some concerns or some reservations about the nomination process generally. It seems to me that the Supreme Court would be better served if there were members of the Court who had a broader background; if someone like Bruce Babbitt, who has experience as a Cabinet officer, a Governor, and a Presidential nominee, who was considered for the Court, would be nominated, or some Members of the Senate had been considered for that position; that there is a certain uniformity in the Court today, with eight of the nine Supreme Court Justices having come from other appellate courts, seven of them from Federal courts of appeals, and one from a State court of appeals. And Judge Breyer is right in that line. So some greater diversity would be useful. But that is certainly not a disqualifier.

So that on the totality of the record, it is my view that Judge Breyer is qualified for confirmation.

He came through the Judiciary Committee with a unanimous 18-to-0 vote. Everybody on the Judiciary Committee felt that he was qualified.

The issue of Lloyd's of London was a subject of very substantial inquiry by the Judiciary Committee. When the Senator from Indiana speaks on a subject, I—and I think uniformly in this Chamber, we—listen to what he has to say very, very carefully.

But on the issue of prudence and whether Judge Breyer is sufficiently prudent to be a Supreme Court Justice, I am confident that the fair way to evaluate the Lloyd's of London's investment is on one state of the record, combined with the balance of his record, which is outstanding. And even on the Lloyd's issue, there was substantial reason for him to believe at the time he made the investment, as he testified, that it was a conservative investment and his liability was limited.

With respect to the future issue of conflict of interest, the number of cases which reach the Supreme Court which might even remotely or speculatively involve that issue, I think, would be very, very minimal.

Judge Breyer has outlined a protocol, if confirmed—and I think he will be confirmed—which he will leave with the clerk's office so that he can recuse himself or disqualify himself if that should become necessary.

On the issue as to whether this is going to wreck him financially, it is very, very, speculative that any losses would exceed what he is insured for. And if they would exceed what he is insured for, there are substantial assets that he has to cover them, and substantial assets beyond which would not be subject to reach for the Lloyd's of London liability, at the very worst.

So on this state of the record, I intend to vote for Judge Breyer for his confirmation, and I urge my colleagues to do the same.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I rise this afternoon to express my intent to vote for the confirmation of Judge Stephen Breyer to the U.S. Supreme Court.

My decision on a Supreme Court nominee's fitness is based on my evaluation of three criteria—character, competence, and philosophy—by which I mean the nominee's judicial philosophy, when I speak of philosophy, Mr. President; in other words, how the nominee views the duty of the Court and the scope of the authority.

It is my strong belief the judiciary should hold to its original purpose, neither to rubberstamp legislative decisions, nor to be overreaching to act as substitute legislators.

Judge Breyer satisfies my criteria and I think satisfies the concerns of a majority of the Senators. However, I do have some concerns that I want to express about issues that arose during the confirmation hearings.

I think it is important they be on the record, for I hope it is important that the judge, when he is confirmed, will take note of some of these concerns.

My concerns relate to private property rights.

One article about the confirmation hearings reported that Judge Breyer said Government clearly can impose some legitimate regulations without compensation, while other rules could go too far. He said there are no fixed legal rules on where to draw the line. "You always come back to a kind of human judgment—what is too far," he said.

The report goes on to say that Judge Breyer stated property rights cannot be elevated to the same plane as fundamental liberties, such as free speech.

This is a judge who talked about respecting the precedent of the Roe versus Wade decision on abortion.

I certainly hope he is equally respectful of the Supreme Court's private property rights case, including the recent Dolan versus Tigard decision.

Chief Justice Rehnquist wrote:

> We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or the Fourth Amendment, should be relegated to the status of a poor relation in these comparable circumstances.

In other words, Judge Rehnquist was saying that certainly takings of private property in this instance are every bit as important, while Judge Breyer says they may not be. I hope he would come to believe in the Dolan versus Tigard decision.

The war to reclaim private property rights in America is not just being fought in the Supreme Court. For the people of my State of Idaho and other parts of the American West, this is literally a matter of life and death—whether their traditional livelihoods will be destroyed by the stroke of a regulator's pen.

I am not saying we should give less weight to the fundamental liberties of free speech and the like. Just give equal, fair consideration to all rights preserved under the Bill of Rights, as our Founders obviously intended them. To attempt to downgrade the taking clause of the fifth amendment is to ignore history. If any of the rights guaranteed in the Bill of Rights were less important, they would not have been enumerated as they were.

There is one other point I would like to raise about the confirmation hearings. We have tremendous problems in the West with arbitrary, painful regulatory decisions of a number of agencies. The Bruneau Hot Springs snail and the northern spotted owl, as it related to the Endangered Species Act, are creating tremendous problems in the West. I do not believe any Member of the U.S. Senate voting for the Endangered Species Act ever believed that these kinds of things would occur. But the law is now being used, and these are very real problems that have resulted. Even Interior Secretary Bruce Babbitt has admitted there are problems associated with the bureaucracy. He announced administrative changes in June that he hoped would make the endangered species listing, for example, less arbitrary.

I applaud Judge Breyer's interest in cost/benefit analysis in regulatory decisions. However he takes his point too far. One article summarized a proposal from Judge Breyer's book on regulations as follows:

> He proposes creating an elite corps of regulators to assess risk and apportion resources accordingly.

I do not think we need an elite corps. We need fewer and more clear laws. That becomes part of the judge's responsibility in delineating that. We do not need the kind of arbitrary decisionmaking that has been allowed.

I think, though, the quote from his book clearly reflects a complete lack of understanding for the way regulations affect the real people in the real world. We do not need regulators drawn into a tighter circle, given more authority and power. Certainly the citizens of Idaho would say just the reverse.

Frankly, we need what even Bruce Babbitt says he is pursuing: Better oversight by regulators and by the Congress; more input from States and local authorities and private property owners. You know, this is a Government of the people and by the people, and not of regulators and by regulators. I am afraid maybe Judge Breyer might need to learn a few lessons in that area—if he continues in his service on the Court—to be more evenhanded.

My point is the rights guaranteed in our Constitution are the only protection we have against bureaucrats overstepping their authority. We, the Senate, stand in between by making good law. But when it goes beyond that, we do need courts with a clear vision of what the intent of the Constitution is, and I hope the judge would come down in that way. Unless jurists in the high court, like Judge Breyer, are consistent in recognizing private property equally with other rights in the Bill of Rights, none of our constituents can be assured any of their rights will be adequately protected.

So I hope in the judge's confirmation and his service on the Court he will take in a much more serious vein, private property rights as an extension of human rights, the right of the citizens as spoken to so clearly in our Constitution. But with that admonishment and that concern, I do believe the judge meets my three criteria of character, competence, and philosophy as it relates to the Court. And for those reasons I will vote for his confirmation.

Mr. President, I suggest the absence of a quorum and ask that the time be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I rise to join others to speak in support of the nomination of Judge Stephen G. Breyer to be an Associate Justice of the Supreme Court of the United States.

The Senate's advise-and-consent responsibility for Presidential nominees to the judicial branch, most particularly to the Supreme Court, is one of the most important responsibilities given to this body by the U.S. Constitution. I, like others, take this responsibility very seriously.

This constitutional responsibility as applied to the judicial branch, I believe, is unique. It is distinguished from our responsibility with nominees for Cabinet posts, senior military, or ambassadorial posts.

Judicial nominees are in a separate category because they form the third branch of our Government, a branch created by joint effort between the executive branch, the President nominating the members of the judiciary, and the legislative branch, namely, the Senate exercising constitutional authority under the advise-and-consent clause.

Mr. President, I have followed the proceedings of Judge Breyer's nomination and confirmation hearings very carefully. I also reviewed the briefing material available to Senators on Judge Breyer's personal background and his extensive legal career. Using this information, I made an analysis of the various calls and letters and other communications directed to me by my constituents from Virginia. I also reviewed, given the nature of the calls, the testimony of Mr. Michael Farris, a Virginian and the president and founder of Home School Legal Defense Association, who spoke in opposition to this nominee.

This area of home schooling and religious schools was of particular concern to a great many of my constituents as manifested by the testimony of Mr. Farris. These constituents asked me to determine: "What are Judge Breyer's views on home schooling and private religious schools?"

Constituents specifically referred to Judge Breyer's opinion in the case of New Life Baptist Church Academy versus The Town of East Longmeadow in the Federal Circuit Court of the First Circuit in 1989.

Given the seriousness of these questions, I proceeded as follows:

First, I studied the opinion just enumerated in the Longmeadow case. The next step was to prepare for the Judiciary Committee, during that committee's review of Judge Breyer, a series of questions.

At the hearing, the nominee, on my behalf, was asked—that is July 21, 1994—to give the committee his views on home schooling and private religious schools and his interpretation of how the Constitution protects these schools, most specifically under the First Amendment.

With his response in the official record, I then scheduled a meeting with Judge Breyer in my office to further inform myself about the nominee, his overall qualifications and, specifically, to discuss the issues of concern raised by Virginia constituents. I asked Judge Breyer to expand on the questions relating to home schooling and religious schools and to put them in a letter, which he most respectfully forwarded promptly.

Mr. President, I ask unanimous consent that a letter addressed to me by Judge Breyer on the subject of the Longmeadow case be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 22, 1994.

Hon. JOHN W. WARNER,
Senate Russell Office Building, Washington, DC.

DEAR SENATOR WARNER: Thank you for your questions about the rights of parents to determine how to educate their children, and in particular about the opinion in *New Life Baptist Church Academy* v. *Town of East Longmeadow*, 885 F.2d 940 (1st Cir. 1989).

I did listen carefully to the criticisms of the *New Life Baptist Church Academy* opinion, and I recognize that they have been made in good faith. As I understand them, the criticisms are that the opinion endorses government prohibitions of home schooling, and gives government too much leeway to regulate religious education. In my judgment, these criticisms misstate the meaning and effect of the *New Life Baptist Church Academy* case.

The opinion does not endorse the view that government may prohibit home schooling. It is well established that the "liberty" guarantee of the Fourteenth Amendment ensures parents' right to "direct the upbringing and education of children under their control." *Pierce* v. *Society of Sisters*, 268 U.S. 510, 534–35 (1925). As I stated during the Judiciary Committee hearings, I regard this principle as settled and I have no bias whatsoever against home schooling. The opinion in *New Life Baptist Church Academy* expresses no disagreement with this principle. The case did not involve home schooling at all; it involved the accreditation of a private religious school.

The case did raise a difficult issue of balancing a religious organization's freedom under the Free Exercise Clause of the First Amendment to educate their children according to their beliefs and the government's need to ensure that all students receive a basic education in subjects such as reading and math. In deciding the issue, the court applied a test substantially more protective of religious liberty than the current Supreme Court test established in *Employment Division* v. *Smith*, 494 U.S. 872 (1990). Recognizing the Academy's "sincere, relevant religious belief," our court in *New Life Baptist Church Academy* required the state to show that its interest in regulation was "compelling" and that there was no practical "less restrictive" way of achieving the state's objectives.

The particular question was whether the state could evaluate the secular education provided through occasional classroom visits or, instead, was required to evaluate the secular education through a system of voluntary testing of each child. Our court held that the latter system (a system that, in the court's view, no state had previously used) was not practical, threatened to entangle the court in religious matters, and offered only comparatively minor benefits to religious schools generally. Consequently, the court held that the Constitution permitted the school board's "school visit" evaluation system. While people of good faith can disagree about the merits of the case's outcome, I should hope that most would see it as a close and difficult case, which might have come out either way. I should also hope that the case would be evaluated in the context of my overall record, which is quite protective of religious liberty.

I hope that this has been helpful. My best wishes.

Sincerely,

STEPHEN G. BREYER

Mr. WARNER. Mr. President, a review of this letter with constituents who continue to call seems to meet most of their major concerns.

Accordingly, Mr. President, I find Judge Breyer a highly qualified professional to become a member of the U.S. Supreme Court. His financial problem raised today by one of our most distinguished colleagues, is a problem, indeed. But in my judgment, it is an investment, perhaps unwisely made in hindsight, but that is separable and a single issue from his overall, very extensive and commendable accomplishments throughout his professional career as a lawyer.

Accordingly, I will vote in favor of Judge Breyer when this body turns to the vote later today.

Mr. President, I would like, at this point, to read into the RECORD briefly from the letter sent to me by Judge Breyer on July 22:

DEAR SENATOR WARNER: Thank you for your questions about the rights of parents to determine how to educate their children, and in particular about the opinion in *New Life Baptist Church Academy* v. *The Town of Longmeadow*.

I did listen carefully to the criticisms of the New Life Baptist Church Academy opinion, and I recognize that they have been made in good faith. As I understand them, the criticisms are that the opinion endorses Government prohibitions of home schooling, and gives Government too much leeway to regulate religious education. In my judgment, these criticisms misstate the meaning and effect of the New Life Baptist Church Academy case.

The opinion does not endorse the view that Government may prohibit home schooling. It is well established that "liberty" guarantee of the fourteenth amendment ensures parents' right to "direct the upbringing and education of children under their control."

He cites the Pierce case of the Supreme Court in 1925.

As I stated during the Judiciary Committee hearings, I regard this principle as settled and I have no bias whatsoever against home schooling.

Mr. President, I would like to repeat that:

I regard this principle as settled and I have no bias whatsoever against home schooling.

I read into this letter the word "settled," that is settled by judicial opinion.

The opinion in New Life Baptist Church Academy expresses no disagreement with this principle. The case did not involve home schooling at all; it involved the accreditation of a private religious school.

The case did raise a difficult issue of balancing a religious organization's freedom under the free exercise clause of the first amendment to educate their children according to the beliefs and the Government's need to ensure that all students receive a basic education in subjects such as reading and math. In deciding the issue, the court applied a test substantially more protective of religious liberty than the current Supreme Court test established in *Employment Division* v. *Smith*.

A Supreme Court case of 1990.

Recognizing the academy's "sincere, relevant religious belief," our court in New Life Baptist Church Academy case required the State to show that its interest in regulation was "compelling" and that there was no practical "less restrictive" way of achieving the State's objectives.

The particular question was whether the State could evaluate the secular education provided through occasional classroom visits or, instead, was required to evaluate the secular education through a system of voluntary testing of each child. Our court held from the latter system (a system that, in the court's view, no State had previously used) was not practical, threatened to entangle the court in religious matters, and offered only comparatively minor benefits to religious schools generally. Consequently, the court held that the Constitution permitted the school board's "school visit" evaluation system. While people of good faith can disagree about the merits of the case's outcome, I should hope that most would see it as a close and difficult case, which might have come out either way. I should also hope that the case would be evaluated in the context of my overall record, which is quite protective of religious liberty.

I hope this has been helpful. My best wishes. Sincerely, Stephen G. Breyer.

Mr. President, when I reviewed that letter, together with a number of facts from other persons who continue to call, the letter, in my judgment, relieves the concern that they had. I thank them for calling me.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I want to speak a moment on the Breyer nomination. For 12 years, I stood on the floor and listened to debate as many of my colleagues on the left sought to win in the Senate what they could not win at the ballot box by opposing nominees by President Reagan and President Bush with whom they disagreed philosophically. I want to make it very clear to my colleagues, and obviously to the folks back home in Texas, why I am going to vote for Judge Breyer and why I think it is the only proper vote.

Elections have consequences. When people in America voted for Bill Clinton they knew, or they should have known, that when it came time for him to nominate a justice for the Supreme Court of the United States and for lower courts and for other positions of authority, that he was going to nominate liberals; that he was going to nominate people who reflected his views and the views of the Democratic Party.

I have voted against Presidential nominees during the Clinton administration but only under very limited circumstances. I voted against those that I believed were not qualified and those that I thought were not credible. I have also voted against those who hold views that are outside the mainstream of liberal Democratic thinking. I have opposed those nominees who hold views that Americans who voted for Bill Clinton could have never conceived that by voting for him, they were setting the foundation for the nomination of people who held views that were contrary to the Constitution or contrary to the basic American principle of the rule of law in private property.

I would never have nominated Judge Breyer had I been President. No Republican would have nominated Judge Breyer because his views are fundamentally different than ours. Judge Breyer came very close to at least hinting that he viewed the protections of property in the fifth amendment as not being as strong or as clearly defined as the protection of speech. I do not agree with that. If we are not secure in our right to property, then we are not secure in our right to free speech.

Certainly in terms of an expansive definition of the Constitution, I have no doubt that Judge Breyer is going to make rulings that represent a different interpretation of the great document that I have and that people who share my values have.

But I also believe that Judge Breyer's views are mainstream liberal views. I believe that anyone who voted for Bill Clinton knew or should have known that the chances that anyone more conservative than Judge Breyer being nominated by Bill Clinton were almost zero.

So my view is, Mr. President, that elections have consequences. Those who are unhappy with this nomination will have an opportunity to say something about it this November, and they will have a bigger opportunity to say something about it 2 years from now. But when we held the election for President, the American people spoke, and Bill Clinton was elected. I am not going to try to win, on the basis of philosophy, victories in the Senate that my party could not win at the ballot box. Elections have consequences. The election that we held in 1992 had consequences, and one of those consequences is Judge Breyer. Within the constraints that Bill Clinton was going to nominate a liberal to the Court, the person he has chosen is as good as any of us had any right to expect him to be. The President came down to a decision between a politician and a jurist. He chose a jurist. I cannot very well lament that this is not someone that I would have chosen.

So I am going to vote for this nominee, not because I agree with him philosophically but because I believe he is qualified. I believe he is credible. I believe his views, though they are different from mine, are within the mainstream of the thinking of his political party. And whether I like it or I do not—and I do not—the American people put Bill Clinton into the White House. This nomination is a result of that, and I am not going to stand in the way of it because I differ philosophically with this nominee.

I yield the floor.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, as we all know, we will soon vote on the nomination of Judge Stephen Breyer. I think we all also are aware that Judge Breyer will be confirmed by the Senate by an overwhelming vote.

I believe he has received a fair hearing from both sides, and, clearly, as my friend from Texas just stated, he would not have been the choice if there had been a different result of the 1992 election. The fact is that the results of the election indicate that the President of the United States not only has the right to select, in his view, the best qualified members of the Supreme Court but also many other positions in Government. And with rare exceptions, I have tried to give the President of the United States the benefit of the doubt.

I have had serious concerns about Judge Breyer's role in the $500 million Boston Courthouse project, a project that I still believe is an exercise in extravagance, arrogance and a callous disregard for the taxpayer. As we all know, Mr. President, being a Justice of the Supreme Court is all about good judgment and discretion, qualities that have been sorely lacking in the development of the Boston Courthouse. Allegations about the extent of Judge Breyer's involvement in this matter have been quite troubling to me.

Mr. President, when Judge Breyer was asked at the hearings by one of the members of the Judiciary Committee, Judge Breyer rolled his eyes, acted as if it was somewhat of a tiresome issue, and then proceeded to basically blame the General Services Administration for any problems that might have arisen concerning the Boston Courthouse. That, frankly, Mr. President, does not really coincide with Judge Breyer's comments that he made to the Washington Post, and I quote from the article that was on the front page of the Washington Post that said:

> The courthouse that Stephen G. Breyer built will stand on a spectacular stretch of Boston Harbor, a 10-story, $200 million block room of courtrooms and offices turned into something more by a vast public atrium. On the outside, there will be parks and a boating dock; on the inside a day-care center, a theater, a community meeting hall, a restaurant and an art gallery.
>
> This, Boston's new Federal courthouse, has been Breyer's responsibility as chief judge of the First U.S. Circuit Court of Appeals, and the unusual shape it will take says much about the philosophy and temperament of the man who may become the next Supreme Court Justice.

I continue the quote from the Washington Post article, Mr. President:

> Breyer personally interviewed the architects applying for the project. He consulted with community and environmental groups. While cycling through the countryside of France three years ago, Breyer stopped, gazing at the buildings he encountered, talking animatedly with the locals about their design. He called his aunt in San Francisco about how to make the building more accessible to children. He visited courthouses around the country, mining for ideas, and pored over the original plans for the Supreme Court in Washington, all the while insisting on a Boston complex that would expand the definition of courthouse from legal to civic, a place open in the evenings and weekends, a place inviting to the community.
>
> "This most beautiful site in Boston," he said at the time the project was unveiled, "does not belong to the lawyers. It does not belong to the Federal Government. It does not belong to the litigants. It belongs to the people."

Mr. President, that really does not coincide with Judge Breyer's comments in response to questions before the Judiciary Committee. And there is something interesting about this also; in Judge Breyer's commitment to beauty and all of the things, "the most beautiful site in Boston," never once did Judge Breyer mention any concern about the cost, which is now around $500 million for a courthouse, to the point where, Mr. President, the courthouse now has to have a $270 million subway built to reach it so it will be accessible to the people.

It has a 6-story atrium, 63 private bathrooms, 37 law libraries, 33 private kitchens, custom-designed private staircases, a half-million dollar boat dock, nearly $800,000 for original artwork, and $1.5 million for a floating marina. All of this and more to be built on the most expensive and least functional site that was considered.

The pricetag to the taxpayers, as I mentioned, is $500 million, $300 million for the courthouse and $200 million to extend the Boston subway system to the new facility.

I think it is well to note, too, Mr. President, that somehow State and local courthouses are not required to have this kind of "belonging to the people at the most beautiful site in Boston." In fact, the cost of the Boston Federal Courthouse is three times the cost of building a new State courthouse that is in the same area. Private bathrooms, libraries, and kitchens are certainly nice perquisites, but State judges seem to be able to do without the expense of these items. Why is the Federal judiciary so needful and deserving of palatial accommodations? The answer is that they are not.

I also noticed, Mr. President, that Judge Breyer is a man of some wealth. I did not see Judge Breyer in his desire to have everything for "the most beautiful site in Boston. It does not belong to the lawyers. It does not belong to the Federal Government," et cetera, willing to spend any of his substantial wealth in order to make this a beautiful project.

As chief judge of the First Circuit Court of Appeals, Judge Breyer was the liaison on the Boston project between the judges and the General Services Administration.

How can such a project possibly be justified at a time when we are asking every sector of our society to tighten the budgetary belt, to do more with less, and to help reign in our monstrous public debt? Not just certain Senators, but the public finds such extravagance at the expense of the taxpayer to be simply outrageous.

I wish I could say that Boston was an exception, but such excesses have been uncovered in a number of projects, from New York to my own State of Arizona.

The good news is that the sunlight of public scrutiny on this issue, and a more enlightened and responsible leadership at the General Services Administration, is improving the situation. The GSA has implemented a program of time-out and review to reassess Federal building projects, including courthouses, to better protect the taxpayer. But, we must continue to be vigilant.

I am greatly disturbed that it took the weight of congressional inquiries and the force of public outrage to wake up the judiciary and the administration to the abuses involved with the courthouse construction program. I'm even more troubled that judges upon whom we depend for their good judgment and unswerving advocacy for the public interest have been party to this pattern of excess and abuse at Boston and elsewhere.

For the record, not all judges have allowed that to happen, such as the Federal judges in Louisiana who sought to cut the costs of their facility. Regrettably such vision and accountability was not the case in Boston. Again, that is why I have been so concerned about Judge Breyer's role, and the reason I submitted a series of questions to the judge to determine the precise level of his involvement.

I want to thank the judge for his cooperation in responding to my questions. I would be less than candid if I did not acknowledge that I still have some lingering concerns. However, Judge Breyer has assured me that all appropriate procedures and ethical standards were observed in the site selection, scoping and development of the project, and that as chief judge of the circuit he acted properly. Despite my nagging concern, I will accept his word.

I might add that the inquiry into the Judge's role at the Boston Courthouse has been extremely helpful in the effort to curb future abuses by highlighting a serious problem regarding the responsibilities of the Judiciary and the executive branch for the development of courthouse projects.

Judicial officials claim that their role is merely advisory and that the General Services Administration is the absolute authority on the site selection, scope, and design of building projects. General Services Administration officials claim that due to the separation of powers they defer significantly to the wishes of the judiciary. Ill-defined and misunderstood division of responsibilities, and the lack of clear accountability is a recipe for waste and inefficiency. The Administrator of the GSA has made significant progress in addressing this situation, and we must continue efforts to define clearly the responsibilities of the two branches, and ensure that there is accountability to Congress and, most importantly, to the taxpayer.

Again, I thank Judge Breyer for his cooperation. I wish him success, and I hope that good judgment and discretion will mark his tenure on the Supreme Court.

I do not believe that he was candid and forthcoming in his answers concerning the courthouse, particularly in light of the comments that he made to the Washington Post. I do not believe that is sufficient reason for me to oppose his nomination. But I think that there will be questions that are going to be asked about this project in the future as the costs continue to escalate, and the expense to the taxpayer remains unjustified.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I yield myself such time from Senator BIDEN's time as I may need.

As I have stated throughout the nomination process, Judge Breyer is clearly a man of exceptional legal skill and high intellectual ability. However, I am disturbed about this nomination for a number of reasons.

I am concerned and bothered that Judge Breyer was not sensitive about his holdings in Lloyd's. He did not realize that his holdings could subconsciously affect his thinking when he decided cases dealing with environmental law.

I believe that Judge Breyer has the potential to become a good Justice.

Will he become a good Justice? I am not sure.

However, to do so he will have to develop a big heart and become more sensitive to the economic concerns of ordinary people, small businessowners and the little guy. He will also have to display better judgment about when to recuse himself from cases in which there could be a conflict with his personal investments, or even the appearance of a conflict.

I have made no secret of the fact that I am extremely disappointed that Judge Breyer failed to recuse himself from the Ottati case. At the time he was sitting in judgment on the EPA's superfund clean up policies, Judge Breyer had a large investment in environmental liability insurance through a Lloyd's of London syndicate.

Most of us Americans have very little knowledge about Lloyd's. I must confess that I learned more about Lloyd's during the Judge Breyer confirmation process than I had learned in my entire lifetime. But Judge Breyer knew what Lloyd's was about.

It should have been clear to Judge Breyer that his decision to make it more difficult for EPA to force polluters to clean up hazardous waste sites would be criticized. Because of his Lloyd's investments, Judge Breyer could have spared himself, and the rest of us, a great deal of soul searching and debate if he had used better judgment.

He saw fit to recuse himself from all cases having to do with asbestos because somehow the Lloyd's investment of his might be involved. But he did not see fit to recuse himself from the environmental cases.

There is no doubt in my mind that Judge Breyer's Ottati decision favors polluters over the EPA. It reduces the EPA's ability to move in quickly and force polluters to clean up the Hazardous waste sites they left behind. In my view, reducing EPA's ability to clean up Superfund sites threatens the health of every man, woman, and child who lives or works nearby.

The sixth circuit was extremely critical of the way in which Judge Breyer substituted his own judgment for that of EPA officials. The court stated that it is "not the job [of the reviewing court to] reformulate a scientific clean-up program developed over the course of months or years."

Frankly, I would have agreed with the sixth circuit's criticism of Judge Breyer under any circumstances. However, his Lloyd's investment makes the situation worse. The fact is that Judge Breyer's investment in Lloyd's of London's Merrett 418 syndicate includes extensive environmental pollution coverage that could have been affected by the Ottati Decision.

As I have learned, Lloyd's insurance syndicates are not like conventional investments. To join a syndicate, investors must pledge their entire net worth to cover future losses. So, even though Judge Breyer has pledged to get out of Lloyd's as soon as possible, it may not be possible for him to do so. There is no way that he can step forward and sign a piece of paper or put up so much money and feel that under those circumstances he can get out of his Lloyd's obligation.

Even Judge Breyer has said that his Lloyd's investments may have "captured" him for life. Judge Breyer's prediction has been confirmed by a legal expert on American investors in Lloyd's. He wrote to me that "There is no way to get out of Merrett 418. One does not get out of Lloyd's by dying * * * bankruptcy would be the only sure way to get out of Lloyd's."

In other words, this albatross hanging over his head, this albatross of an investment, is going to be around Judge Breyer's neck for years and possibly for decades. He has suggested to us that he was buying a reinsurance policy to cover over his losses in Lloyd's, or that he could do so. But the fact is that if that new insurance policy goes belly up and does not have the money to meet its obligation, then the obligation falls back on everybody who was in the Merrett 418 syndicate. According to this same Lloyd's expert, Merrett 418 is a "long-tail syndicate, which means that it may be many, many years before the true nature of the losses will be known."

Claims against Lloyd's Merrett 418 syndicate can expose Judge Breyer to costly liability claims from asbestos lawsuits and environmental pollution cases, including Superfund cleanup, for many years, and an indeterminate number of years into the future. Merrett 418 investors face claims and losses that are currently estimated at between $725 million and $825 million, but the situation could get worse.

The fact is that Judge Breyer should have recused himself from the Ottati case because of his investments in the Lloyd's of London insurance syndicate. It is not enough to say, well, he just did not think of it that way. It is not enough to say: Well, I got out of the asbestos cases, but I did not get out of the pollution cases. Even if it was not a violation of ethical standards, it was simply bad judgment for a man of Judge Breyer's intellect not to have done so. And it would be inexcusable if he did not recuse himself in the future.

On that point of recusing himself in the future, Judge Breyer told the committee that he had some idea about posting at the Supreme Court, if he were confirmed, a list of what his holdings were, and that if any lawyer on either side felt he should recuse himself by reason of possible conflict of interest, he would do so. I thought that over for a number of days, and that is a totally unrealistic approach. It is totally unrealistic to expect some lawyer to go in and ask a Supreme Court Justice to recuse himself. The decision and the determination of whether he should recuse himself belongs in the heart and head of Judge Breyer, and I am not sure at this point that he will recuse himself. I am not sure that he does not think that, just as in the Ottati case, he could hear the case and still, in spite of his holdings in Lloyd's Merrett 418 syndicate, go ahead and adjudicate that case.

I am also concerned about Judge Breyer's views on the fair competition laws which affect the day-to-day lives of all Americans. To date, his record has not been impressive for a judge who is supposed to have a big heart. He almost always votes against the very people the antitrust laws are supposed to protect. A 1991 study in the Fordham Law Review reported that in all 16 of his antitrust decisions, Judge Breyer voted against the alleged victim of antitrust abuse. At that time, Judge Breyer had the worst antitrust record of any Federal judge appointed by President Carter. It was even worse than most of the judges appointed by President Reagan—and that is going a long way.

Let me give you an example. In a controversial decision, Judge Breyer overturned a $39 million verdict for the consumers of a small electric company. A jury had found that these consumers had been overcharged because of the anticompetitive tactics of an electric conglomerate that controlled the market. Instead of relying on the jury's judgment, based on 13 days of expert testimony, Judge Breyer made up his own graph and chart. It was a graph to explain why consumers should not get the $39 million verdict.

But Judge Breyer did not convince me or the consumers who lost the $39 million verdict that a hypothetical graph and chart did justice in this case. Frankly, I am not sure that legendary trustbuster, Teddy Roosevelt, or the father of our antitrust laws, Republican Senator John Sherman, would have approved of Judge Breyer's view of protecting consumers.

I regret to say that Judge Breyer's antitrust record has not improved much since that decision. In response to my antitrust questions during the nomination hearing, Judge Breyer told me that he does not keep track of the number of times he rules in favor of the defendant. That may be so. But the facts speak for themselves. I am concerned that unless Judge Breyer stops seeing antitrust law in terms of abstract economic theories displayed in complicated charts and graphs about widgets, he will continue to favor big business over mom-and-pop operations and everyday consumers. Small businessmen and women and consumers want justice under the antitrust laws, not a graph on supply and demand theory.

My goal during the committee hearings was to sensitize Judge Breyer to the law's impact on ordinary people. I hope I have been successful, because that is how history will measure whether he becomes the big-hearted Supreme Court Justice that President Clinton believes he can be. Usually around here, I pretty much know which way to vote. I pretty much come down on one side or the other, and I say that is it, and I am not going to worry about what the consequences are. But in this instance, I have mixed feelings—not about the consequences, but about what is the right decision. I do not think this was a great appointment for our President. I think that Judge Breyer is far less of a jurist than we should accord a position on the Supreme Court.

I want to say publicly that I take off my hat to Senator LUGAR. He has made a strong case against confirming Judge Breyer. I am sorely tempted to vote with him. I am frank to say that even as I am speaking here, I am having concerns as to which is the right vote, despite the fact that I voted for Judge Breyer's confirmation in the Judiciary Committee. I have mixed feelings as to what is the right vote. One of the things that bothers me much is that I did vote in favor of confirming Justices Scalia, Kennedy, and O'Connor, and how do I reconcile that with a vote against Judge Breyer?

It is with serious reservations and a heavy heart that I will vote to confirm him. But it is not a vote that will make me particularly proud. I hope that Judge Breyer, as he ascends to the Supreme Court, will become more of a jurist, more of a judge, more fair, more sensitive to the concerns of the little people that come before the Court, those who do not always have the high-powered lawyers, those who are not part of the corporate world.

They come before him, and when they come before him, I hope that Judge Breyer will be far more sensitive than he has been in the past.

Frankly, I think that is what this country expects of him. Whether or not he will reach that goal, whether or not he will be the jurist that some of us had hoped for the next Supreme Court jurist, only time will tell. But I will vote for him. It is not my proudest day.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Judge Stephen Breyer to serve as Associate Justice of the Supreme Court of the United States.

The Senate Judiciary Committee recently held 4 days of hearings, including a closed session to comprehensively consider the qualifications of Judge Breyer to sit on the Supreme Court.

It is unlikely that I would be in accord with President Clinton on every nominee that he puts forth to serve on the Federal bench. In fact, I recently opposed one nominee which he nominated to sit on the Eleventh Circuit Court of Appeals. However, I believe in granting the President some deference pursuant to his constitutional authority to fill Supreme Court vacancies.

I had a favorable impression upon learning of Judge Breyer's nomination to the Supreme Court because I have known him for almost 20 years. Judge Breyer came to my attention when he began work on the Senate Judiciary Committee, serving later in a most capable manner as chief counsel of the committee, and in 1980 he was nominated to serve on the U.S. Court of Appeals for the first Circuit. Judge Breyer has served with distinction on the first circuit and has been chief judge of that circuit since 1990. Additionally, Judge Breyer was nominated by President Reagan and served ably on the U.S. Sentencing Commission to address disparities in sentencing under Federal law.

Mr. President, I was encouraged by a number of Judge Bryer's responses to questions during his confirmation hearing. Specifically, when questioning

Judge Breyer on the death penalty, I pointed out that if confirmed, he would succeed Justice Blackmun who recently stated his belief that the death penalty is inherently flawed under the Constitution. I was pleased when Judge Breyer stated that he would take no such bias on capital punishment to the Supreme Court. Judge Breyer did not hesitate in his recognition that the death penalty is settled constitutional law.

On another matter, questions were raised concerning Judge Breyer's ruling in the New Life Baptist Church case which dealt with religious schooling. During his hearing, Judge Breyer made it clear that he has no bias against home or religious schooling. He remarked:

> [t]here is nothing more important to a persons or to that person's family than a religious principle, and there is nothing more important to a family that has those principles than to be able to pass those principles and beliefs on to the next generation.

Judge Breyer said that the religious freedom protection under the first amendment of the Constitution protected the right of parents to pass along their religion to their children free from State interference. It was his belief that anyone attempting to prevent home schooling would face "very, very serious constitutional challenges."

Mr. President, it was encouraging to receive Judge Breyer's thoughts on judicial precedent, stare decisis, and judicial activism. Judge Breyer stated at the hearing: "A judge should be dispassionate and try to remember that what he is trying to do is interpret the law that applies to everyone, not enunciate a subjective belief or preference." His comments on this matter reflect my own views on the separation of powers between the judicial and the legislative branches of government. At one point during my questioning of Judge Breyer, he stated succinctly and appropriately, "a judge should not legislate from the bench." I was pleased to hear those remarks and it is a good indication that Judge Breyer will show appropriate deference to laws passed by the Congress.

Mr. President, Judge Breyer does not appear to have an ideological bent to move the Supreme Court in one direction or the other. Judge Breyer expressed his desire to administer justice according to the law while being mindful that even archaic judicial decisions ultimately impact upon the lives of individuals.

Based on my knowledge of Judge Breyer for almost 20 years, I am satisfied that he is a man of keen intellect, a capable jurist, and qualified to serve as an Associate Justice on the Supreme Court of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I rise out of concern for Judge Breyer's nomination to be an Associate Justice of the Supreme Court. I have listened with interest as other Members have expressed opinions of the judge and his record, and I would like to share a few thoughts in this regard.

First of all, Mr. President, let me say that I come to this debate with concerns about Judge Breyer in a couple of areas. He has indicated that he is comfortable with Supreme Court rulings which give second-class protection to property rights. Judge Breyer has also indicated that he recognizes as settled law the restrictions that the Court has placed on religious expression. I strongly disagree with Judge Breyer on both of these issues. But I will end up voting for his confirmation, and I would like to explain the reasons why.

As I listened to the judge articulate his judicial philosophy and his approach to issues, I found that he displayed a keen sense of objectivity and willingness to look at facts and make an honest inquiry.

If there were one quality I would like our Supreme Court Justices to have, it is a willingness to listen to the facts and be objective and independent. I came away convinced that Judge Breyer has that quality—he has a willingness to listen and an objectivity that we need so desperately in our judges. In addition, he has not only a very keen mind but a willingness to use it in scientific inquiry.

Some Senators have come to the floor and expressed concern about the ideas expressed in his most recent book "Breaking the Vicious Cycle." The book itself is a compilation of lectures that he has given. As I read that book, I found not an expression of political opinion, but an objective inquiry, using logic, facts and scientific evidence to examine the way government regulates. The book suggests that we can achieve a better fulfillment of our desires and a better use of our limited resources by looking at the facts and examining the best, most efficient way of allocating our resources.

How some Members can find this a disqualification for service on the Supreme Court defies my imagination. We need a Justice who is willing to look at the facts, and who is willing to make a decision based on those facts.

Any fair reading of the book "Breaking the Vicious Cycle" will reveal that he did not advocate a particular political philosophy and, more assuredly, that he did not advocate shortchanging environmental concerns. Instead, the book suggests that we ought to analyze everything and maximize the use of the resources that we have.

I find that willingness to look at facts and that willingness to maximize our resources as laudable, and an excellent contribution for the Court, not a disqualifying factor.

Last, Mr. President, let me comment on the concerns that some Members have raised regarding ethics. Some have looked at the Lloyd's of London investment and thought of it as being simply irreconcilable with proper service on the Court.

The committee did a very thorough job of examining this area. I think most Members would be interested to know that there was not a single, solitary case pointed out where Judge Breyer had ever exhibited a bias, much less had any direct interest. Second, I think Members were impressed with the almost unbelievably meticulous method that the judge followed to ensure not only that he had no interest in any case that came before him, but that there was no indirect, minor connection to any of his interests.

Thus, whether he was associated with a company or an entity or an individual that was affected by the direct rulings of the court or whether it was something that could be indirect, I think we came away with a feeling that he had been meticulous in trying to avoid any conflict.

Moreover, Mr. President, my assessment of Judge Breyer is that he possesses the kind of personal and individual integrity that indicates he will do all he can to be objective and avoid bias or conflict. After all, is that not what we are worried about? Not whether someone has made a good investment or bad investment, not whether he has an investment that is far-reaching in its potential liability, but whether or not Judge Breyer is the kind of person who would allow their personal investments to influence their decision making. The record is quite clear. Judge Breyer has not done that.

We have become so focused on the process, we have forgotten what ethics are all about. Ethics are about proper behavior. I think we would be remiss if we did not note that Judge Breyer has gone to extraordinary lengths to conduct his life in an ethical manner.

Mr. President, I am going to vote for soon-to-be Justice Stephen Breyer. I am going to vote for him not because I agree with him on all the issues, because I do not. I am going to vote for him because I am convinced he is a person of great ethical commitment, he is a person of remarkable and sparkling wit, he is a person of extraordinarily intellectual capability and, most important, I am going to vote for him because I believe he has the commitment to objective analysis that will lead him to objective, fair decisions about our Constitution.

As we search for people to serve on the highest court, that the quality of objectivity and independence is one that we ought to prize and it is one I believe Stephen Breyer possesses.

I yield the floor, Mr. President

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Mississippi.

Mr. LOTT. Mr. President, I yield myself 10 minutes of the time available on this side.

The PRESIDING OFFICER. Senator HATCH's time has expired.

Mr. LOTT. Mr. President, I ask unanimous consent that I be permitted to have 10 minutes from the remainder of time on the other side.

I am asking for unanimous consent that I have 10 minutes to speak on the nomination.

Mr. BIDEN. Mr. President, the distinguished Senator is welcome to have 10 minutes of our time.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Thank you very much. I appreciate the distinguished Senator from Delaware yielding me this time.

Mr. President, I feel very strongly that, in the case of nominations, the President of the United States should have the benefit of the doubt. And even though I have been the one who has had to do a lot of investigating in some of the nominations, I think the record will show that I have voted for most of them. And I believe it is correct when I say, in my years in the Senate, I know it is correct, I have never voted against a Supreme Court nominee and I do not think I have voted against any Federal court nominees; maybe just one, I have not checked the record.

But I do believe in giving the President the benefit of the doubt. I tried to do that in this instance. But these are super-important appointments when people are confirmed for life for the Supreme Court, and so I put an even higher emphasis on making my decisions on the Supreme Court nominees than I do on other administration appointments. I have done that in this case. I think the Judiciary Committee did a thorough job. I think there is no doubt that this judge, Stephen G. Breyer, is a good man, with outstanding credentials.

But for a number of reasons, which will I will try to outline briefly, I have come to the conclusion that I cannot support his confirmation to serve on the United States Supreme Court for the rest of his life and I will oppose that nomination.

Judge Breyer has certainly lived a laudable and I would say a charmed life. He graduated from Stanford University in 1959. He went onto a Marshall Scholarship at Oxford, England. After Oxford, he graduated from Harvard Law School in 1964. He spent almost all of his life in academia and Government. He has been a Supreme Court clerk, Senator KENNEDY's chief counsel for the Senate Judiciary Committee, and a U.S. Court of Appeals judge since 1981.

He is married to the former Ms. Joanna Freda Hare, daughter of Lord John Hare, Viscount of Blakenham. Judge Breyer's total net worth is about $6.5 million. He is an investor in the Lloyd's of London or, as they say, I believe, in England he is a "name" in Lloyd's of London.

That particular investment is a major concern to me, as I will point out in a moment.

I list this information because I believe if you look back over Judge Breyer''s record, I feel that he will have great difficulty in relating to the everyday life of Americans who are not millionaires, who do not have his background and who cannot afford to take time off to go bird-watching, one of Judge Breyer's favorite pastimes.

I fear Judge Breyer is a technocrat, who is more comfortable dealing with economic theories than with real people and their problems.

Judge Breyer has big problems. Judge Breyer's commitment to fundamental rights such as the right to property and religious freedom is dubious, as seen from his decisions and his comments at his confirmation hearing. Judge Breyer's commitment to parental consent for a minor's abortion—which the Supreme Court ruled constitutional in Webster—and his views on abortion in general are questionable. Also, Judge Breyer's investments in Lloyd's of London insurance syndicates raises conflicts-of-interest questions and the possibility of huge future losses. Lastly, Judge Breyer's involvement in the $47 million sinkhole called the Boston Federal Courthouse shows he is not a good steward of taxpayer funds.

Though I respect Judge Breyer and what he has achieved in his life, he is not the right man for the job of Associate Justice for the rest of his life. The law is more than balancing tests and economic theories. Law affects people and how they live. Law provides protection for people's rights.

Judge Breyer has shown he has little regard for common people. He seems to feel that the Government has the right to take private property on a whim and heavily interfere with religious expression.

In his comments to the Senate Judiciary Committee July 13, Judge Breyer seemed to disagree with the High Court on the status of property rights. In the recent Dolan case, the Court stated that the takings clause has the same status, weight and force as the first or fourth amendment. Simply, the right to property is as fundamental as the right to freely exercise religion or the right to be safe from illegal search and seizure.

Judge Breyer in his hearings seemed to disagree with this. On page 56 on the July 13 transcript, Judge Breyer states that the Constitution gives the Government more authority to regulate property than to regulate in other areas like free speech. Thus Judge Breyer believes, in contradiction to the Supreme Court, that property rights have a lower status and are less protected than speech rights or religious rights. This is against the view of the Court, and against the plain reading of the Constitution. Under Judge Breyer's formulation, Government should be able to, as it has done in the recent past, take private property. Americans everywhere should have shuddered when they heard Judge Breyer—he has little regard for the safety of private property.

Judge Breyer in his opinion *New Life Baptist Church Academy* v. *Town of East Longmeadow*, 885 F.2d 940 (1st Cir. 1989), turns Supreme Court precedents concerning religious freedom on their heads. Mr. President, I ask unanimous consent that a memorandum from the Judicial Selection Monitoring Project be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LOTT. The New Life Baptist Church Academy claimed that town regulations for teacher and curricula certification did not apply to religious schools. The Academy did offer to voluntarily submit information about its curriculum, students, teachers and activities. The academy under the Supreme Court acting at the time didn't even have to offer this.

Judge Breyer, writing for the U.S. Court of Appeals, approved of the town's regulations. Judge Breyer decided that the town's regulations were "valid by default," that presumes the Government is acting constitutionally unless the supposed aggrieved party can find some better, more constitutional alternative.

This turns what the Supreme Court had said up until that time on its head. Judge Breyer put the burden of proof not on the Government, where it belongs, but on the person or group whose rights were obviously violated.

The First amendment, Mr. President, was meant to protect citizens from Government infringement of certain inalienable rights. Judge Breyer decided to turn this around. Judge Breyer's view of the first amendment is a recipe from tyranny. Either he misread the Constitution, or he meant to twist the Constitution. Either way, it is disturbing.

On the abortion issue, Judge Breyer in Planned Parenthood League of Massachusetts versus Bellotti, 1989, dissented in a case that struck down a challenge to Massachusetts' parental consent law. Though Judge Breyer did not call for striking down the State law, his dissent, I think, shows that he is not in tune with the parents of this country, who overwhelmingly want to make such a tough decision with their children. In another case, Judge Breyer voted to overturn Bush administration regulations that barred workers in Federally-funded clinics from promoting abortion. Again, I think this shows a disregard for national opinion—most

Americans do not want the Government promoting abortion. Judge Breyer thinks otherwise.

Judge Breyer's investments in Lloyd's of London insurance syndicates raises serious questions about conflicts-of-interests, and Judge Breyer's future financial liabilities.

Mr. President, I ask unanimous consent that an article from the Washington Post, entitled "For High Court Nominee Breyer, an Injudicious Investment" by James K. Glassman be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. LOTT. The article talks about the fact that these investments have bankrupted many people over the years. The syndicate that Judge Breyer is involved in already has been forced to pay about $245 million in cash for asbestos and environmental pollution. The eventual liability could be in the billions of dollars.

Judge Breyer says that he has enough to cover further losses. The potential losses though, are not known—Judge Breyer could be facing bankruptcy within the next few years. As the article I just mentioned states so well, it would be an embarrassment for a Supreme Court Justice to go bankrupt because of financial liabilities. Judge Breyer says that he will be out of the syndicate "soon." How soon though? Probably not soon enough—maybe it is too late. Richard Rosenblatt, head of an association of American investors in Lloyd's, was quoted in the Washington Post saying that Judge Breyer is "'captured for life,' as is his estate after his death." We can't have an Associate Justice held hostage by future financial losses.

Another point to mention is that Judge Breyer wold probably have to recuse himself from the various Superfund and environmental cases that might come before the High Court. Judge Breyer has, unfortunately, not recused himself in the past from environmental cases, such as United States versus Ottati & Goss Inc., which dealt with penalties against polluters.

Lastly, Judge Breyer, who as Chief Judge of the First Circuit Court of Appeals, took part in the site selection, procurement, and planning of the new Boston Federal Courthouse. The courthouse has yet to be finished, but the General Services Administration has already spent $34 million on buying the site and $13 million for design. The current site for the courthouse was rated the least desirable, yet a panel chaired by Judge Breyer chose the site anyway. The design of the courthouse, which Judge Breyer actively took a part in, includes lavish design elements like a six-story atrium; 63 private bathrooms; 37 different law libraries; 33 private kitchens; $789,000 for original artwork; $450,000 for a boat dock, and $1.5 million for a floating marina.

And all this for one courthouse? Judge Breyer has not adequately explained why tax dollars should go to a dock and 63 private bathrooms for a courthouse. This disdain for accounting for taxpayer dollars, I think, shows that Judge Breyer does not care about the people who earn the tax dollars to pay for that lavish Boston spread.

These questions I have raised are troubling—they're troubling enough to disqualify Judge Breyer from sitting on the High Court. Because of these problems, I will vote against his confirmation.

EXHIBIT 1

JUDICIAL SELECTION
MONITORING PROJECT,
Washington DC, June 7, 1994.

NOMINATION MEMORANDUM

To: Interested Parties.

Re Judge Stephen Breyer on the free exercise of religion.

From: Thomas L. Jipping, M.A., J.D.

The opinion in *New Life Baptist Church Academy* v. *Town of East Longmeadow*, 885 F.2d 940 (1st Cir. 1989), written by Judge Stephen Breyer, President Clinton's choice to replace retiring Supreme Court Justice Harry Blackmun, reflects a disturbingly narrow view of the enumerated fundamental right to freely exercise religion. He created what might be called a "valid by default" standard that is both unprecedented and incorrect. It turns traditional Supreme Court free exercise jurisprudence on its head and gives the government wide latitude in infringing on this fundamental enumerated right. This decision was mentioned in our Nomination Memorandum of June 1, 1994, but deserves separate treatment here.

I. FACTS

Massachusetts law requires school attendance. For students to satisfy this requirement through attendance at a non-public school, a local school committee must approve non-public education "when satisfied that the instruction . . . equals . . . that in the public schools . . . but shall not withhold such approval on account of religious teaching." The Town of Longmeadow's school committee's approval process involves gathering written information about the school's pupils, texts, class schedules, and curricula; reviewing the academic credentials of teachers; and school visits "to observe the quality of the teaching."

Citing the First Amendment's free exercise clause,[1] New Life Baptist Church Academy objected both to the general requirement that a secular authority must approve a religious school and to the particular procedures used by the Longmeadow school committee.[2] The Academy offered to administer standardized pupil tests and voluntarily submit information about activities, curriculum, students, and teachers. The Academy was not legally required to propose an alternative approach; it may have been a sincere attempt to settle the controversy.

II. DECISION

The U.S. District Court "held the School Committee's proposed evaluation methods unconstitutional, as violating both the 'free exercise' and 'establishment' clauses of the First Amendment."[3]

The U.S. Court of Appeals, in an opinion written by Judge Breyer, first said that the government does have the power to enforce, "through appropriate means, a state law that requires 'approval' of the Academy's secular education program.'[4] Judge Breyer then reviewed and upheld the school committee's approval procedures. He did so, however, after creating an unprecedented and incorrect legal standard which gives short shrift to the fundamental enumerated right to freely exercise religion. The apparent explanation is that he did what was necessary to achieve his own preferred policy result rather than what the law required.

III. ANALYSIS

The First Amendment is directed at government. It assumes and protects individual liberty and puts the burden on the government affirmatively to justify its burden on enumerated freedoms. The Supreme Court's standard in free exercise cases reflects this set of priorities. The standard prevailing at the time of Judge Breyer's decision[5] was as follows:

"The state may justify an inroad on religious liberty by showing that it is the least restrictive means of achieving some compelling state interest."[6]

In this case, Judge Breyer ultimately applied a rule which turns this standard on its head. He started by outlining four questions which must be answered:

"Whether the Academy's religious beliefs are sincerely held."[7]

"Whether . . . the relevant regulation burdens the exercise of those beliefs."[8]

"Whether the regulation nonetheless serves a compelling, or overriding, governmental interest."[9]

"Whether the School Committee might nonetheless adequately serve that interest in a 'less restrictive,' *i.e.*, less burdensome, way."[10]

Judge Breyer cited the Supreme Court's landmark decision in *Wisconsin v. Yoder*[11] for the first three questions. They are unobjectionable and obviously reflected in the Supreme Court's *Thomas v. Review Board* standard quoted above.

The fourth question set up a false comparison between two choices—the government's approach and the Academy's alternative approach—which, in turn, created a false standard. This fourth question asks whether the school committee can serve its compelling interest in a "less restrictive" way. What other way could that be? The Supreme Court's *Thomas v. Review Board* standard would say any other way, since it required the government to show its action is the "least restrictive" way. Judge Breyer, however, looked only at one other way—the Academy's alternative—and insisted that this one alternative literally be "constitutionally mandated"[12] or the government's action is constitutionally valid by default.

This comparison between only two alternatives is obvious throughout Judge Breyer's opinion. He wrote of "our effort to determine whether [the school's alternative] is, constitutionally speaking, a 'less restrictive alternative'" than the government's approach.[13] He wrote that "the question remains whether or not [the school's alternative] is a 'less restrictive' way to achieve the state's legitimate, 'compelling' goals."[14] He put the ultimate legal question this way: "does the Free Exercise Clause forbid the School Committee to follow its proposed approval procedures rather than the [school's alternative]?"[15]

This is a false comparison. Judge Breyer's standard did not focus, as the Supreme Court

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Footnotes at end of article.

required, on the government's action to determine whether it was the "least restrictive means." Rather, his standard focused on the Academy's alternative to determine whether it was less restrictive (i.e., more constitutional) than the government's approach. He concluded that the government's approach did not violate the free exercise clause because the school's alternative was no less burdensome on religion.[16]

Put simply, even if the Academy's particular alternative approach—one which it did not need to present at all—were not less restrictive than the government's approach, it does not follow at all that the government's approach is the least restrictive means of achieving its end. Under the Supreme Court's clear precedents, this burden remains on the government whether the Academy has offered a more restrictive alternative or no alternative at all. The government must affirmatively justify its burden on the free exercise of religion.

Here, Judge Breyer created a "valid by default" standard that presumes the government's action is constitutional unless the individual whose right to freely exercise religion has been violated can offer an alternative that is more constitutional. This standard turns the Supreme Court's free exercise jurisprudence on its head and has no precedent or parallel. It is a prescription for wholesale violation of the right to freely exercise religion.

Neither of the Supreme Court decisions Judge Breyer cited as the source of his "less restrictive" fourth question uses those words. *Thomas v. Review Board*, as quoted above, requires that the government prove that its approach is the "least restrictive" means of achieving a compelling end. The other decision cited by Judge Breyer, *Sherbert v. Verner*,[17] makes the same point in different words: "[I]t would plainly be incumbent upon the [government] to demonstrate that no alternative forms of regulation would combat such abuses without infringing First Amendment rights."[18]

Judge Breyer went to unusual lengths to distinguish this case from what he called "the leading case in which the courts have upheld a 'free exercise' claim against a state effort to control secular education provided by a religious institution,"[19] *Wisconsin v. Yoder*.[20] Judge Breyer cited with approval the statement by the U.S. Court of Appeals for the Sixth Circuit that "'*Yoder* rested on such a singular set of facts that we do not believe it can be held to announce a general rule.'"[21]

This is a bizarre way to characterize a landmark Supreme Court decision. Judge Breyer himself cited *Yoder* at least nine times in his opinion and offered it as a foundation for three of the four parts of the legal standard he said applied to free exercise cases generally. It is strange, then, after citing that decision all along, for Judge Breyer suddenly to declare that "this case [is] quite unlike *Yoder*,"[22] As of June 3, 1994, *Yoder* had been cited 806 times in state court cases and 758 times in federal court cases, 43 of them by the court on which Judge Breyer currently sits.

IV. CONCLUSION

Judge Breyer's opinion in *New Life Baptist Church Academy* is judicial activism writ large. He misquoted a clear Supreme Court standard and eventually turned that standard on its head. His standard means that the government does not have to affirmatively justify its infringement on the free exercise of religion as "least restrictive" as the Supreme Court requires. Rather, the individual whose constitutional rights have been infringed must offer a more constitutional alternative. Otherwise, the government's action is constitutional by default, without the government ever having to meet the Supreme Court's standard of proving it is the least restrictive means of achieving a compelling government end. That approach turns the Constitution's priorities exactly backwards and puts Americans' first liberty largely at the mercy of the government.

FOOTNOTES

[1] The First Amendment to the U.S. Constitution states in part: "Congress shall make no law prohibiting the free exercise [of religion]." The Supreme Court has held this provision also applies to the states. See *Cantwell* v. *Connecticut*, 310 U.S. 296 (1940).

[2] *New Life Baptist Church Academy*, 885 F.2d at 941.

[3] *Id.*

[4] *Id.*

[5] In *Employment Division v. Smith*, 110 S. Ct. 1595 (1990), the Supreme Court dramatically changed the standard for justifying government infringement on the free exercise of religion from the "least restrictive means" of achieving a "compelling state interest" to a rational means of achieving a "legitimate" state interest. Congress enacted the Religious Freedom Restoration Act, which President signed into law in 1993, to restore the old standard.

[6] *Thomas v. Review Board*, 450 U.S. 707, 718 (1981).

[7] *New Life Baptist Church Academy*, 885 F.2d at 944. The court concluded: "We concede that the Academy has a sincere, relevant religious belief that it ought not participate in any such secular approval process." *Id.*

[8] *Id.* The court concluded: "We agree with the Academy that the very existence of a state approval requirement will burden the exercise of its religion." *Id.*

[9] *Id.* The court concluded that "the state's interest in making certain that its children receive an adequate secular education is 'compelling'." *Id.*

[10] *Id.*

[11] 406 U.S. 205 (1972).

[12] *New Life Baptist Church Academy*, 885 F.2d at 947.

[13] *Id.* at 946.

[14] *Id.*

[15] *Id.* at 944.

[16] *Id.* at 944.

[17] 374 U.S. 398 (1963).

[18] *Id.* at 407.

[19] *New Life Baptist Church Academy*, 885 F.2d at 951.

[20] 406 U.S. 205 (1972).

[21] *New Life Baptist Church Academy*, 885 F.2d at 951, quoting *Mozert v. Hawkins County Board of Education*, 827 F.2d 1058, 1067 (6th Cir. 1987).

[22] *Id.*

EXHIBIT 2

[From the Washington Post, July 20, 1994]

FOR HIGH COURT NOMINEE BREYER, AN INJUDICIOUS INVESTMENT

(By James K. Glassman)

Ten years ago, a lively young Southern heiress confided to me that she had found a sensational investment—Lloyd's of London. "They just send you checks," she explained. "You should get into it too."

She described how Lloyd's works: You join a syndicate that insures ships, planes or businesses. You don't have to put up any money, just present a fairly modest letter of credit from a bank. Than, after commissions and losses are deducted, you get the profits from the premiums. She made $35,000 her first year—an infinite return on an investment of zero!

And besides, a Lloyd's investor—called by the archaic term "Name"—joins a distinguished roster that includes Princesses Michael and Alexandra of Kent, golfer Tony Jacklin and former prime minister Edward Heath. It's just the ticket for Anglophile Americans.

There is, however, a catch. If things go sour, your liability is unlimited. "You go to London," said my friend, "and they bring you into this room and sit you down at a huge table, and this dude sitting across from you says, 'Do you realize you can lose everything you own?'

"They tell you this so many times you get sick of it. And then you sign the papers and go drink Bloody Mary's and have a big lunch."

What she was describing seemed to me, on reflection, to be the Worst Investment in the World—a form of Russian roulette in which some catastrophe you could not possibly foresee can take away your house, car, retirement funds and (as Lloyd's puts it) your "last shirt button."

To make matters worse, Lloyd's investors rarely have any idea what they're insuring; they are completely at the mercy of the underwriter who manages their particular syndicate.

At least four British investors, ruined by Lloyd's investments, have committed suicide in recent years. But the irony is that you can't even get out of Lloyd's by dying.

In "Ultimate Risk," a book about Lloyd's just published in Britain, the author described how Harold Weston, a 51-year-old solicitor, hanged himself in April 1993 after Lloyd's "asked for more and more money" to meet leases.

His wife, writes the author, "while trying to recover from the trauma of her husband's death, has had to meet his continuing Lloyd's losses."

By contrast, nearly every other investment in the world is structured to prevent this sort of personal, unlimited liability. For example, if you put $100,000 into a high-tech stock and it goes bankrupt, the most you can lose is $100,000. But a Lloyd's investor worth $6.5 million can lose all $6.5 million.

That figure is not snatched from the air. It is roughly the net worth of Judge Stephen Breyer and his blue-blood British wife, Joanna. Breyer's nomination to the Supreme Court was cleared by the Senate Judiciary Committee yesterday.

Breyer, a typical Lloyd's investor, earned an average of $50,000 a year from the British insurer from 1988 to 1991, according to his financial disclosure statements. Now, however, he faces losses because one syndicate he joined, called Merrett 418, is in deep, deep trouble.

Thanks to damage claims stemming from asbestos and environmental pollution, investors in Merrett 418 already have been forced to cough up about $245 million in cash. Chatset Ltd., an insurance consulting firm, estimates that final calls will be 3.5 to 4 times as much.

And that's just a guess. Actual liability could run into the billions. For example, Merrett 418's latest report admits, "We have not been able to assess with any accuracy the number of individuals injured [by asbestos], and the falling off in the number of new claims long predicated on logical grounds * * * has yet to occur."

What about Breyer himself? In a letter last December he said he had about $160,000 on deposit at Lloyd's, plus insurance coverage for nearly the same amount. Will that be enough? No one knows.

With so much at stake in his insurance investments, Breyer has been criticized by some scholars of legal ethics for not disqualifying himself from cases like United States v. Ottati & Goss Inc., which involved the government's power to impose liability on polluters.

But something about Breyer worries me more: How smart and judicious can someone really be if he invests in a mess like Merrett 418? Is he dumb, or merely oblivious? Or does he just love to gamble with his family's fortune?

Also, imagine the prospect of a Supreme Court justice facing bankruptcy because of Superfund and asbestos claims. Even if he recuses himself from such cases on the high court, he'll be embarrassing not only himself but the institution.

Breyer has been trying to extricate himself from Lloyd's since 1988, when he stopped investing in its syndicates. But he can't resign from Merrett 418. It's like the Cosa Nostra. They decide who leaves.

"I will be out of it as absolutely soon as I possibly can," Breyer told the Judiciary Committee last week. But the choice is not his anymore.

In September 1990, Seascope Special Risks Ltd. offered Breyer a deal: If he would pay the firm about $250,000, it would assume all his future liabilities in Merrett 418. But Breyer turned down the bargain, and it's unclear whether he'll ever be offered an escape like this one again.

"Apparently," Breyer said in a letter to his agent in London, "I am 'captured' for the rest of my life."

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I support the nomination of Judge Stephen Breyer to be an Associate Justice of the Supreme Court. During his recent confirmation hearings, I had the opportunity to question Judge Breyer on a range of subjects, and I was repeatedly impressed with the forthcoming nature in which he discussed a number of topics. His candor is something which has been notable absent from many of the recent confirmation hearings. While he did not compromise his ability to hear any cases which might come before the Court, he did offer substantial insight into his judicial philosophy and the constitutional principles that guide his decisions.

I believe that Judge Breyer will be a very positive addition to the Supreme Court. His career distinguishes him as a highly-qualified jurist, whose achievements reflect his commitment to excellence. As a lifelong public servant, he has shown himself to be dedicated to the law and the service of others. His work in all three branches of our Government gives Judge Breyer a unique and important perspective on our democracy—it is a perspective that I believe will serve him well on the High Court.

His understanding of the importance of legislative history will help to ensure that congressional intent, and not judicial fiat, is utilized in interpreting statutes. His tenure as a professor will allow him to craft and communicate opinions which can be understood by the people they truly affect, and not just the lawyers. His many years of the first circuit have allowed Judge Breyer to develop and refine his keen understanding of American jurisprudence. These factors, and many others, led President Clinton to nominate Stephen Breyer, and they combine again today to result in what I believe will be his conformation later today.

However, the responsibility awaiting Judge Breyer as a Supreme Court Justice is enormous.

It requires making difficult decisions that affect millions of people throughout this Nation. It requires dedication to upholding and preserving the fundamental rights which are granted to each of us by the Constitution of this country.

Throughout his confirmation hearing, Judge Breyer repeatedly stressed the importance of ensuring that the "promise of basic fairness" in the Constitution is upheld. While a technical grasp of the law is important, it is the dedication of each Justice to the principles of fairness which defines their tenure on the Court. I will vote for Judge Breyer.

Having said that, there have been questions raised. First of all, the courthouse. It is interesting that now that the money has been authorized and appropriated, and this body has voted on the money for that courthouse, that now, all of a sudden, it becomes Judge Breyer's courthouse.

The Judicial Conference has a committee that Judge Breyer sat on, and did chair, which recommended this particular location. It so happens that upon the request of the Appropriations Committee, it was pared back, not as much as perhaps today we think it should have been. But the fact is that Judge Breyer did not vote on how much money should be spent on that courthouse. We in this body did. Those that object now about the courthouse and criticize it, I wonder if they would go back and look and see how they voted. If they voted against that Treasury, postal and general government appropriations bill because of this courthouse, then I accept their criticism. Perhaps that is a disqualifier for Judge Breyer because those who elected to vote against that bill because of the courthouse could see that it cost too much. And if they could see that it cost too much, certainly Judge Breyer could see that it cost too much as well.

I must say, that does not make a lot of sense to me, but at least it would be a rationale for someone to come out here and say, because Judge Breyer was the judge who was sitting on the committee that requested, and ultimately received, money from the Congress of the United States to build a courthouse, that he is the one who spent the money. Of course, that is nonsense.

Now as to Judge Breyer's investments. When are we in this body going to realize that those of us who hold public office, whether it is in the judiciary branch, legislative branch, or the executive branch, are not perfect individuals?

When are we going stop requiring someone who is nominated to be a judge, whether it is in a district court, a circuit court, or the Supreme Court, to have no investments, to have never written anything controversial, to answer everything at their hearings, to disclose all their decisions regarding their investments over their whole life, and account for any of those investments that turn sour or are not so good today?

Judge Breyer made some very positive investments before he was on the court and during the time he was on the court. He recused himself from the cases that were clearly brought to his attention or that he saw might appear to have any improprieties or potential conflicts.

Yes, today we know that the insurance that he had an interest in—and this is an interest of one out of, I believe, over 4,000 individuals, so it is not like he is a major owner and controller of the insurance—happened to insure some high-risk properties and enterprises that later made a claim against the insurance and against this group of underinsurers or guarantors. And for that we are to say, "Well, judge, you cannot serve on the Supreme Court because you made an investment that it appears is going to lose money for you and maybe it will be very costly."

There are two schools of thought as to just how costly that investment might be if the ultimate happened and the maximum contribution had to be forthcoming by the individuals who were part of this syndicate. We do not know. One school says it takes everything, including your estate. Another says, no, there are limits to liabilities.

But the point is, here is a person who in good faith made an investment and had made similar investments, and repeatedly attempted to avoid any appearance of conflict. The New York Times criticizes Judge Breyer's investments. When is the New York Times all of a sudden the arbiter or should determine whether or not your economic interest is a conflict?

There is no proof whatsoever, not a scintilla of evidence, that indicates any conflict by Judge Breyer or that he benefited by the decisions that he made in certain cases. There is no information that he benefited from that.

In fact, it is clear that in the cases he did know about—and they dealt with asbestos—he recused himself. Had he known about the other cases, certainly he would have recused himself. Why would he not? Why would he say, "I am going recuse myself on the asbestos case because this syndicate I have"—which is a small part of his total investment portfolio—"may have some conflict here or some interest in it." Which he did and properly so. But then with other cases, the inference is that he knew that these cases, or should have known that these cases, dealing with the Superfund were also insured by this syndicate. There is no evidence that he knew that. Nobody has actually said he knew. All we have heard is that he should have known.

Nobody would think that a judge has to be without any investments, with no capabilities for economic support that might have come before he was a judge. What we want is judges to have some experience, to understand what the economic world is all about, and then to divest themselves or recuse themselves, as the case may be, when and if there is a case that involves this investment.

Judge Breyer, I think, did what was proper and prudent. He has demonstrated that he is sensitive to this. He has been a public servant. He is not afraid to admit that this was a bad investment. But he did not know, and as I indicated, there was no evidence whatsoever, no one has said that he knew and went ahead and acted on those cases. They only said, "Well, he should have known."

That is not enough, in my judgment, to criticize this fine jurist. To indicate that he is unqualified is to me unfair to the system of what we are about. That is ensuring fairness, in my opinion, to anybody who is promoted or nominated to an office of public trust.

But it is also unfair to Judge Breyer. He has been an exemplary jurist. He was an outstanding academician. He had high marks when he worked at the Justice Department, and many of us knew him here on the Judiciary Committee when he was the chief of staff.

So there is no good reason that I know of, common sense or otherwise, why this body should not overwhelmingly confirm Judge Steve Breyer, to be an Associate Justice of the Supreme Court.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Alabama is recognized.

Mr. HEFLIN. Mr. President, I rise today in support of the nomination of Judge Stephen G. Breyer to be an Associate Justice on the U.S. Supreme Court. This nomination comes to the floor of the Senate after 4 days of hearings and many hours of exhaustive research into the nominee's background. As a member of the Judiciary Committee, I have been involved in the nomination of seven, including Judge Breyer, of the nine sitting members of the present Court. Judge Breyer received a unanimous vote from the Judiciary Committee recommending his confirmation to the Supreme Court.

Judge Breyer has spent almost his entire professional career devoted to public service. He received his undergraduate degree from Stanford University, and his law degree from the Harvard Law School, after which he served as a law clerk to Justice Arthur Goldberg.

His public service continued over the years in several Federal positions, including the Antitrust Division of the Department of Justice. He served as chief counsel to the Senate Judiciary Committee and he was a charter member of the U.S. Sentencing Commission. Since 1970 he has served and continues to serve on the faculty of the Harvard Law School.

Stephen Breyer became Judge Breyer with his appointment to the First Circuit Court of Appeals in 1980. He has served for the past 14 years on that court and as its' chief judge since 1990. It is from his expansive opinions, numerous writings and personal actions, especially during his years on the bench, that I have been able to discern some insight about his judicial ability and character and his beliefs.

The clear and candid way in which Judge Breyer addressed his answers to questions propounded by members of the Judiciary Committee during 3 days of hearings proves to me what kind of judge he will be on the Court. I believe that he can be best described as a principled moderate.

A principled moderate is the type of individual which can be a consensus builder. Judge Breyer has proven his ability to build a consensus in the decisions rendered by the first circuit, as well as on difficult and controversial issues of a national scale, including airline deregulation and as a member of the U.S. Sentencing Commission. He was one of the architects of airline deregulation while working as chief counsel to the Senate Judiciary Committee. When he served as a member of the Sentencing Commission he helped forge key agreements that formed the sentencing guidelines. It is through consensus which Judge Breyer believes "helps produce the simplicity that will enable the law to be effective." I think that there is room on the Supreme Court for this type of a consensus builder.

Some have claimed that his opinions are dry and lack heartfelt feeling and that he is a technocrat. I believe that he addressed those critics when he stated the reason some may find his opinions dry, is because, "Law is a set of opinions and rules that lawyers have to understand, lower court judges have to understand, and eventually, labor unions, small businesses, and everyone else in the country has to understand how they are suppose to act or not act according to the law." Judge Breyer's view that judicial opinions should be written to be understood by all who may be affected by them is sound reasoning for what some may see as dry, emotionless legal writings.

During the course of the hearings an issue was raised by several of my colleagues, concerning Judge Breyer's views on the establishment clause of the first amendment and the interests of the state in making sure that children are receiving an adequate education in private or home schools.

Judge Breyer was directly asked about his ruling in New Life Baptist Church, a case in which he wrote the majority opinion while on the First Circuit Court of Appeals. In his response to Senators questions he voiced strong support for the rights of parents to educate their own children. He also stated that he firmly believed that the first amendment to the Constitution is designed to protect "what is so important to every American and every American family: the right to practice your own religion, the right to pass on your beliefs to your children." But he does believe there is a delicate balance the State must weigh in making sure that quality education is taking place in schools outside the public school system.

Critics and proponents of Judge Breyer have made an issue out of his pragmatic approach to cases and issues on which he has written. They say that during 3 days of hearings he reaffirmed his image as a pragmatist unlikely to embark on ideological crusades on the high court. If is a correct interpretation of Judge Breyer to refer to him as a pragmatic judge. He has been a judge who prefers, in some areas of the law, a pragmatic balancing test between competing rights rather than fixed legal formula or new interpretations of the law. Although this approach to legal decisions has earned him the sometimes description of "technocrat," I believe that it has enabled Judge Breyer to make determinations on difficult and technical legal questions, as shown in his response to a question regarding antitrust, "we tried to focus on where the ball really is—work our way through a very complicated area to see if antitrust law, technically would come to that result."

As we approach the next century more and more of the calendar of the Supreme Court will include issues in which Judge Breyer should find familiar ground. The environment, science, and administrative law will be among the most important legal issues in the near future.

His extensive legal writings and opinions regarding administrative law, I think, prove that he has the ability to understand and interpret administrative agency rules and regulations.

An issue was raised late in the confirmation process of Judge Breyer concerning his investments in Lloyds of London, and a possible conflict of interest he may had in hearing certain pollution related cases. As a former judge myself, the fact that he did not rescue himself from hearing these cases, which could have an impact, even though a remote one, on his investments concerned me. I directly questioned Judge Breyer on his investments and his knowledge of them. He responded to my questions stating, that he was personally confident that his sitting on those cases did not represent a conflict of interest and that he had incorporated from almost day one in his court a form of checks to assure himself that he was not hearing cases in which he may have an interest.

Lloyds of London, which has insured everything from oil tankers to Betty Grable's legs, is different from typical investments because the investor never knows exactly what his investments include, sort of like a mutual fund. In Judge Breyer's case he stated in testimony that he stopped hearing asbestos cases when he became aware, through news reports, that Lloyds had exposure in U.S. cases. He further stated, that he was not aware of the exposure in pollution related cases, but had disclosed his investments with Lloyds in his financial disclosure each year while serving on the First Circuit Court of Appeals.

After reviewing the pollution related cases in question, I agree with the conclusion which eminent scholars in the field of judicial ethics have made. They reviewed the cases in question and have held that the "participation of Judge Breyer in the cases did not entail a violation of judicial ethics. . . . None of the cases had a connection direct enough with Judge Breyer as to create a basis on which his impartiality reasonably might be questioned."

Mr. President, at this time I would like to call the attention of the Senate to letters, one from Geoffrey C. Hazard, Jr., of the law school at the University of Pennsylvania, and who is the Sterling professor of law emeritus at Yale University, who was consultant and draftsman for the American Bar Association Model Code of Judicial Conduct promulgated in 1972 on which the rules of ethics governing Federal judges is based.

I might say that I worked with Geoffrey Hazard at that time on judicial ethics. It was then a matter of working on the Supreme Court of Alabama, and my State was one of the first to adopt it.

Geoffrey Hazard has also been the reporter and draftsman of the American Bar Association Model Rules of Professional Conduct promulgated in 1983, and before that consultant to the project for the American Bar Association Model Code of Professional Responsibility.

He has authored many books on legal and judicial ethics, and is known throughout the legal profession as being the real authority on the issue of judicial ethics and professional conduct among lawyers.

He reviewed all of the facts in the cases herein. He came to the conclusion that his participation in a number of cases involving a CERCLA—which is commonly known as the Superfund statute—and that none of these cases involved Lloyd's as a party or by name in any respect. "None appeared to be involved issues that would have a material or predictable impact on general legal obligation under the Superfund legislation."

Then he also reviews and says:

Judge Breyer's participation in the foregoing cases did not entail a violation of judicial ethics. None of the cases involved Lloyd's as a party or as having an interest disclosed in the litigation. None would have had a material effect on Judge Breyer's financial interests. None had a connection direct enough with Judge Breyer to create a basis on which his impartiality might be questioned.

He mentions to the fact that Lloyd's of London's participation by a name, as they are referred to, is similar to an investment in a mutual fund. A mutual fund, of course, is one in which there are many investments made, and it is impossible for a person to keep up and know all of the investments because many of the investments change from day to day in a mutual fund.

He did raise the question that there was a possibility Judge Breyer might have been imprudent in connection with such an investment. But the possibility or cause of a possible appearance I think does is not raise a situation in which a judge of necessity has to recuse himself. He acts in regard to the matters as it would appear you will never know everything that would be involved really, such as with an insurance company. It would mean really that in effect you ought to have a canon of ethics that a judge ought not to invest in any insurance company. Well, many people inherited insurance stock. They invested in insurance stock at an early stage. They have tax problems dealing with that. But just because they have insurance does not mean that you are going to therefore bring about a question. If there is a named insurance company, then they certainly ought to recuse themselves in regard to that.

I ask unanimous consent that the letter of Geoffrey C. Hazard, Jr., dated July 11, 1994, to the Honorable Lloyd Cutler, special counsel to the President, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LAW SCHOOL,
UNIVERSITY OF PENNSYLVANIA,
Philadelphia, PA, July 11, 1994.

Re Judge Stephen Breyer.
Hon. LLOYD N. CUTLER,
Special Counsel to the President, White House, Washington, DC.

DEAR MR. CUTLER: You have asked for my opinion whether Judge Stephen Breyer committed a violation of judicial ethics in investing as a "Lloyd's Name" in insurance underwriting while being a federal judge. In my opinion there was no violation of judicial ethics. In my view it was possibly imprudent for a person who is a judge to have such an investment, because of the potential for possible conflict of interest and because of possible appearance of impropriety. However, in light of the facts no conflict of interest or appearance of conflict materialized. I understand that Judge Breyer has divested from the investment so far as now can be done and will completely terminate it when possible.

1. I am Trustee Professor of Law, University of Pennsylvania, and Sterling Professor of Law Emeritus, Yale University. I am also Director of the American Law Institute. I have been admitted to practice law since 1954 and am a member of the bar of Connecticut and California. I am engaged in an active consulting practice, primarily in the fields of legal and judicial ethics, and have given opinions both favorable and unfavorable to lawyers and judges. I was Consultant and draftsman for the American Bar Association Model Code of Judicial Conduct promulgated in 1972, on which the rules of ethics governing federal judges are based. I have also been Reporter and draftsman of the American Bar Association Model Rules of Professional Conduct, promulgated in 1983, and before that consultant to the project for the ABA Model Conduct of Professional Responsibility. I am author of several books and many articles on legal and judicial ethics and write a monthly column on the subject.

2. I am advised that Judge Breyer made an investment as a "Lloyd's Name" some time in 1978. He has since terminated that investment except for one underwriting, Merrett 418, that remains open. He intends to terminate that commitment as soon as legally permitted. I have further assumed the accuracy of the description of a Lloyd's Name investment set forth in the memorandum of July 3, 1994, by Godfrey Hodgson. My previous understanding of the operation of Lloyd's insurance, although less specific than set forth in the memorandum, corresponds to that description.

3. I have assumed the following additional facts:

(a) As a "Name" Judge Breyer Lloyd not have, and could not have had, knowledge of the particular coverages underwritten by the Merrett 418 syndicate. It would have been possible for a Name to discover through inquiry that environmental pollution as a category was one of the risks underwritten by the syndicate.

(b) Judge Breyer had "stop-loss" insurance against his exposure as a Name, up to $188,000 beyond an initial loss of 25,000 pounds. This is in substance reinsurance from a third source against the risk of actual liability.

(c) A reasonable estimate of the potential loss for Judge Breyer is approximately $114,000, well within the insurance coverage described above. However, there is a theoretical possibility that his losses could exceed that estimate.

(d) The Merrett 418 syndicate normally would have closed at the end of 1987. It remains open because of outstanding liabilities to the syndicate that were not later adopted by other syndicates. These outstanding liabilities include environmental pollution and asbestos liability.

4. I am advised that Judge Breyer as judge participated in a number of cases that one way or another involved the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the Superfund statute. None of these cases involved Lloyd's as a party or by name in any respect. None appear to have involved issues that would have material or predictable impact on general legal obligations under the Superfund legislation. Most of the cases are fact-specific and all involve secondary or procedural issues. I have assumed that the description of these cases in the attached list is fair and accurate.

5. In my opinion, Judge Breyer's participation in the foregoing cases did not entail a violation of judicial ethics. None of the cases involved Lloyd's as a party or as having an interest disclosed in the litigation. None

could have had a material effect on Judge Breyer's financial interests. None had a connection direct enough with Judge Breyer as to create a basis on which his impartiality might reasonably be questioned, as that term is used in Section 455 and in the Code of Judicial Ethics.

6. There is a close analogy between the kind of investment as a Name and an investment in a mutual fund. A mutual fund is an investment that holds the securities of operating business enterprises. Ownership in a mutual fund is specifically excluded as a basis for imputed bias under Section 455 and the Code of Judicial Ethics. This exclusion was provided deliberately, in order to permit judges to have investments that could avoid the inflation risk inherent in owning Government bonds and other fixed income securities but without entailing direct ownership in business enterprises. A Names investment is similarly an undertaking in a venture that in turn invests in the risks attending business enterprise. Just as ownership in a mutual fund is not ownership in the securities held by the fund, so, in my opinion, is investment as a Name not an assumption of direct involvement in the risks covered by the particular Lloyd's syndicate.

7. In my opinion it could be regarded as imprudent for a judge to invest as a Lloyd's Name, notwithstanding that no violation of judicial ethics is involved. The business of insurance is complex, sometimes controversial, and widely the subject of public concern and suspicion. The insurance industry is highly regulated and insurance company liability often entails issues of public importance. In my opinion it was therefore appropriate for Judge Breyer to have withdrawn from that kind of investment so far as he could legally do so, simply to avoid any question about the matter. That said, I see nothing in his conduct that involves ethical impropriety.

Very truly yours,

GEOFFREY C. HAZARD, Jr.

Mr. HEFLIN. Mr. President, I would also like to enter into the RECORD a letter from John P. Frank, who is an outstanding lawyer, who has been involved in the matter of the American Bar Association in rewriting its Cannons of Judicial Ethics. Mr. Frank, originally a law clerk to Justice Hugo Black, is an outstanding lawyer in Phoenix, AZ. And he has written in regard to this matter that in his opinion the activities that have been brought out and brought to light in regard to this constitute no violation of the Canons of Judicial Ethics. He clearly says that Judge Breyer properly did not disqualify himself in the pollution cases that came before him.

I ask unanimous consent that this letter from John Frank of the law firm of Lewis & Roca of Phoenix, AZ, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 12, 1994.

JUDGE STEPHEN G. BREYER DISQUALIFICATION MATTER

I. IDENTIFICATION—JOHN P. FRANK

Mr. Frank is a partner at the law firm of Lewis and Roca, Phoenix, Arizona, who has been heavily involved in disqualification matters over the decades. He is the author of the seminal article on that subject in the 1947 Yale Law Journal. He was subpoenaed by the Senate Judiciary Committee to testify as an expert on disqualification in connection with the nomination of Judge Haynsworth to the Supreme Court in 1969. In the aftermath of that episode, the Congress took to rewrite the Disqualification Act, creating the present statute, 28 U.S.C. §455. Simultaneously, a commission under the chairmanship of Chief Justice Roger Traynor of California for the American Bar Association was rewriting its canon of judicial ethics. Mr. Frank because, informally, Senate representative in negotiations with the ABA Traynor Commission to achieve both a canon and a new statute which would be nearly the same as possible. Senator Bayh and Mr. Frank appeared before the Traynor Commission, Mr. Frank worked out a mutually satisfactory canon/bill with Professor Wayne Thode of Utah, reporter for the Traynor Commission. The canon was then adopted by the Traynor Commission and essentially put into bill form by Senators Bayh and Hollings. Major witnesses for the bill on the Senate side were Senators Bayh and Hollings, and Mr. Frank. On the House side, Judge Traynor and Mr. Frank jointly lobbied the measure through. Mr. Frank is intimately acquainted with the legislative history and well acquainted with subsequent developments.

The foregoing outline is my final conclusion on this subject. I am aided not merely by numerous attorneys in my own office, but also by Gary Fontana, a leading California insurance law specialist of the firm of Thelan, Marrin, Johnson & Bridges of San Francisco.

II. ISSUE

In his capacity as an investor, Judge Stephen G. Breyer has been a "Name" on various Lloyds syndicates up to a maximum of 15 at any one time over an 11-year period from 1978 through 1988. This means, essentially, that he is one of a number of investors who have put their credit behind the syndicates to guarantee that claims arising under certain insurance policies directly written or reinsured by the syndicates are paid. If the premiums on the policies and the related investment income outrun the losses, expenses and reinsurance, there is payment to the Names. If there is a shortfall, the Names must make up the difference. For an extensive description of the Lloyds system, see "Guide to the London Insurance Market," BNA 1988, and particularly chapter 3 on underwriting syndicates and agencies. As the full text shows, this is a highly regulated enterprise, a matter of consequence in relation to views of Chief Justice Traynor expressed below.

The syndicates commonly reinsure North American companies against a vast number of hazards. Among these probably are certain hazards arising in connection with pollution which may relate to the "superfund," a financing mechanism of the United States for pollution clean-up. A question has been raised as to whether, in any of the various cases in which Judge Breyer has sat involving pollution, he may have been disqualified. The identical question could arise in connection with any number of other cases in which Judge Breyer has sat because the syndicates have infinitely more coverage than pollution. The selectivity of the current interest is probably due to nothing but the colorful nature of pollution or the failure of some inquiring reporter to see the problem whole.

A very significant factor is that the Lloyds syndicates are not merely insurers or re-insurers. They are also investment companies and much of their revenue comes from investments in securities.

III. ANSWER

Should Judge Breyer have disqualified in any pollution cases in which he participated because of his Name status?

Answer: No.

IV. DISQUALIFICATION STANDARDS AS APPLIED TO THIS SITUATION

A. Party Disqualification

Under the statute, if a judge has an interest in a party, no matter how small, he must disqualify. Knowledge is immaterial; a judge is expressly required to have such knowledge so that he can meet this responsibility. Since the statute, judges have had to narrow their portfolios; "I didn't know" is not even relevant.

We may put this strict criteria of disqualification aside because neither Lloyds nor any of the syndicates is a party to any of these cases. This of vital importance because this is the one strict liability disqualification criterion in this situation.

B. The Common Fund Exception

Congress in §455 did not mean to preclude judges from investing; this was fully recognized both in §455 and the canons; H.R. Rep. No. 1453, 93d Cong., 1st Sess. at 7 (Oct. 9, 1974). Judges have a range of income expectations and an investment is quite appropriate. Investment is restricted only where it would lead to needless perils of disqualification.

In that spirit, §455(d)(4)(i) recognizes that judges may invest in funds which are themselves investment funds and while the judge cannot sit in any case which involves the fund, he is exempted from a duty of disqualification in matters involving securities of the fund unless he participates in the management of the fund, Sen. Hrg. 1973 at 97, which Judge Breyer did not do. "Investments in such funds should be available to a judge," id. This section was intended to create "a way for judges to hold securities without needing to make fine calculations of the effect of a given suit on their wealth," New York Develop. Corp. v. Hart, 796 F.2d 976,980 (7th Cir. 1986). As Chief Justice Traynor said of this exception, it is "because of the impossibility of keeping track of the portfolio of such a fund," Sen. Hrg. 1973, House of Rep. Subcomm. Jud. Com. on S. 1064, May 24, 1974 (hearafter H.R. Hrg. 1974), p. 16.

The relevant section is as follows:

"(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;"

1. A large Lloyds syndicate is a "common investment fund." There is a definition in Reg. §230.132 of "common trust fund," which is a particular type of bank security specifically exempted from the Securities Act of 1933 pursuant to Section 3(a)(2). The only useful portion of that definition is "maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more [bank] members . . ." A "common enterprise" is one of the four elements of a "investment contract" as set forth in the Howey case:

"[A]n investment contract for purposes of the Securities Act means a contract, transaction or scheme whereby a person [1] invests his money, [2] in a common enterprise, and [3] is led to expect profits, [4] solely from the efforts of a promoter or third party . . . ."

SEC v. W.J. Howey Co., 328 U.S. 293, 298 (1946). The common enterprise requirement is usually satisfied by a number of investors who have a similar stake in the profitability of the venture.

2. While the precise form of common fund involved here was not contemplated in the statute, functionally a Lloyds investment is the same as any other common fund investment. It is an investment in a common fund in which the judge has no practical way of knowing on what he may make a return.

V. THE NON-PARTY EXCEPTION CRITERIA

Under §455(d)(4), "financial interest" covers "ownership of a legal or equitable interest, however small" and then moves on to an additional thing, "or a relationship as director, advisor, or other active participant in the affairs of a party." This, too, is under the "however small" criterion, Sen. Hrg. 1978 at 115. This disqualifies the judge if he is a creditor, debtor, or supplier of a party if he will be affected by the result; but his only applies to a party, id. 115. A different standard is applied under §455(d)(4)(iii) to any "proprietary interest" similar to mutual insurance or mutual savings. Here the disqualifying interest must be "substantial"; the "however small" standard is inapplicable. There is more latitude here than in the other relationships and these can be usefully described as the "non-party" involvement of the judge. I have elaborated on this topic in "Commentary" 1972 Utah Law Review §77, which has reflected the views of Professor Thode of the Utah Law School, reporter on the canon, and which is referenced in the legislative history of §455, Sen. Hrg. 1978 at 113.

This covers the relationship of the judge not in terms of his direct financial interest in a party (as to which his disqualification is absolute and unawareness is not relevant) but rather covers non-party interest. For classic illustration, if the home of a judge is in an irrigation district and if he is passing on the validity of the charter of the irrigation district itself, the answer to that question may affect the value of this home. As owner, he is not at all a party to the case and he has no financial interest in the irrigation company, but he is affected. The distinction in these non-party cases is that here the interest, instead of being measured by the "however small" criteria must be "substantial" and also in converse to the direct financial interest, must be knowing. Statement of Prof. E. Wayne Thode, Hearing, Subcomm. Sen. Jud. Com. on S. 1064, July 14 and May 17, 1973 (hereafter Sen. Hrg. 1978), pp. 95, 97, 108, and the illustration given is shareholder a domestic bank where decision concerning another bank will have "substantial in effect on the value of all banks." For a comprehensive discussion of the "direct and substantial" approach to nonparty interests, see Sollenbarger v. Mt. States Tel. & Tel. Co., 706 F. Supp. 780–81 (D.N.M. 1989).

If "a judge owns stock of a company in the same industry as one of the parties to the case," he is not "substantially affected" by the outcome and is not disqualified, as the Fifth Circuit held in In re Placid Oil Co., 802 F.2d 783 (5th Cir. 1986), reh'g den., 805 F.2d 1030 (5th Cir. 1986). The judge in Placid Oil owned stock in a bank and was not disqualified from hearing a case that could affect the banking industry.

In Chitimacha Tribe of Louisiana v. Harry L. Laws Co., 690 F.2d 1157, 1166 (5th Cir. 1982), cert. den., 464 U.S. 814 (1983), and Ogala Sioux Tribe v. Homestake Min. Co., 722 F.2d 1407, 1414 (8th Cir. 1983), cert. den., 455 U.S. 907 (1982) both judges' interests in land adjoining the land in litigation was held not to be a disqualifying interest. The parties seeking disqualification in both cases argued that all land within the territory would be directly affected by the outcome of the litigation, which was a title dispute. That argument was rejected in both cases because the disposition of the litigation would not affect the judges' title in any way.

A rare case involving insurance in a disqualification controversy is Weingart v. Allen & O'Hara, Inc., 654 F.2d 1096, 1107 (5th Cir. 1981). The judge in Weingart owned three life insurance policies, "representing mutual ownership" in a corporation which wholly owned the defendant corporations. Based in part on Advisory Committee Opinion No. 62, that a judge insured by a mutual insurance company is not disqualified to hear cases involving that company unless he was also a stockholder, the court held "the judge's mere ownership of three life insurance policies, representing mutual ownership, in the parent corporation of a party to the suit does not demonstrate that the outcome of the proceeding could have substantially affected the value of the ownership interest." Id. at 1107.

In Department of Energy v. Brimmer, 673 F.2d 1287 (Temp. Emerg. Ct. of Apps. 1982) the court held a judge hearing a case involving an Entitlement Program, who had stock ownership in other Entitlement Programs, was not disqualified. In reaching this conclusion the court used a two step analysis; 1) did the judge have a financial interest in the subject matter in controversy, and, if not, 2) did the judge have some other interest that could be substantially affected by the outcome of the litigation.

The court held the judge did not have a financial interest in the subject matter of the litigation, with a brief analysis:

"The use of the term 'subject matter' suggests that this provision of the statute will be most significant in in rem proceedings. See E. Wayne Thode, Reporters Notes to A.B.A. Code of Judicial Conduct, 66 (1973). We hold that the judge does not have a direct economic or financial interest in the outcome of the case, and thus could hear it without contravening the constitutional due process."

Here is where Judge Breyer drops completely out of the disqualification circle. In the financial relationship of any of his cases to the totality of his dividend potential, his Name is utterly trivial and, in any case, he not only does not know that a litigant is insured with the syndicates but, realistically, has no practical way of finding out. As the legislative history clearly shows, it is intended in these situations, generally speaking, that for a judge not to be kept currently informed is an affirmative virtue, or else the persons controlling the investments, as in a common fund situation, would have the power to disqualify a judge by making an investment and forcing the knowledge on the judge. This was deliberately considered in the legislative history as a hazard and was guarded against. An opinion, closely analogous, shared by several district judges, is whether Alaskan district judges must disqualify in cases claiming "amounts for the Alaska Permanent Fund, from which dividends can flow to, among others, district judges. Held, no disqualification; the amounts are too remote and speculative, Exxon Corp. v. Heinze, 792 F.Supp 77 (D. Ala. 1992). For perhaps the leading case that a judge should not disqualify for a contingent interest where he is not a party but, speculatively, might get a small dividend some day, see In re Va. Elec. Power Co., 539 F.2d 357 (4th Cir. 1976).

VI. APPEARANCE OF IMPROPRIETY

This leaves the generalized provision of §455(a) that a judge shall disqualify where "his impartiality might reasonably be questioned." This is commonly caught up in the phrase which has a long history, pre–§455 ABA and U.S. Supreme Court opinions. The amorphous quality of the phase makes it hard to deal with decisively. However, the phrase has gained technical meaning in both the legislative history and the cases; categorically it does not mean that pointing a finger and expressing dismay is enough. Moreover, when, as developed above, certain types of investment are expressly allowed under the statute, it will be difficult to make them "improper."

The 1974 Act eliminated the "duty to sit," permitting the judge to disqualify where his impartiality may reasonably be questioned. Both Justice Traynor and Mr. Frank advised the Senate committee that this disqualification was to be determined by "what the traditions and practice have been," Sen. Hrg. 1978 at 15. These do not authorize disqualification for "remote, contingent, or speculative interest," or "Indirect and attenuated interest"; In re Drexel Burnham Lambert Inc., 861 F.2d 1307, reh'g den, 869 F.2d 116, cert. den. 490 U.S. 1102 (1988); TV Communications Network, Inc. v. ESPN, Inc., 767 F. Supp. 1077 (D. Colo. 1991).

It is here that the common fund exception has great bearing by analogy. Such an investment involves the same factors which motivated the common fund exception. That is to say, the statutes mean to preserve the right of judges to invest and clearly except from the rigorous disqualification standards investments in common funds where the judge has no effective way of knowing precisely what interests may be within the scope of the investments. Functionally an investment in Lloyds is the same as an investment in any common fund with general holdings. In these circumstances, there cannot be an "appearance of impropriety" in an investment which is just the same, functionally, as those expressly protected.

VII. THE DISQUALIFICATION CLAIM, IF ACCEPTED, WOULD PRODUCE UNREASONABLE AND UNINTENDED RESULTS

As noted in the preliminary observations to this memorandum, the concern here is grossly excessive. The syndicates have a broad reach. The returns to the Names could be affected by numerous other matters beside pollution claims. For a comprehensive discussion of the proposition that there is no ground for disqualification because a case may affect general rules of law, see New York City Develop. Corp. v. Hart, 796 F.2d 976, 979 (7th Cir. 1986) ("Almost every judge will have some remote interest of this sort.")

Almost any case relating to the business community could relate to Lloyds in some remote way, and any number of cases can relate to other reaches of the business community. Even the criminal cases, in at least some instances, can have significant business fallout, as for example, the RICO cases. To say that Judge Breyer should have recused himself from all pollution cases would logically be to say that judges should not invest in a business generally.

I reiterate that neither the canon nor §455 meant to preclude investment by judges. The focus on the pollution cases is excessively sharp because, if there were disqualification here, there would necessarily be disqualification as to too many other aspects of investment. This would defeat the purpose of the canons and the statute.

VIII. CONCLUSION

Judge Breyer properly did not disqualify in the pollution cases which came before him.

JOHN P. FRANK.

Mr. HEFLIN. Mr. President, I also ask unanimous consent that a letter signed by Thomas W. Brunner and Susan D. Sawtelle of the law firm of Wiley, Rein & Fielding in Washington, DC, in which they have written pertaining to pollution cases be printed in the RECORD. They come to the conclusion that a higher review makes clear that no case in which Judge Breyer participated had any substantial or predictable effect on his interest as an investor in Lloyd's of London or the financial position of the insurers generally.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILEY, REIN & FIELDING,
Washington, DC, July 11, 1994.

LLOYD CUTLER,
Counsel to the President, White House Counsel's Office, Washington, DC.

DEAR MR. CUTLER: You have asked us to evaluate whether any case decided by Judge Stephen Breyer under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9601 *et seq.*, could have substantially affected the financial interests of insurers. We represent insurers extensively in connection with insurance coverage matters arising under CERCLA. In addition to representing individual insurers, we and our colleagues represent the Insurance Environmental Litigation Association ("IELA"), a trade group of 21 large property/casualty insurers that appears as amicus curiae in numerous environmental coverage cases at the appellate level. Mr. Brunner has over a decade of direct experience in representing the interests of insurers in disputes arising under CERCLA. Ms. Sawtelle, in addition to representing insurers, has an extensive background in CERCLA and environmental matters generally, having served as an EPA official (as Special Assistant to the Director, Office of Solid Waste, from 1985 to 1987) with responsibility in this area, and having represented numerous potentially responsible parties ("PRPs") in private practice since 1981. As a consequence, we are able to provide you with a realistic appraisal of the significance of CERCLA cases for insurers generally and Lloyds of London syndicates specifically, based on a great deal of experience evaluating CERCLA matters for insurers and others.

We have reviewed all eight cases in which Judge Breyer has passed on CERCLA issues. In our opinion, none of these cases had a material or predictable financial impact on insurers generally or on Lloyds syndicates in particular. Any consequences for insurers were highly speculative and dependent on many independent intervening factors. Any conceivable impact on the financial interests of insurers from these cases resulted only from the court assuring that PRPs received proper procedural protections, or that the statute's provisions were applied properly, before parties were held liable for costs that might possibly be determined to be insured by some insurer. None of the cases determined the obligation of any insurer nor of any PRP for which an insurer might be liable. In real world terms, Judge Breyer's financial interest in these cases as a result of his status as a Lloyd's investor was probably more attenuated than his interest as a federal taxpayer in numerous cases involving financial claims against the Federal Government. In both circumstances, the interest is so diluted, so contingent and so indirect as to be of no consequence.

Of the eight CERCLA cases on which Judge Breyer has sat, four did not involve even potentially insurable interests of PRPs. *Maine* v. *Department of the Navy*, 973 F.2d 1007 (1st Cir. 1992), involved a claim for civil penalties sought by Maine against the (uninsured) Federal Government. Similarly, *Reardon* v. *United States*, 947 F.2d 1509 (1st Cir. 1991) (*en banc*), involved the constitutionality of CERCLA's procedures of this provision—which exempts from the class of liable "owners or operators" those who, without participating in the management of a contaminated facility, hold indicia of ownership primarily to protect a security interest—applied to a particular sale-and-leaseback arrangement. The court's opinion, which was consistent with a number of other courts' rulings, was highly fact-specific and thus not likely to have a material or predictable impact on the insurance industry. Moreover, this dispute involved private parties only, each of whom is no more likely than the other to have insurance.

Finally, in *Dedham Water Co.* v. *Cumberland Farms Dairy, Inc.*, 889 F.2d 1146 (1st Cir. 1989), Judge Breyer joined in the court's unanimous decision that CERCLA liability arises when the release of hazardous substances from the defendant's facility cause the plaintiff to incur response costs, rather than when the releases cause contamination on the plaintiff's property. This case did not present an issue that would have a material impact on the insurance industry's CERCLA obligations because in a wholly private dispute such as this, either or both sides might have insurance. (In a subsequent opinion in the *Dedham* case, Judge Breyer dissented from the majority regarding whether a new trial was required; this opinion was unrelated to the provisions of CERCLA. *See in re Dedham Water Co.*, 901 F.2d 3 (1st Cir. 1990).)

In sum, then, our review makes clear that no case in which judge Breyer participated had any substantial or predictable effect on his interest as an investor in Lloyd's of London or on the financial position of insurers generally.

Sincerely,

THOMAS W. BRUNNER.
SUSAN D. SAWTELLE.

Mr. HEFLIN. Mr. President, I commend President Clinton on his excellent selection of Judge Stephen G. Breyer as his nominee. I will support Judge Breyer with my vote for his confirmation to serve as an Associate Justice on the U.S. Supreme Court. I believe that he will be a voice of moderation guided by principles and will work unfailing to preserve the Constitution in a manner which will guarantee that the laws of this land are interpreted in a faithful and fair manner for all citizens.

I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. SIMPSON].

Mr. SIMPSON. Mr. President, what is the status of time?

The PRESIDING OFFICER. The Senator from Delaware controls the remaining time.

Mr. SIMPSON. How much time is remaining?

The PRESIDING OFFICER. Forty-three minutes and two seconds.

Mr. BIDEN. Mr. President, I am delighted to yield as much time as the Senator wants.

Mr. SIMPSON. Mr. President, that is the most generous offer I have had yet from the chairman of the Judiciary Committee. Five minutes would be adequate.

Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SIMPSON. I thank my friend from Delaware.

He and I have just finished a vigorous conference on the crime bill, were released from bondage at 2:45 in the morning, and repaired to our chambers, rose again from the dead, and reported it at 7:30 a.m. in the morning. We did not complete our work exactly with bankers hours. Pardon the expression. That is not politically correct either.

Mr. President, I rise in support of the nomination of Stephen Breyer to be an Associate Justice of the Supreme Court.

Justice Breyer's educational accomplishments are very evident to us all. He has had varied experience in the executive branch, 14 years experience on the circuit court of appeals, but he has also served in the legislative branch. Several of us knew him very well, and worked with him as chief counsel of the Senate Judiciary Committee. He was exceedingly able. I had the personal ability to perceive and observe his work when I was a freshman member of the Judiciary Committee. In that position as chief counsel, he clearly demonstrated a very special ability to work with Members of both parties, and in particular to bring people of differing views together to resolve difficult issues. Mr. President, those are the attributes of a skilled Justice. Judge Breyer clearly is so very well qualified for the Supreme Court, and I am very pleased to support the nomination.

Some Senators have expressed certain reservations regarding Judge Bryer's investments in the Lloyd's of London syndicate. I have expressed a view that Judge Breyer should have recused himself from all cases before his court involving environmental issues in which insurance possibly could have been involved. The Judiciary Committee, during the 3 days of testimony by Judge Breyer, questioned him fully, closely, and completely about the Lloyd's of London matter in both the public and in the closed session.

Ethics experts were consulted as well. Based on Judge Breyer's responses and the views of experts, I am well satisfied that Judge Breyer acted ethically and appropriately, and I believe he will act in a similar fashion on the Supreme Court.

One other issue of concern to the committee, and a number of my constituents, is Judge Breyer's position on home schooling and church-operated private schools. I discussed his views on this important right of parents to decide exactly how their children will be educated on four separate occasions—on two different days at the public hearing, in a private meeting in my office, and an executive session the committee held with the nominee.

Those discussions with Judge Breyer convinced me that he is not in any way a foe of home schooling or private religious schools, but rather that he clearly understands that the Constitution protects the right of parents, not only to pass their religious beliefs on to their children, but also to determine how they will educate them—at home, at a private school, or in the public schools.

I think, too, that the President made a fine selection, a fine nominee, and I believe Stephen Breyer will be a fine successor to Justice Blackmun, a splendid gentleman who has served with great distinction on the Court, and who I have come to admire greatly. He will be a superb addition to the High Court.

I thank the Chair and yield the floor.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, I believe we are coming to the conclusion of what I think has been an excellent debate and discussion and presentation by a number of our colleagues that have been on the Judiciary Committee and have paid attention to the considerations of the Judiciary Committee. I am enormously grateful to all of them. I know that Judge Breyer is, as well, for the courtesies and for the way that the hearings were held.

Once again, I pay tribute to the chairman of the Judiciary Committee, Senator BIDEN, and Senator HATCH, as well, and the staffs, for the way the hearings were scheduled, the preparation that was made available to the members of the committee and to the Senate, the way the hearings were conducted, and the range of witnesses that were heard. I think it was a real service to the institution and a service to the country, as well. I think all of us are grateful to them for bringing us to where we are this afternoon.

I know that a few Senators—very few, I believe—have expressed some concern about Judge Breyer's judicial philosophy and about his investment in Lloyd's of London, and certain other issues. The Judiciary Committee hearings analyzed all of these issues thoroughly. Judge Breyer was extremely forthcoming in his responses, and I believe he has passed every test with flying colors.

After hearing his responses, all members of the committee voted for the confirmation. The vote by the full Senate will not be quite as unanimous, but I believe it should be, and I suspect it would be if all 100 Senators had the opportunity to participate in our Judiciary Committee hearings and discuss their concerns with Judge Breyer himself.

I, again, commend President Clinton for a truly outstanding nomination. President Clinton is an outstanding lawyer himself, and he knows excellence when he sees it. Judge Breyer is the epitome of excellence in the law, and he eminently deserves the high position.

It is said that it is our laws of wise restraints that make us free. Judge Breyer has the wisdom, experience, ability and integrity to apply the Constitution and the laws of the United States fairly for the benefit of all Americans. Stephen Breyer will make an outstanding Justice of the United States Supreme Court. Future Senates will be proud of him, and so will the country.

I urge the Senate to confirm him.

Mr. HATCH. Mr. President, just one last sentence about this candidate. We know him. He is a man of integrity and a man of exceptional legal ability. He is a person who understands the role of the courts and our constitutional process. He is a student of constitutional law and, frankly, he is a good choice.

I compliment the President for choosing him. I believe we are ready to go to a vote. We are only waiting for the majority leader to make his concluding remarks.

Mr. BIDEN. Mr. President, I yield myself 60 seconds to speak to one issue—the issue of whether or not we, the committee, the majority and minority, thoroughly looked at the potential conflict-of-interest question raised here.

I ask unanimous consent that I may have printed in the RECORD a chronology of what the committee staff and the committee did relative to that issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LLOYD'S OF LONDON INVESTMENT—THOROUGHNESS OF COMMITTEE QUESTIONING

(By Senator Joseph R. Biden, Jr.)

During the Judiciary Committee's hearing on the nomination of Judge Stephen Breyer on July 12, 13, and 14, members of the committee asked Judge Breyer dozens of questions about his investment in Lloyd's of London. He was asked extensively about the cases that he participated in involving Superfund and environmental pollution issues as well as the procedures that he used to screen out potential conflicts of interest. Of course, that testimony has been made available to all Senators.

Moreover, prior to Judge Breyer's hearing, every member of the committee was provided with hundreds of documents relevant to the Lloyd's investment. Again, all of those documents have been made available to all Members of the Senate.

Judge Breyer's testimony about this investment in Lloyd's and his standards for recusal was thoughtful and forthright. In my view, Judge Breyer was candid with the committee about the details of the investment and his approach to the issue of recusal.

With respect to the recusal issue, in particular, the committee received assessments of Judge Breyer's actions from several well known and respected legal and judicial ethics experts and practitioners, including University of Pennsylvania Law School, Geoffrey Hazard, Jr., New York University Law School Professor Stephen Gillers, and John Frank of Lewis & Roca. Each of them has concluded that Judge Breyer's actions fully complied with current applicable recusal standards. I enclose those letters for the RECORD.

In addition, Thomas Brunner and Susan Sawtelle of Wiley, Rein & Feilding have expressed the opinion that no case in which Judge Breyer participated had any substantial or predictable effect on his interest as an investor in Lloyd's or on the financial position of insurers generally.

While one individual, Monroe Freedman, a Hofstra law professor, was critical of Judge Breyer, the others stated clearly that Judge Breyer had done nothing unethical.

After unlimited questioning and careful consideration of all relevant information by each member of the committee, Judge Breyer was unanimously reported favorably to the Senate on July 19, 1994. Committee members were satisfied that Judge Breyer has acted ethically and has fully complied with the current applicable ethical standards.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, July 8, 1994.

LLOYD CUTLER,
Counsel to the President, White House Counsel's Office, Washington, DC.

DEAR MR. CUTLER: You have asked me to answer the following question: Did Judge Stephen Breyer violate section 455 of title 28 of the United States Code ("§455") by sitting on eight cases involving CERCLA when he was a "name" in a Lloyd's of London syndicate that insured against environmental pollution among other risks?

I have been asked to assume (a) that Judge Breyer did not know and could not have known the identities of the syndicate's insureds or the terms of their policies; (b) that Judge Breyer did know or could have known that environmental pollution was one of the risks against which the syndicate insured; and (c) that Judge Breyer was exposed to a possible loss of 25,000 pounds, had insurance against additional loss of up $188,000, and that reasonable estimates are that his actual loss will not exceed the insurance coverage though they could.

In answering your question, I am going to disregard the assumption in (c) and assume instead that at the time Judge Breyer sat on the eight CERCLA cases he had at least 25,000 of financial exposure and possibly more.

I have reviewed the eight CERCLA cases. In my opinion, Judge Breyer did not violate §455.

A judge may not sit in a case in which the judge or certain family members have a "financial interest, however small" in a "party" or in the "subject matter in controversy." §455(b)(4), (d)(4). Judge Breyer had no financial interest in the parties to the CERCLA case nor in their subject matter. An example of the latter would be a judge's stock ownership in a company that, though not a party to a proceeding, was the subject of control between the actual parties.

Where the judge has an interest other than a "financial interest" in a party or in the subject matter in controversy, different rules apply. The judge is not then disqualified "however small" his or her interest. The size of the judge's "other interest" then matters: It must be "substantia[l]." §455(b)(4).

This difference recognizes two truths: The public is less likely to suspect a judge's impartiality when the judge's interest is other than in a party or the subject matter in controversy; and if any "other interest," even insubstantial ones, could disqualify judges, the scope of disqualification would be too broad with no public gain. "[W]hen an interest is not direct, but is remote, contingent, or speculative, it is not the kind of interest which reasonably brings into question a judge's impartiality." *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, 1313 (2d Cir. 1988) (construing §455(a), discussed below).

Section 455(b)(4) and (b)(5)(iii) recognize the different policies when a judge's interest is not in a "party" or in the "subject matter in controversy." These provisions require recusal only when the judge (or certain family members) have "any other interest that could be substantially affected by the outcome of the proceeding." §455(b)(4).

This different standard has two distinguishing elements. First, the effect on the judge's interest must be substantial. Second, the world "could" has been repeatedly construed to require that the effect of "the outcome of the proceeding" on the judge's interest must be not be "indirect" or "speculative." *In re Placid Oil Co.*, 802 F.2d 783, 786–77 (5th Cir. 1986). Construing §455(b)(4) in *Placid Oil*, the Court wrote: "A remote, contingent, and speculative interest is not a financial interest within the meaning of the recusal statute . . . nor does it create a situation in which a judge's impartiality might reasonably be questioned." Id. at 787.

The Court's last reference, to "impartiality," brings us to §455(a), which requires recusal when a judge's "impartiality might reasonably be questioned." While §455(a) and §455(b) overlap, they are are congruent. *Liteky v. United States*, 114 S.Ct. 1147 (1994). Nevertheless, here, I reach the same conclusion under both provisions.

Placid Oil is an instructive case. It was brought against 23 banks, seeking recision of credit agreements and other relief "based on a number of alleged wrongful acts of the Banks." Id. at 786. Plaintiffs sought recusal of the district judge, who was alleged to have "a large investment in a Texas bank that may be affected by rulings in this case." Plaintiffs argued that "any rulings adverse to the Banks will have a dramatic impact on the entire banking industry and thus on [the judge's] investment as well," thereby giving the judge a "financial interest in the litigation." Id. The Circuit rejected the recusal effort: We find no basis here for requiring recusal. We are unwilling to adopt a rule requiring recusal in every case in which a judge owns stock of a company in the same industry as one of the parties to the case. * * * Id. This position was followed in *Gas Utilities Co. of Alabama, Inc.*, v. *Southern Natural Gas Co.*, 996 F.2d 282 (11th Cir. 1993), *Cert. denied*, 114 S.Ct. 687 (1994).

I see no evidence that the decisions in Judge Breyer's CERCLA cases "could" have a direct and substantial effect on his interest in a syndicate that has insured against the risk of liability for environmental pollution. Without parsing every case here, I found their holdings to be relatively narrow, some quite limited. For most of the cases, it would be impossible to say how the holding could affect Judge Breyer's own interests or those of the syndicate in which he invested. For all of the cases, the Judge's interest is "not direct, but is remote, contingent, or speculative." *In re Drexel Burnham Lambert*, supra at 1313.

Given the twin requirements of substantiality and the caselaw definition of "could" as used in §455(b), Judge Breyer did not have to recuse himself in the eight CERCLA cases. He did not violate §455.

Sincerely yours,

STEPHEN GILLERS.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, July 15, 1994.

Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BIDEN: The White House Counsel's Office has given me a copy of Professor Monroe Freedman's letter to you of July 13, 1994, and asked me to reply to it. Since the letter takes issue with my July 8, 1994 letter to the White House Counsel, I appreciate having this opportunity to do so. The issue, of course, is whether Chief Judge Stephen Breyer violated 28 U.S.C. §455 when he sat in certain pollution cases while he was also a "Name" in a Lloyd's syndicate. I will assume general familiarity with the facts and the prior correspondence.

Professor Freedman is in my opinion in error when he charges Judge Breyer with illegal conduct. Professor Freedman has misconstrued the governing rules and ignored governing precedent. I shall explain how presently. First, though, the Committee should be aware of a critical doctrine that has not yet been identified.

Section 455, which derives from the 1972 ABA Code of Judicial Conduct, states the Congressional rules for recusal of a federal judicial officer. The section has two kinds of rules: categorical rules and standards. The categorical rules require no judgment. They either apply or they do not. The standards, by contrast, require judgment.

An example of a categorical rule is §455(b)(5)(i), which would require a judge to step aside if the judge's "spouse, or a person within the third degree of relationship to either of them *** Is a party to the proceeding ***." This circumstance either exists or it does not. If it does, recusal is required.

The two provisions of §455 that have been cited in connection with Judge Breyer (until Professor Freedman injected a third, discussed below) contain standards, not categorical rules. The first standard is that part of §455(b)(4) that required recusal if the judge (as an individual or fiduciary) or certain relatives of the judge have "any other interest that could be substantially affected by the outcome of the proceeding." The second standard is §455(a), which requires recusal if the judge's "impartiality might reasonably be questioned."

As should be clear, these two standards require a judge to interpret imprecise words like "could," "substantially affected," "might" and "reasonably." The meaning of these words (and the standards that contain them) are, of course, clarified as cases construe them, but they have never, and were not intended to, become fixed categories.

When we deal with standards, we deal with a continuum. In some matters, it will be self-evident that a judge's "impartiality might reasonably be questioned" or that a proceeding's "outcome" could "substantially" affect a judge's interests. In other matters, the opposite will be clear. But in many cases, different judges will apply the standards differently.

That doesn't mean that one judge is right and the other judge wrong. It means only that as with all flexible standards there will be room for disagreement. The way that the judicial system accommodates this reality is pertinent to the questions before the Judiciary Committee.

Appellate courts routinely defer to a judge's decision regarding application of a standard by upholding the decision unless it was an "abuse of discretion." *Town of Norfolk versus U.S. Army Corps of Engineers*, 968 F.2d 1438, 1460 (1st Cir. 1992); *Pope versus Federal Express Corp.*, 974 F.2d 982, 985 (8th Cir. 1992). This test recognizes that there is significant room for disagreement is the application of standard. Reasonable minds may differ and neither will be wrong.

While Professor Freedman holds that Judge Breyer should have recused himself in certain of his pollution cases, I and others who study the law of judicial disqualification have reached an opposite conclusion. That difference of opinion is rather strong evidence that the situation confronting Judge Breyer did not self-evidently require his recusal, but were instead situations in which reasonable minds might differ on the application of the standard. Judge's Breyer's conduct was not, therefore, an abuse of discretion and Judge Breyer did not violate §455 notwithstanding that another judge might have elected differently.

Not only do I believe that Judge Breyer's decision to sit in the pollution cases was reasonable, I believe it was right. In the balance of this letter, I will explain why §455 did not disqualify Judge Breyer and where I think Professor Freedman goes wrong.

I have already quoted from §455(b)(4). A judge must not sit if the judge (including certain relatives) has "any other interest that could be substantially affected by the outcome of the proceeding." The words "any other interest" are to be distinguished from a separate basis for recusal if a judge has a "financial interest in the subject matter of the proceeding or in a party to the proceeding." Such a "financial interest" requires recusal "however small." Section 455(d)(4).

No one has suggested that Judge Breyer had a "financial interest" in a party to proceedings before him. Professor Freedman has rhetorically asked, however, whether Judge Breyer had a "financial interest" in the "subject matter" of proceedings before him. (Freedman letter at p. 8.) This suggestion is wrong, as I shall discuss below.

In order to trigger §455(b)(4)'s reference to "any other interest," several facts must be true (and the judge's failure to recognize their truth must be an abuse of discretion). These facts are that the (i) the judge has an "other interest" that (ii) "could be" (iii) "substantially affected" by (iv) "the outcome of the proceeding."

Judge Breyer had an investment in Lloyd's I assumed in my letter to Mr. Cutler that he had unlimited financial exposure on that investment. That satisfies factor (i), However, it does not satisfy factor (iii), even though I am assuming that Judge Breyer's financial exposure is unlimited.

The word "substantially" refers to the effect on the "interest" that the "outcome of the proceeding" "could" have. Professor Thode, the Reporter for the ABA Judicial Conduct Code from which this part of §455(b)(4) was drawn, has written: "Here the issue is not whether a judge has a 'substantial interest,' but whether the interest he has could be substantially affected by a decision in the proceeding before him." E. Thode, *Reporter's Notes to Code of Judicial Conduct* 66 (1973) (hereafter "Thode").

In measuring the possible effect of the "outcome of the proceeding" on the judge's interest, we must construe the word "could." As stated, "could" is not a precise word. "Could" could mean "could conceivably" or it could require a closer nexus between the outcome of the proceeding and the effect on the judge's interest. The courts have construed "could" to require a closer nexus.

My letter to Mr. Cutler cites two cases that require a "direct" connection between the outcome of a proceeding and the judge's interest. By contrast, a "remote, contingent, and speculative interest," will not suffice. *In re Placid Oil Co.*, 802 F.2d 783, 783–77 (5th Cir. 1986); *Gas Utilities Co. of Alabama, Inc,* v. Southern Natural Gas Co., 996 F.2d 282 (11th Cir. 1993), *cert. denied.* 114 S.Ct. 687 (1994).

While Professor Freedman suggests (p. 9) that *Placid Oil* is "obsolete," because of the Supreme Court's decision in *Liljeberg* v. Health Services Acquisition Corp., 486 U.S. 847 (1988), two years later, this is wrong. First, the Eleventh Circuit cited *Placid Oil* in 1993 for the very point made here. Other courts have cited it, too, after *Liljeberg*. See, e.g., *McCann* v. Communications Design Corp., 775 F. Supp. 1535 (D. Conn. 1991).

Second, the facts of *Liljeberg* are dramatically different from those in *Placid Oil*. In *Liljeberg*, a university with which the judge had a fiduciary relationship would (as a result of contractual obligations and real estate values) gain millions of dollars if the judge awarded the rights to a certificate of need for a hospital to the defendant. That gave the judge, as fiduciary, an interest "however small" in the subject of the litigation (the certificate) and also an interest that could be substantially affected by the outcome of the proceeding. The facts of LILJEBERG show a "direct" effect on the judge's interest as a fiduciary, and of course the effect was substantial.

Permit me to make this clearer with an example. Assume that the outcome of a case will nearly certainly cause a $100 decline in the value of the judge's stock interest. The effect, then, is "direct," but the judge's financial interest is not "substantially affected" because the amount is too small. Now assume an omniscient observer could tell us that the outcome of a proceeding will have 1/1000th of a chance of causing the judge's stock interest to decline by $100,000. There, the effect is substantial but it is not "direct."

Professor Freedman cites two cases in which he concludes Judge Breyer should not have participated. Did the Judge abuse his discretion by concluding that the decisions in these cases could not have a direct and substantial affect on his financial interest in Lloyd's? That is the question.

One issue in *United States* v. *Ottati & Goss, Inc.*, 900 F.2d 429 (1st Cir. 1990), the issue Professor Freedman cites, was whether a federal judge had to grant the EPA the precise injunction it requested (so long as the request was not arbitrary) or whether instead the judge had broader discretion. Judge Breyer held that the judge had broader discretion.

Professor Freedman writes that Judge Breyer should not have properly decided that case because it "involved the [EPA's] powers to impose liability on polluters like those the Judge knew he was insuring." (Freedman letter at p. 6.) This is just wrong. It is not the standard. Professor Freedman cannot say with any degree of confidence that the decision in *Ottai & Goss* would have a direct and substantial effect on the judge's interests. Furthermore, Professor Freedman leaves out an important part of the case. The EPA had two routes for seeking judicial injunctions. It had proceeded under one of them. Judge Breyer expressly acknowledged that if it had proceeded via the other route (seeking enforcement of a nonarbitrary EPA order), "the court must enforce it." *Id* at 434.

Now think about the chain of events one would have to envision to get from the holding in *Ottai & Goss* to the conclusion that Judge Breyer's interests could be directly and substantially affected. One would have to say that because a trial judge will have discretion whether to grant an EPA injunction when the EPA proceeds along one route rather than another, it could happen that in another case the EPA would elect that first route in an action against an insured of Judge Breyer's Lloyd's syndicate, that the judge in that case will deny EPA the injunction it seeks (relying on the discretion Judge Breyer's opinion affords), that the syndicate would not have to pay to comply with the particular injunction EPA wanted, and that the effect from all this on Judge Breyer's *pro rata* financial interest in the syndicate would be "substantial." That chain of events is what the caselaw means when it uses the words "remote, contingent, and speculative."

Professor Freedman also cites *Reardon* v. *United States*, 947 F.2d 1509 (1st Cir. 1991). *Reardon* is even a more farfetched example than *Ottai & Goss*. Judge Breyer sat on an *en banc* court that held that, absent exigent circumstances, due process required "notice of an intention to file a notice of lien and provision for a hearing if the property owner claimed that the lien was wrongfully imposed." Id. at 1522. Professor Freedman wrongly says that the decision "held that the EPA did not have the power to impose the lien." (letter at p. 7) It did, so long as it gave notice of its intention to do so and afforded a hearing *thereafter*.

Professor Freedman connects *Reardon* to the situation at hand this way: "The loss represented by that lien is the same kind of loss that Judge Breyer was liable to reimburse as an insurer." (letter at p. 7.) This is beyond "speculative." What "loss" is Professor Freedman referring to? Think about the extended chain of events one would have to describe to get from the *Reardon* holding to Judge Breyer's interests. The EPA would have to give notice of an intent to impose a lien on property of an insured of the Judge's Lloyd's syndicate. Then, before the EPA could file its lien, the recipient of the notice would have had to defeat that effort by making a quick disposition of the property, thereby defeating the EPA's security interest. As a result of that disposition, somehow (I'm not clear how) the syndicate would escape its insurance responsibility and the *pro rata* savings to Judge Breyer in particular would have to be substantial. *Readon* simply does not support Professor Freedman's conclusion.

Before I leave §455(b), I want to recognize that a "remote, contingent, and speculative" interest is not the same as no conceivable interest whatsoever. A system of judicial recusal must balance between the risk of real or apparent personal interest, on the one hand, and an unduly broad standard that disqualifies a large number of judges (for severely limits their investments), on the other. A broad standard would lead cautious judges to step aside no matter how improbable an effect on their interests. I believe the courts have struck the right balance. But the line will sometimes be unclear, calling on the judge to exercise discretion.

On occasion, by definition, even a remote interest will become a reality. Today's issue of *Newsday* reports that a loser in a case before Judge Breyer sued *a* Lloyd's syndicate for reimbursement of its expenditures under an insurance policy the loser had with Lloyd's. The syndicate may or may not have been Judge Breyer's syndicate. Let's assume it was Judge Breyer's syndicate. That is part of the price of a balanced rule. A rule that prohibited a judge from sitting if a decision could have any conceivable effect on his or her interests would have its own (in my view less appealing) price.

In addition, I have been asked to assume that Judge Breyer did not and could not have known the particular insureds under his Lloyd's syndicate. Section 455(b) quite clearly requires knowledge.

Professor Freedman also relies on §455(a), which requires recusal if a judge's "impartiality might reasonably be questioned." Apparently, Professor Freedman believes it to have been an abuse of discretion for Judge Breyer not to recuse himself under this provision.

Section 455(a) requires recusal when an "objective, disinterested, observer fully informed of the facts underlying the grounds on which recusal was sought would entertain significant doubt that justice would be done" in the particular case. *Union Carbide Corp.* v. *U.S. Cutting Service, Inc.*, 782 F.2d 710, 715 (7th Cir. 1986). I do not believe that conclusion can be reached on the facts of the cases in which Judge Breyer sat. Certainly, it was not an abuse of discretion to reject application of §455(a) as so defined.

A stronger objection to §455(a) exists. As I mentioned in my letter to Mr. Cutler, while not congruent, §455(a) and §455(b) do overlap. As a matter of statutory interpretation, it is improper to resort to §455(a) when Congress has specifically legislated criteria for recusal in the particular circumstances described in §455(b) and these criteria are absent. As the Court wrote in *Liteky* v. *United States*, 114 S.Ct. 1147, 1156 n.2 (1994), "it is poor statutory construction to interpret (a) as nullifying the limitations (b) provides, except to the extent the text requires."

Here, §455(b)(4), as construed in caselaw, requires that the outcome of the proceeding before the judge have both a direct and substantial effect on the judge's interests. *Liteky* tells us that we should not use §455(a) to "nullify" these requirements. Specifically, here, we should not use §455(a) to require recusal where the effect is "remote" or "speculative" or "contingent." In any event, the same test is employed to reject recusal under §455(a). *In re Drexel Burnham Lambert, Inc.* 861 F.2d 1307, 1313 (2d Cir. 1988) (remote, contingent, or speculative interest does not reasonably bring judge's impartiality into question.)

Let me conclude by addressing two other of Professor Freeman's points. First, he suggests that Judge Breyer might have had a "financial interest" in the "subject matter" of the cases before him because the *legal issue* he decided could arise in a case involving his Lloyd's syndicate. Professor Freedman does not even adopt this view himself. He says merely that "some have read" the phrase "subject matter in controversy" to include the remedy, like the lien at issue in *Reardon*. He also writes that "[o]ne could similarly say" that EPA enforcement powers in *Ottati & Goss* were the "subject matter" of that controversy.

"One" could, of course, "say" many things, just as "some" may have "read" the statute a variety of ways. But the fact is that no authority supports the view that a judge can have a "financial interest" in a question of law. As Professor Thode explained, the "subject matter" language "becomes significant in in rem proceedings." Thode at 65. Another example is *Liljeberg*, where the university on whose board the judge sat had a financial interest riding on the holder of the certificate of need, which was the subject matter before the judge. This is not a case like *Tumey* v. *State of Ohio*, 273 U.S. 510 (1927), cited by Professor Freedman, where the adjudicator had a financial interest in the very fine he imposed on the defendant because he would receive part of it.

Professor Freedman suggests (p. 5) that Judge Breyer violated his duty to keep himself informed of his financial interests. Section 455(c). My letter was premised on two assumptions about what Judge Breyer knew or could have known and what he did not know and could not have known. I charged him with knowledge of what he could have known but he can't be faulted with not knowing what he could not have known.

Thank you for this opportunity.

Sincerely,

STEPHEN GILLERS.

LAW SCHOOL,
UNIVERSITY OF PENNSYLVANIA,
Philadelphia, PA, July 11, 1994.

Re Judge Stephen Breyer.

Hon. LLOYD N. CUTLER,
Special Counsel to the President,
White House,
Washington, DC.

DEAR MR. CUTLER: You have asked for my opinion whether Judge Stephen Breyer committed a violation of judicial ethics in investing as a "Lloyd's Name" in insurance underwriting while being a federal judge. In my opinion there was no violation of judicial ethics. In my view it was possibly imprudent for a person who is a judge to have such an investment, because of the potential for possible conflict of interest and because of possible appearance of impropriety. However, in light of the facts no conflict of interest or appearance of conflict materialized. I understand that Judge Breyer has divested from the investment so far as now can be done and will completely terminate it when possible.

1. I am Trustee Professor of Law, University of Pennsylvania, and Sterling Professor of Law Emeritus, Yale University. I am also Director of the American Law Institute. I have been admitted to practice law since 1954 and am a member of the bar of Connecticut and California. I am engaged in an active consulting practice, primarily in the fields of legal and judicial ethics, and have given opinions both favorable and unfavorable to lawyers and judges. I was Consultant and draftsman for the American Bar Association Model Code of Judicial Conduct promulgated in 1972, on which the rules of ethics governing federal judges are based. I have also been Reporter and draftsman of the American Bar Association Model Rules of Professional Conduct, promulgated in 1983, and before that consultant to the project for the ABA Model Conduct of Professional Responsibility. I am author of several books and many articles on legal and judicial ethics and write a monthly column on the subject.

2. I am advised that Judge Breyer made an investment as a "Lloyd's Name" some time in 1978. He has since terminated that investment except for one underwriting, Merrett 418, that remains open. He intends to terminate that commitment as soon as legally permitted. I have further assumed the accuracy of the description of a Lloyd's Name investment set forth in the memorandum of July 3, 1994, by Godfrey Hodgson. My previous understanding of the operation of Lloyd's insurance, although less specific than set forth in the memorandum, corresponds to that description.

3. I have assumed the following additional facts:

(a) As a "Name" Judge Breyer did not have, and could not have had, knowledge of the particular coverages underwritten by the Merrett 418 syndicate. It would have been possible for a Name to discover through inquiry that environmental pollution as a category was one of the risks underwritten by the syndicate.

(b) Judge Breyer had "stop-loss" insurance against his exposure as a Name, up to $188,000 beyond an initial loss of 25,000 pounds. This is in substance reinsurance from a third source against the risk of actual liability.

(c) A reasonable estimate of the potential loss for Judge Breyer is approximately $114,000, well within the insurance coverage described above. However, there is a theoretical possibility that his losses could exceed that estimate.

(d) The Merrett 418 syndicate normally would have closed at the end of 1987. It remains open because of outstanding liabilities to the syndicate that were not later adopted by other syndicates. These outstanding liabilities include environmental pollution and asbestos liability.

4. I am advised that Judge Breyer as judge participated in a number of cases that one way or another involved the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the Superfund statute. None of these cases involved Lloyd's as a party or by name in any respect. None appear to have involved issues that would have material or predictable impact on general legal obligations under the Superfund legislation. Most of the cases are fact-specific and all involve secondary or procedural issues. I have assumed that the description of these cases in the attached list is fair and accurate.

5. In my opinion, Judge Breyer's participation in the foregoing cases did not entail a violation of judicial ethics. None of the cases involved Lloyd's as a party or as having an interest disclosed in the litigation. None could have had a material effect on Judge Breyer's financial interests. None had a connection direct enough with Judge Breyer as to create a basis on which his impartiality might reasonably be questioned, as that term is used in Section 455 and in the Code of Judicial Ethics.

6. There is a close analogy between the kind of investment as a Name and an investment in a mutual fund. A mutual fund is an investment that holds the securities of operating business enterprises. Ownership in a mutual fund is specifically excluded as a basis for imputed bias under Section 455 and the Code of Judicial Ethics. This exclusion was provided deliberately, in order to permit judges to have investments that could avoid the inflation risk inherent in owning Government bonds and other fixed income securities but without entailing direct ownership in business enterprises. A Names investment is similarly an undertaking in a venture that in turn invests in the risks attending business enterprise. Just a ownership in a mutual fund is not ownership in the securities held by the fund, so, in my opinion, is investment as a Name not an assumption of direct involvement in the risks covered by the particular Lloyd's syndicate.

7. In my opinion it could be regarded as imprudent for a judge to invest as a Lloyd's Name, notwithstanding that no violation of judicial ethics is involved. The business of insurance is complex, sometimes controversial, and widely the subject of public concern and suspicion. The insurance industry is highly regulated and insurance company liability often entails issues of public importance. In my opinion it was therefore appropriate for Judge Breyer to have withdrawn from that kind of investment so far as he could legally do so, simply to avoid any question about the matter. That said, I see nothing in his conduct that involves ethical impropriety.

Very truly yours,

GEOFFREY C. HAZARD, JR.

JUDGE BREYER'S "CERCLA" (SUPERFUND STATUTE) CASES

Judge Breyer has participated in eight cases involving the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Superfund statute. None involved Lloyds as a party or by name in any other respect. Moreover, none involved the kind of issue that would have a direct or predictable impact on the insurance industry's Superfund obligations, much less on Lloyd's itself.

The cases address a variety of matters. Most are highly fact-specific. Included among them are decisions that enforce an EPA penalty against a chemical company; apply the judicial doctrine of res judicata (which bars relitigation of the same matter); and confirm the federal government's sovereign immunity from state requests for civil penalties on CERCLA claims.

A summary of the cases is attached.

1. *Waterville Industries, Inc.* v. *Finance Authority of Maine*, 984 F.2d 540 (1st Cir. 1993). The issue in this case was the "security interest exception" in CERCLA, which exempts from the statute's definition of "owner" a "person who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility." In an opinion by Judge Boudin, joined by Judge Breyer, the court interpreted the provision and unanimously agreed with the Finance Authority of Maine that it met the requirements of the provision.

Particularly because there is no reason to think that a lender, a borrower, or a property owner is more or less likely to have insurance, the case does not present the kind of issue that would have a direct or predictable impact on the insurance industry's Superfund obligation.

2. *State of Maine* v. *Dept. of Navy*, 973 F.2d 1007 (1st Cir. 1992). In this case, the state of Maine sued the United States Navy because one of the Navy's shipyards had not complied with Maine's federally-approved hazardous waste laws. The only CERCLA-related issue was whether the CERCLA statute waives the federal government's traditional sovereign immunity against suits by states for civil penalties. Judge Breyer's opinion held that the CERCLA statute does not waive the federal government's sovereign immunity.

3. *Reardon* v. *United States*, 947 F.2d 1509 (1st Cir. 1991) (en banc). The issue in this case was whether landowners are entitled to notice and an opportunity to be heard before the EPA is allowed to place a lien on their property. In an opinion by Judge Torruella, joined by Judge Breyer, the First Circuit applied a recent Supreme Court precedent, which had found a Connecticut attachment lien statute violated due process. The First Circuit held that CERCLA's lien provision had a similar flaw.

The case thus gives people the right to notice and an opportunity to be heard before a lien is put on their property. It concerns the timing of procedures, and in no way eliminates, lessens, or affects the liability of landowners who are responsible for clean-up costs.

4. *All Regions Chemical Labs* v. *EPA*, 932 F.2d 73 (1st Cir. 1991). In this case, Judge Breyer's opinion upheld the EPA's imposition of a $20,000 penalty against a chemical company that failed to notify the EPA immediately about the release of hazardous substances from its property.

In this highly fact-specific case, the decision upholds the EPA's penalty, over the private company's objection.

5. *Johnson* v. *SCA Disposal Services of New England*, 931 F. 2d 970 (1st Cir. 1991). Judge Brown's opinion, joined by Judge Breyer, applies the judicial doctrine of res judicata, which prohibits relitigation of the same matter. It does not address CERCLA or Superfund issues.

6. *United States* v. *Kayser-Roth*, 910 F. 2d 24 (1st Cir. 1990). In an opinion by Judge Bownes, joined by Judge Breyer, the court agreed with EPA that a parent company could be found to be an "operator" liable for clean-up costs even if the site was nominally run by a subsidiary. The court also agreed with the EPA that the trial court properly found that the parent company was an "operator" in this case.

The decision does not present the kind of issue that would have a direct or predictable impact on the insurance industry's Superfund obligations. (In many CERCLA cases, there are numerous private parties with conflicting allocation claims, and imposing liability on parent corporations might have different effects on different insurers at different times).

7. *United States* v. *Ottati & Goss*, 900 F. 2d 429 (1st Cir. 1990). In this decision by Judge Breyer, the court agreed with the district court that, when EPA requests a preliminary injunction under a particular CERCLA provision, the district court has discretion and is not, contrary to EPA's submission, obliged to defer to EPA's request for an injunction unless it is "arbitrary or capricious." The First Circuit emphasized that "to read the statute in this way does not significantly handicap EPA" because the agency may receive full administrative deference at a subsequent stage of the proceedings. The Court of Appeals also reviewed the district court's factual findings, agreed with EPA that the district court should further consider one matter, and found that the district court's other findings were supported by the record. The court also ruled on various miscellaneous issues, including one in which it agreed with EPA that the district court should further consider whether EPA should be entitled to recover certain costs.

None of the holdings in the case presents the kind of issue that would have a direct or predictable impact on the insurance industry's Superfund obligations. The standard for district court consideration of requests for preliminary injunctive relief concerns only district court discretion at a preliminary stage of the proceedings. The factual issues, moreover, are highly case-specific and dependent on the record in the particular case.

8. *Dedham Water Co.* v. *Continental Farms Diary*, 889 F. 2d 1146 (1st Cir. 1989). In this opinion by Judge Bownes, the First Circuit agreed with other courts that a plaintiff need show only that a defendant's release of hazardous wastes caused it to incur response costs, not that the wastes actually contaminated the plaintiff's property. Particularly because either side in such a dispute might have insurance, the case does not present the kind of issue that would have a material or predictable impact on the insurance industry's Superfund obligations. (A subsequent opinion in the case specified that a new trial was required. Judge Breyer dissented, arguing that the district court should have discretion to further consider the matter. The issue was unrelated to CERCLA or Superfund. *In re Dedham Water Co.*, 901 F. 2d 3 (1st Cir. 1990)).

LEWIS AND ROCA LAWYERS,
July 12, 1994.

LLOYD N. CUTLER, Esq.
Counsel to the President, The White House Counsel's Office, Washington, DC.

Re Judge Stephen G. Breyer.

DEAR MR. CUTLER: In connection with the pending hearings on Judge Stephen G. Breyer for the Supreme Court, I submit the attached statement requested by you on a problem of disqualification of judges.

Yours very truly,

JOHN P. FRANK.

JUDGE STEPHEN G. BREYER DISQUALIFICATION MATTER

I. IDENTIFICATION—JOHN P. FRANK

Mr. Frank is a partner at the law firm of Lewis and Roca, Phoenix, Arizona, who has been heavily involved in disqualification matters over the decades. He is the author of the seminal article on that subject in the 1947 Yale Law Journal. He was subpoenaed by the Senate Judiciary Committee to testify as an exert on disqualification in connection with the nomination of Judge Haynesworth to the Supreme Court in 1969. In the aftermath of that episode, the Congress took to rewrite the Disqualification Act, creating the present statute, 28 U.S.C. §455. Simultaneously, a commission under the chairmanship of Chief Justice Roger Traynor of California for the American Bar Association was rewriting its canon of judicial ethics. Mr. Frank became, informally, Senate representative in negotiations with the ABA Traynor Commission to achieve both a canon and a new statute which would be nearly the same as possible. Senator Bayh and Mr. Frank appeared before the Traynor Commission. Mr. Frank worked out a mutually satisfactory canon/bill with Professor Wayne Thode of Utah, reporter for the Traynor Commission. The canon was then adopted by the Traynor Commission and essentially put into bill form by Senators Bayh and Hollings. Major witnesses for the bill on the Senate side were Senators Bayh and Hollings, and Mr. Frank. On the House side, Judge Traynor and Mr. Frank jointly lobbied the measure through. Mr. Frank is intimately acquainted with the legislative history and well acquainted with subsequent developments.

The foregoing outline is my final conclusion on this subject. I am aided not merely by numerous attorneys in my own office, but also by Gary Fontana, a leading California insurance law specialist of the firm of Thelan, Marrin, Johnson & Bridges of San Francisco.

II. ISSUE

In his capacity as an investor, Judge Stephen G. Breyer has been a "Name" on various Lloyds syndicates up to a maximum of 15 at any one time over an 11-year period from 1978 through 1988. This means, essentially, that he is one of a number of investors who have put their credit behind the syndicate to guarantee that claims arising under certain insurance policies directly written or reinsured by the syndicates are paid. If the premiums on the policies and the related investment income outrun the losses, expenses and reinsurance, there is payment to the Names. If there is a shortfall, the Names must make up the difference. For an extensive description of the Lloyds system, see "Guide to the London Insurance Market" BNA 1988, and particularly chapter 3 on underwriting syndicates and agencies. As the full text shows, this is a highly regulated enterprise, a matter of consequence in relation to views of Chief Justice Traynor expressed below.

The syndicates commonly reinsure North American companies against a vast number of hazards. Among these probably are certain hazards arising in connection with pollution which may relate to the "superfund," a financing mechanism of the United States for pollution clean-up. A question has been raised as to whether, in any of the various cases in which Judge Breyer has sat involving pollution, he may have been disqualified. The identical question could arise in connection with any number of other cases in which Judge Breyer has sat because the syndicates have infinitely more coverage than pollution. The selectivity of the current interest is probably due to nothing but the colorful nature of pollution or the failure of some inquiring reporter to see the problem whole.

A very significant factor is that the Lloyds syndicates are not merely insurers or re-insurers. They are also investment companies and much of their revenue comes from investments in securities.

III. ANSWER

Should Judge Breyer have disqualified in any pollution cases in which he participated because of his Name status?

Answer: No.

IV. DISQUALIFICATION STANDARDS AS APPLIED TO THIS SITUATION

A. Party disqualification

Under the statute, if a judge has an interest in a party, no matter how small, he must disqualify. Knowledge is immaterial; a judge is expressly required to have such knowledge so that he can meet this responsibility. Since the statute, judges have had to narrow their portfolios; "I didn't know" is not even relevant.

We may put this strict criteria of disqualification aside because neither Lloyds nor any of the syndicates is a party to any of these cases. This is of vital importance because this is the one strict liability disqualification criterion in this situation.

B. The common fund exception

Congress in §455 did not mean to preclude judges from investing; this was fully recognized both in §455 and the canons; H.R. Rep. No. 1453, 93d Cong., 1st Sess. at 7 (Oct. 9, 1974). Judges have a range of income expectations and an investment is quite appropriate. Investment is restricted only where it would lead to needless perils of disqualification.

In that spirit, §455(d)(4)(i) recognizes that judges may invest in funds which are themselves investment funds and while the judge cannot sit in any case which involves the fund, he is exempted from a duty of disqualification in matters involving securities of the fund unless he participates in the management of the fund, Sen. Hrg. 1973 at 97, which Judge Breyer did not do. "Investments in such funds should be available to a judge," *id.* This section was intended to create "a way for judges to hold securities without needing to make fine calculations of the effect of a given suit on their wealth," *New*

York Develop. Corp. v. *Hart*, 796 F.2d 976, 980 (7th Cir. 1986). As Chief Justice Traynor said of this exception, it is "because of the impossibility of keeping track of the portfolio of such a fund," Sen. Hrg. 1973, House of Rep. Subcomm. Jud. Com. on S. 1064, May 24, 1974 (hereafter H.R. Hrg. 1974), p. 16.

The relevant section is as follows:

"(i) Ownership is a mutual or common investment fund that holds securities is not a 'financial interest' in such securities unless the judge participates in the management of the fund;"

1. A large Lloyds syndicate is a "common investment fund." There is a definition in Reg. §280.132 of "common trust fund," which is a particular type of bank security specifically exempted from the Securities Act of 1933 pursuant to Section 3(a)(2). The only useful portion of that definition is "maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more [bank] members . . ." A "common enterprise" is one of the four elements of an "investment contract" as set forth in the *Howey* case:

"[A]n investment contract for purposes of the Securities Act means a contract, transaction or scheme whereby a person [1] invests his money, [2] *in a common enterprise*, and [3] is led to expect profits, [4] solely from the efforts of a promoter or third party. . . ."

SEC v. *W.J. Howey Co.*, 328 U.S. 293, 298 (1946). The common enterprise requirement is usually satisfied by a number of investors who have a similar stake in the profitability of the venture.

2. While the precise form of common fund involved here was not contemplated in the statute, functionally a Lloyds investment is the same as any other common fund investment. It is an investment in a common fund in which the judge has no practical way of knowing on what he may make a return.

V. THE NON-PARTY EXCEPTION CRITERIA

Under §455(d)(4), "financial interest" covers "ownership of a legal or equitable interest, however small" and then moves on to an additional thing, "or a relationship as director, advisor, or other active participant in the affairs of a party." This, too, is under the "however small" criterion, Sen. Hrg. 1973 at 115. This disqualifies the judge if he is a creditor, debtor, or supplier of a party if he will be affected by the result; but this only applies to a party, *id*. 115. A different standard is applied under §455(d)(4)(iii) to any "proprietary interest" similar to mutual insurance or mutual savings. Here the disqualifying interest must be "substantial"; the "however small" standard is inapplicable. There is more latitude here than in the other relationships and these can be usefully described as the "non-party" involvement of the judge. I have elaborated on this topic in *Commentary*, 1972 Utah Law Review §77, which has reflected the views of Professor Thode of the Utah Law School, reporter on the canon, and which is referenced in the legislative history of §455, Sen. Hrg. 1973 at 113.

This covers the relationship of the judge not in terms of his direct financial interest in a party (as to which his disqualification is absolute and unawareness is not relevant) but rather covers non-party interest. For classic illustration, if the home of a judge is in an irrigation district and if he is passing on the validity of the charter of the irrigation district itself, the answer to that question may affect the value of this home. As owner, he is not at all a party to the case and he has no financial interest in the irrigation company, but he is affected. The distinction in these non-party cases is that here the interest, instead of being measured by the "however small" criteria must be "substantial" and also in converse to the direct financial interest, must be knowing. Statement of Prof. E. Wayne Thode, Hearing, Subcomm. Sen. Jud. Com. on S. 1064, July 14 and May 17, 1978 (hereafter Sen. Hrg. 1978), pp. 95, 97, 108, and the illustration given is shareholder a domestic bank where decision concerning another bank will have "substantial in effect on the value of all banks." For a comprehensive discussion of the "direct and substantial" approach to nonparty interests, *see Sollenbarger* v. *Mt. States Tel. & Tel. Co.*, 706 F. Supp. 780–81 (D.N.M. 1989).

If "a judge owns stock of a company in the same industry as one of the parties to the case," he is not "substantially affected" by the outcome and is not disqualified, as the Fifth Circuit held in *In re Placid Oil Co.*, 802 F.2d 783 (5th Cir. 1986), *reh'g den.*, 805 F.2d 1030 (5th Cir. 1986). The judge in *Placid Oil* owned stock in a bank and was not disqualified from hearing a case that could affect the banking industry.

In *Chitimacha Tribe of Louisiana* v. *Harry L. Laws Co.*, 690 F.2d 1157, 1166 (5th Cir. 1982), *cert. den.*, 464 U.S. 814 (1983), and *Ogala Sioux Tribe* v. *Homestake Min. Co.*, 722 F.2d 1407, 1414 (8th Cir. 1983), *cert. den.*, 455 U.S. 907 (1982) both judges' interests in land adjoining the land in litigation was held not to be a disqualifying interest. The parties seeking disqualification in both cases argued that all land within the territory would be directly affected by the outcome of the litigation, which was a title dispute. That argument was rejected in both cases because the disposition of the litigation would not affect the judges' title in any way.

A rare case involving insurance in a disqualification controversy is *Weingart* v. *Allen & O'Hara, Inc.*, 654 F.2d 1096, 1107 (5th Cir. 1981). The judge in *Weingart* owned three life insurance policies, "representing mutual ownership" in a corporation which wholly owned the defendant corporations. Based in part on Advisory Committee Opinion No. 62, that a judge insured by a mutual insurance company is not disqualified to hear cases involving that company unless he was also a stockholder, the court held "the judge's mere ownership of three life insurance policies, representing mutual ownership, in the parent corporation of a party to the suit does not demonstrate that the outcome of the proceeding could have substantially affected the value of the ownership interest." *Id.* at 1107.

In Department of Energy v. Brimmer, 673 F.2d 1287 (Temp. Emerg. Ct. of Apps. 1982) the court held a judge hearing a case involving an Entitlement Program, who had stock ownership in other Entitlement Programs, was not disqualified. In reaching this conclusion the court used a two step analysis; 1) did the judge have a financial interest in the subject matter in controversy, and, if not, 2) did the judge have some other interest that could be substantially affected by the outcome of the litigation.

The court held the judge did not have a financial interest in the subject matter of the litigation, with a brief analysis:

"The use of the term 'subject matter' suggests that this provision of the statute will be most significant in in rem proceedings. See E. Wayne Thode, Reporters Notes to A.B.A. Code of Judicial Conduct, 56 (1973). We hold that the judge does not have a direct economic or financial interest in the outcome of the case, and thus could hear it without contravening the constitutional due process."

Here is where Judge Breyer drops completely out of the disqualification circle. In the financial relationship of any of his cases to the totality of his dividend potential, his Name is utterly trivial and, in any case, he not only does not know that a litigant is insured with the syndicates but, realistically, has no practical way of finding out. As the legislative history clearly shows, it is intended in these situations, generally speaking, that for a judge not to be kept currently informed is an affirmative virtue, or else the persons controlling the investments, as in a common fund situation, would have the power to disqualify a judge by making an investment and forcing the knowledge on the judge. This was deliberately considered in the legislative history as a hazard and was guarded against. An opinion, closely analogous, shared by several district judges, is whether Alaskan district judges must disqualify in cases claiming "amounts for the Alaska Permanent Fund, from which dividends can flow to, among others, district judges. Held, no disqualification; the amounts are too remote and speculative, Exxon Corp. v. Heinze, 792 F. Supp. 77 (D. Ala. 1992). For perhaps the leading case that a judge should not disqualify for a contingent interest where he is not a party but, speculatively, might get a small dividend some day, see In re Va. Elec. Power Co., 539 F.2d 357 (4th Cir. 1976).

VI. APPEARANCE OF IMPROPRIETY

This leaves the generalized provision of §455(a) that a judge shall disqualify where "his impartiality might reasonably be questioned." This is commonly caught up in the phrase which has a long history, pre-§455 ABA and U.S. Supreme Court opinions. The amorphous quality of the phase makes it hard to deal with decisively. However, the phrase has gained technical meaning in both the legislative history and the cases; categorically it does not mean that pointing a finger and expressing dismay is enough. Moreover, when, as developed above, certain types of investment are expressly allowed under the statute, it will be difficult to make them "improper."

The 1974 Act eliminated the "duty to sit," permitting the judge to disqualify where his impartiality may reasonably be questioned. Both Justice Traynor and Mr. Frank advised the Senate committee that this disqualification was to be determined by "what the traditions and practice have been," Sen. Hrg. 1973 at 15. These do not authorize disqualification for "remote, contingent, or speculative interest," or "indirect and attenuated interest"; *In re Drexel Burnham Lambert Inc.*, 861 F.2d 1307, *reh'g den*, 869 F.2d 116, *cert. den.* 490 U.S. 1102 (1988); *TV Communications Network, Inc.* v. *ESPN, Inc.*, 767 F. Supp. 1077 (D. Colo. 1991).

It is here that the common fund exception has great bearing by analogy. Such an investment involves the same factors which motivated the common fund exception. That is to say, the statutes mean to preserve the right of judges to invest and clearly except from the rigorous disqualification standards investments in common funds where the judge has no effective way of knowing precisely what interests may be within the scope of the investments. Functionally an investment in Lloyds is the same as an investment in any common fund with general holdings. In these circumstances, there cannot be an "appearance of impropriety" in an investment which is just the same, functionally, as those expressly protected.

VII. THE DISQUALIFICATION CLAIM, IF ACCEPTED, WOULD PRODUCE UNREASONABLE AND UNINTENDED RESULTS

As noted in the preliminary observations to this memorandum, the concern here is grossly excessive. The syndicates have a broad reach. The returns to the Names could be affected by numerous other matters besides pollution claims. For a comprehensive discussion of the proposition that there is no ground for disqualification because a case may affect general rules of law, *see New York City Develop. Corp.* v. *Hart,* 796 F.2d 976, 979 (7th Cir. 1986) ("Almost every judge will have some remote interest of this sort.")

Almost any case relating to the business community could relate to Lloyds in some remote way, and any number of cases can relate to other reaches of the business community. Even the criminal cases, in at least some instances, can have significant business fallout, as for example, the RICO cases. To say that Judge Breyer should have recused himself from all pollution cases would logically be to say that judges should not invest in a business generally.

I reiterate that neither the canon nor §455 meant to preclude investment by judges. The focus on the pollution cases is excessively sharp because, if there were disqualification here, there would necessarily be disqualification as to too many other aspects of investment. This would defeat the purpose of the canons and the statute.

VIII. CONCLUSION

Judge Breyer properly did not disqualify in the pollution cases which came before him.

JOHN P. FRANK

WILEY, REIN & FIELDING,
Washington, DC, July 11, 1994.

LLOYD CUTLER, Esq.,
Counsel to the President, White House Counsel's Office, Washington, DC.

DEAR MR. CUTLER: You have asked us to evaluate whether any case decided by Judge Stephen Breyer under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9601 *et seq.*, could have substantially affected the financial interests of insurers. We represent insurers extensively in connection with insurance coverage matters arising under CERCLA. In addition to representing individual insurers, we and our colleagues represent the Insurance Environmental Litigation Association ("IELA"), a trade group of 21 large property/casualty insurers that appears as amicus curiae in numerous environmental coverage cases at the appellate level.[1] Mr. Brunner has over a decade of direct experience in representing the interests of insurers in disputes arising under CERCLA. Ms. Sawtelle, in addition to representing insurers, has an extensive background in CERCLA and environmental matters generally, having served as an EPA official (as Special Assistant to the Director, Office of Solid Waste, from 1985 to 1987) with responsibility in this area, and having represented numerous potentially responsible parties ("PRPs") in private practice since 1981. As a consequence, we are able to provide you with a realistic appraisal of the significance of CERCLA cases for insurers generally and Lloyds of London syndicates specifically, based on a great deal of experience evaluating CERCLA matters for insurers and others.

We have reviewed all eight cases in which Judge Breyer has passed on CERCLA issues.[2]

Footnotes at end of article.

In our opinion, none of these cases had a material or predictable financial impact on insurers generally or on Lloyds syndicates in particular. Any consequences for insurers were highly speculative and dependent on many independent intervening factors. Any conceivable impact on the financial interests of insurers from these cases resulted only from the court assuring that PRPs received proper procedural protections, or that the statute's provisions were applied properly before parties were held liable for costs that might possibly be determined to be insured by some insurer. None of the cases determined the obligation of any insurer nor of any PRP for which an insurer might be liable. In real world terms, Judge Breyer's financial interest in these cases as a result of his status as a Lloyd's investor was probably more attenuated than his interest as a federal taxpayer in numerous cases involving financial claims against the Federal Government. In both circumstances, the interest is so diluted, so contingent and so indirect as to be of no consequence.

Of the eight CERCLA cases on which Judge Breyer has sat, four did not involve even potentially insurable interests of PRPs. *Maine* v. *Department of the Navy,* 973 F.2d 1007 (1st Cir. 1992), involved a claim for civil penalties sought by Maine against the (uninsured) Federal Government. Similarly, *Reardon* v. *United States,* 947 F.2d 1509 (1st Cir. 1991) (en banc), involved the constitutionality of CERCLA's procedures for attaching liens to real property and in no way addresses the extent of financial liabilities under CERCLA. *All Regions Chemical Laboratories* v. *EPA,* 932 F.23 73 (1st Cir. 1991), concerned the imposition of a civil penalty on a chemical company for failure to report a chemical release; such penalties clearly are uninsured. In much the same vein, *Johnson* v. *SCA Disposal Services, Inc.,* 931 F.2d 970 (1st Cir. 1991), applied the doctrine of res judicata, precluding relitigation of matters already determined by a court, to a case that happened to involve CERCLA claims but without any distinctive precedential significance for CERCLA cases.

Only four cases on which Judge Breyer has sat have even considered the rights or obligations of potentially insured PRPs under CERCLA. In each instance, the significance for insurers has been, at most, highly indirect. *United States* v. *Kayser-Roth Corp.,* 910 F.2d 24 (1st Cir. 1990), cert. denied, 498 U.S. 1084 (1991), addressing the potential liability of a parent company for its subsidiary's waste disposal practices, is likely irrelevant to insurers in most instances but, if not, could be either "good" or "bad" for a particular insurer, depending on the circumstances of the later case. Indeed, the likelihood of a perceptible impact on insurers is both speculative and remote.

Similarly, the potential impact on the insurance industry of the issues in *United States* v. *Ottati & Goss, Inc.,* 900 F.2d 429 (1st Cir. 1990), was de minimis. The case principally involved whether a court must, in an injunctive relief context, adopt any cleanup remedy selected by EPA unless it found that selection to be arbitrary or capricious or, alternately, whether it may itself decide what the remedy should be. Judge Breyer, writing for the unanimous panel, upheld the decision of the court below that the court may fashion the remedy. This holding did not make any determination of a PRP's obligations but merely prescribed the procedure and degree of deference due to certain preliminary EPA actions. There was only an attenuated impact on PRPs and an even more attenuated connection to insurers.

Waterville Industries Inc. v. *Finance Authority of Maine,* 984 F.2d 540 (1st Cir. 1993), involved the application of CERCLA's so-called "secured creditor exemption." Judge Breyer joined in the court's unanimous opinion holding that this provision—which exempts from the class of liable "owners or operators" those who, without participating in the management of a contaminated facility, hold indicia of ownership primarily to protect a security interest—applied to a particular sale-and-leaseback arrangement. The court's opinion, which was consistent with a number of other courts' rulings, was highly fact-specific and thus not likely to have a material or predictable impact on the insurance industry. Moreover, this dispute involved private parties only, each of whom is no more likely than the other to have insurance.

Finally, in *Dedham Water Co.* v. *Cumberland Farms Dairy, Inc.,* 889 F.2d 1146 (1st Cir. 1989), Judge Breyer joined in the court's unanimous decision that CERCLA liability arises when the release of hazardous substances from the defendant's facility cause the plaintiff to incur response costs, rather than when the releases cause contamination on the plaintiff's property. This case did not present an issue that would have a material impact on the insurance industry's CERCLA obligations because in a wholly private dispute such as this, either or both sides might have insurance. (In a subsequent opinion in the *Dedham* case, Judge Breyer dissented from the majority regarding whether a new trial was required; this opinion was unrelated to the provisions of CERCLA, *See In re Dedham Water Co.* (901 F.2d 3 (1st Cir, 1990.)

In sum, then, our review makes clear that no case in which Judge Breyer participated had any substantial or predictable effect on his interest as an investor in Lloyd's of London or on the financial position of insurers generally.

Sincerely,

THOMAS W. BRUNNER,
SUSAN D. SAWTELLE.

FOOTNOTES

[1] The views expressed herein are our own and are not stated on behalf of IELA or any other client of our law firm. We do not represent any syndicate participating in Lloyds of London.

[2] *Dedham Water Co.* v. *Cumberland Farms Dairy, Inc.,* 889 F.2d 1146 (1st Cir. 1989); *United States* v. *Ottati & Goss, Inc.,* 900 F.2d 429 (1st Cir. 1990); *United States* v. *Kayser-Roth Corp.,* 910 F.2d 24 (1st Cir. 1990), *cert., denied,* 498 U.S. 1084 (1991); *Johnson* v. *SCA Disposal Services, Inc.,* 931 F.2d 970 (1st Cir. 1991); *All Regions Chem. Labs, Inc.* v. *United States EPA,* 932 F.2d 73 (1st Cir. 1991); *Reardon* v. *United States,* 947 F.2d 1509 (1st Cir. 1991); *Maine* v. *Department of Navy,* 973 F.2d 1007 (1st Cir. 1992); *Waterville Indus. Inc.* v. *Finance Auth, of Me.,* 984 F.2d 549 (1st Cir. 1993).

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK,
New York, NY, July 8, 1994.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK FINDS JUDGE STEPHEN G. BREYER QUALIFIED TO BE A JUSTICE OF THE SUPREME COURT

The Association of the Bar of the City of New York announced today that it has concluded that Judge Stephen G. Breyer is qualified to be a Justice of the United States Supreme Court. The statement of the Association's Executive Committee is attached.

STATEMENT

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK FINDS JUDGE STEPHEN G. BREYER QUALIFIED TO BE A JUSTICE OF THE SUPREME COURT

The Association of the Bar of the City of New York has concluded that Judge Stephen

G. Breyer is qualified to be a Justice of the United States Supreme Court, because he possesses, to a substantial degree, all of the following qualifications enumerated in the Guidelines established by the Executive Committee for considering nominees to the United States Supreme Court: exceptional legal ability; extensive experience and knowledge in law; outstanding intellectual and analytical talents; maturity of judgment; unquestionable integrity and independence; a temperament reflecting a willingness to search for a fair resolution of each case before the Court; a sympathetic understanding of the Court's role under the Constitution in the protection of the personal rights of individuals; an appreciation for the historic role of the Supreme Court as the final arbiter of the meaning of the United States Constitution, including a sensitivity to the respective powers and reciprocal responsibilities of the Congress and Executive.

Because the Executive Committee Guidelines limit approval to those of high distinction, the Guidelines do not provide for gradations of ratings; qualified and unqualified are the only ratings employed.

In reaching this conclusion, a subcommittee of the Executive Committee read extensive materials, including all of Judge Breyer's more than 500 written opinions as a judge of the United States Court of Appeals for the First Circuit, many of his articles, lectures and books, and numerous news articles and commentaries appearing with respect to the nomination. The subcommittee also conducted a number of telephone interviews of former colleagues and law clerks of Judge Breyer and attorneys who had appeared before him, received and considered comments from the membership of the Association, and interviewed Judge Breyer in person.

The Executive Committee also took account of recent reports in the press which questioned whether Judge Breyer should have recused himself in cases involving "Superfund" environmental liability under federal law, as a consequence of his investments in Lloyd's of London syndicates and his possible personal liability for underwriting losses. The Executive Committee considered carefully the "Superfund" cases in which Judge Breyer has participated since 1987, none of which involved insurance coverage issues, as well as the available evidence concerning Judge Breyer's awareness of the extent and nature of possible "Superfund" exposure by the syndicates of which he was a member, and his ability to evaluate the potential impact, if any, of his decisions in "Superfund" cases on his own financial interests.

Based on the applicable statutory standard for disqualification of federal judges (28 U.S.C. §455) and the evidence currently available prior to the Senate confirmation process, the Executive Committee found no reason to depart from its conclusions as to Judge Breyer's judgment, integrity and independence by virtue of the fact that he did not recuse himself in the "Superfund" cases.

The Association acted on the nomination under a policy that directs the Executive Committee to evaluate all candidates for appointment to the Supreme Court.

EXHIBIT 1

ADDITION TO FLOOR REMARKS OF SENATOR BIDEN

In *Patterson* v. *McLean Credit Union*, 491 U.S. 164 (1989), the Supreme Court was faced with the question whether a civil rights statute, Section 1981, passed in the aftermath of the Civil War protected workers from racial harassment on the job.

This statute guaranteed to all persons within the United States "the same right * * * to make and enforce contracts * * * as is enjoyed by white citizens. The Court, by a narrow 5-4 majority, agreed that this law prohibited racial discrimination in hiring—but that it did not prohibit racial discrimination that occurs after a contract is made—that is, after a person is hired.

This conclusion meant that this statute did not protect employees on the job from being insulted because of their race, from being given demeaning work solely because of their race, or even from being fired because of their race.

Justice Brennan, whose powerful dissent was joined by three justices, had this to say about the majority's reasoning:

"What the Court declines to snatch away with one hand, it takes with the other. Though the Court today reaffirms §1981's applicability to private conduct, it simultaneously gives this landmark civil rights statute a needlessly cramped interpretation. The Court has to strain hard to justify this choice to confine §1981 within the narrowest possible scope, selecting the most pinched reading of the phrase 'same right to make a contract,' ignoring powerful historical evidence about the Reconstruction Congress' concerns, and bolstering its parsimonious rendering by reference to a statute enacted nearly a century after §1981, and plainly not intended to affect its reach. When it comes to deciding whether a civil rights statute should be construed to further our Nation's commitment to the eradication of racial discrimination, the Court adopts a formalistic method of interpretation antithetical to Congress' vision of a society in which contractual opportunities are equal. I dissent from the Court's holding that §1981 does not encompass Patterson's racial harassment claim."—491 U.S. at 189.

Mr. GORTON. I quote Alexander Hamilton:

> The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would be overruled. The Senate could not be tempted by the preference they might feel to another to reject the one proposed; because they could not be tempted by the preference they might feel to another to reject the one proposed; because they could not assure themselves that the person they might wish would be brought forward by a second or by any subsequent nomination.

Mr. President, this explanation of the role of the Senate in the confirmation process was eloquently described by Alexander Hamilton in Federalist Paper No. 76. The words of our Founding Fathers are just as relevant today as they were 200 years ago when they empowered the President in article II, section 2 of the U.S. Constitution to nominate "with the Advice and Consent of the Senate, * * * Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States * * *."

Both the Constitution and the Federalist Papers which were written to advocate and explain the provisions of the Constitution clearly express a deference to the President's choice of his administration. The Senate's check is intended to be used only in special circumstances and, as Hamilton wrote, "to be an efficacious source of stability in the administration."

Although some may call it old-fashioned or conservative, I respect this deference to the President that our Framers clearly intended. I have done so even when President Clinton has sent nominations to the Senate with whose philosophies I do not completely agree. On several occasions, however, I have opposed a nominee based on past actions by that nominee which illustrate a clear political agenda that is intolerant of conflicting viewpoints and which reject fundamental principles found in our Constitution. Other nominees whom I opposed were simply incompetent to fulfill the responsibilities of the office to which they were nominated.

The nomination of Judge Stephen Breyer to become an Associate Justice of the Supreme Court of the United States does not in my view, fall into one of the exceptions. Although he would not have been my selection to sit on the Court, he is obviously a highly qualified, well-regarded, and competent jurist who has proven his respect for and obedience to the Constitution. He and I disagree on his past decisions on the separation of church and state. That disagreement, however, matched by other areas in which we agree, does not compel me to reject this nominee whom the President certainly would replace with a less suitable nominee.

While it is impossible to predict the actions taken after a Justice is confirmed to the bench, there is reason for conservatives to be optimistic that Judge Breyer will show more judicial restraint than has his predecessor. As conservative constitutional scholar Bruce Fein recently wrote in his syndicated column:

> In stark contrast to Justice Blackmun, Judge Breyer displays no quixotic impulses to employ judicial power in a utopian quest to correct or ameliorate all social ills. It speaks volumes on that score that Judge Breyer concurred with Holmes' admonition to Judge Learned Hand that the overriding judicial imperative is not to do justice, but to play the game according to the rules.

In conclusion, I refer again to the helpful words of Alexander Hamilton in Federalist Paper No. 76. Despite some philosophical differences with Judge Breyer, as I have stated, that in itself is not sufficient reason to oppose his nomination. I shall vote to confirm.

Mr. HATFIELD. Mr. President; I would like to take this opportunity to express why I will vote in favor of the nomination of Judge Stephen Breyer to be the next Associate Justice of the U.S. Supreme Court.

The advice-and-consent role of the Senate is something that we do not take lightly because this is the only opportunity for the people of this Nation to express whether or not they deem a nominee qualified to set on the highest court in the land. After carefully scrutinizing every aspect of Judge Breyer's personal and professional life, the Judiciary Committee unanimously agreed that he is an ethical and extremely well qualified candidate for this position. Matters involving his financial investments were thoroughly investigated and determined by experts to represent no conflicts of interest. Throughout the hearings on this nomination, Judge Breyer demonstrated the intelligence, integrity, and fairness necessary to excel in this position. The Court will benefit from his intellect, from his unique points of view, and from the strength with which he holds those views.

As with every nomination, I do not agree with all positions that Judge Breyer has taken or will take during his years as a judge. However, he has formed views on the economics of regulatory burdens that I find intriguing in light of the burdens that Western States face from natural resource regulation. In addition, Judge Breyer has demonstrated an even-handed approach to controversial areas involving freedom of religion, property rights, and civil rights.

In some areas of law, including the law involving abortion, I disagree with Judge Breyer's opinions. He has indicated cautious support for current decisions regarding abortion rights, which I view as misguided. In addition, he stated that constitutional questions surrounding the death penalty are settled law, and that he has no personal opinion on the matter. It is disturbing to me that someone who will be deciding the fate of human lives has no personal opinion for or against State-sponsored killing. However, I have never made it a practice to decide the fitness of a judge to serve on the bench based upon one or two opinions that he either does or does not share with me. I am confident that Judge Breyer will keep an open mind on these issues and demonstrate the judicial temperament that he has shown in his career so far.

The diverse background of Judge Breyer speaks very well for his ability to take on this challenge. He is the highly regarded chief judge of the First U.S. Circuit Court of Appeals, and has a reputation as working well with others and searching for common ground on tough issues. He attended Stanford and Oxford Universities, and graduated from Harvard Law School. In addition, Stephen Breyer has accumulated a variety of other legal experiences over the years including service as a law clerk to Supreme Court Justice Goldberg, working in the Justice Department's antitrust division, serving on the U.S. Sentencing Commission, and serving as chief counsel to the U.S. Senate Judiciary Committee. I am pleased to note that, as with Justice Ginsburg before him, this nominee has been committed to teaching and education for many years. Judge Breyer joined the faculty of the Harvard Law School in 1967 and has continued to teach even after becoming a judge.

These varied legal and educational experiences give Judge Breyer a depth of understanding not only of the law, but of how it relates to each of the three branches of government. These experiences combined with his respect for the Constitution and his fair-minded approach to issues should serve the country well as Judge Breyer takes his place on the Supreme Court of the United States.

Mr. PRESSLER. Mr. President, I rise today to speak briefly on the nomination of Chief Judge Stephen Breyer to be Associate Justice of the U.S. Supreme Court. Of my colleagues, I believe I am in the unique position of being the only former law student of Stephen Breyer when he was a professor at Harvard Law School. I am pleased to support my former law school professor for a position on the High Court.

Coincidentally, the class I took from him years ago dealt with Indian law primarily, the same issue I questioned Judge Breyer about during his confirmation hearings. Many of the cases we studied in that law class years ago retain their significance and precedence to this day.

The class discussed the "Cherokee Cases"—perhaps the two most influential decisions in all of Indian law. In *Cherokee Nation* v. *Georgia*, 30 U.S. (5 Pet.) 1 (1831), Chief Justice Marshall, writing for the Court, determined that the Cherokee tribe was a "state," "capable of managing its own affairs and governing itself." Marshall went on to characterize the tribes, in a famous phrase, as "domestic dependent nations."

The following year, the Court held in *Worcester* v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832), that the laws of Georgia had no force within the boundaries of the Cherokee nation. At the time, this ruling virtually excluded the States from exercising jurisdiction over Indian affairs, and is said by some to have caused President Andrew Jackson to declare, "John Marshall has made his decision; now let him enforce it."

Jurisdictional problems regarding Indian lands are very much with us today. Indian law cases are certain to come before the Court in the near future. I have confidence Judge Breyer will approach these cases with the dedication and respect for the law which he has so ably demonstrated in the past.

Mr. President, though I will vote to confirm Judge Breyer, my vote does not imply that I do so without reservation. Judge Breyer has been a Federal appeals court judge for 14 years and during that time has authored or joined many, many opinions. Certainly, I do not agree with all of his opinions and views.

Take, for example, his 1989 ruling in New Life Baptist Church Academy versus Town of East Longmeadow, regarding the free exercise clause of the Constitution. Judge Breyer held that local school boards could enforce a State law that requires "approval" of a religious school's secular program. In recent weeks, I have heard from constituents concerned that this case indicates the nominee's beliefs that it would be constitutional for a State government to ban home schooling. Judge Breyer's ruling also raises questions about the extent of a local school board's ability to approve or disapprove of a private school's secular program and whether, when making such an approval, a local school board must use clearly articulated, objective standards.

Despite this concern, however, I take comfort from Judge Breyer's remarks concerning this case during the confirmation hearings. He recognized that,

> [t]here is nothing more important to a person or to that person's family than a religious principle, and there is nothing more important to a family that has those principles than to be able to pass those principles and beliefs on to the next generation.

I certainly share this view. Judge Breyer further stated that he understood the strong protections Congress intended to give to religious liberty under the Religious Freedom Restoration Act, passed by the Congress last year. These remarks give me hope that, if confirmed, Judge Breyer will not further erode the right of citizens to school their children at home or at a private school.

Notwithstanding the reservations I have mentioned, I remain confident that Judge Breyer will be a fair and very able Justice of the Supreme Court. I wish him well.

Mr. DODD. Mr. President, I rise to express my strong support for the nomination of Judge Stephen Breyer to the U.S. Supreme Court. He has already distinguished himself as a first-rate jurist, and I am confident that he will be an extraordinary Justice.

This Nation was founded on the rule of law, and the Supreme Court of the United States is our highest embodiment of that principle. Those who we appoint to this court are therefore more than judges. They are guardians of a sacred idea, the idea that our Nation is one where the law will prevail.

Stephen Breyer is uniquely qualified to serve as a guardian of this idea. He has dedicated his life to making the law work for people, to making the courts accessible to American citizens, and to preserving constitutional rights.

Judge Breyer has worked in all three branches of Government and has distinguished himself in each. As an attorney with the Justice Department's antitrust division, he successfully argued that an agreement not to show property in white neighborhoods to African-American buyers could be challenged as an antitrust violation. As chief counsel to the Senate Judiciary Committee, he helped forge a consensus among business and consumer groups to deregulate the airline industry.

And finally as a judge, Stephen Breyer has brought a commonsense, reasoned approach to the cases he has handled. A survey of his major opinions resembles a tour through the pillars of American jurisprudence: the imperative of free speech, the rights of religious minorities, the injustice of discrimination, a balance between the rights of the accused and the needs of law enforcement.

Stephen Breyer has also gone beyond the confines of his judicial robes and has brought his good judgment and keen intellect to other tasks. He was a charter member of the U.S. Sentencing Commission, which established fair and uniform punishment guidelines for criminals. He has also taught at Harvard Law School since 1967, where he has contributed to our scholarly understanding of the law and has inspired scores of future lawyers.

Given his sterling reputation and considerable accomplishments, it is unsurprising that Judge Breyer has drawn such wide praise from all across the political spectrum. As Kenneth W. Starr, Solictor General under President Bush, has said,

> Judge Breyer is universally admired among his judicial colleagues throughout the country as a judge of high abilities and unshakable integrity. With his intellect, wisdom, and energy, he will prove to be, I am confident, one of the great Justices of this century.

I share Mr. Starr's assessment, and I urge my colleagues to vote for this nomination.

Mr. KEMPTHORNE. Mr. President, it seems that ever since I began my career as a public servant, I have been involved in the selection of judges. In Boise, as a result of my position as mayor, I served on the Fourth District State Court Magistrate Selection Panel.

As a group, we on the selection panel were very serious in our decision-making process. We knew that the men and women we selected would be perhaps the public's only contact with the judicial system. The trust of the citizenry—their belief in the essential fairness of the judiciary, would be given the test in our selection.

My thoughts during that selection process were that we should find and place on the bench the best qualified individual to fit the position. But, as with all things, there was sometimes disagreement as the meaning of the term "best qualified."

By "best qualified" I meant that a judge should exhibit exemplary educational and professional qualifications. They should demonstrate a temperament and attitude of fairness. They should be dedicated to the principles of the law and they should be willing to subject themselves to a life of study and intellectual pursuit. On-the-job training is no place for a judge.

We knew that if a well-qualified individual was lacking in some particular qualification, but was otherwise a deserving person who could satisfy the greater majority of the needs of the bench, that sufficient safeguards existed to backstop our decision. In Idaho, judges stand for public confirmation every 4 years. A competent and watchful review process ensured that judges who failed to perform could and would be replaced.

Now, years later, I find myself in the position of fulfilling the high constitutional duty in the confirmation of Justices of the United States Supreme Court.

In Federalist Paper, No. 76, Alexander Hamilton on April 1, 1788, stated:

> To what purpose then require the co-operation of the Senate? I answer that the necessity of their concurrence would have a powerful, though in general silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to preventing the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

There are few things we will do this year more important than confirm lifetime appointments to the Federal bench. Any Federal judgeship is a position not to be taken lightly. Just as I have never endorsed a "litmus test" for Federal judges, I cannot support a Federal judgeship, any Federal judgeship, based on political patronage. A Federal judgeship is a position that should not be based simply on the slavish adherence to political philosophy. To do so diminishes the bench and diminishes the nominator. To do so betrays our constitutional duty. In Federalist Paper, No. 78, Hamilton stated:

> For I agree, that "there is no liberty, if the power of judging be not separated from the legislative and executive powers." And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, (it) would have everything to fear from its union with either of the other departments.

The selection of a Federal judgeship cannot be a political game to be played by nominating legislators or a conniving executive but rather a deadly serious business which can determine the future direction of our Nation. The court and its nominees are, however, influenced by the political process. A careful balancing of philosophies, as determined by the election process, determines the direction of the court and the direction of our Nation.

Now, as then, I believe that a Justice of the United States Supreme Court, as with any Federal judgeship, should have the highest educational and professional qualifications. Surely Judge Breyer has those qualifications. Educated at Stanford, Oxford, and Harvard, Judge Breyer has served as the chief counsel of the Senate Judiciary Committee, law clerk for Supreme Court Justice Arthur Goldberg, and professor of law at Harvard School of Law. He currently serves as the chief judge of the First District U.S. Court of Appeals, having been appointed by President Carter.

However, we expect excellent qualifications in a lifetime appointment to any position on the Federal bench. Too many critical issues will be decided. Too many lives will be affected.

A Justice of the U.S. Supreme Court must be a person of integrity and values. The best way to determine if a judge represents our ideal of judicial integrity is through their decisions. Most of the decisions of Judge Breyer represent an incisive legal mind and a scholarly process of thought. Some of his decisions, however, have raised controversy in my State, particularly in his decisions on religious freedom and the free exercise of religion. Some of my constituents are concerned about Judge Breyer's previous rulings on home schooling.

In Idaho, and across the Nation, thousands of concerned families have rejected the public educational system because they do not believe it represents the values they cherish. The values and the reasons for that belief are varied across the country. In some parts of America, alternative schooling is preferred because of cultural or ethnocentric values which parents may rightfully believe are not sufficiently addressed by a public school system. In Idaho, the overwhelming majority of alternative home schooling is done by parents who believe that the exclusively secular education offered by the public school system does not provide the sound religious values they hold above everything else. Home schooling is not easy. It takes a commitment to education and a commitment to those values which the parent feels are not shared by our educational system. These parents have the right to provide an alternative education to their children.

In the confirmation hearing of Judge Breyer, Senator SIMPSON questioned him on his views and on whether Judge Breyer believes it is constitutional for States to mandate testing to determine the adequacy of secular education at religious schools. Judge Breyer answered that the question was dependent on the particular State law and whether the State system was the least intrusive into the rights of the individual. Asked straight out if he had a bias against home schooling or religious schooling he answered, "absolutely not." In the light of his qualifications and his experience I am willing to take Judge Breyer at his word.

Senator LUGAR has criticized Breyer for his involvement in 1985 with a Lloyds underwriting syndicate known as Merret 418. And I want to thank my good friend and colleague, Senator LUGAR, for bringing this issue to the Senate. The Lloyds syndicate insured a wide range of risks but its main crisis involved asbestos and pollution remediation. It is fair to ask whether this involvement raises a question of conflict of interest over Judge Breyer's participation in environmental pollution cases.

Furthermore, because of the rules of Lloyds investment depending on the results of the losses sustained, Judge Breyer may be unable to leave the syndicate. Currently, Breyer has sustained losses of some $30,000. The worst case scenario differs depending on your source of information. A representative from Lloyds has said that Judge Breyer could lose a maximum of $187,200, with his own insurance covering all of that. Others, also familiar with the Lloyds process, say that Judge Breyer would be harassed by this improvident investment for years to come. They question his judgment and his judicial independence in light of this serious entanglement. They say that he may have to recuse himself from so many decisions that his effectiveness will be compromised for years to come.

But, with all respect to my friend and colleague, Senator LUGAR, I cannot disqualify a person to sit on the Federal bench because of a disputed and speculative impact of a family investment. If Judge Breyer is ineffective because of his entanglements, he should retire from the bench.

On balance, Judge Breyer is a highly qualified and experienced member of the bench who will make the Court marginally more balanced based on the political and judicial philosophy of the Justice he is replacing. Because of his qualifications and his judicial history I will support Judge Breyer to be a Justice of the U.S. Supreme Court.

Mr. DOLE. Mr. President, I would like to say a few words in support of the nomination of Judge Stephen Breyer.

In the late 1970's, I had the opportunity to work closely with Judge Breyer, when I was a member of the Senate Judiciary Committee and Judge Breyer—then just Stephen Breyer—was the committee's chief counsel. Although a member of Senator Kennedy's staff, Stephen Breyer nonetheless made a big impression on those of us sitting on the Republican side of the committee room. Stephen Breyer was someone whose word was good. He was always fair-minded, sharing information and giving us the benefit of his counsel.

After 3 days of confirmation hearings, the American people now know what we knew back then—that Judge Breyer's intellect is considerable, his educational credentials impeccable, his knowledge of the law expansive. Judge Breyer also possesses a skill that should serve him well on the Court—an ability to communicate his knowledge of the law in clear, unambiguous prose, making it accessible to the ordinary American citizen. He is a recognized expert in the area of administrative law, antitrust, and economic regulation. He was a charter member of the U.S. Sentencing Commission. He is a proud father and a loving husband.

Of course, I do not agree with every decision ever rendered by Judge Breyer. For example, in the New Life Church Academy case, it appears that Judge Breyer took too narrow a view of the free exercise clause of the first amendment and, as a result, supported a position that undly burdens private religious schools.

It is also clear that Judge Breyer would not have been nominated if a Republican were sitting in the Oval Office. But, then again, it was President Clinton—not President Bush—who won the election in 1992.

Obviously, Republicans should not give President Clinton a green light on every judicial nomination that comes down the pike, but that does not mean we should flash a red light on every nomination either. Republicans will continue to examine closely the record of every nominee, and if the record raises more questions than answers, then we will speak out, as we did with the nomination of Judge Rosemary Barkett.

The role of a judge is to follow precedent and apply the law neutrally, not rewrite the law by legislating from the bench. What matters is what the law says, not what a judge thinks the law ought to say. Any nominee who does not understand this basic principle of judicial restraint should not be confirmed.

I know it is fashionable in some circles to blame Republicans for something called gridlock. But with the nomination of Justice Ginsburg, and now with the Breyer nomination, Republicans have given the President the benefit of the doubt. In fact, I think it is fair to say we have been more cooperative on these two nominations than Democrats ever were during the Reagan and Bush administrations. Just ask Judge Bork and Justice Thomas.

Finally, Mr. President, before Judge Breyer was officially nominated, there was a lot of talk about how important it was to put someone like former Chief Justice Earl Warren on the Court.

This point of view is disturbing, to say the least, for as violent crime intrudes on every community in America, the last thing we need is another activist Warren Court that expands the rights of criminal defendants and hamstrings law enforcement.

Unfortunately, too many Federal judges have too often viewed law-and-order as just that—a slogan. Arizona Gov. Fife Symington, for example, has tried to rid his State's prison system of pornography, only to be overruled by a district court judge. Federal judges have ruled that State prisoners suffer "cruel and unusual punishment" if they do not have access to televisions and basketball courts. And Federal prison cap orders have led to the early release of violent, vicious criminals.

According to one study, a staggering three-fourths of the State prison systems and one-third of the 500 largest local jails are under some form of Federal court supervision.

So, Mr. President, a judicial nomination is serious business. The decisions of Federal judges can have important, real-life consequences. And when you are talking about filling a vacancy on the highest court in the land, the stakes are even higher.

Mr. President, I am proud to support the nomination of Stephen Breyer. President Clinton has made a fine choice, and I am pleased to join those who wish him well as the newest Associate Justice of the Supreme Court.

Mr. MOYNIHAN. Mr. President, Judge Stephen G. Breyer, the Chief Judge of the U.S. Court of Appeals for the first circuit, is the second superb Supreme Court nominee presented to the Senate by President Clinton, Ruth Bader Ginsburg having been the first. I was an early advocate of Judge Ginsburg's nomination, and I support Judge Breyer's nomination with equal enthusiasm.

My acquaintance with Stephen Breyer began three decades ago when I undertook to edit the collected public papers of Justice Arthur Goldberg. I had been Assistant Secretary of Labor in the Kennedy administration during Arthur Goldberg's tenure as Secretary, and Stephen Breyer was a law clerk to Justice Goldberg on the Supreme Court. Stephen Breyer was of great help to me in the compilation of the Justice's papers, which were published in 1964 under the title "The Defenses of Freedom: The Public Papers of Arthur Goldberg."

More recently, Judge Breyer and I have found we have another common interest—in the subject of risk regulation. I have long advocated a more sensible Government approach to the assessment of risk; this is described in S. 110, the Environmental Risk Assessment Act. He has written a book on the subject entitled "Breaking the Vicious Cycle Toward Effective Risk Regulation." The book, based on the Oliver Wendell Holmes lectures delivered by Judge Breyer at Harvard University, makes the subject easily accessible. In it, he proposes the creation of a Federal agency to help the President determine how best to allocate resources and to help determine the best way to reduce risks. This would be another bureaucracy, but a decentralized agency whose multidisciplinary employees would serve for 2- to 3-year periods in offices within the executive, judicial, and legislative branches, dealing with risk assessment and management.

In addition to his broad experience as a Federal judge on the first circuit, Stephen Breyer's other professional experience has prepared him well to sit on the Supreme Court. He has served as a professor at Harvard Law School and at Harvard's Kennedy School of Government; as Chief Counsel to the Senate Committee on the Judiciary; as Assistant Special Prosecutor for the Watergate Special Prosecution Force; and as Special Assistant to the Assistant Attorney General here in the U.S. Department of Justice. He is a lawyer who has examined the law from many perspectives.

These experiences, no doubt, have contributed to Judge Breyer's deep respect for and knowledge of the legislative process. Indeed, he is a leading expert—and formidable advocate—on judicial use of legislative history. His approach to this subject was described by Prof. Robert A. Katzmann, who is the Walsh Professor of Government and Professor of Law at Georgetown University, in a recent article which I will place in the RECORD.

Mr. President, Stephen Breyer will be an outstanding Justice of the Supreme Court, and I urge my colleagues to support his nomination when the Senate votes later today. I ask unanimous consent that the article about Judge Breyer by Prof. Robert Katzmann be printed in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Roll Call, May 30, 1994]

GUEST OBSERVER

(By Robert A. Katzmann)

JUSTICE BREYER: A RIVAL FOR SCALIA ON THE HILL'S INTENT

If confirmed as the 108th Justice, Stephen Breyer will bring to the Supreme Court an intimate knowledge of, and respect for, the legislative process. As former chief counsel of the Judiciary Committee, he knows how laws are made and he knows the people who make them.

"My experience running the staff of the Senate Judiciary Committee," Breyer once observed, "led me to conclude that elected officials seriously consider public interest argument and act upon them."

As a jurist who is now the chief judge of the First Circuit, he has been a staunch defender of judicial use of appropriate legislative history—for example, committee reports and floor debates—in the interpretation of unclear statutes.

At a time when the venerable practice of looking to legislative history has come under siege, most notably from Justice Antonin Scalia, Breyer's appointment promises to add an effective voice to the debate.

Those who would restrict or even totally abandon the use of legislative history and confine judges merely to the ambiguous words of a statute itself offer a variety of challenges to which Judge Breyer has responded.

Critics argue that legislative history is often conflicting and thus of no use. To that view, Breyer observes that the federal appeals courts are often confronted with unclear statutory provisions, which do not involve major political controversy, and where legislative history is often clear enough to clarify statutory meaning.

Legislative history skeptics make the constitutional argument that the law consists only of the words of a bill passed by both houses of Congress and signed by the president or subject to a veto override—not of floor speeches or committee reports.

Breyer answers that no one claims that legislative history is any strong sense "the law," but rather that it is useful in ascertaining the meaning of the words in the statute.

Opponents of legislative history also assert that the Constitution vests "legislative" power in elected Members of Congress. For Scalia, using legislative history vests illegitimate authority in unelected individuals—Congressional staffers or lobbyist—who write the floor statements, testimony, and reports. Members of Congress, the argument continues, may not even read these materials.

Judge Breyer and Justice Scalia have taken each other on publicly about the workings of the legislative process, disagreeing on the matter at a colloquium of the Governance Institute and the Brookings Institution.

To Breyer, legislators make the significant decisions and take responsibility for the outcome.

Legislators cannot read every word of every report or proposed statute. But in the process of interaction with relevant interest groups, executive branch departments, and other institutions, these words are carefully reviewed by those whom they will likely affect and by the legislator's own employees. The staff act at the direction of their legislators, who, in the end, like the managers of other large institutions, are accountable for the decisions made.

The problem with legislative history, Breyer maintains, is with its abuse, not it use. Legislative history, he argues, aids appellate courts to make the law itself more coherent, workable, and fair in at least five different circumstances:

(1) Avoiding an Absurd Result. Breyer believes that a court should look to legislative history where the literal language of a statute would produce an absurd result. On this point, he and Scalia agree.

(2) Preventing a Court Decision From Relying on a Drafting Mistake. In some situations, the language of statute might seem rather clear and the result is not apparently absurd. But resorting to legislative history could demonstrate that the result is in error because of a drafting mistake, one that a court should correct.

(3) Specialized Meanings. Another relatively noncontroversial use of legislative history that Breyer support is when it gives meaning to a specialized term or phrase in a statute, as understood by the community of experts or other involved in the passage of a statute. Here, too, Justice Scalia would apparently concur with Judge Breyer.

(4) Identifying a "Reasonable Purpose." At times, Breyer argues, legislative history is necessary to understand the purpose a particular statutory word or phrase has within the broader context of a statutory scheme.

For instance, in a First Circuit case, the court had to determine whether the word "persons" in a welfare statute included a child, the child's mother, a stepfather, or all of them. Without examining legislative history, the court might not have appreciated that the same word "persons," found three times in the same sentence, referred in each instance to a different group.

(5) Selecting Among Reasonable Interpretations of a Politically Controversial Statute. A court might also use legislative history when a politically controversial statute, passed amidst conflicting signals, is silent or unclear about a contested issue. Breyer contends that for reasons of "time, the complexity and length of the overall bill, and the difficulty of foreseeing future circumstances," it might have been easier to case language in a floor statement or report than in the statute itself.

As chief judge of the First Circuit, Stephen Breyer has supported initiatives to promote communications between the judiciary and Congress.

To that end, his circuit is participating in a Government Institute project in which judicial opinions identifying perceived noncontroversial problems in statutes are routed to Congress for its information.

This effort, launched in 1992 with the bipartisan support of the House and Senate leadership, is designed to stimulate shared understanding between the branches about the drafting, interpretation, and orderly revision of statutes.

As the product of both the courts and Congress, Justice Breyer will most assuredly be a bridge between each, in ways that promote the more effective workings of government.

Mr. MCCONNELL. Mr. President, I am pleased to support the confirmation of Judge Stephen Breyer for Associate Justice of the United States Supreme Court. Judge Breyer has demonstrated he has the necessary qualifications to become the 108th Justice.

He will come to his new position with experience in all three branches of government and with a distinguished academic background. He has a thorough command of the law, particularly for those areas which increasingly occupy the Court's docket—administrative and regulatory issues.

Judge Breyer appreciates the framework of American democracy—that each of the three branches has separate and distinct functions. And, most importantly he knows it is the responsibility of the Congress to make the laws. In his 14 years as an appellate judge, he has shown appropriate deference to the legislative branch. And he has demonstrated restraint as a judge, avoiding the tendency of so many judges to invent law to achieve a particular result.

During his confirmation hearings, he reviewed a number of issues. He finds the death penalty to be constitutional in certain circumstances—"settled law" was what he said. On the first amendment's protection of religion, he said the separation of church and state was not absolute, and noted that there were "vast areas" in which the government assisted religion. In discussions about the use of statistics in death penalty cases, Judge Breyer noted that the hallmark of our system is "individual justice" based on the facts and circumstances of each case.

And, on those issues he felt he could not discuss in detail, Judge Breyer stated clearly that he would have an open mind; he will study the arguments on both sides of an issue, and he will not prejudge any case. This is in stark contrast to Justices Marshall, Brennan, and lately Blackmun, who announced their position on a key issue—the death penalty—without regard to the particulars of a case.

Mr. President, Judge Breyer possesses a keen intellect, the necessary integrity, as well as an appropriate judicial temperament to serve on the Supreme Court. In addition, his record, including his testimony at his confirmation hearing, demonstrates that he is a practitioner of judicial restraint; he will be disciplined and he will defer to Congress when it comes to setting out new rights or making new law.

I will cast my vote in favor of Judge Breyer's confirmation.

Mr. KOHL. Mr. President, I rise to support the nomination of Judge Stephen Breyer to the U.S. Supreme Court, and to speak briefly—and somewhat critically—about the process that I believe will result in his confirmation.

Judge Breyer came before the Judiciary Committee with a reputation as a brilliant legal scholar and a fair-minded judge.

For the most part, the committee's hearings confirmed these judgments. Judge Breyer impressed us with his ability to simplify complex legal doctrines and cut to the heart of fundamental constitutional questions. His answers revealed that he is a moderate, reasoned man of principle with a commitment to the rule of law; a man who is likely to strengthen the center of the Supreme Court, rather than polarize the Court.

Throughout the hearings, two main criticisms were levied against Judge Breyer. First, many charged that Judge Breyer acted unethically because he ruled in cases that may have indirectly affected his investments.

I do not believe Judge Breyer acted unethically and I do not doubt his integrity. If judges had to recuse themselves in every case that presented a possible conflict of interest, our courts would become paralyzed. But Judge Breyer could have taken more significant measures to dispel any appearance of impropriety. I am pleased, therefore, that he has promised, at the very least, to divest himself of all insurance holdings as soon as possible, although it is not clear exactly when he would do so.

It was also suggested that because Judge Breyer has spent most of his life dealing with books and theories, he lacks Justice Blackmun's empathy for "the poor, the powerless, and the oppressed."

Well, it is true that Judge Breyer did not have an underprivileged upbringing. And it is true that he has spent much of his life as a legal scholar, rather than a hands-on practitioner. But we should not assume that because Judge Breyer has been fortunate, and enjoys the life of the mind, he is unable to care about others.

Judge Breyer seemed to recognize during our confirmation hearings that his actions as a judge have very real consequences for the lives of the people the law governs. And he appears to be aware that beyond the marble columns of the Supreme Court is a world in which the politically powerless are entitled to as much justice as those Americans who hire the best lawyers and lobbyists.

It may be that Judge Breyer still has to demonstrate his professed commitment to making the law work for the average person. But I believe our confidence in him will be justified.

Having said this, there was much we did not learn about Stephen Breyer, and—despite my confidence in him—this concerns me. Judge Breyer's eloquence often gave him the appearance of answering questions when, in fact, he actually sidestepped them with sugar-coated generalities.

For example, he would not give an opinion on whether courts should be required, at the very least, to consider public health and safety before allowing for secrecy in civil litigation. And he refused to discuss many subjects, including voting rights jurisprudence, gender-classifications, and his own decision on abortion counseling—Rust v. Sullivan—with any degree of specificity.

Whenever Judge Breyer felt the need to avoid answering a question, he would cloak himself in his black robe and claim that the issue was within Congress' domain or that the question took him out of his role as a judge. Yet at the same time, he did speak openly and freely on other issues which were just as likely to appear before the Court, or just as easily characterized as issues for Congress rather than the courts.

Why? The answer is by now well known: nominees only answer questions when they want to—or when they feel they need to.

I point all this out not to chastise Judge Breyer, whom I respect. But I cannot ignore a nominee's unwillingness to answer reasonable questions. Indeed, the process demands that we should not.

Mr. President, we all know that because a Supreme Court Justice has life tenure, the confirmation process is crucial—it is the public's only opportunity to learn what is in the heart and mind of a nominee. Of course, we also recognize that there are limits to what a potential Justice of the Supreme Court can say before the Senate.

But these limits do not justify the type of hedging that we have seen from some past nominees—evasion that erodes the Senate's ability to faithfully carry out its advise-and-consent responsibilities.

Judge Breyer was probably more straightforward with the members of this committee than many nominees in recent history. In fact, Senator SPECTER went as far as to coin a new standard for nominees to live up to: the Breyer standard.

In my opinion, however, we still have a way to go before we achieve the candor that the confirmation process demands and deserves. So I would like to impose an even higher standard on future nominees than perhaps would Senator SPECTER.

In the meantime, I commend President Clinton for nominating Judge Breyer—a man of great ability, who has demonstrated an enduring commitment to public service and to the law. I look forward to his tenure on the Court.

Mr. SHELBY. Mr. President, I rise to express my support for the nomination of Judge Stephen Breyer to the U.S. Supreme Court. I am pleased to offer my support because I believe that he is exceptionally well-qualified to serve as a Supreme Court Justice.

Judge Breyer is a native Californian who was born and raised in San Francisco. He was educated in the public school system and received his undergraduate degree from Stanford University. He also attended Oxford University on a Marshal Scholarship. In addition, Judge Breyer had a distinguished academic career at Harvard Law School where he was a member of the Harvard Law Review. Subsequently, he spent 8 years in the Army Reserves.

His entire adult life has been spent as a public servant working in all three branches of the Government. He began his career after law school as a law clerk to Supreme Court Justice Arthur Goldberg where he received firsthand experience in the Federal judicial process. He also served as a Special Assistant to the Assistant Attorney General in the Antitrust Division of the U.S. Department of Justice.

As Chief Counsel to the Senate Judiciary Committee, Judge Breyer worked well with Members of both parties and acquired a reputation for fairness. For the past 14 years, he has served as a judge on the U.S. Court of Appeals for the First Circuit. He is recognized throughout the judicial community as one of this country's leading jurists. He has rendered clear and concise decisions which have protected the individual and civil rights of American citizens. In addition, he has demonstrated exceptional skill in building bridges in the pursuit of justice and this ability will serve the court and the Nation well.

Judge Breyer also has dedicated many years of service to teaching young legal scholars at the Harvard

Law School. He has shared with his students through his instruction, as well as his writings, his expertise in criminal law, antitrust and economic regulation, civil rights, constitutional liberties, and environmental law. In addition, he has emphasized to his students that the judicial system must be accessible to everyone.

As a husband and father of three children, Judge Breyer is a well-rounded individual with broad experiences. He has a keen appreciation for family values and the challenges that families and young people in America face today. He is an honest, responsible, and intelligent jurist who possesses the credentials and wisdom needed for the Supreme Court. It is becoming increasingly difficult to find individuals as talented as Judge Breyer who are willing to dedicate their lives to public service. I am very happy that Judge Breyer is involved in this process, and I want to express again my strong support for his nomination.

Mrs. FEINSTEIN. Mr. President, frankly, while I expected to be impressed with Judge Breyer before the hearings, I must admit that I was not fully prepared for what I saw and heard once they began.

In his answers to question after multipart question fired at him on complex issues, Judge Breyer demonstrated both a deep knowledge of his field—and a comfort with that knowledge—unparalleled in my experience.

I am confident, however, that he will bring to the High Court not just scholastic and intellectual ability, but—more importantly—a rare ability to reveal the simple and elemental truth behind complex legal theories. He will do what he said in the Rose Garden, Mr. President. Make the law work for, and intelligible to, ordinary people.

He also satisfied this Senator that he is a man of great integrity, judgment and good, plain common sense. I believe him to be an outstanding appointment at a critical time in the Nation's history. As the Supreme Court wrestles with the issues that may well define our age: private property versus public need; access to information versus the creation of intellectual property; and crime control versus individual rights.

Judge Breyer will play a major role in shaping the decisions of the Court, perhaps helping articulate a middle ground that will guide us all.

For myself, Mr. President, I will be particularly interested to see how Judge Breyer and the Court balance what I called the rights of the few versus the rights of the many, particularly with respect to criminal justice matters. Perhaps no single issue will better test the Court's ability to strike a delicate balance than deciding what the habeas corpus appeal rights of a convicted killer should be.

As Americans increasingly come to feel that violence is plaguing our Nation, and the need to put laws in place to offer society the protection that it deserves, how will we—as a nation of laws—also protect the rights of the individual.

I, for one, am more than comfortable putting Justice's scales in Judge Breyer's stunningly skilled hands, Mr. President. I urge my colleagues to vote to confirm him this afternoon.

Mr. AKAKA. Mr. President, I rise in support of Judge Stephen G. Breyer, President Clinton's nominee to be Associate Justice of the Supreme Court of the United States.

The Constitution authorizes the Senate to give advice and consent to such nominations made by the President. I assume this responsibility with the utmost solemnity and diligence. I am pleased the Senate Judiciary Committee gave its overwhelming approval to the nomination after thoroughly reviewing Judge Breyer's suitability to serve on the Supreme Court.

I have had the privilege now to vote on four Supreme Court nominations, including three sitting Justices. I applied the same criteria to evaluate Judge Breyer as I did in examining the qualifications of his predecessors, Justices Souter, Thomas, and Ginsburg.

Throughout Judge Breyer's appearances before the Senate Judiciary Committee, I found him to be an engaging and knowledgeable jurist. He possesses a keen sense of humor, a sharp mind and an obvious enjoyment of his family, work, and community. I was most impressed with his belief that a primary precept of the Constitution is the preservation of individual dignity. During Judge Breyer's tenure on the U.S. Court of Appeals for the First Circuit, he has defended constitutional liberties such as free speech, religious freedom, and other privacy issues.

However, it is in the arena of antitrust and economic regulation where Judge Breyer is most widely recognized as one of the Nation's leading authorities. He is also a leader in interpreting Federal statutes and regulations that increasingly occupy the Supreme Court's attention. I believe his approach to statutory interpretation is in part shaped by his respect and understanding for the legislative process.

Judge Breyer enjoys an excellent reputation, particularly among his colleagues on the First Circuit Court. He also received the highest rating from the American Bar Association and was highly praised by those testifying on behalf of his judicial work during the recent confirmation hearings.

Mr. President, as I stated before, I am pleased to vote in favor of this nomination.

Mr. MURKOWSKI. Mr. President, as the Senate conducts its constitutional duty of advising the President on the nomination of Judge Stephen Breyer to the Supreme Court, I am reminded of the solemn significance of the Senate's duty as a separate branch of Government to advise the President, the executive, on the nominations of individuals to serve in posts that are among the highest official posts in the land. Of all nominations this body considers, nominations to the Supreme Court are among the most critical because of the tremendous responsibility we vest in our Supreme Court, and because the tenure of the members of the highest judicial court in the country is limited only by an individual justice's inclination or mortality. This is the first and last say we will ever have on the suitability to Judge Breyer to sit on the Supreme Court.

Judge Breyer has, by most accounts, provided reasoned, intelligent answers to the Senate Judiciary Committee about legal issues and about his many rulings during 14 years as a Judge on the U.S. Court of Appeals for the First Circuit. He received the unanimous approval of the Senate Committee on the Judiciary. That is no small feat and, in all likelihood, will provide enough momentum to secure the consent of the Senate to his nomination to the Supreme Court.

In fact, one of the only serious concerns raised in relation to the Breyer nomination comes, not from the Judiciary Committee, but from the senior Senator from Indiana who provides a measured, thoughtful analysis of Judge Breyer's involvement in a Lloyd's of London insurance underwriting investment. An investment that is, as I understand it, the ultimate roll of the dice, the most important spin of the roulette wheel a person could take with his or her assets. One bets one's entire worth on underwriting insurance claims that other people enter into without consulting you. If they guess wrong the investor could lose everything. According to the Washington Post at least four investors in similar schemes have lost all their wealth and ended their lives in suicide. Now we are told that one of Judge Breyer's underwriting syndicate's faces mounting losses with no end in sight.

As a banker for 25 years, I am extremely troubled by the facts that the Senator from Indiana raises. I often encountered circumstances where I counseled customers, even very wealthy customers, against the advisability of taking on debt or the financial liability of another. Sometimes, very smart people made bad decisions and, literally, had to pay for those mistakes. But, Mr. President, in 25 years of banking, I never saw someone enter into an agreement in which their lability was unlimited. One's judgment is put in serious doubt when he voluntarily enters into an agreement like this.

For these reasons, I cannot support Judge Breyer's nomination to a position on the Supreme Court. His Lloyd's of London investment undermines my confidence in his judgment and forces me to oppose consenting to his nomination to one of the most critical, most powerful positions in the Nation. I am also concerned about the number of cases that Judge Breyer could not participate in because of the wide ranging nature of his investments which the Senator from Indiana has already discussed.

Mr. SMITH. Mr. President, I rise in opposition to the confirmation of President Clinton's nomination of Judge Stephen G. Breyer to be an Associate Justice of the Supreme Court of the United States.

Mr. President, if Judge Breyer's nomination to the Court is confirmed by the Senate, he will serve for decades after President Clinton leaves office. In making my decision on how I will vote with respect to his confirmation, I had to keep in mind that every time that Judge Breyer votes on the Supreme Court, I will be reminded of my vote in the Senate on his confirmation.

I have carefully reviewed Judge Breyer's background, decisions, and testimony before the Senate Judiciary Committee. As a result, I have concluded that I cannot, in good conscience, vote to confirm a nominee whose judicial record and confirmation hearing testimony indicates that he will move the Supreme Court away from the conservative decisions of Chief Justice Rehnquist and Associate Justices Scalia and Thomas.

In addition to my concerns about Judge Breyer's judicial philosophy, I agree with Senator LUGAR's criticisms about the nominee's controversial Lloyds of London investments. I believe that Lloyds' investments demonstrate highly questionable judgment. Moreover, they may require Judge Breyer to recuse himself from numerous significant cases before the Supreme Court in the years and decades ahead.

Judge Breyer's testimony before the Judiciary Committee places him on the liberal side of the constitutional debate regarding the separation of church and state. I believe that he is likely to vote to uphold the Supreme Court's precedents banning prayer in the public schools and even at public school graduation ceremonies.

Mr. President, the Founders wanted the Constitution to guarantee that the United States would not have an official, national religion like the Church of England. I agree. But Judge Breyer's philosophy takes that worthy concept to an extreme.

As I studied Judge Breyer's judicial record, I was particularly disturbed that he joined a 1990 decision of the First Circuit Court of Appeals holding that the Reagan and Bush administrations' regulation banning the use of Federal funds for abortion counseling is unconstitutional.

Regardless of one's beliefs about whether elective abortions should be legal, the American people do not want to pay for abortions with their tax dollars. Judge Breyer's view that the Constitution requires that the American people pay for abortion counseling in federally funded clinics is extreme and represents an improper reading of the Constitution.

Mr. President, I have reluctantly concluded that President Clinton's nomination of Judge Breyer represents the second building block in his effort to reconstruct the liberal Warren Court. I will vote against his confirmation to the Supreme Court.

Mr. GLENN. Mr. President, one of the most significant responsibilities of a President is the appointment of justices to the Supreme Court. The decisions of Supreme Court justices affect all Americans. They are on the front lines of battles over the most controversial issues of the day. For the American people to have respect for the law, it is imperative that Americans have confidence in the abilities of the justices that serve on the Court.

That is why I take the advise-and-consent clause of the Constitution so seriously. And that is why I am going to vote in support of the nomination of Judge Stephen Breyer to the Supreme Court of the United States.

In these days of rabid partisan bickering, President Clinton wisely nominated an individual who is not an idealogue. Rather, Judge Breyer has a reputation as a thoughtful jurist who carefully examines all sides of an issue. He is a consensus builder who breaks judicial gridlock by searching for middle ground.

Judge Breyer has devoted his life to public service. He has served with distinction in all three branches of government. Judge Breyer was appointed to the U.S. Court of Appeals for the First Circuit in 1980, where he currently serves as chief judge. Prior to his appointment to the Federal bench, Judge Breyer served as special counsel and later as chief counsel to the Senate Judiciary Committee. And in the executive branch, Judge Breyer was a senior official in Antitrust Division of the Justice Department.

This will not be Judge Breyer's first experience at the Supreme Court. Following law school, Judge Breyer served as law clerk to Supreme Court Justice Arthur Goldberg. And Judge Breyer's commitment to legal education did not end after law school. He joined the faculty of Harvard Law School in 1967 and has continued teaching following his appointment to the Federal bench.

Judge Breyer is also well known for his work as a charter member of the U.S. Sentencing Commission and as a special prosecutor in the Watergate investigation.

Academics, labor officials, business people, environmentalists, conservatives and liberals alike have praised Judge Breyer's record and abilities. Harvard Law Professor Charles Ogletree calls Judge Breyer the "consummate reasonable person" who will "bring balance, intellectual rigor, and humility in his role as a Supreme Court justice." AFL-CIO President Lane Kirkland says that Judge Breyer has demonstrated a "keen appreciation of the claims of working men and women for dignity in their work and for economic fairness." And Kenneth Starr, Solicitor General under President Bush, predicts that Judge Breyer will prove to be "one of the great Justices of this Century."

Judge Breyer's opinions demonstrate a real commitment to make courts more accessible to those with limited means. But Judge Breyer is concerned no only with accessibility, but also with ensuring that the American people can understand the cases before the courts. In an age when it seems you need to hire a lawyer to understand your own phone bill, Judge Breyer writes in a clear manner that can be widely understood by the American people.

Judge Breyer's investment in Lloyd's of London has been a subject of some concern. It should be noted that Judge Breyer publicly disclosed his Lloyd's investment each year so that parties could decide whether or not any they felt that any conflict existed. And he recused himself from cases involving Lloyd's. The American Bar Association has investigated Judge Breyer's background and concluded that he has an excellent reputation for integrity and character. I am satisfied with the conclusions of the ABA on this count.

I have also heard from Ohioans regarding Judge Breyer's holding in New Life Baptist Church Academy, a case involving the rights of parents to teach their children at home. During the Judiciary Committee's hearing on Judge Breyer's nomination, Judge Breyer was questioned about this case and his views on home schooling. Judge Breyer assured the committee that he has no bias against home schooling or religious education. Noting that there is nothing more important to a person than religious principles, he said that parents should have the right to pass religion onto their children without undue State interference. I think Judge Breyer has adequately explained his position on this issue.

Mr. President, in conclusion I want to again express my support for Judge Breyer's nomination. I don't agree with Judge Breyer on every issue. But what is important is that Judge Breyer approaches every issue objectively and he rules impartially. He looks at the facts and decides accordingly. Everyone agrees that Judge Breyer has a brilliant legal mind. I believe we should give the American people the benefits of Judge Breyer's legal mind and confirm him for a seat Supreme Court.

Mr. FEINGOLD. Mr. President, I cast my vote in favor of President Clinton's nominee for the U.S. Supreme Court, Judge Stephen Breyer, because I believe that he has the intellect, judicial temperament and commitment to constitutional principles that are the fundamental requirements for a Supreme Court nominee.

I do want to take a moment, however, to address the issues that were raised by the Senator from Indiana [Mr. LUGAR], regarding the issue of Judge Breyer's investment in Lloyd's, the London insurance company. The Senator from Indiana has made the argument that this investment demonstrated poor judgment on Judge Breyer's part, to expose himself to extensive personal financial liability and that he has a serious financial entanglement with the Lloyd's syndicate that will continue for years and might even force him into bankruptcy at some point.

The Senate Judiciary Committee investigated all aspects of this complex issue and concluded that there was no reasonable basis to question Judge Breyer's integrity or qualifications and there was no factual basis for assertions that Judge Breyer is likely to suffer massive losses from the investment or that the investment reflected a lack of prudence or poor judgment.

According to the materials prepared in response to the allegations regarding this investment, many of the assertions do not appear to be factually correct. First, the record demonstrates that at the time Judge Breyer made these investments, they were universally considered a safe and prudent investment based upon Lloyd's historical earnings record. Throughout its 300-year history, Lloyd's had returned substantial profits to its members and, prior to 1989, had not suffered an overall market loss since 1965, when Hurricane Betsy caused extensive property damage to the Eastern United States.

Second, based upon these materials, the assertion that Judge Breyer is exposed to unlimited liability for catastrophic losses does not appear to be valid. Judge Breyer purchased a personal stop-loss insurance to cover all loss insurance to cover all losses up to $225,000. In addition, I have been advised that he has approximately $220,000 in retained earnings held by Lloyds and that according to the underwriter's current projections, Judge Breyer's total liability will be approximately $44,000. Even the worst case losses of $168,000 to $187,000 projected by one independent authority on the syndicate, would be well within Judge Breyer's insurance coverage. The losses would have to reach double even the most pessimistic current projects before Judge Breyer incurred any net additional personal loss whatever. I have also been advised that investor's losses, or profits, are directly proportional to the size of their contributions and his investment in the syndicate in question would render him responsible for only 1/5600 of the total losses. Thus, before Judge Breyer would suffer any loss, the total liability of the syndicate must exceed $2.5 billion, which is vastly beyond even the largest estimates. The total losses for the hundreds of Lloyds syndicates in 1990—its worst year—was $5.5 billion. Finally, contrary to the assertions that Judge Breyer can "never withdraw," I have been advised that Lloyd's General Counsel has indicated that an entity known as Newco is being formed to assume the remaining liabilities of remaining syndicates such as Judge Breyer's. The establishment of this new entity would terminate all of Judge Breyer's remaining exposure.

Mr. President, based upon the information I have received, I do not believe that this issue should be the basis for opposing Judge Breyer's nomination. I do, however, believe that these kinds of issues should be thoroughly examined, and I think that the Senator from Indiana has done a service in exploring this issue. On balance, however, I believe that satisfactory answers have been provided to the concerns which have been raised.

Mr. ROCKEFELLER. Mr. President, I am proud to have this chance to cast my vote in support of confirming Judge Stephen G. Breyer as an Associate Justice of the U.S. Supreme Court. Judge Breyer is an impressive individual, not only for his obvious intellectual acumen and professional success, but also for his long record of dedication to public service. Judge Breyer has earned a wide array of support, reflected in the views of the labor community, the business community, environmentalists, academics, and the American Bar Association.

The Judiciary Committee performed an examination of his ethical history which revealed some questions, but produced a profile of a legal thinker and professional fully qualified for this tremendously important position.

His history of judicial decision-making reveals a man who weighs heavily the effect of the law on human lives. He does not adhere to any one strict legal ideology but approaches the law with a desire to shape the law to fit human needs. From the earliest age, he was taught that one learns more from people than books, and he has applied this lesson not only to his professional career but also to his family life, where he has been an exemplary husband and father, and in his community involvement.

Mr. President, Judge Breyer is a strong candidate for the Supreme Court because of his wisdom, intelligence, and integrity. He will bring to the Court a commitment to making the law a positive force for achieving justice and improving the lives of human beings. No calling is higher than that of justice, and I am confident that Judge Breyer will rise to that responsibility.

• Mr. WALLOP. Mr. President, I support the nomination of Judge Stephen Breyer to serve as Associate Justice of the U.S. Supreme Court. I believe that the President has the right to appoint the man of his choosing and while Judge Breyer may not be the jurist I personally would pick for this position, I respect that right of the President.

Judge Breyer has shown himself to be a man of keen intellect. He was a distinguished academic and has had the experience of serving in both the Executive and Legislative branches of Government. In addition, he has served with distinction on the U.S. Court of Appeals for the First Circuit. However, in spite of his fine qualities and many achievements, my support is not unqualified. I have serious reservations with regard to statements made by Judge Breyer in recent opinions as well as, his judgment based on evidence which came to light during his confirmation hearings.

First of all, Judge Breyer's investment with Lloyd's of London Syndicates raises several questions about his good judgment. Not only has he exposed himself to far reaching potential liabilities, but he has opened himself up to questions about conflicts of interest on prior cases on which he sat. More importantly, he now must recuse himself on some of the most complex and important issues that this Court will hear dealing with insurance and the environment. This leads me to question his prudence and his judgment.

I would also hope that Judge Breyer develops an increased awareness of and sensitivity to the rights of private property owners. Although he has not written about the takings clause of the fifth amendment, he was questioned about his approach to that issue during Judiciary Committee hearings. I will not go into depth on that at this time, but I would like to align myself with the comments of my colleague from Idaho, Senator CRAIG, who spoke earlier on that issue Mr. President. I strongly endorse the views of Chief Justice Rehnquist who recently stated in the case of Dolan v. City of Tigard, (U.S. June 24, 1994) that there is "no reason why the takings clause of the fifth amendment, as much a part of the Bill of Rights as the first amendment or fourth amendment, should be relegated to the status of a poor relation."

Finally, I followed with interest the questions posed to Judge Breyer with regard to religious schooling and home schooling. His opinion in New Life Baptist Church Academy versus Town of East Longmeadow, that town authorities could conduct a review of the curriculum of a religious school, caused me some initial concern. However, based on his responses to Senator SIMPSON's questions, I am encouraged that

Judge Breyer has no bias against religious schooling or home schooling.●

Mr. LEAHY. Mr. President, when I was in the Supreme Court a few weeks ago, I was reminded of the feel of the chamber. The courtroom itself is more cramped than you might expect. The bench, the chairs, the lectern, and the counsels' tables are all simple in their design. There is seating for the public.

Yet the importance of this room is enormous—one cannot enter that room without having a feeling about what happens in it. This is where our most precious rights and freedoms are protected through the decisions of the justices of the Supreme Court—the right to free speech, the right to practice one's faith, the right to a jury of one's peers and to due process, the right to vote. Nowhere on the face of the globe or in the history of mankind has a nation guaranteed such liberties.

It is no wonder that this place evokes such powerful feelings, and it is no wonder that the American people place so much importance on the naming of a person to take a seat behind the bench in this courtroom.

Judge Stephen Breyer has been nominated to be one of the nine persons who will question and debate and judge in this room as one of the final arbiters of the meaning and application of the Constitution of the United States and the basic freedoms of us all. He will follow in the path of John Marshall, Oliver Wendell Holmes, Jr., Louis D. Brandeis, Hugo L. Black, and Thurgood Marshall. These are very large shoes to fill, to be sure.

I have reviewed Judge Breyer's record. It is an exhaustive record of judicial opinions, law review articles and speeches. This record has earned Judge Breyer the reputation of being among the Nation's leading judges and legal scholars. I was struck by its breadth and distinction. He is without question a person with the legal acumen necessary to sit on the Supreme Court.

As I stated at his hearing and again when the Judiciary Committee voted unanimously to send his nomination to the full Senate, an essential, but sometimes overlooked, attribute of any judge is that he or she be fair. Justice requires that all litigants, regardless of their cause, can present their case and have it decided on the basis of the facts and the law, not on any predisposition of a particular judge hearing the case. My sense from reviewing Judge Breyer's record is that he is fair—he will take each case individually and decide it on its merits under the law. I believe that he has not and will not prejudge the outcome on the basis of an existing notion or narrow political goal.

I questioned Judge Breyer on a number of longstanding constitutional matters, including freedom of speech, freedom of religion and privacy. Judge Breyer spoke eloquently of the dignity of the person. I was interested to hear him explain that he looks to this concept in determining what rights the Constitution guarantees. Considering matters as they may affect the dignity of the individual is a promising way to make sure constitutional protections remain vigorous in the modern age. I am hopeful that this approach will help the Court decide issues that affect our most fundamental freedoms. I was impressed with his responses, which revealed a sensitivity toward modern-day free speech and censorship questions.

Finally, I wanted to mention the Lloyd's of London question only to say that this debate seems to be headed in the direction of requiring all judges to put their holdings in a blind trust. If that is the case, we should discuss it openly and determine whether to impose that requirement. I see no reason to oppose Judge Breyer. From what I have seen, Judge Breyer did everything required of him. Indeed, he filed exhaustive financial disclosure reports as all Federal judges are required to do, and no questions of conflicts of interest were raised.

If Judge Breyer is confirmed, I will have participated in confirmations for each of the nine justices serving on the High Court. During the last 20 years we have had different sorts of Presidents and different sorts of nominations to the Supreme Court. Some Presidents have used Supreme Court nominees as a wedge to divide the American people—to promote an us versus them politics. Often these types of nominations have resulted in divisive battles, political pontificating, and intensely personal attacks during the confirmation process.

President Clinton deserves credit for nominating Stephen Breyer. With this nomination, like his nomination of Justice Ruth Bader Ginsburg a year ago, President Clinton has taken a different course. He has sought a nominee who can bring people of diverse views together and who has been near universally praised as an excellent candidate. President Clinton has chosen someone who people of all stripes—conservatives, liberals, whatever—know will provide them a fair hearing and a fair reading of the law. The President should be commended for selecting a person who can help forge our way into a new century and a new age through consensus based in commonly shared constitutional values.

On the day that President Clinton announced his nomination of Judge Breyer, I was struck by Judge Breyer's comments. He said that the law has to make practical sense to ordinary people—it has to accord with real life. I could not agree more. He writes opinions in a style and manner that is accessible generally rather than restricted to lawyers or legal scholars. He stated that he will do his utmost to see that his decisions reflect both the letter and the spirit of law that is meant to help people and will remember the effects his decisions will have upon the lives of Americans.

A justice is charged with making decisions that, quite literally in some cases, are of life and death significance. The Court is not a place for academic musings. I told Judge Breyer that I want him to be the kind of justice who focuses on the effect his decisions have on real people—people who may not be powerful or well-connected. I suggest that he strive to be the kind of justice who could take the case of Barbara Johns—a young girl who had to attend a segregated school where classes were held in tarpaper shacks—and turn it into the unanimous opinion that was *Brown* v. *Board of Education*. I suggest he be the kind of justice who would take up Clarence Gideon's habeas petition, scrawled by hand on plain paper, and affirm the right of every citizen to due process of the law. It is a weighty responsibility.

Mr. LAUTENBERG. Mr. President, there is a certain majesty associated with the nomination of an individual to serve on the Supreme Court of the United States. Only 107 men and women have served on that Court. And during their tenure on the bench, they have a significant influence in charting the Constitutional course of the country.

Once on the Court, each Justice sits as an independent arbitrator. Absent an impeachable offense, they are not accountable to the President who nominated them, the Senate that confirmed them, or the country which lives under the decisions made by them.

There is, though, a very brief window of opportunity to look into the mind and heart of a nominee. For a few days—before the Judiciary Committee and the country—they must share with us their thinking on basic issues. It is our only opportunity to get a sense of how they reach their decisions: what values shape their views, what resources inform their rulings, what philosophies will be reflected in their Constitutional pronouncements.

In the past, at times I have been disturbed by those hearings. Some nominees have gone to extraordinary lengths to avoid controversy by avoiding substance. But short of just voting "no," there really wasn't anything the committee could do to compel a nominee to be forthcoming if they declined to answer questions.

Stephen Breyer did not need to be compelled. He was responsive, he answered questions forthrightly, he let the country get a sense of who he is and what he believes.

Judge Breyer's decision to explain his values and views made his hearings informative and satisfying, dignifying the confirmation process for this vital post.

While I might have some disagreements with some of Judge Breyer's positions, on balance I believe they reflect a keen understanding of Constitutional principles and doctrine. Let me take just a few moments to spell out some of the major factors I considered.

First, I wanted to be sure that any nominee would support the right to privacy contained in Roe versus Wade. I have been disturbed by the recent trend to chip away at the protections provided by the historic decision; but I have been alarmed by those who believe that trend will culminate in a reversal of Roe and a rejection of an expansive Constitutional right to privacy which underlies it. Judge Breyer was clear on this issue. He said that Roe was "settled law." He suggested that the right to an abortion is "a basic right." And while I wish he had been more open about his thinking relative to restrictions of the kind upheld in the Court's Casey decision, I believe that once he explained his basic thinking about Roe, he had legitimate grounds to avoid making specific commitments on those issues.

Second, I wanted to get a clear sense of Judge Breyer's thinking about the role of the Court. I am impressed by the deep thought Judge Breyer has already given to this complex issue. He recognized, for example, the need to respect precedent and the heavy burden that those who would upset stare decisis must discharge; at the same time, though, he praised the Brown versus Board of Education of Topeka decision and rightfully concluded that it brought "true meaning" to the Constitution's claims of equality under the law. I believe that Judge Breyer is sensitive to the constant tension between a necessary respect for precedent and a necessary capability for the law to evolve.

In the same context, I took comfort from his positions on "legislative intent" and "judicial activism." Judge Breyer clearly does not subscribe to the flawed theory that the Court must look only at a law as passed rather than using legislative history to clarify ambiguities and uncertainties. Similarly, when asked about judicial activism, Judge Breyer forcefully rejected the notion that a position on the bench is license to impose one's personal views on society; but he also rejected the artificial and misleading notion that a judge's personal philosophy can be checked at the door. I found his comments on these issues to be informative, balanced, and sensitive to the constant need to examine the facts before reaching conclusions. Perhaps the most instructive statement he made in this regard came in response to a question from Senator COHEN about his judicial philosophy. Let me quote Judge Breyer's comments:

> I always think law requires both heart and a head. If you don't have a heart, it becomes a sterile set of rules removed from human problems .... If you don't have a head, there's the risk that in trying to decide a particular person's problem in a case that might look fine for that person, you cause trouble for a lot of other people, making their lives yet worse. So it's [always] a question of balance ....

Third, I was in agreement with Judge Breyer about the separation of Church and State.

I share the nominee's view about the necessity for, and desirability of, a reasonably constructed wall to separate Church and State. I believe that Judge Breyer articulated the justification for that separation when he argued that assuring the neutrality of the state is the best way to insure that "members of each religion [will] be able to practice that religion freely, to be able to pass their religion on to their children."

Finally, Mr. President, I would like to address the issue of the potential conflict of interest associated with Judge Breyer's investments in Lloyd's of London and his failure to recuse himself from cases which might be relevant to that investment. I share Judge Breyer's conclusion, expressed in the hearing, that the entire issue is a "a matter of prudence, it is not a matter of ethics."

The Judge explained that he had reviewed the specifics of the case—both at the time he accepted it and subsequently—and concluded that the cannons of Judicial ethics allowed him to sit in that case. Still, as he promised the Committee, criticism of his behavior in that case has sensitized him to the concern it raised. Accordingly, even though he is not required to do so, he promised to divest himself from any holdings in insurance companies, including Lloyd's, as soon as possible.

Based on my review of the nominee's record and the record he has made before the Judiciary Committee, I can find no reason to oppose his confirmation and every reason to support it. With the same trepidation and faith I have felt each time I have given or withheld my consent to a Supreme Court nomination, I will cast this vote to confirm Judge Breyer. And I will, in my heart, hope that he will display the wisdom and compassion which our country has come to expect from the Court.

Mr. BYRD. Mr. President, one of the most important and sobering responsibilities that we in the Senate have is our role outlined in Article II, Section 2 of our Constitution. That is, although the President may nominate judges of the Supreme Court, only with the "advice and consent of the Senate" do those nominees assume the position of Mr. or Madam Justice.

I do not take that responsibility lightly. Cases that come before the Supreme Court involve some of the most controversial and contentious issues that face us as a people. The Court's rulings and opinions have a profound impact on all of the citizens of our Nation.

Let us be mindful that a Supreme Court justice should not only possess a keen intellect, but also a reputation for fairness and integrity. Judge Stephen Breyer meets those standards.

Judge Breyer's professional background demonstrates a brilliance and a deep commitment to public service. Having graduated from Stanford University in 1959, Judge Breyer then studied at Oxford University as a Marshall Scholar. After returning to the United States, Judge Breyer attended Harvard Law School. There, Judge Breyer was a member of the Harvard Law Review, and graduated magna cum laude in 1964. Following graduation, Judge Breyer clerked for Supreme Court Justice Arthur Goldberg. During this time, Judge Breyer served in the Army Reserves for 8 years, and received an honorable discharge in 1965.

From 1967 to 1981, Judge Breyer was a professor at Harvard Law School and at the Harvard Kennedy School for Government. At the same time, Judge Breyer held the positions of assistant special prosecutor for the Watergate Special prosecution force, Special Counsel, and later Chief Counsel for the Senate Judiciary Committee. Judge Breyer's tenure with the Judiciary Committee won for him a reputation for fairness, good humor, and bipartisanship. Finally, late in the administration of President Carter, Stephen Breyer was nominated and confirmed to the U.S. Court of Appeals for the First Circuit. Judge Breyer has served the Court with distinction since that time, also serving as a charter member of the U.S. Sentencing Commission, which is charged with examining unwarranted disparity in Federal sentencing, the effects of sentencing policy upon prison resources, and the use of plea bargaining in the Federal criminal justice system.

Mr. President, I do not offer my support of Judge Breyer casually. In the past few weeks, I have heard from a number of West Virginians, predominately those who teach their children at home, who have concerns regarding the Judge's ruling in *New Life Baptist Church Academy* v. *Town of East Longmeadow*. I know that many of my colleagues have similarly heard from constituents about this matter. During Judge Breyer's several days of confirmation hearings before the Senate Judiciary Committee, our colleagues, including Senators HATCH, THURMOND, and SIMPSON, asked Judge Breyer about the *New Life* ruling. In response to questioning by Senator SIMPSON, I found one particular exchange quite helpful. When asked directly about what constitutional questions would arise if the state tried to infringe on the rights of home schoolers, Judge Breyer responded:

> It [the Constitution] is designed to protect the right of the parents to pass along to their children their religion and to protect that from State interference * * * I think that home schools based on that principle follow from that, and that is why I say somebody who tried to prevent that legally would suddenly face very, very serious constitutional challenges * * *. I think there is a consensus opinion that that First Amendment protects the right of people to pass their religion on to their children, and the home school situation on its face seems to fall within that.

From his responses, and from my study of the *New Life* case, I believe that Judge Breyer has no bias against home schooling or religious schooling. I also found him quite eloquent on the subject of the First Amendment and religious freedom in particular.

I believe that Judge Breyer will be an able addition to the Supreme Court. His keen mind, gentle humor, and temperament, combined with a deep understanding of the law, should enable him to serve our country well.

Mr. BIDEN. Mr. President, I will say further that Judge Breyer actually testified for 22 hours before our committee. And I think my friend from Utah will confirm—and all saw it on television—a significant amount of that time, he was asked about this potential conflict, the so-called Lloyd's of London issue; and further, that we did seek the written advice and the verbal counsel of four or five of the leading ethicists in the United States of America, recognized by all, one of whom thought it was a close call, three of whom thought it was not even a close call, and one of whom, if I remember correctly, was not sure. There is no need to say more than that.

I see that we only have one—but our most distinguished—speaker left on our side, the majority leader. He is here, and I yield as much time as the majority leader feels is necessary.

Mr. MITCHELL. Mr. President, the Senate will shortly vote on the nomination of Judge Stephen Breyer to be the 108th Justice of the U.S. Supreme Court in our Nation's history. I believe that President Clinton has made an excellent choice, and I urge my colleagues to vote to confirm Judge Breyer.

Judge Breyer's appointment to the Supreme Court is a fitting cap to a lifetime spent in public service. He has served in all three branches of our Government—as chief counsel to the Senate Judiciary Committee, as a top aide in the Justice Department's antitrust division, and, of course, as a chief judge in the U.S. Court of Appeals.

This breadth of experience will serve him well on the Court. He will bring with him a unique perspective of the law and how it is made, how it is enforced, how it is adjudicated.

Judge Breyer's nomination deserves and has received strong bipartisan support, with the Judiciary Committee unanimously voting to recommend his confirmation. Liberals and conservatives alike recognized the merit of Judge Breyer's careful, balanced approach to his job.

During his confirmation hearings and here in debate, concerns were raised regarding the nature of some of Judge Breyer's investments. This issue was thoroughly explored, and the record shows that he responded fully to Senators' concerns.

Whatever one's view of that matter, I do not find it a sufficient basis to reverse my otherwise very favorable impression of Judge Breyer's fitness to serve on the Supreme Court. It certainly should not detract from the reputation he has earned as a fair, considerate, and thoughtful judge.

Since being appointed to the Federal bench in 1980, Judge Breyer has proven himself a skilled jurist. President Clinton, announcing the Breyer nomination, noted "his sheer excellence, his broad understanding of the law, his deep respect for the role of the courts in our life and in protecting our individual rights, and his gift as a consensus builder."

Judge Breyer's opinions are known for their clarity and compelling logic. He recognizes that opinions are supposed to shed light on a point of law, rather than add to their confusion.

A professor and a jurist, Judge Breyer is well versed in the law. He has written many notable opinions in diverse areas, including civil rights, criminal law, constitutional liberties, economic regulation, and environmental protection.

His rulings have served to protect access to Federal courts for all Americans, to ensure the rights to free speech and freedom of religion, to protect the civil rights of all Americans, and to enforce the criminal law fairly by balancing the interests of law enforcement with individual rights.

While many of the Supreme Court's high profile cases involve these sorts of issues, many of the less visible cases involve commercial or administrative issues. Judge Breyer has established himself as one of our Nation's leading authorities on antitrust and economic regulation.

He has decided many cases involving the controlling of health care costs and prescription drug prices, preventing price discrimination, and defining predatory pricing under the antitrust laws.

In each of these cases, he has worked to ensure that antitrust laws are used in the way they are intended—to protect consumers. He has thought and written extensively about these matters, and his expertise is unquestioned.

His knowledge in these difficult areas will be beneficial in the Court's deliberations. His skill as a consensus-builder will further benefit the Court.

In the First Circuit Court of Appeals, where he is currently chief judge, dissents are few. Judge Breyer has an uncommon ability to bring people with divergent viewpoints together, to find common themes, and to help groups reach consensus.

Perhaps most important, no matter what the subject before him, Judge Breyer remembers that his decisions and opinions will affect the lives of real people. During his confirmation hearings, he told the committee that justice requires "both a heart and a head."

He explained that without a heart, the law "becomes a sterile set of rules removed from human problems, and it won't help." And yet without a head, he said, "there's the risk that in trying to decide a particular person's problem * * * you cause trouble for a lot of other people.

Judge Breyer's rulings show that he uses his heart and his head, bringing both compassion and intellect to the Federal bench. He takes into account both the requirements of the letter of the law and the needs of human beings who present their cases.

Stephen Breyer is an outstanding judge, and I believe he will be an outstanding Supreme Court jurist.

I urge my colleagues to support his nomination.

I thank my colleagues and yield the floor.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

Mr. BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I will take only 30 seconds.

I have only one regret relative to this nomination, and that is that our last speaker did not choose to take this seat.

The single most qualified person to serve on the Supreme Court of the United States, and I say this without equivocation, is the man who just spoke.

I am sure the opportunity will come again. I hope he is more enlightened next time in the sense of saying yes.

But that in no way is to reflect negatively on Judge Breyer. We say there is no one more qualified than Judge Breyer save one I can think of, and that is GEORGE MITCHELL. But maybe we will have a chance to work on that another time.

I yield back the remainder of the time.

Mr. HATCH. I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back.

VOTE

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Stephen G. Breyer, of Massachusetts, to be an

Associate Justice of the Supreme Court? On this question, the yeas and nays have been ordered, and the clerk will now call the roll.

Mr. MITCHELL. Mr. President, if I may have the attention of my colleagues, it has been the practice in the Senate that votes on Supreme Court nominations are made from the Senator's desk. I ask that Senators cast their votes from their desks during this vote.

The PRESIDING OFFICER. All Senators will stand back from their desks as their names are called and cast their vote.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL. I announce that the Senator from Florida [Mr. GRAHAM] is necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Florida [Mr. GRAHAM] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The result was announced—yeas 87, nays 9, as follows:

[Rollcall Vote No. 242 Ex.]

YEAS—87

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—9

Burns
Coats
Coverdell
Helms
Lott
Lugar
Murkowski
Nickles
Smith

NOT VOTING—4

Durenberger
Graham
Pell
Wallop

So the nomination was confirmed.

The PRESIDING OFFICER. Under the order of July 28, the motion to reconsider is tabled.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate now returns to legislative session.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in this matter, the distinguished chairman and ranking member of the Judiciary Committee, the Senator from Massachusetts, who was instrumental in moving this nomination forward, and the Republican leader and our Republican colleagues, who graciously agreed to the procedure for debating and voting on this nomination today.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent there be a period for morning business with Senators permitted to address the Senate for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FACES OF THE HEALTH CARE CRISIS

Mr. RIEGLE. Mr. President, I rise to continue my effort to put a face on the health care crisis confronting America. I continue to hear from countless citizens in Michigan who have fallen through the cracks of our health care system, and today I want to talk about Allen Johnson of Inkster, MI.

Allen Johnson is a 41-year-old divorced father of three children. By 1988, Allen had worked as a customer service representative for Zantop International Airlines for 15 years, earned $10 an hour, and had Blue Cross Blue Shield health coverage. Under his policy he was only responsible for paying for prescription medication. And although Allen is diabetic, this was affordable because at that time the monthly cost for daily insulin injections was $25.

But in October of that year, he injured his back at work while helping unload a shipment of 90-pound cartons. This injury was so severe that Allen was disabled by it, and has been unable to work ever since. He received workman's compensation for his injuries for a period of time, and now lives on Social Security Disability income of $781 a month.

Allen's back injuries prevent him from performing what were once usual activities, like walking or standing for a long period of time, or maintaining one position while he is sitting.

Unfortunately, in addition to Allen's chronic back disability and diabetes, he now has hypertension. This condition was diagnosed 4 years ago, just about the same time he had to leave his job. And if that were not enough, his diabetes has impaired his vision to the point that Allen was declared legally blind last November.

Allen first lost his medical insurance because of his injury: Since he took a medical leave of absence instead of being fired or quitting, he was not eligible to continue his workplace insurance by paying the premium himself. Allen's medical problems make it impossible for him to find affordable private health insurance. He is now uninsured.

Allen is in the awful position of not having health care coverage when he desperately needs services. For his diabetes he needs needles, insulin, and a special diet. He takes two different prescription medications for his hypertension and pain killers for his back condition. These medications cost over $200 a month, more than one-quarter of his Social Security Disability income. Over the last 2 months Allen has had two separate eye surgeries in an attempt to regain some of his vision. The surgeries failed, and his sight is now worse than before—he can make out shadows, nothing more. He requires regular visits with his physicians to monitor his eyes and diabetes. He has stopped receiving treatment to improve his back condition because he cannot afford the cost of the visits.

If Allen had never worked, his disability would have qualified him for SSI income, food stamps, and Medicaid coverage for his health care. His work history made him eligible for SSDI income. But SSDI, although less than $800 a month, makes him ineligible for all of these other benefits. Allen may use Medicaid coverage for health costs only if he buys into the program, which is how he paid for his eye operations. But to get Medicaid coverage he must "spend down" $406 a month first. This is over half of his monthly income, which would leave him just $375 for all other expenses. Clearly, this is not a real option for him to cover his ongoing medical needs. Because of his disability, in 2 years he will be eligible for Medicare coverage, but until then he must make do on his own.

The rent on Allen's apartment is $430 a month and utilities are usually another $200 to $300. His medical costs are so high that he simply cannot pay all his bills each month. He tries to survive with the help of good friends who will drive him to the doctors and to buy groceries. But the bills are piling up. Allen admits that he has lost track of exactly how many thousands of dollars he owes in medical bills because the amount increases every month.

Allen has delayed doctor visits and is using less medication than prescribed in order to make it last longer. So as he gets deeper and deeper into debt, his physical health suffers as well.

Unfortunately, Allen Johnson's case is not uncommon. Our health system leaves individuals who become disabled without any health care coverage at all. Allen was once a productive, responsible worker and father, but now he has been reduced to seeking charity to pay for his prescription drugs and he cannot help support his children. We must guarantee access to affordable health care in this country to prevent physical misfortunes from becoming economic tragedies. I will continue to work with my colleagues to create a better health care system for all Americans.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I as unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask that I be recognized for 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Under the previous order, the Senator may speak for 5 minutes.

Mrs. FEINSTEIN. Mr. President, I rise today to condemn yet another act of violence at an abortion clinic, to urge State and Federal law enforcement agencies to pursue this crime with utmost vigor, and to restate my support for the Freedom of Access to Clinic Entrances Act, which could—and perhaps should—be used against the perpetrator of this newest crime.

Continuing a long history of escalating clinic violence, this morning outside a clinic in Pensacola, FL, a man took a shotgun, killed two people, and wounded a woman. Immediately afterward, a militant antiabortionist named Paul Hill was taken into custody and is likely to be charged with the crimes.

The wounded woman is a worker at the clinic, and press reports have raised the strong possibility that the unidentified murder victims were a doctor or nurse who worked at the clinic.

If one of the victims is a doctor or nurse—as is currently thought because of a bulletproof vest—then this crime is covered under the Freedom of Access to Clinic Entrances Act, which protects both providers and patients from threat or use of force under Federal law. In addition, this act allows the families of the victims and the clinic to pursue damages against the perpetrator and any business or organization with which he may be associated.

At this very moment, I am told, State and Federal law enforcement agencies are determining which charges to press, and I am confident that they will take appropriate action to ensure that the perpetrator is tried under the most rigorous statutes and that the circumstances are investigated fully.

It may be most appropriate for State and local jurisdiction to prevail in this matter, despite the option of Federal enforcement. For example, in the shooting of Dr. David Gunn, which also took place in the same area, the perpetrator was tried under State law and received a life sentence.

However, I know that many men and women who have been extremely concerned about clinic violence will be looking to the Justice Department to apply the Clinic Entrances Act now for the first time. Now that FACE has been enacted, if State and local law enforcement fails—or if there is evidence of a conspiracy that warrants Federal investigation—the Federal Government should and could, I believe, step in to make sure that the crime does not go unpunished.

In addition, this crime shows that clinic violence continues to escalate, and that a strong message must be sent to those who go beyond peaceful protest to vigilante extremism.

I, for one, am confident that the Attorney General will condemn this act in the strongest terms and coordinate closely with local law enforcement to make sure that all necessary steps are taken. If the Attorney General decides to press charges under the Freedom of Access to Clinic Entrances Act, it will show extremist antiabortionists that the Federal Government is not afraid to become involved in this wave of clinic violence.

Mr. President, I ask that Senator BOXER, my colleague from California, be associated with these remarks. She joins me in full.

I thank you, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPORTANCE OF C-130H TRANSPORT PLANES TO AIR NATIONAL GUARD

Mr. FORD. Mr. President, last year, a small boy from Sarajevo wanted to make sure the pilot of the silver planes from Kentucky got a note so that he could thank him for his help.

"Mr. Pilot of the Kentucky Air National Guard * * * I love you for help me," he wrote, in the best English he could.

The silver planes he referred to are the C-130H transport aircraft used by the Kentucky Air National Guard not only in Bosnia but in Somalia and soon in Rwanda.

Back in 1990, I had funds included in the 1991 defense authorization bill for the purchase of 12 of these aircraft to modernize the Kentucky National Guard aircraft fleet.

But earlier this year, despite the skill and precision Kentucky's Air National Guard have demonstrated with this aircraft, the Active Air Force proposed taking four of our planes.

After testifying before the Armed Services Committee and taking the National Guard's case directly to the Department of Defense, John Deutch, Deputy Secretary of Defense, put the brakes on this transfer and signed an order maintaining the current status of 12 airplanes at Kentucky's 123d.

Mr. President, I believe that was a wise decision and in the best interests of this country's national security and humanitarian missions.

Tomorrow morning, Kentucky's Air National Guard 123d Airlift Wing will leave for Mombasa, Kenya, to aid in the Rwandan relief effort.

They will bring them unmatched experience in delivering the food, water, and relief supplies the Rwandan refugees need so desperately.

I have no doubt they will make a difference and that the children of Rwanda will come to know the same pilot of the silver planes from Kentucky, who brought relief to a boy in Sarajevo.

As one Kentucky pilot, Ted Perero, said, "It's a shame it had to come to this. This is man-made misery. But if we can do something to save those kids * * *."

Mr. President, at this point I ask unanimous consent that the following article from the Louisville Courier-Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier-Journal, July 29, 1994]

RWANDA-BOUND: KENTUCKY'S AIRLIFT EXPERTS GET A NEW RELIEF MISSION

(By Todd Murphy)

Ted Parero has seen the pictures—Rwandan children, refugees from their homeland without family, sick, hungry, dying.

"They don't deserve any of this," he said yesterday. "They don't."

But Parero and the people he works with knew they might be asked to give more than sympathy.

Yesterday it became official: 50 members of the Kentucky Air National Guard's 123rd Airlift Wing—including Parero, a pilot from Louisville who flew missions in Bosnia last year—will deploy to Africa starting tomorrow to aid in the international Rwandan relief effort.

The contingent from the 123rd, which also has been involved in relief in Somalia and Bosnia the past two years, will be part of a 150-person National Guard airlift, joined by units from Texas, Missouri and Tennessee. They also will be among 4,000 U.S. troops assisting Rwandan refugees.

Three months of fighting between followers of Rwanda's Hutu government and the mainly Tutsi rebels of the Rwandan Patriotic Front have left about 500,000 people dead. The fighting also has forced 2.2 million Rwandans to flee their country including more than a million who have gathered in neighboring Zaire. Relief workers estimate that 20,000 died of starvation or disease in the past week.

The National Guard units will be based in Mombasa, Kenya, and fly to areas in and around Rwanda that need food, water and medical supplies.

The 123rd contingent will heave Standiford Field about 2 a.m. tomorrow, and the trip will take more than 24 hours. The unit is expected to be in Africa at least 30 days. Crews will fly two of the unit's giant, gray C-130s—airplanes that one 123rd member called the "four-wheel-drive pickup truck of airplanes."

"This is the workhorse," Senior Master Sgt. Mike Harp of Louisville said as he showed off one of the unit's C-130s. "Whatever you ask it to do, it'll pretty much do."

The Kentucky unit has a dozen of the newest C-130s, which are exceptionally maneuverable and include computer equipment older airplanes do not have. That may have been a primary reason the unit was asked to participate in the relief mission, said Col. Ed Tonini, spokesman for the Kentucky Air National Guard.

The mission may require landing on crude, dirt airstrips. "We do that job better than any other aircraft in the world." he said.

But Tonini and other 123rd members said they may have been asked to take part in these missions because of their experience, their willingness to volunteer and because the unit does good work.

Tonini said most of the 50 who will be going have participated in at least one of the relief missions in Bosnia or Somalia. A couple of the 123rd members interviewed yesterday had taken part in the relief mission to Somalia early in 1993 and all three Bosnian missions the past two years.

Members said participating can be a sacrifice for them and their families, especially when the missions continue for weeks. But, they said, such missions are what they train for and serve as reminders of how their work can save lives.

It's a great feeling," said Capt. Brad Greschel of Shelbyville, who'd been planning to begin a vacation from his Federal Aviation Administration job today. Instead, he will spend the month in Africa. "It's real world. It's actually helping somebody, instead of flying around the flag poles . . . training for a war that may never come—at least we hope doesn't come."

And, while the relief work can be exhausting—often running to 16 hour days—members can get special gratification when people tell them how they have helped.

"It can get real emotional at times, when . . . somebody walks up to you, shakes your hand and says, "Thanks a lot," Harp said.

After their Bosnian missions last year, a French worker who unloaded food and medical supplies gave a C-130 commander from the 123rd a note written by a boy who lived near the Sarajevo airport. The boy had told him to give the note to the "pilot of the silver planes from Kentucky."

In crude English, the note thanked "Mr. Pilot of the Kentucky Air Nat. Guar." for the help. "I love you for help me." it read.

"That makes it all worthwhile," Parero said.

Of the Rwandan mission, he said: "It's a shame it had to come to this. This is a man-made misery. But if we can do something to save those kids. . . ."

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Kentucky suggests the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE REFORM BEHIND CLOSED DOORS

Mr. COVERDELL. Mr. President, I wish to address my remarks to the health care debate and several issues regarding that debate that are, in my judgment, exceedingly alarming. And if the American public were aware of the process in which we are engaged at the moment, I think we would find the Nation in revolution.

I spent almost 17 years in the general assembly in the good State of Georgia, and if I had engaged in the activities of the process by which we have been managing the health care bills I would be before an ethics commission. I would be in violation of Georgia law, or worse.

What do I mean? The discovery that the principal legislation passed out of the Senate Finance Committee was nothing more than a concept, I do not think the folks in Peoria, IL, or Enid, OK, or Hahira, GA, could fathom such a process. In Georgia, when you say, Mr. President, I ask for the passage of Senate bill 5, as amended, and it passes, a citizen may immediately pick up what Senate bill 5 is and read it and make some determination about what that is going to mean to that person or their family or their business or their community.

Since this measure was passed, I believe July 2, no one has been able to get a copy of the legislation. You can get a summary. You can get a press release. But there is no legislation. No citizen in this country today can read anything about these proposals.

That is alarming in and of itself, but it is made doubly egregious when we are told that we will act on these thousands of pages of legislation when they suddenly appear in a matter of weeks or days or hours, at best.

Everybody reads the polls and they understand that Congress is not particularly held in the highest regard these days. That is too bad. But this is why. No one can understand that you would pass something that is not language, and then you would revert to going in, unknown people, to unknown places, doing unknown things about health care. While the committee, which did nothing more than pass a concept, was in the full view of the media and C-SPAN, there is no media where the actual legislation is being written.

There is no citizen at the table. There is no one recording what the transactions are. What does that suggest? That suggests that, in the cloak of darkness and secrecy, special deals are being made. That is exactly what is happening. Transactions about, "Well, what will it take to make you be for the bill?" You cannot do that in any State legislature in the United States. And it is reprehensible that it would occur in the most hallowed halls of democracy, that the substance of 15 percent of the American economy is being negotiated in private and in secret, out of the eye of the American public. I cannot imagine that would happen in the halls of the U.S. Congress. But it is. And it is wrong. It is wrong on this debate. It ought to be stopped in the future.

But it is particularly damaging here. We are not talking about ABC construction drivers as opposed to ABC environmental groups. We are talking about legislation that will affect every living soul in this country.

Mr. President, the President and First Lady brought to the Nation a health care reform proposal. They should be complimented that they have made us all much more knowledgeable on the subject. But we have been looking at that matter for 9 months. They have been in every corner of the country, and those that have had differences with it have been in every corner of the country. There has been a raging debate about whether the Government ought to manage medicine or whether we ought to strengthen the current system.

The American people have come to a conclusion. I do not know who the emissary was who came out of the White House that told the President, "Mr. President, due to voter preference and the votes in the Congress, we are going to have to set your bill aside and start over."

The American public came to a conclusion in a vigorous and open debate. I compliment the President for that. Now it is the Congress' turn. Our suggestion is we take something of the same magnitude, just as many thousands of pages, just as many personal and consequential events, and we are going to manage it in 3 days. That is about like taking a group of people and saying, "Look, I want you to rewrite the economy of Great Britain, Sweden, and Denmark and do it by next weekend." You would be laughed out of town. This is bigger. This is more complicated. This is more difficult. And to suggest that all the language would ultimately be changed, that no one has seen it, no family, no grocery store operator, no filling station attendant, no church, no mayor, no municipal official, but we are going to sit up here in the quiet halls and in the bowels of this great building, and we are going to tinker and move all the blocks around. We have even had a Member of this body say, "We are going to pass this thing no matter what the American people think." What in the world have we come to?

The good Senator from West Virginia made an eloquent statement, and he is dead right. Mr. President, the Senator from West Virginia, who is one of the most distinguished, most senior Members of this body, most knowing of the Senate and its process, most knowing of this Senate's responsibilities to this great democracy, said, and I am paraphrasing it: We had better go slow here. We had better be careful. We had better make sure we do not do something wrong. We had better not get in a hurry. We had better fulfill our responsibilities to this great Nation.

He is absolutely, unalterably correct.

Mr. President, the only way to properly deal with this important subject is for all of these bills to surface from their private rooms, and then for the American people—the people; not our staff, not the various members of the committee—the American people need an appropriate period of time to see how that is going to affect them, their families, their businesses, their communities, their Nation.

One of my good friends, the minority leader, Senator DOLE, has suggested we at least need a week. I even take issue with him. A week? A week? We have just spent 9 months trying to unravel the last 1,300 pages. We are dealing with the largest decision we will have made in a quarter century. A week? Three days? The American people need a solid month, in my judgment— that is cutting it short—to unravel all the devils in all the details.

Those of us engaged in this debate should take our ideas to the American people, should take the language and take it to industry, take it to communities, take it to small business and big business. Let us all look at it and see where we come out. This should not be railroaded. This should not happen in speed. The risk of damage to our Nation is enormous.

Mr. President, I have not been here very long. Maybe that is good. I can still remember what folks at home think and feel. And you could not get 1 person in 10 anywhere in this country that would see what we are doing and the way in which we legislate that would not be astounded and embarrassed. I have watched their jaws drop when you tell them that it is not a bill that they passed out; it was a bunch of ideas. And now it is someone else who is writing the bill.

Mr. President, I am going to conclude by saying this is the most important decision in a quarter century. And every American, no matter who they are or what their views are or what their party, needs to have a chance to understand what is being proposed. And then, only then, do we come back and thrash it out in the halls of Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

WAIVING REQUIREMENT FOR SINE DIE ADJOURNMENT BY JULY 31

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 275, a concurrent resolution waiving the statutory requirements of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), just received from the House; that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 275) was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON A NATIONAL EMERGENCY UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

1. On September 30, 1990, in Executive Order No. 12730, President Bush declared a national emergency under the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701 *et seq.*) to deal with the threat to the national security and foreign policy of the United States resulting from the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), and the system of controls maintained under that Act. In that order, the President continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768 *et seq.*), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. President Bush issued Executive Order No. 12730 pursuant to the authority vested in him as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act ("NEA") (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. At that time, the President also submitted a report to the Congress pursuant to section 204(b) of the IEEPA (50 U.S.C. 1703(b)). On March 27, 1993, the Export Administration Act was extended through June 30, 1994. Subsequently, on September 30, 1993, I issued Executive Order No. 12867, terminating Executive Order No. 12730.

3. Section 401(c) of the NEA additionally requires the submission of a final report on all expenditures incurred during the period of emergency. This report, covering the period from September 30, 1990, to September 30, 1993, is submitted in compliance with this requirement.

4. The expenses incurred by the Federal Government in the 3-year period from September 30, 1990, to September 30, 1993, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are estimated to have been $117,720,000, most of which represented program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 29, 1994.*

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests of the Senate:

H. Con. Res. 275. Concurrent Resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE:

S. 2336. A bill to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S. 2337. A bill to extend benefits for qualified service to certain merchant mariners who served during World War II, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN:

S. 2338. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Finance.

By Mr. HOLLINGS:

S. 2339. A bill to authorize a certificate of documentation for the vessel *Why Knot*; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI:

S. 2340. A bill to recognize and grant a Federal charter to the National Alliance for the Mentally Ill; to the Committee on the Judiciary.

S. 2341. A bill to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the United States Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. SIMON, Mr. CONRAD, Mr. FEINGOLD, Mr. REID, Mr. WELLSTONE, and Mr. LEVIN):

S. 2342. A bill to amend the Internal Revenue Code of 1986 to improve the collection of taxes of United States persons moving production abroad and foreign persons doing business in the United States, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE:

S. 2336. A bill to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1994

• Mr. INOUYE. Mr. President, I introduce the Federal Communications Commission [FCC] Authorization Act of 1994. This bill authorizes funding for the FCC in the amount of $163,500,000 for fiscal year 1994 and $198,232,000 for fiscal year 1995. The amount for fiscal year 1994 represents the amount appropriated for fiscal year 1994. The amount for fiscal year 1995 represents a much needed increase in order for the FCC to carry out its new statutory responsibilities and to keep up with the increasing workload under its traditional responsibilities.

The bill I am introducing today also includes a number of provisions that the FCC has asked the Congress to consider. While I do not necessarily endorse every one of these suggestions, I believe that they are all worthy of consideration. I have thus included these recommendations in the bill I introduce today in order to initiate a discussion on the merits of these proposals.

The FCC is an independent regulatory agency that oversees interstate and foreign communications by wire and radio. With advances in new technologies and the opening of markets to competition, the FCC is constantly making key policy decisions that fundamentally affect the marketplace. The importance of the FCC and its actions cannot be underestimated, especially in today's dynamic communications industry. The responsibilities of the FCC have grown dramatically over the past decade while the resources have declined. As our society becomes more and more dependent upon our ability to communicate with each other the decisions of the FCC have an increasingly important effect on the public interest.

Under the Communications Act, the FCC has primary jurisdiction over wire and radio communications. As a result, the FCC has regulatory authority over the interstate services of local and long distance telephone companies, radio and television broadcasters, satellite companies, cellular and other mobile telephone providers, cable television providers, private radio services—such as those used by taxis and ambulances—and local government and public safety services. The FCC also has ancillary—or secondary—authority over equipment manufacturers and information service providers. Because of the tremendous breadth of the FCC's regulatory authority, the decisions taken by the Commission have a direct and important impact on the lives of almost every citizen of this country.

The increased levels of funding for fiscal year 1995 will allow the FCC to hire an additional 250 full-time equivalent [FTE] positions to handle increased workloads resulting from increases in ongoing functions and implementing the PCS auctions and licenses. Since 1980, the FCC's staff has been reduced by over 500 FTE positions while the FCC's legislated responsibilities have grown.

In the policy and rulemaking area, filings requesting or commenting on Commission actions have increased from 80,435 to 125,768, a 56 percent increase in only 5 years. In the enforcement area, telephone company tariffs submitted for review and approval have increased from 1,900 in 1980 to 4,430 in 1993. In 1993 alone, the FCC received over 32,000 complaints from the public and common carriers on various aspects of telephone services. In the licensing area, workloads have increased throughout the agency. The Mass Media Bureau assignment and license transfers have increased from 186 in 1980 to 731 in 1993.

The following is a summary of major provisions in the FCC Authorization bill I am introducing today:

1. Travel Reimbursement Program. The bill deletes section 4(g)(2) of the act regarding the FCC-specific travel reimbursement authority.

2. Communications support from older Americans. This section extends the Older Americans Program through fiscal year 1996.

3. Hawaii monitoring station. This section extends the provision authorizing the relocation of the Hawaii monitoring station through fiscal year 1997.

4. Inspection of ship radio stations. Amends section 4(f)(3), 362(b) and 385 of the act to authorize non-FCC ship inspections and more FCC flexibility on inspection requirements.

5. Clarification of FCC refund authority. This section clarifies FCC authority to make refunds to redress common carrier rule violations.

6. Expedited instructional television fixed service [ITFS] processing. Amends Section 5(c)(1) of the act to allow the FCC to delegate to its processing staff authority to act on routine cases involving ITFS authorizations.

7. Application fees. Amends section 8 of the act to authorize the FCC to retain fees above a certain sum sent to the Treasury, to change or create new section 8 fees, to allocate costs associated with legal and executive services, and to continue to collect application fees at the prior year's rates until the effective date of a new fee schedule.

8. Application fees. Amends section 8(g) of the act to establish a fee schedule for PCS.

9. Regulatory fees. Amends section 9 of the act to authorize the FCC to allocate and recover legal and executive costs it incurs in the discharge of enforcement, policy and rulemaking, user information services and international activities, to continue to collect regulatory fees at prior year's rates until the effective date of a new fee schedule and to provide 45 days notice of fee changes.

10. Tariff rejection authority. Amends section 203 of the act to clarify FCC's authority to reject a common carrier tariff.

11. Refund authority. Amends section 205 of the act to clarify FCC's authority to make refunds to redress common carrier rule violations.

12. Licensing of aviation, maritime, and personal radio services by rule. Amends section 307(e) of the act to authorize the Commission to issue blanket licenses by rule for radio equipment on airplanes, ships, and for personal radio services. The provision removes the requirement that recreational boaters need to apply for a license or pay any administrative licensing costs.

13. Auction technical amendments. Amends section 309(j)(8)(B) to provide

the FCC with more flexibility in the collection and use of auction funds and to authorize the FCC to establish an interest bearing escrow account and to pay interest to unsuccessful bidders.

14. Forfeiture for act or rule violations imperiling safety of life. Amends sections 312(a) and 503(b)(1) to authorize the FCC to issue forfeitures for violation of the Communications Act or FCC rules imperiling safety of life.

15. Statute of limitations for forfeiture proceedings against common carriers. Amends section 503(b)(6) to increase the statute of limitations period from 1 to 5 years to assist in enforcement of the jurisdictional separations and cost allocation rules.

As mentioned earlier, these provisions have been submitted to the Congress by the FCC for consideration. I encourage parties to contact the Commerce Committee with their views of these proposals.

Mr. President, I look forward to continuing to work with the FCC Chairman, Mr. Reed Hundt, and the other Commissioners at the FCC, to develop policies that will respond to the needs of the citizens of the United States and serve the public interest.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Communications Commission Authorization Act of 1994".

SEC. 2. EXTENSION OF AUTHORITY.

Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $160,300,000 for fiscal year 1994 and $198,232,000 for fiscal year 1995, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1995. Of the sum appropriated in any fiscal year, a portion, in an amount determined under sections 8(b) and 9(b), shall be derived from fees authorized by sections 8 and 9.".

SEC. 3. TRAVEL REIMBURSEMENT AUTHORITY.

Subsection (g) of section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended—

(1) by striking paragraph (2), and

(2) by redesignating paragraph (3) as (2).

SEC. 4. COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.

Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended by striking "1992 and 1993," and inserting "1995 and 1996,".

SEC. 5. HAWAII MONITORING STATION.

Section 9(a) of the Federal Communications Commission Authorization Act of 1988 (Public Law 100-594; 102 Stat. 3024) is amended by striking "1991, 1992, 1993, and 1994" and inserting "1995, 1996, and 1997".

SEC. 6. INSPECTION OF SHIP RADIO STATIONS.

(a) CONTRACTING OUT INSPECTIONS.—Section 4(f)(3) of the Communications Act of 1934 (47 U.S.C. 154(f)(3)) is amended by adding at the end the following: "Notwithstanding the preceding provisions of this paragraph, the Commission may designate an entity to make the inspection referred to in this paragraph.".

(b) ANNUAL INSPECTION REQUIRED.—Section 362(b) of the Communications Act of 1934 (47 U.S.C. 360(b)) is amended—

(1) by striking "as may" in the third sentence and inserting "as the Commission determines to", and

(2) by striking "thereby" and all that follows and inserting the following: "thereby—

"(1) waive the annual inspection required under this section for a period of 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held, or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, but the inspection shall be performed within 30 days after the vessel's return to the United States.".

(c) CONFORMING AMENDMENT.—Section 385 of the Communications Act of 1934 (47 U.S.C. 385) is amended—

(1) by inserting "or an entity designated by the Commission" after "Commission", and

(2) by striking out "as may" and inserting "as the Commission determines to".

SEC. 7. EXPEDITED ITFS PROCESSING.

Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended by striking "Nothing" and inserting "Except for cases involving the authorization of service in the Instructional Television Fixed Service, or as otherwise provided in this Act, nothing".

SEC. 8. APPLICATION FEES.

(a) MODIFICATION OF FEES.—Subsection (b) of section 8 of the Communications Act of 1934 (47 U.S.C. 158) is amended—

(1) by redesignating paragraph (2) as (6), and

(2) by striking out so much of such subsection as precedes paragraph (6), as redesignated and inserting the following:

"(b)(1) For fiscal year 1995 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to the sum of—

"(A) $40,000,000, plus

"(B) the amount specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, but to exceed necessary expenses of the Commission.

"(2) The Commission may round the modified fees to the nearest $5, in the case of fees under $100, or to the nearest $20, in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made under this paragraph immediately upon the adoption of the adjustment.

"(3) The Commission may collect fees at the prior year's rate until the effective date of modifications, adjustments, or amendments under this subsection.

"(4) The Commission by regulation shall add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of rulemaking proceedings or changes in law.

"(5) The amount of any fee modified or amended as a consequence of action taken under paragraph (4) shall be derived by determining the fulltime equivalent number of employees performing application activities adjusted to take into account other expenses that are reasonably related to the cost of processing the application or other filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors the Commission determines to be in the public interest. The Commission shall transmit to the Congress notification of—

"(A) any proposed modification of a fee immediately upon adoption of the proposal, and

"(B) any amendment immediately upon adoption of an amended fee.".

(b) REIMBURSEMENT OF APPROPRIATIONS.—Section 8(e) of such Act (47 U.S.C. 8(e)) is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section, $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amount appropriated for use by the Commission in carrying out its functions under this Act, and the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

(c) DERIVATION OF APPROPRIATED FUNDS.—Section 6(d) of such Act (47 U.S.C. 156(d)) is amended—

(1) by striking "section 9(b)" and inserting "sections 8(b) and 9(b)", and

(2) by striking "section 9" and inserting "sections 8 and 9, respectively".

SEC. 9. SCHEDULE OF APPLICATION FEES FOR PERSONAL COMMUNICATIONS SERVICES.

The Schedule of Application Fees set forth in section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by adding at the end of the part relating to Common Carrier Services the following:

"23. Personal Communications Services	
"a. Initial or new Application	230
"b. Amendment to Pending Application	35
"c. Application for Assignment or Transfer of Control	230
"d. Application for Renewal of License	35
"e. Request for Special Temporary Authority	200
"f. Notification of Completion of Construction	35
"g. Request to Combine Service Areas	50.".

SEC. 10. REGULATORY FEES.

(a) IN GENERAL.—Section 9(a) of the Communications Act of 1934 (47 U.S.C. 159(a)) is amended to read as follows:

"(a) GENERAL AUTHORITY.—The Commission, in accordance with this section, shall assess and collect regulatory fees to recover its costs arising from all executive and legal costs incurred by the Commission in the discharge of these functions.".

(b) NOTICE TO CONGRESS OF ADJUSTMENTS AND AMENDMENTS.—Section 9(b)(4)(B) of such Act (47 U.S.C. 159(b)(4)(B)) is amended by striking "90 days" and inserting "30 days".

(c) AUTHORITY TO COLLECT AT OLD RATE PENDING EFFECTIVE DATE OF NEW RATES.—Section 9(b) of such Act (47 U.S.C. 9(b)) is amended by adding at the end thereof the following:

"(5) RATES PENDING EFFECTIVE DATE OF MODIFICATIONS.—The Commission may continue to collect any fee imposed under this section at the prior year's rate until the effective date of any adjustment or amendment of that fee under this section."

SEC. 11. REPORT OF FEE MODIFICATIONS.

Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended—

(1) by striking "and" at the end of paragraph (3),

(2) by redesignating paragraph (4) as (5), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) a detailed explanation of any modification, adjustment, or amendment of any fees the amount of which was increased or decreased under section 8 or 9 in the preceding year, setting forth the reasons for the modification, adjustment, or amendment, together with a statement of anticipated modifications, adjustments, or amendments of fees under those sections in the year in which the report is submitted and an explanation of the reason such action is anticipated; and

SEC. 12. TARIFF REJECTION AUTHORITY.

Section 203(e) of the Communications Act of 1934 (47 U.S.C. 230(d)) is amended by inserting the following after the first sentence: "The Commission may, after inviting comment from interested parties, reject a proposed tariff filing in whole or in part if the filing or any part thereof is patently unlawful. In evaluating whether a proposed tariff filing is patently unlawful, the Commission may consider additional information filed by the carrier or any interested party and shall presume the facts alleged by the carrier to be true."

SEC. 13. REFUND AUTHORITY.

Section 205 of the Communications Act of 1934 (47 U.S.C. 205) is amended by adding at the end thereof the following:

"(c) The Commission may require by order the refund of a portion of any charge by a carrier that results from violation of this Act, or of any rule promulgated under this Act. The refund shall be paid, with interest, to the person by or on whose behalf the charge was paid. The Commission may not require payment of a refund under this subsection unless—

"(1) it issues an order advising the carrier of its potential refund liability and provides the carrier with an opportunity to file written comments as to why the refund should not be required, and

"(2) it issues the order not later than 5 years after the date on which the charge was paid".

SEC. 14. LICENSING OF AVIATION, MARITIME, AND PERSONAL RADIO SERVICES BY RULE.

Section 307(e) of the Communications Act of 1934 (47 U.S.C. 307(e)) is amended—

(1) by striking "radio control service and the citizens band radio service" in paragraph (1) and inserting: "following radio services: (A) personal radio services, (B) aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station, and (C) maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station", and

(2) by striking out "the terms 'radio control service' and 'citizens band radio service' shall" in paragraph (3) and inserting "the terms 'personal radio services', 'aircraft station', and 'ship station' shall".

SEC. 15. AUCTION TECHNICAL AMENDMENTS.

Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

(1) by inserting "are authorized to remain available until expended and" after "Such offsetting collections" in the second sentence of subparagraph (B), and

(2) by adding at the end thereof the following:

"(C) REVENUES ON DEPOSIT.—The Commission is authorized, based on the competitive bidding methodology selected, to provide for the deposit of monies for bids in an interest-bearing account until such time as the Commission accepts a deposit from the high bidder. All interest earned on bid monies received from the winning bidder shall be deposited into the general fund of the Treasury. All interest earned on bid monies deposited from unsuccessful bidders shall be paid to those bidders, less any applicable fees and penalties.".

SEC. 16. FORFEITURE FOR ACT OR RULE VIOLATIONS IMPERILING SAFETY OF LIFE.

(a) ADMINISTRATIVE SANCTIONS.—Section 312(a) of the Communications Act of 1934 (47 U.S.C. 312(a)) is amended—

(1) by striking "or" at the end of paragraph (6),

(2) by striking the period at the end of paragraph (7) and inserting a semicolon and the word "or", and

(3) by adding at the end thereof the following:

"(8) for failure to comply with any requirement of this Act or the Commission's rules that imperils the safety of life.".

(b) FORFEITURES.—Section 503(b)(1) of such Act (47 U.S.C. 503(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by inserting "or" after the semicolon at the end of subparagraph (D), and

(3) by inserting after subparagraph (D) the following:

"(E) failed to comply with any requirement of this Act or the Commission's rules that imperils the safety of life;".

SEC. 17. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS AGAINST COMMON CARRIERS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by inserting "and is not a common carrier" after "Act" in subparagraph (B),

(3) by redesignating subparagraph (B) and (C), and

(4) by inserting after subparagraph (A) the following:

"(B) such person is a common carrier and the required notice of apparent liability is issued more than 5 years after the date on which the violation occurred; or".•

By Mr. BROWN:

S. 2338. A bill to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances; to the Committee on Finance.

FLIGHT TRAINING EXPENSES TAX DEDUCTION ACT OF 1994

• Mr. BROWN. Mr. President, I introduce a bill which will restore some fairness to our current tax system. Approximately 200 veteran pilots throughout the country are currently unable to obtain refunds from the Internal Revenue Service [IRS] for taxes they paid which the IRS later ruled were unnecessary. This bill would create a 1-year grace period during which veteran pilots would be able to file for tax refunds.

In 1980, the IRS issued a rule, Revenue Rule 80–173, which retroactively repealed a provision which had been enforced since 1962. The IRS issued this rule against veteran pilots who had previously been allowed to receive educational benefits from the Department of Veteran Affairs and to claim a deduction for tuition expenses. The result of the IRS reversing its own ruling retroactively was that veteran pilots were charged back taxes, interest, and penalties. It seems unfair to me to apply a revenue ruling retroactively to the detriment of taxpayers who took a deduction as instructed.

An 11th Circuit Court decision allowed for some veteran pilots to successfully receive refunds of the tax they had been required to pay. However, 200 pilots throughout this country have not been as fortunate because they do not fall within the geographic jurisdiction of the 11th Circuit Court. There is no provision under the law which would allow the IRS to cancel the tax and refund the overpayment because claims for refund or credit must be filed within 3 years of the due date of the return or 2 years from the date the tax was paid, whichever is later. This legislation would enable the remaining 200 veteran pilots a 1-year opportunity to file for a refund.

These pilots are frustrated by this inequity and it is time to provide them the opportunity to settle this matter with the Federal Government.

Similar legislation—H.R. 641—has been introduced in the House of Representatives by Representative SUNDQUIST. The issue is fairness. I hope my colleagues will agree and cosponsor this important bill.•

By Mr. HOLLINGS:

S. 2339. A bill to authorize a certificate of documentation for the vessel *Why Knot;* to the Committee on Commerce, Science, and Transportation.

WHY KNOT CERTIFICATE OF DOCUMENTATION ACT

• Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *Why Knot*, U.S. official number 688570, be accorded coastwise trading and fisheries privileges and be issued a Coast Guard certificate of documentation under title 46 of the U.S. Code.

The *Why Knot* was constructed in Taiwan in 1985 as a recreational vessel. It is 44 feet in length, 13.5 feet in breadth, has a depth of 7.8 feet, and is self-propelled.

The vessel was purchased on December 21, 1989, by Keith Rogerson of the Isle of Palms, SC, who intended to use it for short harbor tours in Charleston harbor as well as for overnight excursions. Both of these operations would be limited to six passengers per tour.

When Mr. Rogerson purchased the boat, he was unaware of the specific coastwise trade and fisheries restrictions of the Jones Act. Due to the fact that the vessel was foreign built, it did not meet the requirements for a coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purpose.

The owner of the *Why Knot* is thus seeking a waiver of existing law because he wishes to use the vessel in his chartering business. If he is granted this waiver, he intends to comply fully with U.S. documentation and safety requirements. The purpose of the legislation I am introducing is to allow the *Why Knot* to engage in the coastwise trade and fisheries of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2339

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel *WHY KNOT*, United States official number 688570.•

By Mr. DECONCINI:

S. 2340. A bill to recognize and grant a Federal charter to the National Alliance for the Mentally Ill; to the Committee on the Judiciary.

NATIONAL ALLIANCE FOR THE MENTALLY ILL FEDERAL CHARTER ACT

• Mr. DECONCINI. Mr. President, today I am introducing legislation to recognize and grant a Federal Charter to the National Alliance for the Mentally Ill [NAMI] as a veterans' service organization [VSO].

NAMI's record since 1980 demonstrates that it has the capacity to provide critical support to mentally ill veterans and their families. This support will enhance inpatient care and post-discharge services, prevent factors that exacerbate mental illness, and enhance those interventions which are required to prevent costly long-term rehospitalization. I am proud to note that NAMI's 19 local affiliates [AMI's] in the State of Arizona have been of invaluable assistance to mentally ill veterans and their families.

To recognize the crucial role while NAMI can play, we need only look at Bay Pines Hospital in Florida where NAMI and the Veterans' Administration Medical Center [VAMC] have combined to develop a model for the Nation. By enacting this legislation, we will be able to provide the means to replicate the successful model throughout the Nation.

NAMI can also play a valuable role in facilitating better coordination between the veterans' inpatient setting and the community mental health system. NAMI believes that total, continuing, and cost-effective health care for veterans with mental illnesses is shaped by various factors including the structure of health insurance, housing, and social services. In addition, voluntary programs dedicated to improving the quality of life for psychiatrically disabled veterans can prevent what often becomes an irrevocable break in health care for some of these veterans. Effective mental health services require a full utilization of community support programs.

Mr. President, NAMI also provides a mechanism for consumer empowerment and support. This will be critical as Congress holds hearings on the integration of the VA into any adopted plan for national health care reform. Despite the valuable role which families can play in enhancing treatment outcomes, doctors and other mental health providers are often resistant to their input. Official chartering as a VSO will provide NAMI families with a more forceful voice—one that is more likely to be listened to—and hence more likely to lead to positive outcomes for veterans with severe mental illness.

Mr. President, NAMI has a strong record in the area of veterans' affairs. On June 15, 1994, I received a letter from Mr. Joseph C. Zengerle, immediate past president of the Disabled American Veterans and a veteran counsel for the distinguished firm of Bingham, Cana & Gould. Mr. Zengerle wrote,

> * * * Given our experience with NAMI on this issue [incompetent vets] since 1991, it is clear that the organization is not only zealous to protect the rights of those with mental disabilities but also has no hesitation forcefully to express its interests in fields like veterans affairs * * * and to do so with respect to legislative, executive and judicial actions as well as membership activities and publications * * * that in my view fully support its request for a Congressional charter * * *.

A review of the hearing record shows that psychiatric disorders are extremely expensive for the VA. Expenditures for VA mental health for fiscal year 1993 were $1.3 billion. Moreover, annual VA disability payments for just schizophrenia and manic depressive illness total approxtimately $1.8 billion. The combined totals of fiscal year 1993 VA expenditures for disability payments and services for all chronically mentally ill veterans exceed $3.1 billion.

Mr. President, in these times of increasing national debt and increasingly tight budgets, it would be irresponsible not to spend veterans' health care and rehabilitation moneys effectively and efficiently. Utilizing the nonprofit experience of NAMI can lead to long-term decreases in the overall costs to the VA system and provide critical linkages to the community as well as supportive services to veterans with severe mental illnesses and their families.

Mr. President, I ask unanimous consent that a letter from Mr. Joseph C. Zengerle, dated June 15, 1994, be inserted in the RECORD immediately following my remarks. Mr. President, I further ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL CHARTER.

The National Alliance for the Mentally Ill, a nonprofit corporation organized under the laws of the State of Missouri (hereafter in this Act referred to as the "corporation"), is recognized as such and is granted a Federal charter.

SEC. 2. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its articles of incorporation, bylaws, and policy platform and shall include the following:

(1) Promoting a system of treatment and rehabilitation for chronically mentally ill veterans in VA hospitals and in the community.

(2) Promoting increased emphasis on biomedical and services research for chronically mentally ill veterans.

(3) Conducting educational programs and activities with the Department of Veterans Affairs to facilitate increased knowledge about mental illness and reducing stigma and misinformation about these disorders.

(4) Developing community support groups within the Department of Veterans Affairs Medical Centers for chronically mentally ill veterans and their families.

(5) Fostering expertise and resource allocation in treatment and supportive services for chronically mentally ill veterans who are homeless or in jeopardy of becoming homeless.

(6) Improving the interface of the Department of Veterans Affairs with other important governmental and private entities serving chronically mentally ill veterans.

SEC. 3. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

SEC. 4. RESTRICTIONS.

(a) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(b) STOCK.—The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(c) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities.

SEC. 5. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"The National Alliance for the Mentally Ill.".

SEC. 6. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 5 of this Act. The report shall not be printed as a public document.

SEC. 7. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 8. TERMINATION.

The charter granted by this Act shall expire if the corporation fails to comply with—

(1) any restriction or other provision of this Act,

(2) any provision of its bylaws or articles of incorporation, or

(3) any provision of the laws of the District of Columbia.

BINGHAM, DANA & GOULD,
Washington, DC, June 15, 1994.

Re NAMI Charter.

Senator DENNIS DECONCINI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR DECONCINI: I received a letter dated June 8, 1994 from Jim Cromwell on behalf of the National Association for the Mentally Ill ("NAMI"), indicating that you were considering legislation that would grant a Congressional charter to NAMI and asking if I would convey to you the nature of NAMI's assistance to veterans rated mentally incompetent to handle their financial affairs ("incompetent vets"). I'm glad to do so.

As you may recall, we represented about 7,000 incompetent vets in a class action against the U.S. Department of Veterans Affairs ("VA") before the U.S. District Court for the Southern District of New York. The class claimed that a provision of the Omnibus Budget Reconciliation Act of 1990 ("OBRA") violated its Equal Protection and Due Process rights. The District Court agreed with plaintiffs and granted a preliminary injunction against enforcement of the statute, which had cut off benefits for certain incompetent vets who had assets above a specified minimum. The VA was not successful in obtaining a stay of the injunction in either the District Court or the U.S. Court of Appeals for the Second Circuit, and disability payments to class members resumed.

The VA appealed the injunction to the Second Circuit on an expedited schedule. At that point, NAMI had already been active in supporting legislation to repeal the challenged OBRA provision. NAMI readily agreed to support the class on appeal as well, through a brief amicus curiae. NAMI filed a brief before the Second Circuit, concentrating on the Due Process deficiencies of the statute, for itself, the National Mental Health Association, the American Psychiatric Association and the Mental Health Law Project.

When the appeals court reversed the District Court ruling and remanded the case for further proceedings, the VA declared the payments the class had received under the injunction to be overpayments. Plaintiffs not only challenged the VA's assertion of recoupment rights in the District Court, but also invoked the Title 38 provision on forgiveness of individual debts for reasons of "equity and good conscience" in a letter to the Secretary of Veterans Affairs, indicating the possibility of filing a claim directly with the VA seeking administrative relief for all members of the class if the VA continued to seek recoupment.

Faced with further District Court proceedings, the threat of a separate administrative claim, a Senate budget resolution condemning the statute and pending legislation with widespread, bipartisan support in the House to repeal the statute, the VA, represented by the Justice Department, agreed to forgo recoupment of the injunction payments to the class in exchange for plaintiffs' agreement to forgo further litigative and administrative proceedings. The end result was that the class received as a result of the injunction, and was able to retain, $55 million in disability payments of which the OBRA provision otherwise would have deprived them.

NAMI's persistent efforts to help incompetent vets was important to legislative actions that demonstrated broad support for class relief and to litigation that showed the mental health community was also strongly behind the class, both of which were essential ingredients in striking a favorable settlement with the VA. Moreover, notwithstanding earlier statements to the contrary, the Bush administration abandoned its plans to seek renewal of the statute, sunsetted by its terms after two years, because of the supportive climate NAMI helped generate. Finally, even after the important achievements of the settlement and the sunset had been realized, NAMI continued to press for legislative relief to secure for incompetent vets the balance of the disability compensation kept from them by the statute and not recovered through the settlement.

Given our experience with NAMI on this issue since 1991, it is clear that the organization is not only zealous to protect the rights of those with mental disabilities but also has no hesitation forcefully to express its interests in fields like veterans affairs, which do not lie in NAMI's traditional backyard, and to do so with respect to legislative, executive, and judicial actions as well as membership activities and publications. NAMI shows the kind of across-the-board involvement, and determination to serve its constituents, that in my view fully support its request for a Congressional charter.

If I can provide any further information, please do not hesitate to contact me.

Sincerely,

Joseph C. Zengerle.●

By Mr. DECONCINI.

S. 2341. A bill to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the United States Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

THE PATENT REEXAMINATION REFORM ACT OF 1994

● Mr. DECONCINI. Mr. President, today I would like to introduce a bill, the Patent Reexamination Reform Act of 1994, with the support of the Clinton administration. This legislation will improve our patent reexamination system by broadening the basis for and scope of reexamination proceedings at the Patent and Trademark Office [PTO], increasing participation in reexamination procedures and appeals, and precluding reexamination in specified circumstances. Making these changes will provide patent owners and third parties alike with a cost-effective alternative to patent litigation in Federal courts to resolve many questions of patent validity.

WHY IS THE CURRENT REEXAMINATION PROCESS INADEQUATE?

In 1981, Congress provided for the reexamination of patents at the PTO. The purpose of reexamination is to provide an alternative to litigation over the validity of a patent. The administrative procedures for reexamination are ex parte in nature and allow the patent owner to file amendments, conduct interviews, and make appeals. This provides patent owners an efficient means to confirm the patentability of issued patents and to reduce the likelihood of validity challenges. Reexamination concludes with a reexamination certificate which may cancel any claims found to be unpatentable and which confirms the patentability of claims found patentable.

However, the ex parte nature of reexamination discourages its use as an alternative to validity challenges in Federal Court. Third parties do not perceive the reexamination process to be fair because of their limited ability to participate in the proceedings. Third parties are limited to filing the initial request and filing a reply if the patent owner files a statement in response to the order for reexamination. If the patent owner amends the claims during the reexamination, which occurs in over two-thirds of all reexamination proceedings, the third party has no opportunity to comment on the significance of those changes.

The restrictions incorporated into the current system have made reexamination a very unattractive option for third parties to challenge patent validity. Complicating this problem is the perception, particularly among juries, that the validity of a patent that successfully emerges from a reexamination is somehow enhanced. This imposes an increased burden upon third parties to prove invalidity in the courts and makes third parties reluctant to request reexamination at the PTO. Therefore, third parties believe that it is not in their best interest to request reexamination and, instead, take the question of validity directly to court.

The limited basis and scope of reexamination is another reason third parties become discouraged. Patent claims are currently reexamined only in light of previously issued patents or printed publications. Only new or amended claims are examined under the disclosure and claim requirements of the patent law. To ensure that only valid patents are issued, patent claims should also be reexamined for compliance with the disclosure and claim requirements of the patent law. This means that the PTO would be able to reevaluate compliance with every statutory basis of patentability, other than §101 compliance, that is typically reviewed during the original examination. The Patent Reexamination Reform Act of 1994 provides for this type of reexamination.

HOW ELSE WOULD THIS BILL IMPROVE THE REEXAMINATION PROCESS?

Third parties would have the opportunity for meaningful participation in reexamination proceedings under this bill. In place of the current limitations on participation, third parties could submit written comments throughout the reexamination proceedings with minimal added expense or opportunity to harass the patent owner. The PTO also intends to provide, through rule making, the right of third parties to participate in any examiner interview initiated by either the patent owner or the examiner.

The bill also would give appeal rights which parallel the rights of patent owners to third parties. This change provides third parties the opportunity to receive judicial review of reexamination decisions and further encourages the use of reexamination as an alternative to litigation. However, third parties are estopped from litigating validity, in any forum, after the U.S. Court of Appeals determines that a claim is patentable. This maintains a desirable balance between third party participation and an expedited proceeding to reexamine patent validity.

This bill contains numerous provisions which would make reexamination proceedings more desirable to third parties. Many positive steps are taken to alleviate the perception of unfairness in the system. A consensus has developed within the patent community and representative patent organizations that there is, in fact, a problem with the reexamination process and that reform is needed. The patent bar, including the American Intellectual Property Law Association [AIPLA], as well as industry trade associations such as Intellectual Property Owners [IPO], National Association of Manufacturers [NAM], the Business Software Alliance, and the Software Publishers Association all have indicated their support for a reexamination system that provides greater third party participation.

This bill addresses many of the concerns surrounding the issue without upsetting the balance needed to ensure confidence in the patent system. The reforms made by this bill will help build confidence in the patent system in all industries by ensuring that invalid patents can be invalidated more readily, and, conversely, by assuring the public that a patent that survives reexamination will remain valid if subsequently enforced in court. I support the changes made by this legislation and feel confident the bill will provide clear benefits for patent owners and third parties alike, and will improve the operation of the U.S. patent system.

Mr. President, I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Reexamination Reform Act of 1994".

SEC. 2. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

SEC. 3. REEXAMINATION PROCEDURES.

(a) REQUEST FOR REEXAMINATION.—Section 302 of title 35, United States Code, is amended to read as follows:

"§ 302. Request for reexamination

"Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title except for the best mode requirement. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Commissioner of Patents and Trademarks pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title. Unless the requesting person is the owner of the patent, the Commissioner promptly will send a copy of the request to the owner of record of the patent.".

(b) DETERMINATION OF ISSUE BY COMMISSIONER.—Section 303 of title 35, United States Code, is amended to read as follows:

"§ 303. Determination of issue by Commissioner

"(a) Within three months following the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On his own initiative, and at any time, the Commissioner may determine whether a substantial new question of patentability is raised by patents and publications discovered by him or cited under the provisions of section 301 of this title or by the failure of the patent specification or claims to comply with the requirements of section 112 of this title except for the best mode requirement.

"(b) A record of the Commissioner's determination under subsection (a) of this section will be placed in the official file of the patent, and a copy promptly will be given or mailed to the owner of record of the patent and to the third-party requester, if any.

"(c) A determination by the Commissioner pursuant to subsection (a) of this section will be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Commissioner may refund a portion of the reexamination fee required under section 302 of this title.".

(c) REEXAMINATION ORDER BY COMMISSIONER.—Section 304 of title 35, United States Code, is amended to read as follows:

"§ 304. Reexamination order by Commissioner

"If, in a determination made under the provisions of section 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting any claim of a patent is raised, the determination will include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial Office action on the merits of the reexamination conducted in accordance with section 305 of this title.".

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

"§ 305. Conduct of reexamination proceedings

"(a) Subject to subsection (b) of this section, reexamination will be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner will be permitted to propose any amendment to the patent and a new claim or claims thereto in response to a decision adverse to the patentability of a claim of a patent. No proposed amended or new claim enlarging the scope of the claims of the patent will be permitted in a reexamination proceeding under this chapter.

"(b)(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a third-party reexamination request.

"(2) Any document (other than the reexamination request) filed in a reexamination proceeding by either the patent owner or the third-party requester shall be served on any other party.

"(3)(A) If the patent owner files a response to any Office action on the merits, the third-party requester may once file written comments within a reasonable period. At a minimum, such comments may be filed within 1 month after the date of service of the patent owner's response.

"(B) Comments filed under this paragraph shall be limited to issues covered by the Office action or the patent owner's response.

"(c) Unless otherwise provided by the Commissioner for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, will be conducted with special dispatch within the Office.".

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

"§ 306. Appeal

"(a) The patent owner involved in a reexamination proceeding under this chapter may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by a third-party requester under subsection (b) of this section.

"(b) A third-party requester may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by the patent owner, subject to subsection (c) of this section.

"(c) A third-party requester who files a notice of appeal or who participates as a party to an appeal by the patent owner under the provisions of sections 141 through 144 of this title is estopped from later asserting, in any forum, the invalidity of any claim determined to be patentable on appeal on any ground which the third-party requester raised or could have raised during the reexamination proceedings. A third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, within twenty days after the patent owner has filed notice of appeal, the third-party requester files notice with the Commissioner electing to participate.".

(f) REEXAMINATION PROHIBITED.—(1) Chapter 30 of title 35, United States Code, is amended by adding the following section at the end thereof:

"§ 308. Reexamination prohibited

"(a) Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for reexamination of the patent until a reexamination certificate is issued and published under section 307 of this title, unless authorized by the Commissioner.

"(b) Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action, and a reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any provision of this chapter.".

(2) The table of sections for chapter 30 of title 35, United States Code, is amended by adding the following at the end thereof:

"308. Reexamination prohibited.".

SEC. 4. CONFORMING AMENDMENTS.

(a) BOARD OF PATENT APPEALS AND INTERFERENCES.—The first sentence of section 7(b) of title 35, United States Code, is amended to read as follows: "The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, or a patent owner or a third-party requester in a reexamination proceeding, review adverse decisions of examiners upon applications for patents and decisions of examiners in reexamination proceedings, and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title.".

(b) PATENT FEES; PATENT AND TRADEMARK SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended by inserting "or for an unintentionally delayed response by the patent owner in a re-examination proceeding," after "issuing each patent,".

(c) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

"(a) An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal.".

SEC. 5. EFFECTIVE DATES.

(a) IN GENERAL.—Sections 2 and 4 and subsections (a), (b), (c), (d), and (e) of section 3 of this Act shall take effect six months after the date of enactment of this Act and shall apply to all reexamination requests filed on or after such effective date.

(b) REEXAMINATION PROHIBITION PROVISION.—Section 1 and subsections (f) and (g) of section 3 of this Act shall take effect on the date of enactment of this Act.•

By Mr. DORGAN (for himself, Mr. DASCHLE, Mr. SIMON, Mr. CONRAD, Mr. FEINGOLD, Mr. REID, Mr. WELLSTONE, and Mr. LEVIN):

S. 2342. A bill to amend the Internal Revenue Code of 1986 to improve the collection of taxes of United States persons moving production abroad and foreign persons doing business in the United States, and for other purposes; to the Committee on Finance.

THE FOREIGN TAX COMPLIANCE ACT OF 1994

• Mr. DORGAN. Mr. President, today, I'm joined by Senators DASCHLE, SIMON, CONRAD, FEINGOLD, REID, WELLSTONE, and LEVIN in introducing the Foreign Tax Compliance Act of 1994 to shut down perverse provisions in our tax laws that allow multinational corporations that do business in the United States to pay virtually no taxes here and that subsidize the flight of U.S. producers and jobs out of this country. House Majority Leader RICHARD GEPHARDT, Congressman DAVE OBEY, and 25 other distinguished members of Congress are introducing a companion bill in the House of Representatives.

President Clinton's assessment about the gravity of this problem is absolutely right. These misguided policies are costing this country tens of billions of dollars.

A review of recent IRS return data show that nearly three quarters of the foreign-based corporations that do business here pay no Federal income taxes. U.S.-based companies do not fare much better. I believe that we should not ask our domestic producers on Main Street to compete against tough international competitors that are not paying their fair share of U.S. taxes.

For years, the IRS has been unduly hampered in its tax enforcement of multinational firms and foreign investors. It has been using outdated tax enforcement tools to deal with sophisticated multinations and well-advised foreign investors of today.

As though that weren't bad enough, the tax laws themselves dig the hole deeper for domestic producers. As things stand now, runaway factories get a special tax break called deferral that is not available to those that stay in the United States.

The way this perverse tax bonus works is basically quite simple. If a U.S. company moves an operation abroad, it can defer its taxes on the resulting profits until it sends those profits back to the United States in the form of dividends.

Incredible as it may seem, we actually reward companies that move their jobs and capital out of the United States. This deferral provision operates as an interest-free loan program to help our biggest and brightest companies invest outside of the United States. And that is precisely the way the corporate world uses it.

A tax expert testifying before Congress offered an example that demonstrates the absurdity of our current policy. Consider two U.S. manufacturing companies that are identical in almost every respect. These companies produce virtually identical products and compete head-to-head in the tough U.S. marketplace. However, company A will get an interest-free loan from the Federal Government because it has moved its operations to a tax haven and has not brought any earnings back into this country. Company B, deciding to keep it operations in the United States, does not receive such a government loan. As a result, company A will have a greater, tax-subsidized return than company B, and thus company A will be able to beat the American producer in the U.S. marketplace.

Unfortunately, this interest-free loan program exists today. The Joint Tax Committee estimates the costs of this perverse incentive at $1.6 billion over 5 years. And that's why we introduced legislation to repeal tax deferral in these circumstances.

This legislation is carefully targeted to end tax deferral only where U.S. multinationals produce abroad in foreign tax havens, and ship those tax haven products back in the United States. It's important to note that this bill does nothing to hinder U.S. multinationals that produce abroad from competing with foreign firms in foreign markets.

The point is that we can no longer afford to subsidize the exodus of our biggest and brightest companies to countries peddling the lowest tax rates. It's unfair that American workers are losing thousands of jobs every year because of our own tax laws. Our Main Street businesses deserve a level playing field to compete against well-financed and well-advised multinationals.

Our tax enforcement officials also have been forced to use antiquated, 19th century tax enforcement tools to deal with international taxpayers. As a result, many international firms are able to juggle income to their affiliates in the friendliest jurisdictions—or into the black holes of their international balance sheets where corporate profits are reported to no country at all.

Again, this is not mere polemics. According to the General Accounting Office [GAO], some 73 percent of the foreign-based corporations that do business in the United States are paying no Federal incomes taxes. Zero.

This problem has festered at the IRS for decades, and only the explosion in world trade has forced it into the open. How to distinguish a corporation's U.S. income, from the income that should be reported elsewhere? It sounds simple, but in practice it can be devilishly complex. For example, a global enterprise operates through a multitude of subsidiaries throughout the world. Patents, parts, shared overhead, and a zillion other things flow freely through the company's worldwide web.

By putting prices on these transfers, the company can easily shift its income off its U.S. books and into the black holes in its international balance sheets. For foreign-based firms, whose main records are thousands of miles away, such transfer pricing strategies are especially attractive.

The way the IRS tries to uncover these shell games is straight out of the Keystone Kops. Beleaguered auditors have to comb through a corporation's thousands of internal transactions—one by one—and try a adjust the prices to a hypothetical market level.

The IRS is overwhelmed, and big corporations know it. The result is massive tax avoidance, combined with medieval disputes over correct prices that are clogging the tax court at an increasing rate.

Long ago, the States had to come to grips with corporations operating freely across their borders. They knew they couldn't possibly disentangle the spaghetti pile of a large corporation's internal accounting. So they devised a simple formula to do the job instead. Today, we can apply that basic approach to corporations operating across national borders as well, as some States do already.

Early this summer, the U.S. Supreme Court once again upheld the States' use of a formula method as reasonable and fair. A simple formulaic approach would flush out the billions of dollars that currently disappear in the Treasury's lawyer-intensive comparable pricing approach. Better still, the formula approach would render the medieval accounting games irrelevant; corporations could focus on business instead of fancy tax strategies, and the Government could save money.

This legislation expresses the Sense of the Congress that the Treasury Department should adopt a more streamlined and efficient method of enforcing Federal tax laws involving multinational corporations, especially those based abroad. In particular, we recommend using a simple formula approach where the current "arm's length" transaction rules don't work.

Finally, there's evidence suggesting that international firms and foreign investors are artificially shifting their U.S. source income outside of the taxing jurisdiction of the United States by entering into derivative financial contracts. According to some recent estimates, the total amount of financial derivatives today is fast approaching $16 trillion. This emerging tax loophole may have a devastating impact on Federal revenues. In addition, our tax authorities have known for over a decade that the current enforcement tools used for administering tax treaty benefits were insufficient.

That's why our legislation expresses the Sense of Congress that the Treasury Department use its existing authority to issue long-overdue regulations to ensure that U.S. tax treaty benefits are available only to those persons entitled to such benefits and to prevent the avoidance of U.S. tax by the use of derivative financial instruments. It's my understanding that Treasury Department is currently reexamining its rules in both of these areas. Clearly the current system is in need of fundamental change, and I applaud Treasury Department officials for their willingness to tackle these problems.

In summary, we must get rid of the tax laws and IRS enforcement practices that favor tough international competitors and foreign production to the detriment of our domestic producers. I believe that the Treasury Department must act expeditiously under its existing authority to bring the Nation's multinational tax enforcement tools up to date. In addition, the time has come to end deferral for U.S. corporations that move jobs abroad, but then ship their products back into the United States.

I ask unanimous consent that the full text of the legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Tax Compliance Act of 1994".

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(h) IMPORTED PROPERTY INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

"(2) IMPORTED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

"(3) DEFINITIONS AND SPECIAL RULES.—

"(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

"(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and".

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h))."

(3) LOOK-THRU RULES TO APPLY.—Clause (i) of section 904(d)(3)(F) of such Code is amended by striking "or (E)" and inserting "(E), or (H)".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of the Internal Revenue Code of 1986 (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

"(III) imported property income,".

(2) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1994, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1994.

SEC. 3. IMPROVEMENTS IN THE COLLECTION OF UNITED STATES TAXES OWED BY FOREIGN PERSONS.

(a) FINDINGS.—The Congress finds that—

(1) there is evidence suggesting that foreign-controlled corporations doing business in the United States do not pay their fair share of taxes;

(2) over 70 percent of foreign-controlled corporations doing business in the United States pay no Federal income tax;

(3) the United States Department of the Treasury has limited its ability to protect the revenue base in the case of cross-border transactions, to the detriment of taxpayers engaged solely in domestic transactions;

(4) the United States Department of the Treasury has been using antiquated accounting concepts to deal with sophisticated multinational corporations;

(5) substantial Federal revenues are lost annually due to the inability of the Internal Revenue Service to enforce the "arm's length" transaction rules, along with substantial amounts spent on administration and litigation;

(6) current procedures of the Internal Revenue Service are insufficient for ensuring that a foreigner who is not a resident of a foreign country does not take advantage of the treaty benefits of that country; and

(7) current regulations and other positions adopted by the Internal Revenue Service may permit foreign persons to avoid United States taxes by utilizing derivative financial products which replicate the economic features of United States taxable investments.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that deficit reduction should be achieved, in part, by ending loopholes and enforcement breakdowns that now foster the underpayment of taxes on income from cross-border transactions and enable foreign-controlled corporations operating in the United States, and foreign persons investing in the United States, to pay no taxes, including by—

(1) the adoption of a more streamlined and efficient method of enforcing Federal tax laws involving multinational corporations, especially those based abroad, and, in particular, the use of by the Treasury Department of a formulaic approach in cases in which the current "arm's length" transaction rules do not work; and

(2) the promulgation of regulations by the Secretary of the Treasury or the Secretary's delegate no later than December 31, 1994, which—

(A) establish certification, refund, or other procedures which ensure that any treaty benefit relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1986 is available only to persons entitled to the benefit, and

(B) prevent the avoidance of withholding of tax under such sections by use of derivative financial instruments, including regulations providing for the sourcing of income of foreign residents from notional principal contracts as income from sources within the United States in appropriate cases.●

ADDITIONAL COSPONSORS

S. 1096

At the request of Mr. SIMPSON, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1096, a bill to amend the Foreign Assistance Act of 1961 to establish and strengthen policies and programs for the early stabilization of world population through the global expansion of reproductive choice, and for other purposes.

S. 1288

At the request of Mr. AKAKA, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1976

At the request of Mr. BURNS, his name was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 2215

At the request of Mr. MCCAIN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2215, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Georgia [Mr. NUNN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 169

At the request of Mr. HEFLIN, his name was added as a cosponsor of Senate Joint Resolution 169, a joint resolution to designate July 27 of each year as "National Korean War Veterans Armistice Day."

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 186, a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 73

At the request of Mrs. FEINSTEIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution expressing the sense of the Congress with respect to the announcement of the Japanese Food Agency that it does not intend to fulfill its commitment to purchase 75,000 metric tons of United States rice.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a markup on Monday, August 1, 1994, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 2075, to amend Indian Child Protection and Family Violence Prevention Act to reauthorize and improve programs under the Act; S. 2150, the Native Hawaiian Housing Assistance Act of 1994; and, for other purposes to be followed immediately by a hearing on S. 2329, the Mohegan Nation of Connecticut Land Claims Settlement Act.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, the Senate Committee on Banking, Housing, and Urban Affairs is requesting unanimous consent to hold hearings pursuant to Senate Resolution 229, beginning on Friday, July 29, at 10 a.m. in SD–106. The hearings will continue August 1–5, beginning at 9:30 a.m. in room SD–106.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, July 29, 1994, at 11 a.m., to continue considering its recommendations for legislation to implement the Uruguay Round of Multilateral Trade Negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Committee be authorized to meet for a hearing on the Employment Nondiscrimination Act of 1994, during the session of the Senate on July 29, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet on Friday, July 29, 1994, at 9:30 a.m. on the reauthorization of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Friday, July 29, 1994 at 9 a.m. to hold a hearing on violent video games: The rating system.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON REGULATION AND GOVERNMENT INFORMATION AND SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Subcommittee on Regulation and Government Information and the Judiciary Subcommittee on Juvenile Justice be authorized to meet during the session of the Senate on Friday, July 29, 1994 at 9:30 a.m. to hold hearings on the subject: Rating video games.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

(At the request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD:)

EXPLANATION FOR ABSENCE

• Mr. GRAHAM. Mr. President, I will be absent the afternoon of Friday, July 29, 1994, to attend my daughter's wedding. Thus, I will not be present for the vote on the nomination of Mr. Breyer to be an Associate Supreme Court Justice. Had I been present, I would have voted "aye."•

ORDERS FOR MONDAY, AUGUST 1, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Monday, August 1; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of S. 1513, the Elementary and Secondary Education Authorization bill, with the Hatch amendment No. 2429 as the pending business, to be considered under the conditions and limitations provided for under the provisions of a previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE FOR REMAINDER OF LEGISLATIVE PERIOD

Mr. MITCHELL. Mr. President, a number of Senators have asked me to comment on the scheduling for the remainder of this legislative period, including my plans with respect to health care reform legislation.

I have received a large number of inquiries from members of the press on the same subject. Some of those press inquiries were in response to reports or suggestions or rumors of my plans in this regard. Some of them were wholly unfounded and represented, I believe, nothing more than speculation.

Accordingly, in an effort to provide Senators with the most detailed and current information possible, I thought it would be useful to take just a few minutes before completing our business today to describe where we are in the legislative process and what I hope to accomplish over the next few weeks.

As the agreement just obtained indicated, the Senate will return to session at 9 a.m. on Monday and will resume consideration of the elementary and secondary education bill. There will be a vote at or about 10 o'clock Monday morning on the pending Hatch amendment. That will be followed by a debate and vote on an amendment to be offered by Senator FEINSTEIN of California.

I expect there will be other amendments offered and votes held during the day on Monday. I hope that we can complete action on this bill during Monday, and it is my intention to remain in session on that day until we do so.

If that does occur, we will then proceed on the following day, Tuesday, August 2, to consideration of the VA–HUD appropriations bill. Upon completion of that bill, we will, by then, I expect, have received from the House of Representatives the conference report on the crime bill, and it is my intention to proceed to that conference report as soon as possible following disposition of the VA–HUD appropriations bill.

On Tuesday, August 2, I intend to announce my decision with respect to the health care reform legislation, and I hope to have available for all Senators, by the close of business on that day, draft legislative language so that all Senators could have before them the bill language itself, although it will be subject to what I hope will be relatively few minor modifications in the final legislative process.

I emphasize that the legislation to be presented will be largely drawn from the bills which have already been reported to the full Senate by the Senate

Labor Committee and the Senate Finance Committee. Each of those committees held dozens of days of hearings and several days in which the committees considered, marked up, voted on, and completed action on the bills. So most of the provisions of what is presented next week will be very familiar to all Senators, at least those Senators who have followed the process so far, because they will have been included in the debate on the bills reported by the Finance and Labor Committees. While the legislation presented will not be identical and there will be some modifications, I stress that the vast bulk of the provisions will have already been the subject matter of extensive debate, discussion, and voting, and, therefore, should be familiar to all Senators.

Notwithstanding that fact, because there will be some provisions not included in either bill and because this is a matter of such importance, I believe that all Senators should have ample opportunity to read, review and consider this matter, and I repeat what I have said here publicly in the Senate and publicly in other places on many, many occasions. No one will be rushed on this important measure. Every Senator will have the most full opportunity to speak for as long as he or she wants on the subject. Every Senator will have the most full opportunity to offer any amendment he or she wants to offer on this subject.

I believe that it will be appropriate to begin deliberations in the Senate on that bill early the following week, which begins on Monday, August 8. I will not now attempt to set a precise day or time, pending further consultations with my colleagues, both Democratic Senators and Republican Senators and the Republican leader, but I will now also repeat something I have said on many, many occasions previously: that once we do begin on the bill, we will continue in session until we complete action on that bill.

Neither I nor any other person can now predict precisely when that will be, because the Senate rules permit unlimited debate and unlimited amendments. No one can now foresee how long any individual Senator will want to speak or how many amendments Senators individually or in the aggregate will offer. But I want to make it clear that there will be no attempt to prevent anyone from speaking for as long as he or she wants or to offer any amendment he or she wants.

Once we begin on the bill, as I have also said many times before, we will be in session 6 days a week, including Saturdays, with lengthy sessions during each day, to give every Senator the opportunity, as I have just stated, that is, the opportunity for a full debate and amendment.

I have suggested this course of procedure in discussions today with the Republican leader and with other Senators of both parties. I have not made a final decision because I have invited them to consider my suggestions and to consult among themselves and to respond, and I will, as I always do, take carefully into account their responses.

But, in view of the number of requests I have received from Senators about at least the current state of my thinking in this regard, I wanted to make this report. I welcome any suggestions any Senator may have on how best to proceed with respect to these matters. I am completely open to suggestion now, as I always have been, and will, before making any final decision, consider any such suggestion.

In the course of making my decision on the schedule during this period, I will also attempt to accommodate the wishes of as many Senators as possible. But I emphasize in advance that our first and primary responsibility is to the American people to meet our public responsibilities and to conduct ourselves in an appropriate way in attempting to diligently make decisions on these important matters.

I believe that at least the general outline of what I have suggested will enable us to do that in the most fair and appropriate way. But, as I have said earlier, I will not make a final decision in that regard until I have had a chance to consult further with all Senators, and specifically to receive and consider any reactions by Senators to these suggestions.

In conclusion, Mr. President, I will sum up and repeat briefly that we will, on Monday, have a rollcall vote at 10 a.m, and during the day thereafter I expect further rollcall votes. We will attempt to complete action on that education bill on Monday. We will then attempt to complete action on the VA-HUD appropriations bill. And then we will attempt to complete action on the conference report on the crime bill.

On Tuesday I hope to have ready, draft bill language of the health care reform bill for every Senator to review. And I hope to begin action on that measure sometime early the following week.

I thank all of my colleagues for their cooperation on this week. We have made good progress on important measures and I look forward to prompt action next week, as I have previously indicated.

RECESS UNTIL MONDAY, AUGUST 1, 1994, AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 4:01 p.m. recessed until Monday, August 1, 1994 at 9 a.m.

NOMINATONS

Executive nominations received by the Senate July 29, 1994:

DEPARTMENT OF VETERANS AFFAIRS

KENNETH W. KIZER, OF CALIFORNIA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF 4 YEARS, VICE JAMES WILSON HOLSINGER, JR., RESIGNED.

NAVAJO AND HOPI INDIAN RELOCATION

PETER J. OSETEK, OF ARIZONA, TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION, OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION, FOR A TERM OF 2 YEARS, VICE CARL J. KUNASEK, TERM EXPIRED.

CONFIRMATION

Executive nomination confirmed by the Senate July 29, 1994:

SUPREME COURT OF THE UNITED STATES

STEPHEN G. BREYER, OF MASSACHUSETTS, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

EXTENSIONS OF REMARKS

INSLAW

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. ROSE. Mr. Speaker, today I am introducing legislation for the relief of INSLAW, Inc. and William and Nancy Hamilton, the owners of INSLAW. These citizens have been grievously harmed by acts and omissions of our Government for more than a decade. Justice Department officials at the highest levels have taken the Hamiltons' property and used it without compensating them for its use and have thwarted their every attempt to obtain justice.

INSLAW, Inc. is a computer software company based in Washington, DC, and owned by William and Nancy Hamilton. INSLAW markets case management software products to courts and related justice agencies, to the insurance industry, to large law firms, and to the law departments of corporations. INSLAW's principal asset is a highly sophisticated software program called PROMIS, a computer program which manages large amounts of information.

In 1982, INSLAW won a 3-year, $10 million contract with the Department of Justice to install case management systems in the U.S. attorney's offices. The company soon became enmeshed in a series of contract disputes when the Justice Department began withholding increasingly large amounts of money until INSLAW was forced to file for chapter 11 bankruptcy in 1985. INSLAW survived bankruptcy and emerged from chapter 11 with a loan from the IBM Corp., and INSLAW business partner.

INSLAW filed suit against the Justice Department in U.S. Bankruptcy Court in June 1986. On September 28, 1987, Judge George Bason of the Bankruptcy Court ruled that the Justice Department "took, converted, stole" INSLAW's software through trickery, fraud, and deceit and thereafter unlawfully attempted to cause INSLAW's liquidation.

In November 1989, senior U.S. District Judge William Bryant of the District of Columbia affirmed the Bankruptcy Court's $8 million judgment against the Justice Department, ruling that "[t]he cold record adequately supports his findings under any standard of review." The U.S. District Court decision was reversed by the U.S. Court of Appeals for the District of Columbia in May 1991 on technical jurisdictional grounds. The appeals court ruled that INSLAW had proceeded in the wrong court.

INSLAW proceeded pro se on its contract claim before the Board of Contact Appeals, but thereafter took a dismissal with prejudice because the Hamiltons' financial resources were totally exhausted and they were unable to run their business and proceed pro se against the Department. Simply stated, the Department of Justice used its overwhelming resources to bring the Hamiltons to their knees.

On September 10, 1992, the House Judiciary Committee, completing a 3-year investigation, made the following statement in its report (H. Rept. 102-857), The INSLAW Affair:

> The Committee's investigation largely supports the findings of two federal courts that the Department "took, converted, stole" INSLAW's enhanced PROMIS [software] by "trickery, fraud and deceit" and that this misappropriation involved officials at the highest levels of the Department of Justice.

According to sworn testimony before the committee, high level Justice Department officials conspired to steal the PROMIS software and secretly convert it to use by domestic and foreign intelligence services. The committee noted in its report:

> This testimony was provided by individuals who knew that the Justice Department would be inclined to prosecute them for perjury if they lied under oath. No such prosecutions have occurred.

The committee found that high level Justice Department officials knew INSLAW's claim of PROMIS software ownership was legitimate and that the Justice Department would "probably lose the case in court on this issue." The committee found it "incredible that the Department, having made this determination, would continue to pursue its litigation of these matters." The committee's report stated that—

> The Justice Department continues to improperly use INSLAW's proprietary software in blatant disregard of the findings of two courts and well established property law.

The September 10, 1992, House Judiciary report contained a number of findings and recommendations adverse to the Justice Department. In one of its most important conclusions, the report stated:

> Based on the evidence presented in this report, the Committee believes that extraordinary steps are required to resolve the INSLAW issue. The Attorney General should take immediate steps to remunerate INSLAW for the harm the Department has egregiously caused the company. The amount determined should include all reasonable legal expenses and other costs to the Hamiltons not directly related to the contract but caused by actions taken by the Department to harm the company or its employees. To avoid further retaliation against the company, the Attorney General should prohibit Department personnel who participated in any way in the litigation of the INSLAW matter from further involvement in this case. In the event that the Attorney General does not move expeditiously to remunerate INSLAW, then Congress should move quickly under the congressional reference provisions of the Court of Claims Act to initiate a review of this matter by that court. (Emphasis supplied.)

After years of wrongs and numerous acts of coverup and denial, the Department of Justice now stands unrepentant in the face of compelling evidence that it has dealt with citizens of this country in the most egregious way.

Mr. Speaker, we need to move now to refer this matter to the U.S. Court of Federal Claims so that the Hamiltons and INSLAW can get a fair hearing under the congressional reference procedure and finally obtain the justice which has been so long denied.

TRIBUTE TO COL. WILLIAM M. McCRARY

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. EVERETT. Mr. Speaker, I rise today to offer my sincere congratulations and best wishes to Col. William M. McCrary, U.S. Air Force, retired. Colonel McCrary officially retired from active duty earlier this week at Maxwell Air Force Base in Montgomery, AL, after serving his Nation with distinction for the past 25 years. During that time, he served in Vietnam as a B-52 navigator, in numerous capacities with the Air Force ROTC, and as policy director at the Air University, Maxwell Air Force Base, AL.

On behalf of the proud citizens of Alabama, I commend Col. William M. McCrary for his dedicated service to his country, his unwavering devotion to the U.S. Air Force, and his patriotism in defense of freedom. These accomplishments will always be honored by the brave men and women who will follow in his path. On behalf of Congressman SPENCER BACHUS and myself, many best wishes in your retirement. Colonel McCrary, and thank you for heeding the call to duty.

UNANSWERED QUESTIONS ON THE CLINTON LEGAL DEFENSE TRUST FUND

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Ms. PRYCE of Ohio. Mr. Speaker, as the hearings into the Whitewater affair continue, I would like to commend the attention of my colleagues to the following article that recently appeared in the July 27, 1994 edition of the Washington Times.

QUESTIONS HENRY GONZALEZ DOESN'T WANT YOU TO HEAR

> Editor's note: At the House Banking Committee's hearing on Whitewater Tuesday, Republican Rep. Deborah Pryce sought to ask White House Counsel Lloyd Cutler, the lead-off witness, a series of questions about the Clintons' legal expense fund and other such funds. The witness answered some questions, but repeatedly volunteered his view that the issue was beyond the scope of the committee's hearings. Banking Committee Chairman Henry Gonzalez ultimately intervened, derailing Rep. Pryce's questions.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Rep. Pryce then sought, as a matter of routine courtesy to members, to insert her questions into the record: "To preserve the record, I ask unanimous consent to just put my line of questioning in the record, and then I would be prepared to move on," she said.

Chairman Gonzalez responded, again routinely, "There is no objection." But there was an objection.

Rep. Maxine Waters, Democrat of California, interjected: "Mr. Chairman? Inquiry. Now, as I understand it, you set out the scope of the hearing, and everybody has been adhering to that. You made it very clear that we are dealing with the contacts that are under question. Whenever anyone has stepped outside of that, you have ruled them out of order. And while you allow the gentlelady to continue without objection, I think it stretches it a bit to ask that they be placed in the record, and I would object, Mr. Chairman."

So it is that Rep. Pryce's questions for Mr. Cutler will not appear in the Whitewater hearing record. (It will be interesting to see what happens the next time Rep. Waters asks unanimous consent for something routine, such as to revise and extend her remarks on the floor.) In the interest, however, of a more complete record, here are the questions Rep. Pryce sought to put into the record:

QUESTIONS ON THE LEGAL DEFENSE FUND

(1) Have any of the White House officials who will be testifying established a legal defense fund, the same or similar to the president and first lady's? And, would such funds be legal?

(2) What, in your mind, distinguishes the first family?

(3) Has the Justice Department been asked to review the legality of the establishment of the trust fund? Is there a Justice Department written opinion supporting the legality of the trust fund? Is there an Office of Government Ethics written opinion?

(4) It is clear from the Trust Document that the president, Mrs. Clinton and their chosen trustees and agents will actively solicit contributions to the fund. Does this written authorization violate statutory and regulatory bans on the solicitation of such gifts, specifically 5 U.S.C. Sec. 7353, 5 CFR Sec. 2635.204(j) and 3 CFR Sec. 100.735–14?

(5) (As rebuttal to exception) If read so broadly as to carve out an exemption from 5 U.S.C. Sec. 7353 for president's trust fund, would the exception (5 CFR 2635.204(j)) be "manifestly contrary to the statute" under the rule of Chevron U.S.A. vs. Natural Resources Defense Council, 4678 U.S. 837,844 (1984)?

(6) Do the regulations governing the supplementation of salary and the receipt of gifts by employees of the Executive Office of the President (specifically, 3 CFR Sec. 100.735–13 and Sec. 100.735–14) prohibit the creation of the trust fund as established?

(7) If, while still in office, the president or his wife were to have access to funds from the trust left over after payment of all legal fees, would this constitute an illegal augmentation of salary?

(8) Why does the trust document abide by the statutory ban on acceptance of gifts from inferior government employees, in 5 U.S.C. Sec. 7351, but ignore the more general gift prohibition in 5 U.S.C. 7353?

(9) The Office of Legal Counsel at the Department of Justice issued an opinion during the Carter administration on Aug. 27, 1980, stating that White House employees should not accept free or discounted legal services. What is the ethical distinction between receiving free services from an attorney and receiving gifts of money from interested persons from which to pay an attorney?

(10) Can other executive branch employees set up legal defense trust funds? Can they have access to the remainder of the funds once all legal bills have been paid?

(11) According to the trust document, the president and his wife can remove the trustees "at any time." Does this give them day-to-day, operational control over the trust?

(12) What legal assurances are there that the president and his wife will return, or donate to charity, whatever funds remain after all relevant funds are paid?

(13) Are these issues within the scope of Mr. Fiske's investigation? Would you support, including forwarding a written request to the special division, placing these issues within the jurisdiction of the independent counsel investigating the Whitewater/Madison Guaranty matter if such a counsel is appointed?

(14) Does the trust fund expose donors to any criminal liability under 18 U.S.C. Sec. 209, which criminalizes giving and receiving salary supplementations? Have the trustees been advised of any potential criminal liability in regard to this, or any other, federal criminal statute?

(15) Does the way in which the trust fund is set up implicate criminal statutes 18 U.S.C. Sec. 201 (the general anti-bribery statute) and 18 U.S.C. 208 (the criminal conflict of interest statute)?

(16) Are lobbyists permitted to contribute to this legal defense fund?

(17) Do contributions to the trust subject the Clintons to any additional tax liability? Has the Treasury Department or the Internal Revenue Service issued a written opinion in response to that question? If not, why not? If so, please provide me with a copy.

(18) If the Clintons are not subject to any additional tax liability as a result of their acceptance of such contributions to a legal defense trust, does the same tax treatment apply to other Americans who might similarly establish legal defense trusts to help pay their legal bills? If not, why not?

REFLEX SYMPATHETIC DYSTROPHY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. PACKARD. Mr. Speaker, I ask permission to revise and extend my remarks for inclusion into the RECORD.

Reflex sympathetic dystrophy, RSD, is a complex and extremely painful neurogenic disease that afflicts millions of unsuspecting victims each year. RSD is a multi-symptom medical condition that afflicts one or more extremity and possibly the entire body. The disorder occurs when a leg or arm has suffered an injury or trauma.

The RSD Association of America estimates that 5 percent of all injuries or traumas can result in RSD. Reflex sympathetic dystrophy is a disabling disease that can simultaneously afflict the nerves, muscles, and joints. RSD presents itself in progressively severe stages—the most serious resulting in total dysfunction of an extremity. It can ultimately affect the entire body. Excruciating pain is the one symptom frequently associated with RSD diagnosis.

Due to its peculiar onset and uncertain nature, RSD represents a frustrating phenomenon for both its patients and their physicians. Doctors continue to debate the exact cause of this neurogenic disorder, and a cure has not been discovered yet. What is clear is that RSD sufferers live in extremely uncomfortable circumstances.

RSD can easily be treated and curtailed if it is diagnosed in the early stages of development. Physicians have found the most effective measure of treatment involves a variety of methods: prescription drugs, physical therapy, occupational therapy, and even emotional therapy. All of these methods, in conjunction with one another, cater to the patient's individual physical and emotional needs. The successful combination of therapy and drugs within the early stages of RSD's onset can help prevent any further progression of the disorder. Unfortunately, many times, both the patient and their physician fail to recognize the early symptom of chronic pain as that of RSD. Instead it is attributed to the patient's initial injury.

It was only last fall that RSD was officially recognized by the medical society and assigned an international category of diseases code number, ICD–9 #337.2. To the patients who suffer from RSD, this ICD–9 code represents more than just a number; it signifies legitimacy and recognition. As a member of the board of directors of the Reflex Sympathetic Dystrophy Syndrome Association of California, I can attest to the mental and physical trials that a patient experiences due to the lack of understanding among physician and health care providers.

Early detection and treatment are vital to preventing the debilitating effects of RSD. For years, RSD patients have been denied proper treatment due to the lack of medical understanding and the commonality of the early symptoms of pain and discomfort. This medical oversight has been detrimental to RSD patient health care costs.

Estimated costs for treating an individual with severe RSD can begin at $50,000 per year and reach up to $250,000 per year as the disease progresses and more severe complications arise. The escalating potential of health costs for an RSD patient can be astronomical. With increased medical awareness and greater understanding on behalf of insurance companies, early detection and treatment of people who suffer from RSD can reduce the devastating effects RSD imposes on them physically, emotionally, and financially.

BANANA KELLY FOURTH ANNUAL INFORMATION FAIR/COMMUNITY FESTIVAL

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. SERRANO. Mr. Speaker, I rise today to commend the Banana Kelly Community Improvement Association on its Fourth Annual Information Fair/Community Festival, which will be held in the South Bronx on Saturday, August 13.

For my colleagues who do not know, in 1977 a group of gutsy South Bronx residents of a banana-shaped block of Kelly Street organized themselves to wage a successful effort to stop the demolition of three abandoned buildings. They then proceeded to rehabilitate the buildings themselves.

In the ensuing 16 years Banana Kelly has rehabilitated nearly 2,000 residential units for cooperative ownership by low and moderate income tenants. But this figure merely scratches the surface of Banana Kelly's accomplishment. Banana Kelly has extended property management, construction management and weatherization services to privately owned buildings. It has implemented a family and community enrichment program which provides family services, group training and technical assistance to tenant associations for their at-risk residents.

Banana Kelly's youth programs have gained nationwide recognition for their success in training local youth for jobs in the construction and maintenance fields. Its leadership training programs are building columns of strength throughout the South Bronx region. Its commercial support efforts are helping businesses to locate and expand operations in the South Bronx, thus bringing vital products, services and jobs to the community.

Mr. Speaker, the Banana Kelly credo is "Don't Move, Improve." At its event on August 13 the Banana Kelly Community Improvement Association will honor and provide a forum for outstanding individuals and entities who have lived these words. I ask my colleagues to join me in thanking the Banana Kelly Community Improvement Association for its marvelous and continuing accomplishments.

CONDEMN TERRORIST ATTACKS

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. REED. Mr. Speaker, I rise today to condemn, in the strongest possible terms, the recent wave of terrorist attacks against the Jewish people. These vicious and cowardly attacks serve as a grim reminder that the enemies of peace remain intent on continuing their murderous ways.

Four deadly explosions in less than 10 days, 95 innocent people killed in Buenos Aires, 22 dead in Panama, and 19 injured in London. We must not delude ourselves, Mr. Speaker. Even as this Congress was witnessing the historic address by King Hussein of Jordan and the Israeli Prime Minister, Yitzhak Rabin, terrorists where working around the globe to undermine the monumental victory for peace in the Middle East.

In memory of the men, women, and children who have perished at the hands of these cold-blooded killers, we must redouble our efforts to build a new era of peace between Israel and her neighbors. The United States must continue to support the peace process, both at the negotiating table and as a defender of justice. Together with Israel, we must commit our resources to apprehending the terrorists and holding them and their sponsors responsible for these heinous crimes.

Mr. Speaker, I would ask all of my colleagues to join me in making it perfectly clear that nothing will be allowed to jeopardize the foundation for Arab and Israeli cooperation that was laid in Washington this week. We will not rest until the terrorists are brought to justice. We will not turn our back from the promise of peace in the Middle East.

RUSSIAN TROOPS ARE LEAVING ESTONIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. HOYER. Mr. Speaker, on Tuesday, July 26, President Boris Yeltsin of Russia and President Lennart Meri of Estonia gave their countries and the world a very pleasant surprise: They reached agreement on the withdrawal of Russian forces from Estonia by August 31, 1994. As President Meri said, this eliminates the last consequences of World War II for Estonia. In fact, with Russian troops scheduled to leave Latvia and Germany by the same date, as of September 1, except for Moldova, Russian troops will be out of Europe for the first time in 50 years.

The accord was unexpected because relations between Russia and Estonia in recent months have been quite tense, and a compromise on the substance of the issues in dispute was beginning to appear unlikely. Estonia had been demanding the removal of Russian troops, whose departure Tallinn, and the CSCE, did not see as linked to any other bilateral matter of negotiation with Russia. Moscow, for its part, accused Estonia of perpetrating massive human rights violations against its Russian and Russian-speaking community, and insisted on social guarantees for Russian military pensioners in Estonia. The atmospherics of Russo-Estonian relations were also quite strained. At the G–7 meeting in Naples, in fact, President Yeltsin forcefully answered "Nyet!" when asked whether Russian forces would be out of Estonia by August 31.

Fortunately, President Clinton urged both Presidents to meet face to face, and fortunately, they did. The result of their 5-hour deliberations was a mutually satisfactory accord on the troop withdrawal and on Russian military pensioners. Russian negotiators stressed their satisfaction with Estonia's agreement to let all military pensioners apply for, and obtain, residence permits, rather than exclude particular categories in advance. For Estonia, it was critical that no other state decide who remains in the country, and Tallinn reserved the right to rule "Nyet" on applicants deemed a threat to Estonia's national security, especially officers of the KGB and GRU—military intelligence. To assure a fair hearing, the panel judging applications on a case by case basis will be composed of Estonians, Russians, and a representative of the CSCE.

The agreement is significant for several reasons. First, it augurs a new era in Estonian-Russian relations. I have long believed that whatever concerns Moscow had about human rights in Estonia would be more easily assuaged and addressed once Estonia no longer had to worry about unwanted Russian soldiers on its territory. These two neighboring countries, one enormous, the other tiny, will hopefully now be able to develop the sort of cooperative relationship based on mutual respect people had anticipated of the post-cold war world.

Second, the agreement between Boris Yeltsin and Lennart Meri demonstrates how heads of state can come to terms when their emissaries and negotiators have reached a dead end. What's necessary is the political will—and sometimes, a push. Which brings me to the third point: the positive leadership role played by President Clinton in urging his counterparts to try again. He has received well-earned praise for facilitating the historic visit to Washington this week by King Hussein and Prime Minister Rabin, and he deserves credit as well for helping to bring about the long-awaited accord on the removal of Russian soldiers from Estonia.

TRIBUTE TO COL. MICHAEL D. BROWNELL

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. EVERETT. Mr. Speaker, Col. Michael D. Brownell will retire from the U.S. Army on October 1, 1994, after a long distinguished career of over 40 years of service to our Nation.

Colonel Brownell enlisted in the Washington National Guard as a private at the age of 17, on September 22, 1954. Ten years later he was commissioned a second lieutenant in the U.S. Army Reserve. Colonel Brownell began his statutory tour of active duty as a captain in 1975, one of the first members in the then unnamed Active Guard and Reserve [AGR] Program. Three years later, he was selected for the position of general officer management officer in the Office of the Chief, and then assigned to the newly established Army Reserve Personnel Center. His performance in these assignments was exemplary.

Colonel Brownell returned to the Pentagon in August 1986, as a personnel staff officer, in the Office of the Chief, and later in the officer accession branch of the Office of the Deputy Chief of Staff for Personnel, until his selection for promotion to the grade of colonel.

Colonel Brownell has served as staff director and senior Army Reserve policy advisor of the Reserve Forces Policy Board in the Office of the Secretary of Defense since February 1989. His initial assignment with the Reserve Forces Policy Board was as editor of the fiscal year 1989 annual report to the President and Congress. Colonel Brownell subsequently served as staff director of the board's personnel committee during Operations Desert Shield/Storm. Colonel Brownell also assisted in the planning and conducting of a symposium, the publication of whose proceedings constitutes a permanent documentation of civil affairs service during Operations Desert Shield/Storm and Provide Comfort.

Colonel Brownell's civilian education includes both an associate in arts degree and a bachelor of arts degree, as well as a master of public administration. His active duty training includes Army Command and General Staff College, the National Security Management Program at Harvard University, and the Personnel Management for Executives Course.

Colonel Brownell's numerous decorations include the Defense Superior Service Medal, Legion of Merit, Defense Meritorious Service Medal, Army Meritorious Medal with two oak leaf clusters, and the Army Commendation Medal with one oak leaf cluster.

Mr. Speaker, I have been impressed by Colonel Brownell's outstanding service in the Armed Forces and his many contributions to our Nation's security. As he prepares to retire from military service, he has our thanks for his many years of service to our Nation and our best wishes for his future endeavors.

INTRODUCTION OF THE EMPLOYMENT ENHANCEMENT REFORM ACT OF 1994

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. ZELIFF. Mr. Speaker, I rise with my colleagues JOHN KASICH, JOHN MICA, and 18 of our colleagues to introduce legislation to improve the Federal job training effort.

The Employment Enhancement Reform Act of 1994 will simplify and streamline the flow of Federal job training dollars to the States to better serve unemployed Americans and hasten their reentry into the work force.

The GAO has identified over 150 different Federal job training and employment service programs. This diffuse, patchwork approach to providing job training services to unemployed Americans is confusing, inefficient, ineffective, and unnecessary. This legislation will remedy this situation by consolidating over 90 Federal job training programs into one flexible block grant program. States will have the flexibility to target job training funds where they are needed most and to be creative in providing this training.

In addition to the many programs presently in existence, there is also a myriad of conflicting definitions and regulations to implement them. Under this legislation, States will have one set of job training definitions and regulations to implement, and one funding stream to monitor. This will result in more resources being devoted to providing effective job training services and fewer dollars being wasted on administrative costs.

Populations that have traditionally been served by the programs to be consolidated will continue to be served, populations such as disadvantaged adults, dislocated workers, veterans, displaced homemakers, disadvantaged youths, persons with disabilities, and those requiring vocational education.

States will be encouraged to establish a single coordinating council to facilitate the transition from one job to another, or from unemployment to employment, and to set up "one stop shop" centers throughout the State at which eligible individuals can obtain information on the various types of employment assistance and other social services available. Individuals seeking assistance will be profiled at these centers—in a similar fashion to what is currently done for unemployment benefits—to determine the kind of services needed to help them find employment. The bill also includes measurements to determine the success of the State programs.

The temporary 0.2 percent FUTA [Federal Unemployment Tax] is repealed under this legislation, demonstrating to businesses that some Members of Congress are conscious of the mandates the Federal Government imposes and are willing to reduce the cost of labor to business to encourage job growth.

A single, more efficient job training effort will also reduce the deficit by approximately $7 billion over 5 years. This legislation will make our job training dollars work better and put people back to work. I urge my colleagues to join Congressman KASICH, Congressman MICA, and me in this effort.

SHOOTING AT PENSACOLA ABORTION CLINIC

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Ms. ESHOO. Mr. Speaker, in March of 1993, many of us stood in this well and decried the atmosphere of hate and lawlessness that surrounded our country's abortion clinics.

I said then "for several months there has been an increasing level of violence by the antichoice movement: Emotional and physical harassment of doctors, patients, and health care workers; bombings; chemical sprayings, beatings; and now cold-blooded murder."

What concerned me most at the time were the weak disavowals of violence by the antichoice people. At the time antichoice leaders had established a defense fund for the killer of this doctor—a killer now serving a life sentence.

Mr. Speaker, the antichoice people have created this climate of violence. And today this violence has claimed the lives of two more people and wounded a third.

Mr. Speaker, these appalling acts of violence are purposeful. They have the calculated intent of destroying and terrorizing.

For the sake of health professionals and women across the country, I urge our Nation's law enforcement authorities to respond appropriately to the antiabortion movement's violent tactics. We must insist that the law stop what their conscience permits.

NEW SLANT ON CHRISTIAN LOVE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. JACOBS. Mr. Speaker, here's a new slant on Christian love.

It was on a van I saw last weekend. Two bumper stickers, one saying, "A great way to start the day is to praise the Lord"; the accompanying sticker saying, "Impeach the President and her husband."

So there you have it, a Christian's love and a Christian's hate, all on the same bumper.

By the way, in addition to Jesus' injunction to "love thy enemy," there is that matter about God's commandment, "Thou shalt not bear false witness against thy neighbor." Impeachment, you will recall, is based on "High Crimes and Misdemeanors," not just policies the opposition party doesn't like.

TRIBUTE TO TINA ALVARADO

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to make note of the innumerable contributions Tina Alvarado, minority staff director for the Veterans' Affairs Subcommittee on Hospitals and Health Care, has made to our committee and, by extension, the workings of Congress over the past 5 years.

Tina joined our subcommittee in 1989 and has played a vital part in formulating numerous pieces of veterans' legislation through the years. During my tenure as the ranking Republican of the subcommittee, I have had the privilege of working directly with her. Tina has provided important technical assistance in drafting legislation and amendments to guarantee that veterans are treated equitably as Congress debates health care reform. She has also worked with me on VA eligibility reform, hospital construction funding, and the fight to retain much-needed VHA employees.

Tina first came to the Hill, Mr. Speaker, in 1985 as a research assistant for Senator FRANK MURKOWSKI on his Veterans' Affairs staff. After a year, she accepted a job with the Paralyzed Veterans of America. Tina started as a legislative research analyst, but within a year and a half she was associate legislative director.

Mr. Speaker, as a lieutenant in the U.S. Navy Nurse Corps Reserve, Tina was called up to active duty in 1990 and served in Operation Desert Storm. While this experience may have strengthened her commitment to the Nation's veterans, she was already an expert in her field. The veterans service organizations have come to rely on her insight and knowledge, as have all of us on the subcommittee, Republican and Democrat alike.

As a testament to the goodwill Tina has spread in the veterans' community and on Capitol Hill, a reception was recently held in her honor. While previous commitments precluded my attendance, a number of other Members, including Chairman MONTGOMERY and ranking member STUMP, were there to wish her well. Representatives from all the major veterans organizations were also there. Clearly, her work has been appreciated.

Tina will be leaving Capitol Hill today for a new career in North Carolina. She will be sorely missed by all who have been fortunate enough to have worked with her. I wish her the best of luck as she brings her knowledge and expertise to the veterans of North Carolina. I know she will continue to be a tremendous asset in any future endeavors.

INTRODUCTION OF THE FOREIGN TAX COMPLIANCE ACT

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. WHEAT. Mr. Speaker, I am proud to join my colleague from Missouri, Majority Leader GEPHARDT, and Appropriations Committee Chairman DAVID OBEY introducing the Foreign Tax Compliance Act—legislation to provide a greater measure of fairness and good sense to our Nation's tax laws.

One of the central goals of Government policy—particularly tax policy—should be promoting investment in our people and in our businesses here at home.

For too long, though, our tax policies have had it backward—rewarding U.S. companies that move overseas and granting unfair tax giveaways to foreign subsidiaries in this country.

Today, for example, over 70 percent of foreign-based corporations in the United States pay no Federal income taxes.

Our Nation's tax policies have effectively encouraged disinvestment at home and placed our own Main Street businesses at a competitive disadvantage in the marketplace.

American businesses shouldn't be forced to compete against foreign subsidiaries here that don't pay their fair share of taxes. And American workers shouldn't be left out in the cold because our tax laws encouraged companies to ship jobs away and ship products back.

The Foreign Tax Compliance Act will help reorient our Nation's tax laws.

It will attack the current tax breaks that now allow multinationals in the United States to pay virtually no taxes here. And it will close loopholes that encourage U.S. companies to profit from moving production overseas, and exporting American jobs abroad.

Mr. Speaker, we have to change our tax laws to encourage business investment here at home—not to some faraway shore. We have to provide incentives to invest in our people, in business, in new technologies in Missouri, and around the country.

The Foreign Tax Compliance Act will help advance these twin goals. It will begin to restore equity and fairness in our tax laws by helping ensure that our Nation's tax policy levels the playing field here and stops providing perverse incentives to relocate companies and jobs away.

In short, Mr. Speaker, this bill will help put our tax policies back on the side of American workers.

POSSIBLE USE OF FORCE IN HAITI: CONGRESSIONAL CONSULTATION AND AUTHORIZATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. HAMILTON. Mr. Speaker, on July 11, 1994, I wrote to National Security Adviser Anthony Lake concerning executive branch consultation with the Congress regarding the potential use of force in Haiti. Specifically, I urged the administration to consult closely with Congress on the use of force and to keep in mind the provisions of the War Powers Resolution requiring congressional authorization for a deployment in harm's way of U.S. forces for any period beyond sixty days.

On July 28, 1994, I received a reply from National Security Adviser Lake. The text of the correspondence follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, July 11, 1994.

DR. ANTHONY LAKE,
Assistant to the President for National Security Affairs, Washington, DC.

DEAR TONY: I write with respect to the possibility that the U.S. Armed Forces would be deployed for potential combat in or around Haiti.

It is my strong view that prior to making any decision to so deploy U.S. forces, the President should consult closely with the Congress. After such consultation, if the President decides to proceed with this action, I would note that under the War Powers Resolution, the Congress should authorize the deployment of such forces for any period beyond sixty days. As you know, Congress expressed its views on the importance of both consultation and authorization with respect to Haiti in Section 8147 of the Department of Defense Appropriations Act of 1994.

I would appreciate knowing what plans the Administration has made to consult with the Congress on this matter.

With best regards,
Sincerely,

LEE H. HAMILTON,
Chairman.

THE WHITE HOUSE,
Washington, July 22, 1994.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, DC.

DEAR LEE: Thank you for your recent letter asking about our plans for consultations with Congress about the deployment of U.S. forces to Haiti.

As you know, the President's emphasis is on making the sanctions effective in bringing about the departure of the military leaders and the restoration of democracy. At the same time, he has not excluded any option including use of force that may be required to protect American interests regarding Haiti.

We are committed to ongoing and intensive consultations on all aspects of our policy toward Haiti. Should the President decide that use of force is required, we will consult with Congress consistent with the provisions of the War Powers Resolution and operational circumstances.

The President and all of us very much appreciate the support you have given us in the search for a solution to the Haitian crisis which conforms to the principles on which American foreign policy is founded and which protects the many compelling interests we have in that country. We look forward to continued collaboration in that effort.

Sincerely,

ANTHONY LAKE,
Assistant to the President
for National Security Affairs.

SALUTING ALFRED BEAUCHAMP

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. FIELDS of Texas. Mr. Speaker, I wish to take a moment today to salute a constituent, Alfred Beauchamp of Spring, TX. Mr. Beauchamp is one of 40 American merchant mariners to be invited to Russia recently to participate in ceremonies honoring the merchant seamen who provided a lifeline between the United States and the Soviet Union during the dark days of World War II.

In sharp contrast to our own Government, the Russian Government continues to acknowledge the important role merchant mariners played in ensuring an Allied victory in World War II. The Russian Government has for years held annual ceremonies honoring the foreign merchant seamen who helped sustain its people throughout World War II. In commemoration of the 50th anniversary of D–day, the Russian Government, with help from the United States Navy Memorial Foundation, flew 40 American merchant seamen to Russia to participate in a series of events designed to express to them the thanks of the Russian people.

By February 1944, Mr. Beauchamp—who was only 15 at the time and who had lied about his age in order to contribute to the Allied war effort—found himself in Philadelphia, preparing to ship out to New York, where he and his shipmates aboard the *Joseph C. Lincoln* would cross the Atlantic to deliver war supplies.

Mr. Beauchamp and his shipmates made it to New York, where the *Joseph C. Lincoln* joined a convoy that Mr. Beauchamp thought was headed for Odessa, Russia. In short order, he discovered that his ship was headed for Murmansk, on the northwest coast of Russia near the border with Finland.

The voyage from New York to Murmansk was fraught with danger: the waters were heavily mined, packs of U-boats hunted down and sank Allied vessels, and—closer to the Russian coast—the German Luftwaffe and the remnants of the German Navy.

The *Joseph C. Lincoln* and its crew endured a journey marked by great danger and terrible weather. The weather was so bad, in fact, that the *Joseph C. Lincoln* was forced to put into port in Glascow, Scotland for repairs. The ship finally arrived in Murmansk only to discover that there were no cranes large enough to unload the ship's cargo, which included six locomotives and tenders. Out of necessity, the ship continued south to the White Sea ports of Molotosk and Baebariska where its cargo finally was unloaded.

The voyage of the *Joseph C. Lincoln* was repeated hundreds of times during World War II, and those voyages were largely responsible for the survival of the Russian people, and the death of nazism, in that war. Without the brave men of the American merchant marine, it is unlikely the Russian people would have survived, or that freedom would have triumphed.

Mr. Speaker, 733 U.S. merchant ships were lost during World War II. Although 6,795

American merchant seamen were officially listed as having been lost at sea, many more died later from wounds or injuries—or died in Allied or foreign hospitals—and so were not included in the Government's totals.

World War II-era merchant mariners note, with well-deserved pride, that 62 percent of all merchant seamen received combat medals—and that the next-highest branch of the service was the Marine Corps, 24 percent of whose members received combat medals.

Mr. Speaker, the Government of the United States has for too long refused to recognize the invaluable contribution that America's merchant seamen like Alfred Beauchamp made to our victory in World War II. We have gone so far as to deny some of them veterans status—despite their heroism and their sacrifice. I thank God the Russian people recognize the contribution America's merchant seamen made during World War II, and I pray to God that some time in the future, we follow their lead.

Thank you Mr. Speaker, and thank you, Alfred Beauchamp.

STATEMENT OF ALLAN HUSTON, PRESIDENT AND CHIEF EXECUTIVE OFFICER OF PIZZA HUT, BEFORE THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. GLICKMAN. Mr. Speaker, in the last few weeks there has been a great deal of talk about the benefits policies of Pizza Hut, a company headquartered in my district. Mr. Allan Huston, president and CEO of Pizza Hut, recently testified before the Senate Committee on Labor and Human Resources to explain his company's policies. I am including his statement in the RECORD so that my House colleagues can read for themselves Pizza Hut's explanation of their policies.

STATEMENT OF ALLAN S. HUSTON, PRESIDENT AND CHIEF EXECUTIVE OFFICER, PIZZA HUT, INC.

My name is Allan Huston and I have the privilege of serving as Pizza Hut's President and Chief Executive Officer. Pizza Hut was born in Wichita, Kansas in 1958 and we continue to be headquartered in our home town. I appreciate the opportunity to appear before the Committee on Labor and Human Resources and I sincerely hope we're all here to productively discuss health care reform in general and mandates in particular.

Today, there are 10,000 Pizza Huts in 87 countries. Total employment in the Pizza Hut system exceeds 235,000 workers. In the United States, the Pizza Hut system employs 195,000 people, 95% of which work part time. In the last five years, we have opened 1,700 new restaurants and created 41,000 new jobs in this country.

Pizza Hut has the nation's largest employment program for people with disabilities, which is called Jobs Plus. Through this program we employ over 3,000 people. Through these efforts we have been privileged with the receipt of scores of employer of the year awards.

We also operate the nation's largest reading incentive program, which is called BOOK IT. Children are given free pizza for reading books. The Kids love it and 18 million of them have enrolled. Our efforts in this area has also lead to numerous awards including the President's 1986 Private Sector Initiative Award and the 1989 Family Circle Leaders of Readers Award.

Both our corporate offices and our franchises participate in community-based educational and recreational programs all over this country, from Little League baseball to police department basketball programs for gang members. Through our Harvest program we feed the needy and help feed those who are victims of national disasters such as Hurricane Andrew.

We have built our business on the fun of sharing a piping hot pizza with friends and family. It came as a shock to all of us that overnight we were somehow transformed from a pizza baker to a target in a national political debate.

Seemingly out of nowhere, a group called the Health Care Reform Project launched a campaign against us including derogatory television ads and plans to disrupt our business.

Accusations have been made about Pizza Hut that have created an overcharged, adversarial atmosphere that is not only unfamiliar to us, but in the end, more importantly, extinguishes any meaningful dialogue.

Words like duplicity and hypocrisy have been tossed at Pizza Hut. As I said, our home is Kansas and, in Kansas at least, those are strong words.

I appreciate the time to set the record straight about Pizza Hut's health plans and our view of mandates, employer and employee. Pizza Hut was the first major restaurant company to make health care available to all our employees, salaried and part-time. A majority of our employees are part-time workers, many of whom are young people who recently joined the work force.

They typically work for us for a limited time with a specific goal in mind, such as funding education, a new car and the like. Our health care programs are tailored to meet the unique needs of our work force. In fact, before putting into place our health plan for part-time workers, we polled them to find out about the kind of health care they wanted and needed.

Under the plan we put in place for our part-time workers, they pay the cost of their health insurance for the first six months of their employment, after which we contribute to the plan to supplement their benefits. The average weekly cost for a single employee to participate is approximately $11.

Health care is not the only benefit we provide our part-time employees. For instance, we also provide a student loan service, child care discounts, a discount shopping network, a retirement plan and paid vacations. Finally, if they stay with us for one year and work 1,500 hours per year, they participate in a stock option program, and that, is unique in all American industry.

The recent debate has become confusing to all of us. I even have heard that Pizza Hut opposes health care reform. That's untrue. We support reforms that will enhance competition, such as voluntary purchasing alliances, and other reforms that will contain costs such as tort reform and the abolishment of unnecessary paper work. I also believe Congress needs to address the issues of portability and exemptions of preexisting conditions. From a businessman's perspective, it makes sense to address these fundamental changes to enhance the world's best health care system without risking unintended consequences of more radical changes.

I think mandates—employer and employee—are the wrong solution for America. My opinion is based on experience—I have seen the effect of mandates on Pizza Hut's business in international markets. My view is anchored on actual experience in a number of foreign markets. From what I have seen of mandates in Europe and elsewhere they contribute to the descending economic spiral of higher prices and unemployment.

Of course, mandated health care is not solely responsible for higher prices and increased unemployment, but it is most certainly a contributing factor. Although I have real questions about the efficiency of the mandate-driven health care systems such as in Japan and Germany, I will leave that discussion to others.

In markets with burdensome social costs, Pizza Hut has been unable to develop the kind of business that generates the new jobs and opportunities we have enjoyed in the United States. Despite the burdensome costs of Germany and Japan, have we been successful? Contrary to some of the misleading information published by the Health Care Reform Project during the last week, the answer is no. Our operation in Germany, with only 65 restaurants, despite increased revenues, has been unprofitable in 10 of the last 11 years.

Our franchisee in Japan has yet to make a return on investment, even though Pizza Huts in Japan average over $1 million each year in sales. Our experience is that the high cost of mandates contributes to higher prices, lower profits, unemployment and eventually stifles investment.

Germany is an excellent example of stifled investment. With 85 million Germans, we still, after 11 years, only operate 65 restaurants. If we were as penetrated in Germany at the same level as the United States, we would have about 2,500 restaurants. With records like this overseas, why would we believe mandates will succeed in the United States?

Let's look how mandates might effect Pizza Hut in the United States. Some people say we can simply raise prices to cover the increased cost of mandated health care. Unfortunately, experience demonstrates, it's not that easy.

In a recent article on the effect of mandates, the authors pointed out that purchased meals have a high elasticity of demand, which means that for each percentage point increase in price, consumers will decrease their purchase of meals away from home by 2.3%. A price increase of 5% would result in 11.5% decrease in consumer traffic in our restaurants.

Let's take a look at an actual example of Pizza Hut elasticity:

Less traffic means less sales and declining sales inevitably lead to fewer jobs.

A similar myth is that we can somehow magically absorb the cost increase. Some people claim that the 1991 minimum wage increase had no effect on our business—untrue. In fact, it led to a staffing decrease equivalent to the loss of 16,500 jobs.

With increased costs due to mandates we would be left with a Hobson's choice: Either raise prices, which will lead to a fall-off in sales and eventually lost jobs, or eliminate jobs at the start. Poor choices, indeed.

At Pizza Hut, as well as any business, cost structures are a linchpin of success. Nothing is more certain to destroy a viable business than run-away cost escalations. The cost of President Clinton's plan worries me. Predicted and actual costs sometimes don't match up. For instance, Medicare in 1966 was predicted to cost $12 billion by 1990. The actual cost was $107 billion.

With the viability of our health system at risk, I am concerned the cost of mandates, like the cost of Medicare, has been underestimated.

In closing, I am proud that Pizza Hut in the last five years has developed 1,700 new restaurants and created 41,000 new jobs in the United States. Frankly, until last Friday, I thought we were simply an excellent corporate citizen, serving our community not only with the world's favorite pizza, but with a variety of civic-minded programs I referenced earlier. Perhaps most surprising to us was the fact we were subjected to attack about health care, by a group we do not know in an area where we have been an industry leader.

We have been unfairly singled out for criticism for one reason—and for one reason alone: We disagree with certain pressure groups on the mandate issue. It's time we all turn our attention to the issues. As Senator Kassebaum so aptly put it, it is time to seek solutions rather than villains.

Thank you for listening.

SINGLE MINIMUM WAGE INCREASED, PIZZA HUT HAS REDUCED 16,500 JOBS

	1990	1994	Decrease
Crew hours per week	482	426	56
Equivalent jobs	28.3	25.0	3.3
Units	5,000	5,000	5,000
Total crewmembers	141,500	125,000	16,500

50TH ANNIVERSARY OF THE SMOKEY BEAR FIRE PREVENTION AND EDUCATION PROGRAM

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. DE LA GARZA. Mr. Speaker, the Smokey Bear Fire Prevention and Education Program will celebrate the culmination of a year long 50th anniversary on August 9, 1994. Although many of our recent forest fires have been lightening caused, nationwide, 9 out of 10 forest fires are caused by people. This accounts for more than 100,000 wildfires started by people every year, which burn more than 2 million acres of Federal, State, and private land. These fires cause a loss of millions of dollars of property, natural resources and incalculable loss of human life.

Fire prevention education and awareness is a proven cost-effective way to avoid resource damages and loss of life resulting from carelessly caused fires. The multifaceted Smokey Bear Program averts millions of dollars in Federal and State fire suppression costs and helps preserve America's greatest natural treasures, our forests.

Smokey Bear is the longest running public service advertising [PSA] campaign in the history of the advertising council. In the last decade alone, over $500 millions in donated media have appeared across the country, spreading Smokey Bear's message of fire prevention.

Smokey Bear has provided a invaluable lesson in fire prevention. By heeding Smokey Bear's advice, wildlife damage can be minimized and the threat to human lives reduced. Please join me and my colleagues in recognizing this most effective and important program by supporting the attached resolution.

THE WELFARE STATE'S THREAT TO RELIGION

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 29, 1994

Mr. GINGRICH. Mr. Speaker, I would like to share a copy of a recent article by Richard A. Epstein with my colleagues. I hope they find it as informative as I did.

[From the Wall Street Journal Wednesday, July 27, 1994]

THE WELFARE STATE'S THREAT TO RELIGION

(By Richard A. Epstein)

The ever-expanding reach of government has threatened the twin constitutional guarantees of the Religion Clause to the First Amendment: free exercise of religion for all and establishment of religion for none.

When government's functions are limited to preserving order, protecting property rights and enforcing contracts, as was the Founding Fathers' intention, these two clauses work together well. But the advent of the welfare state upset this easy relationship.

The now notorious Kiryas Joel litigation, decided by the Supreme Court last month, is a perfect example of the corrosive effect of state subsidies on the original constitutional balance on religion. The court declared unconstitutional a school district in the tiny New York town of Kiryas Joel in which only members of the Satmar Hasidic sect live. This special school district was created out of the larger Monroe-Woodbury District to provide a secular public school for disabled Hasidic children in order for them to take advantage of the considerable federal funds available for disabled students. There are no public schools in Kiryas Joel for able-bodied children.

Clearly something can be said for the Supreme Court's decision that the fusion of public and private functions in the Kiryas Joel school district runs afoul of the First Amendment. But step back from the immediate controversy and consider the larger picture. First, conceive of a minimal state with no federal support for disabled students. In such a world, all Hasidim would have been in private schools and Hasidic dollars would educate disabled Hasidic children. State taxation, however, funnels these dollars through state hands; if the Hasidim want their dollars back, they have to send their disabled children to state schools.

This was not the case until 1985, when the Supreme Court's insanely aggressive reading of the Establishment Clause in *Aguilar* v. *Felton* kicked in. Aguilar prohibits remedial education in annexes to religious schools (as was the case in Kiryas Joel), even when no federal funds are used for religious ends.

After Aguilar, the situation in Kiryas Joel quickly unraveled. The first accommodation was to bundle the disabled children off to secular public schools outside their own community. But water and oil did not mix. Members of the isolated religious minority were subject to abuse and harassment for their dress and behavior. All parents save one withdrew their children from these programs. Yet the magnet of public money, and the evident unfairness of excluding Hasidim from programs for which they had to pay, led inexorably to the weird school district, staffed by non-Hasidic professionals and attended only by disabled Hasidic students in a consciously maintained secular setting.

One refreshing feature of this unhappy tale is that Justice Anthony Kennedy's concurring opinion openly acknowledged that Aguilar might be "erroneous," and should be reconsidered. But even if Aguilar were overturned tomorrow, much would still be lost: The federal subsidy would still be restricted (as charitable deductions are not, by the way) for secular ends in secular settings. The price for accepting federal funds is to lose the religious integrity of the curriculum. The government's expanding power to tax and spend thus chokes off religious independence.

If we want to keep such federal subsidies, the better solution would be to tie them to students, not to institutions. This way they could be spent at whatever schools students choose, no strings attached. The same mix of religious and non-religious schools in a subsidy-free world should, to the extent possible, carry over into our brave new world of tax subsidies.

An even broader look at the place of religion in the welfare state shows that many of the greatest threats to religious liberty stem from the insufficient protection of individual liberty in economic affairs. For example, the Supreme Court held in *Presiding Bishop of the Church of Latter-Day Saints* v. *Amos* (1987) that the state could exempt, in whole or part, religious institutions from the employment discrimination laws. In a minimal state, such a question would never arise because there would be no antidiscrimination laws to begin with.

Note also that nothing in Amos requires the state to honor that religious exemption. Let the political winds change, and the state could require that everyone from janitors to teachers to high priests be hired regardless of their religious beliefs. Freedom of association once offered an impregnable barrier to government action; that is not necessarily so under today's squishy balancing tests. So it is no surprise that *United States* v. *Lee* (1987) meekly deferred to Congress when it imposed Social Security taxes on the Amish, who for religious reasons would not accept benefits.

Likewise when in 1978 the Supreme Court allowed New York to impose landmark designation on individual property owners without paying just compensation. This meant that St. Bartholomew's Church in New York City could not develop or sell its own air rights to secure its financial survival without seeking to show (unsuccessfully) that religious institutions should be exempt from the sweep of a general and neutral law.

More generally, with extensive government funding of education and health care in the wings, the lurking danger is that religious persons will be required to pay taxes to support programs, such as abortion, in which as a matter of conscience they cannot participate. Countering that danger should be a major constitutional mission of the Supreme Court.

It is a goal that cannot be achieved in a world in which property rights occupy a second-tier status. Chief Justice William Rehnquist penned perhaps the single most important sentence of this year's term in *Dolan* v. *City of Tigard*, a land-use case decided in favor of the landowner: "We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or Fourth Amendment, should be relegated to the status of a poor relation in these comparable circumstances."

The sentence has even greater urgency when set against the background of the religion cases. The protection of private property does more than promote market efficiency; it enhances the level of human freedom in the most intimate and personal parts of our lives.

SENATE—*Monday, August 1, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Commit thy way unto the Lord; trust also in him; and he shall bring it to pass.—Psalm 37:5.

Sovereign Lord, the Senators return to an overwhelming agenda. Some legislation seems to resist consensus or agreement. In an election year, it is important that the Senators be free in August, not only for time with their families and personal rest and relaxation, but to be involved in political campaigns. We pray for a divine visitation upon this body that, in wisdom and power, it may complete legislation which is essential to the future of the Nation.

God of wisdom and love, help Senators realize that they have a resource in God which is always available, at any time, in any circumstance. Help them to realize when the situation looks impossible that, "With God, all things are possible."

We pray this in His name who is incarnate Truth and Love. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1513, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1513) entitled "Improving America's Schools Act of 1993."

The Senate resumed consideration of the bill.

Pending:

Hatch amendment No. 2429, to remove the arbitrary floor ceiling of the title I formula, and create an equalization factor allowing States to control the distribution of resources among local school districts in the State.

The PRESIDENT pro tempore. The pending question is on amendment No. 2429. Who seeks recognition?

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand that the matter that is before the Senate now is a Hatch amendment to the legislation; is that correct? And there is a 1-hour time limit, and the time is evenly divided.

The PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. I thank the Chair. Mr. President, I yield myself 7 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 7 minutes.

Mr. KENNEDY. Mr. President, we hope that over the past few days there has been a focus by the membership on the issues which remain to be resolved on the elementary and secondary education legislation.

One of the prime issues, the issue that is before us this morning, is related to the allocation of funds for the neediest and poorest children in the country. I reviewed, during the debate last week, the essential elements that have been included in the formula. We have included a number of these items.

First of all, we included a weighted formula which was the result of the various studies and reviews and assessments that have been made on chapter 1, both by the Department of Education at the State level and, also, the various foundations.

These have indicated that the areas of greatest need, in terms of poor children, are where there is a concentration of poor children. If the number of poor children are spread through the educational system, their opportunities of advancing at the same pace with the other children at the same time are greatly enhanced.

So, in developing the formula, we gave some weight to the greatest concentrations of poor children, and we will come back to that in a moment.

Second, concerning the cost of educating a child in a particular area and in a particular region, there are some disparities. We focused on that issue as well.

Third, we gave consideration to the concept of an effort factor. More specifically, we wanted to look at what the State is doing in terms of its ability to afford or to pay for education? What is its effort? We tried to give some benefit to those particular States that are making an important effort, in terms of their total available resources, into education.

We also have what we call an equity factor, which is an effort to help reduce the disparity between the poorest school districts and the wealthier school districts. With that, I think, as a matter of policy, we are limited in what we can do.

This is an issue that is being reviewed in the States. There are probably close to 30 States that have had various forms of constitutional challenges. Some States are moving ahead on their own on these issues—the State of West Virginia, the State of Kentucky, the State of Washington. There are several States that have moved along. Some are doing it in different ways.

In my own State of Massachusetts, we now have a commitment over the period of the next 4 or 5 years to provide all of the various school districts with adequate and sufficient funding in the area of education. However, the State has prohibited school districts in more affluent areas from providing additional resources for education in their communities, if they should choose to do so.

Those have been the essential elements. A lot of us have been around this body long enough to know that the elements can vary and that we can see a significant shift in the amount of resources available in this legislation that can go to particular States. We have talked about that and debated it over the period of last week.

In his amendment, the Senator from Utah adds a much more dramatic weight to the equity factor, and in that way, his amendment provides for a rather dramatic skewing of the resources away from where very poor children are. The major losers are eight States, including my own State of Massachusetts. We are a loser—not nearly to the extent that States like Illinois or the State of New York, the State of Michigan, and other States that would be adversely affected.

The basic result of the amendment of the Senator from Utah is that there will be eight States which will be major losers. There will be other States that will gain because you can spread this out.

Just over the weekend, I asked how we could develop the formula in a way that at least 38 States that would gain, including my own State of Massachusetts. The result would be to take very significant funding, help, and assistance away from some of the neediest children in this country that are grouped in different States of the country.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The fact remains that one-third of all the poor children in America are in these eight States. Be it by design or not, the areas that will be most adversely affected or impacted are the major cities in those areas and where there are high concentrations of needy and poor children and where, in many instances—in most instances, as a matter of fact—they are not even the beneficiaries of any of the chapter 1 funds, because we know that chapter 1 does not even begin to reach the total number of very poor children in this country.

So this is where we are, Mr. President. I think that the amendment itself is bad policy. I do not see how there can be any justification for it. We reviewed in some detail the statement of my friend from Utah, and it is very complete in indicating that the real hope and desire and the reason for the amendment is to try to do something about poor children. But it flies in the face of all the reviews, of all the studies, of all the recommendations which have been made to the Congress in reviewing the funding allocations and resources—recommendations and studies which make the very clear and compelling case that the best way to help and assist the neediest and the poorest children is to try to provide the focus and attention where the concentrations of poor children are greatest.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. KENNEDY. I withhold the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, I appreciate the difficulty of my colleague.

The PRESIDENT pro tempore. How much time does the Senator yield.

Mr. HATCH. I would yield 7 minutes to myself.

The PRESIDENT pro tempore. The Senator is recognized for 7 minutes.

Mr. HATCH. I thank the Chair.

Mr. President, the first thing I believe we should do is be honest about why we are here. I am prepared to acknowledge up front that I am offering this amendment because I believe that the State I represent needs and deserves a boost in its title 1 allocation that is over and above the amount it will receive under the formula in S. 1513.

As I have said previously, I believe that on these mathematical and statistical matters there are many roads that lead to Rome. There is more than one way to achieve the desired results.

I supported the formula that is now incorporated in S. 1513 when this bill was considered in the committee. Unlike some of our colleagues, I do not think it is a fundamentally bad formula or fundamentally bad policy to include an effort or equity factor. I have stated that repeatedly.

That does not mean I think it cannot be improved upon. I believe we can do a little better for those States that have been struggling for years under the current formula, particularly many States in the South and the West. And in all likelihood, we will not have another crack at this formula for at least another 5 years.

I listened with great interest to the debate last Thursday evening on the Bumpers amendment. It seemed to me that the major competition was over which formula—Bumpers or S. 1513—did the most to help poor children. I daresay that every Senator here wants to help all States and all school districts meet the educational needs of poor children.

It is true that these formula proposals all come at this problem in a different way, but I do not happen to think that the S. 1513 formula is the only way to do it, nor do I believe that if we adopt the Hatch option, or the Feinstein option, or the Bumpers option, we have somehow failed to support the title 1 mission.

My leadership on this amendment has been questioned by some of my colleagues because Utah's child poverty rate is relatively low compared to some other States, and it is true that Utah gains a bit under the bill's formula relative to current law. So why am I causing all this trouble? I have been told that we in Utah do not need the money.

The heck we do not. Utah has the worst-case scenario when it comes to school finance. We have the highest percentage of school-age children and the lowest percentage of working-age adults.

We have a per-capita income $3,000 lower than the national average. We have a median family income of only $33,246. Nearly 30 percent of our school children are eligible for free or reduced-price lunches. Does this sound like a State that is rolling in dough, Mr. President?

It is true that Utah does not have the poverty rate as high as other States, but we also do not have a high number of upper-income people either. In my view, poverty rates taken alone are—at least in this debate—a misleading measure of a State's ability to finance education. Yes, to answer the question, Utah can use the money.

I would like to brag about my home State for just a moment. I would suggest to my colleagues that Utah can do more with less than any other State. Utah's eighth grade math achievement scores, for example, would rank sixth in the world if Utah was its own country. We rank second in the United States with an 85.1 percent high school graduation rate, our SAT and ACT scores are higher than the national average, and more of our students take and pass advanced placement tests than any other State.

We may have the lowest per-pupil expenditure of any State, but Utah education can compete with the best of them.

Utahns take education seriously. That is why more than 50 percent of our entire State budget is devoted to public education. That is why Utahns spend $73.87 cents of every $1,000 of personal income for public education. This compares to the national average of just $42.87. Compare those— $73.87 versus $42.87, the national average.

For years, Mr. President, Utahns have been shouldering the burden of an unfair chapter 1 formula. And I might add just not Utahns, a number of other States as well—39 States—benefit from this formula. Utahns should not have to pay more so citizens in other States can pay less to support their own educational system.

That is why I am offering this amendment today. Utah is not alone in this; 38 other States—39 of the 50 States—would benefit from one simple adjustment in the S. 1513 formula. I also hasten to point out that, to the extent poverty rates are an indicator, every one of the States that have child poverty rates of 20 percent would benefit from my amendment relative to S. 1513, and all but one would benefit relative to both S. 1513 and current law. So do not say that the poor States are being bereft by my amendment.

I regret that any State has to lose some of its allocation under any formula proposal including the formula currently in S. 1513. One of my aims in developing this formula was to minimize the number of adversely affected States. I also hope that Senators from these States will understand the broader purpose of this formula.

The effect of this change is not only to shift money around among States, it is also to light a fire under some of our States so that they begin thinking more about assisting their low-income areas from within. Our budget constraints mean that the Federal Government cannot always be there to plug the holes. The Federal Government cannot undertake the full responsibility for financing education for low-income children. I am persuaded that within-State equalization is one means of directing education resources where they need to go. This is a concept whose time has come.

There have been many speeches in our committee and on the Senate floor in recent years about equity in education. My amendment is an opportunity for Senators to do something about it without imposing mandates. Incorporating this factor into the title 1 formula, without arbitrary boundaries limiting the effect, will be a powerful incentive for States to do better to meet the needs of all students.

Now, I am very pleased to be joined in this amendment by my colleague, the Senator from Utah [Mr. BENNETT], and the Senator from California [Mrs. FEINSTEIN].

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. HATCH. I reserve the remainder of my time and ask unanimous consent that a quorum call be entered with time charged to both sides.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Utah.

Title I funding—formerly chapter 1—is one of the most important aspects of the Elementary and Secondary Education Act reauthorization. This chapter alone affects over 90 percent of our Nation's school districts. These are supposed to be the schools that serve the most poor and the most needy students of our country. Yet, as my colleague, Senator KENNEDY, pointed out in his floor statement last week, there are States where this whole process and formula has not worked out fairly, and that has been true, I think, particularly in California and in Texas.

Mr. President, if the chairman of the committee acknowledges that these two States, with over 22 percent of our Nation's poor and needy students—nearly 1.7 million—do not benefit under this formula, then the formula is unfair.

We are talking about one-fifth of our Nation's needy students—one-fifth of our Nation's students, period, in the States of California and Texas. The purpose of chapter 1 is to help our Nation's poorer students. This bill and the formulas being discussed are about America's future and its future generations.

Mr. President, I cosponsored the Bumpers-Cochran amendment because I thought it would have a more fair allocation, and it was consistent with the original principles of the chapter 1 program. I am now supporting the Hatch amendment, and if that fails, I will support the Feinstein amendment, because each one is one step closer to the original principles of chapter 1 funding, not because Texas gets more money than under the committee formula, but because all of the alternatives are fairer and help more of our needy students.

As I stated earlier, a majority of the money in ESEA goes to chapter 1, and chapter 1 affects 90 percent of our Nation's schools. The Texas child poverty rate is 5 percent over the national average. Yet, under the Hatch-Feinstein and the committee formulas, Texas does not see any increase in funding. In each of these formulas, States with less poverty and which are more affluent receive a majority of the money, while Texas and other more needy States either maintain the status quo under the current law, or lose money—a great deal of money. This is not fair to the poor and needy students of Texas or to America.

Mr. President, we need a formula that is more equitable to all of the States which bear the responsibility of educating our Nation's needy students. Unless we get a fair formula, such as the Hatch amendment is, such as the Feinstein amendment will be, I cannot possibly support this bill.

Let me just say that I believe what makes America different from every other country in the world is that we have a public education system that gives every child a chance. It does not matter from where that child came, or if the child's parents even speak English. Every poor child in this country, as well as every rich or middle-income child in this country, has the same chance with a strong public education system. That is why this bill is very important if the funding formula is in fact equitable, because it makes sure that we have the help we need for our poor and needy students, and particularly border States, where we have illegal immigration and we are educating the children of illegal immigrants, it is very important that we give the extra measure of help to make sure that we do keep what makes America different from every other country in the world, and that is a strong system of public education which allows every child, regardless of background, to reach that child's full potential so that every child has the ability to work hard, play by the rules, and be anything he or she wants to be—president of a university, president of a corporation, president of a small business, or President of the United States. That is what our public education system does in this country. We are very fortunate and we must preserve it. The way to do that is to make sure that we have the fair allocation of funding. I am supporting the HATCH amendment because I think it will do what we have asked.

I thank the Chair.

Mr. WOFFORD. Mr. President, I rise to oppose the amendment offered by the Senator from Utah. This amendment robs Peter to pay Paul. It shifts money away from some of the most vulnerable children in our Nation. It is unfair and unwise.

Under the formula proposed by this amendment, many States will gain funds. That's true. But these funds won't come from savings. They won't come from the peace dividend, or cutbacks in bureaucracy or from other programs. They'll come directly from other poor children, children in our Nation's largest cities, the same cities we claim to want to revitalize. This amendment would decimate the chapter 1 programs in Philadelphia, New York, Detroit, and Chicago. While States with poverty rates as low as 7 percent will gain under the formula proposed by the Senator from Utah, cities with poverty rates as high as 79 percent will lose.

It's easy to sit here and debate dry formulas. But Mr. President, this isn't just about some mathematical formula. We're talking about children's futures. About our future.

Let me give you an example of how this formula would work in practice in my State. A third of Pennsylvania's chapter 1 funds go to Philadelphia—so that is where most of the cuts under this amendment will come from. Philadelphia has a poverty rate of 79 percent. The children of Philadelphia are some of the poorest in the country. Yet we provide chapter 1 services to less than half of our eligible students.

If this formula is enacted, the Philadelphia School Board estimates that 10 percent of the city's schools would lose their chapter 1 programs; 10 percent. Three thousand poor children would no longer receive the additional help many of them need to succeed in school, and in life.

Mr. President, the cuts proposed under the Senator from Utah's amendment would come on top of a 20-percent reduction in chapter 1 funds that Philadelphia experienced as result of the 1990 census. As a result of that census, Pennsylvania lost more than 10 percent of our chapter 1 funds. Philadelphia has one of the highest concentrations of childhood poverty in the Nation—yet it bore the brunt of the cuts in Pennsylvania—losing nearly 20 percent of its chapter 1 funds. Philadelphia's schools cannot withstand another reduction in its chapter 1 funds.

This amendment proposes shifting more money away from Philadelphia and other large cities. I will not support a formula that has this kind of effect on my State's poorest and most vulnerable children.

Mr. President, no formula is perfect. But the formula crafted by the Labor Committee is fairer and more workable than any other proposal I have seen. I urge my colleagues to join me in opposing this amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to modify the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I send the modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2429), as modified, is as follows:

Beginning on page 554, line 21, strike all through line 15 on page 556 and insert in lieu thereof the following:

(iii)(I) Except as provided in subclause (II) the equalization factor for a local educational agency shall be determined in accordance with the succeeding sentence. The equalization factor determined under this sentence shall be calculated as follows: First, calculate the difference (expressed as a positive amount) between the average per pupil expenditure in the State served by the local educational agency and the average per pupil expenditure in each local educational agency in the State and multiply such difference by the total student enrollment for such agency, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Second, all the products under the preceding sentence for each local educational agency in such State and divide such sum by the total student enrollment of such State, except that children from low income families shall be multiplied by a factor of 1.4 to calculate such enrollment. Third, divide the quotient under the preceding sentence by the average per pupil expenditure in such State. The equalization factor shall be equal to 1 minus the amount determined in the previous sentence.

(II) The equalization factor for a local educational agency serving a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall have a maximum coefficient of variation of .10.

(iv) SPECIAL RULE.—Notwithstanding the provisions of Section 1122(b)—

(I) For fiscal year 1995, no state's allocation shall be increased by an amount greater than 2 percent or reduced by an amount greater than 2 percent of the amount to which it would otherwise be entitled when the provisions of clause (iii) are multiplied according to the provisions of paragraph (2) of this section.

(II) For fiscal year 1996, no state's allocation shall be increased by an amount greater than 4 percent or reduced by an amount greater than 4 percent of the amount to which it would otherwise be entitled when the provisions of clause (iii) are multiplied according to the provisions of paragraph (2) of this section.

(III) For fiscal year 1997, no state's allocation shall be increased by an amount greater than 6 percent or reduced by an amount greater than 6 percent of the amount to which it would otherwise be entitled when the provisions of clause (iii) are multiplied according to the provisions of paragraph (2) of this section.

Mr. HATCH. In an effort to try and solve this in an amicable fashion, we have worked closely with the distinguished chairman of the committee and others on the committee and the ranking minority member. The modification would take the formula that we have suggested that benefits 39 States and is far more equitable, in our view, than the formula of the committee. It would phase it in over a 3-year period, rather than do it instantly.

In other words:

For fiscal year 1995, no State's allocation shall be increased by an amount greater than 2 percent or reduced by an amount greater than 2 percent of the amount to which it would otherwise be entitled when the provisions of clause (iii) are multiplied according to the provisions of paragraph (2) of this section.

The amendment speaks for itself. It is 2 percent for fiscal year 1995, 4 percent for fiscal year 1997, and 6 percent for 1997. We think it is a reasonable result and compromise. I ask that the amendment be approved this morning.

Mr. KENNEDY. Mr. President, I thank the Senator. As a member of our committee, he knows that these are difficult and trying challenges. We welcome the fact that, over the period of the next 4 years, there is every indication that the administration is going to put an additional billion dollars in every year toward this effort. So many of us are hopeful that all of these figures will be going up in any event. I appreciate the modification.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. JEFFORDS. Mr. President, I am confused. Are we adopting the amendment to the amendment which I do not believe is necessary or are we——

Mr. HATCH. The amendment has been modified.

The PRESIDING OFFICER. The amendment has been modified.

Mr. JEFFORDS. Right. So we are now voting on the amendment?

The PRESIDING OFFICER. On the amendment, as modified.

Mr. JEFFORDS. Mr. President, I would like a moment to speak, if that is agreeable to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I certainly agree that the amendment, as modified, is better than the original amendment, as it does give us a time to adjust to the full impact of that amendment. However, I would like my colleagues to know how I feel about it.

Vermont has nothing to gain or to lose either by the amendment before it was modified or the amendment after it was modified or as against the committee mark.

So I would like at least to let everyone know exactly what we are doing here, because I am concerned we are saying that the States are not being affected as to what we are doing with policy.

I understand fully that any amendment or any formula which gains more for more States in the Senate is going to win probably unless there is some real egregious problem with it. But I do believe that it is important to point out what we are doing here.

The formula will almost likely garner enough votes to win, and we will deal with that.

The formula that was adopted by the committee was a formula based on sound, balanced policy. Unfortunately, I do not feel we can say the same thing for the alternative formula which we are considering at this time.

Consider the following: Under the Hatch formula, 38 States benefit from the so-called equity factor, indicating that 38 States have equalized expenditures across district lines to the extent that they will be rewarded by this factor in the formula. In the same formula, nine States are heavily penalized. In the committee formula, only 22 States receive bonuses under this equity factor, while the remaining States are basically held harmless, neither harmed nor helped by the factor.

Considering the fact that 25 States are currently undergoing litigation concerning their State finance systems, I find it hard to believe that 38 of them should be considered equalized under Federal law. Of the States that would benefit under the Hatch formula, at least 18 of them have cases pending in State courts regarding the inequities of their school finance systems. I think we would be sending those States the wrong message if we passed this alternative formula, even as modified.

Furthermore, in the committee formula, the equity factor is construed so as to be only a bonus for those States who have made progress toward equalizing per-pupil expenditures across district lines, not a penalty to those who have not achieved school finance equity. In my mind, this is the right policy and the way we should go.

I can tell you from Vermont's experience that changing school finance laws is no easy task. Our legislature spent a full year trying to work out a proposal and ended the year without reaching agreement on the issue. This is unchartered territory for Congress, and I believe we should approach it with the utmost caution.

Let me highlight some of the other discrepancies that arise from the Hatch formula. I do not want to pick out certain States, but I would like to make a point as to the policy of this formula. In Arizona, for example, which gains 4 percent with the Hatch formula, 2 percent with the modification or phase-in, over the committee formula, the richest 5 percent of school districts spend twice as much, an average of over $5,000 per pupil, as the poorest 5 percent of school districts that spend less than $2,500 per pupil. Yet Arizona gains from the equity factor in the Hatch formula.

The same argument could be made for any number of States that gain under this formula.

While I know that this formula certainly has enough winners to win the votes in the Senate, I urge my colleagues to consider the policy that they would be setting if the Senate adopts this formula. I will point out that I am not going to ask for a vote, or whatever, but I think it is important to put this in the RECORD before we go to conference because we are going to have a very substantial difference with the House formula and the current law than the formula that we are considering today, and that is true also of the committee formula.

So I think it is important that we understand what we are doing here and hopefully in conference when we work out the various equities and inequities of the various formulas we can keep this in mind.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont yields the floor.

Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I am prepared to yield back the time.

Mr. HATCH. Mr. President, I am prepared to yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the time, and I ask unanimous consent that the rollcall vote be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment, as modified.

The amendment (No. 2429), as modified, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask my remarks be considered as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIME BILL CONFERENCE REPORT

Mr. HATCH. Mr. President, Republicans have been fighting for passage of a tough anticrime bill for several years. Unfortunately, the crime bill conference report falls far short in meeting the needs of law abiding Americans. It is larded with pork barrel spending. It provides too little money for prisons. It expands the rights of criminals. It permits the early release of as many as 10,000 Federal prisoners. It fails to prevent the administration's planned implementation of a racial quota which will eliminate the Federal death penalty. And it increases the deficit.

Republican conferees fought for a passage of a tough bill, but the crime bill conference report rejects too many urgently needed, tough anticrime proposals. At one point, Republican Senate conferees succeeded in shifting $3.6 billion in social spending boondoggles to State and local law enforcement grants. Yet, less than 24 hours later, our colleagues on the other side of the aisle turned around and reversed this vote, restoring the funding for social programs and cutting State and local law enforcement grants by $3.6 billion.

In my view the crime bill conference report is weighted far too heavily away from hard-nosed law enforcement, and toward prevention programs best funded out of the budgets of other departments rather than from scarce law enforcement funds.

Moreover, many of these so-called prevention programs in this proposal are wasteful social spending boondoggles reminiscent of the costly, ineffective, and discredited Great Society approach to social welfare. Spending any taxpayer money on these programs under any department's budget would be a mistake. By squandering scarce resources on gauzy social welfare programs, we shortchange the law-abiding citizens of Utah and indeed of all of our States.

For instance, the Local Partnership Act is precisely the wrong kind of program for the crime bill. In reality, it has nothing to do with fighting crime. This amorphous program would give local governments $1.8 billion over the next 2 years—that is prior to the 1996 elections—to spend on three ill-defined purposes: education to prevent crime, substance abuse to prevent crime, and jobs programs to prevent crime. That is it. The tagline "to prevent crime" is an attempt to convert this Great Society Program into an anticrime proposal and hijack $1.8 billion in precious crimefighting resources for anything at all that localities will label "education to prevent crime," or for drug treatment, or for more Government jobs programs.

The General Accounting Office recently reported that there are already seven Federal departments sponsoring 266 prevention programs which currently serve delinquent and at-risk youth. Of these 266 programs, 31 are run by the Department of Education, 92 by HHS, and 117 by the Justice Department. The GAO found that there already exists "a massive Federal effort on behalf of troubled youth" which spends over $3 billion a year. The GAO went on to report that:

> Taken together, the scope and number of multiagency programs show that the Government is responsive to the needs of these young people. * * * [It] is apparent from the Federal activities and response that the needs of delinquent youth are being taken quite seriously. [GAO Report, Federal Agency Juvenile Delinquency Development Statements, August 1992].

Despite the findings of the GAO, the proposed conference report throws more money at State and local government under a prevention label, in very general terms, while failing to acknowledge our ongoing efforts. Listening to the supporters of these provisions, one would assume the Federal Government has done nothing in the area of crime prevention.

Another example of where this crime bill wastes precious resources is the Youth Employment and Skills Crime Prevention Program. This proposed program would provide the Secretary of Labor with an additional $900 million in grant authority for job training, apprenticeships and job experience targeted at youth in high-crime, high-unemployment areas. According to the GAO, in the current fiscal year, there are 154 separate, overlapping Federal employment and training programs, which are run by 14 separate executive departments and independent agencies. Within these departments and agencies, 50 different offices are responsible for these programs. The total cost? In fiscal year 1994, nearly $25 billion was budgeted for these programs. Notwithstanding our current Federal effort, the conference report throws another $895 million at an already extensive jobs training system.

The Model Intensive Grant Program is one more example of a crime bill conference report spending measure which has little to do with fighting crime and much more to do with providing Federal tax dollars to favored social spending programs. This program gives the administration nearly total discretion to spend $895 million in grants to 15 chronic high-crime areas. The administration will select these 15 cities and begin distributing this money all prior to the 1996 elections. Do you think there might be a reason for this? Of course there is. The conference report allows this program's money to be spent on youth programs, deterioration or lack of public facilities, inadequate public services such as public transportation, drug treatment, and employment services.

Yet another program is called the Community-Based Justice Grants Program. My colleagues on the other side of the aisle would have the public believe that the up to $150 million that this program spends is aid to prosecutors. In reality, this program would spend precious crime fighting resources on exhuming the failed criminal justice policies of the 1960's and 1970's. These grants would require social workers' involvement in the prosecution of criminal cases. Participating prosecutors would be required to "focus on the offender, not simply the specific offense, and impose individualized sanctions [such as] conflict resolution, treatment, counselling and recreation programs." These sanctions would be imposed not just on nonviolent offenders, but also on individuals up to 22 years of age "who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations * * *."

Instead of punishing these young thugs, the Community-Based Justice Grants Program will only encourage their disrespect and disregard for civilized society by teaching them that committing violent crimes has no real consequences. I cannot think of a more inappropriate lesson to be sending our young people. Violent criminals, whatever their age, need to be treated as such. Instead of coddling violent youths, this money should be used for assistance to State and local criminal justice systems to help implement the true, tough crime control measures the American people are demanding.

Even the Democrat's prison grants proposal is wasteful. The conference report spends nearly $4 billion of its $6.5 billion in so-called prison grants on liberal spending programs. The so-called violent offender incarceration grants require State recipients to implement "a comprehensive correctional plan." The plan must include "drug diversion programs" and "appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities, and job skills programs." What do any of these things have to do with locking up violent offenders? In truth, the bill requires that the grant recipients not only spend their prison grant dollars on open-ended, liberal spending programs, it also requires the States to implement this liberal corrections scheme in order to receive any prison grant funding.

Over 2 long days, Senate Republican conferees offered numerous amendments to the proposed conference report in an effort to toughen the bill and eliminate this wasteful spending. I personally offered 19 amendments, most of which were taken from provisions contained in the Senate-passed crime bill. Of these, nine were accepted in whole or in part by the Senate conferees. All but two were rejected by the House conferees, and both of these were watered down. So, of 19 amendments only 2 were accepted, and they were watered down.

Let me list for my colleagues some of the tough, smart crime control amendments offered during conference by Republican Senate conferees which were rejected or severely weakened by the other side of the aisle.

Many of these were passed overwhelmingly by the Senate when we first considered this bill. Indeed, six of the provisions I will list were the subject of motions to instruct Senate conferees which required the Senate to insist on their inclusion in the conference report. Among the provisions not included in the conference report were the following:

An effective, fully funded prison provision to provide $13 billion in grants to the States for prison construction, including tough incentives for truth in sentencing—rejected.

A fair formula for distributing prison grants, to ensure each State gets its fair share—rejected.

Tough Federal penalties for violent juvenile gang offenses, the Dole-Hatch-Brown language—rejected.

The Moseley-Braun provision to prosecute violent juveniles 13 and older as adults in appropriate cases—rejected.

Tough Federal mandatory minimum sentences for using a firearm in the commission of a crime, the D'Amato provision—rejected.

Mandatory minimum sentences for selling drugs to minors or employing minors in a drug crime, the Gramm provision—rejected.

Fully restricting so-called drug-court treatment programs to non-violent, first-time offenders—rejected.

They are going to use the money for some violent offenders. It is just money down the drain.

HIV testing of accused rapists, the Hatch provision—rejected.

Amending the rules of evidence to allow evidence of prior offenses of rape and child abuse in prosecutions for those offenses in appropriate cases, the Dole provision—rejected.

Requiring mandatory restitution to victims of violent crime, the Nickles provision—rejected.

Subjecting those convicted of attempting to kill the President to the death penalty when he or she comes close to succeeding—rejected.

Ensuring the swift removal of alien terrorists without disclosing national security secrets in the deportation process, the Smith-Simpson provision—rejected.

Ensuring that criminal aliens are swiftly deported after they have served their sentences, the Simpson provision—rejected.

Stemming the tide of frivolous prisoner law suits through reform of the laws governing exhaustion of administrative remedies to prisoner grievances—weakened.

The Equal Justice Act, which would prohibit racial discrimination and the inappropriate use of statistics in death penalty cases, and the resultant death penalty quotas—rejected.

An honest, fully funded trust fund that pays for the crime bill without increasing the deficit—rejected.

Mr. President, in the coming days, Senators will need to reconcile whether they are willing to support a bill which diverts billions of dollars of crime fighting resources to special interest spending programs, which is insufficiently tough on criminals, and which drops so many urgently needed crime fighting measures. Each of my colleagues should take a good hard look at this conference report. I encourage them to do so. This is a very, very important issue.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to make a brief statement on the scheduling. I had open house town meetings planned for today in Philadelphia at 8:30 and in Pittsburgh at noon and Harrisburg at 3 o'clock on the subject of health care. It was set up some time ago when the expectation was that the bills would be present for public evaluation, with the expectation that we would be starting on health care by about this day.

When this 10 a.m. vote was scheduled, I made arrangements for a satellite feed to Philadelphia telling my constituents, several hundred which were gathered in an auditorium in Philadelphia, that I could not be there because there was a vote on the formula which involved some $12 million, potentially, in losses to the State of Pennsylvania. I finished the satellite feed a few minutes ago and came upstairs and found out that the vote had been vitiated, which means that it had been canceled.

So I take the floor to make this statement so that my constituents in Philadelphia, who gathered there for a satellite feed, will know, in fact, the vote had been scheduled and I cannot be in Pittsburgh at noon. This is the first time we have had a vote on Monday morning, according to the records which I have checked, going back for about 1 year and 4 months, when we had the so-called enhancement package in April 1993, and in the research I found the Senate has not had a Monday morning vote since 1990.

I understand that the managers cannot know for certain what is going to go on by way of a 10 a.m. vote, but I hope that when votes are scheduled for 10 a.m. on a Monday morning, where there is good reason to expect that there will not be votes—many Senators have made commitments and many of our constituents have relied on their commitments—that there would be every effort made not to schedule votes where they can be delayed or stacked or put on at some later time in the afternoon.

I understand from one of the managers a call was placed to me while I was on the satellite that there was an attempt to vitiate the vote. I, again, wonder if that vitiation might not have occurred until a Senator could be present to object, as I understand it.

I make a parliamentary inquiry if it is necessary to have unanimous consent when a vote is vitiated.

The PRESIDING OFFICER. The Senator is correct; it takes unanimous consent to vitiate a previously ordered rollcall vote.

Mr. SPECTER. I do not want to make a Federal case out of this, any more than to advise my constituents as to why I was not in Philadelphia at 8:30 and why I am not going to be in Pittsburgh at 12 noon. But I also make the point to the managers of the bill that it would be good if you know a vote is going to be vitiated, if some effort could be made to find out in advance.

I am told by the managers that it was not knowable until the last minute. I am not going to challenge that any further, but I ask, when managers have these bills, that some effort be made to determine in advance. If there are so many States' votes that are going to be lost, I can understand that, but I am a little at a loss to know why it cannot be determined in advance. I am a little at a loss to know why the vitiation order could not await the conclusion of a satellite feed which was ended at 10 a.m. But, most of all, I want my constituents to know that I did not fail to appear in cities in Pennsylvania through any lack of trying on my part, but I am here to vote on the bill.

I understand again with the managers, we hear argument on the crime bill instead of having amendments presented. But if Senators are going to come here expecting to vote on this education bill, it would be nice if we moved ahead on the bill.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I would like to briefly respond to the Senator from Pennsylvania. I understand his feelings, and I know we all felt that way, all of us who came back in expectation of a vote at 10 o'clock. We are aggravated when we change our plans and come back and the vote is vitiated.

I want to assure the Senator from Pennsylvania that as the manager on this side of the aisle, that decision was not made lightly. But in view of the fact that we had a very important amendment of which there was an accommodation of the interests of the States involved—such as Pennsylvania and others—that appeared to be advantageous in that sense and the decision was made that it would be wise to vitiate the vote.

That may be unfortunate. I hope that, upon reflection, those who did come here will find the judgment involving Members on both sides of the aisle to vitiate the vote will have been a reasonable one.

I also point out that we are sitting here waiting for additional Members who have amendments pending to come over. I can assure the Senator from Pennsylvania at least we have full expectations of having a vote before 12 noon so that the inconvenience caused of missing his engagement at 12 noon probably will be justified by a vote, hopefully, at that time. That all depends upon those who have pending amendments, whether they are going to come here or not. There also may be an amendment to be offered by the Senator from California, which will be an important one, and we may well have a vote on that.

I yield the floor.

Mr. SPECTER. Mr. President, I had not intended to ask the Senator from Vermont, or any of the managers, any questions. But in light of his taking the floor and making a statement, I do have a question and a preliminary statement. We may or may not vote by noon, but if we did not have a 10 o'clock vote, I would not have disappointed several hundred people assembled in an auditorium in Philadelphia. I could have been here later.

But when the Senator from Vermont says it was a decision which had to be made and, on reflection, the Senator from Vermont hopes that other Senators will see that it is a wise decision, may I inquire of my colleague from Vermont why the order to vitiate the 10 o'clock vote might not have been deferred for a few minutes until this Senator could have examined to see if this Senator thought it was in the interest of Pennsylvania and the Nation to vitiate it?

Why could not there have been a slight postponement of that vitiation or vitiated for 15 minutes so that I could exercise my judgment on the action?

Mr. JEFFORDS. If the Senator will yield, I apologize and take full responsibility for not having done that. I deeply apologize to the Senator from Pennsylvania, and I can assure the Senator that in the future I will keep the Senator in mind.

Mr. SPECTER. Mr. President, I thank my colleague from Vermont. No one in this Chamber is more diligent than the distinguished Senator from Vermont [Mr. JEFFORDS] and I appreciate his comment. I understand that there are exigencies which arise which you cannot prevent.

I do not intend to pursue the matter any further but just to note what is doubtless already known, that to the extent possible we ought to avoid such matters. And if a Senator is on the premises—and I was in the basement in the television studio on satellite—it would not take long for me to be notified and come up and exercise my discretion in looking out for the interests of my State on the vitiation of the order.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, I rise to speak on chapter 1, a very important part of the Elementary and Secondary Education Act.

Mr. President, I understand that both sides have accepted an amendment as modified and presented by Senator HATCH which to a great extent does reduce some of the problems experienced by high-growth States. But I still feel I would like to make my statement on chapter 1.

Let me begin with this chart, which shows you essentially what has happened with Federal moneys targeted to poor States and the growth of poverty in this Nation since 1980.

What this chart shows, Mr. President, is the fact that these States have had over a 25-percent increase in poor children since 1980. These States—Florida and others—these States here have had up to a 24-percent increase in poverty since 1980. And those States that are in white have essentially had a decrease in poverty since 1980.

That is the problem with chapter 1. Between cost factors, effort factors, hold harmless factors, the States that do not experience the growth of poor children are held harmless, where the States that do experience the growth of poor children do not receive enough money to compensate them for that growth.

In my State, California, where public education has a strong history, these moneys are desperately needed. When I visit classrooms in my State, let me tell you what I see. Some schools have as many as 4,000 youngsters in elementary school. They are run in shifts to accommodate new arrivals. Overworked teachers work with children who speak anywhere up to 80 different languages. Books, paper, chalk, blackboards, these are the basic tools essential to a classroom, and yet they are often missing.

Low-income children in California and throughout the Nation often go to school without books or paper. They sit in classrooms without chalk or blackboards. They learn without the benefit of computers or video players. They are taught in groups of 45 by a single teacher who may not even have the chance to know all of their names.

California schools educate more than 5 million students in kindergarten through 12th grade. California has 969,762 poor children. By far, California is in a tier by itself in terms of poor children. The next highest number is Texas, with somewhere over 2 million children. So California has about 11.5 percent of the Nation's total. Our poverty rate is 18 percent. Now, that is relatively moderate by national standards, but with a State as large as ours—and this is the rub—this represents a very high number. That is the 970,000 children.

In looking at us, it is important to note that our population of poor children—this at over 25 percent—actually increased 38 percent between 1980 and 1990. An addition of almost 250,000 poor children came to California without any adjustment of chapter 1 allocation. In fact, 60 percent of the Nation's increase in children during that time occurred in a single State, California.

In 1993-94, high-poverty schools in Los Angeles, Norwalk-La Mirada, and Compton received no chapter 1 funds whatsoever, and many high-poverty schools throughout the State received far too little.

So while California is committing over 40 percent of its general fund expenditures—that is over $28 billion in 1993-94—to pay its teachers and educate over 5 million children, a chapter 1 student in California receives only $641 in services—much less than schools in other States which receive over $1,000 per student.

Before the use of the 1990 census, California's per pupil expenditure dipped as low as $412 while other States received as much as $1,124. This cannot continue.

I ask unanimous consent that letters of Governor Wilson on this subject which state the problem as well be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GOV. PETE WILSON,
SACRAMENTO, CA,
July 26, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I have learned that Senator Dianne Feinstein plans to offer several amendments to S. 1513, the "Improving America's Schools Act." I urge you to support Senator Feinstein in her efforts to render a Title I formula which is fair to California and other states struggling to educate a rapidly expanding and diverse student population.

In a colloquy with Senator Feinstein on March 26, 1993, you publicly acknowledged that the Title I formula should address three issues: the frequent updating of census poverty data; the inclusion of a Limited English Proficient (LEP) factor to assist states in educating their multi-cultural student populations; and the retention of the AFDC factor. I have enclosed a copy of a letter I sent you on June 14, 1994, which explains in detail why these three factors are critical to California.

The Title I formula proposed by the Senate Labor and Human Resources Committee is unfair to California. Not only does it fail to address the three factors at issue in your colloquy, but it imposes an "effort" factor which penalizes our state for a lower per pupil spending level than the national average. The effort factor as it is written ignores other measurements of effort such as California's high level of teachers' salaries (7th in the Nation), or that California has maintained a constant per-pupil expenditure despite dramatic increases in the number and diversity of its student population. California is spending more on education, but that increase is not reflected when a per-pupil expenditure proxy is used.

According to the 1990 Census, California is home to 894,202 children in poverty. These children need and deserve their fair share of the educational benefit that the Title I program was designed to provide. For that reason, I urge you to honor the commitment you made to Senator Feinstein last year and to support any amendments the Senator will offer to ensure that Title I funds reach the children that need them.

Sincerely,

PETE WILSON.

GOV. PETE WILSON,
SACRAMENTO, CA,
June 14, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Committee prepares to mark up S. 1513, the Improving America's Schools Act, I wanted to bring to your attention several of California's concerns and interests in this legislation. Specifically, I am referring to the provisions that affect Title I, the Emergency Immigrant Education Assistance Act (EIEA), and the Drug Abuse Resistance Education Act. In addition, I urge the Committee to include language in the bill that would provide mandatory reimbursement to the States for the costs of educating illegal immigrant children in our schools.

TITLE I FORMULA

The proposal to reauthorize Title I which emerged from the Education Subcommittee mark holds several troubling concerns for California, the most disturbing of which is the bottom line loss of Title I funds for a state that has shouldered an enormous and continuing increase in the number of eligible children.

As you know, California's current count of children in poverty of the 1990 census 894,202—a 38 percent increase in the number of poor children during the previous decade. Further, the State realizes a daily population increase of 700 people. Despite this significant growth in Title I eligible students, the proposed Kennedy-Pell formula would penalize these children by cutting California's Fiscal Year 1995 (FY95) share of Title I funding by $18.4 million, below the level provided under the current Title I formula.

That is why I urge the Committee to adopt several amendments to the mark. First and foremost, Title I reform should include language specifying a biennial update of decennial census poverty data. California and other high growth states were penalized in the 1980s from receiving their fair share of Title I funds because the early 1981 data did not reflect the enormous population/poverty growth over the course of the decade. Biennial updates would enable Title I funds to flow where needed as population patterns change, and minimize the dramatic impact caused by decennial changes in the data.

Second, I am concerned that the proposed formula omits any reference to poor students who are further educationally disadvantaged by their limited English proficiency (LEP). I urge the Committee to add a LEP factor as part of the Title I formula to help the States with high ethnic diversity better meet the educational needs of their LEP student population.

Third, the AFDC factor in the current Title I formula is vitally important to California. Because our State's welfare system provides payments which exceed the national norm, those who receive California welfare payments move above the national poverty threshold and would be excluded from California's poverty count were it not for the AFDC factor in the present formula. I urge the Committee to retain the AFDC factor in the new formula.

Lastly, I encourage the Committee to consider a cost factor which better reflects the differences among the States in the cost of education. The current state per pupil expenditure (SPPE) less accurately reflects the differential costs of education than does an index of average instructional salaries. I urge the Committee to consider the use of instructional costs as a replacement for the SPPE factor in the formula.

Mr. Chairman, you will recall that on March 26, 1993, in a colloquy with Senator Feinstein, you expressed your full support for retaining the AFDC factor in the Title I formula. You further stated your support for adding a factor to address the significant increase in LEP students. You correctly noted that the Title I formula needed to reflect the enormous increases in both the eligible populations and the cost of educating these young people in California. I agree, and urge your assistance to make the reforms in the Title I formula as outlined above.

IMMIGRANT EDUCATION

I urge the Committee to authorize full funding for the Emergency Immigrant Education Act (EIEA), to provide for the current entitlement payment of $500 per eligible immigrant child.

As you know, many states have experienced significant increases in the number of immigrant students and a corresponding increase in financial responsibility for their education. Federal assistance is a vital asset to those impacted States struggling to meet the educational needs of their highly diverse populations.

Despite the EIEA's per pupil entitlement payment of $500, the Congress never has allowed for full funding of this program. Nor has the Congress recognized the striking growth in our country's immigrant population since the law's enactment in 1984. The result has been an inadequate level funding of EIEA for the past decade.

In the case of California, the funding rate per pupil in 1984-85 was $90.88, $410 less than the amount authorized by law. The funding rate has since dropped by more than half to $35.10 in 1993-94, reflecting fewer federal dollars serving an eligible immigrant student population which has tripled since 1984.

There is broad bipartisan support across the country for EIEA, and certainly for an appropriate authorization level which reflects the dramatic increase in the number of immigrant students in our country. Actually, a reimbursement of $500 per eligible immigrant child is a modest level of assistance given the kind of services required to provide quality education to these new residents and represents only a fraction of the actual costs of educating a child in our State.

Clearly, an open authorization level for EIEA is in the best interest of those whom the law was intended to serve—the newest and youngest arrivals into our country.

Finally, with respect to immigrant education, I urge the Committee to include language that would require the federal government to reimburse the states for the costs of educating undocumented children.

In January 1995, an estimated 392,000 undocumented immigrants will be attending California public schools. The annual cost of providing educational services to these young people will be $1.7 billion—a price tag simply too excessive to ignore. At a time when California needs to build one classroom each day just to accommodate enrollment growth in its public schools, the State cannot afford to pay the costs of educating a population that is illegally residing in the United States.

As you well know, current federal programs for immigrant and LEP populations were not intended to fund the education of illegal immigrants. Clearly, the funding levels provided in these programs are minimal amounts for our legal residents, and should not be assumed to be sufficient to supplement the costs of educating undocumented immigrants.

Education represents a compelling incentive to enter the United States. Therefore, until the federal government reviews how best to address this education magnet, I urge the Committee to provide for mandatory federal reimbursement for the costs of educating undocumented immigrants.

DRUG-FREE SCHOOLS AND COMMUNITY ACT

Finally, I urge the Committee to reinstate to 30 percent the governors' portion of funding under the Safe and Drug Free Schools and Communities Act (DFSCA), in addition to maintaining support for the Drug abuse Resistance education (DARE) set aside.

In California, DFSCA funding is administered by the Department of Alcohol and Drug Programs which has developed highly creative programs targeted at high-risk youth who are not being adequately served by the school-based alcohol and drug programs. Under these programs, thousands of youth receive services.

California also funds a myriad of gang, drug, and violence suppression programs with DFSCA funds. These programs are especially important at a time when youth violence has escalated.

Finally, as a supporter of my amendment in 1990 to create the DARE set-aside, I urge your continued support for its retainment in the final mark. While DARE is successfully providing drug resistance and education services in virtually every State in the nation, many communities still require assistance in bringing DARE to their classrooms.

As you well know, DARE uses law enforcement to deliver its curriculum, forging important community alliances to prevent crime. It should continue as a top priority under DFSCA.

Every five years, Congress undertakes the difficult task of reauthorizing the ESEA. The challenge of reauthorization is to ensure that scarce federal funds go where needed and to support programs and services that work. Title I, EIEA, and DARE are examples of programs that have made a positive difference for California's children, and I urge the Committee's continued support for them as it marks up S. 1513.

Thank you for your attention to these issues of importance to California.

Sincerely,

PETE WILSON.

Mrs. FEINSTEIN. As part of the reauthorization of the chapter I program, sweeping changes have been proposed, many of them suggested by national assessments and expert analysis: more school-wide programs, where all children are taught together as part of a specialized program, enhanced teacher training opportunities, and better targeting of resources among the States.

Sadly, however, the funding program that has been proposed in the Senate by the committee for distribution of Federal dollars to States does not reflect these sweeping changes or the recommendations that have been brought forth for other parts of the chapter 1 program. In fact, the committee formula preserves the status quo. California and other large, high-growth States are in desperate need of funds but they will receive less than they deserve. And that is true even under the Hatch modified formula. California and Texas remain specially disadvantaged.

Let me ask you to look at this from a per-child perspective. California under the committee's formula with 969,762 poor children receives $783 per child. Texas, with 803,300 poor children receives just $729 per child. Under the current compromise formula, California would receive $756 million. Now, that is a difference. However, it is still $7 million less than the current formula.

The amendment I was going to propose would have done two things: It would have removed the so-called effort factor, and it would have reinstated the AFDC factor into the count for poor children for each State.

This would not have been a dramatic or extreme revision of the formula. However, deleting the so-called "effort factor," which is a new element concocted by the committee, and reinstating the eligibility of AFDC would be an important part.

The amendment would reinstate roughly 44,000 children whose family incomes are above the poverty line but who still receive AFDC into each State's count of poor children. In States with especially high costs of living, California, New York, and Washington, AFDC eligibility is a valid indication of poverty, and this amendment would have proposed that they remain part of the funding formula.

One of the problems with the way chapter 1 is handled through the effort factor is the gap between the high-cost States and the average increases, and the gap between the low-cost States and the average increases. So the gap is constantly widening. Idaho, the lowest State, receives about $560 less than a poor child in Alaska, the highest State, that receives $1,199.51. That gap is made larger by a committee formula. That means that schools have dramatically different amounts of resources available to address the needs of poor children. With the effort factor, seven States received less than $700 per child while nine receive more than $900. So those States gain. Some of them, for example North Carolina, Georgia, and Oklahoma would receive far less than current formula, whereas others, Wyoming, Rhode Island, and New York would receive far more. I ask unanimous consent to enter into the RECORD those specifics.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE GAP

Selected States	Current law	Committee formula
North Carolina	$699	$686
Georgia	704	691
Oklahoma	706	699
National average	814	814
Wyoming	1,031	1,139
Rhode Island	1,046	1,064
New York	1,050	1,082

Source: CRS Data, based on a $6.862 billion appropriation.

Mrs. FEINSTEIN. Mr. President, at the same time, Connecticut, with just 53,190 poor children, will receive $1,025 per child. Massachusetts, with 120,570 poor children, will receive $1,024 per child. Rhode Island, with 20,539 poor children, will receive $1,064 per child.

Therefore, my purpose here today is to make clear the inadequacies of the proposed formula for many States, including California, and to propose an amendment that—in addition to providing increased allocations for 35 States over the committee level or current law—will improve the equity and efficiency of the chapter 1 program.

DESCRIPTION OF THE AMENDMENT

This amendment is very simple, and would do two things: remove the so-called effort factor, and reinstate AFDC children into the count of poor children in each State.

This amendment is not a dramatic or extreme revision of the formula that has been proposed. In fact, there are no other changes to the committee formula than the two I am about to describe: deleting the so-called effort factor, which is a new element concocted by the committee, and reinstating the eligibility of AFDC children, who are currently part of the chapter 1 program.

FIRST CHANGE: REMOVING THE EFFORT FACTOR

First of all, this amendment deletes a new provision in the committee formula that is known as the effort factor. While others have advocated adjusting or redefining this element, I am simply taking it out.

As proposed by the committee, the chapter 1 formula determines State allocations by the following process. First, the formula takes the State's count of poor children and multiplies it first by a cost factor, which is a measure of State and education spending per pupil; then by an effort factor, which is a second measure of State per-pupil expenditure in relation to State per capita income; and finally by an equity factor, which is a measure that attempts to show how equalized local school spending is throughout the State.

By now, this process may seem familiar:

The number of poor children multiplied by the cost factor multiplied by the effort factor multiplied by the equity factor equals the State allocation.

The effect of this process is to reward States that meet the narrow formula definition of high spending and punish

States—and the children who live in them—who do not meet this definition.

SECOND CHANCE: REINSTATING AFDC CHILDREN

This amendment also reinstates the roughly 44,000 children whose family incomes are above the poverty line but still receive aid to families with dependent children into each State's count of poor children. In States with especially high costs of living—notably California, New York, and Washington—AFDC eligibility is a valid indication of poverty, and this amendment simply proposes that they should remain part of the funding formula.

Although the committee formula does not include them in its proposal, these children are included in the current formula, and their inclusion has been publicly supported by the chairman of the Labor and Human Resources Committee in the past; for example, in your colloquy with him last year.

RATIONALE BEHIND THIS AMENDMENT

Distributing chapter 1 funds to States on the basis of State per-pupil expenditure levels effectively punishes disadvantaged children who live in 27 States that—due to population growth, large influxes of poor children, and higher costs of providing education—have not been able to maintain a high per-pupil expenditure level.

When the effort factor—which is a new element in the chapter 1 formula that has not been thoroughly analyzed or investigated—is included, the effects of a single measure of State contributions to education are overly magnified.

However, that is not the only reason I am proposing this approach. Let me explain the rationale behind this amendment.

Chapter 1 should take into account the fact that poor children move, and that dollars should be shifted according to need.

Unfortunately, that is not the case today. Instead, the formula keeps Federal education funds in States with decreasing percentages of poor children. As a result, the shift of funds to schools in high-growth States is delayed. That, to me, is the fatal flaw in both the current formula and the Pell-Kennedy proposal.

(1) THE EFFORT FACTOR IS REDUNDANT

First of all, the effort factors is redundant. By using State per pupil expenditure to adjust State allocations, the effort factor repeats the function of other elements in the chapter 1 formula. As you know, the cost factor is set at 40 percent of a State's average per pupil expenditure. That is, a State receives 40 percent of its average per pupil expenditure for each chapter 1 student, within certain constraints.

While there may be reason to use State per pupil expenditure once, there is no reasonable justification for using it twice. The only real difference between the effort cost factor is that the new effort factor includes State per capita income as part of its calculation, in an attempt to capture States' ability to contribute to education spending.

However, the use of this measure is questionable, and has been criticized by the GAO report and several experts. More importantly, both factors use State per pupil expenditures as a central element in raising or lowering State allocations, and in terms of effects, the two factors by and large affect each State the same way. California's allocation, for example, is lowered first by its cost factor—.89—and then again by its effort factor—.95.

(2) THE EFFORT FACTOR INCREASES DIFFERENCE BETWEEN STATES

Second, the effort factor actually increases the differences in how poor children are treated in different States. As I have said before, a poor child is a poor child, and with the effort factor the chapter 1 formula treats poor children very differently—widening the gap in how much States receive per poor child.

Poor children should be treated the same under Federal law, and committee members have often spoken of the need to encourage equity in local school finances.

However, under the committee formula the gap is widened, with Idaho, the lowest State, receiving $560 less per poor child than Alaska, the highest, receiving $1,199.51.

The gap that is made larger by the committee formula means that schools have dramatically different amounts of resources available to address the need of poor children. With the effort factor, 7 States receive less than $700 per child—while 19 receive more than $900.

INCREASING DIFFERENCES IN PER-CHILD CHAPTER 1 ALLOCATIONS

(3) THE EFFORT FACTOR USES A POOR MEASURE OF STATE EFFORT

Third, per-capita State spending on education is a poor excuse of State effort and should not be used to adjust State allocations. If a State has a decreasing population of children, and childhood poverty is declining, then of course that State may have more to spend on each child. But high-growth States with increasing poverty numbers should receive more chapter 1 funds, not less.

(4) THE EFFORT FACTOR IS UNNECESSARY TO THE FORMULA

Finally, the effort factor is an unnecessary add-on. Contrary to what you may have heard, the effort factor will not encourage States to spend more on education, nor will the absence of this factor encourage States to spend less. Because the other cost factors remain, States are more than adequately rewarded for maintaining high spending levels.

THE BENEFICIAL EFFECTS OF THIS AMENDMENT

Under amendment, the allocations of 35 States surpass the committee formula or current law: 27 States are raised above their committee level, and 8 additional States will still receive more than they would under current law.

THERE ARE 27 STATES THAT BENEFIT OVER THE COMMITTEE FORMULA

While this amendment does not address all of the flaws in the committee formula—there are many other criticisms that have been levelled at it—it does do some good for a majority of States.

First of all, this amendment increases the allocation of 27 States above the committee formula. For the record, let me list these States and their increases:

Alabama—$4 million.
Arizona—$3.4 million.
Arkansas—$2.6 million.
California—$43.9 million.
Colorado—$2.3 million.
Georgia—$4.5 million.
Hawaii—$2.4 million.
Idaho—$100,000.
Illinois—$7.4 million.
Iowa—$100,000.
Kansas—$2.3 million.
Kentucky—$300,000.
Louisiana—$400,000
Mississippi—$4.5 million.
Missouri—$3.8 million.
Nebraska—$500,000.
Nevada—$600,000.
New Hampshire—$500,000.
New Mexico—$2.1 million.
North Carolina—$4.3 million.
Oklahoma—$2.8 million.
South Carolina—$200,000.
South Dakota—$600,000.
Tennessee—$4.1 million.
Texas—$19.9 million.
Utah—$1.2 million.
Washington—$5.2 million.

This does not include Puerto Rico, which also benefits.

THERE ARE EIGHT STATES THAT DO BETTER THAN THEY WOULD UNDER CURRENT LAW

Second, this amendment does not lower the remaining States' allocations below current law. In fact, it provides for eight additional States that do better with the effort factor removed than they would under current law.

Delaware would receive a $2 million increase over current law.

Florida would receive a $6.8 million increase over current law.

New Jersey would receive a $1.4 million increase over current law.

North Dakota would receive the identical amount.

Vermont would receive a $1 million increase.

West Virginia would receive a $600,000 increase.

Wisconsin would receive a $200,000 increase over current law.

Wyoming would receive a $500,000 increase over current law.

PRECHILD ALLOCATIONS ARE MADE MORE EQUAL

Perhaps most importantly, this amendment also treats poor children more equitably than the unmodified committee formula, by lessening the gap between low and high spending States. In fact, poor States receive more per child under this amendment, while wealthy States receive slightly less.

Overall, the gap from the highest to lowest per-pupil allocation is only $543, down from $560. While that still leaves a large gap, at least it is not larger than under current law. This amendment also brings up the lowest States. Instead of seven States, only two States receive less than $700 under this amendment.

DECREASING DIFFERENCES IN PER-CHILD CHAPTER 1 ALLOCATIONS

Selected States	Committee formula	Feinstein amendment
North Carolina	$686	$714
Georgia	691	709
Oklahoma	699	728
National average	814	814
Wyoming	1,139	1,073
Rhode Island	1,064	1,002
New York	1,082	1,018

Source: CRS Data, based on a $6.862 billion appropriation.

COMMITTEE STATES ARE HELPED

Last but not least, several Committee States also benefit from this amendment:

Kansas gains $1.3 million, over the committee formula.

New Mexico gains $1.1 million.

Illinois gains $7.4 million.

Iowa gains $100,000.

New Hampshire gains $500,000.

CONCLUSION

The basic effectiveness of the chapter 1 program is at stake, and no amount of improvements to the educational programs funded by chapter 1 will prove effective without giving high-poverty schools the resources to accomplish them.

That is why I am urging my colleagues to join me in supporting this amendment, which will make the chapter 1 formula more equitable and effective.

Mr. President, I recognize that the modified formula as presented by and accepted by the committee is most likely to be accepted. I myself, representing California, with some remaining unhappiness, will vote for it.

Unless there is substantial evidence from States to the contrary, I would not at this time introduce my amendment which would remove the effort factor, and retain the AFDC factor. However, I am hopeful that in conference a great deal more discussion will be given to the impact and the way in which chapter I funds are dispensed throughout our Nation. A poor child is a poor child. States spend what they can.

In my State, 40 percent of a $55 billion budget goes for elementary and secondary education—40 percent. So the cost factor is there.

In a State as disparate and large as California, pockets of poverty can be as large as one-half of other States, and yet they do not count for much in the way the formula is presently figured. I think that the Senate's methodology of assessing chapter I or distributing chapter I dollars for poor children is really out of date.

It is my very strong belief, too, that the poverty data involved in chapter I ought to be updated at least every 2 years as part of this. So that money follows children.

I recognize that this is difficult to do in this body because the interests that control the formula militate toward maintaining the status quo as much as possible. And that is the dilemma. The modified Hatch formula is somewhat of a breakthrough.

The only way, frankly, I believe to solve the problem eventually is to say we have x dollars for x child, and those dollars will go to States based on need and numbers, and not some convoluted formula which is filled with redundancy, and really just continues this enormous gap that exists with one State's children getting $1,100, and another State's children getting $600.

So the upshot of my comments is that, whereas the Hatch formula is a step forward in the right direction, I am still hopeful that the California delegation and others in the conference committee in the House will be able to effect additional modifications which can benefit the high growth States because they are still shorted by this formula.

I thank you, Mr. President. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

ORDER OF PROCEDURE

Mr. SIMON. Mr. President, I ask unanimous consent that I may speak for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SITUATION IN RWANDA

Mr. SIMON. Mr. President, I rise to comment just briefly on the situation in Rwanda and the surrounding territory.

I am pleased with the decision the President has made to deploy 200 troops to secure the airport at Kigali. That is now secure, and humanitarian supplies can get into the capital city of Rwanda in Kigali.

I have a staff member there, Caroline Reynolds. And I am pleased that the Secretary of Defense has been visiting there.

General Dallaire is the Canadian general in charge of the U.N. contingent there. While I have never met the man, I have been on the phone to him several times. And I have been very favorably impressed by General Dallaire, and everyone tells me he is an extremely confident person.

He says that he needs 4,100 troops within the next 2 weeks to stabilize the situation in Rwanda. Right now, at least temporarily, the situation within the country is stabilized. You have huge numbers of refugees outside of the country, many of whom are now starting to come back in. The Ethiopians, the Tunisians, and Zimbabweans have all indicated a willingness to send troops, and I would hope we could assist in that.

General Dallaire would also like to see the United States send in medical teams to help in three towns in southern Rwanda complimenting the efforts made by Great Britain, Canada, and Australia, and also to send in engineering units for repair of bridges and other things like that.

I am pleased that the new government in Rwanda has agreed to human rights monitors throughout the country. We now have 200 troops there. Within the next 2 weeks, Great Britain will have 800, Canada will have 600, and Australia will have 300. Those troops are there for noncombat purposes—medical, demining, and engineering. The remnants of the former government now in Zaire, the Organization for African Unity under Secretary General Salim are negotiating to work something out between the Government that is Rwanda and the former government remnants.

Generally speaking, the situation within the country is a much better situation. The situation for the refugees outside of the country remains, particularly in Zaire, a very difficult one.

I hope the administration, as well as Congress, will continue to cooperate in providing emergency assistance. But the administration is doing the right thing by responding to the needs there.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH] is recognized.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the considerations of the bill.

AMENDMENT NO. 2430

(Purpose: To provide for an educational opportunity demonstration program)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. DANFORTH] proposes an amendment numbered 2430.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 650, between lines 3 and 4, insert the following:

"PART H—EDUCATIONAL OPPORTUNITY DEMONSTRATION PROGRAM

"SEC. 1801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) while low-income students have made significant gains with respect to educational achievement and attainment, considerable gaps still persist for these students in comparison to those from more affluent socioeconomic backgrounds;

"(2) our Nation has a compelling interest in assuring that all children receive a high quality education;

"(3) new methods and experiments to revitalize educational achievement and opportunities of low-income individuals must be a part of any comprehensive solution to the problems in our Nation's educational system;

"(4) preliminary research shows that same gender classes and schools may produce promising academic and behavioral improvements in both sexes for low-income, educationally disadvantaged students;

"(5) extensive data on same gender classes and schools are needed to determine whether same gender classes and schools are closely tailored to achieving the compelling government interest in assuring that all children are educated to the best of their ability;

"(6) in recent years efforts to experiment with same gender classes and schools have been inhibited by lawsuits and threats of lawsuits by private groups as well as governmental entities; and

"(7) there is a compelling government interest in granting the Secretary authority to insulate a limited number of local educational agencies and schools which are experimenting with same gender classes for a limited period of time from certain law suits under title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), or any other law prohibiting discrimination on the basis of sex, in order to collect data on the effectiveness of such classes in educating children from low-income, educationally disadvantaged backgrounds.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to give the Secretary discretion to allow experimentation with same gender classes for low-income, educationally disadvantaged students;

"(2) to determine whether same gender classes make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; and

"(3) to involve parents in the educational options and choices of their children.

"SEC. 1802. DEFINITIONS.

"As used in this part—

"(1) the term 'educational opportunity school' means a public elementary, middle, or secondary school receiving funds under this title, or a consortium of such schools all of which receive funds under this title, that—

"(A) establishes a plan for voluntary, same gender classes at one or more than one school in the community;

"(B) provides same gender classes for both boys and girls, as well as a co-educational option for any parent that chooses that option;

"(C) gives parents the option of choosing to send their child to a same gender class or to a co-educational class;

"(D) admits students on the basis of a lottery, if more students apply for admission to the same gender classes than can be accommodated;

"(E) has a program in which a member of the community is asked to volunteer such member's time in classes of children of the same gender as the member; and

"(F) operates in pursuit of improving achievement among all children based on a specific set of educational objectives determined by the local educational agency applying for a grant under this part, in conjunction with the educational opportunity advisory board established under section 1803(e) and agreed to by the Secretary; and

"(2) the term 'educational opportunity advisory board' means an advisory board established in accordance with section 1803(e).

"SEC. 1803. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—From amounts made available under section 1002(f)(3), the Secretary may award grants to ten local educational agencies for the design and operation of one or more educational opportunity schools.

"(b) INAPPLICABILITY.—Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school during the period such agency or school receives assistance under this part only to the extent the Secretary determines necessary to ensure the development and operation of same gender classes in accordance with this part.

"(c) GRANT PERIODS.—Each grant under subsection (a) may be awarded for a period of not more than 5 years, of which a local educational agency may use not more than 1 year for planning and program development.

"(d) LIMITATION.—The Secretary shall not award more than one grant under this part to support a particular educational opportunity school or consortium of such schools.

"(e) EDUCATIONAL OPPORTUNITY ADVISORY BOARD.—Each local educational agency receiving a grant under this part shall establish an educational opportunity advisory board. Such advisory board shall be composed of school administrators, parents, teachers, local government officials and volunteers involved with an educational opportunity school. Such advisory board shall assist the local educational agency in developing the application for assistance under section 1804 and serve as an advisory board in the functioning of the educational opportunity school.

"SEC. 1804. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each local educational agency desiring a grant under this part shall submit, within 180 days of the date of enactment of the Improving America's Schools Act of 1994, an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) SCOPE OF APPLICATION.—Each application described in subsection (a) may request assistance for a single educational opportunity school or for a consortium of such schools.

"(c) APPLICATION CONTENTS.—Each application described in subsection (a) shall include—

"(1) a description of the educational program to be implemented by the proposed educational opportunity school, including—

"(A) the grade levels or ages of children to be served; and

"(B) the curriculum and instructional practices to be used;

"(2) a description of the objectives of the local educational agency and a description of how such agency intends to monitor and study the progress of children participating in the educational opportunity school;

"(3) a description of how the local educational agency intends to include in the educational opportunity school administrators, teaching personnel, and role models from the private sector;

"(4) a description of how school administrators, parents, teachers, local government and volunteers will be involved in the design and implementation of the educational opportunity school;

"(5) a description of how the local educational agency or the State, as appropriate, will provide for continued operation of the educational opportunity school once the Federal grant has expired, if such agency determines that such school is successful;

"(6) a description of how the grant funds will be used;

"(7) a justification for the waiver or inapplicability of any Federal statutory or regulatory requirements that the local educational agency believes are necessary for the successful operation of the educational opportunity school and a description of any State or local statutory or regulatory requirements, that will be waived for, or will not apply to, the educational opportunity school, if necessary;

"(8) a description of how students in attendance at the educational opportunity school, or in the community, will be—

"(A) informed about such school; and

"(B) informed about the fact that admission to same gender classes is completely voluntary;

"(9) a description of how grant funds will be used in conjunction with funds provided under this title, and any other Federal programs, administered by the Secretary;

"(10) an assurance that the local educational agency will annually provide the Secretary such information as the Secretary may require to determine if the educational opportunity school is making satisfactory progress toward achieving the objectives described in paragraph (2);

"(11) an assurance that the local educational agency will cooperate with the Secretary in evaluating the program authorized by this part;

"(12) assurances that resources shall be used equally for same gender classes for boys and for girls;

"(13) assurances that the activities assisted under this part will not have an adverse affect, on either sex, that is caused by—

"(A) the distribution of teachers between same gender classes for boys and for girls;

"(B) the quality of facilities for boys and for girls;

"(C) the nature of the curriculum for boys and for girls;

"(D) program activities for boys and for girls; and

"(E) instruction for boys and for girls; and

"(14) such other information and assurances that the Secretary may require.

"SEC. 1805. SELECTION OF GRANTEES.

"The Secretary shall award grants under this part on the basis of the quality of the applications submitted under section 1804, taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) organizational structure and management of the school;

"(3) the quality of the plan for assessing the progress made by children in same gender classes over the period of the grant;

"(4) the extent of community support for the application; and

"(5) the likelihood that the educational opportunity school will meet the objectives of such school and improve educational results for students; and

"(6) the assurances submitted pursuant to section 1804(c)(13).

On page 474, line 16, strike "$20,000,000" and insert "$19,000,000".

On page 474, between lines 18 and 19, insert the following:

"(3) PART H.—(A) For the purpose of carrying out part H, there are authorized to be appropriated $1,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(B) Funds appropriated under subparagraph (A) shall remain available until expended.

Mr. DANFORTH. Mr. President, this amendment establishes the possibility that in a limited number of school districts, schools can be set up for the purpose of providing the alternative of single-sex education in those schools.

I want to emphasize the word "possibility," because the heart of this amendment is to require absolutely nothing, to mandate absolutely nothing, but merely to provide for an additional alternative for those school districts or those schools that want to avail themselves of that alternative.

Public schools now are coeducational. That is certainly the norm in America. And this amendment offers the possibility, on a trial basis, to create at least some schools—just a few—for a limited period of time, where single-sex education could be tried on a voluntary basis.

This amendment would give the Secretary of Education the discretion to waive title IX of the education statutes for 10 applicants. There is nothing that requires a school or a school district to make an application. If a school district is content with coeducation, does not even want to try the possibility of single-sex classes, the school district does not have to make an application. But if a school district wishes to try, then it can at least attempt to qualify for this educational opportunity demonstration program—a demonstration program.

If the school district does qualify and the Secretary of Education does waive title IX, then it is up to the parents to decide what they want to do. There is nothing in this amendment which would require a parent to opt for single-sex classes for his or her child. So even if the school were in one of the up to 10 areas in the country that might qualify, at the discretion of the Secretary of Education, for the program, the parent would still have the option to say yes or no. The parent could say, yes, I want my daughter or my son to be in, let us say, a single-sex math class; or the parent could say, no, what is best for my child is coeducation.

This option that would be available on a limited number of cases to parents would be equally available to parents of girls and parents of boys. The design is one of absolute equality of opportunity. And, as I say, it simply opens up the possibility for those schools that want it and for those parents that might want it.

Mr. President, for kids who go to private schools, their parents all over this country have the option to send their children to coed or single-sex schools. For some children, coeducation is the best thing in the eyes of the parents, and for some parents of boys and some parents of girls, single-sex education is the best thing for those kids.

My first four children were all daughters, and we decided that—and in fact they decided—that they preferred to go to single-sex schools. They were private schools. They thought that they were the best schools for them. And then our fifth child is a son, and it was the same thing for him. He went to a single-sex school. For some kids, coeducation is better. But for our kids—I think especially for our daughters—single-sex education held them up as young women—girls, really—because they started when they were in fourth or fifth grade, something like that. Single-sex education, for my kids at least, happened to be the best thing for them. It ratified, approved, held up for approval those attributes of my children which deserved to be held up and deserved to be approved. So it was a very, very good experience for my children. But I recognize that it is not the best for everybody. For some people, coeducation is better.

All I am saying in this amendment is to at least open the door so that for at least some parents of some children, and some public schools, there is another alternative to coeducation. For some parents and some schools, there is at least the option to say that, for my child, it is better that my boy go to a boys' class, or that my girl go to a girls' class. That is all it is about. Nothing is required.

For each one of these children in this new optional program that would be created, the alternative to coeducation would also exist. So for each one of these parents, the parent could say: I do not want my girl going to a girls' math class or to a boys' history class. They could say: We want coeducation. That alternative under this amendment would have to be available for those children.

Why is this necessary? Why is this amendment necessary? Why do I even bother to offer it? Well, it is necessary because there are, around the country, Mr. President, school districts that have reached the conclusion that for at least some of their kids, single-sex education is the best thing for those kids. In school districts in Milwaukee and Detroit and Miami and Baltimore and Philadelphia, there have been at least some schools in those districts that have come to the conclusion that, for at least on a trial basis, they should have the opportunity, they should make the attempt to find out if for some of those kids, single-sex education works. However, the bad news is that they have been under the cloud of lawsuits when they have made that decision. They have been threatened and, in some cases, they have been sued. In some communities, these trial programs have been terminated.

In the inner cities in particular, there have been attempts at same gender schooling in the form of classes to address the poor academic performance of the kids in those schools. However, legal opposition, particularly legal opposition that has been precipitated by the American Civil Liberties Union and by the National Organization of Women, have chilled those decisions.

So, Mr. President, let me provide a few examples of what has happened in the real world. Stanton Elementary School is in Philadelphia, PA. There is a teacher at Stanton Elementary School named John Coats. And John Coats initiated a model 5-year program for a group of 20 first-grade boys who had exhibited learning problems in kindergarten. Under this trial program, nine of the boys made honor roll; however, the ACLU threatened to file a lawsuit, and as a result of that the program was canceled.

In Miami, an elementary school principal implemented a male-only class in his school. After 2 years of operation, the regional office of the Department of Education killed it on the ground that it violated title IX.

In August of 1991, a Federal court prohibited Detroit's operation of its three all-male academies after suits were filed by the ACLU and the National Organization for Women. The black community in Detroit strongly supported these all-male schools, and on a kind of informal basis about 90 percent of the students who were enrolled in these three academies continue to be boys.

But, to say the least, there has been a chilling effect, and some of these programs have been stopped as a result of the threat of lawsuits or the actuality of lawsuits.

Now, while some of the programs have been terminated, other programs have continued, albeit on a clandestine basis—furtively. There has been a fear of lawsuit. There has been a fear of action by the Department of Education. So they have continued to operate these programs, but they have done so on a furtive basis.

While there is an interest in single-sex schooling among the African-American community, it is evidenced by the fact that "all-boys classes are being held quietly in as many as two dozen schools around the country, mostly in inner cities." These programs are going on in "near secrecy for fear of discovery by lawyers and government officials intent on shutting them down in the name of equality."

That is a quote, Mr. President. That is a quote. And the quote is from someone who a lot of people in the Senate have heard of, Prof. Susan Estrich of the University of Southern California. We remember Professor Estrich because she was a key adviser to Michael Dukakis. She says, "all-boys classes are being held quietly in as many as two dozen schools around the country, mostly in inner cities."

She says that "near secrecy for fear of discovery by lawyers and government officials intent on shutting them down in the name of equality" has been the result of this situation.

So, Mr. President, if people who want good schools, if school districts and schools that want to do a good job especially for minority kids are trying to do it, it is the judgment of this Senator that we should enable them to do that. We should allow them to at least make application to the Secretary of Education. The Secretary of Education does not have to say yes to them. The Secretary of Education could say: "I do not believe in this program. I do not believe that the option of single-sex education should be made available to anybody." The Secretary of Education could say: "Well, this just does not pass muster. I do not like it." And the Secretary of Education would be free to say no.

But I believe that at least we should offer the Secretary of Education that option, to say yes to schools that themselves have said yes for parents who want this alternative for their children.

Mr. President, clearly we are at a state in our country where different approaches to education are becoming essential, especially becoming essential for those who live in our inner cities and who go to schools that have been so ineffective in providing decent education for those kids.

Let me just give a few examples of what I am talking about. Here is the current state of our public schools in this country. In a 1992 study, only 6 percent of 12th grade students could do word problems involving algebra and fractions that prepare them for college math. Let me restate that. In a 1992 study, only 6 percent of 12th grade—that is seniors in high school—students could do word problems involving algebra and fractions that prepare them for college math.

Less than half of 17-year olds in school possess the skills and knowledge required for most entry level jobs or college.

Forty-seven percent of the U.S. population performed at the lowest two levels of literacy in 1992.

Thirty million Americans are functionally illiterate, as are 11 percent of high school graduates in America. Eleven percent of high school graduates in America today are functionally illiterate.

Fifteen percent of recent graduates of high schools read at less than a sixth-grade level. One million Americans between the ages of 12 and 17 cannot read above a third-grade level. One half of all the heads of households below the poverty line cannot read an eighth-grade book.

In 1993, 11.8 percent of Hispanics 25 years of age and over had less than a fifth-grade education. Forty-two percent of African Americans over the age of 17 cannot read beyond a sixth-grade level. In urban areas where 85 percent of the African-American community resides, the dropout rate is nearly 50 percent. In 1986, 57 percent of blacks between the ages of 10 and 15 were 2 or more years behind their grade level.

America ranks 49th in the world in literacy. Nine-year-old students from the United States scored lower on average in mathematics performance than 9-year-olds from all other developed countries in the world.

In a 1989 study, Americans between 18 and 24 finished last among nine countries, including Mexico, in a knowledge of geography.

On and on and on and on.

Mr. President, my point is that is the status quo. That is the status quo.

And the status quo is not enough. If there are schools that want to try something else and there are parents who want to try something else for their children, the Congress of the United States should not stand in the way.

Milwaukee is one of the cities that has made the attempt to experiment on at least some basis with having single-sex classes. In Milwaukee, 50 percent of black males did not graduate from college and 2 percent of black males had grade point averages above 3.0.

And then there is the problem of girls. Research has found that teachers call on boys more frequently than they call on girls. Research has shown that teachers spend more time with boys than they spend with girls; that they encourage the initiative of boys and the inquisitiveness of boys more than they do of girls.

Evidence has shown that by grade six, girls have become more tentative, far less likely to respond to questions, and reluctant to take part in class demonstrations than boys. Girls' self-esteem begins to slide in the middle-school years. There are tests that demonstrate all of this. There are reports that demonstrate all of this.

The reason that we made the decision in our family, including our daughters themselves, that they should go to a single-sex school was for the very reason that, for them at least, a single-sex school built that self-esteem and that confidence that we felt was so important to them. And they have done very, very well, I might say, Mr. President, as a result. All four of them went to coeducational colleges, which, Mr. President, when you and I were in college were all male colleges at that time. Two of them went to Princeton, one went to Dartmouth, and one went to the University of Virginia from their all-girl schools. And they went there with a great sense of self-esteem and a great sense that they could do anything and, in fact, since then they have been able to do anything.

Well, what is the result of single-sex education where it has been tried? It has been tried at the Ronald Coleman Elementary School in Baltimore. There have been threats, I might say, by the ACLU to close down that program. However, the mayor, Mayor Schmoke, took a very strong stand and said, in effect, "Don't you dare close my program down." So it is still going, the Coleman Elementary School in Baltimore.

All classes in that school are segregated, boys and girls. That would not be the case in this legislation. But in that school, there are boys' classes and girls' classes. It is an economically depressed area, Mr. President. It is an area in which 85 percent of the students live with a single parent or with a grandparent.

Let me read the rankings of those kids in this area in north Baltimore and then in the Baltimore school system as a whole.

Kindergarten, Coleman Elementary School ranked fifth out of 21 in the north area; 13th out of 115 throughout Baltimore. First grade, first in the area; fifth out of 115 in the system. Second grade, second; in the whole system, they ranked third. Third grade, third; in the whole system, 10th out of 115. Fourth grade, fourth; 21st out of 115 in the entire system. Fifth grade, seventh out of 21; 29th out of 115 in the entire system.

And how about math? In math, I will just read the entire system format, although it is equally strong in the area.

But in the entire school system, the Coleman Elementary School ranked sixth out of 115 for kindergarten; sixth for first grade; third for second grade; 23d for fourth grade; 29th out of 115 for fifth grade.

Well, that is a pretty good performance for the Coleman Elementary School.

I debated whether or not to even mention the name of the school because, while it has been under threat by the ACLU, I am concerned that something will happen to it as a result of publicizing this. But it has obviously been successful.

In 1986, research reported in the Journal of Education Psychology found that girls attending single-sex schools have greater interest and achievement in math and English, and both boys and girls spent more time on homework.

Another study found that attendees of single-sex schools were more likely than students attending coeducational high schools to gain admissions at selective 4-year colleges, and more likely to consider graduate study.

A study of eight coeducational and seven independent female boarding schools revealed that students in single-sex schools reported more emphasis on academics in their schools.

(Mr. SIMON assumed the chair.)

Mr. DANFORTH. Researchers have also concluded that single-sex learning environments provide greater emphasis on discipline and control and a significant correlation between order and discipline in accounting for positive educational outcomes.

Cornelius Riordan, the professor at Providence University, has done research on this subject, particularly with reference to girls. Cornelius Riordan—Professor Riordan, in his research, confirms earlier research that girls in single-sex schools score a full half grade above their coeducational counterparts on academic ability tests. Girls in single-sex schools outperform girls in coeducational schools by almost a full grade level on science test scores. African-American and Hispanic students scored nearly a grade level above their coeducational counterparts in academic achievement tests.

I want to repeat that for emphasis because I think this is very important information. Girls in single-sex schools scored a full half grade above their coeducational counterparts on academic ability tests. Girls in single-sex schools outperformed girls in coeducational schools by almost a full grade level on science test scores.

African-American and Hispanic students scored nearly a grade level above their coeducational counterparts in academic achievement tests.

In addition, Riordan has found that leadership behavior and participation among African-American and Hispanic students, both male and female, who attend single-sex schools, surpasses that of those who attend coeducational Catholic schools. At the Malcolm X Academy in Detroit, seventh graders who have attended single-sex classes at the Malcolm X Academy, their math scores for 1993 and 1994 were the highest among the 77 schools in Detroit and the second highest in Michigan among 780 schools. Similar results have occurred in Baltimore. Those are the studies.

One of the problems is that it is hard to study this because there are so few schools that do it. It is not even tried for fear of lawsuits or for fear of the Department of Education. They do not even try it. They are afraid. So they cannot do it, so it is hard to study. One of the things this legislation would do would be to provide at least the possibility in just 10 areas of the country, maximum of 10 areas of the country, that we could at least get some more information as to whether these early indications that we have so far have greater application.

Is it not worth at least a try? Particularly if we are not forcing anybody to do anything. We are not forcing the school district to do this. We are not forcing a parent to do it. If a school district does not want to have any part of it, they do not have to apply. If the Secretary of Education does not want any part of it, the Secretary of Education does not have to allow it. And if it does come into existence and the parents do not want it, the parents will have every right to keep their children in a coeducational environment. It is absolute freedom. It simply opens an option, and is not the option at least worth studying?

Mr. President, I want to read the conclusions of a number of people who have weighed in on this subject, just to say I am not alone.

Again, Professor Susan Estrich, professor of law and political science, University of Southern California—as everybody knows, a key adviser to Michael Dukakis, former campaign manager, in fact, of Michael Dukakis. She wrote an article on this subject. She said in the article:

> Private schools may open their doors only to boys or girls under an exemption to federal law mandating "equality." But public schools enjoy no such freedom. The reality is that if you need a Wellesley education in America, you have to pay for it. That's the price of committing to formal equality instead of real opportunity.

Elizabeth Fox Genovese, professor at Emory University, here is what she says:

> Research and common sense suggest that what single-sex schools offer especially benefits people from lower and middle-class backgrounds, precisely the people who need the public sector.

William Raspberry, the noted columnist, concludes that same gender programs clearly work. I have a column from William Raspberry. I ask unanimous consent that column be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NO OFFENSE, BUT WHAT HAVE THEY LEARNED?

(By William Raspberry)

Thank heaven it's not a public school, or St. Stephen's and St. Agnes would be in trouble. No, the private Episcopal school in Alexandria is not overcharging kids, or abusing them, or oppressing them. It's educating them very well.

But it is doing so by (among other things) operating single-sex classrooms for math and science in sixth, seventh and eighth grades.

The rationale for this gender separation is the well-documented fact that, in math and science, girls tend to do as well as boys of equal intelligence. Whether the difference is the result of nature or merely of socialization, of male-oriented teaching styles or of lowered self-esteem for girls, the result often is that girls have their subsequent academic and career choices curtailed.

I've heard all manner of explanations: that girls learn more efficiently by listening, boys by mental and physical manipulations; that girls deliberately under-perform (in mixed settings) to avoid the social cost of being as good as the boys; that teachers (inadvertently, of course) pay more attention to boys than to girls; the girls prefer cooperative learning, while boys turn learning—and everything else—into a competition.

Some of the explanations may not be true. This is: If the St. Stephen's and St. Agnes experiment were taking place in a public school, somebody would be out to stop it.

They just stopped one in Philadelphia, where John Coats, a teacher at Stanton Elementary School, had initiated a model five-year program for a group of 20 first-grade boys who had had learning problems in kindergarten.

The program was working—indeed, it was the subject of a documentary, "I Am a Promise," that reportedly is up for an Oscar. Nine of these erstwhile slow-learning boys made the honor roll. But the program is dead now. The American Civil Liberties Union threatened to file a lawsuit against it on the ground that boys-only classes are unconstitutional, and the school district folded.

Detroit's attempt to establish all-male academies as a way of rescuing boys at risk of becoming dropouts (and worse) ran into similar legal opposition, as did an earlier effort in Miami in which I, quite indirectly, had a hand. My limited involvement was a column I had written on Spencer Holland, then with the D.C. school system and now at Morgan State University in Baltimore. Holland, an educational psychologist, had told me of his dream to establish all-male kindergarten and primary classes, headed by male teachers. Particularly in the inner cities, where young boys may go for days at a time without directly encountering a literate adult male, he thought it might make an important difference.

Willie Wright, a Miami elementary school principal, saw the column, and asked me to help him get in touch with Holland. In the fall of 1987, the two men implemented Holland's idea. As Wright told me later, "It was a total success, academically and socially. There were no fights, no kids sent out for discipline. They not only improved academically, they became their brothers' keepers, something not generally found in low socioeconomic schools. Not a single parent complained. In fact, virtually all of the parents of boys wanted their sons in the classes."

But after two years of unquestioned success, the Department of Education's regional office killed the experiment—said it was a violation of Title IX (of the federal Civil Rights Act) guarantees against gender discrimination.

Where do they get these people who are so solicitous of disembodied "rights" that they are willing to do demonstrable damage to actual children? The explanation, always, is that the way to meet the academic needs of these real-life children is not to segregate them by gender but to make the classrooms fair.

Of course. But it isn't entirely clear that the problem is classroom unfairness of a sort that can be readily corrected. Most elementary schoolteachers (sixth grade is where girls' self-esteem begins to take a downward slide) are women and are unlikely to be deliberately uncutting the self-confidence of girls' Philadelphia's Coats, like Holland before him, thought the boys weren't learning

> because of the near-total absence of positive male role models in their lives. How do you make the classrooms fair enough to compensate for that?
>
> There's a lot we don't know about educating children. That's what make it so sad when these self-righteous monomaniacs are willing to kill a program that clearly works for actual children out of deference to the possibility that somebody's theoretical rights might somehow be damaged.
>
> Where, I ask, is the societal gain if our children wind up dead to "rights"?

Mr. DANFORTH. The headline is "No Offense, but What Have They Learned?" I do not know yet the date, but I will supply it for the RECORD later.

Deborah M. McGriff, Ph.D., with The Edison project. She concludes, "Same gender schools are a viable idea supported by credible research."

Anthony S. Bryk, professor of education, University of Chicago:

> * * * results here strongly suggests that schools specifically designed to educate historically disadvantaged populations—such as women, minority men—may be especially effective in expanding educational opportunities in our society.

Anita Boggs, principal, Rochester, NY, speaking of the amendment that is now before the Senate:

> Your amendment would offer serious researchers the opportunity to take this concept out of the realm of assumptions and band wagon hysteria and into the realm of hard facts based on research driven data.

James S. Coleman, professor of sociology, University of Chicago:

> The amendment will provide a valuable opportunity to learn from a virtually costless educational change that could increase achievement.

Cornelius Riordan, professor of education, Providence College:

> Single-gender schools work. They work for girls and boys, women and men, whites and non-whites. Research has demonstrated that the effects of single-gender schools are greatest among students who have been disadvantaged historically—females and racial/ethnic/religion minorities.

Dianne Ravitch, former Assistant Secretary of Education.

> This is an important amendment, for it will expand the educational diversity and opportunity that is so badly needed for children who are now at risk of failure.

Elsa Bowman, past president, National Coalition of Girls Schools:

> It is ironic that Title IX, originally intended to encourage gender equity, now actually hampers the public sector's freedom to experiment with alternative programs such as single-sex schools. At present, such models of schools are available only to parents who can afford a private or parochial school. Parents who must rely on public education are being denied the right to choose from a range of educational options which might better serve their children.

David Reisman, professor of sociology, Harvard University:

> Opposition to the Amendment would seem to me to suggest a fear on the part of some of the groups which have opposed single-sex education for boys, even the African-American boys at greatest risk, that it might turn out to be successful!

Those are the words of people who know far more than I know, and they have studied this far longer than I have.

I just want to add one other point. I think all of us in Congress have been stung in the health care debate by those who have said, "Why can we not have what Congress has?" For people who go to Congress and they have children, they have a whole variety of opportunities. They can send their children to some of the best schools in the area, if not in the country.

Some of those schools are coeducational. President and Mrs. Clinton send their daughter to a coeducational private school, Sidwell Friends, an excellent school. Other people send their kids to very, very fine single-sex schools—National Cathedral School, St. Albans School. Vice President GORE, I believe, has sent his son, or sons, to St. Albans. Holton-Arms School where my daughters have gone; Landon where my son has gone—all single sex.

Some of the Catholic schools are coeducational, some are single sex. Georgetown Prep, single-sex school. It is an option that we have. It is an option that people who have some income or some assets have. But it is an option which is generally unavailable to people who must rely on the public schools. And yet it is an option that might work. Not for everybody, not for every child, but for some children it might work.

We do not even have the knowledge to make that decision, other than some anecdotes which I have recited, other than some studies which have been very partial studies and conclusions from some experts. But the body of information is not there. Let us at least try it. Let us at least try it on this very tentative version that is offered in this amendment—only 10 demonstration projects around the country. Only 10 around the country, each of which would have to be approved by the Secretary of Education, 5 years per program.

The school district does not have to participate. Parents do not have to participate. But for those who want them, Mr. President, does anybody contend that we have someplace to go that is down? My view is, given the state of education in this country, we have no place to go but up. It is the greatest thing we can give our children, and when we talk about generation after generation in poverty, and when we talk about subclasses of America that seem locked into the status quo, should we not at least offer some research on a tentative basis to see if something else works?

So, Mr. President, with that in mind, I offer this amendment.

Mr. GRAHAM. Will the Senator from Missouri yield for two questions?

Mr. DANFORTH. Of course.

Mr. GRAHAM. Mr. President I am impressed with the innovation of this idea, and I personally believe that schools ought to be encouraged to experiment so that they can meet diversity of needs of children.

As I listened, the Senator's statement of problem is that there are current legal impediments which have caused local school districts to be either reticent to or to actually be prohibited from pursuing single-sex schools; is that a correct statement?

Mr. DANFORTH. That is correct, either because of statements made to them by the Department of Education or the fear of lawsuits. I might say, in the case of Miami, it was the regional office of the Department of Education. In other cases, it has been the threat of lawsuits that have caused them to terminate the programs or to continue the programs on a clandestine basis.

Mr. GRAHAM. My concern is that it seems as if the amendment of the Senator from Missouri goes beyond solving that problem and creates a rather elaborate superstructure of grants, funding and advisory committees in order to set up these 10 demonstration programs.

Would it not be more direct and a resolution of the problem if we were to authorize—under some appropriate circumstances—a waiver of those existing provisions in title IX, or elsewhere, which have served as the prohibition and then let local school districts without the restraint to local educational agencies or without the superstructure of an elaborate grant process in specific details as to how it be accomplished, let local discretion decide, A, whether to adopt this philosophy and, B, if so, how to go about implementing it?

Mr. DANFORTH. I think it would be wonderful if there were a simplified and very general waiver, but my concern was, I think that there is obviously a controversial idea and when you have a controversial idea, it is better to proceed, I think, in a cautious way. That is why we limit this to a demonstration program which applies to only 10 possible schools and which has an application process, and in the application process, among other things, the school district has to give various assurances, especially assurances relating to the equality of opportunity.

I had a discussion about this last week with Senator Carol MOSELEY-BRAUN, and she expressed the concern, well, maybe this can be rigged in such a way that it will be disadvantageous to various people. We have assurances that have to be given that resources are used equally for the same gender classes for boys and girls, that activities assisted cannot have an adverse effect on either sex, the distribution of teachers between same gender classes for boys and girls are equal, and so on.

All of this is the way to try to give assurances to people that were proceeding one step at a time.

Mr. GRAHAM. If I can make a short statement, Mr. President, and then conclude with another question. What concerns me is that there is an appearance here of more than sanction but outright promotion of this idea. For instance, in the appropriations section in the first year, you authorize up to $1 million for 10 local educational agencies. Those dollars, as I read the amendment, are to be used for planning purposes. Then in subsequent years, it is "such funds as may be necessary."

What concerns me is there is an inference there that a school district is going to receive more than normal funding through this additional Federal source to support these single-sex schools than the school district would receive if the same children were in a conventional dual-sex educational environment.

I do not think it is either necessary to solve the problem, nor maybe the goal of the sponsors of this proposal, to create such an outright promotion by the carrot of additional Federal funds.

Personally, I think the idea would be more acceptable and less controversial if it stopped at the problem—that is, removing the current legal inhibitions to local school districts experimenting with this—without them going the next step of creating the concept that there is a Federal advocacy of this approach and an undefined amount of potential Federal financial support for these schools.

I am not incorrect, am I, in suggesting that it is not your opinion that these schools are going to be permanently more expensive than traditional dual-sex schools and, therefore, are going to require either from Federal or local sources a continuous level of funding which is above that available in dual-sex schools? Am I correct that is not your assumption?

Mr. DANFORTH. That is a thought that, quite frankly, never crossed my mind. The $1 million, which is about the smallest amount of money I guess that could be appropriated by the Federal Government, is simply for the purpose of the cost of submitting the grant application. The only other cost that I conceive of is a study of how effective it is.

But there is absolutely no notion of trying to sweeten the pot or trying to encourage school districts to do it. Rather, it is to allow up to 10 school districts to make an application and to simply offer them the possibility. It has to be borne in mind that by the very nature of this, the school districts that would apply for this are, generally speaking, the poor school districts, and because of that we thought that to facilitate the application and to also allow the possibility of studying how well it works, certain funds have to be made available. If the Senator would like, I would be happy to delete that if that would be something that Senators felt strongly about. I really do not feel strongly about it. I just want to open up the possibility of a limited number of cases of waiver.

Mr. GRAHAM. With that goal, I would be in agreement, to allow local school districts to have the flexibility to experiment with this without creating the impression that the Federal Government is promoting this as opposed to other organizational arrangements local school districts may be considering.

There are lots of ideas that I personally, if I were a member of a school district, would like to see my school district experiment with and attempt to implement. But I am cautious about the Federal Government passing a whole series of interesting ideas with bits of money behind them and the distorting effect that it is going to have at the local school district level by creating the impression that these are the ideas which have been given some particular sanction and for which there is a positive inducement by virtue of the money available.

I think the amendment the Senator submitted says after the first year when the funding is limited to $1 million, then in subsequent years it shall be such funds as are required, which could create the impression that there is going to be some cornucopia of educational dollars flowing to those districts. I doubt that that is the case, but I think that creating such an impression, as flawed or as inappropriate as that impression may be in terms of the sponsor's objective, goes beyond the necessity of removing legal inhibitors toward the promotion and advocacy of a particular idea.

Mr. DANFORTH. As I stated, that never crossed my mind. If the Senator is interested in this and believes that is the effect of it, I will be very happy, as soon as we finish the colloquy, to ask my staff to communicate with the Senator's staff, and we can send a modification to the desk.

Mr. GRAHAM. Mr. President, I would be very pleased to engage in that discussion.

Mrs. FEINSTEIN. Mr. President, I rise to commend the Senator from Missouri. I had the opportunity to listen to his remarks, and I would like to compliment him for a very thoughtful and comprehensive statement.

I really believe that inherent in the early part of the Senator's remarks were statistics that indicated our public school systems are failing to educate young people. We need to have flexibility, and some of that flexibility is already being shown. We have seen the development of magnet schools, alternative schools, a new program for charter education. Why not try some single-sex schools? I think $1 million for a pilot of 10 schools is certainly something that this bill ought to be able to provide.

I am the product also of high school which was single sex. It stood me in very good stead. I went on. My elementary education was in public education. I had the opportunity to go to a Catholic girls high school which was a very special experience for me, gave me extraordinary benefit, I think.

I listened to what the Senator said about his own children, and I find myself in agreement. Why should not a parent have a choice of whether to send a youngster to a single-sex elementary school if that parent believes that youngster could learn better in that environment. It seems to me to be something that public education ought to offer.

I would like to commend him for his thoughtful dissertation and rationale.

I yield the floor, and I thank the Chair.

The PRESIDING OFFICER. Who seeks the floor?

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as always, our friend and colleague has addressed the Senate in a very thoughtful way. He is someone for whom all of us have enormous respect because of his continuing interest and commitment to advancing the academic achievement of young Americans. Any proposal that he recommends is always given a good deal of thought and attention. Certainly this one deserves thought and attention as well, since really the thrust of all of this legislation is to try to see to the advancement of education for children, particularly those that are economically disadvantaged. I think all of us understand very well the extraordinary challenge facing our young children in this country who must deal with, both in urban and rural circumstances, many of the real challenges of life. These challenges pose extraordinary difficulties for young people, who deserve to grow in an atmosphere where they can learn and where they can progress.

I think all of us understand the importance of academic achievement and accomplishment and what it means in terms of self-value and self-worth for each individual, and the influence it has on the contributions that every individual can make not only their own lives and their families' lives but also in the future of the country.

I think there is an increasing recognition that intervention at the earlier stages is critical. Earlier in the year we made the significant step of expanding Head Start from ages zero to 3, in the effort to focus resources on developing confidence in our children before they even enter the academic world.

So this bill really is about trying to enhance academic achievement of our young people, recognizing the existence of enormously complicated issues, such as the fact that many children live in home settings torn apart by physical violence, emotional abuse, and substance abuse. Too many children live in extraordinarily difficult home environments, and if that were not enough, have to face violence on their way to school, at school, and on their way back home from school. No place for them is safe. In addition to the violence, many children go to school hungry, and then must try to learn on empty stomachs in crowded classrooms, using books that are not challenging, and in many, many instances, outdated, taught by teachers who are, as a result, unable to give the kind of attention and instruction that they were trained to provide.

There is no question that in many, many instances—although there are some extraordinary examples to the contrary in many of the urban areas—improving the ability of children to excel and achieve in the schools is really one of the Nation's great and basic and fundamental challenges. Earlier this year, the Carnegie Commission report came out on the impact that nutrition, and the lack thereof, has on the brain development of infants and young children. Giving children the right kinds of nutrition, as well as love and support and caring during the very earliest parts of their lives, can have a significant impact on their ability to learn and progress.

So these are difficult and complex issues, and I think we all have a sense of frustration about what is really the best way or a new way of moving this process forward. We have reflected on many of the suggestions and recommendations which have been illustrated in this legislation, and have responded by waiving various kinds of requirements at the local level to permit a greater gathering of resources, thereby allowing local communities the ability to reduce the number of students in the classroom, enhance teacher training, and provide many other programs to expand literacy both for students and parents.

It is against a background, Mr. President, that we have seen over the history of our country where we have had many of our schools segregated as a result of policies of historical understanding. We certainly moved away from those, and attempt to do so. But still we find that many of our schools are basically of one particular race, certainly in many of the urban areas of this country.

We have also come from a tradition where young women students have not been given the kind of recognition, have not been given the priority, have not been given the attention, and have not been given the support in a wide range of different services out there. Some of those were referred to by Senator DANFORTH. That has generated strong support by a number of us here in trying to address the gender equity issues that are surrounding education which many of our colleagues have given great attention to.

We are not that far from the problems that young women were facing in terms of entry into the Citadel—one of our fine universities—in recent times, to understand that in many instances some of the institutions of higher learning as well as others have not been as nearly receptive to women in terms of the educational opportunities that are being provided to them.

We passed title VII and title IX. We passed antidiscriminatory provisions in terms of women, and also on gender, and we were fighting this issue even in recent times when we had a Supreme Court say it was all right at an institution of higher learning if you are going to discriminate against women out there on the playing field, or even in the lab, as long as you did not discriminate against them in the financial aid office because that is where the entry level of financial aid, which is taxpayers aid, was actually coming to the university. That is the most convoluted reasoning that I think we could possibly understand, certainly by the Supreme Court.

But, as a matter of national priority, we have to be very clear that we are not going to continue to support taxpayers' money to be utilized in ways that are going to further segregation, whether it is going to be on race or religion or ethnicity or gender, or on disability as in the most recent times.

So this has been building over a period of time where we have seen women—women's education, women's programs, support for women's activities have basically been second class in terms of too many aspects of our educational processing system. It is one of the key reasons that we have included in this legislation the gender equity provisions because we have taken note of it. We have had testimony about it—that when you begin to divide up and have in one situation just boys or young men, and in another situation have girls and young women, the record is very replete, it is very extensive, and it is historic about the fact that young women or women under the kind of a dual system which has moved in a direction where you have males and have females who historically, and even in the very recent times, have been shortchanged.

With strong bipartisan support, we have the programs in this legislation to address the issues of effective gender equity policies and practices at all educational levels, to assist educational agencies to implement policies and practice complying with the title IX program, the training for teachers and counselors, administrators and other school personnel, especially preschool and elementary school personnel in gender-equitable teaching and learning practices. Why? Because, in the experience we have seen in this country, when it has been left out there, the boys are in one area and the girls are in another, history has demonstrated time in and time out that they are the ones that have been left out and left behind.

We continue leadership training for women and girls to develop the professional, marketable skills to compete in the global markets, and the school-to-work transition program which we passed before. There have been a number that have been selected. In my own State we have Tech-Prep which has been extraordinary in moving young people from high school into good employment. We have to be very careful so that the ones that are selected are not primarily males. We have taken note of this as well, which offers new opportunities for young people.

Many of the kinds of model programs that have been out there to try to jump start that School-to-Work Program tended to be primarily the male programs because there had not been the development of other kinds of educational models by which women could move on into the workplace in a more equitable way.

This goes on, Mr. President. I just raise that because of the genuine concern that we have about beginning to diminish. I find that the arguments that Senator DANFORTH made by only limiting this to just a handful—the 10 schools, very, very small to try something—has at least the basic kinds of appeals, because I think many of us are prepared to try most anything to try to have some impact in terms of children and enhanced possibilities.

But I think that we have to look at this whole area in terms of waiving important provisions in law which have been carefully devised over a period of time to try to give the continued protection to individuals.

We know basically what begins to work for children, from whatever experience. We begin to have some kind of idea. My concern is that in an attempt to try to find some silver bullet in this whole process, that we really failed to focus on what is the most important and essential lessons that we have to learn in terms of educating. Young people cannot learn if they are hungry when they go to school. Young people cannot learn if they are intimidated in the classroom. Young people cannot learn if they are in overcrowded classrooms. Young people cannot learn if they have teachers that are not well trained. Young people cannot learn if they are going to schools and buildings that are deteriorating and without heat. Young people cannot learn if they have lousy school books and been denied some of the more basic kinds of elements that most of us associate with education; that is, sometimes to be able to develop themselves physically and enjoy the comradeship in terms of sports, competition, and learning the lessons that they afford in those areas.

We know that if you deny our young people in an important way, any of those dozens of others, they are not going to learn. They are not going to learn. The focus and the attention of this legislation is to try, in an enhanced way, because there was an important enhancement by the administration in terms of the funding of these programs, to build upon those experiences, to reach out in terms of trying to be sensitive to the gender-equity issues, and to try to see if we cannot make some additional kinds of impact in terms of the children, and with the expense of the Headstart Program, and with the school reform of the Goals 2000, and with the School-to-Work Program, and with the community service programs, and with the very important advancement in terms of the teacher training, and with the inclusion of Senator MOSELEY-BRAUN's amendment dealing with infrastructure, and with the different provisions of the legislation dealing with literacy and other efforts which have been tried and tested, advance the whole process.

So, Mr. President, I have great respect and friendship for the Senator. In listening to his discussion, and during the period of time, I find that he makes an important contribution, certainly, to the debate and the discussion. It has, obviously, a good deal of appeal to a body that is constantly looking at alternatives that we have not thought about or considered. But I do think that, having seen the whole process and movement, we should be very wary of waiving basic and fundamental rights. There have been some who have suggested in some areas that we ought to try to do it not only with respect to gender, but also on the basis of race. Suppose you just do it on the basis of race. What would eventually happen if you do it just with respect to African-Americans, and then, let's say, with respect to Hispanic-Americans or Asian-Americans. And then, would you have the same thing with regard to gender on the other side? What is going to be the totality in this kind of a movement? Can we honestly say that this would help us overcome one of the great challenges of our society—eliminating misunderstandings and suspicions and insensitive awareness to the hopes and dreams of young and old alike? Or does it really only perpetuate the problem?

I know that the particular scenario which I have just outlined is not included in this amendment, but it is a very real part of what some individuals have been thinking about. As a society, we should be cautious about moving in that direction, because we have a pretty good idea and awareness about what does work. It is the investment in people. Schools work because people invest their energies in making them work, and they invest in teachers, and that results in academic achievement and accomplishment. And these schools must constantly improve in the process. We know what really works in education. Too often, we are unwilling to give it the kind of central priority for society we should.

So, Mr. President, I hope this amendment will not be accepted.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, I thought, until the last sentence, that was a pretty good speech for my amendment.

Mr. President, clearly the objective of all of us is to improve opportunities for more of our citizens, and particularly for poor kids. I went through a whole list of facts earlier about the failure of education for our most disadvantaged kids. I made the argument that we have to do better; we have to try something that does better.

With respect to the possibility of single-sex education, first let me reiterate that Senator KENNEDY talked about the importance of going slow and not jumping into something that is precipitous. It would be hard to imagine an amendment that goes slower than this amendment. This is a very, very incremental amendment. It does not create a nationwide waiver of title IX. It simply gives the Secretary of Education the power to waive title IX in no more than 10 selective cases for no more than 5 years—just to try something else. It does not force a school district to participate; it does not force a parent to participate. In fact, as a result of this amendment, if this amendment became law, there is no parent in the country that would not, as a matter of right, be able to place his or her child into a coeducational class. Coeducational classes, under this amendment, must be made available. All this would say is that there would be the possibility of trying out single-sex education.

Clearly, we have a problem now. It turns out that the problem is not only one of poverty and is not only one of poor schools, but there is a gender aspect to this problem. There are studies that girls in our schools often do not do as well as they should. In girls' schools, 80 percent of girls take 4 years of math in comparison to the national average of 2 years in coeducational environments. So, in a coeducational school, girls generally take 2 years of math at the high-school level. Boys, as a result, tend to outscore girls in college board tests. There is no reason for that. I do not think there is a reason that a scientist could discover for that. But on a de facto basis, something happens in the education of at least some girls.

I pointed out earlier, teachers call on boys more frequently than they call on girls. Why is that? It is not something that is written in the law. There is nothing in the law that says to teachers that you have to call on boys more than you call on girls. But it is true. There are studies that show this, and it is true. If a girl is in a class side-by-side with a boy, the boy is more likely to be called on than the girl.

So by the sixth grade, girls have become more tentative; they are less likely to respond to questions. By the time they enter middle school, girls who have previously held the edge in subjects, including mathematics, begin to lose points in every category of national tests.

I do not know the reason for this. But I do know that from the standpoint of girls, there are some girls—maybe a lot of them—that do better in a single-sex setting than a coeducational setting. Therefore, there are parents that pick all-girl schools, just as I and my wife and our girls did for them. That is what they did, and this is what brings them out. It did, at least for them. It made them very confident. Every officer of the class was a girl. Every member of the student council was a girl—the newspaper, the yearbook, all girls. And for them that was a great thing—not for everybody—but for them it was a great thing.

I pointed out in the debate that Prof. Cornelius Riordan of Providence College has studied this, and he has found that girls who were in a single-sex setting do better than boys.

I am just going to repeat that. I know I have already read this to the Senate.

Cornelius Riordan's research confirms earlier research that girls in single-sex schools score a full half grade above their coeducational counterparts on academic ability tests. Girls in single-sex schools outperform girls in coeducational schools almost a full grade level on science testing scores.

I do not know the reason for that. But it seems to me that there are parents out there when they hear of this who might want to say: "I would like to try that for my daughter. I would like to try that for my daughter. I would like to give it a try." And there are parents of sons who would say, "I want to try that for my son." I think that we should let them do that.

The state of affairs, the state of the law now is that if a parent makes that decision, our response is: "Well, so what? We do not care what you think. We do not care what the school district thinks, and we do not care what the parents think. It is not possible to have your child in a single-sex setting even if you are convinced that this is going to work for your kid. Your Congress says no. Your Congress says no. We will not let you do it."

I am not saying we should just take the cork off the bottle. I am just saying that in a limited number of cases we should try it. This is not the repeal of title IX. This is to say we really are concerned about those who now are not doing well, whether they are minorities, whether they are boys or girls. We are really concerned about those who are not doing well. We as a country are not doing a good enough job by them, and we want to at least open up the possibility of trying something else, just in 10 cases, just for 5 years, just try it and study it and see.

I think that if we were to try this in 10 school districts for 5 years, there would be professors of education around this country who would be studying it. There would be all kinds of studies. And then we would have an opportunity to see whether or not it works.

One of the interesting things about the quotes that I read earlier, Mr. President, from the academic community about this is that so many of them said, in effect, we support your amendment because it will give us something to study. It will give us something to study because right now, by and large, there is no single-sex education in public schools. So if you have single-sex education, by and large, it is in private schools, and those schools spend more money per student than public schools.

People can say that is not a fair study; that is not a fair analysis. Even though there are studies that show that, generally speaking, particularly girls, and particularly minorities, who have an opportunity to be in a single-sex setting, do better, the argument could be made, well, that does not mean anything because those are private schools, or those are parochial schools, those are not public schools.

This amendment says let us just try it for public schools and do not do it on a furtive basis. Do not make them go underground. That is what we have now. We have underground schools. We have schools where because of the strength of personality of the mayor of Baltimore who says, "Don't you dare sue my school district," you have an experiment going on, but it is going on on an unapproved basis, not knowing when the shoe will drop or when the Department of Education will speak or when the lawsuit will be filed.

So that is all this is. This is not a wholesale anything. Is it a precedent for something? I think it is just a precedent for trying out one new program. I would not see it of having a precedential value for anything. But I do think that sometimes we can get so bound into the existing legal structure that nothing is possible beyond that legal structure, that there is not any opportunity to move. This is the law. Congress has acted. Congress has spoken. This is it. Then there is no chance to see if there is anything better than the four corners of the statute. This is an opportunity to see that.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I think we should judge this amendment both in terms of this particular piece of legislation, which is focused on trying to enhance educational achievement for children that are particularly disadvantaged, and also we ought to judge it in terms of the most recent history, during which we have found that discrimination in the U.S. education system has not just been related on the basis of race but on gender as well. There have been efforts that obviously have been made by many of us to try and move beyond that period of a continued kind of discrimination.

I want to point out for the record, Mr. President, that there are many innovative programs that are taking place in high schools across the country today in terms of working with different groups over different periods, some which do focus on gender differences.

We have seen, in historical and even in recent times that women have been shortchanged in terms of educational facilities, in educational funding, and in a wide variety of ways. This amendment would suggest that, even though it may only be 10 different school districts, somehow this is really the way, this is really an active option in terms of enhancing opportunities for women.

However, we should be asking if this could lead to separation of men on a larger scale, and eventually in other areas as well. It's easy to say "Well, look we are just starting that with education now." But then that could become "Let us try and see if it works in the area of employment. Let us try if we can get a better opportunity for getting women ahead in terms of some of these jobs, or there may be some opportunity to get men ahead in some of these jobs."

"Let us just say we are going to waive a little bit on the discrimination in the employment." And this could lead to "Maybe we can experiment with single-sex programs in housing, as well as employment and education. Just let women in only certain parts of the house. Maybe this would reduce some of the violence. Or, if not the women, maybe we can find a way to just put the males together in certain kind of housing. Maybe that's the way we can reduce violence."

We must ask ourselves as a society whether we are enhanced by furthering separatism in our society? What about the young women enrolled in single-sex classes, who will later compete for leadership positions with other women and men who have been educated in coeducational environments. Will these women, who have been separated in the classroom, be able to effectively interact and effectively lead in a world in which there is no separation of the genders? How will they be able to interact in the real world when they have not had the opportunity to interact with both genders in the classroom? And if we allow such separatism, what will happen to the ability of men, who have been separated from women in the learning environment, to effectively interact with women in a workforce where women are no longer hidden from view? This has been the problem women have faced throughout their history in this country. Surely there are better ways to improve the confidence and ability of women in the classroom without separating them from the other half of society.

We know what happened in terms of the employment situation over the period of the history of the country; that by and large men have had no difficulty at all in terms of taking and assuming control and command in situations where there are men and women, and what we have seen exist which women have been facing over a long period of time in terms of taking leadership positions in managing men and managing kinds of responsibilities. Is this helping? Is this assisting? Does this kind of experiment really move us in that direction?

Well, Mr. President, I do not really see that. I just do not see it as an intoxicating suggestion that, "Well, we are just looking at 5 or 6 or 10. How can this really be so bad. We are only looking at 10 in terms of employment. We are just going to waive this act for a shorter period of time."

What is going to happen in terms of those teachers, as they start coming up? They are going to need special kinds of training, perhaps, just to deal with the women and just with blacks. How long is it going to take before the next amendment says, "Well, all right, let us separate the blacks out, let us put Asians, let us put the women students, let us put the browns out here. Let us separate all of these people. Let us just try it."

Now we have to also waive for the teachers. Because they are going to be in a different situation, we have to waive those, as well. We have to waive the act for the universities that are going to train those teachers. We are going have to waive those matters, as well, in terms of teacher training.

How do you say no in terms of the development of those situations? People say, why not go that way?

We know what has been happening in the educational system in terms of tracking. We know what has happened in our educational system in terms of pullout, which we have rejected in this legislation.

We say, all right, let us just take those individuals who are in the greatest need of additional kinds of training and let us pull them out of the classroom and put them over here. And what happened after this period of time? We find out that they have missed more from not being in the classroom at the time when they are being pulled out. Well, that is all right. Maybe if we left them there all the period of time and put them in another situation, that they can develop.

I know that this is well-intentioned. I think all of us who have looked at the extraordinary problems that we are facing in our urban areas, primarily, to some extent in terms of the rural areas, know the incredible kinds of frustrations that parents are facing in terms of the failure of our educational systems.

But, quite frankly, Mr. President, there are increasing examples of schools in the inner cities where the academic achievements are going up, where teachers have been innovative and creative. It is true in my city of Boston, working with blacks and browns and Asians, and getting the kinds of results that are equal to any educational private schools in this country in the public schools.

I can take anyone in this Chamber to those schools. Those teachers in those classrooms give you the difference. They are not prepared to give up. They are not prepared to give up on it. I can bring you to schools in my city of Boston where 40 percent of those children are on AFDC, where they teach eight different languages in those schools, and where there are scores of individuals from all races who want to attend it. They are making some progress. They are making some important progress, and they are creating some hope. And the teachers are challenged.

It seems to me that we have a course that is set to try, which is incorporated in this bill, which is really a reflection of a wide variety of work of Republicans and Democrats alike, with very careful attention. Not that we should not be willing to consider other kinds of ideas. I just do not believe that we are really moving toward enhancing the critical kinds of needs of children who are economically disadvantaged by moving in this direction of waiving some of the most fundamental and basic tenets of our society in terms of separation, rather than inclusion.

So I hope that this amendment would not be accepted. I do not know what the Senator would like to do on this as far as the time.

Mr. DANFORTH. Mr. President, we are working up a modification to try to meet the concerns expressed by Senator GRAHAM. I think in just a few minutes that will be ready. At that time, I will ask for the yeas and nays.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in strong opposition to the Danforth amendment to S. 1513—the Improving America's Schools Act.

I am proud to be a cosponsor of S. 1513. Our Nation must maintain quality public education for everyone—and that is exactly what the Improving America's Schools Act is all about.

S. 1513 would increase educational opportunities for all Americans by raising the authorizations for programs authorized by the Elementary and Secondary Education Act [ESEA] to $12.5 billion while targeting more of these funds to low-income children.

This legislation would also increase educational opportunities for all Americans by authorizing most of the gender equity in education package.

Mr. President, Senators KENNEDY, SIMON, HARKIN, MIKULSKI, and I introduced several bills last year as a cooperative effort to address the widespread gender inequities in our Nation's schools. These bills, which are collectively known as the gender equity in education package, include the Equity in Education Amendments Act, the Women's Educational Equity Restoration Act, the Fairness in Education for Girls and Boys Act, and the Equity in Athletics Disclosure Act.

All four of these bills are important because they will help the Secretary of Education enforce title IX of the Education Amendments of 1972. This law, which prohibits sex discrimination in education, has helped to eliminate many discriminatory policies such as rules that only boys could take shop classes.

Just last week, the Senate recognized the need to improve compliance with title IX by unanimously accepting the last important gender equity initiative, the Equity in Athletics Disclosure Act, as an amendment to S. 1513.

The amendment being offered today by the Senator from Missouri, however, would undermine our efforts to eliminate sex discrimination in our Nation's schools.

The Danforth amendment would authorize the Secretary of Education to support 10 demonstration programs that provide single-sex public education to low-income, educationally disadvantaged students. In order to shield these programs from lawsuits, the Danforth amendment would allow local school districts to waive the civil rights protections in title IX of the Education Amendments of 1972, title VII of the Civil Rights Act of 1964, and all other laws which prohibit sex discrimination.

As I have already stated, I support S. 1513 because I firmly believe that we must focus appropriate attention on the longstanding, adverse conditions that exist in our Nation's low-income communities by increasing the authorization for ESEA programs and by targetting more of these funds to low-income children. While I commend Senator DANFORTH for his focus on these conditions, I oppose any attempt to waive essential civil rights protections for any purpose.

As someone who strongly supports critically important civil rights laws, I am convinced, for several reasons, that his legislative proposal is neither necessary nor appropriate.

Most importantly, I oppose the Danforth amendment because it could create unconstitutional discrimination on the basis of sex by allowing local school districts to waive title IX and other important civil rights statutes.

This amendment would also create a dangerous precedent. If Congress were to waive civil rights laws to test single-sex education, it would encourage other individuals to file for additional waivers from other civil rights statutes.

This amendment also sends the wrong message to our Nation's educators and administrators: That complex educational problems faced by young people in disadvantaged communities can be solved by segregating groups of students from one another. It also raises grave policy concerns about the wisdom of addressing the serious educational and social problems facing our disadvantaged children by returning to the long-discredited practice of segregated schooling.

Mr. President, for all of these reasons, I join the following organizations in opposition to the Danforth amendment: the American Association of University Women; the National Council of La Raza; the American Civil Liberties Union; the Anti-Defamation League; the NAACP; and the National Organization for Women.

Since our efforts to achieve excellence in education will be half-hearted unless gender bias in our schools is eliminated, I would like to conclude my remarks by urging my colleagues to vote against the Danforth amendment.

Mrs. MURRAY. Mr. President, I rise today to urge my colleagues to vote against this amendment. I do appreciate and understand the intent of Senator DANFORTH's amendment which is to find a solution to the continued lack of progress by whole groups of students in our schools. However, I cannot support a waiver of civil rights provisions to do that.

What concerns me most is the precedent Congress would set by waiving our civil rights laws to help researchers. I don't think this is a road we want to start down. Especially given the fact that there are other ways of achieving the Senator's goal of facilitating research regarding single-sex education without waving any of our civil rights laws.

Under current law, single-sex programming is permitted if you can show that such a program would remedy historic discrimination or under representation. Many of our private and parochial schools serving inner-city youth already have single-sex programs that could provide ample information to researchers.

We should certainly pursue that option before taking such a drastic step.

Again, I want to say that I recognize and understand the support for such a study. But, before we waive any civil rights laws to encourage single-sex classrooms, we ought to find out whether our education and social problems can be addressed by segregating our students and whether a waiver of these laws is necessary to do this. I have serious concerns about the wisdom of such a policy.

I urge my colleagues to oppose this amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, this is an interesting amendment. I have listened to the very excellent dissertation by my friend from Massachusetts and also the long statement of my friend for many, many years from the State of Missouri. I understand the feelings on both sides.

Let me, first of all, just run through again what the amendment does, so argue the amendment on that basis.

This amendment would provide funding for a demonstration project, no more and no less. It is not an attempt to establish or change the existing law in any regard. In my mind, though, the controversy over this amendment shows that we have gone through a very tumultuous time, and I think we have fared well. When title IX was passed, we understood it was important and necessary for us to remove the problems of sex discrimination, to allow our young people, boys and girls, to be able to progress in our society on an equal footing.

We had many issues from the past which were difficult to overcome, yet we have made a great deal of progress. It makes me happy to look out now to colleges and universities and see the support that is given to both men and women's athletics. I read this morning about the women's soccer team from the United States; probably a world champion soccer team. I am sure that has a lot to do with what we have done to remove discrimination for a lot of our young women to be able to participate fully in our athletic programs. I certainly want to see that progress.

At the same time, we do know, especially for young people who may be in disadvantaged situations with difficult home lives and other problems, that there may be problems which are the reverse of what we had originally imagined. Rather than the issue of young women not having access to the same resources and supports as their male counterparts, which was an easy problem to address, we now have a situation where young women are being discouraged, either directly or subliminally, from participating in the educational system on an equal footing with young men, particularly in their efforts to learn some of the subjects on which women have not traditionally focused their attention.

As I understand the Danforth amendment, it will just give the Secretary discretion to award grants for pilot programs with same-gender classes for low-income, educationally disadvantaged students. There is no question, as my good friend from Missouri pointed out, that if you have the money, you still can take advantage of private schools that teach only one gender. Those who are economically disadvantaged do not have that option.

The purpose of the amendment is to determine whether same-gender classes for low-income, educationally disadvantaged students can make a difference in the level of their educational achievement. I think it is wise for us, as we move forward, to look hard at whether our well-intentioned policies may have created inflexible situations which we did not intend when we passed the law. I do not think it ever does any harm to do longitudinal studies on the policies we implement and this amendment provides a perfect opportunity to see whether same-gender classrooms might improve the academic performance of some very disadvantaged youth. The same-gender pilot projects would be completely voluntary and the pilot sites would have to provide same-gender classes for both boys and girls as well as provide coeducational options for any students or parents choosing that option. Also, it would admit students on the basis of a lottery if there were more students who wanted to participate than there were slots to participate in.

The amendment would provide a waiver for these programs under title IX and any other law that prohibits sex discrimination in that regard. The waiver would be limited to the extent the Secretary deems it necessary to allow the development and operation of same-gender classes as proposed by the amendment and to allow the participating pilot programs to be able to hire teachers of a particular gender to teach same-gender classes as proposed by the amendment.

As I understand it, the civil rights community has problems with this amendment because of the waiver. They are concerned that it will set a precedent, that it will have a negative impact on all other civil rights enforcement. In my mind, however, the issue is somewhat different when we talk about boys and girls than if we talk about some other civil rights issue, as I believe there may be legitimate reasons to look at boys and girls differently within the context of education, such as research which shows that they may have different learning styles. The civil rights community should not worry that this amendment will carry over to issues of race, enthnicity, or national origin because we know that is a vastly different situation.

So I feel there is a logical difference between the situation with respect to the sexes, especially when we are talking about young kids, and the situation with respect to other civil rights issues. We have issues of hormonal development and other adolescent issues that make the boys and girls different at that age. Those issues are quite distinct from the issues surrounding racial segregation, which I really do not believe is warranted under any circumstances. I believe that we must work toward total equality among various races with no discrimination whatsoever.

So I believe that we may have something to learn from the amendment proposed by the Senator from Missouri.

I support the Senator's amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceed to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know the distinguished Senator from Vermont is on the floor at the moment and, I must say, he is doing his excellent job.

I understand—perhaps I should ask, what is the parliamentary situation at the moment?

The PRESIDING OFFICER. Amendment No. 2430 offered by the Senator from Missouri is the pending question.

RWANDA

Mr. LEAHY. Mr. President, I do not see someone on the floor seeking recognition, so I am going to proceed for just a very few minutes on another matter. I utilize the Pastore rule. I will, of course, yield the floor when those involved with the amendment come back.

I see the distinguished Senator from Rhode Island, the chairman of the Foreign Relations Committee and chairman of a significant subcommittee of the Labor and Human Resources Committee. The subject I am going to speak about, I think, is probably something that will interest the Senator from Vermont and the Senator from Rhode Island because of their interest in humanitarian concerns.

Mr. President, the Parliamentarian may disagree with my analysis of the Pastore rule but, in any event, I rise to speak about the Rwandan crisis.

When we turn on the television and read the news, we know that Rwandan refugees are continuing to die by the hundreds and thousands. Images of deprivation are overwhelming. I do not think any of us, in our experience, have seen anything like what we are watching there.

They have a cholera epidemic. It has killed over 14,000, 15,000 people, including thousands of children. And we now see dysentery is going to claim thousands more. As many as two-thirds of all the Rwandans have been displaced from their homes. Some are beginning to return. But there is no clear end in sight to the suffering, and those in the camps are suffering from cholera, they are suffering from dysentery, because the thing most needed, clean water, is not available. They are not going to return unless they are given some significant medical help. They are simply going to die there. They are far too weak to try to return.

The international community has stood by while Government forces and paramilitary troops loyal to the Hutu majority slashed and burned their way through entire communities, killing everybody in sight, killing whole families, chopping children to death with machetes.

I commend the French Government for contributing troops to protect defenseless communities, and for trying to bring an end to the fighting. But it was too late to help the hundreds of thousands who have been killed and hundreds of thousands of others who have been displaced. In fact, it is now going to require a tremendous effort just to prevent the death of thousands more refugees.

I do salute President Clinton for taking decisive action to mobilize that effort. The troops, the equipment, the supplies have begun to arrive in Goma, Zaire. It was an honor for me, as chairman of the Foreign Operations Subcommittee, to work with Chairman DAVID OBEY of the House Appropriations Committee. Around 2 o'clock in the morning Friday, we approved an emergency appropriation of $50 million to finance part of that relief effort in an amendment that I offered, with the support of Chairman OBEY.

I talked with the President about this. I encouraged him to request inclusion of this appropriation, on an extraordinary basis, in the report of the conference on the Foreign Operations Appropriations bill for fiscal year 1995. I say extraordinary because neither the House nor the Senate had this matter before them, and we included it on a conference that went to about 4 o'clock Friday morning. We included it about 2 o'clock in the morning with the concurrence of the majority of those in the conference, even though it had not been before either body, it was not in either bill, and even though it required an emergency declaration by the President to take it outside the budget caps.

I salute the Senators and the Congressmen and Congress members of the conference committee for the humanitarian spirit in quickly moving it. In fact, we had items of real insignificance in that conference that took a lot of debate and this took virtually none. The Department of State will receive $30 million of this appropriation to enable them to respond to urgent appeals from the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, as well as to fund the humanitarian efforts of private voluntary organizations that provide, food, water, and shelter for millions of Rwandans.

The Agency for International Development will receive the other $20 million to finance its direct relief effort. It will provide medicine and support medical teams and purchase biomedical supplies, purchase food.

Our assistance is going to save many, many lives, and it could not have been provided by anyone else. However, I would like to sound a note of caution. More and more often the international community is called upon to respond to floods of refugees—Vietnamese, Cambodians, Burmese, Afghans, Armenians, Kurds, Sudanese, Somalis, Rwandans, Haitians. Just ask the question: Who is going to be next?

The magnitude of the world refugee problem has grown to the point where it far surpasses the capacities of the world relief resources. There are far more refugees than we have resources today. I am pleased our foreign aid can help alleviate some of these crises, but I would be infinitely more pleased if we could effectively focus our foreign aid on preventing these from happening in the first place. We will not spend the tiny amounts necessary to stop the crisis from happening, but the world community will come together after the crisis has happened, thousands of people have died, and we have millions of refugees. Then we come forward and say, "Let's do something about it." It will be far better if we help in the first place.

Foreign aid is not a popular item in the budget, and whenever any of us go home, we are always told we should balance the whole U.S. budget, get rid of foreign aid, charity begins at home, and all the rest. The fact of the matter is, we spend far less on foreign aid than most of the first world nations, as part of our gross domestic product, and we are spending less every year. Only a fraction of 1 percent of our budget goes on foreign aid.

It seems, however, that only when you have a crisis of the magnitude of Rwanda or Haiti that many in the Senate warm up to the idea of helping our fellow human beings. In fact, over the past 2 weeks, I have heard more and more the lament of the tragedy in Rwanda, but many who lament the tragedy in Rwanda do not say one word about the fact that we would not do anything to help prevent the tragedy in the first place.

In fact, 2 weeks ago, some of the same Senators who now say how terrible it is, what is happening in Rwanda, voted in favor of an amendment that would have reduced substantially our contribution to the International Development Association and the Global Environment Facility.

The IDA, Mr. President, is the largest institution that we have to help the neediest countries like Rwanda. IDA is working steadily to enable the economies of these countries to grow and to give some opportunity to their people to earn a decent livelihood so they do not become refugees. It is IDA that is coordinating the international effort to eliminate the conditions that produced the Rwandan refugee crisis. And some of the same Senators who voted against IDA voted against the same thing to stop the Rwandan refugee crisis. They say this is of Biblical proportion, this is terrible, something must be done. I will say to those same Senators that they should have joined with those of us who voted to protect that money.

I note, in looking around the Chamber, that every single Senator on the floor now voted to protect the money, knowing that it helps prevent crises. But I would like to see some of the Senators come up here and explain why they voted to cut the money.

The Global Environment Facility is a brand new concept, but we know we are going to have to have enormous international cooperation if we are going to save our planet for our children and our grandchildren. And we have to help.

Now, we can, as some suggest, abandon foreign aid as a continuing program—that might be a very popular thing to say back home—and we could confine our efforts to providing aid in emergencies, disasters like Rwanda that are so urgent and compelling that the logic of a response by the United States is inescapable.

But the number of those disasters is increasing. We cannot mobilize airlifts of supplies to every one of them. So I favor another choice. Instead of abandoning all foreign aid until a crisis happens and trying to pick and choose among the crises, why not work hard to promote sustainable economic development? It is the most effective strategy for forestalling the floods of refugees that we have seen because we raise their living standards. There is an old adage that people with full stomachs rarely go on the warpath. If there are no wars, there is going to be a lot fewer refugees.

So that is why I favor efforts to help people earn better livings and to live in a better environment. IDA, GEF, and USAID are dedicated to doing just that. The Foreign Operations appropriations bill as approved by the House-Senate conference last Friday contains provisions to support them.

So I hope many of my colleagues who opposed these provisions when the bill was on the Senate floor, who said no to the Rwandas of this world, will change their mind because I would say, one, it makes good economic sense and security sense for us to prevent these crises from happening. But I would say one other thing, Mr. President. We are the wealthiest, most powerful Nation on the Earth. We have 5 percent of the population and own close to half the world's resources. I hope Senators realize we have a moral responsibility, a moral responsibility to help those who have so little. No one of us will ever live in the squalor and deprivation we have seen. No one of us ever go hungry except by choice.

We ought to start asking ourselves, ask our consciences if it might make sense, as 38 Senators did, political sense back home, to stand up and vote against help for the poorest of the poor like those in Rwanda. While it might get a nice, rousing cheer at a town meeting back home, they ought to ask themselves what kind of a soul they have, ask is it really exercising their conscience when they have the opportunity to live in a country as powerful and wealthy as ours and with all the privileges they have.

I yield the floor.

Mr. KENNEDY. Mr. President, I ask that the Senator's remarks be printed at the appropriate place in the RECORD, not to interfere with consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, at the present time, we have had a good discussion of Senator DANFORTH's amendment, and we are in the process of trying to see if there is some common ground in that particular amendment. We have had some conversations off the floor, and those conversations are continuing. We will be reporting back to the floor in a short period of time.

We had planned to move, after the Danforth amendment—and he has indicated to us that we could temporarily set aside his amendment to go on to other amendments. We had hoped to be able to consider the amendment of the Senator from New Hampshire, to whom I had talked earlier in the day. He was prepared at the conclusion of the Danforth amendment to move ahead on an amendment—at least earlier in the day. The amendment focused on addressing or striking the new programs, the add-on programs, which had been included in the legislation.

So, at this point, we want to indicate again to the membership, as we did last week, even though there are a number of amendments that have been listed as potentially to be offered, we are inviting the Members to indicate to Senator JEFFORDS and myself and to Senator PELL exactly which amendments they would like to move forward. We are here. Members have inconvenienced themselves by coming early today to be prepared to get about the work on this measure. We are inviting our colleagues that, if they do have amendments to the floor and debate those amendments and dispose of them one way or another, we will try to work with them to accommodate their concerns.

We have had a good debate on some of the very important issues which we knew the Senate would want to address. On the question of prayer in school, on the formula, and also on the voucher programs, we have had very good and lively debate and discussion. Those were the areas that had been of primary concern to most of the Members.

Senator DANFORTH indicated to us at the end of last week about this amendment which he presented to the Members earlier today in what I think was a very thoughtful presentation. We have responded to that amendment, and it is being reviewed now as to whether there is the possibility of finding common ground. Maybe there is. Maybe there is not. We will report back soon.

But we are here. We are ready to act. We again would invite our colleagues to be here. I know we will go on through the evening this evening, and I know Members will probably have additional plans at that time. So we would certainly urge, as the leaders have urged, that we address these issues during the course of the day so we do not inconvenience our colleagues this evening.

I know it was the intention of the leader to try to see if it was possible to conclude this legislation today. We are ready to address those matters, but we urge our colleagues to come here and indicate to the staff, to Senator JEFFORDS, to myself, and to Senator PELL that they want to address certain matters.

I am authorized by Senator DANFORTH to temporarily set aside his amendment so that the bill would be open to further amendment.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts needs to make a unanimous-consent request.

Mr. KENNEDY. I ask unanimous consent that we temporarily set aside Senator DANFORTH's amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is ordered.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

HAITI

Mr. GREGG. Mr. President, I intend to offer an amendment which deals with a subject which is current in the news today and which is of considerable concern to myself, and has been. In fact, I have offered amendments on this matter in the past.

That deals with the recent decision by this administration to go to the United Nations and seek U.N. authorization to invade Haiti. I believe this decision by the administration is inconsistent, first, with the sense-of-the-Senate resolution which was passed by the Senate just recently, on June 29. And it is also inconsistent, in my opinion, with the proper role of the Congress in its relationship to the executive branch under our constitutional structure.

The fact is that this administration has decided to use force against the nation of Haiti. It has gone so far in its decision to assert the use of force as to go to the U. N. Security Council and ask for a resolution. And the terms of that resolution include the language "To use all necessary means to facilitate the departure from Haiti of the military leadership consistent with the Governors Island agreement."

"All necessary means" means military action. Now, under the terms of our Constitution, the right to declare war is reserved to the Congress of the United States. That is article I of the Constitution.

Of course, we have the War Powers Act which has given the President, over the years, and has been interpreted as giving the President, over the years, not a leeway in using force. By even the greatest stretch of imagination this is applicable to the War Powers Act and not set aside the fact that this Congress is being ignored and the people of this country are being ignored by this administration as it pursues the policy of war relative to Haiti.

One must ask when is this administration going to explain to the American people by bringing to this Congress its reasons for pursuing this sort of military force against another government and against another country? There has to be a set of standards met before we pursue military action and put at risk American lives, and those standards include, in my opinion, three elements.

Mr. KENNEDY. Will the Senator yield just for a matter of information and answer a question?

Mr. GREGG. Without yielding the floor, I would be willing to take a question.

Mr. KENNEDY. In terms of trying to keep the membership informed—and obviously this Senator knows the Senator is entitled to speak. I am just trying to, with my colleague, understand what the time issue is which the Senator is thinking about, just so we are able to indicate to Members.

Mr. GREGG. My intention is to speak on this for approximately 15 more minutes. Then I will be offering an amendment on behalf of myself and Senator DOLE. It is also my understanding that Senator DOLE wishes to speak on this, and that there are two other Members on our side who advised me of their interest in speaking on this. So I would presume that this matter would be debated for an hour to hour and a half.

Mr. KENNEDY. That is helpful. I think we are going to debate these measures. Since we are not going to be on, as I understand it, the amendments on education, I imagine there will be Members on our side as well as the other side that may want to address this, if that is the intention of the Senator.

I certainly appreciate the response of the Senator. As he knows, we have been attempting to move this process on education forward. We have been trying to respond to a number of the inquiries that have come from our membership as to what the order of debate and discussion will be. We have attempted to try to keep them informed of that so that we could at least have some orderly process.

I respect the Senator's position. I think the Members will take note of that.

Mr. GREGG. If the chairman is willing to agree to a time agreement, I would be willing to do that assuming that a point of order against my amendment would not be made.

Mr. KENNEDY. Is the amendment you are talking about——

Mr. GREGG. It would be a sense-of-the-Senate amendment on Haiti.

Mr. KENNEDY. I appreciate the willingness to do it. It seems to me that I would want to confer with the chairman of the Foreign Relations Committee and majority leader on that. But I am grateful to the Senator for his willingness, and I hope the majority leader will give him a response on that in a short period of time.

I thank the Senator.

Mr. GREGG. I thank the chairman of the committee.

To return to this discussion which I believe is critical, I believe this discussion must be had because of the actions taken by the administration over the weekend in the Security Council. You cannot have the United States agreeing with the U. N. Security Council on sponsoring an amendment of the U. N. Security Council which essentially calls for war without having the Congress of the United States alter the process and the people of the United States involved in the process.

The great irony here is that rather than come to the American people and explain why we need to take an act of war against Haiti, rather than come to the United States Congress which, under the Constitution, has the obligation to make the decision to begin with and explain why we should undertake an act of war against Haiti, the administration has gone to the United Nations and suggested why it wants to pursue an act of war against Haiti.

I believe very strongly that the first obligation of a President is to obtain the authority to pursue the use of force, and when American lives are going to be put at risk the authority to put those lives at right risk to receive that authority from the Congress of the United States and from the American people; and that therefore this administration has an obligation to come forward and explain why it is that it feels that American lives should be put at risk, and that we should be invading another nation in this hemisphere.

It has not done that. It has not complied with the sense-of-the-Senate resolution that was passed here on June 29 which called on the administration to accomplish that. That Senate resolution specifically asked that this administration come forward and give this Congress a report as to its reasons for feeling that military force is appropriate relative to our relationships with Haiti. And no such report, no such presentation has been made. In fact, this administration has not even made the outreach effort to the American people either through communications through this body or through a general communication to explain effectively what is at risk here that requires putting at risk American lives.

This is, in my opinion, as I mentioned earlier in my colloquy with the Senator from Massachusetts, a three-step test which must be met. I have discussed this before when I offered my resolution earlier this year on June 29. Before our Nation should precipitate the use of military force the first element of that is to determine what type of conflict is involved. Is the conflict resolvable by force or is it a conflict that has an ethnic and religious matrix that is so deep and so complicated that military force is probably not going to have a dramatic impact on adjusting the activities of the parties involved?

Is it resolvable by military force? That is the first test. That needs to be explained to the American people. Arguably I suspect you could say that the Haitian situation is resolvable by military force. Yes. That test can probably be met because clearly American military force, American lives put at risk, could assert our power over that nation in a fairly quick manner. But the second test and the third test cannot be met on the issue of Haiti and have not been explained.

The second test is this: What is the national interest that is so significant that we are willing to put at risk American lives? What is the national interest?

Well, in Haiti we have only heard three representations of national interest being made. The first is that there was an outflow of refugees of such enormity that we needed to take action as a nation to stop the outflow of refugees. The second was that Haiti was a transit point for drugs. The third was that Haiti had a government that was governed by thugs who have usurped the democratically elected government.

Let us go down those three points in order because this administration does not seem to be willing to explain them. Let us at least discuss them.

First, on the issue of refugees, yes, there was an outflow of refugees. But why did that occur? It occurred because of American policy. It was a self-inflicted event. The administration changed our policy on refugees relative to Haiti about 4 weeks ago, and they said, "All right. We will let people from Haiti come to the United States and find political asylum here in a much broader context than we have been willing to do in the past." As a result, that word got out in Haiti, and thousands of people attempted to leave the island.

The administration quickly saw the error of its ways, and said, "Well, we made a mistake in making that representation. We will not accept refugees from Haiti." As a result, that word got back out, and now we see that the refugee situation, the departure of citizens from Haiti, has dropped off dramatically.

So the outflow of refugees was not an event which required military force to correct. It was a political event which was self-inflicted, which required the reinstatement of an intelligent political philosophy or position and we have corrected it as a result of that.

In any event, it would be very hard to justify the use of American military force to stifle the illegal immigration problem from Haiti in the context of the Western Hemisphere, because the Haitian illegal immigrant problem to the United States is basically insignificant compared to the illegal immigration problem we have in some of our other sister States in this hemisphere. The number of illegal immigrants coming out of Haiti this year is less than 20,000. The number coming out of Mexico this year, to date, is somewhere close to 750,000. So if we are going to be invading Haiti for the purposes of stopping illegal immigrants, are we also going to invade other sister states in the hemisphere who create a much more significant problem for us? I do not think so. I do not think we can rationalize the policy on that basis. Maybe that is why the administration has not come forward and made an aggressive attempt to rationalize its policy.

Is it because Haiti is a drug trans-shipping location that we are going to invade Haiti? Well, I hardly believe that. To the extent there is trans-shipping of drugs out of Haiti, it is significantly less than many of its sister islands in the Caribbean, by our own documentation of our own DEA people. I cannot believe that any drug trafficker in his right mind is going to be using Haiti in the near future as a place to transship a large amount of drugs when we have most of our Navy sitting off of its coast, along with our Air Force monitoring all of the activities in and out of the island. So it is fairly absurd to claim that drugs being transshipped would be one of the reasons. But that has been represented by the administration as one of the causes.

The third cause of national interest is the issue of the fact that a group of thugs have taken over the country, and nobody denies that. These people running that nation are thugs and they are criminals. They took it over from a democratically elected government, and that is unfortunate. But the questions become: Is it the cause of America? And is it in our national interest? Is it our purpose to put American lives at risk to put back in power an elected President named Aristide, whose term is only going to be another year or so? One has to seriously question that, because although there are thugs presently running Haiti, Mr. Aristide is not what you would call a very pure individual. He is a gentleman who has stated, for example, that he openly endorses and finds beautiful—to use his own terminology—the practice of necklacing, which is when you put a tire around a person's neck and fill it with gasoline and then light it.

I do not happen to feel—and I suspect many agree with me—that putting American lives at risk to reinstate a gentleman who subscribes to that philosophy of justice is appropriate to American policy, even though he may have been democratically elected at one time. It would be very hard, therefore, to explain to the American soldier, who finds himself or herself in the street of Port-au-Prince, being shot at, whose life is being put at risk, why he or she is there as a matter of national policy. In fact, I do not believe we can explain it. This administration clearly has not explained it. If it had, it would have sent an explanation to this Congress pursuant to the resolution which we asked for, and it would have come to the American people and explained it there also.

So we see that the second test of when you use American military might, American military force, has not been met by this administration. Maybe they can come forward with a national purpose that is justifiable, which will allow those of us who serve in public life to be able to go to the mother, or father, or the wife, or the sister, or brother, or the child of an American service person who loses his or her life in Haiti and say: This is why your husband, or your wife, or your daughter, or your son, gave his or her life. And this was an American purpose.

But as of today, no such purpose has been defined. That test has not been met. And any administration, in good conscience, must meet that test to the American people and to the U.S. Congress before it pursues the use of American force. We do not meet it to the United Nations. We are not a Government of the United Nations, by the United Nations and for the United Nations. As important as the United Nations may be, we are a Government of the people, by the people, and for the people; and this institution represents the elected representatives of the people. And under article I, we have an obligation and a legal right to participate in a decision of such magnitude.

So we come to the third test, and the third test is—if you can meet the first 2, the first being is there a resolvable event by an military force, and second, is it a national security interest, a national interest—the third is, when you get in, how do you get out? You have to be willing to explain that to the American people. Well, nobody has explained that yet to the American people. In fact, the last time we went into Haiti for the purposes of settling the situation down in 1914, I believe it was—because we feared there might be a German incursion in Haiti—the last time we went in for a period of what we thought was going to be 6 months to a year, we ended up being there 19 years. I believe it was from 1915 to 1934: For 19 years we occupied that nation.

Is there an explanation as to when we are going to get out if we go in this time? No. In fact, the U.N. resolution puts some timeframes in here, but they are timeframes in which there is no assertion as to how they are going to be met. If we are going to be in the business of nation-building, or policing Haiti after we have invaded it, it is fairly obvious that we are going to be there for a long time. Will we be involved in a guerrilla warfare? Many say yes. Will we be involved in a civil war? Many say yes. Will American troops become the target for attacks by disgruntled and alienated political organizations within Haiti, who do not wish to see us there? I would presume so.

Much as we found ourselves under attack when we went to Lebanon, much as we found ourselves under attack when we went on a peaceful purpose to Somalia, when you insert yourself into a violent regime and in a violent situation, you have to presume that you are going to take significant casualties. Certainly, over a long period of time, and we would have to be there probably for a long period of time. The point is that there is no explanation of how long we are going to be there or how we are going to get out of there. So, from my standpoint, I do not think the third test has been met, which is the test of a definition of once you get in, how do you get out?

When this matter was taken up at the United Nations, it was voted in the Security Council, and I believe 12 nations voted for it and 2 abstained. It is important to note that one of the nations that abstained is the voting member from the Western Hemisphere was Brazil. I think it is equally important to note that some of our sister nations expressed extreme concern and outright opposition to the concept. But, unfortunately, they did not happen to be on the Security Council so they did not get a vote. Mexico, for example, stated that it rejects the use of force except in the case of a threat to peace and its violation or acts of aggression. They added that Haiti did not fall into that criteria.

Uruguay also said it would not support any military intervention. China, which is obviously a nation of considerable import internationally, although not having any significant influence in this hemisphere on an issue such as this, but a member of the United Nations, also expressed this as representing a dangerous precedent.

(Mr. DORGAN assumed the chair.)

Mr. GREGG. Mr. President, I think most important we should be looking at our Western Hemisphere neighbors for their reaction to the use of American force to invade Haiti.

Generation after generation of citizens, raised in Central America especially, have been taught, because it has been their actual history, that the United States is an aggressor nation, that every so often we decide to take over and invade the various nations in that part of the hemisphere. We do and we have, and sometimes we have had to do so for national security interests, Panama and Grenada being examples. In Grenada we had a large number of American citizens' lives at risk. And Panama was probably the most critical from the standpoint of national security interests, because it is a nation in the Western Hemisphere, for us because of the Canal Zone.

So we have over the years used American force in Honduras. We have used it in Guatemala. We have used it in Mexico. In fact, if you go to Mexico, in Mexico City the shrine you will be most probably often attracted to as their historic site is their fortress from which students leapt to their death while defending the city from American forces.

So there is a history here which goes back over generations, and I do believe we have to be sensitive to that. When we use American force, in some instances we are simply going to have to use it. That is a fact of life. But when we use American force, we have to be able to explain it. We have to be able to explain it not only to our people and to this Congress, but we have to be able to explain it to our neighbors, especially our Central American neighbors when we intend to use it in that region, and we have not explained it yet. In fact, we hear from innumerable sources in the Caribbean and in Central America that they have deep reservations about the use of American force here. Even Mr. Aristide, the President, for whom this administration claims to be carrying the flag, has said that he would not wish to be put back in position of power through the use of American force.

So, as a practical matter, that would be a serious mistake from a standpoint of dealing with our neighbors in Central America.

The resolution which I intend to offer here reads: "It is the sense of the Senate that the United Nations Security Council resolution 940 of July 31, 1994, does not constitute authorization"—"does not constitute authorization," and those are the operative words—"for the deployment of U.S. Armed Forces under article I of the Constitution of the United States or Public Law 93-148," which is the War Powers Act.

So what this resolution says, and it is a sense of the Senate and, therefore, is not binding law, but I think since the administration deemed our prior sense of the Senate on the issue of Haiti, which was voted out here, I believe, 98 to 0, which said the administration should come here and explain what the purposes are before it proceeds to invade, since it deemed that sense of the Senate as being unnecessary to comply with—I am not sure; I guess I am being a bit optimistic to presume they are going to take this any more seriously—I think it is important for us as a Senate to go on record saying, "Hey, listen, folks, you cannot, under the terms of the Constitution and the War Powers Act, authorize the use of military force by going to the United Nations". The United Nations is not the elected authority of our country. Yes, the President is elected. But under the terms of the Constitution the power to declare war is reserved here under article I. And in order to obtain proper authority to use American military force in a premeditated way, which this clearly is, you need to come to the power of the people. You need to obtain the authority of the people, and you do not obtain the authority of the people of the United States by getting a resolution in the Security Council of the United Nations.

What you get in a resolution of the Security Council of the United Nations is the authority of the United Nations, and as far as I know, there is no one in the United Nations, outside of our own delegation, who has the right to vote for the President of the United States or has the right to vote to have a Representative here in the U.S. Congress. There is no one in the United Nations who is going to have a son or a daughter who is an American service person who is putting his or her life at risk if we invade Haiti.

So it is not the United Nations which is the proper repository of authority for the President of the United States. It is the Congress of the United States which is the repository of authority for the use of military force under our constitutional structure.

So what this sense of the Senate says is what is obvious, I hope, but which has obviously been overlooked, obvious as it may be, by this administration, and that is that the authority to declare war does not reside with the United Nations, that the authority to deploy U.S. Armed Forces resides with the Congress of the United States and the President but most importantly with the people of this country as a democracy.

So, this resolution is an attempt to make it clear that that is the case. Why is that necessary? Well, it is necessary, obviously, because of the actions the administration has taken in going to the United Nations before coming to us. In fact, it is openly flaunting the fact it does not intend to come to the Congress.

I find it a bit difficult to accept that the administration would say, well, even though we have a sense of the Senate that says you should come here and discuss this with us or at least present it to us; even though you have, I think, 100 people in the House of Representatives who signed a letter saying that before any invasion occurs it should come for a specific vote; even though we have the precedents of the gulf war incident where the President went to the United Nations but also came to the Congress for authorization, this administration is saying the heck with it, the heck with the elected body of the people. In fact, it is saying the heck with the people of the United States because we are not going to even explain to them what we are doing or why we are doing it. We are not going to give any reason. We are just going to go ahead and do it. The only people we are going to explain this to is a group of people down at the United Nations.

I do not wish to be perceived as bashing the United Nations here, because I am not trying to. I think the United Nations plays a very significant and important role in the course of world events, and that role becomes more significant and will become more significant as we move into the post-cold-war period.

But the fact is that that does not mean that the role of the United Nations can be allowed to usurp, to exceed, or to in any way replace the role of the Congress of the United States and the role of the people of the United States in relationship to the Presidency and the President's authority to declare war. And that is essentially what this administration appears to be pursuing, a course of action where they are essentially using the United Nations rather than using the United Nations in conjunction with the Congress or after they received the approval of Congress or even go to the United Nations and come to the Congress, for that matter, as happened in the gulf war situation in order to obtain authority to use force. This administration has decided to pursue a course where there is, and appears there is, only one counsel that it is seeking, and that counsel is the counsel of the United Nations, not the counsel of the Congress and not the counsel of the people.

This was, I think, summed up fairly effectively this weekend when the White House Chief of Staff, Mr. Panetta, stated on CNN when asked about invasion: "I think it is sufficient to say soon, and they better get that signal soon."

Well, I presume if the chief of staff for the President is saying an invasion is going to occur soon, it is going to occur soon.

But has there been any representation to this body that that is appropriate action? Has there been any attempt to come forward and meet the criteria of the sense-of-the-Congress resolution that was passed 98 to 0 that asked for approval? No, it did not even ask for approval. All it asked was that the President come to this Congress, come to the Senate, and report the reasons for undertaking the use of military force, and assess what the objectives are, and assess how it intends to get out once we get in. It was not really even a very high bar over which we asked the President to participate in the process. It was just almost an entry-level request.

Yet, we see that the administration was not even willing to meet that request. Instead, the administration went to the U. N. Security Council and opted to try to obtain authority there to pursue military action.

It seems rather incongruous that it would be willing to explain to the U. N. Security Council why an act of war was necessary, but that the administration would not be willing to explain to the Senate of the United States why an act of war is appropriate. And I think the reason is that they cannot make the case to the American people.

You know, the United Nations really does not have that much at risk here. The Americans lives that are at risk are not being voted on at the United Nations. When we, as representatives of our different States, are asked to cast a vote for war or for the use of American force, there is no more serious vote that we are asked to take, because most of us will know personally, in fact, I suspect all of us will know personally, someone from their State, or maybe many, whose lives will be put at risk.

We will have to go back to our friends and our neighbors, and people who put their trust in us to represent them here, and be able to say to them, "This is why I thought it was so important that your son"—who maybe I went to school with, or maybe my son or daughter knows, or maybe I just have met as a member of some group that I participated in—"that your son's or daughter's life should be put at risk."

That is an exceptional charge which we put before us. Thus, when we are asked to vote on an issue as significant as war or the use of American force, maybe we put a little higher standard on it than happened at the United Nations. I suspect we look at it with a little different perspective. Yes, you might call it myopic, but I think it is a myopia which is appropriate to our role. It is a myopia which says: what is the national interest? What is America's interest? What is worth putting an American's life at risk?"

And I suspect the reason this administration is not willing to come to the floor of this Senate with a proposal, an explanation, a request for the use of American force that is a formal structure, is that they cannot meet that test. They cannot legitimately explain the national interests that lead to an invasion in Haiti. They cannot explain to the American people, and they cannot explain to this Congress in a pervasive way, what it is about the situation in Haiti that makes it so unique and makes it so extraordinary that it requires an invasion through the use of American troops. They can maybe give some reasons, but they cannot defend those reasons in a manner that would be persuasive.

However, they do feel they can explain that to the United Nation. I guess they were, obviously, fairly successful, because they got a 12 to 0 vote.

I would note that in explaining it to the United Nations, members of the Senate staff here asked for a briefing, asked to be provided with copies of what they were shopping around the U.N. Security Council that would generate a call for an invasion, and that it was not made available. In fact, we were refused copies of that information.

So here we have the administration going to the U.N. to get a declaration of war, which has got nothing to do with our Constitution—again, I see nowhere in our Constitution, I do not see it in article 1 anywhere where the United Nations is mentioned as a war-declaring authority of this Nation—going to the United Nations to get the declaration of invasion, with a presentation which it is not even willing to share with the representatives of the Senate, who, legally—not in theory, but who, legally—have the right to participate in the process of the declaration of war.

Now I suppose we are going to hear some artful language about, "Well, this isn't really a war. This is not a declaration of war, and therefore it has happened."

I must say that that, in this instance, would be a great stretch of one's imagination. Because this is not a reaction to an emergency; this is not a situation where we suddenly learn that there was a problem there that had to be corrected quickly. There is no threat to American citizens. Americans citizens who are there are choosing to stay there. And we have heard of no instances of a threat to their lives in an orchestrated manner. There is no national interest of significance or immediate risk, such as a canal.

Rather, what we have here is a premeditated, orchestrated exercise by this administration down the road toward using military force. They have tried to basically create a situation which would generate the emergency through the refugee policies which were a disaster, a self-inflicted event. And they were embarrassed because it was so obviously self-inflicted that it was rejected as not being an emergency at all, but something that had been basically created by the ineptness of the administration in dealing with the situation.

So there is no other context than to describe this as a premeditated, conscious decision to use American military force to enter another country and replace the government of that country. If that is not an act of war, I do not know what an act of war is. I think it would be hard to find a definition of an act of war that did not include the activities that are being pursued by this administration.

So there can be no concept that this is a situation that is created with some immediacy and which requires military action by the President which is legitimate. In many instances the President has a right to use force in an immediate situation where there are threats to American lives or American national interest. But that is not the case here at all. This is a longstanding, long-simmering event where there has been a progression of events, a progression that is so consciously done that there is actually a decision to go to the U. N. Security Council and ask for the authority to pursue the right of invasion, yet there is no decision to come to the Congress and seek the authority to pursue the right of invasion. Of course, we are the proper agency for that.

So, again, I do intend to offer this amendment.

AMENDMENT NO. 2431

(Purpose: To express the sense of the Senate concerning authorization for deployment of U.S. Armed Forces)

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its immediate consideration. The amendment simply reaffirms what I think must be obvious to the Members of the Senate.

Mr. JEFFORDS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from New Hampshire [Mr. GREGG], for himself and Mr. DOLE, proposes an amendment numbered 2431.

Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. JEFFORDS. Reserving the right to object, I understand——

Mr. GREGG. Regular order, Mr. President. I do not believe there has been a unanimous-consent request. To reserve the right to object——

Mr. JEFFORDS. The request is to consider the amendment considered as read. I do not want to waive any of my rights as to a point of order.

The PRESIDING OFFICER. The right of the Senator from Vermont is protected. The Senator from Vermont reserves the right to object to the unanimous-consent request that the amendment be considered as read.

Mr. GREGG. I withdraw my request. Have the clerk continue to read.

The PRESIDING OFFICER. The clerk will report.

The bill clerk continued to read as follows:

> At the appropriate place, add the following:
>
> It is the sense of the Senate that United Nations Security Council Resolution 940 of July 31, 1994 does not constitute authorization for the deployment of U.S. Armed Forces under Article I of the Constitution of the United States or pursuant to Public Law 93-148 (the War Powers Act of 1973).

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator KENNEDY.

Mr. KENNEDY. Mr. President, a parliamentary inquiry; is this amendment one of the amendments that was listed on the agreement of last week?

The PRESIDING OFFICER. The Senator from New Hampshire, under a previous unanimous-consent agreement, is authorized to introduce a number of relevant amendments.

Mr. KENNEDY. The parliamentary inquiry is, is this considered to be a relevant amendment that conforms with the agreement of last week?

The PRESIDING OFFICER. Will the Senator withhold while the Chair reviews the amendment?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. In response to the inquiry of the Senator from Massachusetts, it is the opinion of the Chair that this amendment would not be relevant to the underlying bill.

Mr. KENNEDY. Mr. President, I make a point of order on that issue.

Mr. President, I will withhold.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas, the Senate Republican leader.

Mr. DOLE. Mr. President, I think we have worked out a process here because there is a question of relevancy. You could get a vote by appealing the ruling of the Chair.

We have discussed this with the managers of the bill and also with the principal sponsor, Senator GREGG. As far as this Senator is concerned, what we want to do today is just to indicate—to serve notice on the administration they should come to Congress. It is probably an amendment that would be adopted, I think. I think everybody would vote for it because it is pretty clear cut and does not in any way criticize the administration.

But I would just say, before invading Haiti, the United States has checked in with the U.N. Security Council but I would hope they would also check in with Congress. They have the support of Nigeria, Djibouti, Britain, France, Russia, Argentina, the Czech Republic, New Zealand, Oman, Pakistan, and Spain. But they do not have the support of the American people. International support is fine, but it is no substitute for the support of Congress and the American people.

I do not know what is going on with this administration. They sought and received United Nations authorization to invade Haiti. They fought and opposed every effort for congressional authorization. The outlines of a new "Clinton doctrine" are apparent: Seek the United Nations approval and ignore Congress and the American people.

The United Nations approved a resolution yesterday authorizing the use of all necessary means to oust the Haitian military leadership and restore President Aristide. Some of us have stated our opposition to using American forces for that purpose. Our views are ignored by the administration. The administration has even opposed a factfinding commission—apparently because they have all the facts they need to risk American lives.

Mr. President, there is no emergency in Haiti requiring the dispatch of American troops. It is not Grenada or Panama where a quick response was needed. This is more like Operation Desert Shield—with a deliberate buildup of forces leading to war if one side does not back down.

In 1990, President Bush took a risk. He rolled the dice, came to Congress, and asked us for authorization for United States military action in the Persian Gulf. He could have lost the vote, and faced a very difficult decision. But President Bush gained the support of the American people—through the support of Congress. President Bush's hands were not tied by Congress—his hand was strengthened with bipartisan congressional support.

It is not too late for this administration to reconsider its ill-fated policy toward Haiti. Instead of creating conditions which force Haitians to flee, we could look honestly at Haiti's tragedy. I remain ready to work with this administration of a bipartisan Haiti policy—if they desire.

I commend the Senator from New Hampshire, Senator GREGG, on his amendment. The amendment simply points out the obvious—U.N. authorization is not congressional authorization. Congress has a role to play, and we have not done so.

Let us not set a dangerous precedent and abdicate our war powers to the United Nations. Let us not throw out the Monroe Doctrine, in favor of a new U.N. doctrine. Let us pass the Gregg-Dole amendment, and let us debate whether invading Haiti is in the American national interest.

Mr. President, having said that, I think it is agreeable to the distinguished Senator from New Hampshire that we withdraw the amendment from this bill, and it probably will be reoffered tomorrow when we reach VA-HUD legislation because there was a unanimous-consent agreement and it does bring into question the matter of relevancy, as pointed out by the chairman of the committee.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Republican leader. I myself think we will have a unanimous vote on the resolution, but I appreciate the consideration of the Republican leader, as well as Senator GREGG, and that is to offer this at another more appropriate time. I thank them for their consideration.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. First, I thank the Republican leader for his statement in support of this amendment and his plans to be the primary sponsor, along with myself, of the amendment, and also for his suggestion that we proceed to this amendment tomorrow when we are doing the VA-HUD proposal, which I intend to do, to offer it then.

At this time, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

The amendment (No. 2431) was withdrawn.

AMENDMENT NO. 2432

(Purpose: To eliminate new programs)

Mr. GREGG. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. If there is no objection, the pending amendment is set aside, and the clerk will report the amendment.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself, Mrs. KASSEBAUM, Mr. SIMPSON, and Mr. WALLOP, proposes an amendment numbered 2432.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 474, strike lines 8 and 9, and insert the following:

"(f) FEDERAL EVALUATIONS.—For the purpose of carrying

On page 474, strike lines 14 through 18.

On page 574, beginning with line 15, strike all through page 588, line 14.

On page 635, lines 14 and 15, strike "**AND DEMONSTRATIONS**".

On page 641, beginning with line 11, strike all through page 643, line 12.

On page 655, lines 20 and 21, strike ", of which 10 percent of such 5 percent shall be available to carry out section 2114".

On page 663, beginning with line 23, strike all through page 672, line 17.

On page 698, beginning with line 19, strike all through page 704, line 15.

On page 704, line 16, strike "4" and insert "3".

On page 736, beginning with line 13, strike all through page 738, line 10.

On page 738, beginning with line 16, strike all through page 788, line 6.

On page 788, line 7, strike "**B**" and insert "**A**".

On page 807, line 15, strike "**C**" and insert "**B**".

On page 815, beginning with line 1, strike all through page 832, line 9.

On page 843, lines 20 and 21, strike "From amounts reserved under section 4112(d) for each fiscal year, the" and insert "The".

On page 846, strike lines 1 through 4.

On page 936, strike lines 1 through 21.

On page 937, strike lines 1 and 2, and insert "part.".

On page 946, beginning with line 21, strike all through page 961, line 12.

On page 1004, beginning with line 1, strike all through page 1005, line 9.

On page 1005, beginning with line 11, strike all through page 1035, line 11.

On page 1128, lines 12 and 13, strike "sections 2114 and" and insert "section".

On page 1172, beginning with line 17, strike all through page 1185, line 24.

On page 1234, line 13, insert end quotation marks and a period after the period.

On page 1234, beginning with line 14, strike all through page 1296, line 25.

On page 1358, beginning with line 10, strike all through 1368, line 24.

Mr. JEFFORDS. Reserving the right to object. What amendment is this?

Mr. GREGG. Mr. President, this is the amendment which deletes all the new programs in the bill.

First off, I wish to congratulate the chairman and the ranking member on the committee for producing what is fundamentally a sound bill. The elementary and secondary school education program is an excellent program which has done many positive things for disadvantaged children in our country. I know that from personal experience in New Hampshire. It is also a piece of legislation which has received a considerable amount of funding over the years, as it should have.

However, within this bill, there are a large number of new initiatives, and I guess my concern is that every time we add a new initiative to this bill, much of the core function of the process of this bill is not accomplished. It takes away from getting done what the basic purpose of this bill is. It also takes away, when we add these new programs, the capacity to do other things that are already on the books. Take, for example, 94–142, which is a bill for special education. One of the problems we have—probably I suspect every State has this—is that our school systems are struggling under the weight of the cost of the special education student. We need to care for these students, we need to make sure they get quality mainstreamed education, but under the terms of 94–142, originally the Federal Government was supposed to contribute 40 percent to the education of special-needs children. Today, unfortunately, the Federal Government is only participating to about 6 or 7 percent.

I think and feel very strongly that before we add new programs and fund new programs in other areas of educational activity, which deal especially with elementary school students and secondary school students, that we should, first, fully take care of those programs which we already have on the books. But we cannot do that because what we keep doing in our well-intentioned way as a political body is to say, "Well, we want to add this program, we want to add this program," but the fact is, we already have these programs that we are not fully funding, we forget about that and try to finesse that.

That is a mistake. We are sort of like the kids in the candy store who see all these different things that they want and, sure, it would be nice if we could do all those things, but we cannot. We do not have the resources. Therefore, we need to prioritize. In my mind, proper prioritization requires that we first do what we are supposed to be doing and do it well.

For example, the President, in making his presentation to Congress, suggested that we spend—and I do not have the number right in front of me—but I believe that his suggestion was that we spend about $200 million more than what is actually being spent in this bill for the purposes of chapter 1 programs.

As a result, basically, of the appropriating process, we ended up with $200 million less than what we had expected to spend in this area or what the President suggested we spend in this area. That $200 million has essentially been taken and put into these new programs that have been put on the books. So instead of fully funding at the level that the President requested the needs under chapter 1 and under S. 1513, we have found ourselves funding the new programs. That is a mistake. We should be doing the core programs of ESEA before we undertake the addition of new programs.

There are approximately 21 new programs in the bill. A lot of them are little ones. There is one big one but there are a lot of little its and bits of pieces here and there, ideas that people had and they said, "I have an idea; let's put some authorization with it." They add up to $745 million of new authorization. I really find that hard to accept, first, in a time when we are not fully funding things like 94–142, and when we are running a budget deficit to the significance we are. It is difficult to accept adding $745 million in new programs.

Thus, this amendment eliminates those new programs. As a result of eliminating those new programs, then the Congress will have the right and the ability and be put in the position of making a decision. They will be able to take maybe some of the money being used to fund these new programs and apply it to the present existing programs, and maybe it will just take some of the money and not spend it so that the kids going to school will have a little less debt to pay when they get out of school, as is being passed on to them through our deficit financing we do around here.

Granted, if you run through the list of these programs, many sound well-intentioned. I cannot deny that. But the simple fact is, we do not have the money. When you look at the size of these programs spread over the whole country, you recognize that their impact is going to be marginal at best.

You have a $4 million program, you have a $125,000 program, you have a $5 million program, $15 million program, $5 million model projects and the list goes on and on and on. So it is a little hard to justify, I think, these programs other than to say, "Well, they are nice ideas for the people who are lucky enough to get that little piece of the pie, they are going to be worthwhile." But for most citizens, most students in this country, they are going to have virtually no impact. Whereas if the money was applied to the basic underlying programs, or were it, for example, to be transferred over to 94–142 and take some pressure off the local taxpayers, or were it simply to be used to reduce the deficit, it would have a fairly significant and very positive effect.

So on behalf of myself and a number of Senators, including Senator KASSEBAUM, who is the ranking Republican member, and Senator SIMPSON, I wish to present this amendment which cuts from the bill the new programs which are authorized, 21 of them, totaling $745 million in authorization.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator PELL.

Mr. PELL. Mr. President, the amendment offered by the Senator from New Hampshire would eliminate several new programs that I believe are very important to improving the education of our young people.

For instance, it would strike the Cultural Partnerships for At-Risk Youth. Through this proposed program we seek to bring the rich benefits of the arts, humanities, and museum services to the education of those children most in need. It would be very sad, indeed, if this program were struck.

Through the Library Technology and Assistance Program, we would seek to improve and update our school libraries so that they could offer state-of-the-art technology. We all know the sad state of many of our school libraries in terms of their collections and the outdated technology which they must use. If our children are truly to be first in the world in terms of education, this is one of the areas where we must act.

The Gregg amendment would also strike the Education Infrastructure Program proposed by Senator MOSELEY-BRAUN. For many years I opposed so-called bricks and mortar legislation, but this year the Senator from Illinois made such a compelling argument that I reconsidered my previous stance and supported enactment of this measure. The condition of our schools in community after community is really pretty dreadful. If we expect our children to achieve to their highest potential, we should be very concerned about the safety of the schools they attend. Safety means not only safety from threats of violence but also safety from the danger of inferior facilities.

Mr. President, I understand the Senator's concern that we limit the establishment of new programs in this period of fiscal restraint, and that we focus primarily on those programs already in place. At the same time, I believe that there are new problems that need to be addressed, new concerns that need our attention, and new innovations that warrant our support in building a better education for our children.

It is right that we, the body that collects the money through the taxes, has a right to delineate, to designate how those funds be spent.

I offer this is not micromanagement, this is creative work, properly done by the Congress.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator GREGG.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I will not take much time. Of the various add-on programs, effectively there are only three that are funded. As the Senator from Rhode Island has pointed out, it does provide a very limited amount of resources that actually do not come from education—$100 million to address the absolute collapse, the physical collapse, of some of the schools in urban and in rural communities. That money, as I understand it, comes from both the Department of Energy and the Department of Defense.

Second, there is a very modest program in terms of the charter schools. That has been a part of our education reforms of last year and before, as well as this year—and this is only a $6 million program—to help and assist the development of newer kinds of educational efforts at the local communities.

In my own State of Massachusetts, there are a number of programs that are being developed now with the support of State funding and even some with local funding. So this is to try to at least work in a newer way to see what the possibilities of some of the charter schools would be.

The third is absolutely essential, almost bread and butter kind of involvement, and that is to try to provide some technology, some additional technology in a very modest way to the schools. In many respects many of these schools do not even have a telephone let alone a computer. And if you are looking at the new job opportunities for young people who are graduating from high school, if those young people do not have some familiarity with technology and the computer, they really are starting behind the eight ball. Some schools are moving in this direction, and where they are, they have had a remarkable impact, a positive impact in terms of education. Basically, with this very modest program we are trying to demonstrate that kind of success.

I remember visiting a school in Lawrence, MA, not long ago and talking to one of the teachers at the school, Mrs. Perry, and she was talking about what a difference it made in terms of the young people's interest in education, in all the other kinds of education with the utilization of computers and then talked about teaching another class that did not have those kinds of assets and how really the whole educational experience for that class had actually deteriorated.

So these are modest programs. Those were the only three that were actually funded. Funding for the technology aspect of this program was actually in the President's budget. We want to make sure when we go to the information highway we are not leaving education behind. This is really a very, very small, modest program, but it is a commitment in that area.

For the reasons that I have outlined, plus the importance of the charter schools as well as the basic infrastructure program, I hope this amendment would not be accepted.

Mr. President, we are prepared to vote.

Mr. HATFIELD. Mr. President, I rise in opposition to the Gregg amendment which proposes to strike all new programs from this bill.

To eliminate all new programs from this bill is to put a moratorium on creative, innovative new approaches to education reform and to, in effect, bless the current Federal programs as the sole framework for Federal participation in education.

Mr. President, I am unwilling to do so. I will not confine my State by this approach. Oregon is a place of progressive innovation, in many areas, but particularly in education and job training.

My constituents often come to me with new approaches to strengthening the Federal Government's response to education. From this interaction has grown several successful concepts—educational flexibility, called ed-flex, the regional math/science consortia, the Eighth National Education Goal devoted to parental participation in education, school-to-work refinements, equal access, etc. I am honored to have authored these new programs.

And yes, I have a new program in the bill we are currently considering—its called the Elementary Math and Science Equipment Act. Let me tell you about its history.

I first introduced this legislation in the 102d Congress. The Senate has passed this provision on three different occasions but it has not yet become law—it has been sacrificed in conference for a variety of different reasons. It is now included in this bill and I hope it will become public law.

The premise is simple—we need to attract our youngest students to science. Research tells us that hands on simple equipment such as ph paper and handheld microscopes can make science learning come alive. We know that this kind of equipment can make a difference and my proposal is an effort to put a small amount of Federal funding on the table to help—provided it is matched by the private sector.

I believe this small effort will have a big effect on the numbers of students in the math and science pipeline—the pipeline on which we will draw to interpret modern technology, plug into the new telecommunication superhighway, and generally, to be the man and woman power which will continue to lead this country forward.

Mr. President, I am not a member of the Labor Committee. Sometimes I wish I were. This is the committee which considers a great deal of the human investment legislation which directly impacts on our children. Since I am not, I can only come to the floor and convince my colleagues that certain efforts are worth trying—because they have worked in my State, or in the current case, because they make sense for the Nation and can leverage additional private support.

It would be folly to cut off this type of policymaking—I cannot support a moratorium on innovation at the Federal level. I urge my colleagues to defeat this amendment.

The PRESIDING OFFICER (Mr. PELL). Is there further debate? There being no further debate, the question occurs on agreeing to the amendment No. 2432. The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mrs. FEINSTEIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 67, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—32

Bennett
Bond
Brown
Burns
Coats
Cohen
Coverdell
Craig
D'Amato
Dole
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kassebaum
Kempthorne
Lott
Mack
McCain
McConnell
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Thurmond
Warner

NAYS—67

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Conrad
Danforth
Daschle
DeConcini
Dodd
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wofford

NOT VOTING—1

Wallop

So the amendment (No. 2432) was rejected.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Madam President, I rise today to offer my strong support for the pending legislation, Improving America's Schools Act. This bill reauthorizes the major Federal programs that impact our Nation's schoolchildren, including the largest single program—title I.

1994 has been a very productive year for Federal education legislation. Within the space of about 6 weeks this spring, President Clinton signed two important education initiatives into law. Goals 2000: Educate America Act was signed in March and the School to Work Opportunities Act became law in early May. America's children will enter the classroom this fall at about the same time this third vital piece of legislation is enacted.

Goals 2000 and School to Work responded to important concerns about our Nation's educational system. Goals 2000 established the framework for comprehensive, systemic reform of elementary and secondary education. The School to Work Opportunities Act responded to the critical issue of making sure that all of our students are well prepared for the workplace. Goals 2000, School to Work and Improving America's Schools Act are integrally linked. Together, they form the most extensive examination of elementary and secondary education since 1965 when the first Federal elementary and secondary education act was enacted.

While I cannot stress the importance of these earlier bills, I believe they were setting the stage for the bill we are considering today. This bill—Improving America's Schools Act, authorizes the bulk of Federal education programs. Put quite simply, it is where the money is. This legislation authorizes $12.5 billion in spending for our Nation's elementary and secondary school-children.

The bill is quite lengthy so it is impossible to comment on all of its many provisions. I would like to use my time to talk about just some of the important features of this legislation.

The bill reauthorizes the title I compensatory education program for 5 years. It significantly restructures the program to ensure that students targeted by title I will be taught to the same high standards as other students. Report after report has told us about the tremendous need to improve American education so we can effectively compete with other nations. This legislation makes many needed changes aimed at assuring a high quality education for all American students.

The legislation also rewrites the formula for distributing funds under the title I program to make more effective use of these limited Federal funds.

The Federal to State allocation includes a weighting provision to provide additional funds to areas with high numbers or percentages of low-income children. The formula also includes incentive payments for State effort and equity.

On several occasions I have spoken about the need to address inequalities between school districts. A few years ago, I read Jonathan Kozel's book "Savage Inequalities." This book graphically portrayed the huge disparities that exist in our Nation's schools and the impact inadequate funding for schools has on the children.

In this country, property taxes provide a substantial portion of the revenue for elementary and secondary schools. Therefore, the wealth of the community translates in the amount of revenue available for the local school district. So a poor community has fewer tax dollars available for education and often that means substandard facilities, inadequate materials, and insufficient staff.

The system of financing education primarily on the basis of property taxes is inherently unfair and leads to the kinds of funding disparities that are being litigated in several States. As Federal policy makers, we cannot overrule States and local school districts on financing for education. But, we can provide an incentive in Federal education programs for States with a good record of funding equalization within the State.

Likewise, some States place a high priority on education and provide significant resources for elementary and secondary education. Again, as Federal policy makers, we cannot tell States how to spend their money, but we can provide an incentive for States with a high effort in relationship to the per capita income of that State.

These are positive things that the Federal Government can do and I am very pleased that these incentives were added to the title I formula. It's time to replace the rhetoric with action and this formula does that. The Federal Government must send a strong and powerful message that all students are entitled to a high quality education, regardless of where they happen to live.

I would like to commend Senators KENNEDY and PELL for their hard work in crafting a very fair and balanced title I formula. This formula incorporates many different concerns—from the need to do greater targeting of title I funds with the desire to provide positive incentives to redress inequalities and increase State support for education. This formula accomplishes all of those diverse objectives and the chairmen are to be congratulated for their efforts.

I am very pleased that the bills gender equity in education bills sponsored by myself, Senator MIKULSKI, and Senator SIMON have been included in this legislation.

Mr. President, I think most Americans are familiar with the "glass ceiling"—that invisible barrier that often keeps competent and capable women from ascending to top jobs. Many of us are less aware that early in life it isn't the glass ceiling of the corporate suite but the plaster walls of the classroom that keep female students from realizing their potential.

The inclusion of the gender equity in education package will ensure that girls receive a share—an equal share—in the American dream by requiring equal treatment in the classroom.

This situation is very troubling and deserves our immediate attention.

Girls receive less attention from teachers than boys with some studies showing that as many as 80 percent of teachers' questions were directed to boys.

Adolescent girls have less self-esteem than their male counterparts.

Girls and boys enter kindergarten with the same skill levels, however by high school graduation girls receive lower test scores, especially in the areas of math and science.

Girls receive fewer college scholarships than boys.

Textbooks have few female role models.

While most classroom teachers are women, most administrative positions are held by men—72 percent of teachers are women but 27.7 percent of school principals are women and only 4.8 percent of superintendents are women.

S. 1513, also incorporates another bill of mine, the Elementary School Counseling Demonstration Act to establish and expand counseling programs for elementary schools. Elementary school counseling programs focus on prevention and early intervention at a critical time in the development of children.

These programs can make a big difference in the lives of young children. Children today face enormous challenges. Some live with a drug-addicted or alcoholic parent, some are suffering from the trauma of a divorce, some are victims of physical, sexual or mental abuse. And they need our help.

By making contact with a child early on, these students have a better chance of developing the self-esteem and problem-solving skills that will benefit them during their teenage years. This principle has been put into practice in the Des Moines Independent School District with a program called Smoother Sailing. And it works.

Smoother Sailing provides professional counselors to work with students in groups on self-esteem and conflict resolution activities. These professionals are also available to work with students on an individual basis. And it works.

Attendance is up, classroom disruptions are down and test scores have improved since Smoother Sailing began in the Des Moines public schools. I am pleased S. 1513 includes the Elementary School Counseling Demonstration Act.

I would like to use the balance of my time to comment on the implications of the legislation for children with disabilities since I serve as chairman of the Subcommittee on Disability Policy.

Last week, we celebrated the fourth anniversary of the passage of the Americans With Disabilities Act which set forth a national policy which prohibits discrimination on the basis of disability and called for the inclusion, independence, and empowerment of individuals with disabilities.

Further, part B of the Individuals With Disabilities Act extends to all students the right to a free and appropriate public education based on the unique needs of the child.

Improving America's Schools Act is fully consistent with the ADA. In addition, it is also consistent with and complements the spirit of Part B of the Individuals With Disabilities Education Act and section 504 of the Rehabilitation Act of 1973.

To the maximum extent appropriate, children with disabilities must be educated with children who are not disabled. Separate classes, separate schooling, or other removal of children with disabilities from regular educational environments occurs only when the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Although major strides have been made in including students with disabilities in regular education, in far too many schools around the country, separate educational systems have developed with little or no coordination—one system for regular or general education, a separate and distinct system for special education. This isolation and lack of coordination creates artificial barriers to achieving the promises of part B of IDEA, the ADA, and the section 504 of the Rehabilitation Act of 1973.

The bill recognizes that much needed change and lasting school reform will not occur unless teachers are provided with opportunities to learn, study and discuss new strategies for working with students with diverse learning needs, including those with disabilities. Therefore, title II of this legislation enhances professional development opportunities for our Nation's educators. Teachers will be provided training to alleviate the need for special education services and to work with children with disabilities in the regular education setting. It is only through this direct training of regular and special educators in collaborative methods of instruction that the true promises of IDEA and the ADA will be achieved.

This bill will serve as a vehicle for strengthening our overall efforts to meet the needs of all children in the United States and provides one additional effort to have children with disabilities included in the mainstream of educational progress and reform.

Mr. President, I have often spoken about the importance of education—it is vital to the future of our country. The economic health of our Nation and well-being of our children depends on the education of our citizens.

One of our founding fathers, Thomas Jefferson, spoke eloquently about the importance of education for a strong and lasting democracy. He said, "a democratic society depends on an informed and educated citizenry."

Thomas Jefferson's words remind us about that it is in the national interest to have a strong educational system. Improving America's Schools Act will help build the educated citizenry that forms the strong foundation for our Nation. I urge my colleagues to support this legislation.

Mr. ROCKEFELLER. Madam President, I am proud to support the reauthorization of the Elementary and Secondary Education Act and its effort to promote academic excellence for all students and to provide greater flexibility for fundamental school reform and teacher development. Education is vital for our country's future, and this legislation is the followthrough on the guidelines enacted in Goals 2000 earlier this year.

I support this legislation because it will help the educators, communities, and parents of West Virginia take the steps to give our children a better education. Under this bill, West Virginia will receive additional funds to promote high academic standards in basic subjects like math, science, English, and other key subjects. The legislation also will provide greater flexibility to use Federal funding for schoolwide programs so all students achieve high standards set by Goals 2000.

This legislation meets the needs of my State and the rest of the country. As chairman of the recent National Commission on Children, I have learned in vivid terms just how much America's families and children need the tools to improve education. In 1991, the Children's Commission made this point when we released our historic bipartisan report, "Beyond Rhetoric, A New Agenda for American Children and Families." Our report laid out a comprehensive blueprint on how to help children and families. It issued recommendations for action in a wide range of areas, including education.

This bill, the Elementary and Secondary Education Act, is a key step in the roadmap to converting the Commission's recommendations into reality. Our report stressed the need for fundamental school reform, with seven basic recommendations. First, our commission emphasized the importance of a rigorous and challenging academic curriculum. It noted the key role of teachers and endorsed measures to recruit and retain skilled teachers. Our report called for measures to improve the effectiveness of principals and also supported school-based management because we agreed that education reform must be a grassroots and community initiative, rather than imposed by the Federal Government. It called for greater accountability at all levels for quality education and stressed the need for equitable financing across school districts. Also, our report recommended improvement of school environments so children are safe and able to learn.

In addition to these overall recommendations to encourage comprehensive education reform, the Commission thoroughly debated the issue of school choice and endorsed the concept of parental choice among public schools only. The commissioners also called for creative initiatives to help children with severe disabilities as well as students who are disadvantaged and academically have a high risk of educational failure.

This reauthorization bill proposes reforms similar to those suggested by the Children's Commission.

For starters, this bill stresses a rigorous academic curriculum for all students, and it increases the flexibility for schools serving disadvantaged students to achieve such goals by allowing more schools to use title 1 funding for school wide programs.

In my State, the West Virginia Department of Education is seeking this kind of flexibility, to be able to make a real difference. Changes in the funding formula are designed to do more to target Federal dollars to schools serving poor children which is a good start. But it is essential to acknowledge that much work remains to promote equitable financing across school districts.

Another crucial area of change is the new investments and emphasis on professional development for teachers, who truly are the individuals who will deliver change into classrooms and the lives of students. The Senate bill retains a special emphasis on teachers of math and science which is appropriate given the focus on math and science in our national education goals. This reauthorization builds upon the Eisenhower program to promote teacher development covering a broad range of subjects, as a fundamental first step toward tough academic standards.

I also want to note that this legislation continues the work of the Drug-Free Schools and Communities Act, that I was proud to sponsor in 1986. At that time, our goal was to ensure that every student, from kindergarten through high school, was taught about the dangers of drug and alcohol abuse. Since then, I have visited numerous classroom in West Virginia and participated in the DARE Program where local police officers teach children about the dangers of drug abuse. This effort proves how targeted Federal funding can forge important changes in schools, and still allow local leaders to design and develop courses that meet the needs of students. This bill builds on the success of the Drug-Free School

Program to expand it by including violence prevention, a critical issue now. Students deserve to be safe at school—safe from drugs, alcohol, and violence. I wholeheartedly support the expansion.

I also support the provisions to promote the effective use of technology to enhance teaching and learning. As the Senator from West Virginia, I believe the technology can greatly support efforts to strengthen academics, especially for rural areas. My State is already using distance learning to offer advanced courses, like Japanese, calculus and advanced science to students in rural schools. West Virginia also has made a major investment in computers at the elementary school level so children will learn with computers from the beginning of their education and be comfortable with technology that plays an ever increasing role in our modern workplace.

The Elementary and Secondary Education Act is the major Federal program to offer support to local schools and helps disadvantaged students. Thanks to this law, West Virginia receives $61.5 million this year, and under this reauthorization, funding will increase especially for schools serving low-income students. It is a wise investment in our children and the future of our State and country.

I commend Senators KENNEDY and KASSEBAUM for their leadership on this bill. Education is an issue that concerns every child and every individual. It deserves bipartisan leadership and support, which this legislation has thanks to the efforts of the chairman and ranking members of the Senate Committee on Labor and Human Resources. It is real progress.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question occurs on amendment 2431.

Mr. KENNEDY. Madam President, that is the Danforth amendment. We have been working with the Senator from Missouri. We are still not quite prepared to have a final resolution of it. I expect that we will in the next 40 minutes or so. So we are prepared to consider other amendments. Even though we have the agreement that was worked out with the leadership last week, we have been trying to ask our colleagues to come here and to talk with Senator JEFFORDS and myself so that we could resolve some of those items.

We have a few items here that we are prepared to address. But I must say, if they are not offered during the course of the early afternoon, then I think we are going to at least try and move toward a third reading at an appropriate time. We have had discussions on Haiti, and we have had discussions on Rwanda during the course of this morning and this afternoon, and we are prepared to address the items which are of interest to the Members.

So I will do the best I can. I know Senator JEFFORDS will, also. We will call Members of our parties who have indicated they may have some amendment, to find out where those amendments are. But at some time in the not-too-distant future, not seeing anybody else here to be recognized, we are going to call for the third reading.

We, again, are asking for our colleagues to notify us. We started off this morning with that and we did the same earlier in the afternoon. Now we are indicating that at the present time.

So I hope that if there are amendments, they will bring them forward. Otherwise, we will have to conclude that the Members do not choose to exercise their earlier indication and call for a vote.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I also urge the Members on my side of the aisle to let me know if they intend to offer their amendments.

It is my understanding that Senator SMITH is ready to go now, and I also know that some other Members have informed me of their desires. Please let us know, and I will try to accommodate you at a time as convenient as possible, providing that we make all due progress on the pending bill.

I would be happy to yield to the Senator from New Hampshire. Is he ready to proceed?

Mr. SMITH. Yes.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? The amendment will be set aside.

AMENDMENT NO. 2433

(Purpose: To prohibit Federal funds for instructional materials, instruction, counseling, or other services on school grounds, from being used for the promotion of homosexuality as a positive lifestyle alternative)

Mr. SMITH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2433.

Mr. SMITH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . PROHIBITION AGAINST FUNDS FOR HOMOSEXUAL SUPPORT.

(a) PROHIBITION.—No local educational agency that receives funds under this Act shall implement or carry out a program or activity that has either the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

(b) DEFINITION.—A program or activity, for purposes of this section, inlcudes the distribution of instructional materials, instruction, counseling, or other services on school grounds, or referral of a pupil to an organization that affirms a homosexual lifestyle.

AMENDMENT NO. 2434 TO AMENDMENT NO. 2433

Mr. HELMS. Madam President, I send a second-degree amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2434 to amendment No. 2433.

The amendment is as follows:

Strike all after "SEC.", and insert the following:

PROHIBITION AGAINST FUNDS FOR HOMOSEXUAL SUPPORT.

(a) PROHIBITION.—No local educational agency that receives funds under this Act shall implement of carry out a program or activity that has either the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

(b) DEFINITION.—A program or activity, for purposes of this section, includes the distribution of instructional materials, instruction, counseling, or other services on school grounds, or referral of a pupil to an organization that affirms a homosexual lifestyle.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect one day following the enactment of this Act.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair and ask for the yeas and nays on the Smith amendment.

The PRESIDING OFFICER. The yeas and nays are not in order at this time.

Mr. HELMS. I ask unanimous consent that the yeas and nays be in order.

The PRESIDING OFFICER. The Senator may request the yeas and nays on the second-degree amendment.

Mr. HELMS. All right, then. I ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Madam President, I speak to the underlying amendment.

I say to my colleagues that I do not intend to take a great deal of time on this, other than to make some points about what we are spending some of the money on or what we might spend some of the money in this bill on.

I think it is imperative that we understand and take a good look at where our dollars, as the taxpayers provide them to us, are being spent.

This is a very simple underlying amendment. It will prohibit any school system receiving funds under the Elementary and Secondary Education Act from implementing any school program that encourages homosexuality.

Now, this is not—and I repeat not—an unfunded mandate, despite some who may argue that it is. It does not require the schools to do anything. There is no requirement here. It does not require the schools to spend anything.

It merely prevents taxpayer-funded advocacy of the homosexual lifestyle. That is the question here. Should Federal tax dollars in this bill be spent to advocate and encourage the homosexual lifestyle in the curriculae of public schools in this country?

Let me say again, if a public school decides and the parents in that school district decide that this is appropriate in their school system—I cannot imagine why they would—but if they did or they do, fine. You just do not get any Federal dollars. That is the bottom line.

Now, to those who state that this amendment may restrict what schools can do with their money if they accept Federal dollars, that is technically correct. However, the only way to ensure that the taxpayers are protected from districts using commingled funds, funds from their own sources and funds from the Federal Government, the only way to ensure that they are protected from this sort of activity is to do it in this way, is to have this amendment.

What are we talking about? What exactly is it that I am concerned about that I want to call to the attention of my colleagues?

I encourage my colleagues to listen, because there are some materials here that are so obscene that I cannot show them to the public. I cannot display them here and I cannot hold them up. I cannot quote from them, because to put them on the airwaves in any way, shape, or form would be considered obscene. So I will not do that. But I have here at my desk many of these materials, and I hope that my colleagues might want to take a look at them.

This is not a sensationalist amendment. I am not here to sensationalize anything. I am not here to make a statement. I am not here to make a point, other than this. I do not believe that people from the second grade through high school ought to be subjected to these materials. But even if you do believe that they should be, the next question is, should the taxpayers fund it?

In both cases, I believe, first, the taxpayers should not fund it; and, second, second graders on to junior high school and senior high school should not see them, either. But if you think they should, then that is fine. You can work on that in your own school district and see to it that they get in there if you want them. But the taxpayers can, under this legislation, without this amendment, pay for these materials.

I have to tell you, they are graphic and they are obscene. That is not just my definition. I am going to use as much discretion as I can. I am not going to embarrass anybody, but I am going to make these points.

I am going to refer, first of all, to a Washington Times story of Friday, March 18, 1994. The title of that article is entitled "The New York Youth AIDS Forum Leaves Parents Horrified." I am quoting from the article:

> The New York City Youth AIDS conference that impressed AIDS Czar Kristine Gebbie outraged parents with distribution of fliers on anal sex and other homosexual practices to children as young as 12. The February 12 conference at New York University Medical Center was sponsored by the New York Department of Education.

The New York Department of Education. And it featured Ms. Gebbie as its VIP speaker. The material that the Gay Men's Health Crisis gave out to the children depicted risky and dangerous activities. That is what parent Joanne Gough and members of the AIDS advisory council to the New York Board of Education said.

Now, a lady by the name of Mary Cummins, a local school board member from that school district, said that they examined some of the materials distributed, and she was horrified. That is her quote. "I am a grandmother," she said. "I thought I had seen and heard everything." She led the fight against the city's curriculum teaching acceptance of homosexuality. "But when the homosexuals are hitting on kids like this, it becomes my business." That is what she said.

Now, these pamphlets—and I am not going to display them for the cameras, but I have them here—one of them is entitled "Listen Up," and it refers to what is being shown to children in this school system in New York.

But critics say she was told that the conference of peer educators teaching youths about HIV-AIDS would include workshops on subjects such as sex options, eroticizing safer sex, and the wonderful world of latex. That is part of the curriculum. The program identifies the New York Department of Education high school HIV-AIDS resource center as a conference sponsor and as a patron.

That is referred to in the article on the New York school system in the Washington Times story.

As I say, I have the pamphlets here. I would encourage any of my colleagues who might wonder whether this is appropriate for their children to see to come over and view these pamphlets.

Now, a group such as the Sex Information and Education Council of the United States, also known as SIECUS, aimed equally graphic and obscene material at our teenagers. I have here a pamphlet that is entitled "Talk About Sex."

I can hold this one up. It is not too bad on the cover. "Talk About Sex." It is a booklet for young people, it says, on how to talk about sexuality and HIV-AIDS. It is for junior high students. We all know as parents approximately how old a junior high student is.

Let me just outline a few of the subjects in this pamphlet that your children, if they are in this particular school system, would be subjected to. It says: "Ourselves as Sexual Persons," and here are the categories: Androgenous, bisexual, heterosexual, homosexual, transsexual, and transvestite. And it goes into all the definitions, which I will not bore you with. Then they go into some other things about what we can do sexually: Abstinence, anal intercourse, fellatio, cunnilingus, masturbation, outercourse, and sexual intercourse. That is all in there for the junior high kids, with a good definition of each, in case you did not know what it was.

And then they have a cute little thing at the end of their pamphlet that your children are having as part of their curriculum that your tax dollars are funding, they have a few little questions at the end in this little yellow box, "Questions to ask myself," at the end of each chapter.

"Name someone who is gay," it says, "lesbian or bisexual and describe some things you have in common with that person." That is the first question.

"If you believe that you are heterosexual, talk with a close friend about what you think it is like for someone to be gay, lesbian or bisexual in today's society."

And on and on and on. I will not go through anymore. I have that book here, as well, if anyone would be interested.

Now, SIECUS puts out another little pamphlet for the reading pleasure of our youngsters. It is called "Getting Started." I am not going to get into all of it, but I would like you, my colleagues, to hear what this pamphlet is saying about the church; not any particular church, just the church here in America, because you talk about values and you wonder why we have the problems we have in our society today.

This booklet talks about how to get started with sex, various types of sex, then it gets in some editorial comments about the church. Let us hear what this book has to say to your children about the church.

> Another reason is the way our society treats sex. Most of the straight world's ideas about sex can be traced back to religious teachings, and Judeo-Christian religions get uncomfortable around sex. Around 700 B.C., the Hebrew church set up laws that made thirty-six crimes punishable by death, and half of these had to do with sex. The penalty for males found guilty of homosexual acts was death by stoning, the most severe penalty imposed for any crime. There were no laws against lesbianism. Women's sexuality was not taken seriously then, either.
>
> For centuries, the church has said that sex is only okay between married people who want to have children. If people enjoy sex in

> any other way—by themselves, with someone of the same sex, or with someone they're not married to—then the church calls them sinners and tries to make them feel bad.
>
> For a while, the church seemed to be losing its grip in our society. But recently, right-wing fundamentalist churches have become more vocal about promoting more so-called traditional values. Some have even started groups that claim they can convert homosexuals into heterosexuals.

It gets worse. Quoting again:

> These fundamentalists love to quote passages from the Bible that seem to condemn homosexuality. If you read these passages with an open mind, most of them say no such thing: These Bible thumpers are really only interested in making themselves feel superior by putting you down. In one breath, they tell you the Bible is infallible, and in the next breath, they tell you the devil can quote the scripture for his own end * * *
>
> Don't let these idiots mess with your mind. If these silly, inaccurate claims about what the Bible says are worrying you, read the Bible's story of the love between David and Jonathan. This is the David who slew Goliath and later became King of Israel.

And on and on.

> Not all churches are against homosexuality. Gay people even have a church of their own now—the Metropolitan Community Church—and most of the biggest churches have gay groups.

On and on and on.

This is not a college course, where young people may be debating their beliefs on homosexuality. This is junior high school. This is what you subject your children to if you send them to this particular school system.

This is SIECUS. More choice topics, "Doing it; Gay Men." They say, they are going "to show the straight world they are not going to force us to live according to their narrow-minded ideas."

I could go on and read more—and it is worse, some of it—but I will not. I have the book here. Do not believe me. Come over and take a look at it if you are concerned before you vote. And I will ask for a rollcall vote on this amendment at the appropriate time.

Now, Madam President, these groups, unfortunately—I wish I could say it were true—but they do not restrict themselves to educating teenagers. And I used the word "educating" loosely.

For instance, New York City's "Rainbow Curriculum," which was later taken out of the schools, utilized text aimed at 3- to 8-year-olds: "Heather Has Two Mommies," and "Daddy's Roommate." They both portray the homosexual lifestyle as normal: 3- to 8-year-olds, my colleagues. "Heather Has Two Mommies." In your school district, this book can be purchased with taxpayer dollars. You might want to check and find out if it is there. It can be.

Do you want to know what is in that book? I will tell you what is in that book. We will see what it says about Heather.

"Heather has two mommies, two roommates, Momma Jane and Momma Kate."

Nice and cute. Momma Jane has a "No Nukes" sweatshirt on. Then it goes on to say that they were good friends and Kate and Jane wanted to have a baby, so they talked about it for a while. And then we have Heather. Heather comes into the world. And it goes on to promote the lifestyle of two lesbian parents with a small child.

"Mama Kate and Mama Jane both laugh and give Heather a great big hug. Heather gives each of her mommies two big kisses," and on and on and on.

At the end they talk about the author. To be sure, in case you might have missed it as you were reading through the book itself if you were a child, they introduce Leslie Newman. "The author has one mommy and one daddy, one Grandma and two brothers," it says. She has been writing stories and poems ever since she was a little girl. Leslie now lives in North Hampton, MA, with a woman she loves named Mary and two cats, Couscous and Pooney Cat. She is a teacher as well as a writer and this is her first children's book. It probably was not her last, either. That is her first one.

Also available from Alyson Publications—that is the name of the publisher, Alyson Publications—just in case you were not satisfied with that book and you wanted to expose your children a little bit more to some of this stuff. Let us look at some of the other choices you might have. "Between Friends," is one publication. By Gillian Hanscombe, $8: "The 4 women in this book represent radically different political outlooks and sexualities, yet they are tied together by bonds of friendship."

"Crush," another one. That is another title. "It was not easy fitting into an exclusive girls school like Huntington Hill, but in her senior year, Jinx finally felt as if she belonged. Lexie, beautiful, popular Lexie, wanted her for a friend. Jinx knew she had a big crush." And it goes on to discuss that situation.

Another title, "Lesbian Lists" for your children to read.

"The Gay Book of Lists," is another title.

"Rocking the Cradle." Here is the first book that thoroughly looks as topics such as the social and personal implications of lesbian motherhood, the implications of alternative insemination, and the feelings of children growing up with lesbian mothers."

"The Crystal Curtain." And on and on.

"Alyson Publications, Department H-80, 40 Plympton Street, Boston, MA, 02118."

And, after June 30—this is a couple of years old, you might want to write for their current catalog. They have a little spot here so you can fill it in, in case you want to order 400 or 500 for your school district. That is it.

"Heather Has Two Mommies." I have it here if you want to look at it if you do not believe me.

"Daddy's Roommate." Let us look at the other side, daddy's roommate. This is an Alyson publication as well. Same location, same address.

It goes on to talk about the two daddies who live together. And it promotes the homosexuality of these two people. It promotes it: "Sleeping together, shaving together, sometimes they even fight together," it says. "Just like daddy, they both tell me jokes. Frank does, too." On and on. Again, promoting to 3-year-olds, 3-year-olds—this is the little book they want you to read to your 3-year-old. Or if you do not, during reading class in school, make sure the teacher does. "Daddy's Roommate." Taxpayer dollars.

How about some other workbooks that sound the same themes? "A Kid's First Book About Sex." That sounds innocuous enough. You might want to read it, though, because your kids will. "Big words are sometimes used to name people by the sex partners they choose. Even though it is not nice to describe people by labels like these, we put the names with these pictures so you know what they mean when you hear them."

They show heterosexual man and woman, homosexual, lesbian, bisexual. And they have such terms in here: "Explain such terms in here such as straight, bi, and gay. Do you know which shorter name goes with which long name?" it says.

"Some people think that straight people are the only ones who are normal or regular. What do you think?" it says.

It goes on. Again, "A Kid's First Book About Sex."

"The Playbook For Kids About Sex." Do not somebody stand up and challenge me and say SMITH is against sex education. That is not what we are talking about here. Let us see what they have in this book. They have a little work page here:

"Shorter names are sometimes used. They are 'straight,' 'bi,' and 'gay.'"

And then they have a couple of boxes: "Do you know which goes with which? Yes or no? Bi goes with blank, gay goes with blank, straight goes with blank."

> Some people think it is wrong for people to be homosexual or bisexual. Some places even have laws against it. Many other people think that anyone should be allowed to have sex with anyone else if both partners want to do it and if they do it in private.

Then it says, "How do you feel about it?"

> Of course straight people and gay people do a lot of other things besides have sex. Anyway, some people think that straight people are the only ones who are normal or regular. What do you think?

Then they give a list of things that two people might like to do with each other who like each other. I will not go into all of that.

Then in this book for youngsters 3 to 8 it says, "on this page"—and it is blank with a little kid daydreaming. "On this page you can write some daydreams about a person or some people you might want to have sex with when you grow up. And if you think this book is just really gross, you can write about that, too, right here on this page." That is what it says.

Many of my colleagues, I suppose, are very upset that this amendment is out here. They will say several schools have already developed programs with the aim of normalizing homosexuality. That is why I am offering the amendment. If people want to go into their school districts, the parents, and working with their local school boards, put these materials in their classrooms and expose their children to this, that is their privilege. It is still America.

The question is, do we have to fund it with taxpayers' dollars when the overwhelming majority of the American people would be opposed? I find it amazing, serving in the U.S. Senate, taking the time to read some of these bills and some of these materials. This is in no way a reflection on either of the managers of this bill. But the implications of the programs and the dollars that we spend—it is incredible. The American people do not know, I am sure—I did not know it until a few months ago—that taxpayer dollars in this bill could fund this material. I did not know that. I would not have believed it. In fact, when I was told it did, I spent several weeks doing research because I did not believe it.

Believe it. Believe it.

When you send dollars to a school district that has these materials, we are paying for it. You can say no, no, no, we have other sources of income so we are buying it out of that money.

Come on, we all know how that works. You have a little bit over here, a little bit over here, but if you do not have it over here you cannot spend it over here.

I would like to read a couple of excerpts from a paper written by Bob Knight, Cultural Studies Director for the Family Research Council.

> A sex education curriculum created by Planned Parenthood of Northern New England, which received $479,510 in Federal funds in fiscal year 1990 under title X grants from the U.S. Department of Health and Human Services includes, in this paragraph in the introduction to the "Same Sex Relationships" section of the curriculum, "Relationships with members of the same sex are not only rewarding but contribute to our development of our sense of who we are."

"Relationships with members of the same sex are not only rewarding but contribute to our development of our sense of who we are."

This is the curriculum:

> In general, our society does not consider homosexuality acceptable. It is as normal as heterosexuality.

> In Los Angeles, Project Ten, a public school sex education program for homosexuals, is based on the Kinsey finding that 10 percent of the population is exclusively homosexual, as well as the assumption that sexual taboos are based on superstition.

In a June 5 letter to the Los Angeles Times, Project Ten founder, Virginia Uribe defends homosexuality and criticizes the Boy Scouts of America's Judeo-Christian belief system as being "based on myth and ignorance, rather than good science."

We are paying for it. I hope you like it.

The Sex Information and Education Council of the United States [SIECUS]—I already mentioned it before—a sex education center at New York University is supported by the U.S. Department of Health and Human Services, which gave $99,341 in grant money to the center in fiscal year 1989. One of the founding members of SIECUS was Ward Elby Palmaroy, coauthor of this male sexuality study. SIECUS endorses the concept of child sexuality, et cetera. And then a 1985 SIECUS report says:

> Homosexuality is an essential quality of humanness and that its expression is the right of every human being.

The question is: Do we really want our youngsters subjected to that? Would it not be better to let them decide that at some point later in life? Do we want to educate them to it just to make sure they have a good shot at becoming lesbian or homosexual? I suppose that is the rationale.

I would like to share with my colleagues a series of memoranda from the superintendent of the Los Angeles Unified School District. The title on the stationery is "Gay and Lesbian Education Commission." These memoranda today are from 1992, 1993, and 1994, and they are announcing the annual "Gay-Lesbian Pride Month."

Madam President, I ask unanimous consent that those materials relating to the item I just mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LOS ANGELES UNIFIED SCHOOL DISTRICT, GAY AND LESBIAN EDUCATION COMMISSION,
Los Angeles, CA, April 20, 1994.

DEAR FRIENDS: This coming June we're looking forward to our third annual Gay & Lesbian Pride Month. Many people ask why we've chosen June for Gay & Lesbian Pride Month. The answer dates back to the Stonewall riots which began June 27, 1969. These riots became the symbol of the Gay Liberation Movement and June became the month to celebrate equal rights and respect for Gays & Lesbians. (For detailed information, please see the handout on Stonewall.) Thus, June has become the month that we have dedicated to teach respect for Gays and Lesbians and to develop students who appreciate the diversity of humankind. This will help to provide a school environment that is free of harassment of Gay & Lesbian youth and encourage them to finish high school and continue their higher education. Following are the suggested activities for Gay & Lesbian Pride Month:

1. Display: Using the colorful handouts enclosed, choose a central display case to post the information about the Gay & Lesbian community, its symbols, various organizations and resources. An additional display may be done in the media center.

2. Bulletins: Daily facts and information about famous Gays & Lesbians, well-known contemporary Gays & Lesbians, facts about Gays & Lesbians, resources for Gays & Lesbians can be put in the daily bulletins.

3. Assemblies: If you'd like to plan an assembly at your school, please contact Kathy Gill at (213) 625-6392. We have videos, (see below), college students from USC's Shout and other poets and artists who will help with the assemblies.

Available videos: 1. LAUSD's 1st Annual Gay, Lesbian & Bisexual Youth Conference" 2. Leticia Quezada addresses the Issue of Gay & Lesbian Rights." (available in English & Spanish)

4. Lessons: The information on Famous Gays and Lesbians in History & Well-known contemporary Gays, Lesbians & Bisexuals may be duplicated and used in History classes. The latest scientific research on the possible correlates for a genetic and biological basis for sexual orientation may be duplicated and used in health and science classes.

Please feel free to call if you have any questions.

Sincerely,

KATHY J. GILL,
Director, GLEC.

LOS ANGELES UNIFIED SCHOOL DISTRICT, GAY AND LESBIAN EDUCATION COMMISSION,
Los Angeles, CA, May 20, 1993.

DEAR COLLEAGUES, The enclosed materials have been assembled by the Los Angeles Unified School Gay and Lesbian Education Commission to assist middle and senior high schools in planning activities for "Gay and Lesbian Pride Month" in June. I have included posters, resources, lessons and materials I hope you find useful. Don't hesitate to call the various organizations listed on the resource list. They are all trained to give staff inservices, assemblies and workshops.

Since the Gay and Lesbian Education Commission is not funded with a full time director, we are unable to assist with activities during the school day. However, if there are any questions you might have, please call the commission office and leave a message. I will return your call ASAP.

For your information, all of the materials included in this packet were donated by the various organizations listed on the handout. The materials, envelopes and letterhead were bought at no cost to the Los Angeles Unified School District whatsoever.

With Pride,

LAURA A. HALE,
Director.

P.S. Your efforts on behalf of the Gay and Lesbian students, staff, and parents at your school will be appreciated more than you will ever know. Since we have been an often "invisible" group of individuals, many people don't think they know anyone gay or lesbian. Believe me, you do!

LOS ANGELES UNIFIED SCHOOL DISTRICT, OFFICE OF INSTRUCTION,
May 29, 1992.

SUBJECT: Gay and lesbian pride month.

On May 18, 1992, the Board of Education passed a resolution recognizing June of each year as Gay and Lesbian Pride Month. The resolution is based on District policy contained in the "Educating for Diversity" document, which states as a District goal the development of "students who appreciate and respect diversity and understand the roles and contribution of people of diverse groups." The document calls upon the District to include in the curriculum the historical and current role and treatment of homosexuals in society, "the contributions of gay and lesbian people in history and culture, and the current status of homosexuals as it relates to social policy, family diversity and human relations."

The approved Board of Education resolution states:

Whereas, in June of 1969 in the Greenwich Village section of New York City a routine raid on a gay and lesbian bar called the Stonewall Inn was for the first time resisted by the peacefully assembled gay and lesbian patrons;

Whereas, This resistance led to several days of uprising by the gay and lesbian population of New York City who demanded equal rights and an end to police harassment of their establishments; and

Whereas, this event now called the Stonewall Rebellion, is widely viewed as the beginning of the modern gay and lesbian movement and is the reason why the month of June has come to be a time to celebrate the accomplishments of gay and lesbian people through parades, marches, commemorations, cultural programs, and other means; therefore, be it

Resolved, That the Board of Education of the City of Los Angeles recognize June of each year as Gay and Lesbian Pride Month and encourage schools and offices to find appropriate ways to fulfill the mandate of this resolution and of the policy document "Educating for Diversity."

For assistance call Bernadine Lyles, Advisor, Multicultural Unit, at (213) 625-6791, or Laura Hale, acting director of the Gay and Lesbian Education Commission, at (213) 351-7311.

Approved: Sidney A. Thompson, Deputy Superintendent.

Distribution: All School and Offices.

LOS ANGELES UNIFIED SCHOOL DISTRICT, DIVISION OF INSTRUCTION,
May 9, 1994.

SUBJECT: Gay and Lesbian Pride Month.

On May 18, 1992, the Board of Education passed a resolution recognizing June of each year as Gay and Lesbian Pride Month. The resolution is based on District policy contained in the "Educating for Diversity" document, which states as a District goal the development of "students who appreciate and respect diversity and understand the roles and contribution of people of diverse groups." The document calls upon the District to include in the curriculum the historical and current role and treatment of homosexuals in society. "the contributions of gay and lesbian people in history and culture, and the current status of homosexuals as it relates to social policy, family diversity and human relations."

The approved Board of Education resolution states:

Whereas, In June of 1969 in the Greenwich Village section of New York City a routine raid on a gay bar called the Stonewall Inn was for the first time resisted by the peacefully assembled gay and lesbian patrons:

Whereas, This resistance led to several days of uprising by the gay and lesbian population of New York City who demanded equal rights and an end to police harassment of their establishments; and

Whereas, This event now called the Stonewall Rebellion, is widely viewed as the beginning of the modern gay and lesbian movement and is the reason why the month of June has come to be a time to celebrate the accomplishments of gay and lesbian people through parades, marches, commemorations, cultural programs, and other means; therefore, be it

Resolved That the Board of Education of the City of Los Angeles recognize June of each year, as Gay and Lesbian Pride Month and encourage schools and offices to find appropriate ways to fulfill the mandate of this resolution and of the policy document "Educating for Diversity."

For assistance call Kathy Gill, Director, Gay and Lesbian Education Commission, at (213 625-6392.

Approved: Dr. Ruben Zacarias, Deputy Superintendent.

Distribution: All Schools and Offices.

Mr. SMITH. Madam President, just a brief mention of some items.

"Display"—this is part of this letter:

Display using colorful handouts enclosed, choose essential display case to post the information about the gay and lesbian community, its symbols, its various organizations, its resources and an additional display may be done in the media center.

Bulletins: Daily facts and information about lesbians and homosexuals.

Assemblies: If you'd like to plan an assembly at your school, please contact Kathy Gill * * * We have videos * * *.

Et cetera.

Lessons: The information on famous gays and lesbians in history and well-known contemporary gays, lesbians and bisexuals may be duplicated and used in history classes.

Let us make sure we get it all. Let us not miss anything.

Madam President, I know some of my colleagues—I include myself—when we are not working here and not in our States, have some type of living accommodation in Fairfax County, VA. For them, as it was for me, this next piece might be of particular interest. It was written by Carter Thomas who is a concerned parent in Fairfax County who is currently active in the fight against the Fairfax County Family Life Education Program.

I ask unanimous consent that a copy of his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Let me take a moment to document what has transpired with regard to the "Face to Face with HIV" program. My experiences come from research with the Fairfax County School Board, the Fairfax County Family Life Education (FLE) Program (specifically Mr. Jerry Newberry), and personal contact with the program at Lake Braddock High School. I can only assume that similar occurrences are happening at the ten other Fairfax County High Schools participating in this program.

I found out about the program through the Lake Braddock High School student newspaper. My daughter is a sophomore and will be subject to the program next year. Since I was not informed by the school in a timely fashion, I missed the evening presentation. I didn't feel I had enough information to make an intelligent decision as to whether or not to "opt out" my child, so I started investigating the program.

As I understand it the Fairfax County School Board voted to accept this program in July of 1992. The individual schools were to determine the worth of the program and decide by October of 1992 whether or not to schedule the program. One would have thought that the individual communities and/or the PTA's would have been queried about this sensitive social issue. At Lake Braddock, however, a unilateral decision was made by the school staff to schedule the program. In all fairness to Lake Braddock's current principal, Dr. Dorminy, I must say that he was not a part of this unilateral decision.

Further, the School Board did not authorize the expenditure of public school funds to pay for the program. It is generally thought that the intent of the School Board was to have the PTA's fund it for their individual schools. This would have accomplished a very good thing. It would have brought the PTA's into the decision making process. Once again, this did not occur at Lake Braddock High School. The Lake Braddock PTA president and secretary were not aware of this program nor did they fund it.

I have been assured by Dr. Dorminy, Lake Braddock's new principal, that no "allocated" funds went into this program. Although I'm still not sure where the money came from since the PTA didn't fund it, I did find out the program cost $1,200.00 Maybe a small sum, but my seventh grade son had to share a computer every other day because Lake Braddock is woefully short of computers. At least one and maybe two computers could have been purchased with this $1,200.00.

My main concern with this program can be posed in a one word question. Why? I followed the normal "chain of command" starting with Lake Braddock High School. I had some basic questions I needed answered in order to make an intelligent decision about whether or not to "opt out" my children. My basic questions were as follows. Who are the participants from Northern Virginia Aids Ministry (NOVAM) and what are their backgrounds and qualifications? What is and where can I find the Program of Instruction (POI)? What is the objective of this program and has a cost benefit analysis been conducted? Mrs. Ewing, the FLE coordinator at Lake Braddock could answer none of the questions, but she attempted to explain the objective. When I called the School Board Office, the representative had no information but she recommended I call Mr. Jerry Newberry. Next I contacted Mr. Newberry, at the Lacy Instructional Center, who is charged with administering the FLE Program. Mr. Newberry told me that there was no POI, no cost benefit analysis has been conducted, and that he wasn't sure who would be the instructors but that they had received a day and a half of platform instruction training. I finally had to contact Penny Lane at NOVAM, the contractor.

My wife and I visited Lake Braddock over a two day period and viewed more than five different presentations of "Face to Face with HIV" by NOVAM. Since it is doubtful that any School Board Member of Fairfax County FLE Coordinator has attended these presentations, let me offer this report for your information.

One of my questions was answered immediately. Penny Lane opened the class by saying that all of the kids in the class had all of the information on AIDS, but "that information is not enough, if you aren't changing your lifestyle." The very objective of the course is behavior modification! I reject this premise. Our school's purpose is to educate, not modify behavior. I like Thomas Sowell's definition of education. He says, "the purpose of education is to give the student intellectual tools to analyze, whether verbally or numerically, and to reach conclusions based on logic and evidence." If you don't like this definition, look it up in the dictionary. All definitions refer to information, analysis, and reaching conclusions. None refer to behavior modification.

We learned about the background of the instructors first hand. Some were recovering drug addicts, others were homosexuals, still others had been prostitutes. All had violated numerous state and federal felony statutes to include use of illegal drugs, prostitution, sodomy, and larceny.

There was no POI developed. The School Board should have issued broad guidance to the Lacy Instructional Center who in turn should have developed a POI. This POI should have, as a minimum, defined the parameters of the discussion and mandated a moderator from the individual schools concerned. The school FLE coordinators know the particulars of their individual schools far better than does Penny Lane from NOVAM.

Lastly, there was no cost benefit analysis done. Frankly, I can't imagine reallocating funds from any proven educational program to a program with the sole objective of modifying behavior on a very sensitive social issue without an analysis that would indicate a high probability of success. But what is success? Are we successful if we modify behavior? Or are we successful if we educate?

You have the background, I will now very briefly list some of the objectionable points we observed.

There was no FLE trained school faculty involvement. In fact, there was no faculty involvement at all. When one Lake Braddock teacher asked a very good question and attempted to bring out an important point, Penny Lane mentioned that the discussion was for students only. That allowed her to completely guide all discussion.

Penny Lane spoke repeatedly about anal and vaginal intercourse and oral sex. She never mentioned the word abstinence in my presence, however she did repeatedly stress the use of latex condoms.

One speaker used profanity on several occasions. Do we now allow teachers to use profanity? Of course not. Guest instructors should be held to our same high standards.

Another said that HIV had its benefits for her. She said, "I probably would have been dead from an overdose or on the streets of DC by now if I had not tested positive."

Two other speakers told of twenty years of continuous crime. Both said they had never done anything wrong! One continued and said he didn't feel he deserved to have contracted the HIV virus. What they meant was that they had never been caught and put in jail. In fact, not one of the speakers ever said that their behavior had been illegal. Not one speaker ever admitted doing wrong.

One homosexual blamed his problems on his parents and their religion.

Penny Lane told the students to contact NOVAM if they had questions or problems. She never mentioned that they should go to their parents, trusted relative, doctor, or clergy.

At no time was there a general disclaimer given. These speakers have their own opinions but they are not experts on anything we want our children to know. The environment and the school lend them credibility. It is a dangerous thing to give a non-expert credibility and put him on the platform as an "instructor" to adolescents. One speaker said she had no health insurance so the hospital sent her "out on the street to die!" She said, "The system was against me." The message obviously was that the system was the problem, when in reality her illegal, high risk behavior was the problem.

In conclusion, I would ask the School Board to reconsider the program "Face to Face with HIV." The school system, Lake Braddock High School, and very likely the other schools in the county that have used this program have abrogated their authority to NOVAM. Do we want our educational institutions attempting to modify behavior? If so, I ask that you go about it the way our country intended to modify behavior, through a system of laws and public and family involvement. At the very least, NOVAM should be told that each presenter must admit that he or she violated a law and that he or she was wrong. The students need to know that a high risk behavior is not only dangerous but it is also wrong and illegal.

This program is inappropriate as it is currently being conducted and of questionable benefit. Our schools should concentrate on education and leave behavior modification where it belongs, with the legislators and parents.

Mr. SMITH. Madam President, he goes on, and I am not going to read the letter, it is part of the RECORD. I just want to note a couple of things in it. He indicates in here that he found out about this program through a high school student newspaper. He did not know it was part of his daughter's curriculum.

His daughter was a sophomore and was going to be subjected to this program. "Since he was not informed," he said, "in a timely fashion, he missed the evening presentation." He goes on to say the Fairfax County Board voted for this in July 1992.

* * * the school board did not authorize the expenditure of public school funds to pay for the program. It is generally thought that the intent of the school board was to have the PTA's fund it for their individual schools.

Anyway, he goes on to talk about what the program is.

One speaker in this particular assembly used profanity on several occasions, even though they do not allow the teachers to use it. Another said that HIV had its benefits for her. Two other speakers told of 20 years of continuous crime. Both said they had never done anything wrong. One homosexual blamed his problems on his parents and their religion. This was one of the speakers. This is Fairfax County, VA.

I will enter that for the RECORD. My colleagues may read that.

Again, is this really what we want our kids exposed to in the public school systems? We wonder why so many parents who can afford it take their children out of public schools. And then I also wonder why so many of my friends to the left do not want to support vouchers to allow poor people, underprivileged people to take their kids out of there, too, so they do not have to be subjected to this.

I ask each of my colleagues to please listen: How would you respond if your 12-year-old, or worse, your 6-year-old brought home some of the materials that I have at my desk? I have not seen a line over here to look at it, but I hope before the vote that they will.

I remember as a 6- or 12-year-old, if I brought home something like that, I would be punished for it. And I can assure you I did not get it from my teacher or from my curriculum.

We can and we must protect the taxpayers by keeping this kind of trash out of our schools, and that is exactly what it is. It is trash.

I expect to be challenged. I welcome the challenge.

I see my friend and colleague from Minnesota, and I am about to yield the floor, I say to him, but the question, whenever we bring these kinds of things up, the question always comes: Somebody is trying to practice their morality or tell somebody else how to think, what to do, what to do with their lives, telling them what to do with their sex lives. That is the furthest thing from the truth. That is not the purpose of being here.

The question is: Should the taxpayers, the U.S. taxpayers, without any vote on this, be funding these kinds of programs? I do not think they should, and we are going to have a vote on it.

Let me make it very clear, so there is no misunderstanding, a vote against, whether it is on the Helms second-degree amendment or my underlying amendment, whichever the case may be—and we do not need two votes, one or the other—a vote against that amendment is a vote to say, yes, it is OK, it is OK to expose my kids or anybody's kids to these kinds of materials from the ages of 3 years old through high school. Advocating, promoting the homosexual lifestyle in the schools with materials that are so graphic, in some cases, and so disgusting, that I cannot display them on the floor of the U.S. Senate, but you can look at them in your kid's classroom, if you think that is right, then the vote for you is no on Helms and Smith; the vote is no. It is very easy. If you think it is wrong, then you will have an opportunity to say so.

Madam President, I think I have made my point. I have one parliamentary inquiry before I yield the floor. I assume the yeas and nays have been ordered on the Helms second-degree amendment, which means that it is not necessary for me to ask for a similar yeas and nays at this point.

The PRESIDING OFFICER. The Senator is correct.

Mr. SMITH. At this point, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, the Senator from New Hampshire, my friend, said he assumed that there would be a challenge to this amendment and there would be debate on the floor, and he is correct about that.

I hope before Senators vote on this amendment, they will read the language very carefully.

> No local educational agency that receives funds under this act shall implement or carry out a program or activity that has either the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

Definition of program or activity:

> A program or activity, for purposes of this section, includes the distribution of instructional materials, instruction, counseling, or other services on school grounds, or referral of a pupil to an organization that affirms a homosexual lifestyle.

My colleague from New Hampshire knows this. I think a lot of him. We do not always agree, but we are friends. But I really think the effect—so I am not talking about him in personal terms, but the effect of this, Madam President, is very mean spirited.

Counseling. I was a teacher for 20 years. Gay youth are two or three times more likely to attempt suicide than heterosexual young people. You have a young person, Madam President, gay person, confused about his or her sexuality, not only confused but despondent, depressed, ashamed, thinking of himself or herself as maybe less than fully human—sometimes I think we talk about gay and lesbian people on the floor of the Senate as if they are less than fully human—often thrown out in the streets by their families and all too often driven to drugs and alcohol to numb the pain. You mean to tell me that we would pass an amendment in this Chamber that would say if that young man or that young woman, confused, despondent, depressed, contemplating suicide, was to go to a counselor in our school system, there could be no counseling to save that young person's life? That is what this amendment says.

(Mr. FEINGOLD assumed the chair.)

Mr. WELLSTONE. Mr. President, let me just repeat this one more time because there are all sorts of other issues on which I could focus, but I just want to focus on this one issue.

> Definition. A program or activity, for the purposes of this section, includes the distribution of instructional materials, instruction, counseling * * *.

Mr. President, you have a young person, young man or woman, thinking of themselves as worthless—and believe you me, it happens—confused about their sexuality, taunted, no support at home—and the statistics bear this out in terms of the suicide rate, I say to my colleague—and this young man or woman seeks counseling in our school system, and we are saying through this amendment we cannot counsel that young person to try to save a life?

I say in this Chamber a life is a life. All people are worthy, all people should be treated with dignity, all people have self-worth. And just because that young person is gay or lesbian does not mean that young person is not to be supported through counseling or that our school system should face a cutoff of funds for providing that counseling support. So I hope that Senators will reject this amendment.

If Senators want to vote for an alternative, which I think gets at a concern all of us have, then why do we not vote on an amendment which says that none of the funds of this act shall be used to produce or distribute materials or programs directed at youth that are directed to promote or encourage directly sexual activity, whether homosexual or heterosexual.

We are interested in programs that deal with drug abuse, that prevent unwanted pregnancy, that reduce suicide, that reduce the transmission of sexually transmitted diseases; we want to make sure that happens. But we do not want to see materials distributed that promote sexual activity. I am all for that amendment. I know that the Senator from Vermont is. Senators will have a chance to vote on that amendment.

But I say to my colleagues, please, look at the language of this amendment. Please do not vote for an amendment that would deny funds to schools for providing counseling support to young gay people. We cannot do that. We just simply cannot do that because that is not what the Senate is about.

The PRESIDING OFFICER. Who seeks recognition?

Mr. JEFFORDS. Mr. President, I call for the vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question occurs on amendment 2434.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

Mr. HELMS. Regular order.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

The Senate is in a quorum call.

Mr. HELMS. Mr. President, the regular order under the rules—and I ask this of the Parliamentarian for counsel—my call for the regular order would have been the Danforth amendment to be the pending business; is that correct?

The PRESIDING OFFICER. The Senate is in a quorum call at this moment.

Mr. HELMS. I ask unanimous consent that further proceedings of the quorum call be dispensed with.

The PRESIDING OFFICER. Is there an objection?

Mr. WELLSTONE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. We will get no more business done today then, if that is the way things are going to be done.

The bill clerk continued with the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, obviously I offered my second-degree amendment to the Smith amendment to be helpful to the Senator from New Hampshire. They are identical except for the addition of a few words.

But I take exception to the misrepresentation of what the Smith amendment proposes—and, therefore, what the second-degree amendment offered by me proposes—by the distinguished Senator from Minnesota. I do not know what he taught in college, high school, or anywhere else for that matter. But this amendment is perfectly clear, and an effort is being made to persuade Senators that it means something different from what it says.

I listened carefully to every syllable uttered by the distinguished Senator from New Hampshire, and I think it is perfectly clear what he was talking about. But just for the record, for the legislative history, let me ask him a few questions. If he will follow me along in the text of his amendment and my second-degree amendment, and he can confirm the accuracy of my remarks.

Does it read in both his amendment and my second-degree amendment as follows: "(b), Definition: A program or activity?"

Mr. SMITH. That is correct. Program or activity.

Mr. HELMS. "* * * for the purposes of this section;" right?

Mr. SMITH. That is correct.

Mr. HELMS. "* * * includes the distribution of instructional materials, instruction, counseling"—so far, am I reading it correctly?

Mr. SMITH. Word for word.

Mr. HELMS. "* * * or other services on school grounds;" right?

Mr. SMITH. Correct.

Mr. HELMS. "* * * or referral of a pupil to an organization"—then comes the closing clause covering all of the above, as the saying goes: "* * * that affirms a homosexual lifestyle."

So when the Senator drafted his amendment—and I used the identical language for the second-degree amendment—he did propose prohibiting counseling which is helpful to any student who is thinking about suicide, or who is ashamed, or whatever it was that the Senator from Minnesota talked about; is that correct?

Mr. SMITH. I say to the Senator from North Carolina that there is a distinct difference between the term "suicide" and "homosexuality" as defined by my amendment.

Mr. HELMS. But the Senator is not talking about prohibiting counseling for any purpose that is helpful?

Mr. SMITH. The Senator is correct.

Mr. HELMS. But you are talking about prohibiting counseling that affirms a homosexual lifestyle?

Mr. SMITH. That is the exact intent of the language.

Mr. HELMS. All right.

The Senator from Minnesota hypothesized that a student would be saying to a counselor: "Oh, I am going to pieces. I am thinking about suicide. I am gay." I am this and that and the other and "I am just so depressed and upset."

What would that counselor do under the Senator's amendment? Would he say: "Sit down, son," or "young lady," "and let us talk about it"?

Mr. SMITH. That is exactly correct.

Mr. HELMS. However, the Senator is proposing that that counselor not be authorized by this or any other act to affirm or encourage or otherwise affirm a homosexual lifestyle? That is the point of the amendment regarding counseling, right; the instruction, right; the distribution of instructional materials, right?

Mr. SMITH. The Senator is correct.

Mr. HELMS. If they affirm a homosexual lifestyle, any one or all of the above, this amendment would prohibit that; is that correct?

Mr. SMITH. That is correct. The Senator is correct.

Mr. HELMS. All right. I thank the Senator.

Mr. President, it is all right to be defeated on an amendment, or a bill, in this Senate if the pretext for the vote is fair, even if it is a pretext. But it is a little unusual to have all sorts of little machinations going on, little winks and nods where a provision has been taken out of a piece of legislation even though that provision has been approved overwhelmingly by the Senate and approved overwhelmingly by the House.

But that is what has been happening lately. The managers of the bill, House and Senate, get together, and they wink and nod, and they throw the approved amendment away and put in something innocuous and toothless to replace it.

Those kinds of shenanigans rubbed me the wrong way recently, and I confess that they did, and I had something to say on the Senate floor about it. If it continues, I am going to continue to see if I cannot find roadblocks, legislatively, here or there because that kind of subterfuge is no way to legislate. It is not fair, and it does not honorably represent the will of the House or the Senate.

Yes, I am talking about school prayer. Had it not been for such a wink and a nod right at the conclusion of the conferees' session on the Goals 2000 bill, it would now be the law of the land that schools could not prohibit voluntary, constitutionally protected prayer.

Senator PACKWOOD, standing right here with his back to the podium, by the way, said to me last week, "What does constitutionally protected prayer mean?" And I did not want to embarrass the Senator because I could have said truthfully, it means exactly what it did the day you recommended that I modify my amendment back on February 3 to include it, after he conferred with the distinguished Senator from Massachusetts, of course.

Mr. President, I did not think it added anything to the amendment. I did not think it hurt anything. So I did add the phrase "constitutionally protected" to my amendment, and I added it by modification. Whereupon, the Senator from Massachusetts voted for the amendment, as did the Senator from Oregon [Mr. PACKWOOD].

But later on came that wink and the nod in conference. I will get over this. I have a granddaughter who is 9 years old, and when there is a little dispute in the family, she says, "Get over it," and "I will get over it," I say to Katie Stuart.

But I do not like this kind of legislating behind the scenes. I have never played hanky-panky with Senate protocol, and I have been chairman of a committee and I have sat on many conference committees, but I have never, never done that to a colleague, and I never will.

Now, Mr. President, I am perfectly willing to go to a vote on my amendment provided the distinguished Senator from New Hampshire is willing and provided he has nothing further to say. But if he has something to say, I hope he will say it and I wish he would invite Senator KENNEDY to come over and look at that material, and I wish he would invite Senator JEFFORDS to come over and look at that material, and I wish he would invite the Senator from Minnesota to come over and look at the material—which is disgusting and obscene. That is the kind of material that has been laid out before schoolchildren many, many times every day in this country, with the use of Government funds. Is that not correct, I ask the Senator from New Hampshire.

Mr. SMITH. That is correct.

Mr. HELMS. Why does not the Senator deliver the last part of our sermon one more time? We may find a convert somewhere sitting on this floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will just respond to a few of the remarks of my colleague from North Carolina.

The Senator from New Hampshire was on the floor at the beginning of my remarks when I made it clear—and this is certainly true that he and I are good friends and I meant nothing personally, he knows that. But I felt that the effects of those, which were exactly my words, would be mean spirited.

Let me one more time just simply say when you have Government threats of taking away funding and you include as a program instruction counseling, I would even say instruction, you do not know if you are dealing with a book or a novel or a poem or literary character, and teachers have no way of knowing whether or not someone is going to argue that somehow they are affirming a homosexual lifestyle.

Above and beyond that, I simply say to my colleagues understand the effect of this. The effect of this is you have a young person who comes in—I will repeat it one more time—confused about their sexuality, all too often feeling worthless, depressed. Unfortunately, the statistics are there for us to see. There are two to three times the rate of suicide for young, gay people. They come to a counselor, and you have language like this? What does it mean "affirm?" The effect of this is going to be a position where that counselor cannot really even support this young person. You cannot have language like "affirm." We are essentially saying exactly what I said we are going to say, and that is why this alternative amendment, which makes all the sense in the world where we simply say nothing in this act shall be used to produce or distribute materials or programs directed at youth that are designed to promote or encourage directly sex activities, whether heterosexual or homosexual.

I think we agree on that. I am sorry. I say to the Senator from North Carolina I think there is just a profound misunderstanding about what the effect of this would be. The effect of this amendment would be cruel. The effect of this amendment would be that counselors in our school system would feel that they were not in a position to counsel and support young, desperate people for fear that that would be interpreted as affirming homosexuality.

That is what is so profoundly wrong about this amendment. That is why we have to vote against this amendment, and that is why colleagues should vote up or down on the alternative amendment which does precisely what I think there is a broad consensus in the body to do, which is to make sure that materials are not distributed that promote sexual activities. We are not after who these people are. We are talking about the sexual activity.

So I think it is quite clear what is at stake here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will just make some brief, general comments and outline very briefly about how I see the current situation, and then hopefully we can move toward some resolution.

First of all, Mr. President, I oppose this amendment which seeks to undermine the most fundamental principle of this legislation—that States and local communities are responsible and accountable for designing programs and curricula to improve the educational outcomes of their students.

Funds authorized under ESEA are intended to promote and encourage one thing only—locally defined activities that are designed to further the education goals.

It has always been the role of LEA's to design programs that meet the needs of their communities. And no two communities in this Nation are alike.

The proposed amendment would take this local decisionmaking authority away from local communities, and prohibit them from considering a range of services that may have local support in order to protect the health, safety, and educational success of their students.

It is the parents, community leaders, school administrators, and teachers who know what students need in their community. At the time we are empowering schools to pursue effective local school reform strategies—this amendment would demand regulation at the Federal level regarding support services for gay youth and comprehensive health education.

This bill is not about sexuality, sex education, or sexual orientation. It is about helping students—all students—prosper in school and grow up ready and able to join society as productive citizens.

That is the fundamental task of our schools. Educators and administrators need flexibility to meet this great challenge.

It is clear that young people today face serious challenges and need the guidance of caring adults to help them make responsible choices. The facts speak for themselves.

Earlier this year the administration released the annual survey of drug use among adolescents, which shows that illegal drug use continues to rise among high school students. Today, 1 in 5 eighth graders are abusing inhalants such as glues or aerosols, which can cause longlasting and devastating side effects.

We know from the Centers for Disease Control that more than half of high school students are sexually active. Each year more than 1 million teenagers become pregnant, and nearly 3 million adolescents contract a sexually transmitted disease. More than 75,000 adolescents have already been diagnosed with AIDS. More than 1 in 5 of those who have already died was probably infected as a teenager.

And mental health problems, such as depression and attempted suicide continue to plague our young people.

While there is nothing in this act that would require local communities to deal with these issues, many believe they cannot put their heads in the sand and prevent these tragedies from not occurring. These realities affect the abilities of youth to concentrate, learn, and succeed in school. As local school districts—in consultation and cooperation with parents—seek to respond, we should not tie their hands and remove the tools they feel are needed in order to get their job done.

Congress should not tell teachers, parents, school administrators, and LEA's what they may or may not teach—what they may or may not offer as a support service—to prepare their students for achievement and productive adulthood. This amendment would remove the local discretion that is the hallmark of our educational system. That is why the National PTA has written in opposition to this proposal, stating:

> Conservatives and liberals alike in our organization believe in the concept of local decision-making and the involvement of parents and other community members in the development of sexuality programs. These are not decisions that Senators should be making for 45 million children. These are decisions that parents should be making at the local level, and we oppose any and all attempts to curtail the rights of parents to decide what is best for their children.

This sentiment was shared by the National Association of School Boards of Education and the National School Boards Association. They have written to vigorously oppose any attempts by the Federal Government to restrict schools' ability to shape their own programs to improve student health.

We have seen this type of amendment before, and I am sure that we will see it again. During previous consideration, the Senate has repeatedly acknowledged that it is not the role of government to directly promote sexual activity of any sort. And that is still the case.

However, we have also acknowledged that it is the role and the responsibility of government to provide accurate information and support services to prevent the tragic consequences of public health concerns such as HIV, substance abuse, and suicide.

It is the essence of this legislation to support the educational improvement strategies of State education agencies and local education agencies to meet the needs of children they must educate—and we should not be distracted from that critically important purpose.

It is the right and responsibility of parents and local educators to determine strategies they deem appropriate to protect and educate their children. If these solutions include a plan to target support services to troubled adolescents—as a means of reducing their drop out rate addressed in the second education goal—then communities must be allowed to use them.

But the proposed amendment would have us believe that Congress knows better. It imposes one view, one opinion on all the States and communities of this country—in effect, telling them they cannot be trusted to determine what their students need or can receive.

The alternative amendment I have offered along with Senator JEFFORDS, Senator Williams, and others is intended to strike a balance—one that has been consistently supported and adopted since it was originally offered by Senator HATCH and myself.

Our alternative would prohibit States and local communities from developing materials and programs that promote or encourage sexual activity. It acknowledges that this is not the role of Government. However, it leaves in place the ability to State and local education agencies to decide, if they so choose that this is their role, to target support for high-risk use and seek to prevent substance abuse, violence, suicide, school termination, or other serious problems.

There is nothing in this bill that compels local education agencies to provide such programs. And there is nothing in our amendment that encourages local communities to develop such programs.

Our amendment will assure that the Federal funds are not used to promote or encourage sexual activity of any kind. But it will also maintain the local community control over the content of materials, and perhaps that is the hallmark of American education.

I would urge my colleagues to support our alternative that, in turn, supports local communities struggling to design programs that meet the needs of their young people.

Mr. President, just so that we have some idea of where we are, from a parliamentary point of view, I would hope that we would have a vote on the Smith and Helms amendment. There is an indication that would be an up or down vote.

I hope, since we have temporarily set aside the Danforth amendment, that we would have comments from Senator DANFORTH on that amendment, which we debated earlier. I know that one or two Senators have indicated they wanted to speak briefly on that measure, and then I would hope that we would be able to have a rollcall vote on the amendment, which I have outlined very briefly in this presentation, which effectively would include the concepts which I have stated.

It would say:

> None of the funds appropriated under this act shall be used to develop materials or programs directed at youth that are designed to directly promote or encourage sexual activity, whether homosexual or heterosexual.

That would effectively be it.

So that would be our hope. I understand that that does not necessarily mean that we will follow that path, but it would appear to me that that would give those that have differing views an opportunity to have their views addressed by the Members here.

We would have a resolution of the Danforth amendment, which I believe will require a vote. And then we will move on to the other matters which the Senate will address.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I do not intend to unnecessarily prolong the debate.

I do want to respond to a couple of points that have been made here. Obviously, if we were to vote for the proposal of the Senator from Massachusetts, we essentially are looking the other way and not dealing with the issue that I have presented here.

I have the materials. Senator HELMS suggested that I ask Members of the Senate to come over and review them. I have done that. I will repeat again the invitation to have my colleagues review the materials before the vote. They speak for themselves.

This amendment that the Senator from Massachusetts is proposing is not going to stop this sort of thing. The funds are still going to be there for this type of information being dispersed in the schools. I think it is wrong. That is the point I am trying to make.

I would say to the Senator from Minnesota, to seize upon the word "counseling" and to extract from that word, based on the tone, the overall purpose of my amendment and say that that means one could not counsel a young man or woman against suicide is really, really reaching well, well beyond the bounds of my amendment.

Since I am the author of that amendment, I think I can certainly speak to what the intent of the amendment is. We are talking about counseling to affirm homosexual lifestyle. That is the type of counseling we are referring to. We are not referring to emergency counseling regarding someone who may be contemplating suicide or anything else that is unrelated to the issue as I have here defined it.

Again, I want to repeat, when we talk about counseling, I will tell you what counseling means. Under my definition, counseling would mean passing out a brochure like this called "Listen Up," which I will not open and read.

We talk about poor choice of words. The Senator from Minnesota selects "counseling" as a poor choice of words—I suggest the Senator read this pamphlet and read some of the language in here. I thought I had heard every word that would be called profanity, but I must confess I might have learned a couple of new ones looking through this. This is now for junior high school kids, kids who are trying to make some determination about their own lives, their own futures. To have this kind material—that is counseling. That is the kind of counseling I am referring to.

Or this kind of book here, "Daddy's Roommate." That is the kind of counseling I am referring to. Passing out materials like that and passing out materials like this one, which I cannot hold up, which is filthy and disgusting. It has no place in any public school system at any age level, let alone the age level we are talking about. That is the issue.

I just want to cover a couple of points that I neglected to mention. This is interesting, I would say to the Senator from North Carolina. In this book which promotes this homosexuality and uses the terms—it is obvious, as you read it, these are not used in any tasteful way. They are using words that one would generally consider as slang and profanity in almost a disgusting way, not in an educational way. That is the point.

At the end of this book, in appreciation it lists all of those who are responsible for this book. They obviously want to take credit. But a couple of States have been referred to here. New York was one. "The young people at our pilot sites"—I will read the States, the pilot sites for this book. It looks innocuous, "Talk About Sex," until you start reading it and you find out what they are talking about and what kind of sex they are talking about. "These young people at our pilot sites in New York, Nebraska, Alaska, Vermont, Minnesota, and Louisiana," they are saying they appreciate it "for sharing their ideas, their thoughts, and their lives in order to make this project possible."

Talk about counseling; that is the kind of counseling I am talking about. I am not talking about some young man or woman walking in, threatening suicide. I think just the implication—I respect the Senator; he knows that; I do not take it personally—but just the implication I would even suggest in any type of legislation before this body that an individual should not be counseled for suicide is an insult. I take it as such. It is not what I meant. It is not what I intend. And it is not what the amendment does. It does not matter what I intended; it is what the amendment says. The amendment says very clearly this is the kind of counseling we are talking about.

Finally, in response to the Senator from Massachusetts talking about funding: Look, there are plenty of examples of this kind of funding going on, promoting homosexuality in our schools. That is the bottom line here. Let us not complicate this issue. Do you want homosexuality and the lifestyle of it, not some definition about what it is—I am talking about the promotion, the affirmation of a homosexual lifestyle with the crudest, most vulgar language that anybody could possibly create—do you want that taught from the third grade? I take; that back—from 3-year-olds all the way up to junior high school. If you do, then vote "no" on the Helms-Smith amendment. It is simple.

If you do not, and you would like to see some restrictions put in here, all you have to do is vote for the amendment and here is what will happen. The world is not going to come to an end. Everything is not going to stop. I will tell you what is going to happen.

When those people line up in those school systems in Louisiana and Minnesota and Nebraska and all the other places where this stuff is going on, when they line up for those dollars, you are going to have to simply say, "We will not use these materials." That is pretty innocuous, is it not? We are just not going to teach your kids this kind of garbage. If they say that, they can have all the money on the list. That is all there is to it.

What is wrong with that? We wonder why we have the problems we have in society today. That is why. Because we do not have the guts in the U.S. Senate to stand up and say with our votes this is wrong. Some of us stand up and say it is wrong. Some of us do not. Some of us with good intentions look for an excuse to obfuscate this issue, to dilute it so it will render it ineffective. That is exactly what the alternative that the Senator from Massachusetts, with respect, is offering. It just obfuscates it. It means it is a nothing amendment and does not accomplish what I want to accomplish, what needs to be accomplished, what I believe the overwhelming majority of the American people would like to see accomplished—which is that this kind of garbage promoting this lifestyle in direct opposition to the church—we talk about church and State.

How many times has the Senator from North Carolina heard on the floor of this Senate challenge after challenge after challenge to him on prayer in schools or prayer in graduations? But we do not have any problem with somebody taking on the church—taking on the church in the public school. That is OK. Taking it right on, any church. Just take it right on and run it down. Run it right into the ground and say the reason there are problems in society and the reason you cannot do what you want to do is because of the church: Christianity, Judaism. That is what it says in these materials. That is OK.

But, Lord help us, let us not have anybody bow their heads in a silent prayer in the morning before school or say, "God take care of my family and my classmates and my teachers for the rest of the day." Oh, no. Boy, the world will definitely come to an end. The Founding Fathers, they just never intended anything like that, did they? But let this filth come into our classrooms, that is fine. And you wonder what is wrong with America? You wonder what is wrong with America.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just before concluding, I want to read into the RECORD from the letter from the National School Health Education Coalition. It is a coalition of over 70 health and education organizations and agencies, State and local coalitions and other youth-serving groups. I ask unanimous consent to have the complete letter and a letter from the National PTA, dated February 2, 1994, printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL SCHOOL HEALTH
EDUCATION COALITION,
Washington, DC, February 3, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN KENNEDY: The National School Health Education Coalition (NaSHEC) is a coalition of over seventy health and education organizations and agencies, state and local coalitions, and other youth-serving groups. Our members are committed to ensuring that all children and youth receive quality comprehensive health education as a cornerstone of a comprehensive health program which includes health services. NaSHEC urges defeat of any effort to limit the use of federal funding for school-based health centers or services, or for education or counseling for gay youths. It is our understanding that amendments regarding these issues may be offered during upcoming consideration of proposals to improve education.

NaSHEC supports family life and sexuality education as an integral component of a quality comprehensive health education program and strongly favors encouraging abstinence without those efforts. We believe that quality comprehensive health education programs and sexuality education involve a broad-base of community representatives in making decisions about a program's content. Historically, Congress has provided direction about populations, special needs, and types of educational and health services, but has left local school districts the flexibility to implement requirements within their communities. This freedom must continue to be upheld.

Local school administrators should continue to be given the freedom and flexibility to tailor comprehensive health education, including sex education programs, to the needs of their community. Thank you for your consideration.

Sincerely,

PAT COOPER,
Executive Director.

NASHEC, INC. MEMBERSHIP—1993

NATIONAL

American Academy of Family Physicians.
American Academy of Ophthalmology.
American Academy of Pediatrics.
American Association of School Administrators.
American Cancer Society.
American College Health Association.
American Foundation of Vision Awareness.
American Health Foundation.
American Heart Association.
American Lung Association.
American Optometric Association.
American School Health Association.
Association for the Advancement of Health Education.
Association of Junior Leagues International, Inc.
Association of State and Territorial Directors of Public Health Education.
Association of State and Territorial Health Officials.
Center for Population Options.
The Chickering Group.
Comprehensive Health Education Foundation.
Council of Chief State School Officers.
Education Development Center.
ETA Sigma Gamma.
ETR Associates.
Harvard School Health Education Project.
March of Dimes Birth Defects Foundation.
Metropolitan Life Foundation.
National Association of Elementary School Principals.
National Association of School Nurses, Inc.
National Association of State Boards of Education.
National Center for Health Education.
National Education Association, Health Information Network.
National School Boards Association.
National Scoliosis Foundation, Inc.
Sex Information and Education Council for the United States.
Society of State Directors of Health, Physical Education and Recreation.
Society for Public Health Education, Inc.

FEDERAL LIAISON

Adolescent Pregnancy Program, Department of Health and Human Services.
Center for Substance Abuse Prevention.
Division of Adolescent and School Health/CDC.
Division of Cancer Prevention and Control/CDC.

THE NATIONAL PTA,
February 2, 1994.

Hon. EDWARD M. KENNEDY,
Chair, Senate Labor and Human Resources Committee, Senate Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: The National PTA supports S. 1150, Goals 2000: Educate America Act, and applauds the Committee's efforts in providing local initiatives for school reform. Indeed, top-down reform, much of which has been evident in the last decade, does not work. In a scientific poll taken by the National PTA and commissioned by Chrysler Motors, we found out that only approximately 5 percent of America's parents know about the National Goals. Is it any wonder that reform is taking so long when the grassroots have not been involved in any meaningful way in educational restructuring.

Goals 2000 attempts to correct those top-down requirements by including parents and the community in educational change. With the addition of the parental involvement goal, S. 1118 as proposed by Senator Mark Hatfield, and part of the Committee's list of recommendations to be added to Goals 2000, the very people—parents and the community—that will ultimately make the program successful are urged to be included. The one thing that makes S. 1150 so appealing to the National PTA is the understanding that one size of instructional program or service does not fit all 14,000 plus school districts, each with their differing needs and value systems. Redesigning new schools is much different than redesigning refrigerators or snazzy cars. It requires the ownership of the key stakeholders, the clients who ultimately will use the product and the policymakers who will be required to support the efforts.

Just as the National PTA would oppose mandated academic standards or assessments or curriculum, we similarly oppose any restrictions on the instructional program offered in local schools. We therefore oppose any amendments to Goals 2000 that would prohibit funds to be used in materials, curriculum or programs that addresses the difficult issues of sexuality as they are faced by local communities. Certainly, we agree that Congress should not be in the business of funding material that is designed simply to promote or encourage sexual activity of any nature, homosexual or heterosexual. However, discussion about program content and services need to be made in cooperation with parents, schools and other organizations at the local level. It is the obligation of the state to set minimum standards and provide the latest information about HIV-AIDS and other health curricula. But final responsibility for local programs must fall on the local communities.

That is why we were so adamant in supporting the National Education Goal for Parental Participation Act. The beauty of the public school is that "the public" can and should get together to determine what is the best curriculum for their particular needs, school district by school district. That is also why the National PTA has worked so closely with CDC and many other organizations in educating our membership about HIV-AIDs, and assuring that no child is discriminated against, no matter what their sexual preference.

In addition, the National PTA supports legislation to assist states and localities to develop and fund comprehensive health care programs, including school-linked health clinic, and provide equitable access to quality, affordable healthy care for all children, youth and pregnant women. Health clinics MUST have include parents in all decisions pertaining to children's education and development.

We would hope that you would oppose all efforts that would permit the U.S. Department of Education to dictate curriculum decisions to local school districts. Representative William Goodling was concerned about this possibility when the House passed Goals 2000, and we would support adding such an amendment on the Senate version of Goals 2000 as well.

Sincerely,

CATHERINE A. BELTER,
Vice President Legislative Activity.

Mr. KENNEDY. I will read two paragraphs from the letter from NASHEC:

Our members are committed to ensuring that all children and youth receive quality comprehensive health education as a cornerstone of a comprehensive health program which includes health services. NaSHEC urges defeat of any effort to limit the use of federal funding for school-based health centers or services, or for education or counseling for gay youths. It is our understanding that amendments regarding these issues may be offered during upcoming consideration of proposals to improve education.

NaSHEC supports family life and sexuality education as an integral component of a quality comprehensive health education program and strongly favors encouraging abstinence within those efforts. We believe that quality comprehensive health education programs and sexuality education involve a broad-base of community representatives in making decisions about a program's content. Historically, Congress has provided direction about populations, special needs, and types of educational and health services, but has left local school districts the flexibility to implement requirements within their communities. This freedom must continue to be upheld.

The 70 member organizations include the American Academy of Family Physicians; the American Academy of Pediatrics; the American Association of School Administrators; the American Cancer Society; the American Lung Association; the Association of Junior Leagues. That is not considered to be a very radical group. The Association of State and Territorial Health Officials; the March of Dimes; National Association of Elementary School Principals; National Association of School Nurses; National Association of State Boards of Education. I have included the total list in the RECORD.

They believe, obviously, that there are going to be different criteria for different children in different parts of the country. There will be in my own State of Massachusetts, obviously, different programs for certain parts, different programs for Boston, for example, than in other parts of the State. Those are basically local judgments and decisions.

This does not just restrict the funding here. The way this is constructed, if any agency is providing any kind of material described in that amendment, then the State loses all of the funding for poor children. And, as Senator WELLSTONE and I have mentioned repeatedly, we want to make sure the Members will have an opportunity to make a judgment. This legislation is about poor children and their education, not promoting one form of sexual activity or another, other than abstinence. And we believe our amendment reflects that and demonstrates it. I hope we will have an opportunity to consider it.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Senator from Massachusetts. As Senator KENNEDY has pointed out, there will be an opportunity for Senators to vote on an amendment that makes it clear that nothing in this act would encourage the distribution of materials or encourage sexual activity of any kind in public schools.

I just want one more time to focus on what I consider to be the most serious, dangerous part of this amendment, and I hope that my colleagues and staff are listening. The prohibition is:

> No local educational agency that receives funds under this act shall implement or carry out a program or activity that has either the purpose or the effect—

Mr. President—

> or the effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

And then listed as a program activity is counseling.

What in the world does this language mean? One more time, a troubled youth—gay—goes to see a counselor and that youth says to that counselor: I am gay, or I am homosexual, or I am lesbian, and I feel worthless; I do not have any reason to live. The suicide rate is three times as high for young people who are gay.

That counselor says: You should not feel that way. Just because you are gay or lesbian does not mean you are not a person of dignity.

Now, have we affirmed, has this had the effect of now supporting homosexuality as a positive lifestyle alternative? By the language of this amendment, yes, with the threat of cutoff of Federal funds. It is going to be very difficult for our schools and our counselors to provide support to young people, yes, regardless of whether they are gay or lesbian who need that support.

That is what is so profoundly wrong with this amendment, and there is no other way to read it. It does not just talk about purpose, it talks about effect. Draft another amendment. But this amendment has precisely the effect of making it well nigh impossible for our schools and our counselors to provide support to these young people.

I hope my colleagues will vote against this amendment on basic humanitarian grounds. I hope we will vote for the alternative amendment, which is crystal clear about money not being used to promote sexual activity of any kind. That is what we are concerned about, instructional materials that do that.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, just again to repeat one point to my colleague from Minnesota. On the issue of counseling, I have made clear the intent of the amendment, as the maker. But it is interesting in this debate that the counseling that takes place with the literature that I referred to is not objectionable to the Senator or to those who argue against me on the amendment. Calling respected clergymen of the churches of all faiths—there is no specific reference here to any particular faith, so I would have to assume all faiths—idiots that mess with your mind, I, frankly, have some problems understanding why that kind of counseling is not objectionable to my colleagues.

And then when you look at the language and the documents that I have already referred to, I find that objectionable and I find it interesting, again, that those words that are singled out like "affirmed" and "counseling" are objectionable to the Senator from Minnesota, but words that are so filthy that I cannot even repeat them on the floor of the Senate without having my words taken down, nor can I even show the documents, are not objectionable by implication. As I said, that is what I find interesting in this debate.

Mr. President, I do not choose to prolong the debate and I will yield the floor. I just want to understand the parliamentary situation. At this time, the next vote would be on the Danforth amendment, followed by a vote on the Smith amendment, as amended by Helms; or is there some other parliamentary sequence of which I am not aware?

Mr. LEVIN. Mr. President, I will vote against the Helms amendment.

I am, of course, concerned about and opposed to any program or activity in the public schools which would promote sexual activity, whether homosexual or heterosexual. I will support the proposal of the managers of the bill which will have the effect of prohibiting the use of Federal funds for any such activity.

Senator HELMS' amendment is, in my judgment, too broadly drawn.

Mr. President, many young teenagers who are gay individuals seek counseling in our school systems. In many instances, such youths are depressed or suicidal. Appropriate counseling of such kids often includes supporting them, encouraging their sense of self-worth, and letting them know that they are decent and valuable human beings. Some might construe such counseling as supporting homosexuality as a positive lifestyle alternative.

The Helms amendment is so broadly drawn as to leave the interpretation open and put Federal support of the schools involved at risk.

The amendment offered by the bipartisan managers of the bill more accurately addresses the need to make clear the Senate's opposition to the use of Federal funds to promote sexual activity—heterosexual or homosexual—without endangering school programs and counselors who seek only to help our young students advance themselves and to gain a better education.

The PRESIDING OFFICER. The Chair advises that the pending question is the Helms second-degree amendment to the Smith amendment.

Is there further debate? If not, the question occurs on agreeing to the Helms second-degree amendment to the Smith amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The result was announced—yeas 63, nays 36, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—63

Baucus
Bennett
Biden
Bond
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Warner

NAYS—36

Akaka
Bingaman
Boren
Boxer
Bradley
Campbell
Chafee
Daschle
Dodd
Feingold
Feinstein
Glenn
Graham
Harkin
Inouye
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Riegle
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wofford

NOT VOTING—1

Wallop

So the amendment (No. 2434) to amendment No. 2433 was agreed to.

AMENDMENT NO. 2435 TO AMENDMENT NO. 2433

(Purpose: To prohibit the use of funds made available under this Act from being used to promote or encourage sexual activity)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. JEFFORDS, proposes an amendment numbered 2435 to the amendment numbered 2433.

The amendment is as follows:

At the end of the pending amendment, insert the following:

SEC. . LIMITATION.

(a) IN GENERAL. None of the funds authorized under this Act shall be used to develop materials or programs directed at youth that are designed to directly promote or encourage, sexual activity, whether homosexual or heterosexual.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, Mr. HELMS, is recognized.

Mr. HELMS. I call for the regular order, Mr. President.

AMENDMENT NO. 2430

The PRESIDING OFFICER. Regular order has been called for.

The matter now before the Senate is the amendment offered by the Senator from Missouri [Mr. DANFORTH], amendment No. 2430.

Mr. HELMS. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, the parliamentary situation is as follows: The Helms amendment was included as an amendment to the Smith amendment, which permitted further proceedings by the Senate. Senator JEFFORDS and I added a follow-on amendment which does not dislocate the Helms amendment, does not substitute, but gives the Members an opportunity to express their view on this particular policy issue. As was appropriately pointed out, we had previously in the day debated the Danforth amendment which related to single-sex schools. We had about a 3-hour debate on that. We went through a period of about an hour or two where we considered other matters—discussions on Haiti, and others—as we tried to work through the process with the Senator from Missouri.

I know that the Senator from Missouri wants to address and reach a resolution of this issue. It is a very, very important one. I hope that he will be afforded the opportunity to do so and that we could do it in a timely way. I had indicated to Senator DANFORTH that we would address that issue after we had some votes on the previous amendments. And so at this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is the Senator's Amendment No. 2430.

AMENDMENT NO. 2430, AS MODIFIED

Mr. DANFORTH. Mr. President, during this morning's deliberations on this amendment, Senator GRAHAM of Florida made some recommendations relating to certain funds which were in the bill. He would prefer for them to be deleted. We worked with his staff and made those changes.

We have also worked with various people who are interested in the question of whether same-gender classes are permissible under title IX in order to remedy effects of past discrimination.

So, subsequent to those various meetings, I have made the following changes in my amendment to accommodate the Senator from Florida and to address concerns expressed by the manager of the bill. I have removed those provisions which would have provided monetary resources on the part of the Federal Government to support the implementation of same-gender classes. Also, the amendment would now read that the Secretary of Education is to commission a study of the educational opportunity demonstration program to compare educational and behavioral outcomes of those selecting same-gender classes and those selecting the coeducational option.

I have also added a construction clause to ensure that this amendment is neutral regarding the question which has been previously litigated in court, whether same-gender classes, programs or schools are permissible under title IX in order to remedy the effects of past discrimination.

Mr. President, I now send a modification to the desk, and I ask unanimous consent that my amendment be modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment, (No. 2430) as modified, reads as follows:

On page 650, between lines 3 and 4, insert the following:

"PART H—EDUCATIONAL OPPORTUNITY DEMONSTRATION PROGRAM

"SEC. 1801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) while low-income students have made significant gains with respect to educational achievement and attainment, considerable gaps still persist for these students in comparison to those from more affluent socioeconomic backgrounds;

"(2) our Nation has a compelling interest in assuring that all children receive a high quality education;

"(3) new methods and experiments to revitalize educational achievement and opportunities of low-income individuals must be a part of any comprehensive solution to the problems in our Nation's educational system;

"(4) preliminary research shows that same gender classes and schools may produce promising academic and behavioral improvements in both sexes for low-income, educationally disadvantaged students;

"(5) extensive data on same gender classes and schools are needed to determine whether same gender classes and schools are closely tailored to achieving the compelling government interest in assuring that all children are educated to the best of their ability;

"(6) in recent years efforts to experiment with same gender classes and schools have been inhibited by lawsuits and threats of lawsuits by private groups as well as governmental entities; and

"(7) there is a compelling government interest in granting the Secretary authority to insulate a limited number of local educational agencies and schools which are experimenting with same gender classes for a limited period of time from certain law suits under title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), or any other law prohibiting discrimination on the basis of sex, in order to collect data on the effectiveness of such classes in educating children from low-income, educationally disadvantaged backgrounds.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to give the Secretary discretion to allow experimentation with same gender classes for low-income, educationally disadvantaged students;

"(2) to determine whether same gender classes make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; and

"(3) to involve parents in the educational options and choices of their children.

"SEC. 1802. DEFINITIONS.

"As used in this part—

"(1) the term 'educational opportunity school' means a public elementary, middle, or secondary school or a consor- tium of such schools all of which receive A waiver under this title, that—

"(A) establishes a plan for voluntary, same gender classes at one or more than one school in the community;

"(B) provides same gender classes for both boys and girls, as well as a co-educational option for any parent that chooses that option;

"(C) gives parents the option of choosing to send their child to a same gender class or to a co-educational class;

"(D) admits students on the basis of a lottery, if more students apply for admission to the same gender classes than can be accommodated;

"(E) has a program in which a member of the community is asked to volunteer such member's time in classes of children of the same gender as the member; and

"(F) operates in pursuit of improving achievement among all children based on a specific set of educational objectives determined by the local educational agency applying for a grant under this part, in conjunction with the educational opportunity advisory board established under section 1803(e) and agreed to by the Secretary; and

"(2) the term 'educational opportunity advisory board' means an advisory board established in accordance with section 1803(e).

"SEC. 1803. PROGRAM AUTHORIZED.

"(a) INAPPLICABILITY.—Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school for a five year period following the secretary's grant of the waiver only to the extent the Secretary determines necessary to ensure the development and operation of same gender classes in accordance with this part.

"(b) EDUCATIONAL OPPORTUNITY ADVISORY BOARD.—Each local educational agency receiving a waiver under this part shall establish an educational opportunity advisory board. Such advisory board shall be composed of school administrators, parents, teachers, local government officials and volunteers involved with an educational opportunity school. Such advisory board shall assist the local educational agency in developing the application for assistance under section 1804 and serve as an advisory board in the functioning of the educational opportunity school.

"SEC. 1804. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each local educational agency desiring a waiver under this part shall submit, within 180 days of the date of enactment of the Improving America's Schools Act of 1994, an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) SCOPE OF APPLICATION.—Each application described in subsection (a) may request a waiver for a single educational opportunity school or for a consortium of such schools.

"(c) APPLICATION CONTENTS.—Each application described in subsection (a) shall include—

"(1) a description of the educational program to be implemented by the proposed educational opportunity school, including—

"(A) the grade levels or ages of children to be served; and

"(B) the curriculum and instructional practices to be used;

"(2) a description of the objectives of the local educational agency and a description of how such agency intends to monitor and study the progress of children participating in the educational opportunity school;

"(3) a description of how the local educational agency intends to include in the educational opportunity school administrators, teaching personnel, and role models from the private sector;

"(4) a description of how school administrators, parents, teachers, local government and volunteers will be involved in the design and implementation of the educational opportunity school;

"(5) a description of how the local educational agency or the State, as appropriate, will provide for continued operation of the educational opportunity school once the Federal waiver has expired, if such agency determines that such school is successful;

"(6) a justification for the waiver or inapplicability of any Federal statutory or regulatory requirements that the local educational agency believes are necessary for the successful operation of the educational opportunity school and a description of any State or local statutory or regulatory requirements, that will be waived for, or will not apply to, the educational opportunity school, if necessary;

"(7) a description of how students in attendance at the educational opportunity school, or in the community, will be—

"(A) informed about such school; and

"(B) informed about the fact that admission to same gender classes is completely voluntary;

"(8) an assurance that the local educational agency will annually provide the Secretary such information as the Secretary may require to determine if the educational opportunity school is making satisfactory progress toward achieving the objectives described in paragraph (2);

"(9) an assurance that the local educational agency will cooperate with the Secretary in evaluating the program authorized by this part;

"(10) assurances that resources shall be used equally for same gender classes for boys and for girls;

"(11) assurances that the activities assisted under this part will not have an adverse affect, on either sex, that is caused by—

"(A) the distribution of teachers between same gender classes for boys and for girls;

"(B) the quality of facilities for boys and for girls;

"(C) the nature of the curriculum for boys and for girls;

"(D) program activities for boys and for girls; and

"(E) instruction for boys and for girls; and

"(12) an assurance that the local education agency will comply with the research and evaluation protocol developed by the Secretary of Education.

"(13) such other information and assurances that the Secretary may require.

"SEC. 1805. SELECTION OF GRANTEES.

"The Secretary shall award waivers under this part on the basis of the quality of the applications submitted under section 1804, taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) organizational structure and management of the school;

"(3) the quality of the plan for assessing the progress made by children in same gender classes over the period of the grant;

"(4) the extent of community support for the application; and

"(5) the likelihood that the educational opportunity school will meet the objectives of such school and improve educational results for students; and

"(6) the assurances submitted pursuant to section 1804(c)(13).

"SEC. 1806.

The Secretary of Education is hereby required to commission a study upon enactment of the Educational Opportunity Demonstration Program, with appropriate protocols to compare the educational and behavioral achievement of those choosing same gender classes and those choosing the coeducational option. The study should be delivered to all members of Congress within one year of the expiration of the waiver authority granted herein.

"SEC. 1807. CONSTRUCTION.

Nothing in this part shall be construed to affect the availability under Title IX of remedies to overcome the effects of past discrimination on the basis of sex."

Mr. DANFORTH. Mr. President, let me again briefly summarize what the amendment is about. Right now some of our school districts, especially school districts in some of our larger cities, have attempted to set up single-gender classes or programs within those schools. However, they have been chilled in their efforts to do that, both by the Department of Education and by the threat of lawsuits by private organizations who have claimed that single-gender classes violate title IX.

So this amendment would allow the Secretary of Education to grant waivers from title IX for 10 applicants, only 10. This is a pilot program, it is a demonstration program. And the demonstration program would say that the

Secretary of Education may grant waivers in 10 cases and only 10 cases for a period of 5 years.

There is absolutely nothing in this amendment that would require anybody to do anything. There is nothing in this amendment that would require a school district to seek to have or to offer single-sex classes. If a school district wanted to do so, the school district would have to apply to the Department of Education, and the Secretary of Education could turn down each and every applicant.

In order to be approved by the Secretary of Education, the applicants would have to give certain assurances to the Secretary. Those assurances relate to equality of opportunity and—I am reading from the amendment—"assurances that resources shall be used equally for same-gender classes for boys and for girls; assurances that the activities assisted under this part will not have an adverse effect on either, sex that is caused by the distribution of teachers between same-gender classes for boys and girls; the quality of facilities for boys and girls; the nature of the curriculum for boys and girls; program activities for boys and for girls; and the instruction for boys and for girls."

So the Secretary of Education would have to be assured on the basis of equality.

Once the program is approved, the schools set them up, but the schools would also have to provide for coeducation, so that the parents of the kids could pick either way. The parents of the kids could choose for same-sex classes or they could choose for coeducational classes. It would be up to the parent.

All this amendment amounts to is choice. And, Mr. President, there have been studies and there is evidence that some children do better with the single-sex option; obviously not every child. But, just as Members of the Senate who send their children to private schools often can select either a coeducational option or a single-sex option, so this would provide—on a very limited basis, only 10 school districts nationwide—for this kind of an opportunity.

That is the amendment. It is very, very limited, very restricted.

Mr. President, I believe the yeas and nays have been ordered. I do not know whether anyone else wishes to speak.

I see the manager of the bill seeking my attention.

Mr. BIDEN. Will the Senator yield for a question?

Mr. DANFORTH. Of course.

Mr. BIDEN. As I understand it—it seemed pretty straightforward—the Secretary would have the option of approving or not approving, and there would have to be a showing that an equal amount of money was being spent for boys and/or girls classes?

Mr. DANFORTH. That is right. That is absolutely correct. The assurances are spelled out in the amendment itself, and the applicant would have to provide those assurances in making the application. The Secretary of Education would then have to be satisfied that those assurances are, in fact, correct.

Mr. BIDEN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank my good friend from Missouri for having worked out what I believe is an excellent compromise, if you want to call it that. Although I think the fundamental desires that he had and what he is trying to accomplish is certainly accomplished still, but it is done in a way I think reassures us all that we are moving in the right direction.

So I compliment him for his work and urge passage of his amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Missouri for the work he has done on this amendment. We had a good discussion on this matter earlier today. We had some good conversation, negotiations about the structure and the form and the meaning of language and the objective of the Senator from Missouri. I commend him for the changes, really, that have been made.

But I, for one, still have the fundamental reservations that I have expressed earlier in the day. I think there are a number of different elements that are a matter of concern. We must look at what has happened over the period of the development of women's education in our country.

I will not take the time of the Senate to revisit some of these arguments, but if we see how women have been treated in the classrooms, not only at the university level where they have been excluded in some instances, but also how they have been treated in the classrooms in elementary-secondary education, there is no question we have seen where young women in our society have, by and large, not had the focus and attention. We have not given the kind of training to teachers in sensitivity, by and large, to many of the young women in our educational systems. As a matter of fact, there is a major part of our whole effort in this legislation which addresses this issue and which I reviewed earlier in the day because young women have been left out and left behind.

Really, a fundamental question comes as we are trying to deal with the problems of enhanced educational opportunity. We are facing, with a genuine frustration, how we are going to deal with those issues and whether this offers, really, some additional opportunity that the other provisions of this legislation which are directed to enhancing academic achievement would effectively replace.

I am not persuaded so. I think, even with a small number of school districts, we are getting into a rather dangerous kind of form when we are trying to have education—and this is what it is—basically by exclusion. If you are going to have single-sex activities, you can have those single-sex activities if you are trying to override past discrimination. That is why we have women's athletic teams, women's debate teams, women's mathematics competitions and other activities, and they have been portrayed as overriding other kinds of discrimination. It does not foreclose the opportunity for doing that for single-sex—for blacks, for instance. But that is not what this is about. This is about all males in these circumstances.

Although the issue has certainly come up before our committee: Why not just do it with regard to blacks? If we are going to do it with regard to blacks, what about browns? If we are going to do it for blacks, browns, what about Asians? Are we going to have black males, Asian males, brown males; Asian females, black females, brown females—in a particular school? A particular school district? Is that where we are trying to go, at a time when we are trying to diminish the insensitivities, the suspicions, in some instances the inherent misunderstandings—in few occasions hostility—to differences? Are we as a society going to exclude the opportunity for that kind of activity, for some cohesiveness? And do it at a rather basic level and that is in the form of education?

I mentioned earlier a number of schools have had various programs which have identified just males, identified just young minority students in circumstances working as a part of a total school day and a total school experience. That has been supported, and it is now under review, as to the factors, in terms of its success.

The point that is raised by some with just the single-sex classes, for example, in terms of women in our society: What does this do? Does it do anything to women who are moving into what is generally a male-dominated world of business activities?

Only in the very recent times have we seen law firms open up to female partners, or banks open up the corporate offices, or the corporate boardroom open up to women. Should we expect that the individuals who come through that process, on the one hand going through an educational experience that is solely separate, different in terms—perhaps not the total amount that is going to be expended—but it also may very well be different in other subtleties.

You say they both will have computer class. What is going to be in the computer class? Are they going to say we find that women, in terms of developing these kinds of classes in computers, are going to be better at it and therefore we are going to do this? Are there going to be changes? Differences? Are there going to be distinctions?

Mr. President, I think we have been reluctant here to move to vouchers even while trying to look into experiments about what is going to happen as a result of young people leaving school systems. We have charter schools here. We have experimentation in terms of magnet schools. We have tried to experiment with some privatization. We have tried to provide some degree of flexibility. We have tried to provide a waiver of certain rules and regulations at the local level so there could be greater initiatives and support for reform at local level.

But we have not been willing to waive the fundamental laws on the issues of discrimination or in terms of disability because we have felt once we begin to move in those directions, I can see—I know, clearly, it is not the intention of those who support it—that we move ourselves into a direction where we get back again to another period of time, of separate but equal kinds of circumstances.

I genuinely appreciate the seriousness with which the Senate has addressed this issue, this debate, and the arguments that have been made. But I hope we would not accept this amendment.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Illinois is recognized.

Ms. MOSELEY-BRAUN. Mr. President, I rise in strong opposition to this amendment. I do so with great regard for its sponsor and for his motivation. The sponsor is a sensitive legislator who has, over the years, demonstrated his real concern regarding educational access and educational excellence. So in that regard it is very difficult to argue against his proposal.

On the other hand, it is absolutely necessary to argue against his proposal. If you think about it, the most important aspect of this amendment is it seeks to waive civil rights protection. I think any time we start talking about waiving civil rights protections for any group, any group that has had to struggle over the years to receive those protections in the first instance, we ought to look very carefully at the circumstances and the needs for doing so.

Waiving civil rights protections for women, for blacks, for Asians, for other groups that have been left out of the mainstream of American life is a very serious matter and should only be undertaken under very serious circumstances. And, frankly, under circumstances in which it is clear that the conferring of civil rights protections has militated against the interests of the group that is so considered to be a protected class.

So I start with that. We are talking about waiving civil rights protection.

I would make the point also, Mr. President, to the sponsor, that the really troublesome aspects of this waiver of civil rights protection is that it is directed to women. It is directed to girls. It is directed to a group that already suffers from unequal access, unequal treatment, inadequate facilities in our school systems. Study after study has shown that girl students receive less than boys in terms of access to math and science training; less than boys in terms of access to athletic support; less than boys in any number of areas in our educational system. And it is in the context of that reality that this amendment suggests that we remove civil rights protections for those very people.

I ask the question of any father in this body, and most of the Members of this body would have to be fathers. But I raise the question of the fathers in this body. What if it were your daughter assigned to the class with the second-rate science teacher? What if it were your daughter assigned to the class with the second-rate mathematics teacher? If this amendment is agreed to, what recourse would she have? If this amendment is agreed to, she would be hard put to go to the courts and say wait a minute, I am entitled to the good math teacher. I am entitled to the good science teacher.

I am entitled to the same treatment as any boy in my school district receives. I want to say to the fathers that we want to look very carefully before we remove civil rights protections for a group that already has been demonstrated as receiving second-class treatment in all too many school systems in this country.

Mr. President, we have already been through a time in our country—and I do not want to inflame this debate; I think the Senator from Massachusetts made the point very eloquently and very well—we have already been through the experiment of trying out separate and calling it equal. And we found out it is very difficult when you make it separate to have it equal. It is almost an oxymoron. Separate is, more often than not, unequal, and that is the reality.

So to start now, to try to turn back what gains girls have made in our school system, in behalf of trying an experiment—and I daresay one that has not been proved, one that has not been demonstrated as having given rise to any appreciable increase in educational performance or educational excellence—to waive those civil rights protections for those girl students all over this country, or to at least put them in jeopardy all over this country, it seems to me takes a major step backward in terms of gender equity, takes a major step backward in terms of where we are in our commitment to equality of treatment of all citizens without regard to their gender or their race. It seems to me to move in the absolute wrong direction.

In support of the argument—and I do not know if it has been introduced for the RECORD—I point out that the American Association of University Women did do a report on how schools shortchange girls. There is no conclusive evidence that single-sex education works better than coeducation.

The point that I had in conversation with the Senator from Missouri, and again it was a very sensitive conversation, is if an individual wants to, with regard to private schools that use private money, to make a choice in behalf of single-sex education, that is certainly that individual's right to do so, certainly within the confines of the existing law.

Similarly, current law already permits single-sex programming in specific areas, and where it can already be shown that such programming truly redresses historic discrimination or under-representation.

So there is already some room for this. But I daresay, Mr. President, this amendment goes too far because it waives the very civil rights laws that have been the subject of 20 years plus —I am probably aging myself—20 years of debate and suffering and sacrifice.

We have come this far; let us not go backward. The Danforth amendment, unfortunately—and I say this, again, with all due respect for my colleague from Missouri—is a step in the absolute wrong direction, will hurt girl students, will hurt our progress in this area, and really is counterproductive. The amendment ought to be defeated.

Thank you very much, Mr. President.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, just a few words in response to the various arguments that have been made.

The first is in response to Senator KENNEDY. The purpose of this is not to exclude any student from anything. The point of it is to give students and their parents a choice. There is nothing in this amendment that excludes a single child from coeducation. If that child, or more likely that child's parents, believe that coeducation is best for that child, that child will receive coeducation in that school.

What this does is to allow schools, if the school district wants to, to set up single-sex classes if the parents of that child want it. It is not an exclusion. It is simply creating an option.

Ms. MOSELEY-BRAUN. Will the sponsor yield for a question?

Mr. DANFORTH. Certainly.

Ms. MOSELEY-BRAUN. Mr. President, if the parents in a school decide to set up a single-sex math class, for example, for boys, and it turns out the math teacher is really terrific, and a girl in that school wants to go to that math class because she wants to learn mathematics, will she be able then to petition; is there any way that she can then attend those classes as well, under the Senator's amendment?

Mr. DANFORTH. This really grows out of a discussion that we had last week to make it very clear that the program cannot provide for discrimination on the basis of gender, and that assurances must be given by the applicant school district that resources will be equally available and that instruction will be equally good for boys and girls. That has to be the assurance, and that has to be the assurance that is passed upon by the Secretary of Education in agreeing to the program.

Ms. MOSELEY-BRAUN. Again, if the Senator will yield, using the same example, assuming for a moment that the school district certifies we have a math class for boys and we have a math class for girls, you and I and everyone knows you have teachers all with the same certification, and one will be a terrific top-drawer teacher and another is a not-so-good top-drawer teacher.

Let us assume for a moment the really good teacher is one that has the boys' class. Can a girl say, "I want to attend that class; that is where the good teacher is; those kids are scoring higher on the scholastic exams than those coming out of the girls' class"?

Mr. DANFORTH. As a parent, I have had exactly that experience with my children when my kids have been in, say, tenth grade—or whatever the grade is—and the grade is divided into various sections. And I think, just at least from my parental observation, that the best teacher is teaching section 1 and my kid has been assigned to section 3. I do not have any right to change my kid from section 3 to section 1.

So I think the answer to that question has to be that there is nothing in this that would give parents a right to pick precisely what section in a grade the student is in. But I will say that the assurances that have to be given by the school and passed upon is that the opportunities are equal.

I guess, if there is a difference in quality of teachers, who knows; but the purpose of this, I can assure the Senator, is not to say, "Oh, well, let's figure out ways of discriminating against either boys or girls." It is the absolute opposite of that.

Ms. MOSELEY-BRAUN. If the Senator will yield. I do not take issue with the motivation of the Senator in filing this amendment at all, and I want the RECORD to be very clear in that regard. We have had privately, I think, a very sincere discussion in this area. But, again, I raise the question in terms of the legal and the practical consequences as opposed to motivation. That was the only reason for my question.

Mr. DANFORTH. I appreciate that.

Mr. President, let me say, there have been studies that have pointed out that girls in school have been at a disadvantage. This morning I read, I think at least twice, the various findings of research on this subject. Research has found that teachers call on boys more frequently and spend more time with boys and encourage the initiative and the inquisitiveness of boys rather than girls. That is not right. But that, apparently, is what the situation is.

Evidence has shown that by the sixth grade, girls have become more tentative. They are less likely to respond to questions and are reluctant to take part in class demonstrations.

Once girls enter middle school, the situation worsens, and the girls who have previously held the edge in subjects, including mathematics, begin to lose points in every category of national tests. Self-esteem for girls begins to decline. There are studies on this.

I think, for exactly that reason, there are many parents who say, "Well, I don't want that for my daughter. I would rather have my daughter in a single-sex setting." This is something that we did in our family and, again, I am repeating myself from this morning.

But I happen to have four daughters, and all of my daughters, and my son for that matter, went to single-sex private schools. Why did the daughters go to single-sex schools? Why did they want it that way and why did my wife and I want it that way? Because the single-sex schools, through high school at least, for my girls was something that affirmed them. It held them up. For example, two of them were class president. They got to participate in various school activities. All of the leadership in those schools was girls. They had excellent, excellent teachers. It was just a wonderful experience for them.

I do not say that this is true for everybody. But for people who are reasonably well off, they can make this kind of choice. I could make it for my kids. And I pointed out this morning that President Clinton and Mrs. Clinton picked Sidwell Friends for their daughter, a coeducational private school, and I am sure because they thought it was the best school for their daughter. On the other hand, there are schools in Washington such as Holton Arms and Landon where my kids went or National Cathedral School and St. Albans, Georgetown Prep, all these very fine schools in Washington that are single-sex schools, and the parents and the kids—in my case the kids participated in it—picked the schools because they thought that it was best for them.

Senator KENNEDY said, well, does that qualify them, particularly the young women who went to these schools, to fully participate in life after school? The answer to that question is yes. Again it is anecdotal. My daughters all went to coeducational colleges. They all went to very selective coeducational colleges. Two of them went on to law school from college. One is practicing criminal defense law now, not a job for somebody who is a wilting violet. And these are products of single-sex education.

So I would say the answer to the question is that the reason parents oftentimes would like this, particularly for their daughters, is to give them an opportunity to grow to the fullness of their potential in the setting the parent believes best for the student.

In fact—and this has proved to be something that has worked out in reality, and again I am repeating myself from this morning—Prof. Cornelius Riordan of Providence College, his research confirms earlier research that girls in single-sex schools score a full half grade above their coeducational counterparts on academic ability tests, and girls in single-sex schools outperform girls in coeducational schools by almost a full grade level on science test scores. And for minorities it is the same thing. So what the studies, so far as we have studies, show is that the people who benefit most from this opportunity are young women and minorities.

I think all of us recognize—it is the point of having this legislation on the floor in the first place—that we have real problems in this country now, real problems with the educational level of our people. It seems to me that if we can at least set up a little demonstration program—this is not anything that is draconian. It is just a demonstration program that says that without fear of title IX, school districts can apply to the Secretary of Education for a waiver so that they can try this for a 5-year period of time. They cannot do it now. In Milwaukee, in Philadelphia, in Miami threats of lawsuits or threats by the Department of Education have closed down these experiments. I think that is wrong. It seems to me, if my children get to go to single-sex schools because it is best for them, why not have at least some classes in some schools for parents that must send their children to public schools. That is all this is about. And I think it is worth a try. Is it a panacea? Nothing is. Nothing is a panacea. Nothing is a panacea.

But I think this is something, as far as we can tell from all of the advice we can get, that is worth trying, and I would like to give it a try. That is the point of my message.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will not take much more time. I see my friend and colleague from Illinois. I am just wondering if she would give me some kind of reaction to how this might work and whether she would be troubled by it.

The language says that the parents have the option of sending their child to a same-gender class or to a coeducational class. I suppose there might be the circumstance that the parents of every boy want a single-sex class. Then could the parent of the girl select the coed option? Would that be available for her? If all the boys in the class said, well, we all want single-sex and the girls said we do not want single-sex but we would like to be coed, there may be circumstances where there would not be boys left in a class. Or would they be able to afford the three classes, maybe one for boys, one for girls, and the other to be coed to cover the same curricula that it now provides in one coed class? I am not sure whether those are sort of legitimate kinds of problems that one might face out there.

But the position I take is that we have studies which have been done now with regard to what has happened in private schools and parochial schools—and there have been, as I understand, even the examples of some public schools, a Philadelphia high school—whether we should not review what has happened in terms of the private schools, the parochial schools, and perhaps even in the instance where there are public schools that for one reason or another have been able to develop that program and then come back to us at a very appropriate time, earlier time when they were able to have a review. Would this not be a better way of trying to proceed?

That is the position that I would take for the reasons that have been outlined here earlier.

I have been listening to Senator DANFORTH talk about Mr. Riordan up at Providence College. That is where my son went to college. So I was interested in the research that was being done up there. But, nonetheless, would the Senator agree with me that might be a preferable way of proceeding to address this kind of issue?

Ms. MOSELEY-BRAUN. In response to the Senator from Massachusetts, I could not agree more. It seems to me—and again to make the argument—if we are going to head down this road, get on this slippery slope, at a minimum we ought to have some information about the possible permutations, the possible practical effects of this. We do not want to wind up where all the boys are in the good math class, none of the girls are, and then the girls do not even have an opportunity at that point for coeducational opportunity, as in the examples given by the Senator from Massachusetts.

But my most important point here—and I will make it again—is the operative language of the amendment. Putting aside for a moment motivation, because I do not question the motivation of the Senator from Missouri—I know that he is a well-meaning individual—putting aside the hortatory language of the amendment, the purposes, the findings, and all the rest of that, the operative language of this amendment—and I wish to read it—says:

> "Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes, and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school for a five-year period following the Secretary's grant of the waiver * * *"

The laws prohibiting discrimination on the basis of sex shall not apply. But before we start to waive significant civil rights protections, significant gender equity protections that are already in the law, it seems to me we ought to have specific information to respond to the question such as that put by the Senator from Massachusetts.

Mr. DANFORTH. Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOR GIRLS' SCHOOLS AND WOMEN'S COLLEGES, SEPARATE IS BETTER

(By Susan Estrich)

Twenty years ago, when I attended Wellesley College, an all-women's college, coeducation fever was gripping America. Yale and Princeton had just "gone"; Dartmouth "went" next. My freshman year, we were polled on whether we thought Wellesley should join the stampede. What did I know? I said yes. But now I know I was wrong, and I'm glad my vote didn't change anything.

This year, 60 percent of the National Merit Scholarship finalists are boys, because boys outscored girls on the Preliminary Scholastic Assessment Test (P.S.A.T.), which determines eligibility for the scholarships. The test doesn't ask about sports; it does ask about math and science, though, and that's where the differences between boys and girls are most pronounced. The American Civil Liberties Union and the National Center for Fair and Open Testing filed a Federal civil rights suit in February charging that the test discriminates against women. The plaintiffs want more girls to get National Merit Scholarships. So do I. But I want to see the girls earn them, in schools that give them a fair chance.

I didn't win a Merit Scholarship either, although if the Fair Test people had their way, I might have. My grades were near perfect. But I didn't take the tough math and science courses. I had different priorities. I started junior high as the only girl on the math team. By high school, I'd long since quit. Instead, I learned to twirl a baton, toss it in the air and catch it while doing a split in the mud or the ice. The problem wasn't the P.S.A.T., but me, and my school.

Things have changed since then, but not as much as one would hope. The American Association of University Women did a major study in 1992 about how schools shortchange girls and concluded that even though girls get better grades (except in math), they get less from school. Teachers pay less attention to girls and give them less encouragement. Two American University researchers, Myra and David Sadker, reached a similar conclusion after 20 years of study. Girls are the invisible students; boys get the bulk of the teachers' time. Boys call out eight times as often as girls do. When the boys call out, they get answers; when the girls do, they're often admonished for speaking out. And that's true whether the teacher is a man or a woman. Even the new history textbooks devote only about 2 percent of their pages to women. What is happening, says Elisabeth Griffith, a historian and headmistress of the Madeira School in McLean, Va., is that "boys learn competence, girls lose it."

If schools shortchange girls, why is it surprising when the tests show that they're doing less well? It isn't just the P.S.A.T.'s, where 18,000 boys generally reach the top categories and only 8,000 girls do. While the gap has narrowed, boys also outscore girls on 11 of the 14 College Board Achievement tests, and on the A.C.T. exams and on the S.A.T.'s. It is possible to jimmy selection standards to make sure girls win more scholarships, but equal results don't count for much if those results are forced. Instead of declaring equality, society should be advancing it. The challenge isn't to get more scholarships for baton twirlers but to get more baton twirlers to take up advanced mathematics.

One place that happens is in girls' schools and women's colleges. Sometimes separate isn't equal; it's better. Changing the way teachers teach in coed schools, changing the textbooks to make sure they talk about women as well as men, educating parents about raising daughters—all of these things make sense, since most girls will be educated in coed classrooms. But we've been talking about them for a decade, and the problems of gender bias stubbornly persist. In the meantime, for many girls, single-sex education is working.

In girls' schools, 80 percent of the girls take four years of science and math, compared with the national average of two years in a coed environment. Elizabeth Tidball, a George Washington University researcher, found that graduates of women's colleges did better than female graduates of coed colleges in terms of test scores, graduate school admissions, number of earned doctorates, salaries and personal satisfaction. One-third of the female board members of Fortune 1,000 companies are graduates of women's colleges, even though those colleges contribute less than 4 percent of total graduates. Forty-three percent of the math doctorates and 50 percent of engineering doctorates earned by female liberal-arts college students go to graduates of Barnard, Bryn Mawr, Mount Holyoke, Smith or Wellesley—all women's colleges. Graduates of women's colleges outnumber all other female entries in Who's Who.

I stopped twirling my baton when I got to Wellesley. I'd like to say that I knew I needed a women's college after all those years in the mud at football games, but it doesn't always work that way. I went to Wellesley because they gave me a generous scholarship, and because Radcliffe rejected me (the test scores, maybe). I was actually miserable a good deal of the time I was there, particularly during the long winters when the janitor was the only man around. But what I learned was worth it. I spent the better part of four years in a world in which women could do anything, because no one told us we couldn't. I even took some math courses. By senior year, somehow, I'd become an accomplished test-taker. When I got to Harvard

Law School, where men vastly outnumbered women and sexism was the rule, a professor told me on the first day that women didn't do very well. I laughed and decided to prove he was wrong. That's a Wellesley education.

I'm not proposing that coed public schools be replaced with a network of single-sex academies. But if the problem is that women don't do well in math or science, then single-sex classes, and single-sex schools, may be part of the answer.

The evidence, though scant, is promising. In Ventura, Calif., the public high school has begun offering an all-girls Algebra II course. The girls, one teacher says, think so little of their ability that the teacher spends her time not only teaching math but also building self-confidence, repeatedly telling the girls that they're smart and that they can do it. The Illinois Math and Science Academy in Aurora is experimenting with a girls-only calculus-based physics class for the first semester with the girls joining the coed class at midyear. In the girls-only class, the students report that they are jumping up to ask and answer questions instead of sitting back, hoping that the teacher doesn't call on them. One student said she was worried about the transition to a coed classroom: "We need to make sure we don't lose our newfound physics freedom." "Physics freedom" for girls—what a wonderful concept.

The biggest obstacles to such classes, or even to all-girls public schools, are erected by lawyers bent on enforcing legal equality. In the 1954 case of Brown v. Board of Education, the Supreme Court declared that "separate but equal" was inherently unequal. That was certainly true in Topeka, Kan., whose school system was challenged. It was true of the black-only law school established to keep blacks out of the University of Texas law school. It is not necessarily true of the Ventura High School math class for girls or the Aurora Academy calculus-based physics class, whose futures are in jeopardy because of the knee-jerk application of Brown.

Classes like those in Ventura County or Aurora, Ill., survive constitutional challenge by formally opening their doors to men, with a wink and a nod to keep them from coming in. Otherwise, the schools could be stripped of Federal support, and even enjoined under the constitution by Federal court order, because they are "discriminating." Private schools may open their doors only to boys or girls under an exemption from Federal laws mandating "equality." But public schools enjoy no such freedom. The reality is that if you need a Wellesley education in America, you have to pay for it. That's the price of committing to formal equality instead of committing to real opportunity.

Boys may pay the price as well. Some educators in the African-American community believe that all-boys classes may be part of the resolution to the dismal failure and drop-out rates of African-American boys in school. But the courts prevented the Detroit school district from establishing three public all-boys schools, effectively stopping similar projects planned in other cities. Nonetheless, all-boys classes are being held quietly in as many as two dozen schools around the country, mostly in inner cities.

Such programs may or may not succeed in the long run. Research and careful study are plainly needed. But research and careful study are difficult when classes are held in near secrecy for fear of discovery by lawyers and Government officials intent on shutting them down in the name of equality.

If girls don't want to go to all-girls schools, or if parents don't want to send them, that's their choice. If the experiments with girls-only math classes or boys-only classes should fail, then educators can be trusted to abandon them. But short of that, let the educators and the parents and the students decide, and leave the lawyers and judges out of it.

[From Education Week, Feb. 23, 1994]

RECONSIDERING SINGLE-GENDER SCHOOLS: THE V.M.I. CASE AND BEYOND

(By Cornelius Riordan)

Fifty years ago, large schools were fashionable. It was part of a movement that established the comprehensive high school. Today, large schools are understood to be detrimental to effective schooling. Similarly, 50 years ago, ability grouping (tracking) was the accepted mode of organizing classrooms and schools for effective and efficient learning by students at all levels. Today, tracking is under serious criticism—the ideas of a core curriculum and cooperative learning are among current school reforms.

Coeducation, however, remains rock steady as the best way to organize schools and classrooms along gender lines. This is true despite the fact that there is hardly any research which supports the benefits of coeducation. In fact, the realities of coeducation are troubling. The salience of this problem was pointed up two years ago in "The A.A.U.W. Report: How Schools Shortchange Girls," commissioned by the American Association of University Women Educational Foundation. This study examined more than 1,000 publications about girls and education and concluded that bias against females remained widespread in schools, and was the cause of lasting damage to both educational achievement and self-development. These schools are coeducational schools.

Single-gender schools generally are more effective academically than coeducational schools. This is true at all levels of school, from elementary to higher education. Over the past decade, the data consistently and persistently confirm this hard-to-accept educational fact. There are some studies which have reported null effects—that is, no differences in educational outcomes—but there are very few studies (none in the United States) which demonstrate that coeducational schools are more effective, either academically or developmentally. Moreover, just about everyone knows this is true, despite the fact that most people have attended coeducational schools and continue to send their children to coeducational schools. A cursory sample of interviews will reveal that most people view single-sex schools as academically tougher, more rigorous, and more productive, though perhaps less enjoyable, than coeducational schools. And as the historian Richard Hofstadter noted long ago, in American, anti-intellectualism rules.

But the matter is unfortunately more complicated than the recalitrance of a society that continues to give priority to sports, recreation, and entertainment over the arts, science, and literature. At issue is whether separate schools for males and females can provide an equal educational opportunity. Many people see single-gender education as inescapably reactionary. Some feminists may see any form of "separationism" as negatively affecting women's equal access in other areas of society. Thus, discussions of single- and mixed-gender schooling must address these misgivings. One way to alleviate some of the reservations is to lay bare the typical reality of most coeducational classrooms and schools. Another way is to demonstrate the effectiveness of single-gender schools.

Single-gender schools work. They work for girls and boys, women and men, whites and nonwhites. Research has demonstrated that the effects of single-gender schools are greatest among students who have been disadvantaged historically—females and racial/ethnic religious minorities (both males and females). Single-gender schools provide more successful same-sex teacher and student role models, more leadership opportunities, greater order and discipline, and fewer social distractions to academic matters. The choice of a single-gender school is a pro-academic choice (females . . . gain advantages because of significant reductions in gender bias in both teaching and peer interaction, and via access to the entire curriculum).

Yet, white males also obtain an educational advantage from single-gender schools relative to their male counterparts who attend coeducational schools. Although research has reported null effects for white males, I maintain that this is due to countervailing forces. White males gain an educational advantage in single-gender schools due the same organizational opportunities that provide an advantage for females. It is the case, however, that white males also gain an educational advantage in coeducational schools due to the continued existence of gender stratification. The latter was fully and sadly documented in the A.A.U.W. report.

These positive effects, however, are not universal. In a cross-national study of four countries (Belgium, New Zealand, Thailand, and Japan), David Baker, Maryellen Schaub, and I have shown that single-gender schools do not have uniform and consistent effects. The effects appear to be limited to those national educational systems in which single-gender schools are relatively rare. In systems such as Belgium's and New Zealand's, two countries where single-sex schooling is "normative" (68 percent of the schools in Belgium and 48 percent in New Zealand), we obtained null effects using data from the Second International Study of Mathematics. We argue that the rarity of a school type may enhance single-sex effects under certain conditions. When single-gender schools are rare in a country, the pro-academic choice-making by parents and students will result in a more selective student body who will bring with them a heightened degree of academic demands. In turn, we believe that rare school types are better able to supply the quality of schooling demanded by these more selective students. Being less "the norm," these schools are likely to possess greater autonomy.

This enhancing condition of scarcity, however, may have a lower limit. When the number of single-sex schools falls below a certain point (due to the closing of these schools and the movement of students into coeducational schools), the capacity of single-sex schools to provide better resources and to select better students may decline. Once this decline is set in motion, the schools are less attractive to more highly motivated and talented students, who now will choose coeducational schools. Facing declining enrollments, single-sex schools are then forced to admit less talented students who attend because the slots are there and because of the schools' prior reputation. Under this scenario, some of the micro-structures and processes which were applied to single-sex schools may no longer be in operation.

Over the past several years, this controversy has focused on the Virginia Military Institute. In 1990, the U.S. Justice Department brought a suit against V.M.I. for refusing to admit women to the school, and hence, failing to comply with the 14th Amendment of the Constitution. In 1991, a federal district court ruled in favor of V.M.I., agreeing with the school's argument that single-gender schooling was a form of diversity in education and that admitting women would destroy its educational methods. This decision, however, was overturned in 1992 by the U.S. Court of Appeals for the Fourth Circuit, which found that V.M.I. was indeed not in compliance with the equal-protection clause of the 14th Amendment. However, the court did not order that women be admitted to V.M.I. if alternatives were available and if these alternatives satisfied the equal-protection clause. In fact, the court gave V.M.I. and the commonwealth of Virginia (a co-defendant in the case) three options which would satisfy legal compliance with the 14th amendment: (1) decide to admit women to V.M.I. and adjust the program to implement that choice; (2) establish parallel institutions or parallel programs; or (3) abandon state support of V.M.I., leaving it the option of pursuing its own policies as a private institution. V.M.I. appealed to the U.S. Supreme Court for a writ of certiorari, which was denied in 1993 pending final adjudication in the lower courts; that is, the Court ruled that it had no jurisdiction until V.M.I. responded to the Fourth Circuit's alternatives.

Now we learn that V.M.I. has arranged to fully comply with the second recommendation of the Fourth Circuit. Specifically, the institution has proposed that it be allowed to continue to admit only men, and that it will assist Mary Baldwin College (a nearby women's college) to establish a "leadership" program for women that would approximate V.M.I's program for males. Women in this program would live in separate dormitories, participate in leadership programs, and enroll in the Reserve Officers' Training Corps program at Mary Baldwin. For each Virginia student admitted to the program, Mary Baldwin would receive an amount of money from the state equal to that received by V.M.I. for each Virginia student. In addition, the college would receive $6.9 million from the V.M.I. Foundation to endow the program at the outset. All of this has direct ramifications for a similar case that will be heard this year regarding The Citadel in South Carolina, and there are likely implications for experimental single-gender public schools (or single-gender classrooms) that are currently operating in Baltimore; Camden, N.J.; Detroit; Ventura, Calif.; and the Savannah-Chatham district in Georgia.

This proposal by V.M.I., though perhaps falling short of providing equal protection, is a plausible initial response to the directives contained in the ruling by the Fourth Circuit Court of Appeals. Unquestionably, as per the judgment of the appellate court, the exclusion of females from V.M.I. without some single-gender alternative was a violation of the 14th Amendment. One has to wonder why it took V.M.I. so long to figure this out.

However, the solution now seems close at hand. A major flaw of V.M.I.'s proposed plan is the absence of an engineering program at Mary Baldwin College. Such a program does exist at V.M.I. Of course, access to and success in engineering remain as barriers to the advancement of women throughout the country. In response to this problem, Barbara Lazarus, the associate provost for academic projects at Carnegie Mellon University, called in 1991 for the creation of a Women's Institute of Engineering. Here is a golden opportunity for acrimonious parties to negotiate. Conceivably, V.M.I. could be persuaded to greatly increase its endowment offer and provide Mary Baldwin with the opportunity to build the first Women's Institute of Engineering. Quite likely, other adjustments to the proposal would also be necessary.

In a context of exclusion from schooling altogether, the opportunity to attend coeducational schools (former boys' and men's schools) was a necessary step toward gender equality. Within a context of inclusion—that is, a climate in which females are no longer excluded from virtually any school—single-gender schools represent a choice; an alternative to the problems existing in coeducational schools. More importantly, they seem to provide a better education for some students. Within this context of inclusion, rather than exclusion, we should look carefully at decisions which will further reduce the possibilities of a choice of a single-sex education for neither males or females.

It was within a context of exclusion that secondary schools for girls and women's colleges were established. And within this context, the underlying assumption, widely held both then and now, was that women's colleges were a temporary, short-term solution on the road to the eventual achievement of coeducation. Retrospectively, it is easy to understand how this view gained currency. Men's colleges, being inaccessible and dominant, were defined as superior. Women's colleges were defined as second-rate, patronized institutions. Thus, continued exclusion from men's colleges was viewed as continued exclusion from equal opportunity to a college education. And in this convoluted process, the relative value of men's and women's colleges, and of coeducation, was never seriously examined.

The time has come for all sides to reconsider this issue. It is time for the Justice Department and the National Organization for Women to pause and re-examine the research and their views. It is time for women's colleges to come forward and state their positions clearly. It is time for all interested parties to consider the benefits of single-gender education alongside the goal of demonstrable gender equality in coeducational schools. One might reasonably expect that the burden of proof should shift to coeducational schools to demonstrate first that they are free of gender bias, second, that they do indeed provide equality of educational opportunity, and third, that they are at least as effective as single-gender schools in terms of achievement. This would replace the current practice, which requires single-sex schools to show greater effectiveness.

It is likely that there is no one "best way" to organize the gender context of schools. Single-sex schools are certainly not for everyone, nor are they likely to be beneficial to anyone over the entire course of an educational career. But they should exist for a small number of students who might select them. Hence, they should be viewed as alternatives to mainstream coeducational schools, and students and parents, especially African-American and Hispanic students and parents, should be given the choice to select them forthwith.

[From the Washington Post, Mar. 17, 1994]

NO OFFENSE, BUT WHAT HAVE THEY LEARNED

(By William Raspberry)

Thank heaven it's not a public school, or St. Stephen's and St. Agnes would be in trouble. No, the private Episcopal school in Alexandria is not overcharging kids, or abusing them, or oppressing them. It's educating them very well.

But it is doing so by (among other things) operating single-sex classrooms for math and science in sixth, seventh and eighth grades.

The rationale for this gender separation is the well-documented fact that, in math and science, girls tend not to do as well as boys of equal intelligence. Whether the difference is the result of nature or merely a socialization, of male-oriented teaching styles or of lower self-esteem for girls, the result often is that girls have their subsequent academic and career choices curtailed.

I've heard all manner of explanations: that girls learn more efficiently by listening, boys by mental and physical manipulation; that girls deliberately under-perform (in mixed settings) to avoid the social cost of being as good as the boys; that teachers (inadvertently, of course) pay more attention to boys than to girls; that girls prefer cooperative learning, while boys turn learning—and everything else—into a competition.

Some of the explanation may not be true. This is: If the St. Stephen's and St. Agnes experiment were taking place in a public school, somebody would be out to stop it.

They just stopped one in Philadelphia, where John Coats, a teacher at Stanton Elementary School, had initiated a model five-year program for a group of 20 first-grade boys who had had learning problems in kindergarten.

The program was working—indeed, it was the subject of a documentary, "I Am a Promise," that reportedly is up for an Oscar. Nine of these erstwhile slow-learning boys made the honor roll. But the program is dead now. The American Civil Liberties Union threatened to file a lawsuit against it on the ground that boys-only classes are unconstitutional, and the school district folded.

Detroit's attempt to establish all-male academies as a way of rescuing boys at risk of becoming dropouts (and worse) ran into similar legal opposition, as did an earlier effort in Miami in which I, quite indirectly, had a hand. My limited involvement was a column I had written on Spencer Holland, then with the D.C. school system and now at Morgan State University in Baltimore. Holland, an educational psychologist, had told me of his dream to establish all-male kindergarten and primary classes, headed by male teachers. Particularly in the inner cities, where young boys may go for days at a time without directly encountering a literate adult male, he thought it might make an important difference.

Willie Wright, a Miami elementary school principal, saw the column, and asked me to help him get in touch with Holland. In the fall of 1987, the two men implemented Holland's idea. As Wright told me later, "It was a total success, academically and socially. There were no fights, no kids sent out for discipline. They not only improved academically, they became their brothers' keepers, something not generally found in low socioeconomic schools. Not a single parent complained. In fact, virtually all of the parents of boys wanted their sons in the classes."

But after two years of unquestioned success, the Department of Education's regional office killed the experiment—said it was a violation of Title IX (of the federal Civil Rights Act) guarantees against gender discrimination.

Where do they get these people who are so solicitous of disembodied "rights" that they are willing to do demonstrable damage to actual children? The explanation, always, is that the way to meet the academic needs of these real-life children is not to segregate them by gender but to make the classrooms fair.

Of course. But it isn't entirely clear that the problem is classroom unfairness of a sort that can be readily corrected. Most elementary schoolteachers (sixth grade is where girls' self-esteem begins to take a downward slide) are women and are unlikely to be deliberately undercutting the self-confidence of girls. Philadelphia's Coats, like Holland before him, thought the boys weren't learning because of the near-total absence of positive male role models in their lives. How do you make the classrooms fair enough to compensate for that?

There's a lot we don't know about educating children. That's what makes it so sad when these self-righteous monomaniacs are willing to kill a program that clearly works for actual children out of deference of the possibility that somebody's theoretical rights might somehow be damaged.

Where, I ask, is the societal gain if our children wind up dead to "rights"?

PROVIDENCE COLLEGE,
DEPARTMENT OF SOCIOLOGY,
Providence, RI, June 30, 1994.
Senator JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: It has come to my attention that you intend to propose an amendment to the re-authorization of the Elementary and Secondary Education Act of 1994 (S. 1513). I refer to an amendment to establish four demonstration sites across the country for single-gender opportunity (a boy's school and a girl's school) along with a coeducational school at each site. Parents would select the school of their choice. I write to express my strong support for this proposal and I commend you for your vision and your courage.

As an educational researcher and professional sociologist, I have studied the issue of single and coeducational schooling over the past decade. My book Girls and Boys in School: Together or Separate? Summarizes my research as of 1990. Beyond the book, however, I have continued to conduct research over the past four years and my recent work has focused on the outcomes of single versus coeducational schools for African and Hispanic American students. I have already forwarded a copy of an article on this to your staff (Felicia Brown).

In this letter, I want to focus on several concerns germane to the debate over single-gender schools in America, especially as this debate affects the lives of white females, African-Americans, and Hispanic-Americans. Specifically, I will address the following questions:

1. Where does the burden of proof lie on this issue?

2. Who profits most from single-gender secondary schools?

3. Can We Explain This Single-Sex School Advantage?

Where does the burden of proof lie on this issue?

Most Americans take coeducation for granted. Typically, their own schooling has been coeducational; often, they have little awareness of single-sex schools. Our political culture reinforces the taken-for-granted character of American coeducation. It implies that schools reflecting the variety of society exemplify what is best about democratic societies.

Many people also take for granted that coeducation provides equality of educational opportunity for women. Like racial and ethnic minorities, women have long been excluded from the educational process. Thus, many people regard coeducation as a major milestone in the pursuit of gender equality. Since gender education, by contrast, appears regressive. Moreover, single-gender schooling in the public sector is currently prohibited by law.

This historical background has provided a protective halo around coeducation as an institution. Historically, this mode of school organization was never subjected to systematic research. Currently, this protective halo affects the research strategy and logic for comparing single-gender and mixed-gender schools. This "assumptive world" is so deeply ingrained that people will often acknowledge the academic superiority of single-sex schools without realizing the aspersion implied for coeducation. A cursory sample of interviews will reveal that most people view single-sex schools as academically tougher, more rigorous, though perhaps less enjoyable than coeducational schools. In view of this, why should single-sex schools be required to demonstrate that they are more effective?

The salience of this problem was pointed up just recently with the release of the report "How Schools Shortchange Women" which was commissioned by the American Association of University Women Educational Foundation. This study examined more than 1,000 publications about girls and education and concluded that bias against females remained widespread in schools, and was the cause of lasting damage to both educational achievement and self development. These schools are coeducational schools. Within this context, I would argue that the burden of proof should shift to coeducational schools to demonstrate first that they are free of gender bias, second, that they do indeed provide equality of educational opportunity, and third, that they are at least as effective as single-gender schools in terms of achievement. This would replace the current practice which requires single-sex schools to show greater effectiveness.

I understand that the AAUW has voiced opposition to your proposed amendment. As I indicated above, I fully understand the reluctance of some people, especially women, to endorse your proposal in view of the historical exclusion of women. Moreover, even at present, there still exists the exclusion of women from public educational institutions such as VMI and The Citadel. I was asked to testify for VMI and The Citadel, but was unable since it is clear to me that women are indeed excluded and they are not provided with a truly equal alternative. Even the current VMI proposal to provide a "VMI like" education at Mary Baldwin College is inadequate, in my opinion. (By the way, I advised VMI officials to provide sufficient endowment to Mary Baldwin College to enable the school to establish the first engineering school for women—in my view that would have made the schools more than equal and I would have been prepared to testify on their behalf).

But your proposal clearly and carefully avoids the problems endemic to institutions such as VMI and The Citadel. Critics such as AAUW should appreciate this and lend you their support. Single-gender schooling provides a proven method of combating the problems for females that AAUW identifies. And single-gender schooling is also effective for males—and herein lies the bottom line of why some feminists are opposed to it. Despite the full probative extent of my empathy for the historical record of female education, I cannot understand the logic that says, in effect, we will not support an educational policy that helps females as long as it helps males as well. Furthermore, I would argue that it is irrational to fear that single-gender schooling is a step backwards in the broader area of gender equality.

WHO BENEFITS MOST FROM SINGLE-GENDER SCHOOLS?

Single-gender schools work. They work for girls and boys, women and men, whites and non-whites. Research has demonstrated that the effects of single-gender schools are greatest among students who have been disadvantaged historically—females and racial/ethnic/religious minorities (both males and females). On the basis of the research, it appears that single-sex schools provide a greater opportunity for educational attainment as measured by standardized cognitive tests, curriculum and course placement, leadership behavior, number of years of formal education and occupational achievement. Moreover, no negative attitudinal results accrue to students attending single-sex schools.

Yet, white males also obtain an educational advantage from single-gender schools relative to their male counterparts who attend coeducational schools. Although research has reported null effects for white males, I maintain that this is due to countervailing forces. White males gain an educational advantage in single-gender schools due to the same organizational opportunities that provide an advantage for females. It is the case, however, that white males also gain an educational advantage in coeducational schools due to the continued existence of gender stratification. The latter is fully and sadly documented in the above mentioned ASUW report "How Schools Shortchange Girls." Once again, I would address the critics of your proposal by pointing out that coeducation provides an educational advantage to white males at the expense of white females. Of course, since your proposal is aimed primarily at African and Hispanic youth, this issue should not even be relevant.

Among African-American and Hispanic males and females in the United States, my own research findings parallel the results for girls—favoring single-sex schools in both attitudinal and cognitive outcomes. I have found that the effects for African-American and Hispanic males and females are larger than those obtained for white females.

In a new reanalysis (paper sent top Felicia Brown), I have found that both Hispanic- and African-American males and females also display greater gains in leadership behavior in single-gender as opposed to coeducational Catholic schools. Thus, the critics of your proposal stand in the way of increasing the quality of education derived by African- and Hispanic boys and girls.

Let me add that I have access to some preliminary data on single-sex classrooms in a public elementary school that is 98 percent African- and Hispanic-American. Some students in this American public school have been enrolled in a single-gender classroom for the past three years. The grades are 2nd, 3rd, and 4th. The data collected by the principal of the school found that the students in the single-gender classrooms showed significantly greater gains on the NCE reading and mathematics tests, higher attendance rates, lower suspension rates, and higher parental participation rates. In one all-male class of 24, fully 21 of 24 African- and Hispanic-American fathers have attended monthly parent/teacher meetings on a regular basis.

CAN WE EXPLAIN THIS SINGLE-SEX SCHOOL ADVANTAGE?

Single-gender schools provide more successful same-sex teacher and student role models, more leadership opportunities, greater order and discipline, fewer social distractions to academic matters, and the choice of a single-gender school is a pro-academic choice (females also gain advantages because of significant reductions in gender bias in both teaching and peer interaction, and via access to the entire curriculum).

In a context of exclusion from schooling altogether, the opportunity to attend coeducational schools was a necessary step towards gender equality. Within a context of inclusion; that is, a climate in which females are no longer excluded from hardly any schools, single-gender schools represent a choice, an alternative to the problems that are manifest in existing coeducational schools. These problems are especially salient for white females and minority males and females.

It is likely that there is no one "best way" to organize the gender context of schools. Single-sex schools are certainly not for everyone, nor are they likely to be beneficial to anyone over the entire course of an educational career. But, they should exist for a small number of students who might select them. Hence, they should be viewed as alternatives to mainstream coeducational schools, and students and parents, especially African-American and Hispanic students and parents, should be given the choice to select them forthwith.

Sincerely,

CORNELIUS RIORDAN,
Professor of Education.

THE BROOKINGS INSTITUTION,
GOVERNMENTAL STUDIES PROGRAM,
Washington, DC, June 27, 1994.

Senator JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH, I am writing to support your efforts to add an amendment on behalf of single gender schools to the Elementary and Secondary Reauthorization Act. Educators and parents across the country have been led to believe that a girls' school or a boys' school is unconstitutional, and the U.S. Department of Education has in many ways encouraged this belief. Your amendment, if tightly written, will send a loud and clear and necessary message: Single gender schools are not against the law and are permissible so long as they are equally available for both boys and girls.

During the time that I served as Assistant Secretary of Education for the Office of Educational Research and Improvement in the Bush administration, I commissioned an impartial review of research on single-gender schooling. What the researchers found was that: 1) single-gender schooling seems to be of educational value for girls and minority students; and 2) the number of single-gender schools is diminishing so rapidly that it is difficult to gather research samples.

Well might we wonder why single-gender schools have been almost completely eliminated from the public sector and in dire jeopardy in the private sector when they have educational value for some students. As it happens, single-gender schools are found in virtually every other nation except ours and are usually highly regarded. Last year, the British published their list of the top 50 secondary schools, and 47 of the top 50 were single-gender schools (more were girls' schools than boys' schools).

As I understand the research, the reason that single-gender schooling seems to be so effective for some students is that students are able to devote more concentrated time to their academic studies, free of the distractions of the other sex. In this era of teenage pregnancies and academic mediocrity, American education would be well advised to permit public school authorities to increase the number of schools where the sexes are taught separately.

If I may suggest it, I believe that your amendment does not need to have an Educational Opportunity Advisory Board; nor does it need any funding mechanism controlled by the Secretary. These mechanisms will simply create new hoops for school districts to jump through and concentrate more control in Washington. All that is needed is a clear statement by the Congress that school districts are permitted to create schools exclusively for boys and for girls, so long as both have equal opportunities. Right now, districts across the nation are creating alternative schools, magnet schools, charter schools, and other schools that are different from the one-size-fits-all schools. The districts do not need a federal program, nor a new layer of federal bureaucracy, nor even federal funding. What they need is an unambiguous declaration by the Congress that single-gender schools are permissible reform for those parents and children who choose them.

I wish you the best of luck. This is an important amendment, for it will expand the educational diversity and opportunity that is so badly needed for children who are now at risk of failure.

DIANE RAVITCH,
Nonresident Senior Fellow.

MICHIGAN STATE UNIVERSITY,
DEPARTMENT OF ENGLISH,
East Lansing, MI, July 11, 1994.

Office of U.S. Senator DANFORTH,
Washington, DC.

This is to confirm our recent telephone conversation in which I expressed my unqualified support for the "Improving America's Schools Act of 1993," sponsored by Senator Danforth. This is exactly the type of legislation needed to facilitate programs to educate urban African American males. There is a need to develop experimental programs and to pilot educational research efforts to see what will work to alleviate the crises facing today's Black male youth.

As I mentioned, I was a member of the Detroit Public Schools' Male Academy Task Force, which attempted to establish three elementary schools for Detroit's young Black males back in 1991. Our efforts were thwarted by a lawsuit, spearheaded by the National Organization of Women. As an African American woman with over twenty-five years experience as an educator on both public schools and college levels, I could bear witness to the decline of Black males in schools and society, and so I felt tremendously frustrated with N.O.W. because the European American Women's Movement has no knowledge, and often, so it seems, no concern, about the problems with which we struggle in the Black communities of this Nation. It is true, to be sure, that our daughters are not faring so well, but it is our sons who are dying and whom the schools are failing at astronomical rates. Our sons are dying, and the educational system is failing them. There is no way our community can continue to survive with homes, neighborhoods and families where only one-half of our race is functional. That is why I as a black woman, a single parent, and an educator worked so hard to implement the proposed Male Academy program in Detroit.

Since the Detroit Male Academy was struck down by the courts, the situation there has continued to deteriorate. As of the end of the 1992–93 school year, more African American males, in the age group 15–19, were under the criminal justice system than received high school diplomas as of June of 1993. And Detroit is not unique; these results are repeated in urban areas all across the country. Educational intervention at an early age could have saved some of these young Black boys.

The "Improving America's Schools Act of 1993," if it passes, will enable educators to address such crises. Thus, I wholeheartedly endorse the proposed legislation.

Sincerely,

GENEVA SMITHERMAN,
Ph.D.,
University Distinguished Professor, Director, African American Language and Literacy Program.

THE NATIONAL COALITION
OF GIRLS' SCHOOLS,
Concord, MA, June 22, 1994.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: I write in support of your Educational Opportunity Demonstration Program amendment to the ESEA Reauthorization Act. It will provide a way to assess whether single-sex schools may offer significant educational advantages to both boys and girls in populations which have been designated as "at risk" either for socio-economic or racial reasons.

Based on the positive performance and self-perceptions of graduates of girls' schools, and, to a lesser extent, boys' schools, there is ample reason to believe that single-sex schools provide an environment which is more supportive of academic achievement and the development of self-esteem. For a full review of this issue, I recommend the OERI Special Report, "Single-Sex Schooling," 2 vols., U.S. Department of Education, 1992.

The evidence of gender bias in the educational system has been documented in the research of Drs. David and Myra Sadker of American University. Their recent book, "Failing at Fairness: How America's Schools Cheat Girls" (New York Scribners, 1993) is a call for the very kind of innovative research you request in your amendment.

While I applaud the proactive stance of the AAUW, with funding from the W.K. Kellogg Foundation, to address gender bias in our nation's classrooms, it is uncertain whether such a dramatic change in attitude and action in coeducational schools is possible in the short term. And it is probable that no one course of action will solve the multitude of ills affecting American education.

It is ironic that Title IX, originally intended to encourage gender equity, now actually hampers the public sector's freedom to experiment with alternative programs such as single-sex schools. At present, such models of schooling are available only to parents who can afford a private or parochial school. Parents who must rely on public education are being denied the right to choose from a range of educational options which might better serve their children.

Your amendment would enable educators in the public system to explore other models of schooling which are currently available only in private and parochial schools. There are a few exceptions: two public high schools for girls only, one in Baltimore, the other in Philadelphia, and a pilot program for elementary school African American males in the Baltimore system.

If the amendment fails, a possible solution lies in the already existing model of the magnet school. As you know, magnet schools offer unique educational programs and pedagogies for targeted populations. Requiring a relatively inexpensive reallocation of facilities and staff, these single-sex schools would exist to develop leadership, self-esteem, and achievement for at-risk students of both sexes. They would expand schooling options for parents while helping to resolve the gender bias problem.

Young women and men who have developed a strong sense of self will not countenance racial or gender bias when they reach adulthood. The best preparation may be to give them the experience of equality in an educational environment which supports the optimum development of their potentials and which is free of negative peer pressures that urge young people to drop out of school or have children before they are ready to assume the responsibilities of parenthood.

Ultimately the issue is not whether coeducation or single-sex schools are better. No one school model can serve all students equally well. The issue is whether Americans want freedom of choice in the education of their children. I believe they do, and I thank you for your strong leadership in this regard.

ELSA M. BOWMAN,
President.

HARVARD UNIVERSITY,
DEPARTMENT OF SOCIOLOGY,
Cambridge, MA, June 24, 1994.

Senator JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

Re S. 1513 vis-à-vis "Improving America's Schools Act of 1933."

DEAR SENATOR DANFORTH: I write in strong support of your proposed Amendment. You will find somewhat similar proposals by me in the March/April 1993 issue of the journal "Society" (Volume 30, No. 3, pgs. 17–24), with the title "Quixotic Ideas For Educational Reform," spelled out at greater length in Introduction to the new paperback edition of my 1964 book of essays, "Abundance For What?", published by Transaction Press of Rutgers University in the fall of 1993.

I might add that I have long been interested in single-sex education for girls and women as well as for boys and men. It was in part as a result of that interest that ever so long ago I met Sister Jacqueline, then the president of Webster College, when it was a woman's college. (I continue to maintain a vicarious interest in Stephens College in your own state of Missouri.)

As a proponent and student of educational reforms, I believe that the single-sex schools that your Amendment proposes may not always prove their value within the short span that the Amendment opens up. But I am sure that you and your co-workers fully appreciate the tradeoff here between the timing appropriate for research and the timing appropriate to make the Amendment politically feasible.

Opposition to the Amendment would seem to me to suggest a fear on the part of some of the groups which have opposed single-sex education for boys, even in the African-American boys at greatest risk, that it might turn out to be successful! My secretary will sign and send off this letter to save time.

Yours sincerely,

DAVID RIESMAN.

UNIVERSITY OF CHICAGO,
DEPARTMENT OF SOCIOLOGY,
Chicago, IL, July 8, 1994.

Senator JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: I am writing to support your amendment to provide for an educational opportunity demonstration program involving same-gender classes. The current straightjacket upon educational innovation involving same-gender classes or schools is especially unfortunate, given the importance of increasing achievement and the suggestive evidence that same-gender classes or schools could enhance the achievement of disadvantaged children.

The amendment will provide a valuable opportunity to learn about a virtually costless educational change (allowing children to attend same-gender classes) that could increase achievement. The existing evidence indicates that single-gender schools confer achievement benefits, but there is no research, so far as I know, concerning the effects for disadvantaged males and females. Nor is there the possibility of carrying out such research, because of the legal barriers to single-gender schools.

I strongly support the amendment.

Sincerely,

JAMES S. COLEMAN,
University Professor.

LITTLE ROCK BAPTIST CHURCH,
Detroit, MI, July 5, 1994.

Hon. JOHN C. DANFORTH,
U.S. Senate, 249 Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DANFORTH, I'm the pastor of an urban church and as such I am also responsible for counseling young people on a variety of issues—education being one of the primary subjects. In order to do a quality job with the children, and particularly the young men, I try to keep abreast of the many educational reforms that are underway which will have an impact on their future and the quality of life which lies ahead for them.

I was extremely pleased to learn of your proposed amendment which will alter SB 1513. The current bill does not truly reflect the challenges that face our children today nor does it place accountability in the appropriate arena. Instituting single gender classes for students will provide an environment more conducive to learning rather than the current environment which lends itself to many pitfalls that our children fall prey to. I have discussed this issue with a number of my colleagues and they are all in agreement with the direction you have taken.

I wish you the best in this endeavor and anxiously await a positive outcome. If I can ever be of assistance to you in the future, please don't hesitate to call upon me.

Sincerely,

Rev. JIM HOLLEY, Ph.D.,
Pastor.

Rochester, NY, June 29, 1994.

DEAR SENATOR DANFORTH. I have just read your amendment proposing pilot sites to research the effectiveness of single gender instruction. I am writing to endorse this amendment based on five years experience implementing single gender instruction in ten classes in grades two through five in both a bilingual and regular program setting in a large inner city school in Rochester, NY. This program was strongly supported by staff, community volunteers, and parents. In addition, the preliminary data tended to support national and international studies which lead one inevitably to the conclusion that the burden of proof should in fact lie with the proponents of dual gender instruction. I am bemused by the fact that single gender instruction is a "taken-for-granted" option for the children of the wealthy in this country, and in British public schools, but is assured to be detrimental for the children of the poor in this country. Once again "Savage Inequalities" govern the education of the disenfranchised in this country. Your amendment would offer serious researchers the opportunity to take this concept out of the realm of assumptions and band wagon hysteria and into the realm of hard facts based on research driven data. It would also offer courageous administrators and visionary teachers the opportunity to openly do what works, and what is best for children. Lastly, it would offer parents real choice and say in their children's education. I salute your courage in taking on this emotion laden issue. If you need additional information or assistance please feel free to contact me.

Yours truly,

ANITA BOGGS.

UNIVERSITY OF CHICAGO,
DEPARTMENT OF EDUCATION,
Chicago, IL, July 22, 1994.

Senator JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: It's with pleasure that I offer this letter in support of your proposed legislation, S. 1513, "Improving America's School Act of 1993." Considerable evidence has emerged, mostly from studies of schools in the private sector that single-sex schooling can be especially effective for girls. More generally, the pattern of results here strongly suggests that schools specifically designed to educate historically disadvantaged populations—such as women, minority men—may be especially effective in expanding educational opportunities in our society. It is very clear that the current "one best system" of public education has often failed to deliver on this important national aim. I strongly support your proposed demonstration project on single-sex classrooms. It will provide an opportunity for us to learn considerably more about the efficacy of this institutional form which holds much promise for advancing educational opportunities in the United States.

I wish you the best of luck with this legislative effort and I hope you succeed.

Sincerely,

ANTHONY S. BORK,
Professor of Education.

JULY 27, 1994.

Senator JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: I am writing to express my support of your efforts "to provide for an educational opportunity demonstration program" through the use of same gender classes and schools.

When I was the Deputy Superintendent in Milwaukee, WI and the General Superintendent in Detroit, MI, I initiated a same gender school for boys because I believed that it was a positive solution to the several problems that have surfaced among too many urban, low-income, male youth. I continue to support this educational option. Unfortunately, a U.S. District Court ruling in 1992 required the schools to enroll female students.

Continued support of this educational option will provide public school parents with the same options that private school parents pursue. Same gender schools are a viable idea supported by credible research.

My compliments to you for your outstanding decision to promote same gender schooling. It is an educational alternative that promotes excellence and equity for all children.

Sincerely,

DEBORAH M. MCGRIFF, Ph.D.

Mrs. FEINSTEIN. Mr. President, since the time that I spoke on the issue of single-sex education earlier today, Senator DANFORTH has made several alterations to his amendment that have raised concern that perhaps his amendment goes too far, albeit in attempting to achieve a worthy goal. Because of these changes, I would like to clarify my thoughts on the issue of single-sex education and the Danforth amendment.

No one would argue against the proposition that single-sex education can be highly effective for both girls and boys. As private and parochial schools around this Nation have demonstrated, a single-sex educational environment can often provide both the rigor and the nurturing environment that children need in order to succeed academically.

Recently, some public schools have also experimented with single-sex education—most often designing special programs to enhance the education of boys who are considered at risk of failing academically. These pilot programs, which have only been tried for a very short while, often involve establishing a single classroom or a small "school-within-a-school."

These efforts are laudable. However, Senator DANFORTH's amendment goes farther than simply authorizing Federal funds for 10 single-sex demonstration programs. By granting civil rights waivers to public schools, this amendment effectively makes civil rights laws such as title VII and title IX of the Civil Rights Act invalid in those schools for 5 years at a time.

In so doing, these waivers could open up a host of possible unintended side effects, including violations of civil rights protections, sex discrimination, and the erosion of hard-fought integration of our schools.

While I support public and private experimentation with single-sex education, giving waivers to public schools could undercut the equality and integration that are so important to our public system.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Missouri.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—66

Baucus
Bennett
Bond
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Daschle
Dole
Domenici
Durenberger
Exon
Faircloth
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Jeffords
Johnston
Kempthorne
Kerrey
Kohl
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Moynihan
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Rockefeller
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Warner
Wofford

NAYS—33

Akaka
Biden
Bingaman
Boren
Boxer
Bradley
Campbell
Conrad
DeConcini
Dodd
Dorgan
Feingold
Feinstein
Harkin
Hatfield
Hollings
Inouye
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Murray
Packwood
Riegle
Robb
Sarbanes
Simon
Wellstone

NOT VOTING—1

Wallop

So the amendment (No. 2430), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2435

The PRESIDING OFFICER. The Chair will state that the pending business before the Senate is amendment No. 2435.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, with the concurrence of the Republican leader, I now ask unanimous consent that the vote on the Kennedy amendment on which the yeas and nays have been ordered occur at 6:20.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. There is no objection on this side. I have checked with our leadership and 6:20 is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

The PRESIDING OFFICER. The Chair will note that the hour of 6:20 p.m. having arrived, the question occurs on agreeing to amendment No. 2435 of the Senator from Massachusetts [Mr. KENNEDY].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—99

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NOT VOTING—1

Wallop

So the amendment (No. 2435) to amendment No. 2433 was agreed to.

AMENDMENT NO. 2436 TO AMENDMENT NO. 2433

(Purpose: To prohibit the use of amounts made available under this Act to make condoms available in a public school unless the program under which such condoms are distributed meets certain local control criteria)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2436 to the amendment No. 2433.

The amendment is as follows:

At the end of the pending, amendment, insert the following:

SEC. . LIMITATION.

None of the funds authorized to be appropriated under this Act may be used to coordinate the delivery of health services including medicine condoms available in a public school unless the program under which such condoms are made available—

(1) has been determined by the local school board to be appropriate and in furtherance of the National Education Goals; and

(2) has been developed in consultation with parents; and

(3) provides information through the school concerning the health benefits of abstinence.

Mr. HELMS address the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RURAL COMMUNITY SERVICE PROGRAM

Mr. McCONNELL. Mr. President, I want to first thank Senator KASSEBAUM, Senator KENNEDY, Senator HATFIELD, and Senator JEFFORDS for working out a compromise on my amendment to establish a Rural Community Service Program under title XI of the Higher Education Act, Public Law 102-325.

Under title XI, an Urban Community Service Program is already authorized to provide metropolitan-based colleges and universities grant assistance in developing programs that address serious urban problems such as unemployment, limited access to health care delivery, and crime. In establishing a rural counterpart, my amendment recognizes that rural areas in America face similar hardships in maintaining their vitality and unique character.

Losses in traditional employment sources like agriculture, natural resource extraction, and manufacturing have left America's rural communities in a desperate struggle to overcome the economic burdens of unemployment and low-wage incomes. Rural areas are also weakened by the exodus of their youth to larger communities, leaving behind growing numbers of impoverished elderly and children. As with the Urban Community Service Program, my rural community service amendment supports the partnership of educational institutions and private and civic organizations in the revitalization of our Nation's rural areas.

I appreciate my colleagues' cooperation and agreement to include this provision. It is my hope that rural communities will realize the successes urban areas have experienced under this program.

Now, I would like to take a few minutes to discuss my views on S. 1513, the Improving America's Schools Act.

Mr. President, Americans are deeply concerned with the direction our Nation's future is taking. Fundamental changes in the job market from hands-on industrial labor to high-technology service delivery, alarming increases in violence and crime, and the burdensome Federal deficit has made the all-American dream seemingly untouchable for many hard-working Americans. In response to these vital concerns, education is viewed as the means to reverse the economic and social decline impacting our home communities and Nation.

Education reform is a topic that raises high hopes and arduous controversy in nearly every community in America today. Everyone can agree that our children need a high-quality, comprehensive education in preparation for the challenges of our Nation's voyage into an unchartered future. However, the difficulties of achieving consensus on how to provide effective, appropriate academic development has been clearly demonstrated in Kentucky's own reform efforts.

In 1989, the Kentucky Supreme Court declared that the disproportionate funding of the State's local school districts violated our State constitution. This action provided Kentucky with the opportunity to revamp and enhance its education system. Since the passage of the Kentucky Education Reform Act [KERA] in 1990, our State has achieved improvement in some areas, but the effort has also evoked deep divisions over the educational standards, instructional methods, and assessment tests applied in the classroom.

During the Senate's consideration of the Goals 2000 bill earlier this year, Kentuckians expressed to me their adamant opposition to federally defined standards and outcomes assessments for State and local educational agencies. Based on their experiences with KERA, these parents were deeply concerned that such requirements could impose greater Federal control over local schools, limit parental and student choice, and promote values-based education over sound academic achievement. I too believe it is essential for reform efforts to enhance, rather than curtail, local schools' responsiveness to the principal support in a child's life—community and family. I supported several amendments to Goals 2000 which offered greater flexibility to local schools, but due to their limited success, I voted against passage of the bill.

S. 1513, the Improving America's Schools Act, takes up the education debate where Goals 2000 left off. The bill would reauthorize the Elementary and Secondary Education Act [ESEA] which provides public schools with financial assistance for a variety of purposes from programs for students with special learning needs to infrastructure development. During the Senate's consideration of S. 1513, we have had the opportunity to evaluate the past performance of America's educational system, establish its academic responsibilities for the future, and clarify its role as a fundamental community-based institution.

I am supportive of several constructive initiatives included in S. 1513. First, the modified impact aid distribution formula will continue to support school districts in Kentucky, and nationwide, whose ability to derive revenue from its local tax base is restricted by federally owned property. Educational infrastructure investment is also a priority as this measure establishes development programs for library media and instructional technology, and provides enhanced professional development for teachers and administrative personnel under an expanded Eisenhower Professional Development Program. In addition, the bill continues to support a number of programs that have achieved significant progress in early childhood education and family support, such as Even Start and the McKinney Homeless Assistance Program.

The Senate's floor discussions on American education have focused on two issues of great concern to me: The most effective use of Federal education dollars and the role of government in the educational duties of schools and families.

First, S. 1513 recommends a new formula for the distribution of chapter I funds. Through chapter I, schools received Federal support for the higher costs of instructing educationally disadvantaged students, the majority of whom are poor. To more effectively direct chapter I resources to States and local education agencies with the most need, the Senate Committee on Labor and Human Resources has recommended a single, "weighted" child grant formula that includes an "effort" multiplier and an "equity" multiplier.

Serious concerns have been raised by Members of the Senate on who will be the winners and losers under the revised chapter I formula, particularly due to its focus on a State's ability to increase taxes for school funding. While the committee's formula proposal made some progress toward targeting funds, I supported the Bumpers/Cochran amendment to replace the "effort" and "equity" factors with an alternative measure of need. The Bumpers/Cochran amendment utilized county income and the number of school aged children in the formula, a method which I believe is a more effective means of targeting chapter I funds to those in greatest need.

Mr. President, when Kentucky began its journey toward a new academic frontier, our State wanted better educational opportunities for our children, and proof that students are gaining a sound working foundation in basic skills for future employment or the pursuit of higher education. Kentuckians are not alone in their struggle to create an effective, responsive educational system. I am sure that many of my colleagues have heard from parents in their States who are concerned that Federal Government could usurp State and community administration of schools through the imposition of new requirements and controls under this bill.

Several of my constituents have expressed reservation about S. 1513's new criteria for State education plans. In applying for chapter I funds, this bill would require states to develop a comprehensive education plan for disadvantaged students coordinated with the guidelines of related ESEA Programs. For states—like Kentucky—who participate in Goals 2000, the plans must also include content standards, student performance standards, and assessments in accord with this program. For States not participating in Goals 2000, they would have to present a plan that assures equity in the content and student performance standards applied to chapter I and non-chapter I students. In addition, local education agencies would be required to follow this same format to achieve State approval for their chapter I plan.

While the Secretary will have peer review responsibilities over the State plans, S. 1513 clearly states that the U.S. Department of Education may not mandate specific standards or assessments for State and local use. Communities are most aware of the economic and academic factors that impact their schools' ability to respond to the educational needs of all students. I believe this prohibition on Federal involvement in the operation of State and local school systems is essential to ensure that communities retain the authority and flexibility necessary to fulfill their youth's educational needs.

Parents who choose to educate their children in a private school or at home are also troubled that their family's right of choice could be curtailed or negated by the Federal Government. As my colleagues may recall from February, a strong outcry arose among supporters of private and home schools when they discovered that an amendment to H.R. 6, the House's ESEA reauthorization bill, could impose Federal certification requirements on nonpublic school teachers. The House took these concerns seriously, and by an overwhelming vote of 374 to 53, adopted Representative DICK ARMEY'S amendment to ensure that Federal controls cannot be placed on any private, religious, or home school that does not receive ESEA funds. This issue touches at the heart of family choice in education, and I share my colleagues' interest in assuring that S. 1513 also protects nonpublic schools from restrictive Federal control.

Mr. President, the guiding purpose for S. 1513 is the assurance of equitable funding based on need and high academic standards for all students. While S. 1513 does not contain all the refining amendments I have voted to support, it does strike toward a balance between efforts for reform and the preservation of community-based education as a whole.

To show that the concept of excellence in education can become reality for all students, I would like to share with my colleagues a Kentucky Post article that Superintendent Jack Moreland of the Dayton independent schools sent me regarding a local student, Tony Randoll. Because of the dedicated efforts and cooperative support of his teachers and mother, Tony has overcome a number of personal and academic hurdles to become Dayton independent's first graduate to attend Yale University this fall. I ask that a copy of this article appear in the RECORD following my remarks.

I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Kentucky Post, May 21, 1994]

BOUND FOR YALE: RESOLVE TO SUCCEED SPRANG FROM HARDSHIPS AT HOME

(By Debra Ann Vance)

In a basement bedroom filled with school medals and trophies, Tony Randoll talks about the part of his life he's come to hate. His mother looks on, but Tony shyly looks away when their eyes meet.

He tells of a brother who used to be on drugs. Sisters who were in and out of runaway shelters, then became unmarried mothers. Three of his four siblings dropped out of high school.

He's been to seven schools. His father? He barely knows him. Once, he was taken from his mother because of abuse.

"I remember sitting a lot of nights and crying to go back home, and then a lot of times I didn't want to go back because of the whole atmosphere," said Tony, an 18-year old senior at Dayton High School.

Tony was in the ninth grade when he decided his life was his. He would take control of it. As he puts it, he would "refuse to lose." Education would be his way out.

Now, the kid who failed seventh grade has a 4.0 grade-point average with perfect attendance. He's a track star, the senior class president and a Governor's Scholar. He's on the school newspaper and annual staff. He's vice president of the National Honor Society. He's the winner of state and national contests in Distributive Education Clubs of America. And he's been accepted to Yale University—a feat no other Dayton student has accomplished.

At Yale, he will major in biology and physics. The university is picking up the cost and most of his education—more than $100,000 over four years.

Tony figures he could not have made it without teachers who care. When he couldn't afford to go to national DECA contests in California and Florida, teachers paid his way. A teacher picks him up for school, another takes him home.

Nor, he said, could he have made it without his mother, Jo Ann Randoll. Mrs. Randoll said she has always worked, but got hurt and has been unemployed for two years. Her unemployment benefits ran out and she doesn't qualify for Social Security. She and Tony survive on $206 a month in food stamps. What she can't give him in material goods, she makes up by giving her support and advice.

"I tell him you can't feel sorry for yourself," said Mrs. Randoll, who makes a point of attending Tony's school functions in addition to time she spends at the school to learn computer skills she hopes will lead to employment.

"Because of the hard life we've had, I've tried to instill in him to make the best of everything.

"I tell him, just remember, somewhere down the road somebody's got it worse than you do. Apply for everything and go for the best."

They've moved several times. After a home was condemned, Tony lived with friends, but mostly the family moved back and forth to live with relatives. Last month, they moved in with Mrs. Randoll's mother in Silver Grove.

Because they don't have permanent housing, the school considers Tony homeless. As Tony put it:

"We really don't have anyplace to live except wherever we can find a place to stay."

Tony enrolled in Dayton in the ninth grade—two weeks after school had begun. Spanish and math teacher Mary Anne Duchin told him to come in after school if he wanted to catch up on things he missed.

"He did. He cared," Mrs. Duchin said.

"I've told students before that, and since then, and he's been the only one to come in.

"Two days later, I was picking him up for school."

At their first after-school session, Mrs. Duchin recalled, Tony told her, "I'm going to do great things with my life."

"And I said, 'I believe you.'"

Tony is still setting high goals for himself. He wants to write. He wants to be an astronaut. He wants to be a genetic engineer.

"I'll be on a mission to Mars," he explained, "looking for samples of life where a genetic engineer would be required. Then I would write a book about the whole thing."

He likes to sing, dance and hang out at Hardee's with his friends. Most of his friends and classmates don't know of his home situation.

He was surprised to learn from teachers and classmates that students look to him as a leader. They look at what he's wearing. They want to know his attitude on certain subjects.

What his friends also don't know is that sometimes Tony is envious of the clothes they wear. They don't know that the one possession he wants most is something they already have—a class ring.

"Most of my friends all got theirs when we were sophomores," Tony said, dropping his head after looking at his mother. "I never brought it up. Because I knew she didn't have the money, and I didn't want to make her feel bad."

His mother promises he will get a ring.

Earlier this year, it wasn't a ring Tony needed. It was a place to live. The family had moved in with Mrs. Randoll's mother, but that house grew too crowded.

They moved in with another relative, who lived in government housing. Regulations forbade them from staying.

Another relative took them in for a while, but, when she moved to the country, the

Randolls were in need of a roof over their heads again. They ended up back where they started.

"This was the time I thought we would have to live in the car," Tony said. "I was kind of confused. I didn't understand how my mom worked hard all her life and she doesn't have anything to show for it. It's a pretty sad thing.

Tony thought he would have to quit school activities and get a job to help out. His mother wouldn't hear of it.

Mrs. Randoll says her son is "heaven-sent." Mrs. Duchin says he is special.

"He has better bounce-back ability than anybody I've ever seen in my life," Mrs. Duchin said.

"He has an inner strength that an awful lot of people don't have. Though I've seen it in other kids who kind of blossom if you let them know you care."

When he thinks about his situation, sometimes Tony cries—not for himself, but for his brother and sisters and others in society like them.

"I feel like there is something I should be doing, but I don't know what to do," he said.

That makes him more determined. He constantly recites the words of author William Blake. "No eagle soars too high if he soars with his own wings."

"That means you can do whatever you want if it's something you want to do for yourself and you set your heart and mind to it," Tony says.

"I don't want to become a nobody."

Most of the time Tony tries to block out his home life. But he's not ashamed of it.

"I am proud of where I came from, though," he says, "because I know where I am going—to success."

OFF-RESERVATION INDIAN BOARDING SCHOOLS

Mr. CONRAD. Mr. President, I rise today on behalf of Senator DORGAN and myself to offer an amendment to S. 1513, the Improving America's Schools Act of 1994. Our amendment would provide the Secretary of the Interior with the authority to establish, through the Bureau of Indian Affairs, therapeutic model demonstration projects at two off-reservation Indian boarding schools. The purpose of these therapeutic models would be to achieve positive and much-needed changes in the social, psychological, and academic well-being of the Indian students who attend these schools.

My own experience with the Wahpeton Indian School in North Dakota has given me valuable insight into the lives of what is unquestionably a very high-risk student population. Off-reservation boarding schools such as Wahpeton have become destinations of last resort for youth from broken homes, youth with learning disabilities, youth with discipline and chemical dependency problems, youth with nowhere else to turn. This past June, the Senate Indian Affairs Committee sponsored a hearing on the state of off-reservation boarding schools. Expert testimony from an Indian Health Service official confirmed that "More and more, Indian children and adolescents with multiple needs and problems, particularly behavioral health problems, make up the student populations of boarding schools."

Unfortunately, these schools have for most of their existence attempted to function as traditional educational institutions, when it has long been apparent that a more therapeutic, nurturing approach to student needs is necessary. A variety of witnesses at the June hearing—including officials from the Bureau of Indian Affairs and Indian Health Service and representatives from a number of different boarding schools—testified in support of converting these institutions into the kind of therapeutic residential models prescribed by the Conrad-Dorgan amendment.

The therapeutic model would provide an emotionally and physically secure alternative home environment. The staff would no longer include only educators and dorm monitors but also health and social service professionals, including child psychologists and substance abuse counselors.

Our amendment would assist all seven of the Nation's off-reservation boarding schools in making the eventual transition to a therapeutic model by granting the Secretary of the Interior the authority to select two schools as demonstration sites and to provide the additional resources these facilities need to implement the model. The two models—one to be implemented at a BIA-controlled school and the other at a tribally controlled grant school—would serve as pilot projects for school years 1994–96, laying the groundwork for the future conversion of other off-reservation boarding schools.

I should remind my colleagues that this amendment requires no new appropriations, but rather grants the Secretary the authority to redirect resources within the Department of the Interior budget to establish the therapeutic model. Our amendment also grants the Secretary the authority to limit the student enrollment at the demonstration projects to ensure that each school accepts only as many students as it can effectively serve.

I want to thank my colleagues on the Indian Affairs and Labor and Human Resources Committees, as well as their staffs, for providing their support and assistance during our work on this amendment. Senators INOUYE, MCCAIN, KENNEDY, PELL, KASSEBAUM, JEFFORDS, HATFIELD, and SIMON have been particularly helpful. I, of course, also want to thank my colleagues from North Dakota, Senator DORGAN and Congressman POMEROY, for their assistance in crafting this important measure.

I should further note that this amendment was developed in close conjunction with officials from the Bureau of Indian Affairs' Office of Indian Education and representatives of the Wahpeton Indian School Board. I believe development of the therapeutic model is an essential step in improving the state of Indian education and I urge my colleagues to accept this amendment as part of the Improving America's Schools Act.

CHAPTER ONE FORMULA

Mr. BENNETT. Mr. President, I rise in support of the Hatch amendment. As the debate over the last few days has indicated, it is difficult to craft a formula where everyone feels like they are treated fairly—especially when Federal resources may be lost. However, I believe that sound policy must dictate how formulas are written—and the chapter 1 formula needs some adjustments.

There are a number of legitimate factors that are included in the chapter 1 formula. The committee amendment includes four factors. However, the bottom line is that the current chapter 1 formula does not allocate Federal resources to reflect the demographics we have in 1994. It is reasonable to expect that States that have an increase in disadvantaged students will receive an increase in Federal resources. The formula included in S. 1513 is an improvement over what we have, and I appreciate the work of the Labor and Human Resources Committee. However, more could be done.

The amendment we are considering is based on sound policy. The amendment affects the equity bonus, removing the bands that limit the effect of this factor. Thus, this formula will be applied in a more even-handed fashion. I understand and recognize the need to protect States from a radical shift in funds in 1 year. In fact, this amendment contains a transition period. However, if we never allow the legitimate shift in resources to occur, we will maintain the status quo perpetually.

Chapter 1 needs change. Many States have received more than their fair share and benefited at the expense of disadvantaged students in other States. While the chapter 1 formula is beneficial to every State and most school districts, we must keep in mind that this formula isn't written to benefit States and districts—it is to help disadvantaged children. And these children have been penalized by politics for too long.

I thank the senior Senator from Utah for his leadership in making this formula more equitable, and urge my colleagues to support the Hatch amendment.

THE TITLE I FORMULA

Mrs. BOXER. Mr. President, I rise today to express my deep concern about the title I funding formula reported by the Labor and Human Resources Committee in S. 1513, the Improving America's Schools Act.

Title I is the largest Federal elementary and secondary education program designed to meet the needs of poor, low-achieving students. Funding has always been partially based on the number of poor children in each State, and in this reauthorization bill the committee tried to better target the funds to where they are needed most. Unfortunately for California, the formula developed by the committee fails to meet that goal.

In California, the number of school-age children living in poverty increased by 38 percent between 1980 and 1990. Title I funds and the programs they support are critical. Yet, under the committee formula California would receive over $20 million less in funding than it would under current law.

Why is the committee formula so unfair to California? One reason is the 100 percent hold harmless provision in the first year, which favors States with declining child poverty rates at the expense of States, like California, where child poverty rates are growing.

The committee title I formula also contains two new factors—the effort factor and the equity factor. The equity factor is designed to reward States in which spending per pupil on education is equal, or nearly equal, in all school districts within the State. Senator HATCH's amendment made changes to this factor which provide an additional $13 million to California. I am pleased that his amendment was accepted, and believe that it should be retained in the final conference report, if the committee's formula prevails.

The effort factor is intended to measure the effort States make to educate poor children. It is a ratio of State per pupil spending to State per capita income. However, State per pupil spending is an inaccurate measure of the effort States make to educate children, and works to decrease California's title I allocation.

California is ranked 41st in the Nation on State per pupil expenditures. In 1991–92, California spent only $4,419 per pupil, compared to an average of $5,713 nationwide. California also has over 4 million children enrolled in kindergarten through grade 12—one of the highest in the Nation. With such a large number of school-age children, California has less to spend on each child than States with a smaller school-age population.

State per pupil spending is also a poor measure of a State's effort to educate children because it does not take into account the true cost of education. Other indicators, such as average teacher salary, are more reflective of State differences in the cost of education. In 1992, California ranked seventh in the Nation in instructional salaries.

California is penalized twice in the formula for low State per pupil expenditures because the cost factor, which calculates the cost of educating poor children in each State, also uses this measure. As a result, California's title I allocation is reduced by an estimated $500 per pupil.

I had hoped the Senate would adopt an amendment offered by Senator FEINSTEIN and myself to remove the new effort factor from the formula. It would have increased the title I allocation for 28 States by roughly 1 to 4 percent. California would have gained an additional $44 million. The amendment also would have restored the current practice of counting poor children receiving AFDC as eligible for title I funds.

Unfortunately, it was clear after the Hatch amendment was accepted that the Senate would not support further formula changes.

The Labor and Human Resources Committee states that the title I formula in S. 1513 is fair and equitable, and takes into account what funding States have had under the program, and what they will need to adequately serve their poor students in the future. Even with the changes made by the Hatch amendment, California receives less funding than it would under current law and the effort factor will reduce California's allocation in the future. As a result, California will not be able to adequately serve its poor students—the number of which are growing.

We must now work to address these inequities for California in the conference committee. I hope my colleagues will join me in supporting a title I formula that meets the goal of targeting more funds to those States with the largest number of children in poverty.

Ms. MOSELEY-BRAUN. Mr. President, as I have previously stated, I am proud to be a cosponsor of S. 1513. Our Nation must maintain quality public education for everyone—and that is exactly what the Improving America's School Act is all about.

I have said it before and I will say it again and again: Education is fundamental to our democracy and essential to the functioning of our democratic institutions. It is the means by which we prepare our children to succeed—to make a living, to participate in the community, to enjoy the arts, and to understand the technology that has reshaped our workplace.

Education, public education specifically, is more than a private benefit to individuals, it is a public good to us all. How well a democratic society is able to function depends in large part on the opportunities available to its citizens. That connection is seen in everything from crime statistics to health status, to electoral participation, and international competitiveness.

Mr. President, S. 1513 would help our Nation increase its international competitiveness by directing States to develop their own content standards, performance standards, and opportunity-to-learn standards to improve the way teachers teach and students learn.

Although this legislation would not require States to adopt any specific standards, it would direct them to develop standards that challenge all of their students to meet high skills rather than remedial skills.

Mr. President, the General Accounting Office recognized the need to challenge all Americans to acquire high skills in a recent report that found that the United States is lagging behind some of its primary international economic competitors—including Japan and Germany—in providing young people with the academic and technical skills that employers need.

Laura Tyson, chairwoman of the Council of Economic Advisers, reaches this same conclusion in her article entitled, "The Dynamics of Trade and Employment." She states:

> A high-tech America requires a work force that has the skills and training that are needed to use the new technologies. The U.S. educational system from kindergarten through college must be modified to meet these new requirements if American workers are to be able to compete in the world economy with rising rather than falling wages.

Mr. President, I couldn't agree more. Laura Tyson has put her finger on a serious problem and her analysis is right on the money. I agree that education must be among our top priorities and that education has a direct relationship to the success of our economy in general and to the prosperity of American workers in particular.

Our principal economic competitors, including Germany and Japan, understand very clearly how important education is. While American elementary and secondary school students attend school for an average of 180 days a year, their counterparts in Germany and Japan attend school for 243 and 226 days, respectively.

It should, therefore, come as no surprise that American 13-year-olds ranked 14th out of 15th in an international study conducted by the International Assessment of Education Progress [IAEP] on mathematic achievement.

Mr. President, the availability of educational opportunities in the United States not only affects our international competitiveness and our ability to compete in the emerging global economy, it also affects electoral participation, health status, and crime in our country.

I firmly believe that S. 1513 can help to improve the well-being of our Nation's citizens by increasing the authorization level for ESEA programs to $12.5 billion and by targeting more of these funds to disadvantaged children.

Mr. President, recent studies have found that the majority—61 percent—of young people in juvenile justice facilities have a median education level of 8 years.

Other studies have found that almost 80 percent of the children born to unmarried teenage parents who dropped out of high school now live in poverty while only 8 percent of the children born to married high school graduates aged 20 or older are poor.

S. 1513 would address these problems by increasing the authorization for title I funds and by targeting more of them to low-income children. Since the current formula allocates title I funds to poor children without increasing grants to school districts according to their poverty rates, local school districts in the highest poverty quartile currently receive 50.5 percent of title I funds for 50.6 percent of all poor school-age children.

The title I formula would target significantly more funds to local school districts and schools with high concentrations of disadvantaged children. According to the Congressional Research Service, this new formula would increase the share of title I funds going to the highest poverty quartile from 50.5 percent under current law to 54.1 percent while reducing the share of title I funds going to the lowest poverty quartile from 6.4 percent to 3.8 percent.

By increasing our support for education, we can enhance our society's return on its investment a thousand fold—through savings in welfare, drug addiction, and crime programs.

Yet, although it is very clear that it is in all of our interests to increase the Federal share of public education funding, the American system of public education has historically given local school boards primary responsibility over our Nation's public schools.

For a long time, local school boards were able to meet that responsibility. However, the ability of local school boards to continue to meet that responsibility has steadily declined.

To support our Nation's public schools, local school boards rely on local property taxes. And, as we all know, school boards in every State in the country are finding it increasingly difficult to support their academic programs, much less their school facilities, with local property taxes.

Mr. President, local property taxes are an inadequate source of funding for public education because they make the quality of public education dependent upon local property wealth.

Two districts in Illinois illustrate the gross disparities created by our current school financing system.

In 1990, the owner of a $100,000 home in a prosperous community paid $2,103 in local property taxes. This community spent an average of $10,085 per child in its public schools. On the other hand, the owner of a $100,000 home in a low- and moderate-income community with fewer resources paid $4,139 in local property taxes, almost twice as much, even though that community was able to spend only $3,483 on each of their public school students—less than one-third of the money the more prosperous community was spending.

In 1992, 57 percent of voters in Illinois voted to address the problems created by our system's reliance on local property taxes by directing the State to increase its share of public education funding. The voters of Michigan also voted recently to shift funding for public education away from local property taxes to more equitable sources of funding.

Nonetheless, the Federal Government as well as most States continue to force local school districts to rely increasingly on local property taxes for public education. In Illinois, for example, the local share of public education funding fell from 48 percent during the 1980–81 school year to 58 percent during the 1992–93 school year, while the State's share fell from 43 to 34 percent during this same period.

Mr. President, the Federal Government must also accept a share of the blame for failing to provide students throughout the country with quality public educations. In just the last decade alone, the Federal Government's share of public education funding has dropped from 9.8 to 6.1 percent.

I support local decisionmaking, however the Federal Government has an obligation to at least contribute a fair share of the costs.

S. 1513 would promote increased funding for education by raising the authorizations for programs authorized by the Elementary and Secondary Education Act [ESEA] to $12.5 billion in fiscal year 1995.

Yet unlike past ESEA reauthorizations, S. 1513 would also create a coherent framework for education reform by coordinating all ESEA programs with the education reforms in the Goals 2000: Educate America Act that President Clinton signed into law on March 31, 1994.

For example, title II of S. 1513 would amend the current Eisenhower Math and Science Program in order to provide teachers in all core academic subject areas—not just math and science—with sustained and intensive professional development. This legislation would continue to focus on professional development in mathematics and science by directing States to "take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups."

Nonetheless, title II would also authorize the Secretary of Education to use Eisenhower Program funds to train educators how to meet the educational needs of historically undeserved populations including females, minorities, individuals with disabilities, limited-English proficient individuals, and economically disadvantaged individuals in all core academic subject areas.

Mr. President, S. 1513 would also amend the fund for innovation in education program in an important way by authorizing the Secretary of Education to support activities that promote child abuse education and prevention programs.

Child abuse and neglect have reached crisis proportions in the United States. Child abuse is now the leading cause of death for children under 5 with over 2 million cases each year. In 1991, the Department of Health and Human Services reported that 1,383 children died from abuse and neglect in 1991. The National Association of Social Workers has found that reports of abused and neglected children have increased by approximately 150 percent between 1979 and 1991.

In addition to the physical injuries they sustain, abused and neglected children are left with emotional scars that often never heal. If left unreported and untreated, these scars can prevent such children from ever becoming full participants in society. In fact, they can also lead children who are abused later to become abusive parents themselves.

Title VIII of S. 1513 would address this problem by authorizing the Secretary to support programs like the seminars organized by the Greater Chicago Council of the National Committee to prevent child abuse and the education video—"Kids and Company"—produced by the National Center for Missing and Exploited Children that train educators how to recognize possible cases of child abuse and neglect and how to discuss these issues with children.

Mr. President, S. 1513 would also promote gender equity by authorizing most of the "gender equity in education packages." Senators KENNEDY, SIMON, HARKIN, MIKULSKI, and I introduced several bills last year as a cooperative effort to address the widespread gender inequities in our Nation's schools. These bills, which are collectively known as the gender equity in education package, include the Equity in Education Amendments Act, the Women's Educational Equity Restoration Act, the Fairness in Education for Girls and Boys Act, and the Equity in Athletics Disclosure Act.

All four of these bills are important because they will help the Secretary of Education enforce title IX of the education amendments of 1972—the principal Federal law prohibiting sex discrimination in education.

S. 1513 includes much of the gender equity in education package. However, one major component, the Equity in Athletics Disclosure Act, is not yet included in the Improving America's Schools Act. I will soon be offering an amendment to make this final gender equity initiative a part of S. 1513.

S. 1513 would authorize another very exciting Federal initiative designed to provide all students with school environments which are conducive to learning.

Title XV of S. 1513, the Education Infrastructure Act, would authorize the Secretary of Education to allocate $400 million directly to local school districts for the repair, renovation, alteration, and construction of public elementary and secondary school facilities.

Several studies have shown that our Nation's education infrastructure needs total about $125 billion; $84 billion for new construction; and $41 billion for maintenance and repairs. Other studies have shown that our Nation's education infrastructure needs are great in both urban and rural districts alike. The Council of Great City Schools has reported that New York City, Chicago, Los Angeles, and Detroit each need more than $1 billion each to repair old school buildings and build new ones. Education researchers have also found that one-half of our Nation's rural school buildings are unsafe, inadequate, and inaccessible to disabled students.

Under this title, the secretary of education would distribute title XV funds directly to local school districts to help them repair facilities that pose a health or safety risk to students. This title would also help local school districts meet the requirements in: First, section 504 of the Rehabilitation Act of 1973; second, the Asbestos Hazard Emergency Response Act of 1986; and third, the Americans With Disabilities Act of 1990.

Finally, title XV would also help local school districts upgrade their facilities to accommodate new instructional technology. Although the Quality Education Data Co. estimated that 98 percent of elementary schools have computers, the Office of Technology assessment estimated in 1986 that it would cost $4.2 billion a year for 6 years to bring the students to computers ratio down from 30:1 to 3:1. Title XV would help local school districts achieve this goal by helping them make their facilities technology-ready.

Mr. President, I would like to conclude my remarks by reiterating that education is an investment in our children and an investment in our future. Given what our international competition is doing, we cannot afford not to make the investments in education and job training that are so critically necessary to respond to the challenges from abroad.

Laura Tyson has said that a country's people may be its most precious resource. I share that view, and I think we must all dedicate ourselves to giving Americans the opportunity to fully utilize their talents—and not just because it is the right thing to do, but also because it is the best thing to do for our economy and for the future of our country. I urge my colleagues to vote for S. 1513.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HASBRO AWARDED FOR SAFETY FEATURE

Mr. PELL. Mr. President, I would like to call to the attention of my colleagues a ceremony that took place at the National Press Club today.

Alan Hassenfeld, chairman of Hasbro, Inc., headquartered in Pawtucket, RI, received a chairman's commendation from Ann Brown, chair of the U.S. Consumer Product Safety Commission. He is only the second recipient of this award.

Mr. Hassenfeld and Hasbro received this prestigious award for the work done by the Playskool division of Hasbro to develop a child's high chair with a protective restraint bar that prevents children from slipping out of the chair.

The Consumer Product Safety Commission estimates that since 1988, 19 children have died from strangling injuries suffered from high chairs without such devices. That senseless loss of life is most unfortunate and will no longer be necessary.

Mr. President, I am immensely proud that the men and women of Hasbro and my good friend Allen Hassenfeld have been so honored. All too often, the Consumer Product Safety Commission must warn us of the dangers of consumer products. I am pleased, as I am sure the Safety Commission is, to be able to call attention to products that have been designed safer by their maker.

THE LIFE OF JOHN J. DRISCOLL

Mr. LIEBERMAN. Mr. President, I rise today to honor the memory of a man who was an important part of the legacy of Connecticut, John J. Driscoll, who for nearly a quarter century served the State and its workers as the leader of the AFL–CIO.

I share with my friends in the labor movement in Connecticut a profound sense of loss as the news of the passing of John Driscoll on Friday, July 22.

John Driscoll loomed large in the history of 20th century Connecticut, and thanks to his spirit and drive, working conditions for thousands of workers and the living conditions of their families steadily improved. He was a real champion in the fight for better wages and benefits, health and safety concerns, and constructive relations between union, management, and government. It was an honor to know him and work with him for the betterment of our State and its people.

A philosopher once said, "an unemployed existence is a worse negation of life than death itself. Human life, by its very nature, has to be dedicated to something." John Driscoll's life was dedicated to fighting to keep people employed, and to keep people employed with proper compensation and working conditions. In essence, John tried throughout his life to make the American Dream come true for as many of his brothers and sisters in the labor movement as he possibly could. He was remarkably successful in that effort, and for that we are all very grateful to him.

I extend my condolences to the family of John Driscoll and to his many, many friends at this sad time. Though John is gone, his fight for a better life for the working men and women of Connecticut lives on.

GRAZING FEE INCREASES

Mr. JOHNSTON. Mr. President, on June 16, Senator WALLOP and I wrote to Secretary Babbitt and Secretary Espy requesting their views concerning a news release issued by the Public Lands Council which raised questions about the potential effect of grazing fee increases of Farmers Home Administration [FmHA] direct loan borrowers.

We have now received a replay to that letter which, I believe, responds to those questions in a very direct and satisfactory manner. I ask unanimous consent that a copy of the June 16 letter to Secretaries Babbitt and Espy appear in the RECORD at this point, along with their response.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Committee on Energy and Natural Resources,
Washington, DC June 16, 1994.

Hon. BRUCE BABBITT,
Secretary, Department of the Interior, Washington, DC.
Hon. MIKE ESPY,
Secretary, Department of Agriculture, Washington, DC.

DEAR SECRETARY BABBITT AND SECRETARY ESPY: We understand that the Department of Agriculture has recently released data requested by the Public Lands Council relating to the potential impact of higher grazing fees on ranchers with Farmers Home Administration loans.

In a news release dated June 13th, the Public Lands Council alleges that this data contradicts earlier statements by Secretary Babbitt and others that the fee increases contained in the Administration's proposed grazing regulations would not have a significant financial impact on large numbers of ranchers who utilize the public lands for grazing.

We are writing to request that you provide the committee with a detailed response to these allegations, along with your interpretation of the USDA data, as soon as possible.

With kindest regards, we are

Sincerely,

BENNETT JOHNSTON,
Chairman.
MALCOLM WALLOP,
Ranking Minority Member.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC., July 26, 1994.

HON. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter dated June 16, 1994, in which you share your concerns regarding the recent news release issued by the Public Lands Council (PLC). We are familiar with the PLC's statement, and because it is critical of the Administration's Rangeland Reform '94 proposed regulations, we appreciate having the opportunity to address these issues.

The PLC statement, which focuses on the potential effect of grazing fee increases on Farmers Home Administration (FmHA) direct loan borrowers who graze public lands, was based upon an informal survey conducted by the FmHA in New Mexico, Wyoming, Montana and Colorado. It is important to keep in mind that fewer than 7 percent of all federal grazing permittees and lessees are FmHA borrowers—more than 93 percent of these permittees have found it unnecessary to rely on FmHA financing. Before an applicant can qualify for a FmHA loan, it must be shown that the applicant has been refused financing by commercial lending institutions. FmHA estimates, upon which the PLC analysis was based, indicate that only 357 FmHA borrowers who graze public lands in the four states surveyed, out of a total of approximately 13,300 federal permittees in those states, may have problems meeting their cash-flow projections if grazing fees are increased as proposed for the 1994 crop year and no other actions are taken. This amounts to only 2.68 percent of all federal grazing permittees in the four states.

Accordingly, the results of the FmHA informal survey are consistent with the Draft Environmental Impact Statement for Rangeland Reform '94, which found that most federal grazing permittees are not marginal operators. Similarly, a recent study conducted by the Economic Research Service of the U.S. Department of Agriculture (ERS), entitled Cow/Calf Ranching in Ten Western States (May 1994), concluded that "ranchers with permits to graze cattle on federal land enjoyed higher net earnings than ranchers without such permits, both per cow and per hundredweight of cattle sold."

Nevertheless, it is important to understand the limitations of the information generated by the FmHA survey. In contrast to the ERS study, the FmHA survey was not scientific; its conclusions were based upon informal telephone interviews with FmHA district managers. FmHA methodology allowed for subjective responses and, according to FmHA Administrator Michael V. Dunn, could have an error rate of as high as 20 percent.

FmHA did not take into consideration the planning and budgeting process that each applicant/borrower undertakes annually. Failure to do so may have resulted in negative cash flow impacts being misstated. Each year an FmHA applicant prepares a farm cash flow plan that projects the following year's income. Plan projections are based on five years of historical data, including the applicant's actual records of production, marketing expenses, and income. The borrower may make adjustments in the farm plan to conform to market or other changes.

Moreover, the district managers employed different methodologies to identify borrowers who might be marginal—some district managers included permittees with small cash flow margins in the negative cash flow category without performing further analysis; other district managers arbitrarily selected a number representing an estimated fee increase and subtracted that amount from the borrowers' 1994 projected cash flow margins; and still others dropped from their sample borrowers that held very small federal permits.

Finally, even in the case of a FmHA borrower who confronts potential cash flow problems, FmHA routinely provides assistance in the form of primary loan servicing options, which are designed to help farming families adjust to various adverse economic impacts. These include deferred payments, rescheduling and reamoritization. FmHA local officials work closely with direct loan borrowers to develop packages of loan serving options that, in most cases, resolve problems that emerge and avoid loan defaults.

The proposed grazing regulations also provide that the Department of Agriculture and the Department of the Interior will continue to review and assess the impact upon federal permittees of increased grazing fees. If, following implementation of Rangeland Reform '94, we determine that grazing permittees are suffering undue hardship as a result of the higher fees, we can revisit the amount of the fee and make adjustments as necessary.

We hope that this information is helpful to you, and we remain available to discuss these issues with you at any time. An identical letter is being sent to Senator Wallop.

Sincerely,

BRUCE BABBITT,
Secretary of the Interior.
MIKE ESPY,
Secretary of Agriculture.

JAMES FRED RIPPY, JR.

APRIL 17, 1918–MAY 24, 1994

Mr. HELMS. Mr. President, the news media reported that the end came for Fred Rippy on May 24, but it was not the end at all—it was the beginning. You might call it graduation day, a day when the Lord beckoned for a faithful soul to come up and assure more smiles, more joy, and more love among the armada of heavenly angels. It is possible to imagine Fred's being fitted with special wings, perhaps, at his request, with tiny insignia reading Cadillac or Oldsmobile amidst the feathers or whatever angels' wings are made of.

Please forgive my imaginative observations, Mr. President, but you would have to have known Fred Rippy to understand such fanciful notions about a man everybody in Wilmington, NC, loved and respected. Each of us who knew him best and loved him most can see him, in our mind's eye, persuading St. Peter that Heaven would be even a bit better if a fleet of Cadillacs could be secured to travel the golden streets.

Mr. President, Fred Rippy was successful at everything he ever decided to undertake—as a Phi Beta Kappa at the University of North Carolina from which he was graduated; as a husband, father, grandfather; as a good citizen; as founder of Rippy Cadillac/Oldsmobile. He sold a lot of cars because people trusted him and enjoyed doing business with him. He had a bit of Will Rogers in him—he never met a man he did not like. Which was vice versa with everyone who ever met Fred Rippy.

My purpose today, Mr. President, is to share with Senators the splendid tribute paid Fred Rippy by his minister, Rev. Robert F. Bardin, whom everybody calls Bob. Bob Bardin, Fred's pastor at St. Andrew's Presbyterian Church in Wilmington, choked up a time or two as he delivered his gentle, loving graveside homily on May 26. Years ago, Fred had specified no formal church service, just a gathering of any friends who felt inclined to come.

I want Senators to have an opportunity to read what Bob Bardin said on that Saturday afternoon when hundreds of friends gathered to pay their respects to their friend, and to express their love for Marian, and the Rippy children and grandchildren.

I was touched by the reaction of the throng as Reverend Bardin delivered his homily. There were tears, yes, but there were smiles too—and nods of agreement. I think you will see why, Mr. President, when you ponder what that young minister said about the remarkable James Fred Rippy, Jr.

I ask unanimous consent, Mr. President, that the text of the Service of Witness to the Resurrection be printed in the RECORD at the conclusion of my remarks.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

WITNESS TO THE RESURRECTION OF JAMES FRED RIPPY, JR.

(By Rev. Robert F. Bardin)

Make a joyful noise to the Lord! So begins the 100th Psalm. Life is filled with joyful noise, particularly when life is as well lived as Fred Rippy lived it. The joyful noise of life welled up in him, spilled out of him, drenching us with gladness. Isn't that why the silence since Tuesday night seems so soundless?

Joni Mitchell sang of a paradox in one of her songs: "Don't it always seem to go that you don't know what you've got til it's gone." So it is that this shocking silence in the aftermath of Fred's death helps us to fully appreciate the joyful noise of his life. In this quite moment, I want to help you hear this joyful noise again, and to give thanks for it.

In the silence, I hear a song—one that some of you have danced to, a song that Fred sang with his life and attitude every day. If I were braver, I'd sing it, because it's better when it's sung. But let me at least say it for you:

You've got to ac-centuate the positive
E-lim-i-nate the negative
Latch on to the affirmative,
And don't mess with Mr. In Between.

You don't need me to tell you that our world is chock full with cynical, whining Eyores, and with weatherfolk, who on the sunniest day, will find and focus on the tiniest cloud on the most distant horizon. The weatherman this morning said that the greatest chance of rain all week would come on this day. It had to be that way. So that in the silence of this moment, we could hear

Fred Rippy say, "Don't worry, it's not going to rain!" In Fred Rippy's world, it never rained. And if it did, then the rain came simply to make possible a rainbow that would certainly follow. In the silence, we can still hear the joyful and positive witness.

Let me share another of the joyful noises from this life that I hear in this silence, and you tell me if I'm right. I hear the sound of children's laughter. And it sounds like Joyce's and Fred's and Allen's. And it sounds like Jenny's and Mandy's, and Daniel's, James' and Louise's, Allen and Wren and Katie's laughter. It sounds like the laughter of the children of Rippy Cadillac Olds employees, who were not employees, but family, who could call him "Granddan."

Mingled with the sound of these children's laughter is the crack of the baseball bat echoing across the sandlot on 18th street and the delighted sigh of a man with a Cubs cap on, who pitched for both teams.

Always the joyful noise of laughter, trailing behind him in the golf cart with his grandchildren, following him and his children on the first trip up the first escalator in Wilmington, Swimming with him in the pool, walking with him to the post office, standing with him in front of every construction site in town, watching backhoes dig, giggling, screaming mobs tearing up his yard in an Easter egg hunting frenzy, simple things that don't make the papers. Silly things, at least, silly for adults whose childlike wonder is dead. But for Fred Rippy, children's laughter was part of the joyful noise of life that trailed along after him wherever he went. Can't you hear that laughter now?

I hear something else, a rule called Golden, "Do unto others as you would have them do unto you." In modern ethics, it is often revised, "Do others before they do you." There are plenty, of course, who can and do claim to run their businesses by the Golden Rule, but whose way of treating folks makes those promises sound like a noisy gong and a clanging cymbal. But I can be a witness, that in his business, Fred Rippy *did* the Golden Rule and didn't just speak it. And while this is surely not the time or place for a car dealer's commercial, I know that there are many of you here who could say the same. Fred built Rippy Cadillac Oldsmobile upon the solid rock of honest fairness. And in this silence, I can hear the Golden Rule.

And in the silence, I can hear many other things, joyful things. I hear a heart that for 76 years beat out a rhythm of love. Not the warm fuzzy syrupy sentimentality that the world calls love, but genuine, unpretentious love. Love as real as a promise spoken long ago to a young bride and backed up with 53 years of faithfulness. Love as real as Whitman's samplers, delivered to school crossing guards and bank tellers and library workers at Christmastime.

Among the many things I hear now in the silence, is a laughing Fred Rippy warning his doctor that he was never going to die. He knew otherwise, of course, but chose not to dwell on it, chose to leave his dying in the sure hands of the One who had guided his living.

In a way, Fred was right about not dying. For Paul, in the 13th chapter of 1st Corinthians says, that love endures all things . . . that love never ends. Surely the love that flowed from Fred Rippy's life lives joyously on in you, in you most of all.

We give grateful praise for this life, and to the one from whom the confidence and the goodness of Fred's life came, to Jesus Christ, who said, "I am the resurrection and the life. If a man believe in me, even though he die, yet he shall live, and no one who lives and believes in me shall never die."

In the moments of anxious waiting at the hospital, we kept saying, "He's going to be all right . . . He's going to be all right" . . . against all odds, "He's going to be all right!"

And the news came, for death claims the good and the strong as well as the weak and wicked and the rain of tears came. But almost immediately, you could tell that this was Fred Rippy's family and believers in the God that was his God. Immediately, they began to trace the rainbow through the rain. . .to repeat the promise, not made in vain, "He who believes in me shall never die."

If you and I only had ears to hear, we could hear behind the silence that confronts us now, a great party of the saints in the new heaven and the new earth. And the big band is playing Fred's song. And the negative, has in fact been "e-lim-inated". No more tears no more crying, no more pain, the Bible says. But surely a place where children are laughing and rules are Golden with love. The kind of place where Fred is at home.

Until the day that you and I will join him there, and until then, hear and live by what he must surely be saying:

Make a joyful noise to the Lord, all ye lands.
Serve the Lord with gladness;
Come into His presence with singing.
Know that the Lord is God.
It is He who made you, and we are His people,
and the sheep of His pasture.
Enter His gates with thanksgiving, and His courts with praise.
Give thanks to Him, bless His name.
For the Lord is good; His steadfast love endures forever,
And His faithfulness to all generations.

To all generations . . . to you his children, his grandchildren, and to all the generations who will follow you, who will call on the name of the Lord, and who will call the name of his servant, James Fred Rippy, Jr., blessed. Amen.

RAISING FHA LOAN LIMITS

Mr. INOUYE. Mr. President, the U.S. Senate will shortly consider H.R. 4624, the VA, HUD, and independent agencies appropriations bill, and S. 2281, the Housing Choice and Community Investment Act. During consideration of these measures, I understand, attempts will be made to raise the Federal Housing Administration's (FHA) loan limits to $101,575 nationally and to $172,678 in high costs areas.

I commend the sponsors of S. 2281 and H.R. 4624 for their efforts to expand the FHA mortgage loan limits. However, the expansion does not go far enough. I would like to inform my colleagues of Hawaii's situation and why the FHA program is not readily accessible to potential home buyers residing in my State. I was hoping to seek some relief in the form of an amendment to S. 2281 or H.R. 4624. However, it appears that the climate is not right.

For the record, I have and will continue to support loan limit increases for the FHA program. In Honolulu, HI, where the median sales price of a single family home is over $350,000, the availability of FHA loans is extremely limited. A higher loan limit, in my view, would eliminate large gaps which exists between the median home price and the FHA loan limit.

Opponents will argue that there is greater risk of default and foreclosure should the FHA mortgage loan ceiling amount be increased. Although Hawaii is considered one of the highest priced areas for single family homes, we have one of the lowest default and foreclosure rates in the Nation. Consequently, I believe raising the loan limit will help strengthen the FHA portfolio, and provide better accessibility to the program by residents of my State.

It is extremely unfortunate that the FHA insured loan product in Hawaii is not meeting the needs of the individuals it was designed to help. The mortgage limits imposed by the FHA have limited the number of single family homes that can be insured and the down payment requirements under FHA guidelines effectively eliminate borrowers who can clearly make the monthly mortgage payment. Many individuals are paying rent in an amount that is equal to or above what their mortgage payments would be, but do not have the ability to accumulate the required down payment. Due to the high cost of housing in Hawaii, FHA borrowers must make a significant cash contribution to the transaction. This is a hardship not endured in other parts of the country.

In 1992, under the Housing and Community Development Act of 1992, Public Law 102-550, the Congress amended the National Housing Act to increase the down payment requirements on the FHA program. Currently, the down payment requirements are 3 percent on the first $25,000 of the mortgage loan amount; 5 percent on the amount between $25,000 and $125,000; and 10 percent on amounts above $125,000. Unfortunately, the 10 percent down payment requirement excludes many of Hawaii's potential home buyers from acquiring affordable housing.

The provisions under the Housing Choice and Community Investment Act of 1994 which grants the Secretary of the Department of Housing and Urban Development to enter into risk-sharing arrangements with State and local agencies to insure single family mortgage on properties located in high cost areas will help Hawaii to address the higher loan limit requirements. However, it does nothing to provide relief towards the down payment requirements.

I urge my colleagues on the Senate Banking Committee to review Hawaii's problem with the down payment requirements so that potential home buyers will have better accessibility to the FHA program.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Friday, July 29, the Federal debt stood at $4,636,361,778,400.62. This means that on a per capita basis, every man, woman, and child in America owes $17,783.53 as his or her share of that debt.

THE RWANDA TRAGEDY

Ms. MIKULSKI. Mr. President, I rise today greatly saddened by the tragic situation in Rwanda.

The extent of human misery in Rwanda is overwhelming. Some have described the situation as a tragedy of Biblical proportions. I can't argue with that description.

Over half a million Rwandans were brutally massacred during the Rwandan civil war. As a result of this terrible war, two-thirds of the survivors have fled their villages. Five million Rwandans are now homeless, a staggering figure.

And now cholera has claimed an estimated 16,000 lives in the Goma, Zaire, refugee camp. The number of victims rises by the hour.

Mr. President, I am personally acquainted with the misery of the Rwandan disaster. At the start of the fighting, I helped Vanessa Uwineze, a 4-year-old Rwandan refugee, come to Baltimore to live with her uncle. Vanessa's mother, fearing her daughter would be killed, sent Vanessa away, then she herself went into hiding. I was happy to work with Catholic Relief Services to help secure Vanessa's safety and save her from the inferno in Rwanda.

Vanessa's story has a relatively happy ending. But there are thousands more Vanessas in Rwanda who have died or face death in the coming weeks.

So what are we doing to meet this crisis? Last week, President Clinton announced a major humanitarian relief operation. We are now sending thousands of American troops to Rwanda to provide refugees with the basics of life: clean water, shelter, food, and medical assistance.

I am very proud to say that once again, the world is seeing America at its best. The fine young men and women of our United States Armed Forces are helping to relieve the pain and suffering of the Rwandan people, helping people who are no longer able to help themselves. Our sons and daughters are showing the world what a great and caring nation can do when it is mobilized for a worthy cause. These wonderful young people don't always make the headlines, but they surely deserve our gratitude and firm support.

Some Members of Congress have argued that we should not send our young men and women to places like Rwanda, because we have no strategic interests there. In other words, we have nothing to gain, so why get involved. Sure, it's a tragedy, they argue, but the world is a cruel place, and we can't solve everyone's problems.

Mr. President, I certainly agree that we have no strategic interest in Rwanda. Rwanda has no large oil deposits, nor any great mineral wealth. It's not a strategic crossroad. So we have nothing to gain by our presence there. Our sole purpose for sending in our troops is to help the people of Rwanda get back on their feet. And that is reason enough.

I say to my colleagues that regardless of our strategic interests, we belong in Rwanda. We must help these suffering people. Why? Because it is the right thing to do. It's an American tradition to help those who are most in need. And there is no doubt that Rwandans are in extreme need.

The United States is one of the few countries in the world with the equipment and the know-how to get the job done. If we had turned our backs on the suffering of the Rwandan people, what would that say about us?

We have now decided to act, and I believe that we are on the right track. And we can do more. We should take the following additional steps:

First, we should seek financial support for the Rwandan relief operations from our G–7 partners. If they can't send troops or supplies, why can't nations like Japan help us pay for this operation? The United States should not have to pay the whole $300 million that this operation is expected to cost.

Second, we should coordinate our relief operations with the many NGO's, such as Catholic Relief Services, already in place in Rwanda. Let's make sure we're making the best use of all the resources available.

Third, we should encourage Rwanda's neighbors to take part in the peacekeeping effort. Repatriating refugees requires a secure and stable political situation in Rwanda. Rwanda's neighbors have a real stake in helping to restore order in their own back yard.

Fourth, we should encourage individual Americans to support private Rwandan relief efforts. Mr. President, to help individual donors, I have a list of relief organizations that are active in Rwanda. I ask unanimous consent that it be made a part of the RECORD.

Fifth and finally, to assure the American people that we won't get involved in another political quagmire, we must ensure that there is a firm exit plan for our troops in Rwanda. Let's decide what needs to be done, do it, and bring our troops home.

Mr. President, I commend President Clinton for his decision to launch a major relief effort in Rwanda. It was the right thing to do. It was the humane thing to do. Now we must take these few extra steps to ensure that Rwanda recovers from its current suffering as soon as possible.

Let's end this crisis quickly and put Rwanda back on the road to recovery.

[From the Washington Post, July 22, 1994]

RELIEF AGENCIES ACCEPTING CONTRIBUTIONS TO ASSIST RWANDANS

(By the Associated Press)

A partial list of aid agencies assisting Rwandans:

American Red Cross, Rwanda Relief, P.O. Box 37243, Washington, D.C. 20013, 1–800–842–2200.

AmeriCares, Rwanda Relief, 161 Cherry St., New Canaan, Conn. 06840, 1–800–486–HELP.

CARE, 151 Ellis St., Atlanta, Ga. 30303, 1–800–521–CARE.

Adventist Development, and Relief Agency, P.O. Box 4289, Silver Spring, Md. 20914, 1–800–424–2372.

Concern Worldwide USA, 104 E. 401th St., Room 903, New York, N.Y. 10016, (212) 557–8000.

Catholic Relief Services, 209 W. Fayette St., Baltimore, Md. 21201, (410) 625–2220.

Church World Service, P.O. Box 968, Elkhart, Ind. 46515, (219) 264–3102.

Doctors Without Borders USA, Inc., 30 Rockefeller Plaza, Suite 5425, New York, N.Y. 10112, (212) 649–5961.

International Rescue Committee, 122 East 42nd St., 12th Floor, New York, N.Y. 10168–1289, (212) 551–3000.

Oxfam America, 26 West St., Boston, Mass. 02111, (617) 482–1211.

Mennonite Central Committee, Rwanda Relief, P.O. Box 500, Akron, Pa. 17501, (717) 859–1151.

Save the Children, Rwanda Emergency, P.O. Box 975, Dept, RW, Westport, Conn. 06881, 1–800–243–5075.

U.S. Committee for UNICEF, 333 East 38th, St., 6th Floor, New York, N.Y. 10016, 1–800–FOR–KIDS.

World Concern, Rwanda Relief, P.O. Box 33000, Seattle, Wash. 98133, 1–800–782–5577.

World Relief, P.O. Box WRC, Dept. 3, Wheaton, Ill. 60189, 1–800–535–5433.

World Vision, P.O. Box 1131, Pasadena, Calif. 91131, 1–800–423–4200.

COMMEMORATING THE DEATH OF LABOR LEADER JOHN DRISCOLL

Mr. DODD. Mr. President, I rise today to pay tribute to a man whose imprimatur on the landscape of American labor relations was second to none. During his 60-year career in the American labor movement, John Driscoll was known in Connecticut as Mr. Labor for his steadfast and enduring advocacy of social justice through union organizing.

It saddens me to inform my colleagues that John passed away on July 21 at the age of 82. John Driscoll was truly a giant in Connecticut. He took on all the important causes of his day, from the organization of public employees to workers' compensation, from health benefits to protections for American jobs. A civil libertarian, he marched in Selma, AL, with Martin Luther King, Jr., in 1965, and years later he endorsed a woman to succeed him as president of the Connecticut AFL–CIO.

Known and respected as a man whose principles ruled his life, John Driscoll was partisan only to them. A brilliant thinker and scholar, he was an unlikely champion of the union movement from its glory days in the 1930's, when Government was completely out of touch with the needs of working Americans. His enlightened and pioneering navigation of the labor movement never veered off course as he advanced through the leadership of the AFL–CIO in Connecticut. He held the top post in that chapter virtually unchallenged from 1961 until his retirement in 1985.

John could very easily have imitated the armchair philosophers of his formative years and chosen a path of sedate and unassuming academia. A first generation Irish-American, John Driscoll was born in Waterbury, CT, in 1911. He went on to be a brilliant student of philosophy at Wesleyan University in Middletown, CT, and later at Brown University in Providence, RI. It was at Brown that a speech by the Congress of Industrial Organizations' [CIO] union firebrand, John Lewis, transformed his thinking and inspired him to pursue his life work.

Although his Phi Beta Kappa record of scholarship handily led him to Harvard Law School, the atmosphere there ultimately proved too stultifying for a young man whose passion for social justice and reform had been ignited. John Driscoll quit Harvard Law School, rolled up his shirt sleeves, and in 1937 set to work for 40 cents an hour at the Bristol Co., a Waterbury, CT, factory. There he organized his first union—the Mine, Mill and Smelter Workers' Union—and began a life-long campaign to provide workers, whose collective toil was the grist that drove the corporate machines, with a real voice in the workplace. Unions, as John would later observe, provided workers with "a stake in society—a share in the fruits of the free enterprise system."

His entrance into the world of union organizing at the Bristol Co. led to full-time work with the CIO and then the United Auto Workers' Union International. He served as the State Post-War Planning Council after World War II and served for several years on the State Board of Mediation and Arbitration before joining the Connecticut AFL–CIO leadership in 1957. He also served on the State's original Commission on Higher Education.

After his retirement, John's influence continued to be felt in State labor politics. He chaired the United Labor Agency, which worked with dislocated workers and served on the labor advisory committee at the University of Connecticut's education center. In later years, John Driscoll enjoyed the respect and admiration of his colleagues and philosophical adversaries alike, and he was the deserving beneficiary of countless honors and awards.

John Driscoll instinctively understood that American democracy is flexible enough to allow disenfranchised groups to achieve the rights they deserve. Because he understood the true power of representative government in this country, John fought hard in the 1940's and 1950's to prevent labor unions from taking on Communist overtones. America, for John Driscoll, was a work in progress, and it functioned best not through complacency but through advocacy and active citizenship. Its Government did not need to be changed, it needed to be utilized. His life-long dedication to this principle has made Connecticut and our country better.

I ask my colleagues to join me in honoring this great American from Connecticut and in offering our condolences to his wife, Margaret, his son, David, his extended family, and his friends.

HEALTH CARE REFORM PRIORITIES

Mrs. BOXER. Mr. President, throughout the year, we've read about various health care reform plans, heard predictions of doom and gloom, and even seen the health insurance industry use a couple of high-priced actors to wage a campaign of fear against health care reform. Somewhere between Harry and Louise, between expensive advertisements and faxed lobbying letters, we seem to have lost sight of what this debate should be about.

This debate should be about making our health care system the best it can be: accessible, comprehensive, and affordable for all Americans.

Mr. President, I did not come to the floor today to pick apart any of the health care plans. I came to the floor today to talk about what health care reform means to the people of California.

In my State, approximately 6 million people under the age of 65 live without the security of health insurance. What might surprise some people is that the overwhelming majority of them—83 percent—work or are in families headed by someone who works.

What good is a new health care system if it doesn't apply to all Americans? We all know the cold truth. No one is immune from the failures of our current system. With terms like "preexisting condition" and "uninsurable" still all too common, every American could wake up one day and join the ranks of the uninsured.

For health care reform to be real it must be universal. It must have no lifetime limits, and it must be portable—so if you lose your job or change your job—your health care will always be there. There is a bottom line in this debate: Every single American must have access to real health care insurance that can never be taken away.

This is the right thing to do. It also makes economic sense because the more people who are covered, the easier it will be to get skyrocketing health costs under control. The larger the pool of insurance buyers, the lower the cost of the premium. So those who say that universal health insurance is a noble goal we can't afford, I say it costs far too much not to have it.

Let's listen to Laura Tyson, head of the President's Council of Economic Advisers. She says: "It is a myth"—a myth, Mr. President—"that insured people do not need to worry about the uninsured. Under our current system," she says, "when the uninsured face catastrophic costs, the insured pick up the bill."

Right now, according to Tyson, the uninsured pay just 20 percent of their health care costs while a person who has insurance pays 30 percent more than their actual health care costs. Why? Because the costs of caring for those without insurance are piled onto the backs of those with insurance. How high? About $25 billion a year, Mr. President.

Did you ever wonder why it costs $10 for an aspirin in a hospital? It's because the patient who pays is picking up the tab for those who are uninsured and pay nothing.

Because we lack a coherent, rational health insurance system, too much goes for expensive emergency room visits for people without insurance who put off getting care until they are deathly ill.

This emergency room approach to health care wastes resources and far too often, wastes lives. Child immunizations are the perfect example. It costs thousands of dollars to treat a child who contracts the measles, sometimes hundreds of thousands. Children die every year in America from this preventable disease. Why? Because we practice emergency room medicine in America instead of prevention, and the cost is enormous.

By focusing on prevention and primary care, universal coverage will save dollars in the long run. And, Mr. President, it will save lives.

Saving lives also means safeguarding the race for cures to today's most deadly diseases. Mr. President, my State is home to one-third of the Nation's biotech firms. They are spending billions of dollars and devoting countless hours to ending the AIDS epidemic, to finding cures for cancer and Alzheimer's and heart disease and stroke.

These companies put more Californians to work than our computer industry and almost as many as our movie industry. And, like many Americans right now, they have their concerns. They want to make sure that prescription drugs are covered under Medicare. And they oppose granting the Federal Government the authority to exclude new drugs from reimbursement under Medicare. I agree with their concerns.

Mr. President, granting this authority would have a chilling effect on new drug development, and it runs the risk of drying up the huge pools of capital that are necessary to fund innovative medical research.

This path runs contrary to the fundamental goal of reform: making America healthier. Stunting the growth of biotechnology and slowing the race for cures would not bring about real health care reform. In fact, I believe it would contribute to a very real health care crisis.

The same goes for prescription drug coverage. How, Mr. President, can we go to such effort to provide all Americans with doctors who tell them when they are sick, and then not help with the drugs they need to get well?

Mr. President, I understand that enacting comprehensive health reform will take courage. It will take vision, and it involves bringing many different perspectives to the table so that all the issues are addressed.

And, I believe that another of these issues is reimbursement to States for the care they provide to undocumented immigrants. Many State hospitals provide emergency care and essential public health services to those in need. This is the right thing to do. It's the humane thing to do. But these services aren't free, and the States hardest hit must be reimbursed by the Federal Government.

I believe it should be the Federal Government that pays because it is the Federal Government that has failed to stem the flow of illegal immigration. So when we talk about overhauling our Nation's health care system, we have to talk about reimbursing States that provide care for undocumented immigrants, and we have to talk about funding their efforts at the real level—not an artificially low level.

Real health care reform also has to reflect the very real concerns of small business. More than 99 percent of all businesses in California are small businesses. More often than not, they function on very tight budgets. More often than not, they want to give their employees and their families health insurance. But far too often, under the current system, they can't afford to.

That is why we need a system that covers everyone, a system that gets skyrocketing cost under control, a system in which each of us pays our fair share. And in this respect, I think we can build on what we have—a system based on shared responsibility—where workers join with their employers to cover the cost of insurance.

Now, I know my opponents have spent million of dollars portraying this approach as wrong. But the reality is that a the vast majority of Americans—78 percent—purchase their insurance in just this way—through their employer. Shared responsibility is already a way of life for many companies and their workers. That's way I believe this approach would be the least disruptive way to achieve universal coverage.

And beyond the concerns of small business versus big business, we have to look at how geography plays into the health care debate. I represent an extraordinarily diverse State—a State that encompasses huge urban centers and extreme rural areas. I represent the people of Los Angeles—a large, bustling city and county—and I represent the people of Merced—a small, rural city and county. And in looking at health care reform, I want a bill that looks out for all Californians.

While the people of Los Angeles can choose from thousands of doctors, many Californians who live in rural areas have just one doctor in town. Sometimes they have to drive many, many miles to receive care. Increasing the pool of primary-care physicians and providing special incentives to doctors who serve in rural areas will improve care and increase choice for our rural citizens. Also, making sure that ob-gyns are considered primary-care physicians is key.

Real reform must also put an end to the inhumane practice of capping benefits—a problem I mentioned earlier. Whether they know it or not, more than three-quarters of Americans have lifetime limits on their coverage. This means that if you come down with a catastrophic illness, one that carries with it great expense, you are cut off at a certain dollar amount. Once you're cut off, no insurance company will touch you; you are too high a risk.

A few months ago, I attended an event, with the victims of this financial bottom line—young, chronically-ill children and their strong, brave parents. One by one, the parents told us the story of their children—children who reached their lifetime insurance limits before their arms could reach all the way around their mothers' waists.

There was not a dry eye in the room, as we heard what the families went through. Young couples forced to sell their dream homes to buy a few years of medical care. Loving parents forced to divorce, children given up to the State, strong families torn apart. All this, so the government would assume responsibility for the child's medical costs.

These choices are barbaric. No American should have to choose between losing their home or losing their child. That choice is un-American.

I think it is clear to everyone that America has the finest health care in the world. But somewhere along the line our health care system has failed too many of us. And none of us knows when it will fail us. It's like Russian roulette—when will the bullet of health insurance loss hit us or someone we love?

This is why we are here today.

Mr. President, for women, health care reform provides the opportunity to end our second-class status as health care recipients. We must seize it and put together a package that provides women with a comprehensive set of benefits to maximize our health. This means regular exams, pap smears and mammograms—so that every woman has the fighting chance offered by the early detection of breast cancer—the leading killer of women between the ages of 35 and 52.

And by definition, comprehensive women's health coverage has to include the full range of reproductive health services. Anything less would be a step backward for America's women because real health care reform is about building on what we have—not stripping away our options.

And, as the health care debate heats up, let me make one thing perfectly clear: Health care reform is about access to a full range of services. It's about the affordability of those services, and above all else, it's about improving the health of America's men and women. This debate is not about politics. It is not about dictating personal beliefs. And any effort to shift the debate away from health policy and toward ideology is a great disservice to the people of this Nation.

Health care reform is about a healthier America where men get prostate screenings, children get their checkups and pregnant women get prenatal care. Health reform is about making all of us healthier.

I will work for comprehensive reform this session. And I see a day in the not-too-distant future when Americans look back to this chapter in their history and are appalled that there was ever a time when every American did not have real health security, when people could work hard and still not be covered, when families with insurance could still lose the roof over their head.

We in the Congress today should be the ones to close this dark chapter of American history.

So let us sit down at the table, work out our differences and fulfill our promise to the people of this great Nation. Standing at this historic crossroads, I believe the greatest disservice we could do would be to stand back and do nothing at all.

MESSAGES FROM THE HOUSE

At 10 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2448. An Act to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes.

The message also announced that the House has passed the bill (S. 208) to reform the concessions policies of the

National Park Services, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

At 6:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4453) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, that the House recedes and concurs to the amendments of the Senate numbered 8 and 14, that the House recedes and concurs with amendment to the amendments of the Senate numbered 6, 10, 13, 15, 16, 19, 20, 23, 24, 27, 31, and 32, and that the House insists on its disagreement to the amendment of the Senate numbered 29.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated

H.R. 2448. An Act to improve the accuracy of radon testing products and services, to increase testing for radon, and for other purposes; to the Committee on Environment and Public Works.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3128. A communication from the Deputy Assistant Secretary (Communications, Computers and Support Systems) Department of the Air Force, transmitting, pursuant to law, a report relative to the cost of Military Family Housing Maintenance; to the Committee on Armed Services.

EC-3129. A communication from the Chairman of the National Commission on Manufactured Housing, transmitting, pursuant to law, the Commission's final report; to the Committee on Banking, Housing, and Urban Affairs.

EC-3130. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's biennial report of the Interagency Coordinating Committee on Oil Pollution Research; to the Committee on Environment and Public Works.

EC-3131. A communication from the Deputy Associate Director for Compliance, Department of the Interior, transmitting, pursuant to law, a report relative to offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3132. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the Uruguay Round of negotiations of the General Agreement on Tariffs and Trade; to the Committee on Finance.

EC-3133. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the Commission's quarterly report on trade between the United States and China; to the Committee on Finance.

EC-3134. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, an international agreement, other than a treaty, entered into by the United States in the sixty day period prior to July 28, 1994; to the Committee on Foreign Relations.

EC-3135. A communication from the President of the United States, transmitting, consistent with the War Powers Resolution, a report on the humanitarian crisis in Rwanda; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following report of committee was submitted on July 29, 1994, during the recess of the Senate:

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 4650. An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes. (Rept. No. 103-321)

The following reports of committees were submitted on August 1, 1994:

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

S. 2345. An original bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes (Rept. No. 103-322).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 2343. An original bill to state the sense of the Senate on the TRICARE program of the Department of Defense and to facilitate the full implementation of the program by authorizing the reimbursement of the program for the cost of care provided under the program to certain medicare-eligible individuals.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN:

S. 2343. An original bill to state the sense of the Senate on the TRICARE program of the Department of Defense and to facilitate the full implementation of the program by authorizing the reimbursement of the program for the cost of care provided under the program to certain medicare-eligible individuals; from the Committee on Armed Services; placed on the calendar.

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. BINGAMAN, Mr. DODD, and Mr. PELL):

S. 2344. A bill to authorize appropriations for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS:

S. 2345. An original bill to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. GRAHAM:

S. 2346. A bill to establish a fund for various programs to strengthen and expand the capacity of State and local governments and other entities to improve the public health; read the first time.

By Mr. SASSER (for himself, Mr. MOYNIHAN, and Mr. WARNER):

S. 2347. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN:

S.J. Res. 214. A joint resolution designating August 9, 1994, as "Smokey Bear's 50th Anniversary"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. BINGAMAN, Mr. DODD, and Mr. PELL):

S. 2344. A bill to authorize appropriations for the National Science Foundation, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT

Mr. KENNEDY. Mr. President, on behalf of myself and Senators ROCKEFELLER, MIKULSKI, BINGAMAN, DODD, and PELL, I am introducing the National Science Foundation Authorization Act of 1994. This act charts a new course for NSF in meeting national goals while maintaining its historic commitment to excellence in fundamental science. The legislation authorizes programs to support research and education in science, engineering, and mathematics for fiscal years 1995-99.

Our changing world puts a higher premium than ever on new scientific knowledge, the discovery of new scientific techniques and the education of top-flight scientists and engineers. NSF supports the fundamental research and education needed to meet these challenges.

Investments in research and education provide venture capital for the Nation's continued economic strength and social well-being. In areas like high-performance computers, biotechnology, and advanced manufacturing technology, today's fundamental research leads to the products and industries of the future. This act for the first time establishes strategic priorities within NSF, reinforcing those areas in which excellence in fundamental research and education can make significant contributions to meeting national goals. The act recognizes NSF's central place in an integrated Federal investment strategy to promote the future prosperity of the Nation and a higher quality of life for all our citizens.

The act also retains the virtues of the contemporary research system that has brought us world leadership in science and engineering. In addition to supporting research in strategic areas, NSF will continue to tap the creativity of the entire scientific community by funding projects proposed by researchers on the basis of scientific merit. NSF must continue to support research across the spectrum of science and engineering. Basic research has enormous scientific merit and deserves to be supported, even though its precise future application is difficult or impossible to predict.

Title I of the act authorizing funding for NSF according to the traditional budget categories such as research and related activities, education and human resources, and academic research infrastructure. Title II strengthens the role of the Foundation's investments in achieving national goals. It specifies that the Director may spend up to 60 percent of funding for research and education activities in eight strategic initiatives. The Director and the National Science Board are authorized to identify these initiatives, modify existing initiatives, and terminate those that become obsolete. In addition, the Director may shift up to 10 percent of funding from one initiative to another. This flexibility allows the Foundation to respond quickly to new developments in science and changing national needs.

In 1988, we passed the Academic Facilities Modernization Act to help modernize our aging science research laboratories in institutions of higher education. The bill we are introducing authorizes significant funding for academic research facilities, and expands the program to allow purchase of new scientific instruments. The cost of state-of-the-art research instruments often equals that of the facilities that house them. Our bill also raises the percentage of facilities and instrumentation that may be set aside for minority institutions, and lowers the matching fund requirements for less affluent institutions.

In spite of substantial funding for NSF, the Foundation alone cannot make up the backlog of current need in this key area. Congress and the administration need to develop a plan for involving all Federal agencies in meeting this urgent challenge.

In addition, this legislation establishes two new international cooperative programs. The program with Latin American nations encourages joint projects between scientists in this country and Latin America. The program with the New Independent States of the former Soviet Union also promotes collaborative projects, by encouraging research projects to use the facilities and expertise that exist in the New Independent States.

Finally, the act authorizes a National University Teaching Fellows Program that makes awards to departments and faculty members at institutions of higher education to support projects to improve undergraduate education in mathematics, science, and engineering. High-quality undergraduate education is essential to prepare tomorrow's work force, but universities frequently undervalue undergraduate teaching. The Teaching Fellows Program will provide increased recognition for effective efforts in undergraduate education. It will also encourage departmental decisionmakers to value their undergraduate teaching more highly.

I look forward to early action by Congress on this measure, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act of 1994".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DIRECTOR.—The term "Director" has the meaning given such term under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) FOUNDATION.—The term "Foundation" has the meaning given such term under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) BOARD.—The term "Board" has the meaning given such term under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)).

(5) NATIVE AMERICAN.—The term "Native American" means—

(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)); and

(B) an Alaska Native, within the meaning provided for the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(7) NATIVE HAWAIIAN.—The term "Native Hawaiian" has the meaning given such term in section 815(3) of the Native American Programs Act (42 U.S.C. 2992c(3)).

(8) PACIFIC ISLANDER.—The term "Pacific Islander" means a Pacific Islander within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

(9) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS.—The Congress finds that—

(1) with the end of the Cold War and the collapse of communism, the focus of Federal science and technology policy has shifted away from the national military security toward the national economic security;

(2) support for fundamental research must be part of an integrated Federal investment strategy to stimulate the creation of new knowledge and new technologies that in turn lead to new employment opportunities, greater economic security, and an improved quality of life for all citizens of the United States;

(3) investments in fundamental research must be increased so that such research not only increases the base of knowledge, but also contributes effectively to specific strategic national goals;

(4) the education and training of citizens of the United States, particularly citizens who are underrepresented in science and engineering, must be strengthened so that such citizens can work and prosper in the present and future high-technology society; and

(5) as the primary supporter of fundamental research and education in the universities of the United States, the Foundation must be at the center of the science and technology policy of the United States.

(b) OBJECTIVES.—In carrying out its mission, the Foundation shall—

(1) provide national leadership for a research and education enterprise that contributes new knowledge and educates people to assist in meeting national needs;

(2) reach out to individuals from all walks of life and all sectors of society to broaden the base of participation in science, engineering, and technology, and help create a scientifically literate society;

(3) maintain an organizational structure that responds quickly and effectively to challenges and opportunities generated in the new world order, while sustaining a research and education enterprise that is committed to excellence;

(4) stimulate and support emerging areas of research that may extend beyond existing disciplinary boundaries;

(5) promote new modes of cooperation among the universities of the United States and the private sector in order to improve education, to stimulate research advances, and to exploit research results for productive use;

(6) develop and strengthen partnerships and working relationships with other Federal agencies, State and local governments, and the private sector, and participate fully to shape and implement an integrated national science and technology investment strategy;

(7) lead a national effort to modernize the academic infrastructure of laboratory instrumentation and facilities of the United States, and to maintain such infrastructure at an adequate level to support excellence in research and education; and

(8) evaluate the effectiveness of the programs and initiatives of the Foundation in research and education according to performance-based milestones that measure progress toward identified national goals.

(c) SPECIAL RULE.—The investments of the Foundation in the improvement of the economic competitiveness of the United States shall be in accordance with the functions of the Foundation as specified by the National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.). The Foundation may accomplish such investments through the Foundation's support of basic scientific research and science education and of research fundamental to the engineering process and engineering education.

(d) PURPOSE.—The purpose of this Act is to authorize the programs of the Foundation at a level of funding and authority sufficient to carry out the objectives of the Foundation.

(e) FISCAL YEAR 1995.—For the following categories, there are authorized to be appropriated to the Foundation for fiscal year 1995 the following sums:

(1) Research and related activities, $2,348,700,000.

(2) Education and human resources activities, $605,974,000.

(3) Academic research instrumentation and facilities, $300,000,000.

(4) Major research equipment, $150,000,000.

(5) Salaries and expenses, $130,720,000.

(6) National Science Foundation headquarters relocation, $5,200,000.

(7) Office of Inspector General, $4,380,000.

(f) FISCAL YEAR 1996.—For the following categories, there are authorized to be appropriated to the Foundation for fiscal year 1996 the following amounts:

(1) Research and related activities, $2,583,600,000.

(2) Education and human resources activities, $644,600,000.

(3) Academic research instrumentation and facilities, $400,000,000.

(4) Major research equipment, $150,000,000.

(5) Salaries and expenses, $135,900,000.

(6) National Science Foundation headquarters relocation, $5,200,000.

(7) Office of Inspector General, $4,500,000.

(g) FISCAL YEAR 1997.—For the following categories, there are authorized to be appropriated to the Foundation for fiscal year 1997 the following amounts:

(1) Research and related activities, $2,842,000,000.

(2) Education and human resources activities, $709,000,000.

(3) Academic research instrumentation and facilities, $500,000,000.

(4) Major research equipment, $150,000,000.

(5) Salaries and expenses, $141,300,000.

(6) National Science Foundation headquarters relocation, $5,200,000.

(7) Office of Inspector General, $4,620,000.

(h) FISCAL YEAR 1998.—For the following categories, there are authorized to be appropriated to the Foundation for fiscal year 1998 the following amounts:

(1) Research and related activities, $3,126,000,000.

(2) Education and human resources activities, $780,000,000.

(3) Academic research instrumentation and facilities, $500,000,000.

(4) Major research equipment, $150,000,000.

(5) Salaries and expenses, $147,000,000.

(6) National Science Foundation headquarters relocation, $5,200,000.

(7) Office of Inspector General, $4,750,000.

(i) FISCAL YEAR 1999.—For the following categories, there are authorized to be appropriated to the Foundation for fiscal year 1999 the following amounts:

(1) Research and related activities, $3,439,000,000.

(2) Education and human resources activities, $858,000,000.

(3) Academic research instrumentation and facilities, $500,000,000.

(4) Major research equipment, $150,000,000.

(5) Salaries and expenses, $152,700,000.

(6) Office of Inspector General, $4,880,000.

(j) FUNDING PRIORITIES.—In allocating funds authorized under subsections (e), (f), (g), (h), and (i), the Foundation shall give priority to meeting the goals and objectives of the Foundation through the support of basic research and education in the strategic areas authorized under title II.

(k) CRITICAL TECHNOLOGIES INSTITUTE.—There are authorized to be appropriated to the Critical Technologies Institute $2,500,000 for fiscal year 1995, and $4,000,000 for each of the fiscal years 1996 through 1999.

SEC. 102. CONSULTATION AND REPRESENTATION EXPENSES.

From appropriations made under authorizations provided in this Act, not more than $10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of, and as determined by, the Director. The determination of the Director with respect to such expenses shall be final and conclusive upon the accounting officers of the Government.

SEC. 103. STRATEGIC PLAN.

(a) PLAN.—Section 3(f) of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended to read as follows:

"(f) The Foundation shall prepare and submit to the President an annual strategic plan that shall be submitted by the Director to the Congress at the time of the President's annual budget submission. The strategic plan shall—

"(1) define the overall goals for the Foundation and specific goals for each major cross-directorate strategic research and education initiative;

"(2) describe how the identified goals relate to national needs and will exploit new opportunities in science and technology;

"(3) contain a plan for the organization and management of each cross-directorate strategic research and education initiative that is consistent with title II;

"(4) identify the criteria and describe the procedures that the Foundation will use to assess progress toward achieving the goals identified in accordance with paragraphs (1) and (2);

"(5) review the activities of the Foundation during the preceding year that have contributed toward the achievement of the goals identified in accordance with paragraphs (1) and (2), and summarize planned activities for the 3 years succeeding the submission of such report in the context of the identified goals, with particular emphasis on the Foundation's planned contributions to major multiagency research and education initiatives;

"(6) contain such recommendations as the Foundation considers appropriate; and

"(7) include information on the acquisition and disposition by the Foundation of any patents and patent rights and licensing agreements.".

(b) CONFORMING AMENDMENT.—Section 107 of the Education for Economic Security Act is repealed (20 U.S.C. 3917).

SEC. 104. MAJOR RESEARCH EQUIPMENT.

No funds appropriated under this title for the purposes of funding any project that involves the construction, acquisition, or procurement of new major research equipment or construction necessary for upgrading the capabilities of existing major research equipment, for which the estimated cost to the Foundation for the construction, acquisition, upgrading or procurement of the major research equipment exceeds $25,000,000, shall be obligated for any grant, contract, subcontract, or cooperative agreement unless the funds are specifically approved by the National Science Board. This section shall not apply to major research equipment projects approved by the National Science Board prior to June 30, 1994.

SEC. 105. INDIRECT COSTS.

None of the funds in this Act may be used to reimburse grantees for indirect costs at an amount that differs from the amount that would result from procedures in use by Federal agencies on June 1, 1994, or from Office of Management and Budget Circular A–21, as published in the Federal Register on July 26, 1993, on pages 39996 through 39999.

TITLE II—RESEARCH AND EDUCATION IN STRATEGIC AREAS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Science Foundation Strategic Research and Education Authorization Act of 1994".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Strategic research and education investments should support discovery, integration, dissemination, and application of knowledge in areas of clear strategic importance to the United States and where national goals have been identified.

(2) Investments in strategic areas require the contributions of many scientific and engineering disciplines to address complex problems important to the United States.

(3) Strong links must be developed and maintained between strategic research and education investments made by the Foundation and related efforts supported by the public and private sectors.

(4) The results of investments in strategic research and education must be evaluated according to performance-based milestones that measure progress toward the national goals identified for such investments, and this progress must guide the future investment strategy.

(5) For fiscal year 1995, the Foundation has proposed the following strategic initiatives:

(A) Advanced manufacturing technology.

(B) Advanced materials and processing.

(C) Biotechnology.

(D) Civil infrastructure systems.

(E) Global change research.

(F) Environmental research.

(G) High performance computing and communications.

(H) Science, mathematics, engineering, and technology education.

(b) PURPOSE.—It is the purpose of this title to strengthen the Foundation's investment in fundamental research and education and training programs in a variety of strategic areas.

SEC. 203. ADVANCED MANUFACTURING TECHNOLOGY.

(a) FINDINGS.—The Congress finds the following:

(1) Manufacturing is fundamental to the strength of the economy of the United States.

(2) Continuing development of manufacturing technology, management, and education, including environmentally conscious manufacturing, will be essential for the future economic security of the United States.

(3) The Foundation should support an integrated initiative in research and education, emphasizing interdisciplinary research and innovative partnerships among the academic community, industry, and government, to

develop the advanced technologies, processes, and practices, that will enable high-performance manufacturing in the 21st century.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate advanced manufacturing technology initiative that complements the efforts of other government agencies and the private sector. Under the initiative, competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that will accelerate the development and application of advanced manufacturing technologies to meet national needs.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $213,170,000 for fiscal year 1995;
(2) $253,670,000 for fiscal year 1996;
(3) $301,870,000 for fiscal year 1997;
(4) $359,230,000 for fiscal year 1998; and
(5) $427,480,000 for fiscal year 1999.

SEC. 204. ADVANCED MATERIALS AND PROCESSING.

(a) FINDINGS.—The Congress finds the following:

(1) Advances in materials have made dramatic improvements in the capabilities, potential, reliability, and limitations of technology over the past several decades, and further investment promises to enable progress across a broad range of technological areas important to build a more productive economy and improve the quality of life.

(2) The Foundation should support interdisciplinary research and education to develop new materials and processing technologies for such materials in a way that couples academic materials research effectively with potential users of research results in materials-dependent industries.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate advanced materials and processing initiative that complements the efforts of the Advanced Research Projects Agency, other government agencies, and the private sector. Under the initiative, competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that will accelerate the development and application of new research results that can be applied toward a variety of national needs.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $313,180,000 for fiscal year 1995;
(2) $344,500,000 for fiscal year 1996;
(3) $378,950,000 for fiscal year 1997;
(4) $416,840,000 for fiscal year 1998; and
(5) $458,530,000 for fiscal year 1999.

SEC. 205. BIOTECHNOLOGY.

(a) FINDINGS.—The Congress finds the following:

(1) By the year 2000, the biotechnology industry is projected to have sales reaching $50,000,000,000 in the United States, with the potential for thousands of new jobs, and renewed economic growth if the United States maintains its leadership in such industry.

(2) The Foundation should invest in a research and education initiative, supporting a wide range of areas including environmental biotechnology, bioprocessing, bioconversion, plant biotechnology, marine biotechnology, the social and economic dimensions of biotechnology, and infrastructure-building in instrumentation, databases, research resources, and training.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate biotechnology research initiative that complements the efforts of other government agencies and the private sector. Under the initiative, competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that—

(1) will extend the scientific and technical foundations necessary for progress in biotechnology;

(2) ensure the development of human resource foundations;

(3) accelerate the transfer of biotechnology research discoveries to commercial applications and eliminate unnecessary barriers to commercialization; and

(4) realize the benefits of biotechnology to the health and well-being of the population and the protection and restoration of the environment.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $205,690,000 for fiscal year 1995;
(2) $230,370,000 for fiscal year 1996;
(3) $258,020,000 for fiscal year 1997;
(4) $288,980,000 for fiscal year 1998; and
(5) $323,660,000 for fiscal year 1999.

SEC. 206. CIVIL INFRASTRUCTURE SYSTEMS.

(a) FINDINGS.—The Congress finds the following:

(1) The economic security and quality of life for United States citizens depend on the vitality of the national civil infrastructure.

(2) There is an urgent need to rebuild obsolete and deteriorated civil infrastructure systems, but the cost may be prohibitive without innovations in materials, construction automation, nondestructive evaluation methods, strategic management and maintenance, design based on total system performance, safety and reliability, adaptive functionality, and evaluation of socioeconomic impacts.

(3) The Foundation should invest in an interdisciplinary, systems-oriented research and education program that can effectively address the challenge of intelligent infrastructure renewal.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate civil infrastructure systems initiative that complements the efforts of other government agencies and the private sector. Under the initiative, competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that will support the development and application of new scientific and engineering knowledge in such areas as deterioration science, assessment technologies, renewal engineering, and institutional effectiveness and productivity.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $54,100,000 for fiscal year 1995;
(2) $64,920,000 for fiscal year 1996;
(3) $77,900,000 for fiscal year 1997;
(4) $93,480,000 for fiscal year 1998; and
(5) $112,180,000 for fiscal year 1999.

SEC. 207. GLOBAL CHANGE RESEARCH.

(a) FINDINGS.—The Congress finds the following:

(1) Global change research provides the foundation for understanding and evaluating the changing world, and encourages wise decisions for the future of the United States and the international community.

(2) The global change research and education initiative of the Foundation should be coordinated with the interagency Global Change Research Program and should seek to—

(A) develop options for increasing the sustainability of human communities and protecting the environment; and

(B) support national and international policy formulation and evaluation.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate global change research initiative that complements the efforts of the interagency Global Change Research Program. Under the initiative, competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that will advance fundamental understandings of dynamic physical, biological, and socioeconomic systems and the interactions among such systems, and the likelihood and extent of possible global change.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $190,520,000 for fiscal year 1995;
(2) $200,050,000 for fiscal year 1996;
(3) $210,050,000 for fiscal year 1997;
(4) $220,550,000 for fiscal year 1998; and
(5) $231,580,000 for fiscal year 1999.

SEC. 208. ENVIRONMENTAL RESEARCH.

(a) FINDINGS.—The Congress finds the following:

(1) Today, the Federal Government spends an estimated $6,000,000,000 on environmental research and development, yet environmental problems persist and new problems emerge that endanger the quality of life.

(2) Federally supported environmental research must be coupled more closely to environmental policy in order to focus the research on critical policy questions and to enable decisionmakers to take advantage of the most recent, highest quality research results.

(b) ESTABLISHMENT OF INITIATIVE.—

(1) IN GENERAL.—The Director is authorized to establish a cross-directorate environmental research initiative that complements the efforts of other government agencies and the private sector. Under the initiative, competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that will focus on such topics as—

(A) research on the effects of biodiversity on the health of ecosystems;

(B) infrastructure support for biological field stations;

(C) environmental education;

(D) computer modeling of changing environmental conditions; and

(E) research on new technologies for pollution prevention and environmental remediation, and environmentally benign chemical synthesis and processing.

(2) ESTABLISHMENT OF A NATIONAL ENVIRONMENTAL RESEARCH PROGRAM.—As part of the environmental research initiative authorized under paragraph (1), the Director is authorized to establish a National Environmental Research Program to include the following components:

(A) NATIONAL ENVIRONMENTAL RESEARCH FORUM.—The Director is authorized to establish a National Environmental Research Forum composed of representatives of the private sector, including industrial consortia, scientific and engineering societies and associations, nongovernmental organizations, the Foundation, and other relevant

Federal agencies for the purpose of developing an environmental research agenda that will be scientifically significant, be relevant from a sociopolitical point of view, will have a direct connection to the knowledge needs of managers and others whose decisions have environmental consequences, and will use risk-benefit criteria to assign priorities on the research agenda.

(B) NATIONAL ENVIRONMENTAL RESEARCH CENTERS.—The Director, with the cooperation of other Federal agencies, is authorized to establish, through a competitive, merit-based review process, one or more National Centers for Environmental Research to conduct multidisciplinary research that responds to the information needs of, and the research agenda established by, the National Environmental Research Forum.

(C) NATIONAL ENVIRONMENTAL FELLOWSHIP PROGRAM.—The Director, with the cooperation of other relevant Federal agencies, is authorized to establish, through a competitive, merit-based process, a fellowship program to provide support for personnel exchanges between academic institutions, Federal, State, and local agencies, industry and industrial consortia, and other private sector organizations concerned with information needs and responsibilities for environmental decisionmaking.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available not more than—

(1) $156,040,000 for fiscal year 1995, of which not more than $20,000,000 may be used for the National Environmental Research Program;

(2) $171,640,000 for fiscal year 1996, of which not more than $30,000,000 may be used for the National Environmental Research Program;

(3) $188,810,000 for fiscal year 1997, of which not more than $40,000,000 may be used for the National Environmental Research Program;

(4) $207,690,000 for fiscal year 1998, of which not more than $50,000,000 may be used for the National Environmental Research Program; and

(5) $228,460,000 for fiscal year 1999, of which not more than $60,000,000 may be used for the National Environmental Research Program.

SEC. 209. HIGH PERFORMANCE COMPUTING AND COMMUNICATIONS.

(a) FINDINGS.—The Congress finds the following:

(1) High performance computing and communications promote sharing of information, wide dissemination of advances in innovative technologies, and improved productivity and industrial competitiveness.

(2) In addition to supporting innovative research and education, the investments of the Foundation in high performance computing and communications should—

(A) support the National Information Infrastructure through application-driven research including proof-of-principle demonstrations;

(B) develop, provide, and support national research and education networking services and capabilities; and

(C) make advanced computing, communications, and information infrastructure accessible to the broadest possible segment of society.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate high performance computing and communications initiative under which competitive, merit-based awards shall be made to individuals, small groups, and research centers to support research and education activities that will focus on such issues as—

(1) the expansion and technological development of the National Science Foundation Computer Network (NSFNET);

(2) support for existing supercomputer and research centers;

(3) Grand Challenge and National Challenge application groups;

(4) research infrastructure;

(5) disciplinary high performance computing research programs; and

(6) education and training.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $328,620,000 for fiscal year 1995;

(2) $345,050,000 for fiscal year 1996;

(3) $362,300,000 for fiscal year 1997;

(4) $380,420,000 for fiscal year 1998; and

(5) $399,440,000 for fiscal year 1999.

SEC. 210. SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY EDUCATION.

(a) FINDINGS.—The Congress finds the following:

(1) In international comparisons, the United States ranks below most other developed nations in science and mathematics.

(2) The United States will need a broadly competent, scientifically literate workforce in order to sustain a strong and productive economy in the coming decades.

(3) The Foundation is the appropriate agency to lead an interagency initiative to support innovative approaches to improve science, mathematics, engineering, and technology education at all levels so that all citizens of the United States can work in and enjoy the benefits of the rapidly changing, high-technology economy.

(b) ESTABLISHMENT OF INITIATIVE.—The Director is authorized to establish a cross-directorate science, mathematics, engineering, and technology education initiative under which competitive, merit-based awards shall be made, in cooperation with the Department of Education and other relevant Federal agencies, States and local government, institutions of higher education, and the private sector, to individuals, small groups, and centers to support research and education activities that fundamentally will reform and improve the mathematics and science education enterprise of the United States at all levels of education.

(c) FUNDING.—From the amounts appropriated for a fiscal year under section 101, the Director shall make available, to carry out this section, not more than—

(1) $650,190,000 for fiscal year 1995;

(2) $715,210,000 for fiscal year 1996;

(3) $786,730,000 for fiscal year 1997;

(4) $865,400,000 for fiscal year 1998; and

(5) $951,940,000 for fiscal year 1999.

SEC. 211. ADDITIONAL STRATEGIC INITIATIVES.

The Director, with the advice and consent of the Board and in consultation with the Office of Science and Technology Policy, is authorized to support, modify, and as, appropriate, add or eliminate strategic initiatives in research and education based on emerging national needs and the ability of science and engineering to contribute in meaningful and significant ways toward identified national needs and objectives.

SEC. 212. SUPPORT FOR STRATEGIC INITIATIVES.

To support the strategic initiatives authorized by this title, the Director shall make available not more than—

(1) $1,760,400,000 for fiscal year 1995;

(2) $1,936,920,000 for fiscal year 1996;

(3) $2,130,600,000 for fiscal year 1997;

(4) $2,343,600,000 for fiscal year 1998; and

(5) $2,578,200,000 for fiscal year 1999.

SEC. 213. TRANSFER AUTHORITY.

(a) IN GENERAL.—Funds may be transferred among directorates and strategic initiatives within the research and related activities category so long as the net funds transferred to or from any directorate or initiative does not exceed 10 percent of the amount budgeted for that directorate or strategic initiative.

(b) TRANSFERS EXCEEDING TEN PERCENT.—In addition, the Director may propose transfer to or from any directorate or strategic initiative within the research and related activities category an amount exceeding 10 percent of the amount budgeted for that directorate or strategic initiative. An explanation of any such proposed transfer must be transmitted in writing to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The proposed transfer may not be made until 30 calendar days after the date of the transmission of the written explanation.

TITLE III—GENERAL PROVISIONS

SEC. 301. AMENDMENTS TO THE ACADEMIC RESEARCH FACILITIES MODERNIZATION ACT OF 1988.

(a) AUTHORIZATION.—Section 203(a)(1) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862b(a)(1)) is amended to read as follows:

"(a)(1) To carry out this title, the Director shall establish a new Academic Research Instrumentation and Facilities Modernization Program (hereafter in this title referred to as the "Program") to provide awards to institutions of higher education, independent nonprofit research institutions, and research museums, and consortia thereof, to carry out projects with respect to—

"(A) the acquisition of research instrumentation; or

"(B) the repair, renovation, or, in exceptional cases, replacement of obsolete science and engineering facilities that are primarily used for research.".

(b) PROGRAM PROJECTS.—Section 203(b)(1) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862b(b)(1)) is amended to read as follows:

"(b)(1) The Program shall be carried out through projects—

"(1) that involve—

"(A) acquisition of state-of-the-art research instrumentation; or

"(B) the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities of the entities that are devoted primarily to research; and

"(2) for which funds are awarded in response to specific proposals submitted by the entities in accordance with grant requirements prescribed by the Director under section 204.".

(c) PROCEDURES.—Section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) is amended by striking "but at least 30 percent" and inserting "but at least 20 percent".

(d) SET-ASIDE FOR CERTAIN INSTITUTIONS.—Section 205 of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862d) is amended by striking "at least 12 percent" and inserting "not more than 20 percent".

SEC. 302. AMENDMENTS TO THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.

(a) OPPORTUNITIES FOR STUDENTS.—Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended by adding at the end the following new subsection:

"(c)(1) The Congress finds that Native Hawaiian students, students who are Pacific Islanders, and Native American students are underrepresented in science, computer science, and engineering. Such students face both cultural barriers to the study of science and geographical isolation.

"(2) The Director is authorized to make awards to institutions of higher education, including community colleges, and local educational agencies to work in partnership with community organizations to develop and implement science, computer science, technology, and mathematics curricula that—

"(A) are in accord with the traditional cultural values of the students described in paragraph (1);

"(B) emphasize the scientific achievements of the native cultures of such students; and

"(C) encourage enrollment of such students in higher education."

(b) Committee on Equal Opportunities in Science and Technology.—Section 36 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c) is amended—

(1) in subsection (a), by inserting "individuals with disabilities," after "minorities,";

(2) in subsection (b), by striking the second sentence and inserting the following: "The Chairpersons of relevant committees or subcommittees of the National Science Board, as designated by the Chairperson of the Board, shall be ex officio members of the Committee.";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively;

(5) by inserting after subsection (b) the following new subsection:

"(c) The Committee shall be responsible for reviewing and evaluating all Foundation matters as such matters relate to participation in, opportunities for, and advancement in education, training, and research in science and engineering of members of underrepresented groups."; and

(6) in subsection (d) (as redesignated by paragraph (4)), by striking "additional".

SEC. 303. INTERNATIONAL COLLABORATIVE PROGRAMS.

(a) Cooperative Projects With Latin America Grants.—

(1) Findings.—The Congress finds the following:

(A) The recent lowering of trade barriers will increase the exchange of technologies and technically trained personnel with the countries of Latin America.

(B) To promote such exchange, scientists from the United States should establish cooperative projects in scientific and engineering research with scientists in the countries of Latin America.

(2) Authority.—The Director is authorized to make grants to organizations within the United States, including colleges and universities, for the purpose of promoting cooperative research projects between scientists in the United States and scientists in Latin American organizations. Prior to making any grants under this section, the Director shall make a determination that—

(A) the project has scientific merit as determined by standard Foundation procedures;

(B) the project will encourage the development of infrastructure connections between cooperating institutions that can be used in support of future projects; and

(C) at least 50 percent of the funding for the project will be provided by the Latin American partner.

(3) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1995, and such sums as may be necessary for each of the succeeding 3 fiscal years.

(4) Coordination.—In carrying out this section, the Director shall coordinate with Federal agencies, such as the Agency for International Development, which have expertise in cooperative international projects.

(b) U.S.-Newly Independent States Collaborative Research Program.—

(1) Findings.—The Congress finds the following:

(A) The dissolution of the Soviet Union has been accompanied by economic dislocation in the Russian Federation and the other republics. As a result, scientific establishments have been seriously and adversely affected.

(B) United States support for emerging democratic institutions in the newly independent states can be greatly enhanced by assisting in the development of a sound economic structure. A productive economy must be sustained by a healthy scientific and technological infrastructure.

(C) Despite their difficult environment, scientists in the newly independent states are world experts in selected fields. Collaborative research can benefit all international partners, including the United States.

(D) The newly independent states are faced with the imminent dissolution of the scientific and technological infrastructure of such states and the emigration of the best scientists and engineers of such states. Loss of the most highly educated and trained citizens will greatly impede development of democratic institutions and private enterprise within the region.

(E) Modest external resources can be leveraged to provide a significant source of support for scientists and engineers in the newly independent states, engaged in both civilian and defense related research, most of whom do not wish to leave their homelands.

(F) The United States has long recognized that effective communication between the research and industrial communities is necessary for both to remain healthy and can be achieved through collaborative research projects. Scientists and entrepreneurs in the emerging republics have little understanding or experience with commercial business practice. These skills can best be developed through cooperative arrangements with United States counterparts.

(G) Collaborative research with the scientific community can sustain excellence while encouraging the transition toward democratization and practical application and transfer of research efforts to the emerging private sector. Such collaboration links United States researchers and businesses to highly trained personnel and sophisticated new technologies and manufacturing processes.

(H) The most effective kind of support would—

(i) be mutually beneficial to the both United States and the Newly Independent States scientists and engineers;

(ii) take advantage of existing relationships, special expertise, and unique research facilities in the newly independent states;

(iii) provide salary support to scientists and engineers in the Newly Independent States working on collaborative projects; and

(iv) provide support within the next 6 to 12 months.

(2) Establishment of Program.—The Director is authorized to establish a cross-directorate program between the United States and the Newly Independent States under which competitive, merit-based awards shall be made to individuals, small groups, and research centers to support collaborative research efforts between scientists and engineers from the United States and the Newly Independent States. Options for support should include—

(A) supplements to existing National Science Foundation research centers including Engineering Research Centers, Science and Technology Centers, Industry-University Cooperative Research Centers, and Materials Research Science and Engineering Centers, to establish collaborative research programs with counterpart institutions in the Newly Independent States;

(B) collaborative research in the strategic areas such as environmental research, advanced materials, and related disciplines with awards and supplements made to United States institutions to develop joint research projects to gain access to specialized and unique facilities in the Newly Independent States;

(C) supplement existing individual investigator research awards that would identify promising opportunities for scientific and technological collaboration with scientists and engineers in the Newly Independent States; and

(D) special awards to support coordination and cooperative planning activities to improve communication and the development of long term interactions between scientists and engineers in the United States and the Newly Independent States.

(3) Authorization of Appropriations.—There are authorized to be appropriated to the Director $10,000,000 for fiscal year 1995, $20,000,000 for fiscal year 1996, $30,000,000 for fiscal year 1997, $40,000,000 for fiscal year 1998, and $50,000,000 for fiscal year 1999.

SEC. 304. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) Authority.—The Director shall continue to carry out the Experimental Program to Stimulate Competitive Research (hereafter referred to in this section as the "Program") to award research grants to entities that are located in States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to develop the research bases of such States and improve science and engineering research and education programs within such States.

(b) Eligibility.—Entities in those States in which awards have been made under the Program shall be eligible to compete for support under the Program provided that the State provides assurances of matching funds and submits a proposal consistent with the goals and objectives of the program as established by the Director. All awards made by the Director shall be based on a competitive, merit-based review process.

SEC. 305. NATIONAL UNIVERSITY TEACHING FELLOWS PROGRAM.

(a) Findings.—Congress finds that—

(1) maintaining an economically competitive workforce requires high quality undergraduate education in science, mathematics, and engineering, not only for students who will specialize in those fields, but for all undergraduate students; and

(2) demonstrated excellence in providing such education is frequently not recognized appropriately.

(b) Definitions.—As used in this section:

(1) Department.—The term "department" means the department—

(A) located at the institution where a fellow is a faculty member; and

(B) in which such fellow is assigned to provide instruction to undergraduate students in a subject area under the jurisdiction of the department.

(2) FELLOW.—The term "fellow" means an individual who is selected as a fellow under paragraph (5) of subsection (d).

(3) INTERDISCIPLINARY PROGRAM.—The term "interdisciplinary program" means an instructional program that—

(A) combines members of two or more of the traditional academic departments; and

(B) is empowered to recommend members of its faculty for tenure.

(c) DESIGNATION OF FELLOWS.—Individuals receiving awards under this section shall be known as "National Undergraduate Teaching Fellows".

(d) AUTHORITY.—

(1) IN GENERAL.—The Director is authorized to—

(A) select annually individuals who are faculty members teaching undergraduate courses at institutions of higher education to be teaching fellows;

(B) award fellowships to such individuals to carry out projects described in paragraph (3); and

(C) make grants to the departments or interdisciplinary programs of the institutions where the fellows are faculty members to carry out the activity described in paragraph (3).

(2) AMOUNT OF FELLOWSHIPS AND GRANTS.—

(A) FELLOW.—The Director is authorized to award a fellowship in the amount of at least $100,000 over 3 years to each fellow to carry out the projects described in paragraph (3).

(B) DEPARTMENT.—The Director is authorized to make a grant in the amount of at least $60,000 over 3 years to the department or interdisciplinary program of the institution where each fellow is a faculty member.

(3) AUTHORIZED ACTIVITIES.—Amounts awarded under paragraph (2) shall be used—

(A) in the case of a fellowship awarded to a fellow, to carry out projects to improve undergraduate science, mathematics, or engineering education; and

(B) in the case of a grant made to the department or interdisciplinary program of an institution where a fellow is a faculty member, for the improvement of undergraduate education.

(4) ELIGIBILITY.—To be eligible to receive a fellowship or grant under this title, an individual described in paragraph (1)(A) shall—

(A) be nominated by the institution where such individual is a faculty member;

(B) hold a tenure track appointment in such institution; and

(C) submit to the Director a written proposal, with respect to the improvement of undergraduate education at such institution, at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(5) SELECTION REQUIREMENTS.—The Director shall select a fellow on the basis of the—

(A) performance of such fellow in improving undergraduate education at the institution where such fellow is a faculty member;

(B) proposal submitted under paragraph (4); and

(C) excellence of such fellow as an undergraduate teacher.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 for the fiscal year 1995, $3,000,000 for fiscal year 1996, and $4,500,000 for each of the succeeding fiscal years to carry out this section.

SEC. 306. ADMINISTRATIVE AMENDMENTS.

(a) NATIONAL SCIENCE FOUNDATION ACT OF 1950 AMENDMENTS.—

(1) NATIONAL SCIENCE BOARD.—Section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking the second and third sentences and inserting the following: "The Board shall adopt procedures governing the conduct of its meetings, including procedures with respect to the requirements of a quorum and the delivery of notice of meetings to members of the Board.".

(2) DIRECTOR OF THE FOUNDATION.—Section 5(e)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1864(e)(2)) is amended to read as follows:

"(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.".

(3) MISCELLANEOUS PROVISIONS.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by striking subsection (j).

(4) SECURITY PROVISIONS.—Section 15(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1874(a)) is amended by striking "Atomic Energy Commission" and inserting "Secretary of Energy".

(b) NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1988 AMENDMENTS.—Section 117(a)(1)(B)(v) of the National Science Foundation Authorization Act of 1988 is amended to read as follows:

"(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of such employees.".

By Mr. GRAHAM:

S. 2346. A bill to establish a fund for various programs to strengthen and expand the capacity of State and local governments and other entities to improve the public health; read the first time.

THE PUBLIC HEALTH IMPROVEMENT ACT

Mr. GRAHAM. Mr. President, I would like to, first of all, acknowledge all the work that Virginia Congressman JIM MORAN and his staff have done in putting together many of the pieces of the Public Health Improvement Act. This legislation seeks to promote prevention and public health through four distinct approaches: First, strengthening the capacity of local and State public health departments to carry out core public health functions; second, expanding access to preventive and primary care services for vulnerable and medically underserved communities; third, supporting applied research on prevention and effective public health interventions; and, fourth, addressing public health work force needs.

I would also like to thank all the public health organizations that have put in long hours getting this bill together for introduction. They represent the people across this country who are responsible for providing on a daily basis the environmental, educational, and personal health expertise to address our Nation's public health problems.

What is public health? The American Public Health Association defines it as "the science and art of preventing disease, prolonging life, and promoting physical and mental health through organized community efforts." The National Academy of Science's Institute of Medicine defines the mission of public health as "fulfilling society's interest is assuring conditions in which people can be healthy."

I offer these definitions because public health means different things to different people, and often, is not even something tangible. Public health is not having to worry about the water we drink, the food we eat and air we breathe. Fundamentally, it is the art of keeping people healthy and that function often goes virtually unnoticed.

Dr. C. Everett Koop and other members of the Health Project Consortium published an article in the New England Journal of Medicine on July 29, 1993, noting that approximately 70 percent of all illness is preventable and that there are about 1 million deaths annually that are preventable. That amounts to in excess of $600 annually. The waste of both lives and money is incomprehensible.

However, rather than investing wisely in prevention, our health care system is focused on sickness and acute medical care. The result has been a systematic shift of public and private spending toward acute and institutional medical care and away from the critical role of keeping communities safe and healthy.

After a 2-year study of our Nation's public health system that was finalized in 1988, the Institute of Medicine concluded:

> It is, therefore, with great concern and some alarm that the committee has observed the current state of public health. We have observed many symptoms of systemic problems, solutions to which will require a comprehensive strategy and a strong commitment on the part of the entire society. We have observed disorganization, weak and unstable leadership, a lessening of professional and expert competence in leadership positions, hostility to public health concepts and approaches, outdated statutes, inadequate financial support for public health activities and public health education, gaps in the data gathering and analysis that are essential to the public health functions of assessment and surveillance, and lack of effective links between the public and private sectors for the accomplishment of public health objectives.
>
> In our view, these problems reflect a lack of appreciation among the general public and policymakers for the crucial role that a strong public health capacity must play in maintaining and improving the health of the public.

These problems have only intensified as public health budgets have continued to decline throughout the 1980's. In fact, our Nation now spends less than 1 percent of our total health care bill on public health. According to the American Public Health Association, "Public health spending decreased by almost 25 percent as a portion of our total national health spending between

1981 and 1993." Is it any wonder that the result is that our Nation continues to see more and more patients in its sickness system and that one-seventh of our Nation's gross national product now goes to health care?

Between 1985 and 1991, our Nation has seen increases in hepatitis A, mumps, rubella, tuberculosis, and syphilis, among others. In the case of tuberculosis, this was something we thought we were close to eradicating, and instead, we have increasing caseloads across the Nation.

As a result, I am proud to come before you today to introduce the Public Health Improvement Act. Many of the provisions of this bill were included in President Clinton's original Health Security Act and in the Senate Labor and Human Resources health bill. My legislation goes beyond these two pieces of legislation by also addressing applied research on prevention and effective public health interventions and public health work force issues.

The bill provides for an average of $2.2 billion annually through the year 2002 in new public health funding streams. This effort will strengthen our State and local public health systems by ensuring adequate resources for carrying out core functions and expanding access to community-based preventive and primary care to vulnerable and medically underserved communities.

I would like to highlight the section of the bill relating to Applied Research on Prevention and Effective Public Health Interventions. This language is similar to a bill I introduced in 1991 to undertake disease prevention and health promotion research activities that have long been neglected. As the Institute of Medicine notes:

> "Effective public health actions must be based on accurate knowledge of health problem causation, distribution, and the effectiveness of interventions * * *. For many public health problems the knowledge base, including knowledge about the effectiveness of specific interventions, is inadequate.

Specifically, the bill would result in research being conducted in the following area: First, the impact on health status and the cost-effectiveness of clinical preventive and health education services; and, second, the cost-effectiveness of community-based interventions to improve health outcomes. These studies will increase the technical capacity in public health, but also, the public at-large. Restoring an effective and strong public health system will require the interest and participation by all Americans. I hope this bill provides an important step toward that goal.

Funding would also go to many other practical programs to address the health care needs of communities. For instance, funding would go to school-based health services. School-based clinics make sense became they serve not only a significant vulnerable population, but they would also serve as an outreach service to the community.

Money would also be spent on keeping the water supply safe. Funds from this bill would be used to investigate and control contamination in the water supply.

Furthermore, funding would be used to make mammograms accessible to women across this country in their communities. A recent study showed that about 46,000 women will die of breast cancer in 1994. Through accessible, affordable mammograms, we can save lives by diagnosing breast cancer early. These are just a few of the examples of the important programs this legislation would address.

In short, prevention and public health are clearly cost-effective and health prolonging strategies that should be prominently included by Congress in any health reform package. This legislation is not a substitute for a comprehensive health reform bill, rather it is a necessary complement to it. I urge my colleagues to consider its inclusion in the health care reform package that will come before us in the next week or so.

By Mr. SASSER (for himself, Mr. MOYNIHAN, and Mr. WARNER):

S. 2347. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution; to the Committee on Banking, Housing, and Urban Affairs.

SMITHSONIAN INSTITUTION COMMEMORATIVE COIN ACT

• Mr. SASSER. Mr. President, I introduce and urge my colleagues to support, the Smithsonian Institution Commemorative Coin Act of 1996. I am introducing this bill also on behalf of my distinguished colleagues, Senators MOYNIHAN and WARNER. Senators MOYNIHAN, WARNER, and I are privileged to serve as members of the Smithsonian Institution's Board of Regents.

August 10, 1996 will mark the 150th anniversary of the founding of the Smithsonian Institution, one of the Nation's best examples of a successful public-private partnership. This legislation provides for the minting of coins to commemorate this momentous occasion.

Created as a Federal Trusteeship by Congress in 1846, the Smithsonian Institution is today the largest research and museum complex in the world. The Smithsonian's various museums were visited more than 26 million times last year and unlike so many other museums, the Smithsonian remains free of charge to the public. In addition, thousands of Americans and foreign scholars used the vast repository of knowledge and artifacts to assist in a variety of research activities.

The Smithsonian's sesquicentennial commemoration provides us the opportunity to celebrate both the Institution's great accomplishments and its future role and mission.

The central goal of the commemoration, however, will be to increase the sense of ownership and participation in the Smithsonian by the American people.

Throughout its 150th year, the Smithsonian will undertake a series of programs and stage a number of events to commemorate its founding, as well as to explore new ways in which it can serve the public. These activities, while extensions of the existing framework of Smithsonian programs, will require significant financial resources.

In light of the existing budget constraints under which the Federal Government must operate, the Smithsonian's Board of Regents concluded it would not seek any additional appropriated funds in support of sesquicentennial programming. Rather, the Smithsonian will concentrate its efforts to raise support for the anniversary programming from non-Federal sources. The commemorative coins would be one such effort.

The coins would be issued on August 10, 1996, exactly 150 years from the actual date of the act of Congress which established the Smithsonian Institution. The issuance of Smithsonian sesquicentennial commemorative coins will provide an opportunity for the American public to obtain a valued memento, while at the same time supporting the Institution's mandate to preserve our Nation's cultural and historical heritage. In addition, the funds derived from the issuance and sale of these commemorative coins will not only enable the Smithsonian to showcase its 150-year service to the Nation, but will also transfer the financial responsibility for sesquicentennial activities from the American taxpayer to voluntary contributions.

Further, the legislation authorizes that 15 percent of the total proceeds remitted to the Institution would be designated to support the national numismatic collection at the National Museum of American History. This component of the legislation is strongly supported by the numismatic community and in a very tangible way demonstrates our appreciation for their support of all congressionally authorized commemorative coin programs.

Without exception, every Senator has constituents who visit, communicate with, and otherwise benefit from the Smithsonian. From eager first-graders to learned scholars and researchers, the public is consistently served by the vast resources and expertise of the Smithsonian and its staff. Successful enactment of this legislation will give the American people the opportunity to celebrate the benefits and wonder the Smithsonian has given us the last 150 years.

Mr. President, I urge all my colleagues to join me in sponsoring this bill to celebrate and honor the 150th anniversary of the Smithsonian Institution from which all Americans have gained so much.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smithsonian Institution Sesquicentennial Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 800,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the scientific, educational, and cultural significance and importance of the Smithsonian Institution and shall include the following words from the original bequest of James Smithson: "for the increase and diffusion of knowledge".

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "1996"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Smithsonian Institution and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on August 10, 1996, and ending on August 9, 1997.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

(1) $35 per coin for the $5 coin; and

(2) $10 per coin for the $1 coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Except as provided in subsection (b), all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Smithsonian Institution for the purpose of supporting programming related to the 150th anniversary and general activities of the Smithsonian Institution.

(b) NATIONAL NUMISMATIC COLLECTION.—Not less than 15 percent of the total amount paid to the Smithsonian Institution under subsection (a) shall be dedicated to supporting the operation and activities of the National Numismatic Collection at the National Museum of American History.

(c) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Smithsonian Institution as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.•

By Mr. BINGAMAN:

S.J. Res. 214. A joint resolution designating August 9, 1994, as "Smokey Bear's 50th Anniversary"; to the Committee on the Judiciary.

SMOKEY BEAR'S 50TH ANNIVERSARY

• Mr. BINGAMAN. Mr. President, for the past 50 years, visitors to our national forests have been educated on forest fire prevention and forest preservation by one of the most memorable public service symbols in our history: Smokey Bear. In 1944, the Forest Service introduced a bear as its campaign symbol and chief messenger to promote the prevention of accidental forest fires. This effort was based on the need to protect our forest resources during World War II, when wood products were greatly needed for battleships, gunstocks, and packing crates for military transport.

This bear, created by the Forest Service and the War Advertising Council, was to be black or brown and his expression intelligent, appealing, and slightly quizzical. To look his part, he would wear a traditional campaign hat. In 1945, this appealing symbol was given the name "Smokey Bear." The first poster produced for this effort carried the caption: "Smokey says: Care will prevent nine out of ten forest fires." Smokey was a great advertising success and an important contributor to the decrease in human-caused forest fires.

In 1950, Smokey Bear, the advertising campaign, became inextricably associated with a bear cub found clinging to a tree after a forest fire near Capitan, NM. This cub would become a real-life symbol of the effort to prevent fires such as the one in the Lincoln National Forest in which he was found. Many people mistakenly believe that this cub was the original Smokey Bear, but in reality he did not come along until the advertising symbol was almost 6 years old. The little cub who became known as Smokey Bear was nursed back to health and lived a long and happy life in the National Zoo here in Washington, as a living counterpart to the fire prevention symbol.

Today, Smokey Bear continues to make an important contribution to fire prevention, and his role has evolved to face new challenges. In years past, it was a challenge for his message to reach traditional visitors to the forest. Now we are faced with getting his wildfire prevention message to an increasing number of people who live in or near forests, who may accidentally set fires dangerous to wildlands or who may find their lives and property threatened by wildland fires.

Over the years, Smokey Bear has performed an important public service and become a much-loved American icon. It is appropriate that we honor his contribution to fire prevention and to the American cultural landscape. The resolution I am introducing today will designate August 9, 1994, as "Smokey Bear's 50th Anniversary" and authorizes and requests the President to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Mr. President, I urge my colleagues to cosponsor this joint resolution so that it may move quickly through the Senate, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed the RECORD, as follows:

S.J. RES. 214

Whereas Smokey Bear has served the United States for 50 years, preventing wildfires and protecting the Nation's forests above and beyond the call of duty;

Whereas Smokey Bear has dedicated himself to educating Americans of all ages and particularly America's youth, the future guardians of our forests, about forest fire prevention;

Whereas the Forest Service of the United States Department of Agriculture is committed to increasing public information and awareness about wildfire prevention and forest protection;

Whereas the Forest Service of the United States Department of Agriculture is devoted to changing the public's behavior to prevent wildfires in an effort to maintain and protect our Nation's precious resources; and

Whereas the Forest Service of the United States Department of Agriculture, the National Association of State Foresters, and The Advertising Council have provided extraordinary support and dedication to the purpose and efforts of Smokey Bear: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 9, 1994, is designated "Smokey Bear's 50th Anniversary", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 946

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 946, a bill to reduce the legislative branch budget by 25 percent.

S. 1015

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1015, a bill to establish a 2-year moratorium on construction and leasing of space by the Federal Government, and for other purposes.

S. 1379

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1379, a bill to limit the continued availability of foreign assistance funds for obligation and expenditure.

S. 1516

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1516, a bill to limit the use of funds for deployment of the Armed Forces of the United States outside the United States under United Nations command.

S. 1533

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1533, a bill to improve access to health insurance and contain health care costs, and for other purposes.

S. 1598

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1598, a bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

S. 1676

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1676, a bill to provide a fair, nonpolitical process that will achieve $65,000,000,000 in budget outlay reductions each fiscal year until a balanced budget is reached.

S. 1772

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1772, a bill to reduce Federal employment to the levels proposed in the Vice President's Report of the National Performance Review.

S. 1884

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 1884, a bill to amend the Immigration and Nationality Act to reform asylum procedures, to strengthen criminal penalties for the smuggling of aliens, and to reform other procedures to control illegal immigration to the United States.

S. 1887

At the request of Mr. BAUCUS, the names of the Senator from Missouri [Mr. BOND], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 2074

At the request of Mr. MCCAIN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2074, a bill to increase the special assessment for felonies and improve the enforcement of sentences imposing criminal fines, and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf War.

S. 2183

At the request of Mrs. HUTCHISON, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2215

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2215, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2297

At the request of Mr. METZENBAUM, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2297, a bill to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. COCHRAN, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

SENATE JOINT RESOLUTION 196

At the request of Mr. SMITH, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. CRAIG], the Senator from Delaware [Mr. BIDEN], the Senator from Georgia [Mr. NUNN], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 196, a joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

SENATE JOINT RESOLUTION 212

At the request of Mr. RIEGLE, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Missouri [Mr. BOND], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 212, a joint resolution designating August 2, 1994, as "National Neighborhood Crime Watch Day."

SENATE RESOLUTION 185

At the request of Mr. D'AMATO, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 185, a resolution to congratulate Phil Rizutto on his induction into the Baseball Hall of Fame.

AMENDMENTS SUBMITTED

IMPROVING AMERICA'S SCHOOLS ACT

DANFORTH AMENDMENT NO. 2430

Mr. DANFORTH proposed an amendment to the bill (S. 1513) a bill entitled "Improving America's Schools Act of 1993"; as follows:

On page 650, between lines 3 and 4, insert the following:

"PART H—EDUCATIONAL OPPORTUNITY DEMONSTRATION PROGRAM

"SEC. 1801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) while low-income students have made significant gains with respect to educational achievement and attainment, considerable gaps still persist for these students in comparison to those from more affluent socioeconomic backgrounds;

"(2) our Nation has a compelling interest in assuring that all children receive a high quality education;

"(3) new methods and experiments to revitalize educational achievement and opportunities of low-income individuals must be a part of any comprehensive solution to the problems in our Nation's educational system;

"(4) preliminary research shows that same gender classes and schools may produce promising academic and behavioral improvements in both sexes for low-income, educationally disadvantaged students;

"(5) extensive data on same gender classes and schools are needed to determine whether same gender classes and schools are closely tailored to achieving the compelling government interest in assuring that all children are educated to the best of their ability;

"(6) in recent years efforts to experiment with same gender classes and schools have been inhibited by lawsuits and threats of lawsuits by private groups as well as governmental entities; and

"(7) there is a compelling government interest in granting the Secretary authority to insulate a limited number of local educational agencies and schools which are experimenting with same gender classes for a limited period of time from certain law suits under title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), or any other law prohibiting discrimination on the basis of sex, in order to collect data on the effectiveness of such classes in educating children from low-income, educationally disadvantaged backgrounds.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to give the Secretary discretion to allow experimentation with same gender classes for low-income, educationally disadvantaged students;

"(2) to determine whether same gender classes make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; and

"(3) to involve parents in the educational options and choices of their children.

"SEC. 1802. DEFINITIONS.

"As used in this part—

"(1) the term 'educational opportunity school' means a public elementary, middle, or secondary school receiving funds under this title, or a consortium of such schools all of which receive funds under this title, that—

"(A) establishes a plan for voluntary, same gender classes at one or more than one school in the community;

"(B) provides same gender classes for both boys and girls, as well as a co-educational option for any parent that chooses that option;

"(C) gives parents the option of choosing to send their child to a same gender class or to a co-educational class;

"(D) admits students on the basis of a lottery, if more students apply for admission to the same gender classes than can be accommodated;

"(E) has a program in which a member of the community is asked to volunteer such member's time in classes of children of the same gender as the member; and

"(F) operates in pursuit of improving achievement among all children based on a specific set of educational objectives determined by the local educational agency applying for a grant under this part, in conjunction with the educational opportunity advisory board established under section 1803(e) and agreed to by the Secretary; and

"(2) the term 'educational opportunity advisory board' means an advisory board established in accordance with section 1803(e).

"SEC. 1803. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—From amounts made available under section 1002(f)(3), the Secretary may award grants to ten local educational agencies for the design and operation of one or more educational opportunity schools.

"(b) INAPPLICABILITY.—Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school during the period such agency or school receives assistance under this part only to the extent the Secretary determines necessary to ensure the development and operation of same gender classes in accordance with this part.

"(c) GRANT PERIODS.—Each grant under subsection (a) may be awarded for a period of not more than 5 years, of which a local educational agency may use not more than 1 year for planning and program development.

"(d) LIMITATION.—The Secretary shall not award more than one grant under this part to support a particular educational opportunity school or consortium of such schools.

"(e) EDUCATIONAL OPPORTUNITY ADVISORY BOARD.—Each local educational agency receiving a grant under this part shall establish an educational opportunity advisory board. Such advisory board shall be composed of school administrators, parents, teachers, local government officials and volunteers involved with an educational opportunity school. Such advisory board shall assist the local educational agency in developing the application for assistance under section 1804 and serve as an advisory board in the functioning of the educational opportunity school.

"SEC. 1804. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each local educational agency desiring a grant under this part shall submit, within 180 days of the date of enactment of the Improving America's Schools Act of 1994, an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) SCOPE OF APPLICATION.—Each application described in subsection (a) may request assistance for a single educational opportunity school or for a consortium of such schools.

"(c) APPLICATION CONTENTS.—Each application described in subsection (a) shall include—

"(1) a description of the educational program to be implemented by the proposed educational opportunity school, including—

"(A) the grade levels or ages of children to be served; and

"(B) the curriculum and instructional practices to be used;

"(2) a description of the objectives of the local educational agency and a description of how such agency intends to monitor and study the progress of children participating in the educational opportunity school;

"(3) a description of how the local educational agency intends to include in the educational opportunity school administrators, teaching personnel, and role models from the private sector;

"(4) a description of how school administrators, parents, teachers, local government and volunteers will be involved in the design and implementation of the educational opportunity school;

"(5) a description of how the local educational agency or the State, as appropriate, will provide for continued operation of the educational opportunity school once the Federal grant has expired, if such agency determines that such school is successful;

"(6) a description of how the grant funds will be used;

"(7) a justification for the waiver or inapplicability of any Federal statutory or regulatory requirements that the local educational agency believes are necessary for the successful operation of the educational opportunity school and a description of any State or local statutory or regulatory requirements, that will be waived for, or will not apply to, the educational opportunity school, if necessary;

"(8) a description of how students in attendance at the educational opportunity school, or in the community, will be—

"(A) informed about such school; and

"(B) informed about the fact that admission to same gender classes is completely voluntary;

"(9) a description of how grant funds will be used in conjunction with funds provided under this title, and any other Federal programs, administered by the Secretary;

"(10) an assurance that the local educational agency will annually provide the Secretary such information as the Secretary may require to determine if the educational opportunity school is making satisfactory progress toward achieving the objectives described in paragraph (2);

"(11) an assurance that the local educational agency will cooperate with the Secretary in evaluating the program authorized by this part;

"(12) assurances that resources shall be used equally for same gender classes for boys and for girls;

"(13) assurances that the activities assisted under this part will not have an adverse affect, on either sex, that is caused by—

"(A) the distribution of teachers between same gender classes for boys and for girls;

"(B) the quality of facilities for boys and for girls;

"(C) the nature of the curriculum for boys and for girls;

"(D) program activities for boys and for girls; and

"(E) instruction for boys and for girls; and

"(14) such other information and assurances that the Secretary may require.

"SEC. 1805. SELECTION OF GRANTEES.

"The Secretary shall award grants under this part on the basis of the quality of the applications submitted under section 1804, taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) organizational structure and management of the school;

"(3) the quality of the plan for assessing the progress made by children in same gender classes over the period of the grant;

"(4) the extent of community support for the application; and

"(5) the likelihood that the educational opportunity school will meet the objectives of such school and improve educational results for students; and

"(6) the assurances submitted pursuant to section 1804(c)(13).

On page 474, line 16, strike "$20,000,000" and insert "$19,000,000".

On page 474, between lines 18 and 19, insert the following:

"(3) PART H.—(A) For the purpose of carrying out part H, there are authorized to be appropriated $1,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(B) Funds appropriated under subparagraph (A) shall remain available until expended.

GREGG AND (DOLE) AMENDMENT NO. 2431

Mr. GREGG (for himself and Mr. DOLE) proposed an amendment to the bill, S. 1513, supra; as follows:

At the appropriate place, add the following:

It is the sense of the Senate that United Nations Security Council Resolution 940 of July 31, 1994 does not constitute authorization for the deployment of U.S. Armed Forces under Article I of the Constitution of the United States or pursuant to Public Law 93-148 (the War Powers Act of 1973).

GREGG AND (OTHERS) AMENDMENT NO. 2432

Mr. GREGG (for himself, Mrs. KASSEBAUM, Mr. SIMPSON, and Mr. WALLOP) proposed an amendment to the bill, S. 1513, supra; as follows:

On page 474, strike lines 8 and 9, and insert the following:

"(f) FEDERAL EVALUATIONS.—For the purpose of carrying".

On page 474, strike lines 14 through 18.

On page 574, beginning with line 15, strike all through page 588, line 14.

On page 635, lines 14 and 15, strike "AND DEMONSTRATIONS".

On page 641, beginning with line 11, strike all through page 643, line 12.

On page 655, lines 20 and 21, strike ", of which 10 percent of such 5 percent shall be available to carry out section 2114".

On page 663, beginning with line 23, strike all through page 672, line 17.

On page 698, beginning with line 19, strike all through page 704, line 15.

On page 704, line 16, strike "4" and insert "3".

On page 736, beginning with line 13, strike all through page 738, line 10.

On page 738, beginning with line 16, strike all through page 788, line 6.

On page 788, line 7, strike "B" and insert "A".

On page 807, line 15, strike "C" and insert "B".

On page 815, beginning with line 1, strike all through page 832, line 9.

On page 843, lines 20 and 21, strike "From amounts reserved under section 4112(d) for each fiscal year, the" and insert "The".

On page 846, strike lines 1 through 4.

On page 936, strike lines 1 through 21.

On page 937, strike lines 1 and 2, and insert "part.".

On page 946, beginning with line 21, strike all through page 961, line 12.

On page 1004, beginning with line 1, strike all through page 1005, line 9.

On page 1005, beginning with line 11, strike all through page 1035, line 11.

On page 1128, lines 12 and 13, strike "sections 2114 and" and insert "section".

On page 1172, beginning with line 17, strike all through page 1185, line 24.

On page 1234, line 13, insert end quotation marks and a period after the period.

On page 1234, beginning with line 14, strike all through page 1296, line 25.

On page 1358, beginning with line 10, strike all through 1368, line 24.

SMITH AMENDMENT NO. 2433

Mr. SMITH proposed an amendment to the bill, S. 1513, supra; as follows:

At the appropriate place, add the following:

SEC. . PROHIBITION AGAINST FUNDS FOR HOMOSEXUAL SUPPORT.

(a) PROHIBITION.—No local educational agency that receives funds under this Act shall implement or carry out a program or activity that has either the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

(b) DEFINITION.—A program or activity, for purpose of this section, includes the distribution of instructional materials, instruction, counseling, or other services on school grounds or referral of a pupil to an organization that affirms a homosexual lifestyle.

HELMS AMENDMENT NO. 2434

Mr. HELMS proposed an amendment to amendment No. 2433 proposed by Mr. SMITH to the bill, S. 1513, supra; as follows:

Strike all after "Sec.", and insert the following:

PROHIBITION AGAINST FUNDS FOR HOMOSEXUAL SUPPORT.

(a) PROHIBITION.—No local educational agency that receives funds under this Act shall implement or carry out a program or activity that has either the purpose or effect of encouraging or supporting homosexuality as a positive lifestyle alternative.

(b) DEFINITION.—A program or activity, for purposes of this section, includes the distribution of instructional materials, instruction, counseling, or other services on school grounds, or referral of a pupil to an organization that affirms a homosexual lifestyle.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect one day following the enactment of this Act.

KENNEDY (AND JEFFORDS) AMENDMENT NO. 2435

Mr. KENNEDY (for himself and Mr. JEFFORDS) proposed an amendment to amendment No. 2433 proposed by Mr. SMITH to the bill S. 1513, supra; as follows:

At the end of the pending amendments, insert the following:

SEC. . LIMITATION.

(a) IN GENERAL.—None of the funds authorize under this Act shall be used to develop materials or programs directed at youth that are designed to directly promote or encourage, sexual activity, whether homosexual or heterosexual.

KENNEDY AMENDMENT NO. 2436

Mr. KENNEDY proposed an amendment to amendment No. 2433 proposed by Mr. SMITH to the bill S. 1513, supra; as follows:

At the end of the pending amendment, insert the following:

SEC. . LIMITATION.

None of the funds authorized to be appropriated under this Act may be used to coordinate the delivery of health services including making condoms available in a public school unless the program under which such condoms are made available—

(1) has been determined by the local school board to be appropriate and in furtherance of the National Education Goals; and

(2) has been developed in consultation with parents; and

(s) provides information through the school concerning the health benefits of abstinence.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I want to announce a change in the schedule of the Committee on Small Business. The committee markup on the Small Business Administration reauthorization has been rescheduled for Wednesday, August 3, at 2:15 p.m., in room SR 428A. This markup had previously been scheduled for Tuesday morning.

Those wishing additional information should contact the committee's hearing clerk, Laura Lecky, at 224-5175.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on "Oversight of the Insurance Industry: Blue Cross/Blue Shield—Federal Contracts".

This hearing will take place on Friday, August 5, 1994, at 9 a.m., and Monday, August 8, 1994, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanor Hill of the subcommittee staff at 224-3721.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry and General Legislation will hold hearings to review the administration's proposed legislation on meat and poultry inspection. The hearings will be held in SR–332 on Thursday, August 11, 1994, and in SR–385 on Friday, August 12, 1994. The hearings will begin at 8:30 a.m. both days. Senator TOM DASCHLE will preside.

For further information contact Tracey Henderson or Tom Buis at 224–2321.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Monday, August 1, 1994, at 4 p.m., in executive session, to discuss matters related to conference with the House Committee on Armed Services on the Department of Defense authorization bill, and to consider certain pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Monday, August 1, beginning at 10:30 a.m. to conduct a hearing pursuant to Senate Resolution 229.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Monday, August 1, 1994, beginning at 2 p.m., in 485 Russell Senate Office Building to consider for report to the Senate S. 2075, to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve programs under the act; S. 2150, the Native Hawaiian Housing Assistance Act of 1994; and, for other purposes to be followed immediately by a hearing on S. 2329, the Mohegan Nation of Connecticut Land Claims Settlement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAX DEDUCTIBILITY OF FLIGHT TRAINING EXPENSES

• Mr. BROWN. Mr. President, I am pleased to introduce S. 2338, a bill which will restore some fairness to our current tax system. Approximately 200 veteran pilots throughout the country are currently unable to obtain refunds from the Internal Revenue Service [IRS] for taxes they paid which the IRS later ruled were unnecessary. This bill would create a 1-year grace period during which veteran pilots would be able to file for tax refunds.

In 1980, the IRS issued a rule, Revenue Rule 80–173, which retroactively repealed a provision which had been enforced since 1962. The IRS issued this rule against veteran pilots who had previously been allowed to receive educational benefits from the Department of Veteran Affairs and to claim a deduction for tuition expenses. The result of the IRS reversing its own ruling retroactively was that veteran pilots were charged back taxes, interest, and penalties. It seems unfair to me to apply a revenue ruling retroactively to the detriment of taxpayers who took a deduction as instructed.

An Eleventh Circuit Court decision allowed for some veteran pilots to successfully receive refunds of the tax they had been required to pay. However, 200 pilots throughout this country have not been as fortunate because they do not fall within the geographic jurisdiction of the 11th Circuit Court. There is no provision under the law which would allow the IRS to cancel the tax and refund the overpayment because claims for refund or credit must be filed within 3 years of the due date of the return or 2 years from the date the tax was paid, whichever is later. This legislation would enable the remaining 200 veteran pilots a 1-year opportunity to file for a refund.

These pilots are frustrated by this inequity and it is time to provide them the opportunity to settle this matter with the Federal Government.

Similar legislation—H.R. 642—has been introduced in the House of Representatives by Representative SUNDQUIST. The issue is fairness. I hope my colleagues will agree and cosponsor this important bill.

I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 2338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN REIMBURSED FLIGHT TRAINING EXPENSES.

(a) IN GENERAL.—In the case of a taxable year beginning before January 1, 1980, the determination of whether a deduction is allowable under section 162(a) of the Internal Revenue Code of 1954 for flight training expenses shall be made without regard to whether the taxpayer was reimbursed for any portion of such expenses under section 1677(b) of title 38, United States Code (as in effect before its repeal by Public Law 97–35).

(b) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, REGARDING EDUCATIONAL TRAVEL

• Mr. BRYAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received notification under rule 35 for Mark Engman, a member of the Staff of Senator CAMPBELL, to participate in a program in Taiwan, sponsored by the Soochow University from July 2–9, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Engman in this program.

The select committee received notification under rule 35 for Kenneth Levinson, a member of the staff of Senator ROCKEFELLER, to participate in a program in China, sponsored by the Chinese Peoples Institute of Foreign Affairs, from August 13–29, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Levinson in this program.

The select committee received notification under rule 35 for Cynthia Lasker, a member of the staff of Senator RIEGLE, to participate in a program in Japan, sponsored by the Association for Communication of Transcultural Study from July 8–16, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Lasker in this program.

The select committee received notification under rule 35 for Donald Hardy, a member of the staff of Senator SIMPSON, to participate in a program in China, sponsored by the Chinese Institute of Foreign Affairs, from August 15–28, 1994. The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Hardy in this program.

The select committee received notification under rule 35 for Elise Gemeinhardt, a member of the staff of Senator SIMPSON, to participate in a program in Taiwan sponsored by the Soochow University from July 2–9, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Ms. Gemeinhardt in this program.

The select committee received notification under rule 35 for Jack Clark, a member of the staff of Senator NICKLES, to participate in a program in Germany sponsored by the Hanns Seidel Foundation from July 2-9, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Clark in this program.

The select committee received notification under rule 35 for James Assey, a member of the staff of Senator HOLLINGS, to participate in a program in Taiwan sponsored by the Soochow University from July 2-9, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Mr. Assey in this program.

The select committee received notification under rule 35 for Richard McGahey, James Lee Price, Glen Roselli, and Kenneth Nelson, members of the staff of Congressman OBEY, to participate in a program in Canada, sponsored by the Centre for Legislative Exchange, from July 11-13, 1994.

The committee determined that no Federal statute or Senate rule would prohibit participation by Messrs. McGahey, Price, Roselli, and Nelson in this program.●

ORDER OF BUSINESS

Mr. MITCHELL. Mr. President, we will resume consideration of this bill at 9 o'clock tomorrow morning. The managers have set forth a proposed schedule for amendments to be offered at that time. Senators can expect votes to occur from approximately midmorning on. The exact time will be announced in the morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I inquire, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. How much time do I have?

The PRESIDING OFFICER. Each Senator is permitted to speak up to 10 minutes.

TALK A LITTLE HISTORY

Mr. FORD. Mr. President, over the next few days, I am going to put into practice what other Senators have done on occasion, and that is, talk a little history. The history, I hope, will be important to my colleagues because of the importance of the health care bill that apparently will be introduced tomorrow and distributed on Wednesday, and the debate will start next week.

Mr. President, during the 1960 Presidential campaign, Richard Nixon hired a foreign policy speech writer named William Peterson, a professor of economics at New York University in downtown New York City.

When the ranking Republican on the Senate Agriculture Committee, Senator Carl Mundt, heard this, he was furious. According to Peterson, he ranted at Nixon, "Downtown! That means the only vegetation he ever gets to see is that in Central Park. He wouldn't even know the business end of a cow if he saw one."

It turned out that Peterson did know a thing or two about agriculture, but Senator Mundt made an important point. When we make policy, we must have a solid understanding of the industry affected by our legislation.

Mr. President, over the past few months, it seems that everybody has become a tobacco expert. They claim to know all of the possible health effects, and which tobacco company did what and when.

A few Congressmen and Senators would like you to believe they are playing David to the tobacco company's Goliath. But the real David is the tobacco farmer, who is being forced to fight a public relations Goliath.

Colman McCarthy said this in the Washington Post a few weeks ago. He was a reporter who was dispatched from the Washington Post to Kentucky to see how real folks live.

This is what he said in the article:

> The smooth talk and rough exchanges in Washington have omitted (the Kentucky farmer), as if they have no opinions worth hearing and no culture worth honoring.

I believe those farmers have opinions worth hearing, and a culture worth honoring. It is the reason that I defend tobacco.

There are over 100,000 tobacco allotment holders in Kentucky alone. In Kentucky, they feel the same way and are counting on me to help preserve this tradition—and basically this way of life.

The State of Virginia was once described as having the "brown stain of tobacco juice on every page of her history." The same could be said of Kentucky, where tobacco fields and curing barns are a regular part of the landscape, where much of community life is still marked by the rituals of planting, cutting, housing, and stripping. And where the fall sales mean college educations, new equipment, and the preservation of the family farm.

The politics of tobacco are about more than the financial security the crop brings to Kentucky families. It is also about community life, about working together, and socializing together. A Kentucky farmer and writer describes it as the "tobacco culture * * * the experience of growing up in a community in which everybody was passionately interested in the quality of a local product * * * where the rhythm of the farming year * * * was set by the annual drama of the tobacco crop."

Mr. President, as I have said, over the next few days, I hope to take a little time on the floor to introduce the farmer into this debate, and equally important, to share with my colleagues what I know about tobacco.

In that same Washington Post article, Colman McCarthy said:

> With no way to convert to other crops—poor soil, much lower prices—what are (farmers) to do? Just get lost? Sell the farm? Go up in smoke? If any anti-smoking crusaders have any non-simplistic answers—and are free of their own addictions to press releases, finger-pointing and moralizing—60,000 Kentucky farm (families) would like to know.

I could not have said it better myself, Mr. President.

My dad used to say that when you are not invited to the table, sometimes you just have to set your own. Mr. President, the farm community deserves better than leftover table scraps, like part of a high tobacco tax, from the antitobacco forces public relations feast. So today the farm community is setting their own table.

Not only will I be sharing my thoughts on tobacco, but I will be sharing with you what Kentucky farmers and their families have to say.

I hope my colleagues will take the time to listen or to read the remarks that are in the RECORD and try looking at the tobacco issue through the eyes of tens of thousands of farm families for whom this is a way of life.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PUBLIC HEALTH IMPROVEMENT ACT

Mr. FORD. Mr. President, I understand that S. 2346, the Public Health Improvement Act, introduced earlier today by Senator GRAHAM, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2346) to establish a fund for various programs to strengthen and expand the capacity of State and local governments and other entities to improve the public health.

Mr. FORD. Mr. President, I now ask for its second reading, and, Mr. President, on behalf of the minority leader, Mr. DOLE, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Tuesday, August 2; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of S. 1513, the Elementary and Secondary Education Authorization bill; and that on Tuesday, the Senate stand in recess from 12 noon to 2 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:09 p.m., recessed until Tuesday, August 2, 1994, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Monday, August 1, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 1, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON] for 5 minutes.

PASS THE CRIME BILL

Mr. RICHARDSON. Mr. Speaker, this week, we are ready to pass a crime bill that is the largest commitment to stopping crime that Congress has ever considered.

I understand that not everyone is happy with a few provisions in the crime bill. I, for example, have problems with the assault weapons ban which is a part of the bill.

However, I am willing to put aside my few objections and stand here in support of a crime bill our constituents claim is the single most important issue affecting their lives.

We must look at the entire bill and recognize the provisions such as more law enforcement, more prisons, and more crime prevention programs, which will effectively stop crime.

All of us in Congress, no matter what party we represent, must put aside all of our disagreements. We must stand here together in support of legislation which sends the message to criminals that we will no longer turn our heads to their actions.

I commend the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and the minority for bringing us a good bill.

Mr. Speaker, all across the Nation, each and every American has been telling us to make their schools, neighborhoods, and homes safe again.

At various town meetings in my district in New Mexico, my constituents continue to ask when Congress will pass the crime bill. I hope that within a few days, I will be able to tell them that the crime bill has passed and will soon become law.

The point is, Mr. Speaker, that all Members must stop analyzing and searching for every small portion of the legislation which they do not completely agree with.

It is time for all Members to accomplish passing legislation so that we can tell everyone back home that action is being taken.

We all know that this crime bill is filled with strong, effective provisions that every American has been asking for. Furthermore, out of the $33 billion that will address a variety of anticrime strategies, $30.2 billion will be financed through the saving coming from the elimination of 270,000 Federal jobs. So let's not wait any longer. Let's pass this crime bill now and get the job done.

President Clinton has called upon Congress to vote for a crime package that is strong, smart and tough. A package that will punish offenders, yet will also promote measures to prevent crime. This crime bill does just that—it punishes criminals and offers good prevention measures.

This crime bill sends the message to repeat offenders that enough is enough. It tells them that if you do violence to others, you will be punished. The "three strikes you're out" provision will send criminals with three serious offenses to prison for life.

Those who commit certain Federal offenses will also be subject to the death penalty making this crime bill tough on criminals.

Smart crime prevention measures are also included in this crime bill. Literally billions of dollars will be directed to youth crime prevention including measures to keep kids occupied and off the streets. This crime bill also allows grants to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking. It also supports drug treatment programs within State and local correctional facilities.

Prevention measures in the bill focus on kids by, for example, creating youth recreation programs which will give young people an opportunity to exercise athletics in the hopes that this will build teamwork incentives and get them off the streets.

Furthermore, with 100,000 new cops on the beat, criminals will want to think twice before harming anyone. And let us make sure that we not forget rural areas in community policing. This measure should not just benefit big cities like Los Angeles and New York, but small communities as well.

Everyone, from the mayor to the high school student, must realize that stopping crime is a joint effort, and the battle against crime will not be won unless everyone participates. For this reason, our crime bill helps local governments and local police find new ways to best protect those who live in their communities. The best solutions to crime are local, and this bill emphasizes local solutions.

Again, I stand here to ask every Member of Congress to have the courage to put our differences aside, and unite in a joint effort to pass legislation which will effectively and substantially stop crime.

RECESS

The SPEAKER pro tempore (Mr. HASTINGS). There being no further requests for morning business, pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 10 o'clock and 39 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MONTGOMERY) at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us, O God, to reflect on the blessings we have been given and what we so often take for granted. We know it is our nature to focus on the comforts of life and yet on this day we pause and give thanks for the basics—for food and drink, for clothing and shelter, for family and friends. We know too that many people do not have

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

this food or family or shelter and do not share in the fundamental needs of the human spirit or body. We are thankful, O God, that in the present need individuals and groups and nations are sharing the burden and easing the pain and suffering so that dire needs will be met and new life and hope will be nourished. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Arizona [Mr. STUMP] will come forward and lead the House in the Pledge of Allegiance.

Mr. STUMP led the Pledge of Allegiance as follows:

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a resolution of the following title, in which the concurrence of the House is requested:

S. RES. 246

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Hugh Scott, formerly a Senator from the State of Pennsylvania.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 275. Concurrent resolution waiving the requirement in section 132 of the Legislative Reorganization Act of 1946 that the Congress adjourn sine die not later than July 31 of each year.

CONFERENCE REPORT ON H.R. 4426, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1995

Mr. YATES submitted the following conference report and statement on the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995.

CONFERENCE REPORT (H. REPT. 103-633)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4426) "making appropriations for the Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1995," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 13, 14, 15, 16, 17, 23, 29, 30, 34, 46, 47, 51, 53, 71, 84, 110, 111, 113, 114, 115, 116, 117, 125, 135, 136, 137, 141, 144, 145, 146, 147, 148, 150, 151, 152, 153, 154, 155, 156, 157, 159, 160, 162, and 164.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 4, 5, 6, 7, 10, 20, 21, 22, 26, 27, 28, 31, 32, 35, 37, 38, 39, 56, 57, 59, 61, 62, 64, 66, 67, 68, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 83, 85, 87, 88, 89, 90, 92, 93, 95, 96, 97, 98, 99, 100, 101, 103, 104, 105, 106, 107, 108, 112, 119, 120, 122, 123, 124, 126, 127, 128, 130, 131, 132, 133, an agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$90,000,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$374,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$50,000,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$853,000,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That of the funds appropriated under this title under the heading "Agency for International Development", (1) not less than $280,000,000 should be made available for activities which have as their objective the reduction of childhood mortality, including such activities as immunization programs, oral rehydration programs, and education programs which address improved nutrition, and water and sanitation programs, (2) not less than $135,000,000 should be made available for basic education programs; and (3) not less than $25,000,000 should be made available for micronutrient programs*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate," as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options including abortion*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That of the funds appropriated under this heading, not less than the amount equal to the amount made available for the Office of Population of the Agency for International Development in fiscal year 1994 shall be made available to that office: Provided further, That the Administrator of the Agency for International Development may decrease that amount only if he consults with and provides a written justification to the Committees on Appropriations: Provided further, That such justification shall be considered in accordance with the regular notification procedures of the Committee on Appropriations*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided, That of this amount not more than $1,475,000 may be made available to pay for printing costs: Provided further, That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of that Agency or the Administrator's designee*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,349,000,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$850,000,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

Delete the matter stricken and delete the matter proposed; and the Senate agreed to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(i) Of the funds appropriated under this heading, no less than $15,000,000 should be available only for a family planning program for the new independent states of the former Soviet Union

comparable to the family planning program currently administered by the Agency for International Development in the Central Asian Republics and focusing on population assistance which provides an alternative to abortion.

And the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(k) Of the funds appropriated under this heading, not less than $150,000,000 should be made available for programs for Ukraine: Provided, That of these funds not less than $25,000,000 should be made available for land privatization activities and development of small and medium size businesses, including agriculture enterprises.

And the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(l) Of the funds made available by this or any other Act, not less than $75,000,000 should be made available for programs and activities for Armenia.

And the Senate agreed to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(m) Of the funds made available by this or any other Act, not less than $50,000,000 should be made available for programs and activities for Georgia.

And the Senate agreed to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(n) The President should establish a Trans-Caucasus Enterprise Fund.

And the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(o) The report required by subsection (d) under the heading "Assistance for the New Independent States of the Former Soviet Union", contained in Public Law 102–391, shall be updated at least annually and shall also contain a listing of all grants and contracts issued from funds appropriated annually for the new independent states of the former Soviet Union, to include for each grant and contract (1) a description of its purpose, (2) its amount, and (3) the country where the grant or contract funds are to be expended.

And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(p) Not less than $50,000,000 of the funds appropriated under this heading should be made available for programs and activities which match United States private sector resources with Federal funds.

And the Senate agree to the same.

Amendment numbered 49

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(q) Within sixty days of enactment of this Act, the Administrator of the Agency for International Development shall report to the Committees on Appropriations on steps being taken to include individuals and organizations with language or regional expertise in the provision of assistance to the new independent states of the former Soviet Union.

And the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(r) Of the funds appropriated under this heading and under the heading "Assistance for Eastern Europe and the Baltic States", not to exceed $30,000,000 shall be made available for police training and exchanges, and investigative and technical assistance activities related to international criminal activities.

And the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(s) Of the funds appropriated under this heading, not less than 50 percent should be made available for country specific activities within bilateral, regional, or multilateral programs, except as provided through the regular notification procedures of the Committees on Appropriations.

And the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$105,000,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *Provided, That during fiscal year 1995, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of "$12,000,000" named in said amendment, insert: *$6,000,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment and retain the matter inserted by said amendment; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *Provided further, That none of the funds appropriated under this heading or under the heading "Military-to-Military Contact Program" may be made available for Thailand or Algeria except through the regular notification procedures of the Committees on Appropriations: Provided further, That the Secretary of State shall submit, by February 1, 1995, a report to the Committees on Appropriations on the Thai military's support for the Khmer Rouge and the Thai Government's efforts to impede support for Burmese democracy advocates, exiles, and refugees*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *Provided, That funds appropriated under this heading may be made available only for activities in the area of responsibility of the United States Pacific Command and*; and on page 23, line 18 of the House engrossed bill, H.R. 4426, strike "be made available only".

And the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *Provided further, That 10 percent of the principal amount of direct loans for Turkey shall be withheld until the Secretary of State, in consultation with the Secretary of Defense, has submitted to the Committees on Appropriations a report addressing, among other things, the allegations of abuses against civilians by the Turkish armed forces and the situation in Cyprus, and a separate notification has been submitted at least 15 days prior to the obligation of such funds; Provided further, That 10 percent of the principal amount of direct loans for Greece shall be withheld until the Secretary of State has submitted to the Committees on Appropriations a report on the allegations of Greek violations of the United Nations sanctions against Serbia and of the United Nations Charter, and a separate notification has been submitted at least 15 days prior to the obligation of such funds*; and the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: Provided, That *the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $24,322,000: Provided further, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.*

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $33,944,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1995 and 1996: Provided further, That such sums shall remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal year 1995, and through fiscal year 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1996. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

And on page 31, line 2, of the House engrossed bill, H.R. 4426, delete "PROGRAM ACCOUNT"; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended to read as follows: *North Korea,*; and the Senate agree to the same.

Amendment numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *or personnel level, with regard to individuals detailed or assigned to the Agency for International Development prior to October 1, 1994, established pursuant to any provision of law or regulation*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: .

(b) Section 13 of the Department of State Appropriations Authorization Act of 1973 is repealed.

(c) The Secretary of the Treasury may, to fulfill commitments of the United States, (1) subscribe to and make payment for shares of the Inter-American Development Bank, make contributions to the Fund for Special Operations of that Bank, and vote for resolutions (including amendments to that Bank's constitutive agreement), all in connection with the eighth general, increased in resources of that Bank; and (2) contribute to the Restructured Global Environment Facility under its Instrument, to the African Development Fund in connection with the seventh general replenishment of its resources, and to the Interest Subsidy Account of the successor to the Enhanced Structural Adjustment Facility of the International Monetary Fund. The amount authorized to be appropriated for payment for paid-in shares of the Inter-American Development Bank is limited to $76,832,001, the amount authorized to be appropriated for payment for callable shares of the Inter-American Development Bank is limited to $4,511,156,729, and the amount authorized to be appropriated for payment of the contribution to the Interest Subsidy Account of the successor to the Enhanced Structural Adjustment Facility of the International Monetary Fund is limited to $25,000,000. The amount to be paid is respect of each such contribution or subscription is authorized to be appropriated without fiscal year limitation. Each such subscription or contribution shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(d) Title XV of the International Financial Institutions Act (22 U.S.C. 262a) is amended by adding at the end the following:

"SEC. 1502. MILITARY SPENDING BY RECIPIENT COUNTRIES; MILITARY INVOLVEMENT IN THE ECONOMIES OF RECIPIENT COUNTRIES.

"(a) CONSIDERATION OF COMMITMENT TO ACHIEVING CERTAIN GOALS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2)) to promote growth in the international economy by taking into account, when considering whether to support or oppose loan proposals at these institutions, the extent to which the recipient government has demonstrated a commitment to achieving the following goals:

"(A) to provide accurate and complete data on the annual expenditures and receipts of the armed forces;

"(B) to establish good and publicly accountable governance, including an end to excessive military involvement in the economy; and

"(C) to make substantial reductions in excessive military spending and forces.

"(b) STEPS TO ACHIEVE GOALS REQUIRED.—The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as to defined) to promote a policy at each institution under which—

"(1) the respective institution monitors closely and, through regular policy consultations with recipient governments, seeks to influence the composition of public expenditure in favor of funding growth and development priorities and away from unproductive expenditures, including excessive military expenditures;

"(2) the respective instutition supports lending operations which assist efforts of recipient governments to promote good governance, including public participation, and reduce military expenditures; and

"(3) the allocation of resources and the extension of credit by the respective institution takes into account the performance of recipient governments in the areas of good governance, ending excessive military involvement in the economy and reducing excessive military expenditures.".

(e) Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by redesignating section 1620 as section 1622 and by inserting after section 1619 the following:

"SEC. 1620. RESPECT FOR INDIGENOUS PEOPLES

"The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2)) and the United States representative to the council of the Global Environment Facility administered by the International Bank for Reconstruction and Development to use the voice and vote of the United States to bring about the creation and full implementation of policies designed to promote respect for and full protection of the territorial rights, traditional economies, cultural integrity, traditional knowledge and human rights of indigeneous peoples.

"SEC. 1621. ENCOURAGEMENT OF FAIR LABOR PRACTICES.

"(a) The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2)) to use the voice and vote of the United States to urge the respective institution

"(1) to adopt policies to encourage borrowing countries to guarantee internationally recognized worker rights (within the meaning of section 502(a)(4) of the Trade Act of 1974) and to include the status of such rights as an integral part of the institution's policy dialogue with each borrowing country;

"(2) in developing the policies referred to in paragraph (1), to use the relevant conventions of the International Labor Organization, which have set forth, among other things, the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, and certain minimum labor standards that take into account differences in development levels among nations including a minimum age for the employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; and

"(3) to establish formal procedures to screen projects and programs funded by the institution for any negative impact in a borrowing country on the rights referred to in paragraph (1).

"(b) The Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate by the end of each fiscal year a report on the extent to which each borrowing country guarantees internationally recognized worker rights to its labor force and on progress toward achieving each of the goals described in subsection (a).".

(f) The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end the following:

"SEC. 38. FOCUS ON LOW-INCOME AREAS OF LATIN AMERICA AND THE CARIBBEAN.

"The Secretary of the Treasury shall direct the United States Executive Director of the Bank to use the voice and vote of the United States to support an increased focus on the poorest countries in Latin America and the Caribbean, and on poorer areas of better off countries, and to support programs conducted by the Multilateral Investment Fund, particularly in targeting low-income countries and populations, working with nongovernmental organizations and training and assisting former combatants from civil conflicts in Latin America."

And on page 49, line 24, of the House engrossed bill, H.R. 4426, after "Sec. 526." insert: (a) ; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *, Serbia, or Montenegro*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

Restore the matter stricken, amended to read as follows: *country or*; and the Senate agree to the same.

Amendment numbered 109:

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended to read as follows:

At the end of the matter proposed, insert the following:

(c) The authority of section 516 of the Foreign Assistance Act of 1961, as amended may be used in fiscal year 1995 to provide defense articles to Jordan, except that the provision of such defense articles shall be subject to section 538 of this Act.

And the Senate agree to the same.

Amendment numbered 118:

That the House recede from its disagreement to the amendment of the Senate numbered 118, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

SEC. 561. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) LIMITATIONS.—(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the international Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose governmment—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

And the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

IMPLEMENTATION OF WORLD BANK RECOMMENDATIONS

SEC. 567. (a) Funds appropriated by title I of this Act under the headings "Contribution to the International Bank for Reconstruction and Development" and "Contribution to the International Development Association" shall be available for payment to such institutions as follows:

(1) Fifty percent of the funds appropriated under each such heading shall be made available prior to April 1, 1995. Fifty percent of the funds appropriated under each such heading shall be made available on April 1, 1995, or thereafter, only if the Secretary of the Treasury makes the determinations (and so reports to the Committees on Appropriations) described in paragraph (2) of this subsection at any time on or after that date.

(2) The determinations referred to in paragraph (1) are determinations that the International Bank for Reconstruction and Development is—

(A) implementing the recommendations contained in "Next Steps", the follow-up to the Wapenhans Report;

(B) implementing the action plan contained in chapter 8 of its April 8, 1994, resettlement review entitled "Resettlement and Development"; and

(C) implementing the Bank's procedures on Disclosure of Operational Information issued in September 1993.

(b) Funds appropriated by title I of this Act under the heading "Contribution to the International Finance Corporation" shall be available for payment to such institution as follows:

(1) Fifty percent of the funds appropriated under such heading shall be made available prior to April 1, 1995. Fifty percent of the funds appropriated under such heading shall be made available on or after April 1, 1995, only if the Secretary of the Treasury makes the determination (and so reports to the Committees on Appropriations) described in paragraph (2) of this subsection.

(2) The determination referred to in paragraph (1) is a determination that the International Finance Corporation is pursuing reforms comparable to those adopted by the International Bank for Reconstruction and Development regarding the environment, information disclosure, and resettlement.

And the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "the current fiscal year" named in said amendment, insert: *fiscal year 1995* ; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment to the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

DONATION OF SURPLUS AGRICULTURAL COMMODITIES TO POLAND

SEC. 578. (a) EXTENSION OF AUTHORIZATION.—Section 2223(a) of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note) is amended by—

(1) inserting "if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same of similar agricultural commodities produced in Poland" after "Notwithstanding any other provision of law,"; and

(2) striking "1988 through 1992" and inserting in lieu thereof "1995 through 1991".

(b) DEFINITION OF ELIGIBLE COMMODITIES.—Section 2223(b)(1) of that Act is amended by inserting ", soybeans, and soybean products" after "feed grains".

(c) ELIGIBLE ACTIVITIES.—Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended in the third sentence—

(1) by striking "and" at the end of subclause (II);

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause:

"(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

And the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment to the Senate numbered 138, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 582." named in said amendment, insert: SEC. 579.

And the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment to the Senate numbered 139, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 583." named in said amendment, insert: *SEC. 580.*; and the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment to the Senate numbered 140, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 584." named in said amendment, insert: *SEC. 581.*; and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 586." named in said amendment, insert: *SEC. 582.*

And in lieu of "shall" named in said amendment, insert: *should*; and the Senate agree to the same.

Amendment numbered 143:

That the House recede from its disagreement to the amendment of the Senate numbered 143, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 587." named in said amendment, insert: *SEC. 583.*

And in lieu of "shall" named in said amendment, insert: *should*; and the Senate agree to the same.

Amendment numbered 149:

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of "SEC. 593." named in said amendment, insert: *SEC. 584.*

And in lieu of "shall" named in said amendment, insert: *should*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

REPORT ON THE SALARIES AND BENEFITS OF THE IMF AND THE WORLD

SEC. 585. The Comptroller General shall submit a report to the Committees on Appropriations on the following—

(1) a review of the existing salaries and benefits of employees of the International Monetary Fund and the International Bank for Reconstruction and Development; and

(2) a review of all benefits paid to dependents of Fund and Bank employees.

Such report shall include a comparison of the salaries and benefits paid to employees and dependents of the Fund and the Bank with salaries and benefits paid to employees holding comparable positions in the public and private sectors in member countries and in the international sector.

And the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

BALTIC TROOP WITHDRAWAL

SEC. 586. (a) PROHIBITION.—None of the funds appropriated or otherwise made available by this Act (other than funds to carry out humanitarian assistance) may be available in any fiscal year for Russia unless the President has certified to the Congress not more than six months in advance of the obligation or expenditure of such funds that the Government of Russia and the Governments of Latvia and Estonia have established a timetable for the withdrawal of the armed forces of Russia and the Commonwealth of Independent States, and all parties are complying with such timetable.

(b) Subsection (a) does not apply if the President determines that the provision of funds to the Government of Russia is in the national security interest of the United States.

And on page 88 of the House engrossed bill, H.R. 4420, Strike all beginning on line 7 down to and including line 18 on page 89; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 587. (a) None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: Provided, That this subsection shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem.

(a) Meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

REPORT ON BIOLOGICAL AND CHEMICAL WEAPONS

SEC. 588. The President shall report to the Committees on Appropriations, not later than January 30, 1995, on whether or not Russia has demonstrated a commitment to comply with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and, upon Russian ratification and entry into force, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, and the Wyoming "Memorandum of Understanding Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition of Chemical Weapons".

And the Senate agree to the same.

Amendment numbered 166:

That the House recede from its disagreement to the amendment of the Senate numbered 166, and agree to the same with an amendment, as follows:

Delete the matter proposed by said amendment , and on page 91, line 17, of the House engrossed bill, H.R. 4426, in lieu of "This Act", insert: *Titles I through V* , and on page 91, after line 19, insert the following:

TITLE VI—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RELIEF FOR JORDAN

(a) AUTHORITY TO REDUCE DEBT.—(1) AUTHORITY.—For fiscal year 1994 and thereafter, the President is authorized to reduce or cancel amounts owed to the United States or any agency of the United States by the Hashemite Kingdom of Jordan as a result of loans originally made or credits originally extended by the United States or any agency of the United States before January 1, 1994.

(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—The authority of this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, as amended, section 321 of the International Development and Food Assistance Act of 1975, or similar provisions of law. In addition, a reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(b) APPROPRIATIONS.—(1) APPROPRIATIONS.—For the cost of modifying direct loans, as defined in section 502 of the Congressional Budget Act of 1974, for Jordan, in accordance with the authority contained in this section, $99,000,000 is appropriated, to remain available until September 30, 1994.

(2) FISCAL YEAR 1994.—For fiscal year 1994—

(A) funds appropriated under this section may be used only for the cost of modifying direct loans entered into under programs administered by the Agency for International Development; and

(B) such funds may be used to reduce or cancel not to exceed $220,000,000 of the amounts owed pursuant to such loans.

AGENCY FOR INTERNATIONAL DEVELOPMENT

International Disaster Assistance

For an additional amount of "International Disaster Assistance", $20,000,000, to remain available until expended, for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended: Provided, That funds appropriated under this heading may be made available notwithstanding section 10 of Public Law 91–672: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF STATE

United States Emergency Refugee and Migration Assistance Fund

For an additional amount for "United States Emergency Refugee and Migration Assistance Fund", $30,000,000: Provided, That such funds may be made available to respond to the current Rwandan refugee crisis if the President determines that it is in the national interest to do so: Provided further, That the entire amount is designated by Congress as an emergency requirement to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This title may be cited as the "Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994".

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same with an amendment, as follows:

In lieu or the title proposed by the Senate, insert:

"An Act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes."

And the Senate agree to the same.

DAVID R. OBEY,
SIDNEY R. YATES,
CHARLES WILSON,
JOHN W. OLVER,
NANCY PELOSI,
ESTEBAN TORRES,
NITA M. LOWEY,
JOSE E. SERRANO,
MARTIN O. SABO,
BOB LIVINGSTON,
JOHN PORTER,
JIM LIGHTFOOT
(except for Jordan debt forgiveness),
SONNY CALLAHAN
(except for Jordan debt forgiveness),
JOSEPH M. MCDADE,
Managers on the Part of the House.
PATRICK J. LEAHY,
DANIEL K. INOUYE,
DENNIS DECONCINI,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
DIANNE FEINSTEIN,
ROBERT C. BYRD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4426) making appropriations for Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1995, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 1: Inserts Senate language conditioning obligation of funds to purchase paid-in capital stock of the World Bank upon certification from Secretary of the Treasury that the Bank has not approved any loans to Iran since October 1, 1994.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 2: Appropriates $90,000,000 for the Global Environment Facility (GEF) of the World Bank instead of $88,800,000 as proposed by the House and $98,800,000 as proposed by the Senate.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Amendment No. 3: Appropriates $1,235,000,000 for the International Development Association as proposed by the House instead of $1,207,750,000 as proposed by the Senate.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 4: Deletes House language requiring that a portion of the funding for the Inter-American Development Bank and its Fund for Special Operations be provided subject to the regular notification procedures of the Committees on Appropriations.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

Amendment No. 5: Deletes House language requiring that a portion of the funding for the African Development Fund be provided subject to the regular notification procedures of the Committees on Appropriations.

The conferees are concerned about substantial management problems reported at the African Development Bank. Because of continuing negotiations aimed both at resolving many of these problems and at reaching agreement on replenishment levels, and because of the forceful pro-reform negotiating position of the Department of the Treasury, the conferees have deleted the proposed notification requirement. The conferees agree that if a rigorous reform agenda is not adopted at the Bank, funding alternatives for encouraging long term development in sub-Saharan Africa should be considered.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 6: Inserts Senate language limiting the purchase of stock in the European Bank for Reconstruction and Development during fiscal year 1995 to not more than $7,002,000. The House had proposed to limit the stock purchase to 600 shares.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

Amendment No. 7: Appropriates $25,000,000 for the Enhanced Structural Adjustment Facility (ESAF) of the International Monetary Fund as proposed by the Senate. The House proposed no funding for the ESAF.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Amendment No. 8: Appropriates $374,000,000 for International Organizations and Programs, instead of $366,000,000 as proposed by the House and $382,000,000 as proposed by the Senate.

WORLD FOOD PROGRAM

The conferees urge AID to provide $3,000,000 for the World Food Program in fiscal year 1995. This is the same amount as was provided in fiscal year 1994. The conferees recognize that the World Food Program plays an essential role in providing food and other aid to the neediest people in the world. The World Food Program faces unprecedented demands for food aid and emergency humanitarian assistance in conflict zones, particularly in the former Yugoslavia and sub-Saharan Africa.

Amendment No. 9: Limits the funds available to the United Nations Population Fund (UNFPA) to not more than $50,000,000, instead of $40,000,000 as proposed by the House and $60,000,000 as proposed by the Senate.

Amendment No. 10: Deletes House language allowing UNFPA to receive up to an additional $20,000,000 if it decided not to initiate a new program in China after its current program ends in 1995.

The conferees recommend up to $50,000,000 for a United States contribution to the United Nations Population Fund (UNFPA). This amount is $10,000,000 below the President's request, and reflects the conferees' concerns about persistent reports of coercive abortion and involuntary sterilization in China. The conferees note the UNFPA neither condones nor supports coercive practices, nor does it fund abortion. However, UNFPA plans to spend approximately $7,000,000 to support voluntary family planning programs in China, and the reduction in the United States contribution is intended to ensure that United States taxpayers are not in any way subsidizing China's program.

The conferees urge the Administration to strongly encourage UNFPA to withdraw from China.

TITLE III—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

Amendment No. 11: Appropriates $853,000,000 for the Development Assistance Fund instead of $811,000,000 as proposed by the House and $882,000,000 as proposed by the Senate.

The conferees agree that the increased funding for the Development Assistance Fund has been made available to assure that there is sufficient funding available for high priority programs addressed by the House and the Senate.

AIDS PROGRAM IN THAILAND

The conferees believe that the increased problem of HIV/AIDS in Thailand will require a strong commitment from the United States. The conferees expect the Agency for International Development to provide an HIV/AIDS prevention and control program in Thailand through its regional office.

AQUACULTURE

In previous years, the conferees have been critical of the Agency for International Development's efforts to reduce or eliminate aquaculture and fisheries activities from its foreign assistance program. Last year, the Congress received a report describing the decline in AID's investment in aquaculture and fisheries. The need for an expanded and creative effort to support aquaculture and fisheries development has become acute. The conferees are aware of a concept paper describing the need for, and impacts of, a comprehensive global Aquaculture Development Initiative. The conferees urge AID to give serious consideration to the implementation of this concept paper and to report to the Appropriations Committees on its plans for aquaculture and fisheries development no later than February 15, 1995.

CHILDREN IN THE PHILIPPINES

The conferees urge AID to provide $2,000,000 to expand and improve humanitarian relief activities in the Philippines providing for disadvantaged children parented by United States military and related personnel.

Thousands of children parented by United States military and related personnel were left behind after the withdrawal of forces from the Philippines in 1992. Ostracized by the community in the Philippines, the Amerasian children face a dismal future.

Currently religious groups and international organizations are working to provide for the needs of Amerasian children in the Philippines. Because of increasing demands for food and medicine, the needs of the children have far outrun the existing capabilities of these providers. Cases of dysentery and malnutrition are increasing and many children run the risk of being lured into prostitution and drug rings.

The conferees believe this urgent situation in the Philippines requires international assistance in which goal-specific funds are provided to a broad-based coalition of on-site international, government, religious, and private humanitarian groups.

The conferees encourage AID to develop a comprehensive plan to provide for the children and report back to the Committees on Appropriations on the prospects of developing a broad-based coalition in the Philippines to implement goal-specific support services and to provide direct funding to this coalition with the consent of official providers in the region.

COLLABORATIVE RESEARCH SUPPORT PROGRAMS

The conferees urge that best efforts be made to fund each of the Collaborative Research Support Programs at the level provided in fiscal year 1993, including restoration of funding for the small ruminant, soil management and peanut CRSPs.

NATIONAL FISH AND WILDLIFE FOUNDATION

The conferees urge that $750,000 in fiscal year 1995 funds be provided for the National Fish and Wildlife Foundation's neotropical migratory bird conservation initiative. This program is essential to the protection of bird species whose habitat is severely threatened in Central America and the Caribbean. The conferees urge AID to continue to work closely with other Federal agencies and parties to the interagency memorandum of understanding to approve projects funded by this initiative.

TRANSITION TO DEMOCRACY PROGRAMS

Independent trade unions have played an important role in the advocacy of democracy and economic reform worldwide. As fledgling democracies in Africa, Asia, Latin America, Eastern Europe and the former Soviet Union continue to emerge and develop, the conferees believe that independent trade unions can help ease the transition to democracy. The conferees urge that AID continue to support the involvement of United States labor unions in the establishment of free trade unions in countries in transition to democracy and to a free market economy.

VITAMIN C

The conferees believe that more accurate information is needed regarding the fortification of food that is shipped overseas through the Public Law 480 Food for Peace Program. The conferees therefore request the Administrator of the Agency for International Development to report to the Committees on Appropriations by February 15, 1995 with an estimate of the cost of fortifying grains shipped under the Public Law 480 program to 100 mg per 100 gram ration and an assessment of whether or not the fortification of grain is stable through the shipping process.

WOMEN IN DEVELOPMENT

The conferees urge that the Office of Women in Development at AID be funded at $13,000,000, which should include $2,000,000 from funds appropriated for Eastern Europe and the NIS. The conferees further recommend that the past practice of setting aside a portion of the WID Office appropriation for matching funds be discontinued. The conferees are concerned that the AID WID Office has remained without a director for over a year and a half; that programs in the NIS and Eastern Europe have given little consideration to women who suffer disproportionately as these nations make the transition to a market economy; and that the GAO recently determined that despite 20 years of congressional mandates to better integrate women into the development process, AID and the State Department have not made significant progress in this regard.

Amendment No. 12: Inserts language indicating that the Agency for International Development should provide not less than: $280,000,000 for child survival activities, $135,000,000 for basic education programs and $25,000,000 for micronutrient programs. The Senate had earmarked not less than: $285,000,000 for child survival, $135,000,000 for basic education programs and $25,000,000 for micronutrient programs. The House had recommended in report language that not less than: $275,000,000 be provided for child survival, $135,000,000 for basic education and $25,000,000 for micronutrient programs.

CHILD SURVIVAL, BASIC EDUCATION AND MICRONUTRIENT PROGRAMS

The conferees stress their support for the Agency for International Development taking the necessary steps to assure that child survival programs, basic education and micronutrient programs are funded at the levels recommended.

Amendment No. 13: Deletes an earmark proposed by the Senate which would have provided $600,000 to support parliamentary training and democracy programs in China on a competitive selection basis.

Amendment No. 14: Deletes language proposed by the Senate earmarking $1,000,000 for displaced Burmese.

DISPLACED BURMESE

The conferees agree that an earmark for the displaced Burmese program, which includes cross border activities, is unnecessary due to assurances from the Agency for International Development that it plans to implement the $1,000,000 fiscal year 1993 program to assist displaced Burmese and to augment those funds with fiscal year 1995 funds. The conferees also agree that this program has been unnecessarily delayed and they fully expect AID to fulfill its pledge to continue funding this important humanitarian program for displaced Burmese, both in Thailand and across the Burma-Thailand border.

Amendment No. 15: Deletes Senate language earmarking not less than $600,000 to support parliamentary training and democracy programs in China on a grant basis to the International Republican Institute and the National Democratic Institute.

Amendment No. 16: Deletes language proposed by the Senate earmarking $15,100,000 for the Central American and East Central European Scholarship Program.

COOPERATIVE ASSOCIATION OF STATES FOR SCHOLARSHIPS AND THE EAST CENTRAL EUROPEAN SCHOLARSHIP PROGRAM

The conferees agree that the Agency for International Development should make every effort to fund the Cooperative Association of States for Scholarships and the East Central European Scholarship Program as proposed by the Senate. While the conferees have not recommended legislative earmarking of these programs, the conferees note that language supporting full funding of these programs is contained in both House and Senate reports accompanying this legislation.

The conferees further note that both the House and Senate reports for the current fiscal year appropriations act likewise support such funding, but the Agency for International Development chose nonetheless to reduce support for the CASS program. Inasmuch as increased funding above the total requested for Development Assistance is provided in fiscal year 1995, the conferees expect AID to fully fund this program in fiscal year 1995.

Amendment No. 17: Deletes Senate language prohibiting funds in the bill from being used to support parliamentary training and democracy programs in China.

POPULATION, DEVELOPMENT ASSISTANCE

Amendment No. 18: Inserts language which clarifies that the term "motivate", as it relates to family planning assistance, is not to be construed to prohibit the provision, consistent with local law, of information or counselling about all pregnancy options, including abortion. The conference agreement deletes additional language proposed by the Senate relating to referral.

Amendment No. 19: Inserts language requiring that funding for the Office of Population of the Agency for International Development (or the successor to that office) is required to be at the fiscal year 1994 level unless AID consults with and provides a written justification to the Committees on Appropriations. Any such justification is to be considered in accordance with the regular notification procedures of the Committees on Appropriations. The Senate had earmarked funds for the Office of Population at the level of last year. The House had no similar provision.

DEVELOPMENT FUND FOR AFRICA

Amendment No. 20: Appropriates $802,000,000 for the Development Fund for Africa as proposed by the Senate instead of $790,000,000 as proposed by the House.

The conferees have provided the higher level of funding for the Development Fund in Africa in recognition of the increased needs in sub-Saharan Africa. The increased funding will help address the urgent needs in the Horn of Africa area, and Rwanda, and disaster prevention programs now underway by the Agency for International Development. Assistance to programs in the Horn of Africa now may help prevent disastrous situations related to drought and famine in the future. The conferees support efforts by the Agency for International Development to accelerate its program in the area of disaster prevention activities.

DEBT RESTRUCTURING

Amendment No. 21: Deletes House language on debt reduction programs.

The conferees believe that it is long past the time when agreement should have been reached among Executive agencies, and between Executive agencies and the appropriate Legislative committees concerning how debt reduction actions should be scored and concerning how that scoring relates to the scoring of new credit risk to countries which have benefited from debt reductions.

The conferees first agreed on a debt reduction program for low-income countries in 1989. The conferees are concerned that five years later no agreements have been reached on these issues between the responsible organizations. This continuing failure to resolve these scoring issues makes it difficult to craft, consider, budget, or appropriate for debt policies.

MICROENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

Amendment No. 22: Inserts Senate language which allows guarantees of up to 70 percent of the principal of the loan amount for the microenterprise development guaranty program.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 23: Appropriates $517,500,000 as proposed by the House instead of $517,800,000 as proposed by the Senate.

Amendment No. 24: Inserts language limiting the amount of operating expenses for printing costs under the Agency for International Development to $1,475,000 and prohibiting the printing of any report or study (with certain exceptions) exceeding $25,000 in cost unless approved by the Administrator of AID or the Administrator's designee. The House had included a limitation of $900,000 in printing costs from operating expenses.

AID PRINTING COSTS

The conferees are concerned that both operating and program funds are being used to prepare and print expensive reports and studies that very few people read or use. The priority for the Agency should be to provide assistance to people and not to prepare multicolor documents. Most development issues have been studied to death and it is time to move on to program implementation not program reiteration.

The conferees also reiterate the position of the House that reports and studies prepared for the Committees on Appropriations should be printed or reproduced in the most cost effective method possible. AID should work with the Committees to eliminate reports and studies not specifically called for during action on the fiscal year 1995 bill.

ECONOMIC SUPPORT FUND

Amendment No. 25: Appropriates $2,349,000,000 for the Economic Support Fund instead of $2,339,000,000 as proposed by the House and $2,359,200,000 as proposed by the Senate.

Amendment No. 26: Inserts Senate language earmarking $1,200,000,000 under the Economic Support Fund for Israel and $815,000,000 for Egypt. The conferees also agree to include language requiring early disbursal on a cash grant basis for Israel, and a requirement that $200,000,000 be provided to Egypt as a Commodity Import Program.

Amendment No. 27: Inserts Senate language limiting to $50,000,000 the amount of funds under the Economic Support Fund that may be used to finance tied-aid credits unless the President determines it is in the national interest to exceed that amount. The language also provides that all tied-aid credits must be notified to the Committees on Appropriations and that no development assistance funds may be used for tied-aid credits. The House had no similar provision.

CYPRUS

Amendment No. 28: Inserts Senate language earmarking $15,000,000 for Cyprus to be used only for scholarships, bicommunal projects and measures aimed at reunification.

Amendment No. 29: Deletes Senate language earmarking $7,000,000 for the Middle East Regional Cooperation Program.

MIDDLE EAST REGIONAL COOPERATION PROGRAM

The conferees recommend that $7,000,000 in Economic Support Funds be provided for the Middle East Regional Cooperation Program. This program complements the ongoing Middle East multilateral peace talks on regional issues such as water, the environment, and economic cooperation. The Middle East Regional Cooperation Program continues to demonstrate that peaceful cooperation can yield tangible benefits for all involved.

INTERNATIONAL FUND FOR IRELAND

Amendment No. 30: Appropriations up to $19,600,000 for the International Fund for Ireland, as proposed by the House instead of up to $15,000,000 as proposed by the Senate.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

Amendment No. 31: Appropriates $359,000,000 for assistance to Eastern Europe and the Baltic States as proposed by the Senate instead of $360,000,000 as proposed by the House.

Amendment No. 32: Inserts language permitting funding for "related programs" as proposed by the Senate.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Amendment No. 33: Appropriates $850,000,000 for assistance for the new independent states of the former Soviet Union (NIS) instead of $875,500,000 as proposed by the House and $839,000,000 as proposed by the Senate.

The conferees believe that not less than 50 percent of the funds made available under this heading should be provided to NIS countries other than Russia.

AZERBAIJAN

The conferees are concerned about reports that the Administration recognizes that Section 907 of the FREEDOM Support Act may be viewed or interpreted by some as precluding NGOs from delivering certain humanitarian assistance to refugees, displaced persons and other vulnerable individuals in Azerbaijan. The conferees do not believe that this was the intent of Section 907, and therefore urge the Administration to ensure that NGOs are not precluded from using government facilities and vehicles, or from using or making necessary repairs to government facilities such as health clinics and housing. The conferees also agree that NGOs should be able to use government personnel to distribute commodities, such as doctors giving out medicine to needy civilians, as long as the NGO retains control of the commodities and services.

NUCLEAR SAFETY

The conferees are concerned that the Soviet built nuclear reactors now in operation in the NIS do not meet international safety standards. Among these are the RBMK Graphite Moderated Reactors similar to the reactor which caused the disaster at Chernobyl and western style VVER reactors.

The conferees believe that steps must be taken to improve the safety of these operational reactors if a future accident, with its enormous international consequences, is to be avoided. The conferees recognize the efforts of the International Atomic Energy Agency to review, analyze, and diagnose the problems of the reactors, and note that the root causes of many operational problems are often inadequate training of reactor personnel.

The conferees believe that these problems could be addressed through the procurement of Analytical Engineering Simulators (AES) for use by the nuclear regulatory agencies of the host countries. The AES system is a multi-purpose, multi-user system capable of providing engineering analysis and it simulates normal, abnormal and emergency operations of a nuclear power plant. The conferees urge the Department of State to examine methods through which training can be provided to nuclear reactor operators in the NIS.

EXCHANGE PROGRAMS

The conferees agree that the NIS secondary school exchange program administered by the U.S. Information Agency has been a successful component of our assistance to the NIS. Since January 1993, over 5,500 students have participated in the program, setting a foundation for democracy and free market principles among the future leaders of the NIS.

For the 1995–96 academic year, the conferees believe that this program merits increased funding, including $25,000,000 of the funds appropriated in this bill for exchange programs in the NIS. The conferees believe that USIA should involve up to 8,500 students in the NIS secondary school exchange program in 1995–96. The funds appropriated for this program should be transferred to USIA in a timely, efficient manner.

The conferees urge $5,000,000 for exchanges involving postdoctoral scholars in the social sciences and humanities. Such a program should be administered through USIA's existing Regional Scholars Exchange, which currently offers such opportunities on a competitive basis to qualified non-profit organizations. This program provides an important component to a balanced program of exchanges including various age groups and professional levels.

Amendment No. 34: Deletes Senate language granting authority to transfer NIS assistance funds to the Department of Defense. The House had no similar provision.

Amendment No. 35: Deletes House language requiring an annual report on violations of the territorial integrity of NIS countries.

Amendment No. 36: Deletes both the House language and the Senate language on reprogramming and notification procedures.

The conferees agree that in the case of the NIS, the "regular procedures of the Committees on Appropriations" means that section 515 of this Act will apply to funds appropriated by this Act for the NIS as discussed under Amendment No. 84.

The conferees recognize the importance of contributions by various United States government agencies in the delivery of United States assistance to the NIS. However, the conferees are concerned that the participation of numerous agencies impedes the ability of Congress and the Administration to adequately monitor a significant portion of the NIS program.

The conferees expect that for a transfer or allocation by AID to another agency, where the transfer or allocation constitutes an obligation of funds, AID should be the agency of the United States ultimately responsible for programmatic and financial accountability. In those instances where a transfer or allocation does not constitute an obligation, the ultimate responsibility for programmatic and financial accountability should fall on the agency of the United States receiving and obligating the funds.

In the latter case, the conferees are concerned that the Administration, through the Coordinator's office for NIS programs, has not taken adequate steps to ensure that appropriate accountability standards are being applied. In the case of nonobligating transfers or allocations for funds, the Coordinator's office should ensure that the Inspector General Offices of the receiving agencies are required to audit their agency NIS activities and that they are doing so. The Coordinator's office also should be responsible for ensuring that audit findings are expeditiously acted upon the agency receiving those funds.

Amendment No. 37: Inserts Senate language making NIS funds subject to existing environmental and natural resources legislation.

Amendment No. 38: Changes a subsection designation.

Amendment No. 39: Changes a subsection designation.

Amendment No. 40: Inserts language which states that not less than $15,000,000 should be provided to support NIS family planning programs. The conferees believe that, of the $15,000,000, $6,000,000 should be provided for such programs in Russia, $3,000,000 should be provided for such programs in Ukraine, Moldova, and Belarus, and $6,000,000 should be provided for such programs in the Central Asian Republics (CAR).

NIS FAMILY PLANNING

The rate of unplanned pregnancies in the NIS is disturbingly high. Russian women on average have eight to ten abortions during their reproductive lives. The conferees have been assured that a comprehensive program of family planning services will be put in place during the fiscal year. This new program, modeled after the existing program for the CAR, should provide $15,000,000 for comprehensive services through both public and private sectors.

This program should stress the use of high quality, modern contraceptive methods which lessen the incidence of unplanned pregnancies. The program should include training for health care providers in contraceptive methods, procedures, equipment and services. The program also should include assistance for information, education and communication to make information available to the population, and medical and technical information available to health care providers. Technical assistance should be provided for public health, cost recovery, logistics, marketing and privatization.

Amendment No. 41: Inserts language stating that $150,000,000 should be provided to Ukraine and that $25,000,000 of that amount should be for programs related to land privatization and small and medium-sized businesses and agriculture enterprises.

Amendment No. 42: Inserts language stating that not less than $75,000,000 should be provided to Armenia from all sources.

Amendment No. 43: Inserts language stating that not less than $50,000,000 should be provided to Georgia from all sources.

Amendment No. 44: Inserts language stating that the President should establish a Trans-Caucasus Enterprise Fund.

Amendment No. 45: Inserts language requiring that certain reports include information on NIS program grants and contracts by country, amount, purpose and recipient.

Amendment No. 46: Deletes Senate language concerning the hospital partnership program.

NIS HOSPITAL PARTNERSHIP

The conferees encourage the Administration to build on the record of success established by the hospital partnership program underway in the NIS. Currently, 20 hospital partnerships have been established which work to improve the clinical and managerial aspects of health care in the NIS. Over 1,100 exchanges have taken place since July 1992.

The conferees believe private sector support for programs in the NIS is essential to long term improvements in the delivery of health care. The conferees support this public/private cooperative approach and encourage AID to provide sufficient resources to expand the number of partnerships as well as include medical schools and institutions.

Amendment No. 47: Deletes Senate language concerning a "Tech Corps" for the NIS.

Amendment No. 48: Inserts language providing that not less than $50,000,000 of the NIS funds should be used for public/private matching programs.

Amendment No. 49: Inserts language requiring AID to report to the Committees on Appropriations concerning the feasibility of including individuals and organizations with regional or language expertise in the NIS assistance programs.

Amendment No. 50: Inserts language providing not to exceed $30,000,000 for police training and exchanges, and for investigative and technical assistance activities for Eastern Europe and the Baltic States and for the NIS related to international criminal activities.

NIS PROGRAMS ADDRESSING CRIMINAL ACTIVITIES

The conferees believe that United States government agencies including the FBI, the Justice Department, the Drug Enforcement Administration, the Treasury Department, Customs and other law enforcement agencies and private organizations should be utilized to cooperatively assist the governments of Russia, the other new independent states of the former Soviet Union of East and Central Europe. The conferees believe that such assistance should focus on transnational and international law enforcement affecting the United States. The conferees support such assistance but recognize that its provision may be a sensitive domestic political matter for a variety of reasons in some countries and expect the Administration to consult closely with recipient governments regarding the provision of this assistance.

Amendment No. 51: Deletes language proposed by the Senate earmarking funds for the International Criminal Investigative Training Assistance Program (ICITAP).

Amendment No. 52: Inserts language which states that not less than 50 percent of NIS funds provided in this Act should be for country specific activities within bilateral, regional, or multilateral programs except through the regular notification procedures of the Committees on Appropriations.

PEACE CORPS

Amendment No. 53: Appropriates $219,714,000 as proposed by the House for the Peace Corps instead of $221,745,000 as proposed by the Senate. The conferees expect that the Peace Corps will receive by transfer from funds appropriated for assistance for the NIS the full cost of fiscal year 1995 Peace Corps operations in the NIS.

INTERNATIONAL NARCOTICS CONTROL

Amendment No. 54: Appropriates $105,000,000 for International Narcotics Control instead of $115,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

Amendment No. 55: Inserts language proposed by the Senate permitting the Department of State to receive nonlethal excess property from other Federal agencies for use in counternarcotics activities, subject to the notification procedures of the Committee on Appropriations. The conferees delete additional Senate language to extend for one year certain reporting and certification requirements under sections 489 and 490 of the Foreign Assistance Act of 1961. The conferees understand that these provisions are to be extended under separate authorizing legislation.

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 56: Appropriates $671,000,000 for Migration and Refugee Assistance as proposed by the Senate instead of $670,688,000 as proposed by the House.

REFUGEES IN THAILAND AND LAOS

The conferees recognize that the Government of Thailand has been granting temporary safe haven to refugees from Indochina and Burma and urge that they be permitted to remain until they can return to their homelands voluntarily in conditions of safety and dignity or resettle abroad. In order to facilitate the voluntary return of Hmong and other refugees to their homelands, the Administration should encourage the United Nations High Commissioner for Refugees to increase UNHCR monitoring of returnees by staff fluent in the refugees' languages and to provide varied types of reintegration assistance that would make it possible for returning refugees to become self-sufficient. The Administration also should encourage bilateral and multilateral funding institutions, international organizations like the United Nations Development Program, governmental entities, including the European Union, as well as private voluntary agencies, to ensure that national rehabilitation and economic development programs take into account the particular needs and skills of returning refugees. The Administration also should encourage cooperative efforts with UNHCR to facilitate the social and economic reintegration of returning refugees.

Amendment No. 57: Inserts Senate language earmarking $80,000,000 for Soviet, Eastern European and other refugees resettling in Israel.

REFUGEE RESETTLEMENT ASSISTANCE

Amendment No. 58: Appropriates $6,000,000 for refugee resettlement assistance instead of $12,000,000 as proposed by the House. The Senate had no similar provision.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 59: Inserts Senate language allowing IMET funds to be used to train individuals who are not members of a government.

Amendment No. 60: Inserts language prohibiting Indonesia from receiving IMET training as proposed by the House, and inserts language prohibiting Rwanda from receiving IMET training as proposed by the Senate.

Amendment No. 61: Deletes House language prohibiting the use of funds appropriated by this Act to facilitate the provision of IMET to Indonesia.

Amendment No. 62: Inserts Senate language clarifying that the report on the School of the Americas should address the fiscal year 1995 program.

Amendment No. 63: Inserts language requiring that no IMET or Military-to-Military Contact program funding be made available to Thailand or Algeria except through the regular notification procedures. In addition, the Secretary of State is to submit a report by February 1, 1995 on the Thai military's support for the Khmer Rouge and the Thai government's efforts to impede support for Burmese democracy advocates, exiles and refugees.

MILITARY-TO-MILITARY CONTACT PROGRAM

Amendment No. 64: Inserts the title "Military-to-Military Contact Program" as proposed by the Senate. This has the effect of creating a separate account for this program. The conferees have also listed this program under Amendment No. 83 among the accounts in the bill which are subject to justification and notification procedures. The conferees therefore expect that the committees of jurisdiction will receive a document justifying the fiscal year 1995 program by country prior to any funds being obligated. In addition, the conferees expect that the committees of jurisdiction will be notified of any program changes in accordance with the regular notification procedures.

The conferees are concerned about the lack of coordination in program planning between the Departments of Defense and State for this program. The level of funding of $12,000,000 will allow for the continuation of the current program in Eastern Europe and the Baltic States and the initiation of programs in the area of responsibility of the United States Pacific Command. The conferees expect that the Secretary of Defense in conjunction with the Secretary of State will prepare and submit a report addressing the future of military training of foreign armed forces. This report should address purposes, resources, coordination among programs, and the appropriate roles of the respective Departments in carrying out military training. It should also detail the process by which the Departments of State and Defense intend to coordinate the initial planning for country specific programs. The conferees will consider expanding the authorities for this program beyond these two regions upon the submission of this report.

Amendment No. 65: Inserts language clarifying that the $12,000,000 appropriated may be used only for programs in East European countries and the Baltic States, and the area of responsibility of the United States Pacific Command. The conferees agree to remove the earmarks for the United States Pacific Command and the East European countries and the Baltic States proposed by the Senate.

FOREIGN MILITARY FINANCING PROGRAM

Amendment No. 66: Appropriates $3,151,279,000 for the Foreign Military Financing Program as proposed by the Senate instead of $3,149,279,000 proposed by the House. The conferees expect that the proposed demining program will be fully funded at the request level.

Amendment No. 67: Inserts Senate language earmarking $1,800,000,000 for Israel and $1,300,000,000 for Egypt, providing for early disbursal for Israel, and various provisions related to research and development and procurement as proposed by the Senate. The House had proposed language on grants and early disbursal.

Amendment No. 68: Deletes language proposed by the House. Inserts language proposed by the Senate which stipulates that funds made available under this heading shall be made available for Greece and Turkey only on a loan basis, and in amounts not to exceed the following: $255,150,000 only for Greece, and $364,500,000 only for Turkey. Authority to extend loans to Greece and Turkey is at a 7 to 10 ratio.

Amendment No. 69: Inserts language withholding 10 percent of the principal of direct loans to Turkey and Greece until the submission of reports addressing: in the case of Turkey allegations of abuses committed against civilians by Turkish armed forces and the situation in Cyprus, and in the case of Greece allegations of violations of the United Nations sanctions against Serbia and of the United Nations Charter. A separate notification is to be submitted at least fifteen days prior to the obligation of withheld funds.

Amendment No. 70: Deletes Malawi from those countries prohibited from receiving military assistance as proposed by the Senate.

Amendment No. 71: Inserts House language requiring that none of the funds appropriated under this heading may be made available for Colombia and Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities.

Amendment No. 72: Inserts Senate language providing authority to use Foreign Military Financing for demining purposes notwithstanding any other provision of law, including activities implemented through nongovernmental organizations and international organizations.

Amendment No. 73: Inserts Senate language clarifying that the limitation on administrative expenses applies to fiscal year 1995 as proposed by the Senate.

SPECIAL DEFENSE ACQUISITION FUND

Amendment No. 74: Inserts Senate language making available $140,000,000 in obligation authority originally provided in fiscal year 1993, and making available an additional $20,000,000 in obligation authority to remain available until September 30, 1998. This authority is necessary for the orderly close out of the fund. The authority is not to be used to initiate new procurement.

PEACEKEEPING OPERATIONS

Amendment No. 75: Inserts Senate language adding to the title "(Including Transfer of funds)".

Amendment No. 76: Inserts Senate language allowing the transfer of $850,000 from the Peacekeeping Operations account to the International Military Education and Training account, and specifying that such funds are in addition to amounts that may be transferred between accounts under the authority of any provision of law.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

Amendment No. 77: Appropriates $786,551,000 as proposed by the Senate instead of $792,653,000 as proposed by the House.

Amendment No. 78: Deletes House language limiting Export-Import Bank program to not to exceed $19,000,000,000 in gross obligations.

ADMINISTRATION EXPENSES

Amendment No. 79: Appropriates $45,228,000 for the administrative expenses of the Export-Import Bank as proposed by the Senate instead of $44,500,000 as proposed by the House.

Amendment No. 80: Inserts Senate language extending special compensation authority previously granted to the Export-Import Bank to October 1, 1995 as proposed by the Senate.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Amendment No. 81: Inserts new language which (1) provides $33,944,000 in program funding instead of $23,296,000 as proposed by the House and $34,940,000 as proposed by the Senate, (2) provides that the funds are made available for obligation for fiscal years 1995 and 1996, and (3) creates a new "Noncredit Account" and defines and sets administrative expenses at $24,322,000 as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

Amendment No. 82: Deletes House language in section 507 which had included Vietnam from the list of countries for which direct assistance is prohibited as proposed by the Senate. The conferees also agree to add North Korea to the list of countries prohibited from receiving direct assistance.

NOTIFICATION REQUIREMENTS

Amendment No. 83: Inserts Senate language in Section 515 listing the Military-to-Military Contact Program among the accounts to which the established notification procedures apply. The House had included only a parenthetical reference to the program. The conferees expect to receive justification materials for this program prior to obligation of fiscal year 1995 funds as discussed earlier in this statement.

Amendment No. 84: The conferees agree to delete language proposed by the Senate requiring that the Congressional Presentation Documents for fiscal year 1996 be based on the level of detail provided in fiscal year 1993.

The conferees agree on the following procedures with regard to congressional notifications of economic assistance funds appropriated by this Act. As soon as possible after submission of the report required by section 653(a) of the Foreign Assistance Act, the Administration is to submit to the Committees on Appropriations a listing of projects proposed for funding with funds appropriated by this Act for development assistance under sections 103 through 106, and 496 of the Foreign Assistance Act, and for the Eastern Europe and the Baltic States, New Independent States of the Former Soviet Union, and Economic Support Fund accounts. Each listed project is to include the amount proposed for obligation from 1995 appropriated funds. Development Assistance projects that were not previously justified to the Committees, either by Congressional notification or in the project-by-project addenda to the fiscal year 1995 Congressional Presentation Documents submitted by the Administration, are to be separately designated in the listing. New projects are to include a full project justification. Each project contained in the listing will be considered to have been justified if, during a 15-day waiting period, no objection to it is raised. In general, notifications shall be provided under the following circumstances:

(1) for projects and activities added to or deleted from the project listing;

(2) for projects and activities where the proposed obligation exceeds the amount contained in the listing, except that with regard to development assistance (including the Development Fund for Africa) this applies only to projects where major funding changes (20 percent or more of the proposed fiscal year obligation level) are proposed;

(3) for projects and activities where substantial changes to the purpose of the project are proposed;

(4) for projects and activities whose proposed funding source is an account different from that previously justified; and

(5) for all nonproject assistance activities, including commodity import program assistance.

Until such time as the listing requested in the previous paragraph is submitted, the basis against which notifications for funds appropriated by this Act will be submitted will be the addenda to the Congressional presentation that had previously been submitted to the Committees on Appropriations.

As is the case currently, when it has been specified that funds may be obligated "subject to the regular notification procedures of the Committees on Appropriations", notifications are to be submitted prior to the obligation of funds notwithstanding the procedures contained above.

To assure that Congress receives a fully documented program for review, the conferees agree that the Administration needs to provide more detailed information than was originally provided for fiscal year 1995.

The conferees agree that the annual congressional presentations for programs in sustainable development, the Economic Support Fund, Eastern Europe, and the new independent states of the former Soviet Union should convey as clear an understanding as possible of the programs. The country-by-country narratives should include an explanation of the conditions in each recipient country, including government policies, that influence the ability of the programs to achieve their objectives and of the country to achieve sustainable development.

SPECIAL NOTIFICATION REQUIREMENTS

Amendment No. 85: Inserts Senate language adding the Dominican Republic to the list of countries requiring special notification procedures.

FAMILY PLANNING, CHILD SURVIVAL AND AIDS ACTIVITIES

Amendment No. 86: Inserts language which allows for individuals currently detailed to the Agency for International Development for the purpose of carrying out family planning, child survival, and AIDS activities to remain in their present capacity.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

Amendment No. 87: Deletes House language which had included Vietnam among the list of countries prohibited from receiving indirect assistance as proposed by the Senate.

Amendment No. 88: Inserts Senate language "or the" appropriately array the list of countries.

Amendment No. 89: Deletes House language which had included Laos among the list of those countries prohibited from receiving indirect assistance as proposed by the Senate.

AUTHORIZATION REQUIREMENT

Amendment No. 90: Inserts Senate language waiving section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

Amendment No. 91: Repeals legislation prohibiting assistance to Vietnam, and inserts new language (1) authorizing funding for the Inter-American Development Bank (IDB), the Fund for Special Operations (FSO), the African Development Fund (ADF), and the Enhanced Structural Adjustment

Facility (ESAF) of the International Monetary Fund (IMF), (2) addressing military spending by countries which receive assistance from the International Financial Institutions, (3) encouraging respect for indigenous peoples, (4) encouraging fair labor practices, and (5) encouraging focus on low-income areas of Latin America and the Caribbean.

ENHANCED STRUCTURAL ADJUSTMENT FACILITY

The conferees have provided $25,000,000 for the ESAF in recognition of the Treasury Department's efforts to deal with the problem of IMF secrecy by reforming disclosure policies and practices to make publicly available IMF programs, including:

(1) release of its annual reports on Recent Economic Developments in members countries;

(2) strong encouragement and support for governments receiving assistance under the ESAF to release Policy Framework Papers developed by the IMF in connection with their ESAF program;

(3) permission for any country that wishes to release its annual articles IV consultation report containing the IMF's analysis of its economic policies and performance;

(4) strong encouragement and support for governments to release letters of intent containing the commitments associated with their IMF program; and

(5) release of program documents at the completion of each individual program.

The conferees believe that public availability of the documents described above would lead to greater understanding of a government's economic policies and would facilitate open and informed discussion of crucial issues such as the need to deal with the social costs of adjustment. Such discussion could help to improve the quality of policy design and implementation and help to build a political consensus that would contribute substantially to the success of IMF programs.

The conferees hope that other nations will recognize the substantial benefits of disclosure for the IMF as an institution and for both industrial and developing countries and that they will work with the U.S. government to end IMF secrecy. The conferees encourage the Administration to give such efforts a high priority on the international economic agenda of the United States, including within the framework of the G-7, and to involve appropriate United States government agencies.

In determining when and whether to recommend the remainder of the $100,000,000 requested by the Administration for the ESAF, consideration will be given to the progress made on disclosure of the above information. The conferees are encouraged that in July, 1994, the Executive Board of the IMF adopted a management proposal to release the reports on Recent Economic Developments and to encourage wider circulation of the Policy Framework Papers.

INTER-AMERICAN DEVELOPMENT BANK

The conferees authorized one-half of the amount requested by the Administration, to cover the first three of six planned annual installments for the United States paid-in and callable capital stock.

The conferees note that the Inter-American Development Bank is in the process of instituting reforms with regard to disclosure of information and an independent review panel. The Congress intends to monitor closely the experience with the two reform measures and, if it finds the experience to be satisfactory, expects to authorize the additional three years of the replenishment.

The conferees believe that a policy of broad access to information would encourage participation of interested parties in the IDB's decision-making process in the early stages of the project cycle. The conferees expect that such input would result in improved design, and increased support for, IDB projects. The conferees expect that the IDB will adopt and implement a policy with a strong presumption in favor of disclosure of information.

WORKER RIGHTS

The conferees seek to promote internationally recognized worker rights through the policies and programs of the International Financial Institutions (IFI's). To this end, the Secretary of the Treasury shall instruct the United States executive director of each IFI to use their voice and vote to urge (1) the adoption of policies to encourage borrowing countries to guarantee internationally recognized worker rights and to include the status of such rights as an integral part of policy dialogue with each country, and (2) establishment of procedures to screen programs for negative impact on these rights. An annual report on progress toward achieving these goals and on the extent to which each borrowing country guarantees internationally recognized worker rights is required.

COMPETITIVE INSURANCE

Amendment No. 92: Deletes the word "marine" as proposed by the Senate. This will require the Agency for International Development to include a clause requiring that United States companies have a fair opportunity to bid for insurance, when insurance is necessary or appropriate. This requirement continues to apply to marine insurance.

Amendment No. 93: Deletes the word "marine" as proposed by the Senate. The effect of this action is explained under Amendment No. 92.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

Amendment No. 94: Inserts Senate language adding the countries of Serbia and Montenegro into the provision denying assistance to countries that are not in compliance with Untied Nations Security Council sanctions. The conferees intend that this authority apply to countries not in compliance with such sanctions against Iraq, Serbia or Montenegro. Denial of assistance is subject to the various certification requirements of this section.

Amendment No. 95: Inserts Senate language adding Serbia and Montenegro to the existing Presidential authority on import sanctions. Under this authority the President may prohibit, consistent with United Nations sanctions, importation into the United States of any or all products of any foreign country that has not prohibited either the import of products from Iraq, Serbia or Montenegro, or exports to Iraq, Serbia or Montenegro.

Amendment No. 96: Inserts language adding Serbia and Montenegro to the existing Presidential authority on import sanctions. The effect of this action is explained under Amendment No. 95.

Amendment No. 97: Inserts language adding Serbia and Montenegro to the existing Presidential authorities on import sanctions. The effect of this action is explained under Amendment No. 95.

POW/MIA MILITARY DRAWDOWNS

Amendment No. 98: Inserts Senate language adding Vietnam to those countries eligible for certain assistance, as the President determines necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians who remain unaccounted for from the Vietnam War.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

Amendment No. 99: Inserts Senate language requiring notification to the Committees on Appropriations on the use of the military drawdown authority for Bosnia-Hercegovina.

Amendment No. 100: Inserts Senate language adding defense services to drawdown authority for Bosnia-Hercegovina.

Amendment No. 101: Deletes House language on the drawdown of United States government commodities and services for the United Nations War Crimes Tribunal as proposed by the Senate. This authority is addressed under Amendment No. 133.

SPECIAL AUTHORITIES

Amendment No. 102: Inserts the words "country or" in the description of entities cooperating with the Khmer Rouge. This requires the President to terminate assistance to any country or organization that he determines is cooperating, tactically or strategically, with the Khmer rouge in their military operations.

Amendment No. 103: Inserts Senate language adding the purpose of supporting biodiversity conservation activities to those activities that may be carried out notwithstanding any other provision of law.

ANTI-NARCOTICS ACTIVITIES

Amendment No. 104: Inserts Senate language allowing for the continuation of the police training program in Panama.

Amendment No. 105: Inserts Senate language changing a subsection designation.

Amendment No. 106: Inserts Senate language changing a subsection designation.

Amendment No. 107: Inserts Senate language changing a subsection designation.

EXCESS DEFENSE ARTICLES

Amendment No. 108: Inserts Senate language changing a subsection designation.

Amendment No. 109: Inserts language allowing for the transfer of nonlethal defense articles under section 518, concerning biodiversity of the Foreign Assistance Act of 1961 notwithstanding any other provision of law, and makes Jordan eligible under the authorities of section 516, concerning excess defense articles of the Foreign Assistance Act of 1961 in fiscal year 1995 subject to section 538 of this Act.

The expanded authorities under section 518 are intended mainly to facilitate the use of simplified procedures for making such transfers to non-military recipients. The conferees still expect, however, that the United States government will secure such end-use, retransfer and other assurances from private or civilian sector recipients (as well as military establishments) as are appropriate for use of such equipment for the biodiversity purposes described in section 518 of the Act.

With respect to Jordan, the conferees expect that the authority granted by this section will be used only for transfer of small arms and ammunition until such time as Jordan and Israel conclude a peace agreement. Thereafter, the conferees will consider notifications with respect to other items. The notification procedures applicable to excess defense articles apply to all items. The conferees agree to provide this authority subject to the provisions of section 538 of this Act regarding Iraq sanctions. Jordan may receive excess defense articles subject to the provisions of that section.

LIMITATIONS ON ASSISTANCE FOR NICARAGUA

Amendment No. 110: Deletes Senate language adding additional conditions to the determinations on assistance to Nicaragua. The Department of State is to submit a report on the results of the investigation conducted relating to issues raised by the discovery after the May 23, 1993 explosion in Managua, of weapons caches, false passports, identity papers and other documents suggesting the existence of a terrorist kidnapping ring. The conferees expect the report to address the results of the investigation by the relevant law enforcement agencies, the extent of United States' and other countries' participation in the investigation, and the status of prosecutions and convictions resulting from the investigation.

Amendment No. 111: Inserts section number proposed by the House.

Amendment No. 112: Inserts Senate language clarifying the date of the Managua explosion to be May 23, 1993.

Amendment No. 113: Inserts section number proposed by the House.

Amendment No. 114: Inserts section number proposed by the House.

Amendment No. 115: Inserts section number proposed by the House.

Amendment No. 116: Inserts section number proposed by the House.

Amendment No. 117: Inserts section number proposed by the House.

SPECIAL DEBT RELIEF FOR THE POOREST

Amendment No. 118: Inserts language authorizing the President to reduce debt for the poorest countries of the world under certain conditions. The conferees agree to deny this authority to any country whose assistance has been cut off due to section 527 of the Foreign Relations Authorization Act for fiscal years 1994 and 1995.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

Amendment No. 119: Deletes the Presidential national interest waiver as proposed by the Senate. Nothing in this amendment prevents the President from waiving any section of this Act under section 614 of the Foreign Assistance Act of 1961, if he deems it to be in the national security interest of the United States to do so.

FACILITATE PEACE IN MIDDLE EAST

Amendment No. 120: Inserts Senate language amending section 583(b)(5) of the Middle East Peace Facilitation Act by adding an additional condition for Congressional extension of the certification authority contained in that provision.

IMPLEMENTATION OF WAPENHANS REPORT RECOMMENDATIONS

Amendment No. 121: Inserts language conditioning the payment of funds to the World Bank on progress in implementing the recommendations of the Wapenhans Report. The conferees agree to require that 50 percent of the funds for the contribution's to the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation shall be withheld until April 1, 1995, and will be available after that date based on the Secretary of the Treasury's certification on meeting the recommendations specified in the Wapenhans Report.

RESTRICTIONS ON ASSISTANCE TO RUSSIA

Amendment No. 122: Deletes "it has been made known to the President" as proposed by the Senate. Section 568 is eliminated by Amendment No. 161. The issue of Russian troop withdrawal from the Baltic States is addressed under Amendment No. 161.

Amendment No. 123: Inserts Senate language expanding the exemptions of this section to Lithuania, or countries other than Russia. Section 568 is eliminated by Amendment No. 161. The issue of Russian troop withdrawal from the Baltic States is addressed under Amendment No. 161.

ADDITIONAL LIMITATION ON FUNDS TO ENSURE IMPLEMENTATION OF WAPENHANS REPORT RECOMMENDATIONS

Amendment No. 124: Deletes House language on Wapenhans Report as proposed by the Senate.

MILITARY EXPENDITURES BY RECIPIENTS OF MULTILATERAL ASSISTANCE

Amendment No. 125: Deletes Senate language on military expenditures by recipients of multilateral assistance.

PURCHASE OF AMERICAN-MADE PRODUCTS

Amendment No. 126: Inserts Senate language clarifying the method of notice provided to companies on contract opportunities. The conferees agree that notice is to be provided consistent with section 570(a) of this Act and section 604(a) of the Foreign Assistance Act of 1961. The conferees agree that to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

WEST BANK AND GAZA ECONOMIC DEVELOPMENT FUND

Amendment No. 127: Inserts Senate language specifying that not less than $20,000,000 should be available to support small and medium-sized enterprises in the West Bank and Gaza. Authority is provided to use these funds for the subsidy costs of direct loans and loan guarantees. Use of funds for these purposes are subject to the regular notification procedures of the Committees on Appropriations.

AGRICULTURAL AID TO THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Amendment No. 128: Inserts Senate language specifying that up to $50,000,000 should be made available for the provision of United States agricultural commodities to address the food and nutritional needs of the people of the NIS.

EXPORT FINANCING AUTHORITIES

Amendment No. 129: Inserts language allowing for transfers among accounts in title IV of this Act in both fiscal year 1994 and 1995. In fiscal year 1995 not to exceed 5 percent of any appropriation may be transferred among the accounts subject to the regular notification procedures of the Committees on Appropriations. In fiscal year 1994, $12,000,000 is transferred from the Export-Import Bank to OPIC, and $1,000,000 is transferred from the Export-Import Bank to the Trade and Development Agency.

INCAE

Amendment No. 130: Inserts Senate language allowing for the shifting and repayment of certain debt owed by the Central American Institute of Business Administration (INCAE).

MONGOLIA

Amendment No. 131: Inserts Senate language which drops Mongolia from the list of countries in section 620(f) of the Foreign Assistance Act of 1961.

REPORT ON COMPLIANCE WITH COMMITMENTS

Amendment No. 132: Inserts Senate language which amends the PLO Commitments Compliance Act of 1989 by adding a new condition for compliance regarding measures taken by the PLO to prevent acts of terrorism, crime, and hostilities, and to legally punish offenders, as called for in the Gaza-Jericho agreement of May 4, 1994.

WAR CRIMES TRIBUNAL

Amendment No. 133: Inserts Senate language providing authority to draw down $25,000,000 in United States government commodities and services for the United Nations War Crimes Tribunal established with regard to the former Yugoslavia or such other tribunals or commissions as the UN Security Council may establish to deal with such violations.

The conferees have expanded the War Crimes Tribunal authority to allow drawdowns during any fiscal year for United States commodities and services. This authority may be used not only for the United Nations War Crimes Tribunal for the former Yugoslavia, but also for such other tribunals or commissions as the United Nations Security Council may establish to deal with other instances of genocide or other violations of international law (such as Rwanda). It is the intent of the conferees that this authority can be used in any fiscal year to provide up to $25,000,000 of commodities and services without regard to certain other existing limitations on similar authorities. It is also the intent of the conferees that a substantial portion of these funds be used for training and other assistance for prosecutors. The expanded authority may be used from the day of enactment of this Act.

DONATION OF SURPLUS AGRICULTURAL COMMODITIES TO POLAND

Amendment No. 134: Inserts language amending current law regarding the donation of surplus commodities to Poland. The conferees agree to extend these authorities through 1999. The use of this authority is subject to other emergency humanitarian needs worldwide and commodity prices in Poland.

BUY AMERICA

Amendment No. 135: Deletes language proposed by the Senate on the opportunities for United States manufacturers to meet United Nations acquisition needs. The conferees expect that United States manufacturers and suppliers will be given opportunities to provide equipment, services, and material for United Nations peacekeeping activities and other United Nations acquisition needs equal to those given to foreign manufacturers and suppliers.

TELECOMMUNICATIONS PROCUREMENT

Amendment No. 136: Deletes Senate language concerning telecommunications procurement. The conferees strongly believe that the Agency for International Development and other agencies as appropriate should take appropriate steps to ensure that United States firms are not disadvantaged in procurement opportunities related to promoting development through telecommunications enhancement. The use of a reciprocal standard should be applied to high technology firms primarily owned by nationals of countries which deny procurement opportunities to United States firms. The conferees oppose the eligibility of such foreign firms for United States financed procurement, if the government of that country restricts American manufacturers of the same high technology products from eligibility for government procurement of government financed programs.

COUNTRY DEVELOPMENT POLICIES REPORT

Amendment No. 137: Deletes Senate language on reporting on country development policies. This issue is addressed under Amendment No. 84.

NONLETHAL EXCESS DEFENSE ARTICLES

Amendment No. 138: Inserts Senate language on transportation costs of nonlethal excess defense articles to Albania. The conferees note that this authority is granted for one year only. The provision is amended to include a new section number 579.

LANDMINES

Amendment No. 139: Inserts Senate language permitting landmine clearing equipment to be made available to countries on a grant basis. The provision is amended to include a new section number 580.

PROHIBITION ON PAYMENT OF CERTAIN EXPENSES

Amendment No. 140: Inserts Senate language restricting the use of International Military Education and Training funds for certain expenses. The provision has been amended to include a new section number 581.

BURMA

Amendment No. 141: Deletes Senate findings on Burma.

EMERGENCY PROJECTS IN BOSNIA AND HERCEGOVINA

Amendment No. 142: Inserts language providing that not less than $10,000,000 should be available only for emergency winterization and rehabilitation projects and for the reestablishment of essential services in Bosnia and Hercegovina. The provision also has been amended to include a new section number 582.

HUMANITARIAN ASSISTANCE FOR BOSNIA AND HERCEGOVINA

Amendment No. 143: Inserts language providing that not less than $5,000,000 should be available only for medical equipment and supplies and medicine to Bosnia and Hercegovina, and for the repair and reconstruction of hospitals, clinics, and medical facilities. The provision also has been amended to include a new section number 583.

POVERTY REDUCTION EMPHASIS FOR DEVELOPMENT ASSISTANCE

Amendment No. 144: Deletes Senate language on poverty reduction. The conferees recommend that a significant portion of Development Assistance funds be used to finance programs, projects, and activities that directly improve the lives of the poor, with an emphasis on individuals living in absolute poverty. The conferees further urge the Administrator of the Agency for International Development to increase the direct involvement of the poor in project design, implementation and evaluation, and to develop indicators and criteria for monitoring and evaluating progress toward poverty reduction.

PAYMENTS IN KIND AS VOLUNTARY CONTRIBUTIONS TO UNITED NATIONS PEACEKEEPING ACTIVITIES

Amendment No. 145: Deletes Senate language on payments in kind for UN peacekeeping activities. The conferees believe that the United States should be able to contribute to UN Peacekeeping activities in the form of excess defense articles and goods and services.

POLICY REGARDING HUMANITARIAN AID TO HAITI

Amendment No. 146: Deletes Senate language on humanitarian aid to Haiti. The conferees urge the Secretary of State, the Secretary of the Treasury, and the Administrator of the Agency for International Development to expedite approval of valid applications for emergency medical evacuation flights out of Haiti, and for humanitarian aid flights to Haiti, where such aid consists of food, medicine or medical supplies, or spare parts or equipment for the transportation or distribution of humanitarian aid by nongovernmental or private voluntary organizations.

LOANS TO NATIONS THAT ENFORCE THE ARAB BOYCOTT OF ISRAEL

Amendment No. 147: Deletes Senate language on loans to nations that enforce the Arab boycott of Israel. The conferees object strongly to the Arab boycott of Israel.

CAMBODIA

Amendment No. 148: Deletes Senate findings on Cambodia.

INDONESIA

Amendment No. 149: Inserts language stating that the United States shall refrain from selling or licensing for export to Indonesia defense articles such as small or light arms and crowd control items until the Secretary of State determines and reports to the Committees on Appropriations that significant progress has been made on human rights in East Timor and elsewhere in Indonesia. The provision also has been amended to insert a new section number.

UNITED STATES PANEL OF THE JOINT COMMITTEE ON UNITED STATES-JAPAN CULTURAL AND EDUCATIONAL COOPERATION

Amendment No. 150: Deletes language proposed by the Senate amending the United States-Japan Friendship Act.

GERMANY

Amendment No. 151: Deletes language proposed by the Senate concerning German and Japanese membership in the United Nations Security Council.

POLICY REGARDING GERMAN PARTICIPATION IN INTERNATIONAL PEACEKEEPING OPERATIONS

Amendment No. 152: Deletes language proposed by the Senate regarding German participation in International Peacekeeping operations.

UNITED NATIONS OFFICE OF INSPECTOR GENERAL

Amendment No. 153: Deletes language proposed by the Senate reaffirming that certain legislation concerning the creation of an independent office of Inspector General remains in effect.

REGARDING THE EXTRADITION TO THE UNITED STATES OF MOHAMMAD ISMAIL ABEQUA

Amendment No. 154: Deletes language proposed by the Senate concerning the extradition of Mohammad Ismail Abequa.

The conferees are concerned that Mohammad Ismail Abequa fled to Amman, Jordan with United States citizens Sami and Lisa Abequa. Mr. Abequa, who is in custody in Jordan, has confessed to the brutal murder of the Abequa children's mother, Nihal Abequa. The aunt of the children, Nesime Dokur, and their maternal grandmother, Meryem Gussal, have been designated by the Superior Court of New Jersey as the legal guardians of the children. The conferees are concerned about the safety and well-being of the children, who are 3 and 6 years old, and believe they should be returned to the United States without delay.

The conferees commend President Clinton, Secretary of State Christopher, and Attorney General Reno for raising this case directly with King Hussein and urging him to return the children to the United States without delay. The conferees note that members of the New Jersey Congressional delegation have met with King Hussein and directly urged him to return the children to their grandmother and aunt in New Jersey. The conferees understand that King Hussein has indicated that he is interested in expeditiously resolving this matter and that he believes the children will be returned to America soon. The conferees appreciate the cooperation of the King and expect the children to be returned to America without delay.

The conferees also urge the Government of Jordan to extradite Mohammad Ismail Abequa to the United States for prosecution.

SUPPORT FOR HUMAN RIGHTS AND OTHER NONGOVERNMENTAL ORGANIZATIONS IN INDONESIA

Amendment No. 155: Deletes language earmarking funds for organizations in Indonesia.

The conferees recommend that not less than $250,000 be provided to nongovernmental human rights organizations in Indonesia, and further recommend that not less than $250,000 be provided to nongovernmental environmental organizations to assess or otherwise address acute environmental problems, particularly those affecting indigenous peoples, in Indonesia.

NORTH ATLANTIC COUNCIL

Amendment No. 156: Deletes Sense of the Senate language concerning the North Atlantic Council.

DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, NUCLEAR WEAPONS

Amendment No. 157: Deletes language proposed by the Senate placing restrictions on assistance to North Korea. The conferees agree instead to include, under Amendment No. 109, North Korea on the list of countries prohibited from receiving bilateral assistance.

The conferees note that North Korea is already on the list of countries prohibited from receiving indirect United States assistance.

INTERNATIONAL MONETARY FUND AND WORLD BANK SALARIES AND BENEFITS

Amendment No. 158: Inserts language which requires a General Accounting Office report on International Monetary Fund and World Bank salaries and benefits.

PRISONER TRANSFERS

Amendment No. 159: Deletes language proposed by the Senate withholding between 1 and 10 percent of bilateral assistance to countries that have not entered into prisoner transfer agreements.

The conferees are concerned about the costs associated with incarcerating undocumented persons convicted of crimes. The conferees urge the President to submit a report to the Committees on Appropriations by February 15, 1995, identifying: (1) the number of prisoners serving time in United States prisons from the 10 countries with the largest number of prisoners in the U.S.; (2) the problems that exist with the current prisoner transfer treaties; and (3) the annual cost of incarcerating undocumented persons convicted of crimes in the United States.

HAITI

Amendment No. 160: Deletes Sense of the Senate language related to policy toward Haiti.

BALTIC TROOP WITHDRAWAL

Amendment No. 161: Inserts language which prohibits funds made available by this Act for Russia, other than humanitarian assistance funds, from being obligated or expended unless the President has certified to the Congress not more than six months in advance of the obligation or expenditure of the funds that Russia' Latvia and Estonia have established a timetable for the withdrawal of Russian and Commonwealth of Independent States troops, and that all parties are complying with such timetable. The language also includes a Presidential national security waiver and eliminates Section 568 of this Act addressing the same subject.

ADDITIONAL COUNTRIES ELIGIBLE FOR PARTICIPATION IN ALLIED DEFENSE COOPERATION

Amendment No. 162: Deletes Senate language making Poland, Hungary and the Czech Republic eligible for certain assistance provided to NATO members. The conferees note that the NATO Participation Act of 1994, as proposed by the Senate, is designed to send a clear, unambiguous signal to the nations of Central and Eastern Europe that are making swift progress to establish democratic institutions, like Poland, Hungary and the Czech Republic, that their security and stability is of great importance to the United States. These nations are working to expand their security relationship with NATO. These actions contribute significantly to the peace and stability of the region. The conferees urge the Administration to submit legislation' consistent with the security interests of the United States' at the earliest opportunity to extend the benefits of close cooperation with NATO to Poland, Hungary and the Czech Republic. These benefits should include:

Transfers of excess defense articles;

Eligibility for leases and loans of major defense equipment and other defense articles;

Loan materials, supplies and equipment for research and development;

Cooperative military airlift agreements;

Procurement of communications support and related supplies and services; and

Inclusion in all activities relating to increased standardization of NATO forces.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

Amendment No. 163: Inserts language restricting funds for office space in Jerusalem related to doing business with the Palestinian Authority, and policy direction concerning the conduct of official business with the Palestinian Authority in locations other than Jerusalem.

INTERNATIONAL TERRORISM

Amendment No. 164: Deletes Sense of Senate language concerning providing information and cooperating with victims of international terrorism. The conferees agree that the United States should make every effort feasible to assist victims of international terrorism.

REPORT ON BIOLOGICAL AND CHEMICAL WEAPONS

Amendment No. 165: Inserts language requiring the President to report by January 30, 1995 on whether or not Russia has demonstrated a commitment to comply with various chemical and biological weapons agreements.

The conferees expect the report to include both traditional and binary chemical weapons.

FISCAL YEAR 1994 SUPPLEMENTAL

Amendment No. 166: Inserts language providing for debt forgiveness for Jordan, and emergency refugee and disaster assistance funds for Rwanda. The amendment also deletes language proposed by the Senate concerning the certification of funds for Colombia.

The world witnessed a momentous event in the search for a just and lasting peace in the Middle East when King Hussein of Jordan and Prime Minister Rabin of Israel met in Washington during the week of July 25th. The major progress made in the Middle East peace process during the past year has been greatly enhanced by the accord that was signed in Washington on July 25, 1994. In order to help ensure that this progress continues, and to encourage further significant steps in the peace process by Jordan, the conferees have, as proposed by the Administration, included language that provides for the partial reduction of the debt owed by Jordan to the United States.

The conferees agree to authorize the President to forgive debt owed by Jordan to the United States. The conferees agree to include $99,000,000 in subsidy appropriations in fiscal year 1994 to forgive a portion of the debt owed by the Hashemite Kingdom of Jordan for loans entered into under programs administered by the Agency for International Development. The $99,000,000 in subsidy appropriations will permit the forgiveness of up to $220,000,000 in AID debt. The conferees agree to restrict the amount of debt forgiveness in this act to $220,000,000.

Future debt relief for Jordan will be subject to the amounts provided in advance in appropriation acts.

It is the conferees' understanding that formal budget requests will be submitted for future debt relief for Jordan. In order to obtain broad support for additional budget requests for Jordanian debt relief, there will need to be substantial steps in addition to the courageous and laudable step that has just been taken. Of great importance will be progress on reaching a final peace agreement with Israel, an increase in economic trade that would clarify that Jordan is not abiding by an economic embargo of Israel, and compliance with the United Nations embargo of Iraq, so long as it remains in effect. Positive steps on these issues will be important in facilitating favorable consideration.

FISCAL YEAR 1994 EMERGENCY ASSISTANCE FOR RWANDA

In order to help address the emergency situation caused by the tragedy that has taken place in Rwanda the conferees have included a total of $50,000,000 in emergency refugee and disaster assistance. The sudden influx of refugees into Zaire and other locations bordering Rwanda has caused an emergency that requires an immediate response.

The conferees believe that the United States has been a leader in efforts to assist the people of Rwanda in the midst of one of the greatest human tragedies of this decade. The funding provided in this supplemental will be used to enhance emergency assistance the United States has been providing over the last several months, and to encourage European and other countries to increase their levels of assistance to help address the emergency situation.

The entire amount provided has been designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF STATE

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

The amendment provides $30,000,000 under the United States Emergency Refugee and Migration Assistance Fund to supplement other refugee assistance for Rwanda. The UNHCR estimates that more than 2 million of the 6 million people of Rwanda are either refugees or displaced. The additional fiscal year 1994 funding will enable the United States to respond to urgent appeals from the United Nations High Commissioner for Refugees and the International Committee of the Red Cross and will also fund efforts by private voluntary organizations to provide humanitarian assistance in the region.

AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER ASSISTANCE

The conferees agree to provide $20,000,000 for the International Disaster Assistance account administered by the Agency for International Development. This funding will provide humanitarian relief for refugees of hostilities in Rwanda, including medicine and support for medical teams, local food procurement, and assistance to help safely bury refugees who have died of cholera. Assistance will be provided through private voluntary organizations.

TITLE CHANGE

The conferees agree to include the Senate amendment changing the title of the bill to clarify that funds are available for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes, and for a fiscal year 1994 supplemental, and for other purposes.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1995 recommended by the Committee of Conference, with comparisons to the fiscal year 1994 amount, the 1995 budget estimates, and the House and Senate bills for 1995 follow:

New budget (obligational) authority, fiscal year 1994	$14,342,886,866
Budget estimates of new (obligational) authority, fiscal year 1995	14,024,957,094
House bill, fiscal year 1995	13,615,999,750
Senate bill, fiscal year 1995	13,684,685,750
Conference agreement, fiscal year 1995	13,679,235,750
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1994	−663,651,116
Budget estimates of new (obligational) authority, fiscal year 1995	−345,721,344
House bill, fiscal year 1995	+63,236,000
Senate bill, fiscal year 1995	−5,450,000

DAVID R. OBEY,
SIDNEY R. YATES,
CHARLES WILSON,
JOHN W. OLVER,
NANCY PELOSI,
ESTEBAN TORRES,
NITA M. LOWEY,
JOSÉ E. SERRANO,
MARTIN O. SABO,
BOB LIVINGSTON,
JOHN PORTER,
JIM LIGHTFOOT
(except for Jordan debt forgiveness),
SONNY CALLAHAN
(except for Jordan debt forgiveness),
JOSEPH M. MCDADE,
Managers on the Part of the House.

PATRICK J. LEAHY,
DANIEL K. INOUYE,
DENNIS DECONCINI,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,

Dianne Feinstein,
Robert C. Byrd,
Managers on the Part of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
August 1, 1994.

Hon. Thomas S. Foley,
The Speaker,
U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, July 29, 1994 at 4:05 p.m. and said to contain a message from the President whereby he transmits the final report on the economic emergency declared on September 30, 1990.

With great respect, I am
Sincerely yours,
Donnald K. Anderson,
Clerk, U.S. House of Representatives.

FINAL REPORT TO CONGRESS IN CONNECTION WITH ECONOMIC EMERGENCY DECLARED ON SEPTEMBER 30, 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Congress of the United States:

1. On September 30, 1990, in Executive Order No. 12730, President Bush declared a national emergency under the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701 et seq.) to deal with the threat to the national security and foreign policy of the United States resulting from the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 et seq.), and the system of controls maintained under that Act. In that order, the President continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768 et seq.), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. President Bush issued Executive Order No. 12730 pursuant to the authority vested in him as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act ("NEA") (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. At that time, the President also submitted a report to the Congress pursuant to section 204(b) of the IEEPA (50 U.S.C. 1703(b)). On March 27, 1993, the Export Administration Act was extended through June 30, 1994. Subsequently, on September 30, 1993, I issued Executive Order No. 12867, terminating Executive Order No. 12730.

3. Section 401(c) of the NEA additionally requires the submission of a final report on all expenditures incurred during the period of emergency. This report, covering the period from September 30, 1990, to September 30, 1993, is submitted in compliance with this requirement.

4. The expenses incurred by the Federal Government in the 3-year period from September 30, 1990, to September 30, 1993, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are estimated to have been $117,720,000, most of which represented program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

William J. Clinton.

The White House, *July 29, 1994.*

IF YOU WANT TO PLAY, YOU GOTTA PAY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, for years America has made threats, threats, threats, threats on trade with Japan, illegal trade. Our trade reps have made more threats than the World Wrestling Federation in all of their wrestlers combined. But our Presidents have too.

President Nixon threatened to send over plumbers, President Ford threatened to send over the University of Michigan football team, President Carter threatened to send over some sort of a peanut monster.

President Reagan, he threatened to send over Ollie North. President Bush, he not only threatened, he got so sick of it he threw up over there.

The truth of the matter is these are not threats, ladies and gentlemen. They have amounted to cerebral constipation, and they stink. Japan is still ripping us off big time, and it is time for President Clinton to act.

Now, he said he is sending over a 60-day notice. I think that notice should be delivered by Arnold Schwarzeneggar, not Barney Fife. It is time to tell Japan, ladies and gentlemen, the party is over. If you want to play, you gotta pay. You can't keep ripping off American workers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. Frank of Massachusetts). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today, but not before 5 p.m.

VETERANS' EDUCATION AND TRAINING ACT OF 1994

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4768) to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Education and Training Act of 1994".

SEC. 2. FLIGHT TRAINING.

(a) Active Duty Program.—Section 3034(d) of title 38, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(d)(1)" and inserting in lieu thereof "(d)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(b) Post-Vietnam Era.—Section 3241(b) of such title is amended—

(1) by striking out paragraph (2);

(2) by striking out "(b)(1)" and inserting in lieu thereof "(b)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(c) Reserve Program.—Section 2136(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(c)(1)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

SEC. 3. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) Rehabilitation Resources.—Section 3115 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking "assistance," and inserting in lieu thereof "assistance or any federally recognized Indian tribe,";

(2) in subsection (a)(4), by inserting "any federally recognized Indian tribe," after "contributions,"; and

(3) by adding at the end the following:

"(c) As used in this section, the term 'federally recognized Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) ALLOWANCES.—Section 3108(c)(2) of such title is amended by inserting "or federally recognized Indian tribe" after "local government agency".

(c) TECHNICAL CORRECTION.—(1) Section 404(b) of the Veterans' Benefits Act of 1992 (106 Stat. 4338) is amended by striking out the period at the end thereof and inserting in lieu thereof ", but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.".

(2) The amendment made by paragraph (1) shall take effect as of October 29, 1992.

SEC. 4. ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

(a) IN GENERAL.—Section 3452(c) of title 38, United States Code, is amended by adding at the end the following: "For the period ending on September 30, 1996, such term includes entities that provide training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).".

(b) CLARIFYING AMENDMENT.—Section 3002 of title 38, United States Code, is amended by adding at the end thereof the following:

"(8) The term 'educational institution' has the meaning given such term in section 3452(c) of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 5. EDUCATION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The first sentence of section 3476 of title 38, United States Code, is amended to read as follows: "An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to courses approved on or after the date of the enactment of this Act.

SEC. 6. CORRESPONDENCE COURSES.

(a) APPROVAL OF PROGRAMS OF EDUCATION.—(1) Section 3672 of title 38, United States Code, is amended by adding at the end the following:

"(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an agency recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.".

(2)(A) Section 3675(a)(2)(B) of such title is amended by striking out "A State" and inserting in lieu thereof "Except as provided in section 3672(e), a State".

(B) Section 3680(a) of such title is amended—

(i) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(ii) by striking out paragraph (4).

(C) Section 3686(c) of such title is amended by striking out "(other than one subject to the provisions of section 3676 of this title)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing after 90 days after the date of the enactment of this Act.

SEC. 7. STATE APPROVING AGENCIES.

(a) REIMBURSEMENT.—(1) Section 3674(a)(4) of title 38, United States Code, is amended by striking out "$12,000,000" each place it appears and inserting in lieu thereof "$13,000,000".

(2) The amendment made by subsection (a) shall apply with respect to services provided under such section after September 30, 1994.

(b) ELIMINATION OF REPORT TO CONGRESS REQUIREMENT.—Section 3674(a)(3) of such title is amended—

(1) by striking out subparagraph (B); and

(2) by striking out "(3)(A)" and inserting in lieu thereof "(3)".

(c) EVALUATION OF AGENCY PERFORMANCE.—Section 3674A(a) of such title is amended by striking out paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 8. MEASUREMENT OF COURSES.

Section 3688(b) of title 38, United States Code, is amended—

(1) by striking out "this chapter or" and inserting in lieu thereof "this chapter,"; and

(2) by inserting before the period at the end thereof the following: ", or chapter 106 of title 10".

SEC. 9. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 3692 of title 38, United States Code, is amended—

(1) in subsections (a) and (b)—

(A) by striking out "34," both places it appears; and

(B) by striking out "title." and inserting in lieu thereof "title and chapter 106 of title 10." both places it appears; and

(2) in subsection (c), by striking out "1994" and inserting in lieu thereof "2003".

SEC. 10. CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) PAYMENT LIMITATION.—Section 3697(b) of title 38, United States Code, is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

SEC. 11. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(a) PERIOD OF TRAINING.—(1) Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (106 Stat. 2759; 10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2)(A) Section 4486(d)(2) of such Act (102 Stat. 2760; 10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community for the entire period of training of the eligible person.".

(B) The amendment made by subparagraph (A) shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 beginning after the date of enactment of this Act.

(b) PAYMENTS.—Section 4487 of such Act (106 Stat. 2762; 10 U.S.C. 1143 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)";

(B) by inserting before the period at the end of subparagraph (A) the following: "but in no event to exceed 18 months (or the equivalent training hours)"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B)."; and

(2) in subsection (b)(3), by inserting before the period at the end thereof ", or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous material, on the bill, H.R. 4768, and on the next two veterans bills, H.R. 4776 and H.R. 4724, on the schedule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I explain the major provisions of the bill, I want to thank the ranking minority member of my Subcommittee on Education, Training and Employment, the gentleman from Arkansas [Mr. HUTCHINSON], for his help and cooperation on this bill and the next veterans bill on the schedule.

I also want to thank the ranking minority member of the committee, Mr. STUMP, for his cooperation on all of the veterans bills we will consider today.

Mr. Speaker, H.R. 4768 would make permanent the flight training program which was originally established as a 5-year pilot program and is due to expire on October 1.

The bill would authorize a 2-year pilot program for State-approved, alternative teacher certification.

The State of Texas is a leader in utilizing alternative teacher certification programs that are helpful to former servicemembers entering the teaching profession. The bill would give VA authority to approve these programs for GI bill benefits.

I want to thank our colleague, FRANK TEJEDA, for working with us on this part of the bill. It was his idea.

The bill would extend the expiration date of the Veterans' Advisory Committee on Education to the year 2003; and it would increase the level of funding available for veterans' educational and vocational counseling services provided by contract from $5 to $6 million.

Thousands of veterans who request counseling are being turned away because of inadequate funds. Although we would like to provide a larger increase, this additional funding will be very helpful.

Mr. Speaker, I want to thank my good friend, the gentleman from California [Mr. DELLUMS], chairman of the Armed Services Committee, and Mr. SPENCE of South Carolina, the ranking minority member of that committee, for their cooperation on the title 10 provisions of the bill.

Mr. Speaker, I urge my colleagues to support this important measure.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to comment the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the full Veterans' Affairs Committee and also the Subcommittee on Education, Training and Employment, as well as the gentleman from Arkansas [Mr. HUTCHINSON], the ranking minority member of the subcommittee. They have worked together very effectively in developing this bipartisan legislation and in bringing it through the committee and to the House.

Mr. Speaker, I urge my colleagues to act favorably on H.R. 4768.

Mr. Speaker, I would like to highlight two of the provisions of H.R. 4768.

This bill would authorize the first increase in funding for State approving agencies [SAA's] since 1989. After holding the line for 5 years, an increase from $12 to $13 million seems entirely reasonable, especially in light of the increased SAA workload in reviewing and approving courses offered by educational institutions for enrollment by veterans using their GI bill education benefits.

Also, this bill would authorize a greatly needed increase in funding for VA contract educational and vocational counseling. Funding, now capped at $5 million, would be raised to $6 million. The military drawdown is overwhelming the VA's ability to provide essential educational and vocational counseling needed to help disabled veterans get schooling and special job training and then return to work. An expanded contracting ability will help keep the VA from falling further behind and hopefully, the VA can begin to close the gap between demand and available services.

Finally, Mr. Speaker, I wish to note that the Veterans' Affairs Committee has a history of fiscal responsibility and does not propose legislation for which there is no money or which violates the Budget Act. The $4 million cost of H.R. 4768 will be more than covered by savings in H.R. 4386, the Veterans' Persian Gulf War Benefits Act of 1994, which I expect will be considered by the House before the recess later this month.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I rise today to join my colleague, the gentleman from Kansas [Mr. SLATTERY] in support of H.R. 4768, the Education and Training Act of 1994.

I am particularly pleased to note that the bill contains increased authorization both for the maximum amount made available to State approving agencies as well as for the level of funding made available for veterans' educational and vocational counseling services. These services have been crucial in enabling our country to deal effectively with the downsizing of our Armed Forces. H.R. 4768 also helps to provide our newly separated servicemembers with the necessary job training to enable our veterans to attain high quality civilian jobs through extended training periods.

I would also like to quickly point out that the costs incurred by this bill will be more than met with savings from H.R. 4386, the Persian Gulf War Veterans' Benefits Act.

So, Mr. Speaker, I am very glad to be able to rise in support of this legislation and to recognize that these costs incurred are more than offset in other veterans legislation.

Mr. GILMAN. Mr. Speaker, I am honored to rise in support of H.R. 4768, the Veterans Education and Training Act. I wish to thank my distinguished colleague from Mississippi, Mr. MONTGOMERY, for introducing this bill. I commend the Committee on Veterans' Affairs and the Committee on Armed Services for working together to formulate this worthwhile legislation that will positively affect our Nation's servicemen and women. Through the skilled leadership of both the chairman of the Veterans' Affairs Committee, and the ranking minority member, my colleague from Arizona, Mr. STUMP, continued attention has been shown to addressing the issues that affect our Nation's veterans.

Mr. Speaker, the Veterans Education and Training Act makes 10 revisions to several department of veterans [VA] education programs. These revisions extend the opportunity for education and training to veterans who have served in defending the freedom of our great Nation.

This legislation increases the maximum amount available to State approving agencies, agencies that review and certify educational programs for veterans, from $12 to $13 million. This measure is crucial in ensuring that our Nation's veterans are provided with the opportunity to gain the skills and training that are required to be competitive in today's society.

The Veterans Education and Training Act also requires that wages and benefits paid to veterans under the Service Members Occupational and Training Program [SMOTCA] are not to be less than benefits paid to other employees participating in similar training programs in the community. This aspect of the legislation provides veterans with equal benefits for equal training.

This measure is vital. We must assist these veterans who have so valiantly served our country. By approving this legislation today, we will enable them to obtain the skills and education that are necessary for success in today's competitive market.

The sacrifices that our Nation's veterans have made for our great Nation are immeasurable. Accordingly, I urge my colleagues to join me in supporting this worthwhile legislation.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4768, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' EMPLOYMENT ACT OF 1994

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4776) to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes.

The Clerk read as follows:

H.R. 4776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Employment Act of 1994".

SEC. 2. JOB COUNSELING, TRAINING, AND PLACEMENT.

(a) DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Section 4102A(a) of title 38, United States Code, is amended—

(A) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(B) by inserting "(1)" after "(a)"; and

(C) by adding at the end the following:

"(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran, and the position of Deputy Assistant Secretary shall be a career reserved position, as defined in section 3132(a)(8) of title 5.".

(2) The amendment made by paragraph (1) shall apply with respect to a vacancy occurring in the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training after the date of enactment of this Act.

(b) DVOP SPECIALISTS COMPENSATION RATES.—Section 4103A(a)(1) of such title is amended by striking out "a rate not less than the rate prescribed for an entry level professional" and inserting in lieu thereof "rates comparable to those paid other professionals".

(c) SPECIAL UNEMPLOYMENT STUDY.—Section 4110A(a) of such title is amended—

(1) by striking out "disabled veterans and" and inserting in lieu thereof "disabled veterans,";

(2) by inserting ", veterans who served on active duty after the Vietnam era, and veterans discharged or released from active duty within four years of the applicable study" after "Vietnam era"; and

(3) by adding at the end the following: "For each of the classifications of veterans referred to in the previous sentence, such studies shall include a category for women who are veterans.".

SEC. 3. EMPLOYMENT AND TRAINING OF VETERANS.

(a) FEDERAL CONTRACTS.—Section 4212 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "disabled veterans and veterans" in the first sentence and inserting in lieu thereof "disabled veterans, veterans";

(B) by inserting the following before the period at the end of the first sentence: ", and veterans who served on active duty in the Armed Forces during a war in a campaign or expedition for which a campaign badge has been authorized"; and

(C) by striking out "suitable" in clause (1); and

(2) in subsection (d)(1)—

(A) by striking out "who are veterans of the Vietnam era or special disabled veterans" in subparagraph (A) and inserting in lieu thereof "and the number of such employees, by job category and hiring location, who are veterans described in subsection (a)"; and

(B) by striking out "who are veterans of the Vietnam era or special disabled veterans" in subparagraph (B) and inserting in lieu thereof "who are veterans described in subsection (a)".

(b) ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS.—Clause (3) of section 4213 of such title is amended—

(1) by inserting "30," after "13,";

(2) by striking out "34,"; and

(3) by inserting "and any amounts received by an eligible person under chapter 106 of title 10," after "title,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4776 would improve veterans employment programs in the Department of Labor. The bill would make the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training a career reserved position. Within the Department of Veterans Affairs, two-thirds of the Deputy Assistant Secretary positions are required to be filled by career civil servants. These individuals bring invaluable executive branch and program experience that greatly assist in program administration and the policymaking process. This experience and expertise will similarly benefit the development and administration of veterans' employment and training programs in the Department of Labor.

The bill would require that Disabled Veterans' Outreach Program specialists—known as D-VOPS—be compensated at rates comparable to those paid to other professionals.

The bill would also include veterans who served on active duty after the Vietnam era, recently discharged veterans, and women veterans, in the 2-year study conducted by the Bureau of Labor Statistics to determine unemployment among veterans. It is particularly important that we have improved statistical information regarding the employment needs of women veterans. This bill will make certain that this is done.

Mr. Speaker, the provisions contained in this bill will strengthen the employment programs for veterans as administered by the Department of Labor. At a time when many servicemembers are being discharged, this assistance is very important.

Mr. Speaker, I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our distinguished committee chairman, the gentleman from Mississippi, SONNY MONTGOMERY, and our distinguished ranking minority member of the Subcommittee on Education, Training and Employment, the gentleman from Arkansas, TIM HUTCHINSON, have also produced an excellent bill in H.R. 4776. I commend their work on this legislation as well.

H.R. 4776 deserves the support of every Member of the House and I urge its favorable consideration.

Mr. Speaker, among other provisions, H.R. 4776 would enhance access for veterans to all Federal contractor jobs. The bill would also make careers as Disabled Veterans' Outreach Program [DVOP] specialists more attractive by offering more competitive compensation for many of them. Thus, the disabled veterans who fill the DVOP specialist positions in State employment agencies would have the possibility of better pay, and the disabled veterans they serve would have the benefit of a higher experience level among DVOP specialists due to improved retention.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I want to commend the gentleman from Mississippi [Mr. MONTGOMERY] for the outstanding leadership that he has given to our Committee on Veterans' Affairs as a whole, particularly on these issues regarding veterans' employment, and I also would like to commend the gentleman from Arizona [Mr. STUMP] for the outstanding leadership that he has provided the Members of our side of the aisle.

Therefore, Mr. Speaker, I am glad to rise in support of H.R. 4776, the Veterans Employment Act of 1994. I am especially pleased with the requirement that Federal contractors must list all the openings associated with their Federal contract with the Appropriate Local Employment Service Office. It is important that we take every step possible to ensure that our veterans are contacted and made aware of all employment opportunities available to them. I think H.R. 4776 helps to accomplish this goal.

Mr. Speaker, I am glad to be able to support this legislation.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would like to compliment the gentleman from Arkansas [Mr. HUTCHINSON] for the close work we have had in our subcommittee, and also the gentleman from Arizona [Mr. STUMP] for his work. I also would like to thank the Chair for speeding along this process. We work very well together.

Mr. GILMAN. Mr. Speaker, I am honored to rise in support of H.R. 4776, the Veteran's Employment Act of 1994. I wish to thank the distinguished chairman, the gentleman from Mississippi [Mr. MONTGOMERY], for introducing this bill. Through his leadership as the chairman of the Committee on Veterans' Affairs, he, and the ranking minority member, the gentleman from Arizona [Mr. STUMP], have ensured that our Nation's veterans receive the benefits and the services they deserve.

Mr. Speaker, H.R. 4776 will make five noncontroversial revisions to the Department of Veteran's Affairs' employment programs. These amendments to the employment programs will provide fair and necessary benefits for those brave men and women who have served our country.

The Veteran's Employment Act of 1994 will designate the Deputy Assistant Secretary of Labor for Veteran's Employment and Training as a permanent position. The act will also require that veterans who served on active duty after Vietnam, are recently discharged, or are women, are included in the biennial veteran employment studies conducted by the Bureau of Labor Statistics.

I fully support this legislation, as I believe it will provide essential employment opportunities for our Nation's service men and women. H.R. 4776 requires that disabled veterans' outreach program specialists [DVOP's] be compensated at rates comparable to the private sector. Under this legislation, it will be mandatory for Federal contractors to take affirmative action to employ disabled veterans, Vietnam veterans, and veterans with active duty service during a war, or campaign, for which a campaign badge has been authorized. In addition, Federal contractors will be required to post all openings associated with the Federal contracts with local employment service offices.

It is imperative that those who work to protect and defend our country receive the employment opportunities and the benefits they deserve. I urge my colleagues to support the Veteran's Employment Act of 1994. This legislation makes vital revisions that will benefit our Nation's service members, who through their brave service, have given so much to our great country. I believe H.R. 4776 to be a necessary measure to support our Nation's veterans.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 4776.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

VETERANS' HOUSING AMENDMENTS OF 1994

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4724) to amend title 38, United State Code, relating to veterans housing programs, and for other purposes.

The Clerk read as follows:

H.R. 4724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY.

(a) Reservists Discharged Because of a Service-Connected Disability.—Section 3701(b)(5)(A) of title 38, United States Code, is amended—

(1) by inserting "(i)" before "who has"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ", or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.".

(b) Surviving Spouses of Reservists Who Died While in Active Military, Naval, or Air Service.—The second sentence of section 3701(b)(2) of such title is amended—

(1) by inserting "or service in the Selected Reserve" after "duty" each place it appears; and

(2) by striking out "spouse shall" and inserting in lieu thereof "deceased spouse shall".

SEC. 2. PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS.

Section 3704 of title 38, United States Code, is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 3. REFINANCING LOANS.

(a) Authority To Guarantee Home Refinance Loans for Energy Efficiency Improvements.—

(1) Loans.—(A) Section 3710(a) of title 38, United States Code, is amended by adding after paragraph (10) the following:

"(11) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d) of this section.".

(B) Section 3710(e)(1) of such title is amended by inserting "or subsection (a)(11)" after "subsection (a)(8)".

(2) Fee.—Section 3729(a)(2)(E) of such title is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),".

(b) Refinancing Adjustable Rate Mortgages to Fixed Rate Mortgages.—Section 3710(e)(1)(A) of such title is amended—

(1) by inserting "(i)" after "(A)";

(2) by inserting "or" at the end of clause (i), as designated by paragraph (1) of this subsection; and

(3) by adding after such clause (i), the following:

"(ii) the loan bears interest at a fixed rate that is agreed upon by the veteran and the mortgagee, and the loan being refinanced is an adjustable rate loan.".

SEC. 4. MANUFACTURED HOME LOAN INSPECTIONS.

(a) Certification of Conformity With Standards.—Section 3712(h) of title 38, United States Code, is amended by amending paragraph (2) to read as follows:

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1) of this subsection.".

(b) Repeal of Inspection Requirements.—Section 3712(j) of such title is amended—

(1) by striking out "refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Secretary not to conform to the aforesaid standards; or where the manufacturer of manufactured homes"; and

(2) by striking "warranty." and inserting in lieu thereof "warranty; in the case of manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h) of this section; or in the case of a manufacturer who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.".

(c) Elimination of Reporting Requirement.—Section 3712(l) of such title is amended—

(1) by striking out "the results of inspections required by subsection (h) of this section,"; and

(2) by striking out "section, and" and inserting in lieu thereof "section and".

SEC. 5. PROCEDURES ON DEFAULT.

(a) In General.—Paragraph (7) of section 3732(c) of title 38, United States Code, is amended—

(1) by striking out "that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale" in the matter preceding subparagraph (A);

(2) by striking out "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and inserting in lieu thereof "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to";

(3) by striking out "and" at the end of clause (i), as so designated by paragraph (2), and inserting in lieu thereof "or";

(4) by adding after such clause (i) the following:

"(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and"; and

(5) in subparagraph (B), by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)".

(b) Conforming Amendment.—Paragraph (6) of such section is amended—

(1) by striking out "either"; and

(2) by striking out "sale or acquires" and all that follows through "(B) the" and inserting in lieu thereof "sale, the".

SEC. 6. MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by inserting after subparagraph (F) the following:

"(G) to benefits under chapter 37 of this title by reason of discharge or release from active duty as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Stump] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Before yielding to the distinguished gentleman from Illinois [Mr. Sangmeister], chairman of the Subcommittee on Housing and Memorial Affairs, to explain the bill, Mr. Speaker, I wanted to say how much we will miss him when he leaves the Congress at the end of this session. The committee will be losing one of our outstanding Members, and veterans will be losing one of their greatest supporters.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Sangmeister].

Mr. SANGMEISTER. Mr. Speaker, I would like to thank and commend the gentleman from Mississippi [Mr. Montgomery], the chairman of the full committee, for his distinguished leadership and his strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and the subcommittee, for their efforts and support. The individual members of the subcommittee worked hard as a team to develop this legislation, and I would like to thank each of them for their excellent contributions. A detailed explanation of the bill follows:

LOAN GUARANTY ELIGIBILITY FOR RESERVISTS DISCHARGED BECAUSE OF A SERVICE-CONNECTED DISABILITY

Mr. Speaker, H.R. 4724 would waive the 6-year minimum service requirement for reservists discharged because of a service-connected disability. Loan guaranty eligibility is currently authorized for veterans who are discharged from active duty for a service-connected disability. This provision grants similar eligibility for reservists.

Public Law 102–547 added a new section 3702(a)(2)(E) to title 38, United States Code, and thereby extended loan guaranty eligibility to veterans whose only service was in the Reserves or National Guard. The definition of veteran in 38 U.S.C. 3701(b) now includes an individual who has completed total service of at least 6 years in the Selected Reserve and, following the completion of such service, received an honorable discharge, was transferred to the Standby or Ready Reserve, or continues to serve in the Selected Reserve. 38 U.S.C. 3702(a)(2)(B) provides loan guaranty eligibility for veterans who are discharged from active duty for a service-connected disability. As I stated previously, there is no similar provision provided for reservists who are discharged because of a service-connected disability prior to completing the required 6 years of reservist service.

H.R. 4724 would correct this disparity in loan guaranty benefits eligibility between active duty veterans discharged because of service-connected disabilities and reservists discharged because of service-connected disabilities. This would be accomplished by amending 38 U.S.C. 3701(a) to extend eligibility for VA loan guaranty benefits to individuals discharged from the Selected Reserve prior to completion of 6 years' service because of a service-connected disability.

LOAN GUARANTY ELIGIBILITY FOR SURVIVING SPOUSES OF RESERVISTS WHO DIED WHILE ON ACTIVE DUTY OR FROM SERVICE-CONNECTED DISABILITIES

Mr. Speaker, H.R. 4724 would provide loan guaranty eligibility for surviving spouses of reservists who died on active military, naval, or air service on the same basis as a surviving spouse of any veteran who died in the active military, naval, or air service or who died of a service-connected disability.

The definition of veteran in 38 U.S.C. 3701(b) includes the surviving spouse of any veteran who died in the active military, naval, or air service or who died from a service-connected disability. There is no similar provision provided for surviving spouses of reservists who die while on reserve duty or as a result of a service-connected disability.

H.R. 4724 would correct this disparity in loan guaranty benefits eligibility between surviving spouses of active duty veterans and surviving spouses of reservists. This would be accomplished by amending 38 U.S.C. 3701(a) to extend eligibility for VA loan guaranty benefits to surviving spouses of reservists who die while on reserve duty or as a result of service-connected disabilities.

REPEAL OF REQUIREMENT FOR A STATEMENT OF LOCAL OFFICIALS REGARDING WATER AND SEWERAGE SYSTEMS

Mr. Speaker, H.R. 4724 would permit the VA to guarantee newly constructed residences in areas not served by public or community waste and sewerage systems if individual water and sewage disposal systems meet Federal, State, and local requirements.

Currently, 38 U.S.C. 3704(e) prohibits VA from guaranteeing a loan for a newly constructed residence in areas where local officials certify that the establishment of public or community water and sewerage systems is economically feasible unless the dwelling is served by such a system. If a new property uses well water or septic tank, and the local officials certify a public system is feasible, VA may not approve the loan.

H.R. 4724 would repeal 38 U.S.C. 3704(e). Since the enactment of this subsection in 1965, conditions have changed significantly. Federal, State, and local laws now adequately cover the subject of individual water and sewage disposal systems as an alternative to public and community systems. This is also an area in which the Environmental Protection Agency, which did not exist in 1965, has some authority.

For the most part, the certification requirement is a paperwork exercise. The statute places a burden on local community officials, program participants, and VA without materially benefiting the veteran.

AUTHORITY TO GUARANTEE ENERGY EFFICIENCY IMPROVEMENTS IN INTEREST RATE REDUCTION REFINANCING LOANS

Mr. Speaker, H.R. 4724 would authorize the VA to include in interest rate reduction refinancing loans an additional amount for energy efficiency improvements.

Public Law 102–547 amended 38 U.S.C. 3710 to authorize the VA to include the cost of energy efficiency improvements in VA loans up to $6,000. As of June 1994, 915 loans have been guaranteed under this program. Energy improvement costs may not be included, however in interest rate reduction refinancing loans. Such interest rate reduction loans typically do not involve an income verification or property appraisal because the effect is to reduce the veteran's payments under an existing loan. Hundreds of thousands of veterans have refinanced their VA-guaranteed loans during the past 2 years in order to reduce their interest rates, but were unable to take advantage of the energy efficiency program.

H.R. 4724 would permit the cost of energy efficiency improvements to be included in a loan refinanced for the purpose of reducing the interest rate. While the committee recognizes that adding the cost of energy improvements may increase the amount of the loan in relation to the value of the property, it believes that any increased risk from an increase in the loan-to-value ration would be slight and would be offset to a significant degree by the reduced payments resulting from lower interest rates.

The bill would add an exception for the cost of energy efficiency improvements to the maximum amount that can be borrowed in a loan refinance as now provided in 38 U.S.C. 3710(e)(1)(C).

LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES

Mr. Speaker, H.R. 4724 would permit the conversion of an adjustable rate mortgage to a fixed rate mortgage despite the higher interest rate on the fixed rate mortgage.

Under the provisions of 38 U.S.C. 3710(a)(8), VA guarantees loans to assist veterans in reducing their mortgage interest rates. These loans, referred to as interest rate reduction refinancing loans, are made with no additional charge against the veteran's entitlement, with the primary requirement being that the interest rate on the new loan must be less than the interest rate on the loan being refinanced.

A difficulty has arisen in applying this authority to cases involving veterans who are attempting to refinance adjustable rate mortgages with fixed rate mortgages. It often occurs that the current interest rate on the adjustable rate mortgage is less than the rate on the fixed rate mortgage. During periods of low-interest rates, it would be beneficial over the long term for the veteran to refinance to a fixed rate loan, even though the short-term cost may be higher. Current law prevents the veteran from obtaining an interest rate reduction refinancing loan for this purpose.

H.R. 4724 would correct this inequity by permitting veterans to obtain interest rate reduction loans to convert from an adjustable rate mortgage to a fixed rate mortgage whenever the veteran considers it advantageous to do so. These loans would continue to be made under the provisions of 38 U.S.C. 3710(e) which limit the new loan amount to the outstanding balance of the loan to be refinanced plus closing costs and a discount.

REPEAL OF CERTAIN REQUIREMENTS PERTAINING TO VA LOAN GUARANTY MANUFACTURED PURCHASES WITH A VA GUARANTEED LOAN

Mr. Speaker, H.R. 4724 would provide that any manufactured home properly displaying a certificate of conformity with all applicable Federal manufactured home construction and safety standards would be eligible for purchase with VA financing.

Currently 38 U.S.C. 3712(h)(2) requires VA to make inspections of the manufacturing process of manufactured homes and to perform random on-site inspections of manufactured homes purchased with a VA guaranty. The purpose of the inspections of manufacturing plants is to comply with 38 U.S.C. 3712(h)(1) which states that no loan for the purchase of a manufactured home may be guaranteed by VA unless the manufactured home meets or exceeds the standards for planning, construction, and general acceptability prescribed by the Secretary. The on-site inspections were mainly required to judge the effectiveness of the manufactured home loan program. It should be noted, however, that in 1994 only 25 manufactured home loans had been guaranteed as of June.

The bill would amend 38 U.S.C. 3712(h) to provide that any manufactured home bearing a seal pursuant to 42 U.S.C. 5415, indicating that it was built in compliance with Federal manufactured home construction and safety standards established by the Department of Housing and Urban Development [HUD], may be purchased with a VA guaranteed loan. The reported bill would also repeal 38 U.S.C. 3712(h)(2) and 3712(1), which requires an annual report to Congress on the results of these inspections and compliance with HUD warranty requirements.

It should also be noted that in carrying out the purposes of 38 U.S.C. 3712(h), VA has administratively adopted the safety and manufacturing standards issued by the Secretary of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401–5426. In compliance with 38 U.S.C. 3712(h)(2)(B), VA has delegated to HUD the responsibility for inspection of manufactured home plants.

Mr. Speaker, according to the Department of Veterans Affairs, HUD inspections are sufficient to insure that new manufactured homes sold to veterans are properly built, and no loans for the purchase of a manufactured home bears a seal indicating it was manufactured in accordance with HUD standards. VA therefore contends that the on-site inspections are necessary, and any inspections by VA of manufactured home processing would be duplicative of the HUD inspections. The inspections required by subsection (h) are reported to Congress by HUD. The experience with compliance with the subsection 3712(i) warranty is a matter which should be reported to HUD by the unit owner in accordance with instructions in the owners manual which manufacturers are required to provide with each unit.

PERMIT VA TO ACCEPT FORECLOSED PROPERTY NOTWITHSTANDING OVERBID

Mr. Speaker, H.R. 4724 would permit the VA to accept conveyance of a foreclosed property from a loan holder not withstanding the holder's overbid at the liquidation sale.

Under 38 U.S.C. 3732(c), when a VA guaranteed loan is in default, VA must compute the net value of the security property. "Net value" means the fair market value of the property, less the amounts VA would need to pay for holding and disposing of the property. If the net value of the property exceeds the total indebtedness minus the amount of VA's guaranty, the holder generally has the election of conveying the property to VA if the holder acquired the property at the foreclosure sale for the lesser of the net value of the property or the total indebtedness. The lesser of net value or total debt is often referred to as the specified amount or upset price.

The VA makes all of these calculations and notifies the holder of the specified amount in advance of the foreclosure sale. If the holder's bid exceeds the specified amount, even by $1, the VA may not acquire the property from the foreclosing loan holder under 38 U.S.C. 3732(c)(6). The reported bill would permit VA to acquire a property at the specified amount, whenever VA specifies an amount, without regard to any overbid by the loan holder.

Overbids often result from miscommunication among VA, the loan holder, and its counsel. When VA specifies an amount, VA has determined it is economically advantageous to the Government to acquire the property. Under the provisions of this bill, for property acquisition purposes only, VA cold ignore the overbid and acquire the property for the same terms as though the overbid did not occur.

AMENDMENT OF MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT FOR LOAN GUARANTY BENEFITS

Lastly, Mr. Speaker, H.R. 4724 would waive the 2-year minimum service requirement for loan guaranty benefits for servicemembers who were released from active duty due to a reduction in force.

To be eligible for loan guaranty benefits based on active duty, an individual must qualify under the provisions of 38 U.S.C. 3702, which generally requires 90 days service in time of war 180 days of peacetime service. In addition, 38 U.S.C. 5303A requires that, for persons who enlisted after September 7, 1980, or officers who entered active duty after October 16, 1981, the individual generally must complete the shorter of 24 months of continuous active duty or the full period for which called or ordered to active duty. The exceptions are for persons discharged or released for a disability, or for a hardship under 10 U.S.C. 1173, or for the convenience of the Government under section 10 U.S.C. 1171.

The minimum active-duty service requirements of 38 U.S.C. 5303A were added to the law at a time when the Armed Forces were having a great deal of difficulty in recruiting and retaining a sufficient number of qualified personnel. However, the Defense Department has begun a multiyear drawdown in the number of Armed Forces personnel, which has had the effect of veterans being honorably discharged prior to completion of either 24 months or the full period for which called. In these cases, the affected veterans are being discharged before they become eligible for loan guaranty benefits under current law.

In light of current Department of Defense programs offering incentives to persons who agree to leave the Armed Forces early, it would be appropriate to update the provisions of 38 U.S.C. 5303A. Equitable considerations would dictate that veterans discharged early as a result of downsizing should not forfeit the loan guaranty eligibility to which they would have become entitled had they been allowed to complete their contract. Present law also involves the administrative burden of determining whether or not a discharge for the convenience of the Government was in fact issued under the authority of 10 U.S.C. 1171. The DD Form 214 issued to the veteran in these cases is frequently silent on this issue.

H.R. 4724 would amend 38 U.S.C. 5303A to clarify that the exception to the minimum service requirement for loan guaranty benefits is available to persons who failed to meet the 24-month minimum active-duty service requirements because of a reduction in force.

Mr. Speaker, this bill, at very little cost to the Government would extend VA no-downpayment loan eligibility to hundreds of veterans and their dependents who have never before been entitled. The Congressional Budget Office estimates that the bill would affect direct spending by less than $500,000 a year.

I think this is a good bill, and I strongly urge its favorable consideration by the House.

□ 1220

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, would like to thank the gentleman from Illinois [Mr. SANGMEISTER]. He has been a pleasure to work with, and from this side of the aisle we want him to know we wish him the very best in his retirement, and we thank him for his hard work on behalf of the veterans.

Mr. Speaker, I support H.R. 4724, a bill to enhance veterans' housing programs. The bill would extend home loan guaranty benefits to members of the Selected Reserves, eliminate redundant and outdated VA reporting requirements, and permit inclusion of energy efficiency improvements in an interest rate reduction refinancing loan.

The bill also gives the VA the authority to correct bidding errors due to a miscommunication at the foreclosure sale.

In whole, these provisions improve the Home Loan Guaranty Program and make sound business sense.

Mr. Speaker, I wish to thank my good friend, SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for his consideration of this matter.

In addition, I wish to recognize the gentleman from Illinois [Mr. SANGMEISTER], chairman of the Subcommittee on Housing and Memorial Affairs, and the gentleman from Indiana [Mr. BURTON], the subcommittee's ranking member for their leadership on this measure.

Mr. Speaker, I recommend that the bill be passed.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I also want to thank the ranking minority member, the gentleman from Indiana [Mr. BURTON], for his work on this subcommittee, and I am grateful also to the gentleman from Arizona [Mr. STUMP] for his cooperation on the bill.

Mr. Speaker, this really makes it easier for veterans, as well as Reservists, to get home loans. That is what it is all about, to help these veterans and help these Reservists.

Mr. Speaker, it has been a pleasure working with the members of the committee, and I hope all the Members will support this legislation.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4724, the veterans housing amendments of 1994.

I would like to commend the gentleman from Illinois [Mr. SANGMEISTER] for introducing this measure. Furthermore, I praise the chairman of the Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their continuing work on behalf of our Nation's veterans.

H.R. 4724 exempts Reservists with service-related disabilities from the 6-year service requirement for housing loans, extends loan guarantee assistance to the surviving spouses of Reservists who died on duty or from service-related disabilities, broadens the criteria for houses to receive VA loans, and enables those service members who have been released from active duty due to force cutbacks to bypass the 2-year service requirement for loan guaranty benefits.

Mr. Speaker, these crucial amendments express the support and appreciation that the American people have for our Nation's servicemen and women by making housing loans more accessible, and by recognizing the sacrifices made by disabled veterans, we are providing quality, affordable housing to our servicemen and women and their families, who have given so much to our great Nation.

Furthermore, the loan requirement exemptions for those Reservists who have been released from active duty due to a reduction in force, or have sustained a service-connected disability, enhance the equity of our Veterans Housing Program, and compensate those whose sacrifices have been unusually great.

Mr. Speaker, as our Nation's veterans continue to suffer poverty and homelessness, it is important that the Congress takes steps to relieve their suffering. H.R. 4724 is an essential part of this process, making good housing accessible to thousands of veterans. Mr. Speaker, our Nation's veterans have given so much to our Nation through the years, we must continue to recognize their valiant service and provide them with the benefits and the services they have earned.

Accordingly, I support this measure, and I urge my colleagues to also vote in support of this important legislation.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4724.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. The Chair declares the House in recess for 5 minutes.

Accordingly (at 12 o'clock and 23 minutes p.m.), the House stood in recess for approximately 5 minutes.

□ 1230

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SANGMEISTER] at 12 o'clock and 30 minutes p.m.

UNLISTED TRADING PRIVILEGES ACT OF 1994

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4535) to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

The Clerk read as follows:

H.R. 4535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unlisted Trading Privileges Act of 1994".

SEC. 2. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) UNLISTED TRADING PRIVILEGES.—Section 12(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(f)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(f)(1)(A) Notwithstanding the preceding subsections of this section, any national securities exchange, in accordance with the requirements of this subsection and the rules hereunder, may extend unlisted trading privileges to—

"(i) any security that is listed and registered on a national securities exchange, subject to subparagraph (B); and

"(ii) any security that is otherwise registered pursuant to this section, or that would be required to be so registered except for the exemption from registration provided in subparagraph (B) or (G) of subsection (g)(2), subject to subparagraph (E) of this paragraph.

"(B) A national securities exchange may not extend unlisted trading privileges to a security described in subparagraph (A)(i) during such interval, if any, after the commencement of an initial public offering of such security, as is or may be required pursuant to subparagraph (C).

"(C) Not later than 180 days after the date of enactment of the Unlisted Trading Privileges Act of 1994, the Commission shall prescribe, by rule or regulation, the duration of the interval referred to in subparagraph (B), if any, as the Commission determines to be necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title. Until the earlier of the effective date of such rule or regulation or 240 days after such date of enactment, such interval shall begin at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered and end at the conclusion of the next day of trading.

"(D) The Commission may prescribe, by rule or regulation such additional procedures or requirements for extending unlisted trading privileges to any security as the Commission deems necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title.

"(E) No extension of unlisted trading privileges to securities described in subparagraph (A)(ii) may occur except pursuant to a rule, regulation, or order of the Commission approving such extension or extensions. In promulgating such rule or regulation or in issuing such order, the Commission—

"(i) shall find that such extension or extensions of unlisted trading privileges is consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of this title;

"(ii) shall take account of the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system; and

"(iii) shall not permit a national securities exchange to extend unlisted trading privileges to such securities if any rule of such national securities exchange would unreasonably impair the ability of a dealer to solicit or effect transactions in such securities for its own account, or would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

"(F) An exchange may continue to extend unlisted trading privileges in accordance with this paragraph only if the exchange and the subject security continue to satisfy the requirements for eligibility under this paragraph, including any rules and regulations issued by the Commission pursuant to this paragraph, except that unlisted trading privileges may continue with regard to securities which had been admitted on such exchange prior to July 1, 1964, notwithstanding the failure to satisfy such requirements. If unlisted trading privileges in a security are discontinued pursuant to this subparagraph, the exchange shall cease trading in that security, unless the exchange and the subject security thereafter satisfy the requirements of this paragraph and the rules issued hereunder.

"(G) For purposes of this paragraph—

"(i) a security is the subject of an initial public offering if—

"(I) the offering of the subject security is registered under the Securities Act of 1933; and

"(II) the issuer of the security, immediately prior to filing the registration statement with respect to the offering, was not subject to the reporting requirements of section 13 or 15(d) of this title; and

"(ii) an initial public offering of such security commences at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered.

"(2)(A) At any time within 60 days of commencement of trading on an exchange of a security pursuant to unlisted trading privileges, the Commission may summarily suspend such unlisted trading privileges on the exchange. Such suspension shall not be reviewable under section 25 of this title and shall not be deemed to be a final agency action for purposes of section 704 of title 5, United States Code. Upon such suspension—

"(i) the exchange shall cease trading in the security by the close of business on the date of such suspension, or at such time as the Commission may prescribe by rule or order for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title; and

"(ii) if the exchange seeks to extend unlisted trading privileges to the security, the exchange shall file an application to reinstate its ability to do so with the Commission pursuant to such procedures as the Commission may prescribe by rule or order for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title.

"(B) A suspension under subparagraph (A) shall remain in effect until the Commission, by order, grants approval of an application to reinstate, as described in subparagraph (A)(ii).

"(C) A suspension under subparagraph (A) shall not affect the validity or force of an extension of unlisted trading privileges in effect prior to such suspension.

"(D) The Commission shall not approve an application by a national securities exchange to reinstate its ability to extend unlisted trading privileges to a security unless the Commission finds, after notice and opportunity for hearing, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of this title. If the application is made to reinstate unlisted trading privileges to a security described in paragraph (1)(A)(ii), the Commission—

"(i) shall take account of the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such a security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system; and

"(ii) shall not grant any such application if any rule of the national securities exchange making application under this subsection would unreasonably impair the ability of a dealer to solicit or effect transactions in such security for its own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of marketmakers who are specialists and such dealers who are not specialists.".

(b) CONFORMING AMENDMENT.—Section 12(f)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(f)(3)) is amended by striking "The Commission" and inserting "Notwithstanding paragraph (2), the Commission".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is taking up legislation to streamline and make our Nation's stock markets more competitive by extending unlisted trading privileges to the regional stock exchanges for most registered securities as soon as they become listed and registered on another exchange.

I am pleased to join with the distinguished gentleman from Oregon [Mr. WYDEN], who is the lead sponsor on this legislation, along with the gentleman from Michigan [Mr. DINGELL], the chairman, the gentlewoman from Illinois [Mrs. COLLINS], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Tennessee [Mr. COOPER], the gentleman from Illinois [Mr. HASTERT], the gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY], the gentleman from New Mexico [Mr. RICHARDSON], and the gentleman from California [Mr. MOORHEAD], in cosponsoring this important piece of legislation.

This bill eliminates an anachronistic provision of the Securities Exchange Act of 1934 which requires regional stock exchanges, such as the Boston Stock Exchange, to receive Securities Exchange Commission approval before they can trade stocks listed on the New York or the American Stock Exchange.

The Securities and Exchange Commission routinely approves all requests by the regional exchanges for unlisted trading privileges. Last year, for example, the Commission reported that it approved over 1,600 exchange requests for UTP. No UTP requests have actually been denied since 1934, and during the last 10 years, virtually no comments have been submitted to the SEC on a UTP application.

At the same time, processing the paperwork involved in a UTP application can result in delays of up to 60 days before the regional exchanges actually can initiate trading in these listed securities.

In contrast, the stock brokerage firms that trade New York Stock Exchange-listed stocks in so-called over-the-counter third market, are subject to no comparable requirement to obtain SEC approval prior to trading the exact same securities. As a result, these firms can begin trading such stocks immediately upon their listing in the primary market.

H.R. 4535 will eliminate this regulatory disparity. It will permit the regional exchanges to trade all listed existing securities without having to receive prior SEC approval. At the same time, it will empower the SEC to undertake a rulemaking with respect to the granting of unlisted trading privileges in any initial public offering of securities in a company approved for listing on one of the primary exchanges.

On June 22, 1994, the Subcommittee on Telecommunications and Finance heard from representatives of the SEC, the New York Stock Exchange, the American Stock Exchange, the regional stock exchanges, and the NASD, and all of the witnesses testified that they strongly support H.R. 4535 as a fair and equitable compromise that will benefit consumers by increasing competition amongst our Nation's stock markets.

I want to again congratulate the gentleman from Oregon [Mr. WYDEN] on this legislation, and I wanted to thank the gentleman from Texas [Mr. FIELDS], the ranking minority member of the committee. We have tried to work on legislation here in a way that can very expeditiously bring more competition and better access for consumers to these important security marketplace products.

Mr. Speaker, I just once again want to thank the gentleman from Texas [Mr. FIELDS], and at this point reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me begin on a note that the chairman just closed on, because I, too, appreciate the way in which the chairman has conducted not only the hearings that we have had on this particular issue, but the markup and working with all parties interested in developing good legislation.

Mr. Speaker, H.R. 4535 lays the foundation for removing unnecessary regulatory delays that inhibit market competition with respect to unlisted trading privileges.

In 1993 alone, the SEC processed over 1,600 exchange requests for unlisted trading privileges. The Commission tells us that no only are comments on UTP applications rare, virtually no comments have been submitted on any application in over 10 years.

By enacting H.R. 4535, we authorize the SEC to adopt rules that will provide for a minimum time period, or no time period at all, before a regional exchange can begin trading a stock listed on a primary exchange. By eliminating the application and approval process, we will free up valuable SEC personnel and financial resources that are currently being wasted on the UTP application review function.

I note that next year will mark the 20th anniversary of the 1975 amendments to the securities laws. It is appropriate that we review the progress that has been made to date, and determine what remains to be done to link our securities markets. The intent of Congress remains unchanged from what it was in 1975. We must continue our comprehensive legislative review of the securities laws to ensure that our markets continue to provide additional investor protection, to remove barriers to competition, and to attract the investment business of the world.

I want to commend the chairman of the Energy and Commerce Committee, JOHN DINGELL, and the ranking Republican, CARLOS MOORHEAD, for their leadership on this issue. I also want to commend Subcommittee Chairman ED MARKEY, and Congressman RON WYDEN for their work on the legislation. I support H.R. 4535, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, let me begin first by thanking the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee. He has been extraordinarily patient in working on this legislation with me, with the gentleman from Michigan [Mr. DINGELL], the chairman, with our good friend, and the gentleman from Texas [Mr. FIELDS], for many years. We have now fashioned it so that I know of no opposition whatsoever. I think this is another example of what I would call the Markey-Fields Midas touch that they have brought to handling these regulatory matters.

The fact of the matter is, as both the gentleman from Massachusetts [Mr. MARKEY], the subcommittee chairman, and the gentleman from Texas [Mr. FIELDS] have really touched on, what the subcommittee is really about doing is eliminating some of these regulatory dinosaurs that are outdated, antiquated, bureaucratic hoops that are limiting competition in the securities marketplace. By going after this one in particular, we are in a position to give consumers greater choice and investors better prices for their investment options.

The bill does remove antiquated rules that require the Securities and Exchange Commission to conduct a lengthy application notice and approval process before a regional exchange can trade stocks listed on another exchange. This process currently takes 45 to 60 days, and as far as I can tell, in recent years this requirement has done absolutely nothing except heap extra administrative costs on the Securities and Exchange Commission.

So today, by eliminating this barrier, we seek to further promote the development of the intermarket trading system, look to the days when consolidated tape and pervasive computerization of the securities business are a reality, and there is no reason in my view to limit competition, given where we are headed through these outdated unlisted trading privilege regulations.

In my view, this legislation is common sense deregulation. It is going to increase competition, improve prices for consumers, and reduce costs for the Government.

Mr. Speaker, the hearing on this legislation, as the gentleman from Massachusetts [Mr. MARKEY], the chairman, and the gentleman from Texas [Mr. FIELDS] have noted, indicates that virtually nothing since the early thirties suggests that there are any problems with going forward with this reform.

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I would also add that at this hearing I submitted information drawn from the trading of actual initial public offerings that showed that unless the regional exchanges can trade on the first day of trading, it is unlikely that consumers are going to reap the benefits of competition and lower prices.

The information that I submitted at that hearing indicates that on average the trading volume on the first day of trading was over 11 times higher than on the third day, over 26 times higher than on the 6th day and over 60 times higher than on the 60th day. Moreover, trading patterns by brokers are set in a given stock almost immediately. The record that we accumulated from these initial public offerings shows that even after the regional exchanges received unlisted trading privileges, their market share was generally stuck around 1 or 2 percent, while the share on the New York Stock Exchange hardly ever fell below 95 percent.

The bottom line is, if the regional exchanges do not have the opportunity to do this trading the first day, their ability to compete will always be limited. If we limit the competition, consumers and investors do not have the best opportunity to receive the lowest prices possible. We do not think that is in the public interest. That is why we are passing this legislation today.

Mr. Speaker, let me conclude, again, by expressing my thanks to the gentleman from Massachusetts [Mr. MARKEY] the gentleman from Texas, both of them are a pleasure to work with on these and other matters. I am especially pleased that this could be a real benefit to the small businesses of our country.

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I just want to point out to the House and particularly my side of the aisle that the gentleman from Oregon is being overly humble in regard to himself. It was the gentleman from Oregon who took this particular concept from Market 2000 and fostered this particular piece of legislation. I think it is important for the House to know who was really the inspiration behind what I consider to be a very good piece of legislation.

Mr. WYDEN. I thank my friend for his kind remarks. He is gracious as always. I think we know, with the gentleman from Massachusetts [Mr. MARKEY] and himself, we operate in a bipartisan way and this has been a team effort. And it has been great to work with both of them and also our ranking Republican, the gentleman from California [Mr. MOORHEAD], and the gentleman from Michigan [Mr. DINGELL].

Mr. FIELDS of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD], the senior Republican on the Committee on Energy and Commerce.

Mr. MOORHEAD. Mr. Speaker, H.R. 4535 is the most recent bill the Energy and Commerce Committee has produced in a series that serves to modernize the regulation and future structure of the securities markets.

H.R. 4535 will require the Securities and Exchange Commission to act within months of the bill being signed into law to address the process governing the granting of unlisted trading privileges to the regional stock exchanges. The commission will be required to engage in rulemaking to modernize these rules to ensure that monopolies are not being protected and that competition, not regulation, determines where stocks will trade.

The bill is the result of a bipartisan effort in both Houses of Congress, and I particularly want to commend subcommittee chairman EDWARD MARKEY and JACK FIELDS, the ranking Republican member of the Telecommunications and Finance Subcommittee, and chairman JOHN DINGELL of the full committee for their leadership in this matter.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 4535.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks, and to include extraneous material, on H.R. 4535, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR INVESTIGATION OF WHEREABOUTS OF UNITED STATES CITIZENS MISSING FROM CYPRUS SINCE 1974

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2826) to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974, as amended.

The Clerk read as follows:

H.R. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES CITIZENS AND OTHERS MISSING FROM CYPRUS.

(a) INVESTIGATION.—As soon as is practicable, the President shall undertake, in cooperation with an appropriate international organization or nongovernmental organization, a thorough investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974. The investigation shall focus on the countries and communities which were combatants in Cyprus in 1974, all of which currently receive United States foreign assistance.

(b) RESULTS OF THE INVESTIGATION.—The President shall report the findings of this investigation to the family of each of the United States citizens and others who have been missing from Cyprus since 1974 and to the Congress. Such reports shall include the whereabouts of the missing.

(c) RETURNING THE MISSING.—The President, in cooperation with an appropriate international organization or nongovernmental organization, shall do everything possible to return to their families, as soon as is practicable, the United States citizens and others who have been missing from Cyprus since 1974, including returning the remains of those who are no longer alive.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill requires the President to undertake, as soon as is practicable a thorough investigation of the whereabouts of United States citizens and others who have been missing from Cyprus since 1974.

H.R. 2826 was introduced by the distinguished gentleman from New York [Mr. ENGEL] in August of last year.

Originally, the administration had requested that the Committee on Foreign Affairs refrain from considering this legislation because of concerns that it would negatively impact on talks with Cyprus on this issue.

However, since that concern was raised, those talks have once again stalemated.

I would note for Members that this year marks 20 years since the tragic events that led to the invasion and division of Cyprus.

Nearly 20 years of bicommunal talks and U.N.-sponsored negotiations to bring a settlement to the Cyprus problem have failed. None of us would have believed in 1974 that those events would take so long to reverse.

It is my hope that this resolution will send a signal that the U.S. Congress has not forgotten about the Cyprus problem.

H.R. 2826 underscores our desire to see progress toward resolving all aspects of this long and divisive conflict and beginning a new, more hopeful, chapter in the history of Cyprus.

I would like to commend the gentleman from New York [Mr. ENGLE] for his work in moving this legislation through committee and to the floor.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our consideration of H.R. 2826, which calls for a Presidential investigation of the cases of missing persons from Cyprus, comes at a time point following our observance last week of the 20th anniversary of Turkey's brutal invasion and occupation of northern Cyprus, and I commend the gentlemen from New York and Illinois, Mr. ENGEL and Mr. PORTER, for introducing this measure.

The Turkish invasion of Cyprus has had lasting repercussions through Turkey's continued illegal occupation of a portion of Cyprus. None of these repercussions has been so tragic as the complete lack of a resolution of the cases of some 1,619 missing persons, including 5 U.S. citizens, whose fates remain unknown to this day.

Along with other Members of the House, I have repeatedly called on the government of Turkey and others who may have some information to come forward and help us resolve the question of what has happened to more than 1,600 MIA's. So far these calls have gone unheeded.

This resolution calls upon the President, as soon as practicable, to undertake an investigation in cooperation with international and other organizations of the whereabouts of those who have been missing since the Turkish invasion some 20 years ago. It directs the President to share the results of this investigation with the families of the missing as well as with the Congress. Finally, it would have the President do everything possible to return to their families the missing or their remains.

Mr. Speaker, along with the other cosponsors of H.R. 2826, I strongly believe that the families and friends of those persons missing since the Turkish invasion of Cyprus have a right to know the fate of their loved ones. Some 20 years of diplomatic efforts by the United Nations and by other organizations have proven fruitless.

It is long overdue for a serious effort by the U.S. Government to get to the bottom of this matter. Much information is almost certainly in the hands of the government of Turkey—a close friend and ally of the United States. We should make it clear to Turkey and anyone else that may have information that this is an issue of the highest importance. Accordingly, I urge my colleagues to join in support of this measure.

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Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, at the outset I want to thank the gentleman from Indiana [Mr. HAMILTON], the distinguished chairman of our Committee on Foreign Affairs, for his leadership in bringing this to the floor, and thank his staff for their leadership. Without them, this would not have happened.

I also want to thank the gentleman from New York [Mr. GILMAN], our distinguished ranking minority member, and also my friend, the gentleman from Illinois [Mr. PORTER], who has worked so long and hard with me on behalf of the resolution of the Cyprus conflict.

Mr. Speaker, I rise to express my strong support for H.R. 2826, legislation directing the President to investigate the fate of 5 missing Americans and other missing on Cyprus since 1974.

Both of my colleagues, Mr. Speaker, have made reference to the fact that it has been 20 years since the invasion, and 20 years is certainly enough.

Less than 2 weeks ago, Mr. Speaker, we recalled the 20th anniversary of the Turkish invasion of the Island of Cyprus. One of the most horrific aspects of that act of aggression was the large dispersement of the Cypriot population and the arrest and disappearance of more than 2,000 people. What is particularly galling, Mr. Speaker, is that Turkey, a close ally and NATO member, used American weaponry for that invasion, and we have not in the 20 years gotten an accounting of five missing American citizens.

Mr. Speaker, in the wake of that invasion, 5 Americans, 1,600 Greek Cypriots, and several hundred Turkish Cypriots disappeared, never to be heard from again.

For nearly two decades, their families have relentlessly but unsuccessfully tried to find traces of their loved ones. In the years since his disappearance, the parents of Andrew Kassapis, whom I have met many times, from Detroit, have yet to understand how the invaders could take their son away, all the while he was holding an American passport and declared that he was an American citizen. That did not seem to matter. He was brutally taken away by the Turkish invaders.

Mr. Speaker, I firmly believe that the time has come to shed light upon this tragic aspect of the Cyprus conflict. By introducing this legislation, I hope to obtain for the suffering families the answers for which they have longed. H.R. 2826 directs the President to conduct "a thorough investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974." I might add, Mr. Speaker, that the 1974 date is a key date, because that, of course, was the date of the invasion of Cyprus.

Mr. Speaker, the bill also requires the President to report to family members on the whereabouts of the missing and to return them or their remains to loved ones.

As of today, almost 190 Members of Congress have cosponsored H.R. 2826. Included in that list are more than half of the members of the Foreign Affairs Committee. By passing this legislation today, we will take an important step toward ending the pain still endured by families of the missing. Their questions cannot remain unanswered and they deserve a full and honest accounting of what happened to their loved ones.

I, therefore, urge my colleagues to support H.R. 2826 and encourage the House to pass this legislation. After 20 years, we must finally expose this dark chapter in the history of Cyprus and bring to light the fate of the missing Americans.

Mr. Speaker, I again thank the gentleman from Indiana [Mr. HAMILTON], the distinguished chairman of the Committee on Foreign Affairs.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. GILMAN] for yielding time to me, and for his abiding and strong leadership on this and on all humanitarian and human rights issues.

Mr. Chairman, I thank the gentleman from Indiana [Mr. HAMILTON] for his willingness to address this important issue, and I thank the gentleman from New York [Mr. ENGEL], a member of the Committee on Foreign Affairs, for his able advocacy and excellent work in getting this bill to the floor.

Mr. Speaker, as an original cosponsor of this measure, I also thank the 186 Members of the House who have cosponsored.

Mr. Speaker, this bill was introduced last year, the week of the 19th anniversary of the Turkish invasion of Cyprus. That week, a delegation of religious leaders and others from Cyprus, all of whom were members of the Committee on the Missing, came to Washington to participate in a candlelight vigil in Lafayette Park across from the White House. Some of them had missing relatives, and we heard their stories and the story of Mr. Kostas Kassapis, an American citizen whose 17-year-old son, Andrew, was abducted at gunpoint by the Turkish military in 1974. We learned how fresh these memories are for many Cypriots and the families of the five missing Americans.

Two weeks ago we commemorated the 20th anniversary of the separation of Cyprus. During the intervening year, 186 Members of the House cosponsored this bill. A similar bill in the Senate attracted 46 cosponsors.

The reason, I believe, so many Members have cosponsored so quickly, is because, while the problems of finding a fair and democratic solution to the situation on Cyprus have been elusive, the issue of the missing is simple and clear cut. Returning the five Americans and the other Greek-Cypriots and Turkish-Cypriots missing as a result of the Turkish invasion to their families—living or not—is a humanitarian issue. It must not be confused with the larger political and diplomatic issues that involve Greece, Turkey, the United States, the Government of Cyprus, and the Turkish-Cypriot-dominated north.

Our Nation has struggled long and hard with the issue of missing from the Vietnam War and we understand as a nation the pain it causes. To make it even worse in the case of the missing Americans from the Turkish invasion, are all noncombatants, and their ages range from the 17-year-old Andrew Kassapis to men past retirement age.

Another reason this bill has found such acceptance with House Members is that it is very limited in scope. It simply directs the President to investigate and report to Congress on the whereabouts of Americans and others—both Greek Cypriots and Turkish Cypriots—who have been missing from Cyprus since 1974 and to do everything to return them or their remains to their families.

The State Department routinely investigates leads on the missing Americans in Cyprus and has worked with the United Nations Committee on Missing Persons, which was created in 1981 and is charged with pursuing missing cases and ultimately setting this issue to rest.

While the Committee on Missing Persons is a useful and necessary office, it has made little progress in achieving its mission. This is largely because of a lack of information being supplied to it. This effort needs to be revitalized.

This bill is designed to jump start the process and resolve this issue once and for all. I was told at a Congressional Human Rights Caucus forum on this issue in May 1992 that many of the outstanding cases could be resolved very quickly with a small amount of information and some cooperation by the Government of Turkey, the Government of Cyprus, and the leadership in the north of Cyprus.

Mr. Speaker, Turkey has, with unusual inhumanity, even for it, refused cooperation with international bodies to trace those missing as a result of their invasion of 20 years ago. They outrage all civilized peoples everywhere in this cynical refusal.

Hopefully, Mr. Speaker, they will see the light of day, if not in regard to the humanitarian nature of the finding of the fate of the missing, then at least in regard to their future relations with our country and with the European Community, with which they have expressed strong interest in economic union.

Mr. Speaker, I encourage Members to support this bill, which addresses a humanitarian issue involving Americans, and I again thank the gentleman from New York [Mr. ENGEL] for his tireless efforts in this important cause, and for his leadership in bringing this bill to the floor, together with the chairman and ranking member of the Committee on Foreign Affairs.

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Mr. GILMAN. I thank the gentleman for his kind, supportive remarks, and I commend him for his continuing efforts on behalf of human rights throughout the world.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], another member of the Committee on Foreign Affairs.

Mr. BEREUTER. Mr. Speaker, this Member rises in conditional support for an investigation of the missing from the conflict between the Greek Cypriots and the Turkish Cypriots. Certainly, the families of the five missing Americans should be afforded whatever solace they may gain from learning the final status of their loved ones who disappeared 20 years ago. This Member commends the gentleman from New York [Mr. ENGLEL] for raising again, this important issue.

As members of the Foreign Affairs Committee may recall, when H.R. 2826 was considered in the Foreign Affairs Committee, this Member expressed concern that emphasis on the missing Americans and the missing Greek Cypriots, with no reference to the more than 800 missing Turkish Cypriots, might have the unintended effect of appearing to take sides between Turkish and Greek Cypriots. The United States should and must be evenhanded not only because of the impact on Cyprus, but also because we must not exacerbate relations between our two NATO allies—Greece and Turkey.

This Member raises this issue because the United States is attempting to act as an honest broker in the talks on the confidence building measures [CBM] in Cyprus. Were the Congress to appear to be taking sides, our credibility as an arbitrator in the CBM talks could be undermined.

Regrettably, there are elements on both sides of the Cyprus dispute who would like to see the CBM talks fail. These groups are prepared to use even the most insignificant and unintended nuance as a sign of a change in U.S. policy. The actions of this body are followed very closely in the capitals of the world, and the diplomats and the media in Nicosea, in Athens, and in Ankara will follow our actions very closely.

The State Department seems to acknowledge this potential difficulty in its official assessment of H.R. 2826, which was delivered to the Foreign Affairs Committee on March 9, 1994. In it, Assistant Secretary of State Wendy Sherman noted that:

> Greek Cypriots list approximately 1,600 names missing since 1974, of which 5 are U.S. citizens. In addition, the Turkish Cypriots estimate 800 missing, many dating from the 1963–74 period.

After the committee markup, this Member has subsequently received verbal assurances that it is indeed the State Department's intention to investigate all the missing in Cyprus—Greek-Americans, Greek Cypriots, and Turkish Cypriots. If H.R. 2826 results in an evenhanded and balanced investigation of the missing in Cyprus, then this Member can enthusiastically support the resolution of the gentleman from New York. Given the assurances provided by the State Department, this Member would urge approval of H.R. 2826.

Ms. SNOWE. Mr. Speaker, I rise today to express my strong support for H.R. 2826, a bill which would provide for an investigation into the whereabouts of five American citizens missing in Cyprus since the brutal invasion of that island republic by Turkey 20 years ago.

As a result of that invasion, five American citizens were taken captive by a NATO ally. The families of these missing Americans have tried relentlessly to discover the whereabouts of their loved ones. Last week, I met the father and sisters of one of those American citizens still missing in occupied Cyprus. Twenty years ago, 17-year-old Andy Kassapis, of Livonia, MI, was dragged off by Turkish troops with his United States passport in his hand. He has not been heard from since. We owe it to him, and the other four missing Americans, to do everything we can to determine their whereabouts. But Turkey, a fellow member of NATO, has so far declined to cooperate in this effort.

Turkey's brutal invasion 20 years ago drove more than 200,000 Cypriots from their homes and reduced them to the status of refugees in their own land. More than 2,000 people are still missing, including 5 American citizens. The Turkish Army seized 40 percent of the land of Cyprus, representing 70 percent of the island's economic wealth. Barbed wire stretches across the country like an ugly scar, and armed check points dot the green line.

I was first elected to Congress in 1978, 4 years after the Turkish invasion. That was also the year that President Carter succeeded in getting the United States arms embargo on Turkey lifted on the promise of an imminent breakthrough on ending the tragic division of the island. But the Turks never had any intention of fulfilling that promise.

Every year that I have been in Congress I havior noted a cynical, fraudulent pattern of behavior by the Turkish Government and by the leader of the self-proclaimed Turkish Republic of Northern Cyprus. Each year, there are hints of movement and glimmering hopes of ending the Turkish occupation and reuniting Cyprus. The most recent opportunity was the United Nations-sponsored talks over confidence building measures that predictably collapsed just weeks ago because of continued Turkish intransigence.

Each year, the hopes of the Cypriot people are dashed on two bedrock facts. These are, first, the basic preference of Mr. Denktash, the leader of the Turkish-Cypriot community, for the status quo. By now, it should be clear that he prefers a divided island, even though his illegal rump country is not recognized by the international community and is, in reality, controlled by Turkey. The second bedrock fact is that the 40,000 Turkish occupation troops in northern Cyprus are there only to enforce the illegal status quo.

I realize that after 20 years there are some who might wish to put this issue aside, and say that perhaps nothing can be done. But I challenge anyone who might be tempted to accept the status quo whether out of frustration of weakness. Accepting the status quo would not only be morally wrong, but it simply is not an option.

The status quo on Cyprus has always been unacceptable. But the dramatic changes in the world now call for putting words into deeds. For so many years, the apologists for Turkey have argued that our hands were tied because of the need to support Turkey as a bulwark against the expansion of the Soviet Union into the Eastern Mediterranean. But that argument and the Soviet threat have both evaporated.

The United States and the United Nations must unequivocally declare that the time is over for endless bad faith negotiations and intransigence on the part of the Turkish side. The time has arrived for concrete steps to end the illegal division of the island.

Turkey must also be made to realize that it shares much of the blame for the repeated failures at the negotiating table. The government in Ankara must be held accountable for its influence over Mr. Denktash and the Turkish Cypriots. Their continued intransigence has not just been sanctioned but encouraged by Turkey. The United States must pressure the Turkish government to make it understand that it is in their best interests to negotiate a peaceful end to its illegal occupation of Northern Cyprus.

Three months ago, President Clerides of Cyprus made an astounding proposal that would transform the political environment. He proposed that both the government of Cyprus and the Turkish occupation forces disband their military forces. He called on the creation of a new U.N. peacekeeping operations that would take over the military assets of each side. He further offered to pay the costs of the U.N. operation from the resulting budget savings. This would shatter the stalemate and finally establish an environment in which the country can be peacefully reunited.

It would be preferable for this proposal to be implemented by agreement between the parties. But he must also keep in mind the facts that the Turks like occupying their weaker neighbor and Mr. Denktash likes pretending to rule a pretend nation.

We must continue to press for a negotiated settlement to the illegal division of Cyprus and the full accounting of those missing because of that division. With the passing of this bill, the House is sending the signal that the time for meaningless words is passed, and that only concrete actions will be acceptable.

Mr. BILIRAKIS. Mr. Speaker, I rise today in strong support of H.R. 2826, which will provide for an investigation into the circumstances surrounding United States citizens missing from Cyprus since the 1974 illegal Turkish occupation.

I also would like to take this opportunity to commend my colleagues Congressman ENGEL of New York and Congressman PORTER of Illinois for introducing this legislation.

Mr. Speaker, in the spring of 1992 I had the opportunity to chair hearings held by the congressional human rights caucus on the issue of the 1,619 people who are still unaccounted for in Cyprus as a result of the 1974 Turkish occupation.

What I heard during those hearings was agonizing. We had the opportunity to have a small, informal briefing then with Costas Kassapis, an American citizen from the State of Michigan. He and his family, who are American citizens as well, where in Cyprus at the time of the occupation. His son, Andrew, who was only 17 years old at the time is among the missing. Andrew Kassapis was dragged off in August 1974 by Turkish soldiers, nearly a month after the actual invasion. Andrew was abducted with his American passport in hand and has not been seen or heard from since.

Costas Kassapis made a heart-wrenching plea to us in that briefing. He made sure to tell us that he hates no one. All he wants is his boy, Andrew. Costas Kassapis' words were these:

> If he is alive, I want him back. If he is not, I need a concrete answer as to what has happened. I need help finding out. My family and I have suffered very much these past years wondering where Andrew is. Our thoughts and prayers are with him every single day wondering if he is hungry or fed or if he is rotting in a Turkish prison.

Mr. Speaker, five American citizens are still missing as a result of the illegal Turkish invasion of Cyprus in 1974, and Turkey is considered by the United States and this administration as an ally. However, the question still remains, what happened to these people?

For 20 years we've not known what really happened. All we have is the word of Mr. Rauf Denktash, the leader of the Turkish Cypriots, that these people are dead. Mr. Speaker that is not enough. We must find out what has happened to the five Americans in 1974, as well as the rest of the missing Greek Cypriots. If we are ever to find peace in that part of the world we must have concrete evidence on what has happened.

In 1974, Turkish television and newsreels produced photographs of prisoners of war that were taken during the occupation. They show Greek Cypriot soldiers on their knees with their hands above their heads. These prisoners of war that have been identified in these photographs and newsreels are still listed as missing. If these defenseless soldiers are dead, as Mr. Denktash has said, then we have a direct and flagrant disregard of the Geneva Convention.

Mr. Speaker, H.R. 2826 will bring us one step closer to answering a 20-year-old question. I again would like to express my appreciation to the gentleman from New York [Mr. ENGEL] as well as the gentleman from Illinois [Mr. PORTER] for bringing attention to this important human rights issue.

Mrs. MALONEY. Mr. Speaker, I want to thank my colleagues ELIOT ENGEL and JOHN PORTER for all their hard work on H.R. 2826, legislation which calls on the President to investigate the whereabouts of the 1,614 Cypriots and 5 Americans who are still missing from the 1974 invasion of Cyprus.

This resolution has garnered the impressive, bipartisan support of 186 of our colleagues here in the House and 43 Members of the other body. I am proud to be a cosponsor of this bill and to vote for its passage today. I would also urge the other body to pass this measure during this session of Congress.

Two weeks ago many of us commemorated the illegal 1974 Turkish invasion and occupation of 37 percent of Cyprus. The most tragic consequence of that invasion was the disappearance of 1,619 people during the hostilities. Included among the missing are the friends and relatives of many of my constituents from Astoria, NY.

George Anastasiou disappeared during that invasion. The last his brother Andreas heard from him was a message received 6 months after his capture. Andrew Kassapis was dragged off by Turkish Cypriot soldiers with his United States passport in his hand. Christaci Loizoi was 5 years old when he disappeared from a Turkish doctor's office after being hit by a stray bullet. Christaci's mother has been waiting 20 years for word on her son.

These victims are real. Equally as real are the shattered lives of their families and friends. For 20 years they have been waiting, hoping, and praying. Their pain must be relieved. Turkey must account for the missing.

The Turkish Government has been ignoring repeated U.N. resolutions, resolutions of this Congress and the pleas of family members separated from loved ones for 20 years. They continue to refuse to account for the fate of the missing. This is a crime against not only the missing but their families and friends as well.

You don't have to be a native Cypriot to feel kinship with the fathers and mothers and sisters and brothers of those missing and unaccounted for for 20 years. We must not let the world forget this tragedy. We must not turn our backs on the people of Cyprus. We must press the Turkish Cypriot leadership, and their supporters in Ankara, to release or account for the 1,619 missing persons.

This House has made a good first step toward making an accounting. The Senate and the President should do so as well.

Mr. MEEHAN. Mr. Speaker, today I am pleased that the House has approved H.R. 2826, a bill which will direct the President to investigate and report to Congress on the whereabouts of United States citizens who have been missing from Cyprus since 1974 and do everything possible to return these missing people, or their remains, to their families. H.R. 2826 is only the first step toward finding a solution to the situation in Cyprus.

As you may recall, Turkish forces attacked and occupied the island in 1974. Since then, the violations of Turkish forces have continued. Innocent people are still dying for no apparent reason. I'm sure you've heard the numbers: 1,619 Greek Cypriots are still missing from those fateful days of 1974, over 200,000 have been displaced, and there are actually Americans who are still missing.

These are more than mere numbers, though. These are people who had friends, family, children, and hopes for the future. Now there are children who will never know their mother or father, there are parents who will never see their children again, and there is a world that will suffer for never having had the opportunity to gain from these people.

When Turkey invaded Cyprus, the U.N. Charter, which specifically states in its preamble that, "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nation," was violated. In addition, the North Atlantic Treaty Organization's charter was violated.

Today, 37.3 percent of Cyprus is occupied by Turkish forces. There are 80,000 illegal Turkish settlers, and 35,000 illegal occupation troops. It's important to remember, though, that the Greek Cypriots were not the only people affected by the Turkish invasion. American citizens living in Cyprus have had their land and homes seized and occupied by Turkish forces. American citizens are also still missing after almost 20 years.

Since the need of the cold war, the world has been struggling to define a new world order. Under this new world order, we must work together to achieve peace, and Cyprus is simply one of many tests of this new world order. If we can be successful in our aspirations for peace in Cyprus, then we can truly be successful in other areas of the world.

The human rights violations that have been going on in Cyprus for the past 20 years cannot be allowed to continue. It is our duty as Americans to help find a solution to end these atrocities and aid not only the Greek Cypriots but American citizens as well. As a cosponsor of H.R. 2826, I strongly feel that now is the time to take action on locating these missing Americans, and take our first step in resolving the situation in Cyprus.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and pass the bill, H.R. 2826, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELSINKI HUMAN RIGHTS DAY

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 195) to designate August 1, 1994, as "Helsinki Human Rights Day."

The Clerk read as follows:

S.J. RES. 195

Whereas August 1, 1994, is the 19th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter referred to as the "Helsinki Accords");

Whereas the participating States have declared their determination to fully respect and apply the Helsinki Principles Guiding Relations among participating States, including respect for human rights, the territorial integrity of States, and the inviolability of frontiers;

Whereas the participating States have declared that "the protection and promotion of human rights and fundamental freedoms and the strengthening of democratic institutions continue to be a vital basis for our comprehensive security";

Whereas the participating States have declared that "respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, democracy, the rule of law, economic liberty, social justice, and environmental responsibility are our common aims";

Whereas the participating States have acknowledged that "there is still much work to be done in building democratic and pluralistic societies, where diversity is fully protected and respected in practice";

Whereas the war in Bosnia and Hercegovina has resulted in organized, systematic, and premeditated war crimes and genocide and has threatened stability and security in Europe;

Whereas ethnic tensions, civil unrest, and egregious human rights abuses in several of the recently admitted CSCE States continue to result in significant violations of CSCE commitments; and

Whereas the CSCE has contributed to positive developments in Europe by promoting and furthering respect for the human rights and fundamental freedoms of all individuals and groups and provides an appropriate framework for the further development of such rights and freedoms and genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HELSINKI HUMAN RIGHTS DAY.

(a) DESIGNATION.—August 1, 1994, the 19th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe, is designated as "Helsinki Human Rights Day".

(b) PROCLAMATION.—The President is authorized and requested to issue a proclamation reasserting America's commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory States to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities.

(c) HUMAN RIGHTS.—The President is requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SECTION 2. TRANSMITTAL.

The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other 52 Helsinki signatory States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the resolution before us designates today—August 1—as Helsinki Human Rights Day.

Let me first thank the chairman of the Post Office and Civil Service Committee, Mr. CLAY, who agreed to waive consideration of this resolution so that the House could consider it today.

I would like to also commend the gentleman from Maryland [Mr. HOYER], who is the original sponsor of the House companion resolution, House Joint Resolution 393.

Mr. HOYER has long been one of the principal proponents in the House of the need to protect internationally recognized human rights around the world, and he is to be commended for his work in this area.

Mr. Speaker, this resolution is very straightforward:

It notes that today is the 19th anniversary of the signing of the Helsinki accords;

It recognizes that the protection and promotion of human rights and fundamental freedoms, as well as the strengthening of democracy, continue to be vital to our security; and

It recognizes the positive contributions to stability that the Conference on Security and Cooperation in Europe has made by promoting and furthering respect for human rights and fundamental freedoms of all individuals and groups.

At this time, when ethnic tensions, civil unrest and continued human rights abuses continue to threaten stability around the world, I believe it is important for us to remember that civilized nations, acting in concert, can play an important role in addressing these problems.

This resolution reasserts our commitment to full protection of human rights around the world and deserves the support of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 195 which designates today, August 1, 1994 as Helsinki Human Rights Day. Nineteen years ago our Nation along with Canada and all the other European nations signed the final act of the Conference on Security and Cooperation in Europe. That act culminated a long series of negotiations linking together the concepts of security and stability in Europe with the recognition of human rights. While today this notion is widely accepted, 19 years ago and earlier, during the bitterest years of the cold war, the totalitarian regime which controlled the Soviet Union categorically rejected international human rights standards.

The Soviets maintained then that the manner in which citizens were treated by their government was strictly an "internal matter," beyond the purview of international relations. By signing the final act the Soviets were not only brought within the sphere of Europe, but were also explicitly acknowledging that human rights were a legitimate issue of international concern.

Tragically today, Mr. Speaker, in the former Yugoslavia, we are witnessing violations of human rights on a massive scale where the governments of the Republics of the former Yugoslavia are failing to uphold fully the standards contained in the Helsinki accords. Indeed, one government, Serbia, has adopted a policy of deliberately flouting these standards.

The conflict in the Balkans is a signal to all of us that the Helsinki accords are a living document that we must constantly strive to uphold so that all the citizens of Europe can enjoy the fruits and benefits of peace, security, and the full enjoyment of basic human rights and fundamental freedoms.

Accordingly, Mr. Speaker, I urge all my colleagues to join in saying aye to Senate Joint Resolution 195, and by doing so, send a message that will be heard throughout Europe that we believe firmly in the CSCE and in fulfilling the promise of Helsinki that was born 19 years ago today.

Mr. HOYER. Mr. Speaker, I wish to thank the distinguished chairman of the Foreign Affairs Committee, Mr. HAMILTON, and the ranking minority member, Mr. GILMAN, for their assistance in bringing the pending resolution before the House and for their steadfast support for the Helsinki process and the work of the Helsinki Commission. I am privileged to serve as cochairman of the Commission together with my good friend Senator DENNIS DECONCINI who is scheduled to retire at the end of this Congress. I want to make special mention and commend Senator DECONCINI for his years of tireless dedicated service to the Commission and his steadfast commitment to the principles enshrined in the Helsinki Final Act.

Today we commemorate the 19th anniversary of the signing of the Helsinki Final Act, a historic document which has, for nearly two decades now, proven invaluable in promoting human rights, democracy, and rule of law in the CSCE participating states. On August 1, 1975, the leaders of then 35 countries gathered in Helsinki, Finland, to sign the Final Act of the Conference on Security and Cooperation in Europe [CSCE]. The Final Act served and continues to serve as a standard against which to measure the human rights record of each of the signatory states. In a very real sense the Helsinki process laid the groundwork for many of the dramatic developments and changes which took place in Europe during the late 1980's. But the euphoria of that period has been tempered by the reality that Europe is still in the process of liberating itself from the legacy of the past; and as old confrontations and divisions fade, new ones threaten to undermine the new era of democracy, peace and unity in Europe following the end of the cold war.

If there is to be a new world order it must be firmly rooted in the fundamental principles and freedoms enshrined in the Helsinki Final Act. While there has been some progress in this regard, there is so much more work to be done. We need look no further than Bosnia, where for over 2 years we have witnessed the destruction of a multicultural society. I recently returned from Sarajevo where I observed firsthand the disastrous consequences of armed aggression and genocide driven by intolerance and fueled by ethnic hatred.

Through indecision and inaction the international community has allowed that situation in Bosnia and Herzegovina to deteriorate to its current state: over 200,000 killed; millions driven from their homes through a campaign of "ethnic cleansing"; and thousands interned in concentration camps and rape motels. The ethnic cleansing campaigns in northwestern and, most recently, in northeastern Bosnia demonstrate that the Serb militants will not give up territory in light of a peace agreement, but will "purify" those areas which they feel are safely theirs, no matter what.

Nothing, not even genocide, has prompted the kind of resolute action necessary to contain, let alone actively fight, the virus of ethnic hatred and intolerance which has consumed so many in the former Yugoslavia. Any negotiated resolution of war in Bosnia and in neighboring Croatia must fully respect CSCE principles, including respect for the territorial integrity of each. In addition, if justice is to be served, those responsible for crimes against humanity must be prosecuted.

For decades Berlin was the symbol of cold war division. Today, Sarajevo is the symbol of another division in the heart of Europe. As Berliners held out hope that they would one day be united and free, the people of Sarajevo remain steadfast in their hope that it is not too late to resurrect the multiethnic society they worked for years to establish and nurture.

Growing ethnic tensions, civil unrest, and egregious human rights violations, are by no means confined to the Balkans and are a source of continued concern. They remind us of the need to redouble our efforts to safeguard human rights and fundamental freedoms throughout the CSCE community.

In this regard, I note that Uzbekistan's regime continues to flout CSCE commitments by cracking down on opposition activists; the opposition has been completely suppressed or forced into exile by the most brutal methods. Human rights are similarly violated in Turkmenistan, where the regime never even let the opposition develop to the point where its suppression might be necessary. In Tajikistan, where a civil war in 1992–93 killed scores of thousands and made half a million people refugees, the regime, while now negotiating with the opposition, still is not allowing opposition forces to organize.

In Russia, the recently issued anticrime decree contains elements which seriously threaten to undermine human rights. Even more worrying, however, is the report issued last week by the government human rights commission, headed by Sergei Kovalev, former dissident, political prisoner, and colleague of Andrei Sakharov. This report, excerpts of which have been published in the Russian press, details continuing human rights concerns, such as the survival of residence restrictions in Moscow, and the expulsion from the capital last October of thousands of "people of Caucasian nationality."

On a positive note, I welcome the recent agreement between Estonia and the Russian Federation which paves the way for the removal of Russian troops from that Baltic state by the end of this month.

Mr. Speaker, I recently returned from the third CSCE parliamentary assembly where there was considerable debate over recent developments in Turkey and that country's treatment of its Kurdish citizens. While Turkey is a valuable NATO ally and major recipient of United States military and economic assistance, we should not be deterred from voicing serious concerns over the deteriorating human rights situation and the Turkish Government's inability or unwillingness to constructively address abuses.

The Helsinki Commission has always placed particular emphasis on the importance of implementation of CSCE human rights commitments. In recent months the Commission has issued a series of reports on human rights and democratization in countries of Central and Eastern Europe. Additional reports will be issued shortly. This ambitious effort is being undertaken in advance of the upcoming Budapest CSCE review meeting which, among other things, will consider the status of human rights in the now 53 participating states. The Budapest meeting will play an important role in helping to chart the course of the CSCE as it prepares to enter its third decade.

Mr. Speaker, on this, the 19th anniversary of its signing, let us resolve anew to uphold those fundamental principles and freedom enshrined in the Helsinki Final Act.

Mr. PORTER. Mr. Speaker, today marks the 19th anniversary of the day representatives of 33 European nations, Canada and the United States met in Helsinki, Finland to sign the Final Act of the Conference on Security and Cooperation in Europe. The Final Act, better known as the Helsinki Accords, created a framework by which these nations would agree to respect human rights; abide by international law, refrain from military aggression, and respect the borders and sovereignty of their neighbors.

Through the early years of the CSCE, its founding principles represented more of a hope for the future—a statement of principles—than a reality in many member countries. The Communist bloc countries continued to systematically violate the human rights of their people and the Baltics and a number of eastern and central European countries remained occupied.

Today, however, the full promise of the CSCE is beginning to be met and CSCE has been an active part in this transformation. The group of signatory nations has grown to over 50, including the New Independent States of the former Soviet Union, the Baltics, and the other new nations of Europe.

Although the cold war is over, the work of the CSCE is not. It can now play a critical role in helping to address the issues facing post-cold-war Europe, such as the tensions over nationality which have arisen most notably in the former Yugoslavia and in newly independent countries of the CIS. The CSCE can also develop its role to ensure the full implementation of human rights guarantees in each of the more than 50 member countries. The task of the Helsinki process should now be to make irreversible the Democratic advancements that have been made in eastern Europe and the former Soviet Union and to consolidate mechanisms for preventing conflict and preserving peace throughout Europe.

Because the CSCE process has been such a useful forum to monitor international compliance to the Helsinki Accords, I believe that model of the Helsinki Commission should be applied to other international agreements. For this reason, I have introduced legislation to create a Rio Commission. The Rio Commission would oversee progress toward the policy goals produced at the United Nations Conference on Environment and Development [UNCED] in Rio de Janeiro in June. Like the Helsinki Commission, the Rio Commission would be composed of Members of Congress and the executive branch and would keep track of how the United States and UNCED conferees are implementing the commitments they made at the Earth Summit to achieve environmental protection and sustainable development. It is my hope that, by establishing a Rio Commission, we will make as much progress on Earth Summit goals as we have made on the commitments that were included in the Helsinki Accords.

I am pleased to join my colleague, Representative HOYER, Chairman of the Helsinki Commission, in marking the anniversary of the signing of the Helsinki Accords and I urge the adoption of this resolution.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 195.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR CONCURRENCE BY THE HOUSE WITH AMENDMENTS TO SENATE AMENDMENTS TO H.R. 4429, AUTHORIZING TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 499), providing for the concurrence by the House with amendments to the amendments of the Senate to H.R. 4429.

The Clerk read as follows:

H. RES. 499

Resolved, That upon the adoption of this resolution the bill (H.R. 4429) (to authorize the transfer of naval vessels to certain foreign countries) with the Senate amendments thereto, shall be considered to have been taken from the Speaker's table to the end that—

(1) the Senate amendments numbered 1 through 11 be, and the same are hereby, agreed to; and

(2) the Senate amendment number 12 be, and the same is hereby, agreed to with an amendment as follows:

(A) Page 2, beginning on line 13, strike "or any other provision of law".

(B) Page 3, strike line 3 and all that follows through line 9.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as approved by the House on May 23, H.R. 4429 authorizes the transfer of 17 naval vessels through 2 sales, 1 grant, and 14 leases to Argentina, Australia, Brazil, Chile, Malaysia, Morocco, Spain, Venezuela, and Taiwan.

As amended by the other body, H.R. 4429 authorizes the transfer of only 7 naval vessels rather than 17 through 2 sales, 1 grant, and 4 leases to Australia, Brazil, Morocco, and Spain.

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The other body included two additional amendments that require the Secretary of Defense to certify that the amphibious lift capability of the U.S. Navy will remain at 2½ Marine Corps expeditionary brigades, and dedicated the proceeds received from these transfers to the Naval Operations and Maintenance account. The other body approved H.R. 4429 by voice vote on July 15.

This resolution provides that the House concur in the Senate amendments to H.R. 4429 with further amendments. The House amendment deletes the use of proceeds section that was approved by the other body. In other words, moneys from sales and leases will go to the U.S. Treasury, not Naval Operations and Maintenance.

The House amendment limits the certification required by the Senate to vessels transferred under this act. The House is taking this action because it is the best way to support the administration's request. It does not violate the Balanced Budget and Emergency Deficit Control Act and it continues to serve as a money earner and saver for the U.S. Treasury, and money multiplier for U.S. Navy and commercial shipyards.

Mr. Speaker, we should approve this resolution. It is the right way to proceed with legislation governing the transfer of naval vessels.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Chairman HAMILTON has indicated, the House originally passed this legislation on May 23 by voice vote. On July 15, the Senate passed the legislation after making a number of changes and sent the legislation back to the House. Today, the House is agreeing with the Senate modifications in large part and sending the legislation back to the Senate for its consideration.

As passed originally by the House, the purpose of this legislation was to authorize the transfer of 17 ships to 9 countries—Argentina, Australia, Brazil, Chile, Malaysia, Morocco, Spain, Taiwan, and Venezuela. The proposed transfers involve *Knox*-class frigates and *Newport*-class tank landing ships.

The Senate reduced the number of ships available for transfer from 17 to 7. The seven ships authorized to be transferred under this legislation, include five *Newport*-class tank landing ships and two *Knox*-class frigates, which are available for Australia, Brazil, Morocco, and Spain. Additionally, the Senate directed the Secretary of Defense to make certain certifications regarding amphibious lift capability before any naval vessels can be transferred.

Finally, the Senate mandated that the proceeds from the sales and leases of the seven ships should go directly to the Department of the Navy. This provision is being deleted pursuant to House action today. The committee believes strongly that instead proceeds from this legislation should flow directly to general receipts of the Treasury.

Of the seven ships, the United States intends to sell two of these vessels to Australia pursuant to chapter 21 of the Arms Export Control Act and grant one of the ships to Morocco pursuant to section 516 of the Foreign Assistance Act. These three ships will not remain on the U.S. Naval Vessel Register.

All of the remaining four ships, the United States intends to transfer pursuant to chapter 6 of the AECA. During their lease periods, these four ships will be retained on the U.S. Naval Vessel Register while under the operational command and control of the designated foreign recipients. Under the lease terms, the United States may terminate the leases and have the vessels returned to U.S. custody should the need arise.

All of the *Newport* tank landing ships authorized for transfer under this legislation remain in active service and would be transferred directly to the foreign countries once they are decommissioned.

The United States would incur no costs for the transfer of these naval vessels. Any expenses incurred in connection with the transfers would be charged to the recipient nation including maintenance, repair and reactivation costs, and training.

The U.S. Government will receive between $25.9 million and $33.6 million in sales and lease revenues as a result of this legislation. Further, by transferring these ships, the United States will avoid $10.5 million in deactivation and storage costs. In addition, it is anticipated that the recipient countries will pay U.S. shipyards between $5 and $30 million for repair and reactivation work on these ships.

I understand that the changes being made by the House in this legislation are acceptable to the other body and we look forward to their expeditious consideration of this legislation.

Accordingly, Mr. Speaker, I urge my colleagues to support this measure. It advances the valuable, cooperative relationships the United States has established with each of these nations' navies and manages to save U.S. taxpayers a significant amount of money at the same time.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the resolution, House Resolution 499.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2826, Senate Joint Resolution 195, and House Resolution 499, which were just considered and adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AUTHORIZING CERTAIN ELEMENTS OF YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1690) to authorize certain elements of the Yakima River Basin water enhancement project, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to protect, mitigate, and enhance fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation and enhancement of wetlands; and by other appropriate means of habitat improvement;

(2) to improve the reliability of water supply for irrigation;

(3) to authorize a Yakima River basin water conservation program that will improve the efficiency of water delivery and use; enhance basin water supplies; improve water quality; protect, create and enhance wetlands; and determine the amount of basin water needs that can be met by water conservation measures;

(4) to realize sufficient water savings from the Yakima River Basin Water Conservation Program so that not less than 40,000 acre-feet of water savings per year are achieved by the end of the fourth year of the Basin Conservation

Program, and not less than 110,000 acre-feet of water savings per year are achieved by the end of the eighth year of the program, to protect and enhance fish and wildlife resources; and not less than 55,000 acre feet of water savings per year are achieved by the end of the eighth year of the program for availability for irrigation;

(5) to encourage voluntary transactions among public and private entities which result in the implementation of water conservation measures, practices, and facilities; and

(6) to provide for the implementation by the Yakama Indian Nation at its sole discretion of (A) an irrigation demonstration project on the Yakama Indian Reservation using water savings from system improvements to the Wapato Irrigation Project, and (B) a Toppenish Creek corridor enhancement project integrating agricultural, fish, wildlife, and cultural resources.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Basin Conservation Plan" means a plan for implementing water conservation measures found in the various water conservation plans developed under the Basin Conservation Program.

(2) The term "Basin Conservation Program" means the Yakima River Basin Water Conservation Program established under section 3(a).

(3) The term "comprehensive basin operating plan" means a plan that will provide guidance to the Yakima Project Superintendent for operation of the existing Yakima Project as modified by actions taken pursuant to this Act.

(4) The term "Conservation Advisory Group" means the Yakima River Basin Conservation Advisory Group established under section 3(c).

(5) The term "conserved water" means water saved and attributable to the program established under the Basin Conservation Program.

(6) The term "Irrigation Demonstration Project" means the Yakama Indian Reservation Irrigation Demonstration Project authorized in section 4(b).

(7) The term "nonproratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is not subject to proration in times of water shortage.

(8) The term "on-district storage" means small water storage facilities located within the boundaries of an irrigation entity, including reregulating reservoirs, holding ponds, or other new storage methods which allow for efficient water use.

(9) The term "proratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is subject to proration in times of water shortage.

(10) The term "Secretary" means the Secretary of the Interior.

(11) The term "System Operations Advisory Committee" means a group of fishery biologists—

(A) created by the Yakima Project Superintendent in response to the supplemental instructions entitled "Supplementary Instructions to the Water Master", and dated November 28, 1980, in the case of Kittitass Reclamation District, et al. vs. the Sunnyside Valley Irrigation District, et al. (E.D. Wash., Civil No. 21.);

(B) who advise the Yakima Project Superintendent on operations of the Yakima Project for fish and wildlife purposes; and

(C) who, together with others, were identified for consultation on November 29, 1990, in the amended partial summary judgment entered in the basin adjudication (Yakima County Superior Court No. 77-2-01484-5).

(12) The term "Toppenish Enhancement Project" means the Toppenish Creek corridor enhancement project authorized by section 4(c).

(13) The term "Yakama Indian Nation" means the Confederated Tribes and Bands of the Yakama Indian Nation as redesignated under section 4(g).

(14) The term "Yakima Project Superintendent" means the individual designated by the Regional Director, Pacific Northwest Region, Bureau of Reclamation, to be responsible for the operation and management of the Yakima Federal Reclamation Project, Washington.

SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested parties, shall establish and administer a Yakima River Basin Water Conservation Program for the purpose of evaluating and implementing measures to improve the availability of water supplies for irrigation and the protection and enhancement of fish and wildlife resources, including wetlands, while improving the quality of water in the Yakima Basin. The Secretary may make grants to eligible entities for the purposes of carrying out this Act under such terms and conditions as the Secretary may require. Such terms and conditions shall include a requirement that all water districts, irrigation districts, individuals, or other entities eligible to participate in the Basin Conservation Program must equip all surface water delivery systems within their boundaries with volumetric water meters or equally effective water measuring methods within 5 years of the date of enactment of this Act.

(2) Conserved water resulting in whole or in part from the expenditure of Federal funds shall not be used to expand irrigation in the Yakima Basin, except as specifically provided in section 4(a)(3) on the Yakama Indian Reservation.

(3) The provisions of this section shall not apply to the Yakama Indian Nation except as to any funds specifically applied for from the Basin Conservation Program.

(b) FOUR PHASES OF PROGRAM.—The Basin Conservation Program shall encourage and provide funding assistance for four phases of water conservation, which shall consist of the following:

(1) The development of water conservation plans, consistent with applicable water conservation guidelines of the Secretary, by irrigation districts, conservation districts, water purveyors, other areawide entities, and individuals not included within an areawide entity.

(2) The investigation of the feasibility of specific potential water conservation measures identified in conservation plans.

(3) The implementation of measures that have been identified in conservation plans and have been determined to be feasible.

(4) Post implementation monitoring and evaluation of implemented measures.

(c) CONSERVATION ADVISORY GROUP.—(1) Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested and related parties, shall establish the Yakima River Basin Conservation Advisory Group.

(2) Members of the Conservation Advisory Group shall be appointed by the Secretary and shall be comprised of—

(A) one representative of the Yakima River basin nonproratable irrigators,

(B) one representative of the Yakima River basin proratable irrigators,

(C) one representative of the Yakama Indian Nation,

(D) one representative of environmental interests,

(E) one representative of the Washington State University Agricultural Extension Service,

(F) one representative of the Department of Wildlife of the State of Washington, and

(G) one individual who shall serve as the facilitator.

(3) The Conservation Advisory Group shall—

(A) provide recommendations to the Secretary and to the State of Washington regarding the structure and implementation of the Basin Conservation Program,

(B) provide recommendations to the Secretary and to the State of Washington regarding the establishment of a permanent program for the measurement and reporting of all natural flow and contract diversions within the basin.

(C) structure a process to prepare a basin conservation plan as specified in subsection (f),

(D) provide annual review of the implementation of the applicable water conservation guidelines of the Secretary, and

(E) provide recommendations consistent with statutes of the State of Washington on rules, regulations, and administration of a process to facilitate the voluntary sale or lease of water.

(4) The facilitator shall arrange for meetings of the Conservation Advisory Group, provide logistical support, and serve as moderator for the meetings.

(5) The Conservation Advisory Group shall consult an irrigation district when considering actions specifically affecting that district. For the purposes of this paragraph, an irrigation district includes the Yakima Reservation Irrigation District.

(6) The Conservation Advisory Group shall be nonvoting, seeking consensus whenever possible. If disagreement occurs, any member may submit independent comments to the Secretary. The Conservation Advisory Group shall terminate 5 years after the date of its establishment unless extended by the Secretary.

(d) COST SHARING.—(1) Except as otherwise provided by this Act, costs incurred in the four phases of the Basin Conservation Program shall be shared as follows:

Program Phase	*Non-Federal*		*Federal Grant*
	State Grant	*Local*	
1. Development of water conservation plans	*50% but not more than $200,000 per recipient*	*(Residual amount if any)*	*50%*
2. Investigation of specific water conservation measures	*50% but sum of 1 and 2 not greater than $200,000 per recipient*	*20% after deducting State funds for Item 2*	*Residual amount after deducting State and local funds for Item 2*
3 and 4. Implementation and post implementation monitoring and evaluation	*17.5%*	*17.5%*	*65.0%*

(2) The Yakima River Basin Water Enhancement Project is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Yakima River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1989 (94 Stat. 2697) and independent water-related improvements of the State of Washington and other public and private entities to improve irrigation water use, water supply, and water quality, shall be treated as non-Federal cost share expenditures and shall be consolidated in any final calculation of required cost sharing. Within one year of the date of enactment of this Act,

the Secretary shall enter into a binding cost sharing agreement with the State of Washington. The agreement shall describe the terms and conditions of specific contributions and other activities that may, subject to approval by the Secretary, qualify as non-Federal cost share expenditures.

(3) Costs of the Basin Conservation Program related to projects on the Yakama Indian Reservation are a Federal responsibility and shall be nonreimbursable and not subject to the cost-sharing provisions of this subsection.

(e) Entity Water Conservation Plans.—To participate in the Conservation Basin Program an entity must submit a proposed water conservation plan to the Secretary. The Secretary shall approve a water conservation plan submitted under this subsection if the Secretary determines that the plan meets the applicable water conservation guidelines of the Secretary.

(f) Basin Conservation Plan.—The Conservation Advisory Group shall, within 2½ years after the date of enactment of this Act, submit a draft basin conservation plan to the Secretary.

(g) Public Comment.—The Secretary shall distribute the draft basin conservation plan and the entity water conservation plans submitted under subsections (e) and (f), respectively, for public comment for a 60-day period.

(h) Publication of Basin Conservation Plan.—Within 60 days after the close of the comment period under subsection (g), the Secretary shall publish the Basin Conservation Plan which plan will provide the basis—

(1) for prioritizing and allocating funds to implement conservation measures under this Act; and

(2) for preparing an interim comprehensive basin operating plan under section 10 of this Act as provided for in Public Law 96–162 (93 Stat. 1241).

(i) Conservation Measures.—(1) Measures considered for implementation in the Basin Conservation Program may include, among others, conveyance and distribution system monitoring, automation of water conveyance systems, water measuring or metering devices and equipment, lining and piping of water conveyance and distribution systems, on-district storage, electrification of hydraulic turbines, tail-water recycling, consolidation of irrigation systems, irrigation scheduling, and improvement of on-farm water application systems. Basin Conservation Program funds may also be used throughout all four phases of the Basin Conservation Program to mitigate for adverse impacts of program measures.

(2) In addition to implementing existing technologies, the Secretary shall encourage the testing of innovative water conservation measures. The Secretary shall, to the maximum extent possible under applicable Federal, State, and tribal law, cooperate with the State of Washington to facilitate water and water right transfers, water banking, dry year options, the sale and leasing of water, and other innovative allocation tools used to maximize the utility of existing Yakima River basin water supplies.

(3) The Secretary may, consistent with applicable law, use funds appropriated to carry out this section for the purchase or lease of land, water, or water rights from any entity or individual willing to limit or forego water use on a temporary or permanent basis. Funds used for purchase or lease under this paragraph are not subject to the cost sharing provisions of subsection (d). Efforts to acquire water should be made immediately upon availability of funds to meet the three-year goal specified in section 5(a)(4) to provide water to be used by the Yakima Project Superintendent under the advisement of the System Operations Advisory Committee for instream flow purposes. The use of Basin Conservation Program funds under this paragraph are in addition to those specifically authorized to be appropriated by subsection (j)(4).

(4) On-farm water management improvements shall be coordinated with programs administered by the Secretary of Agriculture and State conservation districts.

(j) Authorization of Appropriations.—There is hereby authorized to be appropriated to the Secretary, at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, the following amounts for the Basin Conservation Program:

(1) $1,000,000 for the development of water conservation plans.

(2) $4,000,000 for investigation of specific potential water conservation measures identified in conservation plans for consideration for implementing through the Basin Conservation Program.

(3) Up to $67,500,000 for design, implementation, post-implementation monitoring and evaluation of measures, and addressing environmental impacts.

(4) Up to $10,000,000 for the initial acquisition of water from willing sellers or lessors specifically to provide instream flows for interim periods to facilitate the outward migration of anadromous fish flushing flows. Such funds shall not be subject to the cost sharing provisions of subsection (d).

(5) $100,000 annually for the establishment and support of the Conservation Advisory Group during its duration. Such funds shall be available for travel and per diem, rental of meeting rooms, typing, printing and mailing, and associated administrative needs. The Secretary and the State of Washington shall provide appropriate staff support to the Conservation Advisory Group.

SEC. 4. YAKAMA INDIAN NATION.

(a) Wapato Irrigation Project Improvements and Appropriations.—(1) The Yakama Indian Nation's proposed system improvements to the Wapato Irrigation Project, as well as the design, construction, operation, and maintenance of the Irrigation Demonstration Project and the Toppenish Creek corridor enhancement project, pursuant to this Act shall be coordinated with the Bureau of Indian Affairs.

(2) There is authorized to be appropriated to the Secretary not more than $23,000,000 for the preparation of plans, investigation of measures, and following the Secretary's certification that such measures are consistent with the water conservation objectives of this Act, the implementation of system improvements to the Wapato Irrigation Project. Funding for further improvements within the Wapato Irrigation Project may be acquired under the Basin Conservation Program or other sources identified by the Yakama Indian Nation.

(3) Water savings resulting from irrigation system improvements shall be available for the use of the Yakama Indian Nation for irrigation and other purposes on the reservation and for protection and enhancement of fish and wildlife within the Yakima River basin. The conveyance of such water through irrigation facilities other than the Wapato Irrigation Project shall be on a voluntary basis and shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(b) Irrigation Demonstration Project Appropriations.—(1)(A) There is hereby authorized to be appropriated to the Secretary—

(i) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, $8,500,000 for the design and construction of the Yakama Indian Reservation Irrigation Demonstration Project; and

(ii) such sums as may be necessary for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies for the period specified by the Secretary, which sums are in addition to operation and maintenance funds for wildlife and cultural purposes appropriated to the Secretary under other authorization.

(B) Funds may not be made available under this subsection until the Yakama Indian Nation obtains the concurrence of the Secretary in the construction, management, and administrative aspects of the Irrigation Demonstration Project.

(C) After the end of the period specified under subparagraph (A)(ii), costs for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies referred to in that subparagraph, shall be borne exclusively by the lands directly benefitting from the Irrigation Demonstration Project.

(2) The Irrigation Demonstration Project shall provide for the construction of distribution and on-farm irrigation facilities to use all or a portion of the water savings, as determined by the Yakama Indian Nation, resulting from the Wapato Irrigation Project system improvements for—

(A) demonstrating cost-effective state of the art irrigation water management and conservation,

(B) the training of tribal members in irrigation methods, operation, and management, and

(C) upgrading existing hydroelectric facilities and construction of additional hydroelectric facilities on the reservation to meet irrigation pumping power needs.

(c) Toppenish Creek Corridor Enhancement Project Appropriations.—There is hereby authorized to be appropriated to the Secretary $1,500,000 for the further investigation by the Yakama Indian Nation of measures to develop a Toppenish Creek corridor enhancement project to demonstrate integration of management of agricultural, fish, wildlife, and cultural resources to meet tribal objectives and such amount as the Secretary subsequently determines is necessary for implementation. There is also authorized to be appropriated to the Secretary such sums as may be necessary for the operation and maintenance of the Toppenish Enhancement Project.

(d) Report.—Within 5 years of the implementation of the Irrigation Demonstration Project and the Toppenish Enhancement Project, the Secretary, in consultation with the Yakama Indian Nation, shall report to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington on the effectiveness of the conservation, training, mitigation, and other measures implemented.

(e) Status of Improvements and Facilities.—The Wapato Irrigation Project system improvements and any specific irrigation facility of the Irrigation Demonstration Project (excluding on-farm irrigation facilities) and the Toppenish Enhancement Project shall become features of the Wapato Irrigation Project.

(f) Treatment of Certain Costs.—Costs related to Wapato Irrigation Project improvements, the Irrigation Demonstration Project, and the Toppenish Enhancement Project shall be a Federal responsibility and are nonreimbursable and nonreturnable.

(g) Redesignation of Yakima Indian Nation to Yakama Indian Nation.—

(1) Redesignation.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 5. OPERATION OF YAKIMA BASIN PROJECTS.

(a) WATER SAVINGS FROM BASIN CONSERVATION PROGRAM.—(1) The Basin Conservation Program is intended to result in reductions in water diversions allowing for changes in the present operation of the Yakima Project to improve stream flow conditions in the Yakima River basin. Except as provided by paragraph (5) of this subsection and section 9, commencing with the enactment of this Act, and notwithstanding that anticipated water savings are yet to be realized, the Secretary, upon the enactment of this Act and acting through the Yakima Project Superintendent, shall (A) continue to estimate the water supply which is anticipated to be available to meet water entitlements; and (B) provide instream flows in accordance with the following criteria:

Water Supply Estimate for Period (million acre feet):				*Target Flow from Date of Estimate thru October Downstream of (cubic feet per second):*	
April thru September	*May thru September*	*June thru September*	*July thru September*	*Sunnyside Diversion Dam*	*Prosser Diversion Dam*
(1) 3.2	*2.9*	*2.4*	*1.9*	*600*	*600*
(2) 2.9	*2.65*	*2.2*	*1.7*	*500*	*500*
(3) 2.65	*2.4*	*2.0*	*1.5*	*400*	*400*
Less than line 3 water supply				*300*	*300*

(2) The initial target flows represent target flows at the respective points. Reasonable fluctuations from these target flows are anticipated in the operation of the Yakima Project, except that for any period exceeding 24 hours—

(A) actual flows at the Sunnyside Diversion Dam may not decrease to less than 65 percent of the target flow at the Sunnyside Diversion Dam; and

(B) actual flows at the Prosser Diversion Dam may not decrease by more than 50 cubic feet per second from the target flow.

(3) The instream flows shall be increased for interim periods during any month of April through October to facilitate when necessary the outward migration of anadromous fish. Increased instream flows for such interim periods shall be obtained through voluntary sale and leasing of water or water rights or from conservation measures taken under this Act.

(4)(A)(i) Within the three-year period beginning when appropriations are first provided to carry out the Basin Conservation Program, the instream flow goal in the Yakima River is as follows: to secure water which is to be used for instream flows to facilitate meeting recommendations of the System Operations Advisory Committee for flushing flows or other instream uses.

(ii) In addition to any other authority of the Secretary to provide water for flushing flows, the water required to meet the goal specified in clause (i) shall be acquired through the voluntary purchase or lease of land, water, or water rights and from the development of additional storage capability at Lake Cle Elum provided for in section 6(a).

(iii) In addition to water required to meet the instream flow goal specified in clause (i), the System Operations Advisory Committee may recommend additional water to meet instream flow goals pursuant to judicial actions.

(B) After the period referred to in subparagraph (A), such instream flow goal is modified as follows:

(i) The goal increases so that the instream target flows specified in the table in paragraph (1) increase by 50 cubic feet per second for each 27,000 acre-feet of reduced annual water diversions achieved through implementation of measures under the Basin Conservation Program. Such increases do not apply to actions taken pursuant to section 4. Such increases shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(ii) The goal changes directly with the availability of water resulting from Federal expenditures under this Act for purchase or lease of water under this Act.

(C) The Yakima Project Superintendent shall maintain an account of funded and completed conservation measures taken under the Basin Conservation Program.

(D) No later than March 31 of each calendar year, the Yakima Project Superintendent shall meet with the State of Washington, Yakama Indian Nation, and Yakima River basin irrigators to mutually determine total diversion reductions and respective adjustments to the target flows referred to in this subsection. The Yakima Project Superintendent shall announce such adjustments with the announcements of Total Water Supply Available. For the purposes of this subparagraph, conserved water will be considered available for adjusting target flows in the first year following completion of a measure or following a result from the post implementation monitoring and evaluation program, as the case may be.

(5) Operational procedures and processes in the Yakima River basin which have or may be implemented through judicial actions shall not be impacted by this Act.

(6)(A) Within three years after the date of enactment of this Act, the Secretary shall conduct a study and submit a report with recommendations to the appropriate committees of the Congress on whether the water supply available for irrigation is adequate to sustain the agricultural economy of the Yakima River basin.

(B) The target flows provided for under this subsection shall be evaluated within three years after the date of enactment of this Act by the Systems Operations Advisory Committee for the purpose of making a report with recommendations to the Secretary and the Congress evaluating what is necessary to have biologically-based target flows.

(C) The recommendations and reports under subparagraphs (A) and (B) shall provide a basis for the third phase of the Yakima River Basin Water Enhancement Project.

(b) WATER FROM LAKE CLE ELUM.—Water accruing from the development of additional storage capacity at Lake Cle Elum, made available pursuant to the modifications authorized in section 6(a), shall not be part of the Yakima River basin's water supply as provided in subsection (a)(1). Water obtained from such development is exclusively dedicated to instream flows for use by the Yakima Project Superintendent as flushing flows or as otherwise advised by the System Operations Advisory Committee. Water may be carried over from year-to-year in the additional capacity to the extent that there is space available. Releases may be made from other Yakima Project storage facilities to most effectively utilize this additional water, except that water deliveries to holders of existing water rights shall not be impaired.

(c) STATUS OF BASIN CONSERVATION PROGRAM FACILITIES.—Measures of the Basin Conservation Program which are implemented on facilities currently under the administrative jurisdiction of the Secretary, except as provided in section 4, shall be considered features of the Yakima River Basin Water Enhancement Project, and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. The responsibility for operation and maintenance and the related costs shall remain with the current operating entity. As appropriate, the Secretary shall incorporate the operation and maintenance of such facilities into existing agreements. The Secretary shall assure that such facilities are operated in a manner consistent with Federal and State law and in accordance with water rights recognized pursuant to State and Federal law.

(d) WATER ACQUIRED BY PURCHASE AND LEASE.—Water acquired from voluntary sellers and lessors shall be administered as a block of water separate from the Total Water Supply Available, in accordance with applicable Federal and State law.

(e) YAKIMA PROJECT PURPOSE.—(1) An additional purpose of the Yakima Project shall be for fish, wildlife, and recreation.

(2) The existing storage rights of the Yakima Project shall include storage for the purposes of fish, wildlife, and recreation.

(3) The purposes specified in paragraphs (1) and (2) shall not impair the operation of the Yakima Project to provide water for irrigation purposes nor impact existing contracts.

SEC. 6. LAKE CLE ELUM AUTHORIZATION OF APPROPRIATIONS.

(a) MODIFICATIONS AND IMPROVEMENTS.—There is hereby authorized to be appropriated to the Secretary—

(1) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuation of applicable indexes, $2,934,000 to—

(A) modify the radial gates at Cle Elum Dam to provide an additional 14,600 acre-feet of storage capacity in Lake Cle Elum,

(B) provide for shoreline protection of Lake Cle Elum, and

(C) construct juvenile fish passage facilities at Cle Elum Dam, plus

(2) such additional amounts as may be necessary which may be required for environmental mitigation.

(b) OPERATION AND MAINTENANCE APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary such sums as may be necessary for that portion of the operation and maintenance of Cle Elum Dam determined by the Secretary to be a Federal responsibility.

SEC. 7. ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA BASIN TRIBUTARIES.

(a) GENERAL PROVISIONS.—The following shall be applicable to the investigation and implementation of measures to enhance water supplies for fish and wildlife and irrigation purposes on tributaries of the Yakima River basin:

(1) An enhancement program authorized by this section undertaken in any tributary shall be contingent upon the agreement of appropriate water right owners to participate.

(2) The enhancement program authorized by this section shall not be construed to affect (A) the water rights of any water right owners in the tributary or other water delivering entities; (B) the capability of tributary water users to divert, convey, and apply water; and (C) existing water and land uses within the tributary area.

(3) The water supply for tributary enhancement shall be administered in accordance with applicable State and Federal laws.

(4) Any enhancement program authorized by this section shall be predicated upon the availability of a dependable water supply.

(b) STUDY.—(1) The Secretary, following consultation with the State of Washington, the tributary water right owners, and the Yakama Indian Nation, and agreement of appropriate

water right owners to participate, shall conduct a study concerning the measures that can be implemented to enhance water supplies for fish and wildlife and irrigation purposes on Taneum Creek, including (but not limited to)—

(A) water use efficiency improvements;

(B) the conveyance of water from the Yakima Project through the facilities of any irrigation entity willing to contract with the Secretary without adverse impact to water users;

(C) the construction, operation, and maintenance of ground water withdrawal facilities;

(D) contracting with any entity that is willing to voluntarily limit or forego present water use through lease or sale of water or water rights on a temporary or permanent basis;

(E) purchase of water rights from willing sellers; and

(F) other measures compatible with the purposes of this Act, including restoration of stream habitats.

(2) In conducting the Taneum Creek study, the Secretary shall consider—

(A) the hydrologic and environmental characteristics;

(B) the engineering and economic factors relating to each measure; and

(C) the potential impacts upon the operations of present water users in the tributary and measures to alleviate such impacts.

(3) The Secretary shall make available to the public for a 45-day comment period a draft report describing in detail the findings, conclusions, and recommendations of the study. The Secretary shall consider and include any comment made in developing a final report. The Secretary's final report shall be submitted to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington, and made available to the public.

(c) IMPLEMENTATION OF NONSTORAGE MEASURES.—After securing the necessary permits the Secretary may, in cooperation with the Department of Ecology of the State of Washington and in accordance with the laws of the State of Washington, implement nonstorage measures identified in the final report under subsection (b) upon fulfillment of the following conditions:

(1) The Secretary shall enter into an agreement with the appropriate water right owners who are willing to participate, the State of Washington, and the Yakama Indian Nation, for the use and management of the water supply to be provided by proposed tributary measures pursuant to this section.

(2) The Secretary and the State of Washington find that the implementation of the proposed tributary measures will not impair the water rights of any person or entity in the affected tributary.

(d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—Enhancement programs similar to the enhancement program authorized by this section may be investigated and implemented by the Secretary in other tributaries contingent upon the agreement of the appropriate tributary water right owners to participate. The provisions set forth in this section shall be applicable to such programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated to the Secretary $500,000 for the study of the Taneum Creek Project and such amount as the Secretary subsequently determines is necessary for implementation of tributary measures pursuant to this section.

(2) There is also authorized to be appropriated to the Secretary such funds as are necessary for the investigation of enhancement programs similar to the enhancement program authorized by this section in other Yakima River basin tributaries contingent upon the agreement of the appropriate water right owners to participate. Funds for the implementation of any such similar enhancement program may not be appropriated until after the Secretary submits an investigation report to the appropriate congressional committees.

SEC. 8. CHANDLER PUMPING PLANT AND POWERPLANT-OPERATIONS AT PROSSER DIVERSION DAM.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ELECTRIFICATION.—In order to provide for electrification to enhance instream flows by eliminating the need to divert water to operate the hydraulic turbines which pump water to the Kennewick Irrigation District, there is authorized to be appropriated—

(1) $50,000 to conduct an assessment of opportunities for alternative pumping plant locations;

(2) $4,000,000 for construction; and

(3) such sums as may be necessary for the prorata share of the operation and maintenance allocated to fish and wildlife as determined by the Secretary.

(b) POWER FOR PROJECT PUMPING.—The Administrator of the Bonneville Power Administration, consistent with provisions of the Columbia River Basin Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697), shall provide for project power needed to effect the electrification as provided in subsection (a). The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

(c) SUBORDINATION.—Any diversions for hydropower generation at the Chandler Powerplant shall be subordinated to meet the flow targets determined under subsection (f).

(d) WATER SUPPLY FOR KENNEWICK IRRIGATION DISTRICT.—The Secretary shall ensure that the irrigation water supply for the Kennewick Irrigation District shall not be affected by conservation, electrification, or subordination pursuant to this Act and any reduction in its irrigation water supply resulting from conservation measures adopted or implemented by other entities pursuant to this Act shall be replaced by water developed through subordination, electrification, or a combination of the two.

(e) TREATMENT OF CERTAIN FUNDS.—Funds appropriated and project power provided pursuant to this section shall be nonreimbursable since such funds are used for fish and wildlife purposes and such funds are not subject to cost share under section 3(d).

(f) TARGET FLOWS.—Target flows measured at appropriate biological and hydrological location or locations shall be determined by the Yakima Project Superintendent in consultation with the System Operations Advisory Committee.

SEC. 9. AUGMENTATION OF KACHESS RESERVOIR STORED WATER.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to augment Kachess Reservoir stored water supplies from flows of Cabin Creek and Silver Creek which are excess to system demands, there is authorized to be appropriated—

(1) such sums as may be necessary to carry out a feasibility study, including the benefits, costs, and environmental aspects, of the facility described in paragraph (2);

(2) for the construction of facilities to convey such flows to Kachess Reservoir, $20,000,000; and

(3) such sums as may be necessary for the pro rata share of the operation and maintenance allocated to fish and wildlife determined by the Secretary.

(b) LIMITATION.—Construction of the facilities described in subsection (a)(2) is contingent on the completion of the feasibility study referred to in subsection (a)(1).

(c) USE OF ADDITIONAL WATER.—The stored water supply resulting from the construction of facilities under this section shall be used by the Secretary to—

(1) enhance the water supply available to the Kittitas Reclamation District and the Roza Irrigation District in years of proration; and

(2) facilitate reservoir operations in the Easton Dam to Keechelus Dam reach of the Yakima River for the propagation of anadromous fish.

(d) TREATMENT OF COSTS.—The construction and operation and maintenance costs of the facilities under this section shall be allocated to irrigation and fishery enhancement, as follows:

(1) The portion of such costs allocated to irrigation is reimbursable, with the construction costs to be paid prior to initiation of construction by the Kittitas Reclamation District and the Roza Irrigation District.

(2) The portion of such costs allocated to fishery enhancement is nonreimbursable.

(e) KACHESS DAM MODIFICATIONS.—There is authorized to be appropriated $2,000,000 for the modification of the discharge facilities of Kachess Dam to improve reservoir operations for anadromous fish enhancement. Amounts appropriated under this subsection are nonreimbursable.

SEC. 10. INTERIM COMPREHENSIVE BASIN OPERATING PLAN.

(a) DEVELOPMENT.—The Secretary shall, in consultation with the State of Washington, Yakama Indian Nation, Yakima River Basin irrigation districts, Bonneville Power Administration, and other entities as determined by the Secretary, develop an interim comprehensive operating plan for providing a general framework within which the Yakima Project Superintendent operates the Yakima Project, including measures implemented under the Yakima River Basin Water Enhancement Project, including (but not limited to)—

(1) operating capability and constraints of the system;

(2) information on water supply calculations and water needs;

(3) system operations and stream flow objectives; and

(4) the System Operations Advisory Committee activities.

(b) PROCESS REQUIREMENTS.—A draft of the interim comprehensive basin operating plan shall be completed within 18 months after the completion of the Basin Conservation Plan under section 3(f) and, upon completion, published for a 90-day public review period. The Secretary shall complete and publish the final interim comprehensive operating plan within 90 days after the close of the public review period. The Secretary shall update the plan as needed to respond to decisions from water adjudications relating to the Yakima River basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000 to carry out this section.

SEC. 11. ENVIRONMENTAL COMPLIANCE.

There are hereby authorized to be appropriated to the Secretary $2,000,000 for environmental compliance activities including the conduct, in cooperation with the State of Washington, of an inventory of wildlife and wetland resources in the Yakima River basin and an investigation of measures, including "wetland banking", which could be implemented to address potential impacts which could result from the activities taken under this Act.

SEC. 12. SAVINGS AND CONTINGENCIES.

(a) IN GENERAL.—Nothing in this Act shall be construed to—

(1) affect or modify any treaty or other right of the Yakama Indian Nation;

(2) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakama Indian Nation, or any other entity or individual;

(3) impair the rights or jurisdictions of the United States, the States, the Yakama Indian

Nation, or other entities over waters of any river or stream or over any ground water resource;

(4) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(5) alter, establish, or impair the respective rights of States, the United States, the Yakama Indian Nation, or any other entity or individual with respect to any water or water-related right;

(6) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakama Indian Nation, or other entity, public or private;

(7) affect or modify the rights of the Yakama Indian Nation or its successors in interest to, and management and regulation of, those water resources arising or used, within the external boundaries of the Yakama Indian Reservation;

(8) affect or modify the settlement agreement between the United States and the State of Washington filed in Yakima County Superior Court with regard to Federal reserved water rights other than those rights reserved by the United States for the benefit of the Yakama Indian Nation and its members;

(9) affect or modify the rights of any Federal, State, or local agency, the Yakama Indian Nation, or any other entity, public or private with respect to any unresolved and unsettled claims in any water right adjudications, or court decisions, including State against Acquavella, or constitute evidence in any such proceeding in which any water or water related right is adjudicated; or

(10) preclude other planning studies and projects to accomplish the purposes of this Act by other means: funded publicly, privately, or by a combination of public and private funding.

(b) CONTINGENCY BASED ON APPROPRIATIONS.—The performance of any activity under this Act which requires accomplishment within a specified period that may require appropriation of money by Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1690, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1690 authorizes certain elements of the Yakima River Basin Water Enhancement Project in the State of Washington.

This bill was approved by the Subcommittee on Oversight and Investigations on June 29, and was ordered reported by the full Committee on Natural Resources on July 27, 1994.

Legislation is needed because the water resources of the Yakima basin cannot meet all demands for water supply, and because increasing demands for water have often been met at the expense of anadromous fisheries and the needs of the Yakama Indian Nation.

The bill seeks to enhance the available water supply in the Yakima River basin, WA, by providing a funding source to implement a voluntary water conservation program in the basin. Improvements to existing irrigation systems and their operation will reduce the amount of water that needs to be diverted from the Yakima River to maintain full crop production. This will reduce water demands and thereby improve the reliability of the water supply for both streamflows and irrigation.

Those participating in the basin water conservation program will be eligible to receive financial assistance for conservation projects. Water users must agree to reduce diversions from present levels and to measure all water used. Other changes in Yakima Project operations are detailed in the bill, including the establishment of initial target instream flows and long-term instream flow recommendations to assist in the recovery of fishery resources which have been damaged by irrigation diversions. Provisions are also included in the bill for improving water resources to benefit the Yakama Indian Nation by rehabilitating the Wapato Irrigation Project and by authorizing new water resource activities for the Yakama Indian Nation.

H.R. 1690 was developed in consultation with representatives of local, Yakama Indian Nation, State, and Federal entities and agencies and environmental organizations involved with water resource matters in the basin.

H.R. 1690 reflects the strong commitment of the Committee on Natural Resources to propose legislation that will solve the most contentious water resource management problems facing our Western States. I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1690, although I would characterize my support as lukewarm at best.

This legislation as originally introduced involved many years of debate and consensus building. This bill had its start with our former colleague, Sid Morrison, who worked diligently to achieve a united coalition of competing water interests in the Yakima basin.

However, changes made to this bill in the Natural Resources Committee bill nearly upset this delicate balance for farmers and irrigators in the Yakima basin.

Nevertheless, the irrigators in the Yakima basin have accepted these changes because they remain committed to the overall goal of water conservation. I believe the irrigators deserve a great deal of credit for trying to accommodate environmental organizations so that this proposal could reach fruition.

If this legislation is enacted, I think it can be argued that our former colleague Congressman Sid Morrison deserves much of the credit for his work in fashioning an innovative plan for improving flows for fish runs while still maintaining an adequate supply of water for irrigators.

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Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that I want to say that this legislation has been a long time coming, and a great deal of work has been put in on this legislation in trying to get parties to agree by our former colleague, Sid Morrison, and this year our new colleague, the gentleman from Washington [Mr. INSLEE], has engaged in basic shuttle diplomacy between the Natural Resources Committee and the water users and the State of Washington and the other entities, environmental community, Indian nations, in trying to get them to come to an agreement on legislation that they could live with that would help them in the future, minimize the disruptions in the operations, and at the same time meet the multiple and diverse demands that are being placed upon the water in the Yakima basin.

I want to thank him very much for all of his work, maybe more importantly for his patience in listening to all of the concerned parties and to me and to other members of the committee that have been working in Western water law and the reform of some of those systems for some time.

Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from Washington [Mr. INSLEE].

Mr. INSLEE. Mr. Speaker, I rise in support of H.R. 1690, which would authorize phase 2 of the Yakima River basin water enhancement project.

This bill would authorize conservation improvements in the irrigation projects in the Yakima River basin. This legislation was originally developed in conjunction with groups and organizations that have an interest in the Yakima River basin, including the irrigation districts, the Yakima Indian Nation, the State of Washington, the Bonneville Power Administration, and the Bureau of Reclamation. Both my predecessor, Representative Sid Morrison, and former Senator Dan Evans worked on this legislation. The legislation before us today is the product of this long consensus building effort on the part of all of these groups. It reflects an understanding of the economic, environmental and political realities of our day.

We believe that this bill represents the kind of path we must all start to take in solving our natural resource challenges. It represents cooperation rather than litigation. It represents short-term sacrifice that is necessary for long-term gain. It represents a solution driven by local leadership rather than outside mandates. In short, we hope it is not a stretch to say that this can serve as a model for our other natural resource challenges in the Northwest.

We too often enter these debates with the belief that there must be winners and losers in any action taken regarding natural resources. In this case, both irrigation and fish habitat win because this bill will dedicate water saved through conservation both to irrigation and to fish habitat.

Water conservation has the potential to extend significantly the amount of water available. It is time that we act to take the commonsense measure of fixing the leaks in our system. Although conservation methods may not be the ultimate answer to the water needs of the Yakima basin, it is a necessary step and one that will pay great dividends. An acre-foot of water saved is an acre-foot of water earned, and each acre-foot of water saved will be enjoyed by the various communities in the basin. This would reduce irrigation shortages, which threaten the farmers in the Yakima basin. In fact, this year we are experiencing a record drought and we have had several water short years recently; this bill would help farmers in future water short years. It would also enhance instream flows, which will aid anadromous fish by dedicating a significant portion of the saved water to instream flows. It also authorizes a number of individual projects that will improve the way the Yakima system meets the needs of the fish.

I believe this bill provides one of our best opportunities to acquire salmon habitat in the Northwest. We in the Northwest are very concerned that the salmon situation will end in an environmental/ecological train wreck much the same way the old growth forests situation has. By protecting the habitat ahead of time, this legislation will help to avoid the kind of agony that we have experienced with old growth forests. The Yakima River basin provides tremendous salmon spawning habitat—if it has enough water. I am convinced that this Federal investment will provide as great a bang in fish habitat for each Federal buck as any project in the Northwest. For this reason, it justifies the Federal cost sharing set out in the bill. Another advantage of this bill is that by using conservation, we expand the options for all users of the water.

There are a number of people who have been tremendously helpful in this process. I would like to express my appreciation to Eric Glover and Larry Vinsonhaler of the U.S. Bureau of Reclamation. I would also like to thank Urban Eberhart of the Yakima River Basin Association of Irrigation Districts, who represented the irrigation community in the negotiations in developing this bill. I am also very grateful to Bob Tuck, a fisheries biologist for the Yakama Indian Nation for his assistance.

I am extremely grateful to Chairman GEORGE MILLER of the Natural Resources Committee for making the economic and environmental well being of the Yakima basin a priority for his committee. On his staff, Steve Lanich has been very helpful and has devoted a great deal of time to this project. I would also like to thank Representative BOB SMITH, the ranking minority member of this subcommittee and Ted Case of his staff for their support.

Mr. Speaker, this bill is about preventing extension. It is about preventing the economic extinction of family farmers in the Yakima basin, a group of people who have built one of the most productive food production endeavors in the world. It is about preventing the extinction of a number of salmon runs in the Yakima River basin. With this century's record of declining habitats, we will be judged by future generations on how we worked to prevent this extinction. With this bill, we will have one mark to show that we acted to prevent the extinction of both family farms and our grandchildren's salmon.

Mr. Speaker, this legislation meets the needs of the future in a way that is realistic. The way it was developed is, in my opinion, a model for the kind of cooperation that is needed to solve the natural resource dilemmas we will face in the Northwest and across the country. I urge my colleagues to support H.R. 1690.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, I would like to also thank the staffs of both the majority and the minority of the subcommittee for all of the work that they have put in on behalf of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 1690, as amended.

The question was taken; and (two-thirds having vote in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE ACT ESTABLISHING LOWELL NATIONAL HISTORICAL PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4448) to amend the Act establishing Lowell National Historical Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

The Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes" approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended as follows:

(1) In section 103(a)(2), by striking "$33,600,000" and inserting "$43,930,000". The amendment made by this paragraph shall take effect on October 1, 1994.

(2) In section 203, by adding at the end thereof the following new subsection:

"(c) LOAN AND GRANT AGREEMENTS.—Upon termination of the Commission, the Secretary, acting through the National Park Service, shall assume all responsibilities of the Commission for administration and oversight of the loan and grant agreements under section 303.".

(3) In section 205, by adding at the end thereof the following new subsection:

"(e) LEASING AUTHORITY.—(1) In addition to other available authorities, the Secretary may, in his discretion, negotiate and enter into leases, as appropriate, with any person, firm, association, organization, corporation or governmental entity for the use of any property within the Park and Preservation District in accordance with the General Management Plan and any of the purposes set forth in section 1 of this Act.

"(2) Any leases entered into under this subsection shall be subject to such procedures, terms, conditions and restrictions as the Secretary deems necessary. The Secretary is authorized to negotiate and enter into leases or other agreements, at fair market value and without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b). For purposes of any such lease or other agreements, the Secretary may adjust the rental by taking into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to the leased properties.

"(3) The proceeds from leases under this subsection shall be retained by the Secretary, be available without further appropriation, remain available until expended, and be used to offset the costs of preservation, interpretation, restoration, maintenance, improvement, repair, and related expenses, including administration related to such expenses, incurred by the Secretary with respect to properties within the Park and Preservation District, with the balance used to offset other costs incurred by the Secretary in the administration of the Park.

"(4) Each lessee of a lease entered into under this subsection shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the lease have been, and are being, faithfully performed.

"(5) The Secretary shall annually prepare and submit to Congress a report on property leased under this subsection.".

(4) In section 301(i), by striking "seventeen" and inserting "22".

(5) In section 303(a), by amending paragraph (1) to read as follows:

"(1) The loan to the corporation shall have a maturity of 35 years. At the end of such period, the corporation shall repay to the Secretary of the Treasury (in a lump sum) for deposit in the general fund of the Treasury the full amount of the loan and any additional amounts accruing to the corporation pursuant to this subsection excepting principal and interest losses occasioned by loan defaults after all reasonable efforts at collection have been completed plus those amounts expended by the Corporation for reasonable administrative expenses. The Commission is further authorized to renegotiate the terms and conditions respecting loan repayment of the agreement dated December 8, 1980, with the Lowell Development and Financial Corporation. The authority provided in this paragraph shall be available only to the extent that appropriations for a subsidy cost, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.".

(6) In section 305(g), by inserting before the period at the end thereof "for administration by the National Park Service in accordance with the general management plan".

(7) By adding after section 307 the following:

"SEC. 308. ADVISORY COMMITTEE.

"(a) ESTABLISHMENT OF ADVISORY COMMITTEE.—Upon the termination of the Commission, the Secretary shall establish a committee to be known as the Lowell National Historical Park Advisory Committee (hereinafter in this section referred to as the 'Advisory Committee').

"(b) MEMBERSHIP.—The Advisory Committee shall be composed of 15 members appointed by the Secretary.

"(c) CHAIRPERSON.—The Advisory Committee shall designate one of its members as Chairperson.

"(d) QUORUM.—Eight members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall act and advise by affirmative vote of a majority of the members voting at a meeting at which a quorum is present. The Advisory Committee shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park and preservation district. Advisory Committee meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

"(e) FUNCTIONS.—The Advisory Committee shall advise the Secretary on the operation, maintenance, development, and programming of the park and preservation district.

"(f) SUPPORT AND TECHNICAL SERVICES.—In order to provide staff support and technical services to assist the Advisory Committee in carrying out its duties under this Act, upon request of the Advisory Committee, the Secretary is authorized to detail any personnel of the National Park Service to the Advisory Committee.

"(g) PER DIEM.—Members of the Advisory Committee shall serve without compensation but shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

"(h) FACA.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776), are hereby waived with respect to the Advisory Committee.

"(i) VACANCIES.—Any vacancy in the Advisory Committee shall be filled in the same manner in which the original appointment was made. Any member may serve after the expiration of his term until his successor is appointed.

"(j) TERMINATION.—The Advisory Committee shall terminate on June 5, 2010.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4448, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I am consume.

Mr. Speaker, H.R. 4448, would amend the act establishing the Lowell National Historical Park. Lowell National Historical Park was established in 1978 to preserve and interpret the nationally significant historical and cultural sites, structures, and districts in Lowell, MA. At that time, Congress established the Lowell National Historical Park Commission to complement and coordinate the efforts of the park and various other State, local, and private entities in developing and managing the historic and cultural resources of Lowell. While several projects remain to be completed, the Commission is scheduled to terminate on June 5, 1995, and the limit on authorized development funds has been reached.

H.R. 4448, introduced by Representative MEEHAN on May 18, 1994, extends the Commission for an additional 5 years, and increases the authorization level for the park. The legislation also provides for the transfer of the Commission's authorities to the National Park Service, and authorizes any revenues or assets acquired to be used for park purposes. The bill requires the Lowell Development and Financial Corporation to repay to the Secretary of the Treasury loans and interest from a low-interest loan fund established in 1978, except for any losses taken after all reasonable efforts at collection have been completed. Finally, the legislation establishes an advisory committee, following termination of the Commission, to provide input on the operation, maintenance, development, and programming of the park and preservation district.

The committee amended the bill as introduced to strengthen the language authorizing the National Park Service to assume the Commission's responsibilities for loan and grant agreements and to retain the revenues from leasing properties currently administered by the Commission for park use. This section reflects the committee's concern that such action be governed by appropriate regulation, and institutes reporting requirements on the financial records related to these provisions.

In response to concerns raised by OMB, the committee also included additional language regarding the loan fund that would exempt the corporation from repaying principal and interest losses due to defaults to make it acceptable under the Credit Reform Act.

Finally, the committee limited the advisory committee established in the bill to 10 years. I believe the establishment of an advisory committee to be appropriate in this instance, where partnerships and community involvement play such an important role in the operation of the park. However, I also believe that such committees should not be open-ended, and in fact should be reviewed periodically to determine if their activities and membership continue to be appropriate. The 10-year sunset seems adequate for this purpose.

Mr. Speaker, Lowell is in many ways a model for the kind of partnerships and community-based parks we are trying to encourage. The private investment in the area has far outstripped Federal funding for the park. Neglected and deteriorating resources have been restored, and the park has been developed with the support and cooperation of local public and private entities. Without this legislation, however, the National Park Service would be required to assume responsibility for incomplete projects and would be left without the necessary authority to manage properties and programs currently under the jurisdiction of the Commission.

This legislation provides for the completion of projects already underway and provides for the orderly and cost effective transition from management by the community-based commission to the National Park System. This is an existing unit of the National Park Service, and the authorities contained in this bill are necessary for its continued operation.

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Mr. Speaker, I reserve the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although I understand there has been a remarkable effort to restore the historical values at Lowell and excellent cooperation between the Federal Government, State government and private sector, I must strongly oppose H.R. 4448.

This legislation effectively authorizes $14 million for the Lowell National Historical Park and its Historic Preservation Commission. This is on top of the $53.4 million already spent at the park by the National Park Service. This figure does not include millions spent for park operations and the Commission's administrative expenses.

This park has a long and controversial history. The first attempt to authorize it in 1978 resulted in a defeat on the House floor. Members were concerned about its $40 million cost and fears this money might be spent on urban renewal efforts.

Opponents of this legislation in 1978 included such distinguished alumni as AL GORE and Dan Quayle. They were joined by current members of the leadership as Ways and Means Chairman SAM GIBBONS, Intelligence Committee Chairman DAN GLICKMAN, and Veterans Committee Chairman SONNY MONTGOMERY. Distinguished subcommittee chairmen BILL HEFNER, ANDY JACOBS, and TOM BEVILL joined in their opposition.

Although ranking member of the Subcommittee on National Parks and Recreation Keith Sebelius supported the original authorization, he wrote in the 1978 committee report that, "This legislation, in its implementation must not be permitted to be a bottomless goodie bag of financing assistance."

Unfortunately, Mr. Sebelius' fears were well-founded because 9 years later in 1987, Congress increased the authorization for Lowell by $13.4 million and extended the life of the Commission by 7 years. Today's legislation effectively increases that authorization by $14 million. Examples of this Federal largesse to date include $9.5 million for canal construction and design and $3.6 million for a trolley system.

H.R. 4448 increases the park's development ceiling by $10.33 million, $5.1 million of this total will be spent to complete the canalway system. It also extends the life of the Lowell Historic Preservation Commission for 5 additional years.

In fiscal year 1993 this Commission spent $726,000 in administrative expenses which has taken the National Park Service's annual budget. Extending it by 5 years, assuming current spending levels are frozen, will cost taxpayers an additional $3.63 million. The fact that Congress never intended this Commission to have such a long and active life is demonstrated by the Senate Interior Committee's report on H.R. 11622 in 1978 which stated, "The role of the commission will, in all likelihood, be very minimal by 1988."

This legislation represents the second time in 7 years that Congress has been asked to increase the development ceiling for Lowell, and extended the life of the Commission.

Mr. Speaker, I believe the $53.4 million already spent by the National Park Service at Lowell is more than enough. Moreover, because of the National Park Service's massive backlog of between $7.4 to $9.4 billion and our $4.5 trillion national debt, I am astounded, this legislation is before us.

Mr. Speaker, I urge my colleagues to vote against H.R. 4448.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I am pleased to have the participation this afternoon of the principal author on the floor today, the gentleman from Massachusetts [Mr. MEEHAN]. The gentleman has done a very good job of presenting this case to the committee. Obviously, there are some questions not completely resolved in some minds, but he certainly has done a good job. I commend him for it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today to ask support for H.R. 4448, a bill to amend the act establishing Lowell National Historic Park.

I appreciate the assistance of the gentleman from Minnesota, Chairman VENTO. His efforts and support have improved this bill. I am grateful for his help and guidance.

In 1978, the Congress created the Lowell National Historical Park. In doing so, it recognized the pivotal part that Lowell played in the American Industrial Revolution. This Nation's industry began in Lowell. The city's industrial mill buildings, canal system, historic buildings and ethnic and cultural diversity are important monuments to America's transition from an agrarian to an industrial economy. Congress has acknowledged these assets to be nationally significant. The act made Lowell a unit of the National Park Service and created the Lowell Historic Preservation Commission. The Commission membership consists of 15 members representing local, State, and Federal Government and the private sector. This unique partnership is charged with preserving and interpreting cultural and historic assets, especially the 5-mile canal system and privately owned historic structures.

Seven years ago, the Congress reauthorized the Lowell Historic Preservation Commission. Today, I am asking you to support the orderly phase-down and termination of the Commission so that it may complete its tasks in accordance with the intent of the original law.

The Commission's essential work is not finished. The Lowell community has wrestled with preparing to phase out the Commission, while ensuring that the National Park Service will not be left with unanticipated burdens. This bill is intended to address these concerns.

The legislation includes the following provisions:

Extends the Commission for 5 years to allow adequate time to complete its responsibilities.

Provides necessary financial resources—$10.33 million over 5 years—to complete the physical restoration of the canal system and to preserve privately owned historic structures.

When the Commission ends, it authorizes the National Park Service to assume oversight and administrative functions for loan programs, leases and ownership of property and easements.

Upon termination of the Commission, establishes an unpaid advisory committee to the Park Service which would end in 2010.

It facilitates private investment by clarifying the obligations of a local not-for-profit corporation which administers the Commission's historic preservation loan program.

Mr. Speaker, the Lowell Commission is a model for Government cooperation and effectiveness. It encourages private investment in historic preservation. Thus, it achieves successes which the Federal Government could not accomplish on its own. Through its loan and grant programs, the Commission helped to preserve and restore 63 privately owned buildings leveraging over $9 of private investment for every Commission dollar. The Commission has been cost-conscious as well. Ninety-five percent of the land for the canalway was acquired through donations.

☐ 1340

Project engineering and design costs were reduced by 60 percent through elimination of outside consultants. If you visit the Lowell Park, I know that you will be impressed by the quality of the Commission's efforts.

Secretary of interior Babbitt and Park Service Director Kennedy were impressed when they came to the Lowell Park last year. And, this year, the National Park Service supported passage of the bill at the hearings conducted by Chairman VENTO and his committee. The bill also is supported by the city of Lowell, the Massachusetts Historic Commission, Gov. William Weld, Historic Massachusetts, Inc., and Preservation Action, Inc., among others.

This legislation strikes a responsible balance. It seeks the minimum amount of resources required to protect the public investment that has already been made in Lowell. It contains no boundary expansions or new project initiatives. It only allows the Commission to complete the type of projects which the Congress has approved previously. It permits the orderly and efficient transition of Commission functions to the private sector and the Park Service. In fact, the Commission has already transferred its cultural programs to nonprofit sponsors.

The national significance of Lowell's historic resources and the quality and importance of its interpretive programs are well established. The Lowell Commission was the first of its kind to be created within the Department of the Interior and it will be the first to go out of business. It seeks to utilize the considerable experience and expertise of the Commission members and staff so that it can terminate with its projects completed and with a cost effective transition process.

Mr. Speaker, I ask my colleagues to support H.R. 4448. Passage will ensure the preservation of important national assets for future generations, and it will enhance the public investments that have been made there and protect and interpret a significant part of our heritage. I would also point out that there are a number of reasons why the transition has taken more time than originally anticipated. The transfer of canal property rights and ownership from the Commonwealth of Massachusetts to the commission required State legislation. Land donations were delayed due to bankruptcy of land owners. Detection of hazardous waste that was found in many of the sites required testing and cleanup. Structural problems encountered along several of the canal walls required additional work as well.

Therefore, I urge, Mr. Speaker, my colleagues to approve this important legislation which would enable the Lowell Historic Park Commission to gout out of business, but not before completing its mission.

Mr. ALLARD. Mr. Speaker, I have no further requests for time on this side.

Mr. VENTO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I was interested in the recitation of the gentleman from Colorado [Mr. ALLARD] of the history of 16–17 years ago of who voted for and who voted against the initial proposition of then-Congressman Paul Tsongas on the floor of the House of Representatives. I might point out also, Mr. Speaker, of course supported by Senator Ed Brooke at the time, a big advocate of Lowell, and clearly, I think, as the gentleman from Massachusetts [Mr. MEEHAN] has pointed out, the reasons for the delay are being articulated in terms of the fact that there was toxic waste, and while we were not responsible for it, and the Federal Government did not pay for the cleanup, it did delay the work of being able to move forward. The canals are key, of course, to the power system of Lowell; it was operated on the basis of this sort of waterfall or water power. The fact is that the walls of those canals needed substantially more repair than was anticipated.

Well, Mr. Speaker, that can happen. I suppose we do not all have experts around that can judge the condition of 150-year-old canals, and so that is understandable, that there was bankruptcy, a failure of a company, as he indicated, that necessitated an eminent domain proceeding. Fortunately the Park Service had the power to act on that, but again it was expensive from a time phase, and in the 1980's, Mr. Speaker, frankly many parks that needed funding and the parks that need funding today are not receiving it.

Very often, Mr. Speaker, my colleagues are concerned about the designation of new parks when existing units are suffering. Here is a chance. What we are asking is to let this park have the authorization, if they can make their case before the Committee on Appropriations and this can be signed into law, that they would be able to access the type of funding they needed. The commission; I think it is a judgment call as to the length of it, but they have been managing the loans. Again, of the costs that are associated here is the default on a loan. When that defaults, we really expect the commission to be able to somehow take out of the Park Service revenue the loss of a loan. I really do not think that that is what is anticipated.

So, even though the grant and loan process has, in fact, made money, and has been very, very successful, I think that, if there was some question about the commission and the necessity of it working successfully, there would be valid questions that have been raised on the floor today.

But that is not the case here. This has been a successful working commission. I think all too often we get in the habit of asking for commissions, and they really end up being do-nothing commissions. They are really there in terms of having a responsibility and do not fulfill the role.

But here is an active, working commission, and so for that reason I have been persuaded to support this. I hope that I can persuade my colleagues. I say to the gentleman, "You didn't mention, Mr. ALLARD, that of course, when I was recorded in terms of this vote, I voted for it in 1978, and I'm asking Members to continue to give the benefit of the doubt to the Paul Tsongases and others that have advocated this position."

Mr. Speaker, it is a successful park. It is one we should remain committed to. I would hope today on the floor that Members would support this and support the idea of this. It is an important resource for America.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4448, as amended.

The question was taken.

Mr. ALLARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING THE NEW BEDFORD WHALING NATIONAL HISTORICAL PARK IN NEW BEDFORD, MA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill—H.R. 3898—to establish the New Bedford Whaling National Historical Park in New Bedford, MA, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the New Bedford National Historic Landmark District and associated historic sites as described in section 3(b) of this Act, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(2) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(3) New Bedford's historic resources provide opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(4) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve, protect, and interpret the resources within the areas described in section 3(b) of this Act, including architecture, setting, and associated archival and museum collections;

(2) to collaborate with the city of New Bedford and with local historical, cultural, and preservation organizations to further the purposes of the park established under this Act; and

(3) to provide opportunities for the inspirational benefit and education of the American people.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "park" means the New Bedford Whaling National Historical Park established by section 3.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 3. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts, structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(b) BOUNDARIES.—(1) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. The park shall include the following:

(A) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(B) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(C) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(D) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

In case of any conflict between the descriptions set forth in subparagraphs (A) through (D) and the map referred to in this subsection, the map shall govern.

(2) In addition to the sites, areas and relics referred to in paragraph (1), the Secretary may assist in the interpretation and preservation of each of the following:

(A) The southwest corner of the State Pier.

(B) Waterfront Park, immediately south of land adjacent to the State Pier.

(C) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(D) The Wharfinger Building, located on Piers 3 and 4.

(E) The Bourne Counting House, located on Merrill's Wharf.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Funds authorized to be appropriated to the Secretary for the purposes of this subsection shall be expended in the ratio of one dollar of Federal funds for each dollar of funds contributed by non-Federal sources. For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. With the approval of the Secretary, any donation of land, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this subsection.

(3) Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) LIMITATION ON FUNDS.—Funds authorized to be appropriated to the Secretary for operation and maintenance of the schooner Ernestina may not exceed 50 percent of the total costs of such operation and maintenance and may not exceed $300,000 annually.

(d) ACQUISITION OF REAL PROPERTY.—The Secretary may acquire, for the purposes of the park, by donation, exchange, lease or purchase with donated or appropriated funds, lands, interests in lands, and improvements thereon within the park except that (1) lands, and interests in lands, within the boundaries of the park which are owned by the State of Massachusetts or any political subdivision thereof, may be acquired only by donation, and (2) lands, and interests in lands, within the boundaries of the park which are not owned by the State of Massachusetts or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park or which is otherwise incompatible with the purposes of this Act.

(e) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this Act.

SEC. 5. GENERAL MANAGEMENT PLAN.

Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)) and other applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, but not more than $10,400,000 is authorized to be appropriated for construction, acquisition, restoration, and rehabilitation of visitor and interpretative facilities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3898.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3898, introduced by Representative BARNEY FRANK, would establish the New Bedford Whaling National Historical Park in New Bedford, MA. The city of New Bedford became the center of the whaling industry at its peak between 1820 and 1860, and also represents associated whaling-related themes such as immigration, the expansion of trade and exploration, as well as conservation of natural resources.

The National Park Service, in cooperation with the Waterfront Historic Area League [WHALE] in New Bedford, has studied the resources of New Bedford, and has concluded that the area meets the criteria for national significance, as well as suitability and feasibility for inclusion in the National Park System. H.R. 3898 establishes the New Bedford Whaling National Historical Park in New Bedford, MA to interpret the history of whaling and related social and economic themes. The park would consist of the current New Bedford National Historic Landmark District, the Schooner *Ernestina*, also a national historic landmark, and additional property adjacent to the landmark district as described in the legislation.

The Committee on Natural Resources made several changes to the bill as introduced. The bill, as amended, requires an equal match for Federal funding for operation and maintenance of the Schooner *Ernestina*, and limits the Federal contribution to $300,000 annually for this purpose. The bill also requires an equal match, whether in funds or in-kind contributions, for activities undertaken pursuant to cooperative agreements authorized by the legislation. Interested parties at both the State and local level have demonstrated strong commitment to developing and establishing this park. Testimony received at the hearing indicated that this support would continue, and I believe these provisions encourage further participation.

The section authorizing acquisition of property has been redrafted to conform with standard National Park Service acquisition authority. Additionally, the committee limited this authority to acquiring lands within the park boundaries only with the owner's consent unless the Secretary determines that property is being developed or proposed to be developed in a manner detrimental to the purposes of the park. Within this park boundary, property is primarily under private ownership. The National Park Service has testified that acquisition will only be necessary for the construction of visitor and interpretive centers. While some have advocated limiting acquisition only for these purposes, I do not believe that the Secretary should be constrained from acquiring property as necessary to advance the purposes of the park. This language I believe satisfies the objections of some of the unlimited acquisition authority while protecting the park from adverse development. Finally, the bill limits the authorization for developing and constructing visitor and interpretive centers to $10.4 million in accordance with National Park Service estimates.

Mr. Speaker, this is a new park which will preserve and interpret resources representing themes not addressed at current National Park Service units. I believe this addition is important; the bill has been drafted to assure appropriate preservation while limiting the Federal obligation for operating the park. This is an important and cost-effective addition, and I urge my colleagues' support.

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Mr. Speaker, I reserve the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today to address H.R. 3898, the New Bedford Whaling National Historical Park. This area does have national merit and does deserve some recognition by the National Park Service. The story of the American whaling industry is not portrayed in any other national park. However, as is often the case with new park legislation, the authorization level is too high. This bill authorizes $10.4 million for a visitor center and has an open ended authorization for land acquisition. Except for the high price tag involved, the New Bedford Whaling Park is worthy of our consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK], the principal sponsor of this bill, who has done really a great job in shepherding this measure through the committee.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me note that joining us on the floor now is my neighbor, the gentleman from Massachusetts [Mr. BLUTE]. This project was originally brought forward by my predecessor, the gentleman from Massachusetts [Mr. STUDDS], the Representative of the city of New Bedford, who now chairs the Committee on Merchant Marine and Fisheries.

By the time our friends in the legislature had divided up the districts, I had a part of the New Bedford District, and Mr. BLUTE also had a part of it.

So this is a joint venture in terms of our support, and it is also a joint venture of the State.

Let me say that I appreciate the legitimate concerns of those on the other side, because really we do have fiscal problems and we do not want to overpromise. That is why one of the things we made sure of was that the State of Massachusetts legally committed itself, for instance, to the schooner, *Ernestina*. I know that there had been problems in the past with the question of gifts that became burdens, but in this case we have State legislation already passed, and the State commission already sworn in, and the State of Massachusetts has undertaken the ongoing financial commitment. They have already brought the ship up to code. They have already paid off the debt, that this would be a 50–50 process.

Similarly, with regard to land acquisition, we do not expect there to be any other than for the visitors' center. It is all subject to appropriation. There is no entitlement to anything in here.

By the way, it does restrict this to a willing seller, so there is no eminent domain power in here. If it should turn out a year from now or 5 years from now, or whenever, that there is a consensus that maybe the Park Service ought to acquire another parcel of land, I would certainly feel a commitment to come and discuss that and not try to do it if there was any significant opposition to it.

The GAO report says that for several years this will cost less than a million dollars a year. It is out of the regular budget.

I also want to say that we resisted the usual temptations. I want to thank my friend, the gentleman from Minnesota [Mr. VENTO], because some of the people in the area said, "Well, the way you do this is you go to the Appropriations Committee" and you bypass this and bypass that. I consulted with the gentleman from Minnesota and his very able staff, and they confirmed my view that that was not the way to go, that the way to go was, in fact, to go through the process, to go through the regional park service, to go through the Park Service, and do this in a very orderly way. This has been done in an orderly way. No Federal money has been spent on this yet because there has not been anything other than the study which was legally authorized through the gentleman who preceded me.

After the commission recommended it and after the Park Service said it was recommended, my colleague, the gentleman from Massachusetts [Mr. BLUTE], and I went to the committee and we tried very much to do that, so I appreciate the legitimate concerns.

I do believe this is a park of great historical significance. Let me stress one thing about it that I believe is very important. People are familiar with the strains that now exist with the fishing industry. One of the problems we have had is that there is often a conflict between the people concerned with environmental matters, with cultural matters, and with historical preservation and those engaged in ongoing economic activity. I am very pleased to be able to report this—and I know the gentleman from Massachusetts [Mr. BLUTE] will be able to back me up—that the fishermen who work here and the conservationists, the people concerned with America's heritage, and the people concerned with America's economic well-being are absolutely in concert.

I think frankly this is a good example of how we can all work together. That is why we do not want any land taking here. This is a working waterfront. We are not trying to interfere with economic activity. We are trying to show the continuity in America's cultural history.

So I thank very much the gentleman from Minnesota [Mr. VENTO]. He and his staff have been very good guides in this matter.

Mr. Speaker, if the gentleman from Colorado [Mr. ALLARD] would like to have me yield to him, I would yield at this point.

Mr. ALLARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just make this point. In the gentleman's district he has fishermen that he deals with, and in my district we have farmers, and I think they all realize that they have to protect their environment because their livelihoods depend on that. If they do not properly conserve that, they are not going to benefit. So I appreciate that point the gentleman from Massachusetts is making.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Colorado.

What we have found out is that the practitioners are often the most sensible environmentalists because they have not only the love for the land, because you do not go into fishing or into farming purely for economic reasons, but there is a commitment, an emotional commitment, as well, and with that also comes an understanding. So I thank the gentleman from Colorado.

Mr. ALLARD. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. BLUTE], a new Member of the House of Representatives.

Mr. BLUTE. Mr. Speaker, I thank my colleague, the gentleman from Colorado [Mr. ALLARD] for yielding me this time. I would also like to thank the gentleman from Massachusetts [Mr. FRANK] and commend him for his leadership on this bill.

Mr. Speaker, "Call me Ishmael." With these three words begin one of the greatest American literary works of all time, Herman Melville's "Moby Dick."

We all know the story of Moby Dick, the great white whale, and his relentness pursuer Captain Ahab. This story is required reading in most school districts throughout the country, because the tale it tells of the golden age of whaling in America is such an important part of our heritage.

For the better part of the 19th century, whaling was one of the most important elements of our Nation's economy. Whaling provided the lamp oil which lit 19th century homes; spermaceti, from which fine quality candles were made; and bone from which corsets, sewing needles and scrimshaw jewelry were fashioned. These products alone generated a tremendous amount of wealth for this country in the early to mid-1800's.

More importantly, though, whaling provided the lubricant for the machines which drove this Nation into the Industrial Revolution, transforming our entire economy from an agricultural to a manufacturing one. Without question, whaling is a critical part of our national fabric, our very identity as an industrial power.

Which is why H.R. 3898 is so important and so very justified.

This legislation will serve to preserve and protect a legitimate piece of Americana: a slice of life from days-gone-by which must not be allowed to fade from memory. By establishing a Whaling National Historical Park in southeastern Massachusetts, in New Bedford, which is the whaling capital of the world, we will ensure that future generations will never forget one of the most romantic eras of America's past.

There exist in New Bedford today the makings of a fantastic national treasure. The Whaling Museum alone has a wonderful collection of maps, models, charts and artifacts that date back almost 200 years. Items which are worthy of display in the Smithsonian Institution. They paint a vivid picture of the America of the past. When you combine the museum with the whaling boats, the magnificent mansions, the libraries and gardens of Old New Bedford, you have a spectacular national park.

I, as well as Gov. William Weld, strongly support this legislation and the concept of the whaling national park. I feel that this is an extremely worthwhile and justified proposal that our children and our childrens' children will thank us for. I ask my colleagues to please vote "yes."

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Mr. ALLARD. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3898, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LOWER EAST SIDE TENEMENT NATIONAL HISTORICAL SITE ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4158) to establish the Lower East Side Tenement Museum National Historic Site, as amended.

The Clerk read as follows:

H.R. 4158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lower East Side Tenement National Historic Site Act of 1994".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "historic site" means the Lower East Side Tenement National Historic Site established by section 4.

(2) The term "Museum" means the Lower East Side Tenement Museum, an education corporation chartered under the laws of the State of New York.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Lower East Side Tenement at 97 Orchard Street, New York, New York, is an outstanding survivor of the vast number of humble buildings in New York City that housed immigrants to the United States during the greatest wave of immigration in American history;

(2) the Lower East Side Tenement is well suited to represent a profound social movement involving great numbers of unexceptional but courageous people;

(3) between 1880 and 1921, almost three-quarters of the immigrants to the United States entered the country through New York Harbor, most passed through immigration stations at Ellis Island and, earlier, Castle Clinton, both of which have been designated as national monuments, and millions of these immigrants made their way to the Lower East Side of New York City;

(4) no other single identifiable neighborhood in the United States absorbed a comparable number of immigrants;

(5) the Museum is dedicated to interpreting immigrant life on the Lower East Side and its importance to United States history, and is located within a neighborhood long associated with the immigrant experience in America;

(6) the tenement building at 97 Orchard Street has been designated as a National Historic Landmark, has been found to be historically significant, and possesses a historic fabric of exceptional integrity dating from the period of peak immigration to the United States; and

(7) the National Park Service has found the Lower East Side Tenement to be nationally significant and to be best protected and interpreted through designation as an affiliated area of the National Park System while remaining under private ownership and management.

(b) PURPOSES.—The purposes of this Act are—

(1) to assure the preservation, maintenance, and interpretation of the Lower East Side Tenement and to interpret, in the tenement and the surrounding neighborhood, the themes of early tenement life, the housing reform movement, and tenement architecture in the United States;

(2) to assure the continuation at this site of the Lower East Side Tenement, the preservation of which is necessary for the continued interpretation of the nationally significant immigrant phenomenon associated with the Lower East Side of New York City and the role of the phenomenon in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton National Monument and Ellis Island National Monument through cooperation with the Lower East Side Tenement National Historic Site.

SEC. 4. DESIGNATION OF HISTORIC SITE.

In order to further the purposes of this Act and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), the Lower East Side Tenement at 97 Orchard Street, New York, New York, is hereby designated as a national historic site.

SEC. 5. COOPERATIVE AGREEMENT.

(a) IN GENERAL.—In furtherance of the purposes of this Act and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), the Secretary may enter into a cooperative agreement with the Museum to effectuate the purposes of this Act.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—Any agreement entered into under subsection (a) may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site. Such an agreement may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including financial assistance for the making of preservation-related capital improvements and repairs, but not including financial assistance for other routine operations).

(c) ADDITIONAL PROVISIONS.—Any agreement entered into under subsection (a) shall contain provisions that—

(1) the Secretary, acting through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such property and interpreting the property to the public; and

(2) no changes or alterations may be made in property covered by the agreement except by mutual agreement between the Secretary and the other parties to the agreement entered into under subsection (a).

SEC. 6. REPORT.

The Museum shall, as a condition of the receipt of any assistance under this Act, provide to the Secretary and to the Congress an annual report documenting the activities and expenditures for which any such assistance was used during the fiscal year preceding the report.

SEC. 7. APPROPRIATIONS.

There is hereby authorized to be appropriated $6,400,000 to carry out the purposes of this Act, such sums to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Colorado [Mr. ALLARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4158, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4158, introduced by Representative VELÁZQUEZ, would establish the Lower East Side Tenement National Historic Site. The Lower East Side Tenement Museum is a nonprofit institution dedicated to telling the story of immigrant life in the Lower East Side of New York. The museum has arranged to acquire 97 Orchard Street, a tenement building which had been erected in the mid-1860's and sealed from the mid-1930's until its acquisition by the museum. The building is a national historic landmark, and the museum interprets the immigrant experience in the area from arrival at Ellis Island through assimilation during the 70 years the tenement housed immigrants.

A National Park Service study has determined that the tenement meets the criteria for significance, suitability and feasibility for inclusion in the National Park System, and that affiliated status would provide the most appropriate avenue for NPS involvement.

H.R. 4158, as amended by the Committee on Natural Resources, establishes the Lower East Side Tenement National Historic Site to interpret the themes of early tenement life, the housing reform movement, and tenement architecture in the United States. The legislation authorizes the Secretary to provide technical and financial assistance to mark, restore, interpret, operate and maintain the site.

Capital improvements and repairs are also authorized. Finally, the bill, as amended, limits overall Federal funding to $6.4 million, the amount the National Park Service estimated would be the Federal contribution necessary to restore the tenement building and provide for visitor and interpretive services.

The moving testimony received at the hearing on this bill indicated the significance of this resource and its importance in understanding the American immigrant experience. Enactment of this legislation will assure the recognition of this aspect of American history and culture, and I urge my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

Mr. ALLARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although I commend the Lower East Side Tenement Museum for its remarkable achievements in 6 short years, I strongly oppose H.R. 4158, which essentially amounts to a Federal bailout of this institution.

Like the bill's proponents, and I actually was mistakenly listed as a cosponsor, I believe the amazing history of immigration to the United States needs to be told. Indeed it is remarkable that between 1880 and 1921 nearly 75 percent of immigrants to the United States entered through New York harbor.

Fortunately, this amazing chapter of American history is already being told by the National Park Service. In the New York area alone, National Park Service monuments such as Clinton Castle in Manhattan and the Statue of Liberty—which includes Ellis Island—are already doing this. As a result, there is no need for the National Park Service to fund a similar effort in the same area.

This legislation authorizes the National Park Service to spend $6.4 million for technical and financial assistance to the Lower East Side Tenement Museum. If this bill is enacted, what will prevent the museum from coming back to Congress for more money in the future? This is exactly what is happening today with the Lowell National Historical Park in Massachusetts where that park has come back to Congress twice in 7 years for more money.

Moreover, at a time when the National Park System has a backlog of between $7.4 and $9.4 billion for existing parks, how can we possibly create yet another questionable demand on that agency's budget?

Mr. Speaker, H.R. 4158 sets an extremely dangerous and potentially expensive precedent whereby private nonprofit museums replace private philanthropy with millions from the Federal Treasury. I am sure this museum would tell you that private fundraising has diminished ever since their contributors learned the Federal Government would chip in $6.4 million.

If we really want to destroy private philanthropy in this country we will pass more bills like this one. Voluntary contributions from citizens, business, and foundations which are a time-honored tradition in this country will be replaced by Federal funds which are involuntarily taken from these same sources.

I urge my colleagues to vote against this legislation, which, if passed, paves the way for other private institutions to come to Congress and seek their own sweetheart deals.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just take a minute and say I think this is a very modest proposal which greatly enhances the visitor experience in terms of its coordination with Ellis Island and the Statue of Liberty, which has been an amazing success. There has been a lot of private dollars invested in this. There is a significant private commitment into the future.

It is obviously a request for Federal participation in terms of an affiliated status with really what represents a modest investment on the part of the Federal Government, and is a good way to build a partnerships to achieve the goals, the enhancement of the experience in terms of Ellis Island and the Statue of Liberty, in which we have spent literally hundreds of millions of dollars, much of it privately raised, again, Mr. Speaker, in recent years.

I would hope that my colleagues would support this. I do not know what type of configuration there will be. We look at a city like New York, a new mayor and all the problems they have, and I think this really deserves the type of effort being put forth here, because New York was such an important gateway in terms of the immigrant experience. It is something that goes along with the theme of the Park Service, and they support it.

□ 1410

The administration supports it. I would hope that my colleagues would support the important bill of the gentlewoman from New York [Ms. VELÁZQUEZ].

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ALLARD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4158, as amended.

The question was taken.

Mr. ALLARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 4:45 p.m.

Accordingly (at 2 o'clock and 10 minutes p.m.) the House stood in recess until 4:45 p.m.

□ 1646

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CARDIN) at 4 o'clock and 46 minutes p.m.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 4217, FEDERAL CROP INSURANCE REFORM ACT OF 1994

Mr. DE LA GARZA Mr. Speaker, I ask unanimous consent that the Committee on Agriculture have until midnight tonight to file a report on the bill (H.R. 4217) to reform the Federal Crop Insurance Program and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 4453, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1995

Mr. HEFNER. Mr. Speaker, I call up the conference report on the bill (H.R. 4453) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 27, 1994, at page H6351.)

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. HEFNER] will be recognized for 30 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. HEFNER].

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report and the amendments in disagreement on the bill, H.R. 4453, and that I be allowed to include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HEFNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report we present to the House today for military construction, family housing, and base closure contains agreements on about 250 line items. The conference agreement recommends a total appropriation of $8.8 billion which is $628 million under last year's program level. The conference agreement is under the section 602(b) allocation for both budget authority and outlays.

Mr. Speaker, we have 15 amendments in disagreement. One of the amendments in disagreement, Senate amendment No. 29, invades the jurisdiction of our Transportation Subcommittee because it would appropriate funds to a Department of Transportation program in a Department of Defense military construction bill. For that reason, I will, at the appropriate time, offer a motion to insist on the House position regarding amendment No. 29. The effect of my motion would be to delete the appropriation proposed by the Senate for the Coast Guard.

Mr. Speaker, we went into conference with 250 items in disagreement which amounted to $1.5 billion. In other words, if we were to agree to the high mark of the Senate or House recommendations that were before us in conference, we would exceed our allocation by $750 million. So, we had to compromise on a package that in effect dropped many projects from the House-passed recommendation. The Senate had to, likewise, drop many of their project recommendations. We did the best we could do, given the budget constraints we had to work with.

Regarding authorization, let me say that we have had an excellent relationship with the Armed Services Committee over the years in coordinating and reflecting their priorities. This year is no exception.

Members should realize that while the conference agreement is $628 million under last year's level, the military construction portion of the bill is $1.2 billion under last year's level. In contrast to reductions in military construction, base closure funding in the amount of $2.7 billion constitutes an increase over last year's level by $501 million.

I would also note that this conference agreement provides funding in the amount of $2.8 billion to operate and maintain a housing inventory of about 400,000 existing units.

When funding for family housing operation and maintenance is combined with base closure funding, these two segments of the bill constitute about 62 percent of the bill.

The conference agreement provides for many current mission and new mission requirements. Some of the features are: New barracks to replace vintage structures; environmental compliance projects to meet more stringent State and Federal environmental laws; new family housing units which is an important quality of life feature; child development centers which constitute an important quality of life feature; energy conservation initiative which has a great payback in energy savings; medical facilities such as hospitals and clinics which constitute an important quality of life feature; and initial funding for chemical weapons destruction facilities at two locations.

With regard to infrastructure funding for the North Atlantic Treaty Organization, the conference agreement provides for $119 million which is a reduction of $21 million under last year's level and $100 million less than requested by the administration.

I want to express my appreciation to all the members of the Subcommittee and especially our ranking minority member, Mrs. VUCANOVICH. It is a pleasure to work with the gentlelady. This is why we are presenting to you a bipartisan conference report and good agreement given the budget constraints we have to work with. I also want to thank Chairman OBEY for his leadership so that we can bring this conference report to the floor.

Below is a comparative statement of budget authority.

MILITARY CONSTRUCTION APPROPRIATIONS BILL, 1995 (H.R. 4453)

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Military construction, Army	906,676,000	690,576,000	623,511,000	489,076,000	550,476,000	-356,200,000
Rescission 1/ 2/	-36,219,000					+36,219,000
Total, Military construction, Army (net)	870,457,000	690,576,000	623,511,000	489,076,000	550,476,000	-319,981,000
Military construction, Navy	681,373,000	320,470,000	462,701,000	340,455,000	385,110,000	-296,263,000
Rescission 1/ 2/	-136,596,000					+136,596,000
Total, Military construction, Navy (net)	544,777,000	320,470,000	462,701,000	340,455,000	385,110,000	-159,667,000
Military construction, Air Force	1,021,567,000	357,313,000	514,977,000	525,863,000	516,813,000	-504,754,000
Rescission 1/ 2/	-54,882,000					+54,882,000
Total, Military construction, Air Force (net)	966,685,000	357,313,000	514,977,000	525,863,000	516,813,000	-449,872,000
Military construction, Defense-wide	562,008,000	481,729,000	487,169,000	561,039,000	504,118,000	-57,890,000
Rescission 1/ 2/	-29,163,000					+29,163,000
Total, Military construction, Defense-wide (net)	532,845,000	481,729,000	487,169,000	561,039,000	504,118,000	-28,727,000
Total, Active components (net)	2,914,764,000	1,850,088,000	2,088,358,000	1,916,433,000	1,956,517,000	-958,247,000
Military construction, Army National Guard	302,719,000	9,929,000	134,235,000	170,479,000	188,062,000	-114,657,000
Rescission 2/	-7,568,000					+7,568,000
Total, Military construction, Army National Guard (net)	295,151,000	9,929,000	134,235,000	170,479,000	188,062,000	-107,089,000
Military construction, Air National Guard	247,491,000	122,770,000	209,843,000	257,825,000	249,056,000	+1,565,000
Rescission 2/	-6,187,000					+6,187,000
Total, Military construction, Air National Guard (net)	241,304,000	122,770,000	209,843,000	257,825,000	249,056,000	+7,752,000
Military construction, Army Reserve	102,040,000	7,910,000	39,121,000	40,870,000	57,370,000	-44,670,000
Rescission 2/	-2,551,000					+2,551,000
Total, Military construction, Army Reserve (net)	99,489,000	7,910,000	39,121,000	40,870,000	57,370,000	-42,119,000
Military construction, Naval Reserve	25,029,000	2,355,000	12,348,000	18,355,000	22,748,000	-2,281,000
Rescission 2/	-626,000					+626,000
Total, Military construction, Naval Reserve (net)	24,403,000	2,355,000	12,348,000	18,355,000	22,748,000	-1,655,000
Military construction, Air Force Reserve	74,486,000	28,190,000	56,378,000	45,840,000	57,066,000	-17,420,000
Rescission 2/	-1,862,000					+1,862,000
Total, Military construction, Air Force Reserve (net)	72,624,000	28,190,000	56,378,000	45,840,000	57,066,000	-15,558,000
Total, Reserve components (net)	732,971,000	171,154,000	451,925,000	533,369,000	574,302,000	-158,669,000
Total, Military construction (net)	3,647,735,000	2,021,242,000	2,520,283,000	2,449,802,000	2,530,819,000	-1,116,916,000
Appropriations	(3,923,389,000)	(2,021,242,000)	(2,520,283,000)	(2,449,802,000)	(2,530,819,000)	(-1,392,570,000)
Rescissions	(-275,654,000)					(+275,654,000)
North Atlantic Treaty Organization Infrastructure	140,000,000	219,000,000	119,000,000	219,000,000	119,000,000	-21,000,000
Family housing, Army:						
Construction	228,885,000	152,402,000	160,602,000	173,502,000	170,002,000	-58,883,000
Operation and maintenance	1,069,601,000	1,121,208,000	1,121,208,000	1,065,708,000	1,013,708,000	-55,893,000
Portion applied to debt reduction	-412,000					+412,000
Total, Family housing, Army	1,298,074,000	1,273,610,000	1,281,810,000	1,239,210,000	1,183,710,000	-114,364,000
Family housing, Navy and Marine Corps:						
Construction	370,208,000	229,295,000	269,035,000	229,295,000	267,465,000	-102,743,000
Operation and maintenance	772,055,000	853,599,000	853,599,000	937,599,000	937,599,000	+165,544,000
Rescission 1/	-40,371,000					+40,371,000
Total, Family housing, Navy (net)	1,101,892,000	1,082,894,000	1,122,634,000	1,166,894,000	1,205,064,000	+103,172,000
Family housing, Air Force:						
Construction	187,035,000	252,993,000	276,482,000	273,355,000	277,444,000	+90,409,000
Operation and maintenance	790,912,000	801,345,000	801,345,000	824,845,000	824,845,000	+33,933,000
Rescission 1/	-55,102,000					+55,102,000
Total, Family housing, Air Force (net)	922,845,000	1,054,338,000	1,077,827,000	1,098,200,000	1,102,289,000	+179,444,000
Family housing, Defense-wide:						
Construction	159,000	350,000	350,000	350,000	350,000	+191,000
Operation and maintenance	26,337,000	29,031,000	29,031,000	29,031,000	29,031,000	+2,694,000
Total, Family housing, Defense-wide	26,496,000	29,381,000	29,381,000	29,381,000	29,381,000	+2,885,000

MILITARY CONSTRUCTION APPROPIATIONS BILL, 1995 (H.R. 4453), continued

	FY 1994 Enacted	FY 1995 Estimate	House	Senate	Conference	Conference compared with enacted
Homeowners Assistance Fund, Defense	151,400,000					-151,400,000
Total, Family housing (net)	3,500,707,000	3,440,223,000	3,511,652,000	3,533,685,000	3,520,444,000	+19,737,000
Construction	(786,287,000)	(635,040,000)	(706,469,000)	(676,502,000)	(715,261,000)	(-71,026,000)
Operation and maintenance	(2,658,905,000)	(2,805,183,000)	(2,805,183,000)	(2,857,183,000)	(2,805,183,000)	(+146,278,000)
Rescissions	(-95,473,000)					(+95,473,000)
Applied to debt reduction	(-412,000)					(+412,000)
Homeowners Assistance Fund	(151,400,000)					(-151,400,000)
Base realignment and closure accounts:						
Part I	12,830,000	87,600,000	87,600,000	87,600,000	87,600,000	+74,770,000
Part II	1,526,310,000	265,700,000	265,700,000	265,700,000	265,700,000	-1,260,610,000
(By transfer)		(133,000,000)	(133,000,000)	(133,000,000)	(133,000,000)	(+133,000,000)
Part III	1,144,000,000	2,322,858,000	2,322,858,000	2,322,858,000	2,322,858,000	+1,178,858,000
Rescission 2/	-507,692,000					+507,692,000
Total, Base realignment & closure accounts (net)	2,175,448,000	2,676,158,000	2,676,158,000	2,676,158,000	2,676,158,000	+500,710,000
Procurement: General provisions 3/		-10,421,000	-10,421,000	-41,921,000	-10,421,000	-10,421,000
· Grand total (net)	9,463,890,000	8,346,202,000	8,816,672,000	8,836,724,000	8,836,000,000	-627,890,000
Appropriations	(10,343,121,000)	(8,346,202,000)	(8,816,672,000)	(8,836,724,000)	(8,836,000,000)	(-1,507,121,000)
Applied to debt reduction	(-412,000)					(+412,000)
(By transfer)		(133,000,000)	(133,000,000)	(133,000,000)	(133,000,000)	(+133,000,000)
Rescission 1/ 2/	(-878,819,000)					(+878,819,000)

1/ Includes rescissions from P.L. 103-110

2/ Includes rescissions from P.L. 103-211

3/ Budget amendment submitted 3/15/94 (H.Doc. 103-220, page 10)

☐ 1650

Mr. HEFNER. Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join Mr. HEFNER in bringing to the floor today the conference report making appropriations for military construction for fiscal year 1995.

This conference agreement is a good compromise in a year when our allocation over last year was significantly reduced. Within this limited allocation, we have been successful in providing for the needs of the men and women who serve their country, while striving to maintain and improve our military infrastructure.

Chairman HEFNER has outlined the highlights of the bill so I will not be repetitive. But I want to point out that in crafting this bill, we have worked closely with the Armed Services Committee in order to move the bill forward. This cooperation has been invaluable and appreciated.

As always, I want to thank my chairman for his leadership and cooperation in crafting this legislation. And, the hard work and professionalism of the staff make this product possible.

Military construction is an investment program that has significant payback in economic terms, in better living and working conditions for our military personnel, and in environmental restoration. This bill meets these goals in a difficult year, and I urge my colleagues to support this conference report.

Mr. FAZIO. Mr. Speaker, I rise in support of the conference report on the fiscal year 1995 military construction appropriations bill. As a member of the Subcommittee on Military Construction, I want to thank Chairman HEFNER, our ranking minority member, Mrs. VUCANOVICH, and the subcommittee's staff, Mr. Bill Marinelli, Mr. Hank Moore, and Ms. Mary Arnold, for the outstanding job each of them has done in crafting this conference report.

As Mr. HEFNER stated previously, we had many competing demands for the scarce funds available for military construction projects in this bill. This conference report contains a total of $8.8 billion for military construction, family housing, and military base closure activities. The agreement is $628 million less than the fiscal year 1994 level. Despite all of the requests, we were able to craft a final bill that is balanced, under our 602(b) allocation, and which meets the critical needs of the military.

Mr. Speaker, I would also like to highlight two important projects in the bill which are crucial to constituents in my district. The first project is a near field test range at McClellan Air Base. This facility will enable McClellan to overhaul and repair large, ground-based phased array radar antennas up to 20 feet in diameter. The new facility will provide McClellan with the capability to meet long-term modernization objectives by providing state-of-the-art technology for new and existing workloads.

The second project is a major renovation of the Mather Air Force Base Hospital to update hospital systems to meet current safety standards. The hospital, which is now run by McClellan, was originally constructed in 1970 and has never undergone a major upgrade or renovation. The renovation will enable the hospital to continue to deliver high quality health care services to active duty and retired military personnel in the Sacramento area.

Each of the initiatives outlined above will help maintain McClellan Air Force Base as a critical defense asset and as an integral part of the Sacramento community

In closing, Mr. Speaker, I want to reiterate my strong support for this conference report and urge my colleagues to vote for this important military readiness bill.

Mr. PACKARD. Mr. Speaker, I support the fiscal year 1995 military construction appropriations conference report. The subcommittee has crafted a well-balanced bill that meets the needs of our armed services while respecting tight budget constraints.

I would like to thank chairman BILL HEFNER, BARBARA VUCANOVICH, and JOE MCDADE for their help to include funding in this bill for the Navy and Marine Corps in southern California, particularly for Marine Corps Base Camp Pendleton.

In this era of a shrinking defense budget, we are placing more and more demands on the Marine Corps. Just since the Persian Gulf war, the Marine Corps has responded to about 20 crises. By comparison, during the cold war, the marines responded to about 3 to 4 crises a year. The funding included in this bill will help Pendleton marines meet their readiness mission.

I urge my colleagues to support the conference report.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HEFNER. Mr. Speaker, I have no further requests for time, and I move the previous questions on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. CARDIN). The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 3, line 14 strike out "$55,900,000" and insert "$53,886,000".

MOTION OFFERED MY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert $49,386,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 4, line 7, after "construction" insert "or family housing".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 4, line 24, strike out "$134,235,000" and insert "$170,479,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert "$188,062,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 13: Page 5, line 14, strike out "$39,121,000" and insert "$40,870,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 13 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert $57,370,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 14: Page 5, line 15, after "1999" insert ": *Provided*, That of the funds appropriated for 'Military Construction, Army Reserve, 1992/1996', $1,500,000 shall be transferred to 'Military Construction, Army National Guard, 1992/1996' for the same purposes as the appropriation to which transferred".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 15: Page 5, line 22, strike out "$12,348,000" and insert "18,355,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert $22,748,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 16: Page 6, line 6, strike out "$56,378,000" and insert "$45,840,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert $57,066,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 7, line 3, strike out "$1,121,208,000" and insert "$1,065,708,000."

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert $1,013,708,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 20: Page 7, line 3, strike out "$1,281,810,000" and insert "$1,239,210,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert $1,183,710,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 23: Page 7, line 14, strike out "$1,122,634,000" and insert "$1,166,894,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert $1,205,064,000.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 24: Page 7, line 22, strike out "$276,482,00" and insert "$273,355,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert "$277,444,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 8, line 2, strike out "$1,077,827,000" and insert "$1,098,200,000".

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment, insert "$1,102,289,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 29: Page 17, strike out lines 10 to 15 and insert:

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

SEC. 124. In addition to amounts appropriated or otherwise made available by this Act, $25,100,000 is appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard, to remain available until expended, to defray expenses for the consolidation of United States Coast Guard functions in Martinsburg, West Virginia, including planning, acquisition, construction, relocation of personnel and equipment and other associated costs: Provided, That of the funds appropriated for "Military Construction, Naval Reserve" under Public Law 102-136, $25,100,000 are rescinded.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House insist on its disagreement to the amendment of the Senate numbered 29.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 31: Page 18, strike out lines 6 to 17 and insert:

SEC. 126. LAND CONVEYANCE, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Seattle, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 5.09 acres, the location of the Naval Reserve Center, Seattle, Washington.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value (as determined by the Secretary) of the portion of the real property to be conveyed under subsection (a) that is described in paragraph (2).

(2) Paragraph (1) applies to the portion of the parcel of real property referred to in subsection (a) that consists of approximately 3.67 acres and was acquired by the United States from a party other than the City.

(c) CONDITION.—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the real property in its condition at the time of conveyance.

(d) REQUIREMENTS RELATING TO CONVEYANCE.—(1) The Secretary may not make the conveyance authorized by subsection (a) until the commencement of the use by the Navy of a Naval Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed.

(2) The Secretary may not commence construction of a facility to be the replacement facility under paragraph (1) for the Naval Reserve Center until the Secretary completes an environmental impact statement with respect to the construction and operation of the facility to be the replacement facility.

(e) PAYMENT FOR COMMERCIAL USE.—If at any time after the conveyance under this section the City ceases utilizing the real property conveyed under subsection (a) for public purposes, and uses such real property instead for commercial purposes, the City shall pay to the United States an amount equal to the excess, if any, of—

(1) an amount equal to the fair market value (as determined by the Secretary) of the real property referred to in subsection (b)(2), and any improvements thereon, at the time the City ceases utilizing the real property for public purposes, over

(2) the amount determined by the Secretary under subsection (b)(1).

(f) USE OF PROCEEDS.—Proceeds from the sale shall be deposited in the Treasury of the United States.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(h) ADDITIONAL TERMS AND CONDITIONS.—(1) The Navy may scope more than one site.

(2) The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows:

Restore the matter stricken by the Senate, amended as follows:

In lieu of the section designation "SEC. 126.", insert "SEC. 127." and retain the matter proposed by the Senate, amended as follows:

In lieu of the section designation "SEC. 126.", insert: "SEC. 128.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 32. Page 18, after line 17, insert:

SEC. 127. LAND TRANSFER, WOODBRIDGE RESEARCH FACILITY, VIRGINIA.

(a) REQUIREMENT OF TRANSFER.—Notwithstanding any other provision of law, the Secretary of the Army shall transfer, without reimbursement, to the Department of the Interior, a parcel of real estate consisting of approximately 580 acres and comprising the Army Research Laboratory Woodbridge Facility, Virginia, together with any improvements thereon.

(b) USE OF TRANSFERRED PROPERTY.—The Secretary of the Interior shall use appropriate parts of this real property for (1) incorporation into the Mason Neck Wildlife Refuge and (2) work with the local government and the Woodbridge Reuse Committee to plan any additional usage of the property, including an envrionmental education center: Provided, That the Secretary of the Interior provide appropriate public access to the property.

MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HEFNER moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein with an amendment, as follows:

In lieu of the section designation "SEC. 127.", insert "SEC. 129.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. HEFNER].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

□ 1700

APPOINTMENT OF CONFEREES ON H.R. 4506, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1995

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. CARDIN). Is there objection to the request of the gentleman from Alabama?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. MYERS OF INDIANA

Mr. MYERS of Indiana. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. MYERS of Indiana moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 4506 be instructed to insist upon the provisions contained in the House bill under the heading "General Science and Research Activities" that provide $279,399,000 for high energy physics facility operating expenses.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

For what purpose does the gentleman from Indiana [Mr. SHARP] rise?

Mr. SHARP. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore. Is the gentleman from Alabama [Mr. BEVILL] in opposition to the motion?

Mr. BEVILL. No, Mr. Speaker, I am supportive of the motion.

The SPEAKER pro tempore. The Chair will divide the time in thirds, each Member receiving 20 minutes, one-third of the time.

The gentleman from Indiana [Mr. MYERS] is recognized for 20 minutes.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion I have offered on behalf of our committee is a rather simple motion to insist upon the House position on high energy physics. During the past several years we have seen that the research being done by our national labs around the country has been either frozen at the past level, or the effect has been a decrease in the effectiveness of our labs. What we have attempted to do here in our bill was to increase slightly this year the research which is so vital to the future energy needs for our country, so that this research will be done in our national labs.

In the House version, we had $279,400,000 for operating these national labs. The Senate cut this back to $268 million, which was just about the same as last year. In fact, it might be just a bit less than we actually appropriated last year.

The impact, because of cost of living, it means we are getting less research for the energy that our children and grandchildren are going to need, and for the ability for us to compete in the world markets today. We have to continually work to find cheaper, more efficient, more effective ways, not only of producing energy, but of transmitting energy from generation stations, as in the case of electricity.

Mr. Speaker, this is just very vital research our Nation does need to continue to be competitive. What I am attempting to do here is to instruct our conferees to insist upon the House position, which is about $11.4 million more than the Senate had in their bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHARP. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I and some of our colleagues are rising today to ask the House to vote in opposition to the previous question on the motion offered by the gentleman from Indiana [Mr. MYERS], so we can amend the motion. While we do not directly oppose what he is trying to do, we think it is very important for the House to confirm today its position that it has, on four specific occasions, voted to take, which was included in the energy and water appropriations of this bill, and that was to terminate the advanced liquid metal reactor.

Mr. Speaker, we are going to take our time of the 20 minutes to explain once again those arguments, and ask our colleagues to vote "no" on the previous question. At that point we will offer a motion to instruct the conferees to stay with the position that it has in the House bill and that we support, in dealing with the Senate. The ALMR barely survived in the Senate, and while the House has overwhelmingly voted to eliminate this Program.

Mr. Speaker, I wish to thank the gentleman from Alabama and the gentleman from Indiana. The Energy and Water Subcommittee has confirmed the will of the House and the request of the President and the Department of Energy to provide funding to terminate the Advanced Liquid Metal Reactor program.

It is to support this decision that we come today to offer a motion to instruct the conferees to stand by the House position. In order to win the right to offer this motion to instruct, we must defeat the previous question on the motion which has been offered by the gentleman from Indiana [Mr. MYERS].

I wish to assure that gentleman, the committee, and the House that we are not in opposition to the motion offered by Mr. MYERS, but simply wish to win the right to offer our motion to uphold the House position.

The House has voted four times to terminate this project: Once when it passed this bill; once when it passed the reinventing government bill last year, and twice when considering the energy and water appropriations bill last year.

At that time we offered an amendment to cut funding for this project. It passed by 272 to 146 in the Committee of the Whole and later by a similar margin in the House.

The Senate last year voted to continue funding the project by the narrow margin of 53 to 46. In spite of the narrow margin in the Senate, the conference report included funding for the ALMR.

This year the committee decided to support the decision of the President and the position of the House and to terminate the program. The Senate, however, by the narrow margin of 52 to 46, voted to continue the program, calling that continuation phased termination.

There are those in the Senate with a strong commitment to this program and they will be insistent. It is for this reason that we come to you today asking you to help strengthen the hand of our House negotiators by giving them a clear vote in support of the House position to terminate the ALMR. Let us bring this program to a halt once and for all.

I also wish to make clear that this effort is not undertaken out of opposition to nuclear power or nuclear research programs. I have long supported other nuclear research programs, such as the Advanced Light Water Reactor Program, and continue to do so. There is funding within this legislation for other reactor programs. It is only the ALMR we seek to terminate here.

How does the ALMR measure up as a method for high level nuclear waste disposal?

Proponents have argued that the ALMR could be used to burn the actinides in high level nuclear waste, making it easier to dispose of. On the contrary, while plutonium is burned, more fission products are produced, that are more likely to leak.

The ALMR can fission, or burn uranium and plutonium. However, it must be made clear that these elements are not the source of greatest concern in high level waste disposal. In fact, fission products, which are other very long-lived elements such as technicium, curium, and americium, iodine, and cesium are far more difficult to deal with. These elements are water soluble and would increase emissions from a repository, thus increasing the dosage to the public.

Even if all the uranium and plutonium were burned out of the waste it would still have to be placed in a repository, and the content of elements most likely to leach out would be greater. In other words, the waste would be more dangerous to the public and would make a repository harder to license.

On top of that, there would be more waste to dispose of with the ALMR as a waste disposal technique. The DOE has reported that there would be as much as 1.3 to 2.3 times a much waste for disposal with the ALMR as without it.

In addition, it would cost more. The Edison Electric Institute concluded last year that the ALMR could increase the cost of the disposal program by as much as four times.

The National Academy of Sciences estimates that it would take twenty 1,000 megawatt reactors 100 years or more to destroy more than 90 percent of the actinides. Each of these would have to be replaced during that 100 years at least once. That would require more reactors.

So it would take over 100 years; would require construction of a massive new infrastructure; would leave more waste than you started with; the waste would be more difficult to control, creating a more serious threat to the environment, and it would cost more to burn the actinides.

How does the ALMR measure up as a method for plutonium disposal and proliferation?

As we enter the 21st century, few issues are more pressing than the spread of nuclear weapons to nations which do not currently have them. Recent and continuing headlines have featured the tense standoff between the United States and international inspectors with North Korea over their production of plutonium for bombs. Just 2 years ago we were at war with Iraq, with one of the justifications the stopping of Saddam Hussein's nuclear weapons development program. We can expect to see more stories about countries trying to gain nuclear weapons capability.

There are two primary concerns for weapons proliferation. One is that bomb-ready materials can be stolen and made into bombs. The other is that nations will acquire the technology to manufacture their own materials for bombs. The ALMR fails on both counts.

About 150 tons of plutonium will be left from the dismantling of American and Russian nuclear weapons. Some have said that the ALMR could be used to dispose of this plutonium by burning it as fuel.

A quote from the fission working group of the DOE plutonium disposition task force goes directly to the point: "It is interesting to note that the options with the greatest annihilation capability also have the greatest diversion risk."

Burning the plutonium would require the development, design, testing, construction, and deployment of a large number of reactors. The Department of Energy committee called for 27 160 megawatt reactors. That would take decades, just to get started disposing of this material.

The NAS, in a study released earlier this year pointed to two alternatives as preferable for this purpose. One is the mixing of the plutonium with fuel for existing commercial light water reactors. The other is mixing the plutonium with existing high level waste for glassification and disposal. Both of these options use existing facilities, cost little, and could be started up almost immediately.

Recent stories about a few ounces of plutonium found in a German garage are chilling. Evidently, the plutonium was stolen from the Russian weapons system. We need to get with whatever is the quickest way to render this material diversion-proof. The ALMR does not represent the quickest way, nor the cheapest way, nor the surest way.

As to the other threat, that of foreign nations acquiring the technology to build weapons, no other system is as vulnerable. The ALMR is a breeder reactor which creates more plutonium than it consumes. It can be used to burn plutonium, but it is a breeder and in the wrong hands it will be used as such to manufacture weapons material.

Our national policy is to discourage the use and spread of plutonium technologies. The ALMR system envisioned by its proponents would require the construction of a large infrastructure of reactors and reprocessing plants. It would keep plutonium cycling through the system for decades, or even in perpetuity.

The urgent need to prevent the spread of nuclear weapons is sufficient reason to terminate this program in and of itself. This is why the President has decided to request termination.

The ALMR, then, does not provide as much protection against theft as other alternatives, does not provide it as quickly, would require the construction of a massive infrastructure and would cost more.

The ALMR is in and of itself a breeder reactor and perpetuates the threat of proliferation by cycling plutonium through the system and by giving proliferation bent nations a technology for development of weapons materials.

What are the consequences of using the ALMR as a breeder?

Proponents of the program claim that it should be developed to create a system of breeder reactors which would provide an unlimited supply of fuel for the future.

Enough has been said about the concerns over nuclear weapons proliferation to make this picture of a plutonium economy which cycles this most dangerous of bomb materials endlessly through our society that I think we should be able to dismiss that future entirely.

If that is not enough, though, let me point to the study done by the Electric Power Research Institute which concluded that the ALMR is not commercially competitive with light water reactors and will not be for the foreseeable future.

A more competitive electricity industry, new highly efficient generation technologies already on the market, and technologies on the verge of development, such as the hydrogen fuel cell, make pinning hopes of this technology highly speculative, at best.

The ALMR is proliferation prone, increases nuclear waste, costs more than alternatives. The ALMR is not the technology of the future. We should not support deployment of the ALMR system.

Should we terminate immediately as is the House position or pursue phased termination?

There are two questions in any research program aimed at development of a project: First, should we develop the program?

Second, how do we develop the program. If you answer the first question with a no, you never have to get to the second question. If you know you are not going to build a project, you don't have to figure out how to build it.

The Secretary of Energy has stated in a letter to Chairman BEVILL that the Department has decided not to proceed with this technology, primarily because of concerns about nuclear proliferation.

Most of the defense of the "phased termination" option centers around the claim that finishing the research currently under way would cost less than immediate termination.

Recent fact sheets circulated by the DOE should lay that question to rest.

The argument for cost savings depends on a contribution from a Japanese consortium of $60 million over the life of the program.

The Japanese contribution was negotiated—no contract was ever signed—as a contribution to a continuing program which would culminate in the construction of the integrated fast reactor. There has never been any discussion of a contribution to the "phased termination" proposal of the Senate bill.

This contribution, then, is entirely speculative.

Without Japanese participation the phased termination costs anywhere from $27.7 to $55 million more than the immediate termination in the House approach.

For fiscal year 1995 the House has provided $83.8 million for termination. The Senate has provided $98.8 million and instructed the DOE to get $15 million from the Japanese. The House bill saves $15 million over the Senate bill and is $30 million less than the program outlined in the Senate bill.

Over the life of the project, assuming construction of the IFR, DOE estimates that immediate termination would save $3 billion.

Should we instruct the conferees?

One of the hardest things to do in the Congress is to terminate programs that no longer serve their function. We are castigated for that fact regularly in the press and by the public.

We have here before us the opportunity to do that hardest thing. We can terminate this program, save money, prevent nuclear weapons proliferation, prevent making our nuclear waste disposal program worse and support our previous position all at once.

We must terminate this program. It is the position of the President. It is the position of the Secretary of Energy. It is the position of the many outside groups, including the National Taxpayers Union, Citizens Against Government Waste, the League of Conservation Voters, the Sierra Club, the United Methodist Church, the Natural Resources Defense Council, U.S. Public Interest Research Group, Public Citizen, Environmental Action, the Nuclear Control Institute, Safe Energy Communications Council, Nuclear Information and Resource Service, and on, and on. It is also the position of the New York Times, the Washington Post, the Los Angeles Times, the Oregonian, the Atlanta Journal and dozens of other newspapers across the country.

Most important, it is the position of this body. The House has already decided to terminate the project and expressed that decision in four separate votes in the last 2 years.

I urge you to strengthen the hand of the House conferees.

I urge you to support the House position. I urge you to vote to instruct the conferees.

Vote first to defeat the previous question on Mr. MYERS' motion.

Then to vote to instruct the conferees by adding the Sharp-Coppersmith-Hamilton-21 motion as an amendment.

Vote to defeat the previous question.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Mr. Speaker, as Yogi Berra said, I believe more than once, "it's deja vu all over again." Members will recall that this House has faced the issue on the floor today several times before. Even without the benefit of repetition, the issue remains simple. It is about priorities. It is whether we can eliminate Federal programs that no longer make sense, so we can concentrate on the ones that do, and reduce the deficit we are leaving to our children.

It should not be this hard, or take this long, to kill a program, but it is and it does. This House has voted overwhelmingly three times to terminate the advanced liquid metal reactor. With three overwhelming House votes, with the President and Department of Energy finally and firmly committed to termination, and with all the problems we face funding even the best programs, the ALMR program finally should end.

But it is still going, because the game in Washington makes it far too easy to keep programs alive, no matter their merits. Last year, after the House vote, the other body actually increased ALMR funding, and this year it voted again by a narrow margin, to keep the ALMR program alive.

The evidence for terminating the ALMR has gotten only stronger since last year. Both the Office of Technology assessment and the National Academy of Sciences have criticized the idea that the ALMR could dispose of weapons plutonium. The nuclear concerns in North Korea and elsewhere have made the proliferation problems caused by the ALMR even more urgent, a point the Secretary of Energy and the distinguished chairmen of the House Armed Services Committee and the Foreign Affairs Committee all have made.

From a budget perspective, the case against the ALMR has become stronger as well. DOE has spent nearly $9 billion on liquid metal reactors since 1948, but the technology still has no economic prospects. DOE estimates taxpayers will have to pay well over $3 billion more to finish the ALMR Program, and completing just the current phase would cost the taxpayers over $27 million more than terminating it now.

Proponents will try to claim, in what the Washington Post called a classic congressional dodge, that it is cheaper to continue for another several years, but DOE's own number show savings from immediate termination, and the Congressional Budget Office last year scored immediate termination as savings $318 million over 5 years.

But you do not have to trust DOE or CBO. Trust your common sense. Imagine explaining to your constituents that you think keeping a Federal program going for at least another 4 years is less expensive than shutting it down now.

We have had this debate before. We decided to kill the ALMR. The budget is even tighter now; the scientific evidence is even stronger; and the President and Department of Energy finally agree. The ALMR is not a priority, and it must go. Let us not waste another year of taxpayer funding by not eliminating this unnecessary program. To quote Mr. Berra again, it will not be over until it is over. Well, today it is time again to make our votes stick, to stand up to the other body, and to insist on setting at least one priority straight.

I urge my colleagues: Vote "no" to defeat the previous question. Vote for the Sharp-Coppersmith-Klug-Hamilton motion to instruct.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL], who has worked very hard on some of these programs.

Mr. FAWELL. Mr. Speaker, I rise in support of the Myers motion to instruct conferees and in support of the Senate position with regard to the Advanced Liquid Metal Reactor/Integral Fast Reactor [ALMR/IFR] Program.

I want to make two points.

First, the House's 4-year plan to shut down the program at the end of fiscal year 1998 would cost $332 million. The Senate's plan, which would also shutdown the program at the end of fiscal year 1998, would provide for $60 million in Japanese cost-sharing and would allow completion of the authorized research at a cost of $327.8 million, a savings of $4.2 million, including a savings of $5.9 million in fiscal year 1995. Thus, the House's plan makes no economic or fiscal sense.

Second, the Senate's plan is sound science and sound nuclear nonproliferation policy. There is an expanding amount of plutonium in the world today. The United States and Russia alone plan to retire thousands of nuclear weapons over the next decade, making available 100 metric tons or more of pure weapons plutonium metal. By the year 2000 over 1,000 tons of LWR-produced plutonium will exist in spent LWR fuel over and above some 900 tons of LWR-produced plutonium in spent fuel which exists today.

And the world inventory of reactor plutonium will continue to escalate at an ever-increasing rate as the use of nuclear power inevitably expands in many countries world-wide. This is so even if this Nation never builds another nuclear powerplant.

The ALMR/IFR is the only nuclear technology under research today that offers the world the prospect of totally destroying plutonium while safely and efficiently producing electricity. Indeed, I know of no technology of any sort which promises to fully destroy plutonium.

The ALMR/IFR's fuel cycle is also strongly proliferation resistant because first, it efficiently recycles and burns highly radioactive wastes, including plutonium, on-site and second, because the plutonium in the system never exists in its pure form and is recycled as a fuel and ultimately destroyed on site.

In contrast, conventional LWR's use an off-site Purex reprocessing to separate plutonium from spent fuel waste where diversion of pure plutonium is a proliferation concern.

More important, the ALMR/IFR is good science because, while destroying plutonium, it can generate electricity and cut the volume of nuclear waste to one-fourth of that produced by the current conventional LWR. In addition, what low-level waste is left will decay in 100 years rather than many thousands of years, and this low-level-low-volume waste could be stored at the reactor site. Also, the ALMR/IFR reactor, unlike the conventional LWR, will be passively safe; that is, if an accident were to occur and a nuclear chain reaction were to start, as at Chernobyl, it would shut itself off without any human intervention.

Thus, the ALMR/IFR Program is both a sound U.S. energy policy as well as a sound nonproliferation policy. Yet opponents condemn the ALMR/IFR because one of the fuels it uses is plutonium, while ignoring all of the sound scientific principles just referred to.

There are, of course, other options to dispose of plutonium that are under review. These include: indefinitely storing nuclear warheads; cycling plutonium once through a reactor and burying the highly radioactive spent fuel in a repository; vitrifying plutonium with high-level waste and burying it in a repository; dropping canisters of plutonium in deep boreholes in the Earth's crust; burying it under the seabed; detonating nuclear warheads underground; launching it into space; diluting it in the ocean, and so forth. All of these options have their own set of difficulties and none have the long-term promise of the ALMR/IFR.

Vote yes on the motion on the previous question and vote yes on the Myers motion to instruct conferees. Let us not turn our backs on this long-term technology. It is fiscally sound as well as being significant energy and nonproliferation policy. I urge support of the motion to instruct offered by the gentleman from Indiana [Mr. MYERS], and a yes vote for the previous question.

□ 1710

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. MILLER], chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Speaker, the unmistakable will of the House on this issue has been frustrated for too long. Since the House voted overwhelmingly to discontinue the ALMR project twice last year, the case against continued funding has only become stronger. Both the NAS and the OTA have released reports that are highly critical of the idea of using the ALMR Program for plutonium disposition or other nuclear waste disposal.

In addition, our current difficulties with North Korea amply demonstrate the folly of advancing a new reactor technology that is based on a plutonium fuel cycle. Much argument has been heard about whether or not the ALMR is a breeder reactor. The clear fact is that it was originally conceived as a breeder reactor, and can easily be turned back into one. Particularly since the world is glutted with uranium, there is no reason to bear either the economic or proliferation costs of a plutonium fuel cycle.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], who serves on the authorizing committee.

Mr. WALKER. Mr. Speaker, this is another one of these situations where the killing off of research and development is a serious matter, and it will preclude in this particular case much of the nuclear option for this Nation's future. In fact, in this particular case, I am not certain that this ill-advised crusade even makes much sense.

First of all, the conferees should be given a chance to work out the best deal for the taxpayers. It is a complicated issue before us. The administration has raised its cost estimate to terminate and the Japanese are now offering to cost-share the program. Let us at least have some work by the conferees. Let us not prejudge them and allow them to work out something here.

Second, in spite of all the protestations to the contrary, it is both cheaper in 1995 and over the next 4 years to complete the program than to break the contracts and pay termination liability. We should not be charging the taxpayers even more money to grandstand on an empty, symbolic gesture, and that is exactly what we have been doing if we terminate this program at this point.

Third, the program is fully authorized in Public Law 102-486, the Energy Policy Act of 1992. This was the bill of the gentleman from Indiana [Mr. SHARP]. Section 2122 of that particular authorization reads and I quote:

> The Secretary shall conduct a program to encourage the deployment of advanced nuclear reactor technologies. The goals of the program established under subsection (a) shall include for the near term to facilitate the completion of submissions by September 30, 1996 for the preliminary design approvals by the commission of standardized designs for the modular high temperature gas cooled reactor technology and the liquid metal reactor technology.

So this is fully authorized by the bill of the gentleman from Indiana [Mr. SHARP] and ought not be brought out here with some idea that there is not an appropriate authorization.

Fourth, the termination of this program would leave some of our top research facilities as nothing but empty shells without any mission and would backtrack from this Nation's need to have advanced research. If we are going to be an advanced nation, we need every energy option for our future economic growth, and this amendment throws one away completely. The one they are throwing away happens to represent 22 percent of the energy that this country consumes today.

To throw away that unnecessarily on this floor and to do so in total violation of the authorization bill that we put in effect less than 2 years ago seems to me to be beyond penny wise and pound foolish. In my view, it is just plain dumb.

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise today to urge my colleagues to support the motion for the previous question.

Mr. Speaker, what we are talking about here is a research program referred to as the integral fast reactor, or IFR.

The question is whether we should conclude the program in a thoughtful, fiscally prudent manner, or whether we should toss the baby out with the bathwater.

About $800 million have been spent on the development of the IFR since 1986. The initial money was used to conduct small-scale research and then, later, to conduct confirmation experiments in larger sized equipment.

Much of the recent funding has gone to building and installing engineering-scale equipment at the Argonne West facilities in Idaho. This scaled-up equipment is designed to carry out the crucial and final proof-of-concept experiments for the IFR technology. These experiments are scheduled to begin in September.

If the research on the IFR is abandoned at this time, essentially all of the investment to date will be a total waste.

To date the IFR has proceeded on budget, and on schedule. There is no reason to expect that will not continue to be the case.

In other words, we can say with great confidence that if we continue to collect data during through the concluding years of the project, we will reach the goal of knowing whether the technology can be integrated and scaled up.

Answering this question—the original question—can take place at the same time that we continue systematic, cost-effective shutdown procedures.

We will apply for the necessary permits for termination, and we will begin to redirect the activities of the staff as appropriate, in productive, useful alternate directions.

I contrast this careful, thoughtful, fiscally prudent approach, which embraces cost sharing by industry and allied governments, with the panic-driven, irrational stampede of some opponents to abandon the IFR technology.

Your vote today is more about how we explore new ideas than about your final position on the IFR. I happen to agree with scientists at Oak Ridge and Lawrence Livermore National Laboratories that the IFR is less of a proliferation threat than the existing technology which it is designed to replace. But you need not have reached that conclusion.

Today, let us simply acknowledge that it does not make sense to say, in essence, that scientists cannot continue to collect data as we bring the program to a close.

If we accept the Senate provision, we will complete the experiments that define the boundaries of the technology.

If we accept the Senate provision, we will complete the research for less money than it takes to shut down immediately.

Mr. Speaker, the AFL-CIO; the Oil, Chemical & Atomic Workers; and the International Brotherhood of Electrical Workers, among many others, are correct.

Southern California Edison, Duke Power, Boston Edison, Commonwealth Edison, and literally dozens of other utilities are correct.

The National Academy of Sciences, the National Association of Regulatory Utility Commissioners are correct.

They all say: Completion of the IFR is the prudent choice. I urge my colleagues to resist the effort to terminate this program prematurely.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the taxpayers of this country want to know what it takes to kill a pork barrel program.

The House has voted four times to terminate the Advanced Liquid Metal Reactor Program. Yet, once again, the ALMR has a chance to get funding—unless we vote for a fifth time to kill it.

Let us be clear. If we terminate the ALMR, American taxpayers will save at least $2.9 billion.

With a $4.6 trillion national debt, this body must have the courage to say no to wasteful spending programs. The ALMR is such a program.

It is not a cost effective or efficient way to deal with nuclear waste.

It is not an economical resource for generation of electricity.

It does threaten our environment and increase the risk of nuclear proliferation.

Mr. Speaker, I ask my colleagues to join the National Taxpayers Union, Citizens Against Government Waste and a number of environmental organizations and vote to terminate the ALMR.

Vote against the previous question so that this body gets a chance to instruct our conferees to hold firm to the House position to kill the ALMR.

□ 1720

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise to speak today in favor of Mr. MYERS' motion to instruct the energy and water appropriations conferees. Continued support for high energy physics is necessary to keep the United States at the forefront of the global marketplace. Research in high energy physics allows this country to continue to be a world leader in medical research and manufacturing technology.

In addition, I oppose any attempt to instruct conferees regarding funding for the Advanced Liquid Metal Reactor Program. The goal of the Advanced Liquid Metal Reactor Program is to develop a technology capable of burning high-level nuclear waste from commercial reactors and plutonium from our weapons stockpile. This program is very close to producing a reactor that will provide a domestic source of clean, cheap, and safe energy, while providing a nuclear waste treatment alternative.

While both the House and Senate bills reduce spending for the ALMR Program below current levels, the phased shutdown provided for in the Senate bill would allow the completion of the research mandated by the Energy Policy Act of 1992.

The Senate level of funding would allow the Liquid Metal Reactor Program to be phased out in a logical manner and would actually cost less. The House proposal for immediate termination would spend $444.6 million on termination costs over the next 4 years. With the commitment of the Japanese to contribute $60 million to the project, the costs for a phased termination of the IFR would be $4.2 million less than immediate termination.

I urge my colleagues to support Mr. MYERS' motion to instruct the House conferees regarding funding for high energy physics and vote for the previous question.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BROWN], chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. Mr. Speaker, I rise in support of the motion to instruct offered by the gentleman from Indiana [Mr. MYERS], and I will oppose the effort to provide instructions to terminate the advanced liquid metal reactor project.

I am in a somewhat difficult position here, because the position that I am taking today is different from what I took last year. Of course, the administration's position today is different from what they took last year too. So I hope that the two will offset each other.

I have in the past opposed liquid metal reactors. I think some of my colleagues have been here long enough to recall that I waged a tough fight to end the Clinch River reactor 10 or 15 years ago, in cooperation with the National Taxpayers Union. I wish that I could be on their side again.

Unfortunately, the situation is much more muddy than it appears here. There are a lot of difficult politics at work here. Some of the people who want to close this project are opposed to all nuclear programs, for example, and do not want to see us even have an insurance policy against the possibility that we will not have an adequate energy supply 20 or 30 years down the road.

I look on this program first of all as being sound research. I have visited the labs, I have talked to the researchers, I know that they are doing good work. They are trying to keep up with the work that some of our allies are doing, incidentally, in this area, the Japanese and the Europeans are both ahead of us in many ways.

I think that it is a prudent insurance policy to bring this technology as far as we can and then phase it out in a prudent way as the legislation requires. I do not think the argument that we will save money by abolishing this holds much water, as some of my colleagues have already mentioned. Actually what will happen is this money will go to another project, and the people opposing this may like what else it goes to even less.

So I urge that we proceed on the path that the committee has set here.

The funding provided to the ALMR Program in the Senate bill will allow for a sensible and orderly phaseout of this project and will provide the opportunity to record and document substantial research and development findings. This Senate funding will permit us to revisit this technology at a future date, should it prove valuable or necessary.

I am particularly concerned that we retain an understanding of any technology that may be useful in this disposal or burnup of plutonium. Given the huge quantities of plutonium that will be recovered from the retirement of the strategic nuclear weapons of the former Soviet Union and the United States, it behooves us to keep open all our options for disposal. Clearly the ALMR is one of those technologies, and we should carefully weigh its strengths and weaknesses in this role on a sound scientific basis.

I urge Members to support efforts to bring the ALMR Program to an orderly, thoughtful conclusion, and to vote against efforts to instruct the conferees on this issue.

Mr. SHARP. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, let us one more time pull out our Washington dictionaries, and let us figure out the definitions of some words, where investments now replace spending, where contributions is now a new word for taxes, and finally where termination means we will spend another $2 million on the project.

I think it is clear from what a number of my colleagues have repeated over the last 15 minutes of this debate that this program has been harder to kill than the hockey mask-wearing Jason of the Friday the 13th series. The Bush administration listed this as 21 out of 23 priorities based on energy contribution, economic, technical and environmental factors.

Last year on June 24 the House voted 270 to 146 to pass the Coopersmith amendment, and I was involved in that debate again last year as well to terminate the Department of Energy's civilian funding for the ALMR. Last year the House voted again to terminate this program. DOE supported termination of IFR, and now President Clinton, not President Bush, called for termination. The House committee itself agreed to terminate the program, and now one more time we find ourselves where for two cycles in a row it has been the conference committee and the other body in particular which has come back to save the Advanced Liquid Metal Reactor Program, and all of this, frankly, all of this idea that we can somehow save money by agreeing to the Senate provisions of the conference agreement simply does not stand up, because it is a giant roll of the dice based on that fact that somewhere down the line the Japanese may, and the operative word is may here, may decide to get back into the project.

Termination of this program, as Members already heard from my colleague from Minnesota [Mr. RAMSTAD] is supported by a wide range of groups, including the National Taxpayers Union, Citizens Against Government Waste and other taxpayer organizations, as well as environmental groups such as the Friends of the Earth, the Sierra Club and the scientific community, such as the National Academy of Sciences as well.

A number of studies have taken a look at this argument, which essentially said it will help destroy plutonium all you have left over is cold water. But keep in mind that we have already spent $1.3 billion on the ALMR Program, and now we have finally found a mission for the technology that has no commercial application whatsoever.

The fact of the matter is that because the reprocessing costs of reproducing plutonium as a fuel is higher than processing uranium fuel, in fact uranium fuel is so cheap and abundant that U.S. uranium manufacturers are going out of business, so we are going to give money to a technology that may not be available for the next 40 or

60 years when there is already a technology in place. We are trying to convince other countries to back off from plutonium proliferation, and now here we are trying to talk North Korea out of plutonium, and we are going to fund a scientific project that will create more plutonium.

A number of studies of ALMR say it would not be the safest, most effective way to convert plutonium. Studies from the General Accounting Office, the Office of Technology Assessment, Lawrence Livermore National Laboratory, Electric Power Research institute in California, and DOE's own study on plutonium disposition.

Let me finally sum up with what editorial pages have said across the country that have objectively stood back and taken a look at this program based on the scientific research. The Washington Post called it the wrong reactor. A paper in Oregon called it a giant research boondoggle. A paper in South Carolina called it radioactive pork, and finally my colleagues in this House, let us take the advice of a paper in South Carolina that said put the breeder reactor to sleep.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the attempt to defeat the previous question and offer a motion to instruct conferees to terminate the advanced liquid metal reactor, also known as the integral fast reactor [IFR]. Termination of the IFR at this point would not only be irresponsible and shortsighted, but would also cost more money than actually completing the program over the next 2 years.

Mr. Speaker, the IFR is now 80 percent complete and shutdown of the reactor has already begun. If we continue IFR research, in 2 years we will have the science we need to make energy out of reprocessed plutonium. If we terminate the program early, we will have gained nothing from our years of research and will have lost hundreds of millions of dollars.

Mr. Speaker, the scientists at Argonne National Labs are developing an amazing technology, called actinide recycling, which will enable the IFR to burn used fuel from existing plants and nuclear waste sites as well as consume plutonium from dismantled nuclear weapons. Last Congress, we made a commitment to test actinide recycling as a way to reduce nuclear waste in the omnibus energy bill of 1992. We should not back down on that commitment.

Mr. Speaker, the IFR is a revolutionary technology that has the potential to offer the country a safe and lasting means of generating electricity while reducing the stockpile of existing nuclear waste and weapons-grade plutonium. The IFR addresses the public's concern about the safety and security of nuclear power—it is far, far safer than technology employed in current nuclear power plants. The IFR is inherently safe and will shut down automatically without human or mechanical intervention if the reactor should overheat. These safety features have been demonstrated in actual tests of a prototype reactor.

To those who contend that the IFR is a breeder reactor with the capacity to transform uranium into plutonium for nuclear weapons, I argue that the purpose of the IFR is exactly the opposite: The IFR burns plutonium and other actinides to generate power. Contrary to what opponents of the IFR say, the IFR does not produce pure plutonium. A highly sophisticated reprocessing technology would be needed to use the plutonium output for any other purpose than refueling the reactor itself.

Mr. Speaker, as America pursues greater energy efficiency and as nuclear weapons are increasingly being dismantled, we cannot afford to abandon this vitally important program. I urge my colleagues to oppose the attempt to defeat the previous question and support the Myers motion to instruct.

□ 1730

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN], the distinguished chairman of the Subcommittee on Agriculture of the Committee on Appropriations.

Mr. DURBIN. Mr. Speaker, at any point in this debate I am prepared to yield to any of my colleagues opposed to this project who feel they are so well versed in nuclear physics that they want to speak to the theory behind this IFR and why they do not support it. I am not going to address that point, because I do not have a background in nuclear physics.

What I have found is that the scientific community is split. some say this is a good investment in research. Some say it is not. In fact, these scientific groups, we could line them up on both sides of this Chamber, and we would probably get a pretty balanced debate on where this should go and how much we should invest. I know the Japanese Government and their scientific community think this is a pretty good idea, take this spent nuclear fuel and turn it into something productive, eliminate a problem that will be around for centuries. It makes sense where I am standing, too. But I cannot make this argument on scientific grounds. I just do not have the background for it. Some of my colleagues may feel they do.

Let us talk about budgetary grounds. Some people say we are out to save money. If we go along with the idea of eliminating this integral fast reactor, it is not going to save the American taxpayers one nickel. In fact, it will cost them more money to shut down this project which is near completion. It makes more sense from where I am standing for us to go along with the idea of completing the research to see if it does have some productive potential for us and to save money for taxpayers as opposed to trying to put another notch on our pistol and saying we just cut out another project. The bad news for taxpayers is, having cut it out, we sent you an additional bill for anywhere from $5 million to $18 million. That sort of thing is not good news for taxpayers.

What I would ask my colleagues to do is to stick with the motion offered by the gentleman from Indiana [Mr. MYERS] on his motion to instruct and to resist those efforts that are going to be put forth on this floor to eliminate this project. I think it has good scientific value. From a budgetary viewpoint, it should be brought forward to conclusion.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Speaker, I rise today to urge Members to stand firmly behind the House position to terminate the Advanced Liquid Metal Reactor. That means defeat the previous question. We have a massive Federal deficit, and we have got to eliminate unnecessary Government spending. The Advanced Liquid Metal Reactor is precisely the kind of program we should be putting a stop to.

Breeder reactors are simply not cost effective. It is unlikely that ALMR's could compete with light-water reactors for 40 to 60 years, if ever. By then, current ALMR technology would be obsolete. Meanwhile, taxpayers are being asked to foot the bill for billions more in ALMR funding. Terminating the ALMR now would save at least 2.9 billion dollars.

We should not be spending our research dollars on new nuclear reactors. We should be spending the limited amount that we do have on energy efficiency and conservation, and alternate and renewable energy.

Federal research on the ALMR is a dangerous and costly boondoggle that we should stop immediately. The Clinton administration has determined that the ALMR no longer deserves Federal funding. Congress should come to the same conclusion.

One of the problems with this institution, as everyone knows, is that we never seem to be able to kill programs once they get started. This has got to stop. It is time to get serious about stopping unnecessary science programs, improving deficit reduction, and stopping wasteful spending wherever we find it. Let us shut down the ALMR before it demands billions more taxpayer dollars.

I urge my colleagues to defeat the previous question and to stand firm behind the House and administration position to terminate funding for the Advanced Liquid Metal Reactor.

Mr. MYERS of Indiana. Mr. Speaker, I yield 4 minutes to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, I think it is important that we clarify some of the issues brought up here.

One of the key issues that has been brought up is this reactor is a reactor that will generate more proliferation, notwithstanding the studies at Oak Ridge and Lawrence Livermore that say this technology reduces the risk of proliferation. It does not address the fact either that we have 250 tons of weapons-grade plutonium is this world right now, and this reactor can consume that very kind of weapons-grade plutonium.

They talk about studies and say a lot of studies have shown this reactor is not going to be able to solve the proliferation problems. But, frankly, you can get the answers from studies by the questions you ask, and those studies that they quote say that the short-term answers, in the short term, that this reactor has not proven out, because the research has not been finished. That is obvious.

What do the same scientists say about the long term? This very Congress asked the National Academy of Sciences to study all nuclear options and to tell them which nuclear options we should focus on for our future, and that same study that has been quoted here says on page 12, "The committee believes the liquid metal reactor should have the highest priority for long-term nuclear technology development." We are not fighting here over what to do in the short term. We are fighting over whether this country should keep involved in nuclear testing and in nuclear research and development or whether we should shift out of it.

Everybody in this Congress has received a letter from the heads of nuclear programs at universities across this country pleading with us to save this technology and to keep this research alive.

Secretary O'Leary in testimony before the Committee on Energy and Commerce this year acknowledged that this is not a battle over money, it is a battle over a shift in priorities in this administration away from nuclear research into wind and solar and other renewable research.

The question here is whether we should keep nuclear research alive. I have in my hands another report, the report of the U.S. utility industry on advanced reactor corporation, and this study concludes that given the administration's recent decision to recommend termination of funding for some advanced reactor designs, and that is the liquid metal reactor, "We believe that an updated report providing utilities perspective is timely and critical." Going on, it says they believe there is no future funding for nuclear research of any meaningful sense beyond 1998 if this decision to terminate this reactor is made.

Mr. Speaker, there has been a lot of talk about cost. They say that it will cost $2.7 billion or $2.3 billion in the future if we keep this project going. The only way that those costs would be incurred is if the technology proves out, and society and this Congress make the policy decision to build the reactor. That is a decision for a future time.

What we are fighting over right now is whether to go ahead and finish the research or terminate the research in a way that actually saves more money, to finish it. And, by the way, if we do make that policy decision in the future, then there is going to be electrical generation that will pay for that two-point-whatever billion dollars which is not even being brought into consideration in this debate.

There have been a lot of editorials that talked about it. I have a stack of editorials myself. The Washington Post, after the one that has been referred to, published a followup that says, "The right reactor after all."

□ 1740

Business Week, "A big science cut that could drown us in nuclear waste." Chicago Tribune, "Don't foreclose this nuclear option." Christian Science Monitor, "Keep funds for nuclear research." The list goes on.

Mr. Speaker, we are facing a decision today as to whether we will have any long-term nuclear research dollars left in our budget. This is a shortsighted decision if this country makes the decision to eliminate the ability of the United States to continue being the leader in nuclear research.

We must support and vote for the previous question.

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise today in support of the Advanced Liquid Metal Reactor Program and to urge my colleagues to vote for the previous question.

Mr. Speaker, countries around the world recognize the important role nuclear power must play in the production of clean, safe, economical and abundant electricity. These countries continue to look to America for leadership in nuclear power technology.

Global markets for United States industry are rapidly opening up in countries such as Japan, Taiwan, Korea, and Indonesia. The nuclear powerplant market potential in the Pacific rim nations during the next 15 years is estimated to be over $175 billion. This represents well over 100,000 U.S. jobs.

Mr. Speaker, a strong U.S. nuclear industry can and must be a major contributor to the world's need for clean, safe, and low-cost electricity.

As a nation we have invested more than $700 million on research and development of the ALMR concept. It simply makes no sense to abandon the work that has been done just when our efforts are ready to bear fruit.

I urge my colleagues to continue funding for the Advanced Liquid Metal Reactor Program and to vote for the previous question.

Mr. MYERS of Indiana. Mr. Speaker, I am going to use the 4 minutes I have remaining in order to close. I reserve the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS). The gentleman from Indiana [Mr. MYERS] has the right to close.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. FINGERHUT.]

Mr. FINGERHUT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I simply want to rise in support of the efforts of my colleagues who are seeking to defeat the previous question in order to offer a motion to instruct with respect to killing the ALMR. I am not sure, frankly, why it is that we are debating the merits of this project again. It seems to me clear we had a debate on this question before in the House, and the verdict of this House was clear.

The question now before us is whether or not we ought to maintain our position in the conference committee with the Senate. There are plenty of spending priority debates that we have disagreements on in this House. Sometimes we are split almost evenly down the middle on whether or not a project is worth funding. But in this case, the split is not close, the House is overwhelmingly in support of the motion to kill this project. So the debate today is simply whether or not we should stand our ground. In my opinion, Mr. Speaker, we should stand our ground, defeat the previous question and we should ask that the final provision kill this bill.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. I thank the gentleman from Indiana for yielding this time to me.

At this point I think we on the opponents' side of this project wish to respond to a couple of points that have been raised.

First of all, the Department of Energy did a thorough analysis of the cost of termination as opposed to continuing the program.

DOE analysis is that the savings for termination are about $28 million. The numbers on the other side, assuming keeping the program going saves money, assumes a Japanese contribution of $60 million. However, there is no contract from the Japanese, there is nothing in writing. And the $60 million from the Japanese, as indicated, would only come through if the United States commits to build a $3 billion demonstration reactor.

My colleague from Idaho mentioned there would be revenues from electrical generation. However, I am not sure he would agree that the U.S. Government should be in the business of selling electric power on that scale.

Second, there is a strawman argument—or a straw person argument, these days—that voting against this program means you are against nuclear power. That is absolutely not correct. I represent part of the service area of Arizona Public Service, which is one of the foremost, I believe, nuclear investor-owned utilities in this country. In this House, in this Congress, we are funding at least four other advanced light-water reactors. Those programs have support from industry, they have commercial feasibility. Voting against one program for which there is no commercial interest, for which the numbers simply do not add up, is in no way opposing the nuclear option; it is making good and valid distinction this House has been able to make before.

Too many times in politics you approach science as a black box, assume the scientists are split, then let us decide on the politics: What district is the project located in? What committee is it on? Who do I owe a favor to? We can make the principal and valid distinction here between which science programs are good and which are good enough.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I oppose any motion that would instruct the House conferees to insist on the House position on terminating the integral fast reactor project. First of all, when this bill was put together by the House, there was no House position as such, there was no budget for termination, simply a placeholder from the Department of Energy. Since that time, the DOE has submitted an amended appropriations request, for an additional $33.2 million. So when this issue was brought before the House last month, we did not really know what we were dealing with.

And what we are dealing with is simply this. The DOE has said that at least $104.7 million would be required for fiscal year 1995 to terminate the Advanced Liquid Metal Reactor/IRF Program immediately and to tell the Japanese Government and the American utility industry that we do not want their money.

The Senate, which had the benefit of seeing this proposal in total, rejected it, preferring instead to accept the cost-sharing, complete the research and shut the project down in an orderly way. Their funding proposal to accomplish this in fiscal year 1995 is $98.8 million, $5.9 million less than would be required for immediate shutdown. I say, let us join them. It is not often that we get a chance to complete a project and save money at the same time.

I would like to add in closing that the cost sharing for the ALMR/IFR Program comes from organizations who believe in the long-term potential of this technology. These organizations are putting their money where their mouth is, and we should listen to their endorsement and complete the research with the phased shutdown as called for in the Senate version of this bill.

Mr. Speaker, I hope that my colleagues will oppose the motion which the gentlemen from Arizona and others propose. We cannot afford their proposal, and it is wrong on the merits.

Mr. BEVILL. Mr. Speaker, I support the motion offered by the gentleman from Indiana [Mr. MYERS] and urge the Members to vote "yes" on the motion.

Mr. Speaker, I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

□ 1750

Mr. MARKEY. Mr. Speaker, I rise today to urge my colleagues to defeat the previous question and vote to terminate the Advanced Liquid Metal Reactor Program. The House has already voted three times to terminate the ALMR. This program is expensive, dangerous, and simply bad policy.

The ALMR is bad fiscal policy. The Clinch River breeder reactor started off with a price tag of $700 million and wound up costing $8 billion in taxpayers' money—which was all lost. Even in the most optimistic estimates, the ALMR is at least 20 years and countless billions from completion.

Second, this is bad energy policy. There has not been a new nuclear powerplant ordered in the United States—which has been constructed—for many years. But at the same time, the electric utility industry is saying that the breeder reactor program might be a good idea. If they feel that this is such a good idea, then they should fund it, not the taxpayers of our country.

Most importantly, Mr. Speaker, the breeder reactor program is bad national security policy. This is a proposed proliferation solution that in reality is creating a new problem. Last year, at my urging, the Department of Energy released a secret report on the ALMR program. This report, which had previously been kept classified, revealed that in fact, the unsolved problems with this technology include safeguards, plant inspectability, and material accountability for the purposes of verification. This means that this program would be creating a plutonium economy across the planet, which is even more dangerous than ever in today's international environment.

And even if this reactor could be used to dispose of plutonium stockpiles, dozens of these reactors would have to operate for hundreds of years in order to consume all of the plutonium in all of the nuclear weapons in the Soviet Union or the United States, if that was the ALMR's purpose. We are talking dozens of reactors for hundreds of years.

But we have no way of guaranteeing that the plutonium would not be diverted into nuclear weapons programs in countries that do not already have them. This program's safeguards simply do not work.

Nuclear proliferation is perhaps the single greatest potential risk to global peace and security today. There is no need to subsidize this risk with taxpayers' money.

Again, this House has overwhelmingly supported the ALMR's termination. Now it is time for us to follow through. Vote to defeat the previous question.

Mr. SHARP. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question so we can instruct the conferees to do, as the House has done on four occasions already, to vote to terminate the advanced liquid metal reactor, Mr. Speaker, this is not about whether my colleagues are for or against nuclear power. Nuclear power, as we know it in the United States, is fundamentally based on the uranium light water reactor. We are going forward with that reactor with advanced designs, I support that. Many of the people that are voting with us are supporting this. I say, "This is not whether you're for or against nuclear power. This is whether we ought to go on to a high-cost, high-risk plutonium kind of nuclear power that is closer to the nuclear bomb."

Mr. Speaker, we have some studies of this specific project, of the various technologies engaged, and increasingly over the years they have come to the conclusion this is not the smart place to put our money.

First, the proponents of this program often argue: "Use it as a way to dispose of the nuclear waste that we are looking for a place to put today, that is produced out of our light water reactors."

My colleagues, this is not the technology to accomplish this goal. The studies of the Department of Energy indicate that we end up with more, more volume of nuclear waste, to be gotten rid of, and it is highly radioactive, and it will take just as long, if not longer, than the current wastes we have to deal with. This is not a way to dispose of the nuclear waste that we have now to take care of in our country for years and years to come.

Second of all, the argument is made that we should use this kind of technology to burn up the bomb grade weapons material that is now in the Soviet arsenal and in the United States arsenal because we know we must get rid of that.

But, my colleagues, before this technology could even be ready, it will be decades, and then, to complete that activity, it will be decades and billions and billions of dollars later. We have to take actions on that now, and again the studies are showing that there are several faster and cheaper options that are available to us right now, so that we can begin in this country to get rid of that material.

So, Mr. Speaker, let us not take the high-cost option. Let us not buy into something that is a hundred years away.

Mr. Speaker, in addition to the question is really whether we want to move on to this other plutonium cycle when we have technology that is more efficient and more cheap, if it really works the way the proponents want it to, to produce plutonium which puts us at risk that North Korea, Qadhafi, or somebody else can turn into bombs.

Now that is part of what this argument is about. This costs unnecessary money. It will not solve the nuclear waste problem. It gets us to a plutonium policy, if we really want to go that direction, which I doubt that this country will ever agree to go anyway.

Now, my colleagues, the Department of Energy, the Office of Management and Budget, agree that, if we will vote to terminate this program now, we will save money. It will not cost us more money. So, this is a matter of saving money; this is a matter of stopping an unnecessary project. This is not about whether my colleagues are for or against nuclear power.

My colleagues, vote no on the previous question so that we can amend the motion and get directly to the issue itself.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, there has been a lot of discussion here this afternoon, some factual, a lot nonfactual. The issue today is: If you vote no on the previous question and defeat the previous question, you're taking $11.4 million out of the research for our children's future energy needs.

Mr. Speaker, my instructions are to put that $11.4 million in high-energy physics, to look for new energy for our children's and grandchildren's future, so my colleagues would first be taking away that $11.4 million, spend it on something else, but not on needed research.

Second, Mr. Speaker, this is not an issue of whether we are terminating or not. Both the Senate version, which I think is the right way to go, and the House version terminate this program. But if my colleagues follow the House version, we get absolutely nothing for the investment we have already made and for the termination costs that it will take. To the contrary, the House version would cost more money. I think everyone is agreed to that, but there has been thrown out this idea that, if we went the full route with the IFR, and built all the prototypes, it would get up around a couple billion dollars.

The gentleman from Massachusetts [Mr. MARKEY] talked about Clinch River costing $8 billion wasted. Now I do not know who spent the $8 million, but I have been on that committee for a good many years. We had $1.7 billion in Clinch River at the time it was terminated by Mr. Carter and Congress. We had $300 million termination costs. That is $2 billion the way I add it up to it. But anyway it was foolish to do that. We had absolutely done nothing for Clinch River except a lot of scar where it was going to be built, so it is not talking about termination, terminating both ways to go, what do we get for the money we have invested, and, if we go ahead and finish the way the Senate has suggested, we save dollars to the American taxpayers, and the National Taxpayers Union, I have never seen an appropriation they did like in the first place, and they are just wrong on this issue. They have not added it up and do not know what they are going to get for the dollars.

I say to my colleagues, you get nothing, if you follow their instructions. They're right, and it's not a matter of nuclear proliferation.

Russia, France, and Japan are continuing this actinide research with or without us. Discussion about the—up to $60 million that Japan was going to put into it. I have a letter dated June 17 this year from the president of the Power Reactor Nuclear Fuel Development Corp. out of Tokyo. The president says, he states in the letter, that the only reason they withdrew their $60 million is because the Department of Energy has withdrawn its support for this. But the president goes on:

> Meanwhile we are starting in our own to carry out R&D in the field of actinide recycling.

So, Japan is going to go ahead without us. We will not have the advantage of the research.

The last paragraph of the president's letter:

> We remain interested in working with the Department of Energy in this field, although its recent actions don't provide a stable, credible basis on which to proceed at this point. If Congress were to restore the program for the next fiscal year, we would consider our option about participating in a joint program.

Mr. Speaker, I say to my colleagues, if you're interested in saving the American taxpayers what we have already invested in providing for the needed energy, meaning for the research and the future of our Nation, you will vote for the previous question, and don't go down this route that we have gone down so many times. When we get close to finding out something, we destroy it, so please vote for the previous question.

Mr. HASTERT. Mr. Speaker, I stand in favor of Mr. MYERS' motion to instruct the conferees to support the House position on funding for the Department of Energy's high-energy physics program. The United States has long dominated the field of high-energy physics, primarily due to the diligent research efforts of our top scientists working to make new discoveries about the fundamental makeup of the universe.

For example, Fermi National Laboratory, which is located in my district, is the premier laboratory for high-energy physics in the United States. In fact, Fermilab is home to the largest and most powerful particle accelerator in the world. Scientists at Fermilab have dedicated themselves to investigating the nature of matter and pioneering ways to approach the challenges our country faces in the fields of medical research, manufacturing technology, and educational enhancement.

Recently, physicists at Fermilab found evidence of the top quark, a subatomic particle that is the last undiscovered quark of the six predicted by current scientific theory. Scientists worldwide have sought experimental evidence for the top quark since the discovery of the bottom quark at Fermilab in 1977.

In short, if the United States is to meet the technological challenges of the 21st century, and improve U.S. global, industrial competitiveness, Congress should promote, not discourage, research and development in high-energy physics. Indeed, it is imperative that we fund these laboratories at a level that will allow us to remain among the world leaders in high-energy physics.

Mr. MYERS' motion is a step in the right direction. I urge my colleagues to support the gentleman's motion.

Mr. MYERS of Indiana. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The SPEAKER pro tempore (Mr. HASTINGS). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MYERS of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 171, nays 209, not voting 54, as follows:

[Roll No. 366]

YEAS—171

Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehner
Bonilla
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chapman
Clement
Clinger
Combest
Cox
Cramer
Crane
Crapo
Cunningham
Darden
DeLay
Dickey
Dixon
Doolittle
Dornan
Dreier
Dunn
Durbin
Ehlers
Emerson
Everett
Ewing
Fawell
Fazio
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gibbons
Gingrich
Gonzalez
Goodling
Goss
Gunderson
Gutierrez
Hancock
Hansen
Hastert
Hayes
Herger
Hilliard
Hochbrueckner
Horn
Houghton
Hoyer
Huffington
Hutchinson
Hutto
Hyde
Inslee
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kasich
Kim
Kolbe
Kopetski
Kyl
LaRocco
Leach
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Lloyd
Lucas
Manzullo
Mazzoli
McCollum
McCrery
McDade
McKeon
Meek
Mica
Michel
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Murphy
Myers
Ortiz
Oxley
Packard
Parker
Pastor
Peterson (FL)
Pickett
Pombo
Porter
Quillen
Rahall
Rangel
Roberts
Rogers
Rohrabacher
Rostenkowski
Rowland
Rush
Sangmeister
Saxton
Schaefer
Schiff
Shaw
Shuster
Skeen
Smith (IA)
Smith (OR)
Smith (TX)
Solomon
Spence
Stump
Sundquist
Swift
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thornton
Torres
Torricelli
Tucker
Vucanovich
Walker
Walsh
Weldon
Wilson
Wise
Wolf
Yates
Young (AK)
Young (FL)

NAYS—209

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Baesler
Barca
Barlow
Barrett (WI)
Beilenson
Bentley
Berman
Bishop
Blute
Bonior
Borski
Brewster
Brown (OH)
Bunning
Byrne
Cantwell
Cardin
Castle
Clayton
Coble
Collins (GA)
Cooper
Coppersmith
Costello
Coyne
Danner
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dooley
Duncan
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fields (LA)
Filner
Fingerhut
Flake
Ford (MI)
Frank (MA)
Furse
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Grandy
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings
Hefley
Hefner
Hinchey
Hoagland
Hobson
Hoekstra
Hoke
Holden
Hughes
Inglis
Jacobs
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kingston
Kleczka
Klein
Klink
Klug
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Lehman
Levin
Levy
Lewis (GA)
Linder
Long
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHale
McHugh
McInnis
McKinney
McNulty
Meehan
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran
Morella
Neal (NC)
Nussle
Oberstar
Obey
Olver
Orton
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Petri
Pomeroy
Poshard
Price (NC)
Pryce (OH)
Quinn
Ramstad
Ravenel
Reed
Regula
Richardson
Roemer
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Sabo
Sarpalius
Sawyer
Schenk
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Swett
Synar
Talent
Tanner
Tauzin
Thurman
Torkildsen
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Williams
Woolsey
Wyden
Wynn
Zimmer

NOT VOTING—54

Ackerman
Baker (LA)
Becerra
Boehlert
Carr
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
DeFazio
Dingell
Fish
Foglietta
Ford (TN)
Frost
Gallo
Glickman
Grams
Hamburg
Hunter
Inhofe
Istook
Jefferson
Knollenberg
Laughlin
Machtley
Mann
McMillan
Murtha
Nadler
Neal (MA)
Owens
Peterson (MN)
Pickle
Portman
Reynolds
Ridge
Rose
Sanders
Santorum
Schroeder
Skelton
Slattery
Smith (MI)
Stupak
Thomas (WY)
Thompson
Washington
Wheat
Whitten
Zeliff

□ 1823

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Sanders against.

Mr. Grams for, with Mr. Jefferson against.

Mr. FIELDS of Louisiana, Mr. FLAKE, Ms. McKINNEY, and Messrs. HEFLEY, STOKES, COLLINS of Georgia, BONIOR, and COYNE changed their vote from "yea" to "nay."

Messrs. BLACKWELL, EWING, and WISE, Ms. MOLINARI, and Mr. BILBRAY changed their vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SHARP TO THE MOTION TO INSTRUCT OFFERED BY MR. MYERS OF INDIANA

Mr. SHARP. Mr. Speaker, I offer an amendment to the motion to instruct.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SHARP to the motion to instruct offered by Mr. MYERS of Indiana: Insert before the period at the end of the following: and to insist upon the provisions contained in the House bill that provide funds for the Advanced Liquid Metal Reactor, the Integral Fast Reactor, and the Actinide Recycle Program only for purposes of program termination

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] is recognized.

Mr. SHARP. Mr. Speaker, let me clarify for Members of the House, we do not plan to take any more time on the debate of the issue. We had an hour debate on this. The distinguished chairman of the committee and the ranking minority member agrees that we will not further debate the issue this evening, but proceed to the vote.

Mr. Speaker, this is the motion to instruct that the House stay with its position to terminate the advanced liquid metal reactor that it adopted in the regular order of business.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. SHARP] to the motion to instruct offered by the gentleman from Indiana [Mr. MYERS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHARP. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. All those in favor of taking the vote by the yeas and nays will rise and remain standing.

Mr. SHARP. Mr. Speaker, I withdraw my demand for the yeas and nays.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Indiana [Mr. MYERS], as amended.

The motion to instruct as amended was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. BEVILL, FAZIO, CHAPMAN, PETERSON of Florida, and PASTOR, Mrs. MEEK of Florida, and Messrs. OBEY, MYERS of Indiana, GALLO, ROGERS, and MCDADE.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS). Pursuant to clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4448, by the yeas and nays; and H.R. 4158, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

AMENDING THE ACT ESTABLISHING LOWELL NATIONAL HISTORICAL PARK

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4448, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4448, as amended, on which the yeas and nays are ordered.

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the next motion to suspend the rules on which the Chair has postponed further proceedings.

The vote was taken by electronic device, and there were—yeas 221, nays 160, not voting 53, as follows:

[Roll No. 367]

YEAS—221

Abercrombie
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clayton
Clement
Clyburn
Condit
Coppersmith
Coyne
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Ford (MI)
Frank (MA)
Franks (NJ)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Inslee
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Ravenel
Reed
Richardson
Roemer
Rostenkowski
Rowland
Roybal-Allard
Sabo
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zeliff

NAYS—160

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Long
Lucas
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Molinari
Moorhead
Moran
Myers
Neal (NC)
Nussle
Packard
Paxon
Petri
Pombo
Porter
Poshard
Pryce (OH)
Quillen
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Tanner
Taylor (NC)
Thomas (CA)
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—53

Ackerman
Baker (LA)
Becerra
Boehlert
Carr
Clay
Coleman
Collins (IL)
Collins (MI)
Conyers
DeFazio
DeLay
Dingell
Fish
Foglietta
Ford (TN)
Frost
Gallo
Glickman
Grams
Hamburg
Harman
Hunter
Inhofe
Istook
Jefferson
Knollenberg
Laughlin
Machtley
Mann
McMillan
Murtha
Nadler
Neal (MA)
Owens
Oxley
Peterson (MN)
Pickle
Portman
Reynolds
Ridge
Rose
Rush
Sanders
Santorum
Skelton
Slattery
Smith (MI)
Thomas (WY)
Thompson
Washington
Wheat
Whitten

☐ 1846

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois and Mr. Jefferson for, with Mr. Grams against.

Mr. MFUME changed his vote from "yea" to "nay."

Mr. VOLKMER changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4003, MARITIME ADMINISTRATION AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–646) on the resolution (H. Res. 500) providing for consideration of the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the U.S.-flag merchant marine, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1357, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND LITTLE RIVER BAND OF OTTAWA INDIANS ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–647) on the resolution (H. Res. 501) providing for consideration of the bill (S. 1357) to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1066, RESTORING FEDERAL SERVICES TO THE POKAGON BAND OF POTAWATOMI INDIANS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–648) on the resolution (H. Res. 502) providing for consideration of the bill (S. 1066) to restore Federal services to the Pokagon Band of Potawatomi Indians, which was referred to the House Calendar and ordered to be printed.

LOWER EAST SIDE TENEMENT NATIONAL HISTORIC SITE ACT OF 1994

The SPEAKER pro tempore (Mr. HASTINGS). The pending business is the question of suspending the rules and passing the bill, H.R. 4158, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4158, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 154, nays 226, not voting 54, as follows:

[Roll No. 368]

YEAS—154

Abercrombie
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Barlow
Beilenson
Berman
Bilbray
Bishop
Blackwell
Bonior
Borski
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Byrne
Cantwell
Cardin
Clayton
Clement
Clyburn
Coppersmith
Coyne
Danner
Darden
de la Garza
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Ford (MI)
Frank (MA)
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Gutierrez
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Houghton
Hoyer
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klink
Kopetski
Kreidler
Lancaster
Lantos
LaRocco
Levin
Lewis (GA)
Lowey
Maloney
Manton
Markey
Martinez
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Murphy
Neal (NC)
Oberstar
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Pelosi
Rahall
Rangel
Reed
Richardson
Ros-Lehtinen
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Swift
Synar
Tejeda
Thornton
Torkildsen
Torres
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—226

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Brewster
Browder
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Derrick
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grandy
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inslee
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klug
Kolbe
Kyl
LaFalce
Lambert
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Minge
Montgomery
Moorhead
Moran
Morella
Myers
Nussle
Obey
Orton
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thurman
Torricelli
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—54

Ackerman
Baker (LA)
Becerra
Boehlert
Carr
Clay
Coleman
Collins (IL)
Collins (MI)
Conyers
DeFazio
Dingell
Fish
Foglietta
Ford (TN)
Frost
Gallo
Glickman
Grams
Hamburg
Harman
Hunter
Inhofe
Istook
Jefferson
Knollenberg
Laughlin
Machtley
Mann
Matsui
McCloskey
McMillan
Murtha
Nadler
Neal (MA)
Owens
Oxley
Peterson (MN)
Pickle
Portman
Reynolds
Ridge
Rose
Santorum
Skelton
Slattery
Smith (MI)
Solomon
Thomas (WY)
Thompson
Washington
Wheat
Whitten
Williams

□ 1859

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois and Mr. Jefferson for, with Mr. Thomas of Wyoming against.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Speaker, I was unable to make afternoon votes because of delays at the airport. Had I voted, I would have voted "nay" on rollcall No. 366, a motion ordering the previous question on the conference report for military construction appropriations; "nay" on rollcall No. 367, the bill amending the Lowell National Historical Park Act; and "nay" on rollcall No. 368, the bill establishing the Lower East Side Tenement Museum National Historical Site.

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Speaker, because of mechanical problems, my airline flight into Washington, DC, was canceled. As a result, I missed three votes. Had I been in attendance, I would have voted "no" on each of rollcall votes numbered 366, 367, and 368.

GENERAL LEAVE

Mr. COPPERSMITH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4506, just considered.

The SPEAKER pro tempore (Mr. HASTINGS). Is there objection to the request of the gentleman from Arizona?

There was no objection.

□ 1900

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MCDERMOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

SHOULD UNITED STATES INVADE HAITI? NO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, this weekend we all read that quite an event occurred in New York. The U.N. Security Council has for the first time given its blessing for armed intervention in the Western Hemisphere.

I would point out that the target of this armed intervention is Haiti, a friendly neighboring country of ours. I do not think we want to take a great deal of pleasure in that particular happening at the United Nations, but I think it is extraordinary the amount of energies that have been put into acquiring that U.N. approval.

They have really strained at it; promised all kinds of things; suggested all kinds of rewards; good things would happen for countries that supported our position and, perhaps, bad things for countries that would not.

But, you know, the Clinton administration has not spent much time up here talking to the Members of the U.S. Congress about this. Here we are talking about a warlike action or a wartime action in the Western Hemisphere, right off the boundaries of the United States of America, involving American troops, and we have not had any consultation with the Representatives of the people of this country. Here in this, the mightiest of the legislative, deliberative, policymaking bodies in the world, we sit.

What is our official position? In fact, it is silence. We have no official position in this body on the subject of an invasion of Haiti involving United States forces.

We have actually had two votes. One called for asking the President to check with us before he went through any considerations about an invasion, to see what justification there could be to do that.

Then we had a vote to rescind that.

So our official position is nothing; absolutely no word; nothing but silence.

Last week I asked where do we fit into this picture? it turns out that some of our colleagues, Mr. SKAGGS, Mr. BOEHLERT, Mr. DURBIN, sent a letter down to the White House that has many signatures, dozens of Members' signatures on it. It hit such a chord with Members of Congress that they resent the letter with even more signatures asking the White House, please don't invade Haiti. Come and talk to us if there are reasons you think you need to do that, but confer with this deliberative body.

I have also filed a resolution that says it should be the sense of Congress, before the President does anything in Haiti involving our armed services, that he should come and discuss it with the United States Congress. After all, we all are accountable to the people we work for, the voters of this country, our constituents, for not only the well-being of their pocketbooks but for the well-being of their youngsters who serve in our Armed Forces. We need to be accountable. We need to know exactly what is going on, and why we are putting our troops in harm's way in an invasion of a country where there is virtually no threat to the continental United States.

I do not think anybody believes there is a national security threat from Haiti to our country.

Going around our hemispheric allies and talking to them, apparently only Argentina and the Aristide government, the duly elected president of Haiti, now exiled here in the United States, supported our position in New York at the United Nations. Mexico's foreign minister made a statement that his country, and I quote, "rejects the use of force except in cases of a threat to peace, its violation or acts of aggression." Haiti does not fall into any of those categories. This is Mexico, our trading partner, our NAFTA partner, our North American Free-Trade Agreement business associate, saying, "Bad idea, don't do it; no justification for it."

Brazil abstained from the Security Council vote.

Uruguay's ambassador said his country "will not support any military intervention in the brotherly republic of Haiti, whether multilateral or unilateral." Those are fairly strong words.

So the characterization that somehow the allies that we have, our neighbors and friends in the Western Hemisphere, applaud this decision of the United Nations and are encouraging the United States of America to take on this invasion of Haiti is clearly misleading and on the wrong track. That is just not the case.

I would point out that while we are talking about this, the costs are mounting for what we are already doing. We are spending millions and millions of dollars now just keeping those 15 warships and those ready-to-attack Marines down there on alert. And we are spending many other dollars as well elsewhere in the world.

I think, as everybody knows after reading the headlines this weekend, we have a heat-up going on in Bosnia again. There is some talk about toughening the position there, possible use of troops of some type there or supplies. We have a commitment of 3,000 soldiers in a relief operation in Rwanda. I am not quite sure what that means or what the rules of this engagement will be. We have just passed the second year of cuts in a 5-year plan to reduce the defense budget by $156 billion. We are beginning to run out of resources to do the things we need to do. Fortunately, there are no serious threats in front of us.

On top of that, we have the misery index of people suffering from the sanctions in Haiti. This whole policy is out of control. We need to rethink it. We hope the President will come here and let us help him rethink it.

IN OPPOSITION TO THE PROCEDURE FOR CONSIDERATION OF THE CRIME BILL: DON'T JUDGE A BOOK BY ITS COVER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, I am part of the freshman reform class of 1992. I was elected to help reform Congress and change the way things are done around here.

One of the most frustrating things I find around here is not knowing what I am voting on. It is not because I am not interested. In fact, I am extremely interested. And, that is the problem. For Members who want to know what they are voting on, this is a very frustrating place.

In the next 2 weeks, we will vote on at least two historic changes to our laws. On Wednesday, the House Democrat leadership has promised a vote on the crime bill. Next week, the leadership has also promised a vote on the House majority leader's version of health care reform. Yet, to this date, I have not received a copy of either bill. The House of Representatives will act on the top issues in the minds of most Americans, yet most Members who were elected to serve here have no idea on what they are voting on.

The rules of the House must be changed. On page 708 of the Rules of the House of Representatives, rule 28 paragraph 2(a) states:

> It shall not be in order to consider the report of a committee of conference until the third calendar day (excluding any Saturday, Sunday or legal holiday) after such report and the accompanying statement shall have been filed in the House . . . Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement have been available to Members for at least two hours before the beginning of such consideration.

In other words, the rules of the House only guarantees Members that they can have 2 hours to review a conference report before voting on final passage. And, even that tiny requirement can be waived if the Rules Committee waives the rules of the House.

That means, Mr. Speaker, that Members will have little time to review these huge documents. I have heard that the crime bill is over 1,200 pages long. How can Members even read that document in 2 hours? You would have to be a graduate of the Evelyn Woods speed reading course.

Mr. Speaker, I believe it is imperative that Members have adequate time to review bills before voting on them. It will save the House further embarrassment when the media discovers mistakes in the fine print of these bills.

I am only reporting from summaries of the crime bill and what I've discovered already shocks me.

For example, I have learned that the money for hiring more cops on the beat is so tied up with Federal requirements that some cities may not apply for them. For example, States would have to comply with expensive and intrusive minority hiring preferences to receive money under this bill. There is no change to the Justice Department criteria on awarding grants, which places a greater emphasis on how well the grant application was written than on the crime rate. Plus, the funding for these new police will expire at the end of 5 years, leaving States and cities holding the bag.

Also, the tough truth in sentencing provisions that I cosponsored and voted for were watered down in conference. If we help States build prisons, the least we can ask is that criminals sent to these prisons serve 85 percent of their sentence. What did they do in conference? Sixty percent of the prison funds in this bill are not conditioned on any truth-in-sentencing requirements. If a State wishes to participate in these prison construction grants, all they have to do is wait 1 year to get unrestricted funds.

But the real bad news for the taxpayer and those who want a tough crime bill is spending $9 billion on social programs masquerading as crime prevention. Yes, crime prevention is an important component of fighting crime. But this crime bill labels almost everything as crime prevention that it makes a mockery of the concept. This is a resurrection of the failed pork-laden economic stimulus package from last year.

For example, the Federal Government will now determine the composition of midnight sport leagues. They must have at least 80 participants. This bill would mandate that at least 50 percent of those who play in these leagues must be residents of public housing. There also has to be representation from communities with a high incidence of persons infected with the HIV virus. Since when does the Federal Government have the authority to order how basketball leagues are formed?

This bill will spend $100 million on a new Government entity, the Interagency Ounce of Prevention Council, for such projects as arts and crafts and dance programs.

The crime bill also incorporates another bill that was originally introduced as an economic stimulus package. The crime bill will spend $1.8 billion on the Local Partnership Act, which contains no references to fighting crime. To magically change one part of the bill at the last minute for the purpose of preventing crime when it is really aimed at just spending money as fast as possible in depressed areas of the country is not right.

Do not judge a book by its cover. I want to read it. Mr. Speaker, please give us all the same opportunity to know what we are voting on.

□ 1910

WE MUST STAND WITH THE LONE MAN BEFORE THE TANK

The SPEAKER pro tempore (Mr. McDERMOTT). Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise today to inform my colleagues about legislation, H.R. 4590 introduced by the gentleman from Missouri [Mr. GEPHARDT], the House majority leader, the gentleman from Michigan [Mr. BONIOR], the House majority whip, and over a hundred Members of the House, Democrats and Republicans, including the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. WOLF] among many others on the Republican side. This bill would revoke most-favored-nation status for products made by China's People's Liberation Army and certain other state-owned enterprises. Our approach is a focused compromise which gets to the heart of Congress' concerns about proliferation, trade and human rights.

Why target the Chinese military? Each year, American consumers unknowingly subsidize China's military modernization by purchasing hundreds of millions of dollars worth of consumer products made by companies which are fronts for China's People's Liberation Army [PLA]. The products made by these PLA companies, including AK-47 assault rifles to pharmaceuticals to stuffed toy animals, enter the U.S. market under preferential most-favored-nation tariffs.

Mr. Speaker, this is the same Chinese military that ran over its own students with tanks, the same military that brutally occupies Tibet, and the same Chinese military that proliferates weapons of mass destruction.

The Defense Intelligence Agency [DIA] has produced a chart, DIA VP-1020-271-90, identifying the relationships among import and export organizations in China's defense industrial complex. The DIA says that these PLA front companies are a "key to supporting the uniformed services and China's industrial base and to acquiring military and dual-use technology. They market products and earn foreign currency to support defense-related research, development, and operations."

The huge profits and hard currency earned through these sales are bankrolling the massive modernization and expansion of China's military and the proliferation of weapons of mass destruction to rogue regimes.

Of particular concern:

During a week of meetings in early June the entire Chinese military hierarchy turned out to greet their North Korean counterparts declaring the two countries "as close as lips and teeth." (Christian Science Monitor)

According to Seoul's largest newspaper, these meetings produced a pledge of 85,000 Chinese troops to the defense of North Korea in the event of war and credit assistance to Pyongyang for food and energy in case of U.N. sanctions. (Choson Ilbo, Seoul)

If Defense Intelligence Agency analysts are correct, the Chinese military has aided the development of North Korea's new TD-2 missile by transferring advanced missile technology to North Korea. (Wall Street Journal)

China's military companies have sold billions of dollars worth of ballistic missiles to the Middle East and, in the words of CIA Director Woolsey, China is "Iran's principal nuclear supplier." (Congressional Research Service)

Chinese military companies have sold nuclear and missile technology to Pakistan, including bomb designs and enough weapons-grade uranium for two weapons. (Congressional Research Service)

Cambodian Government sources say that, according to their intelligence services, in March, a new shipment of Chinese weapons worth $18 million was received by the Khmer Rouge, (led by Pol Pot) in violation of the Paris accord on Cambodia that was coauthored and signed by Beijing. (Far Eastern Economic Review)

Alone among the nations of the world, China's military is still testing nuclear weapons, including the detonation of a nuclear weapon 5-10 times the power of the Hiroshima blast on June 10, just 2 weeks after President Clinton's decision to renew MFN unconditionally. (Washington Post)

As I mentioned earlier, China, alone among the declared nuclear powers, is massively increasing its defense spending—by 20 percent this year alone. (Wall Street Journal)

China has purchased billions of dollars worth of highly sophisticated Russian military equipment including SU-27 air superiority fighters and the latest main battle tank, the T80-U. (International Defense Review)

By continuing to provide preferential most-favored-nation treatment for these PLA exports, American consumers are in effect subsidizing China's program of guns to butter to guns. We believe that this should end. American consumers should not subsidize the Chinese Army with preferential trade treatment. Instead we must stand with the lone man before the tank.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KNOLLENBERG (at the request of Mr. MICHEL), for today, on account of official business.

Mr. DEFAZIO (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, on August 3, 4, and 5.

Mr. GOSS, for 5 minutes, today and August 2, 3, 4, and 5.

Mr. MANZULLO, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, on August 3.

Mr. DIAZ-BALART, for 5 minutes, on August 3.

(The following Members (at the request of Mr. COPPERSMITH) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. SOLOMON.
Ms. MOLINARI.
Mr. STUMP.
Mr. MYERS of Indiana.
Mr. GILMAN in three instances.
Mr. PACKARD.
Mr. ZELIFF.

(The following Members (at the request of Mr. COPPERSMITH) and to include extraneous matter:)

Ms. WOOLSEY.
Ms. PELOSI.
Mr. SCHUMER.
Ms. KAPTUR.
Mr. ENGEL.
Ms. NORTON.
Mr. TORRES.
Mr. MANTON.
Mr. SLATTERY.
Mr. HOYER.

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 19 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 2, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3601. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Russia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3602. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–303, "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988 Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3603. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–304, "Professional License Fee Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3604. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–305, "Trinity Religious Temple Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3605. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–306, "Carolina Missionary Baptist Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3606. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–307, "Christ Church Washington Parish Episcopal Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3607. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–308, "Saints Constantine and Helen Greek Orthodox Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3608. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–309, "Michigan Park Christian Church Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3609. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–310, "Old Pentecostal Church Temple of Truth Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3610. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–312, "Roadway, Alley and Sidewalk Improvement Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3611. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–313, "First Church of Christ Scientist Equitable Real Property Tax Relief Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3612. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North America Affairs (Transmittal No. 94–43), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3613. A letter from the Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 94–33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3614. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LAO] to Turkey for defense articles and services (Transmittal No. 94–30), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3615. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LAO] to Turkey for defense articles and services (Transmittal No. 94–31), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3616. A communication from the President of the United States transmitting notification of the expansion of capabilities at the Kigali airport to support the UNHCR relief operation more effectively (H. Doc. No. 103–288); to the Committee on Foreign Affairs and ordered to be printed.

3617. A letter from the Acting Director, Office of Management and Budget transmitting a report by OMB for pay-as-you-go calculations for Public Law No. 103–283 (H.R. 4454), pursuant to Public Law 101–508; section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3618. A letter from the Acting Director, Office of Management and Budget, transmitting a report by OMB for pay-as-you-go calculations for Public Law No. 103–281 (S. 1402), pursuant to Public Law 101–508; section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3619. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in June 1994, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OBEY: Committee of Conference. Conference report on H.R. 4426. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995 (Rept. 103–633). Ordered to be printed.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4812. A bill to direct the Administrative of General Services to acquire by transfer the Old U.S. Mint in San Francisco, CA, and for other purposes (Rept. 103–634. Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 3110. A bill to designate the U.S. courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, NV, as the "Bruce R. Thompson United States Courthouse and Federal Building" (Rept. 103–635). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4543. A bill to designate the U.S. courthouse to be constructed at 907 Richland Street in Columbia, SC, as the "Matthew J. Perry, Jr. United States Courthouse" (Rept. 103–636). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4790. A bill to designate the U.S. courthouse under construction in St. Louis, MO, as the "Thomas F. Eagleton United States Courthouse" (Rept. 103–637). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4727. A bill to designate the Federal building located at 125 Market Street in Youngstown, OH, as the "Thomas D. Lambros Federal Building" (Rept. 103–638). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4772. A bill to designate the Federal building and U.S. courthouse located at 215 South Evans Street in Greenville, NC, as the "Walter B. Jones Federal Building and United States Courthouse" (Rept. 103–639). Referred to the House Calendar.

Mr. GIBBONS: Committee on Ways and Means. H.R. 4590. A bill to provide conditions for renewing nondiscriminatory (most-favored-nation) treatment for the People's Republic of China; with an amendment (Rept. 103–640, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4448. A bill to amend the Act establishing Lowell National Historical Park, and for other purposes; with an amendment (Rept. 103–641). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4158. A bill to establish the Lower East Side Tenement Museum National Historic Site; with amendments (Rept. 103–642). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3898. A bill to establish the New Bedford Whaling National Historical Park in New Bedford, MA, and for other purposes; with an amendment (Rept. 103–643). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 1690. A bill to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; with an amendment (Rept. 103–644). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Criminal Aliens: A Federal Responsibility and A State and Local Burden (Rept. 103–645). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 500. Resolution providing for consideration of the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the U.S.-flag merchant marine, and for other purposes (Rept. 103–646). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 501. Resolution providing for consideration of the bill (S. 1357) to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes (Rept. 103–647). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 502. Resolution providing for consideration of the bill (S. 1066) to restore Federal services to the Pokagon Band of Potawatomi Indians (Rept. 103–648). Referred to the House Calendar.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4217. A bill to reform the Federal Crop Insurance Program, and for other purposes; with an amendment (Rept. 103–649). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee of the Whole House on the State of the Union discharged, and referred H.R. 3433 to the Committee on Ways and Means for a period ending not later than August 9, 1994 for consideration of such provisions of the bill and the amendment recommended by the Committee on Natural Resources as fall within the jurisdiction of the Committee on Ways and Means pursuant to clause 1(v), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WAXMAN (for himself and Mr. DINGELL):

H.R. 4864. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize a device application fee, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. STUDDS):

H.R. 4865. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Orphan Drug Act to revise the provisions of such Acts relating to orphan drugs; to the Committee on Energy and Commerce.

By Mr. SHARP (for himself and Mr. MOORHEAD):

H.R. 4866. A bill to encourage solar, wind, waste, and geothermal power production by permanently removing the size limitations contained in the Public Utility Policies Act of 1978; to the Committee on Energy and Commerce.

By Ms. SCHENK (for herself, Mr. SWIFT, and Mr. DINGELL):

H.R. 4867. A bill to authorize appropriations for high-speed rail transportation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SWIFT (for himself and Mr. OXLEY):

H.R. 4868. A bill to amend the Railroad Unemployment Insurance Act to reduce the waiting period for benefits payable under that act, and for other purposes; to the Committee on Energy and Commerce. Mr. DE LUGO (for himself, Mr. HUGHES, Mr. RICHARDSON, Mr. TORRES, Mr. SERRANO, Mr. PASTOR, Mr. BECERRA, Mr. MARTINEZ, Mr. MAZZOLI, Ms. VELAZQUEZ, Mr. TEJEDA, Mr. ORTIZ, Mr. GUTIERREZ, Mr. UNDERWOOD, and Ms. ROYBAL-ALLARD):

H.R. 4869. A bill to amend the Revised Organic Act of the Virgin Islands to provide for the appointment of a U.S. marshal by the President; to the Committee on Natural Resources.

By Ms. ENGLISH of Arizona:

H.R. 4870. A bill to amend the San Carlos Apache Tribe Water Rights Settlement Act of 1992 to extend the deadline for completing certain actions described therein; to the Committee on Natural Resources.

By Mr. HEFLEY:

H.R. 4871. A bill to provide for the study of certain prehistoric resources in the States of Colorado, Wyoming, and Utah; to the Committee on Natural Resources.

By Mr. McHALE:

H.R. 4872. A bill to develop a program regarding career opportunities by making such information available on publicly accessible networks and other electronic media; to the Committee on Education and Labor.

H.R. 4873. A bill to provide authority to executive departments and agencies to issue rulings respecting application of laws under their jurisdiction; to the Committee on the Judiciary.

H.R. 4874. A bill to amend the White House Conference on Small Business Authorization Act to require the final report of the national conference to be published in the Federal Register and distributed through the regional offices of the Small Business Administration; to the Committee on Small Business.

H.R. 4875. A bill to amend the Small Business Act to modify requirements relating to the personal net worth of individuals who may be considered economically disadvantaged for the purpose of receiving contract awards under section 8(a) of that act; to the Committee on Small Business.

By Mr. McHALE (for himself and Mr. McINNIS):

H.R. 4876. A bill to amend the Internal Revenue Code of 1986 to increase the exclusion for gain from certain small business stock to 100 percent for stock held for more than 10 years; to the Committee on Ways and Means.

By Mr. McHALE:

H.R. 4877. A bill to amend the Internal Revenue Code of 1986 to modify certain rules relating to subchapter S corporations; to the Committee on Ways and Means.

H.R. 4878. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for 20 percent of the employee training expenses paid or incurred by the employer; to the Committee on Ways and Means.

H.R. 4879. A bill to amend the Internal Revenue Code of 1986 to restore the 10 percent regular investment tax credit; to the Committee on Ways and Means.

H.R. 4880. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds for air and water pollution control facilities; to the Committee on Ways and Means.

H.R. 4881. A bill to amend the Internal Revenue Code of 1986 to disregard up to $15,000,000 of capital expenditures in applying the provisions permitting a $10,000,000 limit on qualified small issue bonds; to the Committee on Ways and Means.

By Mr. SWIFT:

H.R. 4882. A bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ZIMMER:

H.R. 4883. A bill to deny Federal benefits for 10 years to persons convicted of making a fraudulent representation with respect to residence in order to receive benefits from two or more States, and for other purposes; to the Committee on Government Operations.

By Mr. CALLAHAN (for himself, Mr. STUMP, Mr. TRAFICANT, and Mr. EVERETT):

H.J. Res. 396. Joint resolution proposing an amendment to the Constitution of the United States to provide that no person born in the United States will be a U.S. citizen on account of birth in the United States unless a parent is a U.S. citizen at the time of the birth; to the Committee on the Judiciary.

By Mr. HAMILTON:

H. Res. 499. Resolution providing for the concurrence by the House with amendments in the amendments of the Senate to H.R. 4429; considered under suspension of the rules and agreed to.

By Mr. STUMP (for himself, Mr. SPENCE, Mr. SANGMEISTER, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Ms.

Brown of Florida, Mr. Quinn, Mr. Bachus of Alabama, Mr. Rangel, Mr. Machtley, Mr. Santorum and Mr. Faleomavaega):

H. Res. 503. Resolution expressing the sense of the House of Representatives that Congress, in providing funds for any fiscal year for programs to assist the homeless, should ensure that these funds are fairly apportioned for homeless veterans to help return homeless veterans to self-sufficient and productive lives; jointly, to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Ms. Waters and Mr. Foglietta.

H.R. 112: Mr. Cox.

H.R. 122: Mr. Coppersmith, Mr. Wyden, Mr. Roemer, and Mr. Saxton.

H.R. 127: Ms. Slaughter, Mr. Payne of New Jersey, Mr. Taylor of North Carolina, Mr. Barton of Texas, Mr. McCollum, and Mr. Hochbrueckner.

H.R. 133: Mr. Stearns, Ms. Schenk, Mr. Canady, Mr. Coppersmith, Mr. Calvert, and Mr. Knollenberg.

H.R. 146: Mr. Combest, Mr. Cox, and Mr. Knollenberg.

H.R. 147: Mr. Combest.

H.R. 163: Mr. Calvert.

H.R. 173: Mr. Saxton and Mr. Cox.

H.R. 391: Mr. Cox and Mr. Calvert.

H.R. 429: Mr. Calvert.

H.R. 465: Mr. Combest and Mr. Calvert.

H.R. 502: Mr. Cox and Mr. Saxton.

H.R. 657: Mr. Calvert.

H.R. 692: Mr. Rush.

H.R. 723: Mr. Combest and Mr. Saxton.

H.R. 814: Mr. Calvert, Ms. Schenk, and Mr. Coppersmith.

H.R. 895: Mr. Combest.

H.R. 896: Mr. Combest and Mr. Saxton.

H.R. 999: Mr. Combest and Mr. Knollenberg.

H.R. 1026: Mr. Calvert.

H.R. 1043: Mr. Saxton, Mr. Knollenberg, and Mr. Doolittle.

H.R. 1080: Mr. Knollenberg and Mr. Lipinski.

H.R. 1110: Mr. Inhofe.

H.R. 1122: Mr. Calvert.

H.R. 1123: Mr. Knollenberg.

H.R. 1125: Mr. Knollenberg.

H.R. 1126: Mr. Knollenberg.

H.R. 1127: Mr. Cox.

H.R. 1130: Mr. Calvert, Mr. Knollenberg, and Mr. Cox.

H.R. 1171: Mr. Foglietta.

H.R. 1192: Mr. Knollenberg.

H.R. 1209: Mr. Calvert.

H.R. 1231: Mr. Markey and Mr. Coppersmith.

H.R. 1293: Mr. Saxton.

H.R. 1392: Mr. Combest.

H.R. 1481: Mr. Doolittle.

H.R. 1482: Mr. Cox.

H.R. 1483: Mr. Cox.

H.R. 1485: Mr. Doolittle and Mr. Cox.

H.R. 1487: Mr. Canady and Mr. Saxton.

H.R. 1505: Mr. Canady and Mr. Calvert.

H.R. 1518: Mr. Canady.

H.R. 1552: Mr. Saxton.

H.R. 1604: Mr. Saxton, Mr. Dornan, and Mr. Doolittle.

H.R. 1605: Ms. Schenk and Mr. Cox.

H.R. 1606: Mr. Dornan.

H.R. 1620: Mr. Canady.

H.R. 1622: Mr. Calvert.

H.R. 1725: Mr. Roemer.

H.R. 1785: Mr. Zimmer.

H.R. 1852: Mr. Doolittle.

H.R. 1853: Mr. Cox.

H.R. 1854: Mr. Cox.

H.R. 1855: Mr. Cox.

H.R. 1857: Mr. Cox and Mr. Calvert.

H.R. 1887: Mr. Cox.

H.R. 1900: Mr. Johnston of Florida.

H.R. 2038: Mr. Cox.

H.R. 2050: Mr. Knollenberg.

H.R. 2080: Mr. Skaggs.

H.R. 2145: Mrs. Lowey and Mr. Brown of Ohio.

H.R. 2219: Mr. Knollenberg.

H.R. 2646: Mr. Canady and Mr. Cox.

H.R. 2705: Mr. Knollenberg.

H.R. 2826: Mrs. Meyers of Kansas.

H.R. 2858: Mr. Saxton and Mr. Dornan.

H.R. 2913: Mr. Zimmer and Mrs. Meyers of Kansas.

H.R. 2959: Mr. Huffington, Mr. Fawell, Mrs. Fowler, and Mr. Livingston.

H.R. 3060: Mr. Coppersmith.

H.R. 3163: Mr. Knollenberg.

H.R. 3224: Mr. Coppersmith and Mr. Filner.

H.R. 3250: Mr. Dornan and Mr. Cox.

H.R. 3440: Mr. Coppersmith and Mr. Filner.

H.R. 3442: Mr. Knollenberg.

H.R. 3457: Mr. Knollenberg.

H.R. 3464: Mr. Kim.

H.R. 3488: Mr. Chapman.

H.R. 3513: Mr. Saxton.

H.R. 3520: Mrs. Meyers of Kansas.

H.R. 3560: Mr. Dornan, Mr. Cox, Mr. Knollenberg, Mr. Calvert, and Mr. Saxton.

H.R. 3594: Mr. Calvert and Mr. Cox.

H.R. 3635: Mr. Cox.

H.R. 3692: Mr. Zimmer and Mr. Cox.

H.R. 3716: Mr. Cox.

H.R. 3717: Mr. Cox.

H.R. 3772: Mr. Dornan.

H.R. 3773: Mr. Cox.

H.R. 3774: Mr. Dornan, Mr. Calvert, and Mr. Cox.

H.R. 3775: Mr. Cox.

H.R. 3777: Mr. Dornan and Mr. Cox.

H.R. 3778: Mr. Cox.

H.R. 3779: Mr. Canady and Mr. Cox.

H.R. 3780: Mr. Dornan, Mr. Canady, and Mr. Cox.

H.R. 3866: Mr. Applegate, Mr. Fields of Louisiana, Mr. Gonzalez, and Mr. Gutierrez.

H.R. 3926: Mr. Coppersmith.

H.R. 3971: Mr. Canady.

H.R. 3978: Mr. Duncan and Mr. Skeen.

H.R. 3986: Mr. Barca of Wisconsin.

H.R. 4000: Mr. Bunning, Mr. Shays, Mr. Zimmer, Ms. Ros-Lehtinen, Mr. Calvert, Mr. Ravenel, Mr. Schaefer, Mr. Machtley, Mr. Lewis of Florida, Mr. Allard, and Mr. Crapo.

H.R. 4026: Mr. Boehlert, Mr. Swift, Mr. Jefferson, Ms. McKinney, Mr. Foglietta, Ms. Woolsey, Mr. Berman, Ms. Eddie Bernice Johnson of Texas, and Mr. Gutierrez.

H.R. 4074: Mr. Smith of New Jersey, Mr. Leach, Mr. Ackerman, Mr. Burton of Indiana, and Mr. Traficant.

H.R. 4118: Mr. Chapman and Mrs. Byrne.

H.R. 4135: Mr. Rush.

H.R. 4162: Mr. Foglietta.

H.R. 4178: Mr. Portman.

H.R. 4210: Mr. Santorum, Mr. Schumer, Mr. Weldon, Mr. Greenwood, Mr. Zimmer, Mr. Ackerman, Mr. Menendez, Mr. Foglietta, Mr. Andrews of New Jersey, Mr. Quinn, Mr. Hughes, Mr. Towns, Mr. Klein, and Mr. Gallo.

H.R. 4345: Ms. Eddie Bernice Johnson of Texas, Mr. Barrett of Wisconsin, and Mr. Meehan.

H.R. 4371: Mr. Stearns.

H.R. 4386: Ms. Pryce of Ohio.

H.R. 4394: Mr. Andrews of New Jersey and Mr. Kopetski.

H.R. 4407: Mr. Zimmer.

H.R. 4473: Mr. Zimmer.

H.R. 4514: Mr. Smith of New Jersey, Mr. Saxton, and Mr. Traficant.

H.R. 4565: Mr. Bacchus of Florida and Mrs. Lowey.

H.R. 4585: Mr. Ravenel and Mr. Klug.

H.R. 4610: Mr. DeFazio, Ms. Slaughter, Mr. Quillen, Mr. Fish, Mr. Smith of New Jersey, Mr. Levy, Mr. Peterson of Minnesota, Mr. Callahan, Mr. Frank of Massachusetts, Mr. Lancaster, Ms. Kaptur, Ms. Eshoo, Mr. Bishop, and Mr. Foglietta.

H.R. 4618: Mr. McDermott.

H.R. 4669: Mr. McDermott.

H.R. 4695: Mr. Foglietta.

H.R. 4698: Mr. Meehan, Ms. Eshoo, and Mrs. Unsoeld.

H.R. 4706: Mr. Zimmer.

H.R. 4737: Ms. Roybal-Allard and Mr. Mineta.

H.R. 4739: Mr. Foglietta.

H.R. 4758: Mr. Payne of New Jersey.

H.R. 4786: Mrs. Roukema and Mrs. Meyers of Kansas.

H.R. 4787: Mr. Filner.

H.R. 4788: Mr. Levy.

H.R. 4817: Mr. Camp and Mr. Boehner.

H.R. 4822: Ms. English of Arizona, Mr. Bonilla, Mr. Sanders, Mr. Blute, and Ms. Dunn.

H.R. 4826: Mr. Kyl, Mr. Ewing, and Mr. Barrett of Wisconsin.

H.R. 4830: Mr. Canady, Mr. Shays, Mrs. Meyers of Kansas, and Mrs. Roukema.

H.R. 4831: Mr. Dornan, Mr. Ravenel, and Mr. Inhofe.

H.J. Res. 364: Mr. Abercrombie, Mr. Ackerman, Mr. Barca of Wisconsin, Mr. Becerra, Mr. Beilenson, Mr. Borski, Mr. Brewster, Mr. Brooks, Mr. Brown of California, Mr. Brown of Ohio, Mr. Calvert, Ms. Cantwell, Mr. Carr, Mrs. Clayton, Mr. Coleman, Mr. Condit, Mr. Cooper, Mr. Coppersmith, Mr. Costello, Mr. Crapo, Ms. Danner, Mr. Deal, Mr. DeFazio, Mr. de la Garza, Ms. DeLauro, Mr. Deutsch, Mr. Diaz-Balart, Mr. Dickey, Mr. Dicks, Mr. Dingell, Mr. Dooley, Mr. Duncan, Ms. Dunn, Ms. Eshoo, Mr. Evans, Mr. Ewing, Mr. Farr, Mr. Fazio, Mr. Fields of Louisiana, Mr. Filner, Mr. Fingerhut, Ms. Furse, Mr. Gejdenson, Mr. Gibbons, Mr. Gordon, Mr. Gene Green of Texas, Mr. Gutierrez, Mr. Hamburg, Mr. Hastings, Mr. Hefley, Mr. Hilliard, Mr. Hinchey, Mr. Hoagland, Mr. Horn, Mr. Houghton, Mr. Hoyer, Mr. Hunter, Mr. Hyde, Mr. Johnson of Georgia, Ms. Kaptur, Mr. Kildee, Mr. Klein, Mr. Knollenberg, Mr. Kolbe, Mr. Kopetski, Mr. Kreidler, Mr. LaFalce, Mr. LaRocco, Mr. Lazio, Mr. Leach, Mr. Lehman, Mr. Levin, Mr. Lewis of California, Mr. Lewis of Kentucky, Mrs. Lowey, Mr. McCloskey, Mr. McCrery, Mr. McDade, Mr. McHale, Mr. Machtley, Mr. Mann, Ms. Margolies-Mezvinsky, Mr. Markey, Mr. Martinez, Mr. Matsui, Mr. Mazzoli, Mr. Menendez, Mr. Minge, Mrs. Mink of Hawaii, Mr. Moakley, Ms. Molinari, Mr. Moorhead, Mr. Moran, Mr. Myers of Indiana, Mr. Olver, Mr. Ortiz, Mr. Pastor, Ms. Pelosi, Mr. Quillen, Mr. Quinn, Mr. Reed, Mr. Rose, Mr. Roth, Ms. Roybal-Allard, Mr. Sangmeister, Mr. Sarpalius, Mr. Sharp, Mr. Smith of Texas, Mr. Smith of Iowa, Mr. Spratt, Mr. Stark, Mr. Stearns, Mr. Stenholm, Mr. Stupak, Mr. Sundquist, Mr. Swett, Mr. Swift, Mr. Synar, Mr. Tauzin, Mrs. Thurman, Mr. Torres, Mr. Torricelli, Mr. Traficant, Mrs. Unsoeld, Mr. Vento, Mr. Volkmer, Mr. Waxman, Mr. Wheat, Mr. Wise, and Mr. Wyden.

H.J. Res. 381: Mr. de Lugo, Mr. Ackerman, Mrs. Bentley, Mr. Blackwell, Mr. Holden, Mr. Klein, Mr. Lantos, Mr. Doolittle, Mr. Flake, Mr. Martinez, Mr. Fawell, Mr. Greenwood, Mr. Wynn, and Mr. Bacchus of Florida.

H.J. Res. 382: Mr. Neal of Massachusetts, Mr. Wynn, and Mr. Montgomery.

H.J. Res. 391: Mr. Cooper, Mr. Gene Green of Texas, Ms. Eddie Bernice Johnson of Texas, Mr. Kreidler, Mr. McDermott, Mr. Meehan, Mr. Hastings, Mr. Barrett of Wisconsin, Mr. Kasich, Mr. Frost, Mr. Underwood, Mr. Torres, Mr. Leach, and Mr. Sangmeister.

H. Con. Res. 3: Mr. Duncan.

H. Con. Res. 90: Mr. Cox and Mr. Doolittle.

H. Con. Res. 271: Mr. Holden, Mr. Franks of Connecticut, and Mr. Gekas.

H. Res. 213: Mr. Cox.

H. Res. 255: Ms. Dunn, Mr. Hastings, and Mr. Frost.

H. Res. 270: Mr. Crapo.

H. Res. 424: Mr. Ramstad, Mr. Hayes, Mr. Nussle, Mr. Parker, Mr. Baker of Louisiana, Mr. Gallo, Mr. Stenholm, Mr. Grandy, Mr. Pete Geren of Texas, Mrs. Fowler, Mr. Weldon, Mr. Gunderson, Mr. Torkildsen, Mr. Duncan, Mr. Sisisky, Mr. Goodlatte, Mr. Sam Johnson of Texas, Mr. Johnson of Georgia, Mr. Dickey, Mr. Laughlin, Mr. Burton of Indiana, Mr. Gilchrest, Mr. Penny, Mr. Stump, Mr. Cox, Mr. Upton, Mr. Kim, Mr. Cooper, Mr. Ehlers, Mr. Montgomery, Mr. Taylor of Mississippi, Mr. Orton, Mr. Kingston, Mr. Darden, Mrs. Meyers of Kansas, Mr. Lancaster, Mr. Buyer, Mr. Baker of California, Mr. Hoekstra, Mr. King, Mr. Knollenberg, Mr. Goss, Mr. Boehner, Mrs. Vucanovich, Mr. Ewing, Mr. Dornan, Mr. Stearns, Mr. Talent, Mr. Lewis of Florida, Mr. Inglis of South Carolina, Mr. Canady, Mr. McKeon, Mr. Grams, Mr. Lewis of California, Mr. Collins of Georgia, Mr. Mica, Mr. Porter, Mr. Klug, Mr. Ballenger, Mr. Fields of Texas, Mr. Bilirakis, Mr. Moorhead, Mr. Goodling, Mr. Blute, Mr. Cramer, Mr. Hall of Texas, Mr. McInnis, Mr. Peterson of Minnesota, Mr. Sarpalius, Mr. Combest, Mr. Sundquist, Mr. Brewster, Mr. Baesler, Mr. Levy, Mr. Wilson, and Mr. Bereuter.

H. Res. 430: Mr. Durbin and Mrs. Meyers of Kansas.

H. Res. 451: Mrs. Byrne, Mr. Goss, Mr. Bacchus of Florida, and Ms. Lowey.

H. Res. 485: Mr. Linder, Mr. Blute, and Mr. Baker of California.

EXTENSIONS OF REMARKS

KOSOVA—PEACE AND DEMOCRACY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Ms. MOLINARI. Mr. Speaker, on Tuesday, July 19, several foreign policy experts gathered at the American Enterprise Institute, a prestigious research organization here in Washington, DC, to discuss the topic "Kosova: The Next Balkan Flashpoint?" The participants of this panel discussion unanimously agreed that in a short time the bloodshed in former Yugoslavia would spread to the Republic of Kosova, where for the past 5 years Serbian authorities have imposed the harshest policies of repression and terror against 2 million defenseless Albanians.

One of the panelists, former U.N. Ambassador Jeane Kirkpatrick, took the United States and the entire world community to task for our nonexistent policy in Kosova. According to Ambassador Kirkpatrick, "passivity gives consent" to aggression and conquest. Indeed, we have seen the danger of international passivity first hand in Bosnia and Herzegovina. The world cannot afford to let Kosova become the next victim of brutal Serbian expansionism.

Last May, Congressman ELIOT ENGEL and I introduced the Kosova Peace and Democracy Act whose primary purpose was to prevent a spillover of the Balkans conflict until substantial progress toward peace and stability have been made there. Serbia cannot be rewarded with the lifting of sanctions until there is freedom and an end of repression throughout all the Balkan States.

As Ambassador Kirkpatrick noted, in the Balkans there exists "a highly contagious process of violence." Let us act before millions more are killed. I commend Ambassador Kirkpatrick's comments to my colleagues and urge them to lend their support to the Kosova Peace and Democracy Act.

REMARKS OF HON. JEANE KIRKPATRICK, FORMER U.S. AMBASSADOR TO THE UNITED NATIONS

I would just like to emphasize the importance of this process of spreading repression and spreading violence in the entire region. The fact is that there has been spreading violence and repression from beginning of Milosevic's efforts to extend his power, beginning of course, in Kosova.

I'm certain I'm not the only person in the room who's heard officials of Slovenia and Croatia describe their review that Milosevie's repression of Kosova and his arbitrary unilateral revocation of Kosova's autonomy was probably the single most important factor of their countries' decisions to pursue independence from Serbia.

Because they could see in Milosevic's policies in Kosova a pattern of repression from the beginning. That pattern of repression that Marshall and Paula have both described, has, of course, continued. And until it has deprived the Albanian population of Kosova, most economic and social and civil and political rights created a large refugee population.

So let there be no doubt that we are discussing here a highly contagious process of violence. It's as contagious as a pathology as plague or any other deadly disease which has spread from repression in Kosova to repression and violence against Solvenia, then against Bosnia-Hercegovina, then throughout the continuing repression in Kosova, spreading into Macedonia, creating a destabilizing behavior in Albania with large refugee populations and Macedonia.

This is not a single phenomenon except in so far as we describe Milosevic's policies of repression and conquest as a single phenomenon. There is no "Slovenia problem," "Croatian problem," "Bosnia problem" "Kosovo-Albanian-Macedonian problem."

There is a process of highly contagious repression and violence which has already created very great destruction of human lives, security, and happiness and families and property and, of course, of peace in that region. And this process of contagion threatens to continue, quite simply.

What I would like to emphasize is that it is, in my judgment, a complete mistake to describe these difficulties as difficulties resulting from ethnic diversity or ethnic differences. They are problems that result from repressive policies and violence on the part of the most important military power in the region, namely Serbia. Where there has been an opportunity for people in the region to resist Milosevic force by force, or threat of use of force, to deter the use of force, by the threat of use of force, then there is, in fact, a kind of peace, a cold peace, for example, as in Slovenia.

When Slovenes were able to surprise Serbian efforts at conquest in Slovenia, demonstrating that they had, in fact, been able to acquire and preserve enough arms in Slovenia to provide the rudiments of self-defense for themselves.

Croatia was also able to provide the rudiments of self-defense for itself, despite the arms embargo, taking advantage of its useful borders. Croatia was able to deter Serbian aggression. Because Bosnia has not been able to defend itself and acquire the rudiments of self-defense because of the extremely unjust and unreasonable arms embargo which penalizes only Bosnians, it has not been able to contain Serbian aggression in Bosnia.

And because the people of Kosova have been almost entirely helpless, unarmed, defenseless, confronting Serbian policies of conquest and repression, they have been unable to defend themselves, and so the repression spreads.

I fear that Macedonia is another example of a people unable to deter aggression by a threat to defend itself and its own borders. The problem that should be clear is not the diversity of the people of the region, the problem is the policy of repression and violence. And the solution to the policy of repression and violence is, of course, democracy and pluralism, in fact; it is respect for the rights of all the people in the region.

We have a very bad habit of looking at diverse people and if they begin to kill each other, to conclude that they are killing each other because they are diverse people. It is not the ethnic diversity that is causing the mass slaughter in Rwanda. It is some very identifiable policies of some very identifiable power groups who manage to achieve the arms to slaughter their neighbors. And it's past time that we identify the problem for what it is, a problem of repression and conquest and violence.

Once we understand that, then we understand that like all other experiences with violence and repression, this one will have no natural boundaries. It will continue to spread. There isn't an identifiable ethnic group that we could say, "well, that's the ultimate boundary, they won't move beyond there."

I note, personally, with a chill down my spine, the pressures that derive from the flow of huge populations into Albania, into Italy, where, now comes the chill, the first fascist members of parliament and government in post-World War II Italy today sit. That's contagion and violence.

And I note, too, the unstable borders and the existence of movements and persons with an attraction to violence in other parts of Eastern and Central Europe. And I fear not just for the region, but for Europe, in fact. I note the total failure of European institutions for collective security. Total failure of European institutions for containing conflicts and for adjudicating conflicts of human rights violations, no matter how massive.

I note the failure of the United Nations machinery for settling conflicts among peoples in Europe. And I note the failure of diplomacy, again and again and again. And I note, finally, that alas, the saddest blow of all, personally, is the failure of NATO. And the fact that NATO has become itself afflicted by the failure of the European and UN institutions for collective security, today suffers from the same paralysis for having today submitted to the complicated operational, hierarchies of control which make effective action possible.

I think there are many lessons from this experience, all of them grim. One is that for the nations in Central Europe, membership in the United Nations, with all that it implies about legitimacy and recognition by the international community, cannot be regarded as a reliable guarantor of the security of any one of those new nations. And I note also that diplomacy cannot necessarily be relied on to forestall aggression. The peacekeeping cannot necessarily make any positive contribution but can, in fact, serve the purposes of aggressors in the region.

I, as an American, feel very sad to see the passivity of the Western democracies, particularly of our own country, particularly in the face of repression, aggression, conquest. I note that passivity gives consent. I note also that there is something even worse than being passive in the face of repression and aggression and conquest, and that is actually assisting it, which I very much fear the United States may commit itself to by using American forces to enforce boundaries imposed by aggression in Bosnia-Hercegovina under the existing plan.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I am reminded, as I'm sure many of us have been, by the comment of Winston Churchill in his last volume on the Second World War. He told the story of how the great Western democracies had triumphed over dictatorship and were again free to repeat their errors.

UNTIL THERE'S A CURE DAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Ms. PELOSI. Mr. Speaker, on Sunday, the San Francisco Giants defeated the Colorado Rockies by a score of 9 to 4. But something far more important happened at Candlestick Park yesterday than Matt Williams' league leading 39th and 40th home runs. The Giants sponsored "Until There's A Cure Day," becoming the first professional sports franchise to set aside a day solely dedicated to the fight against AIDS.

The Giants donated $1 from every ticket sold to San Francisco nonprofit organizations. With the sale of T-shirts and other items, the team raised more than $100,000 in a single afternoon.

Mr. Speaker, what the San Francisco Giants have done is as all-American as Abner Doubleday's sport itself—they've extended their hands and hearts to those in their community who need help. All-star relief pitcher Rod Beck and his wife have donated their time and energy to pediatric AIDS foundations for several years. His teammates and the rest of the Giants organizations have pledged to continue speaking out on the need for more dialog, education, and compassion regarding the disease.

The San Francisco Giants deserve our congratulations and support. Because of the Giants, many others have a chance to win.

VOTE CORRECTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. SOLOMON. Mr. Speaker, there was an error in the rollcall votes of the Rules Committee on the SBA rule which were printed with my remarks in the Friday, July 29 CONGRESSIONAL RECORD at page H6469. On vote No. 3, the Rohrabacher amendment, Mr. BONIOR was listed as "not voting" when in fact he had voted "no." We apologize for this error. At this point in the RECORD I include the corrected vote tallies. The materials follow:

ROLLCALL VOTES IN THE RULES COMMITTEE ON AMENDMENTS TO THE PROPOSED RULE ON H.R. 4801, SMALL BUSINESS REAUTHORIZATION AND AMENDMENT ACT OF 1994, THURSDAY, JULY 28, 1994

1. Open Rule—This amendment to the proposed rule provides for one-hour of general debate and an open amendment process. (Vote: Defeated 4-7). Yeas—Solomon, Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Bonior, Hall, Gordon, Slaughter. Not Voting: Frost, Wheat.

2. Kim (CA)—Sense of Congress that employer mandates would be destructive to small businesses and that the SBA should not use any funds authorized in the bill to promote the inclusion of employer mandates in health care reform legislation. (Vote: Defeated 4-6). Yeas—Solomon, Quillen, Dreier, Goss. Nays—Moakley, Derrick, Beilenson, Bonior, Hall, Slaughter. Not Voting: Frost, Wheat, Gordon.

3. Rohrabacher (CA)—Provides that no amounts provided in this Act may be used to provide financial or other assistance to illegal aliens. (Vote: Defeated 5-6). Yeas—Solomon, Quillen, Dreier, Goss, Beilenson. Nays—Moakley, Derrick, Bonior, Hall, Gordon, Slaughter. Not Voting: Frost, Wheat.

4. Adoption of Rule—(Adopted 7-4). Yeas—Moakley, Derrick, Beilenson, Bonior, Hall, Gordon, Slaughter. Nays—Solomon, Quillen, Dreier, Goss. Not Voting: Frost, Wheat.

TRIBUTE TO DORIS SCHULTZE

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge outstanding individuals of our Nation.

I rise today to recognize one such individual, Doris Schultze, for her many years of dedication and service at Community School Board 18. Doris has also been active in civic, religious, and charitable organizations. She was secretary and president of the PTA of P.S. 114; she helped organize and served as vice president of the PTA of I.S. 68; and was president of the combined PTA's of Canarsie. Doris was chairperson of the Canarsie Mental Health Clinic and a member for the Canarsie Reformed Church, where she taught Sunday school. Her years of work in education shows that she understands the value of investing in this country's most precious resource, our children.

Doris is a charter member of Community School Board District 18 and now serves as vice president of this organization. As she begins her retirement, I know that her time will be well spent with her husband Werner, their children Andrew and Carol and her grandson Andrew.

I'm sure I speak on behalf of many members of the community who have either worked with Doris, or have experienced the benefits of her hard work when I thank this remarkable individual.

HOMELESS VETERANS ASSISTANCE RESOLUTION

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. STUMP. Mr. Speaker, I rise today to sponsor a resolution to assist homeless veterans. The sense of this resolution is clear. It calls on Congress to provide a more proportionate share of Federal funds for homeless assistance to veterans and to the VA, which manages a number of homeless assistance programs and activities.

There is little question about the seriousness of the problem. On any given night over a quarter million veterans are homeless, with perhaps twice as many experiencing homelessness over the course of a year. Studies indicate that veterans make up approximately one-third of the homeless adult population and, in some areas, half or more of the adult male homeless population.

But despite these facts, the VA receives less than 7 percent of funds provided for all Federal homeless assistance programs. Though funding for fiscal year 1995 is only partially accomplished at this date, the version recently approved by the House gave HUD a 45-percent increase for HUD homeless assistance programs. This would move HUD funding to $1.120 billion from $823 million. At the same time VA received an additional $11 million for programs to assist homeless veterans totaling $76.8 million

Homeless veterans require not only shelter and food, but frequently treatment for a number of personal problems sometimes closely linked to their military service—war-related trauma like post-traumatic stress disorder, service-connected disabilities, mental illness, substance abuse, economic hardship, missed opportunities from being in the service, and lack of developed jobs skills.

The VA has clearly demonstrated its effectiveness in addressing homelessness among veterans. However, VA program staff and the capacity of VA's programs to serve homeless veterans falls far short of providing the assistance these former soldiers require. Despite good faith efforts, VA simply doesn't have the resources to adequately address homeless veterans' issues.

Given the sheer number of veterans who are homeless, it is prudent that all agencies involved in homeless assistance reach out directly to assist homeless veterans. To put a dent in this problem, there must be a designated commitment to help homeless veterans.

Even at HUD, which has identified helping to reduce homelessness in America as its No. 1 priority, there seems to be little recognition of the need for veteran specific programs. Earlier this year, for example, HUD awarded grants to support groups in innovative homeless programs across the country with less than 2 percent going specifically to serve the one-third of the homeless who are veterans.

Even when some non-VA programs state that they place a special emphasis on the identification of and assistance to veterans, there is little to back it up. FEMA, for example, makes such a claim, but an analysis of recent budgets shows that less than one-tenth of 1 percent of their budget went to veteran activities.

My resolution would call on non-VA agencies to target a greater portion of their efforts toward veteran specific homeless programs.

These men and women who once proudly wore the uniform of the U.S. Armed Forces are now struggling to survive. They once stood for us; now, we must stand for them. They deserve the best we can give.

This is what my resolution is all about—an effort to reach out to the one-third of the adult homeless population that has served their country in the armed services and help return them to productive lives.

We don't need to reinvent the wheel. We only have to retarget our approach.

Since one-third of the homeless are veterans and Congress has established an array of Federal programs to help return the homeless to self-sufficient and productive lives, shouldn't veterans and the VA receive a proportionate share of resources for treatment?

I urge my colleagues to join Representatives Floyd Spence, George Sangmeister, Chris Smith, Mike Bilirakis, Corrine Brown, Jack Quinn, Spencer Bachus, Charlie Rangel, Ron Machtley, Rick Santorum, Eni Faleomavaega, and myself in cosponsoring this resolution to assist homeless veterans.

FORMER BUSH ADMINISTRATION OFFICIAL SAYS KOSOVA PEACE AND DEMOCRACY ACT "IS RIGHT ON THE MARK"

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. ENGEL. Mr. Speaker, recently several prominent foreign policy experts gathered for a panel discussion on the situation in Kosova. All of the panelists agreed that the United States and the world community should do more to end Serbian repression against the ethnic Albanian population of Kosova.

One of the participants, Paula Dobriansky, a former member of the National Security Council staff and Deputy Assistant Secretary of State for Human Rights in the Bush administration stated that the Kosova Peace and Democracy Act, H.R. 4115, was "right on the mark." According to Ms. Dobriansky, this legislation, which I and Representative Susan Molinari introduced last May, includes a "critical linkage" of improvements in Kosova before sanctions against the Serbs are lifted.

I am encouraged that foreign policy experts such as Paula Dobriansky agree on the importance of utilizing our leverage over Belgrade until its brutal policies are reversed. I commend Ms. Dobriansky's remarks to my colleagues and urge them to support the Kosova legislation.

I ask that the text of Paula Dobriansky's remarks be included at this point in the Record.

American Enterprise Institute [AEI] Press Briefing—Kosova: The Next Balkan Flash Point?

Paula Dobriansky, former State Department and National Security Council official:

First, I'd like to thank AEI and Patrick Glynn for holding this panel. It is most timely and quite critical. I'd like to address three points this morning. First, what is the potential for a major outbreak of violence in Kosova, and what is the situation in Kosova today? Secondly, what are the ramifications of such violence for the region and for American interests? And also, thirdly, what essentially have been US policies toward Kosova, and what should they be?

In Kosova we are already witnessing, I believe, what essentially constitutes Serbian premeditated ethnic cleaning and repression of the some 2.5 million Albanians living there who, as you know, constitute 90% of the population. In other words, the spillover of the Balkan conflict has occurred and is, in fact, escalating. If you look at what's just happened from 1993–94, we have witnessed an escalation of human rights abuses and the increasing tensions placed on the Albanians living in Kosova. Serbia's unilateral revocation of Kosova's autonomous status in March of 1989, I believe, was a harbinger of subsequent events. Recently, Dr. Gashi of the Council for the Defense of Human Rights and Freedoms in Kosova was here in the United States and testified before Congress. In his testimony, he characterizes what he deems to be the situation in Kosova today. He said, "the Serbian strategy is to change the ethnicity of Kosova through institutionalized discrimination and structural repression. Its goal is ethnic cleansing without open war at this time, but with daily police brutality.

We are essentially observing nothing less than a systematic, premeditated, cultural genocide of the Albanian population in Kosova by Serbia. Among the shameless methods that have been utilized are, as you know, the suspension of the provincial government, the closing of Albanian language schools, and, in fact, the virtual overturn of the Albanian language, history, curriculum which have been virtually eradicated from the main university in Kosova and we've witnessed the building of an alternate university which has Albanian language and history. We have also witnessed the widespread dismissals of Albanian professionals from Kosova's public institutions, arbitrary arrests and detentions of Albanian officials and citizens. Virtually what can be characterized is essentially the existence of an apartheid system there. Serbs have taken actions to strain the Albanian population and essentially to provoke situations which I think, they hope can provide them with the pretext to use force.

As a buffer against that the strategy of President Rugova has essentially been to wield a peaceful resistance campaign in the face of daily repression and he's been very successful by having pursued this campaign in thwarting or deterring any kind of outbreak of violence or giving the Serbian police or others the pretext for sparking a conflict as results of an incident. President Rugova's stoic and what has often been described as Gandhian-like efforts have prevented conflicts from spreading, but it truly has taken a substantial toll on the Albanian population. In fact, only this year in the first quarter, human rights organizations have recorded over some 3,000 incidents of police brutality.

So, in sum, on the first point, the potential for outbreak of violence in Kosova and, if you will, the expansion of the conflict in the most violent way, I think, is great. Why? First, as I already described the spillover effect is ongoing and a foundation has already been laid by the fact that Kosova's provincial autonomy has been rescinded, and also the expansion of the scope and the extent of the repression that has occurred there.

Secondly, I think it can be said for these very reasons it's clear that an investment has already been made on the part of Serbia, the groundwork has been laid. Thirdly, I think you have to factor into the calculus that Serbia will also be evaluating the United States lack of resolution on policies toward the region at large and toward this area in particular, no less the West. The US will, in all likelihood, not act, despite its statement that it plans to utilize force if there's an outbreak or violent conflict in Kosova. And the likelihood that our troops in Macedonia will be utilized to cross the border is also rather unlikely from their calculus. And fourthly, I'd say that in looking at the prospects for peace from the peace plan already from the reports today and even regardless, I think even if this moved forward in what ever shape or form, I think it can be said that the prospects for peace are somewhat negligible. And given that, and given the underpinning of the plan—the legitimization of Serbian aggression—I think it can be said that again, in the overall calculus, this can lead toward the assumption that there is no reason for Serbia not to continue with its aggressive plan forward in Kosova.

What are the ramifications of an outbreak of violence in Kosova? I think they are very great for the region and for US interests. Some of the reasons include: first, given the ethnic fabric of the region, conflict will certainly and inevitably trigger the involvement of other neighboring countries, including two NATO members. Turkey has already expressed itself quite vocally on the grave circumstances in Kosova and has forged a very close relationship with Albania. Albania also has been very vocal and is expected not to just sit by in this case. Greece, Macedonia, Bulgaria. Consequently, I think it can be said that the scope of the conflict will be quite damaging and quite dangerous for European security. Such a conflict will inevitably have a very destabilizing influence in Europe, as a whole. This, in turn, has ramifications for US interests—our interests in preserving peace and stability on the Continent and elsewhere, in particular, the former Soviet Union.

We can also expect the increase of refugees. Already there's a substantial number as a result of the Bosnian conflict. This can only be expected to increase as a result of an outbreak of violence in Kosova and obviously will have political and social ramifications. And also, the economic impact of such a population dislocation will be quite great. The outbreak of violence certainly, then, will have political, economic, social and security consequences that I believe have direct bearing on American interests in securing a stable and peaceful Europe. So now, not to act, and to deter such a broad based conflict from occurring I think would be quite unfortunate.

This brings me to my last point about US policies: what are US policies at this time and what should they be? First, one policy that I think the United States should continue is the rendering of humanitarian aid. The Albanians in Kosova have suffered quite greatly and the tragedy is quite large and significant. From that standpoint, I would hope that humanitarian aid would continue to be rendered. In fact, recently Senator D'Amato has proposed legislation recommending the rendering of $8 million dollars of humanitarian assistance to Kosova.

Secondly, I think its very important to have a very vibrant and active strategy which should be continued in furthering democratic, technical assistance to the region at large. Certainly to Bulgaria, certainly to Albania, to Romania, no less to those other countries which comprise what constituted the former Yugoslavia. Their strong democratic and economic development is in our interest because that kind of stability is critical for the region. I'd like to cite the recent visit of the Albanian Defense Minister Shalali, a very good visit with our

Defense Secretary Perry in which there was an exchange about the importance of a strong relationship between the US and Albania. These kinds of actions I think are important and should be continued. Also it's important to continue the very vigorous recognition of President Rugova as the legitimate leader of Kosova. Not only on the part of the US, but on the part of the West at large. And in this regard, I would hope to see that the United States would actually take a more active role as has been urged by many, in the mediation between Albanians and Serbs over such issues as schools and over Albanian language.

In other words, we should make it vitally clear that the solution to the conflict does not rest with the peace plan. I believe it will not necessarily be observed and will not necessarily bring peace to the region. There has been set forth in Congress the Kosova Peace and Democracy act which, I think, is right on the mark. The essence of it is that given the repressive situation in Kosova, the United States should insist that the international economic sanctions should not be lifted until the Kosova crisis is resolved. That kind of linkage is critical.

We also must be far more vocal and vigilant that Serbia has been very outspoken about the rights of Serbs. I think there are legitimate concerns just as Serbia should have, in some cases, about the rights of Serbs. But having said that, the same argument can be made, and should be made, very forcefully that if you have that principle on one hand, then you should have the same principle in not denying the rights of Albanians in Kosova. Finally, I would just say that all efforts should be made to establish such linkages in US policy. They have not been made to date, and they need to be made. And in sum, only a strong, a decisive and preventive action, I believe, can help Kosova now and in the future.

RECOGNIZING NATIONAL NIGHT OUT

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Ms. WOOLSEY. Mr. Speaker, I rise today to recognize a nationwide grassroots effort to combat crime that is gaining momentum and that deserves our recognition and our support.

As my colleagues know, I have a consistent voting record on advocating tough punishment for violent criminals coupled with smart crime prevention efforts. Just this week, conferees agreed on the final provisions of the toughest crime bill ever—a bill that contains truth in sentencing provisions to ensure that violent criminals stay in prison until they have served their sentences. This bill also includes progressive crime prevention strategies, to stop crime and violence in our cities, neighborhoods, and schools. Such measures include antigang programs, the Youth Employment and Skills project, and the Midnight Sports Program.

While prevention and intervention programs for youth are essential, another critical component of prevention is community involvement. Statistics clearly demonstrate that when neighborhood residents take an active interest in fighting back against violence and crime in their communities, their efforts pay off.

The National Association of Town Watch is celebrating the 11th Annual National Night Out, a unique drug and crime prevention event, scheduled for Tuesday, August 2, 1994. National Night Out is designed to: First, heighten crime and drug prevention awareness; second, generate support for, and participation in, local level anticrime programs; third, strengthen police-community relations; and fourth, send a message that neighborhoods are organized and fighting back against crime.

Last year, over 8,650 communities from all States turned out for this event. This year, the National Association of Town Watch is expecting nearly 26 million people throughout the country to participate in this important effort. In the district I am privileged to represent, the city of Rohnert Park, CA, will be the first city in Sonoma County to participate in National Night Out. I commend them for their participation and for the city's interest in turning this event into an annual city function.

This nationwide effort is run by volunteers with the assistance and contributions of various public agencies, nonprofit organizations, and businesses. In the community of Rohnert Park, local merchants are supporting the night out and other efforts to keep the neighborhoods safe by contributing merchandise and funds to the local neighborhood watch program. Their contributions have included a variety of needed materials such as flashlights, communication equipment, specially designed neighborhood watch jackets that are easy to recognize, food and drinks for volunteers, and photocopying to help get the word out about the event.

The remarkable Neighborhood Watch Program in Rohnert Park's C section is generating active participation in our local community and promoting partnerships between local law enforcement and neighborhood residents. Similar results are being experienced throughout the Nation, as the active participation in National Night Out demonstrates. It is absolutely essential that government at all levels—and citizens throughout the Nation—lend their strong support to these efforts.

Mr. Speaker, I am proud to recognize the dedicated volunteers and community leaders who are protecting our facilities in Rohnert Park and other communities throughout the Nation, and I urge my colleagues to join me in supporting neighborhood crime watch programs and National Night Out.

SUPPORT FOR TRAUMATIC BRAIN INJURY (S. 725)

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. SLATTERY. Mr. Speaker, I would like to commend Chairman WAXMAN and Chairman DINGELL, who have worked diligently on the Minority Health Improvement Act (H.R. 3869), which included the House version of the Traumatic Brain Injury Act (H.R. 3121). This legislation passed the House on May 23, 1994. I would also like to thank Senator KENNEDY for his work on the Traumatic Brain Injury Act in the Senate (S. 725), which is the legislation we are considering under suspension of the rules today.

I strongly support this legislation. I introduced a similar bill in the House (H.R. 3121), along with Mr. GREENWOOD, Mr. PALLONE and Mr. QUILLEN, because I believed it was extremely important to provide funding for research and prevention and for the establishment of programs related to traumatic brain injury [TBI]. I believe that TBI Act would provide States the opportunity to access Federal funds that are necessary for expanding the additional services statewide. I am pleased to see that the Traumatic Brain Injury Act will now be authorized so that we can begin to focus our efforts on appropriations for this very important program.

In human and economic terms, traumatic brain injury is one of the most devastating injuries a person can sustain. Rehabilitative treatment interventions must be significantly improved in order to adequately address the complexity of the medical consequences associated with traumatic brain injury. Survivors of TBI are among the most underserved populations in our country, often receiving incorrect diagnoses and inappropriate treatment, and sometimes no treatment at all. Survivors of severe TBI are often inappropriately institutionized solely in order to receive subsistence care. In addition, families of survivors of TBI often have no other choice but to institutionalize their loved ones in lieu of home and community-based programs.

The economic consequences of TBI are no less significant than the human costs. With over 500,000 individuals who require hospitalization per year due to head injuries, society incurs $25 billion per year in direct and indirect costs of medical treatment, rehabilitative and support services, and lost income. Estimated lifetime costs to care for a survivor of severe traumatic brain injury can exceed $4 million.

The Traumatic Brain Injury Act addresses these problems by enhancing public awareness of head injury prevention. This legislation will help raise public awareness of the serious risks and tragic consequences of head injuries and will designate a Federal agency to oversee and promote projects to prevent traumatic brain injury and to assist in rehabilitation efforts across the Nation.

The legislation will assist States in creating advisory boards to coordinate citizen participation in community traumatic brain injury programs and will create a registry to advance epidemiologic research efforts across the Nation. This bill also calls for major studies to be conducted on the causes and prevention of brain injury. It also emphasizes the discovery and use of unique ways to prevent injury and heighten individual responsibility.

The Traumatic Brain Injury Act, which emphasizes prevention and treatment options, will help these individuals and their families cope with the debilitating and lifelong consequences of these tragic accidents.

I urge my colleagues to support this bill.

TRIBUTE TO JOSEPH A. FISHER

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. MYERS of Indiana. Mr. Speaker, it is with mixed emotions of praise and regret that I announce the impending retirement of my experienced and dedicated staff director on the House Post Office and Civil Service Committee, Joe Fisher. Joe is one of the rare individuals who has shown dedication and commitment to public service. Joe first came to the Hill back in 1969 as press secretary to the former Senator Ralph Smith of Illinois. He then moved over to the newly formed Postal Rate Commission and served as the secretary to the Commission. Joe returned to Capitol Hill and served as staff director on the House Post Office and Civil Service Committee for former Representative Edward Derwinski of Illinois. He retained this post through three successive ranking minority members including former Representative Gene Taylor of Missouri, Representative BEN GILMAN of New York, and myself.

Joe has demonstrated a keen political savvy while adroitly working with Members on both sides of the aisle. He oversaw legislation reforming the Civil Service, the Federal Employees Retirement System, the Postal Service, and Government ethics. Anyone with even a passing interest in committee issues agrees that Joe is universally recognized as an expert in civil service and postal issues. Staff members sharing his dedication to public service are hard to find these days and his abilities and institutional memory will prove irreplaceable.

Before coming to Capitol Hill, Joe served as a member of the fourth estate and worked as a reporter and editor for several Illinois daily newspapers. He first worked as a reporter at the Dubuque Telegraph-Herald. He later served as the State capital reporter for the Rockford Register-Republic. Joe was later promoted to chief political editor for the Rockford Morning-Herald and Register-Republic. Joe is a Chicago native and received both his bachelors and masters degrees from Northwestern University.

I know I speak for all the members and staff of the Post Office and Civil Service Committee when I extend my best wishes to Joe and his wife Eleanor, his five daughters, and grandchildren for a happy, healthy, and fulfilling retirement.

TRIBUTE TO DR. FRANK GATTI AND LETICIA FARAJIANI

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Ms. MOLINARI. Mr. Speaker, I rise today to acknowledge the accomplishments of two outstanding members of the medical community in my district of Brooklyn. The women's auxiliary of Victory Memorial Hospital will honor Dr. Frank Gatti, director of medical affairs, and Leticia Farajiani, R.N., administrator of the skilled nursing facility, in October. I would like to take this opportunity to honor them myself today.

Dr. Frank Gatti graduated from the University of Rome in 1957 after completing his B.S. in pre-medical education and his M.A. in education at New York University. He completed a rotating internship at Coney Island Hospital in 1958 and then became the director of health service and emergency service at Elmhurst General Hospital until 1960. In 1960, he started his own practice in Brooklyn which continues to thrive today. He has been an active member of the Victory Memorial Hospital since 1961, serving as the secretary, vice president and three terms as president on the medical executive committee. He was appointed the director of family practice from 1983 to 1991 and he continues to serve as the director of medical affairs, which he has done since 1989. He has obtained diplomate status by the American Board of Family Practice through charter board certification. He is Florida Board certified and serves as the chief medical examiner of the city of New York. His service to his community has been outstanding. I applaud his efforts and recognize his accolades of achievement.

Leticia Farajiani, L.N.H.A. currently serves as the full time administrator of Victory Memorial Hospital Skilled Nursing Center. She came to the United States from the Philippines and received her baccalaureate degree in nursing. She was awarded an M.A. in health education from Columbia University. She worked at Seaview Hospital in Staten Island as director of nursing services for 7 years, later serving as associate director and associate executive director. Later, she was appointed as director of nursing services at a Brooklyn community hospital where she worked for 5 years. In 1989, she was awarded a certificate from the top 40 management program. She orchestrated a phase one opening of a 150 bed skilled nursing facility at Victory Memorial Hospital Skilled Nursing Center. She is currently preparing for her diplomate and fellowship examination for the American College of Health Care Executives. Her long term goal is to establish a medical-social model adult day care program open to members of the Bay Ridge community.

I applaud the remarkable distinctions bestowed upon Dr. Frank Gatti and Leticia Farajiani, R.N. and I am proud to have them as constituents in my community.

YOUNG AMBASSADORS FROM ROMANIA

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Ms. NORTON. Mr. Speaker, I wanted to share with my colleagues a recent event at Children's Hospital National Medical Center that provided a touching moment and an encouraging commentary about what we can learn from our children.

A group of Romanian teenagers touring the United States stopped at the hospital to present a concert of traditional Romanian music and folkdances for the young patients. The artists were chosen to come to the United States as an example of Romania's best and brightest young students. And they were delightful goodwill ambassadors.

To the accompaniment of folk instruments, 10 of Romania's Young Ambassadors in colorful Romanian costumes performed traditional dances. The performers also presented a very professional program of classical music.

The concert was a welcome note of cheer for the hospital patients and an opportunity for them to experience another culture. For the performers, it was a chance to say a small thank you to the United States for our support of Romania's efforts to overcome its bleak history of communism and dictatorship.

And it was another reminder of the innate goodness in our children that should serve as a model for all adults.

My congratulations and thanks to those young ambassadors from Romania.

HONORING DR. STUART E. GOTHOLD ON HIS RETIREMENT AS SUPERINTENDENT OF LOS ANGELES COUNTY SCHOOLS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual and dedicated educator, Dr. Stuart E. Gothold, superintendent of Los Angeles County Schools.

As superintendent, Dr. Gothold has dedicated over 35 years of service to providing our children with a superior public education. Responsible for 200 school sites, 3,400 employees, 15,000 students, and an annual budget of $339 million, he has gained a reputation as an effective administrator and visionary leader who has admirably led county schools through tough economic times.

Dr. Gothold is well respected and admired for his involvement in local, county, State and national issues and efforts to improve our educational system. Most notably, he has directed the development of strategic plans to position the office of education as a key voice in California public education; established model choice high schools—arts and international business—on California State University campuses; and established community-based schools for at-risk youth.

In addition to his extensive professional responsibilities, Dr. Gothold has volunteered countless hours to the community. He is cochair of the Los Angeles County Music Center Education Council, co-chair of Rebuild Los Angeles Education task force, and active member of countless civic organizations, including Workforce Los Angeles, Los Angeles Area Boy Scouts Council, the United Way campaign, and the Santa Fe Springs Rotary Club.

As he assumes new challenges as clinical professor of educational administration at the University of Southern California, he leaves behind a legacy of commitment and dedication to the educational well-being of our children. His footsteps will be hard to follow.

Mr. Speaker, I ask my colleagues to join me in recognizing this distinguished educator, Dr. Stuart E. Gothold, and in saluting him for his exemplary leadership and outstanding service to Los Angeles County Schools, and in particular, to the students in my congressional district.

THE 300TH ANNIVERSARY OF THE TOWN OF KINGSTON, NH

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. ZELIFF. Mr. Speaker, this weekend is a special time for the town of Kingston, NH, for its residents are celebrating the town's 300th anniversary.

They can be proud that through the centuries, their town has been a positive example to others of a cohesive, working community. And, these traits have made the town a welcome location for people of all ages.

From its most famous citizen, Josiah Bartlett, New Hampshire got its first president as well as a medical society. As more years passed, many a fine selectman, town clerk, treasurer, moderator, fire and law officer have helped to make Kingston the sound community it is today. The town grew with a band stand in 1875, Sanborn Seminary in 1883, a library in 1898, electricity in 1912, and its first fire truck in 1924.

In 1969, 2,900 residents were proud to call Kingston home and that number now stands at 6,500. In 1970, the historical museum began along with the recreation commission and VFW Post 1088. The year 1979 provided the town with the community house followed in 1981 with Kingston Pines, a home for the elderly. Cable television first came Kingston's way in 1982. And just this year, the new police station reached completion.

Kingston also takes pride in its schools and churches along with civic, recreational, and business endeavors. In fact, Nichols Poultry has promoted chicken in the Poultry Hall of Fame.

Mr. Speaker, the good people of Kingston have reason to take pride in their heritage and I join with them in paying tribute to the spirit, hard work, and vision of the town's ancestors. I'm confident that when Kingston celebrates another 100 years, our grandchildren and great-grandchildren will look back upon this time with optimism and prosperity.

TRIBUTE TO GEORGE "TIM" PEIRCE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 1, 1994

Mr. MANTON. Mr. Speaker, I rise today to congratulate George "Tim" Peirce on his contribution to the aviation industry and the borough of Queens on the occasion of his retirement from the Port Authority of New York and New Jersey.

He was recognized for his tireless efforts on June 30, 1994, at the Terrace on the Park in Flushing Meadows Corona Park, Corona, NY, located in the Seventh Congressional District of New York, which I have the pleasure of representing.

Tim Peirce was born in Worcester, MA. He graduated from the University of Massachusetts with a degree in business administration. His military service included the U.S. Naval Reserve Submarine Corps, followed by active duty as a pilot with the U.S. Air Force and the Massachusetts Air National Guard, flying F-86 jet aircraft.

Mr. Speaker, Tim accepted employment with the Port Authority of New York and New Jersey in 1961, as an industrial engineer. In 1969, on temporary assignment with the Metropolitan Transportation Authority, Tim served as the first airport manager of Stewart Airport in Newburgh, NY. Assigned to LaGuardia Airport in 1970 as supervisor of maintenance services and in 1973 as assistant manager, Tim was promoted to the position of general manager of LaGuardia Airport in 1975. Presently, he holds the position of assistant director for capacity management.

In addition, he serves as a leader and member of numerous community organizations. He is a member of the advisory board of the College of Aeronautics in Flushing, Queens; a member of the board of directors of the Queens Chamber of Commerce; former president and a current member of the board of directors at the LaGuardia Airport Kiwanis Club; member and past chairman of the Salvation Army's Queen's County advisory board; member of the board of directors of the Court Foundation; member and past chairman of the advisory board of the Queen's Lighthouse for the Blind; member of the board of directors of the Lighthouse, Inc.; member of the board of directors of Operation Sail 1986; past president, and member of the board of directors of the North Beach Club; member of the board of directors, president and treasurer of Operation Sail in 1992; vice chairman of the Operation Sail, —Inc. and a member of the board of directors of America's Sail.

Mr. Speaker, I commend Mr. Peirce for his dedication not only to his career, but also to his community. I know my colleages join me in congratulating Tim Peirce on his very special day.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 2, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1629, to revise the Public Health Service Act to provide for expanding and intensifying activities of the National Institute of Arthritis and Musculoskeletal and Skin Diseases with respect to lupus, proposed legislation authorizing funds for the National Science Foundation, proposed legislation relating to mental health and substance abuse programs, and pending nominations.
SD-430

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine certain legal issues with regard to the Whitewater Development Company, Inc., and Madison Guaranty Savings and Loan.
SD-106

Commerce, Science, and Transportation
To hold hearings on S. 2101, to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect all underground facilities from being damaged by any excavations.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Environment and Public Works
Business meeting, to mark up S. 1834, authorizing funds for programs of the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).
SD-406

Judiciary
To hold hearings on the nomination of H. Lee Sarokin, of New Jersey, to be United States Circuit Judge for the Third Circuit.
SD-226

10:15 a.m.
Judiciary
Immigration and Refugee Affairs Subcommittee
To hold hearings to review a report by the Commission on Immigration Reform on the impact of immigration on the United States.
SH-216

2:15 p.m.
Small Business
Business meeting, to mark up proposed legislation authorizing funds for programs of the Small Business Administration.
SR-428A

AUGUST 4

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue hearings to examine certain legal issues with regard to the Whitewater Development Company,

Inc., and Madison Guaranty Savings and Loan.

SD–106

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on miscellaneous public lands issues, including S. 399, H.R. 457, S. 1998, S. 2001, H.R. 2620, S. 2033, S. 2078, H.R. 1716, S. 2236, and S. 2249.

SD–366

Governmental Affairs

To hold hearings on full voting representation in Congress for the District of Columbia.

SH–216

Select on Intelligence

To hold closed hearings on intelligence matters.

SH–219

10:00 a.m.

Foreign Relations

To hold a closed briefing on the Middle-East peace process.

S–116, Capitol

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold joint hearings with the Committee on Indian Affairs on provisions of S. 2259, to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of the hydropower by the Grand Coulee Dam, S. 2319, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and S. 2236, to direct the Secretary of the Interior to enter into negotiations concerning the Nueces River project, Texas.

SD–366

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 120, proposing an amendment to the Constitution prohibiting the imposition of retroactive taxes on the American people.

SD–226

Indian Affairs

To hold joint hearings with the Committee on Energy and Natural Resources' Subcommittee on Water and Power on provisions of S. 2259, to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of the hydropower by the Grand Coulee Dam, S. 2319, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and S. 2236, to direct the Secretary of the Interior to enter into negotiations concerning the Nueces River project, Texas.

SD–366

2:15 p.m.

Judiciary

Antitrust, Monopolies and Business Rights Subcommittee

To hold hearings on S. 2297, to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis.

Time to be announced

Judiciary

Business meeting, to consider pending calendar business.

Room to be announced

AUGUST 5

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine Blue Cross/Blue Shield Federal contracts.

SD–342

9:30 a.m.

Banking, Housing, and Urban Affairs

To continue hearings to examine certain legal issues with regard to the Whitewater Development Company, Inc., and Madison Guaranty Savings and Loan.

SD–106

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

2359 Rayburn Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Domestic and Foreign Marketing and Product Promotion Subcommittee

To hold hearings on S. 1557, to revise the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations of milk producers in the election of the producers, and S. 1564, to revise the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, to terminate the program on December 31, 1996, and to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and to examine the beef industry long range plan of the Cattlemen's Beef Promotion and Research Board.

SR–332

10:30 a.m.

Veterans' Affairs

To hold hearings to examine reproductive hazards associated with military service, focusing on the risks of radiation, Agent Orange, and Gulf War exposures.

SH–216

AUGUST 8

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine Blue Cross/Blue Shield Federal contracts.

SD–342

2:00 p.m.

Veterans' Affairs

To hold hearings on the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), S. 2330, to revise title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and other pending legislation.

SR–418

AUGUST 10

9:00 a.m.

Office of Technology Assessment

Board meeting, to consider pending business.

EF–100, Capitol

AUGUST 11

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1991, to provide for the safety of journeyman boxers; to be followed by hearings on the oversight of activities of the Olympic Committee.

SR–253

AUGUST 12

2:00 p.m.

Veterans' Affairs

Business meeting, to consider the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), and to mark up pending legislation.

SR–418

Indian Affairs

To hold hearings on the nomination of Harold A. Monteau, of Montana, to be Chairman of the National Indian Gaming Commission, Department of the Interior.

SD–628

SENATE—*Tuesday, August 2, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

For what the law could not do, in that it was weak through the flesh * * *.—Romans 8:3.

Eternal God, the apostle Paul reminds us there are some things law cannot do. Even the perfect Law of God, as in the Ten Commandments, is limited in its power, because of the weakness of the flesh.

Thou knowest the frustration—the sense of futility—which must touch the hearts and minds of the Senators and their committees. Long hours of hard work and debate finally produce a law as good as the human mind can conceive. And yet, the problem which the law was supposed to address not only does not stop, but grows.

Patient God, help Your servants to see that the real problem is human nature itself—"the flesh," as Paul calls it. And that social and cultural disintegration are rooted in human weakness. Help them to see that the Bible addresses itself to this fundamental problem in history with solutions which are grounded in faith.

In the name of Him who came to fulfill the law. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1513, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1513) entitled "Improving America's Schools Act of 1993."

The Senate resumed consideration of the bill.

Pending:

Smith amendment No. 2433, to prohibit the use of instructional materials, instruction, counseling, or other services on school grounds, from being used for the promotion of homosexuality as a positive lifestyle alternative.

Kennedy amendment No. 2436 (to amendment No. 2433), to prohibit the use of funds to make condoms available in a public school unless the program under which such condoms are distributed meets certain local control criteria.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2436, AS MODIFIED, TO AMENDMENT NO. 2433

Mr. KENNEDY. Mr. President, I send a modification to the desk.

The ACTING PRESIDENT pro tempore. The Senator has a right to modify his amendment. It is so modified.

The amendment (No. 2436), as modified, is as follows:

At the end of the pending amendment, insert the following:

SEC. LIMITATION.

None of the funds authorized to be appropriated under this Act may be used to make condoms available in a public school.

Mr. KENNEDY. Mr. President, I see our friend and colleague from Idaho is on the floor. As we had briefly outlined last evening, we will go to the Senator's amendment. Just for the awareness of our Members, we have agreed to a time limit of 1 hour; 45 minutes under the control of the Senator from Idaho and 15 under the control of myself and Senator JEFFORDS. That is, we will ask consent to formalize that, but that is our understanding at the present time. We will proceed on our side as if that agreement is in effect. We will formalize it in just a few moments.

I thank the Senator for his cooperation and look forward to the debate.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the two pending amendments? If not, it is so ordered. The Senator from Idaho [Mr. CRAIG] is recognized.

AMENDMENT NO. 2437

(Purpose: To modify the fair wages provisions)

Mr. CRAIG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2437.

The amendment is as follows:

On page 1244, line 10, before the period, insert the following: "if the Federal share of the financing of such a repair, renovations, alteration, or construction project is greater than 25 percent of the total cost of the project."

Mr. CRAIG. Mr. President, I allowed the full reading of the amendment this morning because I think it speaks so clearly for itself.

As we attempt to deal with S. 1513 and as this Congress struggles to find dollars to assist States and local units of government in funding education, our No. 1 priority ought to be to make sure that those dollars go just as far as they possibly can go. This is, of course, not just educational facilities of the kind that we would think about—by that I mean schools and school-associated facilities—it is also libraries and other things within our communities across this country that serve in the expanding and the broadening of the human mind. It is something our country has always done so well.

So, as we struggle with the $200-plus billion deficit and a $4 trillion debt, should we not as a Congress be working to make sure the money we provide to assist States goes just as far as it possibly can? The amendment today addresses that most important issue. The amendment amends section 1501(o) of title XV, which applies the Davis-Bacon Act to new programs of educational infrastructure grants. I repeat, "new programs of educational infrastructure grants."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Title XV grants are for repairs, renovation, alteration and construction of public, elementary and secondary school libraries, media centers and facilities used by academic and vocational instruction.

The title XV grant program is authorized at $400 million, and that is this year as it relates to S. 1513, and $200 million is already included in the fiscal year 1995 Labor-HHS-Education appropriations bill about to come to the floor.

So we are talking about approximately half a billion dollars that we will spread across 50 States. A local elementary agency, or an LEA, as we call them, is eligible for a grant of the dollars we are talking about if they submit an application showing urgent need, and that, of course, is what is important in these dollars.

These are not within the normal flow of the educational or the HHS dollars we are talking about, but those who express an urgent need because they have an inadequate facility as it deals with the media centers, the secondary school libraries or the academic and vocational instruction facilities.

The local education agency can also apply for a grant if it serves large numbers of disadvantaged children. It can also apply for a grant to address conditions that compromise learning, health and safety. So, in other words, over the last good number of years, as we have been renovating our school facilities to get rid of asbestos, one of the ways this grant could be applied is to assist in providing a few dollars to mix with the local county or school district dollar and the State dollar to assist in renovating and making an educational facility more healthy and safe for the students involved. And if the facility lacks capacity, including the ability to raise funds to undertake the project without some Federal assistance, and they can display need, that is what this section of this bill and this section of the Federal law is all about.

So my amendment states that Davis-Bacon applies to title XV grants that finance the local education agency project in whole or in part. Education groups who have worked for creation of the grant program anticipate that, in many cases, the Federal share of the project will be very small, but it is that extra bump, it is that extra boost that the local and the State cannot come up with.

As we know, in working with our States and local governments, in many of these programs where there is a Federal mandate or where there is a Federal law to be addressed to bring about adequate education based on Federal standards, or safety in facilities based on Federal standards, that our local units of government bring together a combination of dollars. It is not a single fund or a single source. It is a little bit of a grant here and a little bit of a grant here in some of our more impoverished communities, both urban and rural, to make sure that they can comply and meet the standards of the Federal law.

While implementing regulations for title XV grants are far in the future, the likelihood certainly exists that small amounts of Federal funding will be used to leverage significant larger amounts of State and local funds. And that is exactly what I was talking about. The total pool of primary and secondary school spending for new construction, additions and modernizations in 1993 was about $10 billion, according to the American School and University Magazine of May 1994.

So this simple amendment, when you look at that kind of impact, if a local education agency finances more than 75 percent of the total cost of a project and a Federal infrastructure grant contributes less than 25 percent, Davis-Bacon will not apply. If the Federal Government makes only a minimal contribution to a construction or a repair project, it is not a Federal project, and we should not mandate all the same labor regulations that apply to Federal projects.

I think this Congress clearly understands the significance of that difference. If it is not a Federal project, if it is truly a local project, why then, because of a small amount of Federal money being involved, should we force a local education agency into a substantial greater amount of funding that has to come from the taxpayers of the local unit just to meet these Federal standards?

I believe that this is a reasonable and very modest amendment. I would have preferred to simply exempt the new grants from the outright impact of Davis-Bacon, but I realize that many of my colleagues want Davis-Bacon to apply where there is a significant Federal spending of a construction or repair dollar. So I am not going to argue that today. We are not talking significant amounts of money in the sense of the project itself.

The ranking member, NANCY KASSEBAUM, did offer a strike amendment in the committee for Davis-Bacon, and it was defeated 12 to 5. I can count. I know the numbers. But I do believe this Congress needs to be rational and responsible in the expense of Federal dollars, and what we are saying here is that where Federal dollars are not the primary source, where it is simply the impetus to get the local community and the State dollar over the hump, if you will, in the ability to multiply the combination of dollars to bring about the requirement of the need for an educational facility.

So rather than prolonging the debate or diverting it to a long discussion about Davis-Bacon, this is a very simple approach.

Last week, I went before Chairman SIMON's subcommittee and debated Davis-Bacon. We want reform of Davis-Bacon. This is not the place to debate that reform. By that, I mean we need broad, sweeping, significant reform to bring this very old and antiquated law into the 21st century, but of course, this Congress, by phenomenal pressure, has been unwilling to do so.

This 25-percent-matching-funds trigger is a modest part of my comprehensive reform bill, S. 916. So what I am suggesting to the Senate today is that if we cannot accept or look at the whole of the reform, let us not penalize local communities, let us not penalize local taxpayers who want to do the very best for their children, by saying you are going to have to spend an extra 3 to 15 percent of the cost of construction merely to comply with a 1930's Federal law that does not make any sense today.

The type of modest reform that belongs on grant programs that will finance essential local products is what we are talking about. I do not even think it is a Davis-Bacon issue. It should not be thought of in that context. But because the law is pervasive, this bill is not specific in its exemption, that is what I am talking about today. If less than 25 percent of the money is Federal money, it just is not reasonable to apply the labor regulations designed for Federal procurement contracts.

We are trying to prevent simply the tail from wagging the whole dog, in this instance; trying to protect needy school districts from an expensive Federal mandate on how they use their money, not public money in the national sense, but public money in the sense of a small community of 1,000, 2,000, 5,000 people. Or the inner city where we know city fathers and school districts are doing their very best to provide an educational opportunity for the young people of that area and struggling every day to meet the unique demands of that particular locale.

Some colleagues may argue that a large Federal contribution justifies attaching costly strings. I will let them argue that because that is not what I am arguing. I am talking about a small Federal contribution of, it could be, a few thousand dollars, and yet it would shove the whole process to cost substantially more. But it is certainly, I think, reasonable to talk about this and to bring it once again before this Congress for the kind of contribution that they ought to make in the consideration of this issue.

The same point, excessive strings tied to a minimal contribution which oftentimes can amount to the project not going forward, I think that is significant to bring up.

Several years ago, I was involved in a water treatment program in the north end of my State. Because there was a small Federal grant involved and the city, in this instance, had failed to calculate Davis-Bacon into it, that water treatment project simply did not go forward. As they were ready to let the bids out, they realized they had calculated improperly and they had to back away. There would have been hundreds of thousands of dollars spent, jobs created and a cleaner source of discharge water flowing into the Spokane River and, yet, because of a 1930's obsolete law, that project did not go forward.

Now, that happens every day across America, and it ought to be changed. I am proposing a change in S. 916. But today, when we struggle to educate our children, to provide the facilities and the opportunities, why cannot this Congress just back away a little bit, just blink on the few thousands of dollars that would be spread project by project across this country and say the prevailing wage in the sense of Davis-Bacon simply would not have to apply.

Now, nationally, on average, Davis-Bacon adds about 3.1 percent of the total of a construction cost, according to CBO. And including the effects of a ban on the use of helpers inserted every year in the Labor-HHS-Education appropriations, which is already there, coincidentally, the $400 million that I mentioned authorized for title XV grants in S. 1513 amounts to about 3.7 percent of the $10.778 billion totally spent on education and secondary school construction, additions, and modernizations.

The exact Davis-Bacon cost premium CBO found in 1983, before several Reagan Department of Labor regulations started saving taxpayers money, that premium cost was about 3.1 percent. That is what I am talking about here, in very clear, simple, straightforward terms, less than 3.1 percent of the total amount of money that will be spent across this country this year to construct, to modernize, or to add to educational facilities. And yet the failure of this Senate to pass this amendment and put this issue into the education conference may deny small school districts in my State and your State, Mr. President, the opportunity to go forward with that one addition, that expansion of the vocational education shop, the buying of additional equipment in their media centers. All of that is what I am talking about, and it is a very straightforward approach.

Costs vary widely from community to community. In some, Davis-Bacon seems to have no impact simply because they are a wealthy district, but not all school districts are wealthy. And in others, it could mean a lot. It is reported to add up in some areas to over 50 percent of the total construction cost to ultimately end up denying the ability to construct. The General Accounting Office found that when Davis-Bacon does increase the cost, the typical range of inflation runs from about 5 to 15 percent.

Past a certain point, even supporters of Davis-Bacon I hope will realize that applying it to financially strapped schools is counterproductive. A University of Oregon study found that Davis-Bacon typically increases total construction cost in rural areas by 26 to 38 percent. Why? Because the wage is less in rural areas in part, and that is the opportunity, that is the advantage that a rural school district sometimes has, to be able to build a better program, to be able to expand the school, to be able to offer rural children a similar opportunity that urban children have and that more wealthy school districts have. Obviously, in many rural areas, a 25 percent Federal contribution will do nothing more than pay for Davis-Bacon requirements, if the University of Oregon study is accurate.

I believe it is unfair—I have expressed that, I hope, clearly this morning—to impose that heavy a burden, much less a heavier one than can be handled.

In Philomath, OR, a community that several years ago was strapped because of a decision on the part of the Endangered Species Act to disallow the cutting of old growth timber that put a lot of our loggers out of work—and everyone in the West knows what I am talking about; it was called the spotted owl crisis—that community, in an effort to pull itself up by its bootstraps, said they were going to do something for themselves. The local sawmill donated the lumber and the local labor force wanted to donate their time but because the library district, in its effort to put money together in a tax-strapped, poor district, now got a little Federal grant, they could not do it. In other words, the employees could not volunteer their time.

It took that library district 2 years of fighting and the efforts of Senator HATFIELD and Senator PACKWOOD personally taking their time with the Bush administration to find a little loophole in the law to squeeze through so that this poor district, strapped by a Federal law that put thousands of its people out of work, could make an effort to pull itself up by its bootstraps and construct a library and say to the country around it: Look what we are doing for ourselves. And because our infrastructure is now stronger and because we have a better public library, why not come and bring your employment and bring your jobs and put our people back to work.

What am I talking about? I am talking about a misdirected, obsolete law in this country called Davis-Bacon that caused that very thing to happen. So when we are talking title XV infrastructure grants to do the simple little things like building libraries in our schools, expanding libraries in our schools, how can we, straight faced, stand on the floor of this Senate and uniquely, by failure to pass this amendment, deny these school districts that opportunity?

Some years ago, the Loudon County, VA, school board—right here in this immediate area—was ready to build a vocational education facility, until they realized that Davis-Bacon strings were attached to the Federal contribution and that actually made the project so much less viable that the board decided to drop the project. And sure enough, title XV infrastructure grants are supposed to help construct and repair vocational education facilities. Loudon County, VA, had to say no. The young people of that county had less opportunity because of the very law we are talking about.

Mr. President, could I ask how much time I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has used 20 minutes.

Mr. CRAIG. An important precedence for this 25 percent matching fund trigger, the same 25 percent matching fund trigger is in the conference report on the crime bill. Mr. President, Members of the Senate, please listen. By midweek this week, we will be debating the crime bill conference report.

Mr. President, I ask the Senator from Massachusetts [Mr. KENNEDY] to please listen. The very provision I am asking today to be put in the education bill the Senate has just now put in the crime bill because as we are concerned about education, but we are also concerned about our communities' and our States' abilities to expand and improve their criminal detention facilities. We were wise enough, in the crime report, to put in the identical amendment. So that is now in there.

We are going to use absolutely the same language and the same guidelines for that very finite amount of money that we are going to try to put into crime control in our country to expand the ability of our local and State law enforcement facilities to do the same thing that we want done here. But in this case, we are not taking criminals off the street. We are hopefully putting educated young citizens on the street with a better opportunity.

That is why I had hoped maybe the ranking member and the chairman would just accept this amendment. We would not have to go to a full debate. We would not have to bring it up for a vote. But, of course, that is not the case. I am saddened by that because I think that what we are offering here just makes an awful lot of sense for America and for the taxpayers of this country who continually argue with us and demand of us that we be more prudent and efficient with the dollars that we ask from them to provide for the greater good of this country.

In the old General Revenue Sharing Act, Congress explicitly recognized exactly the principle underlying in this amendment and, of course, that was money going out to the States and to the counties.

I come from a big rural county, and I know how that revenue sharing got spent and how it gets spent today. It does all kinds of things for people, as a general tax dollar would be used in a very rural county where there are 7,000 or 8,000 people in a county that is almost the size of the State of Connecticut. There are no people there to speak of. Seventy percent of the land is public land. And as a result of that, the tax base is very limited.

So we were smart enough when we created the General Revenue Sharing Act to provide this kind of an exemption because we said once that dollar is out there blending with the State and local money, it really becomes part of the local base. Why, therefore, then should we force that community to comply with a much broader Federal base? Eighteen States either have not enacted or have repealed what is known as the "little Davis-Bacon."

My State of Idaho once had a little Davis-Bacon. We simply are not wealthy enough to extend that much of the largess to expand the cost of our construction program beyond what is the normal charge for labor in a community of, say, 25 or 30 percent. We are simply not that wealthy. Idaho knows that.

Alabama, Arizona, Colorado, Florida, Georgia, my State of Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, South Carolina, South Dakota, Utah, Vermont, and Virginia have now all recognized this and either have not passed or have repealed little Davis-Bacon for all the reasons I have just given.

So what we are asking here is straightforward: To give these States the chance, and to expand that Federal dollar, and to make it wiser. Three States completely exempt school construction from little Davis-Bacon State prevailing wage laws: Arkansas, Kentucky, and New Mexico, once again State legislatures that were faced with the reality that there just is not that much money out there to do all we want to do, and we have to make it stretch just a little further.

Maryland exempts school construction from little Davis-Bacon law unless the State's share of the project is more than the whole of 75 percent. So that is the reality. That is the substance of the debate.

Let me ask unanimous consent at this moment that I be allowed to enter into the RECORD a letter to Senator BENNETT JOHNSTON from the Associated Professional Educators of Louisiana asking the Senator to support this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSOCIATED PROFESSIONAL
EDUCATORS OF LOUISIANA,
Baton Rouge, LA, July 27, 1994.

Senator J. BENNETT JOHNSTON,
Senate Office Building,
Washington, DC.

DEAR SENATOR JOHNSTON: The Associated Professional Educators of Louisiana (A&PEL) opposes provisions in the "Improving America's Schools Act," S. 1513 by Senator Edward Kennedy of Massachusetts, which extends coverage of the federal Davis-Bacon Act to school "repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant under this title . . .".

This would represent a massive expansion of the coverage of the Davis-Bacon Act and would be a major federal intrusion into state activity. Furthermore, this provision could increase the cost of school construction to state and local taxpayers of Louisiana at a time when educational dollars are scarce and taxpayers are begrudging any added costs for public schooling.

As an organization of 5,000 Louisiana teachers, we ask that you support amendments that will be offered on the Senate floor to strike this provision or to alter the language to make it less intrusive.

Your support in this action will be most appreciated.

Sincerely,

RUTH PETRY,
State President.

Mr. CRAIG. Mr. President, let me also ask unanimous consent that the letter to Senator PAUL COVERDELL from the Professional Association of Georgia Educators be entered into the RECORD—same argument, same concern.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PROFESSIONAL ASSOCIATION OF
GEORGIA EDUCATORS,
Clarkston, GA, July 28, 1994.

Senator PAUL COVERDELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: The Professional Association of Georgia Educators (PAGE) urges you to vote against the bill, "Improving America's Schools Act" (S. 1513). The bill contains unneeded provisions which would improperly extend the Davis-Bacon Act regarding "repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant under this title. . . ."

The proposed expansion of the Davis-Bacon Act would give the federal government intrusive power to involve itself in state responsibilities. But, most damaging of all, the extension would further inflate the cost of school construction projects in Georgia. Since recent flood damage to our schools is massive, much reconstruction must take place. The bill, sponsored by Senator Edward Kennedy (S. 1513), would trigger higher wages where the Davis-Bacon Act applies. This would cause a heavier tax burden for all taxpayers in Georgia.

We urge you to support amendments that would strike the S. 1513 provision or alter it in ways that would make it inoperative with respect to the repair, renovation, alteration or construction, including painting and decorating any building or work that is financed in whole or in part by a grant from the federal government.

Thank you for your prompt consideration.

Sincerely,

ELLEN COODY,
Acting Executive Vice President.

Mr. CRAIG. Let me also, Mr. President, ask unanimous consent that a letter from the Coalition to Reform the Davis-Bacon Act—that is a huge cross-section of the American small business and large business infrastructure, from air conditioning contractors to the U.S. Chamber of Commerce, all the way down through the system of those people who provide the services that build the facilities for these small communities—become part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COALITION TO REFORM THE DAVIS-BACON ACT

Air Conditioning Contractors of America.
American Concrete Pipe Association.
American Farm Bureau.
American Portland Cement Alliance.
American Public Transit Association.
American Road and Transportation Builders Association.
Associated Builders and Contractors.
Associated General Contractors.
Brick Institute.
Citizens Against Government Waste.
Contract Services Association.
Council of State Community Development Agencies.
Fluor Corporation.
Independent Electrical Contractors, Inc.
Institute for Justice.
Labor Policy Association.
National Aggregates Association.
National Association of Counties.
National Association of Dredging Contractors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Minority Contractors.
National Center for Neighborhood Enterprise.
National Federation of Independent Business.
National Industrial Sand Association.
National League of Cities.
National Terrazzo & Mosaic Association.
National School Boards Association.
National Slag Association.
National Stone Association.
National Tax Limitation Committee.
National Taxpayers Union.
Printing Industries of America.
Public Service Research Council.
U.S. Chamber of Commerce.

COALITION TO REFORM
THE DAVIS-BACON ACT,
Rosslyn, VA, July 26, 1994.

Hon. LARRY E. CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: S. 1513, the Improving America's Schools Act, is expected to be voted on in the near future. One section of this bill would provide funds for the renovation and construction of public elementary and secondary school facilities used for academic or vocational instruction—including libraries and media centers. This section would also mandate that Davis-Bacon wage rates be paid on this construction. Because the inflated costs and other problems associated with Davis-Bacon would be imposed primarily on states and localities, the Coalition to Reform the Davis-Bacon Act urges you to support any amendment which would eliminate or narrow the scope of the Davis-Bacon application to this section.

The Davis-Bacon Act of 1931 has been estimated to raise the cost of federal construction by an average of 5–15%. This outdated law will needlessly waste more than $3 billion in federal taxpayers' dollars over the next five years. Clearly, if Davis-Bacon is not applied to projects funded under S. 1513, a greater number of schools could be built or improved.

Under S. 1513, the federal government would give grants to local educational agencies to improve their school facilities. However, in many cases the state or locality would pay for the bulk of the project and the federal contribution would be nominal. Regardless of the amount the federal government contributes, all laborers and mechanics performing the construction would have to be paid the inflated Davis-Bacon wage. This often would virtually nullify the federal contribution.

Requiring that the inflated Davis-Bacon wage rate be paid on projects funded in whole or in part under S. 1513 is in effect an unfunded federal mandate on states and localities. Davis-Bacon is a federal law which was meant to apply to federal construction projects; school construction is clearly under the states' domain. Eighteen states have seen fit to either repeal or never have a state prevailing wage statute and several others have specifically exempted school construction from their law; however, this bill would require the federal prevailing wage law to apply to primarily state and locally funded school construction.

Because the application of Davis-Bacon would further limit the number of projects which could be performed under this bill and would burden financially-strapped states and localities, we strongly urge you to support any amendment to either strike or limit this language in S. 1513.

Mr. CRAIG. Mr. President, the Associated Building Contractors has submitted information, and I ask unanimous consent that it be printed in the Record, along with the repeal and modification of the Davis-Bacon Act work schedules, labor cost schedules, and budget outlays, which have been examined in the consideration of S. 916 and that will be before the subcommittee in its consideration of reform.

There being no objection, the material was ordered to be printed in the Record, as follows:

Davis-Bacon and S. 1513, the Improving America's Schools Act

The Senate has begun consideration of S. 1513, the Improving America's Schools Act. One section of this bill would provide funds for the renovation and construction of public elementary and secondary school facilities used for academic or vocational instruction—including libraries and media centers. This section would also mandate that Davis-Bacon wage rates be paid on this construction. Because the inflated costs and other problems associated with Davis-Bacon would be imposed primarily on states and localities, Associated Builders and Contractors (ABC) urges you to support any amendment which would eliminate or narrow the scope of Davis-Bacon application to this section.

The Davis-Bacon Act of 1931 has been estimated to raise the cost of federal construction by an average of 5–15%. This outdated law will needlessly waste more than $3 billion in federal taxpayers' dollars over the next five years. Clearly, if Davis-Bacon is not applied to projects funded under S. 1513, a greater number of schools could be built or improved.

Under S. 1513, the federal government would give grants to local educational agencies to improve their school facilities. However, in many cases the state or locality would pay for the bulk of the project and the federal contribution would be nominal. Regardless of the amount the federal government contributes, all laborers and mechanics performing the construction would have to be paid the inflated Davis-Bacon wage. This often would virtually nullify the federal contribution.

Requiring that the inflated Davis-Bacon wage rate be paid on projects funded in whole or in part under S. 1513 is in effect an unfunded federal mandate on states and localities. Davis-Bacon is a federal law which was meant to apply to federal construction projects; school construction is clearly under the states' domain.

Eighteen states—including Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, South Carolina, South Dakota, Utah, Vermont and Virginia—have seen fit either to repeal or never have a state prevailing wage statute. Arkansas, Kentucky and New Mexico have specifically exempted school construction from their law and Maryland requires that the project be at least 75% state-funded for prevailing wage to apply to school construction. Despite these states' clear choice on this issue, S. 1513 would require the federal prevailing wage law to apply to primarily state and locally funded school construction.

Because the application of Davis-Bacon would further limit the number of projects which could be performed under this bill and would burden financially-strapped states and localities, we strongly urge you to support any amendment to either strike or limit this language in S. 1513.

REPEAL OR MODIFY THE DAVIS-BACON ACT

Savings from CBO baseline	Annual savings (millions of dollars)					Cumulative 5-year savings
	1995	1996	1997	1998	1999	
Repeal the Davis-Bacon Act:						
Budget authority	500	510	520	540	550	2,620
Outlays	160	500	700	810	910	3,080
Raise the threshold to $1 million:						
Budget authority	160	170	170	180	180	860
Outlays	40	130	180	220	240	810
Raise the threshold to $250,000:						
Budget authority	70	70	70	70	80	360
Outlays	20	50	70	80	90	310
Change from weekly to monthly wage reporting:						
Budget authority	70	70	80	80	80	380
Outlays	10	50	60	70	70	260

Note.—The conference report on the 1994 appropriation for the Department of Labor prohibits the department from implementing certain changes in the "helper" regulations during 1994. The estimates presented here are based on the assumption that this prohibition will not be extended. If it was extended, savings from either repealing the Davis-Bacon Act or raising the threshold would be greater.

Since 1935, the Davis-Bacon Act has required that "prevailing wages" be paid on all federally funded or federally assisted construction projects with contracts of $2,000 or more. The procedures for determining prevailing wages in the area of a construction project, as well as the classifications of workers who receive them, favor union wage rates in some cases.

The federal government could reduce outlays for construction by repealing the Davis-Bacon Act or by modifying it. Repealing the act would reduce outlays by about $160 million in 1995 and by about $3.1 billion over the 1995–1999 period. Raising the threshold for determining which projects are to be covered by Davis-Bacon from $2,000 to $1 million would exclude about 27 percent of the value of all contracts currently covered by the act. Savings in that case would total about $40 million in 1995 and about $810 million over the five-year period. Raising the threshold to $250,000 would exclude about 11 percent of the value of all contracts and save about $310 million over the five-year period. Changing the requirements for wage-and-hour reporting for contracts covered by Davis-Bacon from a weekly to a monthly basis would reduce compliance costs for contractors by about $260 million over the five years. Each of these estimates assumes that the Congress would reduce federal appropriations for agencies to reflect the anticipated reduction in costs.

Repealing Davis-Bacon or raising the threshold for projects that it covers would reduce the cost of federal construction. In addition, either action would probably increase the opportunities for employment that federal projects might offer to less skilled workers. Such changes would, however, lower the earnings of some construction workers. Opponents of these options also argue that eliminating or relaxing Davis-Bacon requirements could jeopardize the quality of federally funded or federally assisted construction projects. Reducing the requirements for wage-and-hour reporting would lessen the paperwork required of employers, but at the same time it might diminish the effectiveness of the Davis-Bacon Act by reducing the government's ability to detect noncompliance.

Craig office note, based on conversations with CBO:

The above "Budget Authority" figures do not include non-BA spending authority from certain trust funds; the full amount of savings for all such authority would be called the "Authorization Level"; savings for repeal would range from about $800 million to $900 million a year, for a 5-year total above $4 billion.

If the currently-legislated "helper" ban were assumed to extend permanently, savings from repeal would be approximately doubled. The above CBO figures are based on the "current law" assumption that the ban on 1992 DOL "helper" regulations will expire, on schedule, on September 30, 1994. The regulation provides for a semi-skilled "helper" classification in areas where the use of such a classification is locally prevailing. Congress has enacted annual helper bans in Labor/HHS/Education appropriations and the same ban is included in both the House-passed and Senate-Committee-reported versions for FY 1995.

Mr. CRAIG. Mr. President, let me also ask unanimous consent that additional cosponsors, Senator Simpson of Wyoming, Senator Nickles of Oklahoma, Senator Thurmond of South Carolina, Senator Brown of Colorado, and Senator Kempthorne of Idaho be added to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I retain the remainder of my time.

Mr. JEFFORDS. Mr. President, will the Senator yield?

Mr. CRAIG. I am happy to yield to the ranking member 5 minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Vermont for five minutes.

Mr. JEFFORDS. Mr. President, I have been involved over the years of my public life with the Davis-Bacon Act. I would just mention that the Davis-Bacon Act was actually a Republican proposal which was made back in the early thirties by two Republican men, Davis and Bacon, who were deeply concerned about what was happening in this Nation at that time, which, of course, was the beginning of the Great Depression. At that time, we were beginning to see the incredible difficulties being brought upon our local communities in the fight for jobs, and bands of organized groups of workers would be going from one area to the other undercutting whatever bids would occur at the local level, thus disrupting the ability of people in those local areas to be able to survive.

After it was originally put in, then we had the huge influx of money coming in from the Federal Government to take in, to try to create jobs, and at the same time these jobs were being taken by people who were coming in the other areas.

The sound basis for law was there during the Great Depression, and it worked very well. It has worked well since then. However, there is no question but that after time moves on things change, and we should change the law. I think this is one of the areas that we are in where there should be a change.

But I would also point out that few subjects generate more controversy than the proposals to change the Davis-Bacon Act. That statute which we just discussed is some 60 years old but has been largely unchanged since the time it was written.

There are three schools of thought on Davis-Bacon; repeal it, leave it alone or reform it.

I count myself as one who sees the need for reform.

I support the Davis-Bacon Act, and its basic purpose—that the Federal Government should not undercut local wages and working conditions.

Today, however, there are times when the act turns that purpose on its head by preventing the prevailing local wage rates and wage structures from being employed on federally funded construction projects.

The primary example of this is the ongoing battle over the helper regulations, which has been going on for the last decade.

Because of my views on what the Davis-Bacon Act is and should be, I am not inclined to vote for the repeal of Davis-Bacon or a blanket waiver of that act under ESEA.

However, it is consistent with my views on the need for a greater Federal stake in school funding to support measures which encourage that funding. Here, if the Federal Government wants to mandate Davis-Bacon standards for school construction, I think it quite fair to require Federal funds to comprise a substantial percentage of funding for that construction.

The 25 percent proposal made by this amendment seems fair and is consistent with the standard reportedly included in the crime bill conference report with regard to prison construction.

Therefore, I will support that amendment.

Further, the amendment granting authority for the Secretary to waive Davis-Bacon requirements in the event that it will create undue hardship or lead to discrimination on racial or other grounds also presents a valid point for consideration.

Therefore, Mr. President, I intend to support the Senator's amendment, and I yield whatever time I have not used.

Mr. THURMOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to support the amendment offered by my friend and colleague, the distinguished Senator from Idaho [Mr. CRAIG]. I was pleased to join him as a cosponsor on this bill.

Mr. President, this amendment is designed to help our States lower construction costs when they identify the need to build or repair a school facility. This amendment will simply allow the States to be exempt from Federal Davis-Bacon laws if the State funds 75 percent of an education construction project.

As you know, the Davis-Bacon Act requires the Secretary of Labor to set wage rates and prescribe work rules for every category of worker employed on Federal and federally assisted construction, alteration, and repair projects. The wage rates are supposed to be based on the locally prevailing wages. Often these rates are significantly higher than the actual averages for the locality.

The result of applying the Davis-Bacon Act is to discourage poor rural and urban schools from building or contracting for much-needed repair or construction because they have to pay the "prevailing wage," which is the same as the union wage.

Mr. President, Wednesday, July 27, 1994, the Labor and Human Resources Committee, of which I am a member, held a hearing on Davis-Bacon reform. We were fortunate to have Ms. Cindy Athey, president of Precision Wall Tech, Inc., testify on the effects of Davis-Bacon laws on her business. I ask unanimous consent that her statement be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. THURMOND. I would like to highlight a few parts of her statement. First, Ms. Athey testified that she pays her painters an average rate of $14 an hour, 40 hours a week. With a 2-week vacation, that is approximately $28,000 a year. However, painters on Federal projects is $21.24 per hour. With a 2-week vacation, this is approximately $42,000 a year. That means that a painter earns about $14,000 a year more if they simply work on a Federal construction project. This is outrageous.

Ms. Athey also testified that:

> A task requiring 5,000 hours to complete now takes the employee, who is earning more because of the inflated Davis-Bacon wage rate, approximately 6,000 hours to complete. This makes sense—why would anyone want to complete a project that is almost doubling their paycheck?

I believe Ms. Athey's testimony is representative of much of the waste of taxpayer's dollars due to the requirements of Davis-Bacon laws.

Mr. President, the Davis-Bacon Act was passed before most of the basic worker protection laws in effect today, including the Fair Labor Standards Act of 1938 and the National Labor Relations Act of 1935. Another protection exists in the elaborate Federal procurement process which requires a contractor to meet a number of prequalification requirements as well as meet a determination of contractor responsibility in order to bid on Government contracts.

With these worker protection laws in place, the Davis-Bacon Act is antiquated and costly. Davis-Bacon laws discourage small and minority-owned businesses from bidding on Federal projects. This results in a loss of competition and increased construction costs.

With its application to the Elementary and Secondary Education Act it will now discourage our local education agencies from providing education infrastructure.

This amendment will allow our States a little more freedom over what is predominantly their spending money. This amendment confronts what is another underfunded Federal mandate.

Mr. President, I urge my colleagues to vote to allow their States to have more control over their spending. Therefore, I strongly urge my colleagues to support this amendment.

EXHIBIT 1

TESTIMONY OF CINDY ATHEY

Thank you Mr. Chairman and members of the committee. My name is Cindy Athey and I am President of Precision Wall Tech, Inc., a painting and wallcovering contractor. Precision Wall Tech, Inc. has been performing work in the D.C. Metropolitan area for over 11 years and is classified as a small business woman-owned, open shop company. Precision Wall Tech, Inc. is also a member of the Associated Builders and Contractors, who I am here representing today.

My experiences, as well as my beliefs, about the Davis-Bacon Act are that the Act discriminates against small companies by limiting their ability to compete on an even plane with larger companies. The Davis-Bacon Act hinders and restricts all phases of performing a government contract with the wage regulation. It begins with the actual bidding process.

Bid price increases due to the increase in the required wage. My painters average at least 40 hours per week at a rate of $14.00 an hour. Scale for painters on federal projects (i.e. NIH, NASA, Navy Yard, etc.) is $21.24 per hour. My labor cost on a federal project is 50 percent higher than a non-regulated scale project. In addition to the increase in labor costs, the labor burden (workers' comp, unemployment, liability insurance, etc.) also increases.

If a small company is awarded a government contract of substantial size which will extend over a period of months, the additional capital required to carry the increased payroll and taxes limits their ability to solicit other contracts. The majority of small companies are not financially able to meet the additional costs of doing government contract work, therefore, the Davis-Bacon wage scale discourages small companies from participating in government contracts. Regardless of the prompt pay regulation, most government agencies DO NOT pay within 30 days.

Precision Wall Tech, Inc. invests time and money into training and educating its employees. Our painters are paid well above the private industry's prevailing wage rate and have the ability to perform all projects in an efficient and professional manner. This enables us to complete work on schedule and within the budget of our clients. However, the Davis-Bacon Act reduces productivity, thus exposing the small contractor to still more additional costs.

A task requiring 5,000 hours to complete now takes the employee, who is earning more because of the inflated Davis-Bacon wage rate, approximately 6,000 hours to complete. This makes sense—why would anyone want to complete a project that is almost doubling their paycheck? The Davis-Bacon wage scale is a deterrent for workers to be productive and efficient. It also creates a problem when these workers go back to performing private work and I am forced to lower their wages back to the true market rate.

Employees often require retraining once they complete a government project. My once motivated employees are now earning the same weekly pay by working on a scale job 26 hours per week instead of the normal 40 hours. This tends to lead to absenteeism.

The administrative costs to conform to the Davis-Bacon Act regulations are also increased. Certified payrolls are time consuming, as well as confusing. I have performed numerous scale regulated contracts at the same time and depending on the location, I will have to pay different wage rates. For example, the scale for a painter in Washington, D.C. is different than the scale for a painter in Maryland or Virginia. Different counties within a state also require different wages.

Classifications within a trade create many restrictions. The Davis-Bacon Act requires that any person who holds a tool of the trade be paid at that trade classification. There are many individuals who are able to hold a paint brush or a pipe wrench, but could not be classified as a painter or even a plumber. However, these individuals are required to be paid the rate of a painter or plumber by the Davis-Bacon Act. This Davis-Bacon classification requires companies to use either over qualified employees for menial tasks or overpay inexperienced employees. This inequity creates tremendous friction among employees working on a scale regulated project. For example, a qualified painter who has worked many years in the trade is not happy to be earning the same as an employee who just entered the trade one month ago with limited knowledge, but is able to hold a tool of the trade.

The Davis-Bacon Act was intended to protect employees from discriminating employers. However, the Davis-Bacon Act today is discriminating against small employers and their employees, who are trying to compete for federal contracts. The Act requires small companies, such as mine, to incur additional costs, many of which are passed on to the government, but many of which we must bear ourselves. This often results in small companies deciding federal work is just not worth the trouble.

When I learned about the provisions in S. 627, I was gravely concerned that Congress would even consider expanding this burdensome, costly law. The expansion of the law to off-site suppliers and manufacturers, lease agreements and independent contractors will dramatically add to the confusion, litigation and costs which are associated with Davis-Bacon. Any small benefit which would be gained from the increased threshold and reduced paperwork would be nullified by these expansion provisions. I may also point out that these benefits would indeed be small, particularly because the threshold would be different for new construction and for alteration or repair work.

The fact that S. 627 would virtually abolish the "helper" classification is also of chief concern. This relates to having to pay lesser skilled workers the high journey-level wage rate. Without the helper classification, my choice is between causing resentment among my higher skilled workers or not hiring lesser skilled workers for jobs they clearly could perform in a safe and efficient manner. While the helper classification has not yet been implemented on Davis-Bacon projects due to a ban on funding contained in the FY94 Labor, HHS, Education Appropriations bill, we hope that the Department of Labor will move forward with that process when that legislation expires. Helpers are widely used in the private sector.

If Congress wants to reform the Davis-Bacon Act in a positive manner, I suggest they adopt legislation such as S. 916 offered by Senator Larry Craig. S. 916 would raise the threshold to $500,000 for all types of construction, reduce paperwork from weekly to quarterly, and allow the unlimited use of helpers.

I thank the Labor and Human Resources Committee for this opportunity to testify and I am happy to answer any questions you may have.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I think we were attempting to follow what had been agreed on and that was the time limit for an hour. We were supposed to have the 15 minutes. I would yield myself now 7 minutes of that time.

Mr. President, we have heard a good deal about the history of the Davis-Bacon Act, the circumstances that led to the enactment of that statute in 1931, and the continuing need for the act's protections coming through the Depression and into modern times. I think we can add to that history with some evidence of what is occurring in the construction industry right now.

I ask unanimous consent that there be printed in the RECORD an excellent article that appeared in the Wall Street Journal that describes the devastating effect that more than a decade of wage cutting in the construction industry has had on wages and benefits in the industry and the supply of skilled craft workers.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 27, 1994]

WITH HOUSING STRONG, BUILDERS OFTEN FIND SKILLED HELP LACKING

CONTRACTORS COMPETE KEENLY FOR AVAILABLE TRADESMEN IN PLACES LIKE PHOENIX—A PROBLEM FOR LOS ANGELES?

(By Robert Tomsho)

PHOENIX.—These should be the best of times for Gilbert Plumbing Co.

With home building booming here, the company expects to install plumbing in about 3,000 homes this year—far more than the 500 homes a year it did in 1988 and 1989, the trough of the recent recession here. In the company's back lot on a recent afternoon, dozens of plumbers scrambled to load trucks with faucets, toilets and pipes for the next day's work.

Yet, as he paced the bustling yard, C.A. Gilbert, the company's 64-year-old founder, wore the steely grimace of a besieged general. With his 96 employees already working six-day, dawn-to-dusk weeks to keep up with demand, Mr. Gilbert is struggling to recruit 30 more plumbers by, among other things, advertising in newspapers as far away as New York, Minneapolis and Bismarck, N.D.

UNPRODUCTIVE ADS

He isn't very hopeful. A blitz of help wanted ads in major California newspapers last fall drew only 20 phone calls, and just one plumber was hired. Meanwhile, local competitors, offering an extra dollar or two an hour, recruit Gilbert plumbers as they leave the company lot at night.

"It's just a nightmare," Mr. Gilbert laments. "We can't get people."

Many contractors around the country have the same problem. "There is a critical need for skilled workers," says Rick Harris, a spokesman for the Home Builders Institute, an industry research group. "It's a national problem."

As the industry rebounds from a withering downturn, the problem has so far been most acute in residential construction, where the recovery has outpaced the commercial and industrial sectors. With low interest rates and moderating prices unleashing pent-up demand for homes, contractors in dozens of markets are having trouble finding skilled carpenters, plumbers and electricians. The shortage also is spawning concern about work quality as desperate contractors settle for less-reliable help. Meanwhile, projects are delayed and costs increased as workers demand higher wages.

In Kansas City, Mo., a shortage of skilled workers has added as much as two months to the time required to build a home. Oklahoma City bricklayers are charging as much as 50% more than a year ago for their services. Frustrated Denver home builders are preparing to hold a series of "job fairs" in other cities.

And with the prime summer building season approaching, the massive effort to rebuild Los Angeles is likely to aggravate the problem. "The earthquake is going to further put a squeeze on the manpower situation nationwide," says Peter Cockshaw, publisher of an industry newsletter. "And I don't know that they are going to get all of the skilled people that are needed."

Construction has always gone through boom-and-bust cycles that drove workers from region to region in search of jobs. As the demand for skilled labor revived in an area, pay rates rose and the workers returned. But that isn't happening now. Instead, regional building booms are exposing long-festering industry problems.

LOSING GROUND

Between 1983 and 1992, the nation's work force increased about 17%, to 103.7 million workers, but the number of construction workers rose only about 10%, to 4.5 million. Moreover, industry executives say fewer and fewer of those workers are the well-trained journeymen of a generation ago. "We can always find enough people to slam together some forms and do the grunt work," says Dan Bennett, executive vice president of Associated Builders and Contractors, a trade group based in Rosslyn, Va. "It's the skills where we are going to have a problem and already do."

Those growing shortages are the culmination of more than a decade of turmoil within the industry. In some families, generation once followed generation into the construction trades. Such jobs usually paid better and were more challenging than manufacturing work, and they offered broad opportunities for people to start up their own businesses.

But during the 1970s and 1980s, those traditions began eroding as major corporations and other customers, in a quest for lower building costs, awarded more jobs to nonunion contractors. As unions' market share dwindled, cutthroat competition among such firms drove down wages.

By 1988, according to the Bureau of Labor Statistics, manufacturing workers were earning more—about $16.26 an hour in total compensation, compared with $16.23 for construction workers. By 1993, the gap had increased, with manufacturing workers pulling down $20.09 an hour total compensation, compared with $19.71 in construction. In some regions, especially the right-to-work Southwest, construction wages fell even further for experienced workers, into the $12-to-$15-an-hour range with no benefits.

Older craft workers retired, and many younger journeymen left the industry. "And we can't rely on the people we have lost coming back," says John Heffner, training director for the Associated General Contractors of America, which represents many large commercial and industrial contractors. "I think they have just had it with a lack of benefits and guaranteed hours; they have just had it with being treated as a cost rather than an asset."

For a time, nonunion contractors still could find enough skilled help from the ranks of former union members, but they weren't replenishing the supply by recruiting and training young workers.

But while experienced people might still earn $12 to $15 an hour, potential recruits from the baby-bust generation began finding that starting wages for new trainees had slid as low as $5 an hour in some trades and that they could earn nearly as much manning a fast-food counter or stocking store shelves. And the difference wasn't enough to make up for construction's dirt, danger and few benefits, plus the uncertainty of an unemployment rate that regularly was double the national average.

By last year, even the Associated Builders and Contractors, whose members are primarily nonunion, was sounding the alarm. In one newsletter, Mr. Bennet, the trade-group executive, wrote that many construction workers could no longer afford homes or health insurance. He added that according to one survey, young people considered a career in construction only slightly more appealing than migrant farm work. "When you squash down, year after year, on wages, you don't attract a good person into the industry," he observes.

Stephen Gubin, chief executive of Phoenix-based Wilson Electric Co., which has 400 employees, couldn't even persuade his own son to learn the trade. "The labor supply isn't there because the kids haven't accepted this industry as a viable place to go for their careers," he says.

Those who have find training in short supply. Hundreds of vocational schools have abandoned construction programs in favor of high-tech fields. One 1990 study by the Construction Labor Research Council estimated that the industry was training only about two-thirds the number of workers it would need in the 1990s.

Union apprenticeship programs, long the industry's primary training and recruiting ground, have shriveled as the unions themselves have lost work. "The employers demand a skilled work force, and that is our product," says Ray Robertson, who oversees apprenticeship programs for the AFL–CIO's Building Trades Council. But while the unions' training apparatus remains in place, the system took on only about 170,000 new trainees last year, down from some 200,000 annually in the early 1980s. Says Bill Muns, director of training for Ironworkers Local 75 in Phoenix: "It does no good to train people if you don't have the jobs."

Moreover, most contractors provide only minimal on-the-job training. To speed up production, many have broken down the crafts into dozens of repetitive tasks and teach a worker only to install toilets, hang doors or build chimneys.

"In many cases, you are no longer a carpenter, you are a 'cutter'; you cut boards all day," says David Wilkinson, executive director of the Phoenix ABC office, who has been struggling to persuade local nonunion contractors to fund a better training program. Most have balked, fearing that competitors won't contribute and thus will gain a cost advantage in bidding. "If you throw two contractors off a bridge, they will scratch, kick and gouge each other all the way to impact, even though they know they are going to die at the bottom," he says.

The Phoenix market strikingly illustrates the fruits of such ruthless competition. Strewn across a vast desert valley, Arizona's largest city is virtually exploding with construction activity around its edges. Home builders' billboards line the highways, and acre after acre of former cotton fields and desert has come alive with bulldozers grading lots and construction crews wrestling up the frames of new homes. A near-record 22,652 new-home construction permits were issued in the Phoenix market last year, up 23% from 1992 and nearly double the 1990 total. "And had it not been for a shortage of construction labor, we would have exceeded that," says R.L. Brown, a local industry analyst.

That shortage is pushing the building time for the average Phoenix home toward 180 days from the traditional 75 to 90 days. Amid fluctuating lumber prices and interest rates, such delays have made it difficult for builders to estimate prices and for home buyers to lock in loans.

Schuck & Sons Construction Co., which specializes in putting up house frames for other contractors, has been trying to add about 150 framing carpenters to the 535 it already employs. The company keeps running newspaper ads as far away as Seattle, Salt Lake City and Denver, but so far the response has been sparse.

Last summer, a series of ads in the Los Angeles area drew 300 calls, but only 12 people showed up to work in Schuck's Phoenix operations and, after a week of raids by labor-hungry competitors, only two were still on the job. "Their choice, not ours," grumbles Craig Steele, Schuck's executive vice president, who is still advertising in the local paper though admitting that "it's just to let the builders know that we are still trying."

Growing desperate, contractors are advertising full health benefits, paid vacations and profit-sharing plans. A few have offered employees $50 for every new hire they bring in. For a time last year, Del Webb Corp., a major home builder here, ran ads on a local rock station offering to top any framing carpenter's last pay stub by $2 an hour.

Meanwhile, recruiters turn up on construction sites, hiring away tradesmen. "Guys are jumping ship left and right for 50 cents an hour," the local ABC's Mr. Wilkinson says. "You don't know who's going to show up on the job from one day to the next."

Or how good they will be. While there have been no scandals or major accidents, complaints about building quality and timeliness to the Arizona Registrar of Contractors, a state consumer agency, have risen by 3% to 4% in each of the past five years. Area contractors admit that they have to redo a lot of their crews' work and that concern about their workers' skills has spurred them to hire more superintendents and internal inspectors. "They are just not up to the caliber that they used to be," says Kim Bannister, a Del Webb executive.

Asked to move a gas line that he had misinstalled, one recent hire at Gilbert Plumbing simply revved up his chain saw and cut a broad gash into the drywall and studs of a newly built home. "You hire them and take your chances," says Mr. Gilbert, a blunt-spoken man who is struggling to reconcile the current turmoil with a work ethic forged long ago on his parent's North Dakota wheat farm.

Since arriving in Phoenix in 1969 with enough money to buy two second-hand trucks, he has built a booming plumbing business with 66 trucks, a computerized business office and revenue of about $9 million last year. All three of his adult children have joined him at Gilbert Plumbing; a daughter does the billing, one son is a superintendent, and another oversees the business operation. Mr. Gilbert still knows the vintage and mileage of all his trucks, which are washed weekly. His backlot is a sprawling but immaculate collection of bins filled with plumbing fixtures.

Although Mr. Gilbert's pay of $10 to $14 an hour for experienced plumbers isn't the most generous in the market, he proudly notes that he kept his core group of some 30 plumbers employed during the recession. Nevertheless, some of his most loyal employees say the business has changed. Journeymen plumbers such as Karen Schweigart, whose husband is a company superintendent, say the quality of the work force has dropped, health benefits and paid vacations are still hard to come by, and wages haven't kept pace with inflation. "There's nothing at the end of the rainbow in construction anymore," she says, adding that she has discouraged her children from entering the business.

Meanwhile, the relatively low pay and a lack of benefits have driven away plumbers such as Louis Leyba, who quit Gilbert Plumbing five months ago. "I worked for a few shops, and they are all the same," grumbles the 48-year-old Mr. Leyba, who says his current job as a groundskeeper for a suburban government offers better benefits than any he ever got in plumbing.

Another former Gilbert plumber, Ralph Naylor, says no amount of money could persuade him to pick up his wrenches again. "I had to borrow money to make house payments," says Mr. Naylor, who became a building appraiser. Construction companies "are saying that they want skilled labor, but they don't want to pay for it."

Oddly enough, Mr. Gilbert acknowledges that navigating through the downturn wasn't nearly as hard as dealing with a market where some general contractors, desperate for his services, have told him to name his price. Tripling his work force to handle the load has been a nightmare. Many plumbers, hired in the afternoon, continue to shop for better-paying jobs and never punch in the following morning. On any given day, a dozen or so of his workers don't show up, and most don't call in. Eight quit for other jobs one recent week. One asked for—and got—a $450 advance the day before he disappeared.

"We've had some employees whose fathers have died three times," grumbles Mr. Gilbert, who hesitates to criticize, punish or fire workers, knowing they can get another job in half an hour. "You got to be careful how you talk to them."

Desperate for help, Mr. Gilbert allows his secretaries to make hiring decisions if company executives aren't available to interview walk-ins. He even has taken on plumbers who, having lost their drivers' licenses because of speeding or drunken-driving convictions, need a driver to ferry them from job to job.

Recruiting is never far from Mr. Gilbert's mind. As he and one of his sons were driving back to the office one recent afternoon, Mr. Gilbert suddenly perked up. "Steve, there are two plumbers' trucks up ahead of you," he said. "Speed up and see if you can catch 'em."

Mr. KENNEDY. The article shows that because of the decline in wages and benefits in the industry, builders are no longer able to find skilled workers. Experienced workers are leaving the industry, young people no longer want to enter the industry, and apprenticeship programs capable of providing workers with high level skills are disappearing. And with that deterioration of skills has come a deterioriation in quality.

The Wall Street Journal's findings are similar to the findings in a study done by three economists at the University of Utah, who looked at what has occurred in the construction industry in Utah since the State repealed its State prevailing wage law in 1981. The researchers found that competition in wages occuring as result of the repeal of the prevailing wage law drove down average wages in the industry, caused experienced workers to leave the industry, and led to a severe decline in the number of apprentices being trained through union apprenticeship programs—which had traditionally been the primary source of skilled workers for the industry. The decline in union-sponsored apprenticeship programs has not been offset by increased training efforts in either the public sector or the non-union sector.

If the State of Utah wants to repeal its prevailing wage law as it applies to projects funded with State dollars, that's the State's prerogative. But we are talking here about Federal taxpayers' dollars, and making sure that those funds are not utilized to drive down community wage standards for construction workers.

What wages does the Davis-Bacon Act require to be paid to construction workers? All that the act requires is that workers be paid the wage that is prevailing in the locality in which the work is being performed. And if there is no single wage that is being paid to 50 percent or more of the workers in that area performing that type of work, then the prevailing wage is computed as the average of the wages paid in that community for that type of work.

If the majority of work in that community is under union contracts, then the prevailing rate may turn out to be the union rate. But if the majority of work is nonunion, then the prevailing rate is going to be the nonunion rate or an average rate.

So if you have construction in northern Idaho, and the majority of workers in that area are being paid a lower wage than what would be considered to be the union wage, then the lower rate is what Davis-Bacon says must be paid. So the suggestion that the Davis-Bacon Act somehow requires contractors on Federal construction projects in remote areas where wages are typically low to pay a higher wage, or the union wage, just does not hold water. That is not an accurate reflection of how the act's prevailing wage requirement works.

Just last week, the Labor and Human Resources Committee had a hearing on the issue of Davis-Bacon reform, and we were happy to welcome Senator CRAIG, who came over and gave testimony at that hearing. The administration has endorsed a very reasonable package of Davis-Bacon reforms, which we are considering in the committee, which would raise the threshold for Davis-Bacon coverage to $100,000 on contracts for new construction and to $50,000 on contracts for repair and maintenance of existing structures. This legislation would also substantially simplify the paperwork and the reporting procedures as they apply not just to federally funded construction under the Davis-Bacon Act, but also to federally assisted construction performed under the more than 50 different statutes—that are currently on the books which require Davis-Bacon protections on federally assisted construction projects.

The way to deal with they many issues that have been raised over the years regarding Davis-Bacon is through comprehensive reform of the type we are considering now in the Labor Committee. That is the way we ought to deal with it. We are glad to try and accommodate and deal with the particular concerns raised by Senator CRAIG and others through the committee process.

I say, finally, Mr. President, that I am really constantly surprised about what opponents of the Davis-Bacon Act have against hardworking men and women in the construction industry who are working hard to try to provide for their families. The average worker in the construction industry works about 1,400 to 1,600 hours a year. The rate of unemployment for the construction industry is double the national average. In many different areas, it is three or four times as much. What are we talking about in terms of average yearly income? We are talking about construction workers, in general, making between $20,000 and $23,000 a year. You are talking about workers doing carpentry and floors making $20,000 to $23,000. Workers in plumbing, heating, and air conditioning, $21,000 to $24,000 a year. Electrical workers, $22,000 to $25,000 a year. Painting and paper hanging, $18,000 to $21,000 a year. These are the average annual wages for workers in the construction industry.

What in the world do we have against these hardworking men and women? We are not talking about the CEO of Pizza Hut that is making more than $1 million a year. We are not talking about the top CEO's of the major companies with their golden parachutes to protect them if they make mistakes that cause their companies to do poorly. We are not talking about people with these kinds of privileges. We are talking about hard working people that are trying to make a living in the construction trades and are prepared to do the hard work. Many in the construction trades in my city of Boston drive all the way up to Alaska to look for work, and they are separated from their families. These are the people that supposedly are making too much money. That is unfair.

Mr. President, we are committed to moving forward on the issue of Davis-Bacon reform, in the areas which have been outlined. We are serious about trying to accommodate the need to rationalize and streamline the Federal procurement process. But we must remember the men and women whom the Davis-Bacon Act is intended to protect. It is a tough economy out there. In many of the trades in my State—generally, throughout New England—you are talking about 50 or 60 percent unemployment that is still as high as 50 or 60 percent. So let's not talk about nickel and diming these people.

If you are going to invest taxpayers' money in constructing public buildings, you want to have the best skilled men and women that are available to do it. As John Dunlop, the leading construction economist in the country and a former Republican Secretary of Labor has pointed out, lower wage costs do not necessarily translate into lower overall project costs, because higher paid, better trained workers may be significantly more efficient on the job and do higher quality work, which means lower maintenance and repair costs in the future. Maybe you pay $1 or $2 more in wages to the workers, but you save more in the long road savings because of the efficiency and skills of the workers and the quality of work they perform.

So, Mr. President, I give the assurance to our friend and colleague that we are prepared to come to grips and deal with this issue. We have legislation before us. We have a very significant and major initiative by the administration in dealing with many of these provisions. We are committed to try to get that out, hopefully, perhaps before the end of the year. We are glad to do that. Hopefully, we will be able to get legislation out of our committee with support on different measures, and we would welcome the opportunity to do so.

But it seems to me that this trying to effectively flyspeck a particular legislation on this that is dealing with a very, very small amount—I mean $100 million is a significant amount, but you are talking about schools across the country that it is going to. I want to make sure that when the funds are used in terms of trying to do something for the school facilities that it is going to be done well.

You know, it is interesting that this is targeted on the rehabilitation of schools for the poorest children. This is wonderful, is it not? It is schools for the poorest children, and that has been in the crosshairs of this amendment. Why is it not on some other kind of a project? It is schools for the poorest children in America.

We give the assurance that we will have legislation. We will get it out as early as possible. Then we will debate it, and I think we will be able to craft it in ways that will deal with some of the worthwhile points that have been raised, but do it in a responsible way.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. While there is not a unanimous-consent request, we are operating under a gentlemen's agreement at this time. I ask how much time remains?

The ACTING PRESIDENT pro tempore. The Senator has approximately 10 minutes.

Mr. CRAIG. Mr. President, let me respond only briefly to what the chairman of the committee has just said.

First of all, we are not talking about history. I am not interested in history. I am interested in what one-half billion dollars today will do for poor kids. You are darn right this will go to the poorest kids in the poorest school districts, and it is the poorest school districts that cannot afford that extra 30 or 40 or 50 percent cost in wages that the chairman is talking about.

If we are talking about education, let us spread that education dollar and build those facilities in the poorest districts instead of having school districts walk away because they cannot meet that standard. That is what we are talking about here.

Now, the chairman said it was only a small amount of money. In my State, one-half billion dollars is half the State's budget for an entire year. I think to the average taxpayer listening one-half billion dollars is an awful lot of money.

Mr. KENNEDY. If the Senator will yield, the provision is $100 million for construction.

Mr. CRAIG. It is $100 million, plus $400 million out of the HHS budget. It is a combination of the total of the two that this provision applies to in the total grant program.

Mr. KENNEDY. Some is out of Energy. I will put the exact figure in the RECORD.

I thank the Senator.

Mr. CRAIG. Fine.

Let me correct myself, because the chairman is right on the $100 million. It is a $400 million total. It is a $400 million total that applies to this provision that we are talking about.

I do not think anyone, Mr. President, is interested and wants to undercut the construction worker, but let me give you an example of what we are talking about.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 11, 1993.

Re Davis-Bacon Act.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: With the recent emphasis on spending cuts, I would like to offer my opinion as to the easiest way to save money; repeal the Davis-Bacon Act.

This act sets a wage and benefits rate for various construction trades that must be paid on all public works jobs. This rate is directly decided by trades national union. It needlessly increases the cost of labor and gives an unfair advantage to union shops.

To show you just how much money is wasted, my father-in-law is an electrical contractor in Los Angeles County, California. In his office the highest paid electricians wage is $15.00 per hour. This same employee is paid $33.38 (wage plus benefits) when working on public jobs. That is over 200% more per hour.

I'm sure you are aware of the trade unions' opinions on setting wage bases and standards, I just wanted you to know how I feel.

Please cut spending by repealing the Davis-Bacon Act.

Thank you.

NICCOLE MOYLE FERGUSON.

Mr. CRAIG. Mr. President, it is a letter from a young lady in Star, ID. This does not appear to apply to Idaho, but she references her father-in-law who is an electrical contractor in Los Angeles County, CA. In his office the highest paid electrician's wage is between $15 and $18 an hour. Now, on non-Federal jobs that is what the prevailing wage is. That is pretty good money. That means that those electricians can provide for themselves and their family. That is not a great living, but in today's effort where we are trying to get people to work, $15 to $18 an hour is pretty good money.

If he works a private job on one side of the street that is what he gets paid. If he works a Federal job on the other side of the street the prevailing wage is $33.38 an hour, a 200 percent increase.

In this particular area, Mr. President, we are talking about local school districts. We are not talking about huge Federal construction projects. We are talking about blending small amounts of grant money, 25 percent or less, to local units of school districts and a State's money, and that 25 percent or less should not be the tail that wags the dog.

That is why I am not interested in the history of Davis-Bacon. I do not want to debate it here today. I want to talk about how we are going to spread our Federal tax dollars today in a responsible way, just like the majority of Congress decided they are going to do in the crime bill. It is identical to the provision now in the crime bill.

If the chairman of the committee votes for the crime conference, he is going to vote for this provision. So I ask him to join me and join the rest of the Senators and spread this across educational dollars.

I withhold the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Senator does not state accurately whether or not it is in the crime bill. The provisions in the crime bill have absolutely no relationship to the construction of the prisons, absolutely none.

The only provision where this was included is the Conyers amendment, which lists a range of different programs, in which there may or may not be construction, and if it is considered within those areas, then that provision will apply. But there should be no suggestion in this debate that the provision that the Senator has identified is going to be applicable to the building and construction of prisons.

Mr. CRAIG. Mr. President, I do not believe I mentioned construction of prisons. I said in construction programs in the crime bill.

Now, the dollars in the Conyers amendment would go to enhance facilities for both criminal and noncriminal. We are talking about facilities in the neighborhoods for midnight basketball, and those kind of things. We are talking about that combination of expenditures.

This amendment does apply, and I think the chairman recognizes that. I am not suggesting that in major Federal prison construction programs this would apply.

Mr. KENNEDY. Mr. President, I am glad the Senator clarified it because I think most Members would feel this applies to the crime bill, which has billions of dollars in there for prison construction. The provision that he has identified has absolutely nothing to do with that. He is correct on the Conyers basic preventive programs that talk about Head Start programs, that talk about education programs, continuing education programs. If there has to be some adjustment to existing facilities in a limited provision in terms of any kind of construction it would be applicable in those areas.

I doubt if we will have the kind of even amount of construction that we have talked about in this bill that would be $100 million.

Whatever time remains I yield to the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized for the remaining time of 9 minutes.

Mr. METZENBAUM. Mr. President, I have a lot of respect for my friend from Idaho. But I have to tell him he is too late. We have had this amendment on the floor in various forms and fashions. I do not know how many times, maybe 40, maybe 50, maybe 60 times. It is regularly voted down because the majority of the Members of this body recognize the legitimacy of the Davis-Bacon Act.

When he says that he does not think anyone wants to undercut construction workers' wages, let me just say he may not think that anyone wants to undercut them, but the reality is that this amendment would undercut them. If you take away the Federal protection that is provided under the Davis-Bacon Act, then you are effectively slashing the wages of construction workers. Construction workers are not paid that well. Yes, they get a pretty fair hourly wage, and nobody will argue that. But they do not work a full 52 weeks, due to weather conditions and economic conditions. Sometimes you get a job and you work on it for 6 weeks and you do not get another job for a month's time.

I have a man who helps us at our home who was a construction worker, but now there is no work for him, so he comes and does some handiwork around the house.

That is the transient nature of construction work. You do not go into one plant and just work there day in and day out. You find the jobs as they move around, and if the contractor does not get the job, you do not have any work.

So an average worker who does find 9 months of work during a given year makes maybe around $22,000 a year, hardly a high wage, certainly not one that we here in the Senate would want to cut.

Let me make one other point. Construction work is one of the most dangerous occupations in this country, and construction workers regularly face substantial safety risks on the job. It really would not be right to take away from them the decent wages that they are presently making.

Now let us take a look at our actual experience under this act. In 1971, President Nixon suspended the Davis-Bacon Act during the wage and price freeze. Over 1,000 contracts that had already been put through the bidding process were rebid. Do you know how much they saved? Oh, it was magnificent. It was a great savings because the Davis-Bacon Act did not apply. On average, the rebid contracts cost only six-tenths of 1 percent less than they had when they were bid under Davis-Bacon. And even that paltry difference may be due to factors other than the absence of Davis-Bacon protections.

So I say that the evidence shows that exempting projects from the Davis-Bacon Act really does not save any money. The fact is that the cost-savings estimate underlying this amendment represents nothing more than wishful thinking. We here in the U.S. Senate should stand up and say we are not going to be a party to cutting the wages of decent men and women who are trying to earn a living in the construction trades. And, effectively, if the Craig amendment were to pass, that is exactly what we would be doing.

I am confident the amendment will not pass. We have defeated it time and time and time again, and I believe we will defeat it again today.

I yield back the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Idaho.

Mr. CRAIG. I yield 4 minutes to my colleague from Idaho.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

I would like to add my support to the amendment that is before us. I would like to reference this idea that if we really want to help the poor areas, in this case with reference to poor schools, that we should reject this.

Last year I went to Philadelphia. I went to meet with the mayor of Philadelphia, Ed Rendell, who is doing a tremendous job as mayor of Philadelphia, and who I consider a friend. I asked him to show me the neighborhoods in Philadelphia where they truly have problems of massive unemployment, security problems, where the kids are having a hard time.

We went to some of these neighborhoods where there was graffiti everywhere, where there were bars on the windows of all the homes, the shops, churches. The churches and the hospitals in this particular neighborhood were also covered with graffiti—I could not believe that even churches were covered—and where it was a dangerous area.

But in the center of this was a new housing unit that had been built by those people in that area. I met with the construction supervisor, whose name was Carlos. Carlos, in his discussion with me—in showing me the quality of the workmanship that they were so proud of, and the fact that this was one island in that neighborhood that was totally unmarked by graffiti, it did not have bars on the windows—he brought up and volunteered—I did not even bring up the topic—but he said, "Please, do something about Davis-Bacon because, if we could remove Davis-Bacon provisions on these types of projects, we could build more of them and employ more people. It is what my people in this neighborhood of Philadelphia need to have happen so that we can bring about some better quality housing and bring about dignity into that area."

Carlos said to me, "Please, do something about the Davis-Bacon Act." This is a first step.

I would not say that my colleague from Idaho is late in bringing this up. Thank goodness, he is persistent, like a number of people are going to be persistent until finally we do something with the Davis-Bacon Act.

Mr. President, I yield my time back to the senior Senator from Idaho.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. In keeping with the understanding I had with the chairman, I think I have about a minute remaining. I will make a few concluding statements, and then I will ask for the yeas and nays on this amendment.

Mr. President, the Senator from Ohio said we were too late. You are never too late with a good idea. And, by the way, this amendment has never been offered on the floor of the Senate before. This is the first time we have attempted to take these small grants —in other words, that tail that wags the dog—and say it should not be doing this, and exempt that.

Of course, my colleague from Idaho just gave a perfect example. When we are talking about minorities today, we are talking about locking them out of the process, locking them out of their ability to blend with Federal dollars, and do for themselves what they so desperately want to do.

Mr. President, I ask unanimous consent that a statement from the National Association of Minority Contractors be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DAVIS-BACON ACT—SUMMARY OF NAMC'S POSITION

The National Association of Minority Contractors (NAMC) supports legislation to significantly reform the Davis-Bacon Act of 1931. The Act seems benign in requiring contractors to pay locally "prevailing wages" to their workers on federally financed construction contracts exceeding $2,000. However, it discriminates against small and small disadvantaged construction firms, as well as lower skilled construction workers, by effectively prohibiting wages competing with union rates on federally financed projects.

Minority-owned firms and minority construction workers are particularly impacted by Davis-Bacon's onerousness due to being disproportionately represented among smaller firms and lower skilled workers, respectively. But Davis-Bacon's onerous impact on small and minority firms and workers does not end there. The Act also raises the costs of federally financed construction by as much as $900 million annually, and therefore makes little sense in light of President Clinton's efforts to reduce the national deficit and streamline the federal government.

While commending Vice President Gore's National Performance Review (NPR) in identifying recommendations for cutting costs and streamlining the government, NAMC holds that the specific NPR proposal to raise the current $2,000 Davis-Bacon threshold to $100,000 will do little to lift the Act's unfair burden on minority-owned firms and minority construction workers. A $100,000 Davis-Bacon threshold would conform cosmetically with the "simplified acquisition threshold" currently under consideration by the Clinton administration, but would nonetheless fall short of the urgent need for fairer treatment of small business concerns, and the more efficient use of taxpayers' dollars in the federal procurement process.

NAMC stands against the leading proposal for implementing the NPR Davis-Bacon proposal, H.R. 1231/S. 627, and, instead, advocates H.R. 2042/S. 916 which has been introduced by Representatives Charles Stenholm (D-TX) and Harris Fawell (R-IL), and by Senator Larry Craig (R-ID), respectively. The Stenholm/Fawell/Craig "Davis-Bacon Reform" bill not only raises the Davis-Bacon threshold to a realistic $500,000, but also includes provisions going a lot further toward correcting the onerousness of Davis/Bacon than H.R. 1231/S. 627.

WHY THE DAVIS-BACON ACT SHOULD BE REFORMED

The Davis-Bacon Act poses an historical burden on minorities in the construction industry which continues to this day. The Act has not only kept minorities from advancing as construction contractors and laborers, but has also cost the government huge amounts in excessive federal spending on construction for far too long. The reasons that merit significantly reforming Davis-Bacon are longstanding and agreed upon by most firms in the construction industry, minority and white-owned alike.

1. The Davis-Bacon Act is legally and morally obsolete. Legislative history shows that the Davis-Bacon act was passed during the Depression-era primarily to keep Southern black construction workers from competing with white construction unions on public works projects. The Act's discriminatory origins have effectively blocked minority participation in the construction industry for over 60 years.

Today, Davis-Bacon has the effect of preventing small and minority-owned firms from bidding on public works contracts which comprise at least one-fifth of all construction in the U.S. Davis-Bacon also has the effect of freezing out lower-skilled minority workers from job opportunities in the public works arena, not only at the federal level, but also at the state level, where many "Little Davis-Bacon" Acts are currently in effect.

The constitutionality of Davis-Bacon as it stands is extremely doubtful at best. The Act's original discriminatory intent, coupled with its continuing discriminatory impact, merits repeal by Congress, if not significant anti-discriminatory reform.

2. The Davis-Bacon Act curbs free market competition by effectively eliminating small and disadvantaged firms from bidding on federal construction work. Defenders of Davis-Bacon argue that the Act is necessary to protect local contractors and local labor markets from unfair, itinerant competition. However, the facts do not bear this out. Rather than protecting local contractors from unfair competition, Davis-Bacon has practically fostered a closed group of large contractors who follow federal and federally financed construction work around the country to the exclusion of smaller, local contractors.

Smaller, local contractors who typically cannot pay their workers union-scale are discouraged from bidding on Davis-Bacon work for a number of reasons. First, being forced to pay union-scale on Davis-Bacon work compels smaller contractors to either maintain unreasonably high rates when bidding on private work, or jump back and forth between union and market wage rates, neither approach making good sense in the running of a small business. Second, small local contractors are discouraged from employing lower-skilled workers (often young minorities) for on-the-job training because they cannot justify the rates which they must pay these workers. Third, small local contractors are pressured to keep bidding on Davis-Bacon work to the exclusion of private contracting opportunities because of the cycle of high operating costs into which they are locked after getting into Davis-Bacon work. In short, Davis-Bacon works against small local contractors by effectively removing labor from the competitive bidding process typical of most construction projects. Davis-Bacon creates a two-tiered industry in which small and minority-owned firms are forced to stay away from bidding on federal contracts because of the unnecessarily high business risk involved.

Davis-Bacon not only fails in its claim of protecting local contractors and workers, but also fails in its historical justification of this claim. As mentioned earlier, the Act should properly be recognized as curbing economic liberty for reasons originally having less to do with economics than with racial animus. Even today, minorities remain grossly underrepresented in the unions protected by Davis-Bacon, a fact which many attribute more to the legacy of racism than to the inability of minorities to compete for union positions. It is roughly estimated that the typical construction union minority worker is lucky to be employed more than five or six months out of the year.

3. The Davis-Bacon Act fails to reflect the cross-disciplinary approach to work in today's construction industry. Davis-Bacon requires work assignments and payroll reporting along rigid craft-by-craft lines reminiscent of the 1930s. It fails to reflect industry practice in private sector construction today. The only firms equipped to meet Davis-Bacon's outdated "work rules" are typically large, unionized contractors who, over time, have carved out special departments within their operations specifically tailored for Davis-Bacon work.

Minority-owned firms are particularly affected by Davis-Bacon's outdated work rules because they are typically too small in size and too limited in capital to adjust their operations merely for compliance purposes. Lower skilled minority construction workers also suffer because they are prevented from advancing through on-the-job, learning since they required to be rigidly locked into limited, inflexible scopes of work at the bottom of the employment ladder.

4. The Davis-Bacon Act overburdens the federal government by requiring the Department of Labor to undertake the impractical task of issuing and maintaining accurate wage determinations in numerous localities nationwide. Davis-Bacon has been described as a "Prolific artificial numbers factory." Objective observers, including the General Accounting Office (1979 Study), have found that the sheer volume of administrative work involved in pursuing wage determinations creates an overwhelming burden on the Department of Labor. It is widely assumed that DOL Analysts use or approximate union rates in coming up with ten to twenty thousand wage determinations annually, a significant percentage of which fail to reflect actual prevailing market conditions. Davis-Bacon should be reformed to allow wages to reach equilibrium at realistic rates reflecting true market conditions in the construction industry.

5. The Davis-Bacon Act has an unwarranted negative impact on the federal budget. The Congressional Budget Office estimates that Davis-Bacon adds as much as $900 million a year to federal construction costs. This level of federal spending is an unjustifiable waste of taxpayers' dollars. Davis-Bacon is a wasteful law which should be reformed to save significant tax dollars and free up funding for other pressing federal procurement needs.

WHY NAMC SUPPORTS THE DAVIS-BACON REFORM BILL

NAMC supports H.R. 2042/S. 916 which has been introduced in the House by Representatives Charles Stenholm (D–TX) and Harris Fawell (R–IL), and in the Senate by Senator Larry Craig (R–ID), respectively. The result of a bi-partisan effort, this "Davis-Bacon Reform" bill promises modifications to the Davis-Bacon Act removing its most onerous elements. While many of NAMC's members advocate the outright repeal of Davis-Bacon, NAMC acknowledges that repeal would be unnecessary if Congress would take the kinds of corrective action so urgently needed. The following specific items supported by NAMC are included in the Davis-Bacon Reform bill.

1. The Davis-Bacon Reform bill would increase the Davis-Bacon threshold to contracts involving more than $500,000. The

Davis-Bacon Reform bill exempts from Davis-Bacon federal and federally assisted projects for construction, alteration or repair valued at $500,000 or less. It also proposes a prohibition on contract-splitting to safeguard against potential abuse of this higher threshold.

The $500,000 threshold is significantly better than the bifurcated threshold proposed under H.R. 1231/S.627 (discussed further below). It is not only less confusing, but would open up relevant numbers of small contract opportunities for those small and minority-owned businesses which have typically avoided Davis-Bacon because of its costly and anti-competitive impact.

2. The Davis-Bacon Reform bill would expand the use of helpers in public works contracts. The Davis-Bacon Reform bill opens the door for the expanded use of helpers in federal and federally assisted construction work. The bill defines "helpers" as a separate class of workers for whom the DOL must make appropriate prevailing wage determinations. The bill essentially codifies DOL regulations which have withstood more than ten years of judicial and administrative review. It potentially opens up entry-level opportunities at competitive wage rates not only for minorities but for all lower-skilled workers seeking jobs on federal and federally assisted projects.

3. The Davis-Bacon Reform bill would reduce burdensome paperwork requirements by cutting back on Copeland Act mandated weekly payroll reports. Under the Davis-Bacon bill, current Davis-Bacon requirements for weekly submissions of complete, certified payroll records would be significantly reduced. The bill proposes amending the Copeland Act to require contractors to submit payroll statements "no less often than every 3 months."

The Davis-Bacon Reform bill goes significantly further than H.R. 1231/S. 627 in relieving small and minority-owned businesses from the overwhelming burdens of excessive paperwork.

4. The Davis-Bacon Reform bill would allow for determining "prevailing wages" more accurately to reflect private sector wage rates. The Davis-Bacon Act currently does not define "prevailing wages," but the Davis-Bacon Reform bill codifies a definition that would bring DOL wage determinations more accurately in line with the private sector wage levels of localities nationwide. By requiring the Secretary of Labor to exclude wage rates under federal contracts from its prevailing wage determinations, the Davis-Bacon Reform bill ensures that these determinations will reflect real private sector market rates. Having wage determinations that fall in line with real market rates would allow nonunion and small contracting firms to bid for federal contracts in fair competition with the large unionized construction firms.

5. The Davis-Bacon Reform bill exempts federal prevailing wage requirements from primarily local projects. The Davis-Bacon Reform eases the burden of federal prevailing wage requirements on state and local construction projects by proposing a formula which would apply DOL wage determinations only where federal funding covers at least 25% of a project's cost. This addresses the problem of federal wage rate interference in state and local projects involving low amounts of federal funding.

6. In addition to the above, the Davis-Bacon Reform bill eliminates the current prohibition on the use of volunteers on federally funded projects; reduces the disruptive impact of prevailing wage determinations on contractors in rural areas; and codifies regulations repealing the 30% rule requiring contractors to pay wages at the same rate paid in an area by large union contractors. The combined package offered by the Davis-Bacon Reform bill is significantly more responsive to the needs of small and minority-owned businesses and minority workers than H.R. 1231/S. 627, discussed below. At the same time, the Davis-Bacon Reform bill shows promise of being more palatable to the large, powerful union contractors than the outright repeal of Davis-Bacon.

WHY NAMC OPPOSES H.R. 1231/S. 627

H.R. 1231/S. 627 has been introduced by Representatives Austin Murphy (D–PA) and Bill Ford (D–MI), and by Senator Ted Kennedy (D–MA), in the House and Senate respectively. While the bill appears on its surface to reduce the onerousness of Davis-Bacon by raising the compliance threshold from $2,000 to $100,000, it in fact creates increased burdens on minority-owned companies and workers by expanding the scope of the Act. Following are specific reasons why NAMC opposes H.R. 1231/S. 627.

1. H.R. 1231 proposes a bifurcated increase in the Davis-Bacon threshold which would provide little relief from the Act's currently unfair burden on small and minority-owned businesses and minority workers. Section 2(b)(1) of H.R. 1231 proposes increasing the Davis-Bacon threshold from $2,000 to $100,000 for new construction, and $15,000 for building alternations, repairs, renovations, etc. The potentially positive effect of this new, bifurcated threshold is unfortunately lost on its problematic drawbacks.

In the first place, the new threshold still falls far short of what would be necessary to open up relevant opportunities for market participation by small and minority businesses and lower-skilled workers in government construction. A more realistic, single threshold of $500,000 would allow small businesses to sustain real growth without the drawback of unfair prevailing wage and other burdensome Davis-Bacon requirements. It would also create job openings for lower-skilled workers on construction work funded by the federal government. Such a threshold has been introduced under H.R. 2042/S. 916 proposed by Representatives Charles Stenholm (D–TX) and Harris Fawell (R–ID), and by Senator Larry Craig (R–ID), respectively.

A second reason why the new threshold is a problem is that bifurcation creates a likelihood of high administrative costs both to the government and Davis-Bacon contractors, as well as increased litigation and plain confusion regarding which federal contracts will and will not be affected by Davis-Bacon. A single threshold set reasonably high (e.g. at $500,000) would not only be less confusing than a bifurcated threshold, but would also reduce administrative costs to the government and small businesses along lines tying in to recommendations currently under consideration by the Clinton administration (in the Federal Acquisition Streamlining Act of 1993) regarding contract cost principles and cost and pricing data.

A third reason why the new threshold is a problem is that the "contract bundling" rules written into Section 2(b)(3) of H.R. 1231 could be used by government departments and agencies to combine federal contracts in ways that would make the bifurcated threshold inapplicable. As a result of contract bundling, many small and minority-owned firms could continue to be blocked from taking on Davis-Bacon work otherwise within their capabilities.

A final reason why the new threshold is a problem is that any minor gains by small and minority-owned firms and workers through prevailing wage exemptions under the bifurcated threshold would be practically negated by other, related provisions of H.R. 1231 discussed in items 2 through 7 below.

2. H.R. 1231 practically guarantees prohibitive minimum wage requirements for small and minority-owned businesses by excluding contracts under $100,000 from the Secretary of Labor's prevailing wage determinations. Section 3(b)(1) of H.R. 1231 requires the Secretary of Labor to consider private and government construction contracts alike in making prevailing wage determinations. It further requires the Secretary to exclude contracts below the new bifurcated threshold in its wage determinations. Since smaller, private contracts tend to involve lower wage rates, Section 3(b)(1) requirements would have the effect of driving up the wage levels found to be "prevailing" in any given area.

Small and minority-owned firms currently unable to afford Davis-Bacon rates would continue to be frozen out of the Davis-Bacon market because of unreasonably high DOL prevailing wage rate determinations.

3. H.R. 1231 curbs minority business development and raises federal government costs by eliminating the "site of work" restriction currently in effect under Davis-Bacon. The "site of work" limitation in Davis-Bacon was recently upheld in *Building & Construction Trades Dept. v. Dept. of Labor (Midway Excavators)* 932 F.2d 985 (D.C. Cir. 1991). It ensures that prevailing wage requirements apply only to onsite construction within the geographical confines of a federally financed project. It currently serves to hold back an explosion of litigation regarding the extent to which a wide range of off-site businesses are impacted by Davis-Bacon.

By eliminating the "site of work" limitation, H.R. 1231 risks extending the burden of Davis-Bacon to all kinds of off-site workers tangentially involved in federal construction projects. Small and minority enterprises seeking business opportunities in such areas as manufacturing, material supplies and deliveries would effectively be overwhelmed by the burdens and potential risks of being deemed a falling under Davis-Bacon. The federal government would also be forced to endure an unreasonable and unjustifiable growth in construction costs as a result of excessive prevailing wage requirements spreading to industries (such as steel manufacturing or truck deliveries) never intended by Congress to be covered by Davis-Bacon.

4. H.R. 1231 unduly restricts the use of "helpers" on Davis-Bacon work, thereby freezing lower-skilled workers out of the public works job market. Under Section 2(c)(4), H.R. 1231 defines Davis-Bacon "helpers" as "separate and distinct" from laborers and mechanics, and restricts their use in such a way as to effectively prevent their ability to get hired on Davis-Bacon work, or to advance through on-the-job training if hired.

The effect of H.R. 1231 would be to discourage minority workers, many of whom are unskilled and non-union, from seeking entry level positions in federal construction work. The lower-skilled minority worker unable to command union pay (due to lack of apprenticeship training), and willing to offer services at below-union rates, would be preempted from seeking work altogether for two reasons. First, potential employers would be hard-pressed to find a position for such worker entailing duties completely "separate and distinct" from duties traditionally undertaken by laborers and mechanics. Second, even if such a worker could get hired, he or she would soon be discouraged upon learning that the law prohibited advancement through on-the-job learning. In the long run H.R. 1231 would entrench unemployment at the lowest rungs of the economic ladder by removing labor from the competitive bidding process on public works contracts. Helpers exist for a legitimate economic purpose well-recognized in the construction industry, and should not be forced by Congress out of the competitive process merely to protect unionized labor.

Congress' recent action prohibiting the DOL from implementing helper regulations promulgated under the Reagan administration would seem to suggest a lack of sensitivity to, or understanding or, the truly harmful effect which Davis-Bacon has had and continues to have on minority businesses and workers. NAMC urges Congress to rigorously review the issue of helpers before taking further steps entrenching Davis-Bacon's onerous effects on minorities and the national economy as a whole.

5. H.R. 1231 fails to rigorously address the paperwork burden imposed by Davis-Bacon on small businesses. The Copeland Anti-Kickback Act of 1934 requires employers on Davis-Bacon contracts to submit complete, certified payroll records to the Department of Labor or its contracting agencies every week. Complying with this requirement mandates significant adjustments for small firms which typically operate on a two-week payroll cycle. The Davis-Bacon paperwork requirement poses an especially harsh burden on minority contractors lacking the required staff or capital needed to ensure compliance.

While H.R. 1231 attempts to alleviate the paperwork burden by requiring monthly rather than weekly payroll reports, this step falls far short of the kind of reform needed for genuine paperwork reduction. The paperwork reduction proposal offered under H.R. 2047 (mentioned earlier) requiring payroll statements "no less than every three months" would address existing Davis-Bacon paperwork burdens more efficiently.

6. H.R. 1231 unnecessarily expands the scope of Davis-Bacon to contracts on leased government facilities, a step which would deter small and minority contractors otherwise seeking to compete for such contracts. Section 2(b)(4) of H.R. 1231 proposes expanding Davis-Bacon to cover construction, renovation, alteration or other work on buildings leased by the federal government under lease agreements requiring such work. By expanding Davis-Bacon to cover such facilities, H.R. 1231 would negatively impact small and minority firms, as well as the federal government. Davis-Bacon currently poses sufficient hardship to small and minority contractors without being extended to contracts involving leased government facilities.

7. H.R. 1231 leaves the door open for abuse and costly litigation by expanding Davis-Bacon's scope and coverage without rigorously addressing the Act's overly harsh impact on small and minority-owned firms and minority workers. By expanding the already overly burdensome Davis-Bacon Act, H.R. 1231 would most likely create a climate of legal and regulatory noncompliance by firms incapable of meeting its requirements. Furthermore, cumbersome provisions in Section 4 allowing laborers, mechanics and "interested persons" to file challenges against the DOL and/or Davis-Bacon contractors would encourage all kinds of costly litigation on provisions in Sections 2 and 3 of the bill relating to such issues as state wage law preemptions, wage/fringe benefit combinations, ERISA preemption, multiple contract bundling, and helper classifications. The potential costs of such litigation far outweigh any possible benefits which H.R. 1231 could have as it currently stands.

CONCLUSION

While many of NAMC's members advocate repealing the Davis-Bacon Act, NAMC supports H.R. 2042/S. 916 because of the serious effort this bill makes in addressing the most onerous aspects of Davis-Bacon. The Davis-Bacon Reform bill is significantly more tolerable than H.R. 1231/S. 627, which, for the most part, attempts to expand Davis-Bacon without paying sufficient attention to the harmful effects this would have on the economy as a whole, and on small-business concerns and minorities in particular.

Congress' recent vote prohibiting the DOL from implementing helper regulations promulgated under the Reagan administration would seem to suggest a lack of information or real understanding of the truly harmful effect which Davis-Bacon has had, and continues to have, on small and minority-owned businesses and minority workers. NAMC calls on President Clinton and Congress to conduct a rigorous review of the plight of all small and minority-owned construction firms and minority construction workers before taking steps further entrenching Davis-Bacon's onerous effects on the national economy.

Mr. CRAIG. Clearly, Mr. President, that is what we are talking about in part here.

But let us back up and remember what we are saying here. We are talking about around $400 million of Federal grants to improve educational facilities in limited ways, to maximize and leverage local dollars, school board dollars, State tax dollars, to make sure that poor kids and not-so-poor kids can have the very best educational facilities available, and why should we penalize them by an antiquated law. That is what we are talking about.

Recognizing that my time is probably very nearly up, as we vote on this, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in opposition to the amendment introduced by my colleague from Idaho. This amendment, which the Senate Labor and Human Resources Committee defeated by a vote of 12–5 on June 15, 1994, would weaken the fair wages provision in title XV of S. 1513—the Improving America's Schools Act.

Mr. President, title XV would authorize the Secretary of Education to allocate $400 million directly to local school districts in fiscal year 1995 for the repair, renovation, alteration, and construction of public elementary and secondary school facilities.

In order to ensure that workers on these federally funded projects receive at least the prevailing wage in their locality for their kind of work, this title includes a fair wages provision that would direct local school districts to meet the requirements in the Davis-Bacon Act.

I support the fair wages provision in title XV of S. 1513 not only because it protects workers, but also because it provides important safeguards for businesses, taxpayers, and the Federal Government.

The Davis-Bacon Act has enjoyed strong bipartisan support since its enactment in 1931. While many of the act's most ardent supporters have traditionally been Democrats, this legislation was originally introduced by a Republican Representative from New York, Robert Bacon, and signed into law by a Republican President, Herbert Hoover.

Contracting practices in the 1930's required Federal projects to accept the "lowest responsible bid." The concept of responsibility, however, did not include the consideration of wages and working conditions. Thus, the question arose as to whether the Federal Government was "willing for the sake of the lowest bidder to break down all labor standards and have its work done by the cheapest labor that can be shipped from State to State."

During the debate on the Davis-Bacon Act, the Secretary of Labor, William Doak, noted that contracting practices in 1931 were "not only disturbing to labor but disturbing to the business community as well."

In the committee report on the Davis-Bacon Act, Robert Lafollette, Republican Senator from Wisconsin, stated that:

> The measure does not require the Government to establish any new wage scales in any portion of the country. It merely gives the Government the power to require its contractors to pay their employees the prevailing wage scales in the vicinity of the building projects. This is fair and just to the employees, the contractors, and the Government alike.

A similar report was filed by Richard Welch, a Republican Representative from California, for the House Committee on Labor.

Mr. President, as I have already said, the Davis-Bacon Act not only protects workers, it also protects businesses, taxpayers, and the Federal Government.

By promoting fair wages, the Davis-Bacon Act ensures that the workers on federally funded projects receive at least the prevailing wage in their locality for their kind of work.

By promoting fair wages, the Davis-Bacon Act gives local businesses a fair chance to compete for Government projects on the basis of skill and efficiency, rather than losing this work to disreputable competitors who would underbid by paying substandard wages.

By promoting fair wages, the Davis-Bacon Act protects taxpayers and the Federal Government from fly-by-night contractors whose substandard wages would attract substandard workers and result in shoddy construction work, requiring still more tax dollars for higher repair costs and additional maintenance over the life of the project.

Mr. President, the Davis-Bacon Act is as important in the 1990's as it was in the 1930's. Last year, three researchers at the University of Utah found that the repeal of the Utah State prevailing wage law "accelerated the decline in the union share of the State's construction labor market, drove down average construction wages in the State, and decreased union apprenticeship training for construction"—a decrease which was not offset by other public or private training funding.

The NAACP recognized the importance of the Davis-Bacon Act last year by passing the following resolution at its annual convention:

> Whereas, people of color have entered the construction industry in increasing numbers in the past. Today, they are threatened with the loss of many of the economic and social gains made over the last several years; and,
>
> Whereas, the Davis-Bacon Act of 1931 protects the wages of all construction workers, including minorities and women, who are particularly vulnerable to exploitation; and,
>
> Whereas, shocking examples of the exploitation of minorities and female workers on the construction site, even in the face of the Davis-Bacon Act, the law designed to prohibit such exploitation, are legion; and, therefore, be it
>
> *Resolved*, that the NAACP supports the Davis-Bacon Act, takes steps to strengthen its enforcement, and supports the creation of opportunities through training and apprenticeship programs.

I would also like to submit a letter from the AFL–CIO in support of the Davis-Bacon Act.

Mr. President, Senator KENNEDY recently introduced S. 627 which includes a comprehensive series of amendments to the Davis-Bacon Act. This bill presents a fair and balanced approach to the issues that have been raised in the course of our debates over this important statute. I firmly believe that the amendment offered today by my colleague from Idaho regarding the Davis-Bacon Act should be considered during the debate on S. 627 and not during the debate on the reauthorization of the Elementary and Secondary Education Act [ESEA].

Mr. President, I would like to conclude my remarks by urging my colleagues to support fair wages for the men and women who build our bridges, our highways, our hospitals, and our schools by opposing this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, July 29, 1994.

DEAR SENATOR: It is our understanding that sometime later today Senator Larry Craig (R–ID) will offer a very damaging amendment to remove the Davis Bacon provisions that are contained in the infrastructure education portion of S. 1513. Improving America's Schools Act of 1993. The construction authorized by Senator Carol Moseley-Braun language is very important to the infrastructure needs of American education system. The David Bacon language that Senator Craig is attempting to remove from Senator Moseley-Braun amendment is the normal Davis Bacon language that applies to federal construction. It is the same Davis Bacon language that exists in over 60 other federal states that provide federally funded construction monies.

It should be noteworthy for those Senators who are interested in across-the-board Davis Bacon reform that just today the Senate Labor Committee held a hearing on legislation to provide across-the-board Davis Bacon reform. It is our hope that across the board Davis Bacon reform legislation can hopefully move to the Senate floor in the near future. In summary, we urge the defeat of the Craig amendment and we urge the retention of the traditional Davis Bacon language that has been incorporated into S. 1513.

Sincerely,
ROBERT M. MCGLOTTEN, *Director,*
Department of Legislation.

Mr. SIMPSON. Mr. President, I rise in strong support of the Craig amendment. This amendment, Mr. President, merely ensures that Federal dollars spent on improving our Nation's schools will be spent as wisely as possible. It is designed to enable our schools to get the most for the dollars they spend.

In many rural areas, Davis-Bacon adds extra costs to public works construction. That, in turn effectively keeps smaller contractors from competing with larger operations. In addition, the Davis-Bacon requirements increase construction costs in disadvantaged communities. This is blatantly unfair.

During consideration of the safe drinking water bill, I offered an amendment exempting disadvantaged communities from Davis-Bacon. It was simply an attempt to level the playing field for contractors from small communities, who so often cannot afford to meet expensive wage requirements. This includes communities in both rural and urban locations.

In the bill we are debating today, educational grants are destined to go to the local educational agencies with the greatest needs. These tend to be extremely rural and extremely urban areas. These truly are our disadvantaged communities.

When it comes to rural areas, Davis-Bacon is a plain raw deal. Nationally, Davis-Bacon adds 3.1 percent to total construction costs. But in rural areas, Davis-Bacon increases construction costs by nearly 40 percent. This is true because of the wage differentials. It should surprise no one that in the most rural sections of this country, wages are not as high as they are in the rest of the country. Wages don't have to be as high and there are many good reasons for that.

I hope that my colleagues from agricultural and rural States will understand that every time a Senator representing an "Ag State" votes to strengthen or to preserve Davis-Bacon, that Senator is also voting to injure the competitive position of small contractors in the disadvantaged communities at home.

Davis-Bacon has been harshly criticized by most rural and inner-city groups. Among such critics is the National School Boards Association. Others include the U.S. Hispanic Chamber of Commerce, National Center for Neighborhood Enterprise, National Association of Counties, National League of Cities, National Association of House and Redevelopment Officials, National Taxpayers Union, and the American Farm Bureau.

The Congressional Budget Office has told us on more than one occasion that Davis-Bacon has an inflationary effect on private construction costs, not to mention Federal spending. Moreover, the Government Accounting Office has called for a complete repeal of Davis-Bacon, because we waste a billion bucks each year as a result of this law.

This amendment, however, doesn't even come close to repeal. I think it is so important to point out that under this amendment, only those projects that receive more than 25 percent of their funding from the Federal Government would be subject to Davis-Bacon.

Mr. President, this is a fairness issue. At a certain point, even supporters of Davis-Bacon must realize that applying it to financially strapped schools is counterproductive. Schools in disadvantaged areas cannot even afford textbooks and pencils for every student, yet some think it is just fine to spend 40 percent more than we have to on school construction. It truly defies common sense.

Why should we penalize those communities that most need financial relief? If we want to give them more bang for the buck, we should exempt them from Davis-Bacon requirements as another means of financial assistance. These communities need our help.

So, with that in mind, I would hope that each and every Senator will find it very easy to support this reasonable and modest attempt to do more to improve our Nation's deteriorating school systems and provide a much-needed dose of economic stimulus to our disadvantaged communities.

Mr. KOHL. Mr. President, I rise today in opposition to the amendment to the Improving America's Schools Act proposed by the Senator from Idaho. The Davis-Bacon Act has successfully protected construction workers from exploitation for over 60 years. During this time, Congress has considered many proposals to amend the Davis-Bacon Act. The current proposal put forth by the Senator from Idaho merely represents a piecemeal approach to reforming the act. While I believe that the Davis-Bacon Act needs to be reformed, I cannot support a piecemeal approach to this objective.

During the tenure of the Davis-Bacon Act, many working-class families in this country have come to depend upon this law to protect their wage standards; any legislation which seeks to compromise this protection would compromise their well-being. Also, by paying the prevailing wage, the Federal Government is able to hire skilled workers, workers whose competency results in higher quality construction and thus, long-term savings.

If we are going to reform the Davis-Bacon Act, we should do it right. We need broad-based, concrete Davis-Bacon reform. Reform that will modernize the application of the act, improve the administration and enforcement of the act, and most importantly, ensure continued prevailing wage protection for construction workers. The piecemeal amendment proposed by the Senator from Idaho merely seeks to circumvent the principles prescribed by the Davis-Bacon Act.

When considering Davis-Bacon reform, we must look at the whole picture and address the areas in need all at once. It is for this reason that I rise in opposition to this amendment.

Mr. CRAIG. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. KENNEDY. Mr. President, I again want to thank the Senators from Idaho for their courtesy and their accommodation of working this amendment through, and their willingness to enter into a time agreement. Important hearings are taking place and the Senator has been extremely cooperative in being willing to permit the vote on his amendment.

We will have a vote, up or down, on the amendment, hopefully, after the Senate has had consideration of the Kassebaum amendment that is going to deal with the vocational education regulations. We want to give the assurance that we will have it, hopefully, in a timely way.

What we are trying to do, at least in spirit, is to conform to what was agreed to by the two leaders last evening, and that is to address these remaining items during the course of the morning and permit the hearing process to move through.

So I am very grateful to them for that. I want to give the assurance that, no matter how this comes out, we will be, I am sure, working with the Senator from Idaho and others who are concerned about this.

Mr. JEFFORDS. May I inquire of the Senator, what is the Senator's intention? Are we going to lay this aside?

Mr. KENNEDY. We would then lay this aside. I understand Senator KASSEBAUM will be on the floor momentarily and we will address her particular amendment, and then we will consult with her, as well as Senator CRAIG, and work out the time for the resolution of both of those amendments, which I suspect will be later in the morning.

The PRESIDING OFFICER. Is there objection to laying the amendment aside?

Mr. CRAIG. Reserving the right to object, would the chairman yield?

Mr. KENNEDY. Yes.

Mr. CRAIG. My understanding is the Kassebaum amendment will be debated, and then you will stack these votes together, both this amendment and the Kassebaum amendment?

Mr. KENNEDY. Yes.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

Mr. KENNEDY. Mr. President, what basically we are looking at is the Kassebaum amendment. I have been informed by Senator HUTCHISON that she will introduce an amendment dealing with the Women's Equity Provisions that are included in the legislation. We will come back at some time in the later morning to the Smith amendment that has been amended and will be open, as I understand it, to additional potential amendments.

So we again invite our colleagues—we are not inviting them to submit more amendments, but we do indicate, at least from the floor managers' position, that is the way we are going to proceed. We are going to try to do that in as expeditious a way as possible so the Senate can move on to a very important appropriations bill and other business.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2438

(Purpose: To temporarily prohibit the promulgation of new regulations to carry out the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 2438.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title IV of the bill, insert the following new section:

SEC. . CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Notwithstanding any other provision of law, beginning on June 1, 1994, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the Secretary shall not issue any new final regulations to implement such Act.

Mrs. KASSEBAUM. Mr. President, I am offering this amendment to avoid an unnecessary, premature, and potentially devastating change in policy for vocational education programs by the Department of Education. The amendment prohibits the Secretary of Education from issuing any new final regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act until the completion of the reauthorization of that law.

If I may just explain for a moment what brings me to this point—I think it is of concern to some of my colleagues who will wish to speak to it briefly.

When the vocational education law was reauthorized in 1990 there was substantial debate over the degree to which special population students should have access to vocational education. Some wanted to mandate that these students have access to these programs and be provided the supplementary services that they would need to participate fully.

The Department interpreted the law to require States to provide services to special population students in federally-funded programs. This was consistent with my position on this issue and, I think, that of a number of others. I believe States should not be required to offer the full range of services across all vocational education programs, but only those programs that were federally funded should offer full access.

The Department is now facing a lawsuit by several groups that represent special populations who allege the current regulations prohibit equitable participation for them. Department officials have indicated that they hope to settle the lawsuit if they change their interpretation of these regulations to require that States provide these services in all programs, not just federally funded programs.

However, changing the regulations at this time, I would argue, is inappropriate for several reasons.

First, we will reauthorize the Perkins Act next year and will look at this issue more comprehensively during that process. The issue of whether disabled and disadvantaged students have access to quality vocational education programs and whether they have the support they need to succeed in these programs will certainly be examined in detail during that reauthorization. It simply does not make sense, I believe, Mr. President, to make a change of this magnitude—and it is significant—through the regulatory process when the law may change in a year.

Second, this change would represent a new unfunded Federal mandate on States which will have to use State funds to supplement insufficient Federal funds to provide these services. This is a violation of the President's Executive Order 12875 on Enhancing the Intergovernmental Partnership, since it would impose a regulatory change on States without providing the funds necessary to pay direct costs incurred by the State or local governments in complying with the mandate.

The Department has asserted that these costs could be supported by other Federal programs, such as the Individuals with Disabilities Education Act [IDEA], or the Elementary and Secondary Education Act that we are debating now. This is a rather presumptuous claim, I think, since our promise to fund 40 percent of IDEA costs has never been fulfilled either. So to assume there would be more money there, I think, adds insult to injury.

Third, the National Assessment of Vocational Education indicates that:

> Special population students * * * are overrepresented in secondary vocational education. In 1992, the 34 percent of all high school graduates who were members of special population groups earned 43 percent of all vocational credits. Special population students are a somewhat larger proportion of all vocational students now than they were 10 years ago, and higher achieving students are a smaller proportion.

It seems the Department's premise that disabled and disadvantaged students do not have access to vocational programs has been discounted by the Department's own report. While overall vocational enrollments have declined, the percentages of special population students enrolled in these programs have increased.

Fourth, States have just turned in their State plans under Perkins. The deadline was May 1. The State review and approval process is extensive and requires evaluation of the State vocational technical system, 60-day reviews by interested organizations and public hearings before the plan is forwarded to Washington. A change in the regulations now would require each State to submit revised plans. The State Directors of Vocational and Technical Education estimate that the additional review, revision and public comment periods will cost each State $100,000, or $5 million across the country. These funds would be much better spent on providing program and student services.

Fifth, this change would cause unwarranted confusion and program disruption at the local level.

Mr. President, I am a strong supporter of vocational education programs. I am a strong supporter of making certain that access is available to all. But I think allowing these regs to go forward at this time, without giving the necessary thought to the reassessment costs, when we will be reauthorizing the Carl Perkins legislation next year, is the wrong step to take. I hope my colleagues will join me in support of this amendment.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, this amendment is an amendment that would effectively prohibit the Department of Education from issuing any new final regulations on the Perkins Act. The issue is that after the last reauthorization in 1990, the Bush administration issued regulations that did not include the participation of special needs children in the program and the Clinton administration is issuing regulations to correct the situation. So Senator KASSEBAUM, I believe on behalf of herself and Senator COCHRAN, is offering this amendment. They will call it, effectively, an unfunded mandate.

I will oppose the amendment. I will refer in just a moment to the Department of Education's letter expressing their strong opposition. This amendment would interfere with the Department's authority to carry out the provisions of the Perkins Act as intended by the Congress.

The regulations themselves are in no way an unfunded mandate. They are, rather, the steps the Department is taking to make sure that special populations have access they need to the Perkins-funded programs. In the funded programs, we want to make sure the special needs children are going to have access to those programs.

The legislation of 1990 was very clear about its intention, having all students included in these programs. The evidence we have shows that they are left out. So there was a clear intention they be included in the program and clear evidence they are not participating in the program, and it justifies the reasons for the regulations themselves.

The most recent National Assessment of Vocational Education report shows the problem is most serious at the secondary school level, where the special needs and limited English proficient students are not being included in the technical careers.

I will include in the RECORD the list of the various groups, the 30 organizations representing students and educators, who oppose the regulations as proposed by the Department of Education in 1991.

I ask unanimous consent it be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Alternative Schools Network.
American Association of University Women.
American Foundation for the Blind.
The Arc (formally the Association for Retarded Citizens).
ASPIRA Association, Inc.
American Occupational Therapy Association.
Center for Law and Education.
Center for Law and Social Policy.
Council for Exceptional Children.
Division on Career Development, Council for Exceptional Children.
Education Law Center—New Jersey.
Education Law Center—Pennsylvania.
Epilepsy Foundation of America.
Learning Disabilities Association.
Mexican American Legal Defense and Educational Fund.
National Association for Bilingual Education.
National Association of Developmental Disabilities Councils.
National Association of Vocational Assessment in Education.
National Association of Vocational Education Special Needs Personnel.
National Coalition of Title I/Chapter 1 Parents National Council of La Raza.
National Head Injury Foundation.
National NAACP.
National Puerto Rican Coalition.
National Rehabilitation Association.
National Urban Coalition.
National Urban League.
Spina Bifida Association of America.
The Association for Persons with Severe Handicaps.
United Cerebral Palsy Association.
Vocational Evaluation and Work Adjustment Association.

Mr. KENNEDY. Mr. President, these are some of the groups who have been most involved in terms of the development of the legislation and the approach of Congress.

I will just reference the letter from Secretary Riley. I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
July 13, 1994.

Hon. NANCY LANDON KASSEBAUM,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meetings with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students. Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

As you know, representatives of members of special populations have filed suit against the Department, challenging the current regulations governing full participation and supplementary services as denying special populations access to high-quality vocational education programs. *National Puerto Rican Coalition v. Riley*, Civ. Action No. 92-2905 (D.C.C. filed Dec. 30, 1992). We believe that the statute is ambiguous and the current regulations are legally supportable. However, we are concerned about the policy embodied in the current regulations governing full participation, whether that policy best carries out Congressional purpose, and how that policy may contribute to some of the problems with access and success in vocational education for special populations.

Under the revised provision being considered, the requirement that a recipient of funds under Title II, Part C of the Perkins Act provide for the full participation of members of special populations, including the provision of supplementary services, would apply to the recipient's entire vocational education program, not merely its projects funded by the Perkins Act. This possible change is consistent with one of the Congressional purposes in enacting the Perkins Act—namely, assuring that students who are economically disadvantaged, students of limited English proficiency, students with disabilities, and women have access to vocational education and any special services they need in order to succeed. The change being considered would address concerns that special population students are poorly served in many vocational education programs. I believe that changes to address these concerns should be considered before the reauthorization takes effect, which is likely to be more than two years away.

We are very sensitive to the issues expressed in your letter. As a former governor, I am aware of and share many of the current concerns about "unfunded mandates." In that regard, we have been careful to ensure that changes under consideration are consistent with the Executive Order on unfunded mandates and will not create a new civil right, in the sense that there will not be a new individual entitlement to services. We fully share your concern that any change be consistent with the statute and minimize disruption to the program. I hope that you will carefully review the changes, if they are proposed, and consider how they address the needs of students, as well as the concerns expressed in your letter.

We initiated the meetings with Congressional staff and other interested parties to ensure that we had public input on these important issues before we finally decide whether to propose changes to the regulations. We have carefully considered the comments we received, including your letter, before transmitting the possible changes to the regulations to OMB for review. If we decide to propose changes to the regulations, we will particularly invite public comment on the important issues you and others have raised. Section 504 of the Perkins Act required regional meetings and a negotiated rulemaking process only for the issuance of initial regulations issued under the Perkins Act, and we do not anticipate conducting negotiated rulemaking on the possible changes described above. The consultative process that we have initiated and the opportunity for public comment will serve similar purposes. Moreover, through public comment, we will ensure that we have heard from all interested parties before any final decision is made to change the regulations. I can assure you that any rulemaking process we conduct on this matter will be meaningful, and that all comments received will be carefully reviewed and considered.

Thank you for sharing your views on these important issues with me. If I can provide further assistance to you, please contact me.

Yours sincerely,

RICHARD W. RILEY.

Mr. KENNEDY. Mr. President, I will just read part of the letter. It says:

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meetings with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students.

This is the important part:

Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

The letter continues with the reasons for that particular conclusion.

I hope after we do have an opportunity to hear from Senator HARKIN, who is our chairman of the committee dealing with special needs, that this amendment will not be accepted.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I join Senator KASSEBAUM in urging the Senate to approve this amendment. She has very adequately stated the reasons for adopting the amendment. I simply want to add a word of support for the effort she is making by offering the amendment and calling the attention of the Senate to this important need. It is a need to come to the rescue of local administrators who are wrestling with the challenge of trying to spread too few dollars over too many needs at the local level.

What the Department of Education is purporting to do by issuing these regulations is to put another mandate, another requirement, another directive on the backs of local administrators to tell them how to use their money. There is no Federal funding that goes along with this new regulation that is proposed to be implemented, but there is the force of law that would require them to channel their funds into yet another Federal program.

The Federal effort is, of course, to make available to disadvantaged populations, or so-called special populations, the benefits of vocational education.

One thing needs to be pointed out, though. Local administrators and local officials have made giant strides to make accessible and available to these special populations the benefits of vocational education. GAO, for example, in a 1993 report says that 60 percent of those in vocational education programs now come from these special populations.

So the question has to be asked today: If the purpose of the new Federal regulation that is being proposed is to encourage more participation, it seems that local administrators have done a great deal to achieve that goal. Of course, we hope that more can be achieved, but to impose a new affirmative action requirement from the Federal Government at this time in an area of the law that comes up for reauthorization next year seems to be getting the cart before the horse.

If we have a reauthorization program approved by the Congress next year which has new requirements in it, then, of course, the Department is going to have to implement those requirements through regulations. What the Senator from Kansas is saying is, why saddle the local and State officials now at this late hour in the life of this Perkins vocational education bill with a new requirement that is unfunded when we are just about to begin hearings in the Labor and Human Resources Committee to determine what changes need to be made in the law?

If these changes need to be made, let us reauthorize it, let us spell it out in the law, but let us not sit back while the Department overregulates the State administrators with requirements that will cost them money. It will make them less able to deal with the challenges that they face in other areas in vocational education.

I know others know more about this subject than I do. It seems to me to make perfectly good sense to adopt the amendment of the Senator from Kansas, and I hope the Senate will do so.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I regret that I must oppose the amendment offered by the Senator from Kansas. Senator KASSEBAUM's amendment would preclude the Department of Education from issuing any new final regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act.

Mr. President, the Department has proposed changes in Perkins Act regulations pertaining to services for special populations. These regulatory changes are urgently needed to ensure that students with special needs have access to vocational and applied technology programs in our Nation's schools. I commend the Secretary for taking the initiative to pursue these changes. They are necessary changes and I wholeheartedly support them.

When we reauthorized the Perkins Act in 1990, we gave particular attention to enhancing services for special populations. Indeed, both houses of Congress included language to accomplish this critical objective in their respective bills. For instance, the House bill contained requirements for State level assurances and for local assurances that special populations would be served. Further, the House bill required State Boards to assure that such populations have access to programs and that individuals with handicaps be served in conformity with the Education of the Handicapped Act and section 504 of the Rehabilitation Act. The House bill required that each school district and institution of higher education assure that the special needs of students would be met in an integrated setting. The Senate agreed to include these requirements in the final bill.

The Senate bill specified that the special populations to be served include: The economically disadvantaged, individuals with disabilities, individuals who participate in programs designed to eliminate gender bias and stereotyping in vocational education, students of limited-English proficiency, economically disadvantaged adults, and criminal offenders—both juveniles and adults—who are serving in correctional institutions. The House agreed to include this definition of special populations in the final bill.

Mr. President, I could go on at great length describing the additional provisions we included in the 1990 reauthorization measure to ensure that special populations would have access to vocational and technical education services. The legislative history on this question is clear: Congress intended that individuals with special needs be served.

Unfortunately, the Perkins Act regulations developed under the previous administration do not adequately address the needs of these special populations. For this reason, this administration appropriately seeks to change the regulations.

As Secretary Riley wrote in his letter of July 13 to Senator KASSEBAUM,

> * * * we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provision on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

Clearly, we cannot permit this deplorable situation to continue.

As Secretary Riley points out in his letter, the Department initiated meetings with congressional staff and other interested parties to seek input prior to deciding whether to propose changes to the regulations. The Department is continuing to solicit comments on its proposed regulations prior to developing final regulations. The regulatory process is proceeding as it should and I see no reason for Congress to interfere in that process.

Mr. President, I ask unanimous consent that the full text of Secretary Riley's letter to Senator KASSEBAUM be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
Washington, DC, July 13, 1994.

Hon. NANCY LANDON KASSEBAUM,
Ranking Republican, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR NANCY: Thank you for your letter of May 31, 1994 about possible changes to the regulations implementing the Carl D. Perkins Vocational and Applied Technology Education Act (Perkins Act). I hope you will excuse the delay in my reply.

Your letter specifically referred to the provisions of the regulations that pertain to services for special populations. You expressed concerns that the possible changes would far exceed the scope of the federal law, create an "unfunded federal mandate" in violation of Executive Order 12875, turn the Perkins Act into a civil rights statute, and because of the timing, create unwarranted confusion and disruption, especially with the reauthorization process coming in the near future.

The concerns raised in your letter are very important and I gave them full consideration in developing and transmitting possible revisions to the regulations to the Office of Management and Budget (OMB) for review. Let me assure you that the concerns that you and others have raised will continue to receive our attention as we consider whether to change the regulations.

As Department staff indicated in meeting with several Congressional staff members, and in consultations with representatives of various interested parties, the Department is concerned about the way in which the current regulations have been working, especially with regard to the provision of services to special population students. Under the current regulations, we believe that special populations may not be gaining access to the full range of vocational education programs, because they may not be receiving the services they need to have a reasonable opportunity to succeed. We are concerned that the current regulatory provisions on equal access and full participation may contribute to the apparent practice of tracking special populations into only a few, lower-skill program areas.

As you know, representatives of members of special populations have filed suit against the Department, challenging the current regulations governing full participation and supplementary services as denying special populations access to high-quality vocational education programs. *National Puerto Rican Coalition v. Riley*, Civ. Action No. 92-2905 (D.D.C. filed Dec. 30, 1992). We believe that the statute is ambiguous and the current regulations are legally supportable. However, we are concerned about the policy embodied in the current regulations governing full participation, whether that policy best carries out Congressional purpose, and how that policy may contribute to some of the problems with access and success in vocational education for special populations.

Under the revised provision being considered, the requirement that a recipient of funds under Title II, Part C of the Perkins Act provide for the full participation of members of special populations, including the provision of supplementary services, would apply to the recipient's entire vocational education program, not merely its projects funded by the Perkins Act. This possible change is consistent with one of the Congressional purposes in enacting the Perkins Act—namely, assuring that students who are economically disadvantaged, students of limited English proficiency, students with disabilities, and women have access to vocational education and any special services they need in order to succeed. The change being considered would address concerns that special population students are poorly served in many vocational education programs. I believe that changes to address these concerns should be considered before the reauthorization takes effect, which is likely to be more than two years away.

We are very sensitive to the issues expressed in your letter. As a former governor, I am aware of and share many of the current concerns about "unfunded mandates." In that regard, we have been careful to ensure that changes under consideration are consistent with the Executive Order on unfunded mandates and will not create a new civil right, in the sense that there will not be a new individual entitlement to services. We fully share your concern that any change be consistent with the statute and minimize disruption to the program. I hope that you will carefully review the changes, if they are proposed, and consider how they address the needs of students, as well as the concerns expressed in your letter.

We initiated the meetings with Congressional staff and other interested parties to ensure that we had public input on these important issues before we finally decide whether to propose changes to the regulations. We have carefully considered the comments we received, including your letter, before transmitting the possible changes to the regulations to OMB for review. If we decide to propose changes to the regulations, we will particularly invite public comment on the important issues you and others have raised. Section 504 of the Perkins Act required regional meetings and a negotiated rulemaking process only for the issuance of initial regulations issued under the Perkins Act, and we do not anticipate conducting negotiated rulemaking on the possible changes described above. The consultative process that we have initiated and the opportunity for public comment will serve similar purposes. Moreover, through public comment, we will ensure that we have heard from all interested parties before any final decision is made to change the regulations. I can assure you that any rulemaking process we conduct on this matter will be meaningful, and that all comments received will be carefully reviewed and considered.

Thank you for sharing your views on these important issues with me. If I can provide further assistance to you, please contact me.

Yours sincerely,

RICHARD W. RILEY,
Secretary.

Mr. JEFFORDS. Mr. President, I rise in support of the amendment offered by my colleague from Kansas. The amendment before us is very simple. It precludes the Department of Education from issuing new regulations before Congress reauthorizes the Carl Perkins Vocational and Applied Technology Education Act.

Let me briefly explain the reasons for my support. The current vocational education regulations require federally funded vocational programs to provide services to special populations. These regulations have been in effect since the 1990 law was enacted. The administration is now proposing to change those regulations and require that all vocational programs, regardless of whether they receive Federal funds, provide services to special populations.

Clearly, it is important that special populations be accommodated in every school and in every program. There is no question but that we must provide all populations with equal opportunities.

However, there are three sound reasons why changing the regulations is not a good idea at this time.

First, the Perkins Act is due to be reauthorized next year. That is an appropriate vehicle on which to debate and analyze the issue and determine whether a change in policy is necessary at that time. Changing the policy in midstream after the States just submitted their May 1 plan is both unfair and unwise public policy.

Second, the change represents a stretch of Federal authority into the locally controlled school policy. We may be able to govern the way in which Federal funds are used but we should not be in the business of dictating to local educational agencies how to spend their own funds or how to structure their own programs.

Finally—and this is the most important one—there is no evidence that the policy needs to be changed or that special needs populations are left out of vocational programs. It is quite the contrary. In a recent report by the National Assessment of Vocational Education, it states that "At the local level the evidence strongly suggests the Perkins funding improves service provision for vocational special needs students." The report provides every indication that special needs populations are being adequately, if not overly, served in vocational programs. The report cautions against making Perkins the dumping ground for special needs students and instead encourages a stronger emphasis on guidance and counseling for these students. There is a tendency, unfortunately, in many areas to overly use Perkins for this purpose and not allow the special needs students to get better training for their purposes than perhaps the Perkins program may provide. So clearly changing the policy at this time does not make sense.

For these reasons and the others stated by my colleague from Kansas, I urge my colleagues to support the Kassebaum amendment.

Mr. SIMON. Mr. President, my colleague from Vermont says changing the policy at this point does not make sense. And if we were changing policy, I would agree. What the Secretary of Education is doing is to bring the policy in the regulations in line with the law that we passed.

In 1990, special populations—specifically economically disadvantaged students, students of limited English proficiency, women, men, and women who sought education and training opportunities in areas previously stereotyped as women's programs or men's programs, and finally students with disabilities—were a major focus.

After the Secretary of Education from your State, Mr. President, Lamar Alexander, issued the regulations, six of us wrote a letter to him protesting those regulations, that they did not do what the law required. Congressman FORD, Congressman MARTINEZ, Congressman MILLER, Senator KENNEDY, Senator PELL, and I sent this letter. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON EDUCATION AND
LABOR,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 10, 1991.

Hon. LAMAR ALEXANDER,
Secretary, U.S. Department of Education, Washington, DC.

DEAR MR. SECRETARY: We are writing regarding the recently published proposed regulations on the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. We have several concerns regarding the regulations which we wish to bring to your attention.

While Congress significantly changed the mechanism by which vocational education is delivered, the focus of the Act remains the same: to make program improvements in vocational education and to provide effective equal access to special populations in vocational education programs.

In the 1990 amendments to the Perkins Act, Congress intended that equal access to vocational education programs must be ensured for special populations in part by reenforcing and augmenting the provisions of the Individuals with Disabilities Education Act (IDEA), Section 504, nondiscrimination under Federal grants to the Rehabilitation Act of 1973, the Civil Rights Act of 1964, and Title IX of the 1972 Education Amendments. These laws entitle students to equal access to the full range of education programs, regardless of the sources of funds. This same principle applies to vocational education programs. Students must have the opportunity to access any vocational education program with the support necessary to function equally, regardless of who pays for those supportive services.

The Perkins law assures that individuals who are members of special populations will be provided with equal access recruitment, enrollment, and placement activities and will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis on their status as members of special populations.

With regard to the specific uses of the Federal Perkins vocational program funds, the Act requires that these funds be used in programs that integrate academics with vocational education, offer coherent sequences of courses, are of sufficient size, scope, and quality as to be effective, and that serve the highest concentrations of individuals who are members of special populations. These programs are required to provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps (A) curriculum modification, (B) equipment modification, (C) classroom modification, (D) supportive personnel, and (E) instructional aids and devices. Federal Perkins funds cannot be used in programs that do not meet these criteria.

A related issue raised by the regulations is the use of the term "project". The Act uses the term program; we believe that regulations should be consistent with the Act and, hence, the term "program" should be used throughout.

As already noted, the Act requires that funds must be used to integrate academic and vocational education through "coherent sequences of courses" so that students achieve both academic and occupational competencies. The Act also seeks to require institutions to provide programs "of such size, scope, and quality as to be effective." Yet, the proposed regulations permit a single adult course to qualify as a sequence of courses. This is patently incorrect, and a clear misinterpretation of the statute. Coherent series of courses and sequential course of study should both be interpreted as a "series of courses" and a single course is not in compliance with the law.

While we agree with the Department's regulations in applying evaluations to an entire program of an institution receiving funds, particularly in view of the fact that we have not had desirable data from States in the past, we believe that because of the expense involved and the potential of this provision resulting in some school districts and institutions rejecting Perkins' funds, we believe that evaluations could be conducted on a sampling basis or some other method to minimize the burden.

The proposed regulations increase the frequency of reporting and other accountability requirements of programs funded under the

Act. In the preamble to the regulations, there is also a reference to America 2000 and the Secretary's support for increased accountability. Although we concur in terms of accountability in education programs, we do not agree that the regulations should expand on the law and require more paperwork for many of the programs, (e.g. Indian Vocational Education Program, Native Hawaiian Vocational Education Program, National Tech Prep Education Program, etc.).

Also, as part of the Department's accountability and evaluation activities, we urge the Secretary to provide resources and participate in conducting the pilot project utilizing wage and other records authorized under Section 408(c)(1)(A) of P.L. 101-392 to provide high quality longitudinal data on a cost-effective basis with minimum administrative burden.

As regards the National Center or Centers for Research in Vocational Education, the proposed regulations allow up to five preference points in the competition for the research and development center and up to five preference points for the dissemination and training center if an institution or consortium demonstrates that it can effectively carry out both the research and development and dissemination and training activities of the Center. We believe that only allowing five preference points is a minor consideration and not the major consideration that Congress intended for an institution or consortium which demonstrates that it can effectively carry out both activities. If all activities can be carried out at one center, that is obviously a desirable objective; and therefore the law meant to encourage funding one center if it could perform all these tasks.

It also appears to us in terms of the manner in which the proposed regulations are written, that two competitions would be held for the National Center or Centers for Research in Vocational Education. Two competitions, in our view, could result in a process which could be awkward and extremely time-consuming. It is Congress' intent that all applicants could submit three applications in one competition. If after applications have been reviewed for one center, none of the applicants demonstrate the capability of effectively carrying out both the activities, then the Department could proceed to the consideration of separate applications without an unnecessary delay or request for another competition.

Thank you for your consideration of these views. We know that the Department had a difficult task in writing these proposed regulations, and you have performed it quite ably.

Sincerely,

WILLAIM D. FORD,
Chairman, House Committee on Education and Labor,
MATTHEW G. MARTINEZ,
Chairman, House Subcommittee on Human Resources,
GEORGE MILLER,
Chairman, House Committee on Natural Resources,
EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources,
CLAIBORNE PELL,
Chairman, Senate Subcommittee on Education, Arts, and Humanities,
PAUL SIMON,
Chairman, Senate Subcommittee on Employment and Productivity.

Mr. SIMON. What we will do if we pass this amendment by my colleague from Kansas—and I have great respect for her, not only for her work here but her interest in Africa and other things. She is one of the finer Members of this body. But I think we would send the wrong signal if we accepted this. This amendment is strongly opposed by the administration, and I hope it will be strongly opposed by the Senate.

Senator KASSEBAUM says it would, nationwide, cost us $5 million to implement. Compare that $5 million to what we do for disadvantaged students. The Center for Law and Education says—and I am quoting them—

> The futures of millions of students will be jeopardized if remedy is delayed until reauthorization of the Perkins Act.

Now, let us face it. That is an exaggeration, and I am sure Senator KASSEBAUM would say that is an exaggeration. And I would agree with that. I think it is fair to say the futures of tens of thousands of students will be jeopardized. When you compare that $5 million with the chance to make productive taxpaying citizens out of people, I think we will save many, many times that $5 million.

So I hope the amendment will be rejected. It sends the wrong signal at the wrong time. What the Secretary of Education is simply doing is implementing the law that we passed. Frankly, the previous Secretary of Education—and I have great respect for him, but Secretaries of Education work with OMB and work with others, and sometimes they make political decisions. The previous Secretary of Education, I think, made a political decision and watered down what we passed, which was strong legislation. My hope is that the amendment will be defeated.

Mr. President, if no one else seeks the floor, I question the presence of a quorum.

Mrs. KASSEBAUM. Mr. President, will the Senator withhold?

Mr. SIMON. I withhold that.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I might just respond briefly because I know others wish to speak.

I should like to have made a part of the RECORD the support for my amendment by the American Association of School Administrators, the National School Boards Association, the American Vocational Association, and the State Directors of Vocational Education. All are in support of the amendment that I have offered.

In response to the Senator from Illinois, I would suggest that as we have worked on the Labor and Human Resources Committee, we have wanted to address the concerns of special population students to make sure that their access to and participation in these programs was assured. I think the regulations that have been put forward now, however, have gone beyond the law. As I said in my opening remarks, this would be an unfunded mandate that is going to cause some serious problems for us, particularly when by next year we will have looked at it in ways that better assess the problems that need to be addressed, rather than doing it rather peremptorily with new regulations by the Department of Education.

I yield the floor, Mr. President.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I have just been handed a statement by David Evans, who helps our subcommittee and who has been the right arm to Senator CLAIBORNE PELL and to all of us. It says:

> The Department of Education is expressing serious concern that the Kassebaum amendment would preclude the issuance of final regulations to implement both School-to-Work regulations pertaining to the tech prep and other Perkins Act programs and a provision adopted last year as part of the '93 Technical Amendments to the Higher Education Act. The latter provision is essential to a number of rural community colleges that have formed consortia for the purposes of qualifying for Perkins Act program funds.

Mr. President, I yield the floor.

Mr. PRESSLER. Mr. President, may I ask the managers of the bill if this would be an appropriate time to lay aside an amendment and offer a short amendment which we will seek a rollcall vote on?

Mr. KENNEDY. If I could have the attention of the Senator, we want to address the Senator's concerns, which we are going to accept. But what I would like to do, if it is agreeable, is to permit Senator HARKIN to speak for 10 minutes, and if the Senator wants an additional 10 minutes, we would so include it. Then after that we would conclude the debate on Senator KASSEBAUM's amendment. Then we would consider Senator PRESSLER's amendment with a 10-minute time limitation, 5 minutes to each side, and then we would vote on all three amendments. That way it would be the least disruptive in terms of the Senate proceedings. It would give a sense of predictability to the Members in terms of their going ahead. That would be enormously helpful in terms of the floor managers.

So I hope now that we can hear from the Senator from Iowa, and then if the Senator from Kansas needed additional time, she would take it. Then we would move on into the consideration of the Pressler amendment. Following that, we would move toward the three votes.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I object to the Kassebaum amendment. I would like to take a few minutes to explain why. This amendment goes really against the wishes of Congress, which have been stated many times, in terms of overturning Grove City, the Civil Rights Restoration Act, in terms of IDEA, the Individuals with Disabilities Education Act, section 504; all of the progress that we have made in terms of reaching out, especially in education to make sure that States meet their constitutional responsibilities to provide equal educational opportunities for all students regardless of whether they are economically disadvantaged or physically or mentally disabled. We have come a long way in this regard. It seems that this would be a terrible step backward.

I think the most important thing, though, Mr. President, is the breadth, the scope, of this amendment. I listened to the Senator from Kansas and the Senator from Mississippi earlier and their arguments. It sounded as if they were talking about some narrow little issue that they were concerned about. While it may be the case that they are concerned about a narrow issue, this amendment, as it is drafted, is extremely broad.

Let me just read it again, Mr. President. It is a very simple amendment. It says:

> Notwithstanding any other provision of law, the Secretary shall not issue any new final regulations to implement such Act * * *.

"[S]uch Act" being the Carl D. Perkins Vocational Act.

That is the amendment. It does not say he shall not issue any new final regulations concerning A, B, C, or D. And it says he shall issue no regulations concerning the Carl D. Perkins Vocational Act.

We passed this act in 1990. It will probably come up for reauthorization in 1995 or 1996. But the amendment of the Senator from Kansas is so broad it covers everything. It says the Secretary "shall not issue any new final regulations" to implement such act. I do not know that we have ever done that around here. I do not think the Senate, this Congress, has ever passed that kind of amendment to say that a Secretary cannot fulfill his constitutional requirements, the requirements to issue final regulations to implement the laws that we pass here.

Let us say, for example, that later this year, or next year, the Secretary deems it important enough to issue a final regulation concerning disability issues under Carl D. Perkins. If we adopt this amendment, the Secretary will not even be able to issue a regulation concerning disability issues or any issues under that, the way the amendment is written.

So it is an extremely broad amendment. As I said, I do not know that we have ever done anything like that here.

We have been through this fight before on whether we cover projects or programs. We had it with the Supreme Court case in Grove City. The Senator from Kansas is very much aware of that decision and what that decision did in terms of programs and projects. We passed the Civil Rights Restoration Act to overturn the Supreme Court's decision in Grove City. The Supreme Court said that it applies to projects. We said no, no. The intent of Congress was to cover programs, not just projects.

So we passed the Civil Rights Restoration Act to reflect that. We had a specific vote on that issue. And the vote was 73 to 24. The Congress said, no; we meant to cover programs, the whole program, and not just specific projects. The Senator from Kansas was one of those voting in the majority of 73 to overturn Grove City to make it clear that we were talking about programs.

Now the thrust of this amendment, as I understand it, while it is drafted so broadly, is to cover the issue of projects versus programs.

Again, this whole issue of unfunded mandates I must speak about. This is not another unfunded mandate. We are not saying that States have to do this or that. We are saying that if a State provides funds for vocational education, it cannot do so in an unconstitutional manner. It cannot say, OK, we will provide vocational funds just for this sector of students but not for this sector. It must provide it and open it to all. That is under the equal protection clause of the 14th amendment of the Constitution of the United States.

What we have said here is that we believe that vocational education is so important that we will provide additional funds to the States to help them meet their constitutional obligations. It is not a mandate. We are just saying we are going to help you out. But in so helping you out, when we give you these funds, you cannot just funnel them all to one project and say, OK, we will provide the supplementary aid and supportive services there but we will not in any of the other projects under the program.

I think that is, quite frankly, unconstitutional. It certainly flies in the face of what we decided in the 73-to-24 vote overturning the Grove City case.

Let me give you some concrete examples of what I am talking about here, Mr. President. When Congress reauthorized the Carl Perkins Act, we said that special populations should enjoy equal access to all the courses of study, and we did it in a meaningful and effective manner. We wanted it to be meaningful and effective. For some special populations, the opportunity can only be meaningful and effective if they receive supplementary aid and assistance.

Let us say a State says: We are going to open up a vocational program to deaf students, but we will not provide interpreters. Well, the deaf student has the right to take that vocational training, but without a deaf interpreter it is meaningless. So we said that you have to provide the supportive services to enable them to do that.

In the same way, equal access to education is meaningless to economically-disadvantaged students unless they get compensatory education. Again, what happened was that Secretary Alexander issued a regulation saying that special populations are entitled to equal access to these vocational programs, but the responsibility to provide the supplementary aids and services only applies to the projects receiving the vocational education funds—right back where we were with the Grove City case.

Thus, for example, Mr. President, if only the culinary arts project in a vocational education program received Federal aid, then the regulations provide that only that project is required to provide supplementary aid. If the computer programming project in the same program did not receive Federal aid, then there was no requirement under the Vo-Ed Act to provide the supplementary aids and services to make the opportunity to participate meaningful and effective.

Again, we have some historical context here. Prior to the 1990 amendments, the Vo-Ed Act included set-asides, or earmarks, for special populations. We said that is wrong, we do not want to have special set-asides and programs. We are going to include them in the broad overall compass, like we have done under the Individuals With Disabilities Education Act, section 504, and everything else; we are going to bring everybody into this, and we will not have special set-asides. But we did it, expecting that all students would be provided with a high-quality program, not just in the project but the entire program. That is what we said. We said "program" and not just "project."

So what we have come down to here is the issuance of regulations, to ensure that the entire program is covered and not just a project. We used the word "program" in the act in 1990. We had already passed the Civil Rights Restoration Act. We knew what we were talking about when we said "program." I believe that Secretary of Education Reilly ought to be given the opportunity to implement the congressional intent.

So I guess my basic argument against the amendment goes down to these fundamental items: No. 1, it is so broad, the Secretary shall not issue any new final regulations to implement the act. Anything. It covers everything.

Second, even if it were more specific and included "project" versus "program," I would argue that this Congress decided that we wanted to cover programs, not just projects, that we wanted to make sure that supplementary aids and devices, whatever assistance was meaningful to students—so that a deaf student would not be just pushed into culinary arts, maybe a deaf student wants to take computer programming but cannot do it, unless they provide a deaf interpreter. But if the decision has been made that the Federal aid is channeled only to culinary arts, then that is the only place where that deaf student could get a deaf interpreter, and he or she could not get that support in computer programming.

So what basically the thrust of this amendment would do would be to continue to try to funnel—and I know this is not the Senator's intention, but I think it is the effect of the amendment—it would be to funnel disadvantaged students, economically disadvantaged students, into certain kinds of dead-end jobs, because they would not receive the compensatory aid and the other types of aid that they need. We would set up almost a dual-track system.

I am sure the Senator, in her remarks, will say, look, this does not cover disability because they are covered under section 504, under IDEA. That is right. So in vocational education we will have one track if you are physically disabled, mentally disabled; but if you are economically disadvantaged, if you come from a poor family and you may need special assistance or services, you are cut out of that. We will put you in the culinary arts program. But you will not be able to take computer programming because they do not receive any Federal aid.

Well, Mr. President, the fact is that we knew what we were talking about in this Congress when we overturned Grove City. The Senator from Kansas voted to overturn Grove City. We knew what we were talking about in 1990 when we said "program," not "project."

Therefore, Mr. President, I think this amendment is one that ties the hands of the Secretary in a way that we have never done it before. Second, it goes against the clear intent of Congress in trying to cover vocational education programs and not just specific projects.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Iowa would yield for a question for a moment. I gather from his closing comments he still would not be supportive if indeed I defined it a bit more narrowly, as has been stated.

What the amendment does is prohibit promulgation of any new final regulations under the Carl Perkins law. But I could change that to apply to only sections 117, 118, and 235 of the implementing legislation, as are under consideration. I gather that the Senator would still not be supportive. That is what the Department of Education is considering in its revision.

Mr. HARKIN. If the Senator will yield, I did say that. I do believe this amendment is drafted too broadly. Obviously, the Senator narrowed it down. In my remarks, I said I would still be opposed because it would set up this dual-track system under vocational education. And I would have to oppose that because I think all of the students ought to be under the umbrella.

Mrs. KASSEBAUM. I wanted to raise that, Mr. President. I feel that we could better analyze what is happening next year when we hold oversight hearings. As I have said before—and I will not spend a lot of time on this again—I believe it is far better to approach this with some caution, particularly when the vocational educators themselves have grave reservations about how they will be able to handle the new regulations and fund these programs.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Kassebaum amendment, No. 2438, be laid aside and Senator PRESSLER be recognized to offer an amendment regarding language proficiency for bilingual teachers; that there be a 10-minute limitation on his amendment; that upon the use or yielding back of his time, the Senate vote on, or in relation to, the Kassebaum amendment, No. 2438; that upon the disposition of that amendment, the Senate vote on, or in relation to, the Craig amendment, No. 2437; that upon the disposition of that amendment, the Senate vote on Senator PRESSLER's language-proficiency amendment; that no amendments be in order to any of these three amendments; that the preceding occur without any intervening action or debate, and that the first vote be the usual 15 minutes, and that the two following votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask that it be in order that the Senator from Wyoming, should he choose, be allotted 5 minutes before the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

AMENDMENT NO. 2439

(Purpose: To require that certain applicants for financial assistance for bilingual education employ personnel proficient in English)

Mr. PRESSLER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2439.

The amendment is as follows:

On page 913, line 13, strike "and".

On page 913, line 18, strike the period and insert "; and".

On page 913, between lines 18 and 19, insert the following:

"(C) provide an assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.".

Mr. PRESSLER. Madam President, I had the amendment read in full so the Senate would have a chance to know what it is.

I rise today to offer a very simple, commonsense amendment to S. 1513. My amendment would merely require bilingual education programs, under title VII of the Elementary and Secondary Education Act of 1965, to employ teachers who are proficient in English, including both written and oral communications skills. In other words, this amendment requires bilingual teachers to prove they can speak and write English well before they can teach English to children whose native language is not English. The amendment also provides for situations where two or more individuals teach the courses together. My amendment requires that, between them, they must be proficient in spoken and written English.

Some of my colleagues may be surprised to learn that currently there is no requirement that bilingual teachers be fluent in English. I was certainly surprised. Bilingual education suggests by its very name that it is conducted in both English and another language. It seems obvious that a bilingual teacher should have to demonstrate proficiency in both languages. However, that is not the case.

Many school districts claim difficulty in finding proficient teachers. We now have a situation where school districts across the country are recruiting bilingual education teachers, recruited from foreign countries, can barely speak or write English. For example, Spanish-speaking teachers are being recruited from Mexico, Puerto Rico, Spain, and elsewhere. They may speak their native language beautifully, but their students will never truly learn English well, and never be able to fully integrate into our society, unless their teacher comprehends the nuances of American English.

Let me add, Madam President, that I think on our Indian reservations in South Dakota the key mobility and opportunity in our society is learning to speak English and to write English well. That may sound a bit arrogant, but as a practical matter, the ladder to success in America has been proficiency in English. Years ago, I cosponsored an amendment with Sam Hayakawa, then a Senator from California, to recognize English as the national language.

This amendment does not do that, but it does require that bilingual teachers have a capability in English to qualify under this program.

This past April, the Texas Education Agency conducted a review of the Houston Independent School District's Bilingual Education Program. The agency found that some bilingual teachers had a "very limited use of English." In fact, 90 bilingual teachers were found in the city's program that spoke little or no English. Some of these so-called bilingual teachers had been given their required basic skills test in Spanish, rather than in English. These teachers could not speak English themselves. How could Houston expect these teachers to teach anyone else to speak and write English?

In other words, a bilingual teacher should be truly bilingual. In many parts of the United States, that is not the case, and the taxpayers are being misled.

Madam President, I ask unanimous consent to have printed in the RECORD at this point an op-ed piece by Linda Chavez. It appeared in the USA Today on June 15, 1994. The title says it all: "Bilingual Education Gobbles Kids, Taxes—Forget About Multiyear Programs—The Best Way to Teach English in School is to teach school in English."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From USA Today, June 15, 1994]

BILINGUAL EDUCATION GOBBLES KIDS, TAXES—FORGET ABOUT MULTIYEAR PROGRAMS—THE BEST WAY TO TEACH ENGLISH IN SCHOOL IS TO TEACH SCHOOL IN ENGLISH

(By Linda Chavez)

BETHESDA, MD.—If you think bilingual education is a temporary program to help immigrant youngsters learn English, think again. Hispanic students, in particular, are likely to be placed in classrooms where their native tongue, Spanish, is the medium of instruction—and they can end up staying there for years.

Bilingual education began in 1968 as a small, $7.5 million federal program to help Mexican-American students, half of whom could not speak English well when they entered first grade. The idea was to teach these children reading, writing and math in Spanish for a short period while they learned English.

Like so many well-intentioned government programs, however, bilingual education has become an unruly behemoth costing local, state and federal governments billions each year. New York City alone spends $300 million annually on its 126,000-student program. Currently, 2.3 million children are eligible for bilingual programs nationally, the great majority of whom are Hispanic.

And not all of these children are immigrants—or non-English-speaking, for that matter. In one New York City school district, half the Hispanic children in bilingual classes are American-born. And many—if not most—speak English better than they do Spanish. They end up there because New York automatically places in bilingual programs all Hispanic children who score below the 40th percentile on a standardized English test.

But standardized tests are designed so that 40% of all students who take them will score at or below the 40th percentile—even if all of them speak only English.

Bilingual education advocates argue that teaching immigrant children in their native language first is the surest way for them to learn English. In fact, there is virtually no scientifically valid research that this is true.

One much-touted 1991 study for the U.S. Department of Education shows that students in so-called late-exit programs, which last six years, fall well behind other students in the first three years. It's impossible to tell from the data whether this group ever actually catches up during the remaining years in the program.

Yet more school systems are moving to Spanish programs for Hispanic youngsters. In Burbank, Calif., this spring a group of Hispanic parents protested when they found out their children's elementary school program had been converted to a Spanish-only program earlier in the year—without their consent. According to the school's bilingual education director, "What we're doing is being done all over the state."

In May, Denver school officials ordered one local high school to stop teaching 450 Hispanic students in English and suggested the school transfer 51 Asian students so it could concentrate on Spanish bilingual programs.

School systems that insist on Spanish instruction are having difficulty finding qualified teachers. School districts from Los Angeles to Chicago have begun recruiting teachers from Mexico, Puerto Rico, Spain and elsewhere to meet the demand for native Spanish-speakers, with little concern for whether such teachers can speak English.

In April, authorities in Houston launched an investigation when they learned that 90 teachers in the city's "bilingual" program speak little or no English. Many also lack college degrees and some of the foreign-born teachers may have been smuggled into the country illegally.

Despite such problems, Congress appears ready to encourage even more school districts to adopt Spanish-language programs for Hispanic youngsters. The House has already passed its version of a bilingual-education reauthorization bill, and the Senate Labor and Human Resources Committee takes up its own bill this week. Both favor new provisions to encourage native-language instruction and to allow children to stay in the program indefinitely, even if their primary language is English.

The chief lobbyist for bilingual education recently boasted that this reauthorization represents "the biggest shift in federal bilingual education since 1968."

He's right. But it also represents a radical departure from the goal of teaching English to immigrant children.

(Linda Chavez is author of "Out of the Barrio: Toward a New Politics of Hispanic Assimilation" and the forthcoming "A Nation Divided: Multiculturalism and the Politics of Race.")

LEARNING TWO LANGUAGES

States with the most bilingual students in 1992:

California	986,462
Texas	313,243
New York	168,208
Florida	83,937
Illinois	79,291
New Mexico	73,505
Arizona	65,727
New Jersey	47,560
Massachusetts	42,606
Michigan	37,112

Source: The National Clearinghouse for Bilingual Education.

Mr. PRESSLER. Madam President, this article cites several important statistics I shall not go into at this time. However, I urge my colleagues to take the time to read the article.

The scandal in Houston was made a national issue by Education Week on April 6 of this year. Today, we have an opportunity to rectify this ridiculous situation.

Madam President, some may argue that my amendment destroys bilingual education. They may argue that there are not enough teachers who speak both good Spanish and good English out there for bilingual programs to hire. Well, if that is the case, then we should call this program something other than bilingual education. Linguistic separatism perhaps. The American people are tired of being sold something and than unwrapping it and finding the opposite of what they thought they had bought. Maybe this should be called the truth-in-labeling amendment. Bilingual teachers should be truly bilingual.

If there are not enough English-proficient bilingual teachers to go around then we should give the States and localities more flexibility to implement alternative English education programs. But retaining bilingual education teachers who are not truly bilingual does not serve the purposes of title VII and it does not serve the children this program is intended to help.

The real losers in these situations are the limited-English proficient students. I do not think I need to argue that learning English at an early age—as early as possible—is a good thing for children living in the United States. Experts agree that the best time to learn a language is during childhood. Children attending school in the United States have a right to learn our national language, English. The U.S. Supreme Court essentially said so in Lau verses Nichols. The Court did not say that children with limited English skills must be taught bilingually—that is, in their own language—but the effect of Lau is that a school district must do something to assist these children learn English. We are denying innocent children their right to learn English when we allow them to be taught in their native language by someone who is not proficient in English.

These children are being prevented from learning the same English that is taught to every other child in an American public school system. And not just children in the United States—Japanese, German, and French children are routinely taught English. Parents all over the world want their children to learn English because they know of the limitless opportunities their children will have if they can speak and write English fluently. Increasingly, English is the language of international business. Only in the United States are some kids not learning English because their teachers don't know it very well.

If my amendment is adopted, Madam President, that loophole will be closed. I would note that my amendment does not attempt to define what constitutes proficiency in English. I leave that determination to the local school districts applying for grants under title VII or the Secretary of Education. I do not wish to impose a new burden on our hard pressed States and localities. But under my amendment, grant applicants must provide an assurance that their bilingual teachers can read and write English proficiently.

States and localities could use the same English proficiency tests they currently use to test high school seniors except a higher passing score could be required. If a State does not administer a standardized English achievement test to their high school seniors, it could use any other State's test. The Secretary of Education, or his or her designee, could issue guidelines or promulgate regulations for applicants.

My goal is not to create a new unfunded mandate. But a meaningful assurance of English proficiency must be made. The passage of title VII has evidenced the intent of Congress that bilingual education, first and foremost, should result in a thorough understanding of the English language.

I urge the adoption of this amendment.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. PRESSLER. Madam President, I have asked for a rollcall vote on this amendment so it will stand a much better chance of surviving the conference committee. It is important to send a strong signal to the conferees that this requirement has the full backing and support of the entire Senate.

I thank the Senator from Massachusetts very much and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, very briefly, I thank the Senator from South Dakota for his cooperation with us in developing the language of the amendment.

We have a situation I know in my own State with the number of Cambodians. We have the second largest population of Cambodians in the world outside of Phnom Penh, and they settled initially in different places in the country and came to Lowell, MA, many did. They have three temples there. They are doing extraordinarily well. The community has expanded the school base.

It is one of the very extraordinary stories of acceptability in a difficult economic situation. They have significant numbers of Khmers, for example, children, and they had no help and assistance getting books in the language. They went down to the United Nations. We get the State Department all over the world to try to get both books and also develop skills for communication and working in this area.

They have done an absolutely remarkable job. For example, in my State, they are all moving toward proficiency both in the spoken, the verbal, as well as in the written.

We have also seen significant increases in Armenians. The language problems are not quite as much in my State. But as a result of all the tragedies there, there is under the State the requirement to move for verbal as well as written skills, and they are moving in that direction.

The Senator's amendment recognizes at least some degree of flexibility and ensures those children are going to be exposed if not from that particular teacher, but then in that educational experience, from proficiency in both oral and written works, we will work with him and continue on it.

I agree with the objective of giving at least some degree of flexibility, which has been helpful in dealing with some of the real-life situations we are seeing in a number of different schools.

I thank the Senator. I urge our Members to vote in favor of this amendment. I think it is an important one.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, this is an increasing problem in the United States, which the Senator from Massachusetts just pointed out. It is just amazing how many different languages we have. I know in the last census, I cannot remember the exact number, but I know in my little State of Vermont there are over 50 foreign languages that are spoken predominantly in the home. They are from all over the world.

Yet, even though we get very little, if any, money under the bilingual program, it is important to point out the absolute necessity that we provide teachers that are proficient in English to help those students along, rather than trying to hobble along as we have to do in many cases in this area.

So I commend my friend from South Dakota and will do what I can certainly to try and hold his amendment in the conference, and it makes eminent sense.

I yield the floor.

Mr. KENNEDY. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Pressler amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Madam President, I ask unanimous consent that it be in order to ask for the yeas and nays on the Kassebaum amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. I believe we have asked for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. For the benefit of the membership, will the Chair indicate the order for the votes that we are having at the present time?

The PRESIDING OFFICER. Does the Senator yield back the remainder of the time on the amendment?

Mr. KENNEDY. I do.

VOTE ON AMENDMENT NO. 2438

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Kassebaum amendment No. 2438. On this question, the yeas and nays have been requested, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—63

Baucus
Bennett
Bond
Boren
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Leahy
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Roth
Sasser
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NAYS—37

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Daschle
Dodd
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Inouye
Kennedy
Kerry
Lautenberg
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Reid
Riegle
Robb

Rockefeller
Sarbanes
Shelby
Simon
Wellstone
Wofford

So the amendment (No. 2438) was agreed to.

VOTE ON AMENDMENT NO. 2437

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2437, offered by the Senator from Idaho. This will be a 10-minute vote.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—44

Bennett
Bond
Boren
Brown
Bumpers
Burns
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
Danforth
Dole
Domenici
Faircloth
Ford
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Lott
Lugar
Mack
Mathews
McCain
McConnell
Nickles
Nunn
Pressler
Pryor
Roth
Sasser
Simpson
Smith
Thurmond
Wallop
Warner

NAYS—56

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Campbell
Conrad
D'Amato
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Shelby
Simon
Specter
Stevens
Wellstone
Wofford

So the amendment (No. 2437) was rejected.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2439

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from South Dakota. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—100

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

So the amendment (No. 2439) was agreed to.

AMENDMENT NO. 2436, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Senate will return to amendment No. 2436 by the Senator from Massachusetts.

The Senator from North Carolina.

Mr. HELMS. Madam President, let me read the amendment which I understand has been submitted as modified by the able Senator from Massachusetts [Mr. KENNEDY].

I feel a little faint as I read this because I agree with this wholeheartedly. It says:

> None of the funds authorized to be appropriated under this Act may be used to make condoms available in the public schools.

I ask the Chair if she will inquire of the clerk if that is the way the amendment reads.

The PRESIDING OFFICER. That is how the amendment reads as modified.

Mr. HELMS. Madam President, I feel a little bit like Redd Foxx on television. When something would excite him, years ago he would say, "Elizabeth, this is the big one."

The millennium is here, Madam President.

I ask the Senator from Massachusetts to make me a cosponsor of his amendment.

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senator from North Carolina be added as a cosponsor.

Mr. HELMS. And that this amendment hereafter be known as the Kennedy-Helms amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Well, now.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JEFFORDS. Madam President, I would say this is sort of an Olympic moment right here, and I think we ought at least for 10 seconds to savor it. It may or may not ever happen again.

Mr. KENNEDY. This, too, shall pass.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2436), as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2433, AS AMENDED

The PRESIDING OFFICER. Under the previous order.

Mr. JEFFORDS. Madam President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2433, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 9, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—91

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Ford
Glenn
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wofford

NAYS—9

Boxer
Chafee
Feingold
Gorton
Jeffords
Metzenbaum
Moseley-Braun
Murray
Wellstone

So the amendment (No. 2433), as amended, was agreed to.

UNANIMOUS-CONSENT AGREEMENT—EXTENSION OF RECESS

Mr. KENNEDY. Madam President, I ask unanimous consent that the majority leader be recognized to speak at 2:15 p.m. and that the period for the recess be extended until that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, as far as I know, and I believe as far as my friend and colleague, Senator JEFFORDS knows, we do not know of any other amendment dealing with the education provisions of this legislation.

Generally, we try to at least indicate to the body what the other matters would be that we would address. I understand we are not prepared, nor is the leadership prepared, or others, to make a consent request as to the follow-on order of the discussion and debate. Hopefully, we will be able to do it soon.

I, again, thank all of the Members for their cordiality.

UNANIMOUS-CONSENT AGREEMENT

Mr. KENNEDY. Madam President, I ask unanimous consent that no other floor amendments be in order for S. 1513, other than amendments the two managers have cleared and Senator GRAMM's crime amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I thank all the Members for their courtesy and for their cooperation. The Senate will address those particular matters, and then we will move toward a final vote on the elementary and secondary education legislation.

I would like to just speak very briefly at that time and acknowledge the contributions that Members have made both in our committee and also on the floor and the work of the staffs.

I thank my friend and colleague, the Senator from Vermont, Senator JEFFORDS, and Senator PELL who has been here hour in and hour out as chairman of our Education Committee, Senator KASSEBAUM and others for their attention to the work of the Senate on this issue, as with so many other issues.

Madam President, I ask that the Senate stand in recess according to the previous order.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived and passed, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:34 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KOHL).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Wisconsin, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE HEALTH CARE REFORM

Mr. MITCHELL. Mr. President, and Members of the Senate, tomorrow I will introduce comprehensive health care reform legislation. Nine months ago, President Clinton sent to the Congress his proposed Health Security Act. Since then, the debate on health care reform has been intense. Consideration of the issue in the Senate has been extensive. The Senate Labor Committee held 20 days of hearings and spent 5 days debating and writing its bill. They completed their work on June 9. Senators have had nearly 2 months to consider the Labor Committee's action.

The Senate Finance Committee held 31 days of hearings and spent 4 days debating and writing its bill. They completed their work on July 2. Senators have had a month to consider the Finance Committee's action. The bill I will introduce is drawn largely from the bills reported by the Senate Labor and Finance Committees. Their chairmen, Senators KENNEDY and MOYNIHAN, and all the members of those committees, Democrats and Republicans, deserve the gratitude of the full Senate for their efforts.

I believe we will enact health care reform legislation this year, and when we do, much of the credit properly will go to Senator KENNEDY and Senator MOYNIHAN for their leadership.

In preparing health care reform legislation, I have been guided by one principle: The purpose of health care reform is the well-being of American families. Health care insurers and health care providers are important parts of the system, but they are means to an end; the end, our true goal, is the well-being and peace of mind that Americans should have with respect to their health care.

Health care reform is a matter of simple justice. It is the fate of human beings to be born unequal in ability, in circumstance, and in physical strength. None of us chooses the family into which we were born. None of us is immune to the whims of fate. We are all susceptible to accident and illness. We all grow old.

Physical ailments should not define our lives, but in our health care system, they often do. Some people cannot get coverage for the health condition for which they most need care. Some people stricken with serious illnesses find that lifetime insurance limits are used up long before their life ends, long before their condition improves. Some families whose children have medical needs find themselves red-lined out of insurance coverage, so a child's healthy brothers and sisters are put at risk. Some families whose parents suffer disabilities as they age face years of providing in-home care or the bankrupting costs of long-term care because there is no affordable alternative.

Health care takes 14 percent of our gross domestic product—more than in any other developed nation. Americans pay the highest medical bills in the world, and the bills keep rising. From 1980 to 1993, the average family's health costs rose from $1,749 a year to $5,190. At that rate, average family cost will be more than $11,000 a year in another 6 years.

All that expense might be worth it if America led the world in the lifespan for adults or in low infant mortality rates. But it does not.

Statistics can guide policy, but people are not statistics. They are human beings who experience illness as individuals and as members of families. The question is whether the money we all pay into our system delivers to those who need it the care they need when they need it at a price they can afford. The answer to that question is, No, our system does not do that.

For people with comprehensive coverage, the system works well. For Members of Congress, Federal workers, State employees, the employees of most large corporations, an accident or illness is compensated by insurance, and the individual is not bankrupted. His or her family does not face the loss of a home or the erosion of a lifetime's savings.

But for many other people, the story is far different. For them, the difference between financial security and financial devastation can be as simple and dramatic as an auto accident or a weak heart valve. That is not fair or right. That is why we need reform.

My proposal builds on the strengths of our system and tries to eliminate its weaknesses. It builds on the existing American system of private insurance. I propose to expand the system to those not now included—Americans who cannot afford insurance, people with an illness that insurance companies will not cover, people between jobs. I propose to place most of the persons now covered under Medicaid into the same system of private insurance and care as the rest of the population.

My bill includes all of the insurance market reforms on which there is broad agreement. Insurance companies will not be allowed to reject applicants for preexisting conditions. Insurance will travel with the person so Americans will not be locked into a job. Policy renewal will be guaranteed so people who fall ill are not cut off from coverage when they need it most.

My bill creates incentives for cost control through the competitive pressures of employers and consumers seeking lower price coverage. Private price competition among insurers is the best way to determine where the fat lies in insurance coverage and where the most cost effective shakeouts can occur. As long as there are incentives to look for price economies, the private system will shake out those who cannot compete by price. My bill is designed to encourage that process because that is the best way to serve the public.

As a backup mechanism, there is an assessment on high-cost insurance plans whose prices rise too quickly. It will mean that insurance companies will become more price sensitive because high-cost plans will be unattractive to the middle class, which is the principal market for their product. My bill also lays the groundwork for universal coverage through a voluntary system which includes purchasing cooperatives, market incentives and targeted subsidies.

Based on discussions with the Congressional Budget Office, I am confident that its provisions will assure that 95 percent of all Americans will be covered by guaranteed portable renewable insurance over the course of the next 6 years.

I want to repeat that: The Congressional Budget Office's preliminary estimate is that under this plan 95 percent of all Americans will be covered by the year 2000.

I have included a backup mechanism in the bill, if for some unforeseeable reason fewer than 95 percent are covered by then. But I believe the CBO estimate that this bill will achieve 95 percent coverage in a definite neutral way is sound.

Americans pay more for health care than any other people, without getting the universal care commonplace in other countries. That does not have to continue. We can get better care for our health dollar.

All of the plans put forward so far recommend that the reforms be phased in. The President's plan includes a 4-year phase-in period, the House bill 5 years.

My plan phases in even more slowly. That is a realistic recognition of the enormously complex task of modifying the health care system. It makes sense to do this carefully and make certain it is done right.

Health insurance for all Americans is the key to reform. I repeat that. I believe that. It is essential. Health insurance for all Americans is the key to reform. Without it, we face a continuation of cost shifting and other problems. We must assure health insurance for our citizens.

We have a system today where some have coverage and some do not. Everyone who today has health insurance is subsidizing those who do not. That is what is called cost shifting. Doctors, hospitals, clinics, all other health care providers compensate for unpaid care by charging more to the people who have insurance. The added charge is not paid by the insurance companies, it is added to the premiums that are paid by every insured family and individual.

Americans with health insurance pay as much as 30 percent more for their coverage, a hidden tax to pay for cost shifting. The only thing that can cure cost shifting is universal coverage. The claim that we can reach universal coverage with incremental changes in law is wrong. We have to make coverage available. We also have to make it affordable. To make insurance more affordable, my bill provides for the States to create voluntary regional or statewide health purchasing cooperatives. These will be community-rated purchasing co-ops covering no fewer than 250,000 persons. Health insurance purchasing co-ops will not be allowed to turn down qualified applicants, and they will be required to offer a choice of plans to all buyers. So workers in small companies will have the same range of choices as do all others.

Any American in a community-rated insurance pool, in essence any American who does not work for a large corporation that provides health coverage to its workers and who wants to do so, anyone in that situation will be able to enter the Federal Employee Health Benefits Plan. It offers many different plans among which to choose. It is a good system for the insurers and for those who are insured.

If it is good enough for us and for all Federal employees, it is good enough for, and should be available, to all Americans who do not have coverage through their jobs.

My plan will help make better insurance available to those who work and the families who depend on them. In addition to employees, there are millions of Americans who are self-employed and millions more who are out of work or between jobs. In addition, there are those covered by Medicaid, the joint Federal-State system of health care for the poor.

My plan will integrate all of these people into a national system of private insurance. Unless we do so, the cost shifting that has sent insurance costs skyrocketing will continue and working families will pay more and more of the hidden tax of the health care bills of those who are not insured.

Many people will need some subsidy to afford health care coverage. My bill extends those subsidies on a sliding scale to those who qualify. It will include tax benefits for the self-employed beyond what is available to them today. This will not create a new obligation on the Federal or State Government. It will reorganize the obligations that taxpayers are already shouldering through the Medicaid system and through cost shifting to pay for the care of the uninsured.

The current poverty level for a family of four is about $14,800. My bill will provide that by 1997 people at or below the poverty level will be helped to buy private insurance. This will end the acute-care costs of the Medicaid Program, which these people receive today, and will place them into the same systems of coverage and care as the rest of the population. For families with incomes up to twice the poverty level, there will be a sliding scale of subsidies for the purchase of health insurance.

Also beginning in 1997, the medically needy who are subsidized by some States and those between jobs, would have a 6-month transition to the system, during which their premiums would be fully paid. At the end of the 6-month period, they would face the same benefits and costs as others, based on their incomes.

A major strength in our system is the element of choice. It creates incentives for market-driven efficiencies. Employers can choose the plan they offer their workers by shopping among insurers. Individuals can find a personal physician or decide instead on the certainty of coverage under a health maintenance organization. That element of choice spurs health providers to compete by offering better services and a wider range of options at a better price.

My bill will expand those choices and will increase incentives to compete by price and quality to those offering insurance coverage.

Today most people's health care choices are limited to one plan that their employer offers. My bill requires every employer to offer at least three plans. The employer will not be required to pay any part of the costs of coverage, but will be required to make at least three plans available to everyone. That is going to widen choices for a majority of Americans immediately.

At least one plan will have to be traditional fee-for-service. Other plans could be health maintenance organizations or other group practice programs with more flexibility. The goal is to assure that each worker has the choice of a lower cost plan as well as higher cost options.

A lot of attention has focused on the role of employers in our system, particularly small companies.

Most Americans do not work for small companies, but for those who do and for the people who employ them, the current health care system is a nightmare of unfairly allocated administrative costs, unaffordable rates and medical redlining, where all the workers in a company are refused coverage because one of their coworkers has a health condition.

As much as 40 cents of every health insurance dollar paid by a small company goes to administrative costs. Smaller firms face rates 30 to 35 percent higher than larger firms for the same coverage.

By letting every company with fewer than 500 employees—that is every small business in the country—buy insurance through health insurance purchasing cooperatives, my bill gives smaller firms the bargaining strength that only large ones have today. And it means they can offer their employees the same range of choices that other workers have.

Because I believe primary and preventive care is the key to solving enormous cost problems in our health care system, I have designed my program to focus in particular on pregnant women and on those 18 years of age and younger.

The costs of low-birthweight babies in this country are astronomical. Many infants weighing a few pounds at birth cost all of us hundreds of thousands of dollars for immediate intensive care. They often demand many more thousands of dollars a year throughout their lives for the physical or developmental problems that accompany low birthweight.

Much of this additional care and its costs are preventable if the mothers of these children have decent prenatal care. The General Accounting Office found that 63 percent of women who are on Medicaid or have no insurance do not get proper prenatal care. About ⅛ in eight has a low birthweight baby as a result. The annual cost was estimated to be $3.3 billion 10 years ago. It is higher today and it will climb even higher if we do nothing.

So my bill focuses on this need, because correcting the lack of preventive care for young pregnant at-risk women is the right thing to do, and is cost-effective.

Mr. President, and Members of the Senate, I have a daughter of child-bearing age. Were she to become pregnant, it would be unthinkable for me that she would not be able to see a doctor during her pregnancy, and I know in my heart and soul that it would be unthinkable for every Member of this Senate. If a daughter of any Member of this Senate became pregnant, it would be unthinkable that she should not see a doctor. And yet, what is unthinkable that she should not see a doctor. And yet, what is unthinkable for us is the reality for thousands of young at-risk women. We cannot let this situation continue. We can do the right thing and save our society billions of dollars.

In addition, because preventive and primary care reduces costs for everyone, my bill's benefits package will not require copayments for preventive care. It creates an incentive for persons to have regular annual checkups and to seek early care.

My bill is intended to integrate everyone into a system where everyone who uses a service pays some part of the cost. That way, all of us have an incentive to find ways to reduce these costs. It is an incentive for greater responsibility. It will not work with all people. It is not foolproof. But it will help because it rests on the common sense and self-interest of ordinary people.

The keys to health care reform today are access, affordability, and universal coverage. Those who say the problem is access, not price, are mistaken. It is both access and price.

Senator Boxer described an all too common occurrence, one that happened in California. She told of a young man, 19 years old, a high school football star, who was stricken with cancer. His only chance of overcoming the cancer was a bone-marrow transplant. But his health insurance did not cover it.

Sick, dying of cancer, he and his family were forced into the all-too-common spectacle of advertising their need and raising money to meet the costs.

Sick people and their families should not have to make a public appeal for money so they can have the medical treatment they need.

Americans are generous and these fund-raising appeals often succeed. But I ask each Senator to ask himself or herself what price do they demand of the sick people forced to undertake them? High health care costs are driving Americans to choices that none of us should have to make.

A great deal of attention in this debate has focused on employer mandates—the requirement that in the future, all employers provide what the majority of workers enjoy today—health insurance coverage through the workplace.

Argument against employer-provided health insurance are the great smokescreen in the health care debate. I have visited with and spoken with the owners of small businesses all across this country. If there is one thing most of them would like to do it is to offer health insurance to their employees. They know them. They know their families.

Most businesses want to provide coverage and will, when they can afford it. It has been an American tradition for half a century. It is something working people expect and employers understand.

My bill provides a system of subsidies and of community-rated insurance that makes it possible, for the first time, for companies to challenge insurers to come down in price for their coverage. It will enable companies to offer health benefits. For companies just starting up or operating with very low profitability, it will permit their employees to select an affordable program to cover their needs.

The politics of health care reform are confusing to most Americans. Much of the confusion is intentional. Those who do not want reform have a stake in confusing the issues and making the idea of reform frightening to as many people as possible.

But what should frighten people—and what does frighten a lot of Americans—is not the change that may come. It is the reality they live with today, where health coverage can be abruptly terminated for a whole family because one child suffers an illness, where a whole firm can be denied affordable coverage because one worker has a health condition, where a breadwinner does not dare to look for new job, for fear that health coverage will not be available. That is what should, that is what does scare most people.

Health care reform is much more than a political debate. It is about a fundamental reality in every human life.

If the States can demand that auto insurers cover the risks resulting from bad driving behavior—behavior that can be controlled and influenced and prevented—it is not beyond our ability to require health insurance companies to cover those whose conditions often do not rise from their behavior but from circumstance and just plain bad luck.

My bill will do this. Insurers will not be able to reject a person because the person had the bad luck to be born with a physical malfunction or to contract a disease in childhood, or to suffer an accident with long-term effects, or for any other reason.

There is a crisis in American health care. It is a crisis of affordability and access. It has to change. I have proposed legislation which I believe will meet the need, and which will make the change with the least disruption to the parts of the system that work well for millions of Americans.

Our country has too many people who are victims of disease but who are much more victimized by the system of insurance and health care than they ever could be by their medical condition.

Human beings can fight disease and often do. What people cannot fight are rules and regulations and policies driven by a desire to avoid risk and cost, and directed at the most vulnerable persons among us—those who are sick. We should not ask Americans to fight this system any longer. We have it within our ability to correct what is wrong. We have it within our ability to create a system whose focus is on people.

We have the ability and today, thanks to President Clinton's efforts, we have the public's attention as well.

It is time to act. The bill I will introduce is a good starting point for action. I look forward to the debate. I welcome constructive suggestions and alternatives. Let us debate and amend. But in the end, let us do what is right for the American people.

Mr. President, I ask unanimous consent that two documents, one entitled "Sources of Mitchell Health Care Reform Bill," 2 pages in length, and one entitled "Mitchell Health Care Legislation, Executive Summary," 21 pages in length, be printed in the Record immediately following my remarks.

Mr. President, I thank my colleagues for their attention.

There being no objection, the material was ordered to be printed in the Record, as follows:

SOURCES OF MITCHELL HEALTH CARE REFORM BILL

1. FINANCE COMMITTEE

The following provisions are taken directly, or with minor modification, from the Finance Committee bill:

1. Medicaid/Medicare.
2. Financing Mechanisms.
3. Cost Containment.
4. Subsidies for Low-income Pregnant Women and Children.
5. Benefit Approach.

2. LABOR COMMITTEE

The following provisions are taken directly, or with minor modification, from the Labor Committee bill:

1. Public Health Infrastructure.
2. Workforce Priorities.
3. Quality Improvement.
4. Consumer Protections.

3. FINANCE AND LABOR COMMITTEES

The following provisions are blended provisions based on the Finance and Labor Committees bills:

1. Insurance Market Reforms.
2. Health Insurance Purchasing Cooperatives.
3. Low-income Subsidies.
4. Federal Employees Health Benefits Program.
5. Long-Term Care.
6. Academic Health Centers/Graduate Medical Education.
7. Fraud and Abuse Program.

4. OTHER PROVISIONS

The following provisions were not included in either Committee, or if included, have been subject to modification.

1. Medicare Prescription Drug Benefit.
2. Expanded Coverage:

Additional Coverage for Pregnant Women and Children.

Coverage for Temporarily Unemployed, Uninsured Workers.

Incentives for Employers to Expand Coverage to Additional Workers.

3. Backup Mechanism to Enable Coverage of the Remaining Uninsured.

MITCHELL HEALTH CARE LEGISLATION—EXECUTIVE SUMMARY AUGUST 2, 1994

1. EXPANDING COVERAGE

The objective of this health care reform plan is to provide universal coverage through a system of insurance market reforms, voluntary purchasing cooperatives, and incentives and subsidies to those who need them.

The Congressional Budget Office's preliminary estimate is that, if this plan is enacted, 95 percent of all Americans will have health insurance by the year 2000 with no increase in the federal deficit. The plan will further establish a procedure to provide thereafter health insurance to all Americans.

A. *Subsidies Under a Voluntary System.*—Targeted subsidies will be available to encourage certain low income individuals and some firms to purchase insurance. These subsidies would be targeted to people who do not have health insurance coverage today.

For low income individuals:

Low-income families. Beginning in 1997, low income individuals and families will receive a subsidy worth a fixed percentage of the average premium in a health care coverage area. For those below 100 percent of the Federal poverty level, the subsidies will cover the full cost of health insurance coverage. The value of the subsidy will be phased out between 100 percent and 200 percent of poverty.

Low income pregnant women and children. Beginning no later than 1997, pregnant women and children under 19 with incomes up to 185 percent of poverty will be eligible to receive subsidies equal to 100 percent of the premium. The subsidies will be phased out between 185 percent of poverty and 300 percent of poverty. Community rated health plans will be required to offer two additional categories of coverage: single child and multiple child, so that child only policies are available in the market.

Cash assistance recipients. Beginning with the January 1, 1997 abolishment of the acute care portion of Medicaid for AFDC, all AFDC cash assistance recipients will receive subsidies equal to 100 percent of the premium.

Former non-cash Medicaid eligibles. Beginning in 1997, individuals who would be medically needy or other non-cash recipients under the current Medicaid program (except pregnant women, infants and children) will receive subsidies covering 100 percent of the premium for six months, then will be treated the same as others based on income.

Outreach and enrollment. To maximize health insurance coverage, low income individuals eligible for full subsidies (below 100% of poverty generally, and below 185% of poverty for pregnant women and children) will be permitted to enroll in a health plan at any time of the year (others may enroll only during the 30 day enrollment period). Any pre-existing exclusion rules that apply to the newly insured will be waived for these individuals, and a new system will be developed to sign up such individuals for health insurance coverage when they seek health care service at a hospital or clinic.

Temporarily unemployed, uninsured. Beginning in 1997 individuals who were full time employees, insured for at least six months will be eligible for enhanced income protection subsidies to purchase insurance. Under this program, unemployment insurance benefits and wages earned in a month up to 75 percent of the poverty level, will be disregarded for purposes of determining eligibility for low income subsidies. Individuals will be eligible for this program for up to six months or until they find other full time work. This assists temporarily unemployed individuals purchase insurance by disregarding a portion of their income for the year so that they are eligible for the low income subsidies.

For employers:

Employers who expand coverage to additional workers. Beginning in 1997, employers who expand coverage to all their employees in a specific class (i.e., full time, part time) will receive subsidies to make their employees' premiums more affordable. Employers will pay the lesser of 50 percent of the premium or 8 percent of each newly insured employee's wages. The employee will pay 50 percent of the premium. Workers with incomes under 200 percent of poverty eligible for the individual subsidies described above. This subsidy will be available to employers for a maximum of five years.

B. *Trigger to a Requirement.*—On January 15, 2000, the National Health Care Cost and Coverage Commission will determine whether the voluntary system has achieved 95 percent coverage.

First Alternative—Coverage Target Achieved. If the Commission determines that, on a nationwide basis, at least 95 percent of all Americans had health coverage, it will send recommendations to the Congress on how to insure the remaining uninsured individuals. Congress will consider legislation to insure the remaining uninsured under an expedited process that requires committees to discharge by a certain date and that limits its floor debate. The legislation will be fully amendable and require the President's signature. No further action is required.

Second Altenative—Coverage Target Not Achieved. If coverage is below 95 percent, the Commission will send to Congress by May 15, 2000 one or more legislative proposals on how to insure the remaining uninsured individuals. Congress will consider legislation to insure the remaining uninsured under an expedited process that requires committees to discharge by a certain date and that limits floor debate. The legislation will be fully amendable and will require the President's signature. If universal coverage legislation is not enacted by December 31, 2000, an employer requirement will go into effect on January 1, 2002 in those states with less than 95 percent coverage.

C. *Nature of Requirement.*—If a requirement is triggered, employers with 25 or more employees will have to pay 50 percent of their employees' premium costs, with the employee paying the remainder. Firms employing fewer than 25 workers will be exempt from an employer requirement. Individuals will be required to have health insurance. Under a requirement, the targeted subsidies available under the voluntary system will be replaced with general subsidies designed to make insurance costs affordable.

Employees with Adjusted Gross Income under 200 percent of poverty will be subsidized on their 50 percent share of the premium on a sliding scale basis, so that those with incomes up to 100 percent of poverty will pay no more than about 4 percent of income, rising to no more than 8 percent of income by 200 percent of poverty. No family, regardless of income, will pay more than 8 percent of income on their 50 percent share of the premium.

Non-workers and those in exempt firms will receive the same subsidies for their 50 percent share of the premium as employees in covered firms. Those below 200 percent of income will receive additional subsidies (on a sliding scale) to make the remainder of the premium affordable.

2. CONTROLLING HEALTH CARE COSTS

A. *Premium Assessment.*—A 25 percent assessment would be imposed on "high cost" health plans to the extent their costs exceed a target cost. The initial target for community rated plans would be based on average per capita health care costs in the particular community rated market area for 1994 trended forward at the rate national health expenditures increase. The target rate of growth thereafter would be CPI plus 3.0 percent for 1987, 2.5 percent for 1988 and 2.0 percent thereafter. The initial target for experience rated plans would be based on each plan's actual experience from 1997–1999, and then will increase generally by the same target growth rate that applies to community rated plans.

Plans in a community rated area where the average premium is less than the target would not be subject to the assessment. The health plan would pay half the assessment and collect the other half from providers in reduced reimbursements. The Secretary of the Treasury will have the authority to adjust the reference premium to reflect changes in demographic characteristics and health status. The tax would apply to community-rated plans after 1996 and to experience-rated plans after 1999.

B. *National Health Care Cost and Coverage Commission.*—A National Health Care Coverage and Cost Commission will be established to monitor and make recommendations with respect to trends in health insurance coverage and costs. The Commission will consist of seven members to be appointed by the President and confirmed by the Senate.

Beginning in 1998, the Commission will issue annual reports detailing trends in health care coverage and costs, broken down nationally, by state, and by health care coverage area.

Among other things, the Commission will report on:

Demographics and employment status of the uninsured and reasons why they are uninsured;

Structure of health delivery systems;

Status of insurance market reforms;

Development and operations of health insurance purchasing cooperatives;

Success of market mechanisms in expanding coverage and controlling costs among employers and households;

Success of high cost health insurance premium tax in controlling costs;

Success and adequacy of subsidy program in expanding coverage through employers and households;

The Commission will also issue findings on the per capita cost of health care, including the rate of growth by type of provider, by type of payor, within States and within health care coverage areas. Such findings will also include the expected rate of growth in per capita health care costs, the causes of health care cost growth, and strategies for controlling such costs.

Beginning on January 15, 1999, the Commission will report each year on the affordability of coverage for families and employers and on the success of market incentives and other provisions of this legislation in achieving cost containment. If the Commission finds that coverage is unaffordable or that cost containment efforts are unsuccessful, it will make recommendations for improvements.

If the Commission finds that fewer than 35 percent of those eligible to enroll in the community-rated health plan are able to enroll in a plan with a premium at or below the target premium for the area, then the Commission will consider and recommend to Congress a means of controlling health care cost growth to the target set in this legislation or to an alternative target if the Commission determines that would be more appropriate. Congress shall consider such Commission recommendation under the same expedited procedures as it considers the Commission recommendation for achieving universal coverage. Consideration of such recommendations under such procedures will not occur more than once in a Congress.

3. INSURANCE MARKET REFORMS

A. *Market segments and boundaries.*—Firms with fewer than 500 workers and individual purchasers (self-employed, nonworkers, AFDC-eligibles) will be in the community rated pool. Firms with 500 or more workers, as well as Taft-Hartley plans and rural cooperatives with 500 or more members, will be permitted to self-insure or purchase experience-rated coverage.

B. *Community rating requirements.*—Community-rated plans could modify their rates based on coverage category (e.g., single, family, etc.), geography, and age (with 2:1 band for population under 65 years of age until 2002). Each community-rated health plan will be required to establish a single set of rates for the standard benefits package applicable to all community-rated eligible individuals and groups within the community rating area.

States draw boundaries for community rating areas. In drawing such boundaries, states cannot subdivide metropolitan areas and must assure that a community rating area contains at least 250,000 individuals.

C. *Guaranty fund.*—States shall be required to establish guaranty funds for all community-rated health plans and in-state, self-insured plans based on federal standards. The Department of Labor would establish standards for and operate a guaranty fund for multi-state self-insured plans.

D. *Health Insurance Purchasing Cooperatives (HIPCs).*—The plan allows for multiple, competing, voluntary HIPCs. States certify HIPCs to serve state-established community rating areas. States may certify more than one HIPC for each such area. HIPCs must be non-profit. States and local governments will be allowed to sponsor or establish HIPCs. If a HIPC is not available in a community rating area, the Federal Employees Health Benefits Program (FEHBP) will be required to establish or sponsor HIPCs in such unserved areas (see FEHBP below).

HIPCs will be responsible for entering into agreements with plans and employers; enrolling individuals in plans; collecting and distributing premium payments; coordinating out-of-coverage with other HIPCs; and providing consumer information on plans' quality and cost.

HIPCs must accept all eligible individuals and firms; provide enrollees a choice of at least 3 plans, including 1 Fee For Service (FFS), 1 Point of Service (POS), and 1 HMO. Requirement of 3 plans could be waived by Governor in rural areas, but FFS must always be available. The Secretary of Health & Human Services will set fiduciary standards for HIPCs. HIPCs will be permitted to negotiate discounts with plans reflecting economies of scale in administration and marketing.

E. *Employer Responsibility.*—Small employers (firms with less than 500 workers) must offer to their employees a HIPC. They may also offer a choice of at least three plans (including an FFS, POS, and HMO) to their employees. These small firms could choose from among the HIPCs in their community rating area.

In order to qualify for an employer premium contribution, employees will be required to purchase health insurance through the three plans or the HIPC chosen by their employer. If an employer chooses to offer an HIPC that is not the FEHBP HIPC in the area, that employer's employees also could choose from the plans offered by the FEHBP HIPC and still qualify for any employer premium contribution.

Large employers (firms with 500 or more workers) must offer a choice of at least three plans (including an FFS, POS, and HMO) to their employees. Large employers can purchase experience-rated health plans or self-insure. Large employers can join together to form large employer purchasing groups, but cannot join HIPCs.

F. *Self-insured plans.*—In general, self-insured plans must comply with the above responsibilities and reforms, including employer and individual premium contribution requirements, coverage of a comprehensive package of benefits, guaranteed issue and renewal, and pre-existing condition limits.

G. *FEHBP.*—The Office of Personnel Management will designate a state-certified health insurance purchasing cooperative in each area as the FEHBP HIPC. If a state-certified HIPC is not available, OPM will be responsible for setting up an HIPC. An HIPC run by OPM would have all of the powers of a state-certified HIPC.

Federal workers will select plans through their local FEHBP HIPC. Premiums for federal workers will be based on the current methodology and will not be age-adjusted. OPM will implement rules to blend premiums for federal workers with premiums for non-federal individuals over time. Federal workers and non-federal individuals will pay the same community-rated premium upon the phase-out of age-rating in 2002.

Workers in firms with less than 500 workers, nonworkers, AFDC recipients, the self-employed can also purchase coverage from the same plans as federal workers through the FEHBP HIPC, but at the age-adjusted community rate. National employees plans (e.g., Treasury) will have a one year transition before they are opened to non-federal individuals.

The federal government and employee and retiree representatives will negotiate to decide whether the federal government will offer and contribute towards supplemental benefits above the standard benefit package for federal workers.

H. *Risk Adjustment.*—Risk adjustment will occur between community-rated health plans to account for differences in health costs that result from differences in their enrollees' health status, demographics, socioeconomic status, and other factors. Community rated health plans must also participate in a mandatory reinsurance program run by the states.

In addition, experienced rated plans will be required to make transfers to the community rated plan pools to adjust for the increased costs in the community rated pools.

I. *Family Coverage for Individuals up to Age 25.*—To further maximize coverage, health plans must allow unmarried children to be covered under parents' policies until they turn 25.

4. NATIONAL HEALTH PLAN STANDARDS

A. *State Certification of Plans.*—States will certify health plans based on federal guidelines. Health plans will be subject to the following market reforms: guarantee issue and renewal, open enrollment, limit pre-existing condition exclusions to six months, and exit from market rules. Supplemental health benefits plans must be priced and sold separately from the standard health plan.

B. *Any-Willing-Provider.*—The plan does not include "any-willing-provider" provisions. The anti-discrimination provision prohibits a provider network from discriminating against providers on the basis of their profession as long as the state authorizes that profession to provide the covered services. However, this provision does not require standard health plans to include in a network any individual provider or establish any defined ratio of different categories of health professionals.

C. *Balance Billing.*—Each standard health plan must have arrangements with a sufficient number and mix of health professionals that will accept the plan's payment rates as full.

D. *Access to Specialized Treatment Expertise.*—Standard health plans that use gatekeeper or similar process must ensure that such a process does not create an undue burden for enrollees with complex or chronic health conditions. Each standard health plan must demonstrate that enrollees have access to specialized treatment expertise.

E. *Utilization Management.*—Each standard health plan must disclose the protocols and financial incentives which they are using to control utilization and costs.

5. BENEFITS PACKAGE

A. *The Benefit Package.*—There are 16 legislatively-defined categories of covered services in a "standard" benefits package, including:

1. Hospital services;
2. Health professional services;
3. Emergency and ambulatory medical and surgical services;
4. Clinical preventive services;
5. Mental illness and substance abuse services;
6. Family planning and services for pregnant women;
7. Hospice services;
8. Home health services;
9. Extended care services;
10. Ambulance services;
11. Outpatient laboratory, radiology and diagnostic services;
12. Outpatient prescription drugs;
13. Outpatient rehabilitation services:
14. Durable medical equipment, prosthetics and orthotics;
15. Vision, hearing, and dental care under 22 years of age;
16. Investigational treatments.

The scope and duration of services are not specified in legislation, but will be defined by a National Health Benefits Board. For mental illness and substance abuse, the board is instructed to seek parity (same copays, coinsurance, deductibles). If the Board cannot initially design a benefit package with parity, it is permitted to place limits, first on hospitalizations and subsequently on outpatient psychotherapy for adults. No copayment will be required for clinical preventive and prenatal services.

B. *Cost sharing schedules*.—The value of the standard benefits package will be equivalent to the actuarial value of the Blue Cross/Blue Shield standard option under FEHBP. The Benefits Board will specify three cost sharing schedules:

A low cost sharing schedule, resembling an HMO.

A high cost sharing schedule, resembling fee-for-service.

A combination cost sharing schedule, resembling a point-of-service plan, in which in-network services would have lower cost sharing schedules similar to an HMO or PPO, and out-of-network services would have higher cost sharing schedules like fee-for-service.

C. *The "alternative standard" benefits package*.—Individuals will have the option of purchasing an alternative benefits package. With a higher deductible, this plan will be offered at a lower actuarial value than the standard plan. While it resembles a catastrophic plan in the size of the deductible, it differs in that it must cover all 16 categories of services. It will not be offered through employers, and supplemental policies will not duplicate services or pay for cost sharing below the deductible. Enrollees selecting this plan will be included in the community rating pool. These provisions are designed to limit the potential for risk selection.

D. *National Health Benefits Board*.—The seven member National Health Benefits Board will determine the scope and duration of services and the details of each cost sharing schedule. In addition, the Board will develop criteria and procedures for defining medical necessity and appropriateness. Members will be appointed by the President, with the advice and consent of the Senate, to staggered six year terms.

E. *Cost Sharing Subsidies*.—AFDC recipients enrolling in a lower or combination cost sharing plan at or below the average premium in the area will pay on 20 percent of the regular cost sharing schedule (e.g., instead of a $10 copay, they pay only $2). If no such plan is available, they can get a cost-sharing reduction in a higher cost-sharing plan (e.g., instead of a 10 percent copay on a doctor's visit, they pay only $10).

For people who are under 150 percent of poverty and are not receiving AFDC, cost sharing is only available if they cannot buy a lower or combination cost sharing plan. If such a plan is unavailable, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

For people under 150 percent of poverty and not working, cost sharing is only available if they cannot buy a lower or combination cost sharing plan. If such a plan is unavailable, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

For people under 150 percent of poverty who enroll in a plan through an experience-rated employer, no cost sharing is available if the person can enroll in any lower or combination cost sharing plan offered by their employer through which they enroll. Otherwise, the person can enroll in a higher cost sharing plan and have their cost sharing reduced to the lower cost sharing level.

6. EXPANDED BENEFITS FOR THE ELDERLY AND DISABLED

A. *Long Term Care*.—The plan includes several new initiatives to provide long term care services to the elderly and disabled. New programs include:

New Home and Community Based Care Program. The plan provides a capped federal entitlement to states to provide home and community-based services to individuals with 3 or more deficiencies in Activities of Daily Living (ADLs), severe mental retardation or severe cognitive or mental impairment regardless of age or income. Funding over the 1995–2004 period totals $48 billion.

Long Term Care Insurance Standards. Private long term care insurance policies will be subject to Federal model standards to be developed by the Secretary of HHS in consultation with the National Association of Insurance Commissioners within one year of enactment.

Tax Clarification for Long Term Care Insurance. Expenses for long term care services and insurance premiums shall be treated as medical expenses. Other tax clarifications are also included.

Life Care Program. The plan establishes a voluntary public insurance program to cover the costs of extended nursing home stays. Individuals will be given the option of purchasing coverage wnen they reach the age 35, 45, 55, or 65. The program is self-financed and pre-funded.

PACE Program. The plan expands Medicaid's Program of All-Inclusive Care for the Elderly (PACE), increasing authorized demonstration sites from 15 to 40. The Secretary of HHS is required to develop provider and service protocols.

B. *Medicare Drug*.—This initiative gives Medicare beneficiaries three drug benefit options: a fee-for-service plan, a Prescription Benefits Management (PBM) option, and an HMO option—all effective January 1, 1999. Under this new program, beneficiaries will have an annual deductible to be determined by the Secretary of HHS; a 20 percent copay; and an annual out-of-pocket limit of $1,275 in 1999. Medicare Part B premium would be increased by 25 percent of the cost of the drug benefit estimated to be about $10 in 1999, with Medicare paying the remaining 75 percent.

Drug manufacturers will sign rebate agreements with HHS in exchange for no formulary under the fee-for-service option. Drugs used as part of HMOs or capitated drug plans and drugs for the working aged will not be subject to rebates.

Rebates for single source and innovator multiple source drugs will be 15 percent; rebates for generic drugs would be 6 percent; the Secretary could establish a sliding scale from 2 percent to 15 percent for generic drugs as long as the effect was equal to a 6 percent. From 1999–2004, this program will cost $94.4 billion.

C. *Enrollment of Medicare Beneficiaries into Managed Care Plans*.—Individuals who become eligible for Medicare may choose to remain in their current health plans if such plan is a Medicare Risk Contracting plan under section 1876 of the Social Security Act, or is eligible to become such a risk contract. Payments will be made beginning in the first month in which the individual is Medicare eligible. Payments under this provision shall be the sole Medicare payment to which the beneficiary is entitled.

7. MEDICAID PROGRAM

A. *Integration of Medicaid Recipients*.—(See Coverage section above) Under this plan, the AFDC and non-cash population will be integrated into the general health care reform program and treated like other low-income people eligible for federal subsidies and enrollment in certified health plans. States will be required to make general maintenance of effort payments for services covered under the standard benefit package.

AFDC. Cash Medicaid recipients (AFDC) will be eligible for full premium subsidies as will other families with incomes less than 100 percent of poverty;

Non-cash. Full premium subsidies will be available to all pregnant women and children up to age 19 with incomes up to 185 percent of poverty.

B. *Cost sharing for Integrated Medicaid recipients*.—AFDC recipients in HMOs will pay only 20 percent of the cost sharing amount otherwise required. If no HMO is available, AFDC recipients will pay the cost sharing amount that would apply in an HMO, but not reduced to 20 percent. Noncash recipients will receive cost sharing subsidies like all other low-income individuals—up to 150 percent of poverty.

C. *State and Federal Premium Payments for Integrated Recipients*.—The federal government will pay all of the premium subsidies for integrated Medicaid recipients. States will pay the federal government maintenance of effort payments for these integrated recipients. Specifically:

Cash: States will be required to pay an amount equal to: (1) the adjusted, fiscal year 1994 per capita cost of services covered (based upon the state's current Medicaid payment rates) under the standard benefits package for AFDC recipients multiplied by (2) the number of AFDC recipients receiving a subsidy in a given year. Disproportionate Share (DSH) payments attributed to Cash recipients are not included in the calculation of a state's per capita cost of covered services. The per capita cost of services in fiscal year 1994 will be adjusted for future years by the growth in per capita national health expenditures.

Non-cash: States will be required to make general maintenance of effort payment for services (based upon the state's current Medicaid payment rates), in fiscal year 1994, covered under the standard benefits package for non-cash recipients. State DSH payments which are attributable to the noncash population will be included in the calculation of general maintenance of effort payment. Such MOE payments will increase at the same growth rate as national health expenditures.

D. *SSI/Disabled Medicaid Recipients*.—SSI/Medicaid recipients will not be included in the community rated market. Medicaid will be retained as a separate program, with current rules, for SSI and long-term recipients. States will have the option to pay a per capita amount for each SSI/Medicaid recipient (who is not enrolled in Medicare) that chooses to enroll in a certified health plan. States shall negotiate with certified health plans for rates for the SSI population that are separate from the community rate. No certified plan can have more than 50 percent of its enrollment composed of SSI/Medicaid recipients.

E. *Dual Eligible Recipients.*—Dual eligibles—persons eligible for Medicare and Medicaid—will remain under Medicaid and not be enrolled in health plans.

F. *Non-SSL, Non-Dual Eligible Recipients aged 18–64 years.*—These individuals will remain under Medicaid, but as the low-income subsidies phase-in (e.g., 100 percent to 125 percent), these recipients (currently about 240,000) shall be integrated and treated like other low-income individuals.

G. *Supplemental Services.*—Current Medicaid rules governing covered services and recipient eligibility will be retained to cover services not otherwise provided through certified health plans. The current flexibility provided to States to determine the optional services and groups it will cover will also be retained.

H. *Miscellaneous Medicaid.*—In addition, the plan:

Allows states to expand eligibility for home-based Medicaid long term care services for single persons by increasing the asset limit from $2,000 to $4,000 for services including personal care attendant services, the Sec. 1915 waiver programs, and the frail elderly home care option.

Eliminates the institutionalization requirement as a condition of eligibility for habilitation services under a home and community based waiver.

Eliminates the "cold bed" rule for home and community based waiver programs.

Requires State Medicaid programs to reimburse directly for services by certified registered nurses and anesthetists or clinical nurse specialists that are authorized to practice under State law, whether or not they operate under the supervision of a physician or other health care provider.

8. HEALTH WORKFORCE AND EDUCATION/ RESEARCH

A. *Graduate Medical Education/Graduate Nurse Training/Academic Health Centers/Medical Schools*

Creation of an all-payer account. Currently, only Medicare supports graduate medical education. By supplementing this with a 1.5 percent premium assessment, and allocating the total pool to residency training programs and academic health centers, this plan spreads medical education costs across all of the insured.

Health professional workforce policy. This initiative consists of: (1) phasing in primary care residency positions from 39 percent in 1996 to 55 percent in 2001; (2) reducing the number of total residency positions from 134 percent of US medical school graduates in 1998 to 110 percent in 2001; (3) creating a National Council on GME to implement these policies and modify the goals beginning in 2001; and (4) providing transitional funding to residency programs which reduce their number of residency positions.

Creation of funding accounts. Funding by account is as follows:

GME Account: $27 billion over 5 years;

AHC Account: $42 billion over 5 years;

Medical School Account: $2 billion over 5 years;

Graduate Nurse Training Account: $1 billion over 5 years;

Dental School Program: $250 million over 5 years;

Public Health School Program: $150 million over 5 years.

B. *Biomedical and Health Services Research Fund*

Creation of Biomedical and Health Services Research Fund. This fund is designed to supplement National Institutes for Health and Agency for Health Care Policy and Research funding, which is currently sufficient to finance only a fraction of the peer-reviewed grant submissions.

Funding levels. The plan's premium assessment will provide additional funding for the NIH and AHCPR.

9. HEALTH INFRASTRUCTURE

A. *Public Health Service.*—To strengthen our public health infrastructure, the following programs receive new or additional funding:

Core Public Health. Grants to states to improve and monitor the health of population.

Health Promotion and Disease Prevention. Grants to eligible providers to develop and implement innovative community-based strategies to provide health promotion and disease prevention activities.

Mental Health and Substance Abuse. Grants to help integrate state MH/SA services with those provided by health plans.

Comprehensive School Health Education. Grants to state education agencies to integrate comprehensive education programs in schools.

School-Related Health Services. Grants to develop school-based or school linked health service sites.

Other initiatives. Other initiatives include domestic violence and womens' health; occupational safety and health; and border health improvement.

B. *WIC.*—The bill supplements existing appropriations for the supplemental food program for women, infants and children (WIC) with $2.4 billion in direct appropriations which will allow the program to serve all of the pregnant women, infants and children eligible for WIC benefits.

C. *Indian Health Service.*—The programs of the Indian Health Service are strengthened with grants and loans to improve and expand services. Greater flexibility allows the programs of the IHS to contract with health plans to provide services and receive third party reimbursement. Furthermore, IHS health programs are eligible to apply and receive funding under the public health programs.

10. UNDERSERVED/ESSENTIAL COMMUNITY PROVIDER

A. *Access to Care for the Underserved Population*

Community Health Plan and Network Development. Grants and contracts are awarded to eligible health providers to develop community health groups to provide the standard benefit package in health professional shortage areas or directly to medically underserved population. Grants and contracts are also made to expand existing health delivery sites and services, and to develop new ones.

Capital Development. Grants and loans are awarded for the capital costs of developing community health groups and expanding or developing new health delivery sites.

Enabling and Supplement Services. Grants and contracts are awarded to eligible entities to assist in providing enabling and supplemental services to the underserved population.

B. *Essential Community Providers.*—Designed to ensure that vulnerable populations enrolling in health plans have access to traditional, safety-net providers (e.g. community health centers and AIDS providers), the essential community provider provision requires that health plans offer a contract or agree to pay essential community providers in their service area.

The plan creates two categories of essential community providers and requires all plans to contract with every essential community provider listed in Category I and one from each category listed in Category II.

Category I include Migrant Health Centers, Community Health Centers, Family planning grantees, Homeless Program Providers, Ryan White grantees, State HIV drug programs, Black Lung Clinics, Hemophilia Centers, Urban Indian programs, STD and TB Clinics, Nonprofit and public DSH hospitals, Native Hawaiian Health Centers, School Based Health Service Centers, Public and nonprofit mental health/substance abuse providers, Runaway homeless youth centers and transitional living programs for homeless young Public and nonprofit Maternal and Child Health providers, Rural Health Clinics, and Programs of the Indian Health Service.

Category II providers include Medicare dependent small rural hospitals and Children's hospitals.

In 5 years, the Secretary will make recommendations to Congress on whether or not the program should continue; and if so, with what changes. Congress would then vote up or down on the recommendation.

11. STATE OPTIONS

States that want to move ahead early with the implementation of Federal health care reforms will be allowed do so on a fast track. The bill will also allow states to implement a single payer system. Existing state waivers will be grandfathered.

12. QUALITY AND CONSUMER PROTECTION

A. *Quality*

National Quality Council. This 15 member Council, comprised of consumers, health plans, purchasers, States, health care providers and quality researchers, will set national quality goals/standards and establish regional and State-based organizations to implement the goals.

Performance Measures for Health Plans. The National Council will establish performance measures for health plans, including measures of access (waiting times, patient/provider ratios), consumer satisfaction, health plan report cards for consumers and quality improvement. The Council will conduct surveys of consumers and develop quality reports.

Research in quality improvement. The Council will make research recommendations to the Agency for Health Care Policy and Research for outcomes studies and guideline development.

Quality Improvement Foundations. These non-profit, non-governmental, regional or State-based organizations will get federal grants for quality improvement (involving health plans and practitioners) on the local level. QIFs will look at practice variations between health plans and different geographic regions. They will engage practitioners in lifetime learning techniques and provide technical assistance to health plans to develop their own quality improvement programs.

Consumer Information and Advocacy Centers. These State-based, non-profit, non-governmental organizations will disseminate consumer report cards about health plans;

open local offices to hear grievances; and provide consumer education. A National Center for Consumer Information and Advocacy will also be established to train local and State-based consumer advocates.

The National Practitioner Databank. This Bureau of Health Professions databank will be opened for public access.

B. *Simplicity*.—The enormous amounts of paperwork that insurance companies now generate and process will be reduced through streamlined and computerized systems. Many consumers will no longer have to submit claims to their insurance company, but if they did, they could use one, uniform claim form. Insurance companies will be required to use a standard form to inform consumers of their claim status.

Because benefits will be standardized, consumers will be able, for the first time, to easily compare plan prices. To help consumers compare prices, states will be required to distribute easy-to-read and understand report cards on health plans.

Consumers will also have information about the results of health care provided by each provider and plan in their area which can help consumers make informed choices when selecting providers and plans.

C. *Remedies and Enforcement*.—These provisions require health plans to give notice of benefit denial, reduction or termination and to establish an expeditious appeals process within the plan. They will create State-run claims review offices to provide claimants with options for alternative dispute resolution. State and federal judicial review are also possible.

D. *Fraud and Abuse*.—The bill creates an all-payer fraud and abuse program, including State-based fraud control units funded wholly from settlement revenues.

E. *Privacy*.—Consumers are assured that their individually identifiable health information is protected by a law which prevents inappropriate disclosures and punishes unlawful disclosures severely. Consumers have uniform legal rights to inspect, get copies, and make corrections or amendments to their health records. Patients have the right to restrict disclosure of specific health information.

F. *Antitrust*.—Repeal of the McCarran Ferguson Act with respect to health insurance will subject health insurance companies to antitrust actions. The bill does not include increased antitrust exclusions or safe harbors.

G. *Malpractice Reform*.—Malpractice reforms include: mandatory State-based alternative dispute resolution; a certificate of merit requirement; a limitation on the amount of attorney's contingency fees to 33 percent of the first $150,000; and 25 percent above that amount; and periodic payment of awards. Studies and demonstrations are proposed on medical negligence; the use of practice guidelines; and enterprise liability demonstration project.

13. RELATED ISSUES

A. *Veterans Affairs*

Enrollment. The Department of Veterans may offer a VA health plan to veterans, individuals eligible for CHAMPVA, and their family members.

Eligibility. All compensable, service-connected, disabled veterans, low-income veterans, veterans who are ex-POWs, and veterans who have been exposed to Agent Orange, radiation, or unknown toxins in the Persian Gulf, who chose a VA health plan will receive the standard benefits without a cost-sharing requirement.

Fiscal Matters. VA will continue to receive appropriations to its medical care account. VA will retain the premiums, copayments and deductibles it receives from higher income, nonservice-connected veterans and dependents, the premiums VA collects from the sale of supplemental health plan, and payments it receives from other plans for the furnishing of care to other plans' patients. It also will retain Medicare reimbursement for care furnished to higher-income, Medicare eligible veterans who have no service-connected disabilities, and dependents. (VA health plans will be considered to be Medicare HMOs).

Administration Flexibility. VA health plans will have expanded authorities to enter into contracts and sharing agreements for the furnishing of services to enrollees. VA facilities not operating as part of a VA health plan will continue to furnish health care services under current law.

Note: Because of technical Budget Act requirements, certain VA program changes may have to be made on the floor.

B. *Worker's Compensation*.—The plan creates a Commission on Worker's Compensation Medical Services consisting of 15 members charged to consider a number of issues related to the relationship between health plans and workers compensation medical services. The Commission will report to the President, as well as the House Education and Labor and Senate Labor and Human Resources Committees by October 1, 2000. The plan also authorizes a number of State demonstrations with respect to work related illnesses and injuries.

14. FINANCING

This plan will not increase the federal deficit over the 1994–2004 period.

A. *Medicare*.—Medicare savings total about $54 billion over five years, and $278 billion over 10 years. About $140 billion of that total would finance a new Medicare prescription drug benefit and a long term care entitlement for the elderly and the disabled.

B. *Medicaid*.—The plan eliminates the acute portion of Medicaid and instead provides subsidies for low income individuals to purchase health insurance from private plans (this new subsidy absorbs $387 billion in ten year Medicaid savings). In addition, the plan saves another $129 billion in Medicaid DSH payments by reducing the number of uninsured. Finally, states will be contributing about $232 billion in subsidy payments over the ten year period which represents their existing Medicaid costs, growth each year at national health expenditures. Since states' existing Medicaid costs are growing at a much higher 12 percent, this MOE represents substantial savings for the states.

C. *Revenues*

Increase in excise taxes on tobacco products. The plan will increase the excise tax rate on small cigarettes by 45 cents per pack (for a total of 69 cents per pack), phased in over five years on the following schedule: 15 cents in 1995 and 1996, 25 cents in 1997, 35 cents in 1998, and 45 cents in 1999 and thereafter. The excise tax on other currently taxable tobacco products would be increased proportionately.

Premium assessment. The proposal will impose a 1.75 percent assessment on health care premiums. The net revenues derived from the imposition of this premium assessment would be used to fund the Graduate Medical Education and Academic Health Centers Trust Fund and the Biomedical and Behavioral Research Fund. The assessment would be effective after December 31, 1995.

High cost premium assessment. As discussed earlier, a 25 percent assessment would be placed on health plans to the extent they exceed the target rate of growth.

Cafeteria plans. The proposal will eliminate the exclusion for employer-provided accident or health benefits provided through a cafeteria plan or flexible spending arrangement, effective on and after January 1, 1997, with a delayed effective date for collectively bargained plans.

Finance Committee provisions. The following provisions are taken from the Finance Committee bill.

Additional Medicare Part B premiums for high-income individuals.

Increase excise tax on certain handgun ammunition.

Modification to self-employment tax treatment of certain S corporation shareholders and partners.

Extending Medicare coverage of, and application of hospital insurance tax to, all state and local government employees.

Modify exclusion of employer-provided health care.

Repeal of volume cap for 501(c)(3) bonds.

Self-employed deduction.

The 25-percent deduction for health insurance expenses of self-employed individuals will be reinstated and extended for taxable years beginning after December 31, 1993, and before January 1, 1996. Beginning January 1, 1996, self-employed individuals who are not eligible for employer-subsidized health coverage will be entitled to deduct up to 50 percent of the cost of the standard benefits package. In the case of a self-employed individual with at least one full-time employee who has been employed for at least 6 months, the 50-percent deduction will be reduced based on the contributions the self-employed individual makes with respect to coverage of the individual's employees.

Limitation on prepayment of medical insurance premiums.

Tax treatment of voluntary employer health care contributions.

Tax treatment of organizations providing health care services and related organizations.

Tax treatment of long-term care insurance and services.

In addition, reserves for long-term care insurance contracts that constitute noncancellable accident and health insurance generally will be determined in accordance with the reserve method prescribed by the National Association of Insurance Commissioners (NAIC).

Tax treatment of accelerated death benefits under life insurance contracts.

Definition of Employee.

Increase in penalties for failure to file correct information returns with respect to non-employees.

Nonrefundable credit for certain primary health services providers.

Expensing of medical equipment used in health professional shortage areas.

Tax treatment of funding of retiree health benefits.

Tax credit for the cost of personal assistance services required by individuals.

Disclosure of taxpayer return information for administration of health subsidy programs.

15. CONTROLLING FEDERAL COSTS—FAIL SAFE

The bill's fail safe guards against future unanticipated deficit increases due to this legislation. After enactment, OMB will publish an initial health care baseline including its most up-to-date estimate of the net outlays and revenues from the health reform bill, as well as all Medicare and Medicaid spending. Starting with fiscal year 1997, the President's budget will include an updated version of the initial health baseline. If the updated baseline (excluding non-health-reform-related differences) exceeds the initial baseline, reform spending (with the exception of the subsidies for pregnant women and children) would be cut back to eliminate the overage. Changes made by the sequester order would not be permanent, and the sequester would be suspended during a recession.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FEINGOLD). Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

GENERAL AVIATION REVITALIZATION ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1458) entitled "To amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Aviation Revitalization Act of 1994".

SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitation period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Administration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

SEC. 3. OTHER DEFINITIONS.

For purposes of this Act—

(1) the term "aircraft" has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

(2) the term "airworthiness certificate" means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) or under any predecessor Federal statute;

(3) the term "limitation period" means—

(A) 15 years with respect to piston-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft;

(B) 18 years with respect to turboprop-powered general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(C) 22 years with respect to other general aviation aircraft (including jet-powered general aviation aircraft) and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term "type certificate" means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) or under any predecessor Federal statute.

SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.

AMENDMENT NO. 2440

(Purpose: To revise the meaning of the term "limitation period")

Mr. FORD. Mr. President, I move that the Senate concur in the amendment of the House with a further amendment, which I now send to the desk on behalf of Senator KASSEBAUM.

The motion was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2440) as agreed to, is as follows:

On page 4, strike line 15 and all that follows through page 5, line 3, and insert in lieu thereof the following:

(3) the term "limitation period" means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

PROVIDING FOR THE TRANSFER OF THE OLD U.S. MINT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 508, S. 2185, a bill to require the Secretary of the Treasury to transfer to the Administrator of the GSA the Old U.S. Mint in San Francisco.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2185) to require the Secretary of Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2441

Mr. COHEN. Mr. President, on behalf of Senator MCCAIN, I send an amendment to the desk and ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2441) was agreed to, as follows:

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(a) IN GENERAL.—Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

Mr. MCCAIN. Mr. President, I would like to ask the chairman of the Committee on Environment and Public Works if he would be willing to respond to a question regarding the committee's authorization on June 23, 1994, for up to $17.9 million in repairs at the Old U.S. Mint Building in San Francisco.

Mr. BAUCUS. I would be pleased to respond to the Senator's question.

Mr. MCCAIN. I would like to ask the chairman if the committee's authorization is intended to compel the administration to request funding for repairs to the Mint Building or for the General Services Administration to submit a prospectus if the project is not deemed a priority repair project of GSA.

Mr. BAUCUS. The Committee on Environment and Public Works, which exercises jurisdiction over the GSA Federal buildings program, regularly reviews public building projects. I can assure the distinguished Senator from Arizona that the committee resolution authorizing safety repairs to the Old Mint Building, contingent upon receipt of a prospectus, does not compel the GSA to submit a prospectus for repairs if the agency does not deem the repair project a priority using the appropriate criteria. Furthermore, the committee authorization does not alter the Administration's process for review and submission of a prospectus.

Mr. MCCAIN. I thank the Chairman.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading, was read the third time, and passed, as follows:

(The bill was not available for printing. It will appear in a future issue of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSUMER PROTECTION TELEMARKETING ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 868) to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 868) entitled "An Act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact with the consumer. Telemarketers also can be very mobile, easily moving from State to State.

(2) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Federal Trade Commission are not sufficient to ensure adequate consumer protection from such fraud.

(3) Consumers and others are estimated to lose $40 billion a year in telemarketing fraud.

(4) Consumers are victimized by other forms of telemarketing deception and abuse.

(5) Consequently, Congress should enact legislation that will offer consumers necessary protection from telemarketing deception and abuse.

SEC. 3. TELEMARKETING RULES.

(a) IN GENERAL.—

(1) The Commission shall prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices.

(2) The Commission shall include in such rules respecting deceptive telemarketing acts or practices a definition of deceptive telemarketing acts or practices which may include acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.

(3) The Commission shall include in such rules respecting other abusive telemarketing acts or practices—

(A) a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy,

(B) restrictions on the hours of the day and night when unsolicited telephone calls can be made to consumers, and

(C) a requirement that any person engaged in telemarketing for the sale of goods or services shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.

In prescribing the rules described in this paragraph, the Commission shall also consider recordkeeping requirements.

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 365 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(d) SECURITIES AND EXCHANGE COMMISSION RULES.—

(1) PROMULGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under subsection (a), the Securities and Exchange Commission shall promulgate, or require any national securities exchange or registered securities association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by persons described in paragraph (2).

(B) EXCEPTION.—The Securities and Exchange Commission is not required to promulgate a rule under subparagraph (A) if it determines that—

(i) Federal securities laws or rules adopted by the Securities and Exchange Commission thereunder provide protection from deceptive and other abusive telemarketing by persons described in paragraph (2) substantially similar to that provided by rules promulgated by the Federal Trade Commission under subsection (a); or

(ii) such a rule promulgated by the Securities and Exchange Commission is not necessary or appropriate in the public interest, or for the protection of investors, or would be inconsistent with the maintenance of fair and orderly markets.

If the Securities and Exchange Commission determines that an exception described in clause (i) or (ii) applies, the Securities and Exchange Commission shall publish in the Federal Register its determination with the reasons for it.

(2) APPLICATION.—

(A) IN GENERAL.—The rules promulgated by the Securities and Exchange Commission under paragraph (1)(A) shall apply to a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company, or any individual associated with a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company. The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in the preceding sentence.

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) the terms "broker", "dealer", "transfer agent", "municipal securities dealer", "municipal securities broker", "government securities broker", and "government securities dealer" have the meanings given such terms by paragraphs (4), (5), (25), (30), (31), (43), and (44) of section 3(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (25), (30), (31), (43), and (44));

(ii) the term "investment adviser" has the meaning given such term by section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)); and

(iii) the term "investment company" has the meaning given such term by section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)).

(e) COMMODITY FUTURES TRADING COMMISSION RULES.—

(1) APPLICATION.—The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in subsection (f)(1) of section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a).

(2) PROMULGATION.—Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), not later than six months after the effective date of rules promulgated by the Federal Trade Commission under section 3(a) of the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by any person registered or exempt from registration under this Act in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person.

"(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

"(A) rules adopted by the Commission under this Act provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 3(a) of the

Telemarketing and Consumer Fraud and Abuse Prevention Act; or

"(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.".

SEC. 4. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under section 3, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) or (f)(2) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under subsection (a) or (f)(2) against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

SEC. 5. ACTIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under section 3, or an authorized person acting on such person's behalf, may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under section 3, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(c) ACTION BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no person may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(d) COST AND FEES.—The court, in issuing any final order in any action brought under subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(e) CONSTRUCTION.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

(f) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

SEC. 6. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided in sections 3(d), 3(e), 4, and 5, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EFFECT ON OTHER LAWS.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "attorney general" means the chief legal officer of a State.

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description, or illustration of the goods or services offered for sale,

(B) includes the business address of the seller,

(C) includes multiple pages of written material or illustrations, and

(D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

SEC. 8. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 9. ENFORCEMENT OF ORDERS.

(a) GENERAL AUTHORITY.—Subject to subsections (b) and (c), the Federal Trade Commission may bring a criminal contempt action for violations of orders of the Commission obtained in cases brought under section 13(b) of the Federal Trade Commission Act (15 U.S.C. 53(b)).

(b) APPOINTMENT.—An action authorized by subsection (a) may be brought by the Federal Trade Commission only after, and pursuant to, the appointment by the Attorney General of an attorney employed by the Commission, as a special assistant United States Attorney.

(c) REQUEST FOR APPOINTMENT.—

(1) APPOINTMENT UPON REQUEST OR MOTION.—A special assistant United States Attorney may be appointed under subsection (b) upon the request of the Federal Trade Commission or the court which has entered the order for which contempt is sought or upon the Attorney General's own motion.

(2) TIMING.—The Attorney General shall act upon any request made under paragraph (1) within 45 days of the receipt of the request.

(d) TERMINATION OF AUTHORITY.—The authority of the Federal Trade Commission to bring a criminal contempt action under subsection (a) expires 2 years after the date of the first promulgation of rules under section 3. The expiration of such authority shall have no effect on an action brought before the expiration date.

SEC. 10. REVIEW.

Upon the expiration of 5 years following the date of the first promulgation of rules under section 3, the Commission shall review the implementation of this Act and its effect on deceptive telemarketing acts or practices and report the results of the review to the Congress.

Mr. BRYAN. Mr. President, as chairman of the Commerce Committee's Consumer Subcommittee, I am extremely pleased to present for full Senate consideration legislation to protect consumers and legitimate businesses from fraudulent telemarketers. Addressing telemarketing fraud has been one of my legislative priorities since I entered the Senate. I know firsthand from my constituents of the unscrupulous tactics that many of these fraudulent telemarketers employ. I am delighted that our legislative effort, the Telemarketing and Consumer Fraud and Abuse Prevention Act, stands an excellent chance to become law this summer.

In each Congress since I arrived in the Senate, Senator McCAIN and I have introduced legislation to combat the pernicious problem of telemarketing fraud. I note that in this Congress, our original Senate bill is cosponsored by members of the Consumer Subcommittee—Senators GORTON, BURNS, and DORGAN—as well as Senator BINGAMAN. Our bill unanimously passed the Senate on June 30, 1993, and the text of our bill was substituted for the text of the House-passed telemarketing fraud bill, H.R. 868, sponsored by Congressman SWIFT. House and Senate staff were able to successfully resolve the differences between the two bills. I am pleased that the final version sends a strong message to fraudulent telemarketers that such conduct will not be tolerated and will be subject to swift enforcement action.

While there are, of course, many legitimate telemarketers, the industry has also unfortunately become rife with scam artists and other crooked operators. Some estimates of the costs associated with such fraud are as high as $40 billion per year. In telemarketing fraud, consumers are typically offered goods and services at incredibly low prices, or are enticed into purchases through offers of luxury items or fabulous trips, at little or no cost. Consumers often are required to pay in advance, and are generally asked to pay by credit card.

As we have learned, however, the offer is indeed too good to be true. Sometimes the items are never received, and even when delivered, the consumer discovers that it is not of the promised value. In some instances, persons are promised a valuable prize, if a purchase is made. The make the purchase, but never receive the prize. These fraudulent schemes have involved the sale of vitamins, diet aids, credit card protection programs, luggage, vacations, and office machine supplies, to name just a few.

According to a 1992 study conducted by Louis Harris and Associates on behalf of the National Consumers League, over one in six Americans find it very difficult to resist a telephone solicitation. Coupled with the fact that less than one-third of the people who have been cheated out of money ever report their losses to authorities, it is clear that fraudulent telemarketing has become a lucrative business for unscrupulous operators to prey on innocent victims, especially the elderly.

At a Consumer Subcommittee hearing that I chaired on March 18, 1993, the Federal Bureau of Investigations shared with us the results of a 3 year undercover sting operation that it had conducted, appropriately named "Operation Disconnect." The FBI's successful efforts to target illegal telemarketers were the result of an innovative undercover approach and its ability to use the telemarketer's own greed and desire for quick profits against him. The results of the FBI's efforts illustrate the need to attack this serious and growing problem from a variety of fronts, and to pursue coordinated law enforcement efforts when possible.

Recently, the Committee has seen a new type of telemarketing fraud emerge involving charitable solicitations, often referred to as telefunding. These telefunding schemes often mirror the typical telemarketing prize promotion scheme, in which a caller guarantees that the consumer has won one of several valuable prizes or thousands of dollars in cash. To receive the prize, the consumer need only make a small contribution to a worthwhile charity. The catch, however, is that the consumer does not, in fact, receive a valuable prize. The small contribution is often a thousand dollars or more, and the only people that benefit from the generous contribution are the telefunders themselves!

These schemes are particularly troubling because they play not only upon the consumer's desire to win big, but also appeal to the consumer's generosity and human compassion, taking advantage of the very qualities that should be encouraged and rewarded, not exploited. I have chaired two hearings on telefunding fraud—one on October 11, 1993 in Las Vegas and another on March 24, 1994—and am pleased to note that testimony at those hearings indicated that our telemarketing fraud bill could provide assistance to the Federal Trade Committee [FTC] and the States in their efforts to combat telefunding fraud.

Clearly, the time is right for passage of our telemarketing fraud legislation. Our legislation requires the FTC to promulgate telemarketing rules to prohibit deceptive and abusive telemarketing acts and practices. The FTC shall include in such rules a definition of deceptive telemarketing acts and practices. We also direct the FTC to develop a requirement that the telemarketer may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of his or her privacy rights; restrictions on the hours when unsolicited call may be made to consumers; and recordkeeping requirements

Our bill also requires the FTC to expressly prohibit credit card laundering. Credit card laundering is the practice by which fraudulent telemarketers, sometimes acting in conjunction with third-party intermediaries as brokers, persuade merchants with access to the credit card system to submit, in the name of that merchant, the fraudulent telemarketers' sales drafts into the credit card system. This practice enables the fraudulent telemarketer to avoid the safeguards the credit card systems and financial institutions have established to preclude access by the fraudulent telemarketer to the credit card system.

The FTC's prohibition of credit card laundering should be broad enough to cover all of the parties involved in credit card laundering—the fraudulent telemarketer, the merchant submitting the fraudulent telemarketer's sales drafts into the credit card system, and any third-party intermediaries causing or arranging the credit card laundering. This credit card laundering prohibition, however, should not cover the activities of a legitimate servicing organization which provides services directly to merchants. It should not cover a practice expressly permitted in a valid agreement with a member of a credit card system or the member's authorized agent. An agreement in violation of the rules of the applicable credit card system should not constitute a valid agreement for these purposes. In addition, this prohibition generally should not apply to a messenger or other delivery service that is used by a telemarketer merely to physically transport sales drafts.

Our bill also expands the FTC's authority to obtain enforcement of its court orders through criminal, as well as civil, contempt proceedings. I am pleased to note that our previous Senate-passed provisions extending the FTC's enforcement authority with respect to such issues as venue and subpoena power have been included in the recently completed conference on FTC reauthorization, and therefore need not be included in this bill.

Additionally, our bill permits State attorneys general and other authorized State officials to bring civil actions in U.S. district courts for violations of the telemarketing rules promulgated by the FTC, and the FTC is permitted to intervene in such actions. This provision, however, in no way prohibits State officials from proceeding in State court on the basis of any State civil or criminal statute.

Our bill also permits private parties to bring lawsuits to enforce the newly promulgated FTC telemarketing rules directly against those engaged in telemarketing fraud, if the amount of damages exceeds $50,000. This private party right of action is intended to include a financial institution that has incurred loss or damage. Finally, the bill creates jurisdiction in Federal courts for actions brought under the bill.

I would like to commend my colleague on the House side, Congressman SWIFT, for his continuing interest in the issue of telemarketing fraud and his diligence in moving this legislation forward. I also would like to express my appreciation to all the Senate cosponsors of this bill—Senators MCCAIN, GORTON, BURNS, DORGAN, and BINGAMAN—for their able assistance.

Mr. President, this legislation is vitally important. So often, the activities of the Congress seem far removed from the every day lives of our constituents. With the passage our bill, however, Congress will have acted to directly protect the consumers of all the 50 States, including the citizens in my own State of Nevada, from becoming unwilling victims of unscrupulous and fraudulent telemarketers. I ask for the unanimous support of my colleagues and ask that the text of H.R. 868 be printed in the RECORD.

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is considering H.R. 868, legislation designed to protect consumers and legitimate businesses from the ever-growing abuses and costs associated with telemarketing fraud. Such abuses cannot be permitted to go unchecked. According to some estimates, the costs from this fraudulent activity are in the billions—possibly as much as $40 billion.

Under fraudulent telemarketing practices, consumers are frequently lured into purchasing goods and services with offers of investment opportunities, fabulous prizes, deluxe vacations, and even household products such as vitamins, all at little or no cost. Consumers often are required to pay in advance, and are generally asked to pay by credit card. The offer is often, however, too good to be true. Sometimes the item is never received, and even when delivered, the consumer discovers that it is not of the promised value. In some instances, an individual is promised a valuable prize if a purchase is made, but never receives the prize. In addition, the required purchase typically costs much more than the value of the item. The most common mode of telemarketing fraud is fly-by-night, boiler room, anonymous operators, whose contact with the consumer is limited to the telephone, and whose mobility and anonymity preclude the consumer from having any recourse if the goods are deficient or undelivered.

Despite the difficulties in locating and pursuing fraudulent telemarketers, both State and Federal law enforcement agencies continue to report that telemarketing fraud remains high on their list of enforcement priorities. H.R. 868 will aid their efforts by enhancing the Federal Trade Commission's ability to pursue fraudulent telemarketers, and creating a new cause of action for State attorneys general and private parties with damages exceeding $50,000.

The original Senate bill, S. 568, was favorably reported by the Commerce Committee on May 25, 1993, and its text was passed unanimously by the full Senate on June 30, 1993, as a substitute for the text of the House-passed telemarketing bill, H.R. 868. The telemarketing bill now before the Senate is the culmination of many years of efforts by both the Senate and House Commerce Committees and is a measure that is certainly ripe for passage. I commend Senator BRYAN, chairman of the Consumer Subcommittee, for his untiring work on this bill.

I would note also that both the House and Senate are poised, after more than a decade, to reauthorize the FTC. The Congress recognizes the important role this agency can play to increase competition in the marketplace and improve the lives of consumers. The Telemarketing and Consumer Fraud and Abuse Prevention Act confirms the commitment by this Congress to assist the FTC in its enforcement efforts, particularly with respect to telemarketing fraud.

Mr. President, I urge my colleagues to support this important consumer protection measure.

Mr. GORTON. Mr. President, as the ranking Republican of the Consumer Subcommittee, I am very pleased that the Senate is considering the conference report on the Telemarketing and Consumer Fraud and Abuse Prevention Act on the floor today. I was a cosponsor of S. 568, the Senate's companion bill which we passed on June 30, 1993 and am delighted that we stand prepared to enact this vital bill to protect American consumers from telemarketing fraud. I also want to acknowledge the efforts made over the last two Congresses to advance this legislation and applaud the work of the distinguished chairman, Senator BRYAN and my colleague on the subcommittee, Senator MCCAIN. I also wish to commend my colleague from Washington State, Representative AL SWIFT, who tirelessly pursued enactment of this legislation on the House side. AL is retiring at the end of this year. I will miss him as a friend, as well as a strong partner and very effective advocate for consumer issues.

Mr. President, telemarketing is one of the fastest growing industries in the United States, involving more than 140,000 firms employing 2 million people. Although the vast majority of telemarketing firms are legitimate, fraud is a major problem. According to a recent report by the House Committee on Government Operations, telemarketing fraud may cost Americans as much as $40 billion annually.

One survey conducted by the National Consumers League found that 92 percent of all Americans had been contacted about a guaranteed prize. Most of those who responded received no prize at all. Those who did receive a prize found that it was worth far less than the promised value.

Combating telemarketing fraud is particularly difficult, since scam artists often operate out of boiler rooms consisting of banks of phone lines on which solicitors place calls to likely prospects. If the scam artists determine that legal action by State or Federal authorities is imminent, the boiler room is packed up and moved to a new location. These criminals also avoid soliciting in the State in which they are located, since interstate prosecution is much tougher for State law enforcement officials than intrastate prosecution.

Both the magnitude and variety of the scams and the difficulty of enforcement make the provisions of this bill crucial to the FTC's ongoing fight against telemarketing fraud. For example, pursuant to this legislation, the FTC will promulgate rules clarifying what telemarketing practices are acceptable and establishing requirements and restrictions that legitimate telemarketers will follow. This is vital to protect every family with a telephone from becoming the victim of unwanted and abusive intrusions which are often coercive or misleading.

Once perpetrators of telemarketing abuse or fraud are targeted, moreover, this bill helps the FTC shut them down. Scam artists are notorious for ignoring FTC "cease and desist" orders and are not afraid of the possibility of civil sanctions because their scams are so lucrative. By allowing for the Commission to bring criminal contempt charges under certain circumstances, this legislation enhances the sanctions available to the FTC for use against those that repeatedly violate Commission orders.

As a former attorney general, I believe that one of the most important elements in this bill is the expansion of enforcement power at the State level. For the first time, State attorneys general can bring scam artists who have defrauded their citizens to justice, even when the scam artists are located outside their State. Individuals, too, will have standing to sue in Federal court on their own behalf, if the amount in controversy exceeds $50,000.

Mr. President, the business of ripping off Americans is booming. I am pleased that we are moments away from passing legislation that will strengthen the enforcement efforts to the FTC and the States in their fight against telemarketing fraud.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SANTA FE NATIONAL FOREST BOUNDARY ADJUSTMENT ACT

RIO PUERCO WATERSHED ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Nos. 510 and 512 en bloc; that the committee amendments, where appropriate, be agreed to; that bills each be read a third time and passed and the motion to reconsider be laid upon the table en bloc; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills (S. 1897 and S. 1919) were deemed read the third time and passed as follows:

S. 1897

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Santa Fe National Forest Boundary Adjustment Act of 1994".

SEC. 2. ACQUISITION OF LANDS.

(a) IN GENERAL.—(1) The Secretary of the Interior and the Secretary of Agriculture (hereinafter referred to as the "Secretary") are authorized to acquire the lands and interests therein identified on the map entitled "Santa Fe National Forest Boundary Expansion—1994", and dated June 13, 1994, by donation, purchase with donated or appropriated funds, or exchange: *Provided, however*, That no lands or interests therein may be acquired except with the consent of the owner thereof.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C.

(b) WITHDRAWAL.—Upon the acquisition of the lands referred to in subsection (a) by the Secretary or the Secretary of the Interior, and subject to valid existing rights, such lands shall be withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

SEC. 3. ADDITION OF LANDS TO SANTA FE NATIONAL FOREST.

(a) IDENTIFICATION OF LANDS FOR TRANSFER TO BLM.—As soon as practicable after the lands referred to in section 2(a) have been acquired by the Secretary of the Interior, the Secretary shall, in consultation with the Secretary of the Interior, identify appropriate lands within the boundaries of the Santa Fe National Forest (hereinafter referred to as the "forest") which are suitable for transfer to the Secretary of the Interior, to be administered by the Bureau of Land Management.

(b) TRANSFER OF JURISDICTION.—Upon the mutual agreement between the Secretary and the Secretary of the Interior on the lands to be transferred from the administrative jurisdiction of the Secretary to the Secretary of the Interior—

(1) administrative jurisdiction over all of the lands and interests therein acquired by the Secretary of the Interior pursuant to section 2(a) shall be transferred to the Secretary; and

(2) administrative jurisdiction over the lands identified by the Secretary and the Secretary of the Interior pursuant to subsection (a) shall be transferred from the Secretary to the Secretary of the Interior, to be administered by the Bureau of Land Management.

(c) MODIFICATION OF FOREST BOUNDARIES.—(1) Upon the transfer of lands as provided in subsection (b) the boundaries of the forest shall be modified accordingly.

(2) Upon the acquisition of lands by the Secretary pursuant to section 2(a), the boundaries of the forest shall be modified to reflect the inclusion of such lands within the boundaries of the forest.

(d) MANAGEMENT.—(1) Upon the inclusion of the lands and interests therein referred to in section 2(a) within the boundaries of the forest, the Secretary shall administer such lands in accordance with the laws, rules, and regulations applicable to the National Forest System: *Provided*, That the Secretary shall manage such lands so as to preserve and maintain the natural and scenic resources of the area.

(2) The Secretary shall not convey by exchange, sale, or otherwise, the lands or interests therein added to the forest pursuant to this Act.

(e) EFFECTIVE DATE.—For purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(1)), the boundary of the Santa Fe National Forest, as modified pursuant to this Act, shall be treated as if it were the boundary as of January 1, 1965.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Puerco Watershed Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of existing communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has damaged the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with the entities listed in paragraph (8), and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 3. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Land Management and in consultation with the Rio Puerco Management Committee established pursuant to section 4, shall—

(1) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, as described in the attached map, including—

(A) current and historical natural resource conditions; and

(B) data concerning the extent and causes of watershed impairment;

(2) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(3) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Rio Puerco Management Committee, shall prepare a report of appropriate alternatives for the improvement of watershed conditions in the Rio Puerco Drainage Basin. The alternatives shall—

(1) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(2) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(3) recommend voluntary implementation of appropriate best management practices on both public and private lands;

(4) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on both public and private lands;

(5) provide for the development of public participation and community outreach programs that would include proposals for—

(A) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(B) involving private citizens in restoring the watershed;

(6) provide for the development of proposals for voluntary cooperative programs among the Rio Puerco Management Committee membership to implement best management practices in a coordinated, consistent, and cost-effective manner;

(7) provide for the encouragement and support implementation of best management practices on private lands; and

(8) provide for the development of proposals for a monitoring system that—

(A) builds upon existing data available from private, Federal, and State sources;

(B) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(C) will provide information to—

(i) assess existing resource and socioeconomic conditions;

(ii) identify priority implementation actions; and

(iii) assess the effectiveness of actions taken.

SEC. 4. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management, and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Soil Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local Soil and Water Conservation Districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

SEC. 5. REPORT.

Two years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives a report containing—

(1) a summary of accomplishments as outlined in section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 6. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall, in cooperation with the State of New Mexico, conduct a study of the Rio Grande from Caballo Lake to Sunland Park, New Mexico. The study shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and restoration of habitat through reintroduction or establishment of appropriate native plant species.

(b) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall transmit the study authorized by this section to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

REMOVAL OF INJUNCTION OF SECRECY—ILO CONVENTION (NO. 150) CONCERNING LABOR ADMINISTRATION

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the ILO Convention No. 150 Concerning Labor Administration (Treaty Document No. 103-26) transmitted to the Senate by the President on July 26, 1994; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President, is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 150) Concerning Labor Administration: Role, Functions and Organization, adopted by the International Labor Conference at its 64th Session in Geneva on June 7, 1978.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed.

As explained more fully in the enclosed letter from the Secretary of Labor, the Current system of labor administration in the United States fully satisfies the requirements of Convention No. 150. Ratification of this Convention, therefore, would not require the United States to alter its law or practice in this field.

Ratificaton of additional International Labor Organization (ILO) conventions will enhance the ability of the United States to take other governments to task for failing to comply with the ILO instruments they have ratified. I recommend that the Senate give its advice and consent to the ratification of ILO Convention No. 150.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 26, 1994*.

WINTER RUN CHINOOK SALMON CAPTIVE BROODSTOCK ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 504, H.R. 2457, the Winter Run Chinook Salmon Captive Broodstock Act of 1993; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this measure be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2457) was deemed read the third time and passed.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 374, designating "National Neighborhood Crime Watch Day," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times, passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 374) was deemed read the third time and passed.

The preamble was agreed to.

DESIGNATING 1994 AS THE YEAR OF GOSPEL MUSIC

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 157, designating "1994 as the Year of Gospel Music," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times and passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to; and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 157) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 157

Whereas Gospel music is a uniquely American art form, one that has provided hope and inspiration for generations of Americans;

Whereas Gospel music is the forerunner of many forms of popular music in the United States;

Whereas Gospel music is an important art form, and a vital part of our cultural heritage; and

Whereas it is in our national interest to promote and preserve Gospel music for generations of Americans to come: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1994 is designated "The Year of Gospel Music", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to mark that year with appropriate ceremonies and activities.

CONCLUSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MITCHELL-CLINTON HEALTH CARE BILL

Mr. GRAMM. Mr. President, the distinguished majority leader has presented his health care bill. And it seems to me that basically what the distinguished majority leader has done is taken the Clinton health care bill, stripped away the title page, and made it 1,341 pages long, and we now have the Mitchell-Clinton health care bill. We have a bill that expands the Government bureaucracy, a bill that expands spending, a bill that taxes health insurance benefits, and a bill that contains many of the basic Clinton components. And the basic Clinton component is to have the Government take over and run the health care system.

We can pass a good health care bill in this Congress, but for us to pass that bill, the President, Senator MITCHELL, and majority leader GEPHARDT are going to have to give up on one dream that they have but a dream that is not shared by the American people, and that is a dream that the Government is going to run the health care system in this country. That dream is never going to come true.

The American people are against it in overwhelming numbers, and they are not willing to turn over the greatest health care system in the history of the world to the Federal Government, or to any other government, for that matter.

So if the President wants a bill, if Senator MITCHELL wants a bill, if majority leader GEPHARDT wants a bill, they are going to have to give up on the central tenet of their bill, and that is a Government-run health care system. That is not going to happen in this Congress, and God willing it is never going to happen in any Congress in the history of the United States of America.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2442

(Purpose: To provide mandatory minimum terms of imprisonment for criminals who use guns and for drug traffickers who use children)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. DOLE, proposes an amendment numbered 2442.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

"Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. . FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

(c) SUPERSEDURE OF OTHER LAW.—The amendment made by subsection (a) supersedes any other law authorizing a downward adjustment of a mandatory minimum term of imprisonment for an offense as described in subsection (a).

SEC. MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be no less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SUBTITLE E—RULES OF EVIDENCE, PRACTICE AND PROCEDURE

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

Mr. GRAMM. Mr. President, my colleagues and perhaps the people who are following this debate will remember that we passed a tough crime bill in the Senate. That crime bill had a provision that tried to deal with those who use a gun to commit a crime.

When you ask the American people what they are most concerned about with crime, they tell you they are most concerned about violent crime.

So what we offered in the Senate bill was a get-tough provision on people who use firearms to commit violent crimes. We agreed to 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging the firearm, life imprisonment for killing someone, and the death penalty in aggravated cases.

That provision was not only adopted in the Senate by an overwhelming vote, but it has been adopted every time that we have debated crime in the last 6 years.

People are outraged about drug pushers who are selling drugs to children and who are using children in drug trafficking. The American people want something done about it, and in the Senate we did something about it: 10 years in prison without parole for using a child in the commission of a drug felony or selling drugs to a child and life imprisonment without parole on a second offense.

Mr. President, that provision was adopted in the Senate overwhelmingly, and it has been adopted in the Senate on numerous occasions. But what happened when the crime bill passed through the Senate and went to the conference with the House bill is that that provision was dropped.

As I am sure many know, despite all the talk about getting tough on crime from the day that Bill Clinton became President until today, he and his Justice Department have fought to overturn mandatory minimum sentencing for drug felons. They have spent every day they have been in office trying to do that. They have sent directives to U.S. attorneys giving them leeway in terms of not prosecuting under our mandatory minimum sentencing provisions and they have worked to overturn minimum mandatory sentencing.

Mr. President, let me go back and make my point, and then I will yield the floor and go back to the Whitewater hearings. I am not leaving out of disrespect to our dear colleague, who is chairman of the Judiciary Committee. We know each other's views very well, and I have the highest respect for him, and I would guess if he and I could have written the final bill I would probably be here on the floor supporting it.

But after we adopted a get-tough bill with mandatory minimum sentencing for people who use guns in violent crimes and with mandatory minimum sentencing for people who sell drugs to minors, those provisions were stripped out of this so-called crime bill, which is now coming back to the Senate, which is now an anticrime bill in many ways.

But the worst provision of that bill goes back to the Clinton agenda that I was speaking about when I yielded to the distinguished Republican leader.

The Attorney General and the President have sought from day one to overturn mandatory minimum sentencing for drug felons. I have fought that effort, but in a bipartisan effort in the Senate to pass a crime bill I reached a compromise with them which was not a compromise that I was happy with but it was a compromise that I was willing to make to get a crime bill, something that I have tried to do for 6 years. Here was my compromise. Leave the law as it is, mandatory minimum sentencing for drug felons, but give the judge a little discretion under the following circumstances.

First, the defendant had no previous criminal record.

Second, the defendant was not a leader in the drug conspiracy.

Third, the defendant was not carrying a gun and no one involved in the crime was armed.

And, fourth, nobody was hurt in the commission of the crime.

Now, under my provision, several hundred people a year would have been exempt from mandatory minimum sentencing out of more than 10,000 people who were charged. I think that ought to tell you something. But that was a compromise I was willing to make.

But what happened, Mr. President? What happened was, when they got to conference, where a small number of Democrats control the votes, my provision was stripped out and a provision was adopted which overturns mandatory minimum sentencing and which works retroactively so that as many as 10,000 drug felons who are currently in the Federal penitentiary could be released under a bill that is being called a crime bill.

Now, if people wonder why there is so much cynicism in America, why people are so outraged with our Government, think about it a minute. The President is talking about this great crime bill that we are getting ready to pass.

How many people know that this great crime bill is overturning mandatory minimum sentencing and is letting people who are currently serving in the Federal penitentiary under a mandatory minimum sentence, many of whom have more than one conviction, out of prison on a retroactive provision that, if used to the maximum extent, could let 10,000 convicted drug felons back out on the streets of America; basically furlough them because we know many of these people are going to go out and do it again. I assert, Mr. President, that the American people do not know that provision is in this bill now.

What I have tried to do today is, I have taken three important provisions that were in our crime bill which have been stripped out and I am offering those provisions, along with Senator DOLE's provisions, as amendments to this education bill because I believe one of the biggest problems in trying to educate our children is the presence of violence in our communities and in our schools.

So I hope my colleagues will adopt this amendment. We have voted on it before. We have adopted it by overwhelming numbers. Unfortunately, because the debate on crime is not in the media, not in those bright areas where the public can see, but in the dark areas where politics as usual still dominates, these provisions were dropped from the crime bill.

Mr. President, I would just say that I have worked for a long time for a crime bill. I worked very closely in the Senate with the distinguished Senator from Delaware. He and I do not agree on everything. But we agreed on what I thought was a good crime bill.

I want people to understand, I am not saying everything about this crime bill is bad. There are a lot of good provisions in the crime bill. But we have larded it up with another $5 billion of social spending on midnight basketball and other things that we defeated in last year's economic stimulus package, and that same old lard is back.

Second, these three provisions that are critically important to getting tough on crime were deleted. So I wanted to give our colleagues an opportunity again today, as I will now on every bill that comes through the Senate that is not an appropriations bill, until we adjourn, I am going to give our colleagues an opportunity to vote on these provisions with some hope that if they are adopted again and if we go to conference on the bills, that at some point, reason and responsibility will prevail and we can bring these provisions back to life—tough mandatory minimum sentencing for thugs who use guns in crime; mandatory minimum sentencing for people who sell drugs to our children or use our children in drug trafficking; and a provision that would overturn the provision in the crime bill which could retroactively go back and let 10,000 drug felons out of prisons.

I feel very strongly about this amendment. I hope it is adopted.

I hope my colleague will forgive me for leaving. I am in the midst of a hearing. He understands I mean no disrespect. I have listened to my colleague on this subject and he has listened to me. And, quite frankly, we have convinced each other on enough things that I think if the two of us had written this bill, we would have a good crime bill and we would both be supporting it.

I yield the floor.

Mr. BIDEN. Before the Senator yields—and I know he has to go back to those hearings—I just want to make one comment and then I will speak in detail, detail meaning 10 or 12 minutes, to the points he raised.

But one of the things that, last time we debated the crime bill and we went to conference a couple of years ago, there was a lot of talk about we just ramrodded this thing through, so on and so forth. This time now, in order to obviate that criticism, we made sure we picked the second biggest room in the House of Representatives, I am told, and C-SPAN televised all of it from beginning to middle to end, to the point that my dear mother—I know the Senator from Texas is always talking about his mama's gun and how no one is going to take it away.

Well, no one is going to take my mama's television away. She stays up and watches her son Joey into the night. I caused my mother to lose a lot of sleep, going into the night on the crime bill.

I want to assure him that these provisions were detailed openly, in the open, clear light of day and night, and there was no politics as usual.

And with that, I will go to the substance of each of the amendments.

Mr. GRAMM. Your mama did not tell you that you need to listen to that nice man from Texas?

Mr. BIDEN. My mama told me, just be thankful that nice man from Texas, who disagrees with me a lot, does not have his mama's gun when he is debating. That is what my mama told me.

I kid—and I want to say it; I say it enough publicly, and it is said with affection—I occasionally kid and call my distinguished friend from Texas, to distinguish him from Senator GRAHAM from Florida, I refer to him as Barbed Wire GRAMM. And he has never taken offense to that. I want him to know that the distinguished Senator and I have a little bit of disagreement on these bills, but not nearly as much as is portrayed.

Mr. DOLE. Mr. President, I thank the Senator from Texas. I think he is making a very valid point with reference to the matter he just discussed.

Mr. President, I want to say a few words in support of the amendment offered by my distinguished colleague from Texas, Senator GRAMM. Unbelievably, the recent crime conference rejected Republican proposals to establish mandatory minimum penalties for vicious criminals who sell drugs to minors and who use a gun in the commission of a crime.

Another proposal rejected by the conference was one that I offered to the crime bill last November and which passed the Senate by an overwhelming vote of 75 to 19—with a bipartisan group of 39 Republicans and 36 Democrats expressing support. This proposal amended the Federal rules of evidence to allow the introduction of evidence of prior offenses of rape and child molestation in prosecutions for these same offenses. We had a debate on the floor on that. It was adopted again in a bipartisan way.

Ask any prosecutor, and he or she will tell you how important similar-offense evidence can be. In a rape case, for example, disclosure of the fact that the defendant has previously committed other rapes is often crucial, as the jury attempts to assess the credibility of a defense claim that the victim consented and the defendant is being falsely accused.

Similar-offense evidence is also critical in child molestation cases. These cases often hinge on the testimony of the child-victims, whose credibility can be readily attacked in the absence of other corroborating evidence. In such cases, it is crucial that all relevant evidence that may shed some light on the credibility of the charge be admitted at trial.

Unfortunately, Mr. President, the Federal Rules of evidence reflect a general presumption against, let me repeat—against—admitting evidence of uncharged offenses. This presumption has been widely reproduced in State rules of evidence, whose formulation has been strongly influenced by the Federal rules.

Take the 1988 case of Getz versus State. In Getz, the Supreme Court of Delaware overturned the defendant's conviction of raping his 11-year-old daughter because evidence that he had also molested her on other occasions was improperly admitted. The court went on to hold that the disputed evidence was impermissible evidence of "character" and could not be admitted under the State's evidentiary standards. The tragic result: the defendant walked.

Similar tragedies have been repeated in other courts and in other States.

Yes, the Federal rules of evidence have been around since 1975, but that does not mean they should not be changed when the need arises. For when someone is out there committing sex crime after sex crime, committing child molestation after child molestation, it is this Senator's view that this evidence should be admitted at trial without a protracted legal battle over what is admissible and what is not.

If you turn on television today, if you read the morning newspaper, or listen to the radio you have heard the sad story of 7-year-old Megan Kanka, who was recently strangled near her home in Mercer County, NJ. The police have arrested a twice-convicted sex offender. According to press reports, the person arrested for this vicious crime had been sentenced to 10 years in prison, but was released after serving just 6 years.

Should the killer's prior offenses be admitted at trial? You bet. Are these offenses relevant to the charge. Of course.

Mr. President, I am aware that even if my proposal became law, it would affect only Federal cases. State cases would still be governed by State rules of evidence. Nonetheless, the Federal Government has a leadership role to play in this area. Once the Federal rules are amended, it's possible—perhaps even likely—that the States may follow suit and amend their own rules of evidence as well.

So, Mr. President, I urge my colleagues to support the Gramm amendment. It restores some of the mandatory minimum penalties. It restores the important changes to the Federal rules of evidence. And it undoes some of the damage caused by the conference committee.

THE PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am happy to have this statement as part of my amendment. It tries to get at exactly the repeat, violent felons; what I am trying to get at. I appreciate the Republican leader's leadership as usual.

Mr. BIDEN. Mr. President, I have just received a copy of the amendment. And I do not say that critically. I say that only by way of explanation, in case I leave something out that I am unaware of that has been included in the amendment.

Let me tell you about three things.

First of all, let me talk about the part I agree with Senator GRAMM about. A number of my colleagues, Senators THURMOND and SIMPSON on the Republican side among others, Senator SIMON and Senator KENNEDY and Senator LEAHY and a number on this side of the aisle, have all found some great difficulty with some of the unintended consequences of minimum mandatory sentences that we have passed in the past. So they came to me when we were debating the crime bill on the floor, Democrat and Republican, and said let us come up with a proposal how to deal with these aberrations. We do not want the second-year medical student who has had an exemplary record, has been a model student, a model citizen, a model child through school, a model young adult, because of being found in a circumstance one time to have to go to jail for 10 years without probation or parole for something that we would not send a dealer to jail for for that long, and so on.

So they came along, both Republicans and Democrats, and said we should have this so-called fix, a circumstance whereby you could review, under certain circumstances, a particular minimum mandatory sentence. I in good faith took that provision worked out by that bipartisan group of Senators to a conference with the House of Representatives. We conferenced for, I do not know, 20, 30 hours, a bill that is 1,100 pages long. One of the few things we could not get the House to agree on was this provision.

Democrats and Republicans in the House of Representatives, led by two conservative Republican crime fighters, Mr. HYDE and Mr. MCCOLLUM—Representatives HYDE and MCCOLLUM, two very conservative Members of the House, along with all the Democrats—did not like the Senate provision on reviewing these sentences and said under these rare circumstances you should be able to review those in the future and retroactively review them. That is where this figure of 10,000 drug dealers being let out of jail comes from.

That is pure hyperbole. It is not what will happen. But I happen, in substance, to agree with Senator GRAMM. I do not think we should have made this retroactive. I think it should have been prospective. But it was made retroactive.

But that is the place from which I depart from Senator GRAMM in agreeing with him on anything else he had to say here. On that one point about being able to look at these minimum mandatory sentences there is no disagreement on whether or not we should look at them. Democrats and Republicans say we should go back and look at them. The disagreement is whether or not it had a retroactive provision; that is, people who may have been unjustly sentenced, sitting in jail, should be able to say: By the way, take a look at my sentence and see whether or not I got a minimum mandatory sentence I should not have gotten.

The Republicans on the House side and Democrats thought that should be done. The Democrats, with the exception of me and one other, thought that should be done. I lost. GRAMM's position lost. The other team won. That means out of a 1,100-page bill, that one paragraph was amended. Big deal.

No. 2, the other Gramm provision of making it a crime with a minimum mandatory sentence of 10 years for anyone 21 years or older to buy even an ounce of marijuana from someone 17 years or younger—this is how his amendment works. If a 21-year-old kid in college bought marijuana from a 17-year-old kid on a college campus, under the Gramm amendment that person, the 21-year-old, must go to jail and serve 10 years, no probation, no parole, no exceptions. And if it happened a second time he must be put in jail for life, no probation, no parole.

All those folks who stole the billions of dollars from the S&L's in Texas —none of them are in jail serving 10 years. None of them are in jail even considering life. But we are going to send a 21-year-old college student to jail for purchasing one ounce of marijuana—for life. An incredibly enlightened position. But that is the aberration on the one side, why we cannot have such a crazy law.

But there is some substance to what the Senator says, and I dealt with that in the bill, at least I attempted to. There are also those 23-year-olds and 25-year-olds who go into schoolyards and sell cocaine, go into schoolyards and sell heroin, go into schoolyards and sell methamphetamines, go into schoolyards and hook young kids on drugs. Now those sons of guns should spend a long time in jail. Nobody should have any sympathy for them. So how, on the one hand, do you deal with a provision in my crime bill which is designed to put those people away and not put away the 21-year-old kid who buys an ounce of marijuana from a 17-year-old kid—all of whom, in the Gramm amendment, would be caught up and swept up in one big net and treated exactly the same? The way to do that, in my view, is that using kids to sell drugs near schools or playgrounds provides triple the penalties otherwise authorized—using a juvenile to sell drugs in a drug-free zone. Right now, if you use a juvenile to go into that schoolyard—and that is how they do it, by the way. It is by peers.

The 30-year-old drug dealer does not go into the schoolyard and say, "By the way, I have some drugs." He goes out and hooks some 17-year-old or 15-year-old or 13-year-old kid and he gets that 17- or 15- or 13-year-old kid to go into the schoolyard and sell his drugs for him. When he does that he is covered, he is not selling the drugs.

Or he gets the young kid to carry drugs. That is where the phrase "mule" came from. Because those kids did not go to jail as long and therefore he does not get nailed.

I want to put that person in jail. Right now that person gets, in Federal court, a minimum of 5 to 6½ years in jail, under the sentencing guidelines. Under the crime bill that just passed out of conference, the maximum penalty for that offense will be tripled—tripled. So the person will get up to 19 years in jail, if a 21-year-old or 30-year-old or 50-year-old goes in and takes my 13-year-old daughter or your 17-year-old son and gets them to sell drugs to other kids. That is treating harshly the person who should be treated harshly in my view.

I realize I get criticized that that is too harsh. I am told constantly that is not fair. I do not have any sympathy at all for an adult using a child to distribute drugs to another child: None, zero. So I make no apologies for that person under the Biden crime bill going to jail for a long, long time.

The second way we took care of what Senator GRAMM is trying to get after with a sledgehammer, we use—not a scalpel but a big Bowie knife: Not precise, kind of harsh, but not a sledgehammer to grab in the net almost totally innocent people. The second way we do this is we not only triple the sentence for using kids to sell drugs, any crime that an adult engages a child in for purposes of committing a crime—any crime, not just drugs—any crime where it involves kids, the current penalty is 5 to 6½ years and we mandate that the Sentencing Commission increases that penalty. It is a mandate.

So, not only do we cover what Senator GRAMM wants covered—and in all fairness he may not know this was in the bill—we pick up not only drug crimes but all crimes where an adult is involved in using a child and increase the penalties.

There is another amendment that we debated hotly. I think it is absolutely, positively the wrong thing to do. It would stand on its head, as they say, 800 years of English jurisprudential thinking on admissible evidence. It says, translated in terms of how it really works, if a man is accused of a crime and the charge is a sex crime against a woman or a child, the way it works now the prosecutor can say: "This person here, John Doe, I allege raped Mary Smith. And John Doe is a bad guy. Your Honor, I want to seek permission to enter into evidence acts, prior convictions or similar crimes to show a pattern and practice that this guy operates under, to prove to you—to lend credibility to the fact that this is the guy who did this to this woman."

Under our system the judge looks carefully at that and says, "Is this a pattern? Does this give you any insight? Is this prejudicial?" Sometimes lets that stuff in and sometimes does not.

What Senator GRAMM wants to do on behalf of Senator DOLE—which we defeated in the conference—is to say the prosecutor can say: "You know, if I can go out and find anybody"—this is literally true now, I am not making this up—"if I can find anybody, from any time in the defendant's past, who alleged that the defendant did anything similar to the crime for which he was charged, I, the prosecutor, can go get that person, bring them into court and say, 'When John Smith, the defendant here who is now 47 years old—when you went out on a date with him when he was 15 years old, what did he do to you?' "

And now a 42-year-old can say, "Well, 27 years ago, I remember John forcibly tried to make love to me."

It is incredibly prejudicial. Under our system, for 800 years, we developed these Rules of Evidence because they work. Why do they work? They get at the truth. That is the purpose of them. And to allow total, uncorroborated, unsubstantiated testimony about something that could have happened—anything—from the day before to 50 years before into a trial, I think, absolutely violates every basic tenet of our system.

Remember, I am the guy who wrote this crime bill. I am not "Mr. Soft On Crime." I am the guy who put these death penalties in this bill. I am the guy who added these penalties for all these other things in the bill. But this is crazy.

If the person has a pattern, if he has been convicted of similar crimes, if he has been engaged in that kind of activity and there have been complaints, there are ways to bring that in. There are ways with our present evidentiary rules to bring that in, as I say, to the Presiding Officer, who is an accomplished lawyer himself. There are ways to do that. But not this, just waiving all existing rules.

One other thing. Let me tell you what we did here. Notwithstanding the fact I think it is crazy, and that is just my opinion, we have a system whereby when we are going to change the Federal Rules of Evidence—we set up a system a long time ago. The Judicial Conference sets up an advisory committee. The way it works is they suggest changes in the rules, the Judicial Conference meaning Federal judges. We have a system we put in place because it made sense a long time ago. Federal judges come along and say we should change the Rules of Evidence the following way. And then if we, the U.S. Congress, do not act to stop those changes, essentially those changes become law.

So in this case, what I say we should do is let us go to the judges, let us go to the experts and say, "Does this approach of Senator DOLE make any sense? Study it, take a look at it, and come back and tell us whether we should change the Rules of Evidence."

That is how we have changed the Rules of Evidence in the 22 years I have been here. There are no fundamental changes in the Rules of Evidence that have been sui generis, that have been spontaneous, that have come from the floor. They come from legal scholars and judges sitting down and saying we should change the Rules of Evidence the following way.

So if it is any consolation—it probably would not be because I think they will agree with me, but maybe I am wrong—if it is any consolation to my friends on the Republican side, there is the ability in the request of the Senate and the House to ask the Judicial Conference to take a look at these rules changes—and they are, in fact, doing that. That is the orderly way in which we should do this, rather than haphazardly, willy-nilly, on the floor of the U.S. Senate, in a conference on the floor of the Congress, changing these Rules of Evidence, with all due respect, that a lot of people do not fully understand the significance of.

Let me ask a rhetorical question of the Presiding Officer: What do you think would happen if there were no fifth amendment and I came on the floor of the U.S. Senate and submitted an amendment to the Constitution called the fifth amendment? And I said, essentially, the fifth amendment says that nobody should have to make a case against themselves. How many votes do you think that would get on the floor of the Senate? And especially with the public the way they are today, ready to listen to the Rush Limbaugh malarkey and all that right-wing garbage, they would all go, "Oh, no, fifth amendment; that's ridiculous."

I wonder how many people would think if I walked on the floor in this atmosphere today and offered the fourth amendment saying the Government cannot engage in an unreasonable search and seizure of your property, I wonder how many votes I would get.

I wonder if people listening to this ask themselves—as Barry Goldwater would say, in your heart you know whether he is right. In your heart, what do you think would happen if we put the Bill of Rights up for a vote today? What do you think the Rush Limbaughs of the world today would do with the Bill of Rights? Do you think they would sustain them?

Thank God, there were people like Madison. Thank God there were people like the Founding Fathers, who debated these things called the Bill of Rights.

But I ask a very serious question. I ask those of you on the floor, what do you think would happen if we had a referendum on this floor on the Bill of Rights? How many people would vote for them? Then I ask you the rhetorical question: What country would this be if there were no Bill of Rights?

When you start changing fundamental Rules of Evidence, you start affecting fundamental questions that, on the surface, are awfully hard to explain. For how could I be against allowing Mary Smith, who said, "John Doe did that to me, too," from coming into court and saying that? How could I be against that, the author of the Violence Against Women Act, the guy who spent more of his waking hours dealing with the problem of violence against women, presuming to say, than any man or woman serving in the U.S. Congress today. How can I be against that? The same way I could be for a fifth amendment. The same way I could be for a fourth amendment. But the public "ain't" ready for that today, because they all want instant answers, instant answers, instant answers.

It is very appealing to put up this bogeyman of this horrible rapist, which there are horrible rapists. That is why in this bill I increased the penalties for rapists.

The Senator said he did not understand what was in this bill that was of any consequence; I mean, this is a soft-on-crime bill.

I ask unanimous consent to print in the RECORD a list of those added penalties beyond the death penalty.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NON-DEATH PENALTIES IN CONFERENCE REPORT

GUN PENALTIES

Semiautomatic Weapons (§401): Enhances penalties for using, carrying semiautomatic weapon during federal crime of violence or drug trafficking crime.

Second Offense for Using or Carrying Explosives (§402): Enhances penalties for second conviction for using or carrying an explosive to commit any federal felony (current enhancement—10 years).

Smuggling Firearms (§403): Increases penalty for smuggling a firearm into U.S. to violate a federal or state drug trafficking law or to commit a crime of violence—up to 10 years.

Theft of Guns and Explosives (§404): Provides up to 10 year penalty for stealing a firearm or explosive which has moved in interstate commerce.

Revocation of Supervised Release (§405): Mandates revocation of supervised release and institution of prison term for defendant who possesses drugs or firearm in violation of condition of supervised release.

Revocation of Probation (§406): Mandates revocation of probation for possession of drugs, firearms.

Lying on a Gun Application (§407): Increases penalty for lying on a gun application from 5 to 10 years.

Felons Possessing Explosives (§408): Prohibits felons, drug addicts from possessing explosives.

Explosives Destruction (§409): Authorizes the summary destruction of explosives subject to forfeiture where the explosives cannot be safely removed and stored.

Prohibition against Transactions Involving Stolen Firearms or Stolen Guns (§411): Prohibits possession, receipt, sale of stolen firearm, ammunition that has moved in interstate commerce—up to 10 years.

Using Firearm in Commission of Forgery (§412): Enhances penalties for using or carrying a firearm in commission of felony counterfeiting or forgery.

Firearms Possession by a Violent Felon (§413): Enhances penalties (depending on number of prior convictions) for gun possession by defendant previously convicted of a violent federal felony or serious drug offense.

Receipt of Firearms by Nonresidents (§414): Prohibits non-licensee from receiving firearm if not a resident of any state unless for lawful sporting purposes.

Firearms of Explosives Conspiracy (§415): Enhances penalties for conspiracies to violate federal firearms, explosive laws.

Stealing Guns or Explosives from a Licensee (§417): Provides up to 10 years for theft of firearm or explosive from a licensee or permittee.

Disposing of Explosives to Prohibited Person (§418): Prohibits any person from transferring explosives to felon or other prohibited person (current law forbids transfer by licensees)—up to 10 years.

Interstate Gun Trafficking (§420): Increases penalty for interstate gun trafficking—up to 10 years.

Drive by Shooting (§208): Up to 25 years for shooting into group of 2 or more to further or escape from major federal drug offense.

Adult Prosecution of Juvenile Offenders (§614): Expands category of federal offenses for which juveniles may be prosecuted as adults to include receiving a gun with the intent to commit a felony; traveling interstate to get a gun with intent to commit violence, drug trafficking crime; transferring a gun knowing that it will be used in a crime.[1] Directs court to consider extent to which juvenile played leadership role in an organization, or otherwise influenced others to take part in criminal activities in deciding whether to transfer to adult status.

DRUG PENALTIES

Using Kids to Sell Drugs (§615): Up to three-fold penalty increase for using kids to sell drugs in "drug free" zones.

Drug Dealing in Public Housing (§616, §1503): Increases penalties for dealing drugs near public housing.

Drug Dealing in Drug-Free Zones (§1505): Enhances penalties for dealing drugs in a drug-free zone.

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[1] Senate bill also included drug possession as transferable crime—mark deletes.

Drug Use in Federal Prison (§1506): Enhances penalty for simple drug possession in federal prison or detention facility.

Smuggling Drugs into Prison (§1506): Enhances penalty for smuggling drugs into federal prison or detention facility.

Drug Trafficking in Prisons (§1501): Mandates that sentence imposed for providing or possessing drugs in prison be served consecutively to any other drug sentence imposed.

Selling Drugs at a Truck Stop (§1411): Enhances penalties for drug-dealing near truck stops and rest areas.

Cocaine Penalty Study (§3092): Requires Sentencing Commission to submit a report on sentencing disparities regarding crack and cocaine. (House)

OTHER PENALTIES FOR VIOLENT OFFENDERS

Three Time Loser (§501): Life imprisonment for 3 convictions of serious violent felony or serious drug offense. (House)

Criminal Street Gangs: Additional 10 year penalty for gang member who commits federal drug crime or crime of violence who has previous conviction (state or federal).

Using Kids to Commit Crimes (§5130): Enhances penalties for all crimes where defendant used a juvenile or encouraged a juvenile to commit a crime.

Repeat Sexual Assault Offenders (§3211): Doubles maximum penalty for repeat sexual assault offenders (first offense can be federal or state). (VAWA)

Aggravated Sexual Abuse: Federal Penalties (§3212): Directs Sentencing Commission to review and recommend enhanced penalties for aggravated sexual abuse. (VAWA)

Interstate Travel to Commit Spousal Abuse (§3321): Creates new federal offense to travel interstate or to cause someone else to travel interstate to intimidate, harass, or injure. (VAWA)

Sex offenses Against Victims Under age of 16 (§3702): Broadens definition of sex offense as the intentional touching through clothing with intent to abuse, humiliate, harass.

Assaults Against Children (§301): Increases penalty for simple assaults against a youth under 16; creates new penalty for assaults against youth under 16 resulting in substantial bodily injury. (House)

Hate Crimes (§2409): Directs Sentencing Commission to enhance sentences at least 3 levels for persons convicted of hate crimes.

Travel Act (§2906) (also see §617): Increases penalty for interstate travel to commit violent crime in furtherance of drug trafficking from 5 to 20 years.

Federal Prosecution of 13-Year Olds as Adults (§1101): Discretionary transfer for 13-year olds who commit assault (with intent to commit murder or felony, with dangerous weapons) murder, attempted murder and with gun: robbery, bank robbery, aggravated sexual abuse, sexual abuse. (House)

Assault (§2901): Increases penalties for adult of: federal officer, foreign officials, official guests, within U.S. maritime and territorial jurisdiction, Congress, Cabinet or Supreme Court, and President and President's staff.

Manslaughter (§2902): Increases penalty for involuntary manslaughter on federal territory from 3 to 6 years.

Conspiracy to Commit Murder for Hire (§2905): Broadens the murder-for-hire statute to include conspiracy to travel interstate to commit murder-for-hire.

Addition of "Attempt" Offenses to Federal Robbery, Burglary, Kidnapping, Smuggling, and Malicious Mischief Statutes (§2969).

Civil Rights Violations (§2903): Conspiracy against rights. Broadens criminal civil rights conspiracy statute to punish kidnapping, aggravated sexual abuse and attempted murder in connection with civil rights deprivation—up to 10 years.

Official deprivation of rights. Broadens criminal civil rights statute to punish use or attempted use of dangerous weapon, explosives or fire in official rights deprivation—up to 10 years.

Federally protected activities. Broadens criminal civil rights statute to punish use or attempted use of dangerous weapon, explosives or fire in deprivation of federally protected activities, such as voting, serving as juror, or joining labor organization—up to 10 years.

Religious property/free exercise. Broadens statute to punish use or threatened use of dangerous weapon in defacing religious property or obstructing free exercise of religious beliefs—up to 10 years.

Fair Housing, Broadens Fair Housing Act to punish use or threatened use of dangerous weapons or explosives or fire.

Arson (§2907): Increases penalties for damage or destruction of property by fire or explosives.

Extension of Civil Rights Statute (§2911): Extends protection of civil rights statutes to include all persons (now limited to state "inhabitants").

Crimes Against Elderly (§2002): Directs Sentencing Commission to ensure increasingly severe punishment for physical harm imposed on elderly victim; requires enhanced penalties for violent second offenders.

TERRORISM PENALTIES

Failure to Depart (§5005): Increases penalties for failing to depart or reentering the U.S. after an order to deportation, to a maximum of 20 years.

Alien Smuggling (§215): Increases penalties for alien smuggling for profit.

Counterfeiting U.S. Currency Abroad (§721): Extends counterfeiting laws to acts committed overseas.

Terrorist Felonies (§724): Enhances penalties for any felony involving international terrorism.

Weapons of Mass Destruction (§711): Outlaws use of weapons of mass destruction against U.S., Americans overseas—up to life; death penalty if death results.

International Airport Violence (§719): Increases penalties for acts of violence or destruction at international airports—up to 20 years.

Document Forgery (§712, §5124): Enhances penalties for various offenses involving false documents for immigration purposes to 10 years; 15 years if used for drug trafficking; 20 years if used for international terrorism.

Maritime Violence (§701): Up to 20 years for violent acts against maritime navigation (e.g. forcible seizure, property destruction, injury to person).

Violence against Fixed Platforms (§701): Up to 20 years for violent acts against fixed maritime platforms.

WHITE COLLAR PENALTIES

Mail Fraud (§2103): Broadens the mail fraud statute to include use of private interstate carriers to commit fraud.

Receiving Proceeds for Extortion of Kidnapping (§2941): Provides up to 3 years for the knowing receipt of extortion proceeds; up to 10 years for the transport or receipt of ransom.

Receiving Proceeds of Postal Robbery (§2942): Provides up to 10 years for the knowing receipt of postal robbery proceeds.

Credit Card Fraud (§2102): Makes it an offense to: use with intent to defraud another person's credit card; solicit a person to offer credit card or sell information regarding the same; show without permission a person's transaction records.

Insurance Fraud (§2101): Creates a new offense of insurance fraud, including false statements, embezzlement, and obstruction, with maximum penalty of 15 years.

Computer Crime (§2601): Strengthens federal laws in relation to hackers; prohibits transmission of programs to cause damage to, or to deny the use of, a computer or system; provides a civil remedy.

Theft of Major Art Work (§2966): Prohibits and penalizes the theft or procurement by fraud of any object of cultural heritage held in a museum.

SCAMS (§3901): Enhances penalties for telemarketing and other fraud targeted at senior citizens.

Animal Pests (§5105): Makes it a federal offense to mail non-indigenous species.

Interstate Wagering (§5109): Makes it a federal violation to transmit in interstate commerce information for the purpose of procuring a lottery ticket.

MISCELLANEOUS PENALTIES

Drunk Driving with Kids (§1602): Enhances penalties imposed by state for drunk driving on federal lands if child is in vehicle—up to 1 extra year; up to 5 extra years if minor is seriously injured; up to 10 extra years if child is killed.

International Child Pornography (§824): Provides up to 10 years in prison for engaging or conspiring to engage in sexual explicit conduct with minors outside the US.

Crediting of Good Time (§5101): Amends 18 USC §3624 regarding release of prisoners to change the requirements for violent criminals (serving sentences of more than one year and less than life) to receive good time credit. criminals. Such offenders may receive credit of up to 54 days for each year served after the first year of the prisoner's sentence if the Bureau of Prisons determine that the prisoner has displayed exemplary compliance with disciplinary regulations.

Trafficking in Counterfeit Goods (§2904): Increases penalty for trafficking in counterfeit goods or services from 5 to ten years; increases penalty for second offenders from 15 to 20 years.

Military Medals and Decorations (§3056): Amends 19 USC §704 to provide a maximum punishment of one year for the unauthorized wearing, manufacturing or selling of a Congressional Medal of Honor (current punishment is up to 6 months); broadens the meaning of the term "sells" as applied to Congressional Medals of Honor to include trades, barters, or exchanges for value. (House)

(Mr. ROBB assumed the chair.)

Mr. BIDEN. Mr. President, I will just number them. There are over 60 in this "soft-on-crime" bill, 60 new penalties or penalty increases, which is interesting. I know I must be doing something right, because the liberals are mad at me because I entered these in, and they are part of the bill, and the conservatives do not think they are enough. So we probably hit a pretty good balance here—probably.

It increases the penalty for alien smuggling for profit; extends counterfeiting laws to acts committed overseas; enhances penalties for any felony involving international terrorism; outlaws and penalizes use of weapons of mass destruction; increases penalties for acts of destruction at international airports; increases penalties for some 16 gun crimes; increases penalties for damage or destruction of property with use of explosives; increases penalties for simple assaults against youths under 16; creates new penalties for assaults against youths under the age of 16 that sustain bodily injury; broadens definition of sex offense as intentional touching through clothing with intent to abuse, humiliate, or harass.

It goes on and on. I am not going to go on and on and on any more. The fact of the matter is that what the Senator wants done is done in the bill. What is not done in the bill that the Senator wants done in the bill should not be done, in my humble opinion.

The last amendment that he has here is a little beauty. This one is the one we talked about a lot. It is formally known as the "D'Amato amendment." It is a provision that we expand Federal jurisdiction over all crimes of violence, including property crimes and drug trafficking in which the offender possesses a gun.

Let me tell you how many of those crimes there were last year, Mr. President. There were 900,000 of those crimes. Let us just put this in perspective. I do not know if anybody here is from Philadelphia. Philadelphia is the largest big city near me. The DA in Philadelphia prosecutes roughly 30,000 crimes a year. We don't prosecute that many in the entire Federal system in all 50 States and territories. One DA's office does more than the entire Federal Government. The reason for that is 96 percent of all the crimes committed in America are committed within state jurisdiction.

Let me make the following point, and I will cease. When you think about it, what are my friends, my Republican friends and some of my Democratic friends, asking me to do in this crime bill, and asked me to do when I wrote the crime bill? They are saying why not make the States as responsible as the Federal Government? The Federal Government's sentencing bill, which Senator KENNEDY and I wrote in the late seventies, declared that we would have a sentencing commission. If you are convicted in Federal court of a crime, the judge has very limited discretion. You go to jail. If the sentence says 10 years, you go to jail for at least 85% of the sentence. I defy anyone listening to this debate back in their offices, on television in their homes, or in the gallery, to name a single case they have read about in the paper where they have heard that the awful crime was committed by a Federal prisoner out on bail, a Federal prisoner out on parole, a Federal prisoner who got a sentence that had been reduced. It does not exist. Guess why? Because I and a bunch of us who were around in the late seventies led by Senator KENNEDY.

So my friends do not want the States to do the same thing. That is why they have this truth-in-sentencing stuff. In the average State, when someone gets convicted for 10 years in prison, they will only serve 4 years and 3 months; your State. Your Governors are not telling you the truth. They tell you they want to get tough on crime. They do not want to build more prisons. They want us to build them for them. But federally we do it. Once we nail them, they are nailed. And they stay in jail.

What is the second thing the Federal Government has done? We have a Speedy Trial Act. I happen to be the author of that act of 10 or 12 years ago. You get convicted, arrested for a Federal crime, and you go to jail. You go to trial within 70 days; no screwing around, no fooling around. It is called the Speedy Trial Act. Most States do not have that.

What is the third thing we do? We convict someone. We build a prison, and we put them in the prison. We do not have any prison overcrowding federally because we had the nerve to go back and tax you, and tell you we are going to build more prisons.

There are three things that I take blame and credit for as chairman of the Judiciary Committee and as someone who has had the responsibility to deal on this side of the aisle with the criminal justice situation in the last 22 years in part or in whole. My friends want that done to the States. I would like that done to the States, too.

They are going to take the one system that is not broken—that is the Federal system as it relates to the criminal justice system—and they are going to say, "Let us break it. Let us take 900,000 cases that the States are not handling and drop them into the Federal courts." Crime has been a local problem, a local responsibility.

What do we do in this bill? We help the way we should help. We do not federalize new crimes. We say you need more cops. We—the Federal Government—will go to the American taxpayer, and say, "We are going to spend 9 billion of your dollars to get 100,000 more cops; not Federal cops, local cops."

What else do we do? We say to the States, "We don't have enough prisons." Last year 30,000 convicted violent felons in State courts were convicted, and then never served a day in jail. Why? Because 34 States are under court orders for prison overcrowding. They do not have any place to put them.

I keep mentioning Philadelphia because I know the city well. But every other city is the same. Every Friday a group of judges on the court of general jurisdiction meet with a list given to them by the clerk of 25, 20, or 500 people, and they are told. "Like Barabbas, you must release X number of people because we have no room for them." They sit there and they release convicted felons because they have no place to put them.

What do we do? We come up with almost $9 billion for the States; Federal money given to the States to build and operate prisons. So next year there will not be 30,000 people, and the next year and the next year released in the States because the Federal Government did what we should do. We used Federal revenue to give to the States, give to the cities, to build more prisons, to buy more cops, and to have tougher penalties. But we should not do it this way.

Now, my friend from Texas, Senator GRAMM—and I guess I should stop using that. Before all of these debates were televised, there is part of a civility here in the Senate which I think is a useful thing where we refer to our opposition as our friends. Every time I say that, people say to me when I get on the train to go home they say, "You got so mad at him but you kept calling him your friend. How can he be your friend? Are not you all being a little phony?" He really is my friend. PHIL GRAMM and I have incredible disagreements on policy. But he is my friend. He has always been straight with me, and I think he would tell you I am always straight with him.

But PHIL GRAMM has a problem. A Democrat is about to pass the toughest crime bill in the history of the United States of America. That is a problem we used to deal with, we Democrats, when Republicans passed all these tough bills. Now it is a problem.

This kid, BIDEN, used to be a public defender. He wrote this bill, and guess what? All the cops like it. Guess what? All the prosecutors like it. Guess what? It is tough on crime. Guess what? It means it is hard to make a case. Those soft-headed Democrats, big spending, taxing liberals, are soft on crime. They have a problem.

I make a prediction. When we bring this crime bill up, they will spend at least 2 days on the floor arguing against it; arguing against 100,000 new cops; arguing against 9 billion dollars' worth of new prison money; arguing against 64 new penalties; arguing against over 50 death penalties. Why? If this passes, how can they say Democrats are soft on crime?

It is a problem. I sympathize with it; I really do. I feel badly for them being put in this position. I understand the dilemma, and I suspect we are going to see 50 different versions of what happened here on every single bill. But as we pass this crime bill, God willing—and as my grandfather would say, "and the creek not rising"—it is going to become more and more a hollow echo when we talk about getting tough on crime.

Go out and find me any police agency, any law enforcement agency, or anyone who tells you that this bill is soft on crime. It is true that the Senator from Texas did not get all he wanted in the bill. I did not get all I wanted in this bill either. I happen to agree with him and disagree with the Senator from Illinois and the Senator from Massachusetts and my Republican friends over in the House. I think retroactivity should not be in this bill. I lost. But I have a 1,100 page bill, and I lost something, so I am going to be against it?

So as trial lawyer—one of the best in Delaware, for whom I used to work "100 years ago"—Sid Balik used to say—and I will never forget going to my first trial with him as a young trial lawyer. He stood before the jury and said:

> I want you to look at my defendant in this trial. He is not somebody you would want to bring home to dinner, someone you would want your daughter to go out with; he does not dress very well, and is not well educated. But that is not the issue in this trial. The issue in this trial is whether or not he committed the crime. Did he rob John Doe?

And then he said, "So I want you to do the following: I want you to keep your eye on the ball. Watch the ball. Do not be distracted. Keep your eye on the ball."

I say to my colleagues and to anyone listening to this debate: Keep your eye on the ball. Is the crime bill that we are soon going to debate a tough, honest, straight, significant attempt to deal with violence in America, and to prevent youth who are at risk from becoming violent predators? If it is, be for it. If you think it is not, be against it.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. BIDEN. Mr. President, I move to table the Gramm amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Mr. President, I wonder if the Senator from Delaware could refrain for 5 minutes so that I can speak on this amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator SIMON be able to proceed for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois [Mr. SIMON], is recognized.

Mr. SIMON. Mr. President, while I do not agree with every word the Senator from Delaware said, I agree in opposition to the Gramm amendment.

Mandatory sentences simply do not make sense all the time. And what the bill does is to substitute the Federal guidelines which are tough for the mandatory sentences.

Let me quote from a few people. Cato Institute, which is more conservative than Senator PHIL GRAMM, said in an article study entitled "How America's Foolish Sentencing Policies Endanger Public Safety":

> Mandatory minimum sentences enacted in the 1980's, have led to the early release of violent criminals to make room in our prisons for nonviolent, first-time, drug offenders.* * * Instead of spending more money on prison space for nonviolent offenders * * * we should return prisons to their original purpose of incapacitating violent criminals.

Justice Kennedy of the U.S. Supreme Court, a conservative Justice, testifying before the House Appropriations Subcommittee this morning said:

> I am in agreement with most judges in the Federal system that mandatory minimums are an imprudent, unwise, and often unjust mechanism for sentencing.

The Rand study—a highly regarded group—of this whole field points out that California went from 22,500 prisoners in 1980 to 106,000 in 1992. "This 500-percent increase is the largest of any State in the Nation."

Then they conclude, "The data suggests that the massive investment in crime control * * * may have had little effect on California's crime rate, particularly violent crime."

Justice Rehnquist, the Chief Justice of the Supreme Court, has criticized mandatory minimums. Is he a wild-eyed liberal, a radical? Of course not. The two people who are responsible, particularly for the one change that was criticized on the floor by our friend from Texas, are HENRY HYDE and BILL MCCULLOM. Is Congressman HENRY HYDE a wild-eyed liberal radical? Is Congressman BILL MCCULLOM a wild-eyed liberal radical? Well, we know the answer to that.

Much of the provision for taking away the mandatory minimum sentence on the nonviolent crime was a bill that I introduced, together with Senator STROM THURMOND and Senator ALAN SIMPSON. The Federal judges are just overwhelmingly on that side of things. The National Center for Crime and Delinquency is studying my State of Illinois. The study found that shorter prison terms saved taxpayers $100 million a year without jeopardizing public safety.

And then, finally, there is one provision in the Gramm amendment that my colleague from Delaware did not mention. He did not mention this. It says:—and I think this is unprecedented— "any prior conviction, foreign or domestic." We have never before, to my knowledge, ever considered foreign convictions. If someone was a student at Tiananmen Square and was convicted there, should that be used against that person here? I think we are taking a step that clearly we should not be taking, and I hope the Gramm amendment is soundly defeated.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 2442.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—55

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Conrad
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wofford

NAYS—44

Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kassebaum
Kempthorne
Lautenberg
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Sasser
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 2442) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2443

Mr. KENNEDY. Mr. President, I send technical amendments to the desk and ask that they be considered en bloc and agreed to en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2443.

The PRESIDING OFFICER. Without objection, the technical amendments are agreed to en bloc.

So the amendment (No. 2443) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

SUPPORT OF AN AMENDMENT TO S. 1513 ADDING THE FAMILIES OF CHILDREN WITH DISABILITIES SUPPORT ACT OF 1994 AS A NEW PART I TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Mr. HARKIN. On May 23, 1994, I introduced S. 2144, the Support for Families With Children With Disabilities Act of 1994, along with my colleagues Mr. JEFFORDS, Mr. KENNEDY, Mr. SIMON, Mr. DODD, Mr. LEAHY Mr. METZENBAUM, and Mr. WELLSTONE. The legislation adds a new part I to the Individuals With Disabilities Education Act.

Today, I am offering this bill as an amendment to S. 1513, the Improving America's School Act of 1993. I would like to thank the managers of this bill for including my amendment in the managers' amendment.

For the past 18 months, families of children with disabilities from Iowa and throughout the country, together with the Consortium for Citizens With Disabilities, have worked to develop recommendations for Federal legislation on family support for families of children with disabilities.

Mr. President, I would like to take this opportunity to thank them for their effort. This is your legislation; congratulations.

Let me briefly explain why I believe this legislation is necessary. When Congress enacted the Americans With Disabilities Act in 1990, we did more than pass comprehensive civil rights legislation. We also enunciated the fundamental precept of our national disability policy—that disability is a natural part of the human experience that in no way diminishes the fundamental right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society, and enjoy full inclusion and integration in all aspects of American society.

On the day the Senate finally passed the ADA, I made a dedication:

> All across our Nation mothers are giving birth to infants with disabilities. So I want to dedicate the Americans With Disabilities Act to these, the next generation of children and their families.
>
> With the passage of the ADA, we as a society make a pledge that every child with a disability will have the opportunity to maximize his or her potential to live proud, productive, and prosperous lives in the mainstream of our society. We love you all and welcome you into the world. We look forward to becoming your friends, your neighbors, and your coworkers.
>
> We say, whatever you decide as your goal, go for it. The doors are opening and the barriers are coming down.

The unfortunate truth is that our current so-called system of services does not empower families desiring to raise their children with disabilities at home and in their communities consistent with the precepts of the ADA.

I believe this legislation will help us transform those current State systems, many of which foster dependence, separation, and paternalism into systems that foster inclusion, independence, and empowerment. The bill assists States, through systems change grants, develop or expand and improve family-centered and family-directed, community-centered, comprehensive, statewide systems of family supports for families of children with disabilities that are true to the precepts of the ADA.

On May 10, 1994, I held a hearing before the Subcommittee on Disability Policy, which I chair. One of the witnesses was Allan Bergman who testified on behalf of the Consortium for Citizens with Disabilities Task Force on Children and Families. He shared with the subcommittee his understanding of the vision of the legislation:

> This bill declares a set of values and principles in Federal law that sends a message throughout this country and to all the States and to all families that we believe in the family unit and we are prepared to support you as you go forward in maintaining your rightful place in the community.

Dave Novak, from Cedar Rapids, IA, stressed to the members of the Subcommittee the importance of enacting this legislation:

> Federal policy needs to support families. We don't need a federal policy that would divide families. We need to have a federal policy that is going to bring families together.

Sue Swenson from Minneapolis, explained the need for this legislation to focus on systems change:

> We desperately need in this country Federal systems change legislation to address family support for families who are raising a child with, perhaps, extraordinary needs. The systems, as they are right now, don't work. In fact, in many instances, they hurt families. We cannot afford, as a nation, to pour money into systems that hurt such a basic piece of our democracy as the family unit, as the family structure.

One of the important provisions in the legislation calls for the establishment of a State policy council for family support for families of children with disabilities. Cathy Ficker-Terrill of Elmhurst, IL voiced strong support for this provision:

> This legislation allows each state to have a council that is not only family-centered but family-driven. We don't need to create another system that is solely professionally-driven. The Council will allow each state to focus on the entire family. It will respect changing family needs, and most importantly, the council will respect cultural, economic, and spiritual differences of families.

I asked the witnesses whether they believed that this modest bill could truly make a difference. According to Donald Shumway, the director of the Division of Mental Health and Developmental Disabilities for the State of New Hampshire:

> This modest statute has the potential to influence government policy, federal, state, and local, more positively than do many of the federal government's largest pieces of legislation. I know, because New Hampshire has taken its first steps in this direction of family support, and it is the best human services policy that we have made in at least two decades.

Mr. Shumway explained to the subcommittee that the proposed legislation is similar to New Hampshire's family support law supported by and signed by Governor Sununu in 1988, and strongly supported and expanded by Governors Gregg and Merrill. He then asked a rhetorical question about the nonpartisan nature of support for family support legislation:

> Why, you might ask, are three consecutive Governors of a very conservative state wild about family support? The answer lies first in the values that underlie family support. This is a self-help program; however, it does not stop there. Family support is a commonsense problem solver, and family support is a community builder.

These witnesses provided compelling testimony in support of this legislation.

I urge my colleagues to vote in favor of my amendment adding family support for families of children with disabilities to our national disability policy.

Mr. President, I ask unanimous consent to insert in the RECORD following my remarks a brief description of the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FAMILIES OF CHILDREN WITH DISABILITIES SUPPORT ACT OF 1994 BRIEF SUMMARY

INTRODUCTION

The major focus of the bill is to provide competitive grants to States to develop or enhance statewide systems of family support for families of children with disabilities. The bill recognizes that States have different levels of development of statewide systems of family support for families of children with disabilities. For States that are just beginning to develop family support systems for families of children with disabilities, the bill allows them to apply for State grants to "develop and implement" these systems. States that have made significant progress in the development of family-centered and family-directed approaches to family support for families of children with disabilities may apply for State grants to "expand and enhance" statewide systems of family support for families of children with disabilities.

The legislation is not intended to provide support for direct services to families of children with disabilities or to create a new entitlement. Rather, the legislation is designed as a "systems change" bill to assist States and families to work in partnership to develop statewide systems of family support for families of children with disabilities that are family-centered and family-directed and that use existing resources more efficiently. It is intended to address the priorities and concerns of those families who want to raise their children with disabilities at home and in their communities. Thus, under the legislation, "family support" for families of children with disabilities is intended to foster in-home care when it is desired by the family and appropriate for the child with a disability.

Findings. The findings of the bill recognize, among other things, that: children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment; many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities; there are financial disincentives for families to care for their children with disabilities at home; supporting families to enable them to care for their children with disabilities at home is efficient and can be cost-effective; and there is a need for statewide, comprehensive, coordinated, interagency systems of family support for families of children with disabilities that is family-centered and family-directed, easily accessible, and that avoids duplication, uses existing resources more efficiently, and prevents gaps in services.

Purpose. The purposes of the bill are to (1) provide financial assistance to States to support systems change activities to assist each State to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities and to ensure the full participation, choice and control by families of children with disabilities; and (2) enhance the ability of the Federal Government to identify Federal policies that facilitate or impede the provision of family support for families of children with disabilities, provide States with technical assistance and information, conduct a national evaluation of the program of grants to States, and provide funding for model demonstration and innovation projects.

Policy. The bill states that it is the policy of the United States that all activities carried out under this Act shall be family-centered and family-directed, and shall be consistent with the following principles: Family support for families of children with disabilities must focus on the needs of the entire family; these families should be supported in determining their own needs and in making decisions concerning necessary, desirable, and appropriate services; these families should play decision-making roles in policies and programs that affect their lives; family needs change over time, and family support for families of children with disabilities must be flexible, and respond to the unique needs, strengths and cultural values of the family; family support for families of children with disabilities is proactive and not solely in response to a crisis; these families should be supported in promoting the integration and inclusion of their children with disabilities into the community; family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources; youth with disabilities should be involved in decision-making about their own lives; and services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences and cultural differences.

Construction. Nothing in this legislation shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

Grants to States. The bill authorizes grants to States to be awarded on a competitive basis. No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant. Grants may range from $200,000 to $500,000 based on the amounts available and the child population of the State. The bill directs the Secretary to award grants to States in a manner that is geographically equitable and distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

In order to receive a grant, States must submit an application with specified information and assurances, including:

The designation of a lead entity in the State, which may be an office or commission of the Governor, a public agency, an established council, or another appropriate office, agency, or entity.

The establishment of a State Policy Council For Families of Children with Disabilities, comprised of a majority of family members of children with disabilities or individuals with disabilities, as well as State agency representatives, and others. Family members of children with disabilities are eligible to serve on the Council whether the child is currently in the home, in an institution, or in other settings. The Council shall advise the lead entity in the development and implementation of a statewide system of family support for families of children with disabilities. Established Councils or committees of such Councils may be designated as the State Policy Council under specified circumstances.

A preliminary plan, and a description of the steps that the State will take to develop a strategic plan. A State receiving a grant must, within the first six months, prepare and submit a strategic plan designed to achieve the purposes and policy of this Act. The plan must be developed by the lead entity in conjunction with the State Policy Council For Families of Children with Disabilities, and must be updated annually.

An assurance that families are actively involved in all aspects of the State program.

An assurance that the State will expend at least 65% of the funds made available on grants and contracts to conduct authorized activities and expend not more than 5% for administrative expenses.

The bill describes a number of authorized activities that a State may carry out to accomplish the purpose of the Act. These activities include training and technical assistance, interagency coordination, support of local and regional councils, outreach, policy studies, hearings and forums, and public awareness and education.

The bill specifies that grant applications shall be reviewed by panels of experts that are composed of a majority of family members.

Technical assistance. The bill authorizes the Secretary to provide, through grants, contracts or cooperative agreements, technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. The technical assistance and information shall be provided to the lead entity, the State Policy Council For Families of Children with Disabilities, families, organizations, service providers, and policymakers.

The entity providing the technical assistance must submit periodic reports to the Secretary of HHS including, among other things, recommendations regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in the legislation in other Federal legislation.

Evaluation. The bill authorizes the Secretary to conduct, through grants, contracts or cooperative agreements, a national evaluation of the program of grants to States.

Projects of national significance. The bill authorizes the Secretary to conduct a study to review Federal programs to determine the extent to which these programs facilities or impede family support for families of children with disabilities. The Secretary may also fund demonstration and innovation projects to support the development of national and State policies and practices related to family support for families of children with disabilities.

Authorization of appropriations. The bill authorizes to be appropriated $10,000,000 for FY 1995 and such sums for FY 1996 and 1997.

Mr. GORTON. Mr. President, when the Senate first took up this bill, I expected to vote against it because I believe that people in communities across the Nation know better how to educate their children than do Federal Government bureaucrats in Washington, DC. The original bill, while well-intentioned, transfers too much control to Washington, DC.

Centralized decisionmaking in Washington, DC, is not the answer to improving the education of our children. Before the Senate began its work, I was convinced that this bill would have increased the Federal Government's power and control over the education of our children.

Substantial revisions to this legislation during our debate have removed many of my objections. Compared to what was originally introduced, this bill now has significantly fewer Federal mandates, increases local control and flexibility, protects home and private schooling, and addresses school violence. Because of these improvements, I will vote today in favor of the bill.

One of the most significant improvements to this bill is the Gorton-Lieberman school violence amendment. My top priority this year has been to deal with the issue of violence in our schools. In January, I held an education summit at which I listened to nearly 200 parents, teachers, administrators, and students share their concerns with our schools. Their No. 1 concern was violence in the classroom.

To address this issue, Senator LIEBERMAN and I offered an amendment to give parents, teachers, and administrators in local communities the authority to discipline violent students—without the heavy hand of the Federal Government interfering with their judgment. With this amendment, parents and school leaders in Seattle, Walla Walla, St. Louis, and Baltimore will decide how best to discipline violent children in their schools—not Federal Government bureaucrats in Washington, DC.

The Gorton-Lieberman amendment is a strong first step toward making our schools safer. I am grateful that the Senate has begun to address the issue of school violence and I thank my colleagues for their bipartisan support of my amendment.

But I must warn the chief backers of this reauthorization bill—while you have my support today, my vote comes with this caveat—strip the provisions which have been added to make this a better bill, and I will help lead the opposition to the conference report.

Specifically, the provisions I want kept in the final version of the bill are:

Amendments that protect home and private schools, and the freedom of local schools to choose not to participate in Goals 2000 programs.

The Gorton-Lieberman amendment to let local people determine how best to stop violence in their schools, without interference from Federal bureaucrats.

The Danforth amendment to create demonstration programs that allow for the development and study of same gender classes for low-income, educationally disadvantaged children.

The Smith-Helms amendment to prohibit the spending of Federal taxpayer dollars for school programs that promote or encourage homosexuality as a positive lifestyle.

The Hatch amendment to distribute fairly chapter 1 funds to schools in communities throughout the Nation, including my home State of Washington.

Mr. President, there should be no negotiations over these provisions. These provisions have turned a bad bill into a piece of legislation for which broad consensus has been reached. These amendments must stay in the bill. If the bill is returned to its original form in the conference committee, I will be forced to vote against the conference report.

Why am I sounding the alarm bells on the potential stripping of these provisions from the conference report? Because it has happened before. When the Senate passed the Goals 2000 bill, it contained my school violence amendment. But despite the Senate's clear support, it was taken out in the conference committee. I do not want that to happen again.

If we are truly committed to improving our schools and the education of our children, the Gorton-Lieberman amendment, and the other provisions that improved this legislation, must stay in the final version of the bill.

If they are not, we should vote it down when it comes back from the conference committee.

Mr. HATFIELD. Mr. President, with the passage of this legislation to reauthorize the Elementary and Secondary Education Act, we have the opportunity to make this the most productive Congress in decades for precollege education. But the productivity of Congress as far as education is concerned cannot be measured by what we build, but in what we enable others to build.

In our role, we may provide a few of the guidelines for the master plan, and we may also provide some of the basic tools needed to build the education program, but we here in Washington cannot build the kind of quality system that is desirable in each local community. We are dependent on the parents, the teachers, the local school administration, the State education officials, higher education representatives, and the business community to design and implement the plan that meets the needs of their children.

Local and State school personnel must supplement the tools that we have provided with those of their own to construct a system that strengthens their community, their State and, ultimately, their Nation.

Incorporated within this bill is a tool that has already proven its usefulness. It is one of the real success stories in Federal support to education, the Dwight D. Eisenhower Mathematics and Science Education Act. It is also a story that is close to my heart due to my role in advancing math and science legislation and my sponsorship, along with Senator KENNEDY, of the Excellence in Mathematics, Science and Engineering Education Act in 1990.

The latter legislation contained two new programs—a national network of 10 regional consortia to provide assistance to local educators as they reform their math and science programs, and the National Clearinghouse for Science, Mathematics and Technology Education Materials to serve as a central repository of all math and science teaching and curricular materials. The emphasis on reform that is in Goals 2000 and other recent legislation make these two programs even more vital than they were previously.

After canvassing educators throughout the country, I introduced legislation during the first session of this Congress that refined and reauthorized the Eisenhower program including the consortia and the clearinghouse. The refinements placed a priority on elementary education, provided for a greater emphasis on informal education, and strengthened minority teacher recruiting and retraining. The Elementary Mathematics and Science Equipment Act of 1993, S. 232, that I had introduced earlier in the session was included in that bill. Also included was an idea contained in the original Kennedy-Hatfield bill which established demonstration projects for training in early childhood science education. This is a powerful program based on the experiences gained from an institute now in place at Marylhurst College in my own State of Oregon and termed "Science Start." While Science Start is not included in this bill, I intend to pursue it in the future on an appropriate vehicle.

What accounts for the success of the Eisenhower program? The essential component is that the money flows through very few hands before being put to work in professional development opportunities for math and science teachers. The professional development is focused from three essential directions—the State, higher education, and the local education agency with the local folks receiving the greatest share.

I am sure that each of you has received, as I have, numerous letters from individual teachers that describe the changes that they have been able to make in their classrooms as a result of Eisenhower funds. I am extremely pleased that the majority of these letters came from elementary teachers. That indicates that the funds are getting to the area of greatest need. In addition, pilot projects and long-term programs directed at disseminating productive approaches for teaching math and science have been developed. The point is that the Eisenhower math and science program is starting to make a real difference, and we must continue to support it to the fullest extent possible.

We must not lose sight of the need to evaluate, coordinate, and disseminate the excellent programs being developed throughout the various regions and the Nation. It is this area that the importance of the regional consortia and the national clearinghouse become evident. To avoid duplication and to learn from the efforts of others, a system must be put in place. The regional consortia are already providing an essential link, and the clearinghouse is building an impressive catalog of free materials available to schools.

In addition, the vast majority of materials being developed for math and science education recognizes what outstanding teachers have known for decades and current research is verifying—students learn best by doing challenging hands-on activities that is related to their lives. Unfortunately, the typical elementary classroom does not contain the basic supplies necessary to carry out such activities. To make these materials available, this legislation contains the proposal I had introduced earlier as the Elementary Mathematics and Science Equipment Act. Again, if we ask teachers to build a better program, we should provide some basic tools which must include sufficient knowledge of subject matter and methods and the materials to apply those methods.

Mr. President, we must strongly support the professional development sections of this bill for it is professional development that will drive our efforts toward effective school reform. I have directed my remarks toward math and science because of the greater need in these areas and because of the infrastructure that is already in place to address the national goal directed at math and science. Let us continue to move forward in the core subjects where progress is underway and, at the same time, initiate programs in the other subjects using what we have learned from the math-science model.

I would also like to briefly comment on a provision which was included in the Manager's package of amendments—legislation to find a permanent home for the Albert Einstein Distinguished Educator Fellowship Program. I introduced legislation this year to authorize this program within the Department of Energy. The Senate Energy Committee held hearings and is due to markup the bill tomorrow. In the meantime, I have worked with Members of the Energy Committee and the Labor Committee to reach agreement so that this program could go forward on S. 1513. I firmly believe that the Nation will benefit from having outstanding secondary educators giving advice to Federal policymakers in the areas of math and science. This provision will allow for such counsel in the core Federal agencies which deal with math and science issues and in the Congress. I am grateful for the Senate's support.

Finally, the legislation before us is quite comprehensive and provides assistance in critical educational areas. Already this year we have seen the Goals 2000 legislation signed into law. The national goals in that law are indeed lofty. Many say far too high to be attainable. But goals should always be beyond immediate grasp and perhaps should appear to verge on the impossible. These goals must challenge the talented, the enthusiastic, the dedicated among us to build an education structure in which all can thrive and succeed to the best of their ability. We should not fool ourselves into thinking that this is an easy task or one that we can foist off on others entirely. We must share the blame for failures, but we can rejoice in the successes for we have helped point a direction and have supplied some of the tools. Hopefully, we have also supplied encouragement toward positive change.

Normally, Mr. President, I am skeptical of groups or individuals claiming to be the "Education this" or the "Education that". But when I consider the legislation that has already passed this session and all that will be added with the passage of this bill, there should be little doubt that this Congress deserves the title of the "Education Congress". I am grateful for the leadership of my friends and colleagues on this committee, Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS. Once again, they have moved the country forward with this comprehensive education program.

Mr. SIMPSON. Mr. President, I rise in support of S. 1513, the Improving America's Schools Act. Before making this decision, I took a long, hard look at the provisions of this most important piece of legislation, and I listened at great length to the wise and sensible counsel of the ranking member of the Senate Labor and Human Resources Committee, Senator NANCY KASSEBAUM. This bill has broad bipartisan support. It passed the Senate Labor and Human Resources Committee by a vote of 16 to 1.

The till which we are voting on today would increase funding for students that need it the most. I supported Senator HATCH's title I amendment. It adopted an equalization factor which would allow States to control the distribution of Federal resources among local school districts rather than leaving the distribution to the Federal Government.

Wyoming received $13,473,000 in fiscal year 1994 under the current formula. Applying the committee formula, Wyoming would receive $14,916,000 in fiscal year 1995. Under the Hatch formula, Wyoming would receive $15,488,000 in fiscal year 1995

The bill invests more in America's teachers. Under the new Eisenhower Professional Development Program, Federal grants will be made available to train teachers. Helping to improve the quality of our Nation's teachers is a critical component of education reform.

Finally, the bill would advance the use of technology in our schools. This bill recognizes the need for young Americans to acquire the technological skills necessary to function in the 21st century workplace.

Mr. President, some who opposed the final version of the Goals 2000 legislation have said that this bill is cut from the same cloth. That is not so. Many months ago I supported the original Senate version of Goals 2000 only because I believed that it retained the extremely important element of local authority over the education of our children. I have always strongly supported the power and authority of State education administrators, local school boards and most importantly, the rights and responsibilities of parents in the education of their children.

However, after reviewing the final version of the legislation, which is known as a conference report, I realized that the conferees made a major departure from the Senate's attempt to eliminate Federal mandates on local governments and also struck the provision allowing voluntary prayer in schools. Despite the recitation in the conference report that the bill only had voluntary guidelines and standards, it was my view that the standards were really, quite effectively, mandates saddled upon the States.

I further opposed the Goals 2000 conference report because I have always believed that when it comes to education, we do not need more Federal Government oversight and intrusion. What works best at the Federal level is encouragement and financial support for locally structured and locally developed strategies for education improvement. When the Goals 2000 legislation was reported from the House/Senate conference, it was no longer consistent with my philosophy and I opposed it.

Now through town meetings, letters, and telephone calls, I have heard concerns that this bill before us restricts local authority, home schooling, and school prayer. Some Wyoming citizens also have fears that the bill takes steps towards implementing the controversial outcomes-based education [OBE] education reform initiative. That is not so either.

There is nothing in this bill that would restrict home schooling. There is nothing in this bill that should be construed to advance the principles of the controversial Outcomes-Based Education [OBE] Education Reform Initiative. And Mr. President, constitutional school prayer will continue to be protected under Federal law. My father worked for that while in the Senate. I have carried on his work. The ranking member of the Senate Labor and Human Resources Committee, NANCY KASSEBAUM, and my own research has assured me in great detail that these concerns are unfounded.

However, I am concerned with the impact aid provisions in this bill. Impact aid was created in order to neutralize the negative impacts on the local tax base caused by a Federal presence in local school districts. It is money that I believe school districts and local taxpayers rightfully deserve.

In seven Wyoming school districts—Campbell, Fremont No. 9, Sublette No. 9, Sweetwater No. 1 and No. 2, and Uinta No. 4 and No. 6, civilian B children make up more than 25 percent of total daily enrollment. In Laramie County, civilian and military B's make up 15 percent of total enrollment. The House bill entirely eliminated funding for impact aid civilian B's. This bill, at least, salvages some of the funding for this program.

I would always vote against any education reform initiative which endorses a philosophy of federalized education. I will be carefully watching the conference committee activity on this bill to make certain that the balance we have reached here today between Federal support and local control is not disrupted by the House. If that should happen, I will oppose the final conference report, just as I did in the case of the Goals 2000 legislation.

Mr. BINGAMAN. Mr. President, I would like to express my overall support for S. 1513. The Clinton administration and the Department of Education presented us with a cohesive bill designed to raise standards for all our Nation's children, and to ensure that those most in need have access to the high quality teaching and learning that will help them reach those standards. I am pleased that the Education and Labor Committee has further refined the administration proposal through several key changes, including: the addition of the Technology for Education Act, my S. 1040; adjustments to the administration's impact aid proposal; and the addition of several new programs designed to promote innovations in our schools, such as increasing the time spent on academic learning, creating smaller learning communities, health education and services integration, and easing transitions from pre-school to school for title I children.

Throughout the reauthorization process I have fought to ensure that the title I formula would realize the administration's goal of targeting resources to where the needs are greatest—high poverty schools and school districts. Research has shown that poor children in high-poverty schools are consistently outperformed by their peers in low-poverty schools. Our limited title I resources clearly must focus on those States, and schools and school districts within those States, with the highest poverty rates. An equitable and responsible title I formula should incorporate measures that accurately reflect where needy children are and the extent of their needs, as well as the most up-to-date information on the numbers of such children in each area. I am afraid that the formula now in the bill does not accomplish that goal but I am hopeful that formula will be changed as the bill is considered further.

This bill has the potential to radically improve education in our Nation's poorest schools. Lowering the eligibility threshold for schoolwide programs will empower those at the school level to design comprehensive, coordinated programs of instruction that best meet the needs of all the children in that school; results-based accountability mechanisms will help ensure that all children, especially those most in need, progress toward higher levels of performance.

Schoolwide programs will challenge teachers and principals to break down categorical distinctions among children, and to organize and teach in new ways. I do not believe that innovation will come at the price of protection. Schoolwide programs will still have to meet the specific needs of all children served in that they must meet the intents and purposes—the underlying framework—of any program from which funds are used for schoolwide operation. Peer review and school support teams will provide a mechanism of both support and expertise in constantly improving schoolwide programs so that all children are taught to, and reach, challenging State standards.

This bill also recognizes the importance of ensuring that our teachers are prepared to teach to the new State standards which are being developed under the Goals 2000 State reform initiative. The Eisenhower Professional Development Program will provide much needed resources for school districts to supply teachers with intensive and sustained professional development opportunities, and to develop professional networks and other means of sharing innovative teaching practices and strategies.

By expanding the present Eisenhower Math and Science Program to incorporate professional development in all subjects, the committee has recognized that professional development will be crucial to all teachers, as emerging standards in each subject area call for greater depth of understanding on the part of both teachers and students. Title II will also establish a new technical assistance structure that consolidates disparate, categorically oriented technical assistance centers into integrated, comprehensive centers with expertise in ESEA programs and school reform in general. These comprehensive centers will maximize the reach of technical assistance by using electronic networks and other technologies to offer teachers, schools, school districts and States more immediate and thorough information about federal programs and educational innovations.

Title III, parts A and B, of S. 1513 incorporates S. 1040, The Technology for Education Act which I introduced earlier this year along with my colleagues, Senators KENNEDY, COCHRAN and HARKIN.

Part B is the Star Schools Program which has been so successful over the years. Part A is a new program, combining Federal leadership and a State grant program which, I hope, will lead the way to better education for our children, especially those who are disadvantaged.

Over and over again I have stood here describing the benefits which technology can confer on education. A recent report by the Department of Education "Using Technology to Support Educational Reform" describes the impact of technology on improvements in education:

Software, such as the Higher Order Thinking Skills Program which teaches disadvantaged students advanced thinking skills, is credited with producing substantial gains in achievement in reading and math by chapter 1 students over those such programs;

Technology application can engage students in authentic, complex real life tasks which increase their interest in school and expand their abilities to think critically and solve problems;

Use of word processing software in the classroom has proven valuable in teaching students higher-order thinking skills and improving their writing ability by focusing attention on ideas and ways to communicate rather than just mechanics. The revision process which is possible through computers encourages students to refine and edit their work with concomitant improvement in the final product; and

Distance learning technologies have brought advanced classes to remote school districts and have opened horizons for rural students across the country. In my State of New Mexico, students in some of the most remote areas are able to take advanced classes through interactive video—classes that were unavailable to them only a few years ago.

In sum, I think we no longer have any doubt that we are shortchanging our students and our future if we do not do everything we can to give our schools the same access to technology that most of us enjoy in our everyday lives—telephones, cable and satellite TV hookups, interactive services, video recording, PC's, modems and so forth.

The question then is not whether technology is an effective tool for learning. It is instead, how can we give all students, no matter where they live or what their economic circumstances, access to that technology.

The Department of Education report I referred to earlier notes that important equity issues are beginning to arise as technology plays a greater and greater role in schools across the Nation. Schools serving high socio-economic status students report higher-computer-to-student ratios than do schools with low socio-economic status students. White students are more likely to have used a computer than Hispanic or African-American students. The Department points out that the problem is exacerbated by large differences in access to computers in the home. In 1991, a survey found that one third of white students had a computer in their homes, compared with a little over one-fifth of African-American and Hispanic students having that access.

Furthermore, there are important differences in the way in which computers are used in the classrooms for disadvantaged students versus higher-ability students. Lower ability students use computers for drill and practice while higher achieving students use computers in ways that are more congruent with our education reform goals—that is, to expand and develop order thinking skills, to learn to access and use information from outside the school, to perform authentic, real life tasks that hold their interest and motivate them, and to work cooperatively with others inside and outside the school.

Title III seeks to remedy that disparity in access to and use of technology. It also addresses the issue of the place of education in the technological and information revolution which is now underway.

Title III, part A addresses the issue of equity by providing Federal support for the integration and dissemination of technology, especially to the poorest schools. Part A—the former 1040—provides this support in two ways:

First, the Office of Educational Technology—which was established pursuant to the Goals 2000 legislation—is given funding and authority to conduct leadership activities at the Federal level. This Office will coordinate with all the other Federal programs and Departments which deal with or consider technology policy to ensure that education is included in that policy and the developments in technology which have applications for education will be brought to bear on education.

The Office will also award grants to consortia for the development of curriculum-based software in support of the development and dissemination of professional development materials related to technology. These national efforts will produce resources available to all schools—but most importantly, the focus of the work which these grants support will be on advancing and achieving the high standards for all students, in all settings, which Goals 2000 and this bill, S. 1513, seek to set for our students.

The teacher training and curricular materials which we hope will result from the consortia supported by this act will have special benefits for schools which do not have the resources to provide or acquire such resources for themselves. Those resources will be developed with an emphasis on serving the disadvantaged.

In addition to Federal leadership, title III, part A provides money to poor schools to acquire technology. Under this part, resource grants will be made which will enable schools with the highest numbers and percentages of disadvantaged students and with the greatest need for technology to acquire that technology. The resources targeted by this title are not just computers—but connections and linkages, such as cables, wiring, phone lines, modems, and software, professional development materials and other curricular materials.

A very important part of this section is its requirements that the acquisition of technology be made in accordance with a plan. Too often technology, especially hardware, has been purchased by schools and districts, many times with Federal money through chapter 2, without due consideration for the need to educate teachers in the use of the technology or for the need for technical support. Too often insufficient attention was paid to issues of interoperability and compatibility of hardware and software. Part A encourages States and localities to think strategically about their technology purchases and plan for all aspects of technology so that they can take maximum advantage of developments in technology and the information highway as they evolve.

Unfortunately, for this year at least, we are facing very limited funds for education—title III contains an authorization in excess of $300 million, $200 million of which is for State and local resource grants, yet on the House side the appropriation is only $20 million for education technology and here in the Senate we have been given only $50 million for this part.

In drafting title III we anticipated that initial funding for the program might be low—accordingly, part A provides that in the event appropriations for the year are less than $50 million, half the money shall be used for the Federal leadership activities described in the part, including funding for the product development and professional development consortia, and half will be used for local resource grants. It is our intent that at any level of appropriations, at least some schools will receive financial assistance to acquire technology. We have also provided that in the event of appropriations less than $50 million, the resource grants will be awarded to local school districts on a competitive basis, with priority for districts with high percentages or numbers of disadvantaged students. At higher appropriations, the grants will be made on the basis of the title I formula and then awarded by States to local districts based on their poverty and need for technology.

I hope that considerably more than the amount we see this year is appropriated next year for this part—technology is key to the success of the programs we are launching here with Goals 2000 and with title I. While establishing the Office of Educational Technology and getting demonstration projects and other leadership programs underway is important, we have to recognize that the Federal Government's role in ensuring equity in access to technology will only be fulfilled when we are able to make significant grants to States so that schools serving the disadvantaged can share in the benefits of technology. We run the risk in this area—as we do in so many others—of seeing the gap widen between the haves and the have-nots unless we step in to help.

Which brings me to one last point about part A of title III. We need to be concerned not only with the have-not students but also with the fact that too often education itself is a have-not when it comes to technology and information—and threatened to become more so. Poor schools are especially disadvantaged, but the fact is that education in general is often at the bottom in terms of access to the technology we all take for granted in our lives—much less to advantaged applications. The great majority of classrooms do not have telephone jacks, much less cable connections, and many have insufficient electrical outlets to support computers or monitors or televisions. While many schools do have computers, a recent international survey of computers in classrooms showed that most computers in American schools are 8-bit machines—woefully out of date and unable to run the new software that is being developed to support school curricula.

There is a lot of talk of making sure that schools are given on-ramps to the information superhighway and in various places across the country combinations of private industry and States and localities are trying to make this happen. But little concrete has been done at the national level to ensure schools' access. If we do not pay attention to this here we run the risk of perpetuating what we have seen so often in other areas—the affluent school districts and schools will be fully connected and equipped and rural America and the inner-city will be left behind.

Title III, part A provides some help to these schools through the leadership role given to the Office of Educational Technology. That Office is charged with providing leadership at the Federal level to establish guidelines to ensure ease of access for emerging technologies so that no school system will be excluded from the technological revolution. I see the Office of Educational Technology taking an active role in discussions and plans at the Federal level for the deployment of the information highway and the development of national technology policy. This bill gives education a seat at the table when these matters are discussed and decided—education will no longer be sitting on the floor waiting for some crumbs to drop from the decisionmakers.

As I said when I rose to speak here today—I have been talking about the benefits of technology for education for several years now—finally, we are about to pass a bill that will for the first time provide meaningful and purposeful Federal support for technology in the classrooms of America. Title III, part A provides the structure for constructive Federal involvement in this crucial area of education reform. Its combination of creative and energetic Federal leadership and financial support for the neediest schools will, I believe, help all our students meet the 21st century with the education they need and deserve.

I also appreciate the committee's inclusion of several measures I proposed to foster other improvements in teaching and learning. The Extending Time for Learning Program will help schools implement the recommendations of the Commission on Time and Learning. In its excellent report, "Prisoners of Time," the Commission encourages schools to change the way they structure the school day, week or year, so that they maximize the amount and quality of time students spend learning the core academic subjects. The Commission reports that many Americans support a longer school year, while increased need for after-school care for the children of working parents has also made extended-day schedules more appealing and more imperative. The amount of time students spend in school will not help students excel unless the quality of that time is significantly upgraded as well. Mastery of world-class standards will require more time of students, as well as increased time for teachers in learning new and innovative methods of teaching to the new standards. Through the Extending Time for Learning Program, I hope to provide teachers, students, and parents the opportunity to redesign school schedules around high standards and achievement, instead of clocks and Carnegie units.

I have also proposed the Creating Smaller Learning Communities Program, through which I hope to stimulate efforts to reduce class size, while promoting student-teacher interaction and strengthening students' connections to their school. Research and experience have shown that smaller learning communities, such as schools-within-schools can contribute to increases in student achievement, grade promotion and attendance, as well as decreases in violence and disruptions. I am sure my colleagues from Pennsylvania are familiar with Philadelphia's charter schools, which function as schools-within-schools in nearly all the city's comprehensive high schools. Smaller school size, increased interaction among teachers and students, and an emphasis on high-quality academics have helped students in Philadelphia's charter schools become 7 percent more likely to advance to the next grade than their peers who are not in charters. Funds from this program would: provide grants for teachers, administrators, parents and other community stakeholders to design and create smaller learning communities; enable schools to offer students a variety of curricular and instructional themes and approaches; and help schools and school districts establish new administrative and managerial relationships.

In many States, teachers, administrators and parents interested in testing new forms of management and administration are developing charter schools—public schools that operate independently of the school district. I have added several amendments to the charter schools provision of ESEA to ensure that charter school developers may also apply for funds to assist in the planning and development of charter schools that exist as schools-within-schools, in States where the law permits such charters. Smaller learning communities can promote the kind of variation in curricular and instructional approaches that will offer students greater educational choices within the public school system.

I would also like to discuss some of the important changes the Improving America's Schools Act incorporates to the Impact Aid Program which provides funds to school districts which are fiscally impacted by the presence of Federal property.

Federal property is not subject to State or local taxes and activities conducted on the property are frequently exempt from taxation. When that property has connected to it children who are entitled to receive a free public education, the State or locality providing that education is burdened with the expense of educating the child, often without the financial support which would otherwise be generated by the property on which the child resides or—in many cases—by other taxes related to that property.

This is an especially acute situation in New Mexico where we have large Indian reservations occupying tens of thousands of acres. Ninety percent of the children who live on those reservations attend public schools funded by the State of New Mexico and the nearby localities. In 9 of our 88 school districts, federally connected children—by and large children residing on Indian lands—constitute more than 50 percent of the children served by those school districts. In 20 percent of our school districts those children constitute more than a quarter of the school population.

Those school districts are required to provide a free public education to Indian children with virtually no financial contribution from the property on which their parents live or from activities on the property. State and local property may not be levied on Indian lands or other Federal property. But it is not just property taxes which are lost to the State and localities by reason of the Indian lands.

The other taxes on which New Mexico relies to support education are also adversely affected by the presence of Federal property, including Indian lands.

In particular,

Gross receipts tax—also known as sales tax—is not collectible on sales on military posts or on any sales made on Indian reservations by Indians or to Indians on the reservations;

Cigarette taxes are not payable on sales of cigarettes on the reservation or any tobacco products sold to the United States;

State income tax is not payable by any member of a tribe living and working on a reservation;

Indian-owned corporations located on Indian lands are not subject to the corporate gross receipts tax;

Severance taxes may not be imposed if a tribe is the interest owner and operator;

New Mexico estate taxes are not imposed upon Indians living on reservations.

In short, few if any of the traditional sources of revenue for schools are available to New Mexico or to school districts from Indian lands. Compounding the problem for schools educating Indian children are the high poverty rates among those children and their parents, their limited English proficiency and the additional costs of transporting children who live on reservations.

New Mexico and other Western States bear a heavy financial burden in connection with the education of children residing on Indian lands—contributions by the Federal Government to support the public schools serving these children is essential.

Title IX of the committee substitute is well-crafted to achieve the goal of ensuring an appropriate education for federally connected children—particularly Indian children. The Senate has reduced the weight to be accorded the so-called civilian "b" children, leaving more of the resources appropriated for this program for the districts which are truly needy such as districts serving children residing on Indian lands.

The committee substitute also includes a provision that is especially important to my State where we have several school districts enrolling substantial percentages of Indian children. In those districts Impact Aid makes up a large percentage of the district's budget; when appropriations are not enough to fully fund the program, these districts suffer acutely because they have nowhere else to turn for funds. The committee substitute includes a concept of a learning opportunity threshold to deal with this situation. The learning opportunity threshold determines the allocation of funds among districts where funds appropriated are insufficient to fully fund the program. Under this provision, districts which are more heavily reliant on Impact Aid funds receive a greater percentage of funds than do districts with less reliance on those funds. This is especially important because districts which are heavily reliant on Impact Aid do not have other, local sources of tax revenue with which to make up any shortfall in funding—there is simply no place left to turn.

The committee substitute recognizes the disparate effects on school districts of less-than-full funding of Impact Aid. The committee substitute provides for reductions to be made on a sliding scale which avoids the cliff effect of current law wherein districts which derive 20 percent of their budgets from Impact Aid are treated the same as those who derive 90 percent and those deriving 19 percent are treated differently still. I commend the National Association of Federally Impacted Schools for their help in producing this improvement to current law.

I am also pleased with the revisions which have been made to the construction provisions of the law. Heretofore there were two construction programs, one for districts impacted by Indian lands and one for all federally impacted districts. Construction grants were made on an all or nothing basis based upon evaluations of need and a waiting list. Schools could remain on that waiting list for decades without receiving a dime of help. At most, two schools a year would receive funds under this law—all the others would have to wait. The schools serving large percentages of Indian students often have little or no bonding capacity, thus they must rely heavily on these Federal sources for construction moneys—but those moneys were very, very scarce.

The committee substitute provides for only one program for all impacted districts, tightly constrains the districts which can participate, and provides each with an annual amount which can be used or accumulated for construction or repair. While annual grant amounts are not anticipated to be enough to construct an entire school, there will in many cases be enough to allow a district to accumulate sufficient funds to accomplish needed construction within a reasonable period of time and with some reasonable certainty—unlike the current situation, which, as I have said, results in only a couple of school districts being able to build or renovate a school each year.

Finally, I would like to commend the committee substitute for the way in which it handles the issue of equalization. Payments under Impact Aid can create inequalities in States which equalize spending among school districts. New Mexico has such a law. It provides for State funding of education under a scheme in which students are weighted according to their grade level, special needs, and the density or sparsity of their districts. Among other things, in this way, the State seeks to provide appropriate levels of funding for all students, regardless of the district in which they live or the resources of that district. This system has been formed and refined over many, many years in New Mexico; it is intricately balanced to take account of the many differences in educational conditions that exist across our State and it recognizes that equivalence of dollars is not always equity for students.

If my State could not take Impact Aid payments to districts into account in calculating amounts to be paid to local districts for education, the entire equalization system would be undermined and would undoubtedly have to be reformulated. That process would be a long one and once completed, those districts now heavily dependent on Impact Aid would be even more dependent because they could no longer look to a State equalization scheme to make up any shortfall in the event the Federal appropriations process does not provide enough funding in any year.

Under current law and regulations, New Mexico has been allowed to take Impact Aid payments into account when calculating payments to districts under the equalization formula. The committee substitute continues the current law. It has been suggested that the law be revised in various ways to make it more difficult for States to take Impact Aid payments into account in their equalization formulas. The suggested changes would make the test for equalization more rigid—but rigidity in determining whether a State's school financing is truly equalized is inappropriate because of the very different conditions in each State. It is obvious that Alaska faces dramatically different costs to provide the same educational opportunity to children in extremely remote areas as it does to children in Anchorage. The same is true in my State where our State financing law has to take into account great differences in transportation costs, differences in costs attributable to scarcity or density, and the challenges of limited-English-proficient students.

The current law is stringent enough—only three States are currently allowed to take these Impact Aid payments into account. There is no showing of any abuse or problem with the application of the law or that current law in any way discourages equalization of school financing. The committee substitute's approach to this issue should be adopted.

Impact Aid is a crucial component of the Federal Government's responsibility to the States and to native Americans. The education of American Indian children is largely dependent on the Federal Government's contributions through this program—as I said when I began, over 90 percent of all American Indian children living on reservations attend public schools. The committee substitute is a thoughtful and responsible reworking of the current law which provides support for the education of those children. While there are certainly aspects of it which I would change—for example, an increased weighting for Indian children as opposed to other federally connected children—on the whole it represents a reasonable compromise of many competing interests and is worthy of our support.

The committee has also made two significant changes to title XIV of the Elementary and Secondary Education Act, which establishes the collection of national education statistics.

First, the committee substitute includes a provision which I requested concerning the collection and analysis of data concerning school administrative expenses.

Through Goals 2000 and this bill, we are providing greater Federal resources to the schools to assist them in reform and improvement of their programs, especially their programs for economically disadvantaged students. We hope that the funds which we are sending to the States will promote the activities we are seeking to affect—better teaching in the classroom, more services to kids. I think that all taxpayers want to see their money go to the classroom—to services to children—and they want those services to be provided efficiently.

Yet we really know very little about exactly how education dollars are spent. There is a fair amount of data collection at the State level and even the district level—but it is exceedingly difficult to trace funds to individual schools and to the expenditures at the school level.

In the reform movement—especially with charter schools and the kind of accountability we are building into the title I program—we are seeking to put more responsibility on the individual school. Yet, at the same time, we have very little information about the finances of individual schools.

In an article last year, Education Week observed that we lawmakers have only a tenuous grasp of the real impact of our finance formulas and "local school officials are in the dark about how their money is being spent and whether their programs are worth the cost." By the time funds get to a classroom, it is hard to retrace the logic of how and why they got there or what they buy.

I have sometimes seen in my home State of New Mexico what appear to me to be wasteful spending practices—money being spent on nice offices for administrators while classrooms are ramshackle and lack even telephone connections. I am sure many of my colleagues have seen similar things—and we have all been told by members of the public that they question being asked to provide more funds for education until they are satisfied that the money is not going for unnecessary overhead or "perks." But schools are hard-pressed to respond to that criticism or to streamline their operations because they do not know where the money went, either.

Title XIV of the committee substitute now includes a direction to the Commissioner of Education Statistics to work with one or more of the few States which are working on collecting school level financial data to study, design, and pilot a model data system that will yield information about spending for administration at the school and local educational agency levels. Upon the completion of the pilot model data system, the Secretary of Education shall study the information gained through the use of such a system and or the relevant information and report to Congress on first, the potential for the reduction of administrative expense at the school and LEA level; second, the potential usefulness of such data to reduce such expenses; and third, other methods which could be employed by schools, LEA's or States to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning and, if appropriate, steps which may be taken to assist schools, LEA's and State education agencies to account for and reduce administrative expenses.

I want to see our education dollars go as far they can. I believe that more information about where our dollars actually go will help the schools in several ways—first, it will help them manage themselves more efficiently as they see better just how their money is spent and how other comparable schools and districts manage themselves fiscally; also, it will provide more information to the public about the use of their tax dollars, and, that those dollars are being spent wisely, that information will bolster public support for the schools and finally, that information may assist our reform efforts by helping us to understand better how results are influenced by funding decisions.

Our schools need all the help they can get—one kind of help which the Federal Government is uniquely positioned to provide is information and analysis. I hope that with this modest change to the tasks of the Center for Education Statistics and of the Department, we can help States and localities make better decisions about their education dollars and drive more of those dollars to the level of the kids where they are most needed.

I would also, however, like to indicate for the record my disagreement with the committee's decision, in title XIV, to prohibit the use of the National Assessment of Educational Progress [NAEP] exams at the school district level.

The NAEP is a nationwide test administered to a sampling of American students in grades 4, 8, and 12 at least once every 2 years. NAEP is the best indicator we have to gauge the achievement levels of our children. This information helps parents understand what kinds of things American students know and can do, and it helps inform teachers, administrators, and policymakers about the areas in which progress have been made, and those that need improvement. The National Education Goals Panel, on which I serve, uses NAEP results to report on student progress toward meeting the national education goals, particularly goals 3 and 5, which call for higher levels of student achievement in the core academic subjects.

International comparisons provide increasing evidence of the need for American students to be challenged by higher standards. These comparisons have helped spur educational reforms at all levels—through Federal efforts such as Goals 2000 and ESEA, State systemic reform initiatives, and local efforts to improve the quality of teaching and learning in schools. States can elect to administer NAEP exams, and can tabulate results at the State level, although they must help defray the costs of the examinations. Many States have begun to use NAEP to chart progress within the State, and to compare results with those at the national level.

It is at the local level, however, that change is most critical, and often the most difficult to inspire. Too many parents feel that, while there may be a need for educational reform in our Nation, "my school is OK." In too many communities, the same citizens that complain about the need for a better-trained work force veto school bonds, constricting already tight school budgets. Information at the local level about student achievement can break the pattern of complacency that enables community members to point beyond their own backyards when citing the need for reform.

The administration originally proposed that NAEP be made available for assessing aggregate student achievement at the school or school district level. Under this proposal, school districts could, on a voluntary basis, use NAEP tests to gauge student progress in relation to student performance across the Nation. NAEP tests are developed and supported by public funds; thus they should be available for use at the local level.

NAEP data collected at the school district level can provide parents with better information about the progress of schools in their community. Several school districts in our country are larger than some States; these communities in particular could benefit from a better gauge of student achievement. It is important to note, however, that NAEP tests could not be used to report individual student achievement—local NAEP results would only be reported in terms of total student scores.

Some have argued that the use of NAEP at the district level could result in its use for accountability purposes, which may in turn encourage teachers to base curriculum and instruction on the content of NAEP exams. Others have added that NAEP administration at the local level may erode incentives to develop innovative assessments called for in Goals 2000 and title I of ESEA. I do not find these arguments persuasive, for several reasons.

The reasons described in Goals 2000 and title I of ESEA must be based on a set of standards developed by the State. NAEP exams are not—and will not be—based on a common set of standards, thus it would be difficult for schools to actually teach to the test or to substitute NAEP assessments for those necessary in Goals 2000 or title I.

In addition, schools administering NAEP tests would have to follow certain security requirements and protocols that would considerably stem the risk of polluting the results of national NAEP achievement data. Several nationwide tests administered on a local level, such as the SAT and the ACT, have strict administration requirements school districts are careful to follow. There is no reason to think that the NAEP testing process would be less secure than any other exam.

Local NAEP results would provide parents, teachers, and schools with a mechanism to gauge student progress in relation to other students in the Nation. At this time, it is the best such national indicator we have, and I believe that the Federal Government has an obligation to parents, teachers, and communities to supply these publicly funded exams to school districts who wish to use them within the guidelines established by the Department of Education. I hope that the Senate can revisit and reconsider its position on the local use of NAEP tests in the Conference on this bill.

In closing, I would again like to reiterate my overall support for this legislation. The committee and the administration have done a fine job of balancing many competing concerns and priorities. This comprehensive bill addresses today's most pressing problems in a holistic fashion—by insisting that all children are taught to the same high standards, and then providing resources—such as professional development, technology, and drug and violence prevention funds—to the areas critical to ensuring that children are able to learn to those standards. This bill will benefit our children and it will benefit the Nation.

Mr. GRASSLEY. Mr. President, I am pleased that the committee accepted a number of my proposals to the Elementary and Secondary Education Act to update the Family Education Rights and Privacy Act of 1974 [FERPA]. FERPA provides parents the right of access to their childrens' education records. Unfortunately, the law is rather strict on schools and has historically been difficult for the Department of Education to administer.

The suggestions I made to the committee were based on discussions with parents, educators, and the enforcement divisions at the Departments of Education and Justice.

The changes I have proposed will provide greater parental access, a lighter burden on schools and ease of enforcement for the Department.

The issue of parental access to a child's records has been widely accepted since FERPA passed in 1974. Under the law, a parent has the right to see their child's education records within 45 days of request and to modify the records if they believe the records to be misleading or inaccurate.

Not only this, but if modification of the education record is not allowed, parents may appeal this decision and place a letter in the education record to accompany the information they believe to be inaccurate or misleading.

These provisions are crucial to parental involvement in the education of their children, which we all agree is tied to student academic achievement. In my proposal, I made several suggestions concerning how to enhance parental access to their children's records.

One of the limits of the law was that it only applied to local education agencies and schools. If State education agencies were keeping records on children, parents had no right of access to those records. My amendment provides for that access so that parents may review any records kept by the State on their individual children. To avoid burdens on the State, I modified my amendment so that parents are not trying to change State records; if they find something at the State level that requires modification, they will need to approach the officials at the local level.

They may modify the local records and go through the appeals process outlined under FERPA. The key to this provision is that parents should always have access to records on their children, whether they are kept at a State or local level.

Also under current law, a parent must typically be consulted before anyone has access to their child's education records. Again, the goal is to guard the privacy of the child and family. There are exceptions to the parental notice requirement, however, for specific occasions when it is decided that there is cause for that access. Confidentiality provisions were established to protect the child and family in cases of access without consent.

One example of access without consent is when there is a "legitimate educational interest." This provision of a "legitimate educational interest" has historically been interpreted as the big picture educational interest, meaning the education interest of all the children, not necessarily the educational interest of this particular child whose record is sought.

I offered an amendment to require that the specific child's educational interest must also be considered with the big picture in cases where access to a child's record is obtained without parental consent.

Another provision I proposed for greater protection for families is concerning third party organizations which receive information from a child's education record without parental consent. Organizations may receive information from student records for the purpose of developing, validating, or administering predictive tests, or for improving instruction.

In order to receive this information, the organization must not permit the personal identification of students and their parents. Further, the organization must guarantee the destruction of the records when they are no longer needed for the particular purpose for which the records were obtained.

Unfortunately, for 20 years since FERPA's creation, there has been no enforcement mechanism against an organization which violates these requirements for confidentiality and destruction of records. My amendment provides that enforcement mechanism.

If an organization violates its responsibilities to protect confidentiality and destroy records, the organization will be prohibited from access to any education records for a period of at least 5 years. By having an enforcement mechanism in the law, organizations will be more likely to live up to the responsibilities placed in the law since 1974.

Additionally, under the original law, parents must be notified of their rights under FERPA. Unfortunately, there is no requirement that the notice actually get to parents.

It is acceptable under the original law to simply put a notice in the local newspaper that may not ever reach parents. Rights that citizens don't know about are meaningless.

Let me make clear, Mr. President, that there is nothing in my amendment that tells school districts how they are to make this notice. However, a school district must assure that the notice to parents concerning their rights under FERPA is effective.

Finally, under the original law, the Department of Education was responsible to draft regulations "to protect the right to privacy of students and their families in connection with surveys or data-gathering activities conducted, assisted or authorized by the Secretary or an administrative head of the agency."

After 20 years, Mr. President, these regulations have never been drafted. The Department indicated in discussions with me that there is no need for new regulations because there are regulations concerning the National Center for Educational Statistics, the division that does most of the Department's data gathering activities. However, what about any other data-gathering activities performed by the Department or an administrative head?

In light of the its response, I modified the language to say that the Secretary shall either adopt appropriate regulations, as mandated in the original law, or identify existing regulations which protect these rights of privacy.

If, as the Department says, they already have regulations which provide for the protections, in every area of data gathering performed by the Department, I am happy to simply have those regulations assembled in a way that clarifies to parents how their family privacy is protected.

However, Mr. President, as far as I am concerned, it is not an option for an administrative agency to simply ignore a specific congressional mandate for action. Congress had reason to pass this language 20 years ago, and the Department needs to comply with the requirements established.

I have also made several suggestions, Mr. President, for ways to lighten the burden on local school districts.

Unfortunately, parents occasionally bring claims never intended under FERPA. Because of specific language in the act, there is a loophole allowing for frivolous claims. FERPA provides that parents can challenge information in the student record that they believe to be "inaccurate, misleading, or otherwise in violation of the privacy or other rights of students." Most of this language is very clear; however, what does "or other rights of students" mean?

This particular provision, "or other rights of students," has been used by parents to challenge provisions of a child's individual education plan under the Individuals With Disabilities Education Act [IDEA] and even to challenge grades. The problem with both of these true-life examples is that the enforcement office at the Department of Education has no authority to address these concerns. But because of the way the FERPA is drafted, parents continue to bring these claims.

My amendment drops the language "or other rights" of students so that if parents have rights under other laws—like IDEA—they must bring their claims under the law that created the right, not under FERPA, which was not designed for this purpose.

With this language dropped from the law, school districts and those in charge of enforcement at the Department will be free from dealing with these frivolous claims.

Another problem that school districts have had under FERPA is in dealing with subpoenas issued by courts concerning students at their schools.

Under the original law, a school district receiving a subpoena to release records without notice to any person is in a legal bind. Under FERPA, the district cannot release the records without notifying the parent or student. To do so, the district risks losing its Federal funds. But under the specific language of the subpoena, the district could be held in contempt of court for violating the subpoena if it obeys FERPA and notifies the student or parent.

Unfortunately, with increasing crime among young people, this double bind is becoming more prevalent for school districts.

What is a school official to do?

My amendment addresses this dilemma by creating a bifurcated approach. If a Federal grant jury issues a subpoena for a student's records, the court is mandated, "for good cause shown" to issue the subpoena saying not to notify the student. In this case, the school is not in violation of FERPA.

In the case of a State court subpoena, the amendment is permissive and simply allows the State court, "for good cause shown" to tell the school officials not to notify the student. In this case also, the school district will not be held in violation of FERPA.

Note that in both the Federal and State examples, good cause must be shown for why a parent or student should not be told that records will be released.

With the addition of this amendment to the law, school districts will no longer be placed in the double bind of deciding whether to violate Federal law and release the records without notice, or be held in contempt of court for providing notice.

This provision was brought to my attention by counsel at the Departments of Education and Justice and was carefully drafted to avoid Congress telling State courts what to do.

Finally, Mr. President, there was a specific provision of my original proposal that I dropped, reluctantly, after much discussion with the Department and committee members. My original proposal required that a parent should have access to any records maintained as the result of any social or health services provided to their child on school grounds.

I want to make clear that I still believe parents have a right of access to any records kept on their children at school.

It does not matter to me if those records are kept by school officials or by health or social services officials. I do not believe anyone should have a right to keep records on a child without a parent's knowledge or access.

Understand that the provision I dropped did not require parental consent, which I personally believe should be the standard. No, it simply required that parents have access to the records after the fact.

I still believe this is a reasonable requirement.

Only in the case of child abuse or neglect allegations can I agree that a parent should not have access to health or social service records kept on their child. Even then, I believe the parent should have access to all of the records except for those records concerning the alleged abuse or neglect.

Unfortunately, this provision was not accepted.

Mr. President, I believe the suggestions accepted in the committee bill provide for greater parental access, a lighter burden on schools, and ease of enforcement for the Department of Education.

I have made every attempt to provide a balanced proposal that addresses the concerns of all involved in the application of the Family Education Rights and Privacy Act. I commend these provisions to the Senate and the conference committee as important modernizing amendments to this crucial law.

THE EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994

Mr. CAMPBELL. Mr. President, I would like to give my support for an amendment which is included in the manager's bill to the Elementary and Secondary Education Act [ESEA]. I am pleased to see the Equity in Educational Land-Grant Status Act of 1994 attached to this year's ESEA bill, which will give 29 tribally controlled colleges the land-grant status they need and deserve.

There are currently 14,000 students enrolled in the 29 tribal colleges and the student count continues to rise. Clearly, these colleges and students are a great resource in the communities where they are located, providing a unique learning experience that benefits not only the students, but community members as well. Because most of the tribal colleges are located in rural areas, they provide a general curriculum that is practical to students, but also need to be able to provide technical expertise and research opportunities that will benefit the community at large. It is for this reason that land-grant status should be extended to these schools, so that tribal colleges have the opportunity to provide the services that land-grant schools are already providing.

Land-grant schools were established to develop programs that would deal with problems of the rural poor and to then study how to improve the economic situation for rural people. The native American population is by far the poorest and most rural of Americans. It is imperative then, that tribal colleges receive adequate funding and resources necessary to continue to operate programs of outreach and technical assistance which make up a large part of the schools curriculum. In fact, land-grant institutions were originally established for these types of programs. By extending this status to tribal colleges, graduating students will not only become productive citizens, but will also have gained the appropriate skills to better their community.

The extension of land-grant status to tribal colleges would not affect the programs of existing land-grant schools. It would, however, authorize an endowment to tribal colleges payable in installments over a 5-year period. Namely, this status would provide $10 million, as provided under the 1862 Morrill Act, to operate "colleges for the benefit of agriculture and the mechanic arts" and tribal schools would also become beneficiaries of annual appropriations in the budget of the Department of Agriculture. If fully funded, this legislation would bring these severely underfunded schools closer to the level of funding already enjoyed by other land-grant schools.

This act will provide the tribal colleges with better resources needed to foster and develop programs in agriculture, natural resource management, and other related fields. In addition, the colleges will be able to seek technical assistance from the Department of Agriculture. I think it will provide an invaluable opportunity for native American peoples to fully develop their agricultural resources and realize self-sufficiency through education. Understanding that there is no debate on this amendment, I would just like to share my support and appreciation for the committee and my colleague from New Mexico, Senator BINGAMAN, on his work with the Equity in Educational and Land-Grant Status Act. I am pleased to see this language attached to the Elementary and Secondary Education Act of 1994.

Mr. RIEGLE. Mr. President, I rise today to speak in support of S. 1513—Improving America's Schools Act.

Americans have come to a consensus that the education of our children is the fundamental starting point in building a strong future for our country. Unfortunately, our schools cannot educate in a vacuum, by simply ignoring the problems that face our society. As a result, poverty, crime, drugs, hunger, and the condition of the family all show up in the classroom. S. 1513 recognizes this reality and provides some critical support to local schools in confronting these problems.

In 1965, President Johnson recognized that Washington must provide a leadership role and the Elementary and Secondary Education Act was created. Back then we recognized the inequities that exist from school district to school district. Since 1965, as the challenges to society have changed and in some instances worsened, so have the problems in the classroom. This reauthorization takes new strides to deal with these challenges and recognizes that, while Government cannot act alone, it can provide some needed leadership and funding.

The leadership we are extending with this act reaches out in many directions. In the 1980's, we recognized the threat of drugs to our classrooms and attempted to assist local communities in creating drug free environments. Today we are continuing that fight and recognizing that we must include violence as a related challenge to the integrity of the schoolhouse. As the world economy has become more competitive so has the challenge to the U.S. work force, and this legislation makes a commitment to that challenge by increasing our support of professional development of teachers and by helping to bring technology into the classroom.

Just as we have recognized the need to keep drugs and violence out and to bring training and technology into the classrooms, we also know that much of what we accomplish in America's schools is affected by what happens to the child before he or she sits down to learn. Efforts such as Even Start recognize the importance of adult literacy and parenting on a young child who has just entered the school system. Similar to earlier education legislation passed in this Congress, we are placing special emphasis on the involvement of parents in their child's education and their schools.

Finally, this act reaffirms the fact that, although we are providing national leadership, the critical difference will be made by local school boards, teachers, community and business leaders, and parents. This country's education system is the most democratic and local form of government. We can lead from Washington, but it will be local people—especially parents—who will determine what ultimately happens.

I commend President Clinton and Secretary Riley for their leadership on education. The enactment of this legislation will add to a growing list of accomplishments that now include: Goal 2000, the School-To-Work Act, reform of college student loan programs and—perhaps most importantly—the creation of a National Service Program that will extend, to college students, both an opportunity at higher education and require a commitment to our communities. The administration has strongly supported these programs and worked with Congress in developing the legislation and the needed funding. Let me also take this opportunity to commend Senator KENNEDY and Senator PELL for their continued leadership and hard work on education issues.

LAND GRANT STATUS TO TRIBALLY CONTROLLED COLLEGES

Mr. BINGAMAN. Mr. President, I am pleased that the managers have accepted an amendment to S. 1513, the Improving America's Schools Act that will provide limited land grant status for 29 educational institutes serving Native American students. I am pleased to have a distinguished group of original cosponsors, including, Senators BAUCUS, CAMPBELL, DORGAN, LEVIN, RIEGLE, and SIMON. In addition, I would like to thank Senators DASCHLE, EXON, WELLSTONE, KERRY, CONRAD, INOUYE, BURNS, and DOMENICI, who have joined me as cosponsors.

Of the 29 institutions that would become land-grant institutions, 24 are tribally controlled community colleges, established pursuant to the Navajo Community college Act of 1970 and the Tribally Controlled Community College Assistance Act of 1978. These colleges offer 2-year degrees, except for Salish Kootenai College and Oglala Lakota College, which offer 4-year degrees, and Sine Gleska University, which offers both a 4-year and a graduate degree program. These colleges are located in 12 States and enroll more than 14,000 students.

Two other institutions that would be designated are tribally controlled postsecondary vocational institutions—Crownpoint Institute of Technology and United Tribes Technical College—both of which offer 2-year programs. Together the two have an enrollment of 675 students.

Other institutions that would also be designated as land-grant colleges are the Haskell Indian Nations and the Southwest Polytechnic Institute [SIPI]. Enrollment in 1993 at Haskell was 906 students and at SIPI, 519 students. Both schools are operated by the Bureau of Indian Affairs.

The final college that would be designated is the Institute of the American Indian and Alaska Native Culture and Arts Development, an institution offering 2-year degree program. The institute, an independent agency governed by a Presidentially appointed board, currently enrolls 250 students.

The amendment would provide additional resources to further the agricultural capacity of the tribes and their members through these colleges.

In considering this amendment, it is important to understand the background of the land-grant program. In the middle of the last century, life in America underwent dramatic changes and many educators realized that an entirely new educational system was needed to provide accessible education suited to the needs of our citizens. In 1862, Congressman Justin Smith Morrill sponsored the Land-Grant Act which authorized States to use the income from certain public lands to establish and operate colleges or universities for students of agriculture and the mechanic arts.

A major goal of the land-grant program has been to include equally all people of the United States and the trust territories in the educational benefits which these land-grant colleges and universities provide. This served as the impetus behind the 1890 Second Morrill Act which established numerous institutions for black students, to ensure that these students had equal access to higher education even in States which already had existing land-grant colleges. In addition to setting the precedent that land-grant colleges could serve special populations, the Second Morrill Act demonstrated that there could be more than one land-grant college established in each State. In 1968, Federal City College, now the university of the District of Columbia, in Washington, DC was included as a land-grant institution. It established that trust areas were to be included in the land-grant programs; this trend continued with the addition of colleges in Guam and the Virgin Islands in 1972. Finally, the addition of colleges in Micronesia, American Samoa, and the Northern Mariana Islands in 1980 demonstrated that community colleges are also eligible for land-grant funding.

The original intent of the land-grant colleges statutes was the development of programs to deal with problems of the rural poor and to study means of improving economic opportunities for rural people.

Presently 74 colleges in the United States and their trust territories receive money under land-grant programs. Of these, 50 had their origins in the Morrill Act of 1862. Sixteen black colleges were also designated as land-grant institutions pursuant to the 1890 act. The seven other colleges were designated pursuant to separate acts of Congress between 1968 and 1980. The Department of Agriculture annually appropriates over $700 million to these colleges and universities, with each institution receiving an average award of approximately $9 million. This legislation confers on these schools some of the benefits now available to other schools.

Granting limited land-grant status to the institutions would significantly assist the approximately two million Native Americans living in the United States, 800,000 of whom live on 314 reservations. The 29 colleges listed in the amendment are all located on or near reservations. Most are 2-year colleges and technical schools. However, three are 4-year institutions and one offers a master's degree program. The schools are the most important providers of higher education opportunities for Native Americans, and have been particularly successful at retaining students and sending them on to 4-year colleges. They also are a source of community support—operating programs of family counseling, alcohol and drug abuse programs, job training, and economic development. The tribal colleges also conduct numerous types of programs of technical assistance similar to that on which the original land grant institutions were founded. Generally speaking, the schools are poorly funded, due in large part to the depressed economies in and around the reservations, but also due to a lack of adequate Federal support. This amendment would make the resources available to continue the technical assistance now provided by the schools as well as to allow the schools to enhance their agricultural program.

Furthermore, land-grant resources would allow tribal colleges to ameliorate the gross funding inequities which they suffer. Presently, tribal colleges receive approximately $2,974 per full-time equivalent [FTE] student compared with approximately $17,000 per FTE student for Historically Black Colleges and Universities students and approximately $7,000 per FTE student at comparable mainstream community colleges. I would note that funding for tribally controlled community colleges has not been included but in fact has decreased over the last year while Federal support increases for other minority institutions continue to grow.

In my home State of New Mexico, there are four tribal colleges that serve over 1,700 full-time equivalent students. These institutions provide their students with the education and technical skills necessary to dramatically improve their lives. With a land-grant college designation, the Crownpoint Institute of Technology, the Navajo Community College/Shiprock Campus, the Southwestern Indian Polytechnic Institute, and the Institute of American Indian Arts, will have access to additional resources for the study of agriculture, traditional arts and culture, and ways to help Native American people become self-sufficient. By enabling tribal colleges throughout the country to become participants in a variety of agriculture research programs, this legislation would assist them in developing research and extension services.

This amendment also will provide an endowment payable in $4.6 million installments over 5 years. This endowment will be held in trust and its annual dividend will be used to supplement current educational programs of the schools.

The amendment also makes clear that the series of these existing institutions will not be duplicating or competing with the existing State land-grant institution extension services or experiment stations. It provides for a separate annual authorization of $50,000 for each tribal institution to be used for instruction in food and agriculture sciences; the existing land grant schools would not have this annual allocation to them diluted by the addition of these new schools.

The amendment also authorizes an institutional capacity building grant program of $1,700,000 per year for the next 5 years and a grant program of $5,000,000 per year for research and extension services to be administered through the already-existing land-grant institutions.

The legislation was reported out of the Indian Affairs Committee in November 1993; the substitute bill which comprises the amendment was unanimously approved by the committee. The bill has full support from the Department of Agriculture. In addition, the National Association of State Land Grant Universities and Colleges endorses the legislation.

The institutions which are listed in the amendment are similar in many ways to those institutions currently eligible for Department of Agriculture assistance under the Morrill Act to strengthen its commitment to equal educational opportunity for all Americans, including American Indians. Unfortunately, American Indians are too often last in educational opportunity and development. By providing equitable access to agriculture education-related programs, it is not too late to help remedy this situation.

Mr. WOFFORD. Mr. President, the Improving America's Schools Act will give our communities the tools they need to improve their schools. It will help schools strengthen basic skills—through an invigorated chapter I program and expanded staff development. It will also bring badly needed technology to schools around the Nation.

I am particularly pleased that this legislation includes the Safe and Drug Free Schools Act—legislation I introduced to provide parents, teachers, and students with the tools they need to fight violence in our schools.

A recent survey showed that only 29 percent of parents believe that their children are safe in school. According to the Centers for Disease Control, nearly 3 million crimes occur on or near school campuses very year—one every six seconds. It is estimated that over one hundred thousand students carry guns to school each day. Thousands of students and teachers alike are victims of physical attacks or threats of violence. It is a terrifying situation. And, it is a scandal.

Marleihia Harper, a student at a Philadelphia high school, says that violence is an everyday occurrence. She says that even the hand-held metal detectors are not enough to keep guns and knives out of her school. And when it rains, the crack vials float in puddles in the schoolyard.

Marleihia attends a large urban school. But school violence has infected our rural and suburban schools as well. I recently visited a smaller school in Wilkes-Barre where a poll of students found that 52 percent of students knew someone who brought a weapon to school and 72 percent said they witnessed violence at their school in the past year.

The seventh National Education Goal, established by the Nation's Governors, states, "By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning." The legislation we are considering today will bring us closer to that goal.

The Safe and Drug Free School Act will help local school districts develop and carry out comprehensive programs to prevent destructive behavior. Schools will be able to attack their own individual problems head-on. Schools could use funds to fit their own unique needs to develop programs such as teacher training, conflict resolution training for students, antigang efforts, or they could use funds to develop a partnership with the police, or a mentoring program with members of the business community.

Feelings of hopelessness, alienation, and cynicism that lure children into using drugs also lead to violent behavior. Since drug use and violence often go hand and hand, the most promising strategy is comprehensive, coordinated school and community efforts, efforts that bring together families, students, community organizations, and law enforcement. This legislation will support these efforts.

This legislation does not create another Federal program and bureaucracy. Rather, it alters an existing program to better meet the challenges facing our schools today. It will not burden schools with rigid, top-down, bureaucratic rules, but will leave communities free to produce the best course of action and give them some of the resources needed to get things done.

Many Pennsylvania communities have taken the lead in attacking violence in schools. In recent months I have met with students, parents, teachers, and administrators from all parts of Pennsylvania who told me their own stories of the violence they see in their schools and how this legislation will help them do something about it. In Pittsburgh, the school district formed a task force that's taking the ideas of parents to work to eliminate violence among young people. In Philadelphia, I walked with a group of concerned parents and clergy—led by my friend Rev. William B. Moore—in the safe corriders program, which protects children on their way to and from school. Also in Philadelphia, Veronica Joyner, a caring and dynamic community leader, has created a parents program that brings activities into some of the cities most violent schools. In Reading, a peer mediation program is teaching children how to settle their own disputes without resorting to weapons, punches, and insults. In Wilkes-Barre, the district attorney is working with local schools to prevent youth violence. And in Harrisburg, parents have joined together to provide a daily presence in the schools.

Education is the one sure path to a better life for every American child. But children cannot learn if they do not feel safe. The Safe and Drug Free Schools Act will help us to once again make our schools a safe haven of knowledge, hope, and security.

I am also pleased that this legislation incorporates key provisions of the Service Learning Act of 1993, which I introduced with Senators DURENBERGER, KENNEDY, and WELLSTONE. The Service Learning Act is based on a simple yet powerful truth: students learn best by doing, by being active and engaged in the process of learning.

In 1990, the President of the United States and all 50 Governors recognized this approach as an integral part of our Nation's educational goals. In their Charlottesville Declaration, they proposed that all States and school systems act to ensure that by the year

2000 "all students will be involved in activities that promote and demonstrate good citizenship, community service and personal responsibility." Service-learning was seen as an important way to achieve goal three: that all students are "prepared for responsible citizenship, further learning, and productive employment in our modern economy."

Service-learning can be a critical element in education reform. Active learning through community service, especially if it is curriculum-based, improves student achievement by making classroom learning more meaningful. It can reengage students turned-off by traditional teaching methods. Service-learning promotes teamwork, leadership, and problem solving. In successful programs of service-learning, students replace alienation with engagement, exchange boredom with excitement, and learn the exhilaration of making a difference. In this active form of education, the community becomes the classroom and students become resources. Thus service-learning will help us achieve all of the national education goals set in Charlottesville—for better teaching and better learning.

Mr. President, with this legislation we are also going farther than ever before in recognizing that the best ideas about how to improve schools do not come from Washington—but from communities across the Nation. I commend Senator KENNEDY, Senator KASSEBAUM, Senator PELL, and Senator JEFFORDS for their leadership in crafting this bipartisan education bill, and I encourage my colleagues to join me in offering their full support for the Improving America's Schools Act.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1513, the Improving America's Schools Act. This the third major education bill that the Senate has passed this Congress. The legislation complements the Goals 2000 and School to Work acts that President Clinton signed into law last year.

This legislation represents the Federal commitment to local education. The Federal commitment to education is an important one, although it is limited. The Federal Government provides only 7 percent of all funds for education. However, the Federal role has traditionally been one that helps disadvantaged children and promotes innovative education.

This bill provides funds for such items as increasing the use of technology in the classroom, school-based violence prevention programs, public charter schools, gifted and talented programs, repairing school facilities, foreign language programs, and math and science programs. It also makes significant changes in the so-called chapter 1 program, which provides resources for our schools to help our disadvantaged children.

The Federal Government cannot and should not run our public school systems. It can only provide them resources and encouragement to improve our education system. This bill provides approximately $13 billion to our States and schools to better educate our children. It is now up to our parents, teachers, principals, and administrators to finish the job of improving our schools and empowering our children to learn and compete in the next century.

I urge my colleagues to support this bill.

SCHOLAR-ATHLETE COMPETITIONS

Mr. CHAFEE. Mr. President, the amendment that I offered, and that the managers have agreed to accept, authorizes $1 million to support scholar-athlete competitions in 1995. I believe that competition can encourage greater understanding and friendship between the participants. Academic and athletic competitions can bring together economically and culturally individuals who might otherwise never have the opportunity to interact.

In 1993, the University of Rhode Island hosted the World Scholar-Athlete games. These games were an enormous success, with 2,000 young scholars and athletes participating from 125 different countries and all 50 States. Young people between the ages of 16 and 19 who are talented in art, creative writing, singing, poetry, and athletics met in Rhode Island to engage in healthy competition and performances. I have no doubt that life-long friendships were forged at the World Scholar-Athlete games. As we help to build these individual friendships, we help to dismantle the walls that divide us.

The Institute for International Sport at the University of Rhode Island conducted the World Scholar-Athlete games. The same group created National Sportsmanship Day to bring attention to ethics and fair play both in athletics and in society at large. Now, the Institute for International Sport plans to host the Rhode Island Scholar-Athlete games in the summer of 1995. The Rhode Island games are intended to be a model for other States to replicate.

Like the Scholar-Athlete games, the Rhode Island Scholar-Athlete games are designed to bring together young people from diverse economic and social backgrounds in educational, athletic, and cultural activities intended to foster mutual understanding and respect. The Rhode Island Scholar-Athlete games, with the cooperation and guidance of the Rhode Island Department of Education, will gather scholars with demonstrated proficiency in a particular sport or cultural activity, to participate in a program which will motivate them to achieve greater academic, athletic, and artistic excellence.

The sports activities that are planned include: baseball, softball, sailing, basketball, volleyball, soccer, tennis, swimming, and track. The cultural activities will include: art, band, debate, choir, theater, poetry, and creative writing. The Institute for International Sport also plans to hold theme days on the subjects of ethics and fair play, the environment, and substance abuse.

To qualify for participation in the games, students must have a record of academic excellence or must have demonstrated notable progress or improvement. Special attention will be given to encouraging students from high poverty areas to participate.

Educators and civic leaders from every State will be invited to attend and observe the games. The Institute will offer training sessions to these individuals to enable them to emulate the Rhode Island Scholar-Athlete games in their home States.

My amendment authorizes the Secretary of Education to provide $1 million to an organization such as the Institute for International Sport to implement Scholar-Athlete games in 1995. The Institute is prepared to conduct the games and is uniquely qualified to do so. I appreciate the cooperation of the managers in ensuring acceptance of the amendment.

IMPROVING AMERICA'S SCHOOLS ACT

Mr. COCHRAN. Mr. President, I support the passage of this bill which reauthorizes nearly every Federal elementary and secondary education program and provides Federal support to supplement State and local efforts. It strives to improve the quality of education for all students through ongoing staff development, remedial assistance for disadvantaged students, and by encouraging the adoption at the local education level of course work that is challenging enough to enable America's students to achieve the National Education Goals. This bill is intended to promote effective and equitable education for all students. The bill recognizes that ongoing professional development for teachers and other educators must be an integral part of every educator's career; schools and school districts must be given flexibility to implement reforms geared to their individual needs; technology can be used as a powerful tool to improve student learning opportunities; and reaching high academic standards requires a strong partnership with parents and others in the community.

I would like to commend the committee chairman, Senator KENNEDY, the subcommittee chairman, Senator PELL, and the ranking members, Senator KASSEBAUM and Senator JEFFORDS for their hard work and commitment to the futures of our children and our Nation which is evidenced in every title of this bill.

The Chapter 1 Program is probably the most important education program supported with Federal dollars. Its purpose is to improve educational opportunities for low-achieving, poor students by providing extra assistance to the Nation's over 5 million disadvantaged students.

S. 1513 states that "although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated." I am disappointed the bill does not follow the recommendations of the administration, Government Accounting Office, or the assessment of chapter 1 by redirecting greater Federal resources to those States with the highest concentrations of poverty. However, the bill does introduce a better within-state targeting mechanism to focus resources within a State to areas where needs are greatest.

Other changes to the program will allow more flexibility in the use of funds, particularly in schools where more than 50 percent of the students are from low-income families. The Chapter 1 Program continues to hold great promise for those children in our society who do not have the same opportunities students in wealthier schools have.

This reauthorization also emphasizes the notion that schools can't do it alone. Ensuring the best education for children is a parent's responsibility and the community should and can make a big difference by placing a high priority on student achievement.

Another successful Federal program reauthorized by this bill, which was first authorized with the 1988 amendments, is the Even Start Program. It has been important to Mississippi's efforts to combat illiteracy. Even Start combines early childhood education and adult basic education into a unified program. Its success is due in part to its ability to build partnerships within families and encourage family members to work together to improve literacy and learning skills. It is closely coordinated with other Federal programs including chapter 1, adult education, Job Training Partnership Act and Head Start. S. 1513 extends the program for another 5 years and expands eligibility to a much neglected segment of our population—teen parents.

Title III of the bill, "Education Technology for All Students," includes many of the same provisions which were part of S. 1040, "the Technology for Education Act," a bill I was pleased to introduce along with Senators BINGAMAN and KENNEDY earlier this year.

S. 1040 was developed over a 2-year period in consultation with students, teachers, school administrators, representatives of the technology industry and other experts. These provisions, now part of S. 1513, will establish a Federal leadership role in promoting greater integration of technology into the classroom; support teacher training programs; encourage the development of curriculum specific software; and provide assistance to needy schools for the purchase of equipment and linkages necessary to become technologically connected. I am pleased to report that the Senate Appropriations Committee approved $50 million for this new educational technology program at last week's markup of the Labor HHS appropriations bill for fiscal year 1995.

Also included in title III is the reauthorization of the highly successful Star Schools Program. The Star Schools Program supports grants to telecommunications partnerships to enable them to provide distance learning services, including facilities and equipment, programming and technical assistance.

Star Schools programs are designed to improve educational opportunities for students residing in areas of the country where there are teacher shortages by making available subjects such as mathematics, science, and foreign languages, as well as other subjects such as literacy skills and vocational education. First enacted in 1988, the Star Schools Program has supported various consortia which now provide satellite access to every region of the country. Changes made by this reauthorization allow grants to be made for a 5-year period, thus preventing disruption of services.

I ask unanimous consent that an article which appeared in the the Journal, authored by Senators BINGAMAN, KENNEDY, and myself on the promise of educational technology be printed in the RECORD at the conclusion of my remarks.

I appreciate also the committee's including in this bill the National Writing Project and extending this worthwhile staff development program for 5 years. First authorized in 1991, this program has received modest Federal support over the past 4 years and has made a significant impact on the teaching of writing in the Nation's classrooms and on student ability to use writing as a way to improve learning in all subjects. The bill I introduced in January 1993 to reauthorize the National Writing Project, S. 70, had 42 cosponsors from both sides of the aisle at the time the committee adopted it as part of S. 1513.

The National Writing Project operates through 144 sites in 44 States, most of which are associated with universities. Last year, 105,009 teachers voluntarily sought training in one of the National Writing Project intensive summer and school-year workshops.

The National Writing Project has reached 20,000 students through summer young writers camp and over 7,300,000 students of all ethnic and linguistic backgrounds through their classroom teachers. In other words, in a single year 18 percent of the Nation's K-12 public school students benefited from a Federal investment that amounts to 34 cents per student.

The National Writing Project is a teachers-teaching-teachers program which identifies and promotes productive techniques used in the classrooms of our best teachers. It is a positive program celebrating good teaching practice, one which through its work with schools, increases the Nation's corps of successful classroom teachers. When the project was funded for an unprecedented 10th year by the National Endowment for the Humanities, a spokesman said:

> I have no hesitation in saying that the National Writing Project has been by far the most effective and 'cost effective' project in the history of the Endowment's support for elementary and secondary education programs.

In Mississippi, National Writing Project sites have contributed greatly to the remarkable improvement in the quality of teaching. Program participants include not only English teachers but also teachers of history, geography, math, reading, science and elementary classes. The result has been a measurable improvement in student performances and rekindling of teachers' enthusiasm, confidence and morale.

For every Federal dollar, the National Writing Project has been able to garner 5 additional dollars from State, university, school district and other local sources.

By improving writing instruction as part of a basic education, I believe this legislation will provide a very high return for a modest investment and will take us further toward our goal of improving the quality of education in our Nation.

Another new program the bill includes will support a grant to demonstrate "Mathline," a national telecommunications-based demonstration project to assist elementary and secondary school teachers in preparing all students to achieve State content in mathematics. The Senate Appropriations Committee included $3 million for fiscal year 1995 to support the initial phase of implementing this program.

The "Ready to Learn," television as teacher program is reauthorized to support the development and distribution of early education television programming and supporting written materials to help parents and daycare providers make the most of public television programming. The motivation behind this program was to reach preschool youngsters with high quality programs which are cost-effective and have broad availability in order to help them achieve the first National Education Goal, "All children will enter school ready to learn."

Other sections of the bill—Elementary and Secondary School Library

Media Resources Program, Foreign Language Assistance, Magnet School Assistance, Safe and Drug-Free Schools and Committees and the new Targeted Assistance Program replacing the current chapter 2 program—will make a significant contribution to the quality of education America's students receive.

I urge other Senators to join me in support of this landmark legislation.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the T.H.E. Journal, Aug. 1993]

A BLUEPRINT TO REVOLUTIONIZE AMERICA'S SCHOOLS

(By Senator Jeff Bingaman, Senator Edward M. Kennedy and Senator Thad Cochran)

New Mexico—In a cluster of nine small high schools scattered across the plains of rural eastern New Mexico, the classrooms, of the future are emerging. High school students in San Jose, House and Grady—some of the most rural communities in New Mexico—are taking advanced classes from a college 50 miles away. Through a two-way interactive video system, these students have been linked to each other and to the Clovis Community College. Through this innovative application of technology these students can participate in a regional classroom and have access to educational resources that do not exist in their small schools and communities.

Mississippi—At the Hayes Cooper School for Math, Science and Technology, a technology-centered K-6 public school in the heart of the Mississippi Delta, each child has an individualized educational program tailored to meet his or her learning needs, using computer programs that have been designed by the school's teachers to meet state curriculum standards and the National Education Goals.

As a result, teachers have more time to spend with small groups of students, while other students work in teams at one of the classroom's computer terminals. Classrooms are linked by computer networks to enable teachers to share ideas and participate in team-teaching activities. Computer-generated reports on each child's progress are sent home to parents on a monthly basis. After just one year in operation, Hayes Cooper students report significant gains over last year's standardized test scores. "This school is harder," explains one sixth grader, "but it is a lot more fun."

Massachusetts—During the last five years, hundreds of teachers in Boston Public Schools have observed the positive impact of technology on their students' ability to learn, especially in the area of mathematics. Each teacher involved in the Elementary and Middle School Math and Technology Project, which is funded by the National Science Foundation and Boston Public Schools, received two computers, a calculator and "hands-on" math materials for their classrooms.

Coupled with intensive workshops in mathematics and new strategies for teaching math (cooperative learning, interdisciplinary teaching, etc.), these materials have provided rich and vastly different learning experiences in math for Boston students. Listen to the comments from some Boston area teachers.

One teacher reported that "I no longer use textbooks. All lessons involve manipulatives, calculators and computers. I teach to develop concepts, not techniques for getting answers."

Another said that "my students are always engaged in problem solving. My students now work in groups, sharing their ideas and knowledge. I love to listen to them develop strategies as they work at the computer. They are always thinking and sharing their knowledge."

Still another remarked, "I have seen totally new ways to use calculators and computers. I always saw computers as a tool to reinforce or check skill work, but now I see that they really engage my students in much more complex problem solving."

EFFECTIVE EXAMPLES, BUT NOT YET PERVASIVE

Powerful examples like these show that creative uses of technologies by skilled teachers offer the promise to quickly and cost-effectively restructure education as we know it. These technologies can help teachers create an environment where all students are afforded rigorous, rich classroom instruction at a pace that suits their learning style and in a way that gives them a more active role in the learning process.

The problem is that there are few examples of exemplary use of technology in the classroom. Some of the reasons include: Lack of resources to wire schools, purchase equipment and develop technology plans; inadequate teacher training, both pre-service and inservice; little support from school administration; lack of availability of curriculum-specific software; and no interest by teachers because they have not had opportunities to become fully award of the vast resources technology can offer.

LEADERSHIP AT THE FEDERAL LEVEL

On May 27, 1993, we introduced S. 1040, the Technology in Education Act of 1993. It would authorize over $300 million in federal funds to help integrate advanced technology and communications systems into the classrooms of all the nation's elementary and secondary schools. The motivation behind this bill is to support state and local efforts to reach, by the year 2000, the ambitious National Education Goals established by the nation's governors. We want our elementary and secondary schools to be the best in the world.

We believe that these goals can be reached through the creative use of instructional technologies. Without the advantage of technology in the classroom, our students will not be able to achieve the level of competence they need in order to reach these goals or compete in a rapidly changing workforce.

THE TECHNOLOGY IN EDUCATION ACT OF 1993

The Technology for Education Act strives to make our elementary and secondary schools a part of the information technology revolution. In education, just as in technology, we are on the verge of a major restructuring of the way we live and learn. Americans have awakened to the need for dramatic improvements in education and reform of our educational system. We hope that the Technology in Education Act of 1993 will energize this revolution to change the way we teach our children and prepare them for the jobs of tomorrow.

In developing this legislation, we seek to provide much-needed federal leadership to integrate technology into K-12 classrooms. Although there are many technology-related programs supported by various federal agencies, the legislation will give the U.S. Department of Education a stronger and more visible role. Its primary responsibility will be to encourage state and local education agencies to integrate technology in all education programs and to coordinate technology efforts across all levels of the federal government.

The Office of Technology established by the bill will oversee new programs to provide funding to support state technology-in-education planning, staff development activities and the acquisition of technology by poorer school districts.

PROVIDING VISION, STRATEGY AND RESOURCES

Technology can revolutionize the way we teach our children and change the way they learn, just as profoundly as it has altered the American workplace. Advanced information technologies are obviously not the cure-all for America's educational problems, any more than chalk and the blackboard were cure-alls when they were invented. But technology can do a great deal to extend educational opportunities to all students and raise the level of performance of our schools and our students. The classrooms of the future that will utilize these educational technologies must be grounded with the goal of equity and access for all students.

We believe the Technology in Education Act of 1993 can provide the vision, the strategy and the resources to make that goal a reality.

SUMMARY: TECHNOLOGY IN EDUCATION ACT OF 1993, S. 1040

TITLE I

Title I sets out the leadership function of the Department of Education in the area of educational technology. It establishes an Office of Technology within the Department of Education to coordinate the technology-related activities in all of the department's programs.

The Office of Technology shall also provide the leadership necessary, both inside the federal government and throughout the country, to encourage the uses of technology that support systemic school reform. Some of the ways it will provide this leadership and encouragement is through:

A system of grants and loans to support the programs described in this bill;

Encouragement and support of ongoing research and development of new technology-enhanced software, programming and the advanced technologies themselves; and

Promotion of collaboration among business, educational organizations and others to expand and improve the uses of technology in education.

The Office of Technology shall manage the Star Schools programs and a new Division of School Library Media Services. Leadership functions will also include exploring the feasibility of interface guidelines to make technology truly accessible for teachers and students in schools and annually assessing the "state of the art" to make policy recommendations for the future.

An Assistant Secretary for Educational Technology is established to direct the Office of Technology and to provide leadership both inside the department and in working with other departments and agencies of the federal government to integrate technology into our schools.

TITLE II

Title II provides federal funding to promote the state planning necessary to use the ideas, skills and knowledge provided by technology as one of the tools to support state systemic reform.

This title also establishes a Division of Elementary and Secondary School Library and Media Services to fund media center resource development, innovative library media specialist and teacher partnerships, and programs to electronically bring library media centers into classrooms. Through a series of grants and loans, schools having the highest percentages of children in poverty and demonstrating the greatest need for technology in the classroom will be eligible for funds to implement plans to integrate technology into the curriculum by purchasing equipment, installing wiring and training teachers.

Title II also provides for the dissemination of information of programs that have already successfully integrated technology into the curriculum.

TITLE III

Title III establishes a means to electronically disseminate information that schools need to support their programs by building on existing electronic networks and making them easily accessible to users.

This title also recognizes the need to provide long-term, on-site staff development in order to integrate existing technologies, and those yet to be developed, into the curriculum. It will establish grants to regional consortia to develop and implement these programs. The consortia will also provide technical assistance to states and schools to help them keep current with the newest information.

TITLE IV

Title IV supports educational technology product development, production and distribution through competitive grants for partnerships of businesses and educational institutions to develop curriculum-based software. Using a set of matching competitive grants, the Office of Technology will fund research, production and distribution of educational television programming that supports the National Education Goals and is targeted to school-aged audiences. Continuation and expansion of the successful Star Schools programs will also be administered through the Office of Technology.

TITLE V

Title V provides for the educational technology research, development and assessment necessary to annually gauge the effectiveness of technologies in our schools and also to look to the future by supporting development of new and better technologies through a series of grants.

TITLE VI

Title VI recognizes the continuing costs of maintaining and upgrading technologies by requiring funding models to support these costs in our schools.

Mr. SIMON. Mr. President, I want to commend my colleagues for their hard work on this critical piece of education legislation. In particular, the chairmen and ranking members of both the full committee and the Education Subcommittee, along with their staffs, have spent countless hours reviewing the recommendations and concerns that have been raised, and going over every detail in the bill. They deserve our thanks and our respect.

More than a decade ago, the Department of Education published the milestone report "A Nation at Risk." As the title suggests, the report raised grave concerns about the quality of American education. The intervening years have produced dozens more reports that echo these findings. Although these reports have raised awareness about the serious problems facing our system of education, our children, regrettably, are at no less risk now than they were at the time the original report was issued.

Perhaps what is most remarkable—and most telling—is that despite the fact that "A Nation at Risk" was issued by an administration whose central aim was to curtail Government involvement in social issues, the report called for stronger Federal leadership in reforming education.

These hopes have not been realized. The lack of action has led to heightened expectations for this administration, and this piece of legislation. While no one expects one President, or one bill, to instantly reverse more than a decade of neglect, this administration is to be commended for moving from rhetoric to action. In March, President Clinton signed into law his administration's blueprint for education reform, the Goals 2000: Educate America Act. This legislation is a solid first step toward realizing the Federal commitment to high academic standards for all students.

Along with the Goals 2000 bill, Congress also passed the School-to-Work Opportunities Act, which I was pleased to sponsor in the Senate. This initiative, open to all students, will be particularly useful to the so-called forgotten half of high school students who do not go on to college. This bill will help thousands of students receive the training and education they need to compete in today's work force by setting guidelines and offering start-up venture capital for statewide school-to-work transition systems.

President Clinton should also be commended for standing up to special interests to ensure that college will be a more realistic possibility for all Americans. With the passage of the new direct student loan program, both taxpayers and students will save billions of dollars. In addition, with the help of income-contingent repayment under the new student loan program and new funds under the National and Community Service Act, more citizens will be able to tutor those with limited literacy skills, assist the elderly, rebuild inner-city communities, and engage in other work that enriches our Nation.

ESEA REAUTHORIZATION

None of these measures alone will solve all our education problems, but each is an important piece of the puzzle. And the more than $9 billion in this reauthorization of the Elementary and Secondary Education Act represent several pieces.

The original Elementary and Secondary Education Act was passed nearly 30 years ago as part of the Johnson administration's war on poverty. The central aim was to provide extra educational assistance to poor children to help them overcome the adversities of poverty. The heart of this legislation was captured recently by Secretary of Education Riley who quoted John Dewey:

> What the best and wisest parent wants for his [her] child, that must be what the community wants for all of its children: Any other ideal for our schools is narrow and unlovely; it destroys our democracy.

To determine what changes need to be made to the various ESEA programs, I chaired hearings in Chicago and East St. Louis, and we heard from numerous witnesses here in Washington. In addition, valuable input came from two blue-ribbon studies of Federal education programs, many smaller such studies, and letters and meetings with hundreds of parents, teachers, students, and education researchers.

The Improving America's Schools Act includes many critical reforms, including: an increased emphasis on schoolwide approaches to encourage schools to abandon ineffective approaches that pull out and label students who need help; stronger accountability provisions to monitor schools' progress in educating economically disadvantaged students, and the elimination of perverse incentives that penalize schools that increase student achievement; an increasing emphasis on better tests tied to challenging content and performance standards rather than a dumbed-down curriculum; significant increases in funding for teacher training and professional development, and more flexibility for teachers and other staff to tailor these activities to the needs of their individual schools; and stronger parental involvement.

An important aspect of the reforms in the bill is that schools are provided with more flexibility in exchange for increased accountability. I must mention, however, that I am not comfortable with the waiver language included in title I. I raised my concerns at the committee markup, and there are improvements in the committee amendment. But I am afraid that the language is still too broad and will result in some abuse—either a misuse of funds, or students not receiving the assistance that was intended by Congress. I am hopeful that we can look more closely at this in conference.

FOCUSING ON POOR SCHOOLS

One of the most significant reforms the Senate has achieved is to refocus chapter 1, now title I, of ESEA on serving the needs of poor children. Title I, by far the largest program in the bill, is supposed to provide financial assistance to local education agencies with high concentrations of poverty. But the money is too thinly spread: More than 90 percent of school districts receive funding, while 13 percent of high-poverty schools get no money at all. Given the many obstacles they face in reaching their potential, economically disadvantaged students require special attention and extra support. While it is politically difficult to take away funds from some school districts, we have done the right thing by revising the current formula to target more heavily on the higher poverty districts and schools.

We should not fool ourselves into thinking that we have solved the funding disparities faced by poor schools, however. In Illinois and many other States there are glaring disparities in school funding that can only be fixed by the States themselves—perhaps with some encouragement from the Federal Government. Last year, several of my colleagues and I held hearings to look at school finance and to explore the role of the Federal Government in encouraging States to equalize school funding. I held a hearing in East St. Louis, which has become a symbol of this problem, in part due to the vivid descriptions in Jonathan Kozol's book, "Savage Inequalities."

Through these hearings, Mr. Kozol's book, and my visits to schools in East St. Louis, Chicago, other areas of Illinois, and New York City, I have seen the deplorable learning conditions of our poorest students. It is discouraging to visit a school where students have workbooks in which students from previous years have already penciled in answers. It is discouraging to visit a school with 730 students and only one half-time counselor. During our hearings, Senator DODD mentioned that his sister, an elementary school teacher in Hartford, buys pencils, paper, and even toilet paper for her students with her own money. Teachers from across the country have similar stories.

Pencils, paper, and toilet paper—as well as textbooks, technology, competent teachers, and a safe and healthful learning environment—are basic and essential components of an effective education system. It is not fair to ask our students to meet world-class standards and then deny them the necessary resources.

The heart of the problem is the way education is funded, which, in most States, is primarily through property taxes. In Illinois, the per-student value of property ranges from $5,445 to $880,974. Our statewide annual average per pupil expenditure in 1990 was $4,200, with a high of $12,900 and a low of $2,100. Those that spend less do so because they have less. There are districts that could tax themselves to the point of ruin and still not be able to adequately fund their schools. It is interesting that Sweden, which does not have the extremes of poverty that we have, has a policy of spending two to three times more per student on education in the more disadvantaged areas. We have stumbled into a system in which we do exactly the opposite. This must change.

MONEY MAKES A DIFFERENCE

While opponents of school finance reform argue that money does not improve schools, we don't see them volunteering to send some of their money to the poorer urban or rural schools. It is interesting that in Sweden they spend more on the higher poverty schools, logically assuming that they will need more help.

And we did learn from our hearings that money, spent the right way, can make a significant difference in student achievement. Parental education, parental involvement and training, significantly smaller class sizes, teacher experience, and access to reading materials and modern technology are among those factors shown to boost achievement. All of these things take money. Of course, money alone is not the answer. There has to be some degree of accountability that assures funds will be used appropriately. However, we must begin to provide the types of resources that make a difference.

A few months ago, just after Robert Leininger resigned as the Illinois State Superintendent of Education, he lamented publicly that during his tenure very little had changed regarding education funding. "Adequate funding is the backbone of school reform," he said. "We know the solution. However, our collective leaders lack the desire, the inclination, and the fortitude to take legislative action." I would like to prove him wrong. Pressure has been mounting for greater school finance equity, with court cases in 28 States and legislative and referendum efforts in many others. We have taken small, but significant steps in the right direction. But our political leaders must overcome their inability, or unwillingness, to address unfair systems of funding education and take the larger strides that are necessary.

The Federal Government has two main roles to play in this process. The first is to lead the guide States toward reforming their own systems of funding. Under Goals 2000, the Federal Government will develop national opportunity to learn standards that describe the conditions and resources necessary for all students to achieve to high standards. States will develop their own standards as part of their plans for systemic reform. Goals 2000 also authorizes technical assistance grants to assist States in achieving greater equity in their distribution of education resources. That opportunity to learn standards were the most difficult issue to resolve in passage of the bill signifies the intensity of the debate. At the center of this debate is the tension between our tradition of local control of schools, and the national interest in a well-educated citizenry and a well-trained work force. Our passage of the bill shows that these issues can be resolved. While there will be many difficult fights ahead, we are clearly moving in the right direction.

Also part of this leadership role, in this reauthorization the Federal Government has signaled its concern about school finance equity by including an equity adjustment directly in the title I formula. States that have more equitable systems of school finance will see a bonus in their title I funds, while inequitable States will see a reduction. This is phased-in over a 4-year period, to give States like Illinois a chance to improve their funding systems. Frankly, the way that equity is measured in the bill is far from perfect. My preference would have been for a different approach. However, the provision does send a signal to States that the Federal Government is seriously interested in the issue.

The second role of the Federal Government is to identify specific areas of need, and to provide adequate funding to support these areas. Informed by the many studies both on ESEA programs and education in general, this bill does establish some clear priorities which are backed up with significant authorizations.

FAMILY LITERACY

One area in which we have had significant success is in asking more of parents and providing them with the support they need to take a more active role in their children's education. I am pleased that this bill continues the Even Start Family Literacy Program, which combines early childhood education for children in low-income areas and adult basic education for their parents. Many impoverished parents see academic failure as inevitable for their children—just as their parents did before them. The home is the child's first classroom and the parent is the child's first teacher.

Even Start, which was expanded and improved in my National Literacy Act, addresses the needs of the most at-risk families in the Nation through a family-centered approach, and it works because it gets at the root of school failure and undereducation. Working in coordination with other programs, including the Adult Education Act, the Job Training Partnership Act, Head Start, and volunteer literacy programs, Even Start builds partnerships within families so that members reinforce each others' learning. I am pleased that my amendment allowing title I funds to count toward the State match was incorporated in his bill, and I am hopeful that this will enable Even Start and title I programs to collaborate, resulting in greater learning gains for low-income children and their parents.

TEACHER TRAINING

Another area in which this bill has made significant advances is in supporting high-quality teaching. The bill marks a milestone by establishing a new title II for the funding of teacher training and professional development, which expands the Eisenhower Math and Science Program to include all core subject areas. I am happy that we were able to include summer institutes for teachers to update their knowledge and hone their skills in a setting in which they have ample time for study and many opportunities for interacting with other teachers. I am particularly happy that these institutes will be undertaken in several core subject areas, including foreign languages.

PREJUDICE AND VIOLENCE

Our Nation's racial, religious, and ethnic diversity is increasing, and this trend—which will continue in coming years—is reflected in our Nation's classrooms. Unfortunately, many schools have experienced an alarming escalation in intolerance and conflict, according to a disturbing report by the Department of Education's Office for Civil Rights. In a 1993 report, the American Psychological Association documented the role of prejudice and discrimination in fostering conflict that can lead to violence. The APA found that education programs aimed at reducing prejudice and hostility are critical components in programs to prevent youth violence.

In a hearing before my Judiciary Subcommittee, director Steven Spielberg emphasized the importance of school-based efforts to promote tolerance and reduce prejudice. For example, the Anti-Defamation League's A World of Difference Program, founded in 1985 and now operating in more than 30 cities, provides training and educational programming about the roots and consequences of prejudice.

I am pleased that the Safe and Drug-Free Schools Program in this bill includes provisions that I advocated to address this issue. First, schools participating in the program—most schools in the Nation—will include prejudice and intolerance in their evaluation of the problems they face. Second, if they find there is a problem, funding from the program can be used to address it, preferably in partnership with community organizations. Finally, violence-reduction efforts at the statewide level will also be able to be used for efforts to reverse trends toward prejudice and intolerance. In addition, the Civics Education Act recognizes that respect and appreciation for cultural differences are critical to a healthy democratic society.

FOREIGN LANGUAGES

There are certain areas in which we have made some progress, but in which I hope we can do much more. One place in which it is clear that we must do more is in providing all students with instruction in foreign languages. It is significant that foreign languages are included as a core academic subject in the National Education Goals. Unfortunately, many States consider foreign language education a frill. And when budgets are tight, these courses are among the first to be cut. Over 95 percent of elementary students do not study a foreign language and 26 States face a shortage of foreign language teachers.

The Foreign Language Assistance Program, which this bill reauthorizes, is the only Federal program that funds foreign languages in elementary schools. Revisions that I promoted include focusing more on encouraging learning at the elementary level and adding a new foreign language incentive program that will reward elementary schools that offer foreign language education that leads to communicative competency. We had two wonderful demonstrations of this at a hearing I held in April.

Improving and expanding foreign language education is important because it contributes to cognitive and social growth of students. Children who have studied foreign language in elementary school score higher on standardized tests of reading, language arts, and mathematics than those who have not studied a foreign language. It also contributes to understanding and appreciating diverse people and cultures and our competitiveness in the global marketplace.

LIBRARIES

We also need to do more to support our country's libraries. Access to adequate library facilities is essential to the effective education of our Nation's young people. A recent study showed that library and media spending was one of the best predictors of student achievement, even after controlling for other factors such as the social and economic status of parents.

Yet in recent years, our school libraries have not received the funding they need to serve students and teachers effectively. The Elementary and Secondary Education Act of 1965 provided separate funding for school library programs. During the seventies and eighties, however, Congress merged funding for all school programs into block grants. As a result of the merger, funding for school libraries declined dramatically. The lack of funding has taken a heavy toll on the State of our school libraries. In California, for example, more than half of all school libraries have closed during the last 10 years. In that State, a young person in a correctional institution has better access to library facilities than does the average student. In those school libraries which remain in operation, collections are hopelessly outdated. The average publication date of a school library book is the late 1960's. Our school library collections are so obsolete that over half of the books on space exploration were written before the United States put a man on the moon. While ESEA provides some funding for school libraries, it is clearly inadequate. I look forward to achieving better funding for school libraries in future efforts.

LENGTHENING THE SCHOOL YEAR

I am also pleased that we have taken an important first step toward achieving a longer school year. Our children spend only about 180 days a year in school. In Japan students attend school 243 days a year. In Germany students attend school 240 days a year. If we want our children and future generations to do better and compete, we will have to give our students an education that is at least as rigorous as that of our competitors. Right now we are falling far short.

Funding constraints, as well as the strong tradition of an agrarian economy, have made expanding the school year difficult for most States and school districts. I am pleased that my amendment, which provides grants to States or local school districts that want to include lengthening of the school year as one of their school improvement efforts, was adopted. I hope that in future years we can do much more.

GENDER EQUITY IN THE CLASSROOM

I am also pleased that my amendment to increase the authorization for the Women's Educational Equity Act was incorporated. I am concerned that many textbooks still stereotype women. Girls deserve to learn with curriculum and materials that provide positive female role models. Girls do not see their own lives, experiences, or accomplishments reflected in the curriculum. In fact, only 2 percent of people in history books are women. This shapes their expectations of themselves—and having high expectations of themselves is absolutely crucial in achieving their potential. In addition to providing grants that can be used for introducing into the classroom materials that are free of gender stereotypes, grants under this program can be used for conducting research on ways to advance gender equity in classrooms, training teachers and other school personnel in gender-equitable teaching practices, and assisting pregnant and parenting students in remaining or returning to school.

The reauthorization of the Elementary and Secondary Education Act presents us with an unique opportunity. Nothing is more important to our country's future than our children. If we want our children and future generations to do better and compete, we will have to ensure that they are well-educated. This means demanding more of our students, but at the same time demanding more of ourselves.

Mr. President, I would be remiss if I did not note the hard work of my staff who have put a great deal of time and effort into this legislation: Alice Johnson has developed an in-depth knowledge of education issues—particularly literacy and foreign languages—and contributed major improvements to the bill; Dr. Charles Barone's background as a psychologist working with schools and troubled youth, as well as his technical skills and inquiring nature, have made him an invaluable resource; Kristina Zahorik knows the role of libraries and technology in education and has contributed greatly; and Bob Shireman, though he is temporarily serving as my press secretary, continues to provide expert and superb overall direction for my efforts on education.

Mr. REID. Mr. President, I would like to take this opportunity to compliment the chairman of the Labor and Human Resources Subcommittee on Education, Senator PELL, and the other members of the committee on the inclusion of title XV in the Elementary and Secondary Education Reauthorization Act. This title will provide much needed assistance to school districts facing overwhelming renovation and construction needs. Federal, state, and local funding for repairs, renovation, and construction of public elementary and secondary schools have thus far been insufficient to meet the need across the country.

We are experiencing the devastating effect of insufficient educational facilities and a lack of resources for construction in my home State of Nevada. The Schurz Elementary School which is located on the Walker River Paiute Reservation in Nevada and is administered by the Mineral County School District has been determined unsafe for school purposes and condemned. This elementary school, built in 1938 of unreinforced block, is at a site affected by the highest level of earthquake potential, is located in the flood plain of the Walker River, and is within yards of highway and railway munitions transport to the Hawthorne Army Ammunition Depot. The children are currently being schooled in multiple classrooms and trailers throughout the campus under very crowded conditions. There is no communication system between these makeshift classrooms and currently no fire alarm system.

It is my understanding that section 15004, subsection (B) of title XV specifies an eligible local education agency as one in which the United States owns Federal property of 90 percent or more. Since the Mineral County School District consists of 94 percent Federal land then it is my understanding that this title will make the Mineral County School District eligible for funds to build a new school at a safer site. I would like to ask the chairman of the Subcommittee on Education, Mr. PELL, if I am correct about the eligibility of the Mineral County School District under the provisions for funding in this title?

Mr. PELL. The Senator is correct. The title specifically states that a local education agency is eligible under this title if the district consists of at least 90 percent Federal property owned by the United States.

Mr. REID. I thank the chairman for that clarification and for his support of our Nation's educational infrastructure. The Senator from Rhode Island has worked diligently and admirably to improve the standards for education and educational opportunities for students across the Nation.

Mr. PELL. It is my hope that the Secretary of Education will recognize the unique circumstances facing the Mineral County School District and the crucial need for a new school at Schurz when approving funds under this title. I would support the Secretary in approving the needed funds for Schurz as the Appropriations Committee has indicated it would in two separate places in its report accompanying the Labor, Health and Human Services and Education bill.

MULTIETHNIC PLACEMENT ACT

Mr. DURENBERGER. I have a question for the distinguished sponsor of the Multiethnic Placement Act, Senator METZENBAUM, related to the placement practices of my home State. Minnesota has a policy, absent good cause to the contrary, of first attempting to place a child with relatives. If that is not workable, the State agency attempts to place the child with a family of the same racial or ethnic heritage. If that is not feasible, the final preference is for a family of different heritage that knows and appreciates the child's racial and ethnic heritage. The search for relatives or families of similar race and ethnicity must be completed within a short and specified time period.

Would the Multiethnic Placement Act prevent a State from implementing such a policy of preferences?

Mr. METZENBAUM. Consistent with the best interests of the child, the bill would not prevent such policies.

Mr. DURENBERGER. I thank my distinguished colleague.

Mr. COATS. As you know, the goal of ending discrimination in adoption placements is one which we both share, Senator METZENBAUM, as cosponsors of S. 1224, the Multiethnic Placement Act of 1993. I believe that this bill is an important step toward the goal of ending policies which categorically deny adoption placements on the basis of race, color, or national origin.

Although the issue of transracial adoption is both controversial and complicated, you and I agree on certain basic principles. First, that it is generally preferable for children to be placed with families of their own ethnic origin when such homes are available and in the child's best interest. Second, that transracial placement is a positive and effective means of providing a child with a loving and permanent home, particularly when faced with the alternative of long term foster care. Finally, that children should not be forced into prolonged temporary care when good, stable families are ready, willing and able to adopt.

Mr. METZENBAUM. I have long been impressed by Senator COATS' dedication to helping children and protecting their best interests. I share his commitment to placing children in loving and permanent homes as quickly as possible. I also believe that transracial adoption should be encouraged when an appropriate same race placement is not available.

Mr. COATS. I am glad that Senator METZENBAUM and I are in agreement on this issue. I would like to ask for clarification of one section in the bill that states that a covered agency may consider race, color, or national origin as a factor in making placement decisions if it is relevant to the best interests of the child involved and is considered in conjunction with other factors. Does the Senator intend that this section allow the use of race, color or national origin as a determining factor between two otherwise appropriate and available families, when to do so is in the best interests of the child? The reason I am asking this question is that the bill also prohibits denial of adoption based on race. This appears to be a contradiction.

Mr. METZENBAUM. Perhaps this could have been worded more clearly—but the intent is to allow race to be considered as one of many factors and to allow race to be the determinative factor between two otherwise appropriate and available families, if and only if the consideration of race is in the child's best interest.

Mr. COATS. So, I gather from the Senator's response that the primary concern of this bill is the child's best interest.

Mr. METZENBAUM. That is correct—and prolonged foster care is not in the child's best interest.

Mr. COATS. I agree—but does the Senator intend that other factors such as religion, language, and cultural identify be considered when determining the child's best interests?

Mr. METZENBAUM. Yes. Any factors which contribute to a child's development should be taken into consideration when making placement decisions and determining the child's best interest.

Mr. COATS. I thank the Senator for his response. S. 1224 also prohibits any delay in making an adoption placement. While I have expressed concern about the effect of this prohibition I have determined that it is the best legislative approach we can take at this time. I do however want to reiterate my concern that this not be perceived as an excuse for agencies not to aggressively recruit prospective adoptive parents. Agencies should, on an ongoing basis—consistently, creatively, and vigorously recruit and study families of every race and culture of children needing adoptive families.

Mr. METZENBAUM. The Senator is correct—and anyone who uses this bill as an excuse not to recruit will have gone against the very spirit we have intended here.

Mr. COATS. I thank the Senator.

CHARTER SCHOOL GRANT PROVISIONS

Mr. DURENBERGER. Mr. President, I rise today to engage in a brief colloquy with my distinguished colleagues from Connecticut and Massachusetts, Senators LIEBERMAN and KENNEDY, on the new charter schools grant program authorized under title VIII, part C.

Charter schools are public schools that are frequently exempt from input-oriented mandates, but are accountable to a public agency through a contract that commits them to achieving specified academic or other results. Although States laws across the country vary, charter schools must be nonsectarian, may not charge tuition, and may not discriminate in admitting students.

What is the current status of State legislative activity authorizing charter schools? How broad a movement has charter schools now become?

Mr. LIEBERMAN. Charter schools have now been authorized in 10 States—Minnesota, California, Colorado, Massachusetts, Georgia, New Mexico, Wisconsin, Michigan, Kansas, and Arizona. In addition, Governors and legislators in my own State of Connecticut and a dozen or more other States are actively considering legislation to authorize charter schools.

Charter schools enjoy growing, bipartisan support. Advocates include both President Clinton and Education Secretary William Riley, as well as a number of leading Governors including Roy Romer of Colorado, William Weld of Massachusetts, John Engler of Michigan, Pete Wilson of California, and Tommy Thompson of Wisconsin.

The idea behind charter schools is to encourage innovation within public schools by allowing school staff, parents, and others in the community to apply for a charter to run their own public school. Charter schools are free from many onerous regulations and administrative burdens and at the same time, are dedicated to providing high quality and effective education. Charter schools foster and enable creativity. They allow educators who have ideas about how to teach students more effectively, to step outside the education bureaucracy to set up new schools. Charter schools will give students opportunities to learn in ways that better meet their needs. They will also establish a competing force that should help encourage ongoing improvements through out the rest of the public education system. Indeed, charter schools can point the way toward successful education reform and improved academic achievement for all students.

What are the origins of the charter school grant program authorized by S. 1513?

Mr. DURENBERGER. The new grant program authorized under title VIII is based in part on S. 429 and H.R. 1113, the Public School Redefinition Act, a charter school grant proposal that I introduced in February 1993 along with a bipartisan group of Senators and Representatives that included Senator LIEBERMAN, along with Senators BOB KERREY, and SLADE GORTON and Representatives DAVE MCCURDY, TOM PETRI, TIM PENNY, and TOM RIDGE. It also enjoyed bipartisan support on the Labor Committee, including support from Senator BINGAMAN who made several suggestions for improvement in this new program that I am pleased were also accepted.

Mr. LIEBERMAN. And, how do the charter school provisions in the House and Senate versions of the ESEA reauthorization differ?

Mr. DURENBERGER. During its consideration of ESEA, the House retained the administration's proposal for the new charter school grant program with one very important and limiting change—a requirement that charter schools receiving grants be authorized and in partnership with their local school district.

The House requirement that charter schools be authorized by local school districts is of particular concern to States like Massachusetts, Michigan, New Mexico, and Arizona. In those four States, some or all charter schools would not be eligible for Federal grants under the House bill since they are chartered by public bodies other than local school districts.

In addition, Minnesota and California make it possible for State or county boards of education to charter schools "on appeal" if they are turned down at the local level.

And, legislation adding postsecondary education institutions as possible chartering authorities passed the Minnesota Senate this year, but was not included in the final education conference committee agreement.

To make sure that all charter schools are eligible for grants under this new program, I offered an amendment in the Labor Committee that does two things:

First, States are given authority for making grants to individual charter schools.

One goal of this change is to encourage States to adopt charter school laws. Hopefully, having authority to administer the program and award grants would also encourage States to put their own funds into this program. And, if encouraged in this manner, States are more likely to promote the charter idea and offer technical assistance to groups of parents, teachers, or others who are interested in starting a charter school in their community.

This change is also consistent with the Goals 2000 legislation under which States make subgrants to districts and schools for local reform initiatives. By placing the State in the grant-making role, a charter school program could be better integrated with other State/local initiatives funded by Goals 2000 that are designed to meet the education goals and standards each State is pursuing.

Second, States are given more discretion to decide who may charter schools.

The Federal Government should not be dictating to States how charter schools should emerge as a part of systemic reform. With that in mind, the Senate bill now allows schools receiving grants to be chartered by "a State education agency, local education agency, or other public agency that has the authority pursuant to State law to authorize or approve a charter school."

Beyond these two changes, the Labor Committee added several "allowable uses" for grants that schools receive, including minor renovation or remodeling needed to meet health and safety codes. And, the Senate bill now explicitly allows States to make cash flow loans to new charter schools for their initial operations. These loans would have to be paid back once regular operating funding from State and local sources begins flowing to the charter school.

In addition to these two changes, the Senate bill now gives more explicit direction to the Secretary of Education in using the Secretary's "bully pulpit" to provide national leadership to this aspect of State-based education reform.

To do this, this legislation authorizes the Secretary to engage in capacity building activities including developing and disseminating model State charter school laws and model contracts between schools and their sponsors; to collect and disseminate information on successful charter schools; and to use conferences, publications and telecommunications, and other means to share ideas and information about charter schools.

Overall, the Senate's version of the charter school grant program follows an important principle about the role of various levels of government in education reform: The national government should be providing overall leadership to education reform initiatives, but should defer to the States on how to authorize the elements of reform that are—in turn—best designed and carried out by each local community.

By following that principle, States and local communities will claim greater ownership of the elements of reform. And, those elements of reform are more likely to be implemented and more likely to result in improved student performance.

Senator LIEBERMAN has been a strong advocate of charter schools as one element of systemic reforms at the State and local level. How does the Senator respond to concerns that charter schools will attract only the brightest and most highly motivated students?

Isn't there a danger that charter schools will discriminate against some students and favor others?

Mr. LIEBERMAN. The legislation makes it clear that charter schools are public schools and must abide by the same fundamental requirements as all public schools. They are bound by Federal and State statutes that prohibit any discrimination on the basis of race, religion, disability, or any other factor. They must be open to all students interested in attending and if they are over-enrolled, must provide for admission by lottery. Finally, they must be nonsectarian in their programs and employment practices, and cannot be affiliated with a nonpublic sectarian school or religious institution. They simply cannot discriminate against any students.

Senator KENNEDY has also been a strong supporter of the administration's proposal for a new charter school grant program and the changes in its authorizing language proposed by Senator DURENBERGER in the Senate Labor Committee. What has been the experience so far with Massachusetts' charter school program? And, based on that experience, will the Senator work with Senator DURENBERGER and me and others to support the Senate's charter school provisions in conference?

Mr. KENNEDY. Since the Massachusetts Legislature passed charter school legislation in 1993, there has been a great deal of interest in starting new charter schools among parents, teachers, and others throughout the State. This past February, the Massachusetts Secretary of Education received a total of 64 applications to start charter schools. Fifteen applications have been approved in this year's application cycle and applicants are now preparing for a 1995 school opening. An additional 10 charters will be granted under a competitive process to be conducted early next year for start-ups in the fall of 1996.

The 15 charters approved so far in Massachusetts include a number of schools designed to serve at-risk students, students who have dropped out of traditional public schools, and students with special needs.

For example, the Neighborhood House Charter School in Boston will integrate school-based services into its program—joining classroom education, social services, and parental enrollment. Each family with children enrolled in the school will be required to participate in the family cooperative—creating a social infrastructure among families and offering GED and ESL classes, as well as other support services. This school will have an enrollment of 135 at-risk students with histories of academic, emotional, and behavioral problems. It will operate for 227 school days a year.

Overall, Massachusetts first 15 charter schools will have initial enrollments ranging from 35 to 700 students. Most will initially serve a limited number of grade levels, but have plans to expand by adding more grades and students in subsequent years.

I'm pleased that several of the Massachusetts charter schools will be employing teaching and learning methods supported by earlier Clinton administration initiatives already passed by this Congress.

For example, the City on a Hill Charter School in Boston will emphasize a commitment to community service and internships—the kind of service learning opportunities encouraged by President Clinton's National and Community Service Act that we adopted last year.

Several of Massachusetts charter schools will also use internships and youth apprenticeship opportunities encouraged by a second Clinton initiative we approved earlier this year—the School to Work Opportunities Act.

And, a number of charter schools in Massachusetts will make extensive use of computer and telecommunications technologies supported by provisions in President's Goals 2000 legislation as well as other titles of this ESEA reauthorization.

As Senator DURENBERGER pointed out, none of these charter schools in Massachusetts would be eligible for grants under the House version of ESEA. The same is true for charter schools in a number of other States where some public agency other than local school districts is authorized to grant charters. As long as all the other protections that Senator LIEBERMAN discussed are guaranteed, I don't believe we should be second guessing the determination States make on what public agencies should be authorizing charter schools. Therefore, I intend to support the Senate's version of the charter school grant program during the conference committee's deliberations on ESEA.

Mr. DURENBERGER. I look forward to working with Senator LIEBERMAN and others to attain adequate funding for this new grant program in the next year's Labor, Education, HHS appropriations bill. It's my understanding that the administration proposed that the new program be funded at its authorized level—$15 million. The House cut that amount to $6 million. And, while the full Senate has yet to act on the administration's recommendations, the subcommittee decided on a funding level consistent with the House.

A total of 10 states have now authorized charter schools and the strong interest on the part of parents, teachers, and others in this opportunity in those and other States suggests strong demand for this program, once authorized. I believe it is only prudent and fair that this new opportunity to support State- and local-based reform be fully funded at the Federal level.

Mr. LIEBERMAN. I agree. On behalf of Senator DURENBERGER and others, I commend Senator KENNEDY's leadership on this and so many other aspects of education reform. We look forward to working closely with him as this legislation is finalized in conference committee.

TITLE II: COMPREHENSIVE TECHNICAL ASSISTANCE CENTERS

Mr. KENNEDY. This Elementary and Secondary Education Act reauthorization bill creates a new training and technical assistance system to support States' and schools' efforts to improve teaching and learning. This is a positive measure in that it will simplify and enhance access to help that is needed in the field. Further, it has the potential for cost savings and a streamlined array of services.

There are also risks in this new system, and in the process of effecting a smooth transition from the old system to the New. First, it is critical that the Congress ensure that States and schools will have the high-quality, hands-on assistance they need while they work to make the shift into a new, more results-oriented education environment. Second, it is critical that the expertise among existing technical assistance providers, built over 7 years with Federal dollars, is effectively transferred into the new system. Third, we must guarantee that our attacks on the problems of crime, violence and drugs remain strong while the new systems are shaped. We must not reduce the level of vital technical assistance support for this national priority objective.

I know that there is great concern in my own State about the potential loss of a valuable resource, specifically the services of the Northeast Regional Center for Drug-Free Schools and Communities. That center's training and technical assistance is helping schools to make significant reduction in student's involvement with these destructive behaviors.

I want to ask the Senator from Rhode Island if the provisions of this bill will respond to my concerns. Will this bill assure that the services of the regional centers for drug free schools and communities center remain available, and will this effective service continue to be available to States and schools during the critical transition period?

Mr. PELL. I want to assure the Senator that this bill includes provisions for the continuation of that service and through centers like the Northeast Regional Center. In my State as well, there is strong evidence that the centers, for drug-free schools and communities are effective. This is an entity which has a record of demonstrated effectiveness. We do not want lose the skill that has been developed and successfully applied over the past 7 years.

In section 2307 of the bill, we have included language which provides for the continuation of the services of these centers through fiscal year 1996, where appropriate and feasible in order to ensure that services will not be interrupted, curtailed or substantially diminished. During that time of transition, these centers will be able to continue to serve the States, and help local schools, to address their problems with drugs and violence. We are happy to include this language. It reaffirms the commitment of the Senate to programs which promote safe and drug-free schools and communities for the youth of this Nation.

Mr. WELLSTONE. As one of the members of the committee who worked to see that the new technical training and assistance was phased-in in an orderly and effective manner, I am pleased to express my support for the language included in section 2307. The work of regional centers for drug free schools and communities should be retained and extended to violence prevention as the Federal technical assistance system undergoes a period of restructuring.

This bill provides for the continuation of this assistance, indicating the concern of the committee about maintaining a strong national capacity to assist the prevention efforts of local schools. It is the intent of the committee to ensure that the Secretary of education draw upon the demonstrated effectiveness of the current technical assistance providers in establishing the new technical assistance system, rather than reinventing the capacity to carry out these new responsibilities.

EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP

Mr. JOHNSTON. Mr. President, I would like to ask my distinguished colleague from Rhode Island some questions regarding the amendment that would add the Albert Einstein Distinguished Educator Fellowship Act of 1994 to S. 1513, the Improving America's Schools Act. This amendment would establish a fellowship program for elementary and secondary school mathematics and science teachers within the Department of Energy. The amendment is very similar to a bill introduced by Senator HATFIELD earlier this year—S. 2104, the Albert Einstein Distinguished Educator Fellowship Act of 1994. S. 2104 was referred to the Senate Energy and Natural Resources Committee, which I chair. I would like to ask the Senator from Rhode Island, who chairs the Subcommittee on Education, Arts and Humanities, which has jurisdiction over the Improving America's Schools Act, whether he was aware that this amendment deals with a matter currently pending before the Energy and Natural Resources Committee?

Mr. PELL. I appreciate the question of the Senator from Louisiana. As a committee chairman, I am sensitive to other committees dealing with matters currently pending before my committee. To answer his question—yes, I am aware that the amendment authorizes a program very similar to one that would be created by S. 2104, which is currently pending before the Energy and Natural Resources Committee. I have been assured, however, by Senator HATFIELD, the primary sponsor of this legislation, that he has worked with you and the other members of the Energy and Natural Resources Committee in crafting the amendment. Am I correct in my understanding?

Mr. JOHNSTON. The Senator from Rhode Island is correct. I, and other members of the Energy and Natural Resources Committee, have worked closely with Senator HATFIELD to craft this amendment, which reflects the input of witnesses who testified before the committee and from the administration. The amendment, as currently crafted, is one I support adding to the Improving America's Schools Act. I would like, however, the assurance from the distinguished Senator from Rhode Island, who has been so instrumental in the work of his subcommittee in crafting the Improving America's Schools Act, that oversight of and any future amendments to the Albert Einstein Distinguished Educator Fellowship Act will remain within the jurisdiction of the Energy and Natural Resources Committee.

Mr. PELL. Both the amendment and S. 2104 would create an elementary and secondary mathematics and science teacher fellowship program within the Department of Energy. S. 2104 was, I believe, appropriately referred to the Energy and Natural Resources Committee. As this amendment is very similar to S. 2104, I believe it too is within the jurisdiction of the Energy and Natural Resources Committee. Thus, oversight of and future amendments to the Albert Einstein Distinguished Educator Fellowship Act would be within the jurisdiction of the Energy and Natural Resources Committee.

GENDER EQUITY TRAINING

Mrs. HUTCHISON. Mr. President, I understand that part G of title VIII of this bill provides funding for gender equity training for educators, counselors and other school personnel. I am certainly not insensitive to the need for fair treatment for all students in the classroom, but I have a particularly strong view about the importance of encouraging young women to pursue the broadest range of subject matter in their studies, including mathematics and the sciences. I have discussed this concern previously with the distinguished Senator from Maryland who was one of the original sponsors of the amendment, and I would appreciate it if she would clarify her intent about the implementation of this provision.

Ms. MIKULSKI. The Senator from Texas is correct in her understanding of the provision in question. I would say to her that she and I are in agreement about the importance of encouraging all young people, girls and boys, to consider the widest possible range of alternatives in their studies and preparations for careers and adult lives.

Gender equity training has been an authorized purpose since 1974. It is intended to promote the letter and spirit of title IX which prohibits discrimination in education. I appreciate the Senator's concerns and when this provision is implemented, I would welcome working with the Senator from Texas to encourage the Secretary of Education to place an increased emphasis on encouraging young women to excel in math and science.

Mrs. HUTCHISON. I appreciate the Senator's courtesy and her very helpful comments. I welcome her suggestion and look forward to working with her further on this important issue.

MULTIETHNIC PLACEMENT ACT

Mr. METZENBAUM. Mr. President, I introduced the Multiethnic Placement Act, S. 1224 with one goal in mind—encouraging transracial adoption when an appropriate same race placement is not available. I strongly believe that it is better for children to be adopted by parents of another race than not to be adopted at all. Policies that virtually prohibit multiethnic foster care and adoption are unconstitutional, harmful and must be stopped.

There has been an explosion in the number of children in the foster care system, from 276,000 in 1986 to 450,000 in 1992. The goal for these children is a loving and stable home. This goal can be achieved by placement in either an appropriate same race or interracial home. Although interracial foster and adoptive families may face a variety of problems that same race families do not, the evidence indicates that transracial adoption is often a positive experience for all involved.

Despite this evidence, formal and informal policies against multiethnic placements still persist. S. 1224 would prohibit any agency which receives Federal funds from denying a foster care or adoption placement solely on the basis of race, color, or national origin. For example, it would prohibit child welfare agencies from categorically denying anyone the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin.

The bill would provide for injunctive and equitable relief and require HHS to withhold adoption assistance funds from any agency that violated the law. S. 1224 has the support of Senators CAROL MOSELEY-BRAUN, DANIEL INOUYE, DAN COATS, NANCY KASSEBAUM, PAUL SIMON, DIANNE FEINSTEIN, and DAVE DURENBERGER. It also enjoys the support of Marian Wright Edelman of the Children's Defense Fund, The Reverend Jesse Jackson of the National

Rainbow Coalition, and the National Council for Adoption.

Although an appropriate transracial placement is often a positive experience, it is also true that a same race, language, or ethnic group placement can go a long way in helping children make the psychological, social, and cultural adjustment to their new family. Given the obvious benefits of same race placement, the Multiethnic Placement Act also makes it clear that race, color, or national origin can be a factor in making foster care and adoptive placement, if and only if: First, the consideration of these factors are in the child's best interest, and second, race, color, or national origin is considered along with other factors, such as age, sex, member of a sibling group, religion, disability, language, and whether the child has already bonded with the prospective parents.

This commonsense approach to the consideration of race in making foster care and adoption placements is in keeping with long standing Federal adoption legislation that encourages the recruitment of prospective parents of all races. Federal and State case law and HHS guidelines also specifically allow race to be one factor in making foster care and adoptive placements. In addition, every single major child welfare and adoption organization advocates the consideration of race as one of many factors in making out of home placements if such a consideration is in the child's best interests.

Many child welfare and adoption advocates also believe that the permanent placement of a child may be postponed, but not for an undue period of time, in order to affect a same race or ethnic group adoptive placement. They recognize that recruiting prospective parents of all races of children in need of homes requires time and effort.

I would prefer that no child be required to spend any extra time in foster care limbo in order to effectuate a same race placement. Ideally, appropriate prospective parents of all races should be waiting to care for a child the moment he or she needs an out of home placement. But given the difficulties in finding appropriate same race placements, S. 1224 was amended at an executive session of the U.S. Senate Committee on Labor and Human Resources, to state that agencies receiving Federal funds may not unduly delay in making foster care and adoptive placements on the basis of race, color, or national origin.

The amended version of the Multiethnic Placement Act also contains additional findings that stress the importance of eliminating racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures. Child welfare agencies are encouraged to use active, creative, and diligent efforts to recruit parents from every race and culture for chilren needing out of home placements. The amended bill was adopted by voice vote by the U.S. Senate Committee on Labor and Human Resources on October 6, 1993.

The lack of definition for the term "unduly delay" in S. 1224 has caused some concern among the foster care and adoption community. Some who otherwise support S. 1224, fear that the term "unduly" will not or cannot be defined in a manner consistent with the goals of the bill. In order to make it clear that appropriate out of home placements should be made as soon as possible, the latest version of S. 1224 has eliminated the term "unduly."

The passage and enactment of the Multiethnic Placement Act is my highest legislative priority of my remaining time in the Senate. I realize that this bill will not solve all the problems of the child welfare system. But S. 1224 can make a difference in the lives of thousands of children who languish in foster care and temporary placements because of policies against transracial placements. I thank my Senate colleagues for their support of this legislation and will work hard for its passage in the House.

Mr. COATS. I would like to ask the chairman a question regarding opportunity-to-learn standards. As the chairman will remember, the following language was added in the Labor Committee markup of S. 1513:

> Page 476, lines 6–11; section 1111(b)(1)(A)(iii):
>
> "Each State plan shall describe the steps the State will take to help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(3), 1114(b), and 1115(c) that is applicable to such agency or school."

While I understand that the chairman is not opposed to opportunity-to-learn standards, I wonder if he might respond to a question I have about this language.

Does this language require States to develop opportunity-to-learn standards, either mandatory or voluntary, or impose unfunded mandates on States to develop these standards under this bill?

Mr. KENNEDY. As the Senator has noted, I do not oppose opportunity-to-learn standards. I agree, however, that the language cited does not mandate these standards under this bill.

Mr. COATS. I thank the chairman for his courtesy and his response to my question.

Mr. HARKIN. Mr. President, I would like to enter into a colloquy with Senator KENNEDY, the distinguished chair of the Labor and Human Resources Committee regarding clarifications of some terms used in S. 1513.

Mr. KENNEDY. I would be pleased to enter into a colloquy with the distinguished Senator from Iowa and chair of the Subcommittee on Disability Policy.

Mr. HARKIN. I thank the distinguished Senator from Massachusetts for allowing this inquiry. As the Senator is well aware the passage of the Americans with Disabilities Act and the Individuals with Disabilities Education Act has set forth a national disability policy for the full inclusion and integration of individuals with disabilities in the educational, social, economic, political, and cultural mainstream of society. Furthermore in the passage of Goals 2000 legislation we worked toward building a unified education system and away from distinct systems of regular and special education which we find too often existing in our Nation's schools.

It is in this spirit of pursuing a more comprehensive and unified system of education that I have the following inquiries.

In titles II and III of the act the term "other public early childhood programs" is used frequently. Is it understood that the term is meant to include early childhood special education programs funded under section 619 of part B of IDEA and early intervention programs funded under part H of Part B?

Mr. KENNEDY. Yes, that is correct the term "other public early childhood programs" does encompass early childhood special education programs and early intervention programs funded under section 619 of part B of IDEA and part H of IDEA respectively.

Mr. HARKIN. The term "teachers" is also used frequently throughout the bill. Am I correct in understanding that the term includes special education teachers. Assuring their inclusion would remove any doubt of Congress's intent to have all educators fully participate in functions described in the act, such as school support teams, distinguished educator awards, and professional development activities.

Mr. KENNEDY. That is correct, the intent is to have all instructional staff encompassed in the term "teachers" and therefore includes special education teachers.

Mr. HARKIN. I would like to thank the distinguished Senator from Massachusetts for these clarifications and I would like to commend him and my colleagues on the Labor and Human Resources Committee for their efforts in developing this act and for making sure that students with disabilities are fully included and that their rights as established in ADA and IDEA are fully recognized.

MIGRANT EDUCATION

Mrs. FEINSTEIN. Mr. President, I rise today to emphasize the importance of migrant education and to clarify the committee amendment to the Improving America's Schools Act that pertains to this program.

Over one-third of the children served under the Migrant Education Program reside in my State of California. These migrant pupils have very unique educational needs that result from their migratory lifestyle. For example, Mr. President, many migrant students most often do not attend school during the regular school year and require special summer school or intersession programs.

I understand that included in Senator KENNEDY's committee amendment is a provision that maintains the quality of the migrant education program, and I thank him for including this language. It is my understanding that, even if a school participates in the schoolwide program, the program that allows schools to commingle Federal education funding, Migrant Education Program funds must be used to continue to meet the unique identified needs of migrant children which result from their migratory lifestyle or are needed to permit migratory children to participate effectively in school.

Mr. KENNEDY. That is correct. I know that the Migrant Education Program is important to Senator FEINSTEIN and the State of California. Migrant education is also important to my State of Massachusetts.

Madam President, the committee amendment to the Improving America's Schools Act requires schools which receive Federal migrant education funding—even those who have chosen to participate in the schoolwide program—to first attend to the very special needs of this population that are a direct result their migratory lifestyle and that will help them participate effectively in school.

Those needs, and how they will be met, are to be determined by the school, the State educational agency, and the local operating agency and may include: First, instructional services outside of the regular school day and school year; second, heath and support services; third, services to preschoolers, 18- to 21-year-olds, and dropouts; and fourth, secondary credit accrual for interstate migrant students.

The committee amendment assures that these and other services which are necessary to address the specific needs of migrant pupils—services that help them overcome the barriers associated with their mobile lifestyle and become effective learners in the classroom—shall be provided by the States and schools that receive Federal migrant education funding.

Mrs. FEINSTEIN. Does this pertain to all migrant children who are being served under the Migrant Education Program?

Mr. KENNEDY. Yes, under the Improving America's Schools Act, eligible migrant children shall be served for up to 4 years.

Mrs. FEINSTEIN. I thank the Senator for his clarification.

INDIAN DEMONSTRATION SCHOOLS

Mr. DORGAN. Mr. President, I rise on behalf of myself and Senator CONRAD to offer an amendment to S. 1513, the Improving America's Schools Act of 1994. Our amendment authorizes the Secretary of the Interior, acting through the Bureau of Indian Affairs [BIA], to establish therapeutic model demonstration schools at two off-reservation Indian boarding facilities. The purpose of these therapeutic models is to bring healing and positive change to the lives of Indian students with very special needs.

Recent hearings I have held in North Dakota have given me a vivid and disturbing picture of the problems of high-risk Indian students. One facet of this picture is that off-reservation boarding schools, such as the Wahpeton Indian School, have become last-resort facilities for troubled Indian kids. Youth from broken homes, youth with learning disabilities, and youth with discipline and chemical dependency problems.

Regrettably, these schools have been operating for too many years as traditional boarding schools, even though it is clear to all that a more therapeutic, healing approach to the students' needs is required. Hearings of the Indian Affairs Committee here in Washington, DC, also have shown this in grim detail.

By contrast, the therapeutic model proposed in our amendment would provide a safe, alternative residential environment. In this secure setting, troubled youth could get special help while building a strong identity as Indian youth. The staff would no longer include only educators and dorm monitors but also health and social service professionals—including child psychologists and substance abuse counselors.

While our amendment establishes two demonstration schools which would receive priority in 1994–96, it would assist any off-reservation boarding schools in eventually making the transition to a therapeutic model. It initially targets one BIA-run and one tribally controlled grant school and provides the additional resources these schools need to implement the model. But the overall purpose of the amendment and the demonstration schools is to develop a model that could be replicated at the other five off-reservation boarding schools.

Mr. President, I would advise my colleagues that this amendment requires no new appropriations. It authorizes the Secretary to provide resources to meet this critical need in Indian country. The amendment also grants the Secretary the authority to limit the student enrollment at the demonstration projects to ensure that each institution accepts only as many students as it can effectively serve.

In closing, I want to commend Chairman INOUYE and Vice Chairman MCCAIN of the Indian Affairs Committee for their support of the amendment. I also thank Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS for accepting this amendment on behalf of the Labor and Human Resources Committee. I further express my indebtedness to Senators CONRAD, HATFIELD, and SIMON for their support of this amendment.

In addition, I appreciate the support of Assistant Secretary of Indian Affairs Ada Deer and her staff in developing this legislation. Finally, I appreciate the assistance of the professional staff—particularly Bob Arnold of the Indian Affairs Committee—in drafting this amendment.

I believe that acceptance of this amendment not only improves the bill but also meets a special need in Indian education. I urge my colleagues to retain this provision in the conference.

COMPROMISE IMMIGRANT EDUCATION AMENDMENT

Mr. GRAHAM. This is an amendment offered on behalf of Senator FEINSTEIN and myself.

Our amendment would assert the Federal responsibility for assisting States and local school districts with the cost of educating immigrant students and increase the authorization for the Emergency Immigrant Education Act [EIEA] program from $75 to $150 million.

I would also like to thank the chairman and ranking member for their assistance on this issue.

Immigrant education is yet another example of the failed Federal-State partnership. In the case of Plyler versus Doe, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status. Since that ruling more than a decade ago, however, the Federal Government has not provided adequate funds to reimburse States for these mandated services.

Individual States have no capacity, either under law or in resources, to control access of illegal entrants to our Nation. Unfortunately, when the Federal Government does not adequately address its responsibility for illegal immigration, State and local governments are left with the burden of that failure.

In April 1994, Florida Governor, Lawton Chiles and the Dade County School Board sued the Federal Government for the unreimbursed costs of serving the State's immigrants, primarily the 345,000 which are living there illegally. Education is the largest of those costs.

In 1993 alone, the Florida Department of Education and local school districts spent an estimated $517 million to provide education to legal and illegal immigrants. However, Florida received only $1.6 million in EIEA funding.

An estimated $180 million was spent to provide educational services to undocumented students alone.

The current EIEA authorization level of $75 million results in less than $100 per eligible student and would do little to assist either the students and the school districts involved. It costs Dade County alone an estimated $68.2 million per year to educate the district's 16,395 undocumented students.

I had originally intended to offer an amendment which would authorize the Secretary of Education to provide full reimbursement to States and local school districts for the costs of educating undocumented students. I ask that a copy of the original amendment be included for the RECORD.

However, there is currently no agreed-upon method for calculating either the number or the costs of undocumented aliens in the country. Each State uses its own methodology, and the figures are often in dispute.

That is why the Office of Management and Budget hired the Urban Institute to determine a standard methodology for calculating the costs of illegal immigration. That report is due within the next few weeks, and I intend to revisit this issue after we have a more accurate estimate of the costs of illegal immigration.

This is not simply an "immigration State" issue. Although the majority of illegal immigrants reside in just seven States, every State is providing education services to some number of immigrant students.

The Federal Government has complete constitutional responsibility for both the protection of our national borders and the immigration laws. When there is an egregious failure of the Federal Government to carry out those responsibilities, then the community in which that failure is projected should not have to pay the cost.

I thank the chairman, and urge my colleagues to support this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

At the end of the bill, insert the following new title:

TITLE VI—UNDOCUMENTED STUDENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Undocumented Student Federal Responsibility Act of 1994".

SEC. 602. FINDINGS.

The Congress finds that—

(1) the education of our Nation's children and youth is one of the most sacred of government responsibilities;

(2) local educational agencies have struggled to fund adequately education services in the face of prolonged economic stagnation and increased public safety needs;

(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility to educate all children, regardless of immigration status;

(4) since the Plyler v. Doe ruling more than a decade ago, the Federal Government has not provided adequate funds to reimburse States for such mandated services;

(5) such services represent short-term costs to the affected communities;

(6) to fund education, local school districts often rely primarily on local property taxes, and immigrants are likely to contribute less for local property taxes than for Federal taxes, such as social security taxes;

(7) immigration policy is solely a responsibility of the Federal Government; and

(8) there is a Federal responsibility for reimbursing States and local school districts for costs associated with educating undocumented students.

SEC. 603. PURPOSE.

It is the purpose of this title to authorize the Federal Government to reimburse State educational agencies and local educational agencies for providing education services to undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of such agencies.

SEC. 604. DEFINITIONS.

As used in this Act:

(1) AVERAGE PER-PUPIL EXPENDITURE.—The term "average per-pupil expenditure" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(3) SECRETARY.—The term "Secretary" means the Secretary of Education.

(4) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965.

(5) UNDOCUMENTED ALIEN.—The term "undocumented alien" means an individual who is present in the United States in violation of the immigration laws.

(6) UNDOCUMENTED STUDENT.—The term "undocumented student" means an individual who—

(A) is an undocumented alien; and

(B) is attending a public elementary or secondary school.

SEC. 605. STATE ALLOCATIONS.

(a) ALLOCATION.—Except as provided in subsection (f) the Secretary shall allocate to each State educational agency for each fiscal year an amount equal to the product of—

(1) the estimated number of undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within that State determined in accordance with subsection (c); and

(2) the net average per-pupil expenditure in the State for such students determined in accordance with subsection (d).

(b) USE OF ALLOCATION.—Each State educational agency receiving an allocation under paragraph (1) only shall use such allocation to reimburse such State educational agency and local educational agencies in the State for the estimated cost of educating undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each such agency within that State in amounts based on—

(1) the respective contributions of each such agency toward the education of such students; and

(2) determinations in accordance with the methodologies described in subsections (c) and (d).

(c) DETERMINATIONS OF NUMBER OF UNDOCUMENTED STUDENTS.—

(1) IN GENERAL.—The Secretary shall issue regulations which prescribe the methodology by which a State educational agency will estimate the number of undocumented students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within such State.

(2) CONSIDERATION.—In prescribing the methodology, the Secretary shall consider—

(A) estimates from the Immigration and Naturalization Service regarding the undocumented alien population;

(B) the percentage of undocumented students who are of school age;

(C) public school enrollment rates among undocumented aliens of school age;

(D) in consultation with the Director of the Bureau of the Census, the geographic distribution of foreign-born students among school districts; and

(E) such other factors as the Secretary deems appropriate to provide for equitable distribution of assistance under this title.

(3) PROHIBITION AGAINST SPECIFIC COUNTS.—For the purposes of this Act, State educational agencies and local educational agencies shall be prohibited from gathering immigration status information from student populations in order to determine the number of undocumented students in States or local school districts.

(d) DETERMINATIONS OF NET AVERAGE PER-PUPIL EXPENDITURE.—

(1) IN GENERAL.—The Secretary shall issue regulations which prescribe the methodology by which a State educational agency will calculate the net average per-pupil expenditure for students who are enrolled in public elementary and secondary schools under the jurisdiction of each local educational agency within such State.

(2) CONSIDERATION.—In prescribing such methodology, the Secretary shall consider—

(A) the Federal contributions to the State average per-pupil expenditure; and

(B) such other factors as the Secretary deems appropriate.

(e) DATA SOURCES.—All calculations under this section shall be based on official statistics of the Federal Government, such as those reported or estimated by the Bureau of the Census, the Immigration and Naturalization Service, and the National Center for Education Statistics.

(f) RATABLE REDUCTIONS.—

(1) INSUFFICIENT APPROPRIATIONS.—If the sums appropriated for any fiscal year prior to fiscal year 1999 are not sufficient to pay in full the total amount of all State educational agency's allocations under this section, such allocations shall be ratably reduced.

(2) ADDITIONAL APPROPRIATIONS.—If additional funds become available for making payments under this section for any fiscal year after allocations have been made under paragraph (2) for such year, the amounts reduced under such paragraph shall be increased on the same basis as such amounts were reduced.

SEC. 606. STATE APPLICATIONS.

(a) SUBMISSION.—No State educational agency shall receive an allocation under this title for any fiscal year unless such agency, in consultation with the Governor, submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide an estimate of the State's and LEA's proportion of the average per-pupil expenditure in the State;

(2) contain an estimate of the average per-pupil expenditure for all local educational agencies in the State;

(3) provide assurances that such allocation will be distributed among local educational agencies within that State on the basis of

the number of undocumented students determined in accordance with the methodology described in section 605(b); and

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any local educational agency application under section 607 for funds received under this title without first affording the local educational agency submitting such application reasonable notice and opportunity for a hearing.

(b) APPLICATION REVIEW.—

(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section.

(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, except that the Secretary shall not finally disapprove an application under this section unless such agency has been provided reasonable notice, technical assistance, and an opportunity for a hearing.

SEC. 607. LOCAL APPLICATIONS

Each local educational agency desiring assistance from a State educational agency under section 605(b) shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require.

SEC. 608. STATE ADMINISTRATIVE COSTS.

The Secretary is authorized to pay to each State educational agency for a fiscal year an amount equal to the amount expended by such agency for the proper and efficient administration of such agency's functions under this title for such year, except that the total of such payment for any fiscal year shall not exceed 1.5 percent of the allocation to such agency for such year.

SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999 to carry out this title.

IMMIGRANT EDUCATION AMENDMENT TO S. 1513

Mrs. FEINSTEIN. Mr. President, as you know, California has a large number of undocumented immigrants, both adults and children, who pose a financial burden on the State because of the mandated services provided to them. The education of illegal immigrant children is costing California some $1.4 billion dollars this year.

The amendment to the Emergency Immigrant Education Aid program, that I am pleased to cosponsor with Senator GRAHAM, asserts the Federal Government's financial responsibility to assist States with the costs associated with educating illegal immigrant children, and raises the authorization level of this immigrant education assistance program in order to meet this responsibility.

The Emergency Immigrant Education Assistance program was enacted in 1984 to address the 1982 Supreme Court decision, Plyler versus Doe, that stated that illegal immigrant children are entitled to an education. The Emergency Immigrant Education Aid program address the financial impact of educating newly arrived immigrants, both legal and illegal.

When the immigrant education program was first enacted, lawmakers intended to provide $500 per eligible pupil. However, this goal has never been met. In fact, when the program was first funded in 1984, $30 million was appropriated for 350,000 eligible students, amounting to $86 per student. This year, the appropriation was raised to $39 million, but now over 800,000 students are eligible for this program. This amounts to less than $50 per student, about the cost of one textbook.

The Senate appropriations committee mark increases funding for this program to $50 million for fiscal year 1995—for which I would like to thank Chairman HARKIN and Chairman BYRD—but $50 million still only means $61 per student. This is a mere drop in the bucket when it costs approximately $5,000 annually to educate a child.

For the past year, I have been working to address the problem of illegal immigration. First and foremost, I have consistently asserted the need to prevent illegal immigration by improving the enforcement of our borders. The immigration bill, which I introduced on June 15, addresses the need to improve the border patrol through increased personnel and vastly improved infrastructure and equipment. It stiffens penalties for producing or using false work documents or for knowingly hiring undocumented workers.

The fact is, there are illegal immigrants in this country, and until our border is fully enforced, and until there is immigration reform, illegal immigration will continue to be a problem for States and localities that bear the financial burden of providing federally mandated services to undocumented aliens.

Those States who have a large number of illegal immigrant children have fulfilled the responsibility of providing them with an education, but at a cost. A recent Urban Institute report stated:

> The single largest components of immigrant-related public sector costs is the cost of providing public primary and secondary education, which is approximately $11 billion annually for immigrants.

Using Department of Education data and the Urban Institute's methodology for calculating the number of illegal immigrant children attending school, the estimated total cost of educating illegal immigrant children is $3 billion nationally. For California, the estimated cost of educating illegal immigrant children this year is $1.4 billion, and according to Governor Wilson's estimates, could rise to as much as $1.7 billion in the next year.

During a recent visit to a California school, teachers told me that funding was so low and that class sizes were much too large that they were not able to properly serve their students. The rising number of undocumented students is stretching already scarce resources.

California, of course, is not alone in dealing with this problem. Let me share with you the estimated costs to a few other States. New York educates 89,000 illegal immigrant children at a cost of $466 million. Texas educates some 76,000 illegal immigrant children at a cost of $395 million and Florida educates some 69,000 illegal immigrant children at a cost of $358 million.

It is not the States' responsibility to control our borders. That is the responsibility of the Federal Government. And yet, the States must pay the costs associated with providing an education to illegal immigrant children.

Just over a week ago, the Senate faced its financial responsibility for failed Federal immigration policy by voting to assist States with the cost of incarcerating criminal illegal aliens. Today, the Senate again has the opportunity to act on the financial responsibility of providing services to illegal immigrants, by amending the existing immigrant education assistance program.

Finally, I would like to thank Chairman KENNEDY and the distinguished chairman of the Appropriation Committee, Senator BYRD, for supporting the need to address the costs of educating immigrant children. This amendment is the first step toward reimbursing States and local school districts for the costs of providing education to illegal immigrants. The second step, of course, will be to obtain the necessary funding.

Mr. President, I ask that supporting material be printed in the RECORD.

There being no objections, the material was ordered to be printed in the RECORD as follows:

ESTIMATED COSTS OF EDUCATING ILLEGAL IMMIGRANT CHILDREN

NATIONAL ESTIMATES

The total number of illegal immigrant student is approximately 690,000

The total cost of their education is approximately $3.6 billion.

The total cost to states and localities is approximately $3.4 billion.

CALIFORNIA ESTIMATES

The total number of illegal immigrant students is approximately 297,000

The total cost of their education is approximately $1.5 billion.

The total cost to state and localities is approximately $1.4 billion.

TABLES PROVIDED

Cost estimates for 7 states using April 1994 INS data.

Cost estimates for 20 states using October 1992 INS data.

METHODOLOGY

Use INS data, Department of Education per pupil expenditure, and Urban Institute methodology for calculations (background material provided).

ESTIMATED STATE AND LOCAL COSTS OF EDUCATING UNDOCUMENTED ALIENS

[Using October 1992 INS estimates]

State	Number of undocumented aliens	Number of undocumented students	Total cost of education	State and local contribution
United States	3,379,000	614,359	$3,189,750,003	$2,998,365,003
California	1,440,700	261,943	1,360,009,716	1,278,409,133
New York	449,300	81,690	424,135,743	398,687,599
Texas	357,000	64,909	337,005,253	316,784,938
Florida	322,000	58,545	303,965,523	285,727,591
Illinois	176,400	32,072	166,520,243	156,529,028
New Jersey	115,700	21,036	109,219,910	102,666,715
Arizona	57,000	10,364	53,807,561	50,579,108
Massachusetts	44,900	8,164	42,385,255	39,842,139
Virginia	35,400	6,436	33,417,328	31,412,288
Washington	30,400	5,527	28,697,366	26,975,524
Georgia	28,100	5,109	26,526,184	24,934,613
Maryland	27,400	4,982	25,865,389	24,313,466
Colorado	21,500	3,909	20,295,835	19,078,085
Oregon	20,400	3,709	19,257,443	18,101,996
New Mexico	18,700	3,400	17,652,656	16,593,497
Pennsylvania	17,800	3,236	16,803,063	15,794,879
Nevada	17,700	3,218	16,708,664	15,706,144
North Carolina	16,800	3,055	15,859,071	14,907,527
Connecticut	15,300	2,782	14,443,082	13,576,497
District of Columbia	14,100	2,564	13,310,292	12,511,674

Methodology: Using October 1992 INS data and Urban Institute methodology, the above table outlines the estimated costs that states and localities must incur for providing K–12 education to undocumented aliens.

The number of undocumented students is calculated by multiplying the INS estimated number of undocumented aliens by the percentage of that population who are of school age (21.65%—Urban Institute). This number is then multiplied by the percentage of the school age undocumented alien population who are attending school (83.98%—Urban Institute).

The costs are calculated by using the nationwide average annual per pupil expenditure of $5,192 (National Center for Educational Statistics, 1992–93 data, not yet released). The state and local contribution is calculated by subtracting the nationwide average federal contribution to the per-pupil expenditure (6%—Congressional Research Service).

ESTIMATED STATE AND LOCAL COSTS OF EDUCATING UNDOCUMENTED ALIENS

[Using April 1992 INS estimates]

State	Number of undocumented aliens	Number of undocumented students	Total cost of education	State and local contribution
United States	3,800,000	690,903	$3,587,170,764	$3,371,940,518
California	1,634,000	297,088	1,542,483,429	1,449,934,423
New York	494,000	89,817	466,332,199	438,352,267
Texas	418,000	75,999	394,588,784	370,913,457
Florida	380,000	69,090	358,717,076	337,194,052
Illinois	190,000	34,545	179,358,538	168,597,026
New Jersey	114,000	20,727	107,615,123	101,158,216
Arizona	64,600	11,745	60,981,903	57,322,989

Methodology: Using April 1994 INS data and Urban Institute methodology, the above table outlines the estimated costs that states and localities must incur for providing K–12 education to undocumented aliens.

The number of undocumented students is calculated by multiplying the INS estimated number of undocumented aliens by the percentage of that population who are of school age (21.65%—Urban Institute). This number is then multiplied by the percentage of the school age undocumented alien population who are attending school (83.98%—Urban Institute).

The costs are calculated by using the nationwide average annual per pupil expenditure of $5,192 (National Center for Educational Statistics, 1992–93 data, not yet released). The state and local contribution is calculated by subtracting the nationwide average federal contribution to the per-pupil expenditure (6%—Congressional Research Service).

Mrs. KASSEBAUM. I thank the Senator from Massachusetts and the Senator from Vermont for their floor leadership on this bill. I would also like to thank all the staff members that worked on this bill. They worked very hard to draft a bipartisan bill in record time—about 1½ months. It then received an almost unanimous vote in committee and I hope that we can duplicate such a vote here today on final passage of S. 1513.

I would particularly like to thank some of the staff: Lisa Ross, Wendy Cramer, and David Goldfarb of my own staff;

Pam Devitt and Katie Henry with Senator JEFFORDS;

Ellen Guiney, Matt Alexander, Stephanie Goodman, and Clayton Spencer with Senator KENNEDY;

David Evans, Margaret Smith, Michael Dannenberg, and Barbara Bennison with Senator PELL; and,

All the other committee staff that participated in drafting this bill.

As we pass this bill and move on to conference, I hope that we can continue to work in a bipartisan manner to preserve the provisions of this bill that are the most essential to ensuring swift and final passage of the conference bill later this year.

Mr. JEFFORDS. Mr. President, I should be following the senior Senator from Rhode Island for whom I have the utmost praise and admiration. He worked for so many years with my predecessor, Senator Stafford. Their bipartisanship, to which Senator KENNEDY referred, began and hopefully is continuing. He is a role model for all of us, and has made a great difference in my life as well as that of Senator Stafford.

Mr. President, I also want to commend the staff and the Members that I have worked with. This has been an incredible time for me. It has been 2½ days we have been on this floor continuously. It has been a great amount of effort. As always, we have some of the most controversial and sensitive issues to deal with than we ever get in the Congress. And so we have had a difficult time with those. But I have to say that we had an "Olympic moment" when Senator HELMS and Senator KENNEDY agreed on one of the amendments in a sensitive area. We had also progressed in making concessions and agreements on many of these issues.

I also thank Senator KENNEDY for his incredible work and leadership in these areas of education, as well as the other ones I have dealt with. The Senator, on behalf of the people of Massachusetts, and I for Vermonters, have worked together with families, and I deeply appreciated his guidance.

Also, as has been spoken of, we oftentimes fail to give our staffs the full recognition they should have, and we have tremendous staffs. Without them, we could not go anywhere or do anything like we do. I want to say that Ellen Guiney, Matt Alexander, Clayton Spencer, and Stephanie Robinson on Senator KENNEDY'S staff have been very helpful to us. We have been able to get through the bill much quickly because of that. Lisa Ross, Wendy Cramer, and David Goldfarb of Senator KASSEBAUM's staff have been very helpful. Senator KASSEBAUM, my ranking member, has allowed me to have the responsibility of these bills and has offered her leadership. Her ability to get very difficult amendments through and approved is amazing and a pleasure to follow.

Senator PELL and his staff, who I have worked with for 6 years now—David Evans, Michael Dannenberg, Margaret Smith, and Barbara Bennison—were a tremendous help. I am amazed at my own staff and how well they are able to keep me informed. Pam Devitt, in particular, works constantly to be well ahead of where we need to be on these issues. Catherine Henry is a specialist on formulas, and formulas are incredibly difficult to deal with. Kelly Kivler and

Reg Jones of my staff have also worked very hard on this.

Madam President, I do not know if people are anxious to leave, and some are anxious to speak, but I have tried to retain my brevity in the custom of New England throughout this bill.

I would like to spend a few minutes to focus attention not just on the bill we passed but why it is important to handle education in this difficult time in our history.

We have come a long way in this reauthorization. We have thrown out many of the old notions of teaching—which often have had the effect of dumbing down curricula for disadvantaged students—and embraced new concepts, such as demanding high standards for all students, regardless of their backgrounds. S. 1513 incorporates new programs to encourage greater teacher training and the purchase of new technology, funds for infrastructure repair, and renovation and programs to address migrant and bilingual children. It sets out a framework for the future of our education system which will direct the future of our next generations.

Passage of S. 1513 comes on the heels of the Goals 2000 bill which outlines the national education goals for this country to reach by the year 2000. Those goals outline what we as a country expect of our present and future generations and what they can demand in return. The goals underline how essential education is to the well-being of every child in this Nation. Those goals—which have been embraced by educators, parents and policymakers—detail basic expectations of our country. They state that by the end of the decade:

All children will start school ready to learn. That sounds easy, but if you realize that 70 percent of the eligible children for Head Start go unserved, and that less than half of all of the 3- to 5-year-olds from families with incomes less than $30,000 are enrolled in a preschool, you see how far we have to go on that very important goal, as I will talk about later.

The high school graduation rate will increase to at least 90 percent. In 1992, 86 percent of black and 59 percent of Hispanic youth had received a diploma by age 24, as compared to 92 percent of white youth. That may not seem too bad until you compare it with goal three.

Goal three is that an American student will leave grades 4, 8, and 12, having demonstrated competency in challenging subject matter. But right now, fewer than one-in-four fourth and eighth grade students are able to meet those standards of performance in math or reading on the National Assessment of Education progress. In addition to that, 50 percent of these young people that graduate from our high schools now are essentially functionally illiterate. If you say you have a 90 percent graduation rate, but 50 percent of those are functionally illiterate, it is hardly something to be proud of.

U.S. students will be first in the world in science and mathematics. In a 1991 comparison, U.S. students were outperformed by students in seven other industrialized nations in international math and science assessments. Even worse, in 1993, a study was done of 12-year-olds across the world in 13 countries. We came out 12th in science and 13th in math. We have a long way to go.

Every adult will be literate and will possess the knowledge and skills necessary to compete in a global economy. The census indicates that 20 to 30 million adults in this country cannot read, write, or calculate. In other words, they are totally illiterate. Another 45 million cannot effectively handle an entry-level job. That is, 75 million Americans are either functionally illiterate or totally illiterate. We have a long, long way to go.

Every school will be free of drugs and violence. Approximately 3 million thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

The Nation's teaching force will have access to programs for the continued improvement of their profession.

The last goal is that every school will promote partnerships that will increase their parental involvement and participation.

These are elemental provisions of a sound education. I think all of us would certainly expect and believe that our children are, and should be, taught these things. Sadly, for the majority of our young people, this is not the case.

The 1993 National Education Goals Report described our progress in improving our educational achievement as wholly inadequate.

Elementary and secondary students still do poorly in math and reading when compared to the National Education Goals standards. There has been little improvement in the high school graduation rate of 19- and 20-year-olds over the past decade. Nearly one-half of all infants born in the United States begin life with one or more risk factors to their long-term educational development.

These problems and concerns affect not only the present needs of our young people, but also the future economic competitiveness of this Nation.

Hedrick Smith in a recent commentary said:

> One stunning act about America's efforts to compete in the global economy is that U.S. businesses spend $200 billion a year on remedial education for young people hired out of high school.

That is the estimate of the Business Roundtable, and on top of that, another $225 billion that business economists estimate it costs American business in lost productivity caused by less than adequate training and education of American workers.

We have a serious challenge on our hands, and it is time for America to wake up to the challenge because the cost of not doing anything will be far greater than the cost of implementing these programs.

Let me give you a quick sketch of what I mean. Health and Human Services, Housing and Urban Affairs, Department of Education, and the Department of Labor, spent over $208 billion while the States spent another $82 billion on means-tested entitlement programs—collectively referred to as welfare programs. The programs consist of medical benefits, cash aid, food benefits, housing benefits, education benefits, job training, and other benefits.

However, according to the Department of Education, improved education of these needy individuals would have a significant effect on reducing the need for these programs.

In the book, "Winning the Brain Race," a study of low-income disadvantaged children in Michigan indicated that early intervention with the Head Start Program could have a major impact on improving the prospects of these children. Compared to a control group, children who were given comprehensive preschool support were twice as likely to hold a job, be in college, or in a vocational program after high school. Their high school graduation rate was one-third higher, their pregnancy rate was 50 percent lower, and their arrest rate was 40 percent lower.

We need to help these individuals all through the education process. Right now, approximately 20 percent of our students drop out of high school.

Of those that have dropped out of high school, less than half are employed. A total of 52 percent of high school dropouts are unemployed or receiving welfare assistance. A recent study put the cost of providing benefits to this group of recipients at $75 billion per year.

The Institute for Health Policy at Brandeis University in its 1993 report entitled "Substance Abuse: the Nation's Number One Health Problem," estimated the cost of illegal drug activity at $238 billion per year. This represents the cost of lost productivity, premature death, inability to perform usual activities, cost of criminal justice system, destruction of property, and other causes.

Another sad example of the failure of our ability to nurture our young people is the fact that over 65,000 children are in correctional facilities around the country. It costs about $300,000 per year, one-third more than an adult, to pay for detention of a child.

An estimated 15 percent of the population is not covered by health insurance. These individuals are primarily working poor and would be helped by increased educational opportunities.

With improved educational attainment, one can assume that there will be two positive effects on the costs of health care. First, a better educated populace that is earning higher wages can be expected to have a healthier existence. This would result from better wellness habits and from improved living conditions. The second effect would come from the fact that many of these individuals would move from minimum wage jobs with no benefits to jobs with health coverage. We could expect our improved education system to make a significant reduction in the pool of uninsured individuals.

Mr. President, imagine what a different problem health care reform would be, if we found a way to cover the 37 million Americans who do not have health insurance.

Education is the way. By investing in the education of the at-risk population, we can give these people the skills to get the kinds of jobs that will provide health coverage.

Approximately $400 billion of Federal spending is for programs—welfare, unemployment, crime, health care, housing, and training—that were created to assist low-income individuals. These programs would be highly sensitive to increased literacy and higher educational attainment. If we could reach the goals set out in Goals 2000, we could expect major savings in these programs. If one assumes that savings amount to 30 percent, that would translate to a reduction in annual Federal spending of $120 billion.

The largest impact clearly comes in the form of increased economic activity and the resultant growth in corporate and personal income. With full attainment of Goals 2000, I think we could expect to see increased economic activity of at least $250 billion.

It is for these reasons and the fate of our future generation that passage of this bill is so critical. I urge my colleagues to join me as they did in supporting it.

Mr. President, I thank you for listening and I thank my colleagues for listening, and I yield the floor.

FUNDING FOR EDUCATION AT MIGRANT STOPOVER CENTERS

Mr. PRYOR. Mr. President, I rise today to thank the Senator from Massachusetts for including a provision in the manager's amendment to the Elementary and Secondary Education Act which will aid the education component of migrant stopover centers.

I am pleased that the committee recognizes the special function these centers perform for the migrant community. Stopover centers provide basic services to migrant families that are only going to be in the area a short time. The migrants are not there to work; they are just traveling through on their way to another State.

This provision directs the Department of Education to develop a budgetary formula to ensure reliable funding for educational services provided at stopover centers. It recognizes that stopover centers do not provide the same type of services as an ordinary classroom. Typically, the children being served at stopover centers are only at these sites a few days.

Currently, there is no provision to fund educational services provided at stopover centers. In fact, the term stopover center is not even mentioned. This provision will address the unique nature of educational services at stopover centers. It provides for the educational needs of migratory children as they travel through an area.

Migrant families traveling through my home State of Arkansas can go to a stopover site in the city of Hope for a few days to rest and refuel. Hope, AR, is about 1 day's travel between south Texas and northern States where these families look for work harvesting crops. Often, these children are out of school for weeks at a time as they move with their families to a new State. It takes time to get settled in a new home and registered in a new school. There are similar stopover centers in Ohio and Illinois.

At the site in Arkansas there is a coordinated effort to provide services to migrant families. There is a health clinic, temporary housing, and laundry services. Emergency assistance is given if the family needs food, or their car repaired so they can find work. There are also educational and recreational services available to migratory children at the site.

Mr. President, over 10,000 students each year are served by the educational service center in Hope. Since 1978, the center has been in operation providing books and educational materials to eligible students. It also provides school supplies so when a child gets to a new school, he or she has the materials needed—scissors and crayons for younger students, pens and notebooks for the older students. You can't imagine how much it means to these kids when they get a new school—they don't know anybody—that they have the supplies the other students do.

In addition, the Hope center provides tutoring services so the students don't fall further behind in school. They are given career counseling and information on both education programs and other migrant services throughout the country. Mr. President, I can not emphasize how beneficial the education service center is for these children. It encourages them to continue with their education and register for school in their new location. This is important, so let me repeat it, it encourages them to finish school. Migrant farming is a hard life, and these kids will have few opportunities without an education.

In my view, the recreation provided for these children at the Hope center is also important. Kids cannot learn, or just be kids, when they have been cooped up in a car or truck all day. The supervised recreation available at the center gives them a productive outlet for their energy, something both the host community and the parents of migratory children want.

The center also records the students in the Migrant Student Record Transfer System and provides advance notification to the States where these families are headed. With advance notification, the school systems in other States know that the students are coming and can prepare to register them in classes. In some States the students can even preregister, so they can start school as soon as they arrive. This is one of the unique benefits of stopover centers.

Mr. President, I would like to place in the RECORD a letter to The Honorable JOSE SERRANO, chairman of the Congressional Hispanic Caucus, from a young woman in Hope, AR, who wanted to express her support for the migrant center. Jessica Covas grew up in a family of migrant workers and dropped out of school when she was 16 years old. The staff at the Hope center encouraged her to finish high school. She is living proof of the valuable services these stopover centers provide. I am happy to report that Jessica now has a nursing degree and is working with other migrant families at the stopover site.

At this point Mr. President, I want to specifically applaud the men and women who staff and support the Hope stop-over center.

The educational services provided to migrant children at stopover centers is invaluable. This provision will, for the first time, recognize that fact and develop a method to fund these services. It charges the Department of Education with working out a funding formula that is fair and equitable. I am proud to say that this provision has the support of the president of the National Association of State Directors of Migrant Education, and I thank my colleagues on the committee for working with me to include it in the manager's amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. JOSÉ E. SERRANO,
Congressional Hispanic Caucus,
Washington, DC.

DEAR CHAIRMAN SERRANO: My name is Jessica Covas, maiden last name is Capetillo. My present job title is Case Manager at The Hope Migrant Center in Hope, Arkansas. I am very thankful to the Lord above for this job. Not a day goes by that I don't say "Thank you Lord. Thank you for giving me the strength, the power, and this wonderful opportunity."

I think back to my migrant days when my parents, my brothers, and sisters and I used to get up early in the morning and go to bed late at night to earn a living out in the fields. I am the youngest, the baby, in a family of six. I was very excited at first, going out in the fields with my family. I remember thinking, this is fun, I am outside with my siblings, having a good time. When I got old enough to really work, and not being able to take a break every time I got tired or bored, it was no longer as fun. It wasn't "fun" at all. I knew then why my brothers, sisters, and parents would be so tired at night when they got home. Why they didn't feel like playing with me or reading to me, or why they would complain of aching all over. Boy, did I ever know why!

Years went by, traveling from state to state seeking for work. I remember my father asking other "companeros," partners, "Do you know where we can find some work?" It was very difficult for all of us. It wasn't so much the finding work part, but the school part. I do not ever remember starting school and finishing a school year in one school, or should I say, in one state. It was very hard for all my brothers and sisters, but especially for me. It was hard for me to make friends. I guess it was because I was shy, not to mention, because I was different. I was "Mexican." As time went by in the new schools, the other students would realize, (I guess) that I was only human. I was just like them. I tried getting into sports and different school activities, just to be liked and like anyone else, anything but different. But that was another difficult task, because most of the school activities and sports were held after school, and I had to hurry home after school in order to go out in the fields and help my family. It seemed that when I finally would make friends and feel comfortable in a school, it was time for us to pick up and move. There was no more work for us there. Leaving friends behind was one thing, or should I say nothing. Trying to catch up with schoolwork, keep up with schoolwork, and find out what the heck they were talking about, was the problem, the major problem, the reason why I finally dropped out of school just as soon as I turned sixteen. When we would move to a different setting, a different state, we'd wait 'til we got settled down before my parents would go and register us in school. Weeks would go by sometimes. As a child, I enjoyed that "vacation" time, but as I got older, I was getting more and more behind with my studies. Every school was different, so I would barely pass my classes. There were times when I thought the teachers passed me just because they felt sorry for me, they would see how hard I had to struggle. Until one day I decided to stop struggling. "Who needs school anyway" I would tell myself. "Working in the fields is the way to make a living anyway." Needless to say, my two oldest sisters and oldest brother had already dropped out of school. When I told my parents that I wanted to drop out of school, they just said, "O.K., you know what that means." Yes, I knew exactly what that meant.

Close to a year went by, and I was still working out in the fields. I tried seeking for work elsewhere, but no one wanted to hire me. I tried groceries stores, but they didn't want a drop out. During the summer they would hire students to sack groceries, but not me. I did not have a high school diploma. So I continued to work out in the fields, I would see them studying, clean and comfortable, and there I was tired, sweaty, and dirty. I envied them, I missed studying and I missed school. Not only that, but I had realized that I did not want to work out in the fields the rest of my life. I wanted a different life for myself, I wanted to be able to get a job where I can work indoors, with decent hours. So I enrolled back in school. It was not easy because I was almost a whole year of studying backed up. But with some hard work, dedication, will power, summer school and help from above, I caught up and graduated from high school.

Throughout our traveling from state to state seeking for work, we would hear other migrant families talk about how they would stop in Hope, Arkansas at the Migrant Center to rest and shower and about all the services they offered there. How they would give books to school age children, toiletries and assistance with food or gas as needed, or as able. But we never did stop here because we were always in a hurry to get where we were going, and because my father would say that it was too out of the way. I remember thinking how a good shower and even a good book would be wonderful since we were on the road two to three days at a time, straight. When my father got tired of driving we would stop at a rest area so that my father would get him enough sleep to continue our journey. While my father slept, my brothers and sisters and I would stay awake to make sure that nothing happened to us while we were there. Until one year, it was the summer of '87, that we finally did stop at the Migrant Center. We were on our way up north to work, we didn't really know where we were going, just somewhere where there was work for us. The lady who registered us at the Migrant Center was very nice. She talked to all of us as if she had known us for years, not as the strangers that we really were. After registering there, we showered and got cleaned up. Then my little niece, who lived with us, and I went across the street to register at the Migrant Education Dept. I was going to be a senior that year, and my niece had passed to the third grade. The people there were extremely nice also. We received books and other school items. My niece and I looked at one another, with that excited look on our faces, as if we had received a new toy. After registering there, my mother accompanied us and we went to the Migrant Mission Center, where we there received other goodies and toiletries. I could not believe all their courteousness and kindness.

After resting a while in the trailers with bunk beds provided at the Migrant Center, my parents had talked to the lady who registered us there. My parents asked her if she knew of anyone who was needing some help, some workers. And it just so happened that there was someone who was needing a helping hand here in Hope, Arkansas. My father looked in to it and thought it was a wonderful opportunity. It was then that we settled down here and I am proud to say, that we are still living here.

That school year, I enrolled at the high school. A new school, my senior year. "What a bummer," I thought to myself. Your senior year is supposed to be the best year of your entire life, and here I was at a new school and knew absolutely no one! But I am glad to say that it did not take me long to make friends there and feel comfortable. Even though it was a whole different atmosphere and the people here seemed somewhat different, but I was used to that. The very next year, I graduated from high school! I was so very proud! My family was very proud of me also. I was the only girl in our family that had graduated from high school. Three out of six of my brothers and sisters had graduated. Though one of my sisters and my oldest brother had gone back to school and received their GED. We were all very proud of them too.

During my senior year, I had met someone very special, who shortly after graduation, we exchanged vows. We were both very happy. But we had realized that we both needed to work in order to make a decent living. Yet even after having my diploma, it was still difficult finding a job. My husband was working at a body shop and I finally got a job. I took a job at The Migrant Center cleaning the trailers after occupancy. Even though it was not a job that I had hoped to get after graduating from high school, but it was a job. Not only that, but I was very tickled to have gotten a job where I was working and relating with migrants. People I'd take my hat off to, people I respected and looked up to. I knew that after getting married I would no longer work in the fields. It was something that I had talked to my husband about and he respected my wishes and desires. My migrant days and working out in the fields were over. I wanted a better life for myself, and I set that goal out for myself, with my husbands help. Yet, that part of my life will always be a part of me! The work was not easy, especially during the busy season, but being able to talk to the migrants and sharing different stories was all worth it. There were even times when I would see people I knew from The Valley, people from my home town, Edinburg, and people I know from going up north. It was a great job, but I realized that I still wanted a better life for myself. I decided to go back to school and make something out of myself. My husband was very supportive of my wishes. I wanted to go back to school and become a NURSE! Something I had always dreamed about.

Just like everything else, it was not a very easy task. Going to college was going to take money, something we did not have. I went and talked to the recruiters at the Migrant Education Dept. and they told me about the different grants and loans that were available. I received all the information needed and some applications that were available. That was not too bad, I thought. I filled out the applications and sent them off. Then I had to look for a college that I wanted to attend that offered nursing classes. Luckily enough there was one here in Hope. I went to The Red River Vocational School and talked to counselors there. There was a nursing class available, but I was not the only one that was wanting to become a nurse. I was told that there was a long list of students but that a class could only hold so many. So I was told to fill out some papers and that I has to take some tests to see if I qualified to take the nursing program. And that if I did pass the instructors. "WOW" I thought to myself, all that? Where do I start, I asked.

After all was said and done, there was a waiting period, where all I could do was wait. My friends at the Migrant Center and Migrant Ed. Center and my family kept telling me not to give up hope, when they could see that I was. And sure enough, that day had was accepted into their nursing program. Then shortly after I had grant and that most of my tuition would be paid. I was so happy! "Thank You Lord!"

Shortly into the nursing program, I realized that getting there was the easy part, getting through the program was going to be the challenge. But with some very hard work and my families encouragement, I made it through the year. During my hard times and studying, I think what really kept me going was the thought of having had worked out in the fields. How very hard that was and how someday when we had a family of our own, how I did not want to put them through all the suffering that I had gone through. I graduated in May of 1989 with my LPN license. I think I was the proudest one there on that stage.

Shortly after graduation I started working at Medical Park Hospital in Hope. I worked there for approximately 4 years. During that time I did a lot of interpreting for migrants and Hispanic families. They would be so thankful to me for helping them. And I would just tell them "El placer fue mio," it was my pleasure and it was!!

A job opportunity came up this year, 1994, where a case manager was needed for the Migrant Health Center. It was like a prayer answered from up above. After reading the qualifications required, I realized that I did not quite meet them, but I was willing to give it a try. I wanted to be able to work with migrant families and help them in every which way I could. Even though my migrants years were not very pleasant ones, they are still a part of my life that I am now thankful that I experienced. After my interview with my now director, I had a fairly good feeling about the job. And sure enough, I received a call from here soon after that telling me that I had gotten the job. I was so very grateful I was now going to have the opportunity to do something that could not give me more satisfaction. I was going to be able to help the migrants, like being a migrant helped me to get where I am now, I had an indoor job, with decent hours.

Since I started working here, March of this year, I have seen how the Migrant Center and the Migrant Education Center has helped many other families and not just mine. Not a day goes by that I don't hear a migrant say "Thank you all very much." I have talked to some parents and they tell me how grateful they are of all the programs and services that are offered here. How much the kids enjoy the books and other school supplies and how that keeps them entertained during their long journeys. They tell me how much they appreciate the fact that they do register the school age children here and how that helps them get registered where they are going. I think back to the times when we were migrating from state to state, and how it may not have taken as long to register at our destination and how maybe not so much time would have gone by in between and we would not have gotten so far behind in school like I did. If we would have only stopped here sooner, before we did, things may have been different, not as difficult for us, for ME!

Coming from a migrant family and knowing what all these families are going through, I am very honored and grateful to be part of the Migrant Health Center to where I can help them in their time of need. I am very proud to be a part of the team that helps the migrant families. Seeing the children's grateful faces and cheerful smiles, and seeing how grateful the parents are is enough to tell me that I am doing my job, that we are all doing our jobs out here. A smile is worth a thousand words, even a thousand dollars.

During the time that I have worked out here, I have heard people talk about how the Migrant Education Department is in danger of losing their funding. That concerns me because I know how helpful the services that are offered here help every single migrant family that passes through here. The books that are offered, the PFP program that is offered for the preschool children to help them get prepared for school, student counseling, continuing education that also provides information for those who have dropped out of school that would like to get their GED, and lots of other information and brochures on difficult topics. Some of the families that come through here tell me that when they first arrive at the Migrant Center that all the children and sometimes even the parents want to cross the street first, over to the Migrant Education Center, before they even take a shower to get registered for school and receive more books. I had one mother tell me that her children keep and take care of every single book that they have received and that they have been passing through here for 6 years now. There is even a supervised recreation building where the children can play and entertain themselves while the parents rest. And the parents have told me that they really like that because they know that they can rest peacefully without having to worry if they are running around in the streets where they could hurt themselves. The Migrant Center without the Migrant Ed. Center would just not be the same. Every family has a different opinion on why they like the Migrant Ed. Center, but the majority of them say that yes, they do stop to rest and shower but one of the main reasons to go is the Education Center to register the kids for school. And I can sure see when they do!

I am also concerned about there being no more national registry of migrant students should MRSTS close. That was one of our main problems as migrants, enrolling in school where ever our destination may have been. With MRSTS the state, or even the location of each families destination, is notified that the particular family is heading their way. That way the children can be enrolled in school as soon as possible without losing valuable time. I think that is wonderful! Again, I wish we would have had these services when we were migrating, that is if we would have stopped here before we did.

I believe these issues should all be addressed and considered on behalf of all migrants and migrant students. There are so many things that we would all like to do to help mankind, I am just very glad that I am in the position to help those in need just like yourself. Let's all please unite to help the migrants and their needs.

Sincerely,

JESSICA COVAS.

Mr. PELL. Mr. President, as we achieve final passage of S. 1513, I believe it important that we step back and take a look at the comprehensive nature of this reauthorization bill. It is, without question, landmark legislation.

Building on the Goals 2000: Educate America Act, it stresses that all children in America should be taught to high academic and performance standards. In particular, it contains a new focus on helping those students most in need learn to the same high standards as all other students. It targets Federal funds in a more precise fashion than ever before, and sends money to those communities where poverty today robs children of the educational opportunities that ought to be provided.

But that is only the beginning. We have a new focus on professional development to ensure that our children are taught by highly qualified personnel. We have a new emphasis on making sure that the classroom is a safe place in which to learn, and that our children are safe not only from drugs and violence but also from the dangers of inferior facilities. We have a new priority on educational technology, and on making sure that our children have access to the latest, state of the art methods of instruction.

The legislation is also a blend of established, proven programs and new, innovative approaches to education of our children. We continue, for example, the Dropout Prevention Program that has been so successful, and we have new initiatives in areas such as arts education, which seeks to bring the rich benefits of the arts, humanities, and museums into the education of more of our children.

Mr. President, I want to acknowledge the leadership of President Clinton, Secretary Riley, and Assistant Secretary Payzant in formulating this legislation and submitting it for our consideration. I also want to thank the majority leader for his steadfastness in setting and keeping us on course. And I especially want to recognize Senator KENNEDY and Senator JEFFORDS for the magnificent job they have done in guiding this legislation through floor debate and consideration.

There are many other people who deserve a special word of thanks: the Education Subcommittee Senators and their staff members; Wayne Riddle and the Congressional Research Service; mark Sigurski and the Legislative Counsel staff; Russell Jackson and the Senate Service Department. From a personal point, I want to thank the members of my staff on the Education Subcommittee: David Evans, Barbara Bennison, Michael Dannenberg, Daniel Ritter, Jason Rothenberg, Margaret Smith, Rachel Reinhardt Kristin Olivera and our other interns. In particular, David Evans, Michael Dannenberg, and Margaret Smith spent many, many hours putting the legislation together and helping shepherd it through subcommittee, committee and the floor. We owe then a great debt of gratitude.

Mr. President, from the outset, this bill has enjoyed strong bipartisan support. Throughout the development and consideration of this bill, partisan interests have time and again given way to an overarching concern for the education of our children. To my mind, that is the way it should be, and I am sure the bill is better and stronger because we have worked together.

Mr. DURENBERGER. Mr. President, I rise to support final passage of S. 1513, as amended.

This bill represents the last major piece of education legislation we will consider in a Congress that has already completed a great deal of work, including the Head Start reauthorization, Direct Lending, National and Community

Service, Goals 2000, and the School to Work Opportunities Act.

I am proud to have been deeply involved in all these major initiatives, Mr. President. And, I'm pleased to support the ESEA reauthorization now before us.

I also want to take a moment to thank the Chairs and ranking members of the Labor Committee and its Subcommittee on Education, Arts and Humanities. This has been a truly bipartisan initiative. All of us on both sides of the aisle are indebted to our colleagues from Massachusetts, Kansas, Rhode Island, and Vermont for their leadership and for their commitment to improving the quality of education for every child in America.

Mr. President, I want to begin by commenting briefly on several of the major themes in this legislation and by pointing out several specific initiatives that I believe help make this proposal deserving of our support.

FOCUS ON LOW-INCOME KIDS, LINKS TO OTHER REFORM INITIATIVES

Historically, the Federal Government's role in education reform has been to expand access to educational opportunities for low-income students and students with disabilities. I am concerned that in trying to expand access, we have made the mistake of creating more narrow categorical programs and funding streams that in fact have the very opposite effect.

This legislation envisions significant increases in funding for some Federal education programs. It recognizes the reality that the large majority of financing for this country's elementary and secondary schools will continue to come from State and local sources. Finally, it supports the notion that Federal education programs and funding must support school reform initiatives that are designed and carried out at the State and local level.

Those realities, Mr. President, are reflected in a number of provisions scattered all through this legislation. They include:

Better targeting and greater flexibility of title I and other funding for schools and districts that have high concentrations of low-income children.

Direct links between title I and other Federal education programs and the move toward meeting high content and performance standards—but, appropriately, not opportunity to learn standards—stimulated by the Goals 2000 legislation.

More flexibility for districts to seek and use waivers of Federal rules and regulations when they stand in the way of State and local school reform initiatives.

An increased emphasis on teacher training and other forms of professional development in all subject areas—and increased flexibility to use Federal funds from several different programs for professional development activities.

An effort to consolidate and better coordinate a variety of technical assistance programs—both to achieve greater efficiencies and to encourage stronger links between various programs that may be serving many of the same children.

An increased emphasis on parent involvement and on positive links between schools and the larger community that surrounds them. This includes several important additions to the bill—proposed by Senator WOFFORD and myself—that forge links between Federal education programs and community service and service learning.

CHARTER SCHOOL PROGRAM SUPPORTS STATE REFORM INITIATIVES

One provision in this legislation that deserves special mention, Mr. President, is a new $15.0 million Charter Schools Grant Program authorized under title VIII, part C. Charter schools are public schools that are frequently exempt from input-oriented mandates, but accountable to a public agency through a contract that commits the schools to achieving specified academic or other results. Although State laws across the country all vary, charter schools must be public, nonsectarian, may not charge tuition, and may not discriminate in admitting students.

Charter schools enjoy growing, bipartisan support. Advocates include both President Clinton and Education Secretary William Riley; as well as a number of leading Governors including Roy Romer of Colorado, William Weld of Massachusetts, John Engler of Michigan, Pete Wilson of California, and Tommy Thompson of Wisconsin.

Charter schools have now been authorized in 10 States—Minnesota, California, Colorado, Massachusetts, Georgia, New Mexico, Wisconsin, Michigan, Kansas, and Arizona. In addition, Governors and legislators in a dozen or more other States are actively considering legislation to authorize charter schools.

I'm particularly pleased that the Labor Committee agreed to accept my proposed changes in this program which will ensure that all charter schools throughout the country will be eligible for grants. And, it is my hope that we maintain these provisions as this bill moves to conference with the House.

The new grant program authorized under title VII is based in part on S. 429 and H.R. 1113, the Public School Redefinition Act, a charter school grant proposal that I introduced in February 1993 along with a bi-partisan group of Senators and Representatives that included Senators JOSEPH LIEBERMAN, BOB KERREY, and SLADE GORTON, and Representatives DAVE MCCURDY, TOM PETRI, TIM PENNY, and TOM RIDGE. It also enjoyed bi-partisan support on the Labor Committee, including support from Senator BINGAMAN who made several suggestions for improvement in this new program that I am pleased were also accepted.

The Federal Government should not be dictating to States how charter schools should emerge as a part of systemic reform. With that in mind, the Senate bill now allows schools receiving grants to be chartered by "a state education agency, local education agency, or other public agency that has the authority pursuant to state law to authorize or approve a charter school."

Overall, Senate's version of the Charter School Grant Program follows an important principle about the role of various levels of Government in education reform: The National Government should be providing overall leadership to education reform initiatives, but should defer to the States on how to authorize the elements of reform that are—in turn—best designed and carried out by each local community.

By following that principle, States and local communities will claim greater ownership of the elements of reform. And, those elements of reform are more likely to be implemented and more likely to result in improved student performance.

COMMUNITY SCHOOLS PARTNERSHIPS (FORMERLY DOLLARS FOR SCHOLARS)

I am also pleased that the Community Schools Partnerships Act has been accepted as part of this legislation. Senator KENNEDY and I previously introduced this legislation which involves support for grassroots, community-based organizations that promote academic excellence through scholarships for graduating high school seniors.

The Community School Partnership Act will establish and support area program centers to foster the development of local affiliated chapters in high poverty areas that promote education goals for students from low-income families. These students will receive academic support and post secondary scholarship assistance.

The act calls for a one time authorization of $10,000,000 to set up an endowment fund. Local chapters will use the interest from that endowment to leverage private and public funds which in turn will support academic achievement for low income students.

I continue to be a strong supporter of the Pell Grant and Guaranteed Student Loan programs. I also believe it's a wise investment to support private sector activity that promotes and rewards solid academic achievement. I hope that we can maintain the Community School Partnership Act as we move to conference with the House.

Let me repeat what I said earlier, Mr. President, about how proud I am of what's already been accomplished in this Congress to enhance the role that education can play in positioning this Nation for the 21st century.

From pre-school to graduate school and beyond, Americans to again become a Nation of learners—rewarded when they do well and assisted when they fall short. The legislation now before us is an important part of achieving that important and essential goal.

Thank you, Mr. President. I yield the floor.

NATIONAL ENVIRONMENTAL EDUCATION CENTER

Mr. MOYNIHAN. Mr. President, I rise today to speak on a topic of importance to education. In a 1991 nationwide survey, the Carnegie Commission on Science, Technology and Government determined that 67 percent of all elementary science teachers have inadequate course preparation in science, and 69 percent of science teachers and 71 percent of biology teachers have substandard preparation in their subjects. Looking at these statistics, there would seem to be a connection with the finding of the Educational Testing Service's International Assessment of Educational Progress, which has ranked our students near the bottom in a 15-country assessment of science achievement.

This year, we have stated goals we want the Nation to achieve by the year 2000, and one of those goals reads "By the year 2000, United States students will be first in the world in mathematics and science achievement." Today, I am happy to describe a project which once completed will help our students attain the science achievement goal.

That project is called the National Environmental Education Center, and will represent an expansion of the Wildlife Conservation Society's education facilities at the Bronx Zoo. This center will contain state-of-the-art technology and will be used to train 8,000 teachers from around the United States annually. These teachers will bring the finest environmental education curricula home to more than 500,000 students, and many more will be served from a computer linkage with schools and science institutions across the country. The National Environmental Education Center will provide the opportunity for families to study ecology together, and will utilize unparalleled wildlife collections and award-winning natural habitat exhibits to teach basic biology and conservation ecology.

If we are to make progress toward our National Education Goals, we must be willing to invest in innovative projects which build our educational infrastructure and help our students reach our National Education Goals. This is such a project, and I would hope that the members of the Labor Committee will keep it in mind when they take the Elementary and Secondary Education Act to conference as well as in future legislative opportunities.

Mr. President, I yield the floor.

EDUCATIONAL ADMINISTRATIVE SPENDING

Mr. D'AMATO. I want to commend the managers to the bill for adopting in the manager's amendment package language I proposed that will ensure that the Secretary of Education takes action to better understand how funding provided under this act is used, and to ensure that it is better targeted to classroom instruction as opposed to administrative spending.

As I pointed out when I addressed the Senate on this subject last year during consideration of the fiscal year 1993 supplemental appropriations bill, there is alarming evidence that growing educational bureaucracies across the country are siphoning scarce education dollars from classrooms where they are needed most.

One of the most startling examples of this came from the New York City school system, where one recent study of spending in the high schools during the 1988–1989 school year showed that less than one of every three education dollars actually reached the classroom. The rest was used to pay for administration at the district's central office and high school division, as well as at the individual school level.

And New York City is not alone. A recent audit of spending in the Indianapolis public schools, for example, found that less than 36 percent of education funding actually reached the classroom. A similar study of spending in the Milwaukee public elementary schools found that only one quarter of every education dollar was spent on actual classroom instruction.

Clearly the time has come to examine the extent to which Federal education dollars are being spent to fuel the growth of State and local education bureaucracies.

Last year, the Senate unanimously adopted my amendment to the fiscal year 1993 supplemental appropriations bill, which, for the first time, would have capped the amount of chapter 1 funds received by local school districts that could be used for administrative activities.

While this amendment was narrowly defeated in conference, it remains more vital than ever that we understand where our scarce education dollars are going and then make sure that they are targeted on students in need—and not wasted on unnecessary layers of administrative bureaucracy.

My amendment to the Improving America's Schools Act will achieve this objective by strengthening a provision that was already included in the committee bill. Specifically, this amendment will require the Secretary of Education to conduct and complete the administrative funds study called for under section 10204 of this bill within 1 year of the bill's enactment. This study will examine how funds provided to State and local education agencies under this act are used by these agencies for the administration of programs such as title 1, the Eisenhower Professional Development Program; and the Drug Free Schools and Communities Program. This study will also determine what percentage of grant funds made available to State and local education agencies under these programs is used for administrative purposes.

The amendment will require the Secretary of Education to complete the study within 1 year of the date of enactment of this bill. More important, it will set a deadline of 1 year from the time the study is completed for the Secretary to implement final regulations establishing limitations on the amount of funds that may be used for administration under title 1 and other programs covered under this act.

Again, I commend the distinguished managers of the bill for including this provision in the manager's amendment package. By mandating a comprehensive review of administrative spending in our Federal elementary and secondary education programs, to be followed within 1 year by final regulations establishing clear limits on such spending, this amendment will help assure that hard-fought education dollars are spent not on bureaucratic excess—but children in need.

THE HELMS-SMITH AMENDMENTS

Mr. CHAFEE. I want to take a moment to discuss the substance of the Smith amendment adopted today, and the Helms amendment adopted yesterday. They are virtually identical.

The amendments say that any local educational agency that carries out a program that has the effect of supporting or encouraging homosexuality shall lose its Federal funding.

This sounds simple enough. But in practice, I think the vagueness of the amendments' wording could prove troublesome for schools. It is hard to define what "support" or "encourage" means.

Indeed, it would be possible that the following situations could cause a school to risk losing its funds for supporting or encouraging homosexuality:

A guidance counselor counseling and comforting a young teen who is confused and distressed about his or her sexuality, and who may be considering suicide;

A teacher assigning works of Shakespeare as a reading assignment, and in whose class arises a discussion of Shakespeare's life and times;

A class discussion about "Brideshead Revisited," and some of the characters in which are homosexual;

A school production of the play "The Importance of Being Ernest" by Oscar Wilde, whose homosexuality was well-known.

I doubt that we want to prevent our schools from the above activities. We absolutely must make sure our teachers and guidance counselors are able to help any confused teens—a group already highly susceptible to suicidal tendencies—when they need it, before they do themselves some harm. We need to make sure that important works of art and literature are not kept from the classroom just because of the sexual orientation of the author, or of the characters involved in the work.

It may be that the Helms-Smith amendments are not meant to encompass the above situations. But it is by no means clear. And if there is any debate about what the Helms-Smith amendments mean, then the matter will probably end up in court. And every dime our schools spend in court is one less dime that goes for textbooks, band equipment, sports activities.

I feel very, very strongly that we must be careful to keep from causing needless litigation problems for the schools. Let's let administrators and teachers get on with the task at hand: educating our children. Let's not approve vague amendments that create a risk for our schools of losing of all Federal funds.

GUNS IN SCHOOLS

Mr. CHAFEE. Mr. President, I would like to take a moment to talk about a possible solution to a critical challenge that—regrettably—is faced by our Nation's educators today: the widespread presence of guns in the schools.

When I was the Governor of my State some years ago, school children never had to worry that another student might have a gun in his or her bookbag or locker. Certainly, students always had their share of arguments and fistfights, but at worst, these disputes usually resulted in nothing more than a black eye.

Now, however, although the number of annual incidents remains fairly small, guns—especially handguns—are showing up more and more frequently in our State's school systems. Indeed, some schools have begun to install walk-through metal detectors, or to use metal-detecting wands to check students as they enter the building, or hire security guards to patrol the corridors.

In an attempt to address this challenge, Senators FEINSTEIN and DORGAN introduced a proposal last month that would require every school system that receives Federal funds to adopt a gun-free-school policy. Such a policy must provide for the 1-year expulsion of any student that brings a gun onto school grounds. While this idea may merit consideration, I want to bring my colleagues' attention to the work we have done in our State that relates to this matter.

I am pleased to say that the State of Rhode Island is ahead of the game on this issue. Under the leadership of Rhode Island Attorney General Jeffrey Pine, and the Task Force to Prevent Violence in the Schools that he created, police and school officials in two-thirds of Rhode Island's cities and towns have adopted a memorandum of understanding that implements a zero tolerance policy toward guns and violence. To the best of my knowledge, no other State has made such progress, and so I congratulate Attorney General Pine and the task force on their fine efforts.

Moreover, these memoranda of understanding strive to push this strategy to rid schools of guns and violence one step further by firming up the lines of communication between the schools and local police departments. Under the agreement, all school staff members are required to report to principal any possession or use of a weapon or any assault that occurs on school grounds. The principal, in turn, will notify the police department. For its part, the police department is obligated to notify school officials of any arrests made of juveniles outside school hours, if those students attend the same school.

Now, our task force raised a concern about the potential long-term consequences of mandatory year-long expulsion, an approach set forth in the Feinstein-Dorgan amendment. Specifically, the task force members wondered whether putting a student who has been expelled from school for gun possession on the street without supervision would do either the child or the local community much good. Accordingly, the task force recommended that each school system work with State government officials to establish alternative educational programs for expelled students that will help them become productive members of society.

It seems to me, Mr. President, that this is a thoughtful, well-reasoned approach to a very difficult problem, and I hope my colleagues who have crafted this education bill, and will go to conference with the House Members on it, will take a look at the Rhode Island approach as they work on the issue of weapons in schools. For the information of Senators, therefore, I ask unanimous consent that a copy of the memorandum of understanding crafted by the task force be placed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM OF UNDERSTANDING

Between (Name of Police Department) and (Name of School Department) meant to be distributed to all superintendents, principals and teachers.

This document represents an agreement between the (name of police department) and (name of school) to engage in cooperative efforts aimed at the reduction and eventual elimination of violence in schools. It is only through this cooperation that we may restore safety in our schools and promote a secure learning environment. This effort has been supported and will be monitored by the Attorney General's Task Force Against Violence in Schools.

In order to ensure success, the parties to this memorandum include superintendents, principals, teachers, school personnel, school bus drivers, local police, said parties agree that:

1. All school staff members are under obligation to report any and all incidents of the possession or use of weapons by any juvenile on school grounds to the principal. Police will be notified by the principal immediately. (see definitions sheet)
2. All school staff members are under obligation to report any and all incidents of aggravated assaults on other juveniles or school staff to the principal. Principals will determine whether an assault is aggravated so as to constitute police involvement. Police will be notified by the principal accordingly.
3. The principal or his designee will coordinate all procedures in these matters with police and will report said incidents to the superintendent or designee.
4. Upon a report of said incidents, the police department will conduct an investigation with school officials to determine what course of action will be taken. The parents of juveniles subject to an investigation will be notified by the school officials immediately.
5. Where appropriate, and in accordance with the recommendations of the Attorney General's Law Enforcement subcommittee's policy, police will pursue criminal action against said juvenile.
6. School staff members will cooperate with prosecuting authorities as juveniles are charged with such offenses. This includes revealing information to police and testifying at proceedings when necessary.
7. The Juvenile Department of the police will record all such occurrences in a log entitled "Violence in Schools." Such record will include the nature of the incident, school official and law enforcement efforts and the disposition of the case, if any.
8. The school will keep a running log of all such incidents.
9. The police department will be obligated to notify school officials of arrests of juveniles made over the weekend if it appears the person arrested and victim attended the same school. Police will notify school officials the first school day following the weekend.
10. Any suspicions of weapons or assault incidents must be reported to the principal immediately. The principal will share this information with the local police when such suspicion presents a dangerous situation.
11. School administration and Law Enforcement will share such important information in prevention of future violence.
12. The procedures contained in this Memorandum should be consistent with a zero tolerance for violence in schools.

(Signed)
Chief of Police.
Superintendent.
Principal.
Juvenile Chief.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Labor and Human Resources Committee is discharged from further consideration of

H.R. 6, and the Senate will proceed to its immediate consideration.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 6) to extend for 5 years, authorization appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 6 is stricken and the text of S. 1513, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The question is—the Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the passage of H.R. 6, as amended.

The majority leader, Senator MITCHELL.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, this will be the last rollcall vote today. The Senate will, immediately following this vote, proceed to consideration of the VA/HUD appropriations bill on which I anticipate there will be extensive debate this evening and then a vote early tomorrow.

We will not be able to announce the time of the vote at this time. We will do so as soon as possible later this evening.

I thank my colleagues for their cooperation. I especially thank the Senator from Massachusetts and the Senator from Vermont for their diligence in pursuing and aiding enactment of this very important measure.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas, Senator BUMPERS.

Mr. BUMPERS. Mr. President, if I could have the majority leader's attention for just a moment?

I understand this is the last rollcall vote?

Mr. MITCHELL. That is correct.

Mr. BUMPERS. We are getting ready to go to the space station amendment? We are going to stand here and debate by ourselves and then vote on it tomorrow?

Mr. MITCHELL. Perhaps we could discuss that in private here as the vote is occurring.

Mr. BUMPERS. Mr. President, I am not trying to cause the leader any difficulty. I do not mind starting this amendment, but there should be some time tomorrow, because you know what is going to happen the minute this vote is over. I do not know it would change any votes. It might not, but it might. But there ought to be some time in the morning to debate this before a vote is set.

Has the majority leader set a vote?

Mr. MITCHELL. No, I have not. Precisely for the reason I wanted to consult with the Senator from Arkansas before making an announcement in this regard.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The question occurs on final passage of H.R. 6, as amended.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—6

Brown
Faircloth
Helms
Nickles
Smith
Wallop

So the bill (H.R. 6), as amended, was passed, as follows:

(The bill was not available for printing. It will appear in a future issue of the RECORD.)

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. This legislation represents another main part of our efforts in this Congress to improve American education. Already, this year, we have enacted the Head Start reauthorization bill, to help prepare children more effectively for school. We have enacted the School-to-Work Opportunities Act to provide more effective job training and career counseling for the 75 percent of American students who go directly into the work force without a college degree. And we have enacted Goals 2000, to help schools set and meet high standards for teaching and learning.

The pending bill is designed to overhaul the major Federal aid to education programs to help all students—especially those students who are disadvantaged—to reach high academic standards.

A key reform in this bill is that States must use the same academic standards and assessments for all students. No longer will schools receiving Federal aid be permitted to ask less of low-income students than of other students. Disadvantaged students will be held to the same academic expectations as every other student in a school.

In addition, rather than pulling individual students out of their classrooms for remedial help that often leads to a watered-down curriculum, schools will be encouraged to take a schoolwide approach to reform.

A second key reform in this bill is to direct funds where they are needed most. Current Federal education funds are spread too thin to make a difference in the poorest schools. The new formula for distributing title I money will send a significantly greater percentage of the funds to high-poverty schools, so that these schools will have a realistic chance to improve.

Third, the bill cuts red tape and gives schools the flexibility to implement their own locally developed reforms. The burdensome and often conflicting requirements of different Federal programs will be eased, by permitting schools to consolidate their funds, implement local reforms, and meet the needs of their pupils more effectively.

Fourth, the bill provides significant help for teachers, who are the most important part of education, and who must be a central part of any effort to improve schools. One of the principal provisions of the bill expands the Eisenhower Math and Science program to include teachers in all academic subjects.

Finally, the bill invests in educational technology. Advanced technology is commonplace in many parts of society. But too often, schools are unequipped to train students for the modern world. Under this bill, assistance will be available to enable poor schools to pay for computers, links to networks, and teacher training.

We are on the threshold of a new era in Federal education policy and support for local schools. This reauthorization, which builds on the framework established in the Goals 2000 legislation, provides Federal aid while giving local teachers and administrators greater freedom and flexibility to determine how to improve their schools and provide greater opportunities for the neediest students. I urge the Senate to approve this important step toward school reform.

I commend my colleagues on the Labor Committee for their constructive and bipartisan work on this bill. We reported it out of committee by a strong bipartisan vote of 16-1. Throughout the process, we have worked closely with Senators from both sides of the aisle. In particular, I commend the distinguished chair of the Education Subcommittee, Senator PELL, who has demonstrated once again why he is Mr. Education in the Senate. I also commend Senator KASSEBAUM and Senator JEFFORDS for their tireless efforts on this bill. In addition, the Senate leadership—in particular Senator MITCHELL—deserves a great deal of credit for moving this legislation effectively through the Senate.

I also commend the staff members who have worked so hard on this legislation: on my staff, Ellen Guiney, Clayton Spencer, Stephanie Goodman, Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL'S staff, David Evans, Margaret Smith, and Michael Dannenberg; on Senator KASSEBAUM's staff, Lisa Ross, Wendy Cramer, and David Goldfarb; and on Senator JEFFORDS' staff, Pam Devitt and Katie Henry. Thank you all for your help.

Madam President, I want to take 2 minutes of the Senate's time to first of all thank my friend and colleague, Senator JEFFORDS, for all of his very constructive and helpful work in our committee, and also on the floor. I want to pay a special tribute to my colleague, the chairman of our education committee, CLAIBORNE PELL, who has been "Mr. Education" in this body for years and years, and is really the architect of the bipartisan approach on education which has marked this body over a period of the 30-odd years that I have been in the United States going back to the early 1960's. He has been at his post from the earliest morning to the latest of evening, and his counsel and his insight into all of these matters that we have been considering and other education matters has been absolutely invaluable to all of us.

To Senator KASSEBAUM, who is one of our very really important leaders in education and education policy, and who was instrumental in helping us reach the point where we are today, has differed with us in some areas, but her interventions have always been constructive and have always given the Senate the opportunity to make a better informed judgment on these matters.

I will extend these remarks in identifying the best I can a little later this evening, and not to interfere with the forthcoming debate, some of the various contributions of all Members, Republican and Democrat. This vote could not have taken place unless we had their strong bipartisan support.

But I want to at this time again acknowledge the work of some of the finest staff that we have in the U.S. Senate, and they are on our committee. I want to take the time to acknowledge their extraordinary work. They are Democrats and Republicans. But I must say they have been really enormously helpful and valuable to all of us in helping, assisting, and finding common ground to keep our focus on what is really important; that is, to try to strengthen the education of our young people.

I want to mention on my staff Ellen Guiney and Clayton Spencer, Stephanie Goodman and Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL's staff, David Evans, Margaret Smith, Barbara Bennison, and Michael Dannenberg.

I know that our Republican colleagues will mention their staff. But in many respects I would like to thank Senator KASSEBAUM's staff with Lisa Ross, Wendy Cramer, David Goldfarb; and on Senator JEFFORDS' staff, Catherine Henry, Kelly Kivier, and Pamela Devitt, have really worked for us individually. But more importantly, they have really worked very closely together.

There are a number of other Members and staff I would like to thank.

I would also like to recognize the important contributions to this bill of my colleagues on the Labor Committee. In the difficult work of arriving at a formula, Senator SIMON, aided by his able staff Charles Barone and Bob Shireman, was instrumental in helping us reach a much better, more targeted in-state formula. Senator BINGAMAN was the original author of S. 1040, which was ultimately incorporated as the technology title, title III, and he and his staff Marjorie Steinberg and Brett Scholl deserve great credit. Senator DODD, as always, worked with us on early childhood issues, along with his staff Suzanne Day and Sarah Flanagan, specifically the transition program that will make a great difference to young children. Senator WELLSTONE and his staff person Sherry Ettleson helped us to strengthen parent involvement provisions, and Senator HARKIN and his staff Bobby Silverstein and Bev Shroeder helped work out several difficult amendments, as did Senator METZENBAUM and his staffperson Cheryl Birdsall, and Senator WOFFORD and Julia Frifield. Senator MIKULSKI and her staffer Anita Harewood reviewed many provisions to ensure that girls and women were treated fairly in this bill.

Of the committee, I want to thank Patricia Zell, Bob Arnold, Noelle Kahanu of Indians Affairs, Kim Wallace and Jill Ward of Senator MITCHELL's office, Sue Hildick of Senator HATFIELD's office, Carol Mitchell and Leslie Staples of Senator BYRD's office, David Medina of Senator MOSELEY-BRAUN's office, Amy Abraham of the Budget Committee, Ed Long, Bettilou Taylor and Bill Cordes of the Appropriations Committee, Alexander Russo and Lanie Horowitz of Senator FEINSTEIN's office, David McMillen of Senator LIEBERMAN's office, Chris Wasulla of Senator GRAHAM's office, Kay Davies of Senator DOMENICI's office and Steve Kroll of Senator DORGAN's office.

I see Senator JEFFORDS on his feet. I see Senator PELL on his feet and others that want to address the Senate briefly on these measures. I want to thank all of them for their cooperation and all of the Members for helping us reach what I think will be an important piece of legislation that will make an important difference to many of the economically disadvantaged children in this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 6, and the Chair is authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER (Mrs. FEINSTEIN) appointed Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. WOFFORD, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. THURMOND, Mr. HATCH, and Mr. DURENBERGER conferees on the part of the Senate.

The PRESIDING OFFICER. S. 1513 is indefinitely postponed.

The Senator from Maryland.

VA-HUD APPROPRIATIONS ACT

Ms. MIKULSKI. Madam President, I ask unanimous consent that the Senate now turn to Calendar No. 520, H.R. 4624, the VA-HUD appropriations bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 4624) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 4624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the

Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $17,626,892,000, to remain available until expended: *Provided*, That not to exceed $25,750,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, and in the Veterans' Benefits Act of 1992, Public Law 102–568, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further*, That $6,000,000 of the amount appropriated shall be transferred to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992, Public Law 102–568: *Provided further, That of the $15,622,452,000 made available under this heading for fiscal year 1994 in Public Law 103–124, the $9,863,265,000 restricted by section 509 of Public Law 103–124 for personnel compensation and benefits expenditures is reduced to $9,813,256,000.*

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,286,600,000, to remain available until expended: *Provided*, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,760,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $59,371,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That during 1995, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,020,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,061, as authorized by 38 U.S.C. 3698, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,034.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $767,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by section 38, U.S.C. chapter 37, subchapter V, as amended, $218,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,232,756,000, plus reimbursements: *Provided*, That of the funds made available under this heading, $771,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1995, and shall remain available for obligation until September 30, 1996.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1996, $252,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,386,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activites not charged to project cost; and research and development in building construction technology; $69,808,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1996.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102-54, section 8, which shall be transferred from the "General post fund": *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102-54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; [$887,909,000] *$893,285,000*, of which $25,500,000, for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration, shall not become available for obligation until September 1, 1995, and shall remain available for obligation until September 30, 1996.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,663,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$32,219,000] *$31,819,000*.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, [$101,965,000] *$208,000,000*, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1995, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1995, and (2) by the awarding of a construction contract by September 30, 1996: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $153,540,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), $1,400,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131-8137), [$37,397,000] *$47,397,000*, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,378,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1995 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1994.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1995 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Of the budgetary resources available to the Department of Veterans Affairs during fiscal year 1995, $20,742,000 are permanently canceled. The Secretary of Veterans Affairs shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the homeownership and opportunity for people everywhere (HOPE grants) program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitles A, B, and C of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), [$100,000,000] *$50,000,000*, to remain available until expended, of which up to one and one-half percent may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this head as authorized under subtitle E of title I of the Housing and Community Development Act of 1992.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the

Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, [$1,275,000,000] *$1,500,000,000*, to remain available until expended.

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

For the National Homeownership Trust Demonstration program, as authorized by title III of the National Affordable Housing Act, as amended by section 182 of the Housing and Community Development Act of 1992, $50,000,000, to remain available until expended.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFERS OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, [$11,473,019,000] *$10,600,000,000*, to remain available until expended: *Provided*, That *to be added to and merged with the foregoing amounts there shall be up to $200,000,000 of amounts of budget authority (and contract authority) reserved or obligated in prior years for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as herein provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1995; and up to $100,000,000 of transfers of unobligated balances from the Urban Development Action program: Provided further, That* of the total amount provided under this head, [$263,000,000] *$300,000,000* shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); and $598,000,000 shall be for the development or acquisition cost of public housing, of which up to .67 per centum shall be available for technical assistance and inspection of public housing agencies by the Secretary: *Provided further*, That of the total amount provided under this head, [$3,600,000,000] *$3,800,000,000* shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to [.54 per centum] *$15,000,000* for the inspection of modernization units and provision of technical assistance by the Secretary and contract expertise to assist in the oversight and management of the public and Indian housing modernization program, including an annual resident survey: [*Provided further*, That of the amounts provided under this head for modernization of existing public housing projects, $85,000,000 may be used for the Tenant Opportunity Program:] *Provided further*, That of the total amount provided under this head, [$2,643,000,000] *$2,144,582,000* shall be for rental assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further, That of the amount provided for rental assistance, up to $350,000,000 shall be available for the Pension Fund Partnership program, as authorized by section 6 of the HUD Demonstration Act of 1993 (Public Law 103-120); $20,000,000 shall be for the Community Viability Fund; $50,000,000 shall be for the Colonias program; and $500,000,000 shall be for the Neighborhood Leveraged Investment Program (LIFT):* [*Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b), 8(o), and 8(e)(2) shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act:] *Provided further*, That of the total amount provided under this head, $17,300,000 shall be available for fees for coordinators under section 23(h)(1) for the family self-sufficiency program (42 U.S.C. 1437u): *Provided further*, That of the total amount provided under this head, [$1,202,100,000] *$765,000,000* shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, and $555,000,000 shall be for section 8 assistance for property [deposition] *disposition*, and [$100,000,000] *$250,000,000* shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intention to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Emergency Low-Income Housing Preservation Act of 1987, as amended: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further*, That of the total amount provided under this head, $156,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; [$150,000,000] *$75,000,000* shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992; and $30,000,000 shall for service coordinators in public housing pursuant to section 9(a)(1)(B)(ii) of the United States Housing Act of 1937; and $30,000,000 shall be for service coordinators in project-based section 8 housing, pursuant to section 8(d)(2)(F)(1) of the Act, tenant-based section 8 housing, pursuant to section 8(q) of the Act and, for service coordinators in multifamily housing assisted under the National Housing Act, pursuant to section 676 of the Housing and Community Development Act of 1992[: *Provided further*, That of the total amount provided under this head, $149,100,000 shall be for moving to opportunity]*: Provided further, That notwithstanding the language preceding the first proviso of this paragraph, $135,000,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in Senate Report 103-311.*

Of the total amount provided under this head, [$1,158,000,000] *$1,300,000,000* shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959: *Provided*, That $22,000,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959 and subtitle E of title VI of the Housing and Community Development Act of 1992, other than section 676 of such Act and section 8(d)(2)(F)(i) of the Act.

Of the total amount provided under this head, $387,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, [$3,705,000,000] *$3,062,000,000*, to remain available until expended: *Provided*, That to the extent the amount in this appropriation is insufficient to fund all expiring section 8 contracts, the Secretary may transfer to and merge with this appropriation such amounts from the "Annual contributions for assisted housing" appropriation as the Secretary shall determine, and amounts earmarked in the foregoing account may be reduced accordingly, at the Secretary's discretion: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the public housing agency or Indian housing authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

[Further, for the foregoing purposes, $800,000,000, to become available for obligation on October 1, 1995, and to remain available for obligation until expended.]

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1995 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided*, That up to $66,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 1995.

HOMEOWNERSHIP ASSISTANCE

(INCLUDING RESCISSION OF FUNDS)

For payments under section 235(r) of the National Housing Act, as amended (12 U.S.C. 1715z) for incentives to mortgagors to refinance mortgages that are insured under such section 235 and for closing and other costs in connection with such refinancing, $6,875,000, to remain available until expended: *Provided*, That up to $50,000,000 of recaptured section 235 budget authority resulting from reducing the interest rate on such refinanced mortgages shall be reused for payments under this heading: *Provided further*, That up to $184,000,000 of additional recaptured section 235 budget authority from refinancing section 235 mortgages shall be rescinded in fiscal year 1995.

CONGREGATE SERVICES

[For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs,

$6,267,000, to remain available until September 30, 1996, in accordance with the provisions of the Congregate Services Act of 1978, as amended.]

For contracts with payments to public housing agencies and nonprofit corporations for congregate services programs, $25,000,000, to remain available until September 30, 1995, of which up to $6,267,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000.

SEVERELY DISTRESSED PUBLIC HOUSING

[For the revitalization of severely distressed public housing program, as authorized by section 24 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), $500,000,000, to remain available until expended, of which up to one-half of one percent may be used for technical assistance under this program, to be made available directly, or indirectly under contracts or grants, as appropriate.]

For the HOPE VI/urban revitalization demonstration program under the third paragraph under the head "Homeownership and Opportunity for People Everywhere grants (HOPE grants)" in the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102–389, 106 Stat. 1571, 1579, $500,000,000, to remain available until expended: Provided, That notwithstanding the first proviso of such third paragraph, the Secretary shall have discretion to approve funding for more than fifteen applicants: Provided further, That notwithstanding the third proviso of such third paragraph, the Secretary may provide funds for more than 500 units for each participating city: Provided further, That in selecting HOPE VI implementation grants recipients in fiscal year 1995, the Secretary must first award such grants to those cities or jurisdictions which have received HOPE VI planning grants in fiscal year 1993 or fiscal year 1994: Provided further, That the requirement of the immediately proceeding proviso shall not limit the Secretary's discretion to limit funding to amounts he deems appropriate, nor shall it prevent the Secretary from guaranteeing that all implementation grant recipients conform with the requirements of the HOPE VI/urban revitalization demonstration program: Provided further, That of the foregoing $500,000,000, the Secretary may use up to $2,500,000 for technical assistance under such urban revitalization demonstration, to be made available directly, or indirectly, under contracts or grants, as appropriate: Provided further, That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, [$265,000,000] *$315,000,000*, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) [and of which $1,500,000 shall be for grants for an after school demonstration program in public housing projects, run by the 4H Clubs of America and co-sponsored by private sector firms]*: Provided, That not more than $236,250,000 shall be available for grants to housing authorities with greater than 1,250 public housing units: Provided further, That not more than $63,000,000 shall be available for grants to housing authorities with less than 1,250 public housing units: Provided further, That not more than $15,750,000 shall be available for grants for federally-assisted, low-income housing: Provided further, That the Secretary may utilize all funds made available under this heading for a community partnership against crime program if authorized by law prior to November 1, 1994: Provided further, That the Secretary may use the authority provided in the immediately preceding proviso only if the apportionment of funds ensures that public housing authorities with greater than 1,250 units receive three-quarters of all such COMPAC funds.*

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided*, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $22,388,000.

YOUTHBUILD PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, $50,000,000, to remain available until expended. In addition, the unexpended balances from the $28,000,000 made available for subtitle D of title IV of such Act under the head "Homeownership and opportunity for people everywhere grants (HOPE Grants)" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 shall be transferred to and merged with this appropriation*: Provided, That none of the funds made available under this heading may be obligated until the Secretary proposes and implements a consolidation plan for all youth-related programs now in operation within the Department: Provided further, That the aforementioned consolidation plan, to meet the requirements of the immediately preceding proviso, must establish a continuum of youth activities that includes apprenticeship activities.*

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $50,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $50,000,000, and all uncommitted balances of excess rental charges as of September 30, 1994, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1995, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1995, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1995, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $180,000,000: *Provided*, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $308,846,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $302,056,000 shall be transferred to the appropriation for salaries and expenses; and of which not to exceed $6,790,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), [$152,000,000] *$188,395,000*, to remain available until September 30, 1996, of which up to $132,903,000 is to be derived from the FHA—general and special risk, negative subsidies receipt account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $20,885,072,000*: Provided further, That of the foregoing amount provided to subsidize program costs, not more than $47,098,750 may be obligated by January 1, 1995, not more than $94,197,500 may be obligated by April 1, 1995, not more than $160,135,750 may be obligated by July 1, 1995.*

Gross obligations for the principal amount of direct loans, as authorized by sections

204(g), 207(l), 238(a), and 519(d) of the National Housing Act, shall not exceed $220,000,000; of which not to exceed $200,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $197,470,000, of which $193,299,000 shall be transferred to the appropriation for salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $142,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $8,824,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $8,824,000 shall be transferred to the appropriation for salaries and expenses.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; the shelter plus care program (as authorized under subtitle F of title IV of such Act); and the innovative homeless initiatives demonstration program (as authorized under section 2 of the HUD Demonstration Act of 1993 (Public Law 103–120)), $1,120,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1997: *Provided*, That $46,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and [$61,500,000] *$44,000,000* shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development[: *Provided further*, That $35,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note), including services for families that are homeless or at risk of becoming homeless: *Provided further*, That $10,000,000 shall be made available from the total amount provided to carry out a neighborhood development program under section 123 of said Act (42 U.S.C. 5318 note)].

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $2,054,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, [$40,000,000] *$44,000,000*, to remain available until September 30, 1996.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $33,375,000, to remain available until September 30, 1996: *Provided*, That $26,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS *OF* FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, [$962,173,000] *$953,973,000*, of which $495,355,000 shall be provided from the various funds of the Federal Housing Administration, and $8,824,000 shall be provided from funds of the Government National Mortgage Association.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,388,000, of which $10,961,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER [OR] *OF* FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,451,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided*, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f).

ADMINISTRATIVE PROVISIONS

None of the funds provided under this title to the Department of Housing and Urban Development, which are obligated to State or local governments or to housing finance agencies or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

Of the budgetary resources available to the Department of Housing and Urban Development during fiscal year 1995, $3,538,000 are permanently canceled. The Secretary of Housing and Urban Development shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purpose of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout as specified in 41 U.S.C. 403 (2).

[Of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 745), $1,000,000 made available to the Pennsylvania Housing Finance Agency to complete renovation and revitalization of the Saquoit Silk Mills in Scranton into low-income elderly apartments shall instead be made available for such low-income elderly apartments on the site of the existing Lackawanna Junior College in Lackawanna County, Pennsylvania.

[Notwithstanding any provision of law or regulation thereunder, the requirement that an amendment to an urban development action grant agreement must be integrally related to the approved project is hereby waived for project numbers B87AA360540 and B87AA360521.]

None of the funds made available in this Act may be used in violation of section 214 of the Housing and Community Development Act of 1980 or of any applicable Federal law or regulation of the United States.

[Subparagraph (A) of the first sentence of section 203(b) (2) of the National Housing Act is amended by striking clause (ii) and all that follows through "1992;" and inserting in lieu thereof the following—

["(ii) 85 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the greater of—

["(I) the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994; or

["(II) the applicable average area purchase price determined under section 143(e)(2) of the Internal Revenue Code of 1986, adjusted by the Secretary to reflect a single amount using purchase prices for residences that have been previously occupied, and for residences that have not been so occupied, which amount shall be adjusted by the Secretary annually on the basis of the Constant Quality Housing Price Index;".]

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12

U.S.C. 1709(b)(2)) is amended by striking clause (ii) and all that follows through "May 12, 1992;" and inserting the following:

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994 or 38 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;".

Notwithstanding subsection 306(g) (3) of the National Housing Act, as amended, fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Government National Mortgage Association prior to February 1, 1993, and other related fees, shall be charged in an amount the Association deems appropriate.

Beginning fiscal year 1995, the Government National Mortgage Association shall permit Ginnie Mae II mortgage-backed securities to be eligible as collateral for multiclass securities that such Association guarantees, in accordance with the Notice published at 59 Fed. Reg. 27290 (May 26, 1994) and successor Notices.

Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting at the end the following: "However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act by applying an annual adjustment factor.

Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended by the immediately foregoing amendment to such section, is further amended by inserting at the end the following: "For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act and that provide for rent adjustments using an annual adjustment factor.

The Secretary shall, by regulation, specify that the criteria used to determine existing housing fair market rents under section 8 of the United States Housing Act of 1937 shall include use of the 40th, in lieu of the 45th, percentile rent of standard quality rental housing. Such subsection shall be effective only during fiscal year 1995.

The United States Housing Act of 1937 is amended in each of sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by striking "and (V)" and inserting in lieu thereof the following: "(V) assisting families that include one or more adult members who are employed; and (VI)"; in sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by inserting after the final semicolon in each the following: "subclause (V) shall be effective only during fiscal year 1995;"; and in the penultimate sentence of section 16(c), by striking "under the system" and all that follows up to the period.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations.

[CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

[SALARIES AND EXPENSES

[(RESCISSION)

[Of the funds made available under this heading in Public Law 103–124, $1,730,000 are rescinded.]

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $25,000,000, to remain available until September 30, 1996, of which up to $10,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: Provided, That the costs of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $75,815,000: Provided further, That none of the funds made available under this heading may be used for programs and activities of the Bank Enterprise Act.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, [$43,486,000] *$40,509,000.*

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service in carrying out the programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103–82) (hereinafter referred to as "the Act"), [$490,388,000 to remain available until September 30, 1996, except as provided hereafter] *$610,000,000, of which $411,212,000 is available for obligation for the period September 1, 1995 through August 31, 1996*: *Provided*, That not more than [$27,400,000] *$29,400,000* is available for administrative expenses authorized under section 501(a)(4) of the Act, of which not more than [$13,700,000] *$14,700,000* shall be for administrative expenses for State commissions pursuant to section 126(a) of subtitle C of title I of the Act: *Provided further*, That not more than $2,500 shall be for official reception and representation expenses: *Provided further*, That not more than [$125,900,000] *$155,900,000*, to remain available without fiscal year limitation, shall be transferred to the National Service Trust Fund for educational awards as authorized under subtitle D of title I of the Act: *Provided further, That not more than $9,450,000 of the $155,590,000 for the National Service Trust shall be for educational awards authorized under section 129(b) of the subtitle C of title I of the Act: Provided further, That $6,500,000 shall be made available for the Points of Light Foundation for purposes authorized under title III of the Act: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the National Civilian Community Corps, or any portion of any of the Corporation's field offices or staff working on National and Community Service or National Civilian Community Corps programs.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$1,000,000] *$2,000,000.*

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292,

[$9,289,000] *$9,429,000*, to be available without regard to section 509 of this Act, of which not to exceed [$650,000] *$790,000*, to remain available until September 30, 1996, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,017,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

[RESEARCH, PREVENTION AND PROGRAM ACTIVITIES

[For research and development, prevention, abatement, compliance and enforcement activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $9,000 for official reception and representation expenses; $1,600,300,000, to remain available until September 30, 1996: *Provided*, That not more than $250,000,000 of these funds shall be available for operating expenses, including not more than $55,000,000 for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development: *Provided further*, That none of the funds appropriated under this heading shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.]

RESEARCH AND DEVELOPMENT

For research and development activities, including procurement of laboratory equipment and supplies; other operating expenses in support of research and development; and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $350,000,000, to remain available until September 30, 1996: Provided, That not more than $50,567,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,427,000,000, to remain available until September 30, 1996: Provided, That not more than $296,772,500 of these funds shall be available for operating expenses: Provided further, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: Provided further, That none of these funds may be expended for purposes of resource conservation and recovery panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel and related costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; and for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; [$935,000,000] *$922,000,000*.

OFFICE OF INSPECTOR GENERAL

[(INCLUDING TRANSFERS OF FUNDS)]

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, [$44,595,000, of which $15,384,000 shall be derived from the Hazardous Substance Superfund trust fund and $669,000 shall be derived from the Leaking Underground Storage Tank trust fund: *Provided*, That not more than $41,150,000 of these funds shall be available for administrative expenses] *$28,542,000*.

[FACILITIES AND NATIONWIDE SUPPORT

[For construction, repair, improvement, extension, alteration and purchase of fixed equipment or facilities of or for use by the Environmental Protection Agency, and for nationwide support of facilities-related activities, $174,700,000, to remain available until expended.]

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $43,870,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; [$1,435,000,000] *$1,200,000,000* to remain available until expended, consisting of [$1,185,000,000] *$950,000,000* as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $229,391,000 during fiscal year 1995: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further, That $15,384,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995: Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $69,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1995: *Provided further*, That no more than $308,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency: *Provided further*, That none of the funds appropriated in this Act may be made available for program management of Alternative Remedial Contracting Strategy (ARCS) contracts exceeding 11 percent of the total cost of such contract.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $70,000,000, to remain available until expended: *Provided*, That no more than $8,150,000 shall be available for administrative expenses: *Provided further, That $669,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995.*

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $20,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided*, That not more than $8,420,000 of these funds shall be available for administrative expenses.

[WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

[For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, the Water Quality Act of 1987, and the Public Health Service Act, $2,732,000,000, to remain available until expended, of which $1,787,000,000 shall not become available until authorized by law: *Provided*, That of the amount which becomes available on October 1, 1994, $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended, and shall not become available until authorized by law; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; and $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act: *Provided further*, That the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon.]

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $3,400,000,000, to remain available until expended, of which $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; $47,500,000 shall be made available in consultation with the appropriate border commission for architectural, engineering, and design, and related activities in connection with wastewater facilities in the vicinity of Nogales, Arizona, and Mexicali, Mexico, and planning and design of other high priority wastewater facilities in the area of the Mexican border, the purpose of which facilities is to control municipal wastewater from Mexico; $50,000,000 shall be for grants to the State of Texas, which shall be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State; $10,000,000 shall be for a grant to the State of New Mexico, which is to be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State; $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act; and, notwithstanding any other provision of law, $369,700,000 shall be for making grants with a 55 percent Federal share for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in Senate Report 103–311: Provided, That notwithstanding any other provision of law, $500,000,000 made available under this heading in Public Law 103–124, and earmarked to not become available until May 31, 1994, which date was extended to September 30, 1994, in Public Law 103–211, shall be available immediately and without further authorization for making grants with a 55 percent Federal share for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in Senate Report 103–311: Provided further, That the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858) for construction of a connector sewer line, consisting of a main trunk line and 4 pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, shall include demolition of Chiquola Mill Lagoon, Clatworthy Lagoon, Corner Creek Lagoon, and Still Branch Lagoon: Provided further, That none of the funds provided under this heading for State revolving funds shall be allocated based on the 1992 Needs Survey Report to Congress.

[ADMINISTRATIVE PROVISION]

ADMINISTRATIVE PROVISIONS

Of the budgetary resources available to the Environmental Protection Agency during fiscal year 1995, $7,525,000 are permanently canceled. The Administrator of the Environmental Protection Agency shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation a rule concerning any new standard for radon in drinking water.

None of the funds provided in this Act may be used during fiscal year 1995 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $997,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[DISASTER RELIEF

[For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, to remain available until expended.]

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,418,000, as authorized by section 319[, and $1,980,000, as authorized by section 417] of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $175,000,000 under section 319 [and not to exceed $3,000,000 under section 417] of the Stafford Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended.

In addition, for administrative expenses to carry out the direct loan program, [$145,000] *$95,000*.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; [$165,000,000] *$162,000,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,400,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, [$220,345,000] *$212,960,000*.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $130,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $14,913,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $49,229,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1996. In fiscal year 1995, no funds in excess of (1) $32,000,000 for operating expenses, (2) $253,641,000 for agents' commissions and taxes, and (3) $12,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected in fiscal year 1995 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1995 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1995.

Of the budgetary resources available to the Federal Emergency Management Agency during fiscal year 1995, $1,441,000 are permanently canceled. The Director of the Federal Emergency Management Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,008,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1995 shall not exceed $2,454,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1995 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,166,000: *Provided*, That notwithstanding any other provision of law, that Office may solicit, accept and deposit to this account, during fiscal year 1995, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts: *Provided further*, That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; [$5,592,900,000] *$5,573,900,000*, to remain available until September 30, 1996.

SCIENCE, AERONAUTICS AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,901,200,000, to remain available until September 30, 1996.

Of the amounts provided under the heading, "CONSTRUCTION OF FACILITIES", for the Consortium for International Earth Science Information Network in Public Law 102–389, $10,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

For construction of new national wind tunnel facilities, including final design, modification of existing facilities, necessary equipment, and for acquisition or condemnation of real property as authorized by law, for the National Aeronautics and Space Administration, $400,000,000, to remain available until March 31, 1997.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; [$2,549,587,000] *$2,559,587,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$16,000,000] *$16,800,000*.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

[Of the budgetary resources available to the National Aeronautics and Space Administration during fiscal year 1995, $59,003,000 are permanently canceled. The Administrator of the National Aeronautics and Space Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).]

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1997.

No amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act. The Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

The fourth proviso in the paragraph under the heading "Science, space, and technology education trust fund" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 101–404, 102 Stat. 1014, 1028) is amended by striking out "for a ten-year period" and inserting in lieu thereof "hereafter".

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration shall convey, without reimbursement, to the City of Slidell, Louisiana, all rights, title, and interest of the United States in the property, including all improvements thereon, known as the Slidell Computer Complex, and consisting of approximately 14 acres in the City of Slidell, St. Tammany Parish, Louisiana: Provided, That appropriated funds may be used to effect this conveyance: Provided further, in consideration of this conveyance, the National Aeronautics and Space Administration may require such other terms and conditions as the Administrator deems appropriate to protect the interests of the United States.

Of amounts made available within this Act to the National Aeronautics and Space Administration, not more than $108,900,000 shall be obligated to satisfy the requirements set forth in section 9(e)–(r) of the Small Business Act, as amended (15 U.S.C. 638(e)–(r)), and any related requirements, including such requirements enacted in Public Law 102–564.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1995, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1995 shall not exceed $901,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; **[**$2,216,923,000**]** *$2,300,000,000*, of which not to exceed $225,430,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1996: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further*, That amounts appropriated in prior fiscal years for the United States Polar Research Programs, the United States Antarctic Logistical Support Activities, and the Critical Technologies Institute shall be transferred to and merged with this appropriation and remain available until expended.

Of the amounts made available under this heading in Public Law 103–124, $35,000,000 are rescinded.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction and procurement projects pursuant to the purposes of the National Science Foundation Act of 1950, as amended, **[**$105,000,000**]** *$150,000,000*, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, **[**$100,000,000**]** *$300,000,000*, to remain available until September 30, 1996: **[***Provided*, That these funds shall not become available for obligation until March 31, 1995**]** *Provided, That $190,000,000 of the funds under this heading are available for obligation for the period September 1, 1995 through August 31, 1996.*

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, **[**$585,974,000**]** *$605,974,000*, to remain available until September 30, 1996: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $123,966,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1995 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, **[**$4,000,000**]** *$4,380,000*.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: *Provided*, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1995 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $827,000,000, to remain available until expended.

[FDIC AFFORDABLE HOUSING PROGRAM

[For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $15,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

[Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds.

The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.]

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,000,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

[SEC. 517. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

[(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

[(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

[(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, mis-representation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

[(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government of restructure, modify or renegotiate the assistance agreement; and

[(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such action.

[SEC. 518. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

[(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.]

SEC. 517. None of the funds in this Act may be used to reimburse grantees for indirect costs at an amount that differs from procedures in use by Federal agencies on June 1, 1994 or from OMB Circular A-21, as published in the Federal Register on July 26, 1993 on pages 39996 through 39999.

This Act may be cited as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Madam President, I ask unanimous consent that two individuals on detail to the VA-HUD subcommittee, Dr. Chris Gabriel, and Ms. Ann Watt, be given unlimited floor privileges during the consideration of H.R. 4624.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, you saw me leap to my feet and overlook the reading of the bill because I am quite anxious to bring to the U.S. Senate the VA-HUD and independent agencies appropriations bill for 1995.

This has been a strong bipartisan effort trying to achieve investments in America's future, promises made, promises kept to our veterans, and at the same time fiscal affordability.

Ordinarily, I would be joined by my ranking minority member, Senator PHIL GRAMM of Texas. He is now involved in the Whitewater hearings and will not be on the floor during this debate. He will submit his statement as appropriate and will speak to the Senate tomorrow morning. So, we understand why he cannot be here.

In the bill before us today, the Committee on Appropriations is recommending just over $70.4 billion in new discretionary budget authority for the programs within the jurisdiction of the VA, HUD, and independent agencies subcommittee.

That means VA, HUD, FEMA, space, the National Science Foundation, and several other independent agencies.

FUNDING SHORTFALL

As my colleagues know, this year we have faced a daunting, if not nearly impossible, task. The Senate VA, HUD, and Independent Agencies Subcommittee has a 602(b) allocation that is $729 million in outlays below the President's budget request.

In addition, the chairman of the House VA-HUD subcommittee and I have jointly identified four areas of need where the President's budget request is inadequate: VA medical care, VA medical research, VA pension claim processing, and public housing operating subsidies. To fix these four areas costs an additional $354 million in outlays.

Combining this shortfall of $729 million and these liens of $354 million, we faced an outlay gap of almost $1.1 billion.

We also received nearly 1,100 requests from Members for individual projects, all with merit, with a dollar total requested of more than $96 billion, about $26 billion more than the subcommittee's 602(b) allocation.

As a result of these demands, the committee has derived savings in this bill, as did our counterparts in the House, by including certain legislative provisions, largely in the housing area, which will generate significant outlay savings.

That means where the money came from. It meant that, with the concurrence of the authorizing, certain legislative provisions in housing will give us these outlays that we need.

However, because the Senate VA-HUD subcommittee had a 602(b) allocation which was $316 million less in outlays than the House, we have been forced to include certain additional housing provisions to make up, in part, for a smaller outlay allocation.

With the use of these provisions, the bill before the Senate represents a balanced package that accomplishes the tasks we set out to do at the beginning of this year: Meet our commitments to veterans; fund a balanced U.S. space program; address the highest priority housing areas; continue our investments in science and technology; preserve the environment; and keep our commitment to national service.

I would like to highlight our efforts in some key areas:

Veterans: We are recommending a total VA appropriation of more than $37.4 billion, $136 million higher than the House and $314 million above the President's budget.

Medical care: We are adding $111 million to the budget request for veterans medical care, for a total medical care budget of more than $16.2 billion—an increase of more than $610 million above the 1994 level.

Prosthetic research: We have added $41 million to the budget for veterans medical and prosthetic research, providing a total of $252 million.

Pension claim processing: Because we were deeply concerned about the backlog for veterans pensions and insurance claims processing, we have added $50 million to the budget request. This will mean a total general operating expenses budget of $893 million, almost $67 million above the 1994 appropriations.

State nursing homes: For State veterans nursing homes we have added $10 million to the budget request, a total of $47.4 million.

In the area of housing, for HUD, we are recommending $25.6 billion in new budget authority. However, using unused and unneeded funds from prior years, we will be able to provide a program level for housing of close to $26 billion.

CDBG: For CDBG, we are retaining the House increase of $200 million above the budget, for a total CDBG program of $4.6 billion.

Elderly housing: We have provided a total of $1.3 billion for elderly housing, restoring the proposed budget cut, and adding about $150 million above the House.

Public housing: We have also restored proposed cuts in public housing, provided $500 million for Hope VI, and retained the House level for operating subsidies.

Home: We have added $225 million for the home program, for a total of $1.5 billion.

Homeless: For the homeless, we have provided the full budget request of $1.25 billion, but agreed to leave FEMA's food and shelter program in FEMA.

Space: For NASA, the bill proposes more than $14.4 billion, more than $200 million above the budget request and $440 million above the House.

Space station: Included in this recommendation is $2.1 billion for the space station, maintaining its core science capability and our partnership with Russia, the European Community, Canada, and Japan.

Space science: The bill recommends full funding for all major NASA space science initiatives, including the Cassini planetary mission to Saturn, the advanced x ray astrophysics facility, and the Mars global surveyor mission.

Mission to Planet Earth: For the Earth observing system, we have added an additional $50 million in order to get spacecraft after the first EOS satellite back to their original schedule.

We are also making a major investment to make our aeronautics industry remain competitive. It has been deeply disturbing to this Senator, and I know to the Presiding Officer, and to other Senators on the floor. It has been our aeronautics industry that has always led the way, both in this Nation and around the world. It was our aeronautics superiority that enabled us to win World War II and continue to be a superpower.

But, at the same time those extraordinary objectives that we achieved—often because of the military objective, because of the kind of Nation we are—we moved into the civilian economy. Now we face new challenges.

Our American aeronautics industry is competing not only with other companies, but with other countries.

Therefore, we wanted to make sure they have the research capability in a public-private partnership to work with them.

Wind tunnels: In addition to NASA's core program, we have added $400 million for a new wind tunnel initiative in aeronautics. This will help our aeronautics industry to be competitive and have the technology-tools to be able to jump-start the agency's work. And working in this public-private partnership, that will keep us not only a military superpower but an economic superpower with aeronautics leading the way.

Water infrastructure: For water infrastructure activities, we are providing nearly $3.4 billion. This includes $700 million for drinking water grants, $100 million for non-point source pollution, $2 billion for wastewater State revolving funds, and just over $500 million for needy city wastewater grants.

Environment: For EPA, we are providing a substantial increase. The committee recommended an appropriation of nearly $7.5 billion, more than $800 million over last year, $300 million above the budget request, and $466 million higher than the House.

Operating Programs: EPA's operating programs would grow by more than 7 percent over 1994, one of the largest increases in the bill. By providing this amount, I think we have answered critics who suggest that full funding of the space station would gobble up funds otherwise going to the environment.

Science: For NSF, we are recommending more than $3.4 billion. This is $436 million above last year, $256 million above the budget request, and $349 million above the House.

Over the past year, the National Science Foundation has willingly accepted the challenges in strategic research which the committee set out for it last year. We believe that Dr. Neal Lane's efforts, and those of his associate directors, should therefore be rewarded.

Research: We are recommending $2.3 billion for basic research, about $83 million more than the House.

Education: We propose $606 million for science education, $20 million above the House.

Facilities modernization: To improve facility modernization at our campuses so they can make sure that our young people are as fit for duty as we can, we are recommending a total of $300 million, including $190 million for a new merit-based inter-agency facilities program run by NSF.

National Service: Finally, for national service, we are providing $610 million, almost the entire budget request.

This is among the President's highest priorities in this legislation and I am happy we could accommodate this priority of his.

Along with this increase, we've added funds for the national service inspector general. We want to make sure that as funding for national service programs increase, our stewardship over these expenditures increases as well.

In summary this has been a tough bill to assemble. I am deeply appreciative of the cooperation I have received from our full committee chairman, Senator BYRD, and his staff.

I also want to thank Senator PHIL GRAMM, my ranking member, all the members of our subcommittee, and the members of the Banking Committee, for their cooperation in putting this bill together.

We have not provided for all the needs for which requests where made. And many will be unhappy that our wallet was not as large as the wish lists of those who sought funds from the subcommittee.

On balance, however, I believe it addresses the highest priority matters of the United States of America in a way that is fair and balanced, and I urge my colleagues to support its passage.

Madam President, I note that Senator KAY BAILEY HUTCHISON, a strong supporter of this bill, would like to make an opening statement. After her statement, we will move to the space station amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President.

First, I want to thank the Senator from Maryland for her leadership in this effort. She has been a proponent of NASA and space because she went to NASA and she saw all the things that were done there that affect the everyday lives of Americans. She could see immediately that we had to be leaders and we had to look to the long term. Madam President, that is what we are talking about today.

Two weeks ago marked the 25th anniversary of the *Apollo 11* Moon landing, the culmination of one of the most significant undertakings this Nation has ever known. On the eve of this historic anniversary, the House voted overwhelmingly, 278-to-155, to support the space station. Yet, the Senate is here today, debating this bill once again. And we will have an amendment to once again eliminate the space station.

President Kennedy started it with his vision that we would be able to do things beyond our dreams when we went into space research. The years proved President Kennedy was right. We have been able to do things that we hardly could dream about when he started this project.

The race to the Moon required great advances in engineering and technology that still fuel our economy today. Some 30,000 spinoff technologies are employed regularly in computers and communications, health and medicine, the environment, home and recreation, and public safety. Less obtrusive hearing aids and better pacemakers. CAT scans and surgical lasers. Velcro closing devices.

The space station will be a test bed for the technologies of the future, and a laboratory for research. For example:

A better understanding of the combustion process in space can lead to energy conservation on Earth. A 2-percent increase in burner efficiency for heaters would save the United States $8 billion per year;

Research on large space vehicles will lead to improved computer software for developing new, lightweight structures such as antennas and solar collectors with precision pointing accuracy. Such developments will greatly benefit the communications, utility, and transportation industries; and

Research already scheduled for the space station will address several perplexing women's diseases, from osteoporosis to ovarian and breast cancer to immune system disorders.

And, like the Apollo program before it, the space station will enable us to develop new and more advanced spinoffs that will help to make life here on Earth better and safer.

Critics in this body have used the budget as an excuse to scuttle the space station. But the reality is that if the space station were terminated, these dollars would be spent on environmental and social programs that have either failed or that we know will never provide a return on our investment.

When we prioritize spending, we have a choice: Do we want the kind of spending that is one time only, that will provide jobs for 10 months or 18 months, or should we spend money where it is going to reap benefits twentyfold, or more, as space research has already shown it will do?

There are people today who are healthy because of space research and because our forefathers and mothers had the ingenuity and foresight to make those investments.

We get a thrill from the new horizons opened with space ventures—we can see the gains because we can see the liftoff and hear the astronauts as they orbit the Earth.

But, big science and research are more than a cheap thrill.

Big research projects give us new technologies, new products. Making these new products requires engineers and factory assemblers.

These new jobs keep our economy vibrant and growing—to absorb our new entrants into the job market.

The parents of every child want more than anything for their child to have a future. Space research will provide that future.

Terminating the space station is the equivalent of eating our seed corn. We must inspire our children to become engineers and scientists. We must then give those engineers and scientists the opportunity to develop new products and processes that will make us more competitive in the world marketplace.

We have already sent the wrong message once. A year ago, the Congress voted to kill the super collider. That was a mistake. I think many people who voted to kill it a year ago realize that it was a mistake.

It was a mistake because in effect we took a back-seat in high energy physics to our technological competitors. We chose to follow when it was in our grasp to lead. We sent the wrong signal to our scientific community and to our students who we so desperately need to master the basic sciences.

Now the bright minds of today and tomorrow are turning to Europe and to projects like CERN. Their research and their discoveries will lead to new products and new industries and new jobs for our international competitors.

We cannot afford to make the same mistake with the space station.

There is another issue here as well. We cannot afford to walk out on our international partners. These partners—which include Japan, Russia, Britain, France, Germany, Italy, Spain, and eight other European countries—have acted in good faith and have invested millions of dollars. It is unthinkable that America would not be a good partner and would not live up to its commitment.

Those who seek to kill space station funding are looking to yesterday. Leaders must look to tomorrow.

We will hear once again that the hardships are too great, the costs are too high.

But, I would remind my colleagues to put the matter into perspective.

NASA's annual budget accounts for less than 1 percent of total Federal spending.

The space station accounts for one seven-hundredths of the entire Federal budget which breaks down to about $8 per person. So, for the cost of a hamburger, french fries and a Dr Pepper each American can keep the space station program on track.

In return for the investment, America receives 370,000 direct and indirect jobs which are dependent on the space station, and a return of $20 to the U.S. economy for every $1 spent on the space program.

While there will remain some who claim "We cannot afford the space station"—the truth is—we cannot afford not to keep our commitment to big science and the future of this country.

Madam President, I thank the Senator from Maryland and I look forward to debating those who would look back to yesterday rather than look to tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, first of all, I thank my colleague from Arkansas for allowing me to proceed at this time. I think he was prepared to offer his amendment early this evening so we might start consuming the time allotted for his amendment.

I assume he will discuss, at some length, the many reasons for terminating the space station immediately. I would like to take this opportunity to focus on the fact that the administration's promise that bringing Russia into the program will reduce its costs is, in fact, false, as demonstrated by a recent GAO report that I requested.

A year ago, the space station was on the verge of being terminated, but in a desperate effort to save it, the administration brought Russia into the program, asserting that this would reduce the cost to build the space station by $2 billion, from $19.4 billion down to $17.4 billion. This promise of $2 billion in savings was critical to gaining congressional support to save the station last year.

The GAO, however, has recently found this claimed $2 billion is about as empty as the space through which the station would fly. According to GAO, far from saving $2 billion, bringing the Russians into the program will increase the costs by nearly $2 billion. Russian participation does yield about $500 million worth of savings for certain items. But it also requires additional spending for the space station program of about $900 million for such things as a fourth solar array and the cost of integrating the Russian equipment. So within what NASA defines as the space station budget, Russian participation adds a net cost of $400 million.

But, in addition to this, there is another $1.4 billion in added spending that will be required by the Russian participation, but which NASA conveniently failed to include in its estimates of the station's costs.

NASA's failure to include this extra $1.4 billion required by Russian participation reminds me of Steve Martin's routine about how to be a millionaire and pay no taxes.

First, he said, get $1 million. Then, do not pay any taxes. And then when the tax man comes around to find out why, simply slap yourself on the forehead and declare, "I forgot."

Including the Russians in the space station will require two more shuttle flights to build the station. This will cost $746 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station program would require the space shuttle fleet to be enhanced so the station could be built in the Russian's higher inclination orbit. This will cost $185 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station will require a second space shuttle orbiter to be modified so it can dock with the Russian Mir. This will cost an additional $44 million. Why did NASA not include this in the costs? NASA forgot.

Including the Russians in the space station reduces NASA's launch window to only 5 minutes, and overcoming this limitation will require up to $20 million. Why did NASA not include this in the cost? NASA forgot.

Including the Russians in the space station led to a $400 million contract between NASA and the Russian space agency for the first two phases of this three-phased program, including the development of space station hardware. Why did NASA not include this cost? NASA simply forgot.

Madam President, NASA's creative accounting appears to be a deliberate effort to mislead Congress and the American people. We have had this on many other types of programs. I could go back and cite the B-1B program, whose original cost projections excluded billions associated with the program and which ultimately cost the American taxpayer much more beyond that or, indeed, the B-2 bomber, among others. But rather than joining NASA in forgetting the facts and in forgetting whose money it is we are talking about, I suggest we ought to forget about the space station program.

If these findings were not enough to persuade Senators, GAO also identified problems that could delay the station's schedule and increase the cost even more.

NASA, for example, is developing a new super lightweight fuel tank to help the shuttle reach the Russian orbit. GAO found that "in developing the super lightweight tank, NASA is experiencing significant development problems."

NASA claims that this will not delay the schedule at all, but GAO warned that the fixes that are needed to develop these programs and to correct these problems could "increase tank development costs, reduce the amount of lift gain provided by the new tank, or both." And reducing the shuttle's lift could necessitate more shuttle flights to assemble the station, resulting in schedule delays and large additional costs.

As it is, NASA says the new Russian *Alpha* station will cost about $71 billion to build and to operate. But I would submit that given that the average cost overrun of NASA programs is 77 percent, no one should be surprised when future cost estimates of the station rise above $100 billion. We will not be able to come back and say, "We forgot."

Even at $71 billion, we cannot afford the Russian *Alpha* station any more than we could afford the $120 billion space station *Freedom*, which the administration terminated last year, and neither can our children, from whom we, once again, will be borrowing the money.

NASA cannot afford it. As the GAO and CBO have warned in several dire reports, NASA's budget over the next 5 years falls at least $10 billion, and conceivably $20 billion, short of what it needs to pay for various programs that it plans to conduct.

So a failure to terminate this program will result in NASA stretching out the other programs to live within its budget, wasting billions in taxpayers' dollars, and causing the outright cancellation of other NASA programs that do support real science.

It also means that every year for the next decade there is going to be terrible pressure on all programs funded through the VA-HUD appropriations bill, which includes health care for veterans, programs for the homeless, environmental protection, and real science programs funded by the National Science Foundation.

Terminating the space station now would save $10 billion over the next 5 years, relieving the pressure on these other important programs and allow NASA to carry out some worthwhile research projects.

In this regard, it cannot be repeated too often that the efforts to justify the station on scientific grounds have been refuted by the most credible source possible: The very scientists who purportedly are going to benefit from the station.

Proponents argue that the space station is needed to advance research against cancer. Why, then, does the American Association for Cancer Research oppose the space station as being of "little scientific or technical merit?"

Proponents argue that the space station is needed for ground-breaking research on crystals. Why, then, is the station opposed by the association of American scientists who study crystals, the American Crystallographic Association?

It has been argued that the space station is needed for research on semiconductors. Why, then, is the space station opposed by the principal professional organization of semiconductor researchers, the Institute for Electrical and Electronics Engineers?

Proponents claim the space station is critical to the future of scientific research in this country in general. If that is so, why has Science magazine, the premier scientific journal of the American Association for the Advancement of Science, called it "90 percent public works, 9 percent public relations, and 1 percent science?"

Why have the leading professional associations of American physicists, chemists and biologists call it a "multibillion dollar project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific validity of participating nations?"

The answer is that the scientific justification is the station is simply not there. Even station advocates have acknowledged as much in unguarded moments: 2 years ago, the White House science adviser was asked, "Is there any scientific value to the space station?" And his candid response was, "No. None whatsoever."

What the space station really is, Madam President, is a jobs program, and while we are all for jobs, Senators ought to be aware that this program is really directed to a few selected States. Nearly four-fifths of the money spent and the jobs paid for by the space station will be directed to only three States: California, Texas, and Alabama.

I understand the concerns of those 10,000 employees who are working in these States on the space station. But my concern is with the tens of millions of taxpayers who see half their Federal income taxes go for interest on the debt and too much of the rest squandered on unjustified programs.

My concern is for America's children, who may see two-thirds of their Federal income tax going for interest on the debt because we continue to pile up these astronomical deficits year after year.

My concern is for all those who benefit from and the scientists who do the research on cancer, crystals, semiconductors, chemistry and physics—scientists who almost uniformly say that proceeding with the space station will waste money that can be better spent on real research to fight cancer, advance science and improve our economy.

On behalf of our children and those who would conduct and benefit from such research, I urge my colleagues to vote for the Bumpers amendment when it is offered to terminate the space station now before we waste billions more that we simply cannot afford.

I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Arkansas.

AMENDMENT NO. 2444

(Purpose: To reduce the appropriation for the implementation of the space station program for the purpose of terminating the program)

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending committee amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. WARNER, Mr. COHEN, Mr. BAUCUS, Mr. KERRY, Mr. SIMON, Mr. BRYAN, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CHAFEE, and Mr. WOFFORD, proposes an amendment numbered 2444.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the figure on line 6 on page 70 and insert in lieu thereof the following: "$3,634,200,000, to remain available until September 30, 1996. Provided, that of the funds provided under this heading, no funds shall be expended on the space station program, except for termination costs."

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, this is, I guess, the fifth year in a row in which I have come to the floor on the space station and tried to separate the doers from the talkers on fiscal responsibility.

Let me just start by reviewing the bidding on how we got to this point.

To begin, let me refresh the memory of my colleagues. On the evening of January 25, 1984, at the State of the Union Address by Ronald Reagan, which I attended, President Reagan said as follows:

> Tonight I am directing NASA to develop a permanently manned space station and to do it within a decade.

The cost was to be $8 billion. I asked myself then and I have been asking myself for the past 11 years now: Why a space station?

After we went to the Moon ahead of the Soviet Union, there was no point in them going to the Moon, so they decided to build a space station, and they did.

And since 1974, the Soviets and now the Russians have continued to keep a space station in orbit. I think the one up there now is the seventh space station that the Russians have built and launched.

Now, Mr. President, I will come back in a moment to just what benefits the Russians have received from their seven space stations. But I can tell you after I review what the Russians have received out of their seven space stations over the last 20 years, I would again pose the question: Why on Earth do we want to emulate them?

I feel comfortably certain that President Reagan's initial reason for building a space station was because the Soviets had one in orbit. That is a very poor reason. But I remember in the beginning when we started talking about space station *Freedom* what all we were going to do. We were going to put this space station up and we were going to use it for a staging base in case we wanted to go to Mars or the Moon. We were going to use it for a manufacturing facility, to manufacture all kinds of things in space. We were going to make it a space-based observatory, a transportation node, which is a fancy word for high-priced garage and filling station. It was going to be a servicing facility, an assembly facility, a storage facility, and a research laboratory.

Those were the eight things for which we were designing the space station *Freedom*.

Now, Mr. President, here is another chart that shows you what has happened to those eight reasons for building space station *Freedom*. Staging base, deleted; manufacturing facility, gone; space-based observatory, gone; transportation node, gone; service facility, gone; assembly facility, gone; storage facility, gone. Only a research laboratory remains. The only remaining rationale of the original eight reasons for building the space station is a research laboratory. And we are going to squander and have already squandered over $13 billion and given up on seven of the eight original purposes.

We are in the 11th year, and we did not spend $8 billion as President Reagan said we would spend to build and deploy the space station. We are in the 11th year, and as of this moment, Mr. President, all we have is a design of a space station—nothing up there yet. After 11 years, we have a design called space station *Alpha*.

You are going to hear people pop up on this floor tonight and in the morning saying so far as this research laboratory is concerned, we are going to grow crystals, crystals for semiconductors. You will hear people talk about a cancer cure. You remember that old expression that the last refuge of a scoundrel is patriotism? Well, the last refuge of those who still favor the space station is that it is going to cure cancer. This is either the fifth or sixth year I have stood at this desk trying to kill the thing, and every year I get the same response: We are going to cure cancer. Is that not curious? Do you know who one of the leading opponents of this thing is? The American Cancer Society.

Now, you would think that if this thing had potential for that kind of medical research, the American Cancer Society would certainly favor it, but they do not.

Mr. President, this design called space station *Alpha* is going to be built by the United States, by Russia, by European nations, by Canada, and by Japan. If you look at the plan that NASA put out, it shows you what part of this station is going to be built by each of them. They always say an elephant is a donkey composed by a committee, and that is what we are going to build. The Senator from Maine just talked about the GAO report that came out yesterday that said Russia's participation, for which we were to pay $400 million, is going to actually cost the United States $1.8 billion.

NASA loves to throw around figures like, well, it is only $2.1 billion. That is right, for this year, 1994. And another $2.1 billion next year, 1995. They love to tell you that the $2.1 billion in 1995 translates into 2.2 cents per day for every man, woman, and child in America.

Who can squawk about 2.2 cents a day? Just peanuts. Count me in. I am willing to pay two cents a day except for one thing. It is not 2.2 cents a day. That is only for 1995. That does not count what we have already spent and what we are going to spend, which totes up to $70.8 billion.

If you count the $2.1 billion we are spending this year and what they are going to spend over the next 15 to 20 years—15 years, roughly—that is $70.8 billion.

And the $70.8 billion does not include $1.5 billion for civil service costs which NASA says they inadvertently forgot. Now, if they forget to count $1.5 billion for civil service costs, I do not want to ride on the space station. I do not want to ride on the shuttle to get there, and I do not want to be housed in the space station if they forgot and inadvertently left out $1.5 billion in civil service cost.

But when you add that $1.5 billion that they inadvertently left out, then the cost goes to $72.3 billion; but that is not all of it either. Here is the firecracker. It is not $72.3 billion. Over the next 35 years, if you compound the interest at 7 percent—because every dime we spend is going to be borrowed, and going right smack onto the deficit—Mr. President, that comes out to a tidy sum of $156 billion.

Two point two cents a day. The unmitigated gall of somebody to put out such a figure as that—$156 billion over a 35-year period counting the interest, and that is the real cost. And that is $2,500 for every family of four in America. I invite every Senator who intends to vote against my amendment to go home and tell all the people in his or her State, "I just voted to tax you $2,500 for a space station that will have a life expectancy of 10 years."

While you are at it, tell them that once we get it up there, which we will, it is just a mechanical problem, an engineering problem, to throw it in space. God knows, if the Russians can do it, we ought to be able to do it. There is no trick to that. But once you get it deployed, you have to operate it, which costs $21 million a day. All you big deficit hawks, all you big balanced budget constitutional amendment hawks, go home and tell them that you just got through voting for $156 billion for a space station. Tell them that comes to $2,500 for their family. Then see how rock solid they are about a space station.

Mr. President, while you are at it, tell them that every pound of water we send to the astronauts—make it water, food, supplies, everything—every pound of payload we send up on the shuttle to supply our astronauts is somewhere between $12,880 and $15,200 per pound. We will be happy to supply the astronauts with that good Arkansas Mountain Valley Water for that.

Mr. President, did you know that the space station is going to cost 14 times its weight in gold? I cannot believe these things myself, yet I am sure Members will march through that door in the morning and say, "I vote against Senator BUMPERS' amendment even though the space station costs 14 times more than its weight in gold."

But back to the Mountain Valley Water, which I certainly hope we get the contract for. It is estimated that each of the six astronauts on board will need 9.2 liters of water every day. As Everett Dirksen used to say, it soon runs into money, does it not? Over $15,000 a pound for water. What does that translate into? That is $319,200 a day just for water for each astronaut. I would choke to death on water that expensive, as should every Member of this body.

Do you know what else that translates into, Mr. President? That translates into $466 million a year for water for the astronauts; $.5 billion a year just for water to keep them alive.

Mr. President, for that $13,000 for every pound of water we send to the astronauts on the space station, you could feed a family of four for 2 or 3 months, and have $12,000 left to send to the National Institutes of Health to do real research right here on Earth—the kind that will cure cancer, not "pie in the sky," but honest-to-goodness research in the great medical schools and universities of America.

There is one other point I want to make before I take this particular chart down. A lot of people who are going to come in here tomorrow to vote against my amendment will do so because the space station will provide a few jobs in their State.

You should know that three States get 78 percent of all of the massive amount of money we are going to spend on this—three States.

Tomorrow, when Senators walk onto the Senate floor, I or somebody else will hand them a chart showing them what their States get back from the space station in jobs, and also what it is going to cost each of their States. I am not sure, but I believe the cost in 1995 for the people in my State will be $19.8 million. That is a lot of money for a relatively poor State like Arkansas. For Georgia, it is going to cost $55 million. If you went down and took a vote in Georgia, and said, "How many of you people want to pay a $55 million tax bill for the space station?" you might get three people to say "aye." As long as it is some kind of nebulous, arcane concept on the floor of the U.S. Senate, the people of Georgia are never going to be presented with that proposition.

Do you remember the Exon-Grassley amendment? Senator EXON from Nebraska and Senator GRASSLEY from

Iowa offered an amendment to cut an additional $26 billion from the deficit over the next 5 years. I voted for it because I felt that we could cut $26 billion more over the next 5 years. When they went to conference with the House, they cut that in half, and now we are only obligated to cut $13 billion over the next 5 years.

Look at this chart: it is the most powerful chart I have seen since I have been in the U.S. Senate. It shows that under Exon-Grassley, we have to cut $13 billion over 5 years. We cut $500 million of that for 1995. But next year, for 1996, when we go through the appropriations process, we have to cut $5.4 billion.

Mr. President, this year, as chairman of the Agriculture Appropriations Subcommittee, I had 1,100 requests from my colleagues to increase spending in that bill. "Dear Senator BUMPERS: Please give me $2 million to start this research project at the University of Such-and-Such."

"Dear Senator BUMPERS: We have this nice little laboratory down here and we want to expand it." There are 1,100 of those requests. Senator BYRD, chairman of the Appropriations Committee on Interior, normally gets between 3,000 and 4,000 requests a year from Members of the Senate. "Please help me expand this park; please help me with this, that, and the other."

This year, Agriculture appropriations had to cut $659 million below a freeze. I could not help some of my colleagues. But this year is a picnic compared to next year when we start looking for $5.4 billion. Here on this chart is the Exon-Grassley amendment—$13 billion we must cut over the next 5 years. And if you vote for the Bumpers amendment, you have found $10.4 billion of it. If you vote for my amendment, that is what you save.

When you tell your constituents that the request they sent to you cannot be honored, go home and tell them you would love to do it, but you could not see fit to vote against the $156 billion in spending for a space station.

Mr. President, I will tell you what the real mission of the space station is. It is because NASA wants to go to Mars. If we had a $4.5 trillion surplus and not a $4.5 trillion debt, I would want to go to Mars, too. Though, for the life of me, I cannot imagine what we are looking for there. When I first came to the Senate, I went on the Space Committee. Believe it or not, we used to have a Space Committee in the Senate. That is how important space was several years ago. But I am telling you, it was a spacey committee. I thought I would make the best out of it, but I resented being put on it. I had been Governor of my State, and all of a sudden I wind up on this lowest of all committees, the Space Committee. So I go down to Houston and I look at all these magnificent pictures of the Moon those very brave astronauts took, and I looked at all of the rock they drilled and brought back. It looked just like Arkansas prairie shale to me, or lava. I was not very impressed with it. I do not guess anybody else was either, because we have not been back to the Moon. Nobody has even suggested going back. We beat the Russians there, and that was the goal.

But if you look beyond the Moon to Mars, which is the real aim of NASA, and then you look at the underlying—what can only be described as—scam that they tell us is the real reason, they tell us they want to grow crystals for semiconductors. They say we are going to get all kinds of spinoffs. I suppose if you spend $70 billion, you are likely to get some spinoffs. It would be hard for something not to happen when you spend $70 billion. I have seen Boeing's advertisement, talking about the wonderful virtues of the space station, and one is to grow crystals.

Mr. President, let me read you, at the expense of possibly boring you, what people are saying about the space station. But I want to read, first of all, what T.J. Rodgers, founder of a semiconductor company said. Here is what he says about industrial crystals:

> I run a semiconductor company, and I am the director of Vitesse, a gallium arsenide semiconductor company, so I know about this stuff. All I can say is this program of growing gallium arsenide wafers in space is a colossal con job, and there is no one I know in my industry that wants those wafers. There is no economic benefit to increasing the purity of a crystal beyond the point that we can currently improve it. The cost is huge, and the economic benefit is almost nil for that last stop, going up into space.

Doctor Al Joseph, founder of the same company, said:

> The idea of making better gallium arsenide crystals in space is an absurd business proposition. Even if you can give me perfect and pure crystals made in space, it won't help me much commercially because 90 to 95 percent of my costs and 85 to 90 percent of the integrated circuit yield on a wafer is driven by what I put on the wafer, not by the purity of the wafer itself. The cost of one trip to the space station would finance just about everything the American electronics industry needs to ensure its technological superiority for years to come.

So much for those magnificent crystals.

Here is what the American Physical Society said about the space station. The American Physical Society, Mr. President, is 40,000 physicists. That is all the physicists in this country, 40,000 of them. Here is what they said about this whole thing:

> It is the view of the Council of the American Physical Society that scientific justification is lacking for a permanent manned space station. We are concerned that the potential contributions of a manned space station to the physical scientists have been greatly overstated, and that many of the scientific objectives currently planned for the space station could be accomplished more effectively and at a much lower cost on Earth, on unmanned robotic platforms, or on the space shuttle.

Perhaps you have heard of Dr. James Van Allen, who discovered the Van Allen radiation belt, one of the great all time astrophysicists? Bear in mind that I am quoting some of the greatest minds the world has ever known. Dr. James Van Allen is one of them, and he says:

> For almost all scientific and utilitarian purposes, a human crew in space is neither necessary nor significantly useful. Nearly all the great advances in space science have been achieved by unmanned, automated space craft. With the benefit of three decades of experience in space flight, it is now clear that the conduct of scientific and applicational missions in space by human crews is of very limited value.

Dr. Allen Bromley, Presidential science advisor to George Bush said:

> The human habitation of the space station is fundamentally incompatible with the requirement that the microgravity experiments be unperturbed.

That is, just astronauts walking around in the space station creates enough vibration to ruin research being done in what is called microgravity. Here is what Professor Nicolaas Bloembergen, who was President of the American Physical Society said, and he is a physics professor at Harvard:

> There is no evidence to suggest that a microgravity environment offers any advantage for processing materials or drugs. Indeed, there are sound reasons for doubting that it would.

So much for curing cancer. Nine scientific societies, with 41,000 members—the American Physiological Society; Society for Biochemistry and Molecular Biology; Pharmacology and Experimental Therapeutic; the Society for Investigating Pathology; the Institute for Nutrition; American Association of Immunologists; Society for Cell Biology; American Association of Anatomists—all say no. The American Physical Society went on to say on July 24, 1994, 1 week ago:

> The principal scientific mission of the station is to study the effects on humans of prolonged exposure to a space environment. Medical researchers scoff at claims that these studies might lead to cures for diseases on Earth.

And on and on. The top scientists in the country are saying: Please give us the money for research on Earth, where we can make it count.

Dr. Bromley said, "Microgravity is of micro importance."

Mr. President, the director of the Washington office of the American Physical Society is Dr. Robert Park. Well, I cannot find his quote at the moment.

The other night Walter Cronkite, whom everybody adores, did a 1-hour segment on the space station, and he treated me very fairly. I was quoted a number of times on the program.

But in that program, and I do not mean any disrespect to Mr. Cronkite, he says, "Senator BUMPERS says he can find no evidence that anything has come out of the Russian space station MIR worthy of mention." And Mr. Cronkite went on to say, "We could not find any Russian scientist to confirm that." That is, he could not find a Russian scientist that would agree with me that they got nothing out of their space station, but neither he nor any Russian scientists suggested anything they had gotten.

I have read every piece of space station literature I could lay my hands on for 6 long years, and I have yet to find one single benefit the Russians have received out of their space station.

I used to say when I was a young man, having grown up relatively poor, I used to say if I were going to start a popcorn stand I would find someone who had been successful in the popcorn business. No matter what kind of business I went into, I would want to find someone successful in that business and I would take their advice.

Here the Russians have been a miserable failure with theirs, and we want to spend $156 billion to copy their failure.

If it is such a red hot idea why have we not joined the Russians in a joint research venture? I do not know that we have ever even broached the subject with them.

Mr. President, last year, I got 40 votes for my amendment and 59 against. When I look at all the literature and everything I am saying which I have carefully researched and documented, I ask myself, what does it take to kill a program around here? And the answer is, nobody knows because we have never killed one.

Mr. President, the economy is booming, people are working, and, more importantly, the deficit is going down dramatically.

I can remember when Ronald Reagan ran for office. Every newspaper in the country was covered from front page to back about how terrible the deficit was and how it was going to sink this great Nation. Everybody talked about it. And when Ronald Reagan became President it went up. It did not just go up. It soared. It was absolutely out of control. We went from $1 trillion to almost $4 trillion in indebtedness while he was President. All the time he was lamenting how terrible the deficit was.

In April 1993, last year, OMB projected we would have a $305 billion deficit on September 30 of this year. And in September 1993, 5 months later, OMB gave us the good news that it was going to be $260 billion, $40 billion less. Then, in January 1994, they said it is going to be even less than that: It is going to be $234 billion. And last week CBO said the deficit is going to be $200 billion. That is over $100 billion less than projected a year and 4 or 5 months ago.

I do not presume to tell the President very much, but I told him that if I were he, I would never make a speech anywhere, whether to the Boy Scouts or to the American Physical Society, that I did not remind them that I said I would reduce the deficit and we are reducing it.

When the deficit was soaring, it was all over the front page. Last week CBO came out with a dramatic announcement that the deficit was going to be $200 billion or less, $100 billion less than projected a year and half ago, and it was reported in two lines in the business section of the Washington Post.

Do you know what I hate about seeing that? As rhapsodic as I am about the deficit going down, I will tell you what I hate about it. I can hear the wheels around here turning. The deficit is going down, the economy is great, and so I will just vote for the space station. I can do it now because the deficit is going down. And that is exactly the mentality that got us into astronomical deficits.

Mr. President, I will give you an interesting figure: Last year, 59 people voted to fund this turkey, 59 voted to spend this monumental amount of money. Of those 59, 43 of them voted for the balanced budget amendment to the Constitution of the United States.

Can you imagine 43 people voting to amend the Constitution of the United States to provide for a balanced budget because it is very popular and they could go back home and make the chamber of commerce applaud and then march onto the floor of the Senate 3 months later and vote for 156 billion dollars worth in spending? To add insult to injury, they see no contradiction. Last year, there were 63 votes for the balanced budget amendment. But 43 of those who voted for a balanced budget amendment voted for this. Everybody hates deficits but everybody loves spending.

To vote for a balanced budget amendment is like saying "Stop me before I kill again. Please do something to make me quit voting for all this spending." That is what it translates into.

Now we come to the point with the space station where it is a foreign policy initiative. The President, and especially the Vice President, say we want the Russians on board. If we bring all these Russian scientists in, they will not be making missiles and selling them to Third World countries.

I say give each one of those Russian scientists $100,000 a year in salary and turn them loose. Make it a welfare program.

If you were to list 50 things that the Russians need desperately, the space station would not even be in sight. If you listed 100 things that Russia needed, the space station would not make the list.

Mr. President, I have said about all I know to say. Just remember that this thing has a 10-year life term. It is going to take about 20 or 30 shuttle missions to get it up there. It is going to take 20 or 30 more to keep them supplied, 5 a year for 10 years. That translates into 50 or so. With that many shuttle flights, the chances of having a disaster are not slim. And how many accidents will we have? I do not know.

Mr. President, I will close with this thought. As a country lawyer in a small town in Arkansas, and certainly no foreign policy expert, I never could relate to the Vietnam war, but I could never bring myself to oppose it.

I guess you could say I was a little naive, but I could not understand what we were doing there and why American boys were dying there, and I could not understand what our national security interest was there. But I did not openly oppose it. It seemed unpatriotic.

When my first son turned 17, graduated from high school and was getting ready to go off to college, and eligible for the draft, I began to look at that war more closely. I never discussed it with him, but I discussed it with my wife, who did oppose it. And I suppose, if push came to shove, I would have let him register and go to Vietnam and maybe have lost him.

But I thought, if I cannot explain the rationale for that war to my 17-year-old son, why am I not opposing it? More importantly, why is Congress not opposing it? Why is Congress continuing to allow that war to go on, and fine, young, innocent men, the flower of our youth in this country, being slaughtered? Why did they not have the courage to stop it?

So when I ran for Governor, I took a strong stand against the Vietnam war, and I thought it might cause me to lose that race because Arkansas is a conservative State.

But here we have this space station that just goes on and on. It has taken a life of its own just by inertia. There are probably few people across the country—not like the Vietnam war—but there are few people across the country that say, "Why doesn't Congress have the courage to kill that program, save that money for valid research that we need desperately? And if you do not want to do that, put it on the deficit, so our children will have some kind of future."

I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to strongly support the amendment offered by my good friend and colleague from Arkansas.

I have not taken as much time to learn this issue as has my good friend from Arkansas, but I think the closing statement of the Senator from Arkansas basically hits the nail on the head; namely, it is at a gut level when we stop to think about this—how expensive the space station is, given all our country's other needs, and the large budget deficits that we are presented with—it is at a very basic gut level of why in the world are we continuing to do this?

I think that Senator BUMPERS' analogy is an apt one. It is an interesting story by itself, and also an apt analogy; that is, if it does not make sense, why are we continuing to do this?

I do not have a quarrel with the space station's mission. I think we all would like to have some kind of a program that would accomplish the same mission. But I do have many questions about its technical merit. And I have serious doubts about the priority given this experiment at this time.

Space exploration may be inspiring. Of course, it is. But that is not enough to justify spending all of this money, particularly at this time. In these days, every dollar we spend on a big project like the space station is a dollar borrowed.

I want to underline that. Every dollar spent on a big project like this, like the space station, is a dollar borrowed. And with the price tag of $1.2 billion this year—not much less than the entire Montana economy—and up to $60 billion in the next 18 years, I do not believe that this is the time for the American taxpayers to foot this bill.

Eleven billion dollars have already trickled away, and we have precious little to show for it. We should not spend tens of billions of dollars more on this one program, while shortchanging other important programs.

Mr. President, the chairman of the committee, Senator MIKULSKI, has done an admirable job constructing this appropriations bill. It is difficult, extremely difficult, to give in to budget caps that we appropriately placed upon ourselves. And she was faced with very tight budget constraints, which were made much worse by the administration's $1.2 billion request for the space station.

The Environmental Protection Agency, Housing and Urban Development, the Department of Veterans Affairs, and even NASA itself must struggle to do their jobs because they do not have enough money.

EPA has yet to completely implement the health and ecological safeguards ensured by Federal laws. Homelessness and housing shortages are more than realities—they are scandals.

Veterans' medical programs operate with massive staff shortages and are often unable to provide the best possible care. NASA's other programs are faltering. Even the National Science Foundation, also funded by this bill, could use some of the money spent on the space station.

The space station is a luxury. It is a giant program whose technical merit and economic payoffs are big question marks. Going ahead with it at this point is simply a bad choice of priorities.

It is like borrowing to buy a Rolls Royce when you have trouble meeting the mortgage payment.

If we fund the space station, we will take on a large long-term spending commitment. At the very same time, we will restrict basic program needs for environmental protection, housing, veterans, and scientific research—all of which are funded by the VA, HUD, and independent agencies appropriations bill.

SPACE STATION IS TECHNICALLY QUESTIONABLE

While there may be noble intent behind the space station, it is of questionable value and a largely speculative venture. Much of its goals are based on untested theory. It is unclear that the station will even survive damaging space debris.

NASA estimates that there is a one in five chance that floating objects in space would seriously harm the station.

NASA seems to have a habit of biting off more than it can chew, and for the time being it should concentrate on getting existing programs right rather than starting big new ones.

CONCLUSION

Mr. President, the Senator from Arkansas is absolutely right. The bottom line on our budget this year is a big deficit. It is minus $225 billion.

It has come down a lot in the past 2 years, but it is still way too big. And with that kind of figure staring us in the face, we have to choose our priorities carefully. We simply cannot afford a space station.

Voting for the Bumpers amendment is a vote to save $60 billion. It is also a vote for environmental protection, a vote for veterans, a vote against homelessness, and a vote for NASA core research programs, all of which will be starved of money if the space station goes ahead.

A vote in favor of this amendment is the right vote, particularly at this time. It is important to stand up and exercise the courage to stop a program that is not needed, particularly when, in the long term, it is going to be so expensive.

I strongly urge our colleagues to do what is right and that is to support the amendment offered by the Senator from Arkansas.

I yield the floor

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield to the distinguished Senator from Ohio such time as he may consume.

I would like to bring to the Senate's attention that if anyone knows the space program, it is our astronaut, Senator JOHN GLENN.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I thank my distinguished colleague from Maryland.

Mr. President, it is always difficult to judge to look into the unknown. Yet in whatever endeavor—whether in microresearch in the laboratory, microscopic research, chemical research, or whether it is looking into macroresearch of expanding our horizons, our geographical horizons; looking into the unknown wonders of space, there are always those who will doubt the value of the risk, risk of the unknown.

The story is told of Disraeli, the British Prime Minister, going into the laboratory with Faraday, where they had developed the capability to store electricity in charged bottles and make a spark jump from one bottle to another. And, after seeing this demonstration, Disraeli asked, "What good is it, though?"

And Faraday's reply, I thought, was very good. And if it is reported correctly he said, "What good is a baby?" In other words, we had made some advance. We had learned something. We did not quite know what it was all about at that point but it was a start.

The same thing has gone on, throughout history, whether it is Columbus' discovery of America, a journey that experienced a lot of anxiety in its time, or whether it was Henry Ford, and the people standing alongside the road who said, "Get a horse, get a horse." And it turned out that the invention that people ridiculed at that time has come to be our basis of transportation today.

If we all had the lack of foresight even of some of our most learned colleagues who have preceded us in this body, we probably would never have moved off the east coast of this country. Of course if one studies the time period of western expansion, one sees that we had not solved all of our problems at that time. There were still poor people. There were still lots of things that needed to be done. Yet, there was the foresight that went beyond the Appalachians, that went to the Ohio River, the Mississippi, and beyond. There was a need to explore the unknown territory of the West, a need to expand our horizons.

We have in this Chamber, over on the other side of the aisle, the desk that was used by Daniel Webster. Daniel Webster rose in the Senate and commented on plans for westward expansion, plans about moving beyond the Mississippi. I hope all of my colleagues who come from States west of the Mississippi will pay attention to this.

Daniel Webster waved his arms, and I am sure pounded on the desk. As my colleagues may have noticed, his desk over there on the other side of the aisle does not have a top on it that can be raised, because supposedly, during his orations, he was so animated that he hit the top of his desk so hard that he kept breaking it. Even today if you go over there to the other side of the aisle, to the desk of the senior Senator from New Hampshire you will notice that it has a solid top on it.

I can just see him standing in the Senate Chamber and uttering the following. He said:

> What do we want with this vast, worthless area, this region of savages and wild beasts, of deserts of shifting sands and whirlwinds of dust, of cactus and prairie dogs? To what use could we ever hope to put these great deserts or those endless mountain ranges, impenetrable and covered to their very base with eternal snow? What can we ever hope to do with the western coast, a coast of 3,000 miles, rockbound, cheerless, uninviting, and not a harbor on it? What use have we for this country?
>
> Mr. President, I will never vote 1 cent from the public Treasury to place the Pacific coast 1 inch nearer to Boston than it is now.

That was the view of even such a learned person as Daniel Webster, back in the days when we were thinking about moving a little further to the west. I think it indicates that there is always doubt about moving out into the unknown, about learning new things.

Where do we find ourselves in our time? We find ourselves presented with a new capability, a new frontier. People have looked up to the sky for tens upon tens of thousands of years. They have looked up and wondered what was up there, wondered what it would be like to go up there, wondered what we could learn if we were up there. I consider this generation fortunate enough to be present when we developed the capability to fly in space and to use space, to develop new capabilities in space.

What if we had taken this same attitude as Daniel Webster, I ask my distinguished colleagues what if we had said no more, no more exploration, no more science. Where would that find us now?

Luckily, Mr. President, we have invested billions and billions of dollars through the years, many tens of billions of dollars on research. Let me use agriculture as an example. We have invested much time and money in agricultural research and what has happened? Even though there were doubters as to whether we could grow more corn or wheat, we went ahead and experimented. We set up experiment stations across this country. When I was a boy back in New Concord, OH, a good corn crop was probably 48 or 50 bushels per acre. Do you know what it is now? The record corn crop just a few miles from there last year was 239, I think it was, 239 bushels per acre—239 bushels per acre. And when I was a boy, it was about 48 or 50.

Is that because the farmers are working 4 or 5 or 6 times as hard? No. It is because we did basic research. We learned more about fertilizers and soils and hybrids and all the things nobody had any concept of. There were no results guaranteed when we started to look into some of these things, and there is no result guaranteed in looking into space.

What is the difference, Mr. President, in research done on earth and research that will be performed on the International Space Station? A great difference, Mr. President, one that we are just beginning to understand.

We heard a little while ago here about some of the efforts to look into the area of microgravity research, into crystal growth in particular. We heard those efforts belittled. Yet, microgravity research in the production of protein crystal growth has the potential to pay off tremendously.

A paper was recently published by NASA listing the achievements of the last 10 years of microgravity research. I ask unanimous consent that this paper be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, let me go through and pick out just a few of the many exciting and promising accomplishments that have been made in this field in the last 10 years. In the period between Skylab and the present we have seen a wide array of basic applied microgravity research, in ground-based and suborbital facilities as well as orbital flight.

Starting back in 1988, scientists began to have some very good results from microgravity studies, especially in the field of protein crystal growth. We have had some 70 different proteins flown in orbit, and this area of research has emerged as one of the notable success stories of NASA's microgravity program.

I will not go through the results of all of these this evening, obviously, but let me just say that proteins are the basic elements of life. These complex chains of amino acids not only form the physical substance of living organisms, but they play an essential role in every biochemical process governing the body. Scientists seek to determine the molecular structures of proteins and the relationship between protein structure and function. This information can provide a better understanding of living systems and help develop new drugs for medical treatments.

We are finding that large high-quality crystals of the protein being studied can be developed in space better than they can on Earth. Crucial proteins fail to adequately form the needed crystals on Earth. In many cases, the failure can be attributed to the effects of Earth's gravity, which not only generates fluid flows which may damage growing crystals but also causes the crystals to sediment to the bottom of their growth container.

In microgravity, these proteins respectively yielded crystals 27 and 1,000 times larger than the ground-control experiments. The publication of the results generated many new questions about the fundamental mechanisms of protein crystal growth and led to the organization of the first International Conference on Crystalization of Biological Macromolecules in 1986 at Stanford. Some of the findings of that conference and the space findings revolutionized thought among investigators in the field.

They have come back then to the space environment as a means to gain insights into growth processes as a method of obtaining better crystals.

Charles Bugg of the University of Alabama at Birmingham, and his collaborators, subsequently grew crystals on a series of space shuttle flights from 1985 to 1986. The experiments contained only a fraction of a milliliter of growth solution and had no temperature control, but excellent crystals were obtained for human serum albumin, for human C-reactive protein, canavalin and concanavalin B, which appeared to diffract to higher resolution of those grown on Earth. These are all involved in drug research for the benefit of every human being right here on Earth.

These early exploratory experiments indicated that larger protein crystals could be grown in space, crystals of better purity and crystals that are larger and more easily studied.

The unprecedented success achieved in growing large high-quality protein crystals on some of these missions convinced many formerly skeptical protein investigators of the utility of the microgravity environment.

In the STS-26 experiment, microgravity-grown crystals of gamma-interferon D, procine elastase, isocitrate lyase were larger, displayed more uniform morphologies and yielded diffraction data to significantly higher resolutions than the best crystals of these proteins grown on Earth.

Let me give just a few more examples of important scientific experiments that have been studied in a microgravity environment.

Porcine elastase: Now why would we wish to study this? Because the use of porcine elastase in current research is used in a new class of inhibitors for treating emphysema. A practical use.

Gamma-interferon D: Crystals of this protein, grown in space, were larger than the best that had ever been produced on the ground. One was approximately 50 percent larger than the largest crystal that had been obtained previously. These large space-grown crystals displayed an increase in resolution data revealing they had higher internal molecular order.

The importance of this? The importance is that pharmaceutical companies are interested in using gamma-interferon as a possible drug for cancer therapy. Can I guarantee that we will have a cure for cancer out of this? No, I cannot. But I know there is enough scientific interest in this that this kind of experimentation should continue.

Human serum albumin, HSA: Why look at this? HSA, human serum albumin, is the most abundant protein in the circulatory system. As I stand here tonight, and those listening to me, it is the most abundant protein in the circulatory system. We are evolving much more knowledge about these kinds of protein crystals.

HSA crystals were grown aboard STS-24. At a recent mission review, Dr. DeLucas reported that exceptionally high-quality crystals of HSA were grown aboard the mission IML-1 in 1992, and the results have allowed the protein structure to be further refined.

The published results of this work, led by Daniel Carter at MSFC, are considered a breakthrough in rational drug design due to the potential utility of HSA for the transport of many biological and pharmaceutical molecules in the bloodstream. We can enhance other medicines through the study of these materials.

We can perhaps begin to see the day when we will tailor drugs of a purity, to a particular use or targeted for a particular disease.

I quote from this report:

> Ten years of Spacelab experiments have clearly established that protein crystals of superior size and quality capable of providing increased structure data can be grown in microgravity.

I would add that cannot be duplicated here on Earth. The potential for this type crystal growth is tremendous.

Mr. President, in this same report they just list in tabular form proteins grown in space, and the possible uses of those proteins with some further experiments. I will not read all of these either.

But No. 1, done by Mr. Bugg, in one of his experiments, human purine nucleoside phosphorylase, that is a protein for immunosuppressive and anticancer drugs. Another one of the same type, lysozyme. It is a model protein that degrades bacterial cell walls. Can we learn how to use this for our benefit? Possibly. Human serum transferrin. Iron transport to hemoglobin synthesizing red blood cells. Interferon alpha-2b stimulates the immune system, our own immune system.

I would add another interesting thing. The immune system changes when you are up in space for 2 or 3 days. You cannot measure that. It comes back to normal when you return to Earth. Why? Why does the immune system change? Nobody seems to know that yet, but that is so fundamental it seems to me that experiments in space to find out why that happens may be fundamental to someday discovering a cure for AIDS or cancer or whatever.

But this goes on and on listing a number of these, and since I have entered this in the RECORD it will be available to those who would like to read more of these. It would take a couple hours tonight to go through all of these.

But, Mr. President, the area of protein crystal growth is one that has a tremendous amount of promise in science, regardless if some of the scientists, of course, are not that excited about it because they would rather have some of this money for their own scientific area of expertise. They do not want to see money spent some place else so they are somewhat jealous of this. I understand that. We talked about that with people involved in the program from way back in the earliest days, as to whether there was a general benefit to all of science just by the fact that we were going into space.

The space station represents a new frontier, an opportunity and challenge for the United States and for the whole world, in spite of those who may doubt its benefit. And I do not support this just because I happened to be involved with the program at one of its earliest stages. I support it because, as I said, from the earliest days back when I was in the space program I thought at each stage along the way we should not concentrate just on trying to go out further and further into space, deeper and deeper into space as was alluded to earlier.

I agree with Senator BUMPERS in that regard. Our objective now should not be just going into deeper space. We used to joke about this some time back when I was in the space program. We called it "canned man." You put a man in a can and see how far out in space you can send him or her and bring them back.

That is not the purpose of this program at all. The purpose, as I saw it and as I expressed my views from the earliest days in the space program, was that at each step along the way, as we expanded for the first time ever in human history, we expanded our ability to travel off the Earth, at each step we should maximize the research return available that then makes it valuable for people right here on Earth. And that is still my view to this day. That is what the space station allows us to do. That is the reason I support it.

If I believed that this was just a waste of $150 billion, as the Senator from Arkansas has said, I would not vote for this program in spite of the fact that I was involved with it personally at one time. But I do firmly believe that this program has a potential every bit as much as I alluded to earlier when we talked about Daniel Webster not wanting to spend money to explore beyond, or to buy land or acquire property beyond the Mississippi River, referred to as that area of savages and whirlpools of dust and prairie dogs and so on. "Of what possible use can it be?"

Well, what a myopic view. And I would say the same thing here. We have the ability to do research. We have the ability to develop new technologies and procedures to fight disease. We can understand our environmental challenges to provide a safe and healthy world for our children by looking at the world and making our research from above the Earth's atmosphere.

Mr. President, I understand the Senator from Virginia wished to ask a question. I will be glad to yield for purposes of a question without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized for purposes of asking a question.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

For some several years now, I have been associated with the distinguished Senator from Arkansas, [Mr. BUMPERS], opposing this.

This year, as a means of preparing, I invited to my office one Marcia S. Smith, who is a specialist in aerospace policy, Science Policy Division of the CRS—a very impressive individual who has dedicated much of her professional career to the subject of space and now the space station.

So I asked her, I said to this knowledgeable professional, "Miss Smith, could you summarize for me, what are the benefits if we achieve this space station?" And she stated them orally. I was so astonished, I said, "Could you put that in writing?" She said, "I would be glad to, Senator."

Mr. WARNER. Mr. President, I ask unanimous consent at an appropriate place in the RECORD my remarks together with this may appear in full.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. In summary, she said:

> The major benefits—

She was speaking of the Russian space station, and there is a direct parallel between that and this one.

> The major benefits to humanity—

That is those of us in this Chamber tonight and across this great Nation of ours.

> The major benefits to humanity that have occurred from Russia's space station are (1) understanding the reaction of humans to long durations in space and (2) understanding the Earth and the universe from remote sensing and astronomical research. However, if you believe that people will not travel to Mars (or elsewhere beyond Earth orbit), long duration human studies are not necessary, and remote sensing and astronomical research can be conducted on automated satellites as well as, if not better than, on space stations.

That is it. We are not going to Mars as far as I know. Does the Senator know of any planned trip to Mars? Does it justify this enormous expense simply for the benefit of understanding the reaction of humans to long duration in space?

Mr. GLENN. Will the Senator yield for an answer to his question?

Mr. WARNER. I am asking the Senator, does he agree with this?

Mr. GLENN. No, I do not agree. Obviously, the Senator has not been listening to my talk for the last half-hour or so.

Mr. WARNER. Oh, no, I have over the loudspeaker, Mr. President.

Mr. GLENN. I went into some of the areas—I had not finished yet—some of the advantages of the space program and the space station. But do I think we will go to Mars? Sometime, if that was the question, yes, I think we will, but I do not see this as a direct steppingstone to that. I think sometime we will go to Mars, but I am not for a Mars program at this point. A former Vice President advocated that, but I did not go along with him at that time.

But I have been giving a speech here at considerable length about why we need a space station. I think we are into a new element of microgravity in which we can do a lot of research. I see it just for the protein crystal research that I have been enumerating here; the potential of that is so large that I see that as being worth the expense of the space station if nothing else was involved.

But there is a lot more involved than just that, of course. We are involved in some international cooperation. I think this has an impact on our students and their ability, their willingness to go into math and science, and so on. And I would disagree that all of these things are something that in our time we should just lay down and say that it is not worth the effort. We are going into a whole new laboratory of space, and I think it is myopic to think there will not be big advantages that come from this as we use this for scientific experiments.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. GLENN. For a brief question; otherwise, I would like to finish my debate.

Mr. WARNER. I will make it brief.

The PRESIDING OFFICER. The Senator from Ohio yielded for one question. Does the Senator from Ohio yield for another question?

Mr. GLENN. I want to continue with the debate. Does the Senator have a short question?

Mr. WARNER. I do, I say to my friend.

She addressed the very question to which the Senator from Ohio alluded. I will read just one short paragraph.

Research into "microgravity materials processing" has been a strong focus of Russian space station research. Mir has a module especially dedicated to this type of research which studies, among other things, how crystals grow in microgravity or how particles suspended in a fluid can be separated by electricity (called electrophoresis), a process for creating very pure pharmaceuticals, for example. The value of conducting this research on a space station is controversial because most of the experiments can be conducted better on automated satellites where they are unaffected by the vibrations caused by the crew.

Mr. President, does the Senator from Ohio agree or disagree?

Mr. GLENN. I disagree with that. I think the attendant experiments are better. As they go along, and as things develop, the experimenters on board can adjust the experiment, as they have already done on some of the experiments on existing space lab flights or space flights already.

Mr. President, I would like to finish.

Mr. WARNER. I thank the Senator.

[Exhibit 1]

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 2, 1994.

Memorandum To: Senator John Warner (Attention: George Cartagena).

From: Marcia S. Smith, MSS Specialist in Aerospace Policy, Science Policy Research Division.

Subject: "Benefits to Humanity" from Russia's Space Station Program.

As the Senator requested at our meeting last Thursday, this memo addresses the question of what benefits have accrued to humanity from Russian space station research over the past 23 years and thus what benefits might develop from the new international space station that NASA is proposing to build with Russia, Europe, Japan and Canada.

RUSSIA'S SPACE STATION PROGRAM

Russia is currently operating its 7th space station, Mir (a list of all Russian space stations prepared by CRS for general congressional use is attached). For a national perspective, the space station program has contributed to Russia's (formerly the Soviet Union's) national prestige and provided jobs. They have gained considered experience in how to operate space stations for long periods of time. What benefits have been accrued to humanity as a whole would emerge from research conducted aboard the station in the following disciplines:

Human Reaction to Long Durations in Weightlessness

Research into how humans react to long durations in weightlessness benefits humanity if one believes that humans someday will travel to other destinations in the solar system, like Mars. If one does not believe that humans will travel to Mars, then there is no need for this research. The Russians have said that they want to send people to Mars someday and hence have conducted long-duration missions enabled by the space station program. Two Russian cosmonauts hold the record for longest continuous time in space (12 months); a cosmonaut currently aboard Mir is expected to break that record by staying for 14 months.

Biomedical Research

Biomedical research that, for example, could lead to cures for diseases on Earth has not been a major focus of Russian space station research to date. Sometimes categorized as materials processing rather than biomedical research, cosmonauts did produce quantities of a flu vaccine and interferon (an antiviral protein) on Salyut 7 and Mir. Though both can be produced on Earth, Russian press stories heralded the purity and quantities of the drugs produced on the space station. However, little has been said of this type of research in several years, suggesting that the drugs were not cost-effective to produce in space or were not as good as reported in the press.

Materials Processing Research

Research into "microgravity materials processing" has been a strong focus of Russian space station research. Mir has a module specially dedicated to this type of research which studies, among other things, how crystals grow in microgravity or how particles suspended in a fluid can be separated by electricity (called electrophoresis), a process for creating very pure pharmaceuticals, for example. The value of conducting this research on a space station is controversial because most of the experiments can be conducted better on automated satellites where they are unaffected by the vibrations caused by the crew (the exception is basic research where crew members are needed to interact with the experiments), and because of skepticism that cost-effective products will result. Soviet press stories in the late 1980s and early 1990s asserted that space station materials processing research had generated millions of dollars in revenue. The press reports, however, were discounted by other Russians who said it was a matter of one Ministry selling the products to another Ministry and claiming a profit. There is no public evidence that materials produced aboard Russian space stations are used operationally in Russian industry, although it is possible that some (such as cadmium-mercury-telluride, a substance used in infrared detectors and to which a lot of space station experiments have been devoted) are used in classified military programs without public discussion.

Environmental (Remote Sensing) Studies

"Remote sensing" is a term commonly used to refer to the use of cameras and other instruments to study Earth from space for primarily civilian purposes (remote sensing satellites are close cousins of military reconnaissance satellites). Remote sensing benefits humanity by providing a better understanding of Earth's environment, as well as by generating data that leads to crop forecasts, pollution monitoring, land use studies, and a host of other applications. Remote sensing can be conducted as easily, if not more easily (and cost effectively), by automated satellites rather than space stations. In the case of the Russian space stations, the orbit does not permit a complete view of the globe and remote sensing must compete with other scientific activities conducted by the crew. Still, the Russians have used each of their space stations as bases from which to conduct remote sensing, including visual observations by the crews. In particular, space station crews have studied the environmental degradation of the Aral Sea. [Some of the "remote sensing" studies, during the era of the Soviet Union at least, are thought to have been for military reconnaissance purposes; in fact, two of their early space stations (Salyut 3 and 5) are thought to have been primarily devoted to military reconnaissance rather than civilian remote sensing.]

Astronomical Studies

Several astronomical instruments (primarily for x-ray and ultraviolet astronomy) are aboard the Mir space station. In general, astronomical research benefits humanity by providing a better understanding of the origin and evolution of the universe, including our solar system. Some fields of astronomical research, including x-ray astronomy, must be conducted above the Earth's atmosphere because the atmosphere absorbs certain wavelengths of light. Space-based astronomy usually is conducted on automated satellites (like the Hubble Space Telescope) rather than space stations because movements by the space station's crew interferes with the precise positioning required by the astronomical instruments. Nevertheless, the Russians have placed astronomical instruments on Mir (as well as earlier space stations) and useful data have resulted, though no major discoveries have been made because of that data.

Summary

The major benefits to humanity that have accrued from Russia's space station research are (1) understanding the reaction of humans to long durations in space and (2) understanding the Earth and the universe from remote sensing and astronomical research. However, if you believe that people will not travel to Mars (or elsewhere beyond Earth orbit), long duration human studies are not necessary, and remote sensing and astronomical research can be conducted on automated satellites as well as, if not better than, on space stations.

INTERNATIONAL SPACE STATION ALPHA

The extent to which the new international space station proposed by NASA would benefit humanity would parallel the Russian experience, although more attention is expected to be focussed on biomedical research on the new space station. It is possible that scientists can gain answers to medical questions by conducting research in microgravity that cannot be answered on Earth. If so, this could have great benefits for humanity, but there is no way to know in advance whether such research will, in fact, produce significant results. The question then is whether it is worth the price of the space station (currently estimated at $72.3 billion for construction plus 10 years of operation from FY 1994 through FY2012) to find out.

CRS prepared studies of Soviet space programs for the Senate from 1962 until 1987 which provide detailed information on space station experiments. If you would like copies of the relevant sections, or other information, please don't hesitate to call (7–7076).

SUCCESSFUL RUSIAN (SOVIET) SPACE STATIONS

Name and Launch and Reentry Dates/Comments

Salyut 1—Apr.-Oct. 1971. Successfully hosted one 3-man crew for three weeks, but all three died during their return to Earth due to improperly closed value in their spacecraft. Prior to their mission, another crew had docked with Salyut 1, but could not enter it due to a problem with the hatch.

Salyut 3—June 1974-Jan. 1975 Successfully hosted one crew for 3 weeks; another crew was unable to dock.

Salyut 4—Dec. 1974-Feb. 1977. Successfully hosted 2 crews on noncontinuous basis. Another crew was launched to the station, but the launch vehicle malfunctioned before they reached orbit; the crew was recovered safely near the Chinese border.

Salyut 5—June 1976-Aug. 1977. Successfully hosted 2 crews on noncontinuous basis; another crew are unable to dock.

Salyut 6—Sept. 1977-July 1982. First of two "second generation" space stations with 2 docking ports, enabling cargo resupply and thus longer duration flights. Successfully hosted 16 crews on non-continuous basis (last crew was in 1981); two other crews were unable to dock.

Salyut 7—Apr. 1982-Feb. 1991. Second-generation space station. Successfully hosted 11 crews on non-continuous basis (last crew was in 1986). One other crew was to be launched, but the launch vehicle erupted in flames on the pad; the crew was safely recovered using the emergency abort tower.

Mir—Feb. 1986-present. "Third-generation" space station, still being assembled. Three scientific or logistics modules (Kyant-1, Kvant-2, and Kristall) are now docket with the Mir core module—each encountered docking problems that eventually were overcome. Two more modules are yet to be launched. Intermittently occupied from 1986-1989; continuously occupied since Sept. 1989 by crews usually rotating on 5-6 month cycles. One crew (1987–1988) remained for 1 year; crew member currently on Mir expected to break that record and stay for 14 months.

At least two other Soviet space stations (Kosmos 557 and Salyut 2) failed before they could be occupied. Prepared by CRS for general congressional use August 1994.

Mr. GLENN. Mr. President, let me summarize some of the things I have been pointing out here. We have always had doubts about looking out into the unknown because nobody can pinpoint what the value is in the unknown until you do the research to find it out. If there is one thing that this Nation has learned, it is that money spent on research seems to have a way of paying off in the future beyond anything that we see at the outset.

Here we are moving into this new laboratory of space, moving out into microgravity where we never had the ability to do research before in a number of different areas; developing new technologies and procedures to fight disease, which I have just barely touched on here.

Mr. President, we are trying to understand environmental challenges, to provide a safe and healthy world for our children, we are trying to improve our competitiveness in the international marketplace by knowing more; we are striving to enhance the quality of our educational system. A permanent manned laboratory in space addresses each of these concerns while expanding knowledge and exploiting for worldwide benefit a new aspect of the human environment. The station is a symbol of our commitment to better our quality of life on Earth through research, the life sciences, biotechnology, and materials processing.

What are the benefits of this program, Mr. President? It continues our civilian space program and its ability to do this kind of research. Manned space missions remain the core of our space activities. It is the next logical step for our manned program. The knowledge of how we adapt to a weightless environment will lay the groundwork for future human exploration. But it also enables us now to do the research on board the spacecraft that I think is of value to us right here on Earth.

Second, the station will provide a manned laboratory to provide materials and life sciences research in a microgravity atmosphere. The space shuttle program has enabled scientists to perform very limited microgravity research. The research has already given us clues, however, to the causes of osteoporosis, clues to diabetes, and other diseases.

The shuttle missions last only a short period of time, and scientists agree that a manned orbiting laboratory is needed to fully realize our microgravity research capabilities.

And, Mr. President, I would like to emphasize this next point. I do not think this should be dismissed. The space station will be an instrument to educate American school children in math and science skills and encourage them in that direction. Recent studies have shown that skills in math, science, and engineering of U.S. schoolchildren has fallen farther and farther behind those of their international counterparts. The space station will provide a concrete example to our children of current and exciting scientific research and discovery and may guide some of them to pursue science and technology as career fields.

All you have to do is talk to the kids about some of these experiences in space, and just look at them and the excitement that is generated by even discussions on the topic and you will know what I am talking about.

The space station, Mr. President, will represent the largest international venture in science and technology ever undertaken. We have a leadership role at this time. We have the cooperation of Russia, Canada, Japan, and our own United States leadership. I think the agreement we have made, and the cooperation, is exemplary.

President Clinton has stated that pursuing advanced technology is essential to a healthy and dynamic U.S. economy. I agree. I think the space station will be a key element in developing and utilizing that advanced technology.

The benefits I have just stated are real. They are ours if we choose to pursue them. The first 30 years of space flight and exploration have provided us with extraordinary advancements with achievements, and discoveries. We have learned not only to travel into space, but to live and work there.

And what will the next 30 years hold? I hope that as much opportunity for new information will come out of this as came out in the past 30 years.

Mr. President, I ask unanimous consent that a series of letters be entered into the RECORD concerning the International Space Station Alpha Program, and regarding recommendations of the Advisory Committee on the Redesign of the Space Station.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MASSACHUSETTS INSTITUTE
OF TECHNOLOGY,
Cambridge, MA, April 4, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Executive Office of the President, Washington, DC.

DEAR JACK: Several of us had the opportunity to travel to Johnson Space Center late last month to explore the status of the

International Space Station Alpha Program and to assess its progress in the context of the June 1993 recommendations of the Advisory Committee on the Redesign of the Space Station. I am writing to pass along my personal observations on this matter and have encouraged others who were present to do likewise.

This program has been dramatically reorganized and has progressed to an extent that greatly exceeded my expectations. This review was informal and intense, but lasted only one and a half days and therefore was of modest depth and detail. Nonetheless, I can state with confidence that the high-level conclusions were self-evident and overwhelmingly positive.

MANAGEMENT COSTING AND ACQUISITION

There has been an absolute sea change in the management and organizational structure of this program. As you know, the Advisory Committee was extremely critical of the organization structure that had evolved for Space Station Freedom. The new organization reflects both the recommendations of the Advisory Committee and the modern management practices brought to the table by Boeing, and it is consistent with the themes of Reinventing Government.

A single prime contractor has been engaged and is firmly in place. Significant levels of management have been removed, and there has been a large reduction in NASA and contractor staff support. The NASA Centers are now used as resources, and their directors have been removed from the line management of the program. The Center at Reston has been closed. The Integrated Product Team [IPT] concept has been implemented effectively and seems to have streamlined decision making and responsibility/authority chains. Program leaders from both NASA and Boeing were impressive in the clarity of their presentations, their command of issues, and their candor.

There has been an evident improvement in the budgeting and contract process, which inspires greater confidence. The single prime contractor approach, synergy between NASA contractor and oversight organization, concurrent fact-finding and constant "real time" problem resolution increase confidence that NASA can say within the cost parameters and guidance given by OMB. My colleagues, who have greater expertise that I in costing matters of complex projects, believe that costs within $2.1B per year and $17.4B run out through 2002 are achievable, but they characterize the budget as "success oriented."

TECHNICAL AND OPERATIONAL MATTERS

The ISSA is now committed to an orbital inclination of 51.6 degrees. Primarily through integration with Russia, there is multiple access to orbit, a well-developed Assured Crew Return Vehicle, an existing propulsion unit for orbital transfer and adjustment, and an increased technology and experience base. This partnership also enables an earlier date for first-element launch.

SCIENCE, TECHNOLOGY, AND ENGINEERING UTILIZATION

The overall situation regarding research utilization of the Space Station has greatly improved since the Advisory Committee report was issued. Strategic planning is underway for utilization of the capabilities of both ISSA and MIR. Plans are being made for the use of MIR to explore such important concepts as active control of experimental racks to enhance the microgravity environment for experiments. A peer review and research prioritization process are planned, but will require continual attention. A stronger line management structure is now in place for science, engineering and technology utilization. There is increased emphasis on technology and engineering research as a Station goal, but more should he done in this regard.

INTERNATIONAL ASPECTS

Comments by representatives of our international partners seemed to indicate that remarkable progress has been made integrating them into the management and operational mainstream. Integration of the Russians at the technical level appears to be proceeding well, but it is critical and must be made more complete. I encourage you to seek directly the views of the international partners, but the signs were very positive. I am particularly placed by this progress, because our recent national record as dependable partners in large scientific and technical projects has not been good.

AREAS OF CONCERN

It is essential that the process of updating the IGAs and MOUs associated with international participation in ISSA proceed expeditiously. The full integration of the Russian Space Agency and contractors into management and day-to-day activities is critical and should be accomplished as rapidly as possible.

The Integrated Product Team (IPT) approach will continue to work well as long as there is enthusiasm, commitment, and expertise on the teams and strong leadership and support from above. Leadership and momentum must be maintained.

Risk assessment and reduction must be an ongoing activity of the highest priority in the program. Nonetheless, I share the concerns of many of my colleagues that the Independent Assessment Team, which has been established, is too large and reduces the concept of continual accountability within the IPT-based organization. This requires careful examination at this time.

It is absolutely essential that budgetary stability and firm national commitment be established. Any deviation from the path that has been mapped out will result in increased costs and wasted effort.

PERSONAL NOTES

The efforts of the Space Station Redesign team, which last spring worked so intensively and effectively and against significant barriers to change—coupled with the recommendations of the Advisory Committee—have helped to bring profound change and potential stability to this program.

The International Space Station Alpha gives the nation an opportunity to show that it can establish large international programs in science and technology and that government can operate efficiently by breaking tradition and following contemporary management practices.

NASA leadership, starting with the Administrator and extending into the new ISSA organization, deserves credit and support for the bold changes they have effected.

Sincerely yours,

CHARLES M. VEST.

HANSEN EXPERIMENTAL PHYSICS LABORATORY, STANFORD UNIVERSITY,

Stanford, CA, March 26, 1994.

Dr. JACK GIBBONS,
Office of Science and Technology Policy, Washington DC.

DEAR JACK, As you know a number of former members of the Vest committee were given an informal briefing on the status of the International Space Station Alpha on the 25th and 26th of March, 1994. I felt it might be useful to provide you with my views. Since the panel to which I originally belonged was focused on Technical and Mission Assessment, these observations are also concentrating on those aspects. If there is value in publicizing these remarks feel free to do so.

I should mention that the available members of the original panel had informal discussions over dinner. The attached remarks generally reflect a consensus of the views expressed. You may not realize that our panel was very skeptical about this whole project when we first convened last year. Since that time, the changes wrought by Dan Golden, and an outstanding new project management team have won us over. Given our original skepticism, this turnabout is quite remarkable. Much of the advice the new team was given has been followed.

I believe this important project deserves to be strongly supported by the administration.

Sincerely,

BRAD PARKINSON.

COMMENTS ON TECHNICAL AND MISSION ASSESSMENT

(By Professor Bradford W. Parkinson after discussion with peers)

OVERVIEW

The ISSA, as defined at this review, has every prospect of becoming an outstanding international space research facility. The current design has addressed and reduced many of the major risk areas that existed in previous designs. An example is the multiple access now provided with three independent launch systems.

I most strongly endorse this new approach to the development of Space Station, especially the positive attitudes and leadership. They have made greater progress than was expected; this was a very pleasant and somewhat unanticipated surprise. Managerial competence, philosophies, and morale all are excellent. Especially encouraging was the very positive assessment by the international participants. The use of IPTs is appropriate; it is an excellent development approach for ISSA.

IMPACT OF MOVE AND CONSOLIDATION

This has been positive in virtually every respect. The sole negative might be some loss of NASA expertise, since only a small number of engineers elected to transfer from Reston to Johnson. Because much of the specific knowledge is still retained by the contractors, I do not consider this a major problem. It is more than offset by the streamlined management and the IPT approach.

RUSSIAN INVOLVEMENT

Given the cost and schedule constraints, I think this is a viable program only because of Russian participation. This is true because of the system improvements, due to their participation, in virtually all measures: capability, cost, schedule, and risk containment or robustness. Russian contributions should optimize the scientific and engineering returns from this world-class research facility. Specific positive attributes of the Russian involvement include:

1. Multiple access to space (mentioned above).

2. A larger, more capable station based on more components with proven space robustness.

3. Enhancment of Western space technology with the many uniquely Russian advances.

4. Valuable insights into proven Russian development processes. We should not be arrogant about Western development abilities,

it may be useful to find other techniques to "pick impeding rocks out of the stream".

5. Off-loading of the logistics for space.

6. Improved dialog in the culture of technology.

7. A blueprint for future international cooperation in space and elsewhere.

8. An off-the shelf (virtually) ACRV.

9. Earlier access to space for the science, engineering and technology communities; including use of MIR.

I recognize that the Russian situation is fluid, it is not clear that they are potentially less reliable than we are.

DEFINITION OF THE RUSSIAN CONTRIBUTION

A statement of work and list of contributions has been completed already. Of course, at this early date this definition is not complete. It is becoming completely defined at an accelerated rate. An open and candid dialog has begun, and the effort has been scoped. ICDs have been identified and their requirements drafted, with the interfaces placed in the most sensible way.

Current success is due, in part, to the close personal relationships developing between the working personnel of all the partners. The next important steps include the completion of a fully integrated schedule, and firm specifications for the furnished and deliverable items. This is being worked, but will require Herculean efforts in the next months. In particular there are a number of high-level strategic issues which remain to be resolved (crew composition, logistic coordination, etc.). I believe the team is up to the challenge.

CONTINGENCY PLANNING

Preliminary planning has been accomplished for total withdrawal of the Russians, and also for the most probable late deliveries. In the event of late deliveries, the current evolutionary approach provides autonomous operation for over a year in the event of such an event.

To address these contingencies further will start to require the serious investment of management time and dollars. I strongly recommend that only those contingencies viewed as reasonably likely by the program be further pursued. In this manner, it should be a part of an overall balanced risk assessment and recovery strategy. Since I do not believe the current program (with its cost and schedule constraints) can be reasonably pursued without Russian help, I suggest that efforts be concentrated on making our total international team successful rather than planning for partial failure.

COST

While cost was not a primary area for our panel, I believe the cost uncertainties are now substantially less due to a more mature and robust design.

SPECIFIC ASPECTS TO MONITOR

Generally, the monitoring of accomplishments against planned dates for specific major milestones will gain insight into progress. A particularly important yardstick will be the completion of the SOW, ICDs, and specifications. Completion of the IGA (which is, in part, a political problem) should give confidence of positive progress. Most importantly the help of Congress must be enlisted. A major element in achieving more support is greater public exposure of the technological and scientific station-associated possibilities, both as they are currently foreseen and as they emerge.

As a great nation we must not let this opportunity slip away. Appropriate furthering of the manned space program is a strong symbol of greatness and self-confidence. This symbol has been important to two generations of America's children. Recent successes show that NASA is returning to greatness. I and many of my colleagues believe that we must be unabashed in advocating a strong, balanced NASA program as a harbinger for the future.

OTHER COMMENTS:

Commercial use

The following comment came from my colleague, Dr. Crawley. It is an appropriate time for the agency and nation to develop and promulgate a consistent policy for commercial use of the Space Station. Such a policy need not be based on an initial, full recovery of cost: it is the role of national governments to develop and provide new research capabilities and underwrite their cost. Such a policy should address: quick and reliable access to space; proprietary data rights; and cost.

Non-research, commercial utilization should also be considered and rationally regulated.

Engineering research on station

I strongly endorse the inclusion of "conducting engineering research" as a major purpose of the ISSA. I assume it's omission in a key viewgraph was only an oversight. However I feel there is not enough evidence of this use in the current organization. Examples include: Micro-Propulsion, Structural Dynamic Research; and Drag-free mechanisms and capabilities

There is a need to give this Engineering Research more priority. It has a strong payoff in the quest for faster, better, and cheaper exploitation of space by all, both manned and unmanned.

AT&T,
BELL LABORATORIES,
Murray Hill, NJ, April 5, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Washington, DC.

DEAR JACK: This letter conveys to you some of my impressions following the brief review of the redesigned space station that was held on 25–26 March in Houston. I had intended to write to you more promptly following the review, but I found myself burdened with a number of urgent tasks.

I found that there had been major changes in the program as related to science, technology, and engineering utilization since the last time that I had an opportunity to review the program (late September 1993). In addition to such obvious improvements in eventual utilization as the presence of six, rather than four, crewpersons, there are major changes in the management structure for utilization and in the attitudinal approach by the management toward the use of the facility. All of these can only be termed as positive. I did not sense at this review such an adversarial stance between the builders of the facility and the "users" as had often been the case in the past. Indeed, in the past, the attitude could often be characterized as one of "we will build this facility and you will do good science (or engineering or whatever) with it". Now there appeared to be more of a team approach to constructing a facility that could be used beneficially for research if that is a national objective.

I should note that a major caveat to the above is that the management is very new overall, and especially in the utilization area. They remain to be tested by fire, as will happen, as the program proceeds. But they are going forward with the right outlook from the start. Nevertheless, I note that the previous program had a formal science/engineering advisory process in place during the program initiation (mid-1980's), and when the users were no longer needed or wanted, they were dismissed (about 1986–'87) and the program went merrily on its way. See the enclosed paper that I co-authored.

In my summary at the review I noted that under what I termed the "philosophy" of the utilization, that the need for strategic planning for the usage looms large. In particular, the planning requires much further and continuing work. It requires a continuing process to identify potentially profitable areas of research (areas in both science and engineering that truly require human presence), and to prioritize rigorously these areas. A strong peer review process needs to be in place for this strategic planning. Use should be made of present results and future research planned with the shuttle and spacelab to help in defining not just facilities for a station, but also research areas to pursue (as well as those to abandon).

I noted two items of concern related to the philosophy of utilization. One of these was that there must be an increase in the contributions to the body of peer-reviewed published knowledge from research made using human spaceflight capabilities. This must happen now, before station completion, as well as after the station is beginning to be used for the research intended. I also noted a possible suggestion for the use of "rotator" scientists and engineers at headquarters, on a one or two year term basis, in the peer review/strategic planning efforts. These would be good, senior people, as is done presently in Code S at headquarters.

As far as I was able to ascertain in the time available, the "fenced-off" costs for utilization appear to be reasonable. And it is good to have such amounts identifiable. Of equal importance are the procedures that will be used to apportion costs between the "users" and the program when problems arise in facility development and/or when new research approaches are warranted from new understandings achieved (such as in the case of the present uncertainties in the capabilities of MIR for supporting certain important research areas). The process described at the review for addressing such issues appears to be good at this time. But it is certainly an area that warrants watching.

I noted several issues that continue to bear watching in the case of the international utilization. First, and of major consequence, is the continued evaluation of the true capabilities of MIR, and the processes for making it the facility that could meet the user "requirements". The planning for this appears to be in the right direction at this time.

The entire matter of joint research between nations in terms of intellectual property rights and technology transfer needs more attention. More detailed guidelines and policies must be developed.

I addressed briefly the issues of the capabilities of the station as outlined in the review. First, the entire matter of the facilities, including the centrifuge, are being taken more seriously than they have been in the past. This is not to say that the issues of costs and schedules have been totally resolved; they haven't. But the process appears to be in place to do the team work to accomplish the goals. The capabilities for research in health maintenance and life support require more attention. It is not merely a matter of "more money", it would appear to me (since budgets are going to be limited), but rather a matter of prioritizing such objectives in the over-all strategic planning process. This needs much attention.

On the basis of discussions with colleagues in attendance, I noted the issue of EVA in the context of human capabilities and involvement. The over-all EVA requirements are larger now than in the past. However, it was pointed out to us that much of the EVA is now, with MIR, less time critical than it was in the past. More research is needed in the area of understanding human capabilities in EVA and the benefits as well as the risks. The best policy would appear to be to continue to try to minimize the EVA demands.

I left the review team and the station management team with one consideration that my colleagues and I developed regarding future oversight of utilization matters. That is, NASA should consider the establishment of a truly independent expert advisory group/visiting committee that would critically assess the science, technology, and engineering research program plans, progress, directions, and results on a quasi-regular basis.

I appreciated the opportunity to serve our country as a member of the station redesign review group. I hope that my contributions have been helpful to the federal government with regard to this major space facility.

Sincerely,

LOUIS J. LANZEROTTI.

JMR. ASSOCIATES,
Las Vegas, NV, April 5, 1994.

Dr. JOHN H. GIBBONS,
Science Advisor to the President, Office of Science and Technology Policy, Washington, DC.

DEAR JACK: After attending the review of the International Space Station in Houston on March 25–26, 1994, I wanted to let you know personally how impressed my colleagues and I were at the progress NASA has made since our last meeting in September. There has been nothing short of a dramatic improvement in the program management, budgeting and contract process.

We spent a full nine hours on March 24th with the NASA and Boeing cost teams. With representatives of NASA IG, GAO, OMB OSTP and NASA Headquarters present, the budget numbers for the reserve contingencies and unresolved adjustments were presented for everyone to see. It is a remarkable statement about the new openness, confidence, candor and philosophy of costing.

The costing process is consistent with previous Committee recommendations. We believe that the International Space Station Alpha program can be implemented with an expected budget authority of $2.1B/year. The team, where appropriate, has departed from the use of parametrics and "Freedom" deltas, and relied more on "bottoms up" and/or zero-based estimates. It is a very tight cost picture and we have much more confidence in the costs now than we did a year ago. In our opinion, NASA has successfully implemented a process which exemplifies the concept of the national performance review.

NASA's incorporation of progressive Integrated Product Team concepts, i.e. each team with authority, accountability and responsibility, will maximize the likely achievement of financial objectives. The new single prime and realigned contractor's approach, synergy between NASA, contractor and oversight organization, concurrent fact-finding and constant "real time" problem resolution, provide confidence that NASA can stay within the cost parameters and guidance given by OMB. The Boeing personnel, led by Mr. Larry Winslow, and NASA's new business manager, Mr. Dan Tam, have the leadership and expertise to successfully implement the current station plans on schedule and on cost. As the "scrubbing" process continues toward definitization of the contract, there appears to be resolution of acceptable costs, reserves and award fee structure.

Areas of uncertainty still exist within the Russian area of participation. The NASA program office has not had the opportunity to finalize costs for upgrading the MIR, a service module, the tug and other modifications. The scope of the Russian participation is not as clearly delineated as other participants. However, both parties are actively pursuing resolution and clarification with a target of June 1994. The Russian reserves and cost estimates appear adequate and the contracting process with a "cap" on incurred costs minimize risk of additional NASA expenditures.

We believe that the costs of $2.1B year and $17.4B run-out through 2002 are success-oriented but achievable. It is critical to understand that it is priced to specific launch and operational readiness dates. At this point, critical elements of a successful space station program include a strong national commitment and appropriation stability.

If I can be of further help, please do not hesitate to call.

Sincerely,

JAY W. CHABROW.

U.S. DEPARTMENT OF COMMERCE,
THE UNDER SECRETARY FOR TECHNOLOGY,
Washington, DC, April 1, 1994.

Dr. JOHN H. GIBBONS,
Director, Office of Science and Technology Policy, Washington, DC.

DEAR DR. GIBBONS: During the meeting on the International Space Station last week, I relayed a saying from an old friend that seemed to capture what I saw during the review in Houston. "Unless you create a burning platform, you can't get people to do their best." I think we must have created a burning platform under space station management last summer.

The original Vest Panel report was particularly critical of the management structure which had evolved to design, develop, and operate Space Station Freedom. Our earlier assessment included such tough statements as "if you can't fix the management structure, you ought to think twice about doing it at all". Many specific recommendations were made which the panel felt were essential for the ultimate success of the program. A comparison between those recommendations and the current management structure is most encouraging. The specific accomplishments are very impressive since last summer. I've listed some of the key ones below:

A quality, single prime contractor has been engaged and is firmly in place.

The NASA Center Directors have been removed from the direct line of management control for the Space Station project.

Significant levels of management have been removed.

The science team leader has been integrated into the management system in an appropriate way.

There has been a large reduction in NASA and contractor support staff.

The Integrated Product Team concept has been aggressively implemented and seems to have removed the bureaucratic oversight functions which previously frustrated decision making and responsibility/authority decision chains.

Safety and mission assurance and audit functions are now essential parts of the overall team approach. The audit integration teams are integral parts of the management structure and safety personnel are assigned to each of the integrated product teams.

Training issues have been faced head-on and is a priority for the management team.

The international partners have become much more integrated into the management and operational structure, and their feedback at the meeting indicated a remarkable turnaround in this area.

The quality of the management personnel, especially the prime contractor, seems outstanding. The experience level is completely appropriate to the tasks.

Relationships with the sub-contractors appears to be appropriate and effective.

From my perspectives, the major areas of remaining concern are:

The newly chartered independent assessment group seems to be redundant and has the potential of reverting back to the old paradigm of quality control at the end of the process rather than built in as an integral part of the process. If an external review is deemed necessary, it should be a small, expert group that advises the Administrator on an "as needed" basis. A new 110+ organization represents a "back slide" to the previous management style.

The integration of the Russian Space Agency into the management and day-to-day activities is critical and should be accomplished as rapidly as possible.

The articulation of the rationale for the space station has not reflected a strategy which captures the imagination of the public and the Congress. A more realistic vision of the Station as an advanced technology testbed, as a space laboratory, as a testbed for international cooperation in large science and technology undertakings, and as a vehicle for future space industry development must be developed and communicated.

All in all, I think NASA has made great strides forward in addressing the management concerns we voiced last summer. In Houston, we saw an enthusiastic and highly competent space station team that seems fully capable of leading the development of the station and quickly identifying and resolving unforeseen problems in an expeditious manner.

Sincerely,

MARY GOOD.

ANSER,
Arlington, VA, March 30, 1994.

Dr. JOHN H. GIBBONS,
Office of Science and Technology Policy, Washington, DC.

DEAR JACK: Our meeting in Houston last week clarified a number of issues on the international space station. I was highly pleased with the cultural change, management approach, and implementation of Vest Committee recommendations. Russian participation is now largely defined, lacking only the interface control document level of detail. The new partnership and associated communications are working. My confidence level has reached an all-time high and for the first time I can really call myself a "Station advocate."

The reason for this change is simple—Now it makes sense! The program is viable with its new management structure and Russian participation. The Station will be more capable with Russian components. Development risk is reduced with Russian hardware. Operations will begin sooner, at lower costs with Russian contributions. Early use of the Russian Mir Station will refine and enhance operations while we gain valuable experience in long duration space flight. We have multiple access and broader Earth coverage using Russian launch sites. Logistical support, using Russian launchers, will decrease dependence on the Space Shuttle. We will perform more science with the larger crew, including Russians.

It is often stated that "Russian participation in the Station program is motivated by U.S. foreign policy objectives." Clearly this is as true as it should be; and as it has ever been. However, the statement misses the point. Russian participation brings added capability and credibility to a previously much maligned and troubled Space Station program.

I now strongly endorse the program. NASA has performed a remarkable management turnaround and the Administration's Russian initiative has brought great strength and agility at reduced cost, while supporting broader foreign policy goals.

I am pleased to have been able to participate in this effort.

Sincerely,

JOHN M. FABIAN.

WIND TUNNEL STATUS—MAY 20, 1994

The National Facilities Study led by NASA with DOD, Commerce, Transportation, and Energy participation, was released May 9. The study recommends the construction of two new wind tunnels to provide U.S. industry with a competitive edge in the next round of wide-body commercial transport competition. The latest cost estimate for the tunnels is $2.55B; however, the Administration's cost target is two tunnels for $2B.

On April 12, a notice was published in Commerce Business Daily announcing NASA's intent to award a sole source contract to Boeing to perform studies associated with the proposed tunnels. These technical studies are needed to better estimate the capabilities and cost of the tunnels. The contract may be awarded within the next few weeks.

NASA has $74M which was appropriated in FY 1994 to perform studies; it is NASA's intent to use those funds over FY 1994 and FY 1995 to perform technical studies, preliminary design activities and relevant siting and environmental activities. In the near-term, only non-site specific activities will be conducted.

An industry teaming agreement was signed on May 9 to conduct Phases 1 and 2 of the wind tunnel program. Boeing is the team leader (and prime contractor for above-mentioned contract). Other participants are McDonnell Douglas, Lockheed, Pratt and Whitney and General Electric Aircraft Engines. Rockwell and Northrop also may join the team. The industry team has agreed in principle to an innovative approach to manage, finance, and construct the tunnels, which would make them more affordable, including an equity investment by industry.

On May 16, the industry team met with Administration officials from OMB, OSTP, National Economic Council, Council of Economic Advisors, Department of Treasury, National Security Council, Commerce, and NASA to discuss the economic rationale and national need for the tunnels. Additional meetings are scheduled.

Regarding siting of the proposed tunnels, the goal is a fair and open evaluation and selection process, driven by best commercial practices. A final site selection may come as late as 1995, pending successful conclusion of the Environmental Impact Statement process at one or more candidate sites. The proposed process will be reviewed with the Administration and Congress before implementation.

A "go/no go" decision on this initiative will be made by the Administration as part of the FY 1996 budget process.

Mr. GLENN. I know I have talked awhile tonight.

I urge my colleagues to vote against the amendment proposed by Senator BUMPERS. I think it would be tragic if we went this far and then did not avail ourselves of the opportunity we have with the space station.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in support of the Bumpers amendment.

I think we have to recognize that we have to make some tough choices around here. This is one of those things that is, frankly, just not necessary. I think the evidence on that is overwhelming.

I would like to first of all commend Senator BUMPERS. He has been a tiger on this. I saw an earlier chart with a balanced budget amendment. My hope is that Senator BUMPERS will join the Presiding Officer and me and others in voting for the balanced budget amendment. The reality is we do not have to make the tough choices around here because we do not have that fiscal discipline.

Thomas Jefferson was right when he suggested the need for a balanced budget amendment, as he was on so many other things.

This is going to cost $2.1 billion for the next couple of years, and then it goes up from there. What could we do with $2.1 billion? First of all, I hear a lot of talk about the GATT treaty and where we are going on that. If we adopt the Bumpers amendment, that takes care of the cost of the GATT treaty. We could double the amount we spend on cancer research at the National Cancer Institute. We could double AIDS research. In 2 months of the space station, we could pay for the entire Rwanda relief program.

I heard my friend, Senator GLENN, and I have great respect for Senator GLENN. I think he is one of the really fine, capable Members of this body. If anybody ever has any question about his courage, just look at that little tiny thing he got into, which is infinitely smaller than these shuttles that we send up to space now. It took incredible courage to get into that thing and be the first American to go into space. But he mentioned the math benefits. For $2.1 billion, we could have the finest summer institutes for every grade school, high school, and college math teacher and science teacher—summer institutes to bring them up to grade and really do something in education, infinitely more than we are going to do here.

Listen to what Lennard Fisk, former NASA administrator for space science, has to say. This was in Aerospace America magazine in May of this year:

> Space science is poised to decline, and human space flight is left with a Faustian bargain. It can spend over $6 million a day plus related shuttle costs, pursuing an ever-elusive station. Or, by Herculean effort and perhaps sheer good fortune, it can actually build the station—in which case NASA will be burdened for a political eternity with operational costs, restricting it from making a meaningful contribution to the advancement of technology and science.

That is the former NASA administrator.

James Van Allen, for whom the Van Allen radiation belts are named, in Discover magazine of July, a month ago, wrote:

> The shuttle and space station represent precisely the opposite of everything (Dan) Goldin says he wants . . . they are bigger, slower, more expensive, and worse.

The evidence from the scientific community is simply overwhelming, unlike some other things that we have turned down. I am not saying we were wrong in turning them down, but the big project in Texas, the scientific community was overwhelmingly for it, and we said no, we do not have the funds for it. Here the scientific community is overwhelmingly against it, and we seem determined to go ahead with it. I will be pleasantly surprised if DALE BUMPERS prevails on this amendment. But I occasionally have been pleasantly surprised around here.

Let me quote from a CBO study:

> NASA's strong tendency to underestimate the costs of its project is a third characteristic that compounds the risk of the agency's marginal adjustment strategy.

Finally, it says:

> The analysis suggests that if spinoffs from NASA's program were important in the past, they are unlikely to be as important in the future.

We have to make tough choices, and I think this is one where the American people—while there is some popularity to a space station, it simply is not worth the expenditure.

I am pleased to cosponsor and support the Bumpers amendment.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the Bumpers amendment at 9 a.m. on Wednesday, August 3; that there then be a time limitation of 1 hour and 45 minutes remaining on the amendment, with 30 minutes under Senator MIKULSKI's control, 16 minutes under Senator BUMPERS' control, and 15 minutes under Senator METZENBAUM'S control; that a vote occur on or in relation to the Bumpers amendment at 10:45 a.m.; that no amendments be in order to the Bumpers amendment; and that no other space station amendments be in order to the bill; and that at 9:30 a.m. tomorrow, Senator GRAMM of Texas be recognized to speak on Senator MIKULSKI's time for up to 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. A vote will occur on or in relation to this amendment at 10:45 a.m. tomorrow morning.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. HEFLIN. I ask unanimous consent that a legislative fellow serving in my office, Deborah Reilly, be granted the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, it is my understanding that while the Bumpers amendment strikes the amount of money allocated toward the space station, it does not direct where it will go. It is not a deficit reduction amendment. It is an amendment that, in effect, means that the Appropriations Committee could allocate in ways that it might deem appropriate to certain other areas of activity. Some could be in this particular area, the VA-HUD Independent Agencies, or some could go to others. So there is no assurance, according to what we have here, as to where the money might go. So a person who is weighing in balance one program against another program therefore has nothing to weigh. So you do not know where it is.

In effect, by voting for the Bumpers amendment, you are giving the Appropriations Committee a pig in a poke, and saying "Here is over—what I believe is around $3 billion," somewhere in that neighborhood of what it strikes altogether—saying, "You go ahead and take this money. The Appropriations Committee has met and has gone through their allotments, and they have divided it up, and we do not know exactly where it might go into the future."

Therefore, a person who is called upon to vote, who normally would weigh various projects in balance and say, well, we need this program as opposed to that program, is not given that opportunity. So I just wanted to mention that in the beginning here.

I am in strong opposition to the amendment before us, and it is my privilege to report to the Senate today on the remarkable accomplishments of NASA and the new International Space Station management team, headed by a very able and outstanding administrator, Dan Goldin. I have been, and continue to be, a strong and vocal supporter of the International Space Station and vigorously oppose this attempt to terminate the program.

I share with many in this Nation and this Congress a vision of maintaining and expanding the human experience in space. We have taken a huge step forward on the path to realizing this vision, and I am pleased to share with you the accomplishments of the new project management team.

The program now has a distinct management structure with clear lines of responsibility and authority. One center has been designated as a host center to facilitate program administration, and one contractor was selected as the prime, with all others working as subcontractors. Transition to the new configuration and management structure is complete. The new management structure includes a concept widely embraced within the private sector, a tenet of total quality management known as the Integrated Product Team. These teams are a flexible management tool designed to bring together experts from several fields to work individual issues, solve problems, improve communications, and speed decisionmaking.

Each station product will be managed by a team of NASA, contractor, and international partner experts. Teams include operations, science utilization, safety, procurement, and program control analysts to ensure all requirements are met. Early interaction with hardware and software suppliers assures requirements are understood and checked throughout development. The Integrated Product Teams control their own technical plans, schedules, and budgets.

All team members are accountable for results and understand that their decisions affect overall station resources, costs, schedules, and success. Team members may change as life cycle development requires different areas of expertise. Use of the Integrated Product Team places both authority and responsibility right where it belongs, where the work is being done.

This is a level of accountability which encourages everyone to get the job done, and get it done right the first time. The incredible amount of work delivered over the past year reinforces the value of the Integrated Product Team and demonstrates what our talented, skilled, and experienced workforce is capable of accomplishing when given the proper environment to excel.

The accomplishments of 1993 and to date are many. The system design review in March of this year provides the following information relative to the status of the space station program.

The critical design review has been completed for five major components, including the U.S. laboratory module.

All subcontractor design reviews have been completed and over 90 percent of review actions coming out of them have been closed.

Over 4,800—or 89 percent—of the flight hardware design drawings have been released.

Thirty-eight thousand five hundred pages of software requirements and detailed design documents have been released.

A space station environmental control and life support experiment was fabricated and flown on a recent shuttle flight.

Portions of node 1, the payload for the first U.S. launch, have been completed. Several sections of the main truss structure, the backbone of the station, are complete. Solar array equipment is being built and tested, and test components are being delivered to Russia. Over 25,000 pounds of test hardware have been built, much of which will serve as flight hardware. By this time next year, over 75,000 pounds will be completed.

The international space station design incorporates approximately 75 percent of its predecessor's hardware. It is not as though previous plans were completely scrubbed and the redesign sketched on a clean sheet of paper. In fact the new design provides some significant advantages.

Compared to the *Freedom* design, the international space station has nearly twice the power, almost double the pressurized volume, and twice the number of laboratory modules. The station will orbit at a higher inclination, broadening the band of the Earth's surface and atmosphere visible to the station. The crew size has been increased from four to six full-time crew members. The amount of extra-vehicular activity, or spacewalks required to construct the station has been drastically reduced, thereby reducing program risk.

Dedicated and skilled men and women from around the country, and around the world, have been working hard toward accomplishing their goal of building the world's first international orbiting laboratory in space.

Our international partners report their progress toward our mutual goal:

Canada completed the critical design review for its component in 1993.

Japan completed its preliminary design review for the Japanese experiment module in 1992, and has its critical design review schedule for 1996.

The European Space Agency's attached pressurized module will be ready for its scheduled launch date, and the Ariane 5 launcher is under development.

The Memorandum of Understanding and Joint Management Plan with Russia is nearly completed. The Statement of Work leading to a fixed-price contract has been developed.

Several members of the Advisory Committee on the Redesign of the Space Station, which is commonly known to those in the space and scientific area as the Vest Committee, chaired by the Massachusetts Institute of Technology, has had the opportunity to review the status and progress of the space station program when they met with program managers in Houston during the spring. The committee had been formed as an independent group of academic, scientific, and business leaders to evaluate the redesign effort last year. The findings of the committee, published in June 1993, expressed some rather pointed concerns relative to the execution of the program and made a number of recommendations intended to enhance program management.

I was pleased to learn of the reaction of the Vest Committee members to the briefings presented during the system design review. The members were encouraged to share their personal observations regarding the status of the program. Their review was intense and their comments are dramatic.

Dr. Charles Vest, president of the Massachusetts Institute of Technology and committee Chair reported that there had been an absolute "sea" change, meaning a complete wave change in the management and organizational structure of the program and that it had progressed to an extent that greatly exceeded his expectations. He detailed evident improvements in the budgeting and contracting process which inspired greater confidence that NASA and its prime contractor can stay within the cost parameters and guidance given by OMB.

He noted improvements in technical and operational matters, as well as in research utilization of the completed station. He observed remarkable progress in integrating our international partners into the management and operational mainstream.

Dr. Vest stated categorically that it is absolutely essential that budgetary stability and firm national commitment be established.

And to me this vote that we are having today will go a long way toward giving us budgetary stability and firm national commitment. I feel if we win this vote in the neighborhood of 60 votes it ought to send a message that we ought to have budgetary stability and firm national commitment and to proceed with certainty in order to have proper planning.

John Fabian, a member of the Vest Committee and president and CEO of Anser states "My confidence level has reached an all-time high and for the first time I can call myself a 'Station advocate'."

Let's repeat that. He says that. . . . "for the first time I can call myself a 'station advocate'."

Professor Bradford Parkinson of the Hansen Experimental Physics Laboratory at Stanford University provided extensive comments relative to technical and mission assessment. He states that the Russian contributions should optimize the scientific and engineering returns from this world-class research facility. He concludes by stating that he and many of his colleagues believe that we must be unabashed in advocating a strong, balanced NASA program as a harbinger for the future.

I applaud the efforts of the Vest Committee Members and value their assessment.

I would like to also take the time at this time to applaud the efforts of the administrator Dan Golden, who has worked so diligently and has provided great leadership in regard to the redesign of the space station and in regard to the management of a proper approach that we have today and for his approach toward the fiscal matters pertaining thereto. He has done a tremendous job.

Proponents of this amendment contend that within the NASA budget space science mission have been delayed, starved, or cancelled for want of funds while NASA spends an ever greater share of its budget on manned space flight. Actually, shuttle operations have been cut 15 percent per year for the past 3 years, and the science budget has increased from 22.4 percent of the budget in 1994 to 24.3 percent in 1995. Since 1991, funding for Mission to Planet Earth has increased 69 percent, Aeronautics funding increased by 42 percent and Microgravity and Life Sciences funding is up 40 percent. Two new robotic planetary missions were started this year, and a low-cost, rapid-schedule mission is planned for 1996. Long-distance, high-endurance missions are best performed through robotics. There are other missions which require the flexibility and judgment to receive, interpret, and manipulate data, and adapt as the mission progresses. These missions require a more sophisticated computer—the human mind. The goal is to program the right balance between these two types of missions. And thanks in large part to the dedicated efforts of both NASA programmers and the members of the Subcommittee on VA–HUD and independent agencies, we have before us a balanced program which provides for both types of missions.

Another comment frequently made on this floor is that the station, and NASA, have eroded the budgets of the other agencies represented in this bill. That charge is completely unfounded. A comparison of the fiscal year 1994 and fiscal year 1995 recommendations for the major agencies contained in this bill clearly shows that NASA is the only appropriation whose budget recommendation declined. The VA appropriation went up 3 percent, the HUD appropriation went up 3 percent, the EPA appropriation went up 13 percent, and the NSF appropriation increased by 15 percent. Clearly, NASA and the space station are not being funded at the expense of other agencies.

Mr. President, the international space station is well on its way to reality. I am convinced that the time is right for the Senate to state—categorically—its commitment to the international space station. The House has voted overwhelmingly—278 to 155—in support of the station. The administration is firmly committed to achieving the promise of this program. NASA, its contractors, and the thousands of men and women around the world who are dedicated to the construction and operation of the international space station have done everything we have asked of them, fixed each of our concerns. We must tell them today that we have seen their hard work and recognize their accomplishments.

I strongly encourage my fellow colleagues to stand with me in supporting the completion of this truly visionary project.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. I thank the Chair.

Mr. President, I rise this evening to support the amendment offered by the senior Senator from Arkansas [Mr. BUMPERS]. If I did nothing else tonight, I want to take this opportunity to again say that the senior Senator from Arkansas has really been an inspiration since I have been here on the deficit reduction issue. A lot of us who were elected in 1992 thought we would come here as a new group and we would have to sort of stimulate the deficit reduction issue here. But I found that there is no one who is more dedicated to try to cut out waste in our Federal Government than Senator BUMPERS. I greatly appreciate his making this effort with regard to the space station possible.

With this amendment, Mr. President, we have an opportunity and really, unfortunately, I have to say, yet another opportunity, to terminate funding for the space station.

I have been somewhat gratified by the work this Congress and President Clinton have done in reducing the Federal budget deficit. We have done a fair amount in the last year and a half.

Through targeted revenue increases and substantial cuts in Federal spending programs, the Federal budget deficit is anticipated to be well under $200 billion for fiscal year 1995. And while we should all be pleased with the direction we are going in terms of deficit reduction, Mr. President, getting the deficit under $200 billion is similar to the mountain climber who has climbed just half way up the mountain. We have come a long way, but we have much more progress to make, and perhaps the toughest work and the most painful decisions lie ahead of us.

Mr. President, I think this is true, even if our goal is not to completely eliminate the Federal deficit, which is what I would prefer. Even if we want to maintain a level of annual deficits, say, of $150 billion a year, where we are approaching at this point, we will have to make many more tough decisions, and those decisions will have to include, in my view, further cuts in the Federal Government.

I know that over the course of this debate several Senators will mention that we have recently celebrated the

25th anniversary of the first manned lunar landing. Thanks to the vision and commitment of President John F. Kennedy and many others, the United States was able to complete this remarkable achievement in less than a decade after President Kennedy had suggested that such an endeavor could occur and could be achieved.

I recall, as a small child, when Alan Shepard first went into space. I recall very well being told in grade school when our dear colleague, Senator GLENN, did his famous mission. And I remember 1969, when the three astronauts landed on the Moon. I was aware of that; every child in America was aware of that, and we felt tremendous patriotic pride each time one of those events occurred.

But what I did not know was going on, which was also good, was at that time during the 1960's, the primary decade that the United States was investing billions of dollars into the space program, the average annual deficit in the Federal budget was only $5.5 billion. In 1969, the year the Apollo 11 landed on the Moon, we had a surplus in the Federal budget of about $3 billion.

This was, in fact, the last time we had a surplus in the Federal budget. Since 1969, the year of the landing on the Moon, the size of the annual deficits has risen dramatically, and through 1994, the average annual budget deficit for the 1990's has been a staggering $253 billion. With this in mind, we must ask ourselves if we can truly afford a project that will cost us at least $75 billion using even the most conservative estimates.

Many of my colleagues have made strong arguments with regard to the merits of building the space station. It is possible that investing in the space station may harvest long-term scientific benefits. But I am certainly not willing to gamble on this possibility with the financial future of our children and grandchildren.

Since President Reagan initiated the space station *Freedom* project in 1984, we have spent over $11 billion. Many of my colleagues and fellow space station opponents assert that we have spent this $11 billion and have nothing to show for it—no hardware, no shuttle launches, and certainly no breakthroughs to date in medical research. What we do have to show for this is an additional $11 billion tacked on to our nearly $5 trillion debt, not to mention the interest we will be paying on this tab over the next several years.

Now, after countless redesigns and funding reestimates, NASA is again coming to us and saying "Trust us, this time we know what we are doing—and, oh, by the way we need another $2.1 billion for operating and construction expenses this year." Though NASA tells us that the total cost estimates through 2002 will be only $17 billion—only $17 billion—these are only the construction costs to build the station and do not take into account the $13 billion it will take to operate the station and the over $32 billion in shuttle launches that NASA tells us will be necessary over the 10-year life of the space station. When you add up the real costs of the space station you find that the total price tag will be at least $75 billion. And again, this does not take into account how much our children and grandchildren will be paying in interest payments on this $75 billion that we will need to borrow.

I would also like to point out, Mr. President, that in opposing the space station, I am not necessarily indicating opposition to all space programs and scientific research initiatives. I support many of the programs NASA is currently involved with. Part of my concern about the space station funding comes from the recent report by the Congressional Budget Office that this program, with its tremendous costs, is draining scarce NASA funds away from other research-oriented projects, and funneling virtually all of that money into the space station.

Moreover, one of the great promises of the space station is that it will lead to enhanced efforts in medical research and biotechnology. I must point out that the $1.9 billion we are debating here today rivals the roughly $1.9 billion that constitutes the entire annual budget for the National Institute of Cancer. I welcome the opportunity to discuss and compare with any of my colleagues the recent track records of those who are constructing the space station and those invaluable scientists and medical professionals who have made dramatic progress in discovering effective treatments and cures for various forms of cancer.

Finally, I recognize that there are many jobs that could be put at risk if the funding for the space station is terminated. No question these are good-paying, high-technology jobs in the aerospace industry, the kind of jobs that we as a nation should be investing in. I am prepared to work with my colleagues from Texas, Alabama, California, and other affected States in finding alternatives to completely eliminating these jobs. I think it is reasonable to look at that. If it means retraining programs, I am prepared to consider that. The aerospace industry is an important one, and shifting our spending priorities within the space program does not necessarily mean that we have no more use for these workers. I firmly believe however, that we cannot continue a Federal spending program for the sole reason that it provides high-paying jobs in a select number of States. We must look at more important factors, such as the merits of the programs and whether we as a nation can afford to spend billions of dollars on a project of questionable value.

I would like to conclude by reminding my colleagues that we have all heard the grandiose speeches calling for spending cuts. But time and time again those speeches are disregarded when it comes time to vote in the U.S. Senate on specific spending items. I have repeatedly voted for spending reductions, not always necessarily because I oppose those particular programs, but because I am convinced that the dangers of continued bloated deficits far outweigh the merits of those programs I voted to cut. I do not see a lot of difference between this debate and last year's debate over the superconducting super collider which this Congress, somehow—almost miraculously was able to defeat. That debate seemed to send a message that Members of Congress were willing to put all spending programs on the table, and even projects with arguable scientific merit should be closely scrutinized at a time of fiscal crisis. I am deeply troubled that when the final vote on this debate is taken, that this body will have taken a giant step backward even though a host of nonprofit organizations including the National Taxpayers Union, Citizens Against Government Waste, and Friends of the Earth all agree that this is one of the biggest pork-barrel items in the Federal budget. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin yields the floor.

The Chair recognizes the Senator from Alabama [Mr. SHELBY].

Mr. SHELBY. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Arkansas, Senator BUMPERS.

Commitment, Mr. President, that is what this debate is about. It is about this country's commitment to the future, to improving life on Earth and to creating new opportunities and hope for our children and our children's children. It is about sustaining human life beyond this planet.

The world, the universe we live in is only as big or small as we choose to make it, Mr. President. Columbus' discovery of the new world demonstrated this; although trying to prove the latter rather than the former, it was his foresight, his forbearance, his sacrifice and his commitment to discovery that set him on a course toward the unchartered boundaries of the world he lived in.

Where would we be today if Congress had pulled the plug on the space program in the early sixties because of the high cost and low return on the NASA space program? I suggest we might be reading about Yuri Gagarin in our history books instead of Neil Armstrong as being the first man to walk on the Moon.

Conquering new frontiers is expensive and it is a long-term effort to be sure. But, Mr. President, this is undisputed: The issue raised here is not whether or not the space station costs a lot of money, it is whether we should spend all of our money on today or invest a little bit in tomorrow.

Opponents suggest that as a practical, budgetary matter, the Space Station costs more than it is worth and that we should therefore stop funding it now and redistribute that money to more pressing social programs.

As a practical, budgetary matter, we would be foolish to withdraw our investment in the space station now.

It would cost us more now to back out of this international venture than it would to continue. And it could cost us more than the billions of dollars we have already invested in developing the space station.

It could cost us years of hard won preeminence in space research and exploration; it could cost us international credibility as a world leader; it could cost us incalculable opportunities and discoveries—about this world and the universe we live in.

We do not know what all the costs are because we don't know what we may be missing out on by canceling funding for this program.

As I see it, one of the most important Federal priorities of any government is to create opportunities for a better life in the future. We can not effectively do that anymore by just pumping money into life on Earth today. We must look ahead. We must search for ways to sustain our society, our culture, our life into tomorrow.

Indeed, the answers to many of our problems on Earth today may be answered from our knowledge and understanding of space. There is no way we can conduct the kind of advanced research and development necessary to such an understanding by looking through a telescope. We need to be in orbit not on Earth.

The space station is not some pie in the sky ideal, some multibillion-dollar floating piece of nuts and bolts as the cynics would argue—rather, it is only as real and tangible and successful as we choose to make it.

The space station represents a legacy for our children and our grandchildren—and it may be the only positive, beneficial legacy we leave them at the rate we are going in this country.

About all this body does, sometimes is spend for the present and worry about the future tomorrow. It is our trademark. Half of every Federal dollar is already spent on direct benefits to individuals. What is $2 billion out of a budget of $1.5 trillion? I say it is a small, but significant, investment in tomorrow.

The administration thinks this program is important, the majority of Congress thinks this program is important and the American people think this program is important—and it is.

Look at your corner marquee, or drop by your neighborhood video store, or check your local listings.

What was once considered the stuff of fantasy or science fiction is now accepted as predictions into our future—previews of the reality of tomorrow. "Star Wars," "Star Trek," "Buck Rogers"—much of our modern culture sees space exploration and travel as the logical evolution of our civilization. And, I believe it is well-placed, it could be the future of our civilization if we choose to make that commitment—that commitment of leadership, that commitment of purpose, and that commitment of resources that is prerequisite to any successful space program.

So, tonight I ask my colleagues to join me in reaffirming this country's commitment to our future by opposing this short-sighted attempt to strip funding from the space station.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama [Mr. SHELBY] yields the floor.

The Chair recognizes the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the presiding officer very much.

Mr. President, I rise in opposition to this amendment that calls for an end to the space station—complete, total end.

Everybody in this body knows how the Senator from Arkansas feels about the space station. He has had the conviction and the courage to wage this fight for many, many years. I respect him for that. But in the meantime, a lot has changed to convince me that the Congress now should support, and should fund, and should take an immense interest in NASA's space station program.

Last year, I became chair of the Senate Subcommittee on Science, Space and Technology, and that entailed on my part the immediate obligation to take a very fresh look at NASA's mission, the entire agency's mission, and our country's objectives in our overall space program. I take that work seriously and I will continue to take that work seriously.

I made a special point of taking an intense and, frankly, somewhat wary look at the space station program. At the very same time, it turned out that the new administration had exactly the same questions and the same interest in addressing past criticisms, some of which had been valid. They were willing to look at problems forthrightly that had cast such dark shadows over NASA as a whole and this particular program for far too long.

Within his first months in office, President Clinton directed a major redesign of the space station to reduce its costs. I know that is the kind of thing people say, but I talked with the President during the campaign a number of times about this, as I did the Vice President, and he was determined in this mission: Redesign, better use of money, better efficiency, better purpose.

But his charge was really much more than saving money. He called on NASA to rethink its programs's objectives—the entire agency—and address some very valid concerns of our main international partners in space then—Japan, Europe, and Canada.

As a result of this, when NASA ultimately produced the station's redesign last year, it won the seal of approval from a very good West Virginian, who happens to be the president of the Massachusetts Institute of Technology, Dr. Charles Vest, and a resounding endorsement from a team of highly respected independent experts assigned to review the new program.

My conversations with Charles Vest have been very important to me because he is a stringent critic in general of science, and he deals with it, obviously, at his institution. He had major questions. He is a very different person about the space station now than he was several years ago. I know that from experience.

President Clinton, for his part, went on to recommend to Congress the idea of supporting a very bold initiative: Russian participation in the space station program, something most Americans would have never thought about or thought possible if they did think about it.

From a purely cost-saving perspective, and budget has been brought up tonight, NASA has estimated that Russia's participation will lower our own costs of development through the purchase of existing Russian space hardware and technology. In fact, Mr. President, in exchange, NASA values Russia's contribution to the program at roughly $5 billion—$5 billion—that they pay that we do not.

Over the past 20 months, I have worked very closely with my colleagues in the Senate and the House of Representatives and key officials from NASA and the administration, to review the progress made to reinvent NASA in the post-cold-war era. With my very good friend and colleague, the Senator from Montana, CONRAD BURNS, who is the ranking member, I have held a number of hearings on NASA, including its relevance to the economy. And here the Senator from Maryland and I, once again, share very strong solidarity. Relevance to the economy is important in everything, to the American economy now. Also, its performance and its annual budget requests.

But by far the greatest amount of time that I spend on NASA has been spent on this one program—the space station.

Meeting with experts and outside groups, I have had intense discussions with the Vice President and the NASA

Administrator on the role the space station plays within NASA and its importance to the foreign policy and science objectives of the United States.

A word on Dan Goldin. NASA has not had a leader like Dan Goldin. Dan Goldin, Mr. President, if you have met and talked with him, is abrasive, abrupt, fairly curt, and almost always right.

I have not seen an Administrator like that in my time in the Senate. I am impressed by Dan Goldin. In my remarks, I have given sort of the image of Dan Goldin directing not only NASA but the importance of the space station within NASA. He is an extraordinary leader of that agency.

So based on all of this, I have concluded that the space station program that we have today is sustainable, and is sustainable on many grounds. My distinguished colleague from Arkansas has argued that we should terminate funding for the space station today because we have funded the program for 10 years with nothing to show for it. My friend from Wisconsin, made the same point.

I acknowledge the validity of that point if we were standing on this floor a couple of years ago. But we are not. Again, we are now debating a redesigned, rejuvenated, and redirected program housed in an agency that also is expected to get leaner and better at everything that it does. Layers of management and bureaucracy have disappeared from NASA to reduce the station's development costs.

And now finally, Americans can look forward to the first element launch of the space station in 1997, only 3 years away, and permanent human capability in the year 2002.

My colleague has also questioned how Congress can vote for deficit reduction and yet fund the space station, and my colleague from Wisconsin raised the same point. I start by pointing out that Federal funding in this country for research and development has continued to shrink as a percentage of our budget.

This is not welcome news and, yes, Congress has to make the difficult choices among competing demands that are put before us. Just within this appropriations bill, which is extraordinarily complex, many tough decisions were made to make resources available for some priorities at the expense of other requests that did not seem as urgent and essential. A lot of very tough decisionmaking was made in this appropriations bill. That will not be appreciated by many because they did not have to go through what the Senator from Maryland has gone through, but she has gone through it and has done it, and there are extraordinary decisions that are made here.

However, our responsibility to future generations—and I think this is an important point. We talk constantly about the budget deficit. I voted for Gramm-Rudman-Hollings, I voted for the Budget Act, reconciliation bill. I did not use to be as concerned about budget deficits as I am now. I now take it as part of my being that we must spend less, do more with less.

It is a challenge to a modern legislator. But I repeat, our responsibility to future generations is not summed up in one act, and that is the one act of reducing the Federal deficit. That is not the entirety of what defines our responsibility to those who follow us. If we pursue that necessary and worthy goal by cutting a destructive path on the way, we will do far more harm than good. Ask a family, ask a business whether it understands the difference between investments and paying off debt. You have to do both, and you have to do them at the same time if you are looking ahead.

That is what funding the space station is about. We can continue to reduce the deficit, as some of us insured through what I really do consider an historic vote for the economic plan that we passed last year, but at the same time we can invest in the elements of a country whose strength is about breaking barriers, whose vision and magic is about exploring frontiers, making progress in knowledge and in technology. If we are to reach our 11- and 12-year-olds and 13-year-olds, and have any expectation that they will desire someday to be engineers and scientists, we have to reach them in more ways than simply the classroom and the books that they read in the classroom alone. There has to be a larger vision. There has to be an imagination which is uniquely American, which captures their attention and redirects some of them off into our future makers of genius.

The space station is one of the key science and technology investments that we must make to maintain the vitality of our industrial base, Mr. President. That is especially true as we try to find ways to pour less into defense and more into the civilian sector and into what produces jobs and skills for our people.

A final point is how important today's concept of the space station is to something called foreign policy and international cooperation. The creation of NASA in 1958 and the race to the moon that the Senator from Wisconsin was speaking about sprang from the hostilities of the cold war. Forging a partnership with Russia on the space station, in addition to those already forged with Japan, Europe and Canada, encourages our countries to work together, to work peacefully in the new frontiers of outer space. It is a very exciting start—very, very exciting. Our own national and global security in fact is tied to a stable Russia that is an engaged, constructive member of the international community.

The space station may be our country's best example of international cooperation in the post-cold-war era. That is quite apart from all of the other arguments for it. We are no longer debating a program mired in confusing agendas and careless planning. I voted against the space station several years ago because of confused agendas and no sense of purpose and no sense of leadership. I did not have confidence. I have confidence now in the leadership, in the product, in the planning, and the management of NASA in general and the space station in particular.

This Congress has properly demanded a program that has a mission, a design worthy of support. I believe it has earned our respect. I believe it is now a program that should go forward and chart an exciting part of the future that will help us conduct better research on Earth, that has united the space faring nations and provides a path for former adversaries to work towards a common goal.

West Virginia steelworkers and software engineers and thousands of other Americans have needed roles in this program. There is nothing wrong with that argument.

Gathered together, these tangible and intangible benefits of the space station leave no doubt in my mind that we must continue its support. I therefore urge my colleagues to vote against this amendment, and I would like to specifically thank Senator MIKULSKI for her valuable leadership in this debate and commend her for successfully balancing very complex, very important priorities in this very complicated appropriations bill.

I thank the Chair and yield the floor.

Mr. DODD. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Arkansas. Much of the discussion presented thus far has focused on the national aspects of this program, but I feel compelled to raise some broader points in support of the international space station.

As a member of the Senate Foreign Relations Committee, I have strong reservations about any unilateral action to terminate the space station program. America's investment in the space station is not just an investment in the American space program—it is an investment in the international exploration of space. It is a commitment to a new level of international scientific coordination that we must honor.

Questions have been raised about the cost of such a venture. I think it is important to realize just how seriously NASA and its international partners have taken those questions. Over the past year, engineers, scientists, and program directors from the entire space community have come together to meet the challenge of building and integrating a completely new, less costly space station.

Today, the fruits of that effort are tangible. The international effort has produced an unparalleled product—and for less cost than the original space station *Freedom* design. Clearly, NASA and our international partners have answered the cost challenge.

Likewise, financial commitments from our international partners have increased. Today, our international partners have expended almost $4 billion on the space station program. That figure will likely increase to almost $8 billion with continued contributions to the annual operations cost of maintaining the station. The message is clear—our international partners have put their money where their mouths are, and we should do no less.

Consider for a moment the synergistic benefits of such an investment. Each international partner will bring crucial and innovative technologies to the orbiting laboratory, and each will take new approaches to the problems that we seek to solve in the weightless environment of space. Our joint planning efforts are nearing completion. A new and even more ambitious space station design is ready. We are literally on the brink of a new international effort to explore the last frontier.

This new level of cooperation and exploration could bring the cumulative knowledge and experience of the world's greatest space programs together for the purpose of peaceful scientific research. Imagine the possibilities.

This is not a dream. It is a serious commitment to the future of extended space exploration and research. It brings together the talents, the experience and the financial investment of the international community to further the goal of peace. It is a commitment we must not, and cannot, abandon.

Our commitment is crucial, and it must not waver. We must not permit the naysayers to cloud the argument. America must continue its commitment to space.

I therefore, respectfully urge my colleagues to reject the amendment offered by the Senator from Arkansas.

Mr. BRYAN. Mr. President, I rise in strong support of the amendment offered by the Senator from Arkansas [Mr. BUMPERS].

The most important argument against the space station is quite simple: We cannot afford it.

As the cost of the space station continues to escalate, its potential usefulness continues to decline. The latest NASA estimates reveal an anticipated total cost to complete the space station and operate it for a decade of $72.3 billion—or nearly 10 times the initial estimate of $8 billion proposed by President Reagan in 1984.

We have already wasted $11 billion on the space station. The amendment offered by Senator BUMPERS simply cuts our losses, and saves the American taxpayer over $60 billion in future expenses for this unwise and imprudent project.

Standing on its own, the $2.1 billion a year funding for this space station is questionable, at best. In conjunction with the federal budget deficit, and its effects on other programs, spending $2.1 billion a year on the space station is inexcusable.

Under constant budgetary pressures, the space station program has fallen into a trap all too common in the Federal Government. It is driven solely by the budget number NASA can get through Congress. Scientific concerns, candid evaluations of its mission, and long range thinking about the place for the space station in the context of our overall investment in science are all secondary to the budget. The overriding factor in determining the future of the space station is its budget—a sure recipe for failure.

A strong case can be made that the space station is, in fact, killing NASA. Like many Federal agencies, the NASA budget is essentially a zero sum game. For every new program proposed, an old program must be cut. In an agency dominated by one program to the extent that NASA is dominated by the space station, starting a new program is extremely difficult, if not impossible. Continuing to fund the space station spells disaster for the future of NASA. In essence, we are sacrificing the future of America in space to fund a decade old program with little merit or relevance in today's scientific environment.

As the cost of the space station has increased nearly tenfold, its planned mission has been vastly reduced. When proposed in 1984, the space station was intended to be an observatory for the stars and for the Earth, an assemble point for deep space missions, a satellite servicing center, a factory in space, and a laboratory for life sciences and microgravity research. As currently designed, the space station will serve only as a laboratory.

Even its function as a laboratory has been significantly compromised. The number of racks available for scientific research has been greatly reduced, and it now apepars that many of the types of experiments proposed for the space station could, and probably will, be performed for less cost on Earth, on the space shuttle, or on other, lower cost spacecraft.

I am also concerned by the recent changes which tie the space station so strongly to the Russian space program. While I share with most people the great interest in what is happening in the former Soviet Union, it is clear that Russia, or any other of the former Soviet Republics, is not a suitable partner for a scientific project of such magnitude. In fact, accommodations made to make our space station compatible with Russian involvement have further compromised the design of the space station. Quite simply, Russia is unstable, and we should not be spending $2.1 billion on a space station program dependent upon its future involvement with the United States.

I am willing to make the prediction that the space station as it is currently proposed will never be completed. At some point, NASA will be forced to terminate the space station project. It is in the interests of the American taxpayer, as well as NASA, that this termination occur sooner, rather than later. I urge my colleagues save the taxpayer's $60 billion by supporting the amendment offered by the Senate from Arkansas.

Ms. MIKULSKI. Mr. President, I rise as the chair of the subcommittee and in opposition to the Bumpers amendment. But before I do, I would like to thank the Senator from West Virginia for his very gracious comments about my work as an appropriator. But where an appropriator can work with an authorizer, the task is made easier and I believe makes for wiser, more prudent and targeted decisions. The Senator from West Virginia chairs both the Subcommittee on Space in the Commerce Committee and chairs the full Committee on Veterans Affairs. So we have been a one-two team here, working in tandem, and it has been a personal delight. But I also believe America has been well served by our partnership in focusing on what are the real needs and how to address them in specific and pragmatic ways.

Mr. President, I have been listening to the debate on the space station. Of course, I have been listening to the debate on the space station for 8 years because I chair this subcommittee. I want to say to the Senator from Arkansas, who has offered the amendment to defund the space station, that I admire him. I know he cares deeply about the people of Arkansas and about the people of the United States. And he has been a very articulate voice every year on controlling the deficit.

We have been cutting our deficit. We have been cutting our deficit without cutting our future. There are two types of public spending: Those that you did not get anything for your money and those that are public investments that ultimately generate the new ideas that lead to the new products which lead to the new jobs. That is what I believe the space station is. It is a public investment in research and new technologies that will have important value to both space science and also will be value added to commercial products.

I believe the Senator from Arkansas is making the wrong recommendation with his amendment. I believe it is wrong for our economic future, and I believe it is wrong for foreign policy.

Mr. President, 25 years ago, our Nation launched a space program that is one of the greatest accomplishments of this century. On July 20, 1969, our astronauts, Buzz Aldrin and Neil Armstrong, became the first human beings to walk on the Moon, the crowning moment of the Apollo space program. We were all inspired by that. Not only were we inspired, but out of the Apollo program came technologies that are benefiting American citizens in their day-to-day lives right now. And like all of America, I lived through the drama of the cold war space race. I was a young woman in college in the 1950's when Sputnik shattered America's complacency about its technology superiority.

In 1969, I was fighting the war on poverty in the streets of Baltimore when Armstrong and Aldrin planted a flag on the Moon and made America proud again. They landed, they walked, and they broadcast their astronomical feats to the world. I was mesmerized by the moment. And ever since I became the chairperson of this subcommittee on appropriations I have been a strong supporter of the national space agency, and America's balanced space program. And I am a strong supporter of the space station because it is going to be a significant scientific laboratory. If we manage the project with fiscal discipline, and if we meet the commitments that we have made with international partners, we will be able to hold our head high. And I believe we are accomplishing these things with the International Space Station *Alpha* Program.

A lot of things have happened in the space station program since we had this debate in the Senate last year, and since we began this kind of rolling debate since 1988. I believe now the international space station *Alpha* looks better than ever. We streamlined the management of the space station, reduced its four centers to a single center, and we have a single prime contractor, clear lines of authority, budget accountability, and the cost of it brought down by $2 billion.

In the redesigned space station there will be more space, more electrical power, and more crew members to do research and experiments. With all these improvements, we will be able to save 75 percent of the plans we originally had for space station *Freedom.*

During the debate last year the administration had begun to negotiate with the Russian space agency. Last year, we had not yet finished our redesign of the space station. We had a lot of questions about the program, and yet people still voted to fund it. This year I am going to be able to say that their faith was well balanced. We now have a space station that is a major international scientific collaboration including Europeans, Canadians, the Japanese, and now the Russians.

Back in 1989 while we were furiously building bombs, and bomb shelters, and missiles to aim at the Soviet Union, and they were building bombs, bomb shelters, and missiles to aim at us, we were also involved in a space race. And did anyone dare to hope that in 25 years we would be working together in an international scientific laboratory where all these nations could work on research in space, where we go out together from Earth to explore, to learn, and to work together to learn about our solar system and our universe, and to build new technologies that will improve the lives of our children and our grandchildren here and around the world?

The research we will do on the space station will continue to generate the kind of knowledge that will create the products we cannot now even imagine and treatments once confined to our dreams.

Space technology has already helped us wage the war on heart disease by developing laser systems. It has helped increase advanced and pediatric pacemakers enabling little kids to live longer, and without a lot of surgical intervention. Right this minute there is a little girl being tucked in by her dad, and who is alive because of the pediatric pacemaker and who will be able to replace it as she grows older, stronger, larger because of what this space program has done.

It has created a hearing aid that can be implanted. We have reduced cardiac deaths. We have developed new body imaging techniques for early detection. Right now it is being used in breast cancer research.

This is a wise investment even in lean times because we are saving lives, generating jobs, developing products for global export. But we must invest today to be ready for the world tomorrow.

The space station is responsible for 40,000 good jobs in this country right now, jobs for men and women, blue and white collar, manufacturing workers, scientists, engineers, technicians, and clerks. These are the kinds of jobs that will carry us into the next millennium.

The new Senator from Wisconsin, Senator FEINGOLD, called this the biggest pork project. Well, I did not want to stand up and interrupt his argument. But this is not pork. Pork goes "oink, oink." It does not go "go, go." Pork is an add on, like a baroque object that looks good, but does not necessarily add intrinsic value. It serves either ego or a special interest, and it is fat.

What is the space program and the space station? It is not pork. This is not because of ego. This is because of a strategic plan to be able to take us into the 21st century.

Jobs from the new economy will be based not only in traditional industries and services but also on new technologies, and new products. These are the kinds of investments that will ensure that this Nation is not left out and not left behind. We have addressed the concerns that some scientists had years ago about the space station. And I know the Senator from Arkansas who has returned to the floor would say, "I remember when it was overweight and underpowered." Well, so do I. Now we have been able to streamline that. The design is more efficient, more effective, and more targeted to research. He is going to say, "Well, I remember when it was a transportation mode."

Then the Senator from Virginia, Senator WARNER, said, "Well, it is only good if you want to go to the Moon." I also remember when its original design was to be a conduit in the sky for astronauts going to Mars. But we knew that astronauts going to Mars is going to be a $500 billion undertaking. And we said no way, the subcommittee both in authorizing and appropriations, because we knew this was not a goal that was fiscally achievable in this century.

What we did say is that we need a space station to do the type of scientific research that cannot be done on Earth such as life science microgravity, and other areas of activity.

I believe the space station is on the right track. And I believe our collaboration, now with the involvement of the Russians, will enhance our work and actually save us money because they have some products that we can incorporate, and some technologies that will actually enhance the timeline.

In May 1995 there will be a docking between the United States astronauts and the Russians on *Mir.* For the first time, Russians and American astronauts will rendezvous in space, and not only will they do an extraordinary handshake of peace and friendship and collaboration symbolizing the end of the cold war not only on Earth but in space, but that new handshake will take us to, I truly believe, new cures for cancer, new products of materials that will be safe, will be resilient, will be the kinds of things, alloys, that we cannot yet now dream.

I believe that in May 1995 it would be a national and international embarrassment if we jettisoned the space station and American astronauts and the Soviet astronauts along with the Canadians and Japanese would look across the solar system and be emptyhanded because of the shortsighted nature, the well-intentioned but shortsighted nature, of the Bumpers amendment.

Mr. President, I yield the floor.

Before I yield the floor, I say to my colleague from Arkansas, does the Senator wish to continue speaking on this or are we ready to move to closure on this night's session? I thought it was very excellent debate.

Mr. BUMPERS. Mr. President, I have just 3 or 4 minutes to wrap up.

Ms. MIKULSKI. I thank the Senator from Arkansas being willing to stay late, to lead the debate, and to bring his supporters over. We have tried to do the same. I thought the debate was rich in content and in a tone civil and courteous.

We look forward to the wrapup tomorrow morning.

Mr. BUMPERS. I thank the Senator from Maryland very much.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I know that the distinguished Senator from Maryland knows that I have the utmost respect for her and her work as the chairperson of this very important subcommittee on appropriations, dealing with the space station as well as housing, and so on.

I have listened as carefully as I could to some of the statements that have been made by people who support the space station. Without being disrespectful, or denigrating to any of them, I would just simply say that many times when I was a trial lawyer it was much more gratifying than debating an issue on the Senate floor.

When I had 12 jurors to speak to who were anxious to hear what I had to say about a case, I knew I had a fighting chance. That is the beauty of the American system of justice. But it has plenty of flaws. As a trial lawyer, I knew that jury of 12 men and women were going to listen. I knew they were going to make up their minds based on the evidence they heard, and what the lawyers said to them in what we call summations. I must tell you one of the things that makes this a depressing place is that speaking in the Senate is not like speaking to 12 jurors. You are speaking to people who, for the most part, have made up their minds. It does not make any difference what the argument is—the vote is not going to change.

My guess is that I will receive about the same number of votes I received last year. The Director of NASA, Dan Goldin, has gone up and down the corridors of the Senate office buildings with a Russian astronaut, making the case that this is critical to American-Russian relations. The Vice President—my former seatmate, who sat right here, my dear friend, who believes strongly not only in the space station, but especially the foreign policy initiative of having the Russians join us in the space station—has lobbied virtually every Senator that he thought might be in doubt.

So, yes, Mr. President, you do not have the luxury of talking to jurors who are undecided and who are going to cast their votes in the jury room based on what they heard. No lobbyists, no $160,000 jobs, just deciding on the merits.

Mr. President, that brings me to a couple of the arguments I heard tonight—as I knew I would—about the merits of the space station; namely, how we would grow protein and material crystals on the space station. Everybody including the people who are in the semiconductor business, and who use crystals, say they do not need it; that there is nothing critical about a wafer or a crystal grown in space that is different from any crystal created on the ground. The difference is that one costs $156 billion, and the other one costs an awful lot less.

Here is what Robert Park said before the Committee on Commerce, Science, and Transportation. Now, Dr. Park is, the director of the Washington office of the American Physical Society. As I pointed out earlier, the American Physical Society is 45,000 physicists in this country. In his testimony, he called it the "microgravity myth"—the idea that you can grow crystals for semiconductors or medicine in space that are purer than crystals made on Earth. Here is what he said:

> The only unique property of a space station environment is microgravity. It is not surprising, therefore, that much has been made of that property in attempts to sell the space station. But many years of research on shuttle flights, and in continuous operations of the Russian space station, Mir, has produced absolutely no evidence that this environment offers any advantage for processing materials or drugs. Indeed, there are sound reasons for doubting that it could. Gravitational forces are simply too weak to significantly affect most processes.

He goes on to say:

> In November, however, a team of Americans that collaborated in protein crystal growth experiments on the space station Mir and on the U.S. space shuttle, reported in Nature magazine that 10 years of work, at stupendous costs, have produced no significant breakthrough in protein crystal growth. No protein has been observed to crystallize in microgravity that does not crystallize on Earth.

Mr. President, everybody who has looked at the growing of protein crystals in space says this is utter nonsense.

But I am not speaking to 12 jurors; I am speaking to Senators who have already made up their minds to spend this $156 billion. I said earlier—and I misspoke myself—that we had never participated with the Russians in a single scientific experiment in space. I stand corrected. We did experiment with them on the growth of crystals and found out it was nothing. Yet, Senator after Senator will get up on this floor and talk about that being one of the principal reasons for going into space, to grow crystals and to cure cancer.

Mr. President, I have never been as certain in my own mind of the righteousness of what I believe as I am about this. I have been a deficit hawk for as long as I can remember, and I am absolutely rapt solid as to how the deficit has been falling. It is the most dramatic deficit reduction by far in the history of the country. But the mentality here is that the deficit is going down; therefore, it will not hurt to go ahead and vote for the space station.

Here it is: $2.1 billion for the next 3 years. Beginning in 1997, almost $4 billion a year. One Senator said that when you consider the fact that we have a $5 trillion debt, that is not very much. What we would spend on the space station in 1997 would run my State for 2 years. That is not very much, folks, but it is big bucks in Arkansas.

So here you see it, Mr. President, $3.9 billion for those years—3.6, 3.3, 3.2, and 3.1 each year after it is deployed. That is $10 million a day. You are not going to believe this, but of this $3.1 billion, almost $500 million of that is for water—to supply the astronauts with water. That ought to be laughable if it were not so serious.

But when Senators start stampeding through that door over there, these arguments do not mean a thing, and once again we will fund the space station and jeopardize the future of the country and the future of our children.

Mr. President, one final thing about the Soviet space station *Mir*. You remember I said they had seven up there. Since 1974, the Russians and the Soviets have had seven space stations deployed. They have one up there now called the *Mir*. It is an interesting thing, they said they developed a flu vaccine years ago, and it was on the front page of every Russian newspaper about how the Russians discovered a flu vaccine they could make in space. And nobody ever heard from it again. Do you know why? Because they found out they could make it cheaper on ground than they could in space. And so it goes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas yields the floor.

The Chair recognizes the Senator from Utah, [Mr. BENNETT].

Mr. BENNETT. Mr. President, I enjoyed listening to my colleague from Arkansas, with whom I sometimes join and with whom I sometimes cross swords. This happens to be one of the occasions when we will cross swords because I am in a different mode with respect to the space station than is he.

I respect his efforts and I respect his integrity for speaking out for what he believes.

The times when he and I have been together have come on issues relating to appropriate business practices, because I come from a business environment. My background is in business. And I am doing everything I can to maintain a businessman's point of view while I am in the Senate and try to avoid the Potomac fever that causes people to lose the perspective that they have after they are first elected. After I've been around here a little longer, that may happen to me. But I am doing what I can to prevent that.

So, I look at this from a business point of view. You may think, Mr. President, I am now going to start to list all of the benefits that will come out of the space station in a bottom line balance sheet fashion. I could do that, but there are other Senators who do that as well or better than I, and I would simply be redundant. Instead I take you to a business experience summarized in a conversation I had when I was the CEO of a company that was growing very rapidly but was still at the time quite small.

I was spending money as the CEO of that company in a research and development mode. Some of the people were concerned that we might not have the money. "Maybe you will postpone spending on those kinds of things until we get really stable. You do not know what you are going to get out of having these R&D people around. And, Bob, why are you spending the money?"

I remember saying to them, "If you do not spend the money on your future, you are not likely to have one."

It just kind of popped out on the occasion, but I liked it, and I repeated it. And I want to repeat it here in this context. If we do not spend some money on our future, we are not likely to have one, even if we cannot at this point quantify exactly what will come as a result of that spending.

Just 2 weeks ago, on July 20, 25 years previously American astronauts landed on the Moon. As I say, just 2 weeks ago we celebrated that anniversary. This is an event that I think changed our perception of the universe and our place in it forever. It inspired the Nation to continue its efforts in space. It also acted as a catalyst to bring our people together in a sense of rejoicing over an accomplishment that virtually nothing else has ever done.

The Apollo landing stands out as one of the most significant events in our Nation's history. Look back over the great civilizations of history. Each one is marked by a crowning achievement that lasts down through the ages: the pyramids in Egypt, the building of the Taj Mahal in India, demonstrating the apex of their architectural excellence, and Angkor Wat in Thailand, and so on—these represent the golden eras of these civilizations.

I think our Nation will be remembered for, among other things, the realization of the dream of human space flight and exploration, and Apollo will be one of those monuments. But if we do not add to Apollo with further monuments, we will end up looking back on that with the same kind of nostalgia that we now use to look back on the Greeks and the Egyptians and others who do not play a major role in the modern world.

I salute the men and women who made the Apollo landings possible, both the astronauts who made the historic voyage and the people on the ground who made the trip not only possible but safe and successful.

When I think on the 25th anniversary of Apollo, it is appropriate that we commemorate that by demonstrating our commitment to keep it up.

As I say, I could give you a list of all of the benefits that come out of space and space exploration in terms of things that have changed our lives here.

I remember seeing a video presentation on public television where an individual was standing in a room filled with medical equipment and said: "I am here in a room with the very latest medical equipment to show you the benefits of space. I am now going to remove from this room everything that owes its beginnings and its technological advances to the space program."

You can anticipate what is coming. In the next visual the room was empty. Everything owed its genesis to the space program.

So I could give you that list. As I say, I will not do that because other Senators have done that, and we have that in the RECORD, and we have that in the speeches on the floor.

I want to concentrate on the issue I have already raised, the issue of investing in the future, the issue of our vision and our concern about wonder.

My colleague from Ohio, Senator GLENN, has already touched on this with his story about Daniel Webster and his inability to see what could come out of the future.

G.K. Chesterton once said, "We are perishing for lack of wonder, not for lack of wonders."

We are indeed surrounded by wonders. But do we have that sense of wonder that I am sure he is referring to? As I say, this is the issue and this is the idea that I want to emphasize today. Think of it. It is a wondrous thing to send a man through space. It is a wondrous thing that men have walked on the Moon. Somewhere, in our debate about appropriations bills and crime, health care procedures, we seem to have lost our wonder.

Mr. President, I am here as the successor to Jake Garn, and those who remember Jake remember him for two things. No. 1, he used to complain bitterly about late night sessions. I am here at a late night session perhaps in honor to Jake's complaint. But, No. 2, he loved space. And he came back to the Senate and made a statement to the appropriations subcommittee about this which I would like to repeat here because it focuses on this issue of wonder.

He says, now quoting former Senator Jake Garn:

> Each time the shuttle flies is a miracle of human capabilities, both on the ground and in orbit. Each flight may not be as flashy or as notable as the Hubble mission, or Endeavor's maiden voyage. But each one provides a treasure of knowledge with great potential for advancement and improvement of the human condition * * *. The possibilities are mind-boggling.
>
> I have been "out among the people" now for the past year and a half. I have spoken to thousands of people in a wide variety of settings and when I speak to them about space, it's not the science or the technology that seems to strike the deepest chords with them; it's the "vision" it's the majesty of it all; the excitement of discovery. In these days when so much of society seems to respond only to things which provide instant gratification, it is heartwarming to me to find so much interest and such an overwhelming response to the "vision thing."
>
> History is filled with examples of once great nations who lost their drive to explore, who turned inward and lost sight of their real place in the world. When they lost that vision, they lost their place of leadership.
>
> Leadership, like trust, must be earned. It must be reaffirmed and proven by consistency in word and actions. My challenge to the President is to demonstrate this leadership; to support and expand this nation's space program; to not be swayed by the naysayers who claim who cannot afford it. I challenge him to allow the space program to embody the fundamental and instinctive need of human beings to explore and expand their horizons—to allow it to hold out the vision of a better understanding of who and what we are, and what part we play in the universe in which we live.

I know that that is in the report language, but I think it is appropriate to repeat it here on the floor because Senator Garn reacted to the wonder of this incredible opportunity and was its champion here on the floor of the Senate for 18 years. And, as a tribute to him, as I say, I think it is appropriate that I repeat this and, it is equally appropriate, as a tribute to him, that I do it in a late-night session.

We will now vote on whether or not to keep the space station. We will look at the charts. We will look at the bottom line. We will make the decision on a sound economic basis.

I am certainly not urging us to do anything that would be economically foolish or reckless or based on pure fantasy. I believe that support for the space station can be justified economically and we can demonstrate that the Nation will indeed get its money's worth.

But I do want to inject this note in the whole debate: Was it worth it for this Nation to go to the Moon? Was it worth it to pay what it cost us to allow the whole Nation to gather around one figuratively giant TV set and watch Neil Armstrong announce his "one giant leap for mankind"? Was that worth it to us as a people?

I venture to say that we will all say yes, not only from what happened on the balance sheet, but for what it did to us as a community. It was worth it because of the wonder. It remains one of the great moments in American history.

So looking back on the first quarter century of American space exploration as marked by Apollo, recognizing, of course, there was much that went on before that, I find inspiration to continue our march of destiny beyond the Earth. And we cannot continue it without taking the next giant leap for mankind, which is to break beyond our present technology, go into a frontier we have not tried before, and build the space station.

For that reason, Mr. President, I urge all of my colleagues to support the space station and help America keep its sense of wonder.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah yields the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Utah for his excellent remarks. I recall with fondness the work that I did, together with Senator Garn, on this appropriation.

It is a special treat to this Senator to have the support from Senator BENNETT. That certainly was very much in the Garn tradition.

MORNING BUSINESS

JUDGE H. LEE SAROKIN

Mr. DOLE. Mr. President, in the coming days, we are going to hear a lot of overheated rhetoric about how great the crime bill is, but when it comes to fighting crime, actions always speak louder than words.

Yes, we can put more police on the streets. We can toughen the criminal laws. We can build more prison space. But these efforts, no matter how worthwhile, will quickly go down the crime-fighting drain if the Federal bench is dominated by judges who seek to expand the rights of criminal defendants and hamstring law enforcement in the process.

One judicial nominee whose views did not square with President Clinton's tough-on-crime rhetoric was Judge Rosemary Barkett. Another such nominee may be Judge H. Lee Sarokin, who was recently selected by President Clinton to fill a vacancy on one of the Nation's highest courts, the third circuit court of appeals.

In an article appearing in the West Virginia Law Review, Judge Sarokin suggests that the pre-trial and pre-conviction detention of those charged with violent crimes violates the "presumption of innocence." If Judge Sarokin's views were to prevail, it appears that vicious criminals like the World Trade Center bombers would be free to roam the streets of our country at any and all times prior to their actual convictions. The Senate, of course, recognizes that pre-trial detention is an important public safety measure. And that is why we passed an anticrime bill last November that encouraged the States to adopt pre-trial detention laws for those charged with violent crimes.

In the same West Virginia Law Review article, Judge Sarokin also takes aim at mandatory sentencing, insisting that "mandatory and uniform sentencing * * * deprives judges of the right to grant mercy in those instances in which the facts cry out for it." And he argues for an air-tight exclusionary rule, even when the police act in a good faith belief that their search is lawful. The Supreme Court, of course, took a contrary view in the Leon decision, upholding a "good faith" exception to the exclusionary rule.

Mr. President, not only is Judge Sarokin's soft-on-crime judicial philosophy a source of concern, his judicial temperament is a big issue as well.

As a member of the Federal District Court in New Jersey, Judge Sarokin presided over a case in which several tobacco companies were the defendants. During the trial, Judge Sarokin's bias against the defendants was apparently so blatant and so well-publicized that the third circuit court of appeals took the extraordinary step of actually removing him from the case. Even the New York Times applauded the removal, saying that Sarokin had been "far out of line" and had "flunked an important test of credibility."

Mr. President, I have not made up my mind on the Sarokin nomination, and I will continue to examine his record carefully. But from what I see so far, it appears that Judge Sarokin will have a lot of explaining to do at his confirmation hearing tomorrow.

Mr. President, I ask unanimous consent that the article from the West Virginia Law Review and the New York Times editorial be reprinted in the RECORD immediately after my remarks.

There being no objection, the articles were ordered to be printed in the RECORD as follows:

[From the West Virginia Law Review]

BEWARE THE SOLUTIONS!

(By the Honorable H. Lee Sarokin)

I assume law schools still teach that a good lawyer is one who recognizes the problem. But in this day and age I suggest that the current generation should beware the solutions to those problems.

Although there is some dispute as to the existence of the so-called litigation explosion, it cannot be denied that more and more people are turning to the courts. It is popular to suggest that increased litigation is caused by the growing number of lawyers and their need to feed, clothe and shelter themselves and their families; but I suggest that the real reason is a general loss of faith in the other branches of government to protect individual rights coupled with an abiding confidence in the courts to protect those rights. Despite the apparent low popularity rating of lawyers, more and more people are turning to them for assistance. Providing them this assistance is the challenge for this generation.

The real danger is not what the lawyers are doing, but what is being done to the law. The judicial system is blamed for crime, for drugs, for abortion, for increased insurance premiums, for illegal aliens, for excessive verdicts, for the collapse of religion (no small accusation), for reverse discrimination, for the spread of pornography and obscenity, and for freeing the guilty. We are only responsible for about half those things.

The judicial system was not meant to cure all the social ills of our society. It was created as a forum to resolve disputes in a fair way and to protect rights in civil and criminal matters. The system also serves to set standards of conduct. We tend to forget that one of the purposes of tort liability is deterrence—it discourages defective and shoddy workmanship and negligent and harmful conduct.

But look at the proposals—some of which have been adopted already: Put people in jail before they are convicted; let illegally obtained evidence be used if the officer meant well; require judges to impose certain jail sentences even though the particular case warrants otherwise; make lawyers disclose how much they were paid by their clients and make them give it back if the source was illegal; put a cap on tort awards irrespective of the injuries sustained; test everyone for drugs, even though they have never given any indication that they ever indulged; and most recently, do not tell the accused that they have constitutional rights because they might exercise them. The law schools and in particular the law reviews have a vital role to play in these areas.

There is a strange tension in the law. All cases are decided based upon precedent. That of course is necessary to the stability of the law. How can lawyers advise their clients if they cannot rely upon the continuity of the law? On the other hand, the law is constantly being expanded and even reversed. The news is filled every day with examples. The press rarely reports that a previous decision has been followed. Instead, the reports focus on changes, reinterpretations, and reversals.

Law reviews can serve us best if they analyze the changes that are proposed either through court decisions or legislation. Law review writers should make judgments as to whether the proposed solutions are necessary and, more importantly, whether they conflict with any of those guarantees which we cherish as a society.

If we want to live in a democracy, if we want freedom and individual rights, society must pay a price. Every generation must decide whether the price is too high. Many of society's ills can be reduced or eliminated by a reduction in our individual rights. Somebody once asked the president of a famous car manufacturer why the industry did not make an automobile that was totally safe—one that could not injure the driver or passengers on impact. He said: "We have one. It's called a tank, but it would cost a million dollars to buy it."

There are many remedies to our problems, but they likewise are too expensive—not in terms of money, but in terms of freedom. The future leaders of the profession and its present spokespersons must decide and speak out as to whether the expense is worth the remedy.

Look at what is happening in the criminal area. We have pretrial detention of the accused in direct contradiction of the presumption of innocence. We have lawyers being forced to disclose the source of their fees and run the risk of forfeiture in direct opposition to the lawyer-client privilege and the right to effective assistance of counsel. Mandatory and uniform sentencing is in the wings depriving judges of the right to grant mercy in those instances in which the facts may cry out for it.

And now the Justice Department calls for a retreat from Miranda. What is the rationale? The Justice Department cannot abolish the fifth amendment, so it proposes not to tell the accused that privileges exist for fear that if an accused was made aware of his constitutional rights he might exercise them. Who will this affect? Certainly not the inside traders, the elected officials, or other white collar persons charged with crimes. Rather it will affect the poor and uneducated, and perhaps even the innocent.

So what we, as individuals and as members of the legal profession, must decide is whether discovering and convicting criminals is more important than the constitutional rights that were created to protect everyone. Crimes would certainly be solved more quickly, and possibly more convictions obtained if we did not have to worry about the fourth and fifth amendments. But is that a result worth achieving? Is the cost too great?

The same analysis is necessary in connection with the drug problem. Indeed, it is closely related to the growth of crime. What price are we willing to pay in order to find out who is using drugs? Illegal handguns are used in robberies and murders every day. Would we think of searching every house and apartment in a large city to find and confiscate them? We probably would find a number of robbers and murderers in the process. The reason we do not do this is because the price is not worth it. As a free society, we have decided that it is more important to be protected in our property and persons than to find criminals. If we searched everyone or every house to find the guilty, we undoubtedly would be successful; but we cannot judge the worth of the Bill of Rights by considering what the benefits would be if its guarantees were not enforced. Those guarantees are invaluable, even though they may protect criminals and interfere with investigations and convictions.

Drugs are a menace. They are devastating our country. They cause crime, affect productivity, and seduce our children. We can help or discipline the users if we can identify them. So should we surrender our rights of privacy or our rights against unreasonable search and seizure and attack this cancer, or should we insist upon the preservation of our rights no matter how just the cause or great the need.

I suggest that the legal profession not look to public opinion for the answer. The will of the majority is not the guide here. The Bill of Rights is peculiarly necessary to protect minorities and minority viewpoints. The politicians can look to the polls for guidance; the legal profession should not and, indeed, cannot.

The greatness of our judicial system is that its decision need not be popular. We could combat crime by concealing the fifth amendment from the accused. We could discover the drug user by invading his privacy. We could protect the public by keeping accused criminals incarcerated before trial despite the presumption of innocence. We could track ill-gotten gains by forcing lawyers to disclose the source of their fees, despite the effect on the lawyer-client privilege and an accused's right to counsel. We could limit recovery of injured parties even though it would deprive them of what they need to survive. We could use illegally obtained evidence to convict, if we no longer wished to deter police lawlessness.

All of these suggestions and solutions need exposition. They require a balancing of the highest order. My bias is reflected in the way that I phrase these questions, but it need not be yours. Re-examine what is old; and, if you believe that it is no longer valid, urge its change. Challenge what is new and proposed if you believe that it destroys rights and principles worth saving. Law reviews serve an important function when they summarize the law in a particular area, but they are at their best when they enhance the law or defend against its encroachment where necessary. Think of the valuable insight that can be given on pretrial detention, retention of the Miranda rule, mandatory sentencing, the legality of drug testing in the public and private sector, surrogate mothers, restrictions on advertising as now proposed regarding cigarettes, all of the ramifications of liability involving the cigarette industry, and tort reform in general.

When the law is changed by decisions or legislation so as to affect individual rights, our spirits should soar! We should not feel a gnawing doubt in the pit of our stomachs. If a change has occurred or is proposed with which you cannot agree, then use your training, your wisdom, your pens (or now more probably word processors) to speak out.

The law is under siege. Join with the revolutionaries if you think the attack is warranted but mount the bastions to defend it if you think it is not.

[From the New York Times, Sept. 10, 1992]

TOPICS OF THE TIMES; JUSTICE BECLOUDED

When Judge Lee Sarokin of U.S. District Court in New Jersey issued a key ruling against tobacco manufacturers in February, he began with a thorough denunciation of the industry. He declared that "despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation."

That may be so, but the judge was far out of line to say it. He had been assigned to preside over an eventual trial on the very issue he opined about so colorfully: whether cigarette makers had conspired to withhold information about the dangers of smoking. The U.S. Court of Appeals rightly pulled the judge, able and hard-working as he is, off the case.

Even with its record of slick marketing and efforts to smokescreen evidence that cigarettes kill, the tobacco industry is entitled to a judge who has not given the appearance of strong feelings that go to the merits of its lawsuit.

Judge Sarokin had been asked to decide whether certain industry documents must be produced over the industry's objection that they are private legal papers. The judge could compel their disclosure if they showed fraud. Since fraud was also the central issue in the lawsuit, he had to be especially careful in issuing his ruling.

Instead, on his opinion's first page, Judge Sarokin charged that: "All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sales over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their own prosperity!"

That was powerful stuff, which generated news across the country. But with it, Judge Sarokin flunked an important test of credibility. Granted that the defendants have long wished for a different judge, they are entitled to just that rather than one who has put his own impartiality in question.

SUSAN G. KOMEN BREAST CANCER FOUNDATION

Mr. CAMPBELL. Mr. President, I am happy to be here today to talk about the Susan G. Komen Breast Cancer Foundation and their tremendously successful Race for the Cure. As you know, the Susan G. Komen Breast Cancer Foundation is one of the major funders of breast cancer research in the country. They have raised over $19 million since 1982—and they are committed to raising more money for research and education through Race for the Cure events in 48 cities this year.

Breast cancer is the leading cause of death for women between the ages of 35 and 52. There are 1.8 million women in this country who have been diagnosed with breast cancer, and an additional 1 million who do not yet know they have this disease. Until we find a cure, early detection through mammography screening and clinical breast examination is the best approach we have to fight breast cancer. But the Susan G. Komen Breast Cancer Foundation is looking for a cure, and Race for the Cure events are a major source of funding for these efforts.

I am pleased to join the efforts of Colorado Race for the Cure volunteers this year to lead the first ever Ride for the Cure in Aspen, CO with my wife Linda and my daughter Shanan. As you may know, my family rides motorcycles together as often as we can. And this July 30, we hope to be joined by hundreds of other bikers, breast cancer survivors, and friends as we Ride for the Cure into the Rockies and then back to Aspen for a special barbecue. It is all part of Aspen's fourth annual Race for the Cure benefit. Hundreds of volunteers have been working on Race for the Cure for many months in Colorado. I am happy to participate in this event and invite all of my colleagues and constituents to join Linda, Shanan, and me in our ride for the Cure in Colorado and across the Nation.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. As I have done each week the 103d Congress has been in session, I rise to report to the Senate on the gruesome toll taken by gun violence in New York City. This past week, 17 persons were killed by gunshot, bringing this year's total to 584.

THE RETIREMENT OF MRS. DORIS ELERDING

Mr. MURKOWSKI. Mr. President, a long time member of my staff, Mrs. Doris Elerding, has decided to depart

Washington and her service to the Senate for what is perhaps the best of all reasons—to be closer to her children and grandchildren.

I rise today to say a few words of tribute to Doris and her superb service to me, the Senate, and the people of Alaska.

Doris moved to Ketchikan, AK, from Bellingham, WA, with her husband, Ira Elerding, in 1962.

Ira had received an offer to work as an electrician at the Ketchikan pulp mill, so Ira and Doris decided to go to Alaska for what they thought would be an adventure lasting just a few years.

Once in Ketchikan, attentions turned to raising a family. Doris and Ira got involved in the community, and as often happens in Ketchikan, the moss began to grow under their feet. They decided to stay.

I first came to know Doris when I was involved in the banking business. Doris was working at the First National Bank of Ketchikan, working as a secretary to the bank's president, Bill Moran, Sr.

Shortly after I was elected to the Senate in November 1980, I received a phone call from Doris. Her beloved husband, Ira, had passed away, and her boss was getting ready to retire from the bank, so Doris was interested in working with me in Washington.

It is not easy to find Alaskans who are willing to leave Alaska to work in Washington, DC, so I told her she could have a job, provided she was sure she would like living on the east coast.

Doris figured it was time for another adventure and reported for work in February 1981. She has served as our receptionist ever since.

In her many years of answering phones, dispensing gallery passes, arranging White House tours, and much more, Doris has touched the lives of thousands of people, Alaskans and non-Alaskans alike.

I know that she has touched so many lives because I rarely return to Alaska without someone walking up to me and asking: "How's Doris? Please tell her I said hello."

It even happens here in Washington. I will be at one of the many functions or dinners that we must attend here in Washington and someone will often approach to ask: "How's Doris?"

In addition to making visiting Alaskans and other visitors feel at home, Doris has always kept a watchful eye on the young Alaskans and others who have worked for me over the years.

At one time Doris owned a home here on Capitol Hill that she would open up to young people looking to rent a room, or to new staff needing a place to stay until they could find apartments of their own. If you rented a room from Doris, and were a little late getting home, or were a new staffer just arriving on a plane from Alaska, you could always count on the fact that Doris would be waiting up for you. Doris often took young people under her wing and kept an eye on them.

Doris' graciousness and willingness to help others is deeply rooted in her strong faith and devotion. Many who worship at St. Joseph's know Doris from morning Mass.

You could find Doris there each and every morning—even the morning it was icy and she slipped on the sidewalk and broke her ankle.

It was not too long before Doris was back, in a full leg cast, struggling up the stairs to attend Mass once again.

The final story I will share occurred very recently, after Doris told me of her plans to leave.

It was the evening of the congressional barbecue at the White House. My wife Nancy was in Alaska, so I asked Doris if she could accompany me.

Doris did not hesitate. She grabbed her camera and joined in the festivities.

At one point, seated among a table of Senators and other dignitaries, she asked what she described as "a nice young man" to snap a picture of the group with her camera.

The "nice young man" readily and graciously agreed. When someone leaned over to Doris and told her that she was having her picture taken by the Secretary of Transportation, she shrieked in delight and insisted that he join in the picture as well.

I do not know precisely what the press reported the next day about the White House barbecue, but I am able to report to my colleagues that Doris was the life of the party.

Over the years, Doris has taken good care of us. Unfortunately for us, the time has come where she has determined that her children and grandchildren need her more.

She ended her service to the Senate on July 10, and is moving to Portland, OR to be close to children and grandchildren in Portland as well as Sitka and Ketchikan, AK.

We will miss her, but trust in her ability to keep in touch and visit us often.

Thank you, Mr. President, I yield the floor.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the Budget Scorekeeping Report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through July 29, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 387), show that current level spending is below the budget resolution by $4.9 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–1998. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated July 26, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1994.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through July 29, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 25, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT, FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS JULY 29, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
On-budget:			
Budget Authority	1,223.2	1,218.4	−4.9
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–1998	5,153.1	5,122.8	−30.3
Maximum Deficit Amount	312.8	311.7	−1.1
Debt Subject to Limit	4,731.9	4,551.8	−180.1
Off-Budget:			
Social Security Outlays:			
1994	274.8	274.8	([3])
1994–1998	1,486.5	1,486.5	([3])
Social Security Revenues:			
1994	336.3	335.2	−1.1
1994–1998	1,872.0	1,871.4	−0.6

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 of the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS JULY 29, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation [1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsettting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
Federal Housing Administration Supplemental (P.L. 103–275)	([5])	(2)	
Total enacted this session	(2,748)	(645)	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [2]	(5,562)	1,326	
Total Current Level [3], [4]	1,218,395	1,217,054	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,854	1,095	
Over Budget Resolution			80

[1] Includes Budget Committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,203 million in budget authority and $9,079 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of Budget Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

[5] Less than $500 thousand.

Notes.—Numbers in parenthesis are negative. Detail may not add due to rounding.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the Constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,636,361,778,400.62 as of the close of business Friday, July 29, the most recent day that information was available this afternoon. Averaged out, every man, woman and child in America owes a share of this massive debt, and that per capita share is $17,783.53.

TRIBUTE TO JAMES P. CONNOR

Mr. BIDEN. Mr. President, on another August day, 50 years ago, a battle patrol—part of the 3d Infantry Division of the 7th Regiment, United States Army—landed at a place in southern France, known on that day and ever after as "Red Beach." The advance platoon was involved in one of the most difficult missions of the second wave invasion of occupied Europe, Operation Anvil-Dragon, to clear the mined beach, and to destroy heavily fortified enemy positions, for the amphibious vehicles that would follow ashore.

Shortly after the landing, the platoon's lieutenant and sergeant were killed. Command fell on the shoulders of a 25-year-old draftee, a graduate of St. Mary's Commercial School in his home town of Wilmington, DE, a leather worker by trade. In the 3 years since he had been drafted, he had made sergeant himself, and now, with a 36-man platoon that was reduced ultimately to just seven soldiers, with no senior or career officers, James P. Connor took command on Red Beach.

Sergeant Connor inspired his outmanned and outgunned troops to continue the fight, and to believe that they could—and would—win. He was wounded three times, but even when he could no longer stand, Sergeant Connor refused medical treatment and continued to issue orders and to push his troops forward. He was heard to shout, "They can hit me, but they can't stop me." The platoon of 7 reached the enemy position and captured 40 Germans. The beach was secured in 3 hours.

For his uncommon valor—for his heroism—Sgt. James P. Connor received the Medal of Honor, one of only two citizens of our small State to earn that highest of all military recognitions in the 20th century. Sergeant Connor's citation hailed his driving spirit, by which he had practically carried the platoon, through mines and gunfire, to the successful completion of its mission.

After his discharge from the Army in 1945, Jim Connor returned home to Delaware. He got married and raised a family, four sons. He started a new job with the Veterans Administration, where he worked until his retirement, helping others who had also served our Nation in uniform. He lived, as he had before 1941, and like so many of his neighbors and friends, what we too often think of as just a regular, productive, law-abiding citizen.

When James P. Connor died last week at the age of 75, his wife said, simply but profoundly, that he had been a private person. Although his Medal of Honor gave him opportunities—deserved opportunities—to be in the spotlight, Jim Connor was never comfortable there. Like so many in the World War II generation, he felt that he had simply done his job, done what he was supposed to do as an ordinary American citizen, and an ordinary American citizen was all he ever wanted to be.

Mr. Connor personified the kind of character, the kind of values, that are incompatible with self-promotion. He was the kind of patriot who does not seek applause or reward, but serves out of a genuine and instinctive sense of duty, and with a sense of obligation to those who died in their own service to our Nation. He was, not only during those 3 hours on Red Beach but for all the years of his life that followed, the embodiment of the lessons taught so well by his generation.

It is the lesson that liberty and the blessings it allows cannot be taken for granted by those who enjoy them, that the defense of freedom and its integrity must always be the mission of ordinary Americans. It is the lesson that our best remembrance of, and highest tribute to, those who have served and sacrificed for us lies not in the words we say when the spotlight is on us, but in the lives we live every day.

Our highest tribute is to refuse to abandon the faith in our common purpose that led Sergeant James P. Connor to shout, "they can't stop me"; to refuse to abandon the belief in one another—the belief and the trust—that inspired that platoon of seven to keep fighting together, that made a hero out of Jim Connor, and so many other, ordinary Americans; to refuse to abandon the dream whose value we feel instinctively, the dream of America.

Our highest tribute is to build this country and our communities, to build lives like that of a private and ordinary man named Jim Connor, whose dedication to family, friends and fellow citizens made him a hero every day of his life. To be worthy of such extraordinary ordinary citizens, who by their driving spirit carry us toward our promise as a people, we must continue to keep the faith in our common purpose, and to build the hope, the belief in one another, the dream.

Someone once said that, "What we have done for ourselves alone dies with us; what we have done for others and the world remains and is immortal." We will mourn the death of James P. Connor, for a very long time, but the celebration of Jim Connor's life—of what he did for us, and for his family and friends—will never end.

We extend our sympathies to Mr. Connor's wife of 48 years, Elizabeth Chlepciak Connor, to their 4 sons, James, Donald, Jeffrey and Michael, to his sister, Dorothy Brown, and to the 8 grandchildren whom he no doubt would claim as his dearest legacy. In doing so, we honor a private man whose courage and character in service to us all reminded us that the ranks of our history's heroes are filled by ordinary Americans. May we always keep this Nation worthy of such citizens.

NATIONAL POW/MIA RECOGNITION DAY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 196, National POW/MIA Day, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 196) designating September 16, 1994, as "National POW/MIA Day" and authorizing display of the National League of Families POW/MIA flag.

The Senate proceeded to consider the joint resolution.

Mr. BENNETT. Mr. President, I ask that the joint resolution proceed to third reading and final passage.

The PRESIDING OFFICER. Without objection, the joint resolution is deemed read three times and passed.

So the joint resolution (S.J. Res. 196) was passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 196

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of the Americans whom are still missing in action and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 16, 1994, is designated "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2 REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed, as a symbol of the concern and commitment of the United States to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for and to ending the uncertainty for their families and the Nation—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1994 (Memorial Day), September 16, 1994 (National POW/MIA Recognition Day), and November 11, 1994 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 16, 1994.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House;

(2) the Capitol Building; and

(3) the buildings containing the primary offices of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990 (36 U.S.C. 189).

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2319

Mr. BENNETT. Mr. President, I ask unanimous consent that S. 2319 be star printed to reflect the following changes, which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM-138

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying, report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of March 3, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. Member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraq's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the Member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No Member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos.

12724 and 12817 (the "Executive orders"). The report covers events from February 2, 1994, through August 1, 1994.

1. During the reporting period, there were no amendments to the Iraqi Sanctions Regulations.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. There are currently 30 enforcement actions pending. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq. Three penalties totaling $38,450 were collected from three banks for violation of the prohibitions against Iraq, and noncompliance with reporting requirements and an Office of Foreign Assets Control directive license.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq. One Jordanian-Iraqi joint venture company prominently involved in shipments to Iraq was identified as an SDN of Iraq on May 4, 1994. A copy of the notice is attached.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On March 1, 1994, following payments by the Governments of the United Kingdom ($447,761.19), the Netherlands ($1,566,994.55), Australia ($476,110.00), and the European Community ($3,758,310.31), respectively, to the special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $6,240,176.05 from the blocked account it holds to the United Nations-controlled account. Similarly, on March 22, 1994, following the payment of $525,182.50 by the Government of the Netherlands, $2,478,089.89 by the European Community, $2,352,800.00 by the Government of the United Kingdom, $444,444.44 by the Government of Denmark, $1,204,899.30 by the Government of Sweden, and $3,100,000.00 by the Government of Japan, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $10,105,416.13 to the United Nations-controlled account. Again on June 30, 1994, the Federal Reserve Bank of New York was directed to transfer $6,969,862.89 to the United Nations-controlled account, an amount corresponding to the aggregate total of recent payments by the governments of other Member States: European Community ($1,042,774.31), United Kingdom ($1,570,804.48), the Netherlands ($1,062,219.51), Kuwait ($2,000,000.00), and Sweden ($1,294,064.59). Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $130,928,726.04 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to the United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 496 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 52 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexisting intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1994, through August 1, 1994, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.3 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Four years after the invasion, a pattern of defiance persists: a refusal to recognize the international boundary with Kuwait or to account for missing Kuwaiti detainees, sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors, and ongoing widespread human rights violations, among other things. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a complete blockade of food, fuel, and medicine on northern Iraq. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and 712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Nearly a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1994.*

MESSAGES FROM THE HOUSE

At 11:32 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 195. Joint Resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4506) making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BEVILL, Mr. FAZIO, Mr. CHAPMAN, Mr. PETERSON of Florida, Mr. PASTOR, Mrs. MEEK of Florida, Mr. OBEY, Mr. MYERS of Indiana, Mr. GALLO, Mr. ROGERS, and Mr. MCDADE as the managers of the conference on the part of the House.

At 4:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1690. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

H.R. 3898. An act to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes.

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

H.R. 4724. An act to amend title 38, United States Code, relating to veterans housing programs, and for other purposes.

H.R. 4768. An act to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes.

H.R. 4776. An act to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1690. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Relations.

H.R. 3898. An act to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4724. An act to amend title 38, United States Code, relating to veterans housing programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4768. An act to amend title 38, United States Code, to make changes in veterans' education programs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4776. An act to amend title 38, United States Code, to improve veterans' employment programs, and for other purposes; to the Committee on Veterans' Affairs.

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent and referred as indicated:

H.R. 2266. An act for the relief of Orlando Wayne Naraysingh; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3136. A communication from the President of the United States, transmitting, pursuant to law, a report requesting a supplemental appropriation for the Department of Housing and Urban Development; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. 2351. An original bill to achieve universal health insurance coverage, and for other purposes (Rept. No. 103–323).

By Mr. GLENN, from the Committee on Governmental Affairs, with amendments:

H.R. 4569. A bill to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

William T. Coleman, III, of Michigan, to be General Counsel of the Department of the Army.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON:

S. 2348. A bill to repeal the prohibitions against recommendations relating to Federal employment and United States Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GORTON:

S. 2349. A bill to amend the Elwha River Ecosystem and Fisheries Restoration Act with respect to the licensing of certain hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2350. A bill to establish a Meat, Poultry, and Eggs Inspection Agency to administer the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to expand the application of such Acts, to provide for the establishment of safe cooking standards for meat and poultry products, to improve scientific research and understanding of foodborne illnesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2351. An original bill to achieve universal health insurance coverage, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. KENNEDY:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON:

S. 2348. A bill to repeal the prohibitions against recommendations relating to Federal employment and U.S. Postal Service employment, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CIVIL SERVICE JOBS LEGISLATION

• Mr. SIMON. Mr. President, today I am introducing a bill that repeals a provision of the Hatch Act that prevents Members of Congress from making recommendations, oral or written, on behalf of people applying for Federal Civil Service or U.S. Postal Service jobs.

Last summer Congress amended the Hatch Act to prohibit Members of Congress from writing a simple letter of recommendation for anyone applying for a nonpolitical civil service position. Mr. President, I think that's going a bit too far.

My bill repeals the prohibition on recommendations. It does, however, leave intact reasonable guidelines. Under my proposed legislation, recommendations must be based on personal knowledge or records of the applicant, and may only include evaluation of work performance, ability, general qualifications, comments on character, loyalty, suitability, et cetera.

Mr. President, I am sure there have been times when an elected official has recommended an individual for Government employment simply because that individual has been a loyal friend. I am equally sure that these types of abuses are the exception rather than the rule. I don't believe there is anything wrong with an elected official sending a written letter of recommendation on behalf of someone who is applying for a job with the Federal civil service or with the Postal Service—as long as the recommendations fellow reasonable guidelines.

I do understand the need for tightly written guidelines for such letters of recommendation. But I think we can leave it up to the House and Senate ethics committees to delineate what is and is not appropriate with regard to these recommendations. My understanding is that they already have that power under their existing rulemaking authority.

I have many outstanding employees and interns. Some of them choose to go on to apply for jobs with Federal agencies, Federal judges, the U.S. Postal Service, the executive branch, et cetera. I see no reason why they should not be allowed to ask me—their former employer—for a letter emphasizing their suitability for a job. It's common practice in the private sector. We don't prohibit CEO's of major corporations from making recommendations for these same positions. Many of these executives have just as much, if not more, leverage in the job world.

Mr. President, I hope that you and my colleagues agree that this law could be tempered a bit. I would like to see this prohibition repealed as soon as possible.•

By Mr. GORTON:

S. 2349. A bill to amend the Elwha River Ecosystem and Fisheries Restoration Act with respect to the licensing of certain hydroelectric projects, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT AMENDMENT ACT OF 1994

• Mr. GORTON. Madam President, today I am introducing legislation to amend and improve Public Law 102-495, the Elwha River Ecosystem and Fisheries Restoration Act. I recently testified before the Senate Energy Committee in relation to this legislation, and ask unanimous consent that a copy of my testimony be printed in the RECORD. I further ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2349

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

SECTION 1. (a) The Congress finds and declares that—

(1) Salmon and steelhead are important biological, commercial, recreational, and cultural resources in the Olympic Peninsula;

(2) Many salmon and steelhead runs in the Olympic Peninsula have become greatly depleted;

(3) Due to the depressed economy of the Olympic Peninsula region, restoration of salmon and steelhead runs, and establishment of consistent recreational, commercial and tribal fisheries is of critical importance;

(4) The Congress of the United States recognized the importance of Elwha River anadromous fisheries by the enactment of the Elwha River Ecosystem and Fisheries Restoration Act, P.L. 102-495;

(5) Significant Federal budget limitations make it uncertain whether funding for acquisition and removal of the Elwha dams pursuant to P.L. 102-95 will be provided in the next several years;

(6) There are other means of enhancing regional anadromous fish populations that appear to be more cost-effective than dam removal.

(7) Should funds for dam acquisition and removal not be provided, uncertainty over the disposition of the dams creates unacceptable financial risk for the owner of the dams and the local industrial consumer, and threatens a significant number of jobs in the Olympic Peninsula region.

(b) The purpose of this Act is to provide for the immediate restoration of native anadromous fisheries in the Olympic Peninsula in order to prevent possible listing of such stocks under the Endangered Species Act, to provide reasonable financial security for the owner of the Elwha dams and the local industrial consumer, and to protect important jobs in the Olympic Peninsula region.

SEC. 2. For the purposes of this Act the term "streams of the Olympic Peninsula" means streams which drain from the Olympic National Park or the Olympic National Forest, all tributaries of such streams, and any other streams in the immediate region which the Secretary deems appropriate.

SEC. 3. Section 5 of the Elwha River Ecosystem and Fisheries Restoration Act (P.L. 102-495, 106 Stat. 3173) is amended by adding a new subsection (d) as follows:

"(d) If by September 30, 1997 the Elwha Project and the Glines Project are not acquired pursuant to section 3, the Commission is authorized and directed to issue a license for such projects pursuant to the Federal Power Act. Such license shall include provisions for facility modifications and operational changes that will enhance Elwha River anadromous fish populations, but such provisions shall be cost-effective and economically justifiable over the term of the license.".

SEC. 4. Section 9 of The Elwha River Ecosystem and Fisheries Restoration Act is amended—

(1) by striking "for expenditure through the Assistant Secretary for Fish, Wildlife, and Parks"; and

(2) by striking "for expenditure through the National Marine Fisheries Service".

SEC. 5. The Elwha River Ecosystem and Fisheries Restoration Act is amended by redesignating section 9 as section 10, and by inserting a new section as follows:

"SEC. 9. OLYMPIC PENINSULA NATIVE ANADROMOUS FISHERIES RESTORATION.

"(a) The Secretary shall immediately prepare a program for the restoration of the Olympic Peninsula native anadromous fisheries in consultation with the Secretary of Commerce, the State, local Indian tribes and other parties that the Secretary may deem appropriate.

"(b) Implementation of the program shall commence not later than January 1, 1997.

"(c) The program shall provide for the recovery and enhancement of the native, anadromous fishes of the Olympic Peninsula, consistent with the rights of any Indian tribe secured by treaty or other Federal law, and applicable State law.

"(d) In developing the recovery program, the Secretary—

"(1) shall consider the use of experimental fisheries restoration techniques; and

"(2) shall ensure that native wild stock will not be adversely affected to a significant extent if hatchery-raised fish are used.".

SEC. 6. In addition to the sums authorized to be appropriated by the Elwha River Ecosystem and Fisheries Restoration Act, there are hereby authorized to be appropriated to carry out the purposes of Sec. 9 of the Elwha River Ecosystem and Fisheries Restoration Act the sum of $25 million.

STATEMENT OF SENATOR SLADE GORTON ON THE ELWHA RIVER ECOSYSTEM AND FISHERIES RESTORATION ACT

Mr. Chairman, thank you for allowing me to testify before the subcommittee today, particularly on such short notice.

When I joined you, Mr. Chairman, and the rest of the Washington Congressional delegation in passing the Elwha River Restoration Act, I think we all agreed on one thing—that the struggle over the fate of the Elwha River dams was deadlocked, and could only be resolved by an act of Congress.

Beyond that point, there was, and is, a wide range of opinion on what is ultimately the best solution for the Elwha. Personally, I do not feel that dam removal is the most cost-effective means of restoring salmon runs throughout the region. I think we can do as much for salmon with less money by pursuing other enhancement projects, while at the same time preserving jobs, the local water supply, a renewable energy source and the Port Angeles economy.

But regardless of whether or not you accept this notion, I think we can all agree that the status quo is unacceptable.

Each year that goes by without the dams being either removed or relicensed is another year in which we do nothing for Elwha salmon runs. Each year without action is another year in which the Port Angeles community cannot plan its economic future.

Congress and the Administration simply must make a decision.

The Elwha River Restoration Act was designed to establish a framework in which this decision could be made. But upon reflection, Mr. Chairman, that legislation was seriously flawed. The Elwha Act does not offer a true choice among legitimate options, and it threatens to leave the Elwha in the same deadlock that we have all been trying to break.

If the Administration and Congress do decide to appropriate funding for acquisition of the dams, the deadlock will indeed be broken.

But after observing this year's appropriations process, it is not at all clear that Congress will approve dam acquisition even if funds for the project are requested by the Administration.

What if funding in not appropriated?

Most of us involved in passing the Elwha Act were under the impression that the dams would revert to their prior licensing status if money for dam acquisition was not appropriated within five years. The dams' owner, FERC and everybody else would be thrown back into court to fend for themselves. This provision was to be an incentive for all parties to work towards securing appropriations for dam acquisition.

But upon closer reading of the Act, it appears to me and others with whom I have consulted that failure to appropriate funding for dam acquisition would simply result in annual operating licenses for the dams, ad infinitum.

Regardless of which interpretation is correct, Mr. Chairman, in the absence of dam acquisition it may be years, if not decades, before the Elwha debate is settled and we actually began doing something constructive for the salmon. Though I do not believe dam removal is the best option, even that option is better than the status quo.

I therefore intend to introduce legislation to resolve the Elwha issue—one way or the other.

The foundation of this bill is a provision to improve Olympic Peninsula salmon runs. It authorizes $25 million for implementation of a peninsula-wide salmon enhancement program in the event that the dams are not acquired by the Federal government.

The bill gives the Administration and Congress two more years to find the $29.5 million necessary to acquire the dams in accordance with the original Elwha Act.

If the dams are not acquired at the end of those two years, FERC would be directed to relicense the dams. As a condition of relicensing, the dams' owners would be required to install fish passage facilities and fund other reasonable mitigation measures as required by FERC and the National Marine Fisheries Service.

Finally, the bill will include the text of legislation already introduced by the Chairman and Sen. Murray. That legislation, which is the subject of today's hearing, gives the Administration broader authority over which agencies could fund dam acquisition and removal.

I am working with interested parties to develop this legislation further, and hope to introduce a bill very soon. I believe it is a responsible proposal that provides Congress and the Administration with two salmon recovery options.

My bill will force us to make a choice.

It will force us to do something for the region's salmon runs.

And it will force us to resolve the Elwha issue so that the Port Angeles community can plan for the future.

My bill will not, Mr. Chairman, scuttle the process established in the Elwha Act. It is rather an attempt to put a time limit on that process, and to provide a more cost-effective alternative to dam removal.

I look forward to working with the committee on this proposal, as well as the legislation already introduced by Sen. Murray. I thank the Chairman for giving me this opportunity to testify.●

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2350. A bill to establish a Meat, Poultry, and Eggs Inspection Agency to administer the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to expand the application of such acts, to provide for the establishment of safe cooking standards for meat and poultry products, to improve scientific research and understanding of foodborne illnesses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE KATIE O'CONNELL SAFE FOOD ACT

● Mr. BRADLEY. Mr. President, I introduce legislation to ensure the safety of America's food supply. The Katie O'Connell Safe Food Act is a comprehensive measure that would reform our outmoded meat and poultry inspection system, and take steps to prevent foodborne illness from affecting the lives of Americans.

Katie O'Connell was a 2-year-old girl from my home State of New Jersey. She died from eating a hamburger at a fast food restaurant that was contaminated with a deadly pathogen called E coli. The meat Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Mr. President, Katie died from a disease that should have been detected through our Federal meat inspection system. That system failed her and her family, and has failed thousands of others across the country. The legislation I am introducing today is designed to make sure that our system does not fail again.

Diseases caused by foodborne illness often strike those most vulnerable in our society: our children. As we stand here today, health officials in New Jersey are battling an outbreak of the disease that killed Katie O'Connell—one of the victims is a 21-month-old infant who is in intensive care. Her life is in danger because she ate meat that had been declared safe by Federal inspectors in the Department of Agriculture.

These cases in New Jersey are far from isolated: The Centers for Disease Control estimates that over 9,000 people die, and another 6.5 million become sick, from foodborne illness every year. The system is failing our citizens, and we have to do something to change it.

The inspection process currently used by the Department of Agriculture's Food and Safety Inspection Service is antiquated and inadequate. Their basic methods of inspection have changed little since the first inspection laws were established in 1906. The tools that inspectors use are still sight, smell, and feel—these methods do absolutely nothing to detect contaminants such as E coli. When these methods were implemented, the Model-T was considered high technology. Now we are in the space age, and we have an inspection system that is still a Model-T.

There is no excuse for these outmoded methods: For over 15 years, the General Accounting Office has reported that the existing inspection system is obsolete, and has repeatedly urged that it be replaced with a scientific inspection system to protect the public from foodborne illness. The Department of Agriculture has had more than enough chances, and more than enough time, to change its outmoded system. They have failed to do so, and it is time to change it for them.

The Katie O'Connell Safe Food Act will transfer the responsibility for enforcing meat, poultry, and egg inspections from the Department of Agriculture to an independent Federal health agency. Foodborne diseases are a public health issue and a serious one. The prevention of such diseases has no place being lodged in a Department whose charter is the promotion of meat and poultry products. In removing this function from the Department of Agriculture, this legislation will remove the conflict of interest that currently exists.

Moreover, the lack of scientific methods currently used to ensure the safety of food is alarming and, indeed, negligent. This bill will direct immediate research into the development of inspection methods that will detect pathogens such as E coli.

Finally, this legislation will take important steps toward finding a cure to the diseases caused by contaminated food. It will direct the Centers for Disease Control and the National Institutes of Health to increase the research, monitoring, and documentation of cases that occur, so we can begin to eliminate what is currently a severe lack of medical knowledge about these illnesses.

We do not have the power to right the wrong that has been done to Katie O'Connell and others who have been affected by the deficiencies in our national food inspection system. We in the Congress do have the power to change that system, and protect the health of our citizens and the lives of our children. That is what this legislation is intended to do.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Katie O'Connell Safe Food Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—MEAT, POULTRY, AND EGGS INSPECTION AGENCY

SUBTITLE A—ESTABLISHMENT AND AUTHORITIES OF AGENCY

Sec. 101. Establishment of Meat, Poultry, and Eggs Inspection Agency.
Sec. 102. Director of Meat, Poultry, and Eggs Inspection.
Sec. 103. General authorities of the Director.
Sec. 104. Bureau for Improved Inspection Capabilities.
Sec. 105. Rules.

SUBTITLE B—TRANSITIONAL PROVISIONS

Sec. 111. Termination of Food Safety and Inspection Service and transfer of assets, appropriations, and personnel to the Agency.
Sec. 112. Clarification of authority of Director to administer the Federal Meat Inspection Act.
Sec. 113. Clarification of authority of Director to administer the Poultry Products Inspection Act.
Sec. 114. Clarification of authority of Director to administer the Egg Products Inspection Act.
Sec. 115. Office of Inspector General of the Agency.

SUBTITLE C—OTHER MATTERS

Sec. 121. Definitions.

TITLE II—EXPANSION OF FOODS COVERED BY INSPECTION LAWS

Sec. 201. Coverage of additional meats under the Federal Meat Inspection Act.
Sec. 202. Coverage of additional poultry under the Poultry Products Inspection Act.

TITLE III—ESTABLISHMENT AND ENFORCEMENT OF SAFE COOKING STANDARDS FOR MEAT AND POULTRY PRODUCTS

Sec. 301. Establishment of safe cooking standards.
Sec. 302. Enforcement of safe cooking standards.
Sec. 303. Civil penalty for violations of safe cooking standards.
Sec. 304. Effect on State and local laws.
Sec. 305. Whistleblower protections.
Sec. 306. Definitions.

TITLE IV—EPIDEMIOLOGICAL ACTIVITIES REGARDING FOODBORNE DISEASES

Sec. 401. Epidemiological activities.

TITLE V—RESEARCH ON TREATMENT OF FOODBORNE DISEASES

Sec. 501. Research on treatment; National Institute of Diabetes and Digestive and Kidney Diseases.

TITLE I—MEAT, POULTRY, AND EGGS INSPECTION AGENCY

Subtitle A—Establishment and Authorities of Agency

SEC. 101. ESTABLISHMENT OF MEAT, POULTRY, AND EGGS INSPECTION AGENCY.

(a) ESTABLISHMENT OF AGENCY.—There is established in the executive branch an agency to be known as the "Meat, Poultry, and Eggs Inspection Agency". The Agency shall be an independent establishment, as defined in section 104 of title 5, United States Code.

(b) RESPONSIBILITIES OF AGENCY.—The Agency shall be responsible for the implementation and administration of—

(1) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(2) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(3) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(4) the establishment and enforcement pursuant to title III of safe cooking standards for the preparation of meat and poultry products at restaurants and other retail food establishments; and

(5) such other inspection, research, and oversight authorities regarding meat, poultry products, and eggs inspection as may be provided to the Agency by this Act or other laws.

SEC. 102. DIRECTOR OF MEAT, POULTRY, AND EGGS INSPECTION.

(a) APPOINTMENT.—There shall be at the head of the Agency a Director of Meat, Poultry, and Eggs Inspection who shall be appointed by the President, by and with the advice and consent of the Senate. The Agency and the inspection laws shall be administered under the supervision and direction of the Director.

(b) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Director of Meat, Poultry, and Eggs Inspection.".

SEC. 103. GENERAL AUTHORITIES OF THE DIRECTOR.

(a) ASSISTANT DIRECTORS.—

(1) APPOINTMENT.—The Director may appoint not more than 8 assistant directors of the Agency, who shall perform such supervisory and administrative duties with respect to the Agency and the inspection laws as the Director considers appropriate.

(2) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors, Meat, Poultry, and Eggs Inspection Agency.".

(b) OFFICERS AND EMPLOYEES.—The Director may appoint officers and employees for the Agency in accordance with the provisions of title 5, United States Code, relating to appointment in the competitive service, and fix the compensation of the officers and employees in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(c) DETAIL OF PERSONNEL OF OTHER AGENCIES.—The Director may enter into agreements with other Federal agencies, in particular the Department of Agriculture, under which officers or employees of the agencies may be detailed to the Agency. The detailing of an officer or employee of another agency under this subsection shall be made without prejudice to the status or advancement of the officer or employee within the other agency.

(d) ADDITIONAL AGREEMENTS WITH OTHER AGENCIES.—The Director may utilize or employ the services, personnel, equipment, or facilities of any other Federal agency, with the consent of the head of the agency concerned, to perform such functions on behalf of the Agency as the Director considers appropriate.

(e) EXPERTS AND CONSULTANTS.—The Director may procure the services of experts and consultants as authorized by section 3109 of title 5, United States Code, and pay in connection with the services travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from the homes or regular places of business of the individuals, as authorized by section 5703 of such title.

(f) BUREAUS, OFFICES, AND DIVISIONS.—The Director may establish within the Agency such bureaus, offices, and divisions as the Director may determine to be necessary to discharge the responsibilities of the Agency, including an Office of the General Counsel.

(g) REGIONAL AND FIELD OFFICES.—The Director may establish, alter, discontinue, or maintain such regional or other field offices as the Director may determine to be necessary to carry out the functions vested in the Director or other officials of the Agency.

SEC. 104. BUREAU FOR IMPROVED INSPECTION CAPABILITIES.

(a) ESTABLISHMENT.—There is established within the Agency an entity to be known as the "Bureau for Improved Inspection Capabilities", which shall support efforts to develop modern scientific techniques to improve the inspection of meat, poultry, and eggs under the inspection laws and to incorporate the techniques into the inspection practices used by the Agency.

(b) BUREAU DIRECTOR.—The Director shall designate 1 of the assistant directors of the Agency appointed under section 103(a) to serve as director of the Bureau. The director of the Bureau shall report directly to the Director.

(c) ADVISORY COMMISSION ON INSPECTION.—

(1) APPOINTMENT AND DUTIES.—The Director shall appoint an advisory commission to make recommendations to the Director regarding methods to improve inspection techniques used to carry out the inspection laws, including improving the reliability of the inspections. The commission shall also perform such other advisory or investigative duties as may be assigned to the commission by this section or the Director.

(2) MEMBERS.—The members of the commission shall consist of—

(A) representatives of the meat, poultry, and egg industries;

(B) scientists who are experts in the field of food safety; and

(C) government officials who are actively involved in meat, poultry, or eggs inspection at the Federal or State level.

(3) TIME PERIOD FOR FIRST RECOMMENDATIONS.—Not later than 180 days after the date on which the commission is first appointed, the commission shall present the Director with a list of recommendations regarding methods for improving current meat, poultry, and eggs inspection techniques.

(d) GRANT AND CONTRACT AUTHORITY FOR RESEARCH.—The Director may make grants to, and enter into contracts with, State and local governments, institutions of higher education, and nonprofit research organizations for the purpose of promoting research to evaluate the feasibility of implementing recommendations submitted by the commission under subsection (c). Grants and contracts under this subsection shall be made by the Director on a competitive basis in consultation with the Bureau and the commission. The commission shall review and evaluate research conducted with assistance provided under this subsection.

(e) IMPLEMENTATION OF RESULTS.—The Director may prescribe rules to carry out any recommendations submitted by the commission under subsection (c) that the Director determines have potential for improving inspection techniques or reliability under the inspection laws.

SEC. 105. RULES.

The Director may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules as the Director determines to be necessary or appropriate to administer and manage the functions of the Agency.

Subtitle B—Transitional Provisions

SEC. 111. TERMINATION OF FOOD SAFETY AND INSPECTION SERVICE AND TRANSFER OF ASSETS, APPROPRIATIONS, AND PERSONNEL TO THE AGENCY.

(a) TERMINATION OF SERVICE.—As soon as the Secretary of Agriculture determines is practicable, the Secretary shall terminate the activities of the Food Safety and Inspection Service of the Department of Agriculture to the extent the activities relate to the administration or operation of the inspection laws.

(b) TRANSFER OF ASSETS AND FUNDS.—Consistent with section 1531 of title 31, United States Code, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds of the Food Safety and Inspection Service used in connection with the administration or operation of the inspection laws shall be transferred to the Agency not later than the date of the termination of the Food Safety and Inspection Service under subsection (a). Unexpended funds transferred pursuant to this subsection shall be used by the Director only for the purposes for which the funds were originally authorized and appropriated.

(c) TRANSFER OF PERSONNEL.—During the period beginning on the date of enactment of this Act and ending on the termination of the Food Safety and Inspection Service under subsection (a), the Secretary of Agriculture shall transfer to the Agency the officers and employees of the Food Safety and Inspection Service who perform duties in connection with the administration or operation of the inspection laws.

(d) EFFECT OF TRANSFER ON PERSONNEL.—The transfer under subsection (c) of any full-time employee (except a special Federal employee) and part-time employee holding a permanent position shall not cause the employee to be separated or reduced in grade or compensation during the 1-year period beginning on the date of the transfer of the employee under subsection (c). Any person who, on the day preceding the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Agency to a position having duties comparable to the duties performed immediately preceding the appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of the service of the person in the new position.

(e) REFERENCES.—After the termination of the Food Safety and Inspection Service under subsection (a), any reference in any other Federal law, Executive order, rule, regulation, document, or other material to the Food Safety and Inspection Service in connection with the administration or operation of the inspection laws shall be considered to be a reference to the Agency.

SEC. 112. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE FEDERAL MEAT INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (a) of section 1 of the Federal Meat Inspection Act (21 U.S.C. 601(a)) is amended to read as follows:

"(a) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act (21 U.S.C. 601 et seq.) is amended by striking "Secretary" each place it appears and inserting "Director".

(2) EXCEPTIONS.—Sections 1(n)(10), 7(c)(2), and 409(b) (21 U.S.C. 601(n)(10), 607(c)(2), and 679(b)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(c) REPEAL OF REFERENCES TO DEPARTMENT OF AGRICULTURE.—Such Act is amended—

(1) in section 18 (21 U.S.C. 618), by striking "Department" and inserting "Meat, Poultry, and Eggs Inspection Agency"; and

(2) in section 20(e)(4) (21 U.S.C. 620(e)(4)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency".

SEC. 113. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE POULTRY PRODUCTS INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (i) of section 4 of the Poultry Products Inspection Act (21 U.S.C. 453(i)) is amended to read as follows:

"(i) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) DEFINITION OF AGENCY.—Subsection (q) of section 4 of such Act (21 U.S.C. 453(q)) is amended to read as follows:

"(q) The term 'inspection service' means the Meat, Poultry, and Eggs Inspection Agency.".

(c) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act is amended—

(A) in the last sentence of section 2 (21 U.S.C. 451), by striking "Secretary of Agriculture" and inserting "Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency";

(B) in sections 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 25, 27, and 29 (21 U.S.C. 453 et seq.), by striking "Secretary" each place it appears and inserting "Director";

(C) in section 17 (21 U.S.C. 466)—

(i) by striking "Secretary of Agriculture" each place it appears and inserting "Director"; and

(ii) in subsection (d)(4), by striking "Secretary" both places it appears and inserting "Director"; and

(D) in section 24(b) (21 U.S.C. 467f(b)), by striking "Secretary" the second place it appears and inserting "Director".

(2) EXCEPTIONS.—Sections 4(h)(10), 8(b)(2), and 24(b) (21 U.S.C. 453(h)(10), 457(b)(2), and 467f(b)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

SEC. 114. CLARIFICATION OF AUTHORITY OF DIRECTOR TO ADMINISTER THE EGG PRODUCTS INSPECTION ACT.

(a) DEFINITION OF DIRECTOR.—Subsection (x) of section 4 of the Egg Products Inspection Act (21 U.S.C. 1033(x)) is amended to read as follows:

"(x) The term 'Director' means the Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency.".

(b) REPEAL OF REFERENCES TO SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), such Act is amended—

(A) in the last sentence of section 2 (21 U.S.C. 1031), by striking "Secretary of Agriculture" and inserting "Director of Meat, Poultry, and Eggs Inspection of the Meat, Poultry, and Eggs Inspection Agency";

(B) in sections 4 (other than subsection (j)), 5, 6, 7, 8 (other than subsection (e)(8)), 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 22, 24, and 26 (21 U.S.C. 1033 et seq.), by striking "Secretary" each place it appears and inserting "Director";

(C) in section 4(j) (21 U.S.C. 1033(j)), by striking "responsible Secretary" and inserting "Director or the Secretary of Health and Human Services, as the case may be,";

(D) in the last sentence of section 5(d) (21 U.S.C. 1034(d)), by striking "said Secretaries" and inserting "the Director or the Secretary of Health and Human Services";

(E) in section 8(e)(8) (21 U.S.C. 1037(e)(8)), by striking "Secretary of Agriculture" and inserting "Director";

(F) in section 11 (21 U.S.C. 1040)—

(i) by striking "Secretary of Agriculture" and inserting "Director"; and

(ii) by striking "either of said Secretaries" and inserting "either the Director or the Secretary of Health and Human Services";

(G) in section 13 (21 U.S.C. 1042), by striking "Secretary of Agriculture" both places it appears and inserting "Director"; and

(H) in subsections (c) and (d) of section 23 (21 U.S.C. 1052), by striking "Secretary of Agriculture" both places it appears and inserting "Director".

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1)(B) shall not apply to the following uses of the term "Secretary" in such Act:

(i) Section 5(d) (21 U.S.C. 1034(d)), the second place the term appears.

(ii) Section 5(e)(3) (21 U.S.C. 1034(e)(3)), both places the term appears.

(iii) Section 5(e)(5) (21 U.S.C. 1034(e)(5)), the second place the term appears.

(B) OBSOLETE REFERENCES.—Sections 13 and 23(d) (21 U.S.C. 1042 and 1052(d)) are amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(c) REPEAL OF REFERENCES TO DEPARTMENT OF AGRICULTURE.—Such Act is amended—

(1) in section 4(q) (21 U.S.C. 1033(q)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency"; and

(2) in section 26(a)(2)(C) (21 U.S.C. 1054(a)(2)(C)), by striking "Department of Agriculture" and inserting "Meat, Poultry, and Eggs Inspection Agency".

SEC. 115. OFFICE OF INSPECTOR GENERAL OF THE AGENCY.

(a) TREATMENT OF AGENCY AS A DESIGNATED FEDERAL ENTITY.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Meat, Poultry, and Eggs Inspection Agency," after "the Legal Services Corporation,".

(b) TIME FOR ESTABLISHMENT.—The Office of Inspector General of the Agency required to be established by the Director as a result of the amendment made by subsection (a) shall be established not later than 180 days after the date of enactment of this Act.

Subtitle C—Other Matters

SEC. 121. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term "Agency" means the Meat, Poultry, and Eggs Inspection Agency established under section 101.

(2) DIRECTOR.—The term "Director" means the Director of Meat, Poultry, and Eggs Inspection appointed under section 102(a).

(3) INSPECTION LAWS.—The term "inspection laws" means—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).

TITLE II—EXPANSION OF FOODS COVERED BY INSPECTION LAWS

SEC. 201. COVERAGE OF ADDITIONAL MEATS UNDER THE FEDERAL MEAT INSPECTION ACT.

The Federal Meat Inspection Act is amended by inserting after section 2 (21 U.S.C. 602) the following new section:

"SEC. 2A. COVERAGE OF ADDITIONAL MEATS.

"In addition to cattle, sheep, swine, goats, horses, mules, and other equines covered by this Act, the Director may extend the application of this Act to cover other animals (such as deer, bison, and rabbits) intended for human consumption.".

SEC. 202. COVERAGE OF ADDITIONAL POULTRY UNDER THE POULTRY PRODUCTS INSPECTION ACT.

The Poultry Products Inspection Act is amended by inserting after section 5 (21 U.S.C. 454) the following new section:

"SEC. 5A. COVERAGE OF ADDITIONAL POULTRY.

"In addition to chickens and turkeys covered by this Act, the Director may extend the application of this Act to cover other poultry (such as quail, pheasant, and squab) intended for human consumption.".

TITLE III—ESTABLISHMENT AND ENFORCEMENT OF SAFE COOKING STANDARDS FOR MEAT AND POULTRY PRODUCTS

SEC. 301. ESTABLISHMENT OF SAFE COOKING STANDARDS.

(a) ESTABLISHMENT.—The Director shall establish, by rule, safe cooking standards for the preparation of meat and poultry products, and foods containing meat and poultry products, at restaurants and other retail food establishments. The Director shall require that all meat and poultry products, and foods containing meat and poultry products, that require cooking or smoking shall be cooked to heat all parts of the item to a temperature established in the standards as sufficient to destroy potentially harmful foodborne microorganisms.

(b) ENTITIES SUBJECT TO SAFE COOKING STANDARDS.—Each restaurant or other retail food establishment operating in the United States shall comply with the safe cooking standards established pursuant to subsection (a), except that the Director may exempt a restaurant or other retail food establishment, or types of restaurants and other retail food establishments, from the standards.

(c) EXCEPTION TO COMPLIANCE.—A restaurant or other retail food establishment may deviate from the safe cooking standard applicable to the cooking or smoking of a particular meat or poultry product, or a food containing a meat or poultry product, if a customer orders the item in an uncooked form or to be prepared in a manner that necessitates a lower cooking temperature than the standard.

SEC. 302. ENFORCEMENT OF SAFE COOKING STANDARDS.

(a) ENFORCEMENT.—The Director shall use the officers and employees of the Meat, Poultry, and Eggs Inspection Agency to enforce the safe cooking standards established under section 301(a).

(b) INSPECTIONS.—To ensure compliance with the safe cooking standards established under section 301(a), the Director shall cause to be made, by inspectors appointed for the purpose, an examination and inspection of the preparation of meat and poultry products, and foods containing meat and poultry products, at restaurants and other retail food establishments subject to this title. The examination and inspection shall be conducted with such frequency, and in such manner, as the Director considers necessary, as provided in rules issued by the Director. The Director shall take into account such factors as the Director considers to be appropriate, including—

(1) the nature and frequency of the cooking operations at the restaurant or other retail food establishment involved;

(2) the adequacy and reliability of the cooking controls and sanitary procedures at the restaurant or establishment; and

(3) the history of compliance with inspection requirements in effect under this title by the operator of the restaurant or establishment.

(c) ACCESS.—For purposes of any examination or inspection under subsection (b), an inspector shall have access to every part of a restaurant or other retail food establishment subject to this title during operating hours of the restaurant or establishment.

SEC. 303. CIVIL PENALTY FOR VIOLATIONS OF SAFE COOKING STANDARDS.

(a) PENALTY.—A restaurant or other retail food establishment subject to this title that violates a safe cooking standard established under section 301(a) shall be liable to the United States for a civil penalty assessed under subsection (b) in an amount of not less than $100, but not to exceed $1000, for each violation.

(b) ASSESSMENT.—

(1) HEARING.—A civil penalty payable under subsection (a) may be assessed by the Director only on the record after an opportunity for a hearing.

(2) SUBPOENAS.—In connection with a hearing under paragraph (1), the Secretary shall have the power to issue subpoenas.

SEC. 304. EFFECT ON STATE AND LOCAL LAWS.

Nothing in this title precludes a State or local government from establishing or enforcing any safe cooking standards for the preparation of meat and poultry products, and foods containing meat and poultry products, that are not in conflict with the safe cooking standards established under section 301(a).

SEC. 305. WHISTLEBLOWER PROTECTION.

(a) PROTECTION.—No employee of a restaurant or other retail food establishment subject to this title, and no other person, may be harassed, prosecuted, held liable, or discriminated against in any way because that employee or other person—

(1) has notified the Meat, Poultry, and Eggs Inspection Agency of a violation or possible violation of a safe cooking standard established under section 301(a); or

(2) has testified, is about to testify, has assisted or participated, or is about to assist or participate in a proceeding or other action to enforce the standard.

(b) ENFORCEMENT OF PROTECTIONS.—The process and procedures specified in subsections (b), (c), and (d) of section 31105 of title 49, United States Code, shall apply with respect to an alleged violation of subsection (a) of this section in the same manner as such subsections apply to a violation of subsection (a) or (b) of such section 405, except that any reference to the Secretary of Labor in such subsections shall be deemed to refer to the Secretary of Agriculture for purposes of this subsection.

SEC. 306. DEFINITIONS.

As used in this title:

(1) DIRECTOR.—The term "Director" means the Director of Meat, Poultry, and Eggs Inspection appointed under section 102(a).

(2) FOOD.—The term "food" has the meaning provided in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)).

(3) MEAT.—The term "meat" has the meaning provided the term "meat food product" in section 1(j) of the Federal Meat Inspection Act (21 U.S.C. 601(j)).

(4) POULTRY PRODUCT.—The term "poultry product" has the meaning provided in section 4(f) of the Poultry Products Inspection Act (21 U.S.C. 453(f)).

(5) RESTAURANT; OTHER RETAIL FOOD ESTABLISHMENT.—The terms "restaurant" and "other retail food establishment" mean any place at which meat or poultry products, or foods containing meat or poultry products, are cooked or smoked for retail sale to and consumption by a customer without additional cooking by the customer, whether or not the consumption occurs on the premises or elsewhere. The terms include any central kitchen facility that cooks or smokes meat or poultry products, or foods containing meat or poultry products, that are ready to eat when the products or foods leave the facility and are served in meals or as entrees sold to customers at a restaurant owned or operated by the same person, firm, or corporation owning or operating the facility.

TITLE IV—EPIDEMIOLOGICAL ACTIVITIES REGARDING FOODBORNE DISEASES

SEC. 401. EPIDEMIOLOGICAL ACTIVITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317F the following new section:

"SEC. 317G. PREVENTION AND CONTROL OF FOODBORNE DISEASES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out activities for the prevention and control of foodborne diseases. The Secretary may carry out the activities directly, and through grants to, and cooperative agreements and contracts with, public and nonprofit private entities.

"(b) POPULATION-BASED SURVEILLANCE REGARDING SELECTED DISEASES.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary, in collaboration with public and nonprofit private entities, shall select specific populations and, with respect to the selected populations, carry out the following activities regarding foodborne diseases:

"(A) Monitor the incidence and prevalence of the diseases.

"(B) Carry out activities to identify the pathogenic agents for the diseases.

"(C) Determine the extent to which various treatments are effective responses to the agents so identified.

"(D) Carry out activities to determine the circumstances under which individuals are at risk of the diseases.

"(E) Evaluate efforts to control the diseases.

"(F) Such other activities as the Secretary determines to be appropriate.

"(2) SELECTION OF DISEASES FOR STUDY.—The Secretary shall select the foodborne diseases with respect to which paragraph (1) is to be carried out. For purposes of the preceding sentence, the Secretary may select conditions that have, or have not, been scientifically named, and may select pathogenic agents.

"(c) ACTIVITIES REGARDING NEW AND EMERGING FOODBORNE PATHOGENS.—In carrying out subsection (a), the Secretary, in collaboration with States, shall carry out the following activities regarding new and emerging foodborne pathogens:

"(1) Collect data on the incidence and prevalence of the pathogens throughout the States.

"(2) Conduct epidemiological research on the pathogens, including research to identify significant strains and research to determine whether different strains can cause the same foodborne disease.

"(3) Assist the States in developing the capability to identify the pathogens.

"(4) Carry out demonstration projects for the control of foodborne diseases caused by the pathogens, including projects for disseminating information on the treatment of the diseases.

"(5) Such other activities as the Secretary determines to be appropriate.

"(d) SUPPLIES AND SERVICES IN LIEU OF FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—On the request of a recipient of an award of a grant, or a party that enters into a cooperative agreement or contract, under this section, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the recipient or party to carry out the program involved. For the purpose, the Secretary may detail to the recipient or party any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing officers and employees and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with the request, expend the amounts withheld.

"(e) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to public and nonprofit private entities with respect to the planning, development, and operation of any program or service carried out pursuant to this section. The Secretary may provide the technical assistance directly or through grants, cooperative agreements, or contracts.

"(f) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section other than activities under subsections (b) and (c), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1995 through 1999.

"(2) POPULATION-BASED SURVEILLANCE REGARDING SELECTED DISEASES.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $7,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999.

"(3) ACTIVITIES REGARDING NEW AND EMERGING FOODBORNE PATHOGENS.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999.

"(4) AVAILABILITY OF FUNDS FOR STAFFING.—The purposes for which amounts appropriated under paragraph (1), (2), or (3) may be expended shall include defraying costs incurred in employing officers and employees of the Centers for Disease Control and Prevention. Amounts available for a fiscal year pursuant to the preceding sentence shall be in addition to any other amounts that are available for the year for program management regarding the Centers.".

TITLE V—RESEARCH ON TREATMENT OF FOODBORNE DISEASES

SEC. 501. RESEARCH ON TREATMENT; NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"SEC. 434A. FOODBORNE DISEASES.

"(a) IN GENERAL.—In carrying activities under section 426, the Director of the Institute shall conduct or support activities regarding foodborne diseases, including research on the treatment of the diseases.

"(b) CLINICAL GUIDELINES.—In carrying out subsection (a), the Director of the Institute shall develop clinical guidelines on the treatment of foodborne diseases.

"(c) DATA SYSTEM; CLEARINGHOUSE.—The activities of the National Digestive Diseases Data System under section 427(b) shall include activities regarding foodborne diseases. The activities of the National Digestive Diseases Information Clearinghouse under such section shall include activities regarding foodborne diseases, including activities regarding clinical guidelines developed under subsection (b).".•

By Mr. KENNEDY:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; to the Committee on Labor and Human Resources.

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to introduce the Mental Health and Substance Abuse Programs Reauthorization Act of 1994. This bill would reauthorize a series of important Federal programs that constitute the Federal effort against mental illness and substance abuse, disorders that affect the lives and health of millions of Americans.

An estimated 20 percent of American adults suffer from depression or other forms of mental illness each year, and at least 12 percent of children and adolescents have some degree of emotional disturbance. Substance abuse is a problem for an estimated 11 million Americans, many of whom are also at great risk of contracting AIDS, tuberculosis and other infectious diseases.

The programs we are considering today support treatment for Americans with mental illness and substance abuse disorders. They also fund prevention programs, especially for children so they do not start using alcohol, tobacco or illegal drugs. And they support research, which informs us about the causes of these illnesses and what works in preventing and treating them.

As my colleagues will remember, this bill is a followup to the 1992 ADAMHA Reorganization Act, Public Law 102–321, a law that changed the way the Federal Government conducts and manages these activities. This important initiative transferred the three substance abuse and mental illness research institutes, the National Institute on Mental Health, the National Institute on Drug Abuse, and the National Institute on Alcoholism and Alcohol Abuse, to the National Institutes of Health. It then created a new agency—the Substance Abuse and Mental Health Services Administration—as a home for treatment and prevention activities, including the mental health and substance abuse block grants.

In the near future, I believe we must comprehensively reexamine the new structure that we created to make sure that the research and service agencies are collaborating appropriately, and to determine how well the three transferred research institutes have been integrated into the NIH. We also made a series of decisions about the block grants in 1992, including a new formula, that may deserve further scrutiny in the future.

But for two reasons, I do not believe that this is the right time to conduct a comprehensive, long-term review of these programs. First, the mission of these agencies and these programs may be altered significantly by the passage of health care reform. Many of us have worked hard to ensure that the health bill contains a generous benefit for mental health and substance abuse, and if that becomes a reality, the focus of the Federal public health programs will shift to ensuring integration of the public and private treatment delivery systems.

It is difficult to ascertain the proper role of these Federal programs until we know how strong a mental health and substance abuse benefit is ultimately included in health care reform and how long it takes to achieve total parity between mental disorders and other medical disorders.

Second, during the 2 years since we transferred the research institutes and created the services agency, there has been a change of administrations. The new leadership at HHS has not had an adequate opportunity to assess the current structure, and in fact the first permanent Administrator of the Substance Abuse and Mental Health Services Administration, Dr. Nelba Chavez, was only confirmed by the Senate last month. So we have not had an opportunity to see the agency operating at full strength, and it would be premature to evaluate its performance.

As a result of these two considerations, Senator KASSEBAUM and I have decided to propose this simple 1 year reauthorization of the programs and to defer a more comprehensive reauthorization debate until next year. The 1 year reauthorization is necessary to assure that the programs are not disadvantaged in the ongoing appropriations process.

I want to emphasize that this reauthorization does not signal my disapproval or the Labor Committee's disapproval of the hard-core substance abuse initiative proposed by the Clinton administration. I commend the President, Secretary Shalala and Drug Czar Lee Brown for focusing attention on the most severe cases of substance abuse. Hard-core substance abuse affects society most directly in terms of crime, medical costs, lost productivity and infectious diseases. I hope and expect that States are currently focusing Federal resources on this target population, and I think we should codify that priority. But in the interest of moving forward with a simple 1 year reauthorization for the reasons described above, I have refrained from including this substantive proposal in the bill at this time.

Indeed, there are only two substantive proposals in the bill. First, at the request of Senator JEFFORDS we are extending existing flexibility for States to allocate money between mental health and substance abuse. Second, we are repealing the obsolete Capacity Expansion Program.

I know that some Members would like to raise other issues about these programs, including the formula allocations, and I assure my colleagues that they will have an opportunity to do so when we review these programs more comprehensively. In the meantime, I urge passage of this reauthorization proposal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health and Substance Abuse Programs Reauthorization Act of 1994".

SEC. 2. PROJECTS TO IMPROVE MATERNAL, INFANT, AND CHILD HEALTH.

Section 399(r) of the Public Health Service Act (42 U.S.C. 280c–6(r)) is amended by inserting before the period the following: ", and such sums as may be necessary for fiscal year 1995".

SEC. 3. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

Section 399D(p)(1) of the Public Health Service Act (42 U.S.C. 280d(p)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 4. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 464H(d)(1) of the Public Health Service Act (42 U.S.C. 285n(d)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 5. NATIONAL INSTITUTE ON DRUG ABUSE.

Section 464L(d)(1) of the Public Health Service Act (42 U.S.C. 285o(d)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 6. NIDA MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o–4(e)) is amended—

(1) by striking "and $95,000,000" and inserting "$95,000,000"; and

(2) by inserting before the period the following: ", and such sums as may be necessary for fiscal year 1995".

SEC. 7. NATIONAL INSTITUTE OF MENTAL HEALTH.

Section 464R(f)(1) of the Public Health Service Act (42 U.S.C. 285p(f)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 8. GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.

Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 9. GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.

Section 506(e) of the Public Health Service Act (42 U.S.C. 290aa–5(e)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 10. RESIDENTIAL AND OUTPATIENT TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN.

Section 508(r)(1) of the Public Health Service Act (42 U.S.C. 290bb–1(r)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 11. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

Section 510(e)(1) of the Public Health Service Act (42 U.S.C. 290bb–3(e)(1)) is amended in the first sentence by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 12. GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS.

Section 511(d) of the Public Health Service Act (42 U.S.C. 290bb–4(d)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 13. TRAINING IN PROVISION OF TREATMENT SERVICES.

Section 512(d) of the Public Health Service Act (42 U.S.C. 290bb–5(d)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 14. COMMUNITY PREVENTION PROGRAMS.

Section 516(c) of the Public Health Service Act (42 U.S.C. 290bb–22(c)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 15. PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH.

Section 517(h) of the Public Health Service Act (42 U.S.C. 290bb–23(h)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 16. EMPLOYEE ASSISTANCE PROGRAMS.

Section 518(e) of the Public Health Service Act (42 U.S.C. 290bb–24(e)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 17. MENTAL HEALTH DEMONSTRATION PROJECTS.

Section 520A(e)(1) of the Public Health Service Act (42 U.S.C. 290bb–32(e)(1)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 18. DEMONSTRATION PROJECTS FOR INDIVIDUALS WITH POSITIVE TEST RESULTS.

Section 520B(j) of the Public Health Service Act (42 U.S.C. 290bb–33(j)) is amended by striking "1994" and inserting "1995".

SEC. 19. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc–35(a)) is amended by striking "1994" and inserting "1995".

SEC. 20. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

Section 565(f)(1) of the Public Health Service Act (42 U.S.C. 290ff–4(f)(1)) is amended by striking "fiscal year 1994" and inserting "fiscal year 1995".

SEC. 21. TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE.

Section 1245 of the Public Health Service Act (42 U.S.C. 300d–45) is amended in the first sentence by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 22. BLOCK GRANTS FOR COMMUNITY MENTAL HEALTH SERVICES.

Section 1920(a) of the Public Health Service Act (42 U.S.C. 300x–9(a)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 23. BLOCK GRANTS FOR PREVENTION AND TREATMENT OF SUBSTANCE ABUSE.

Section 1935(a) of the Public Health Service Act (42 U.S.C. 300x–35(a)) is amended by striking "fiscal year 1994" and inserting "each of the fiscal years 1994 and 1995".

SEC. 24. CAPACITY EXPANSION.

(a) REPEAL.—Section 1971 of the Public Health Service Act (42 U.S.C. 300y) is repealed.

(b) USE OF APPROPRIATED AMOUNTS.—Amounts appropriated for capacity building activities under section 1971(j) of the Public Health Service Act (42 U.S.C. 300y(j)), which remain unexpended after the date of enactment of this Act, shall be utilized as if appropriated under section 1935(a) of such Act.

SEC. 25. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reauthorization Act (42 U.S.C. 300x(b) note) is amended—

(1) in paragraph (1), by striking "fiscal year 1993 or 1994" and inserting "any of the fiscal years 1993 through 1996"; and

(2) in paragraph (2), by striking "fiscal year 1993 or 1994" and inserting "any of the fiscal years 1993 through 1996".

ADDITIONAL COSPONSORS

S. 1148

At the request of Mr. BROWN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1148, a bill to allow for moderate growth of mandatory spending.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

S. 1408

At the request of Mr. LOTT, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 1651

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1651, a bill to authorize the minting of coins to commemorate the 200th anniversary of the founding of the United States Military Academy at West Point, New York.

S. 2031

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2031, a bill to amend the Merchant Marine Act, 1936, to prohibit the imposition of additional charges or fees for attendance at the United States Merchant Marine Academy, and to express the sense of the Senate that no additional charges or fees shall be imposed for attendance at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and for other purposes.

S. 2258

At the request of Mr. DECONCINI, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2258, a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2332

At the request of Mr. HATFIELD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2332, a bill to amend the Federal Columbia River Transmission System Act to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System.

SENATE CONCURRENT RESOLUTION 64

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of Senate Concurrent Resolution 64, a concurrent resolution expressing the sense of the Congress regarding the Gautemalan peace process and the need for greater protection of human rights in Guatemala.

AMENDMENTS SUBMITTED

THE IMPROVING AMERICA'S SCHOOLS ACT OF 1993

CRAIG (AND OTHERS) AMENDMENT NO. 2437

Mr. CRAIG (for himself, Mr. SIMPSON, Mr. NICKLES, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GRASSLEY, Mr. SMITH, Mrs. KEMPTHORNE, and Mr. BROWN) proposed an amendment to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

On page 1244, line 10, before the period, insert the following: "if the Federal share of the financing of such a repair, renovations, alteration, or construction project is greater than 25 percent of the total cost of the project."

KASSEBAUM AMENDMENT NO. 2438

Mrs. KASSEBAUM proposed an amendment to the bill S. 1513, supra; as follows:

At the end of title IV of the bill, insert the following new section:

SEC. . CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Notwithstanding any other provision of law, beginning on June 1, 1994, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the Secretary shall not issue any new final regulations to implement such Act.

PRESSLER AMENDMENT NO. 2439

Mr. PRESSLER proposed an amendment to the bill S. 1513, supra; as follows:

On page 913, line 13, strike "and".

On page 913, line 18, strike the period and insert "; and".

On page 913, between lines 18 and 19, insert the following:

"(C) provide an assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.".

GENERAL AVIATION REVITALIZATION ACT OF 1994

KASSEBAUM AMENDMENT NO. 2440

Mr. FORD (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, as follows:

On page 4, strike out line 15 and all that follows through page 5, line 3, and insert in lieu thereof the following:

"(3) the term 'limitation period' means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and"

OLD U.S. MINT IN SAN FRANCISCO ACT OF 1994

MCCAIN (AND BOXER) AMENDMENT NO. 2441

Mr. COHEN (for Mr. MCCAIN for himself and Mrs. BOXER) proposed an amendment to the bill (S. 2185) to require the Secretary of the Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes; as follows;

Add at the end of the bill the following new section:

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

(A) IN GENERAL. Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

THE IMPROVING AMERICA'S SCHOOLS ACT OF 1993

GRAMM (AND DOLE) AMENDMENT NO. 2442

Mr. GRAMM (for himself and Mr. DOLE) proposed an amendment to the bill S. 1513, supra; as follows:

At the appropriate place insert the following:

SEC. . INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended by inserting after the first sentence the following: "Except to the extent a greater minimum sentence is otherwise provided by the preceding sentence or by any other provision of this subsection or any other law, a person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which a person may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

"(A) be punished by imprisonment for not less than 10 years;

"(B) if the firearm is discharged, be punished by imprisonment for not less than 20 years; and

"(C) if the death of a person results, be punished by death or by imprisonment for not less than life.

"Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. . FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100–182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

(c) SUPERSEDURE OF OTHER LAW.—The amendment made by subsection (a) supersedes any other law authorizing a downward adjustment of a mandatory minimum term of imprisonment for an offense as described in subsection (a).

SEC. . MANDATORY MINIMUM PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 18.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) (first offense) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be not less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (b) (second offense) by inserting after the second sentence "Except to the extent a greater sentence is otherwise authorized by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under 18 years of age by a person 21 or more years of age shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by adding at the end the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be no less than 10 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence."; and

(2) in subsection (c) (penalty for second offenses) by inserting after the second sentence the following: "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted of drug trafficking under this subsection shall be a mandatory term of life imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence.".

SUBTITLE E—RULES OF EVIDENCE, PRACTICE AND PROCEDURE

SEC. 831. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

KENNEDY AMENDMENT NO. 2443

Mr. KENNEDY proposed an amendment to the bill S. 1513, supra; as follows:

On page 2, strike lines 17-27, and on page 5, strike lines 1 through 7. Insert in lieu thereof the following:

"(3) the term 'eligible local education agency' means a local educational agency in which—

(A) at least 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under section 1123(c)(1) of this Act; *or*

(B) the United States owns Federal property described in paragraph (5) of section 9014 that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

(C) demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities used for academic or vocational instruction.

On page 1235, beginning with line 10, strike all through page 1244, line 19, and insert the following:

"SEC. 15003. PURPOSE.

"It is the purpose of this title to help our Nation meet the National Education Goals through the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities, used for academic or vocational instruction.

"SEC. 15004. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'alteration' means any change to an existing property for use for a different purpose or function;

"(2) the term 'construction' means the erection of a building, structure, or facility, including the concurrent installation of equipment, site preparation, associated roads, parking, and utilities, which provides area or cubage not previously available, including—

"(A) freestanding structures, additional wings, or floors, enclosed courtyards or entryways, and any other means to provide usable program space that did not previously exist; and

"(B) the complete replacement of an existing facility, but only if such replacement is less expensive than alteration, renovation, or repair of the facility;

"(3) the term 'eligible local educational agency' means a local educational agency—

"(A) in which at least 15 percent of the children who reside in the geographic area served by such agency are eligible to be counted under section 1123(c)(1); and

"(B) demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration or construction needs for its public elementary or secondary school libraries, media centers, and facilities, used for academic or vocational instruction;

"(4) the term 'renovation' means any change to an existing property to allow its more efficient use within such property's designated purpose; and

"(5) the term 'repair' means the restoration of a failed or failing real property facility, component, or a building system to such a condition that such facility, component, or system may be used effectively for its designated purpose, if, due to the nature or extent of the deterioration or damage to such facility, component, or system, such deterioration or damage cannot be corrected through normal maintenance.

"SEC. 15005. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—From amounts appropriated under subsection (b) for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 15006 to carry out the authorized activities described in section 15008.

"(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under subsection (b) to provide assistance to Indian schools in accordance with this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this title.

"SEC. 15006. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

"(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

"(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

"(4) a description of the corrective action to be supported with funds provided under this title;

"(5) a cost estimate of the proposed corrective action;

"(6) an identification of other resources, including unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

"(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

"(8) such other information and assurances as the Secretary may reasonably require.

"SEC. 15007. AWARD OF GRANTS.

"(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

"(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under section 1123(c)(1);

"(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance; and

"(3) such other criteria as the Secretary may prescribe by regulation.

"(b) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, including the issuance of bonds, to carry out the activities for which assistance is sought.

"(c) AWARD CATEGORIES.—

"(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

"(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

"(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

"(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

"(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

"(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

"(F) Such agencies in which such number is 50,000 or greater.

"(2) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, after considering such factors as—

"(A) the relative numbers or percentages of students counted under section 1123(c)(1); and

"(B) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

"(d) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (c)(1).

"(e) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

"SEC. 15008. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to—

"(1) ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction; or

"(2) upgrade or alter such library, center, or facility in order to accommodate new instructional technology.

"(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds for activities such as—

"(1) meeting the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990;

"(2) removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost-effective method;

"(3) meeting Federal, State, or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such library, center, or facility; and

"(4) replacing an old such library, center, or facility that is more cost-effective to tear down than to renovate.

"SEC. 15009. REQUIREMENTS.

"(a) SPECIAL RULES.—

"(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

"(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

"(b) GENERAL LIMITATIONS.—

"(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

"(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

"(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"SEC. 15010. FAIR WAGES.

"All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a-276a-5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

"SEC. 15011. FEDERAL ASSESSMENT.

"The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15005(b)—

On page 1035, between lines 11 and 12, insert the following:

"PART P—PROMOTING SCHOLAR-ATHLETE COMPETITIONS

"SEC. 8901. FINDINGS.

"The Congress finds that—

"(1) athletic and intellectual competition can be a force for understanding and friendship among an economically and culturally diverse population;

"(2) the World Scholar-Athlete Games in 1993 brought together 2,000 young scholars ranging in age from 16 to 19 who are talented in art, creative writing, poetry, singing or athletics, from 125 countries and all 50 States; and

"(3) through experiences on the playing field, in group discussions and informal gatherings, scholar-athlete competitions can foster understanding, acceptance and friendship among students who might otherwise never interact.

"SEC. 8902. PURPOSE.

"It is the purpose of this part to provide authorization for the establishment of a model educational, athletic, and cultural event that—

"(1) is intended to bring together academically qualified youth of diverse cultural, economic, and social backgrounds;

"(2) is replicated by each State; and

"(3) invites adult and student leaders in education, business and government representing all 50 States to attend and observe the model event, including such event's educational and cultural programs, so that such leaders are qualified to administer similar events in their home States.

"SEC. 8903. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—(A) If funds are appropriated pursuant to the authority of subsection (c) for fiscal year 1995, the Secretary is authorized to award a grant to a nonprofit organization to enable such organization to carry out model scholar-athlete games in accordance with the purpose of this part.

"(B) If funds are appropriated pursuant to the authority of subsection (c) for fiscal year 1996, the Secretary is authorized to award a grant to a nonprofit organization to reimburse such organization for the costs of conducting scholar-athlete games in 1995.

"(2) SPECIAL RULE.—Scholar-athlete games assisted under this part shall be held in 1995.

"(3) PRIORITY.—In awarding grants under this part, the Secretary shall give priority to a nonprofit organization that—

"(A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

"(B) has capability to administer federally funded scholar-athlete programs;

"(C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

"(D) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

"(E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

"(F) the Secretary determines has plans for conducting scholar-athlete games after 1995 without Federal assistance.

"(b) PAYMENTS.—From the amount authorized to be appropriated pursuant to the authority of subsection (c) for fiscal year 1995, the Secretary is authorized to make grant payments of 50 percent of such amount at the beginning of such year and the remaining 50 percent of such amount incrementally according to procedures established by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1995 and 1996 to carry out this part.

On page 1368, after line 24, insert the following:

TITLE ___—ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

SEC. ___02. FINDINGS.

The Congress finds that—

(1) the Department of Energy has unique and extensive mathematics and science capabilities that contribute to mathematics and science education programs throughout the Nation;

(2) a need exists to increase understanding, communication, and cooperation between the Congress, the Department of Energy, other Federal agencies, and the mathematics and science education community;

(3) elementary and secondary school mathematics and science teachers can provide practical insight to the Legislative and Executive branches in establishing and operating education programs; and

(4) a pilot program that placed elementary and secondary school mathematics and science teachers in professional staff positions in the Senate and the House of Representatives has proven successful and demonstrated the value of expanding the program.

SEC. ___03. PURPOSE; DESIGNATION.

(a) PURPOSE.—The purpose of this title is to establish within the Department of Energy a national fellowship program for elementary and secondary school mathematics and science teachers.

(b) DESIGNATION.—A recipient of a fellowship under this title shall be known as an "Albert Einstein Fellow".

SEC. ___04. DEFINITIONS.

As used in this title—

(1) the term "elementary school" has the meaning provided by section 10101(11) of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act;

(2) the term "local educational agency" has the meaning provided by section 10101(15) of the Elementary and Secondary Education Act of 1965, as so amended;

(3) the term "secondary school" has the meaning provided by section 10101(21) of the Elementary and Secondary Education Act of 1965, as so amended; and

(4) the term "Secretary" means the Secretary of Energy.

SEC. ___05. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish the Albert Einstein Distinguished Educator Fellowship Program (referred to in this title as the "Program") to provide 12 elementary or secondary school mathematics or science teachers with fellowships in each fiscal year in accordance with this title.

(2) ORDER OF PRIORITY.—The Secretary may reduce the number of fellowships awarded under this title for any fiscal year in which the amount appropriated for the Program is insufficient to support 12 fellowships. If the number of fellowships awarded under this title is reduced for any fiscal

year, then the Secretary shall award fellowships based on the following order of priority:

(A) Three fellowships in the Department of Energy.

(B) Two fellowships in the Senate.

(C) Two fellowships in the House of Representatives.

(D) One fellowship in each of the following entities:

(i) The Department of Education.

(ii) The National Institutes of Health.

(iii) The National Science Foundation.

(iv) The National Aeronautics and Space Administration.

(v) The Office of Science and Technology Policy.

(3) TERMS OF FELLOWSHIPS.—Each fellowship awarded under this title shall be awarded for a period of ten months that, to the extent practicable, coincides with the academic year.

(4) ELIGIBILITY.—To be eligible for a fellowship under this title, an elementary or secondary school mathematics or science teacher must demonstrate—

(A) that such teacher would bring unique and valuable contributions to the Program;

(B) that such teacher is recognized for excellence in mathematics or science education; and

(C)(i) a sabbatical leave from teaching will be granted in order to participate in the Program; or

(ii) the teacher will return to a teaching position comparable to the position held prior to participating in the Program.

(b) ADMINISTRATION.—The Secretary shall—

(1) provide for the development and administration of an application and selection process for fellowships under the Program, including a process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(2) provide for the publication of information on the Program in appropriate professional publications, including an invitation for applications from teachers listed in the directories of national and State recognition programs;

(3) select from the pool of applicants 12 elementary and secondary school mathematics teachers and 12 elementary and secondary school science teachers;

(4) develop a program of orientation for fellowship recipients under this title; and

(5) not later than August 31 of each year in which fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall arrange for the 24 semifinalists to travel to Washington, D.C., to participate in interviews in accordance with the selection process described in paragraph (2).

(2) FINAL SELECTION.—(A) Not later than May 1 of each year preceding each year in which fellowships are to be awarded, the Secretary shall select and announce the names of the fellowship recipients.

(B) The Secretary shall provide for the development and administration of a process to select fellowship recipients from the pool of semifinalists as follows:

(i) The Secretary shall select three fellowship recipients who shall be assigned to the Department of Energy.

(ii) The Majority Leader of the Senate and the Minority Leader of the Senate, or their designees, shall each select a fellowship recipient who shall be assigned to the Senate.

(iii) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees, shall each select a fellowship recipient who shall be assigned to the House of Representatives.

(iv) Each of the following individuals, or their designees, shall select one fellowship recipient who shall be assigned within the department, office, agency, or institute such individual administers:

(I) The Secretary of Education.

(II) The Director of the National Institutes of Health.

(III) The Director of the National Science Foundation.

(IV) The Administrator of the National Aeronautics and Space Administration.

(V) The Director of the Office of Science and Technology Policy.

SEC. __06. FELLOWSHIP AWARDS.

(a) FELLOWSHIP RECIPIENT COMPENSATION.—Each recipient of a fellowship under this title shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS–13 of the General Schedule.

(b) LOCAL EDUCATIONAL AGENCY.—The Secretary shall seek to ensure that no local educational agency penalizes a teacher who elects to participate in the Program.

SEC. __07. WASTE MANAGEMENT EDUCATION RESEARCH CONSORTIUM (WERC).

The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

SEC. __08. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Program $700,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 2001.

(b) WERC PROGRAM.— There are authorized to be appropriated for the WERC program under section ___07 such sums as may be necessary for each of the fiscal years 1996 through 2001.

On page 1137, beginning with line 9, strike all through page 1138, line 2, and insert the following:

"SEC. 10204. ADMINISTRATIVE FUNDS STUDY.

"(a) STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

"(2) RESULTS.—Based on the results of the study described in paragraph (1), the Secretary shall, within one year of the completion of such study, promulgate final regulations regarding the use of funds for administration under all covered programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration.

"(b) REPORT.—The Secretary shall complete the study conducted under this section not later than 1 year after the date of enactment of the Improving America's Schools Act of 1994 and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

On page ____, between lines ____ and ____, insert the following:

"SEC. 9302. FINDINGS.

"The Congress finds and declares as follows:

"(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France and Japan, as evidence by treaties governing friends, commerce, and navigation.

"(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(4) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

"(5) In 1898, the joint resolution entitled 'A Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

"(6) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(7) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(8) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai‘i but reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

“(9) In 1959, under the Act entitled ‘An Act to provide for the admission of the State of Hawaii into the Union’, approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai‘i title to the public lands formerly held by the United States, but mandated that such lands be held by the State ‘in public trust’ and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai‘i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

“(10) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai‘i into the Union in 1959, and has retained certain of those responsibilities.

“(11) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

“(12) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

“(13) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the ‘Native Hawaiian Educational Assessment Project’, was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and has educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

“(14) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

“(15) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

“(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

“(i) late or no prenatal care;

“(ii) half of Native Hawaiian women who give birth are unmarried; and

“(iii) high rates of births to teenage parents;

“(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

“(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

“(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

“(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

“(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

“(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

“(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

“(ii) Native Hawaiian students are the highest users of drugs and alcohol; and

“(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

“(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai‘i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

“(16) The findings described in paragraphs (1) through (15) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

“(17) After the overthrow of the Kingdom of Hawai‘i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: ‘I ka ‘ōlelo no ke ola; I ka ‘ōlelo no ka make. In the language rests life; In the language rests death.’.

“(18) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

“(19) The State of Hawai‘i, in the constitution and statutes of the State of Hawai‘i—

“(A) acknowledges the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust;

“(B) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

“(C) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai‘i, which may be used as the language of instruction for all subjects and grades in the public school system.

“(20) It continues to be the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

Page 608 between line 16 and 17 insert:

(3) the term “stop-over center” means a migrant project site which provides educational services approved by the State educational agency, advance notification to States where migrant children are traveling, and coordination with providers of other services to migrant children, to eligible migrant children who intend to stay 5 days or less while they or others in their family are moving from one location to another seeking migratory agricultural work, including migratory dairy work, or migratory fishing work.

Page 612, line 7 after “periods” insert: “or special programs that operate at or through stop-over centers”

At the end of part D of title III, insert the following:

SEC. ___. RURAL COMMUNITY SERVICE.

Title XI of the Higher Education Act of 1965 (20 U.S.C. 1136 et seq.) is amended by adding at the end the following new part:

“PART C—RURAL COMMUNITY SERVICE

“SEC. 1171. FINDINGS; PURPOSE.

“(a) FINDINGS.—The Congress finds that—

“(1) the Nation's rural centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

“(2) there are, in the Nation's rural institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

“(3) the skills, knowledge, and experience in these rural institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

“(4) the application of such skills, knowledge, and experience is hindered by the limited funds available to redirect attention to solutions to such rural problems.

“(b) PURPOSE.—It is the purpose of this part to provide incentives to rural academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

“SEC. 1172. PROGRAM.

“The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the authorized activities described in section 1174 in accordance with the provisions of this part.

“SEC. 1173. APPLICATIONS FOR RURAL COMMUNITY SERVICE GRANTS.

“(a) APPLICATION.—

“(1) IN GENERAL.—Each eligible institution desiring a grant under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances, as the Secretary may require by regulation.

"(2) Contents.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the eligible institution will enter into a consortium to carry out the provisions of this part that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) A rural local educational agency.

"(iii) A local government.

"(iv) A business or other employer.

"(v) A nonprofit institution.

"(3) Waiver.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(c) Selection Procedures.—The Secretary, by regulation, shall develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1174. AUTHORIZED ACTIVITIES.

"Grant funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist rural communities to meet and address their pressing and severe problems, such as any of the following:

"(1) Work force preparation.

"(2) Rural poverty and the alleviation of such poverty.

"(3) Health care, including health care delivery and access as well as health education, prevention and wellness.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in rural settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Rural housing.

"(9) Rural infrastructure.

"(10) Economic development.

"(11) Rural farming and environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1173(a)(2)(B) concur are of high priority in rural areas.

"(13)(A) Problems faced by individuals with disabilities and economically disadvantaged individuals regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion of individuals with disabilities in their community.

"SEC. 1175. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level Federal officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in rural community service or in education.

"SEC. 1176. DISBURSEMENT OF FUNDS.

"(a) Multiyear Availability.—Subject to the availability of appropriations, grants under this part may be awarded on a multiyear basis, except that no institution, individually or as a participant in a consortium, may receive a grant under this part for more than 5 years.

"(b) Equitable Geographic Distribution.—The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

"(c) Matching Requirement.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount grant, which contribution may be in cash or in kind, fairly evaluated.

(d) The Secretary shall, to the maximum extent possible, coordinate this program with the Corporation for National and Community Service.

"SEC. 1177. DESIGNATION OF RURAL GRANT INSTITUTIONS.

"The Secretary shall publish a list of eligible institutions and shall designate such institutions of higher education as 'Rural Grant Institutions'. The Secretary shall establish a national network of Rural Grant Institutions so that the results of individual projects achieved in 1 rural area can be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1178. DEFINITIONS.

"As used in this part:

"(1) Rural area.—The term 'rural area' means any area that—

"(A) is outside an urban area, as such term is defined by the Bureau of the Census; and

"(B) contains a population of 75,000 or less.

"(2) Eligible institution.—The term 'eligible institution' means an institution of higher education, or a consortium of such institutions any one of which meets all the requirements of this paragraph, which—

"(A) draws a substantial portion of its undergraduate students from the rural area served by such institution or consortium, or from contiguous areas;

"(B) carries out programs to make postsecondary educational opportunities more accessible to residents of such rural areas, or contiguous areas;

"(C) has the present capacity to provide resources responsive to the needs and priorities of such rural areas and contiguous areas;

"(D) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(E) has demonstrated and sustained a sense of responsibility to such rural area and contiguous areas and the people of such areas.

"SEC. 1179. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary in each of the 4 succeeding fiscal years to carry out the provisions of this part.".

On p. 1202 strike "and" on line 2.

On p. 1202 at the end of line 4 strike the "." and insert "and"

On p. 1202 add the following sentence between lines 4 and 5

"(8) effects to implement school uniform policies to ensure the health and safety of students and the school environment."

"PART —ALASKA NATIVE EDUCATION

"SEC. . SHORT TITLE.

"This part may be cited as the 'Alaska Native Educational Equity, Support and Assistance Act'.

"SEC. . FINDINGS.

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long term well being and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs;

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student drop out rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. . PURPOSE.

"It is the purpose of this part to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

"SEC. . ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) General Authority.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

"(1) Educational planning.—The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

"(2) Implementation of educational plans.—The adoption and implementation of specific educational plans developed under subsection (1) above.

"(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

"(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

"(B) curricula and teaching materials for instructions in Native languages.

"(4) PRETEACHER TRAINING.—The development and implementation of preteacher training program in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

"(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) increasing the numbers of teachers who are Alaska Natives;

"(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

"(C) improving the teacher selection process in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

"(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. . ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

"(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include

"(1) parent-infant programs for prenatal through three-year olds;

"(2) preschool programs for four- and five-year olds;

"(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

"(4) continued research and development; and

"(5) a long term followup and assessment program.

"(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. . ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

"(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the students eligible to participate in the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

"(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

"(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. . ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) APPLICATIONS BY LOCAL SCHOOL DISTRICTS OR STATE EDUCATIONAL ENTITIES.—Local school districts or state educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

"(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, Provided, that approval by or concurrence from such local educational agency shall not be required.

"(e) IMPLEMENTATION OF AUTHORITIES.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

"SEC. . DEFINITIONS.

"For purposes of this part—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act.

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that:

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization."

On page 608, line 17 insert a new (3):

"(3) The term 'fishing activity' means any activity directly related to the catching or processing of fish or shellfish—

"(a) for initial commercial sale, whether a fisher is self-employed or employed by others, or

"(b) as a principal means of personal subsistence."

At the appropriate place, insert the following new section:

SEC. ___. THERAPEUTIC MODEL DEMONSTRATION SCHOOLS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

(2) PURPOSE.—The purpose of the therapeutic model demonstration schools shall be—

(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

(b) LOCATION.—The Secretary shall initiate the therapeutic model at two schools in school years 1994 through 1996, and shall give priority to—

(1) one school that is the recipient of a grant under section 5204 of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 during the 1994–1995 school year; and

(2) one school operated by the Bureau of Indian Affairs during the 1995–1996 school year.

(c) SERVICES.—The demonstration schools shall provide an integrated residential environment that may include—

(1) mental health services;

(2) education;

(3) recreation therapy;

(4) social service programs;

(5) substance abuse education and prevention; and

(6) other support services for aftercare.

(d) STAFFING.—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include, but not be limited to—

(1) clinical psychologists;

(2) child psychologists;

(3) substance abuse counselors;

(4) social workers; and

(5) health educators.

(e) ENROLLMENT.—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

(f) ASSISTANCE.—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

(g) REPORT.—Not later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.

On page 521, after line 13, insert the following after "centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child";

On page 521, line 1, strike "(3)" and insert "(4)".

On page 521, line 8, strike "(4)" and insert "(5)".

On page 521, line 10, insert Home Instruction Programs for Preschool, Kindergarten "and Parents as Teachers," after "Start,".

On page 521, line 12, strike "(5)" and insert "(6)".

On page 521, line 16, strike "(6)" and insert "(7)".

On page 1333 between lines 8 and 9, insert the following new section:

SEC. 314. FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

(a) SHORT TITLE.—This section may be cited as the "Support for Families of Children With Disabilities Act of 1994".

(b) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

"PART I—FAMILY SUPPORT

"SEC. 701. SHORT TITLE.

"This part may be cited as the 'Families of Children With Disabilities Support Act of 1994'.

"SEC. 702. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

"(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

"(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

"(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

"(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

"(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

"(7) There are financial disincentives for families to care for their children with disabilities at home.

"(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

"(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

"(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

"(A) To support the family.

"(B) To enable families of children with disabilities to nurture and enjoy their children at home.

"(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

"(b) PURPOSES.—The purposes of this part are as follows:

"(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

"(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

"(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

"(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

"(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

"(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 708; and

"(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

"(2) To enhance the ability of the Federal Government to—

"(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c);

"(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

"(C) conduct an evaluation of the program of grants to States; and

"(D) provide funding for model demonstration and innovation projects.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this part shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

"(1) Family support for families of children with disabilities must focus on the needs of the entire family.

"(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

"(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

"(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

"(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

"(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

"(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

"(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

"(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

"(d) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

"SEC. 703. DEFINITIONS.

"For the purposes of this part, only the following definitions shall apply:

"(1) CHILD WITH A DISABILITY.—The term 'child with a disability' means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

"(2) COUNCIL.—The term 'Council' means a State Policy Council for Families of Children with Disabilities established by a State under section 707.

"(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports, or other assistance that is conducted or provided in a manner that—

"(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

"(B) has the greatest likelihood of ensuring maximum participation of such individuals.

"(4) DISABILITY.—The term 'disability' means—

"(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

"(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

"(5) EXISTING COUNCIL.—The term 'existing Council' means an entity or a committee of an entity that—

"(A) is established by a State prior to the date on which the State submits an application for funding under this part;

"(B) has authority to advise the State with respect to family support for families of children with disabilities; and

"(C) may have the authority to carry out other responsibilities and duties.

"(6) FAMILY.—The term 'family' means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

"(A) A mother, father, brother, sister or any combination.

"(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

"(C) An adoptive parent.

"(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

"(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

"(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

"(7) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term 'family-centered and family-directed' means, with respect to a service or program, that the service or program—

"(A) facilitates the full participation, choice, and control by families of children with disabilities in—

"(i) decisions relating to the supports that will meet the priorities of the family; and

"(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

"(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

"(C) is easily accessible to and usable by families of children with disabilities.

"(8) FAMILY SATISFACTION.—The term 'family satisfaction' means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

"(9) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term 'family support for families of children with disabilities'—

"(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

"(i) support families in the efforts of such families to raise their children with disabilities in the family home;

"(ii) strengthen the role of the family as primary caregiver;

"(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

"(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

"(B) includes—

"(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

"(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

"(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

"(10) INTEGRATION AND INCLUSION.—The term 'integration and inclusion' with respect to children with disabilities and their families means—

"(A) the use of the same community resources that are used by and available to other individuals and families;

"(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

"(C) having friendships and relationships with individuals and families of their own choosing.

"(11) LEAD ENTITY.—The term 'lead entity' means an office or entity described in section 706.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(13) SERVICE COORDINATION.—The term 'service coordination'—

"(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

"(B) includes—

"(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

"(ii) the coordination and monitoring of services provided to children with disabilities and their families;

"(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

"(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

"(14) STATEWIDE SYSTEM OF FAMILY SUPPORT.—The term 'statewide system of family support for families of children with disabilities' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this part that—

"(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

"(15) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means efforts that result in laws, regulations, policies, practices, or organizational structures—

"(A) that are family-centered and family-directed;

"(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

"(C) that otherwise accomplish the purposes of this part.

"(16) UNSERVED AND UNDERSERVED POPULATIONS.—The term 'unserved and underserved populations' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"SEC. 704. GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this part, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 702.

"(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

"(c) AMOUNT OF GRANTS.—

"(1) GRANTS TO STATES.—From amounts appropriated under section 716(a), the Secretary shall pay to each State that has an application approved under section 705, for each year of the grant period, an amount that is not less than $200,000 and not more than $500,000.

"(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 716(a) for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 705 not more than $100,000.

"(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

"(A) The amounts available for making grants under this section.

"(B) The child population of the State or territory concerned.

"(4) DEFINITIONS.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(B) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

"(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

"(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

"(2) is making significant progress in accordance with section 710.

"(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

"(1) is geographically equitable; and

"(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

"SEC. 705. APPLICATION.

"A State that desires to receive a grant under this part shall submit an application to the Secretary that contains the following information and assurances:

"(1) FAMILY-CENTERED AND FAMILY-DIRECTED APPROACH.—An assurance that the State will use funds made available under this part to accomplish the purposes described in section 702 and the goals, objectives, and family-centered outcomes described in section 709(b) by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

"(2) DESIGNATION OF THE LEAD ENTITY.—Information identifying the lead entity, and evidence documenting the abilities of such entity.

"(3) STATE POLICY COUNCIL FOR FAMILIES OF CHILDREN WITH DISABILITIES.—An assurance of the following:

"(A) The State has established a Council that meets the criteria set forth in section 707.

"(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 709, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

"(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

"(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this part.

"(4) FAMILY INVOLVEMENT.—A description of the following:

"(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

"(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

"(C) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

"(5) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

"(6) STATE RESOURCES.—A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

"(7) UNMET NEEDS.—A description of unmet needs for family support for families of children with disabilities within the State.

"(8) PRELIMINARY PLAN.—A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this part.

"(9) ACTIVITIES.—An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this part for grants and contracts to conduct the activities described in section 708.

"(10) LIMIT ON ADMINISTRATIVE COSTS.—An assurance that the lead entity that receives funding under this part in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

"(11) STRATEGIC PLAN.—A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 709.

"(12) EVALUATION.—An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 710.

"(13) COORDINATION WITH STATE AND LOCAL COUNCILS.—An assurance that the lead entity will coordinate the activities funded through a grant made under this part with the activities carried out by other relevant councils within the State.

"(14) SUPPLEMENT OTHER FUNDS.—An assurance, with respect to amounts received under a grant, of the following:

"(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

"(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

"(15) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

"SEC. 706. DESIGNATION OF THE LEAD ENTITY.

"(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 704, shall designate the office or entity (referred to in this part as the "lead entity ") responsible for—

"(1) submitting the application under section 705 on behalf of the State;

"(2) administering and supervising the use of the amounts made available under the grant;

"(3) coordinating efforts related to and supervising the preparation of the application;

"(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this part.

"(b) QUALIFICATIONS.—In designating the lead entity, the Chief Executive Officer may designate—

"(1) an office of the Chief Executive Officer;

"(2) a commission appointed by the Chief Executive Officer;

"(3) a public agency;

"(4) a council established under Federal or State law; or

"(5) another appropriate office, agency, or entity.

"(c) CAPABILITIES OF THE LEAD ENTITY.—The State shall provide, in accordance with the requirements of section 705, evidence that the lead entity has the capacity—

"(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

"(2) to promote and implement systems change activities;

"(3) to maximize access to public and private funds for family support services for families of children with disabilities;

"(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

"(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

"(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

"(7) to promote and develop interagency coordination and collaboration.

"SEC. 707. STATE POLICY COUNCIL FOR FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

"(a) ESTABLISHMENT.—A State that desires to receive financial assistance under this part shall, prior to the receipt of funds under this part, establish a State Policy Council for Families of Children with Disabilities.

"(b) APPOINTMENTS.—

"(1) MEMBERS.—Members of the Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (c). The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this part. The appointing authority shall ensure that the membership of the Council reasonably represents the population of the State and shall establish guidelines for terms of Council members.

"(2) CHAIRPERSON.—The Council shall elect a member of the Council to serve as the Chairperson of the Council. The Chairperson shall be a family member, as described in subsection (c)(1).

"(c) COMPOSITION.—The Council shall be composed of—

"(1) a majority of members who are—

"(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State; and

"(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

"(2) members—

"(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

"(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

"(3) such additional members as the appointing authority considers appropriate.

"(d) FUNCTIONS.—The Council shall—

"(1) establish formal policies regarding the operation of the Council;

"(2) advise and assist the lead entity in the performance of responsibilities described in section 706(a), particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

"(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

"(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 709, including—

"(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

"(B) the statement of family-centered outcomes;

"(C) the goals, objectives, and activities;

"(D) the quality improvement or quality enhancement system;

"(E) the appeals process;

"(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this part;

"(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

"(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

"(5) advise and assist the lead entity in the implementation of systems change activities;

"(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

"(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

"(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

"(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

"(e) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

"(g) COMPENSATION AND EXPENSES.—The Council may, consistent with State law, use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(h) USE OF EXISTING COUNCIL.—

"(1) IN GENERAL.—To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

"(2) REQUIREMENTS.—An existing Council shall—

"(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

"(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (c)(1), adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

"(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (d) through (g).

"(3) DOCUMENTATION OF COMPLIANCE.—Any State that has an existing Council shall include in a grant application submitted under section 705 and in subsequent annual progress reports submitted to the Secretary under section 710, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

"SEC. 708. AUTHORIZED ACTIVITIES.

"A State that receives a grant under section 704 may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 702, such as the following activities:

"(1) TRAINING AND TECHNICAL ASSISTANCE.—The State may support training and technical assistance activities for family members, service providers, community members, professionals, members of the Council, students and others that will do the following:

"(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

"(B) Promote partnerships with families of children with disabilities at all levels of the service system.

"(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

"(D) Assist families of children with disabilities in accessing natural and community supports and in obtaining benefits and services.

"(2) INTERAGENCY COORDINATION.—The State may support activities that conduct the following:

"(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

"(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

"(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

"(3) LOCAL OR REGIONAL COUNCILS.—The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

"(4) OUTREACH.—The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

"(5) POLICY STUDIES.—The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

"(6) HEARINGS AND FORUMS.—The State may conduct hearings and forums to solicit input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

"(7) PUBLIC AWARENESS AND EDUCATION.—The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

"(8) NEEDS ASSESSMENT.—The State may conduct a needs assessment, which may, in part, be based on existing State data.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

"(10) PILOT DEMONSTRATION PROJECTS.—The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

"(11) OTHER ACTIVITIES.—The State may support other systems change activities that accomplish the purposes described in section 702.

"SEC. 709. STRATEGIC PLAN.

"(a) IN GENERAL.—Not later than 6 months after the date on which assistance is received by a State under this part, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this part.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

"(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

"(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

"(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

"(5) a description of the specific programs, projects, and activities funded under this part and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

"(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

"(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

"(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this part that includes all eligible families;

"(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

"(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 710.

"(c) PERIOD AND UPDATES.—The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

"(d) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

"(e) COMMENT.—The State shall develop a procedure for ensuring ongoing comment from the Council.

"(f) DISSEMINATION.—The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

"SEC. 710. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 704 is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this part.

"(b) PROGRESS REPORTS.—A State that receives a grant under section 704 shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this part. Such report shall include—

"(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

"(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

"(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

"(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

"SEC. 711. ADMINISTRATIVE PROVISIONS.

"(a) EVALUATION OF GRANT APPLICATIONS.—

"(1) PANELS.—The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this part.

"(2) COMPOSITION OF PANELS.—Panels shall be composed of a majority of family members of children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

"(3) EXPENSES AND FEES OF THE PANEL.—A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 716 to pay expenses and fees of a member of a Panel who is not a Federal employee.

"(b) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

"(c) APPEALS.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this part as the result of failure to supply information required under section 705 or 710. The Secretary shall take into consideration the comments of the Council.

"(d) EFFECT ON OTHER ASSISTANCE.—This part may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

"(e) UNOBLIGATED FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

"SEC. 712. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

"(b) PURPOSE.—With respect to States receiving assistance under this part, the technical assistance and information described under subsection (a) shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance under this part. Such technical assistance and information shall—

"(1) facilitate effective systems change activities;

"(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

"(3) promote partnerships with families at all levels of the service system;

"(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

"(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

"(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

"(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 709(b)(2), and the assessment of family satisfaction; and

"(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

"(c) REQUEST FOR TECHNICAL ASSISTANCE.—A request for technical assistance by a lead entity in a State receiving assistance under this part shall be made in conjunction with the Council.

"(d) REPORTS TO THE SECRETARY.—An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 702 in other Federal legislation.

"SEC. 713. EVALUATION.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this part.

"(b) PURPOSE.—The purpose of an evaluation under subsection (a) shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this part, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this part that are necessary to assist States to fully accomplish the purposes of this part. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this part on—

"(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

"(2) access to and funding for family support for families of children with disabilities; and

"(3) the involvement of families at all levels of the service system.

"(c) REPORT TO CONGRESS.—Not later than 2½ years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

"(d) CONFLICT OF INTEREST.—The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 712.

"SEC. 714. PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) STUDY BY THE SECRETARY.—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 702.

"(b) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

"SEC. 715. CONSTRUCTION.

"Notwithstanding any other provision of this title, nothing in parts A through H of this title shall be construed to apply to this part.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(b) RESERVATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or $600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) to carry out—

"(A) section 712, with respect to the provision of technical assistance and information to States;

"(B) section 713, with respect to the conduct of the evaluations;

"(C) section 711(a), with respect to the evaluation of grant applications; and

"(D) section 714, with respect to the conduct of projects of national significance.

"(2) SPECIAL RULE.—The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry out section 714 for such year if the amount of funds reserved under such paragraph for such fiscal year is $700,000 or greater.".

On page 496, after line 15, insert a new subparagraph as follows:

"(e) OPTIONAL ASSIGNMENT.—A local educational agency with a total enrollment of greater than 900,000 children may, to the extent feasible, use funds received under this part to serve children from low-income families who reside in school attendance areas having high concentrations of children from low-income families, who otherwise meet the eligibility requirements of this part, and who attend schools in noneligible attendance areas."

On page 853, beginning on line 1, strike all through line 4, and insert the following:

"(4) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) the term 'local educational agency' includes intermediate school districts and consortia.

On page 869, line 23, insert "comprehensive health" after "and".

At the appropriate place, insert the following new title:

TITLE ___—MULTIETHNIC PLACEMENT

SEC. ___01. SHORT TITLE.

This Act may be cited as the "Multiethnic Placement Act of 1994".

SEC. ___02. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) nearly 500,000 children are in foster care in the United States;

(2) tens of thousands of children in foster care are waiting for adoption;

(3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit parents, from every race and culture, for children needing foster care or adoptive parents.

(b) PURPOSE.—It is the purpose of this Act to decrease the length of time that children wait to be adopted and to prevent discrimination in the placement of children on the basis of race, color, or national origin.

SEC. ___03. MULTIETHNIC PLACEMENTS.

(a) ACTIVITIES.—

(1) PROHIBITION.—An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) PERMISSIBLE CONSIDERATION.—An agency or entity to which paragraph (1) applies may consider the race, color, or national origin of a child as a factor in making a placement decision if such factor is relevant to the best interests of the child involved and is considered in conjunction with other factors.

(3) DEFINITION.—As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) LIMITATION.—The Secretary of Health and Human Services shall not provide placement and administrative funds under section 474(a)(3) of the Social Security Act (42 U.S.C.

674(a)(3)) to an agency or entity described in subsection (a) that is not in compliance with subsection (a).

(c) EQUITABLE RELIEF.—Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

On page 1092, line 13, insert "**FINDINGS;**" before "**purpose**".

On page 1092, between lines 13 and 14, insert the following:

"(a) FINDINGS.—The Congress finds that—

"(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

"(2) local educational agencies have struggled to fund adequately education services;

"(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status;

"(5) immigration policy is solely a responsibility of the Federal Government; and

On page 1092, line 14, strike "(a)" and insert "(b)".

On page 1093, line 1, strike "(b)" and insert "(c)".

On page 1093, line 7, strike "two" and insert "three".

On page 1094, line 11, strike "(a)" and insert "(b)".

On page 1097, strike lines 1 through 14, and insert the following:

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

On page 1105, line 24, strike "$75,000,000" and insert "$150,000,000".

On page 1106, line 3, insert:

SEC. 9210. COMMUNICATIONS BETWEEN FEDERALLY FUNDED GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of law, no Federal, State, or local government entity receiving Federal funds shall be prohibited or in any way restricted from communicating with the Immigration and Naturalization Service regarding the immigration status, legal or illegal, of an alien in the United States.

On page 1357, after line 25, insert the following:

SEC. ___. REHABILITATION ACT.

(a) Notwithstanding any other provision of the Rehabilitation Act of 1973, the amount otherwise payable to a State under section 111 of such Act shall be reduced—

(1) for fiscal years 1987 and 1988, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for such year are less than the total of such expenditures for fiscal year 1972; and

(2) for fiscal year 1989, the lesser of—

(A) the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for fiscal year 1989 are less than average of the total of such expenditures for fiscal years 1986, 1987, and 1988; or

(B) the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for fiscal year 1988 are less than the average of the total of such expenditures for fiscal years 1985, 1986, and 1987.

On page 1357, line 13, insert the following:

(c) LOCAL AGENCY PLAN APPROVAL.—Paragraph 4 of section 309 (a) of the Goals 2000: Educate America Act is amended by inserting the words "made by the local educational agency" after the word "modifications".

On page 1079, between lines 21 and 22, insert the following:

"(c) SPECIAL RULES.—

"(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81–874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

"(2) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 9004(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section 9004(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

"(B) The Secretary shall treat as eligible under subparagraph (G) of section 9004(a)(1) any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—A child meets the requirements of this paragraph if on the day preceding the date of enactment—

"(A) such child resides—

"(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

"(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

"(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

"(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child; and

"(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) or section 9010(b) of this part.".

On page 563, line 12, strike "For" and insert "Notwithstanding subsections (a)(2)(A)(iv) and (e), for".

On page 563, line 17, strike "A State" and insert "Notwithstanding subsections (a)(2)(A)(iv) and (e), a State".

On page 563, line 18, strike "more than" and insert "less than".

Subsection (e) of section 1123 of the Elementary and Secondary Education Act of 1965 (as amended by section 101) is amended by striking "Notwithstanding subsection (d)(1), no State" and inserting "No State".

On page 646, line 9, strike "or (C);" and insert "; or".

On page 646, strike lines 10 through 22, and insert the following:

"(B) not more than 1.5 percent and not less than 1 percent of the funds appropriated to carry out such subsections for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation;

On page 647, line 1, strike "$375,000" and insert "$425,000".

On page 647, line 3, strike "or (C);" and insert "; or".

On page 647, strike lines 4 through 14, and insert the following:

"(B) not more than $565,000 and not less than $425,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

On page 647, line 18, strike "or (C);" and insert "; or".

On page 647, beginning with line 19, strike all through page 648, line 5, and insert the following:

"(B) not more than $80,000 and not less than $50,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation.

On page 648, strike lines 10 through 14 and insert the following:

"(1)(A) .65 percent of the funds appropriated to carry out subsections (a), (c), (d), and (e) of section 1002 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than .75 percent and not less than .65 percent of the funds appropriated to carry out such subsections for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

"(2) except as provided in paragraph (3)—

"(A) $210,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than $245,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation; or

"(3) in the case of an outlying area—

"(A) $35,000 for fiscal year 1995 and each succeeding fiscal year not described in subparagraph (B); or

"(B) not more than $40,000 for fiscal year 1997 and each succeeding fiscal year if the Secretary, based on the State reports required by subsection (d) and the studies required by section 14010(b), authorizes such reservation.

"(d) REPORT.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under this title shall submit to the Secretary a report on the use of funds for the State administration of activities assisted under this title. Such report shall include the proportion of State administrative funds provided under this section that are expended for—

"(1) basic program operation and compliance monitoring;

"(2) statewide program services, such as development of standards and assessments, curriculum development, and program evaluation; and

"(3) technical assistance and other direct support to local educational agencies and schools.

On page 648, line 15, strike "(d)" and insert "(e)"

On page 1221, line 18, strike "and" and insert a comma.

On page 1221, line 19, strike "levels" and insert the following: ", and State educational agency levels, which system shall be completed by January 1, 1997".

On page 1221, line 26, strike "and" and insert a comma.

On page 1222, line 1, insert ", and State educational agency" after "agency".

On page 1222, line 2, strike "six months after such date" and insert "July 1, 1997,".

On page 1222, line 5, strike "and" and insert a comma.

On page 1222, line 6, insert ", and State educational agency" after "agency".

On page 1035, between lines 11 and 12, insert the following:

"PART P—COMMUNITY SCHOOL PARTNERSHIPS

"SEC. 8901. SHORT TITLE.

"This part may be cited as the 'Community School Partnership Act'.

"SEC. 8902. FINDINGS.

"The Congress finds that—

"(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

"(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

"(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

"(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

"SEC. 8903. DEFINITIONS.

"As used in this part:

"(1) AREA PROGRAM CENTER.—The term 'area program center' means an organization that—

"(A) is part of, responsible to, and overseen by, the national organization; and

"(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

"(2) LOCAL AFFILIATED CHAPTER.—The term 'local affiliated chapter' means an organization that—

"(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

"(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

"(C) solicits broad-based community support in its academic support and fund-raising activities;

"(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

"(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or the presence of any mental, sensory, or physical disability; and

"(F) gives priority in awarding scholarships to students from low-income families in the local community.

"(3) NATIONAL ORGANIZATION.—The term 'national organization' means an organization that—

"(A) has the capacity to create, develop and sustain local affiliated chapters;

"(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

"(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

"(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code;

"(F) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D);

"(G) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

"(4) HIGH-POVERTY AREA.—The term 'high-poverty area' means a community with a higher percentage of children in poverty than the national average of such percentage.

"(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term 'students from low-income families' means students determined, pursuant to part F of title IV of the Higher Education Act of 1965, to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act.

"SEC. 8904. PURPOSE; ENDOWMENT GRANT AUTHORITY.

"(a) PURPOSE.—It is the purpose of this title to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

"(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

"(2) providing scholarship assistance for the pursuit of postsecondary education.

"(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 8907, the Secretary competitively awards an endowment grant to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

"SEC. 8905. GRANT AGREEMENT AND REQUIREMENTS.

"(a) IN GENERAL.—The Secretary shall award the endowment grant described in section 8904(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

"(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

"(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

"(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

"(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

"(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

"(A) a description of the programs and activities supported by the interest on the endowment fund;

"(B) the audited financial statement of the national organization for the preceding fiscal year;

"(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the 5 succeeding fiscal years;

"(D) or is accompanied by such evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

"(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

"(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

"(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 8906; and

"(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this title, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

"(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965.

"SEC. 8906. CONTINUING ELIGIBILITY.

"The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this title—

"(1) in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year;

"SEC. 8907. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1995 to carry out this title.

On page 1357, immediately after section 343, insert the following:

SEC. ___. HIGHER EDUCATION AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in paragraph (2) of section 232(d)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the semicolon; and

(2) in subparagraph (B) of section 404(a)(4)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the period.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on the date of enactment of this Act, except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965, may continue to distribute such funds to such institutions until July 1, 1995.

SEC. ___. TECHNICAL AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 101A—

(A) in paragraph (2) of subsection (a), by striking "and Palau" and all that follows through the end of the subsection, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau."; and

(B) in the matter preceding paragraph (1) of subsection (b), by inserting "the Republic of" immediately before "Palau";

(2) in clause (ii) of section 112(f)(1)(B), by striking "Palau" and all that follows through "99-658)", and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau"; and

(3) in paragraph (33) of section 521, by striking "and Palau" and all that follows through the end of the paragraph, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.".

SEC. ___. TECHNICAL AMENDMENT TO THE SECOND MORRILL ACT.

Section 5 the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) (commonly known as the "Second Morrill Act") is amended by striking "and the Trust Territory of the Pacific Islands or its successor governments" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau".

SEC. ___. DEFINITIONS FOR PART A OF TITLE III.

Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended—

(1) in paragraph (1) of subsection (b)—

(A) in subparagraph (D), by striking "and" after the semicolon; and

(B) by adding after subparagraph (E) the following new subparagraph:

"(F) located in a State; and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) STATE.—For the purpose of this part the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.".

SEC. ___. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G of the Higher Education Act of 1965 (20 U.S.C. 1070a-27) is amended by striking the second sentence thereof.

SEC. ___. LENDER-OF-LAST-RESORT PROGRAMS.

(a) AMENDMENT.—Paragraph (1) of subsection (c) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on August 10, 1993.

SEC. ___. FEDERAL CONSOLIDATION LOANS.

Paragraph (4) of section 428C(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-3(a)(4)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) made under subpart II of part B of title VIII of the Public Health Service Act.".

SEC. ___. FACILITIES AUTHORITY OF THE STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended—

(1) in subparagraph (C) of subsection (d)(1)—

(A) in the matter preceding clause (i), by inserting "(including related equipment, instrumentation, and furnishings)" after "materials";

(B) in clause (ii), by striking the semicolon and inserting ", athletic facilities, dining halls, and student unions; and";

(C) in clause (iii), by striking "and" after the semicolon;

(D) in the matter following clause (iv)—

(i) by striking "15 percent" and inserting "30 percent"; and

(ii) by striking "type" and inserting "types"; and

(E) by striking clause (iv); and

(2) in subsection (n), by striking "a report of its operations and activities during each year" and inserting "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year".

SEC. ___. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 481 the following new section:

"SEC. 481A. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

"Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on July 1, 1994.

SEC. ___. ELIGIBILITY FOR STUDENTS FROM PALAU.

Subsection (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(j)) is amended to read as follows:

"(j) ASSISTANCE UNDER SUBPARTS 1, 2, 3, 4, AND 6 OF PART A AND PART C.—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 2, 3, 4, and 6 of part A, and part C, of this title, if the student—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.".

SEC. ___. FEDERAL INSURANCE FOR BONDS.

Subsection (b) of section 723 of the Higher Education Act of 1965 (20 U.S.C. 1132-c(b)) is amended—

(1) in paragraph (8)—

(A) in clause (i), by striking "and" after the semicolon;

(B) by amending clause (ii) to read as follows:

"(ii) shall be maintained in an amount not less than 10 percent of the outstanding principal of all loans under this part, with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part; and"; and

(C) by adding at the end the following new clause:

"(iii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;"; and

(2) in paragraph (11), by striking "regulations" and inserting "conditions".

SEC. ___. DEFINITION OF ECONOMIC HARDSHIP.

Paragraph (1) of section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "or" after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) such borrower does not have disposable income that is more than four times the amount specified in subparagraph (A) for a borrower who is working full-time and such borrower's Federal educational debt burden equals or exceeds 20 percent of such borrower's disposable income; or"; and

(4) in paragraph (2), by striking "(1)(B)" and inserting "(1)(C)".

SEC. ___. AUTHORITY TO AWARD NEED-BASED AID.

Section 1544 of the Higher Education Amendments of 1992 (20 U.S.C. 1088, note) is amended to read as follows:

"SEC. 1544. AUTHORITY TO AWARD NEED-BASED AID.

"(a) EFFECT ON PENDING CASES PROHIBITED.—Nothing in this section shall in any way be construed to affect any antitrust litigation pending on the date of enactment of this Act.

"(b) IN GENERAL.—Except as provided in subsection (c), an institution of higher education that practice need-blind admissions may—

"(1) voluntarily agree with any other institution or institutions of higher education to award financial aid not awarded under the Higher Education Act of 1965 to students attending those institutions only on the basis of demonstrated financial need for such aid;

"(2) jointly discuss and voluntarily agree upon principles of need analysis for determining student financial need for aid not awarded under the Higher Education Act of 1965, provided that individual financial aid officers may exercise professional judgment with regard to individual applicants for financial aid;

"(3) use common aid application forms for aid not awarded under the Higher Education Act of 1965, provided that each such institution of higher education shall be free to request and use additional or different data from such institution's applicants; and

"(4) exchange through an independent third-party data on commonly admitted applicants regarding family and student assets, income, allowances against assets and income, number of family members, and the number of siblings in college, provided that each participating institution may retrieve such data only once for each commonly admitted applicant.

"(c) EXCEPTION.—Institutions of higher education shall not discuss or agree with each other on the prospective financial aid award to a specific applicant for financial aid.

"(d) RELATIONSHIP TO HIGHER EDUCATION ACT.—Nothing in this section shall be construed to affect the rights or obligations of an institution of higher education under sections 479A and 483.

"(e) RELATED MATTER.—No inference of unlawful conduct, combination or conspiracy shall be drawn from the fact that an institution of higher education engages in conduct authorized by this section.

"(f) DEFINITION.—For the purpose of this section the term 'institution of higher education that practices need-blind admissions' means an institution of higher education that admits as full-time students all United States citizens or aliens lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act) to the undergraduate programs of such institution without regard to family financial circumstances, other than such citizens or aliens admitted from a waiting list.

"(g) SUNSET PROVISION.—This section shall expire on September 30, 1999.

SEC. ___. DEFERMENT ELIGIBILITY.

Subsection (f) of section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended by adding at the end the following new paragraphs:

"(2) DEFINITION OF BORROWER.—For the purpose of this paragraph, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

"(3) DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of Title IV of the Act prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992.".

At the end of the bill, insert the following new title:

TITLE —1994 INSTITUTIONS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Equity in Educational Land-Grant Status Act of 1994".

SEC. ___02. DEFINITION.

As used in this title, the term "1994 Institutions" means any one of the following colleges:

(1) Bay Mills Community College.

(2) Blackfeet Community College.

(3) Cheyenne River Community College.

(4) D-Q University.

(5) Dullknife Memorial College.

(6) Fond Du Lac Community College.

(7) Fort Belknap Community College.

(8) Fort Berthold Community College.

(9) Fort Peck Community College.

(10) LacCourte Orielles Ojibwa Community College.

(11) Little Big Horn Community College.

(12) Little Hoop Community College.

(13) Nebraska Indian Community College.

(14) Northwest Indian College.

(15) Oglala Lakota College.

(16) Salish Kootenai College.

(17) Sinte Gleska University.

(18) Sisseton Wahpeton Community College.

(19) Standing Rock College.

(20) Stonechild Community College.

(21) Turtle Mountain Community College.

(22) Navajo Community College.

(23) United Tribes Technical College.

(24) Southwest Indian Polytechnic Institute.

(25) Institute of American Indian and Alaska Native Culture and Arts Development.

(26) Crownpoint Institute of Technology.

(27) Haskell Indian Junior College.

(28) Leech Lake Tribal College.

(29) College of the Menominee Nation.

SEC. ___03. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

(a) IN GENERAL.—

(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.).

(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act (as added by section ___04(b)(1) of this title); or

(iii) the Act of August 3, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322 et seq.).

(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862, relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 1996 through 2000, there are authorized to be appropriated $4,600,000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

(c) ENDOWMENT.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (referred to in this subsection as the "endowment fund"). The Secretary may enter into such agreements as are necessary to carry out this subsection.

(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

(A) amounts made available by appropriations pursuant to subsection (b) (referred to in this subsection as the "endowment fund corpus"); and

(B) interest earned on the endowment fund corpus.

(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2397h(3)) for each Institution for the fiscal year.

(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

SEC. ___04. APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

(A) $50,000; multiplied by

(B) the number of 1994 Institutions.

(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

(B) the number of 1994 Institutions.

(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322 et seq.), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

(b) FUNDING.—Section 3 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section ___02 of the Equity in Educational Land-Grant Status Act of 1994), $5,000,000 for the purposes set forth in section 2. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3).".

SEC. ___05. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) DEFINITIONS.—As used in this section:

(1) FEDERAL SHARE.—The term "Federal share" means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

(2) NON-FEDERAL SHARE.—The term "non-Federal share" means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) IN GENERAL.—

(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct research more effectively in agriculture and sciences.

(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made on the condition that the recipient of the grant pay a non-Federal share in an amount specified by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, $1,700,000 for each of fiscal years 1996 through 2000.

At the end of Title IV, insert the following:

"RATE OF PAY FOR THE DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH"

"SEC. . Notwithstanding section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)), the Secretary of Education is authorized to compensate anyone appointed during calendar year 1994 to be the Deputy Director of the National Institute on Disability and Rehabilitation Research at the rate of pay for level 5 of the Senior Executive Service Schedule."

Amendment No. 2421 is modified as follows:

(T) demonstrations that are designed to test whether prenatal education and counseling provided to pregnant students could have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care; the value of sound diet and nutrition habits; and the harmful effects of smoking, alcohol and substance abuse on fetal development.

At the appropriate place, insert the following new section:

SEC. ___. FAMILY SUPPORT CENTER PROGRAM.

(a) ADMINISTRATIVE PROVISIONS.—Section 772(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11482(f)) is amended—

(1) in paragraph (1), to read as follows:

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such program and to provide technical assistance to entities for the development and submission of applications for grants under this section.";

(2) in paragraph (3), by striking "2 years" and inserting "3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(4) MINIMUM AMOUNT.—No grant made under subsection (a) may be less than $200,000 per year.".

(b) REPORT.—Section 777 of such Act (42 U.S.C. 11487) is amended by striking "1992" and inserting "1995".

(c) AUTHORIZATION FOR APPROPRIATIONS.—Section 779 of such Act (42 U.S.C. 11489) is amended by striking "for fiscal year 1993" and inserting "for each of the fiscal years 1993 through 1998".

(d) TECHNICAL AMENDMENT.—Section 774(a) of such Act (42 U.S.C. 11484(a)) is amended by striking "subsection (e)" and inserting "subsection (d)".

At the end of part D of title III, insert the following:

SEC. ___. THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.

Subsection (c) of section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000"; and

(2) in the second sentence of paragraph (2)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000".

On page 1358, between lines 9 and 10, insert the following:

SEC. 402. CRIMINAL HISTORY INVESTIGATIONS OF SCHOOL BUS DRIVERS.

(a) REQUIREMENT FOR INVESTIGATIONS.—(1) Notwithstanding any other provision of law, a local educational agency may not employ a person as a driver of a school bus of or on behalf of the agency until the agency conducts a background check under procedures that meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (Public Law 103-209; 107 Stat. 2491; 42 U.S.C. 5119a(b)).

(2) Subject to paragraph (3), the prohibition set forth in paragraph (1) shall take effect on the date of the enactment of this Act.

(b) INTERIM REQUIREMENT.—Prior to the establishment of the procedures referred to in subsection (a)(1), or a State's participation in the procedures referred to in subsection (a)(1), local educational agencies shall conduct a fingerprint based check through the criminal history files maintained by the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

(c) DEFINITION.—In this section, the term "local educational agency" has the meaning given such term in section 10101 of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act.

"S. 1513 as reported is amended as follows—

Section 1602(a)(1) is amended by striking "and" at the end of line 19, by adding "and" to the end of line 23, and by adding the following new paragraph (G)—

"(G) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in core academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other competencies in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities."

Page 1038, line 18, strike "(A) The amount" and insert "(A)(i) The amount".

Page 1038, after line 25, insert the following new clause:

"(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

"(I) the operation of a domestic dependent elementary or secondary school; or

"(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

On page 650, between lines 3 and 4, insert the following:

"PART H—EDUCATIONAL OPPORTUNITY DEMONSTRATION PROGRAM

"SEC. 1801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) while low-income students have made significant gains with respect to educational achievement and attainment, considerable gaps still persist for these students in comparison to those from more affluent socioeconomic backgrounds;

"(2) our Nation has a compelling interest in assuring that all children receive a high quality education;

"(3) new methods and experiments to revitalize educational achievement and opportunities of low-income individuals must be a part of any comprehensive solution to the problems in our Nation's educational system;

"(4) preliminary research shows that same gender classes and schools may produce promising academic and behavioral improvements in both sexes for low-income, educationally disadvantaged students;

"(5) extensive data on same gender classes and schools are needed to determine whether same gender classes and schools are closely tailored to achieving the compelling government interest in assuring that all children are educated to the best of their ability;

"(6) in recent years efforts to experiment with same gender classes and schools have been inhibited by lawsuits and threats of lawsuits by private groups as well as governmental entities; and

"(7) there is a compelling government interest in granting the Secretary authority to insulate a limited number of local educational agencies and schools which are experimenting with same gender classes for a limited period of time from certain law suits under title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), or any other law prohibiting discrimination on the basis of sex, in order to collect data on the effectiveness of such classes in educating children from low-income, educationally disadvantaged backgrounds.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to give the Secretary discretion to allow experimentation with same gender classes for low-income, educationally disadvantaged students;

"(2) to determine whether same gender classes make a difference in the educational achievement and opportunities of low-income, educationally disadvantaged individuals; and

"(3) to involve parents in the educational options and choices of their children.

"SEC. 1802. DEFINITIONS.

"As used in this part—

"(1) the term 'educational opportunity school' means a public elementary, middle, or secondary school, or a consortium of such schools all of which receive funds under this title, that—

"(A) establishes a plan for voluntary, same gender classes at one or more than one school in the community;

"(B) provides same gender classes for both boys and girls, as well as a co-educational option for any parent that chooses that option;

"(C) gives parents the option of choosing to send their child to a same gender class or to a co-educational class;

"(D) admits students on the basis of a lottery, if more students apply for admission to the same gender classes than can be accommodated;

"(E) has a program in which a member of the community is asked to volunteer such member's time in classes of children of the same gender as the member; and

"(F) operates in pursuit of improving achievement among all children based on a specific set of educational objectives determined by the local educational agency applying for a grant under this part, in conjunction with the educational opportunity advisory board established under section 1803(e) and agreed to by the Secretary; and

"(2) the term 'educational opportunity advisory board' means an advisory board established in accordance with section 1803(e).

"SEC. 1803. PROGRAM AUTHORIZED.

The Secretary may grant waivers to ten local education agencies for the design and operation of one or more educational opportunity schools.

"(a) INAPPLICABILITY.—Title IX of the Education Amendments of 1972, section 204 of the Education Amendments of 1974, section 1979 of the Revised Statutes (42 U.S.C. 1983), and any other law prohibiting discrimination on the basis of sex, shall not apply to a local educational agency or an educational opportunity school for a five year period following the Secretary's grant of the waiver only to the extent the Secretary determines necessary to ensure the development and operation of same gender classes in accordance with this part.

"(b) EDUCATIONAL OPPORTUNITY ADVISORY BOARD.—Each local educational agency receiving a waiver under this part shall establish an educational opportunity advisory board. Such advisory board shall be composed of school administrators, parents, teachers, local government officials and volunteers involved with an educational opportunity school. Such advisory board shall assist the local educational agency in developing the application for assistance under section 1804 and serve as an advisory board in the functioning of the educational opportunity school.

"SEC. 1804. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each local educational agency desiring a waiver under this part shall submit, within 180 days of the date of enactment of the Improving America's Schools Act of 1994, an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) SCOPE OF APPLICATION.—Each application described in subsection (a) may request a waiver for a single educational opportunity school or for a consortium of such schools.

"(c) APPLICATION CONTENTS.—Each application described in subsection (a) shall include—

"(1) a description of the educational program to be implemented by the proposed educational opportunity school, including—

"(A) the grade levels or ages of children to be served; and

"(B) the curriculum and instructional practices to be used;

"(2) a description of the objectives of the local educational agency and a description of how such agency intends to monitor and study the progress of children participating in the educational opportunity school;

"(3) a description of how the local educational agency intends to include in the educational opportunity school administrators, teaching personnel, and role models from the private sector;

"(4) a description of how school administrators, parents, teachers, local government and volunteers will be involved in the design and implementation of the educational opportunity school;

"(5) a description of how the local educational agency or the State, as appropriate, will provide for continued operation of the educational opportunity school once the Federal waiver has expired, if such agency determines that such school is successful;

"(6) a justification for the waiver or inapplicability of any Federal statutory or regulatory requirements that the local educational agency believes are necessary for the successful operation of the educational opportunity school and a description of any State or local statutory or regulatory requirements, that will be waived for, or will not apply to, the educational opportunity school, if necessary;

"(7) a description of how students in attendance at the educational opportunity school, or in the community, will be—

"(A) informed about such school; and

"(B) informed about the fact that admission to same gender classes is completely voluntary;

"(8) an assurance that the local educational agency will annually provide the Secretary such information as the Secretary may require to determine if the educational opportunity school is making satisfactory progress toward achieving the objectives described in paragraph (2);

"(9) an assurance that the local educational agency will cooperate with the Secretary in evaluating the program authorized by this part;

"(10) assurances that resources shall be used equally for same gender classes for boys and for girls;

"(11) assurances that the activities assisted under this part will not have an adverse affect, on either sex, that is caused by—

"(A) the distribution of teachers between same gender classes for boys and for girls;

"(B) the quality of facilities for boys and for girls;

"(C) the nature of the curriculum for boys and for girls;

"(D) program activities for boys and for girls; and

"(E) instruction for boys and for girls; and

Page 605, lines 3-4, strike "a second subgrant period" and insert "for additional subgrants, a subgrantee may receive funds under this part for a period not to exceed eight years."

Title X:

Page 1128, line 13, strike "and 2115".

On page 1133, line 13, insert ", including interactive forms of such products and services," after "tapes,".

On page 8, line 16, of the committee modification, strike "640" and insert "650".

On page 1042, line 11 insert:

(f) Special rule.

Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary of Education shall treat the local educational agency serving the Wheatland R–II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (20 U.S.C. 237(a)(1)(C)) or section 9003(a)(1)(C) of the Elementary and Secondary Education Act of 1965.

On page 1073, line 8 insert:

(d) Special rule.

In carrying out section 14(c) of the Act of September 23, 1950 (Public Law 815, 81st Congress) (20 U.S.C. 644(c)) or any successor authority, the Secretary of Education shall waive any amount of local effort in excess of $200,000 that would otherwise be required under paragraphs (3) and (4) of such section, or any successor authority, respectively, and any regulations issued thereunder, in awarding funds to the Winona R–III School District, Missouri, with respect to its application #MO–86–C–3601A36.

VETERANS AFFAIRS-HUD APPROPRIATIONS ACT FOR FISCAL YEAR 1995

BUMPERS (AND OTHERS) AMENDMENT NO. 2444

Mr. BUMPERS (for himself, Mr. WARNER, Mr. COHEN, Mr. BAUCUS, Mr. KERRY, Mr. SIMON, Mr. BRYAN, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DECONCINI, Mr. CHAFEE, and Mr. WOFFORD) proposed an amendment to the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes; as follows:

Strike the figure on line 6 on page 70 and insert in lieu thereof the following: "$3,634,200,000, to remain available until September 30, 1996. Provided, that of the funds provided under this heading, no funds shall be expended on the space station program, except for termination costs."

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Jose Amador of Texas to be Assistant Secretary of Agriculture for Science and Education and Roger Viadero of Virginia to be the Inspector General for the Department of Agriculture. The hearing will be held on Friday, August 5, 1994 at 8:30 a.m. in SR–332. Senator TOM DASCHLE will preside.

For further information contact Christine Sarcone at 42035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, August 2, 1994, at 11:45 a.m. in executive session, to discuss matters related to the conference with the House on the Fiscal Year 1995 National Defense Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, August 2, beginning at 9:30 a.m. to conduct a hearing pursuant to Senate Resolution 229.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, August 2, 1994 at 10:00 a.m., to continue considering its recommendations for legislation to implement the Uruguay round of Multilateral Trade Negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, August 2, 1994, at 10 a.m. for a markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Tuesday, August 2, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 2, 1994, at 4 p.m. to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., August 2, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE NATIONAL ASSOCIATION OF TOWN WATCH'S 11TH ANNUAL NATIONAL NIGHT OUT

• Mr. WOFFORD. Mr. President, today, I want to call attention to a citizen effort to fight crime.

This evening the National Association of Town Watch will sponsor the 11th Annual National Night Out. This is a night for communities to take up the mantle of active duty citizenship, a night in which thousands of Americans will come together to say that they have had enough of crime and they want to work in cooperation with local law enforcement to restore civility to their communities.

It is significant that this day arises in the week in which we in the Senate move an important step closer to final passage of the largest anticrime legislation ever. By placing more police on the streets, building more prisons, investing in crime prevention programs, and requiring stiffer sentences for violent, repeat offenders, our crime bill represents a smart and tough attack on crime.

The theme of the National Night Out—mobilizing neighbors in the fight against crime—is more important than ever before. As I have traveled throughout Pennsylvania, I have heard from many people whose lives have been indelibly marked by crime. We have lost too many lives and too many communities to crime. And we—citizens, law enforcement, and other public officials—must work together to restore a sense of safety to our streets and neighborhoods.

My legislation, the citizens police academy bill, will encourage communities to work more cooperatively with local law enforcement in fighting crime. This bill, which has been incorporated into the crime bill, will provide important funding and institutional framework for community watch groups to access the training, information and know-how of law enforcement through citizens police academy programs. My legislation represents an important opportunity to expand efforts like those of the National Association of Town Watch and crime watch groups across the Nation.

I salute the National Association of Town Watch and its 11th Annual National Night Out and I am proud to join my distinguished colleague from Michigan, Senator RIEGLE, as a cosponsor of Senate Joint Resolution 212, which designates today, August 2, 1994, as "National Neighborhood Crime Watch Day."•

THE F–22 TEST PLAN

• Mr. D'AMATO. Mr. President, Senators DECONCINI, MACK, and I recently wrote Air Force Secretary Widnall raising serious questions over the fact that the F–22 test and evaluation master plan [TEMP] by-passes the real-time electromagnetic digitally controlled analyzer and processor [REDCAP] and Air Force electronic warfare evaluation simulator [AFEWES] facilities. As a result, no electronic combat [EC] effectiveness testing confirming whether the F–22's combination of stealth, speed, and integrated avionics actually exploit and degrade air defenses, improve mission effectiveness, and increase survivability will be conducted prior to production. And, as recent events have shown, it is extremely difficult to kill a system, no matter how deeply flawed, once it is in production.

The response by the Air Force, while swift, was very disappointing.

AFEWES, according to the Air Force, will be included in the F–22 test plan "contingent on completion and validation of planned upgrades to existing capabilities." In fact, the Air Force has taken steps to cripple modernization at AFEWES. It has not escaped our notice that fiscal year 1994 AFEWES funds are being reprogrammed, that the facility was nickel and dimed in the fiscal year 1995 request, and that no provision has been made to budget for a real-time data link or a phase control for the RF environment generator, upgrades that are vital if proper testing of the F–22 is contemplated.

As for REDCAP, it will be used in "validating [radar cross section] RCS modeling and simulation of the F–22 enemy integrated Air Defense System [IADS] penetration capabilities." There is no doubt that this test should be done, and that it can be done at REDCAP. But RCS work is a sop. Our concern focused on the lack of appropriate testing to confirm that the F–22's combination of stealth, speed, and sophisticated electronics will allow it to maintain the superior situational awareness against enemy IADS necessary to achieve the first-look, first-shot, first-kill capability for which we are paying such an enormous cost. The RCS testing proposed by the Air Force will only address a single aspect of F–22 effectiveness.

The bottom line is that the Air Force has no intention of seriously testing prior to production a pioneering fourth generation stealth aircraft with supercruise capability and an integrated avionics package driven by 1.4 million lines of software code. We have been down this road before with the Air Force, and we will not be fooled again.

I ask that the letter from Robert Stuart, Air Force Deputy for Budget, be printed in the RECORD.

The letter follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, July 27, 1994.

Hon. AL D'AMATO,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: In response to your July 13, 1994 letter, the Air Force has reviewed the electronic warfare test concepts planned for the F–22 program. We have taken this action to eliminate any perception the Air Force is intentionally bypassing test facilities with the ability to accurately assess the F–22's inherent capabilities to exploit or degrade enemy air defenses. We are committed to full testing of F–22 electronic warfare effectiveness.

The Air Force has planned an extensive, robust F–22 test program and continuously reviews test facility capabilities. In fact, one of the greatest F–22 test planning challenges is identifying facilities capable of fully testing the aircraft. We recognize the importance of Hardware-in-the-Loop (HITL) facilities for electronic warfare testing. In fact, the current test program includes HITL testing at four DoD facilities that meet particular F–22 test requirements. Additionally, the Air Force is planning to use the Air Force Electronic Warfare Evaluation Simulator (AFEWES) facility contingent on completion and validation of planned upgrades to existing capabilities. Development testing of F–22 integrated avionics is not limited to ground testing. A Boeing 757 Flying Test Bed will conduct development flight testing on the integrated avionics.

While the Real-time Electromagnetic Digitally Controlled Analyzer & Processor (REDCAP) is not presently capable of fully testing the F–22's systems, the Air Force has determined that it will provide an early, incremental benefit by validating RCS modeling and simulation of the F–22 enemy Integrated Air Defense Systems penetration capabilities. This test will be incorporated in the F–22 program.

The F–22 test program, as documented in the Test Evaluation Master Plan (TEMP), continues to evolve as test requirements and facility changes occur over the course of the program. The next revision of the TEMP is scheduled for the Spring of 1995.

I trust this letter has resolved your concerns regarding the F–22 test program. We will continue to review DoD test facility capabilities and adjust the F–22 test effort to ensure cost effective, robust RCS and system effectiveness testing.

Sincerely,
ROBERT D. STUART,
Deputy for Budget.●

THE WASHINGTON POST'S EXAMINATION OF SUB-SAHARAN AFRICA

● Mr. SIMON. Mr. President, for several years, I have publicly lamented about the lack of a strong constituency for Africa in the United States.

Just 10 days ago in an interview with National Public Radio, I suggested that if every Member of the House and Senate had received 100 letters from people back home saying we had to do something about Rwanda, when the crisis was first developing then the response would have been different.

Whether you ask me about what it was like to rally support for United States aid to Somalia before the pictures of the hundreds of thousands of starving men, women, and children reached the front pages of our newspapers and our living rooms through television, or getting involved in the conflicts in Liberia or Angola or the Sudan or many other African states, it has nearly always been a struggle to captivate the eye of America. The news media has not reported as much about the tribulations that face African peoples as much as the conflict in Bosnia or the Middle East.

I am pleased to rise today and commend the Washington Post for their efforts to change this course. Their continuing series "Continental Drift," has been exceptional. The editors of the Washington Post have noted that with the end of the cold war, sub-Saharan Africa ceased to be the prize for which the East and West had vied over decades. In the 1990's, sub-Saharan Africa's 45 governments have been trying to make their way in a changing world, grappling with new political and economic systems that are often at odds with centuries-old traditions and decades-old practices. This series, which has run occasionally over the last few months, focuses on the continent of Africa, with its successes and failures and their causes.

I understand that future stories will examine environmental degradation, economics, health, religion, population growth, and Africa's role in the world.

Mr. President, in case my colleagues have missed this substantial effort, I ask unanimous consent that the series published to date be printed in its entirety in the CONGRESSIONAL RECORD.

If all news organizations would make as strong a commitment we could alleviate many future crises before they start.

The articles follow:

[From the Washington Post]

MOZAMBIQUE AT PEACE AS ANGOLA FIGHTS ON; EX-PORTUGUESE COLONIES TAKE DIFFERENT ROADS

(By Paul Taylor)

MAPUTO, MOZAMBIQUE.—For centuries, former Portuguese colonies Mozambique and Angola have stood like bookends along the southern base of Africa, sharing a hauntingly similar history, especially over the course of the past generation. But today, one is at war and the other is at peace.

The most compelling explanation is also the most ironic: Mozambique is too poor to keep fighting.

"We don't have Angola's oil and diamonds, so there's no way we can sustain a civil war here without outside help," said Carlos Cardoso, an independent publisher in the capital of what is generally regarded as the world's poorest country.

There's another "advantage" that Mozambique enjoys: the cautionary tale of Angola. Both countries won their independence from Portugal in 1975, both immediately became Marxist states, and both were plunged into civil wars financed by outsiders. But Mozambicans did not sign a peace accord until October 1992, nearly two years after Angolans did—and just as Angola's fragile peace was falling apart. It has left a deep impression.

"Angola is everyone's negative point of reference here," said Aldo Ajello, head of the U.N. Operation in Mozambique.

To avoid another peacekeeping fiasco, the United Nations sent some 7,000 troops here, compared with the 400 it had assigned to oversee military demobilization in Angola.

Everyone now agrees the 400 figure was a bad misjudgment—one that made it too easy for Jonas Savimbi, leader of Angola's UNITA rebels, to flout the demobilization deadlines and keep his best men and materiel hidden away in the bush, so they were ready to return to war when Angola's first democratic election did not go his way.

Not everyone is convinced, however, that a larger peacekeeping force in Angola could have changed the dynamics that much. "If you need 7,000 troops in Mozambique, you probably needed 50,000 in Angola, and you still might not have been able to control the situation," said Philip Clarke, director of the U.N. World Food Program in Mozambique, who held the same job in Angola. "There's not the same hatreds here as in Angola. There, you have a few big tribes with a history of animosity. Here there are 19 different tribes, and they tend to blend into one another."

Even with the larger peacekeeping force here, many of the demobilization deadlines have been missed, just as in Angola, and the new joint army is likely to be just a skeleton force, as it was in Angola.

But Ajello, while frustrated by the delays, doubts that Mozambique's election, set for Oct. 27–28, will lead to a resumption in hostilities, as it did in Angola. Even though the formal demobilization process has gone slowly, the war-weary soldiers of both sides have made it clear—with riots and mutinies at their assembly areas—that they are fed up with their generals and want to grab their demobilization pay and go back to their villages.

"Whoever says, 'We'll go back to war if we don't like the result,' will get laughed at," said Cardoso, "because everyone knows nobody has an army."

Then there's the personality factor, which also seems to be running in Mozambique's favor. Savimbi's opposite number here, rebel leader Afonso Dhlakama of the Mozambique National Resistance, is 42—18 years younger than Savimbi—and seems to understand that even if he loses the coming election, he has a bright future as an opposition political leader.

In the 1980s, when Savimbi and Dhlakama were the two highest-profile anti-communist guerrilla leaders in Africa, Savimbi won the hearts of conservative groups in Europe and the United States, who hailed him as a true democrat. But Dhlakama was rebuffed because his faction was so closely identified with the apartheid regime in South Africa and with brutality against civilians.

Now Savimbi has lost his old friends in the West, while Dhlakama is making new ones among diplomats who have taken not of his generally good record so far in adhering to the peace process.

Dhlakama's commitment to democracy will not really be tested until the returns come in from the October election. But if, like Savimbi, he loses and wants to fight back, it is unlikely he will have any troops to go along with him.

With Mischievous Outsiders Gone, Angola Creates Its Own Suffering; Devastating Civil War Follows Years as Colony and Cold War Pawn

(By Paul Taylor)

DONDO, ANGOLA.—Antonio dos Anjos, a 15-month-old war victim, has sunken eyes, twig-like limbs and a case of cholera that will not kill me, thanks to the kindness of strangers.

His doctor is a Nigerian, his nurse a Minnesotan. An Australian is the supply officer at the therapeutic feeding center at Antonio's displaced persons camp; a Norwegian is the water engineer.

They are part of an international relief effort that has kept Angola from becoming another of this decade's humanitarian catastrophes, on the order of Somalia, Rwanda or Bosnia.

Unfortunately, the kindness of strangers has not rescued Angola from itself. A mineral-rich southwest African nation of 11.2 million, Angola is home to one of Africa's most intractable post-colonial civil wars, now approaching its 20th year and well past the half-million mark in deaths.

Nor have strangers always come in kindness. Over the span of just two decades, this country has been a Portuguese colony, a Soviet client state, a superpower battleground, a failed object of New World Order democracy initiatives and a starving recipient of First World food aid.

It hardly seems to matter anymore if the outsiders come for mischievous purposes or noble ones. Either way, Angolans keep suffering and dying. "If you want to make a case that the industrialized world still doesn't understand how to deal with Africa, Angola is a pretty good example," a Western diplomat said.

In a sense, Angola is the whole post-colonial African tragedy writ small. While most of the rest of the planet moves toward democracy and free markets, this nation is stuck in its own hellish orbit, with a dysfunctional command economy and a civil war fueled by the momentum of greed and power.

It seems beside the point to argue who is most to blame. There is more than enough to spread around—from the Portuguese colonizers who never prepared Angola for independence, to the superpowers who treated it like a plaything, to the Angolan combatants themselves, who have never found the courage or will to make peace.

The war could well get deadlier. Last month, just as U.N.-sponsored peace talks showed glimmers of progress, fighting intensified throughout the country. The formerly Marxist government of President Jose Eduardo dos Santos has launched a major offensive, bombing rebel-controlled areas in the central highlands and the north. The rebel movement, the National Union for the Total Independence of Angola, known as UNITA and led by Jonas Savimbi, is using artillery to pound government-held cities, including one, Cuito, heavily populated by its own supporters.

The flare-up forced curtailment of what for the previous six months had been the U.N. World Food Program's largest airlift. If the relief flights cannot resume soon, up to 2 million Angolans dependent on food aid face the prospect of a war-induced famine. The state-run Angolan News Agency reported last weekend that people in Cuito are eating mice and plant roots to stay alive.

Because Angola's calamity has been spread over two decades, it has rarely found its way onto the world's front pages or television screens. But the cumulative death toll of more than 500,000 here rivals that of any of today's higher-profile tragedies.

It is a disaster for which the United States, Russia and other outsiders clearly bear responsibility. While they come now as relief workers and would-be peacemakers, in the 1970s and 1980s they came with arms, armies and ambitions, making Angola a pawn in the Cold War. The United States armed and supported UNITA, which was also helped by an invasion force from white-ruled South Africa. Moscow backed the Marxist government and enlisted Cuban troops to prop it up.

Since the start of the post-Cold War 1990s, the United States, Russia, Portugal and the United Nations have all tried to coax the combatants here toward a political power-sharing arrangement similar to the one that brought South Africa through its transition from white-minority rule to democracy. Yet they have discovered that formulas imposed by outsiders are ineffective if the parties themselves do not trust one another.

At various stages since 1975, the war here has been waged under the banner of ideology, ethnicity or class animosity. Nowadays, stripped of outside patrons, it seems mainly about power, money and ego.

Since fighting resumed in late 1992, the war has taken an estimated 200,000 lives, on top of 350,000 from 1975 to 1990. Most of the casualties have been civilians. Angola has some 100,000 amputees, possibly the highest number per capita in the world, and an estimated 10 million unexploded land mines.

Despite a nine-month round of U.N.-supervised peace talks in neighboring Zambia that, on paper, has brought the parties close to an agreement on a cease-fire, demobilization and political power-sharing, diplomats here say the conflict's dynamics still tilt toward war, not peace.

For one thing, the dos Santos government appears to have the advantage militarily, and its generals seem determined to cripple UNITA before agreeing to any cease-fire.

Also, the combatants already made peace once, under the prodding of the United States, Portugal and the Soviet Union, only to have the war resume when Savimbi claimed that the U.N.-certified 1992 election he lost had been stolen. Peace will likely prove more elusive the second time around.

But perhaps the most intractable problem is that while most Angolans are impoverished, Angola holds enough mineral wealth to fuel both parties' war machines indefinitely, and there is a deadly equilibrium in the way the spoils are divided.

The government draws revenue from offshore oil wells that produce 550,000 barrels a day, according to official Angolan estimates. UNITA draws at least $100 million a year—perhaps much more—from diamonds it extracts from mines in northeastern Angola, according to a calculation by trade specialists in South Africa. UNITA representatives smuggle the diamonds to Zaire and sell them through middlemen to De Beers, the South African diamond giant.

"This war is between Angola's two main tribes: oil and diamonds," said one disillusioned relief worker.

This all raises a knotty question about humanitarian assistance. By feeding Angola's poor victims, is the world also indirectly fueling its wealthy warriors? According to the United Nations, the government spends 2 percent of its budget on education and 2 percent on health. Nearly all the rest goes for bombs and land mines that create more business for relief workers.

"In a sense, we are blackmailed," said Mike McDonagh, head of Concern, an Ireland-based relief agency. "If we weren't here, there would be a massive famine. But by coming, we may be making it easier for the war to go on."

Manuela Aranda da Silva, the U.N. coordinator for humanitarian aid in Angola, said, "We have prevented a catastrophe here." He noted that about a thousand Angolans a day were dying of starvation and war-related diseases before the U.N. relief effort geared up late last year, aided by about 50 nongovernmental organizations.

In theory, by providing more than $150 million in food aid this year, the United Nations has acquired a lever to nudge the combatants toward peace. In practice, however, the combatants more often use the aid as a club, refusing military clearance for relief flights whenever they want to punish or pressure the other side. "Neither side seems to give a damn about Angolans," said one relief worker. "You can get pretty cynical here pretty fast."

This week, 11 of the humanitarian organizations working in Angola appealed to dos Santos and Savimbi to stop the killing, respect the neutrality of the relief effort and "reflect on the appalling moral consequences of the current course of events."

But critics say U.N. hands are not entirely clean either. In 1991-92, the United Nations tried to supervise the peace process with 400 unarmed military advisers—"an inadequate force," officials now acknowledge. Both sides failed to demobilize their forces fully, and the United Nations lacked the clout to respond. When Savimbi took issue with the election results, the core of his army was ready to fight again.

If there is a new peace agreement, the United Nations says, it will take at least 5,000 troops to supervise it. But few countries are likely to send troops until the two sides show a commitment to demobilization. And neither side is prepared to disarm until U.N. troops arrive to protect them against an enemy they will never trust.

To break the logjam in peace talks, Alioune Blondin Beye, the U.N. special representative to Angola, has recruited South African President Nelson Mandela as a mediator. Mandela held regional peace talks this month in Pretoria with the presidents of Angola, Zaire and Mozambique and hopes to meet soon with Savimbi, an old foe of Mandela's African National Congress.

Savimbi, 60, a popular figure and gifted general, began in the 1960s as an anti-colonial guerrilla leader influenced by the teachings of Mao Zedong. When a larger rival anti-colonial movement, the Popular Liberation Movement of Angola, known as the MPLA, received support from the Soviet Union, Savimbi cast himself as an anti-communist and sought funding from the CIA, which considered Angola the front line of Soviet expansionism in sub-Saharan Africa.

The MPLA became the government when Portugal pulled out in 1975. American aid to Savimbi stopped soon after but resumed in the Reagan era, during which the United States channeled an estimated $250 million in military aid to UNITA. Military experts estimate the Soviets may have lavished 10 times as much on their clients. The Soviet Union also encouraged Cuba to dispatch troops to Angola to defend the MPLA, while South Africa mounted an invasion to help UNITA uproot the communist government.

Savimbi lost some of his democratic credentials when he was accused by his own supporters of killing high-level dissidents within UNITA. He lost even more when he refused to accept the 1992 election results. His UNITA force is subject to a U.N.-backed embargo that is to be tightened after Sunday if he does not accept the peace proposal worked out in Zambia. UNITA has refused to embrace the peace plan unless it gives the rebels control of the provincial capital of Huambo, a UNITA stronghold.

Savimbi now casts the conflict in ethnic and populist terms. He says it pits his large but poor Ovimbundu tribe of the central highlands against the Mbundu and other relative economic elites who live along the coast. But it is unclear how much ethnicity really matters in this fight. "I talked to the headmistress of a school in Cuito. She lost her husband and six of her seven children when UNITA shelled the city last year, and she lost her seventh child this year," McDonagh said. "And the thing is, she is Ovimbundu and a Savimbi supporter, as are most of the people in Cuito."

The MPLA has killed its own too. Last month a government MiG accidentally bombed a school in the government-controlled town of Waku Kungo, killing 89 children. The aging MiGs fly high to avoid UNITA antiaircraft fire, and their bombs are notoriously scattered. Still, the government's air superiority is one reason it has retaken two of five provincial capitals that UNITA grabbed after the election.

In its current offensive, the government is pushing northward to try to cut off UNITA's access to diamonds and to resupply routes in Zaire.

Meanwhile, displaced persons' camps fill the countryside. In Dondo, 150 miles southeast of Luanda, the World Food Program feeds 83,000 people cut off from their villages and crops by land mines and fighting.

Even with the aid, the camp's therapeutic feeding center loses 15 children a month to malnutrition. A recent cholera outbreak claimed 43 lives in Dondo.

"The thing that gets me is that when the children die, I have yet to see a mother cry," said Karen Easterday, a nurse with World Vision, a relief organization.

"They seem to have lost all hope, and I guess they are afraid to get emotionally involved. I cry, and they wonder why I am crying."

MILITARY RULERS DRAINED NIGERIA, ENRICHED SELVES

(By Steve Coll and Cindy Shiner)

LAGOS, NIGERIA.—During the Cold War, East and West met furtively in the hangars of Makurdi Air Base in central Nigeria, the most populous country in sub-Saharan Africa and a substantial prize in superpower competition for global influence.

Soviet military advisers hovered around two dozen MiG-21 fighter jets supplied by Moscow to Nigeria's long-serving military government.

British advisers watched over 15 Jaguar fighter-bombers sold to balance the Soviet supplies.

Americans ferried supplies for nine C-130 transport planes.

Czechs tended approximately two dozen L-39 jet trainers they had sold.

Italians carried spare parts for eight G-222 aircraft.

"The view as far as the British government and the Americans were concerned was, 'Here we have a large population which has got tremendous potential as a force for stability in West Africa, which could act as a role model for democracy and act as a leader with its oil, minerals and agricultural potential,'" recalled retired British air force wing commander Ken Petrie, who was stationed in Nigeria from 1987 to 1990.

But today Makurdi is a Cold War ghost town and a military shambles, a symbol not only of how Nigeria has lost its strategic interest for the outside world, but of how its military government has failed to take care of the country and even of its own rank and file.

Riddled with corruption, pinched for funds and absorbed by domestic turmoil, the Nigerian military regime now led by Gen. Sani Abacha has largely stopped paying for maintenance of its Cold War-era equipment. The neglect is lethal: In 1992, almost an entire generation of senior Nigerian commanders from the country's military academy—163 people, most of them high-ranking officers—died when their overloaded, poorly maintained C-130 crashed after taking off from Lagos's Murtala Mohammed Airport.

During 24 years of on-again, off-again military rule in Nigeria, "ruling cliques have not seized power on behalf of the military as an institution, but from their own selfish point of view, from greed," said a retired, wealthy Nigerian general, David M. Jemibewon. "If anything, they in fact set out to destroy the institution, because if the military is well equipped, there might be a challenge" to their power.

At a time when militaries are in retreat from politics in many areas of the Third World—from South and Central America to Southeast Asia and the Indian subcontinent—armies in large swaths of sub-Saharan Africa continue to pose a danger not just to democracy and civilian populations, but to themselves.

Overall military spending in sub-Saharan Africa is declining in the aftermath of the Cold War. Some armies loaded up with weapons by outside powers during the Cold War are gradually demobilizing [see accompanying story]. But African armies' crippling impact on politics and development shows little sign of easing, despite a surge of democratic movements in the region.

If military control of government is defined as the absence of credible civilian authority over the army, then about two dozen of sub-Saharan Africa's 45 countries are in such a state today. Some, such as Angola and Sudan, are wracked by devastating wars that claim tens of thousands of lives annually. Others, such as Nigeria and Zaire, are large regional leaders retarded by political repression and economic decline.

The reasons why sub-Saharan African militaries hold such sway when armies elsewhere are moving back to the barracks are many and complex, according to African generals, government officials, defense specialists and democracy activists.

Shrinking economies in the region intensify competition among all interest groups, including militaries, for limited national wealth. State-dominated economic policies encourage African elites, including generals, to believe that the only way to get rich quickly is to get into government. A broad erosion in public institutions enables those with weapons to seize power and enrich themselves.

In oil-endowed Nigeria, the generals have done this in style. Both active and retired, they live in sprawling villas, work in $500-a-night hotel suites, travel frequently to Europe and talk openly with colleagues and diplomats about the homes, apartments, estates and even golf courses they own in Europe and the United States.

"As long as they are in government you have a brand new set of officers coming up who want to taste the spoils of office," said Eluem Emeka Izeze, editor of the African Guardian newspaper. "Their mission is self-preservation."

INSTRUMENT OF ETHNIC STRUGGLE

Equipment rusts and strategic air bases like Makurdi fall into disuse because after the Cold War, and in the absence of credible regional threats, "the military elite recognize quite honestly that the military is irrelevant in any security sense," said Olufemi

Otubanjo, a political scientist at Nigeria's University of Ibadan. "It's only relevant as an instrument of domestic pacification."

But to pacify a typical sub-Saharan African country, an army almost inevitably becomes entangled in the ethnic and tribal conflicts bequeathed by colonial borders.

Thus, Otubanjo added, besides a vehicle for economic and social mobility, "the military in most of Africa tends to be an instrument of ethnic struggle."

In giant Nigeria, in tiny Togo, in Zaire, in Congo, in Liberia, in Sierra Leone and most bloodily of late in Rwanda, fractured armies and militias provide the knife's edge of wider struggles to allocate ethnic and tribal power, as well as material resources, in fragile nation-states.

Liberian rebel Charles Taylor's National Patriotic Front set up its own government in its own capital, ruling over a territory with its own currency. At least six factions vie for control of the country's gold, diamonds, rubber and valuable hardwoods.

This thirst for money, power and ethnic advantage has reached such an exaggerated point in some countries, such as Nigeria, that the military is divided internally among competing, sometimes ethnically based cliques of officers desperate for a piece of the action before they retire.

"In West Africa, it's not so much the military taking over as an institution, but a group of individuals," said L.S. Aminu, a defense specialist at the government-funded Nigerian Institute of International Affairs. "Yes, they come out of the military, but they do not follow military doctrine."

Repetition of this process has produced, among other things, a breakdown in military discipline and a politically volatile schism between greedy senior officers and ambitious lower ranks suffering from neglect. Economic and political strife has prompted three massive looting sprees by Zaire's army in as many years, resulting in hundreds of deaths and the evacuation of at least 15,000 foreigners. Soldiers have now begun demanding their often-delayed monthly salaries in dollars.

As a result of such breakdowns, military intervention in sub-Saharan African politics has become not just horizontal—with a unified army stepping sideways to seize power from civilian politicians—but also vertical, with junior ranks mutinying against senior commanders.

Sierra Leone's head of state, army Capt. Valentine Strasser, who is only 28, seized power in 1992 with a group of junior officers because, while fighting a guerrilla war, the young officers became angered by the lack of medical treatment, food and ammunition available at the front.

The broad complaint many Africans have about this generation of military leaders, young and old, is that they have lost touch with reality.

Nigeria is arguably the most important case in point. With a quarter of Africa's population, a preponderance of the continent's surplus oil and about 100,000 men under arms, the country is both a bellwether of sub-Saharan Africa and a weighty force in regional affairs.

"Having a military regime in Nigeria constitutes a lot of danger for Africa itself," said human rights activist Femi Falana, president of the country's National Association of Democratic Lawyers.

A Nigerian general commands Gambia's small army. About 10,000 Nigerian peacekeepers are stationed in Liberia. Others have served in Somalia and Lebanon. And Nigeria's military has just announced a new program to train Sierra Leone's young army.

A year ago, Nigeria appeared ready to provide a different example. After a decade of stagnant and sometimes repressive military rule, peaceful democratic elections seemed to have brought a civilian businessman, Moshood Abiola, to power.

But the country's ruling military council, led then by Gen. Ibrahim Babangida, annulled the results, charging vote fraud, and reasserted military authority. The military has ruled Nigeria for 24 of its 34 years of independence, assisted by the repeated failures of civilian administrations and civilian politicians.

One year after that aborted election, Nigeria seems possessed by an almost surreal mood of self-disgusted inertia.

It's not just opposition politicians who declare that the military has lost touch with reality; retired generals, senior government officials, even cabinet ministers say the same.

One well-placed government official, after offering a laundry list of corruption allegations and malfeasance by the generals to whom he reports, said in a tone that blended wonderment and disgust, "If you are going to steal money, you have to do it with a view that your children will be able to steal money too."

Foreign Minister Baba Gana Kingibe, speaking of the generals, said: "Their credibility has progressively eroded . . . such that right now people are not exactly enamored of the military and people are anxious to see the back of the military. That is really the position we have reached."

Since Abiola was arrested last month and charged with treason, strikes and protests have spread from Lagos to several other cities. On Monday, 20 people were killed in Lagos during demonstrations demanding Abiola's release and Abacha's resignation.

Yet few of these officials and few outside analysts believe the Nigerian military is in any immediate danger of being pushed from power.

One reason is its elite presidential guard. The guard is a typical feature of undemocratic sub-Saharan African regimes—a coup-deterring force recruited for its personal loyalty to the commander in chief. A 1,500-man brigade of guards in Nigeria's inland capital, Abuja, and a similar-sized elite force in Lagos, the country's commercial capital, are described by military sources as the linchpin of Abacha's internal security apparatus.

As in other undemocratic African countries, Abacha's presidential guard unit is drawn from his own ethnic group in his home town.

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DOWNSIZING ARMIES IS DIFFICULT, COSTLY; WORLD POWERS THAT AIDED COLD WAR BUILDUP OFFER LITTLE FOR DEMOBILIZATION

(By Jennifer Parmelee)

MAKALLE, ETHIOPIA.—By age 26, Khadija Noor Hussein had spent half a lifetime in the trenches of Ethiopia's long civil war. Now she is making up for the youth she lost to the gun.

In a crowded classroom of third-graders learning basic English at the Emperor Johannes School in this northern regional capital, Khadija listened attentively, quietly nursing her 18-month-old baby—named Light of Peace in the Tigrinya language—from a back-row bench. Beside her sat other members of the Tigray People's Liberation Front, the linchpin of a rebel movement that toppled the dictatorial Marxist regime of Mengistu Haile Mariam in May 1991.

They too have traded AK-47s and rocket launchers for schoolbooks in the first stage of a long process to demobilize the rebel force that now doubles as Ethiopia's national army.

"This is the best opportunity of my life," Khadija said with an infectious smile. "I want to continue all the way to university."

On a continent tormented by civil war, Khadija is one of the luckier survivors. Millions of former soldiers and guerrillas throughout Africa face cloudy futures as their countries struggle to switch from decades of high military spending and big armies—largely the fruit of Cold War battles across the continent—to the new tests of peace and reconstruction.

With no battles to fight, the mostly young ex-combatants often find themselves idle, with limited employment prospects in nations that rank among the world's poorest.

"All these young people who know how to use weapons and little else. . . . They are like a time bomb," said Yusuf Abdi Gabobe, formerly a unit commander in a rebel group that defeated Somali dictator Mohammed Siad Barre. "They are the biggest obstacle to successful reconstruction we have today."

In Ethiopia, Khadija, who was on the winning side of the 30-year civil war, has better chances to adapt to peace than the estimated 500,000 men and boys who made up Mengistu's fallen fighting force, once black Africa's largest and best equipped.

While more than 200,000 ex-soldiers are being reintegrated into their home communities, largely with a $5 million U.S. aid grant, thousands more are shiftless, angry, without hope in a country with a devastated economy. Many have turned to banditry or begging at city street corners.

Ethiopia is only one of many African nations confronting the bitter inheritance of war.

While 16 countries still face some form of civil conflict, according to a recent U.N. tally, another nine now at peace are trying to dismantle their war machines and reintegrate the combatants—either into civil society or into slimmer national armies. The nine are Mozambique, Ethiopia, Eritrea, Chad, Uganda, Zimbabwe, Liberia, Namibia and the self-declared but unrecognized Republic of Somaliland in northwestern Somalia.

Yet while Africa's wars have been generously funded in the past, mostly by Cold War sponsors, efforts to defuse the dangerous legacies of these wars have attracted far less international support, aid experts say.

At the fortress-like U.N. headquarters in the Somali capital, Mogadishu, Abdelgedir Sheikh, an economist who has run the U.N. demobilization and disarmament office since it opened last October, said he has no money to spend. Sheikh had to beg and borrow to start up his first humble project for demobilized militia gunmen—a poultry farm in Baidoa. He secured a loan from the U.N. Department of Humanitarian Affairs and rations from the U.N. World Food Program. "I'm just like a looter," he said with a short laugh.

In Angola, the process of demobilization never really got going, with disastrous results.

From 1987 to 1991, as the U.S.-Soviet rivalry in Africa flamed out, Angola was the leading importer of conventional arms in sub-Saharan Africa, spending more than $3.6 billion on weaponry, according to the Stockholm International Peace Research Institute. In 1991, the country ranked 14th in the world in arms imports, even as the two rival superpowers—Angola's top arms suppliers—were trying to coax the government and rebels into a lasting peace.

Reversing the military buildup was not easy. Demobilization and disarmament attracted few international funds—less than $1,100 a soldier, according to a 1993 World Bank report. The United Nations, without a legal mandate to do more than verify, had only one observer in Angola per 333 soldiers.

Progress was slow and erratic. By the September 1992 election, 40,000 troops had yet to be demobilized, the opposing forces were nearly intact, and the new, integrated national army was still in skeletal form. When hostilities broke out again after the rebels challenged their election defeat, few were surprised.

In a similar case, Rwanda paid a high price for failing to implement terms of peace accords negotiated last fall between its government and the rebel Rwandan Patriotic Front. One of the key provisions of that agreement was to integrate rebels, largely from the Tutsi ethnic minority, into the Hutu-dominated army.

But by the time President Juvenal Habyarimana was killed in a plane crash April 6, igniting the cataclysm of violence, little progress had been made: 600 Tutsi rebels were still camped in the capital's parliament building. Soon, they were on the streets, battling the soldiers with whom they had been intended to integrate—a convenient excuse for the mostly Hutu-inspired butchery.

The tragic lessons of Angola and Rwanda, however, appear not to have been lost on the international community operating in Mozambique since the October 1992 peace accords.

Demobilization has been assigned high priority—and money.

The head of U.N. peacekeeping, Aldo Ajello, vows that the rebel and government armies will be merged in advance of any elections, now scheduled for October. In addition, noting the scarcity of job opportunities for the mostly unskilled combatants—a third of them 18 or younger—the United Nations will pay demobilized soldiers from both sides a monthly salary for two years.

Surging Rwandan Rebels Vow to Share Power; Pledge Designed to Forestall Further Tribal Bloodshed, Tutsi-Led Insurgents Declare

(By Jonathan C. Randal)

Kigali, Rwanda.—Rwanda's Tutsi-led rebel forces, now in control of this battle-scarred capital and poised for total victory after three months of civil war, have vowed to share power with the Hutu tribal majority to spare this Central African nation further carnage.

Rebel leaders who outlined the pledge say it is intended to halt the cycle of Hutu-Tutsi violence that has convulsed the country periodically in recent decades—culminating this spring and summer in the slaughter of perhaps as many as a half-million Tutsis and sympathetic Hutus at the hands of Hutu government troops and government-backed Hutu gangs.

The tribal rampage—modern Africa's most horrific atrocity and an act characterized by U.N. officials as genocide—was touched off by the death of Rwanda's Hutu president in an unexplained plane crash April 6 and re-ignited a dormant civil war that negotiations between the Hutu regime and the rebel Rwandan Patriotic Front had failed to resolve.

Rebel spokesmen have pointed out that they proposed Hutu-Tutsi power sharing in a national unity government even before the April massacres began but were rebuffed by a government that claimed to speak for the 85 percent Hutu majority in this country of 7.7 million. Indeed, throughout weeks and months during which their families and neighbors were being butchered by Hutus, rebel leaders seemed determined to portray their movement as a responsible alternative to a savage regime.

Nevertheless, with the rebels just beginning to solidify their hold on the three-quarters of the country they now occupy, it is difficult to assess how their vows of evenhandedness will play out in dozens of towns and villages where wholesale killing took place. Their promises of conciliation have so far failed to sway the mass of Hutu refugees who fled before the rebel assault, leaving the countryside largely empty, crops withering in the fields and an uncanny silence shrouding what once was one of Africa's most densely populated nations.

Kigali's pre-war population of nearly 400,000 fell to about 35,000 as government troops retreated under rebel attack, leaving a shall-pocked ruin of a city reeking of rotting flesh. Many residents are now returning, but most seem to be heeding government radio broadcasts warning that Hutus who come back to the city will be killed by vengeful rebels.

Western sources said they are convinced that any rebel atrocities have been relatively few compared to those of the Hutu gangs, but they added that rebel leader Paul Kagame has expressed fear that his men could be driven to excesses by battle fatigue and the shock of learning that some relative or friend had been killed by Hutus. The rebel leadership is said to have meted out summary punishment among its forces in several instances, including several rapes of Hutu women and the assassination of Rwanda's archbishop.

In detailing their power-sharing proposal, rebel spokesmen here noted that with perhaps as much as half the country's Tutsi minority slain since April they now have little choice but to seek Hutu cooperation in a new government if their movement is to succeed where so many other successful African guerrilla groups have failed. With all but a relative handful of its moderate Hutu allies also slain by the old regime, the rebels believe they must now deal with Hutu leaders who may themselves have been involved in the killing.

Rebels say a national unity government would exclude only two Hutu-led parties—the National Republican Movement of Development and Democracy and the Coalition for the Defense of the Republic—because they apparently were chiefly responsible for organizing and inciting the anti-Tutsi bloodbath. Rebel spokesman Wilson Rutayisure said he believes that no more than "300 to 400" Hutu extremists should be brought to trail for their roles in the slaughter. That number, he said, includes "some politicians, some members of the middle class, some journalists, some army officers, some members of the civil service—those who planned the genocide."

"If this small group can be punished," he said, "it would be a good example that you can no longer wipe out a whole ethnic group and get away with it."

The rebel pledges of forbearance seemed all the more exceptional in light of the unquestioned military triumph of Kagame, 38, who has led the rebel forces to the brink of victory against seemingly insurmountable odds. With about 20,000 men, he has consistently outfought and outmaneuvered a government force twice that size with tactics that have been described as "absolutely brilliant" by a senior Western military analyst here.

Perhaps as compensation for this, rebel leaders acknowledged they want to amend some of their early power-sharing proposals to guarantee them control of more that 40 percent of the amry—the figure set forth in negotiations last August aimed at regulating relations between the Hutu government and the Tutsi minority.

Almost to a man, rank-and-file guerrillas use the same arguments as their leaders in favor of sharing power with the defeated Hutus, yet close observers of the rebel movement are convinced that alongside its purported vision of tribal peace and multi-party democracy thrives a yearning for ethnic hegemony.

Tutsis had ruled Rwanda as a tribal oligarchy for centuries before being driven from power in 1960, and the two peoples have battled sporadically since. Now the rebels make no secret of their demands that 2 million Tutsis they say were driven into exile during tribal turmoil over the last three decades must be allowed to return.

Africa: Bloodied, Torn at Its Ethnic Seams

(By Jennifer Parmelee)

Addis Ababa, Ethiopia.—Africa is living in a season of extremes. Two temblors have shaken the continent: one, South Africa, a triumph of the politics of reconciliation; the other Rwanda, a war of the tribal passions that are Africa's worst political enemy.

In South Africa, the government led by Nelson Mandela of the African National Congress is for the most part cooperating smoothly both with the white-led, formerly ruling National Party and the Inkatha Freedom Party, dominated by the Zulu tribe, nearly three months after the country's historic multiracial elections. Before the elections, more than 13,000 South Africans died in four years of political violence, mostly between supporters of the ANC and Inkatha in feuds motivated in part by ethnic rivalry.

But when Inkatha leader and Zulu chief Mangosuthu Buthelezi bowed to the democratic process on the eve of the polling, nudging along the country's biggest tribe and most formidable political ethnic force, the incidence of violence plummeted. Since April, the spirit of inter-tribal reconciliation kindled by Mandela and former white president Frederik W. de Klerk has guided the new government: de Klerk is a deputy president, and Inkatha's stronghold in KwaZulu/Natal Province has seen a continuing reduction of strife.

Rwanda, a tiny and densely populated central African republic wounded by recurrent tribal pogroms, is still wracked by violence three months after the alleged assassination of its president triggered ethnic carnage on a scale hitherto virtually unknown in Africa. An estimated half-million Rwandans, mostly members of the minority Tutsi tribe, have been slaughtered by militias of the majority and ruling Hutus.

Between the polar extremes of South Africa and Rwanda lie a multitude of African countries wrestling with multiethnic and multi-religious heritages—perhaps the greatest threat to their stability today. Sub-Sahara Africa is divided into 45 states—it is the most Balkanized land mass anywhere. Yet those divisions pale next to the hundreds of unofficial boundaries among tribes and clans, religions and languages. There are about 50 major languages spoken in Africa, and as many as 2,000 languages less widely spoken.

Clan politics is hardly unique to Africa in today's fractious world. In some ways, according to Ali Mazrui, professor of African studies at Cornell University, African tribes have provided a strong and valuable network of extended family, a system of collective welfare and a refuge from states that often have been rapacious.

However, colonial borders that ignored African realities—haphazardly slicing through tribal territories—combined with the upheavals of post-independence politics, have made Africa uniquely susceptible to tribalism's centrifugal pulls, observers say. Most of the continent's civil wars—at least 20 in three decades—have had a significant ethnic component.

Such forces appeal even more in an era of tremendous anxiety within Africa, already the world's poorest continent and growing poorer. Most countries are faced with huge and mounting debts, their economies and agricultures stagnant—or shrinking. Meanwhile, their populations are skyrocketing, foreign aid is declining and their governments are overwhelmingly incompetent and corrupt. The absence of a significant middle class, the ballast of civil society, also contributes to instability.

Today more than ever, Africa is prey to what historian Basil Davidson calls "the curse of the nation state." African states remain artificial entities still struggling to find legitimacy in the eyes of their citizenry.

Davidson, Mazrui and many other historians and political scientists argue that much of Africa's tribal conflict can be blamed on the inheritance of highly centralized states that, in standard colonial "divide and rule" style, delegated most power to a favored tribe or tribes. After independence, this characteristic evolved into political systems in which the winners—usually the dominant ethnic group—took all and losers got precious little. Many of the dispossessed, from Eritrea to Sierra Leone, took up arms.

This was true in Rwanda and neighboring Burundi. The minority Tutsis—a Nilotic, cattle-rearing tribe that held sway for centuries as feudal overlords of the more numerous, agrarian Hutus—were overwhelmingly favored by their German and Belgian colonizers. Long-limbed and lighter-skinned, the Tutsis won educational and economic privileges; the stockier, darker Hutus were oppressed. This potent dynamic of discrimination fueled three decades of massacres after independence.

Rwanda was bathed in blood from birth, with 100,000 to 200,000 killed in a five-year period following independence, as Hutus avenged their unhappy history. Hutus seized control of government institutions, including the army, while Tutsis fled into exile, ultimately coalescing into an armed opposition group that invaded in 1990, igniting a three-year civil war.

Hutu President Juvenal Habyarimana's April 6 death in an unexplained plane crash—militant Hutus said it was caused by rockets—provided government troops and Hutu gangs with a pretext for a systematic campaign of political killings that swiftly turned into an all-out slaughter of Tutsi civilians, and reignited the civil war after a year of truce.

In Burundi, the minority Tutsis managed to retain their grip on power until multiparty elections last year brought a Hutu to the presidency for the first time. His assassination four months later, apparently by the Tutsi-run security forces, ignited a four-week tribal bloodbath last fall that claimed at least 100,000 lives.

His successor, Cyprien Ntaryamira, also a Hutu, was killed in the plane crash with Habyarimana, but Burundi avoided Rwanda's violent reaction. Diplomats, aid workers and U.N. officials have suggested that the memory of Burundi's most recent experience in ethnic bloodletting was fresh enough to stay any impulse to commit tribal slaughter again any time soon.

Many African countries have been similarly hamstrung by their colonial legacies.

In Nigeria, home to at least 250 ethnic groups, British colonialists catered to the large Fulani and Hausa tribes in the Muslim north. Northern groups have maintained hegemony in Nigerian politics ever since, a reality that sparked the secessionist war of southern Biafra in 1967-70 and continues today with the northern-dominated military's denial of power to Moshood Abiola, a southerner who was the apparent victor of civilian presidential elections last year that the military government annulled before results were announced. The Baganda in Uganda were granted similarly preferential treatment.

In Sudan, British treated north and south as separate but unequal entities, and the two halves have been at war for 28 of the 38 years since independence.

And in Liberia, U.S. governments bolstered the rule of Americo-Liberians, descendants of freed American slaves, at the expense of indigenous tribes. Conflict between those groups persist to this day.

Unscrupulous African governments also have played one group against another for their own ends.

In South Africa, the white-minority government fanned hostilities among black opposition groups to forestall a joint frontal assault on their white rulers. Pretoria divided black South Africans into 10 tribally based homelands, a classic divide-and-rule tactic in a country where blacks outnumber white by a 5 to 1 ratio.

Over time, however, the strategy backfired. Not only did the common experience of racial oppression unite blacks from different tribes, but the fact that the engineers of the apartheid system of racial separation had tried to manipulate ethnicity so shamelessly wound up tainting the concept as a force in black liberation politics. Buthelezi tried to play the ethnic card earlier this year, but it took him only so far.

In Kenya, human rights groups have accused President Daniel arap Moi's government of inciting clashes between Moi's minority Kalenjin ethnic group and the larger Kikuyu and Luo tribes in the country's most fertile farm country. The escalating violence, which has displaced thousands of people and disrupted agriculture in a drought year, threatens to boil over into civil war, according to the human rights organization Africa Watch.

Ethnicity also has often exacerbated other divisions in Africa, between landed and landless, farmers and herders, haves and have-nots. Competition among regions or religions—Muslim, Christian, animist—is another sectarian flashpoint.

Some of the continent's tensions, if they were between blacks and whites, would be called racism. In Somalia and Ethiopia, for example, the gracile, dominant people of mixed Semitic and African heritage have often looked down on their "purely African" compatriots in southern regions, whom they have used in the past as slave labor.

In spite of the profusion of actual and potential fault lines across the continent, many states in Africa have managed to forge a national identity, expressed in symbols such as sports teams, popular music, national languages and dress.

Virtually every African state that drew up post-independence constitutions—Nigeria was an exception—avoided federalism on grounds that it would encourage groups or regions to go their own way. The Organization of African Unity, in its 1963 charter, reflected this concern when it enshrined the sanctity of colonial borders, and it regularly denounces the bogeyman of secession.

Multi-party politics also was widely regarded as a recipe for disintegration—and this view frequently became an excuse for leaders to maintain an iron, one-party grip on their people in the name of "nation building." In a host of post-independence countries—including Nigeria, Somalia, Uganda and Sudan—the introduction of a multiparty system saw dozens of small parties spring up overnight, mostly along sectarian lines; all mentioned wound up under military rule, often seen as an antidote to chaos.

The preponderance of states swung between anarchy and tyranny: authoritarian in nature, they lacked the moral authority to do anything but hold their disparate constituencies in am embrace of force; they had yet to learn the South African lesson that legitimacy—and thus stability—is created when opponents are given a stake in the system.

"Focusing on ethnic tensions misses the point," argued I. William Zartman, director of African studies at the Johns Hopkins University's School of Advanced International Studies in Washington. "It is the collapse of authority structures that opens the ways for ethnic conflict, not the reverse, because a strong state can handle ethnic strife and maintain law and order."

Such was the case in Somalia, where U.S.-supported dictator Mohamed Siad Barre diverted the spoils of power to his own small clan, thus destroying any advantage flowing from a nation blessed with a single language, religion and people. Upon his overthrow in 1991, Somalis angrily set upon any outpost of the government that had failed to serve them—schools, hospitals, even power lines.

Today, as the ethos of democracy is preached from one corner of the continent to another, many leaders are looking to new or re-tooled constitutions to unite their fractured constituencies.

African leaders must work quickly, however, especially given the economic free fall that heightens political tensions. Secession is on the lips of many groups—from the Barotse of Zambia to the Tuaregs in Mali, the southerners in Sudan and Somali-speakers in Ethiopia's Ogaden region.

In Malawi, whose first-ever multi-party elections in May dislodged Africa's longest-serving liberation leader, H. Kamuzu Banda, political parties already reflect regional antagonisms. In Zambia, democratically elected President Frederick Chiluba, who disdained the tribal balancing act of predecessor Kenneth Kaunda by installing a predominantly Bemba-speaking government, faces rising dissent in the former Kingdom of Barotseland.

In Ethiopia, which is attempting to negotiate the leap from military dictatorship to democracy, most parties mirror ethnic divisions.

South Africa, while on the multi-party trail, also favors decentralization, although the relationship between the central government and regional authorities remains to be worked out. In what is generally perceived as an astute political compromise, the charter gives largely ceremonial powers to the Zulu King, while any party that wins at least 5 percent of the vote gets a cabinet seat.

"The South African model is one way of stabilizing ethnic tensions because everyone will get part of the cake," said Benyamin Neuberger, a political scientist at the Open University of Tel Aviv.

Today, Ethiopia is trying an experiment in ethnically based democracy that it acknowledges is a high-stakes enterprise. Most parties are tribally based, and a new draft constitution is intended to devolve power to nine regions drawn largely along tribal lines. Its most controversial clause allows for self-determination up to and including secession. Many Ethiopians say such language will erode the bonds that the country's various nationalities share and invite a Soviet-style breakup into ethnic fiefdoms.

Ethiopian President Meles Zenawi says his government has no choice but to recognize the diversity that was so long suppressed. Some of the experts, but not all, agree.

Filip Reyntjens, an African law specialist at the University of Antwerp, acknowledges "a big risk" in codifying recognition of ethnic diversity and the "right" to secession. But he added: "Africans have paid a higher price for ignoring or suppressing ethnicity, rather than accommodating it * * *. What's happening in Ethiopia constitutes a dramatic departure from what's happened in Africa over the past 30 years."

Kifle Wadajo, a foreign minister in the government of Haile Selassie who heads the constitutional commission, agrees.

"The dangers of ethnic disintegration have been used as an argument to destroy democracy in Africa, again and again * * *. It's been an uncomfortable topic, especially among the elites, "Kifle said. "The challenge we have is to promote the well-being and rights of groups, enriching all of us, while at the same time promoting our common interest."

Correspondent Paul Taylor in Johannesburg contributed to this report.

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Clan politics is hardly unique to Africa in today's fractious world. In some ways according to Ali Mazrui, professor of African studies at Cornell University, African Tribes have provided a strong and valuable network of extended family, a system of collective welfare and a refuge from states that often have been rapacious.

However, colonial borders that ignored African realities—haphazardly slicing through tribal territories—combined with the upheavals of post-independence politics, have made Africa uniquely susceptible to tribalism's centrifugal pulls, observers say. Most of the continent's civil wars—at least 20 in three decades—have had a significant ethnic component.

Such forces appeal even more in an era of tremendous anxiety within Africa, already the world's poorest continent and growing poorer. Most countries are faced with huge and mounting debts, their economies and agricultures stagnant—or shrinking. Meanwhile, their populations are skyrocketing, foreign aid is declining and their governments are overwhelmingly incompetent and corrupt. The absence of a significant middle class, the ballast of civil society, also contributes to instability.

Today more than ever, Africa is prey to what historian Basil Davidson calls "the curse of the nation state." African states remain artificial entities still struggling to find legitimacy in the eyes of their citizenry. Davidson, Mazrui and many other historians and political scientists argue that much of Africa's tribal conflict can be blamed on the inheritance of highly centralized states that, in standard colonial "divide and rule" style, delegated most power to a favored tribe or tribes. After independence, this characteristic evolved into political systems in which the winners—usually the dominant ethnic group—took all and losers got precious little. Many of the dispossessed, from Eritrea to Sierra Leone, took up arms.

This was true in Rwanda and neighboring Burundi. The minority Tutsis—a Nilotic, cattle-rearing tribe that held sway for centuries as feudal overlords of the more numerous, agrarian Hutus—were overwhelmingly favored by their German and Belgian colonizers. Long-limbed and lighter-skinned, the Tutsis won educational and economic privileges; the stockier, darker Hutus were oppressed. This potent dynamic of discrimination fueled three decades of massacres after independence.

Rwanda was bathed in blood from birth, with 100,000 to 200,000 killed in a five-year period following independence, as Hutus avenged their unhappy history. Hutus seized control of government institutions, including the army, while Tutis fled into exile, ultimately coalescing into an armed opposition group that invaded in 1990, igniting a three-year civil war.

Hutu President Juvenal Habyarimana's April 6 death in an unexplained plane crash—militant Hutus said it was caused by rockets—provided government troops and Hutu gangs with a pretext for a systematic campaign of political killings that swiftly turned into an all-out slaughter of Tutsi civilians, and reignited the civil war after a year of truce.

In Burundi, the minority Tutsis managed to retain their grip on power until multiparty elections last year brought a Hutu to the presidency for the first time.

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AN AFRICAN GIANT FALLS UNDER ITS OWN WEIGHT; YEARS OF GREED MAKE ZAIRE CHAOTIC STATE

(By Keith B. Richburg)

KINSHASA, ZAIRE.—The once elegant, European-style boulevards of this capital are overrun with debris. Largely abandoned government buildings are obscured behind elephant grass and overgrown trees. In a perverse reversal of the usual development maxim, an opulent colonial capital is being overtaken by the bush. Kinshasa was carved out of the jungle. Now the jungle is coming to claim the land back.

As sub-Saharan Africa struggles to find stability in the 1990s, Zaire offers a poignant—and ominous—lesson. Unlike Somalia and Liberia, this big, rich country has not collapsed into civil war. It has not, like tiny Rwanda, imploded after a brutal campaign of tribal slaughter. But Zaire, the region's second-largest country and one of its potentially wealthiest, is equally desperate: It has crumbled from official corruption and greed, incompetence, neglect and decay.

The institutions that once defined the Zairian state have all ceased to function. Civil servants and teachers are not paid, roads and bridges are left in disrepair, public hospitals are not supplied, the public telephone system has disintegrated. Child malnutrition is on the rise, and the country is ravaged by AIDS and a rebirth of sleeping sickness that has caused entire villages simply to lie down and die.

"Precolonial" is how one Western resident described Zaire. "It's like Europe in the Dark Ages," said another Westerner, a diplomat with long experience here. "Zaire just proves that societies don't depend on the existence of a state. Societies can function on their own."

While the cause of Zaire's crisis may be distinct—and the extent of its free fall extreme—this country in many ways stands as a microcosm of what many Africans and others say is a continent-wide phenomenon.

Since the United States and the Soviet Union ended a rivalry that shaped the politics of sub-Saharan Africa through much of the last 30 years, the region has struggled to find a new basis for stability and development free of foreign tutelage. Some progress has been made. But government, economies and even whole countries artificially forged by European colonizers in the 19th century, and propped up since achieving independence a generation ago by the patronage of outside powers, are beginning to fragment.

Like most countries of the developing world, and in the former communist bloc of Eastern Europe, African states have tried to adopt the non-communist world's formula for success. Most have pledged to open their economies and adopt free-market policies, and many have begun talking about giving up autocracy or one-party rule for democracy and pluralism. A few—most famously South Africa—have succeeded.

Yet as much of the rest of the Third World appears poised to enter a new era of rapid economic growth and stability, Africa is still struggling to shake off the burdens of the past, ranging from the borders drawn by the European powers to the corruption and economic mismanagement engendered by post-colonial dictators backed by Moscow, Washington, Paris or Beijing.

In many places, the old order is crumbling but nothing is taking its place. "There's too much talk about development and not enough about decay," said Peter Lyon at London's Institute for Commonwealth Studies. Zaire, he said, "may be the classic case."

OBSTACLES OLD AND NEW

For two years, Zaire for all practical purposes has had no working government. Its longtime president, Mobutu Sese Seko, has been abandoned by the United States, his backer during the Cold War, and no longer can impose order on his sprawling country. But his political opponents have been too weak to remove him. There are two competing prime ministers, neither of whose authority is accepted by the army or the bureaucracy. Soldiers have destroyed much of the infrastructure of the capital in riots over pay, and whole regions populated by distinct ethnic groups have simply taken over their own affairs.

For some Africans, the crisis reflects fundamental problems of statehood that have lingered in African countries since they gained independence in the 1960s. "It raises profound questions about the nature of these governments and the nature of these states," said Rakiya Omaar, a Somali who is co-director of African Rights, a London-based human rights group. "The problem in Africa has been these predatory, strong central governments that never cared about their own people."

Similar political breakdowns are happening around the region. Somalia has not had a government since its U.S.-backed dictator, Mohamed Siad Barre, was chased out of power in January 1991. Liberia is still in the throes of an on-again, off-again civil war over who, and what, should replace the late

Samuel Doe's dictatorship. Angola and Sudan both seem hopelessly locked in civil wars that have effectively divided those countries along geographic lines.

And Rwanda, Zaire's neighbor, has been in a state of anarchy and civil war since April 6, with no effective government in place, since President Juvenal Habyarimana was killed in an unexplained plane crash.

Other countries, from Sierra Leone to Uganda, from Ethiopia to Mali, are waging small-scale wars against guerrillas, ethnic separatists or armed bandits that have made large chunks of territory impassable and lawless.

One key cause of this turmoil is Africa's loss of what was arguably its most important resource; its relevance. During the Cold War, the continent was a playground for the proxy conflicts. The Americans, the Soviets, the Chinese, the Israelis, the Arabs, white South Africans, white Rhodesians, even the Taiwanese searched for allies and brought in aid, arms and advice. Much of the attention lavished on Africa proved destructive—fueling civil wars, as in Angola, or backing dictators, as in Somalia, Liberia and Zaire.

But the outside attention also meant that highways were built, hospitals were kept supplied and a generation of Africa's elite were given access to education at home and abroad. African autocrats were able to play East against West, Arabs against Israelis, Chinese against Taiwanese in a bid for foreign largesse. The game was always to find who would give the most aid, and some despots played it deftly.

With the end of the East-West conflict, the dismantling of South Africa's racist policies of apartheid and the move toward peace in the Middle East, Africa has become more marginalized than at any time since Europeans first set foot here 500 years ago. Zaire tells the story: After years in which the United States, France and Belgium lavished aid on Mobutu, almost all foreign assistance has been cut since 1990, and most expatriate workers have departed. In June, Zaire was expelled from the International Monetary Fund.

The lack of foreign interest and investment, combined with the difficulty of implementing new economic and political models, means that even outside war zones, Africans are struggling to come to terms with long-standing social and economic ailments:

According to the World Bank, the four poorest countries in the world, in terms of gross national product, are in Africa; seven of the world's 10 poorest countries are in Africa. From 1980 until 1991, African economies actually shrank an average of 1.2 percent each year, meaning Africans have gotten poorer over the last decade.

African countries have the world's highest illiteracy rates, and they put the least public money per pupil into their education systems.

Agricultural production has declined in most African countries over the last two decades, leaving Africa less able to feed itself and more dependent on foreign food aid. The World Bank estimates it will take 40 years for some African countries just to climb back to their pre-independence level.

Africa is ravaged by disease. AIDS has become the most common cause of death for Africans, and in a dozen African cities, 20 to 30 percent of the adult population is infected with the virus that causes AIDS. More than 10 million of the world's 15 million people infected with the AIDS virus are in Africa.

Not all African countries are in a downward spiral. While Angola is in the grip of full-scale civil war, Malawi recently conducted a peaceful election that ousted an entrenched autocrat. The death of the president of Rwanda sparked an explosion of tribal massacres, but the death of the president of Ivory Coast caused barely a political ripple. There are many economic problem areas, but some countries, like Ghana, are on the mend.

Still, it is the absence of outright conflict in most African countries that makes their social and economic decline so remarkable. In state after state, public institutions have collapsed, health care has diminished, infrastructure has fallen into disrepair and poverty has deepened—not because of civil war, but simply because poorly supported, inefficient and sometimes corrupt governments have been unable to manage their countries' daunting problems.

In other words, the pattern in Zaire may not be the exception but the rule. "In Somalia and Liberia, it was violent," said a European diplomat in Zaire. "Here, it's a slow implosion. But the result in the same. Here, it's just crumbled."

THE ROAD TO ANARCHY

Although its descent into near-anarchy was touched off by the end of the Cold War, Zaire's deterioration as a state began shortly after the country gained independence from Belgium in June 1960. An early secessionist movement in the region of Katanga, which provoked U.N. troops to intervene, underscored the fragility—and artificiality—of the new nation of 200 separate tribes.

Still, in the late 1950s and early 1960s, Zaire—then known as the Congo—provided Western countries with 69 percent of their industrial diamonds, 49 percent of their cobalt, and other strategic minerals, making it "a very important piece of real estate," according to American University's Sanford J. Ungar in his book, "Africa." From that commanding position as a wealthy and strategically important Western supplier, the country entered a long era of Western-backed autocratic rule—and slow decline. In 1965, army strongman Joseph Desire Mobutu seized power, changing his name and that of his country in an "Africanization" campaign.

Mobutu personifies the African Big Man, the old-style and outdated autocrat who rules more like a traditional tribal chieftain. Over almost three decades with Mobutu at the helm, Zaire suffered from extraordinary mismanagement and corruption. Hundreds of millions of dollars of export earnings from state-run mining corporations literally disappeared—presumably into the overseas bank accounts of Mobutu and his family members, and also to support the lavish but unaccounted-for spending projects of the office of the presidency.

Mobutu's well-documented corruption and his heavy-handedness with opponents brought frequent rebukes from Washington and his European patrons. But from the first Congo crisis of the Kennedy administration, which saw Africa becoming a battleground between East and West, Mobutu proved a valuable Cold War ally to the United States. And Washington's financial and political support kept Mobutu in power.

With the collapse of the Soviet Union and the withdrawal of Cuban troops from neighboring Angola, however, the United States no longer had a strategic interest in propping up Zaire's dictator. And like Zambia's Kenneth Kaunda, Kenya's Daniel arap Moi and Malawi's H. Kamuzu Banda, Mobutu was forced to relent to mounting pressure for change.

Zaire for a time looked as if it might be on the path to pluralism. In 1992, a national conference stripped Mobutu of much of his power, appointed staunch Mobutu opponent Etienne Tshisekedi as prime minister and even changed the country's name back to Congo in a direct slap at Mobutu. The conference—made up of politicians, civic leaders, intellectuals and clerics—voted to make all of its decisions binding and replaced the old Mobutu-dominated parliament as the supreme lawmaking body.

What the conferees apparently never counted on was that Mobutu would simply ignore their edicts and continue to govern as he pleased, keeping personal control of the nation's money supply through the central bank and using freshly minted cash to keep his elite presidential guard paid and loyal.

What has developed over the last two years has been a kind of bizarre shadow play. Mobutu "fired" Tshisekedi as prime minister, then concocted a new convention to choose a replacement, Faustin Birindwa, a Mobutu ally. But Tshisekedi refused to relinquish his title, giving the country two claimants to the position, neither of whom has any resources or real power. Government offices shut their doors, unable to function without cash. Cabinet ministers stayed home. The country ground slowly to a halt.

With the country sinking into ruin, weary national conference delegates—their numbers now swollen with Mobutu supporters—voted in June for yet another prime minister, Kengo wa Dondo, who had more legitimate anti-Mobutu credentials but still was rejected by some elements of the opposition. Various Western embassies tried to persuade Tshisekedi and his rivals to unify, but to no avail.

The latest convention has promised presidential elections next year. Many Zairians and Western diplomats predict that, with the opposition divided and squabbling, Mobutu will likely win, whether he rigs the elections or not. And that, they say, is a likely formula for continued national stagnation and disintegration.

"Things are getting worse and worse," said Eugene Nzila, a physician whose AIDS research project has crumbled to virtually nothing because the country's continuing paralysis forced foreign donors to withdraw funding. "It's basically a political situation," he said, reflecting the frustration of many Zairians. "There's nothing we can do but wait."

SURVIVING BY SKIMMING

If Zaire can be seen as a microcosm of Africa, then Ndili International Airport might be seen as a microcosm of Zaire.

Upon arriving at the airport, a passenger is immediately greeted by a dizzying array of soldiers and police, hustlers, deal makers, facilitators, money changers, customs inspectors, health inspectors, drivers, shoeshine boys, baggage handlers and just plain hangers-on. Each claims to have some official service to perform—checking your vaccination card, searching your luggage—and each demands to be paid "service"—a price that can range anywhere from a few pennies in local currency to $20.

Official services at the airport have broken down; no one has gotten a paycheck in at least six months. But working at the airport can still prove lucrative for the amount of money that can be extorted or raked off from incoming passengers. There is much jostling, shouting and occasional shoving as everyone takes a turn to perform his task and demand his fee.

To cut more easily through the crowd, there are "facilitators." Most are uniformed soldiers—ostensibly, assigned to airport security, in reality soldiers-for-hire. One will attach himself to a passenger, according VIP status; help push through to the front of lines; find the passenger a taxi; even accompany the passenger for the 20-mile trip into town "for security." The price: $100 all -inclusive, including cab fare.

"You can pay the colonel, you can pay the soldiers," said a European diplomat. "And it's a good thing. Those guys are being fed. They sleep well, they eat well, their families are fed."

That kind of chaotic, anything-goes corruption is more evident the farther one ventures from Kinshasa, as the "privatization" of government services and the irrelevance of the central government become even more pronounced.

The small border outpost of Uvira, on Zaire's eastern border with Burundi, is about as far from Kinshasa as possible, in every way. The border post still has immigration controls, customs controls, police controls and every other conceivable type of government authority. But the corruption—if it can still be called that in a place with no official rules—has become a means of survival for public servants with no other means of income except whatever can be extorted from travelers.

Thus, there is the $20 fee for each person crossing the border, plus an extra $20 for each car. There is a Transportation Ministry desk that charges a $10 "tax" for use of the road. The Health Ministry charges $20—or whatever can be negotiated—as its price of entrance. And there are the police manning roadblocks along the way out of town, also demanding "service" to allow passage.

By becoming more or less financially self-sufficient, such isolated east Zairian towns have maintained some semblance of public order—while at the same time becoming less tied to Kinshasa. In Goma, for example, local merchants have joined together to make sure the military is kept paid, preventing the kind of bloody soldier riots that wracked Kinshasa in 1991 and 1993.

"It's all localized," said a diplomat, using the analogy of Europe's Dark Ages. "Think of it as castles along the Rhine in the year 900, where everyone exacted a tax or toll."

This kind of de facto decentralization—growing regional autonomy and independence—is in evidence elsewhere, an outgrowth not of any planned attempts to disperse power but rather the natural evolution of weak central governments that can no longer provide needed services to their outlying areas.

In war-torn Angola. Somalia and Liberia, central governments can no longer claim to control much beyond their capitals. In large countries such as Nigeria and Ethiopia, government edicts are becoming less relevant. Even relatively stable Tanzania is now having to deal with growing calls for independence from the island of Zanzibar, which is finding union with the mainland irrelevant.

"These countries are artificial," said Michael Chege, a Kenyan scholar at Harvard University. "They have to be. What else do you do, with all these tribes and linguistic groups and so on? * * * We might have to consider adjusting boundaries—or at least put it on the agenda."

Looking Back to Colonial Past for Clues to Future

(By Keith B. Richburg)

Kinshasa, Zaire.—With Africa in crisis and facing the collapse of some of its nation-states, some Africans are tentatively raising an idea once considered so outrageous as to be unspeakable here: They are debating the merits of recolonization.

In April, renowned African scholar Ali Mazrui raised the idea in an article in the Sunday Nation, a Kenyan newspaper. "As the whole state machinery collapses in one African country after another, is Africa in need of recolonization?" Mazrui asked.

He was not talking about the European-style colonization of the last century, but rather a new kind of international trusteeship system, through which functioning African states might be granted a mandate by the international community to administer states that have fallen apart. "For example," he asked, "might Ethiopia in the 21st century be called upon to run Somalia on behalf of the U.N.?" Or, he said, a stable, black-ruled South Africa might be called upon to intervene to stop the carnage in Angola.

"We may yet learn to distinguish benevolent intervention and malignant invasion in the years ahead," Mazrui wrote. "Self-colonization is better than colonization by outsiders."

Few take the idea seriously, other than as an academic exercise. But there are examples of African countries intervening in the affairs of others: Nigeria and other West Africans provided peacekeeping troops in Liberia; Botswana, Nigeria and other African countries operated with the United Nations in Somalia; Senegal sent troops along with the French intervention force in Rwanda.

But to many Africans, raising the question of recolonization seems indicative of the continent's woes and the near-complete absence of any good solutions. "It is a poignant, eloquent statement on the extent to which Africa has self-destructed that elder statesmen [like Mazrui] are even proposing that," said Rakiya Omaar of African Rights, a human rights group.

"Colonialism killed millions of Africans and stifled development of civil society," Omaar said. Talk of recolonization, under any form, she said, "reflects a sense of frustration that you should be experiencing these same problems at the hands of your own people."•

PENSACOLA ANTIABORTION MURDER AND RELIGIOUS FANATICISM

• Mr. KERRY. Mr. President, I rise today to discuss the events of last Friday in Pensacola, FL, and their broader implications on our civilization as a whole.

At 8 a.m. Friday morning, Paul Hill, a former Presbyterian Minister, shot and killed Dr. John Britton and James Barrett. Mr. Barrett was escorting Dr. Britton to his job at an abortion clinic.

Dr. Britton was 69. He had started working at the clinic a year previously, knowing full well the dangers of the occupation. The last doctor for this clinic was Dr. Gunn, who was killed by an antiabortion activist last year in front of the city's other clinic. Dr. Britton was extremely brave, but he was also cautious; however, the bulletproof vest he wore Friday morning was ineffective in stopping the shotgun spray Paul Hill aimed at his face.

James Barrett, a retired Air Force lieutenant colonel, was 74. Mr. Barrett was shot in the head right in front of his 68-year-old wife June, who was also injured.

This was the third shooting by antiabortionists within the last year and a half, and the second—and third—fatality.

Paul Hill's reasons for murder were chillingly simple. He has stated that "the bible teaches us to do unto others as you would have them do unto you. Therefore, killing a man who is about to kill an unborn child constitutes killing in self defense." To Paul Hill, the murder was a justifiable homicide.

Mr. President, this syllogism lies at the heart of one of the most corrosive dangers the world faces today.

Many religious teachings and texts offer justifiable reasons for killing. Even so, mainstream religions systematically guide their populations away from these arguments and in the direction of tolerance. The only individuals who employ religious justifications in order to commit cold-blooded murder are religious fanatics. But we cannot dismiss these fringe elements. We cannot pretend that they do not read from the same bibles from which many of us read and say the same prayers which many of us recite. We cannot cast a blind eye to the horrible dangers they represent. And we need to be brave enough to bring the public's attention to the problem posed by religious fanaticism.

This problem grows in severity every passing year. In the dawn of human civilization, there was only so much damage a single human being could execute. However, our technology has developed, and each new weapon has increased the power every individual represents. The classic example of this truth is the gun. During the 19th century, in the western-most frontiers of this country, guns were nicknamed "equalizers" because in effect they gave every individual the same power as any other. Anyone with a gun had the power to eliminate one if not several human lives. The defensive structures of our Nation and every nation have been recreated in order to cope with this capacity.

Mr. President, from dynamite to plastic explosives to nuclear bombs, the power of individuals has increased and will continue to increase. Consequently, we cannot let people slip through the cracks and fall into the well of fanaticism. The Paul Hills of this world are willing to dedicate if not sacrifice their lives for the sole purpose of advancing their world view by hurting or destroying others. Education and leadership must come now before it is too late.

In light of the importance of responding to the threat posed by fanaticism, the most significant event that occurred in the world last week received little of the attention it deserved.

One of the most tense places in the world right now is the Middle East.

Many countries and religions in the Middle East are fighting over possession of the same pieces of land, interpretations of the same texts, versions of the same myths. However, last week we saw a moment of peace between two countries in that region that have long been adversaries. Perhaps most importantly, we saw two leaders speak to their respective people, not only as political heads of state, but as religious individuals, and preach tolerance and call for peace.

Mr. President, King Hussein's and Prime Minister Rabin's lead must be followed by every religious and political leader to every constituent and every worshipper in the world. We must take responsibility for affirmatively leading our constituents and our congregations down the path of tolerance.

It is with this goal in mind that I return to the subject of Pensacola.

One of the things that made me especially upset this weekend when I watched television news coverage of the incident was the sign that hung over the abortion clinic. The name of the clinic was "The Ladies Center," and the typeface on the sign was as blatantly euphemistic as this title. The fact that an abortion clinic needs to be disguised and to be separated from the hospitals, HMO's, and community health centers where such medical procedures should be performed is as upsetting as the fact that abortion clinics need to be under 24-hour guard.

The wrong response to the Pensacola shootings is to segregate abortions even further from those seeking the procedure. The right thing to do is to treat abortions as exactly what they are—a medical procedure that any doctor is free to provide and any pregnant woman free to obtain. Consequently, abortions should not have to be performed in tightly guarded clinics on the edge of town; they should be performed and obtained in the same locations as any other medical procedure. How can we as political leaders teach tolerance to the public when we still treat women who seek abortions as poorly as less civilized societies treated lepers?

Mr. President, if this Constitutionally protected right is to be preserved, and if women are to be treated decently and with respect, abortions need to be moved out of the fringes of medicine and into the mainstream of medical practice.

And by the same token, if our children are to be safe from the danger of fanaticism, tolerance needs to spread out of the mainstream churches, mosques, and synagogues, and into the religious fringes.

Thank you, Mr. President. I yield the floor.●

THE RIGHT START FOR ARIZONA'S WELFARE MOTHERS

● Mr. DECONCINI. Mr. President, I would like to recognize Arizona Women's Education and Employment [AWEE] and Time Systems for sponsoring a free "Organizing Your Job Search" seminar for women who want to get off welfare and secure employment.

The day-long seminar, held in Phoenix on July 12, sought to provide the 50 participating welfare mothers with the necessary tools and training to conduct an effective job search. These women learned how to establish goals; track achievements; and plan, schedule, and prioritize activities in order to develop a productive job search.

The seminar proved to be an overwhelming success. Not only did the women gain practical job-seeking skills, but they gained a sense of confidence in their ability to secure employment. With this newfound self-confidence, the women left the seminar highly motivated to leave welfare and ultimately support themselves and their families.

This seminar was very timely and relevant to the current concerns of the Nation. Welfare reform, together with health care reform, are two of the most important issues presently facing Congress.

More seminars like Organizing Your Job Search are needed for reform of our welfare system to truly succeed. Programs which combine self-esteem building with practical skills are invaluable in helping women leave welfare. Statistics show that around 30 percent of welfare recipients have basic skills below the minimum skill level of women in the lowest occupational levels. We cannot hope for these recipients to become self-sufficient without first teaching them some basic occupational skills. Organizing Your Job Search has given 50 women from Phoenix the tools to begin their job search, and should be a model for future welfare reform.●

FALSE CONVICTIONS AND THE DEATH PENALTY

● Mr. SIMON. The criminal justice system is only as reliable as the men and women who make up its ranks. And just as human beings are fallible, so are the courts of this Nation. The problem is that, when police officers, prosecutors, and judges make mistakes or act improperly, society commits a crime against justice: An innocent human being may be sentenced to prison or even to death.

A recent article in USA Today suggests that such miscarriages of justice are more common than we might like to believe. Take the case of John Spencer, convicted of a double murder in 1987 largely based on a fingerprint said to be found at the crime scene. Spencer's conviction was reversed when police officers conceded that the fingerprint introduced at trial was not actually found at the crime scene, but taken from a cabinet frame Spencer leaned against when he was at the police station being booked.

And then there is the case of Gary Nelson, who lived on death row for 11 years for the rape and murder of a 6-year-old girl, largely on the testimony from a crime lab director who said a hair found on the girl's body and Nelson's arm hair have the same origin. Appeals lawyers later discovered that the crime lab had never examined the hair found at the murder. The FBI lab that did had determined that "it could have come from any black person, including, but not limited to, other suspects in this case or the victim."

Admittedly, these are egregious cases of police and prosecutorial misconduct. But even without this kind of willful violation of the law, human beings will act carelessly or recklessly. And those mistakes are all the more likely because so many defendants are the neglected and alienated in our society.

Ultimately, the fallibility of the criminal justice system is one of strongest reasons I know to oppose the death penalty. People make mistakes. But when the cost of a mistake is the life of an innocent person, we must reexamine the need to impose this awful and irrevocable punishment. The point is simply this: So long as human beings are fallible, the death penalty has no place in the courts of a civilized society.

I ask that the full text of the USA Today article be published in full after my remarks.

The article follows:

[From the USA Today, July 19, 1994]

FALSE SCIENCE OFTEN SWAYS JURIES, JUDGES

(By Laura Frank and John Hanchette)

No one knows how many innocent people have been sent to prison with false evidence.

But there have been at least 85 instances in the past 20 years in which prosecutors—knowingly or unknowingly—relied on fabricated, mishandled or tampered evidence to convict the innocent or free the guilty, a Gannett News Service analysis of legal and media databases finds.

Often, the wrongful prosecutions hid behind science.

"In the U.S., we take science as gospel," says Ray Taylor, a San Antonio lawyer and forensic pathology expert. "The public perception is that (faking science) is rare. The truth is, it happens all the time."

If science is gospel, then the scientists are its preachers. And when the scientists work for the police, critics say, the gospel can take a certain slant.

"It just boggles the mind," says Glen Woodall, a Huntington, W. Va., man who spent five years behind bars for a crime he did not commit.

Woodall was convicted of two rapes in 1987, after a state police forensic expert named Fred Zain said hair and semen from the crime scene matched his.

But Zain faked the evidence—in this case and many others, West Virginia's state Supreme Court later found.

FORENSIC TESTS OFTEN CANNOT SHOW WHAT EXPERTS TESTIFIED THEY FOUND

The "science" in the wrongful convictions studied by GNS ranges from the absurd—an evidence-sniffing dog that could solve decade-old crimes—to the advanced, such as DNA tests touted as fail-safe genetic fingerprints.

Most of it involves fingerprints, blood typing, semen analysis and hair samples—the same kind of evidence that each side will try to use to its advantage in the upcoming O.J. Simpson murder trial.

And in each case in the analysis, the jury or the judge believed the science, sometimes despite reams of evidence to the contrary.

"Faking or lying about evidence is not out of the ordinary at all," says James Starrs, a George Washington University law professor who specializes in forensic science. "There are so many things of this kind, I'm horrified."

Although there are dozens of examples, probably no case study is more shocking than that of Zain.

Taylor calls it the "largest case of evidence-fixing in U.S. history."

Zain's "fraud on the judicial system may be the worst we've ever seen documented," says John Hingson, president of the National Association of Criminal Defense Lawyers.

More than 1,000 convictions now are in question because Zain who worked in both West Virginia and Texas, is accused by courts and colleagues of faking evidence for 18 years.

Yet a year after such accusations first were made, Zain has not been charged. Eight months after the West Virginia Supreme Court ordered charges be sought against Zain, none has been filed.

Zain has denied any wrongdoing; neither he nor his lawyers will comment.

Zain was hired as a chemist at the West Virginia police crime lab in 1979, though he failed chemistry in college.

While testifying as an expert in dozens of rape and murder cases, he reported results of tests that he had not performed, Zain's co-workers told the court.

They had complained to Zain's superiors as early as 1985. Nothing was done. In frustration, co-workers taped a magician's wand to one of Zain's lab machines.

"Magic was the only way he could have been coming up with the answers he got," says Gayle Midkiff, Zain's former lab assistant and a West Virginia state trooper.

In 1989, Zain took his "pro-prosecution" reputation and a letter of recommendation from the governor and headed to Texas.

There he was named head of serology at the Bexar County Medical Examiner's office in San Antonio.

Zain kept that job until last year, when allegations of wrongdoing finally reached Texas. The San Antonio medical examiner asked Dallas forensic specialist I.C. Stone to review some of Zain's cases.

Choosing randomly, Stone found something wrong in each of the 14 cases he studied.

Zain reported things the tests weren't capable of showing. He testified about blood on evidence when lab notes showed no blood had been found. He reported doing tests his lab wasn't capable of.

"I've never seen anything like it," Stone says.

But there are many other cases that hinge upon false and hidden evidence:

John Spencer was sentenced in 1987 to 50 years to life for a double murder in a rural area of New York state.

Spencer was convicted largely on a fingerprint lifted by New York State Police investigator Lt. Craig Harvey, who testified he found it on a Formica counter at the murder scene.

Harvey, one of three troopers found guilty of criminal misconduct in a burgeoning New York State Police fingerprint scandal, later conceded no fingerprints were found at the scene. He said he obtained Spencer's print from a cabinet frame Spencer leaned against when he was booked.

Spencer's conviction was vacated, with a new trial slated for September.

Ed Honaker was convicted in February 1985 of abducting and raping a woman at gunpoint in the Blue Ridge Mountains of Virginia.

She identified him from a photo lineup. A police forensic expert found sperm in the seminal fluid found at the scene. But Honaker had undergone a vasectomy years earlier and did not produce sperm.

The forensic expert, Elmer Gist of the Virginia Bureau of Forensic Science, testified a hair found at the scene was "consistent" with Honaker's. No forensic test can positively identify hair as coming from any particular individual.

Centurion Ministries, a nonprofit organization that has helped free at least six men wrongly imprisoned, arranged for a DNA test of the evidence. Honaker's genetic traits did not match those of the rapist.

Now, even the prosecutor says Honaker should be freed. So far, Virginia Governor George Allen has not acted.

Gary Nelson lived on Georgia's death row for 11 years after his 1980 conviction for raping and killing a 6-year-old girl, largely on testimony from a crime lab director who said a hair found on the girl's body and Nelson's arm hair "have the same origin."

Appeals lawyers discovered the Savannah crime lab had never examined the hair found on the body. It had been sent to the FBI crime lab in Washington, which had determined it "could have come from any black person, including, but not limited to, other suspects in this case or the victim."

Nelson was freed in 1991.

Juan Ramos was sentenced to Florida's electric chair a decade ago for stabbing to death a Cocoa housewife.

No forensic evidence tied Ramos, who said he was innocent, to the victim. Pennsylvania dog handler John Preston claimed his super-nosed German shepherd could pick up criminals' scents after any time interval and had identified Ramos' scent on both the murder weapon and the victim's blouse.

A judge made Preston submit his dog to tests on another scent five days old. The dog didn't have a clue.

The unmasking of Preston's dogs caused an uproar. Cases were overturned in Virginia, Ohio, Florida, Arizona and other states. The Florida Supreme Court threw out the dog testimony and ordered a new trial. Ramos was quickly acquitted.

These cases are nothing less than human rights violations, says William Lee Miller, constitutional author and political thought professor at the University of Virginia.

"Americans fought from the beginning for a society that respects fundamental human rights," Miller says. "What this is bringing out is the moral failure of the United States."

And most the abuses go unpunished, he says, because the victims often are minorities and the poor—people like West Virginia's Glen Woodall, a former grave digger imprisoned by false evidence.

Woodall is now free, and a lot richer because of a $1 million settlement given to him by the state. But he is angry.

"To me, lying about evidence is worst than the crime that might have been committed," says Woodall. "What kind of justice is that?"•

HOW NOT TO FIGHT CRIME IN GEORGIA

• Mr. DeCONCINI. Mr. President, people who are even a little familiar with the country of Georgia speak of its striking physical beauty, legendary hospitality, and cultural achievements. Americans may not know, however, that in the Soviet Union, Georgian films always enjoyed a special reputation for artistry, both in drama and absurdist, surrealist comedy. I would like to share with my colleagues information about a recent development in Georgia that matches anything the most "far out" Georgian cinematographer could conceive.

Georgia has, of course, fallen on hard days, living through coups and civil war since the collapse of the U.S.S.R. It has suffered virtual dismemberment at the hands of Russian forces allied with Abkhazia, its economy is shattered, some 200,000 refugees from Abkhazia are enduring very difficult conditions, and, as in other former Soviet republics, crime has ravaged the entire country.

In June, Russian President Boris Yeltsin issued a controversial decree on fighting crime, with some neighboring states, like Ukraine, has used as a model for their own edicts. Georgian leader Eduard Shevardnadze on July 14 also followed suit, developing a series of measures to address a "criminal situation in the republic [that] still remains serious. Corruption, terrorist acts, banditry, other manifestations of organized crime * * * and the drug business are creating a serious danger for the state * * *."

One of the anticrime measures in Georgia is the formation of a coordinating emergency commission under the chairmanship of Shevardnadze. A list of commission members printed in Sakartvelos Republika on July 14 revealed that one of the two deputy chairman is Jaba Ioseliani.

Americans not familiar with this name, and the man behind it, should read an informative article on Mr. Ioseliani published in the British newspaper Mail on Sunday Review [April 3, 1994]. Georgia's chief negotiator with Abkhazia, he is a member of Georgia's parliament, a warlord, and the leader of Georgia's most notorious paramilitary group, the Mkhedrioni [Knights on Horseback], which looted the country and now controls many businesses. The author, who interviewed Ioseliani, calls him "a notorious bank robber with a passion for killing. And Italian suits." Furthermore, his army "appears to be involved in every business and racket in Georgia." In his younger days, Ioseliani was "one of the 20 most powerful men in the Soviet underworld," one of the bosses of bosses, as he himself acknowledged to the interviewer.

The author concedes Ioseliani's roguish charm, notes that he has his admirers in Georgia, and that some people consider him a brave man and a patriot. Not knowing Mr. Ioseliani, I am not in a position to confirm or deny his allure. But I do know that making Jaba Ioseliani the deputy chairman of an emergency commission to fight crime is not only putting the fox in the chicken coop, Georgian-style, it simply makes a mockery of the very concepts of government and law enforcement. And it is a slap in the face of a war-weary Georgian people who live in fear of criminals.

Even more worrisome is the extent of Ioseliani's power and influence over Georgia's politics. His interviewer concluded that "It isn't hype to suggest that the destiny of this fragile, boisterous nation pretty much rests in his hands." If so, Mr. President, then we ought to be considering more carefully than we evidently have up to now our support for the regime of Eduard Shevardnadze. He may have no choice but to ally himself with Mr. Ioseliani. But should the United States support such a government?•

ORDERS FOR TOMORROW

Ms. MIKULSKI. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, August 3; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; and that immediately thereafter, the Senate resume consideration of H.R. 4624, the VA-HUD appropriations bill, with the Bumpers amendment No. 2444 as the pending question, to be considered under the conditions and limitations of a previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Ms. MIKULSKI. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 9:16 p.m., recessed until Wednesday, August 3, 1994, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, August 2, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member other than the majority and minority leaders limited to 5 minutes.

The Chair recognizes the gentleman from New York [Mr. HINCHEY] for 2 minutes.

PASS THE REEMPLOYMENT ACT

Mr. HINCHEY. Mr. Speaker, a few years ago, the biggest and best employer in my home county was the IBM plant in Kingston, NY. Over 7,000 people worked there, and thousands more wished they could. They were highly skilled people who made a good product, the world standard in mainframe computers, and the company rewarded them with secure jobs and good pay. Then the computer market shifted away from mainframes, and the layoffs began. Last week IBM announced it was closing the plant, and shifting the 1,200 people who still work there to another facility.

The shift away from mainframes has left thousands of people out of work in my district alone. They built the machines all our programs and systems depend on, the machines that brought us into the computer age. They want to work, and they can work. They are highly skilled, but ironically, the rapid advances that their own industry helped to generate has made their skills obsolete.

The Reemployment Act is made for them, and for hundreds of thousands of other working people around the country who are in similar situations, hard-working, highly skilled people who have been left behind by change. It is the rational, sensible answer to their problem, an answer that fits today's world. It does not seek to blame them or their employers or anyone else for what has happened. It does not try to train them for jobs that do not exist. It does not try to shoehorn them into a system that will not help them just because it would be easy for the Government. And it does not set up a huge new program of training schools.

Instead, it makes use of training programs we already have, especially of community colleges. It customizes the services it offers. It eliminates the bureaucracy associated with past training programs. People will not have to learn how to negotiate a maze before they can start learning new job skills.

We all know the old Depression-era song of the displaced worker that begins with memories of past accomplishments:

> Once I built a railroad, made it run
> Made it race against time

That worker knew he was skilled, knew he had done a lot for us all in his own way, but was reduced to asking us only to "spare a dime" for him. We can do better than that for the workers who built the railroads and towers of our time, those who built the computers and highways of our age. We can give them the opportunity to learn new skills, and find new jobs. We will be helping ourselves if we do, because we can use their energy and their skills.

MEANINGFUL HEALTH CARE REFORM, NOT POLITICAL EXPEDIENCY

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Wyoming [Mr. THOMAS] is recognized during morning business for 4 minutes.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to urge the Congress to undertake to adopt a health care plan based on good policy, not based simply on political expediency, not based on political theater, not based on the fact that the Clinton care has basically been rejected, and now we just have a couple of weeks to do something and, therefore, we have to do whatever is expedient politically. Instead we ought to be doing those kinds of things that have general agreement that will move our health delivery system toward a more complete one by doing the things that we know we can do.

There are fundamental changes that need to be made in the health care system. We need to take advantage of this opportunity to do it. I admire very much the fact that Mr. and Mrs. Clinton have brought the health care debate to a very high level, and it has been going on for some time, and I think we have had a pretty thorough discussion of alternatives for health care, all the way from single payer, Canadian kinds through the government-run Clinton care program, through extensive changes in universal care and the private sector to doing some fundamental things of reforming insurance to tax reform.

We have had a pretty good discussion of that. We have not come to a conclusion other than the fact that at least in my State of Wyoming there has been very little support for the idea of taking one-seventh of the American economy that has to do with health care and converting it to a Government delivery kind of health care program.

Having had that kind of reaction, it seems to me that we need to do the things that we fundamentally can agree to do here, and there are a number of principles that ought to be considered, it seems to me. One of them is we ought to accept the fact that Government is too big and spends too much. If we incorporate the kind of single payer plan, the kind of Clinton care program we will have the largest entitlement program this country has ever seen brought to us with 2 weeks of debate. Certainly that is a policy that we should not accept.

Second, we ought to do no harm. I think many have not recognized that much of the governmental program that is talked about is financed by reductions in spending in Medicare and Medicaid, $140 million over a period of time for Medicare. I think this is a policy that we should not accept.

We should also understand the impacts that this kind of change would have on business. These are some of the principles.

If we believe in those kinds of things, then there are a number of things that we can indeed do. We can keep the delivery system in the private sector. We can make fundamental changes, we can make changes in insurance so people are not canceled because of utilization, so they are not denied because of previous experiences, that is portable, we can do that, and that is the system to finance. I think it should be those kinds of changes that we should make.

We can make changes in liability, tort reform, a change that has been needed for a very long time. If our hope and our aspiration is to control the cost, the growth, tort reform is an essential element in that. We can do something about administrative costs. We have been studying that now for 3 years. We can do it. Electronic billing, many things we can do. We can preserve the security of medical records. These are things we can do.

I come from a rural State. We can do a number of things there. We can

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

change the definition of hospital so that something less than a full hospital can be reimbursed from Medicare and Medicaid for a stabilizing facility or an emergency facility in small towns where you cannot have a hospital.

We can do something with telemedicine in rural areas so that we can have the expertise of specialists in small towns like Basin, WY.

So I suggest to my colleagues that we do those things we can do, we make some fundamental changes and stay out of the area of political expediency when it comes to health care.

IMPROVING HEALTH CARE DELIVERY IN RURAL AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 1 minute.

Mrs. CLAYTON. Mr. Speaker, I want to speak today in favor of health care reform and of the benefits it should provide rural communities across America.

In rural America we have been struggling to improve our economic foundation and have been fighting persistently with unemployment and underemployment. This high level of unemployment means we have a high number of uninsured or underinsured families and individuals.

Therefore the cost for the uninsured is passed on to those with insurance. Universal coverage will improve the cost situation and guarantee families access to health care.

Also in rural communities, especially in the First District of North Carolina, we have a large number of senior citizens and therefore a growing number of rural hospitals that are Medicare dependent.

To improve the delivery of health care in rural America we need to ensure that more physicians will be available to meet the needs of the population. We also need desperately to provide for increased funding for rural community health centers and provide for the enhancement of health care infrastructure.

This Congress must provide for health care reform that addresses the concerns of rural America. Our rural underserved areas, which are the backbone of America, need our attention desperately.

□ 1040

DIPLOMATIC AND PEACEFUL SOLUTION NEEDED IN HAITI

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New York [Mr. GILMAN] is recognized during morning business for 5 minutes.

Mr. GILMAN. Mr. Speaker, the Clinton administration has succeeded in obtaining from the U.N. Security Council a resolution authorizing the use of all necessary means to oust the military rulers in Haiti.

Administration representatives lobbied intensively with those of other nations at U.N. headquarters to gain this approval that could mean the commitment of American troops to military action.

All the more regrettable that the President has yet to seek any authorization from the Congress, and the American people, before sending troops into an action that could cost the lives of their sons and daughters.

Last month, along with 102 of my colleagues in the House, I wrote the President urging him to seek such approval.

Last week, when Secretary of State Warren Christopher appeared before our Committee on Foreign Affairs, I asked him whether the President would seek approval from Congress before taking military action in Haiti.

He replied that consultations on the matter would be, in his words, "as full as can be permitted by the circumstances in which we find ourselves."

Absent a genuine emergency that threatens the safety of American citizens, I believe that response falls far short of seeking the kind of approval the President should have in this situation.

In coming to the Congress for this approval, the President needs to fully explain the following to the American people:

First, what U.S. national security interests are at stake that compel an invasion; second, what the objectives are of such an invasion; third, what the costs will be; and fourth, when and under what circumstances will the United States withdraw its military forces.

Mr. Speaker, the administration seems to be driving up a blind alley toward a military confrontation with Haiti that could leave a long and bitter legacy.

Before deciding to play the military card, the President should exhaust every possible diplomatic option. One which deserves review is to send a bipartisan congressional group to Haiti to assess the humanitarian, political, and diplomatic conditions there and to report back.

Forty-eight of the eighty members of Haiti's Chamber of Deputies have written to Congress urging that a congressional delegation be appointed to meet with such a broad cross-section of Haitian society.

Many of those Haitian parliamentarians who signed the letter opposed the coup against President Aristide. All were freely elected in the same election as President Aristide.

It would be an affront to disregard a request from 60 percent of the duly elected members of Haiti's Chamber of Deputies.

Before reaching a point of no return on military action, I recommend that the administration should take advantage of what could be a final opportunity to achieve a diplomatic and peaceful solution to this desperate tragedy.

THE CRIME BILL: A HISTORIC AND GREAT NEW BEGINNING

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 1½ minutes.

Mrs. SCHROEDER. Mr. Speaker, today there is going to be a lot of talk about the crime bill that came out of conference last week.

I just wanted to tell people that my city has been a real laboratory this summer for trying out some of the principles in the crime bill. You see, this crime bill is unique, because for the first time it is half prevention; half punishment.

If you look at a State like mine, we have been spending like $300 to $400 million a year on prisons and only about $3 million a year on prevention. If you look at the Federal Government, we have had about that same 1 percent of prevention to 99-percent incarceration and punishment.

Well, this is a half and half, and many people say that is too soft, that will not work, oh, do not do that. We had all sorts of gang problems, all sorts of trouble in Colorado, and we were really fearing this summer, and I must say so far, knock on wood, this has been a summer of safety, because we have gotten all sorts of preventive grants into community organizations who want to work with these young people and give them hope.

You know what, when you give them hope, you get them off the street, and you get them out of trouble. We have put in a tough curfew, yes. That is the punishment part, but we have also told them, "We want you in here. We want you doing things. We want you bettering your lives. We will give you money to help plant trees or do whatever it is that happens to keep you busy through the summer," and that has begun a summer of safety in Denver, CO.

We want that summer of safety to go all across the Nation and that formula is in this crime bill, and I think it is a historic and a great new beginning.

KEEPING OPEN THE PEACEFUL OPTION

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 4 minutes.

Mr. GOSS. Mr. Speaker, "all options are on the table." This is a phrase we hear a lot from the White House and from William Gray, the President's Special Adviser on Haiti. In recent months, however, we have heard a great deal from the administration about the need to keep open the military option in Haiti and very little about anything else. Granted, we do currently have an ill-advised and hurtful policy of sanctions but unlike the sanctions envisioned in the Governor's Island accord—those that should have gone into effect on January 15 when the military failed to honor the accord—the current sanctions policy is not attached to any political strategy. To date, no one in the administration has been able to answer this question to my satisfaction: How do we go from sanctions or military intervention to democracy in Haiti? It is not as simple as getting the military to step down or as simple as dropping President Aristide off in Port-au-Prince. The machinery of the Haitian Government will not simply pick up and chug along from where it left off in 1991. On the political front, United States policymakers—and Father Aristide—need to recognize the fact that Haiti has a parliamentary system which was designed with the specific goal of ending the 200 year succession of dictatorships in Haiti. In this decentralized form of government, President Aristide must work to build a majority, a working coalition. This means Haitians sitting down at the table with other Haitians. Current United States policy in Haiti is encouraging anything but that. It is time to put some other options on the table and the only way to do that is to take off the pressure. Pull back the 14 warships and the 2,400 troops who stand at ready in the waters off of Haiti. Open the borders and let the desperately needed food and medicine into Haiti. Stop the sabre rattling—invading Haiti won't solve that small nation's problems but, if our 1915 experience tells us anything, will mean many more for American policymakers. Use the safe haven idea but in a more effective way by seeking havens in Haiti for the immediate provision of humanitarian relief and refuge for those who truly are escaping economic or political repression. The UNHCR has done this before in Sri Lanka on Mannar Island with some success. Once the pressure is off we can seize the opportunity to pursue the peaceful option. By focusing on the moderates and the legitimately elected parliamentarians—48 of whom signed a letter to the bipartisan leadership of both Houses of this Congress—we isolate the extremes and start building something for Haiti's future. We need to do the homework too—send down the Chris Smith or the Dole Commission to open up channels of communication, to assess the possibility of a peaceful resolution or the need for military action. And, work with the business and legitimate institutional Haitian leaders to develop positive steps for rebuilding infrastructure and services as quickly as possible. Despite the green light for military action from the United Nations, it seems clear that the American public and the Congress are not willing to give the same go-ahead. There are alternatives; there are legitimately elected Haitians, in Haiti, willing to work with the United States and Father Aristide. We should not invade Haiti; we should put a peaceful, negotiated solution back on the agenda. Let us get started.

□ 1050

HEALTH CARE: PREEXISTING CONDITIONS HAVE TERRIBLE CONSEQUENCES

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Connecticut [Mr. GEJDENSON] is recognized during morning business for 1½ minutes.

Mr. GEJDENSON. Mr. Speaker, as we begin to confront the challenges before the Congress on health care, one of the critical issues is for people with preexisting conditions. The health care debate is not a theoretical challenge; it is a challenge for life or death.

For 13 million Americans who have diabetes, their preexisting condition puts them in the category of people who, if they lose their jobs, may very well lose their health care and not have the ability to obtain new policies.

Recent stories in the newspapers contrasting people with diabetes who have health care and those who do not indicate it is clear that society saves dollars by proper treatment and counseling. The cost of amputating limbs and losing kidneys is not simply a personal family tragedy but an economic tragedy for the country.

People like Lee Ducat, of the National Diabetes Research Coalition, and others who have struggled for decades to see that diabetics have a chance to grow and prosper in the society and be productive members, have joined us in this battle. The danger for the future in many ways is even worse than the clouded situation we have today. With genetic screening, soon those who do not yet have preexisting conditions may be precluded or have additional costs added to their health care premiums because of a genetic tracer.

As we learn more about the derivation of these diseases and the danger that each of us may get them, rather than helping us develop preventive medical policies, we may be dooming our children and our children's children not to be covered by health care or to pay extraordinary additional expenses.

For this country not to address this issue today is a travesty, and I address my colleagues on my side of the aisle. Our Republican friends have abandoned the health care debate. They would rather say there is no solution. We can do better if we pull together to protect diabetics and all others in the society who need health care coverage now.

CONGRESSIONAL COMMISSION ON HAITI NEEDED NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Jersey [Mr. SMITH] is recognized during morning business for 4 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, of all the issues deserving the attention of the 103d Congress today, not one is more important than whether soldiers and sailors and airmen are sent into battle in Haiti. So I would ask the House's undivided attention to two specific questions that we are obliged to ask the President of the United States. One, if the United Nations Security Council gets to vote on committing troops in Haiti, why can we not, the Congress, the elected body of the people of the United States? And what are the costs of committing troops there, not only in terms of the very precious lives of our military men and women but to the military's overall mission and our readiness to respond to priority hotspots around the globe?

Put very plainly, what will it cost and where will these resources come from?

Mr. Speaker, more than 100 Members of the House have written President Clinton asking that he seek specific congressional authorization of any military action in Haiti. Notwithstanding his prerogatives as Commander in Chief and absent a genuine emergency that threatens the safety of American citizens, the President should first make the case for invasion and then let the Congress become part of that process.

Members of Congress who hold very different views on United States policy in Haiti agree that the President should follow the course of consulting the elected Representatives of the American people. I would submit that, in any case, if he cannot convince a majority of the House, that will put his policy in peril to obtain a sustainable majority in both the House and the Senate.

Mr. Speaker, again the President has sought and he has obtained U.N. approval for the use of force. Is the Congress to be denied that same opportunity?

Some other questions that the American people need to know: What national interests are at stake that justify the use of armed force in a foreign land? How much, plus what we are already spending patrolling Haitian waters and the Dominican border, will such a Haiti mission cost? Are other programs and readiness suffering as a result? What are the objectives; specifically, what are the objectives of an invasion? Will we stay until President Aristide in restored or remain until he and the duly elected parliament are cooperating to govern Haiti? What steps have we taken to prevent the infamous mission creep or nation-building that spawned disaster in Somalia? Who will share the risk and the cost? When we leave, who will step in?

Above all, and I repeat myself on this, what are the risks to U.S. servicemen and servicewomen?

These are just a few of the questions that must be asked and answered in this Chamber before we can truly say that we as elected Representatives have done our job. President Clinton should consider military force only when he has run out of options, not just when he has run out of ideas.

Mr. Speaker, I have introduced a resolution, a bipartisan resolution which seeks to form a bipartisan commission to look at, explore, study and, hopefully, go to Haiti to find what are the facts and then to make some policy options, suggestions to the Administration. The objective is not to tie the President's hands but to lend a hand in devising a workable, sustainable strategy and, hopefully, a lasting solution to the nightmare of Haiti. I believe that this is just one idea that makes more sense rather than rushing into battle.

Mr. Speaker, there are a number of people across the spectrum, both in Haiti, those who are concerned about Haiti, and policymakers of the previous administration and many others who have looked at this and said invasion is not the way.

Let me be clear that no one wants to give any solace to General Cedras and other leaders in the dictatorship who might look at this as a delaying tactic. It is not. We are hoping to devise a bipartisan strategy that continues the pressure on the military dictatorship, the de facto government that has no place being in Haiti, while we look for the restoration of democracy.

It seems to me until these vital questions are answered, we should not, I repeat, we should not invade Haiti.

DIABETES AND HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from North Carolina [Mr. PRICE] is recognized during morning business for 2 minutes.

Mr. PRICE of North Carolina. Mr. Speaker, more than 13 million people in the United States have diabetes. Every 60 seconds at least 1 person is diagnosed with this disease. This year more than 160,000 of our fellow citizens will die from it. It is a chronic disease and has no cure.

The severity of diabetes and the toll it takes on its sufferers has become a familiar story to all too many Americans. During this health care reform debate, the threat of diabetes has revealed itself in another devastating way. Four months ago I met with three attractive, energetic college students from my district who happen to have diabetes and who came to the Nation's Capital to talk about health care reform.

Now, these young people had some of the usual nervousness about contemplating life on their own after graduating from college, but their nervousness had a particular edge to it because they knew they were going to be removed from their parents' health insurance policies and that they might have a great deal of difficulty finding coverage.

How are they going to secure the medical equipment, medicines, and treatment that they need to live independently and to deal with diabetes-related complications? Will they be able to even get coverage? If they find a plan that will cover them, can they come even close to affording it? I wish I had better answers for those young people. How do I tell them that their nightmares are well-founded, that they will likely encounter what far too many Americans have encountered: Inability to secure coverage because of preexisting conditions? Whatever else we do, Mr. Speaker, on health care reform, we have got to make this threat a thing of the past.

Mr. Speaker, we know what the worst complications of diabetes can be: Blindness, heart disease, kidney disease, neuropathy, amputations. We have made some progress in mitigating and preventing these complications, but as I can testify from my own family's experience, we are not there yet. We are not there yet by a long shot.

We have had some encouraging studies. A 9-year NIH-funded study, for example, found that normalizing blood glucose levels among diabetic individuals could prevent complications by 60 to 70 percent. This medical research has great promise; modest investments can yield big dividends in saved lives, improved care, at reduced costs.

As we bring the health care reform debate to the House floor, we need to carry on our deliberations with an awareness of their human dimension. What we do does matter to millions of Americans who, like those students who came to my office, struggle with diseases like diabetes, attempting to control their illness, avoid devastating medical costs, live normal productive lives. These are the people we must remember as we debate health care reform and medical research funding. I implore my colleagues to rise to that challenge.

□ 1100

REVOKE MOST-FAVORED-NATION STATUS FOR CHINA

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Virginia [Mr. WOLF] is recognized during the morning business for 4 minutes.

Mr. WOLF. Mr. Speaker, Republicans, rightly so, like to remind America from time to time that we are the party of Lincoln, and we should, so we need to constantly check our compass on key defining issues to be sure that we continue to stand for people and for basic individual rights. Standing up for the people of China is such an issue. We will soon have a chance to vote on H.R. 4590, the Pelosi bill, which revokes most-favored-nation status only, and I stress to colleagues only, for those products produced and exported by the Chinese People's Liberation Army and certain goods from state-owned industries.

Mr. Speaker, Lincoln, the President responsible for ending slavery in this country, would not have stood for the importation of goods made by slave labor in China, and that is exactly what the People's Liberation Army does.

The party of Lincoln has at its heart a fundamental commitment to freedom from the tyranny of oppressive government. Today, what government is more oppressive to its own people than the ruthless Bejing regime and its brutal enforcement arm, the People's Liberation Army. Remember how proud we were when Ronald Reagan stood tall against an earlier oppressor, the Soviet Union? Remember when he named them the "evil empire?"

Life, liberty, and the pursuit of happiness are just words to the individual living in China. Theirs is a government which does not allow freedom to worship, freedom to speak out or even the freedom to have children. There is no right to due process. Punishment is swift. Penalties are harsh.

Yet some would dismiss out of hand these boot-crushing acts.

Some have said, Tiananmen is a long way behind us. We should avoid public pressure on human rights in China, moving forward through continued trade and quiet diplomacy.

This sounds to me more like the policies of Clinton than the party of Lincoln. Tiananmen was 5 years ago. What, in the area of human rights has improved? What has trade and quiet diplomacy accomplished since

Tiananmen? The answer to both questions is too painfully obvious. Conditions grow worse every day for the Chinese populace. If we stand for the individual in China, where one-fifth of the world's population lives, do we not have to then vote for H.R. 4590 to target only those goods made by the Chinese People's Liberation Army and certain state-run industries?

Let me just cover some of the things the Chinese military have done.

At Tiananmen Square 5 years ago, the Chinese military proved that it is an antidemocratic instrument of repression and the ultimate guarantor of Communist rule over the people of China.

Two, the Chinese military is the occupying force in Tibet and threatens peace and stability in Southeast Asia.

China is the only nation targeting the United States with nuclear weapons and the only nation still testing nuclear weapons. Do the Members of this body on both sides of the aisle want to continue to give the Chinese Liberation Army special trade preferences when they are targeting their nuclear weapons at the United States? Clearly, if my colleagues ask this at any town meeting, the American people, our constituents, will say absolutely not.

Although China faces no external threat to its national security, it is engaged in a massive buildup of the most modern conventional and strategic forces, and, lastly, Mr. Speaker, with regard to the Chinese military companies. They are helping to finance the country's military buildup with arms sales to the Middle East and commercial product sales in the United States.

That is correct. The Chinese military are selling arms to Iran. Many of the weapons used in Iraq came from China, and they are selling arms to countries like this, and so clearly, when we vote, we should strongly support this bill that the gentlewoman from California [Ms. PELOSI] has introduced.

DIABETES TREATMENT AND HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Louisiana [Mr. JEFFERSON] is recognized during morning business for 2 minutes.

Mr. JEFFERSON. Mr. Speaker, it is time that the Nation focus attention on diabetes research and prevention as we debate this health care issue.

Diabetes, the fourth leading cause of death by disease, each year results in 12,000 cases of new blindness, 65,000 leg and foot amputations, and 13,000 cases of endstage renal disease.

As many as 4.5 percent of the American population has diabetes. Yet 14.6 percent of health care dollars are spent on this disease, approximately $105 billion.

Medicare and Medicaid paid 42 percent of the diabetes cost of $44 billion. The per capita annual health expenditure for people with diabetes was $9,493, more than three times the nondiabetic figure of $2,604.

An NIH study has shown that early and comprehensive management of the disease rather than treatment after complications dramatically delays the risk and progression of diabetes.

But few Americans receive this type of treatment. Periodic diabetes screening is not covered under private health plans or Medicare, even though the $10 cost of the test would save billions of dollars in the long run. I urge that, with focus on preventive services, health care reform must include early screening and comprehensive management of diabetes.

DIABETES AND HEALTH CARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized during morning business for 2 minutes.

Ms. FURSE. Mr. Speaker, I rise today to call attention to diabetes, a serious health problem in America which clearly illustrates the dire need to pass health care reform legislation. Diabetes affects 14,000,000 people. One of those 14,000,000 is my own beloved daughter, Amanda.

Anyone who has diabetes, or knows someone who has diabetes, is aware of the difficulty of finding an insurance company to cover them due to their pre-existing condition. Diabetes is also something that my daughter can do nothing about: it is as irretrievable a part of her as her hair, her eyes, and her smile. If she—or the millions of others like her—does not get the care she needs to properly manage her disease, and she does a wonderful job at that, but, if she does not get that care, we will all be forced to pay for the resulting costly complications of diabetes. Those include heart and kidney disease, blindness, nerve damage. But worse than the cost is the pain that those people will have to bear.

Any health care reform legislation that eliminates preexisting conditions, and they must, must also have universal coverage, or otherwise we will find the cost of reforming our health care system too costly. We must ensure that we do not make the situation worse for people with chronic diseases such as diabetes. I urge all my colleagues to cosponsor House Concurrent Resolution 223. That is diabetes health care reform legislation. It will ensure that health care reform meets the needs of 14,000,000 Americans with diabetes.

DIABETES AND HEALTH CARE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized during morning business for 1½ minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, as with many diseases, a huge number of women who are afflicted with diabetes do not know that they have the disease. About one-half of the 6.5 million American women who have diabetes remain undiagnosed. For black women, the numbers are even more staggering—nearly 8 percent of black women in America have diabetes, and blacks suffer higher rates of complications from the disease, including higher rates of blindness and kidney failure.

As we turn to health care reform, we need to be reminded that in many cases, people with diabetes go without health insurance because of pre-existing condition exclusions—health care reform must eliminate this problem.

Another must of health care reform is a greater emphasis on preventive care, which would increase the likelihood that people with diabetes can have their affliction diagnosed, and can be educated about the disease. Regular checkups as a part of preventive care will also reduce the risk of complications from the disease.

We should all be reminded at this critical juncture in the health care debate that preventive care saves money, and more importantly, saves lives.

□ 1110

THE 1994 REEMPLOYMENT ACT

The SPEAKER pro tempore (Mr. DEUTSCH). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 2 minutes.

Ms. DELAURO. Mr. Speaker, I rise today to address a lingering fear that taints our economic recovery. That fear—one I hear every week in my district—is that goods jobs are not out there for this country's working people. They read about the recovery, but they do not see it.

We are here today to urge passage of a bill that provides the critical ink between those who lost their jobs during the recent recession and the jobs being created by new economic growth. Right now, our workers are struck with an archaic, outmoded unemployment system. A patchwork of services that lack coordination and fail to provide needed education and training.

This system does not serve our workers, it does not serve our businesses and it does not serve our economic interests.

I urge my colleagues to consider this fact. More than 75 percent of the workers who lost their jobs last year did not expect to be recalled to their old jobs. If we are going to compete in the world economy, we had better focus on training and begin to treat our workers like the tremendous assets they are. We depend on them to provide the world-class levels of skill and productivity necessary to make the high tech products and provide the high technology services of tomorrow. In a rapidly changing economy, they cannot continue to do that without our help.

The Reemployment Act of 1994 will create a new employment system, with one-stop shopping for people who have lost their jobs—one stop to provide labor market information, training programs, job counseling and information on benefits.

Finally, working men and women will have a system that is concerned with helping them do what they want to do most—get back to work. It will help to trim bureaucracy, cut redtape and most importantly, improve job training.

I am proud of this bill, of what it does for working people, and of the people who are supporting it. Many people already recognized the importance—the need—the necessity—of this measure. There are more than 100 cosponsors in the House; it has been reported out of the Ways and Means Committee without opposition; and it is backed by a broad range of businesses and business groups.

I urge my colleagues to help businesses, boost the economy, and give U.S. workers a fighting chance. Support the Reemployment Act.

THE REEMPLOYMENT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. ESHOO] is recognized during morning business for 2 minutes.

Ms. ESHOO. Mr. Speaker, I am proud to be 1 of over 100 cosponsors of the Reemployment Act.

This bill continues to gain momentum, having recently passed the Ways and Means Human Resources Subcommittee without opposition.

Mr. Speaker, this is a bipartisan bill, supported by small and large businesses, business groups, and educators.

We all understand how critical investment in human capital is to the long-term viability of our economy and the well-being of our Nation.

We must take advantage of this overwhelming support and pass this vital legislation this year.

We must replace our outdated and cumbersome unemployment system with one that trains workers, helps them to find jobs quickly, and gets them off the unemployment rolls.

The Reemployment Act would establish a network of one-stop centers where citizens can walk in, apply for unemployment benefits, arrange for training, and find employment.

By consolidating and streamlining this process we are truly serving workers and businesses.

I urge my colleagues to join us in supporting this overdue legislation and in helping us pass it this year.

NATIONAL NIGHT OUT PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas [Mr. GENE GREEN] is recognized during morning business for 2 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, tonight people all over our country and in the district I represent in Houston, TX, will participate in the National Night Out Program that brings awareness to our Nation's crime problem. More importantly, this program brings these neighborhoods together to fight crime.

It is interesting that when the rest of the Nation joins together to solve our crime problem, the House of Representatives is still divided on this issue. The crime bill we are considering contains a great many positive programs that will help control crime. While solutions on how to solve our crime problem are many and costly, it is made more difficult when the progress we have made is criticized by those who on one hand argue that we do not go far enough, and yet then complain the Federal Government should do more.

We are criticized for not doing more, but if the crime bills are defeated this week, then these same people, these same editorial writers and same groups, will then say that Congress cannot address the number one issue that everyone agrees on that we have to solve, crime. Yet they are the ones that are saying maybe we should send this bill back to conference and kill it for this session. These are the same people that will never be satisfied with what Congress does, because we are imperfect, we are humans.

This is unfortunate, but it is the way of life. We have to combine our efforts to solve the crime problem. The friends, families, and neighbors who join tonight will know that it will take more than political posturing, whether it be in Congress, city hall, or State capitals, to solve the problem. We must bring our communities together and address it as communities, whether you serve in Congress, whether you serve on city council, on your local school board, or in your State legislature. Because what we should do is do what is right, and not listen to the folks who would just tell us you did it wrong later.

NATIONAL NIGHT OUT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New Jersey [Mr. MENENDEZ] is recognized during morning business for 2 minutes.

Mr. MENENDEZ. Mr. Speaker, tonight is National Night Out. In my district in New Jersey and in communities across the Nation, Americans will join with their neighbors to take back the streets from crime. This year National Night Out is of particular importance, as the Congress prepares to pass the omnibus crime bill.

The crime bill says we will not sit idly and watch while crime continues to erode our daily lives. The crime bill provides the force needed to make safe streets a reality. The crime bill provides the opportunity for us to renew our efforts to fight this malignancy which has invaded our streets, our schools, and our lives. The crime bill sends the message, that crime will not be tolerated. Three strikes and your out, 100,000 more cops on our streets and a ban on assault weapons are the instruments with which we will fight the crime epidemic, take back our streets from violence and drugs and make every night a national night out.

RETHINK CHINA POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. PELOSI] is recognized during morning business for 5 minutes.

Ms. PELOSI. Mr. Speaker, for the past 5 years Congress has consistently and strongly supported using our trade leverage with China to express concern over human rights abuses in China and Tibet, the proliferation of weapons of mass destruction to rouge nations, and China's market barriers to American-made products. All of these conditions still exist. The problems still exist.

Last week the CIA, in an unclassified report, states that China's trade surplus with the United States would be at least $28 billion for 1994, an increase of $5 billion over this year.

The proliferation of weapons to rouge states continues. Yesterday in a special order I reviewed that, and have communicated that to our colleagues, the closeness of the North Korean military to the Chinese military, their meeting in June where they said China and North Korea are as close as lips and teeth, the pledge of 82,000 troops in case of war, and also a pledge in case of U.N. sanctions of credit assistance for food and energy to the North Koreans. In addition, the Cambodian Government has reported that their intelligence agency has stated that China has sold 18 million dollars' worth of weapons to the Khmer Rouge under Pol Pot, and that is just as recently as this spring. The list goes on and on and on.

Today I want to talk about what leading human rights groups have said about the situation in China, particularly in the last couple of months since President Clinton's announcement.

□ 1120

The U.S. Catholic Conference says,

> There are increasing reports that China is cracking down harder on nonapproved religious gatherings and is giving more legal power to public safety bureau officers to conduct raids, make arrests and impose fines. I urge you to vote in favor of H.R. 4590.

That is the bill that is supported by the gentleman from Missouri [Mr. GEPHARDT], majority leader, the gentleman from Michigan [Mr. BONIOR], majority whip, the gentleman from Virginia [Mr. WOLF], and the gentleman from New York [Mr. GILMAN] on the Republican side, and over 100 Democrats and Republicans in this body.

The International Campaign for Tibet says that:

> The United States more than any other nation has the ability to pressure China to come to the negotiating table with the Dalai Lama or his representatives. But in order for China to take U.S. efforts seriously, a strong message must be sent that China cannot have the sort of relationship they would like with the U.S. until they make progress on Tibet. H.R. 4590 helps send this message.

The Robert F. Kennedy Memorial Center for Human Rights states, and this relates to what the situation is in terms of human rights in China,

> The Administration has made it clear that its relationship with China is full of many conflicting priorities and that concern for human rights takes last place. It is up to Congress to reverse this misguided policy by sending a strong message to China's leadership that repressive practices that threaten human dignity and development do not qualify China for preferred treatment from the United States.

From Human Rights Watch/Asia,

> in the absence of international pressure, China has steadily tightened the news on all forms of dissident activity. The authorities in Beijing have apparently calculated that there is no price to be paid for continued political repression in the name of guaranteeing 'social stability' at a time when major economic reforms are underway.

I might add, that a few days after the President's statement, the Chinese prime minister announced a new edict redefining and tightening the noose on dissent by redefining counterrevolutionary activity and sabotage. Counterrevolutionary activity is now defined as any disagreement on any issue with the Chinese Communist Party.

I have more that have been sent out in a Dear Colleague today of statements from those who are commenting on the human rights situation in China and the need for Congress to send a strong message. I urge my colleagues to support H.R. 4590.

Mr. Speaker, I would like to inform the body of the statement of Amnesty International on this same subject. "It remains unclear today what constitutes the Administration's human rights policy toward China and Tibet," states the Amnesty International report. "Equally troubling is the Administration's failure to make human rights policy since the MFN decision, an integral part of overall U.S. engagement in China. This is particularly evident as the Administration aggressively pursues its economic and strategic interests, leaving human rights floundering on the periphery. As a result, Clinton's commitment to human rights issues cannot be taken seriously, not only by China but by other countries."

Mr. Speaker, in this legislation that I alluded to earlier, the gentleman from Missouri [Mr. GEPHARDT], majority leader, the gentleman from Michigan [Mr. BONIOR], House majority whip, the gentleman from Virginia [Mr. WOLF], whom we heard from earlier here, the gentleman from New York [Mr. GILMAN], and over 100 Democrat and Republican cosponsors have in H.R. 4590 put forth legislation which focuses on only products made by the Chinese military and selected other state-run industries.

By continuing to provide preferential MFN treatment for military exports, American consumers are subsidizing the Chinese military modernization; in effect, it is a program of guns to butter to guns. The Chinese military exports into our country products such as stuffed animals, household appliances, pharmaceuticals, et cetera. With the profits off of these products, they are able to modernize their army, pursue their nuclear weapons program, sell nonconventional weapons to rogue states. It is one thing for the American consumer to exercise a choice and buy these products. I think the American consumer should understand the choice that it is making. But in addition to that, it just does not seem right that the American taxpayer should give a preferential tax break to the Chinese military, thereby giving them properties to pursue their militarization and their proliferation of weapons.

It is in that spirit that I ask my colleagues to stand with the man before the tank rather than subsidizing the tanks that crushed the dissidents in Tiananmen Square, brutally occupies Tibet and, once again, proliferates weapons to rogue states.

RECESS

The SPEAKER pro tempore (Mr. DEUTSCH). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 25 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

By the power of Your spirit we pray O God, that we will have eyes to see any injustice in our world; may we have strong hands to do the works of peace; may we have caring hearts that are not content with vain promises or gestures; may we have souls that sense the unity of creation and our solidarity with every person, so that all we do or say or think may be to Your glory, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from the District of Columbia [Ms. NORTON] come forward and lead the House in the Pledge of Allegiance?

Ms. NORTON led the Pledge of Allegiance as follows:

> I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MARK A. POTTS

The Clerk called the bill (H.R. 3718) for the relief of Mark A. Potts.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JUNG JA GOLDEN

The Clerk called the bill (H.R. 1184) for the relief of Jung Ja Golden.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FANIE PHILY MATEO ANGELES

The Clerk called the bill (H.R. 2084) for the relief of Fanie Phily Mateo Angeles.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 2084, a bill for the relief of Fanie Phily Mateo Angeles.

I urge my colleagues to vote in support of this private legislation which would grant the beneficiary, Fanie Phily Mateo Angeles, an adjustment of status from humanitarian parolee to legal permanent resident in the United States as of the date of its enactment. This would also direct that a visa number deduction be made by the Immigration and Naturalization Service.

Fanie Phily Mateo Angeles currently resides in Gaithersburg, MD. She has four sisters and two brothers living in the United States. Most have American citizenship and a few have legal permanent resident status. She came to the United States in 1976 under her father's petition as a first preference unmarried child of a permanent resident. But due to the sudden, severe illness of her mother in the Philippines, she and her father were forced to return to their homeland to care for her. In order to maintain her permanent residency status and comply with INS regulations, she returned to the United States every year for a 1 to 2 months period at great expense.

Unfortunately, Ms. Angeles' mother died in 1983 and her father, bereaved by this unexpected loss, decided to remain in the Philippines for the rest of the year. Ms. Angeles, likewise, stayed with her father to care for him during this time.

In 1985, Ms. Angeles attempted to return to the United States but was detained by INS agents who charged that she had violated INS regulations by overextending her stay outside of the United States. She was detained 2 weeks, her green card confiscated, and she was declared excludable from the United States by an INS judge.

In 1989, she filed an appeal with the Board of Immigration Appeals but was flatly denied in 1990. She faced immediate deportation. However, recognizing the special circumstances of Ms. Angeles's case, INS commissioner Gene McNary on February 22 exercised his discretion and granted her a humanitarian parole which allowed her to remain in the United States indefinitely while she regains her permanent resident status.

Since then, she has been renewing her humanitarian parole status every year as required by U.S. law. However, this law may not be available in the next few years; it is scheduled to expire in October 1996 unless otherwise renewed by Congress.

Her best option now to regain her former legal permanent resident status, which could eventually lead to her American citizenship, is to apply as a fourth preference sister of an American citizen. However, this could take about 20 years due to the long waiting period under the current INS rules. As of now, the INS takes about a month to process 1 week of these fourth preference claims.

While the grant of humanitarian parole is reserved for emergency or extraordinary circumstances like Ms. Angeles, it nonetheless falls short of providing the security that a permanent legal residency offers. But more importantly, it forecloses any opportunity for Ms. Angeles from becoming an American citizen. Since she already received and possessed a green card in 1976, she would already have been naturalized as a citizen before her detention and confiscation of her green card by the INS in 1985.

Mr. Speaker, through her selfless and compassionate care of her aging parents, Ms. Angeles has demonstrated her strong sense of responsibility, her love of family, and her willingness to sacrifice her own aspirations for the benefits of others. I can think of no one who better emulates the basic principles of fairness and compassion that this country was founded on. Therefore, it is only just that we provide Ms. Angeles with a fair solution to her exceptional situation and give her the permanent residency status she patiently seeks.

Mr. Speaker, on behalf of Ms. Angeles and her family, I respectfully urge this distinguished body to unanimously vote for passage of H.R. 2084, a bill for the relief of Fanie Phily Mateo Angeles.

ELIZABETH M. HILL

The Clerk called the bill (H.R. 810) for the relief of Elizabeth M. Hill.

There being no objection, the Clerk read the bill as follows:

H.R. 810

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Elizabeth M. Hill—

(1) the sum of $6,780, and

(2) interest on such sum—

(A) calculated at the rate determined in the manner provided in subsections (a) and (b) of section 1961 of title 28, United States Code, and

(B) payable for the period beginning on October 5, 1985, and ending on the date on which such sum is paid.

Such sum represents the amount that was recovered by the United States under Public Law 87-693 (76 Stat. 593; 42 U.S.C. 2651 et seq.) in satisfaction of its claim against a tortiously liable third person for the value of medical care and treatment the United States furnished to Elizabeth M. Hill, but would have been recovered by Elizabeth M. Hill if a timely request for a waiver of such claim had been submitted on her behalf.

SEC. 2. LIMITATION ON ATTORNEY'S AND AGENT'S FEES.

Not more than 10 percent of the sums appropriated by section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1,000.

Mr. STENHOLM. Mr. Speaker, I rise to urge my colleagues to support H.R. 810, the Elizabeth M. Hill private relief bill. This bill is for the relief of Miss Hill who was injured in a 1977 automobile-bicycle accident, while her father was stationed with the United States Navy in Italy.

I would like to begin by thanking Judiciary Chairman BROOKS, Subcommittee on Administrative Law and Governmental Relations Chairman BRYANT, Mr. FISH, ranking member of the Judiciary Committee, and Mr. GEKAS, ranking member of the Subcommittee on Administrative Law and Governmental Relations, for working with me and bringing this bill to the floor today.

This bill requires the Treasury to pay Elizabeth M. Hill $6,780 plus interest computed from October 2, 1979. This amount was recovered by the U.S. Government in 1979, in satisfaction of its claim against a tortiously liable third person, in reimbursement for medical care provided for Elizabeth Hill, a military dependent. This amount, part of a fixed total amount available for settlement in her 1977 automobile-bicycle accident, would have been recovered by Elizabeth M. Hill if a timely request for a waiver of such claim had been submitted on her behalf and approved by the Secretary of the Navy. However, the Navy never informed the Hill's of their separate lawsuit.

The Department of the Navy, on behalf of the Department of Defense, has gone on record as stating that they have no objection to this legislation.

I believe Miss Hill's claim is valid and just. Again, I urge my colleagues to support H.R. 810 for the relief of Elizabeth M. Hill.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

MERRILL LANNEN

The Clerk called the bill (H.R. 2194) for the relief of Merrill Lannen.

There being no objection, the Clerk read the bill as follows:

H.R. 2194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION EXPENSES FOR MERRILL LANNEN.

Merrill Lannen of Tampa, Florida, shall be deemed to be an employee whose transfer in March 1985 from the United States Postal Service to the United States Army Corps of Engineers entitled him to travel, transportation, and relocation expenses authorized, at the time of the transfer, under subchapter II of chapter 57 of title 5, United States Code, for other transferred employees within the meaning of chapter 57 of such title.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. The Clerk will call the last bill on the Private Calendar.

KRIS MURTY

The Clerk called the bill (H.R. 2793) for the relief of Kris Murty.

There being no objection, the Clerk read the bill as follows:

H.R. 2793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION EXPENSES FOR KRIS MURTY.

For the purpose of receiving reimbursement for relocation expenses under sections 5724 and 5724a of title 5, United States Code, Kris Murty of El Paso, Texas, an employee of the Department of the Army, is deemed to have been an employee transferred by the Department of the Army from one official station to another for permanent duty when we relocated from Houston, Texas, to Fort Bliss, Texas, in February 1985.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.

No amount exceeding 10 percent of a payment made pursuant to section 1 may be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LET US REASON TOGETHER

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, in dispatching Federal marshals to abortion clinics, Attorney General Janet Reno follows a Little Rock precedent set by President Dwight D. Eisenhower. School integration was even more controversial in 1957 than abortion is in 1994. But President Eisenhower knew that the failure to defend constitutional rights in the face of violence was the ultimate abdication of Federal responsibility.

This weekend I went to the Hillcrest Women's Surgi-Center in southeast Washington. I had heard nothing like the taunts and intolerance I heard there since I was the target during my youthful days as a civil rights worker.

Then as now, controversial constitutional rights were at stake. Then as now, honest differences were obscured by the violence of the extremists.

Americans may protest on opposite sides of the road. But let us always move to common ground to stop violence, as the Justice Department has done.

LAY THE OLD ASIDE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, an item appeared today in the newspaper which sheds some needed light on the campaign finance reform debate. According to Common Cause, 44 of the 47 top recipients of PAC contributions were House Democrats. The House campaign finance reform bill has languished in conference of months over the issue of PAC contributions. House Republicans want them banned, Senate Republicans want them banned. Senate Democrats want them banned also. And House Democrats? Well, House Democrats would rather keep the status quo when it comes to PAC contributions.

When PACs were first formed, they were meant to reform the campaign finance system, but that reform has failed to reduce the influence of special interests and failed to inspire confidence in our political system.

I say enough is enough.

We need to go forward with effective and comprehensive campaign finance reform now. Common Cause has shed some light on why House Democrats are reluctant to give the American people the reform they demand. Once again, for their own personal interests, they are the last to lay their old ways aside.

THE VOTING RIGHTS ACT AND VOTING RIGHTS DISTRICTS

(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, on August 6, 1965—29 years ago this Saturday—the Voting Rights Act was signed into law. Congress boldly acted to include all Americans in the political process, and the Voting Rights Act is among the most meaningful acts this body has ever passed.

Today, as a 31-year-old African-American, I address this body as a beneficiary of the Voting Rights Act and testify to its importance.

Unfortunately, the Voting Rights Act is under attack, and there are those who seek to turn back the hands of time, returning our political bodies to the pre-civil rights day.

Three judges in Louisiana have ruled against the Voting Rights Act, going behind closed doors to dismantle voting rights districts.

Then last night, a court in North Carolina affirmed the validity of voting rights districts that allowed North Carolina to send to Congress its first black representatives since Reconstruction.

At this crucial time of reexamination, I urge my colleagues to support the principles and intent of the Voting Rights Act, and to speak out vigorously against efforts to return this institution to the days before this body acted so bravely in 1965.

REJECT THE CRIME BILL CONFERENCE REPORT

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, if you think that a bunch of Senators and Representatives in Washington can solve the crime problem in this country by throwing $33 billion at social and other programs, think again. Our colleagues in the State legislatures think otherwise.

Last week the Washington Times reported from the National Council of State Legislators Convention in New Orleans that many of the State legislators are not enamored with the crime bill which will be coming up tomorrow, because it contains too many Federal requirements and too many Federal mandates to be of much use to States and local governments in fighting crime.

Let us face it: Crime on our streets is not fought by the FBI or the U.S. Marshal Service, it is fought by our local police departments and sheriffs departments and it seems to me that the way we fight crime the best is by helping State and local governments with the resources and the wherewithal, without all kinds of congressionally imposed mandates, to fight crime where it happens. That is why this crime bill should be rejected. It is an assault of federalism. We should go back to the drawing boards and do something that will help our States and localities rather than posturing with an election coming up.

JAPANESE SWISS ARMY KNIFE? NOT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, it cuts, it dices, it slices, it reams, it saws, it even opens up bottles. That is a trusty Swiss Army knife.

□ 1210

But an American court ruled that a Swiss Army knife made in China as an imitation is also a Swiss Army knife, so let me ask this, my colleagues:

Is it now a Swiss-made Swiss Army knife, or is it a Chinese-made, Swiss-look-alike, Swiss Army knife? What is a Swiss Army knife to consumers around the world?

Now the Swiss say a real Swiss Army knife is made by the Swiss and a Swiss Army knife made by the Chinese is a Chinese Army knife or should be called a Swiss Army knife made by the Chinese, and is, in fact, an imitation.

One thing is for sure. This is no play on words. Chinese dictators are laughing all the way to the bank, consumers are getting ripped off, and this issue reminds me of America's trade policy with China which resembles another Swiss product: Swiss cheese.

Think about it, this cutting two-edge sword.

DRAGNET

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this is the city. Washington, DC. The time: August 1994. This is a true story. The names have remained to expose the guilty.

The crime: Passing a fake crime bill to get reelected.

If Sgt. Joe Friday were analyzing the crime bill conference report, he would throw the Congress in jail.

Quite obviously, this bill does not measure up either to its promise or to its need.

The American people want the Congress to pass a real anti-crime bill. This conference report is full of social welfare spending that few associate with crime fighting.

In fact, $9 billion goes to things like community development corporations that will finance projects intended to provide business and employment opportunities for low income people.

Mr. Speaker, the crime conference report is no dragnet to criminals. It is more than a drag on the resources of middle-class taxpayers and the Federal Government.

DIABETES AND HEALTH CARE REFORM

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, we are addressing health care. It is coming up in the next few weeks. I would like to talk about those 7 million people with diabetes around this country and another 6 million people that have diabetes that do not even know about it. It is critical that health care reform pass because most of them cannot get health insurance unless they belong to a large plan that has negotiated so that they cannot be excluded. Most of them do not have health care insurance and cannot get health care insurance. Over 160,000 people die each year as a result of diabetes.

I can tell my colleagues it hit my family personally because my own son died from diabetes, so I can say we need health care reform, Mr. Speaker, now. We need universal coverage. We need it so no preexisting conditions can be excluded because Americans deserve that they could have assurance that they can have health care, they have insurance for it, and, if we do not allow this for our people, then it is a crying shame, something that we will be ashamed of for generations to come.

THE CRIME BILL?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, according to a recent poll, only 18 percent of the American people think that the Democrats do a good job fighting crime. After looking at Clinton's crime bill, I am surprised the number is that high. As every American knows, the Democrat Party wastes no opportunity to spend more money on social welfare programs. This crime bill is no exception. Here is where they want to spend taxpayer's money to fight crime.

Some $270 million to the family and community endeavor schools "to improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of social workers and public schools teachers."

Another $895 million to model intensive grants, awarded to 15 high crime areas at the discretion of the Attorney General. This program has no specific guidelines.

And $650 million for the youth employment skills, to "test the proposition that crime can be reduced through a saturation jobs program."

Mr. Speaker, we need to fight crime, not spend money on fuzzy-minded social welfare programs that may bribe big-city mayors but do little to reduce crime.

THE DEATH OF MEGAN KANKA

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, young Megan Kanka, a 7-year-old girl from Hamilton, NJ, disappeared near her home on Friday of last week. A massive search followed, and on Saturday evening, July 30, police located Megan's lifeless body in a Mercer County park.

Deputy Assistant Prosecutor Kathryn Flicker told a New Jersey court this week that Megan's confessed killer lured her into his house on Friday by offering to show her his new puppy. Ms. Flicker said that the killer pulled the girl into his room, strangled her with a belt, sexually assaulted her, and that the little girl subsequently died of the strangulation injuries.

Mr. Speaker, the killer had been convicted twice for violent, sexual crimes against children in the early 1980's. He was released from prison in 1988, after serving 6 years of a 10-year sentence. He shared a house in Megan's neighborhood with two other men who had previous records of sex crimes against children.

Megan's parents and our entire community—especially those who are parents of small children—are outraged that there could be a home with not one, not two, but three persons with previous sexual assault records and that no one in the neighborhood was aware of this. As a father of four young children, I share the bitterness, the sorrow, the anger, and the frustration these parents feel.

Mr. Speaker, our society is dangerous for small children. As many of my colleagues are aware, I have led the effort to pass—and enforce—tough laws to crack down on child pornography, precisely because I believe it leads to diabolical crimes such as the incident that just occurred in my county.

But we need to take it a step further. We need to throw these people who prey on our children into jail for 30, 40, 50 years and—if I had my way—life imprisonment with no parole. We must do away with early release and require these felons to serve their full sentences, with no exceptions. And when they are released, there must be full notification of the local police department and the communities where these dangerous ex-cons take up residence.

As a parent, I believe I have a right to know that a person who has moved in next door has a previous record of violent crimes against children. If Megan Kanka's parents had known about their violent neighbors, they would never have allowed her to play near the house across the street. She certainly would have been prohibited from going into the killer's house to "see his new puppy dog." And Megan would be alive today.

Mr. Speaker, I understand we will begin consideration of the conference report on the omnibus anticrime bill tomorrow, and this incident will be weighing heavily on my mind as we begin the debate on this important legislation. On July 13, I joined with the overwhelming majority of my colleagues in voting to instruct the House conferees to include language in this legislation that would require local police departments to be notified about the presence of ex-cons who served time for crimes against children, and to authorize these police departments to disclose this information to residents of the affected community. This is a good start, but we need to make the law tougher and establish community notification as an explicit requirement.

In the next few days I plan to introduce legislation that would require community notification. I know my bill faces an uphill fight. But the memory of Megan Kanka, the extreme agony her parents and family must now endure, and the prevention of tragedies like this in the future demands no less than full disclosure to communities when sexual predators are released back into our communities.

May God bless and comfort the Kanka family during this horrible ordeal.

BRING BACK THE COPS ON THE BEAT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, once upon a time, there were cops in our neighborhoods. We knew them. They knew us. We felt safe. Kids knew they would be caught if they did something wrong.

Things are different today. Communities try to fight crime each day without enough cops on the street.

This weekend, I rode with the Pittsfield, MA police bike patrol. I saw how officers on the beat—a cornerstone of our crime bill—make a difference in the security of the community.

The cops know the streets, the kids, and the troublemakers. Their presence prevents crime. It is like having a cop on the corner again.

Community policing will bring back our neighborhoods, so we feel secure again: Taking a walk after supper, shopping downtown, or letting our kids play in the neighborhood.

Let us bring back the cops on the beat. Pass the crime bill.

THE BUCK STOPS HERE

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, President Clinton said an interesting thing last weekend in Independence, MO. Paraphrasing Harry Truman, he said "the buck stops here, the buck stops in the Congress, and the buck stops with you the American people."

When it comes to the crime bill, the President is partially right. The buck does stop with the American people.

In fact, with almost 9 billion bucks in social welfare spending, the American people are getting a lot more than they wanted with this crime bill conference report.

Mr. Speaker, crime is the No. 1 problem with the American people. Social welfare spending is the No. 1 issue with the liberal majority in Congress, but not with the American taxpayers. So, what we have here is mixing the spending with a few anticrime initiatives in order to fool the taxpayer.

Mr. Speaker, that kind of flimflam just will not work anymore.

□ 1220

Mr. Speaker, we need a tough crime bill, and this conference committee report should be defeated and sent back to the conference committee to take out the unneeded social spending.

POLICE CHIEFS LOOK TO ENACTMENT OF THE CRIME BILL

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, the best answer to those who oppose the crime bill came in the Detroit News headline this morning: "Local Police Chiefs Urge Passage of Crime Bill."

The headline makes the case unequivocally. America's front line crime fighters are looking to Congress for much needed support to combat crime. In America's suburbs, our crime bill will support communities in fighting crime, using regional task forces that have proved so successful in my district.

Mr. Speaker, following up on discussions with suburban police chiefs, I worked to amend the crime bill to ensure that the provision for 100,000 new cops on the beat can be used to support these regional task forces. These task forces target local drug distribution rings and auto thefts, and after passage of this bill they can expand their focus on repeat violent criminals and teenage offenders.

Mr. Speaker, I urge all of my colleagues to join in bipartisan support of this crime bill and provide our local police chiefs the support they very much deserve and need.

THE CRIME BILL, WITH NEW SOCIAL SPENDING, MISLABELED

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, let us talk about truth in labeling. The bill labeled "the crime bill" has returned from conference at long last. Usually long hours and hard work in conference improve upon a piece of legislation. But in this case we are being asked to accept a massive new social spending program that is not directly concerned with crime control at all.

It is no mystery why the President has been so eager to enact this social spending. It is basically his stimulus package of a year ago with a new "crime" label. But no matter how we package it and what the label is, the truth is that this is a very weak bill that does not begin to adequately address one of our Nation's most serious and pressing problems—crime.

We have one more chance. Let us defeat the rule and send this bill back to conference for the tough measures this country needs. Back where I come from, people know the difference regardless of how it is labeled.

JUVENILE DIABETES

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, as the House moves toward its historic floor debate on health care reform, Members will direct their attention to several issues that have deeply divided us and our constituents: employer mandates, abortion, Medicare Part C, and cost controls.

These are vital issues, but let us not forget that the real reason for a health care reform has less to do with architecture and more to do with people.

Insurance companies have long discriminated against patients with diabetes and other illnesses by denying them health care coverage. Insurance reform to prevent discrimination based on preexisting conditions must be included in the health care bill.

This year more than 160,000 Americans will be killed by diabetes and diabetes-related complications such as heart disease, stroke, and kidney failure.

More than 650,000 people—many of them children—will be diagnosed with diabetes this year. Diabetics, whose own systems do not produce or use the hormone, insulin, face a challenging task of self-regulation of their blood sugar through insulin injections, exercise, and rigorous diets.

Diabetics know better than most that they have to eat to live, rather than live to eat.

Matt Pysch who lives near Pittsburgh, faces challenges that most of us can only imagine.

"It's mind boggling," says Bea Pysch of her 13-year-old grandson.

Matt can not eat too much at one time and his diet requires that his meals be broken up into five sessions per day rather than the breakfast, lunch and dinner. Certain foods are prohibited.

"Matt has a really great attitude and that's a key when you're a diabetic," says his grandmother.

For Matt and 13 million Americans, there is no sure for diabetes.

Researchers at the University of Pittsburgh are doing ground-breaking laboratory work to understand what causes diabetes. For example, one research team has been exploring a possible link between streptococcus (which causes strep throat) and diabetes.

Other researchers at the University of Pittsburgh have investigated the relationship between chicken pox and diabetes. These efforts and others like them are necessary to find a cure for diabetes.

Mr. Speaker, let us not forget as we debate health care that it affects real people, like Matt Psych, and this important issue has a human face.

FCC AIRWAYS AUCTIONS A HUGE SUCCESS

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, the Federal Communications Commission's first spectrum auction ended last Friday, and the figures on revenue raised thus far for the U.S. Treasury are impressive.

I sponsored the legislation that paved the way for these sales, and I had the honor of gaveling-in Friday's auction. The bidding was for licenses to use the airwaves for the next generation of paging and messaging services.

The American people will benefit both as consumers and taxpayers, with the Government gaining much-needed revenue by auctioning off a valuable public resource, rather than dipping into the paychecks of American workers.

The bidding resulted in $617 million pledged to the U.S. Treasury, a windfall which exceeded expectations. Analysts now believe that the Government will net more than the $12.6 billion forecast to be raised over the next 5 years.

I want to commend the FCC on its administration of the bidding, and I want to thank Chairman DINGELL and all those who supported my legislation to implement these highly successful auctions.

Mr. Speaker, this has been a huge success, using market forces to benefit the consumers and the taxpayers.

THE NEVER-ENDING WAR AGAINST DIABETES

(Mr. HAYES asked and was given permission to address the House for 1 minute.)

Mr. HAYES. Mr. Speaker, in some ways the continued fight against diabetes has made great strides since I was a child and would peer into the lower rungs of the refrigerator to look at my grandmother's syringe with curiosity and wonder what the little bottles contained. In others, it has meant continued frustration.

For my nephew, a juvenile diabetic, it has meant frustration, without any clear path toward health, no matter how hard he tries.

As Members have noticed today, several of us have gotten together to urge consideration of the war against this horrendous disease that afflicts over 13 million Americans, and even more frighteningly so, over half of that number will not even know they have the disease until its debilitating effects may have gone too far.

Mr. Speaker, we cannot honestly and adequately say we have adequately improved health care or made reforms until we want to confront diabetes. We owe that collectively as Members of Congress not just to our families but clearly and even more so to yours.

THE CRIME BILL CONFERENCE REPORT

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, tomorrow, this body will pass the conference report on the crime bill. And tomorrow night, politicians everywhere will boast about it. But in reality, this bill is nothing more than an election year feel-good measure—a bill that is tough on taxpayers and soft on criminals.

In this so-called crime bill is over $9 billion in social welfare spending. This is in addition to the $1 trillion we've already spent on failed social programs. But Congress doesn't seem to learn. Great Society programs didn't move people out of poverty—and they will not make America's streets any safer.

Instead, we need to take a new direction in fighting crime—one that focuses less on social welfare and more on stricter penalties, tougher sentencing, and genuine enforcement of our laws. But this crime bill does none of these things.

A real crime bill would put an end to the current policy of "catch and release" by requiring prisoners to serve their full sentences, allow prosecutors to admit incriminating evidence without the obstacles of search and seizure rules, and ensure that those on death row not escape their punishment through loopholes in the appeals process.

But that is not what we are voting on tomorrow. And that is the real crime Congress will commit on American taxpayers and law-abiding citizens tomorrow.

RURAL HEALTH AND THE HOUSE HEALTH BILL

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, historically, rural areas in America have suffered from inadequate health care—a lack of doctors and facilities. A rural doctor in my district estimates that 64 percent of his patients are on Medicare or Medicaid. He has found it impossible to attract new doctors and other health providers to the area—they go to more profitable locales.

The House health care bill intends to meet the needs of rural areas by correcting these problems.

As the chart shows, the House health bill expands and integrates existing rural health care facilities, providing more doctors, nurses, and other professionals to strengthen care centers.

It makes available substantial funding for expansion of health care facilities and it supports the development of managed care plans.

Finally, it encourages care providers to come to underserved areas by increasing Medicare bonus payments and making rural health professionals eligible for substantial tax credits.

Support the House bill and remedy what ails rural health care.

□ 1130

PRESENT HEALTH CARE PLAN TO CONSTITUENTS FIRST

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. ROTH. Mr. Speaker, what Congress does on health care will affect every man, woman, and child in America. One out of every seven dollars of our national economy goes to health care. Next week we are told we will begin debate on the health care legislation. This bill is hundreds of pages long. According to news reports, we are going to be asked to vote on this bill the same week.

This would not be in the best interests of the American people. Before we vote on the health care bill, we must call a recess and let each Congressman go home and, like an insurance agent, explain this plan to the people. After all, what Congress is really doing is ordering an insurance plan for the American people. Do the people not have a right to know what is in the plan? Is it not our responsibility to let the people have their say?

Therefore, I ask that Congress call a recess just before the final vote, so that each Member can go home and explain this plan to his or her constituents and get their approval.

The people have a right to know what is in the bill, the people have a right to be heard, and we in Congress have an obligation to listen to the people, especially on national health care, which will affect every man, woman, and child in America.

TIME TO ACT ON HEALTH CARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WISE. Mr. Speaker, some people call out for delay, more delay in health care. Let us wait a week, let us wait a month, let us wait a year, or 3 years. Let us look at the health care debate and how it has moved along.

1972, Richard Nixon, yes, that great liberal socialist, proposed, you have got it, an employer mandate, that employers would share the responsibility, much in the same vein as has been proposed in this legislation. The 1970's, President Carter came forward with a comprehensive health care reform bill. 1980's, President Ronald Reagan came forward with a comprehensive health care reform bill. President George Bush proposed insurance reforms in the late 1980's and early 1990's. It was nice. Everyone agreed on the insurance reforms. Unfortunately, it did not cover everyone and did nothing to control costs.

Meanwhile, all during this debate, health care costs have risen several times the rate of inflation, with less people paying more money for less health care. We have waited long enough. It is time to act.

FUNDAMENTAL CONCERNS WITH CLINTON-GEPHARDT HEALTH CARE PLAN

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, I rise today to express fundamental concerns with the Clinton-Gephardt approach to health care reform. My district contains the largest number of senior citizens, and seniors are the big losers under Clinton-Gephardt.

The American people haven't been shown the numbers on Clinton-Gephardt, but we already know that the Medicare cuts will be around a half trillion dollars over 10 years. Let's be honest: Cuts of this magnitude are going to reduce both access to and the quality of care elderly Americans receive.

The creation of Medicare part C will further erode quality of care by creating a huge new entitlement class to compete with senior citizens for scarce Medicare dollars. Medicare will look more and more like the Medicaid Program—all Government promises, but no funding. That's not health care reform—that's Government rationing. It is scary to think that this Congress will consider enacting wholesale changes to our health care system before all the ugly details of Clinton-Gephardt are released to and understood by the American people.

UNIVERSAL CARE MUST BE UNIVERSAL

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, whenever I have used the word "universal" or whenever I have heard the word "universal," I have always assumed this word meant not "some," not "most" and not "as many as possible."

To me the word "universal" means one thing: it means "all."

We cannot pass a health care plan that covers only "some" or covers "most" or covers "as many as possible."

We must pass a health care plan that covers "all." To do less is to condemn those who are not part of the "some" or part of the "most" or part of the "as many as possible" to a life of indeterminate health care, exposure to disease and illness, and a constant fear of accidental injury with no way to repair or pay for the hurt.

In my own district, there are 118,000 persons without health insurance.

These are not people who are loafers. These are not people who live off the dole. Almost 85 percent of these people are working men and women, people who work hard for their daily bread, yet cannot afford to see a doctor when they get sick.

This is wrong. And I for one am not willing to go to these people and say, "Hey, guess what, we passed health care reform and it covers just about everyone, but not you."

Mr. Speaker, universal care means universal. It means all. It can mean no less than everyone.

REFORM IS COMING

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, in yesterday's Roll Call there was a report of one of our Members being hit hard for the perks of Congress as he runs for a Senate seat.

Yesterday's Roll Call also ran another story of yet another perk that will be used against incumbents: moving our offices to get a better view of the Capitol, a closer walk, or more space.

These moves cost the taxpayers millions and millions of dollars every election cycle. Each office move in the other body costs over $33,000. Is it fair or right that many taxpayers pay a large portion of their yearly earnings just so one of us can have a shorter walk to the Capitol?

If you want to move your office, fine: But pay for it out of your office account, as my reform bill, H.R. 4444, calls for. Make the choice between a better view and reductions elsewhere in office spending. Americans make these kinds of choices daily in the real world.

Reform is coming, Mr. Speaker. Congress can take the lead or be run over at the polls in November.

Support H.R. 4444.

CRIME BILL IS BIG SPENDING OF TAXPAYER DOLLARS

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, if social spending was the antidote to crime, America's neighborhoods would be safe.

The $1 trillion we now spend on social welfare has not put a dent in crime, and there is no reason to believe that $9 billion more will stop one criminal either.

Not only is the so-called crime bill bad, big spending, it is—in true liberal form—micromanaged. For instance, midnight basketball leagues must have 80 players, half must live in public housing and the funding will go to communities with a high incidence of HIV infection.

Setting aside that ridiculousness, teenagers should be asleep at midnight so they can get up in the morning and go to school or work.

The way to stop crime is to remove from the community that small percentage of individuals who are robbing, raping, killing, and selling drugs. The American people recognize the crime bill as the liberal spending of more taxpayer dollars. They also recognize we cannot pass a bad crime bill so the President can hold a signing ceremony surrounded by cops.

TAXING HEALTH CARE BENEFITS SEEN AS UNFAIR

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORKILDSEN. Mr. Speaker, several health care reform proposals, including the newly released Clinton-Gephardt bill, would tax any health care benefits purchased above a national benefit plan.

The taxation of additional benefits places an unfair burden on Americans wishing or needing to purchase addition coverage. It would sacrifice the rights of Americans to many types of quality, cost-effective health care. Millions of workers have negotiated quality insurance packages, rather than accept much deserved raises. Taxing health benefits effectively results in a pay cut.

Taxing health insurance benefits would be an unfair tax on millions of Americans. It would make universal coverage more difficult to achieve, and would reduce the quality care many Americans now receive.

We have the rare opportunity to implement true health care reform, to provide every American access to quality, affordable health care. We should not add a regressive tax which would reduce and restrict access to quality health care.

I urge my colleagues to vote "no" to taxing health care benefits.

CHINA POLICY MUST CHANGE

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I would urge all Members to think carefully when the Pelosi bill, H.R. 4590, comes up. It is not really a trade bill. It is really a national security bill. It is also a human rights bill.

Keep in mind the bill is targeted toward the People's Liberation Army, the Chinese Army, which did so many bad things at Tiananmen Square. The Chinese military is the occupying force in Tibet and threatens peace and security in Southeast Asia. China is the only nation targeting the United States with nuclear weapons and the only nation still testing nuclear weapons.

Clearly, I think we should also remember that it is a human rights bill, because in China today Catholic bishops, Catholic priests, Protestant ministers, house churches, are being harassed and put in jail. So when given an opportunity, I would urge my colleagues to support the Pelosi bill, which does not take away MFN from the private sector, but solely targets the People's Liberation Army and those that are doing terrible things in the state-run industry.

□ 1240

CRIME BILL DEBATE

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, the House is about to take up debate of a massive $30 billion crime bill. I spoke last night in special orders.

I just spoke before the Committee on Rules, imploring that body not to waive rule 912(a). That is a very basic rule that simply says that this 900- to 1,000-page bill should at least be in the hands of the Members of Congress before they have an opportunity to vote on it.

It is a simple request. Members of Congress want to be able to see the bill before they are voting on it. We implore the Committee on Rules not to waive rule 912(a). Give us an opportunity to read the legislation.

THE CRIME BILL

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, unlike some of my colleagues, I think there are many good things in the crime bill. They want to take it to conference, but let us be specific.

I was wrong on the night basketball event. I went and witnessed it. I think it is a good program. But I would hope in the conference that they take out the requirement to be 2 percent HIV positive or even of a drug population. The racial justice has been taken out. I hope the President would not sign an order to reinstate it.

The bill has gone from $15 billion to $33 billion in social spending because they could not get it in other bills because of the caps. I would rather see the 100,000 police over a 5-year period be paid for.

Some of the good things: the Dunn deal with sexual predators, 4,000 Border Patrol, primarily from the gentlemen from California, Mr. HUNTER and Mr. MOORHEAD and the chairman. Illegal immigration, reimbursement, persons funded, revolving door, racial justice is out. The community policing, drug rehabilitation and those are all good.

Let us take this thing back to conference and eliminate some of the things that are very controversial, and we can actually come out with a very good bill.

UPDATE ON VINCE FOSTER INVESTIGATION

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, when I read the Fiske report regarding Vince Foster's death and its possible connection to the Whitewater investigation, I had a lot of questions, as many Members have had. So I made it a point to try to find out who the confidential witness was, the man who found Vince Foster's body.

I found out through Gordon Liddy who he was. I set up an appointment, and I went out to see this man. I showed him the picture of Vince Foster's hand with the gun in it and, when he saw it, he said, "That is not the way it was. That is not the way the body was when I found it." He said, "The head was moved and the hands were moved."

So I took a statement from the man. He signed a statement before me in his own words saying that the body had been moved and that the Fiske report was inaccurate.

Many of my colleagues were skeptical as were many in the media. So last Thursday, the gentleman from California [Mr. ROHRABACHER] and the gentleman from Florida [Mr. MICA] and I went out there with a court reporter and we had this man sworn in and he swore before God that the statement he made was true. And we got his statement.

And tonight in special orders, I am going to go through his statement line by line so anybody who is interested, any of my colleagues who wants to know what really happened at Marcy Park when he found that body, tune in tonight.

YOUR MONEY OR YOUR HEALTH

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, the Democratic leadership has lost sight of reality. That may not be news, but it is remarkable that in spite of our impending entitlement disaster, the new Clinton-Gephardt health bill proposes the mother lode of all entitlements—Medicare Part C. While it promises health security, in reality, it would force nearly half of all Americans into a Government-run health insurance plan. Unlike today's Medicare system, this one would be subject to spending limits which would lead to rationing. In short: you are promised care for life, but the Government decides what the care is. You know "Trust me, I'm from the Government." Given our entitlement history, cost overruns would be inevitable. We would soon have to raise taxes or cut benefits or add dramatically to the deficit, probably all three. In sum, the Clinton-Gephardt bill amounts to an ultimatum: your money or your health.

RWANDA

(Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the situation in Rwanda is a terrible, heartbreaking tragedy. We need to do all we reasonably can to help out. I especially want to commend the work there by the agency for International Development and its administrator, Brian Atwood.

However, it is absolutely shameful that most other countries around the world are doing so little. Most are doing nothing at all.

What are the French doing? What about the Germans? The Japanese, the Swedes? The answer is, very little, in comparison to us.

The United States needs to play a leadership role. I am glad that we do more than other nations in these international tragedies.

But, we are not some sort of gigantic money tree—not when we have a national debt of $4½ trillion.

It is not fair to our people for other nations to sit back and expect us to foot the bill, almost alone, for every tragic situation in the world.

In the future, we need to lead by convening an emergency meeting of every nation willing to help out when disaster strikes.

I know we will do more than our share, but we need to let the world community know that we can no longer do it all, we can no longer do it alone.

WRITING THE HEALTH BILL

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, some years ago in a notorious political murder case, the accused relied on the so-called Twinkie defense. He said that he had binged on so much junk food in the days before the murder that he was not responsible for his own actions, that he could not tell the difference between right and wrong.

Get ready for the 1994 version of the Twinkie defense. In today's Washington Post we read how the health care bill is being drafted and who is doing it. Members of Congress have yet to see the bill. I read in the New York Times on Saturday that the gentleman from Missouri, Congressman GEPHARDT, had dropped his bill. But I called the gentleman from Missouri, Congressman GEPHARDT's office this morning and there still is no bill. There still is no bill. We are going to vote on it next week. And who is writing it? Not Members of Congress. There will be no hearings on this bill.

Rather, according to today's Washington Post, a handful of Capitol Hill staffers who are, to quote the Post, "frantically drafting this bill in a matter of days."

They are, according to the Post, bringing on fast food and getting by on 3 or 4 hours sleep a night. How do they do it? Answered one staffer, "adrenalin and stupidity."

HEALTH CARE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, the President and their allies on Capitol Hill are trying to bring a health care bill to this floor that they claim is going to help the middle class. Any health care bill that has an employer mandate in it is not going to help the middle class; it is going to hurt the middle class.

I got a letter recently from Connie Mahaffey of Farmersville, OH, who is the owner of the Stiver Insurance Agency that has been in business since 1913. She writes to me and says that she will have to lay off her two employees if we pass a health care bill that has an employer mandate in it.

Mandates on America's employers really are not hurting the employers. They are hurting the employees. An employer mandate is a tax on employment. It is going to cost 1 to 3 million jobs in America and hurt 23 million Americans who keep their jobs.

The American people know that the Government is too big and spends too much. Let us not pass a health care plan that makes the Government bureaucracy larger and more expensive. Let us not hurt America's employees by trying to tax America's employers.

□ 1250

STEPHANOPOLOUS' SWEETHEART DEAL

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we have been reading about George Stephanopolous' real estate deal.

According to newspaper accounts, President Clinton's right-hand man recently sealed a $668,000 commercial real estate loan at 6.3 percent from Nation's Bank. Most folks are paying 8.5-9.5 percent today.

Nation's Bank is run by a person who President Clinton called quote "the most enlightened banker in America." I am sure he is, and I'm sure Mr. Stephanopolous probably thinks so too.

What's puzzling to many, according to columnist Jack Anderson, is "how the President's most trusted adviser became heavily leveraged despite a comparatively modest net worth and annual income."

His real estate agent said that "George made out like a bandit." I am sure he did.

Mr. Stephanopolous first said he received a commercial loan. Now he says he received a residential loan.

What is the big deal? I guess its because President Clinton said that his administration was going to do things differently when they came to town, that there would be no more "business as usual," that even the appearance of impropriety was unacceptable.

Mr. Speaker, we have had Whitewater, cattle futures, Travelgate, and now, the President's most trusted adviser making out like a bandit. Where do we go from here?

AMERICANS WANT CONGRESS TO WORK ON SOLVING PROBLEMS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, I would like to address two issues that have come up this morning. The first is whether the Congress is prepared to really debate health care. Any Member of Congress who has been around for the last 2 years has been focusing on health care to the exclusion of many other issues, because it is the No. 1 issue in the minds of Americans. Virtually every Member of Congress, Republican, Democrat, and Independent, is conversant with the terms and the challenges of the health care debate.

Mr. Speaker, for my colleagues on the Republican side to stand up here at the last minute and say, "We cannot go forward with this debate," really smacks and brings back echoes of the gridlock which stopped Congress in the previous administrations. The American people do not want that. They want Congress to move forward to work to solve problems.

Mr. Speaker, I think what we have to do is to address the biggest challenge facing America: To keep what is good in our health care system and to remove those elements that are bad.

Finally, Mr. Speaker, let me say this, the uninsured Americans out there are often misunderstood. People who come to this well often leave the impression that Americans who do not have health care insurance are not employed. In fact, in my district 85 percent of the uninsured people are employed. They need basic health care protection.

THE CLINTON BILL: STILL ALIVE

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, rumors about the demise of the Clinton health plan are greatly exaggerated.

Last week, the President and the Democratic leadership publicly stated that the Clinton health care plan was dead, adding that they were crafting a new approach to health reform.

But as the Wall Street Journal put it, despite the leaders' emphasis on a new approach, the bills they are designing aren't radically different from the administration's proposal.

Mr. Speaker, merely changing the name on the Clinton health bill will not make much difference. Only a truly different approach to reform will sell with the American people.

Global budget, employer mandates, job-killing payroll taxes, mandated community ratings, rationing, these are the concepts that scare the American people, but these are the very points that still remain in the Clinton health care bill.

I urge the Democratic leadership to listen to the desires of the American people. Work with Republicans to craft a commonsense approach to health care reform.

PROVIDING FOR CONSIDERATION OF H.R. 4003, MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 500 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 500

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five minute rule the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, modified by the amendment recommended by the Committee on Ways and Means now printed in the bill and by the amendment printed in part 1 of the report of the Committee on Rules accompanying this resolution. The committee amendment in the nature of a substitute, as modified, shall be considered as read. All points of order against the committee amendment in the nature of a substitute, as modified, are waived. No amendment directly or indirectly changing title II of the committee amendment in the nature of a substitute, as modified, shall be in order except the amendment printed in part 2 of the report of the Committee on Rules. That amendment may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the amendment printed in part 2 of the report are waived. At the conclusion of the consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. In the engrossment of H.R. 4003, the Clerk shall insert the text of H.R. 2151, as passed by the House, as a new title I and shall redesignate the succeeding titles accordingly.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to my dear friend, the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. All time yielded during the consideration of this resolution is for purposes of debate only.

Mr. Speaker, House Resolution 500 makes in order the bill H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994.

The rule provides 1 hour of general debate, with 30 minutes divided and controlled by the Chairman and Ranking Minority Member of the Merchant Marine and Fisheries Committee, and 30 minutes equally divided and controlled by the Chairman and Ranking Minority Member of the Ways and Means Committee.

The rule makes in order the Merchant Marine and Fisheries Amendment in the nature of a substitute now printed in the bill as original text. This text is modified by the amendment recommended by the Ways and Means Committee now printed in the bill and by the amendment printed in part 1 of the report accompanying this resolution.

All points of order are waived against the Committee substitute.

Mr. Speaker, this rule is open to amendment under the 5 minute rule, with the exception of title II, where only the amendment to be offered by Mr. STUDDS and printed in part 2 of the Rules Committee report is in order.

All points of order are waived against this amendment. The rule provides one motion to recommit with or without instructions, and directs the Clerk in the engrossment of H.R. 4003 to insert the text of H.R. 2151 as a new title I.

Mr. Speaker, H.R. 4003 represents the final step in the stretch run for maritime reform in the House of Representatives. For years our Nation's merchant marine has been in steady decline and little has been done to prevent that slide.

Since the 1960's the U.S. oceangoing fleet has fallen from fourth in the world to 16th and our shipyards have seen their business seemingly vanish before their eyes with the continued downsizing of our Navy.

The result has been massive job loss for our shipbuilders and for the men and women who make up the U.S. merchant marine.

Mr. Speaker, the continuing demise of the U.S. merchant marine has also made our country almost entirely dependent on foreign-flagged ships for trade.

In fact 96 percent of the trade through U.S. ports is carried on foreign-flagged ships.

Not only are we dependent on these ships for trade, but in a time of war, without a fleet of U.S.-flagged ships or experienced U.S. crew, this country would be forced to turn to a foreign flagged fleet to help move troops and equipment to wherever the conflict may be.

Mr. Speaker, this is a situation which I find to be completely unacceptable to the only remaining superpower in the world. Mr. Speaker, as I mentioned earlier, this bill represents the final step in turning around the declining maritime industry in this country.

In the first session of this Congress the House took the first step toward this goal by passing H.R. 2151, the Maritime Security and Competitiveness Act of 1993.

Last year's bill authorized a new approach to reform which will serve as the foundation for the revival of the U.S. merchant fleet.

However, at the time of its passage, the bill contained no mechanism to fund its new programs. H.R. 4003 contains the funding mechanism for H.R. 2151.

The funding mechanism contained in title II of the bill, was reported out of both the Merchant Marine and Fisheries Committee and the Committee on Ways and Means.

These two committees developed two different strategies for arriving at the same goal. Real maritime reform.

The Merchant Marine and Fisheries Committee version of title II raises $1.7 billion over 10 years for the programs in H.R. 2151.

Mr. STUDDS and his committee raised these revenues solely by increasing the tonnage tax on ships trading in U.S. ports to 53 cents per ton.

The Ways and Means Committee version of title II, which is now in the base text of the bill, raised $1 billion for the programs in H.R. 2151.

However, Mr. GIBBONS and the Ways and Means Committee took a different tack in arriving at their funding.

Ways and Means raised these revenues through a combination of fuel taxes, increased tonnage duties, and by increasing the departure tax for passengers on cruise ships leaving U.S. ports of call.

The rule makes in order only one substitute amendment to title II, to be offered by Mr. STUDDS, which would raise $1.3 billion over 10 years through an increase in the tonnage duty.

With this amendment in order the House will be able to choose between these two responsible approaches to maritime reform.

I can think of no fairer way for the House to work its will.

Mr. Speaker, this country desperately needs this legislation. We can no longer stand idly by and let our merchant fleet continue to decline toward a certain extinction.

Mr. STUDDS and his committee, as well as the Ways and Means Committee and Mr. GIBBONS, have worked diligently to give the House a sound bill which will mean that real aid will soon be available to rescue our country's merchant fleet.

I urge adoption of the rule and adoption of the bill.

□ 1300

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman of the Rules Committee, Mr. MOAKLEY, has described the provisions of this rule. Normally I would be reluctant to support a rule providing a blanket waiver or restricting any portion of a bill for an amendment, but in this case a list of waivers was furnished to the Rules Committee and I do not object to these waivers.

Under the rule, title II is restricted for amendments but the House will have the opportunity to choose between the financing provisions developed by the Ways and Means Committee or those developed by the Merchant

Marine and Fisheries Committee. I think this is a fair and appropriate way to deal with this section of the bill.

Other than this, Mr. Speaker, it is a completely open rule, and I urge adoption of this rule.

Today this House finishes the work it began last November third and 4th. Members will recall that on the third we considered and adopted the rule on H.R. 2151, the Maritime Security and Competitiveness Act of 1993, and on November fourth we passed the bill by an overwhelming 347 to 65 vote. H.R. 2151 is authorizing legislation to give the Secretary of Transportation the authority to provide assistance to American shipyards and to establish a fleet of active commercial vessels to "enhance sealift capabilities and maintain a separate presence in international commercial shipping of United States documented vessels."

Today this House is confronted with the question of whether or not it will live up to its responsibility to provide the means to the executive banch to protect the national economic security of the people of the United States by voting for the money to pay for the programs already authorized by the House.

I venture to say that there is not one Member in this House who does not comprehend the necessity for the creation and maintenance of a fleet of U.S. built, U.S. flagged and U.S. crewed merchant vessels. At the risk of repeating myself, I say that there is not a Member of this House who does not understand the necessity for the creation and maintenance of the shipbuilding industrial base.

We voted 347 to 65 to create a modern fleet of U.S. flag vessels. That same vote authorized the Secretary of Transportation to provide a modest incentive for the building of commercial vessels in the United States. Today we consider the bill, H.R. 4003, the bill before us, which originated in the Committee on Merchant Marine and Fisheries and was considered by Committee on Ways and Means and is to be considered by the House under a modified open rule approved by the Committee on Rules, of which I am a member.

I am proud to say that I will vote yes on the rule which permits the Merchant Marine Committee amendment to be offered. I am proud to say I will vote yes on H.R. 4003, the Maritime Administration and Promotional Act of 1994.

Let me say how pleased I am to support a bill which is the product of the Committee on Merchant Marine and Fisheries. I take my hat off to the Chairman and the ranking member on the full committee and the chairman and ranking member on the Merchant Marine Subcommittee for their fine work. Your committee, gentlemen, is a model of how conflicting and potentially divisive issues can be ironed out in the interests of the national welfare.

Under the rule which guides the actions of all Members of this House, the Committee on Merchant Marine and Fisheries proposes to pay for the new fleet and the shipyard assistance with an increase in the tax levied on every vessel in the international trade which calls at an American port. Let us not forget that 96 percent of the international maritime trade of the United States is carried on foreign flag vessels. That tax is to be levied to provide money to the Treasury of the United States to pay for the numerous services from the U.S. Coast Guard which all vessels, regardless of registry, receive in U.S. waters. No tax will be levied on vessels in the inland maritime trade of the United States nor on vessels in the domestic and Canadian trade solely in the Great Lakes basin.

But, Mr. Speaker, I would like to call attention to the House that it is time that this Congress think about the Defense Department paying to build American bottoms, and if the Defense Department cannot absorb the cost, even though we are cutting billions out of the defense budget, then I think the Congress should bolster its efforts to provide the funds, because it is so important to have a merchant marine fleet.

We recently celebrated the 50th anniversary of the invasion of Normandy. That invasion was made possible by the hundreds of thousands of men and women who built and manned our ships in World War II but it was action by the President and Congress in 1936, 8 years before D-day, which made the invasion a success. We passed the Merchant Marine Act of 1936—during a period of relative tranquility—because America knew that a maritime industry, then perilously close to extinction could not be allowed to die.

H.R. 2151 and its companion, H.R. 4003, are amendments to the 1936 Merchant Marine Act. The 1936 act, like the bill before us today, was an insurance policy. Congress determined that expenditures to keep U.S. flag vessels on the high seas and to stimulate the building of new vessels in American yards was worth the price. That Congress considered the threat to our national and economic security which would follow from the collapse of the American maritime industry. That Congress appropriated the money to support our maritime industry by keeping U.S. flag vessels on the high seas and it appropriated money to build ships in U.S. shipyards.

Our situation today is in many respects similar to 1936.

□ 1310

The world is a dangerous place, but we have peace at home. There are men of questionable sanity in control of the industrial and military power of strong nations. The horizon is clouded with the threat of anarchy, war, and famine and pestilence.

Let us do what Congress did in 1936. Let us recognize the world is a dangerous place. Let us reassure the American people and purchase an insurance policy. Let us maintain an American maritime industry.

Mr. Speaker, I urge my fellow Members to adopt the rule so that we may consider the amendments to H.R. 4003. I urge my fellow Members to follow the leadership of the Committee on Merchant Marine and Fisheries and vote for the rule.

Mr. Speaker, I am including at this point in the RECORD the statistics on open versus restrictive rules, as follows:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	84	23	27	61	73

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Aug. 1, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the chairman emeritus for yielding me this time.

Ladies and gentlemen, first of all, let me just thank the chairman of the Committee on Rules for putting this rule out on the floor. And, yes, it is a somewhat restrictive rule in that it does prohibit additional amendments beyond a Merchant Marine Committee substitute to one section of the bill. However, Republicans were polled. There is no need for other amendments to that section. Therefore, we support this rule very strongly.

I also support the merchant marine substitute amendment I just mentioned, and the bill itself.

You know, ladies and gentlemen, it is a shame to see what has happened to the merchant marine in this country. Thirty years ago we had several thousand American flagships that could carry out the strategic interests and trade of our country. Today we do not have several thousand such ships. We have less than 400.

Thirty years ago, just for example, the People's Republic of China, that is Communist China, only had a handful of ships flying the flag of their country. Today they have three times more than we do. They deliver all of their our goods, which helps to create the $24 billion trade surplus they hold against this country. They deliver all of their goods on their own flagships and none of ours. That is terrible.

Ladies and gentlemen, we were put into a situation back during Desert Storm where we were actually blackmailed by some of our allies who did not agree with our strategic interests in defending Kuwait. We cannot let that happen again. If we had to go to war in two theaters today, we could not maintain the strategic military interest of the United States of America. That is disgusting. That is why we need not only this bill, but we need the Merchant Marine Committee substitute amendment as well.

I strongly support both of them. I hope the House will agree and will pass both.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, this is basically an open rule, providing for consideration of amendments in a free and open process. It is also a fair rule.

Each committee of jurisdiction is provided with equal time during general debate.

The only section to which amendments have been restricted is title II, the financing section—and here we have an opportunity for a clear vote on two legitimate, but different, points of view.

The base bill embodies the Ways and Means version, which involves three taxes—tonnnage fees, a passenger tax increase, and a new fuel tax—to raise about $1 billion over 10 years.

The merchant marine substitute would rely entirely on tonnage fees, and would raise $1.3 billion over 10 years.

Under the rule, Members are provided with a clear choice between these two financing proposals.

I am normally opposed to any restrictions on amendments, but the Committee on Rules is not aware of any other amendments to title II.

Our merchant marine performs vital economic and national defense functions; yet we have let this service decline to the point where it is a mere shadow of what it needs to be.

During the gulf war, we were forced to contract out to foreign-flagged vessels—a precarious arrangement at best. Luckily the problems with foreign-flagged shippers during this conflict were relatively minor, but there were conflicts, and there are no guarantees for the future. There are also non-wartime absurdities—such as renting cruise ships from the Ukrainians to be Haitian refugee processing centers.

When the financing portion of H.R. 4003—title II—is considered, I urge support of the merchant marine amendment. It represents a reasonable compromise between the original bill, which called for $1.7 billion in financing, and the $1 billion Ways and Means version.

Supported by the bipartisan leadership of the Merchant Marine and Fisheries Committee, the substitute financing amendment is absolutely necessary to maintain the bare minimum of merchant marine service for our national interests.

Please support the rule and support the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I rise in support of the rule and indeed in favor of the legislation.

Although entitled merchant marine legislation, indeed, today this House could be debating the same bill entitling it a National Security Act of 1994, or we could be calling it an Economic Security Act of 1994, because in truth, it is both.

In a single generation, we have seen the United States fall from one of the world's great maritime powers to indeed a nation unable to raise sufficient maritime forces to support our own troops in the field or to handle our own cargo in export.

It is not simply a question of the nostalgia for an American power we used to have. It is a real and dangerous loss of influence and capability, more than in theory.

In the Persian Gulf war, it is not simply, as the gentleman from New York [Mr. SOLOMON] suggested, that we were intimidated by some nations who did not want to help. We were threatened by some who would not help. American cargo arrived late for the Persian Gulf war. Merchant ships leased from other nations refused to enter the Persian Gulf under fire. American forces were without the support they needed at critical moments.

Make no mistake about it, if in Korea the current conflict were to become an armed struggle, this Nation all by itself to defend our own interest is without the capability to bring the merchant forces to bear.

And on the economic sphere, it is no different. A great economic power cannot be dependent for its own exports and its own imports to the tune of almost 70 percent of capability, cannot be dependent upon foreign flag carriers almost exclusively for some cargo on some routes. We need the competition. We need the domestic capability.

After years of decline, an answer has finally been brought to this floor. For that, this body owes a considerable debt of gratitude to the gentleman from Massachusetts [Mr. STUDDS].

I urge my colleagues, Democrats and Republicans alike, to take this stand. It will not bring us back the capability we once had. It will not give us the capability we need. But it will stop the continuing decline and the possible extinction of both our construction and our operating capabilities at this late date.

I urge support of the rule and of the legislation.

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Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN], a member of the committee.

Mr. BATEMAN. I thank the chairman emeritus for yielding this time to me, and I certainly want to begin by associating myself with the remarks just made by the gentleman from New Jersey [Mr. TORRICELLI]. They certainly mirror my own views.

I think we must, as we approach the vote on this rule, which I wholeheartedly support, and the legislation that underpins it, the true dimensions of what we are dealing with today. We, unfortunately, have arrived at a juncture where our maritime community is going to disappear unless it receives the assistance that is calculated for it through H.R. 2151, which we passed overwhelmingly last year.

The bill which we act upon today is that which gives the muscle to make possible the implementation of H.R. 2151. when we passed that, we did not operate on the basis of we must do something for the American-flag liners that are still in existence; we did it for them, yes, and we realized then as we must realize even more today that if we do not, the American flag will disappear from the seas of the world.

We did it not just for maritime labor, but maritime labor will disappear as a resource for manning American ships in times of crisis.

We did not do it just for the American shipbuilding industry, but if you care about this Nation's ability to build naval combatant vessels in the future—and how dare we think in terms of our not being able to do so—if we care about our national security, we must assure the industrial base in America now and forever that has that capability. And that is what H.R. 2151 brought together, carefully crafted to protect all segments of the American merchant marine community, supported by all segments of the merchant marine community.

I support this rule and especially its allowing the Merchant Marine Committee to offer an amendment that would make possible the $1.3 billion level of revenue as opposed to the merely $1 billion in revenues over the next 10 years. That additional $300 million a year is critical to there being a shipbuilding component to this bill.

The underpinning of the Ways and Means Committee proposal is that it eliminates revenue which would go to the shipbuilding initiative. That seals a death warrant for American shipbuilding. We will get into the details of the shipbuilding initiative that is crafted into H.R. 2151 and will be supported by the Merchant Marine and Fisheries Committee's version of the financing tool.

To deny that throws out one of the three critical segments of the American merchant marine community.

In 1781, one of the most monumental naval engagements in the history of the world took place off the Virginia capes when a fleet commanded by

Comte de Grasse defeated a British fleet sent to relieve Lord Cornwallis at Yorktown. Because of that naval victory, the doom of Cornwallis was sealed and America won its freedom.

Then, dependent upon a foreign fleet, I do not see, colleagues, a future in which America's security would be protected by a foreign fleet. Our ability to build ships, our ability to carry our cargo in times of peace and most critically in times of war and our ability to man those ships by American merchant mariners is dependent upon the passage of this rule and the passage of the version of the financial tool which the Merchant Marine Committee offers to you.

I wholeheartedly urge your support for both.

Mr. MOAKLEY. Mr. Speaker, it gives me great pleasure to yield 5 minutes to the gentleman from Illinois, the Honorable DAN ROSTENKOWSKI.

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to the rule providing for consideration of H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994.

H.R. 4003 was sequentially referred to the Committee on Ways and Means because it included a revenue measure to fund its underlying programs. As reported by the Committee on Merchant Marine and Fisheries, the bill relied on an increase in tonnage fees to fund $1.7 billion in programs over a 10-year period.

Aftr careful consideration, the Members of the Committee on Ways and Means determined that it was not acceptable or appropriate to rely solely on tonnage fees to fund the underlying programs. Further, the committee determined that the amount of taxes raised in the merchant marine bill was greatly in excess of the amounts necessary to finance the program.

Thus, the committee approved a carefully-crafted $1-billion package consisting of three revenue components: (1) a modification to current law tonnage fees, (2) an increase in the tax on water transportation with respect to certain voyages, and (3) a penny-per-gallon international shipping fuels tax.

The rule would allow a Committee on Merchant Marine and Fisheries amendment to strike the revenue title that was crafted by the Members of the Committee on Ways and Means.

This part of the rule is a dangerous break from the longstanding practice that the work-product of the Committee on Ways and Means be respected on the House floor.

The Committee on Ways and Means is charged with the responsibility and the burden for making the difficult decisions as to how to raise revenues. it is not always easy or politically popular for our members to be in the position of raising revenue for our Government. However, we do our job.

Just as the Committee on Merchant Marine and Fisheries has the expertise and responsibility for authorizing maritime programs, Members of the Committee on Ways and Means have the expertise and responsibility for revenue measures.

I find it very troubling that the House would second-guess the revenue title that was developed by the committee of jurisdiction—Ways and means. This is more than an issue of how much tonnage fees should be increased.

It raises the fundamental question of whether or not we will follow regular order and respect the deliberations of the House committees that are charged with these responsibilities. We ignore regular order at our own peril.

For these reasons, I strongly urge you to vote against the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in support of the Rule. It is extremely important that we pass this rule today, not only because the U.S. commercial shipbuilding industry is at stake, but because tens of thousands of industry jobs are at stake as well. By passing the rule, we would permit the distinguished chairman of the Merchant Marine and Fisheries Committee to offer an amendment that would significantly improve this legislation.

Last November, this House overwhelmingly passed (347-65) the Maritime Security and Competitiveness Act of 1993—an extremely important bill because it sent the loud-and-clear signal that this body is committed to restoring this Nation's maritime greatness and protecting the jobs of the men and women who are its foundation. In this legislation, we have the opportunity to build upon the work this body started last November. But we only have one chance, and we've got to get it right.

We have an obligation to help restore this Nation's commercial shipbuilding industry, especially those shipyards that have been heavily involved in Navy shipbuilding contracts—such as Bath Iron Works in my home State of Maine, which is the largest private employer in Maine. With the downsizing of our Armed Forces, and cutbacks on the number of new naval ships we will build, it is our responsibility to help our private shipyards become competitive again in the world shipbuilding market. It is simply not good enough to provide a safety net * * * we must provide a desperately needed leg-up as well.

Just a few short decades ago, the U.S. was the world's greatest shipbuilding nation. But today we have fallen to around 24th in the world. In 1981, the United States eliminated its direct subsidy for the shipbuilding industry. Since that time, the industry has lost 40 shipyards and about 120,000 jobs. Of the 22 largest American shipyards in business in 1980, only 8 remain today. And the decline in Navy construction threatens to shut down the entire industry and force the loss of more than 180,000 jobs within the next 5 years unless American shipyards can transition successfully to commercial work.

One of the biggest reasons for the decline of the U.S. shipbuilding industry is the billions and billions of dollars in unfair shipbuilding subsidies that foreign countries pump into their commercial shipyards. These foreign subsidies have given foreign-built ships a tremendously unfair advantage over similar ships built in American shipyards.

Nobody knows better the challenges facing our commercial shipyards than the distinguished chairman of the Merchant Marine and Fisheries Committee. By passing this rule, we will give him the opportunity to offer an amendment already approved by the Rules Committee that would give our commercial shipyards the financial ability to compete in the international marketplace. I am speaking of the series transition payments to help finance new commercial ship construction that this House overwhelming endorsed and authorized with its passage of H.R. 2151. (347-65)

Now, opponents will contend that financing for the series transition payments are not necessary because last month a trade agreement was signed in Paris between the United States and the major industrialized nations that would phase-out all shipbuilding subsidies by 1999. While that agreement, on the surface, appears to be a good one, it is far from perfect. In fact, it is seriously flawed.

Under that agreement, between now and January 1, 1996, existing foreign shipbuilding subsidies can continue with no budget ceilings. Moreover, any foreign subsides approved before that date can be carried over until January 1, 1999.

This means that those nations currently subsidizing their shipyards will have at least another 4 years to flood the world marketplace with their subsidized ships. In trying to help our private shipyards for the long term, we have put them at a significant competitive disadvantage over the short term. The playing field will be a level one in 1999, but unless we do something today to help our shipyards, there will not be very many of them around to compete on that level playing field in 1999. It is about as fair as ensuring an evenly-matched baseball game between teams only to find when the first inning starts that you've sent Team USA out to the plate with broken bats.

The new shipbuilding subsidy agreement provides a long-term solution to the problem of foreign subsidies. But in the meantime it has created a significant short-term one—one which threatens the very existence of our shipbuilding industry.

The answer to this short-term problem is first to pass the rule, and then pass the amendment that will be offered by the chairman of the Merchant Marine Committee. Let's make a good bill a much better one. Support the rule. Then support the chairman of the Merchant Marine Committee's important amendment. By supporting both, this House will be giving a critical industry a second chance.

□ 1330

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I only wish that the American people could view the Committee on Merchant Marine and Fisheries. I serve on three major committees, and there is no committee that I have witnessed, or testified before, or worked for, or with, with the chairman and the ranking member, the gentleman from Texas [Mr. FIELDS] and the gentleman from Massachusetts [Mr. STUDDS], that works in such a bipartisan way. It not only get things done, but it has responsibility, it has accountability, and it offers hope for the American people. I would ask the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, to learn from it. They are not power builders, they are not committee power builders, but their one agenda is for the American people, and I cannot tell my colleagues that coming here in the 102d Congress, and all the malarkey that we have to go through, what a pleasure it is to come to Chairman STUDDS' committee because they work together and join together for the American people, and they not only do it in rhetoric, and it is not just for unions, it is not just for small business, but it is for both. It is for all Americans.

In addition I want to tell my colleagues that this bill is a fair bill, and it does a lot of different things.

The merchant marine fleet and the industry have been devastated. As my colleagues have heard, during Desert Storm we had Russian hulls carrying our cargo overseas. In Los Angeles and other ports many of those ships had to be loaded and off loaded. That meant time, and time in combat means life or death. Billions of dollars of tie-down materials and cargo shipping materials were just lost when these ships went in. They were never recovered, and that means taxpayer dollars as well.

So, the committee is accountable, accountable to the American taxpayers.

Some of these ships did not even go in to deliver the equipment. Foreign countries have primarily killed the industry through foreign subsidies. Our committee is where the gentleman from Texas [Mr. FIELDS] and the gentleman from Massachusetts [Mr. STUDDS] work to save jobs that have been lost, and the skills that have been lost over a hundred years, Mr. Speaker, are going away. Just take a look at the east and the west coasts. We used to have hundreds of ship builders and hundreds of ship repair facilities. They are nearly gone. There is only one left on the west coast. Those are not just union jobs. Those are union and small business jobs.

I only wish the other committees could learn from it, the infrastructure, the lost revenue that we have, and, yes, even the education programs. This bill and this committee provides for the Merchant Marine Academy, and I would also like to thank the gentleman from California [Mr. MILLER] for helping and being the driving force to get a training ship for the Merchant Marine Academy, not in this bill, but it was also important.

Let me give my colleagues some names:

NASCO.
Southwest Marine.
Continental Marine.
Pacific Ship.
Campbell's.
Bay City.

None of these are in my district, Mr. Speaker, but they create American jobs, and that is what the chairman and the ranking member work for. If we lose these facilities, they are going to go into condos or other things, and we are never going to get it back.

During the surge of national emergency we tried, even during Desert Storm, to go back in our bone pile of ships and regenerate old steam ships. We could not even find enough people to operate them. That is why we needed to use foreign hulls. This bill helps with that, loan guarantees. Let us build our ships in America, not let Taiwan, Japan, and other countries take our jobs because those dollars, even though it might be cheaper because of the subsidies, those dollars go into their tax accounts and tax rolls and do not regenerate jobs within this country. Let us let them be sailed by American sailors.

The dual-hulled tankers; OPA-90 requires that we build dual-hulled tankers. Guess what? There is no money to do it. This bill provides a startup for that with $1.7 billion. I think that will be cut, but at least it is paid for. OPA regulations with dual-hulled tankers would prevent things like Valdez and the ships going along that are leaking oil on the east and west coast and on our beaches. Yes, it even helps the environment.

Mr. Speaker, we are responsible, we have compassion in the committee, and it is hopeful for an industry that has died, and I say to the gentleman from Massachusetts, Chairman STUDDS, except for the tuna bill, I want to thank you. It's been very, very, pleasurable coming and working in the committee.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I think that much that has been said here this afternoon has been said several times. But this issue does cause a great deal of concern for Members who have been associated with the subject, with the issue, for one reason or another. I, maybe, enjoy, if my colleagues will, a couple of special kinds of circumstances that have brought this issue into focus for me over the years because my home is just a few miles from the northern terminus of the 80-mile trek from the Delaware River down to the Atlantic Ocean from Philadelphia to Cape May, and, as a result of being in that location over a number of years, I have had the opportunity to observe ships coming and going. If one take advantage of those opportunities, we see ships from Norway, and Great Britain, Uruguay, and Brazil, Kuwait, and Turkey, and every once in a while we see an American flag on a ship, and that is because 97 percent of the ships that visit ports like the ports of Philadelphia and Camden, 97 percent fly foreign flags, and anyone, I think, would agree that that is reason for concern.

Recently I watched a short videotape about the revisiting, revisitation, of the Normandy invasion, and I was reminded that at that time this country sailed under American flags 6,000 ships and that those ships were so vital in making it possible for us to get our people, men and women, and munitions and stores for those troops into the proper place at the proper time. Today that 6,000 ship fleet has shrunk to just 300 ships.

How do we restore this? That is the question that we are here to discuss today, and it just seems to me that we ought to be very realistic and look at this bill as one way to do that.

There was an article in the Washington Post this morning for those who, maybe, are thinking we ought to do this out of the defense budget, and the headline in the Post was: "Defense Costs Underestimated, GAO Says." The first paragraph of this article says the Defense Department is underestimating by more than $150 billion the cost of funding the military for the next 5 years according to a key congressional report released yesterday. If accurate, the General Accounting Office estimate would mean that either much larger appropriations are needed for defense, a virtual impossibility politically they insert, or deep new reductions in military programs will be required despite President Clinton's declaration that the Pentagon programs already have been reduced enough.

This bill, in a way, is a self-help bill. It is an answer to the question how do we begin to solve this problem.

So, Mr. Speaker, I hope that this self-help bill, as modest as it is in terms of its approach over a full decade to come, I hope this approach will pass today. I hope we vote for the rule and then support the bill.

Mr. QUILLEN. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of the rule to accompany H.R. 4003, the Maritime Administration Authorization Act. This rule has been reported by a bipartisan majority of the Rules Committee and it provides for equitable consideration of this important legislation.

The bipartisan leadership of the Committee on Merchant Marine and Fisheries requested this rule in order to provide the House of Representatives an opportunity to vote on an alternative funding amendment that is vital to our Nation's economic well-being. Last November, the House overwhelmingly authorized the revitalization programs that are funded by this legislation. The Merchant Marine Committee's amendment would finance these important revitalization efforts in a manner that relieves the burden on U.S. taxpayers.

As representatives of the committee which has principal jurisdiction in this important area, the bipartisan leadership of Merchant Marine and Fisheries deserves an opportunity to offer their very balanced and sensible amendment. This is a matter of simple fairness to the membership of the committee, the membership of the House and most importantly, the American people.

Mr. Speaker, I urge a "yes" vote on the rule, a "yes" vote on the Merchant Marine and Fisheries Committee's financing amendment and finally, a "yes" vote on final passage of H.R. 4003.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS], chairman of the Committee on Merchant Marine and Fisheries.

□ 1340

Mr. STUDDS. Mr. Speaker, I thank the distinguished chairman of the committee and I thank the ranking member of the Committee on Rules and all the members of the various committees who have had such kind things to say about the ranking member of the Committee on Merchant Marine and Fisheries and the way in which we run our committee. We are very proud of it.

I rise only to make one clarification. I have no intention of prolonging the debate on the rule. There is some misunderstanding, I believe, with regard to the amendment made in order under the rule to be offered by the gentleman from Texas [Mr. FIELDS] and on behalf of the Committee on Merchant Marine and Fisheries. The gentleman from Illinois, speaking for the Committee on Ways and Means, just characterized that amendment or the making of it in order as somehow a violation of the regular order and an invasion of the jurisdiction of the Committee on Ways and Means.

No one has more respect, in fact verging on awe, for the jurisdiction of the Committee on Ways and Means than this Member. Let me just observe that the bill as introduced, H.R. 4003, was referred initially solely to the Committee on Merchant Marine and Fisheries. We are the committee of principal jurisdiction. We are the committee of sole jurisdiction, with the exception of title II, the funding title, and on that title the Committee on Ways and Means requested and received a limited and sequential referral.

With the funding mechanism as it was originally in the bill reported by our committee, based solely on tonnage duties, that is a matter over which the Committee on Merchant Marine and Fisheries exercises principal primary jurisdiction. That is a shared jurisdiction with the Committee on Ways and Means, and they were entirely correct in requesting that sequential referral.

It is true that the version supported by the Committee on Ways and Means adds two other components of funding, both of which are within the exclusive jurisdiction of that committee, and that is the excise tax on diesel fuel and the increase in tax on tickets paid by passengers on cruise vessels. Those two components are indeed solely within the jurisdiction of the Committee on Ways and Means, and they comprise two-thirds of the package reported by that committee. The remaining third is the tonnage duties.

It is the entirety of those tonnage duties of the package recommended by the Committee on Merchant Marine and Fisheries, both in the bill and in the amendment, which we have requested be made in order. So with regard to our amendment, it is very much within the primary jurisdiction of our committee and does not, I submit respectfully, constitute in any way an invasion of the regular order or a lack of respect for the jurisdiction, the very real and very awesome jurisdiction, of the Committee on Ways and Means.

I also would like to take this opportunity to thank that committee, all of its members and particularly its acting chairman, notwithstanding the fact that, as Members have seen and will see in a while, we have a disagreement on the best way of achieving the goals which I think most of us share. They have been remarkably open and cordial as we have attempted in the last few weeks to work out these differences.

Members of our committee have been invited to a caucus of the Committee on Ways and Means to present our view of this matter, which, so far as I know, is without precedent. Members of our staff were invited to sit in on the actual markup of that committee. We are profoundly grateful for the civility and the cordialness with which the two committees have dealt with one another.

With that in mind, Mr. Speaker, I once again thank and commend everybody who should be thanked and commended.

Mr. ENGEL. Mr. Speaker, I rise today in support of the rule for the consideration of H.R. 4003, the Maritime Administration and Promotional Reform Act. This bill would greatly benefit our national maritime industry, increasing both the competitiveness and efficiency of our American shipyards.

The bill provides funds for increased shipbuilding, additional national defense reserve, and improved maritime education. While many of these programs were established in H.R. 2151, the Maritime Security and Competitiveness Act, the means by which the financial requirements of the various programs would be met were not addressed.

Enacting this legislation would generate nearly $250 million in fiscal year 1995 for Maritime Administration [MarAd] authorization national security programs, benefiting both the Ready Reserve force and national defense reserve fleet. Furthermore, our Nation's maritime education program would be helped by granting funds to the U.S. Merchant Marine Academy at King's Point, NY. As a New Yorker, I know about the fine training provided at this institution. The bill also succeeds in offering assistance to six additional State-sponsored maritime academies as well as subsidizing training support needs at State academies and at the Federal Academy.

I urge my colleagues to vote in favor of the rule and H.R. 4003. This bill is crucial to ensuring that the United States remains a leader in international trade.

Mr. MOAKLEY. Mr. Chairman, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 336, nays 77, not voting 21, as follows:

[Roll No. 369]

YEAS—336

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Cantwell
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Cox
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hobson
Hochbrueckner
Hoekstra
Holden
Hoyer
Hughes
Hunter
Hutto
Inslee
Istook
Jacobs
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Knollenberg
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quillen
Quinn
Ravenel
Reed
Regula
Richardson
Ridge
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skeen
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NAYS—77

Allard
Andrews (TX)
Archer
Baker (LA)
Barca
Barton
Bereuter
Boehner
Brewster
Bunning
Canady
Cardin
Collins (IL)
Costello
Coyne
Crane
DeLay
Dickey
Dornan
Durbin
Ehlers
Ewing
Fawell
Franks (NJ)
Gibbons
Grandy
Hancock
Hastert
Herger
Hoagland
Horn
Houghton
Hutchinson
Hyde
Inglis
Jefferson
Johnson (CT)
Kennelly
Klug
Kolbe
Kopetski
Kyl
Leach
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Manzullo
Matsui
McDermott
Mica
Michel
Miller (CA)
Packard
Payne (VA)
Petri
Pickle
Porter
Poshard
Rahall
Ramstad
Rangel
Reynolds
Roberts
Rogers
Rostenkowski
Royce
Sensenbrenner
Shaw
Shays
Shuster
Smith (OR)
Stump
Thomas (CA)
Thomas (WY)
Waters
Zimmer

NOT VOTING—21

Ackerman
Carr
Clay
Collins (MI)
Conyers
DeFazio
Dingell
Ford (TN)
Gutierrez
Hoke
Huffington
Inhofe
Laughlin
Montgomery
Olver
Owens
Skelton
Slattery
Torres
Washington
Wheat

□ 1406

Mr. HASTERT and Mr. COSTELLO changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORTS ON H.R. 3474, REGULATORY REFORM ACT OF 1993, AND H.R. 3841, INTERSTATE BANKING EFFICIENCY ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file conference reports on the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, and on the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching.

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Texas?

There was no objection.

MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

The SPEAKER pro tempore. Pursuant to House Resolution 500 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4003.

□ 1407

IN THE COMMITTEE OF THE WHOLE

□ 1410

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes, with Mr. WISE in the chair.

The Clerk read the title of the bill.

Mr. WISE. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 15 minutes, the gentleman from Texas [Mr. FIELDS] will be recognized for 15 minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 15 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last November, the Merchant Marine and Fisheries Committee brought before the House H.R. 2151, the Maritime Competitiveness and Security Act of 1993. This bill authorized two new programs to help revitalize our U.S.-flag fleet and U.S. shipyards.

On that day last November, this House voted overwhelmingly, by a margin of 347 to 65, to support our American maritime industries. Today, we ask for your vote to ensure that the will of the House becomes a reality: that American flags continue to fly from vessels carrying this Nation's commerce; that American shipyards will someday soon build another commercial vessel; that when American servicemen and servicewomen are sent to distant corners of the globe they will have the certainty they need that ammunition, medical supplies, and food will be there; that the skills of the working men and women of this Nation who build ships, and who are trained to run them, will not be lost; and finally, Mr. Chairman, to ensure that this Nation, the only remaining superpower on the planet, will never dangerously rely on the kindness of foreign nations to move our goods to market.

When we brought H.R. 2151 to the floor, we recognized that the programs we were authorizing were subject to the pay-go requirements of the budget act. We committed then to return to the House with a revenue measure to offset the cost of these programs. H.R. 4003 is the fulfillment of that promise.

Like the administration, the Merchant Marine and Fisheries Committee ultimately decided—after examining many other options that did not meet our pay-go obligations, would not raise the needed revenues, or were unfair to certain segments of the maritime industry—that increasing tonnage duties is the best and fairest way to raise revenues to offset the costs of maritime reform.

Tonnage duties have been around since Congress first passed the Act Imposing Duties on Tonnage of July 20, 1789. Interestingly, the Congress of 1789 had the same purposes for creating these duties that we have in raising them today—to encourage American shipping and shipbuilding, and to support lighthouses and other navigational aids.

Tonnage duties are collected by Customs Service on the cargo-carrying capacity of all vessels entering U.S. ports. Most of these ships, those moving 96 percent of our trade, are foreign built, foreign owned, and foreign crewed.

The administration's maritime reform proposal announced last March, would have raised approximately $1 billion by increasing the present tonnage duty to 24 cents per ton for vessels entering from ports in the Western Hemisphere, and 71 cents per ton for other vessels.

In May, the Merchant Marine and Fisheries Committee approved a plan to generate approximately $1.7 billion by raising the tonnage duties to a flat 53 cents per ton. This was, admittedly, an ambitious proposal, but one we believed was necessary to fully fund all maritime programs, both operating and shipbuilding.

The Ways and Means Committee, which share jurisdiction over tonnage duties, last week reported provisions that would raise only $1 billion through a combination of revenue sources and directed that money not be expended on a shipbuilding program.

At the appropriate time, I intend to offer an amendment on behalf of my committee that we feel is a workable compromise between the positions of the two committees. My amendment would raise approximately $1.3 billion, a $400 million decrease from our original proposal. We are confident that this amendment provides adequate funds for the maritime industry, and meets the pay-go requirements of the Budget Act.

Mr. Chairman, increasing tonnage duties on vessels entering U.S. ports is consistent with all of our international obligations. It is also fully justified to help offset a small fraction of the value of services that the Coast Guard provides to all commercial vessels.

Every year the Coast Guard spends nearly a half billion dollars to operate modern navigational services, such as loran, Omega, the differential global positioning system [DGSP], and over 46,000 lighthouses, buoys, daybeacons, fog signals, radar reflectors, and vessel traffic service [VTS] systems.

In all, it costs the Coast Guard $868 million annually, excluding capital costs, to provide services that benefit U.S.- and foreign-flag vessels. If we raised the entire amount that our proposal calls for from tonnage duties exclusively, it would amount to only $130 million, a very small portion of what the Coast Guard actually spends.

While maritime programs of the past have been less than perfect, it is perfectly clear that we need a strong maritime industry and that we have found the best, fairest, and least painful way to ensure that the security and economic interests of our nation are protected today and in the future.

We must not repeat the experience of the Persian Gulf war when we had to charter foreign-flag ships to carry military supplies to our troops and when we lacked the trained personnel to operate the ships we had.

With the end of the cold war, we must not forget that America's battles will be fought more and more on the economic bottom line, not just on the front line. Without American ships to move American goods to foreign markets, those goods may never leave our shores.

We must not lose the ability to build ships. Encouraging our yards to be competitive commercial shipbuilders will ensure that we always retain the skills and industrial base we need to build naval vessels.

We must not forget gas lines. As an oil consuming nation, the United States must not be without the wherewithal to bring petroleum—or any critical product—to our consumers. With the U.S. flag flying from U.S. commercial ships, this will never happen.

The legislation we bring you today—legislation that is the product of the bipartisan cooperation that we unfailingly enjoy on our committee—will ensure that we can turn our existing maritime programs around, make them more cost-effective, and give our Nation the American ships and shipbuilding capacity that we must—I repeat, that we must—retain.

Mr. Chairman, the Merchant Marine and Fisheries Committee has labored long and hard to bring before the House a bill that not only pays for important maritime programs, but, along with H.R. 2151, will restore confidence in our maritime industry.

Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I want to first of all begin by commending our distinguished chairman, the gentleman from Massachusetts [Mr. STUDDS], the subcommittee chairman, the gentleman from Illinois [Mr. LIPINSKI], and our ranking minority member, the gentleman from Virginia [Mr. BATEMAN], for the long hours they put in on this particular subject.

Mr. Chairman, I also want to compliment the staffs in dealing with a very delicate yet very important piece of legislation.

Mr. Chairman, I rise in support of H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994, a bill to provide revenues for a new maritime reform program.

Last fall, the House of Representatives passed H.R. 2151, the most sweeping maritime reform bill in several decades—by the overwhelming vote of 347 to 65. That bill was a compromise—no one was completely satisfied with it. Although it is not perfect, it will go a long way toward solving the major problems confronting our maritime industries.

H.R. 2151 is a new maritime reform program with two parts:

First, a maritime support program for American vessel operators to assure the continued existence of U.S.-flag ships for both international trade and national defense sealift; and

Second, a short-term ship construction assistance program to enable American shipyards to convert from Navy construction work to building ships for international commercial use.

Now, to ensure the success of this maritime reform program we must establish a mechanism to finance it. H.R. 4003, as approved by our Committee on Merchant Marine and Fisheries, would accomplish that purpose by increasing the existing tonnage fees on the cargo carrying capacity of all vessels entering the United States from foreign ports.

Since 96 percent of our international oceanborne trade is carried by foreign-flag vessels, it is these vessels that will be paying the overwhelming majority of the increased tonnage duties.

The fee is structured so that all vessels engaged in international trade, including the foreign-flag vessels that enjoy the use of our ports and the luxury of our cargo, pay for some of the navigation and safety benefits they receive. It has also been designed to ensure that it does not violate any international trade agreement including article VIII of the General Agreement on Tariffs and Trade [GATT].

Our committee has repeatedly demonstrated just how strongly we believe in the three components of the merchant marine: vessel operations, manning, and shipbuilding. Each of these elements of the maritime industry has a proud history and there is no question that an appropriately funded maritime reform program is critical for their survival.

H.R. 4003 will provide the necessary new revenues to support the American maritime industry. We are talking about supporting our national defense sealift needs with fully crewed U.S.-flag ships; preserving the capability to be able to build, and repair, both warships for the Navy and commercial ships for domestic and international trade; and assuring that our Nation's international trade will not become captive to foreign shipping interests who do not care about American businesses.

Operating a U.S.-flag ship is expensive. American shipowners pay considerably higher costs for their ship mortgages and insurance. They have to meet all sorts of health, labor, and environmental costs that are not levied by other nations in the world. They also pay income taxes that their foreign counterparts, in most cases, do not pay at all.

Our standard of living is also higher than the rest of the world. On average, a U.S.-flag containership with a crew of 21 costs about $9,500 per day just for the crewing costs. These costs include wages, vacation allowances benefits, overtime pay, and other costs such as payroll taxes. An identical foreign-owned containership, with a crew of the same size, costs about $1,500 per day for these same expenses.

One simple example will demonstrate the radically different costs that shipowners face. The Taiwan shipping company, Orient Overseas Container Line, provides $5 per day for all three meals for each of its crewmen. Nowhere in America can people eat three meals for just $5. However, this is just one way that foreign shipowners keep their costs down.

We are also talking about protecting American workers with this legislation. In both the merchant marine and shipbuilding industries as many as 250,000 American jobs are at stake.

The Committee on Ways and Means considered H.R. 4003 after we approved it, and decided to modify our tonnage fee proposal. They adopted a three-part proposal that would raise $1.0 billion over 10 years from an additional $2 per passenger excise tax on departing passengers; a one-cent-per-gallon fuel excise tax on ships departing U.S. ports for foreign destinations; and a tonnage fee on all vessels arriving in the United States from foreign ports.

I join with our distinguished chairman, GERRY STUDDS, and our Merchant Marine Subcommittee chairman and ranking member, BILL LIPINSKI and HERB BATEMAN, in offering an alternative to the text of H.R. 4003, as approved by the Committee on Ways and Means.

Specifically, I suggest that we can accommodate most of the differing views on how to fund maritime reform with a modified tonnage fee. Recognizing the concerns of many Members that our original tonnage fee proposal may cause some hardships to various maritime sectors, our committee's alternative would establish a flat tonnage fee of 38 cents per net registered ton.

Furthermore, it would increase from 5 to 25 the number of transits, or calls, to the U.S. ports when the fees would be collected. Our amendment would raise approximately $1.3 billion over 10 years, which is $400 million less than our original measure.

Contrary to statements made by some cargo shippers and port interests, according to the Department of Transportation, the increased tonnage fees would not result in any diversion of American-bound cargoes to either Mexico or Canada. The on time delivery schedules in international trade do not allow for time consuming transhipments through either country.

Mr. Chairman, let there be no mistake, unless we approve H.R. 4003, there will be no U.S.-flag containerships and U.S. shipyards will continue to close. We are at a critical juncture and the jobs of thousands of our constituents are in serious jeopardy. By enacting H.R. 4003—to pay for the maritime reform program we authorized in H.R. 2151 last fall—we can prevent this catastrophe. We will ensure that essential military equipment is carried on U.S.-flag vessels, and we will retain a shipbuilding capability to build, and repair, large ocean-going ships in the future.

I would like to comment briefly on the remarks made by several Members of the Committee on Ways and Means in their dissenting views on H.R. 4003. A point was made that in Operation Desert Shield/Desert Storm we did not use all available U.S.-flag ships and, furthermore, since the Government maintains a ready reserve force of standby ships, we don't need to support the private, commercial U.S.-flag fleet.

Operation Desert Shield/Desert Storm was unlike any military engagement this Nation has ever embarked on in two key ways. First, the entire world—except Saddam Hussein—was on our side. We had sealift help from virtually every seagoing Nation in the world. Second, there was no hostile action at sea against any of the supply ships. We cannot be assured that either of these conditions will apply in any future military action, and we must be prepared to operate alone.

It is also important to recognize that the Government's ready reserve force fleet of standby sealift ships will be of limited value if there are not sufficient people available to run the ships. The manpower pool for these ships will come from the private sector crews of the U.S.-flag ships. If we lose our merchant fleet, we lose the crews. Creating a merchant marine manpower reserve force will be extremely expensive when you add all the costs related to salaries, benefits, and other costs related to drilling and supporting a reserve force.

During World War II and in every conflict since then—Korea, Vietnam, and Operation Desert Shield/Desert Storm—American merchant mariners have played critical roles. If we do not act now to pass H.R. 4003 to fund maritime reform, our own Government will do what our wartime enemies have never been able to do—sink the U.S.-flag merchant marine, and remove the American flag from the world's oceans.

I urge my colleagues to join the bipartisan effort of the Committee on Merchant Marine and Fisheries to revitalize America's once proud maritime industry.

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Mr. Chairman, I reserve the balance of my time.

Mr. STUDDS. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. LIPINSKI], the distinguished chairman of the Subcommittee on Merchant Marine.

Mr. PICKETT. Mr. Chairman, will the gentleman yield?

Mr. LIPINSKI. I yield to the gentleman from Virginia.

Mr. PICKETT. Mr. Chairman, I rise in support of H.R. 4003.

Mr. Chairman, U.S. maritime policy, as defined by title I of the Merchant Marine Act of 1936, establishes the necessity for a strong merchant marine capable of handling a substantial portion of the Nation's commerce and serving as a naval and military auxiliary in time of war or national emergency. U.S. maritime policy further provides that the merchant marine shall be supplemented by efficient facilities for shipbuilding and ship repair.

The deteriorating condition of America's maritime industries, including the ship repair industry, presents a clear and growing danger to U.S. economic and military security. Both our strategic sealift capability and our shipyard mobilization base are at risk and will be increasingly at risk without decisive action by this Congress and this President to enact appropriate remedial legislation.

H.R. 4003 provides a practical, balanced, and cost-effective plan for action to promote and facilitate immediate implementation by the administration, the Congress, and the private sector of an integrated and plausible maritime policy. Taken as a whole, this legislation will begin the process to help our Nation restore and enhance its maritime industrial base.

This legislative initiative is founded upon 2 years of cumulative effort by the members of the Merchant Marine Committee. The committee leadership has taken a "hands on" approach in dealing with the sharply divergent interests that exist within the maritime industries. H.R. 4003 represents a major breakthrough in defining and funding a plan to deal fairly and responsibly with the problem. It reflects considerable compromise and substantial agreement among the members of the committee.

H.R. 4003 does carry a cost. The rapidly deteriorating situation cannot be remedied without expending a meaningful amount of national resources. Any course of action will have costs to our nation. The challenge is to develop and implement policies that meet the requirements in the most cost-effective manner possible. The Merchant Marine Committee bill meets this test. It provides a funding source to pay for the program that is set out in the bill and meets the "pay go" requirement of the Budget Enforcement Act.

Mr. Chairman, H.R. 4003 will be vitally important in enabling our Nation to maintain and sustain a viable ship repair industry. The United States and foreignflag ships trading in and out of U.S. ports need this important industry. For economic and environmental reasons, a viable full service U.S. ship repair industry is a must. H.R. 4003 will help private ship repair yards modernize with advanced ship repair technologies and processes. These investments will enable U.S. ship repair yards to perform more efficiently and be more competitive with foreign ship repair yards.

What we have before us is the very minimum that must be done to begin the job of revitalizing our merchant fleet and ensuring the future of our shipbuilding and ship repair yards. I urge my colleagues to pass this legislation.

Mr. LIPINSKI. Mr. Chairman last year, I joined Chairman STUDDS and ranking minority Members FIELDS and BATEMAN to introduce H.R. 2151, the Maritime Security and Competitiveness Act of 1993. In November, with strong support from the committee members, the bill passed the House by an overwhelming 347 to 65 margin. At that time, the bill did not have a funding source.

Today, the bipartisan leadership of our committee presents a funding mechanism in H.R. 4003 to pay for the reform program. Over the past 6 months, the committee has worked diligently to formulate a delicately balanced funding plan similar to the administration's tonnage fee proposal introduced earlier this year. This revised tonnage fee will raise enough revenue to support both the operating and shipbuilding elements of the House-passed bill.

We considered several different funding options and believe a tonnage tax is the best revenue source for maritime reform. The Coast Guard provides over $1 billion a year for a multitude of navigational and search-and-rescue services to U.S. and foreign vessels using our ports. The total revenues collected by this tax represent only a small portion of the cost of these services. The committee also made every effort to ensure that the bill does not violate GATT or any other international trade agreement.

If Congress does not pass H.R. 4003 this year, the U.S. merchant marine and shipbuilding industry will disappear. Without this legislation, thousands of U.S. jobs will be lost forever. We must vote for H.R. 4003 to prevent this national catastrophe. Passage of this bill will ensure that essential military equipment is carried on U.S.-flag vessels and commercial vessels will be built in this country. I strongly urge you to join us to save the U.S. merchant marine.

In closing, I would like to once again thank the gentleman from Virginia [Mr. BATEMAN] for the outstanding cooperation and work that he has done on this bill. Without his interest in this bill, we would not be standing here on this floor today hoping to pass this bill. Also I would like to thank the acting chairman of the Committee on Ways and Means, the gentleman from Florida [Mr. GIBBONS] for the outstanding cooperation that he gave to us in developing this legislation. We stand here today unfortunately with a difference of opinion on how to fund this particular piece of legislation, but I want to say that the gentleman from Florida [Mr. GIBBONS] gave us on the Committee on Merchant Marine and Fisheries an excellent opportunity to try to get our point of view across to his committee membership, and I thank him sincerely for that.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 4003 as it is presently before the House, but if it is amended as is proposed here today, I would not be able to vote for it.

The bill was sequentially referred from the Committee on Merchant Marine and Fisheries to the Committee on Ways and Means because of the revenue provisions of the bill. The Committee on Ways and Means carefully considered this bill. We heard from the members of the Committee on Merchant Marine and Fisheries about what they wanted to do and how they proposed to finance it. We also received input from the public and the administration about the revenue provisions of the bill. So after due deliberation, we came up with a program to finance the amount of money that had been requested by the administration for the funding of this program. That sum was roughly $1 billion over the 10-year period. The dispute between the two committees here today is about the difference in the amount of money and the difference in the way in which the money will be collected.

Mr. Chairman, one of the reasons the Committee on Ways and Means limited its funding of this bill to about $1 billion is because the United States just entered into an agreement with all of the other shipbuilding nations of the world. This agreement was reached after the Committee on Merchant Marine and Fisheries reported their bill. In this agreement, the United States and the rest of the shipbuilding nations have agreed to forgo any additional subsidies to ships commencing in 1996, with the understanding that those ships that had been subsidized by that time can be completed but that no subsidies for those types of ships would be available to the construction of those ships for delivery after 1999.

That agreement in itself is a historic agreement. Ships have been subsidized ever since the Phoenicians built their first ships about 4,000 years ago. This is the first time the shipbuilding nations of the world have ever come together and agreed to put an end to the subsidies. Shipbuilding subsidies are a bad thing as far as the U.S. merchant marine is concerned and as far as the construction of ships is concerned. The United States eliminated its subsidies unilaterally here in an amendment known as Gramm-Latta in 1981, and in 1981 we put an end to all shipbuilding subsidies in the United States.

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So in the years following Gramm-Latta, the U.S. shipbuilders have been at a disadvantage, but the shipbuilders are now enthused, I think by the fact that an international agreement has been reached which comes into effect January 1, 1996. In that agreement, we agreed solemnly with all of the rest of the shipbuilding nations that entered into this agreement that we would not create any additional or new subsidies. Yet we are faced here with a request by the Committee on Merchant Marine and Fisheries to create and to fund some additional subsidies in the shipbuilding area. So as a matter of principle for the United States, and as a matter of international law, I do not believe we should start any new subsidies. We have agreed not to, and we have told the rest of the world we should not. We do not want to be the first to renege on that.

The tonnage fee is an old, old tax. It goes back to the 1700's, and has been changed many times. But the change proposed by the Merchant Marine Committee is a rather dramatic change. The tonnage tax would be increased under the merchant marine proposal that will be put forward and debated here in a few minutes by many times its current level. Under the merchant marine amendment, all of the money would be raised by increasing the tonnage tax.

In fact, it is not only the amount of money that is involved but the way in which it is raised that is at issue. The Merchant Marine and Fisheries Committee would rather raise all the financing through the tonnage tax. The Ways and Means Committee had a lot of objections from the public on that. We came up with a different way of raising the money. About half of it would be raised by the tonnage tax, and the other half would be raised by an international shipping fuels tax and by a ticket tax on cruises that cost more than $150.

Our fuels tax would not be levied on any trade exclusively in the Great Lakes, and would not be levied on any fishing vessels leaving the United States and landing back here. It would only be levied on ships engaged in international trade in the saltwater areas of the United States. So we think our method of raising the money and the amount of money raised is superior to that put forward by the Merchant Marine and Fisheries Committee. For that reason we would have to oppose the bill if it is amended as the Committee on Merchant Marine and Fisheries suggests.

Mr. Chairman, I reserve the balance of my time.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to H.R. 4003, unfortunately for the same reasons that I have opposed cargo preference initiatives on this floor, because this bill, like its predecessors in the cargo preference, will severely damage agricultural exports because it will raise their costs and make them less competitive in world markets.

H.R. 4003, as modified by the Committee on Ways and Means, not only mandates a new uniform rate of 22 cents per net registered ton for all vessels, but also assesses an excise tax of 1 cent per gallon on all diesel fuel sold for use in commercial vessels departing the United States for foreign ports.

These taxes particularly hurt agricultural farmers, but these taxes also hit bulk commodities particularly extra hard. Bulk commodities, such as grain, fertilizers, and coal are extremely price-sensitive in the present competitive world market, and a few cents a ton in price can make the difference on whether a foreign purchaser decides to buy a U.S. commodity.

It is also important to point out that increasing the tonnage tax will damage United States exports to Mexico. A significant amount of grain exports from the United States to Mexico, probably in the area of 50 percent, still move by ocean vessel as well.

As a case in point, a typical gulf vessel would make approximately 10 to 12 calls on a U.S. port per year, and would have a net registered tonnage of 11,000 tons, and carry approximately 25,000 tons of corn. Under the tax provisions in H.R. 4003, this means an increase of $19,250 or 389 percent.

In the final analysis, Mr. Speaker, farmers, grain elevators, and barge companies which use the river system to move grain to ocean export points will be hurt at the expense of questionable subsidies for the maritime industry. I ask Members to vote "no" both on H.R. 4003 and on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 4003. I want to compliment the gentleman from Massachusetts [Mr. STUDDS], chairman of the committee, and the gentleman from Texas [Mr. FIELDS], the ranking member on this work in this endeavor.

I hope Members listening to this debate understand one thing. We went from 1945 being the greatest maritime nation in the world, better than Britain which was the big one of all times until right now we are 16 in the total maritime fleets. We have 394 vessels left to ply the great seas of this world, 394 vessels. Panama has 3,040, Liberia has 1,550, China has 1,359, Cyprus has 1,210, and I can go on down the line. The largest importer in the world, the United States, the largest exporter in the world, the United States, and we are the least in the maritime industry in the whole world today. This is the last chance to retain and improve and to grow in the maritime industry.

We ought to have cargo preference, with all due respect to my good friend who just spoke. We ought to be shipping our goods abroad on American-crewed and American-built ships, and we ought to be bringing some of it into our shores as all other countries do today, and we do not.

Last year we started building new ships, two new ships being built for the maritime industry, two being built. In 1979 at least we had about 89 ships being built. In a short period of time we have gone to very nearly zero.

So I ask my colleagues to support the Merchant Marine and Fisheries Committee substitute. We are paying our share. It is in fact an ability to raise the money to pay for this program to the industry itself so that we can reinstate our greatness on the seas that we had in the past. If we do not do that today, we will never have the merchant marine fleet we should have for this great Nation.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my objection to H.R. 4003 in its current form is twofold. First of all, I oppose the more than $1 billion in new taxes that it contains. Make no mistake about it, this is an increase in taxes of over $1 billion. To me, that is a significant amount of money serving on the Ways and Means Committee that has to raise taxes.

Second, I question the maritime subsidy program for which those new taxes would be levied on American commerce. Again, make no mistake about it, it is a new entitlement program, an entitlement spending program that will not be subject to the budget spending caps.

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The tonnage tax increase will fall hardest on trade with our Western Hemisphere neighbors, particularly Mexico. These export taxes will only serve to make America less competitive and essentially make inconsistent our policies under NAFTA and GATT.

Relative to current law, the tonnage tax is reduced for trade with Europe and the Far East under the Ways and Means title. There is a little deception at work here. Upon closer examination, the Ways and Means Committee negates the benefits of the tonnage tax reduction by increasing fuel costs for vessels traveling on our international seaways. This give with one hand and take away with another provision is a new and permanent 1-cent-a-gallon diesel tax on diesel, actually diesel and residual fuel tax, used in international shipping.

At first blush, a penny tax may not sound very harsh, but when you take into consideration that large ships carry 1 million gallons of fuel, then the penny tax grows to $10,000 per fill-up.

It has been estimated the fuel tax, when coupled with the tonnage tax increases, will significantly increase the cost of grain exports to this country. The remainder of the financing comes from an increase in the passenger excise tax on ship departures. This comes as an addition to the $6.50 customs fee that was put into the law just last year.

Second, the amendment would finance a new direct spending program, as I mentioned, ostensibly to ensure an American flag fleet on the high seas which would also be available in time of war and emergency. The Merchant Marine and Fisheries Committee has proposed a program which is called the Maritime Security Fleet which would provide an annual payment of over $2 million per vessel over the next 10 years. In exchange, vessels would have to fly the U.S. flag in theory and make their ships and crews available in time of war. The U.S.-flag part would be a requirement.

The theory is that the ships would be available in time of war. The current operating subsidy program contains a similar requirement for U.S.-flag vessels, and it was put to the test during the Persian Gulf war. Without going into great detail, we learned several things from our experiences. First, by war's end, the Pentagon chartered 51 foreign roll-on-roll-off vessels and 7 American ships in order to be able to carry the tanks and the heavy equipment. So only seven ships even under a subsidy program that required the availability of American ships were American. Fifty-one were foreign.

Since then, the Pentagon has launched a multibillion-dollar acquisition and conversion plan. That is already out there independent of this bill.

Second, of the total of 77 of all types of subsidized American ships, only 22 were actually chartered by the Pentagon.

Finally, of the 365 commercial vessels chartered during the gulf conflict, less than one-half flew the Stars and Stripes. The deployment of troops and equipment in the gulf war was accomplished with a ready availability of foreign flag vessels, and most importantly, the United States did not force a single U.S. subsidized ship to carry any cargo during the conflict.

It is worth noting that an early draft of Vice President GORE's Reinvent Government recommended deregulation of the maritime industry. On this recommendation, the administration should have stayed the course. Instead, the Merchant Marine Committee program employs an old compass which has steered our maritime industry away from healthy competition. And even with the massive subsidy programs under current law, it has witnessed a rapid decline of American vessels.

Unfortunately, the Committee on Ways and Means provides a financial engine for a program which is not seaworthy as it is currently drafted. Worse, the engine is fueled by $1 billion of new and increased taxes on American trade.

I urge my colleagues to reject this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in strong support of the substitute amendment and passage of this bill as amended. Our Nation has an established history of a strong merchant marine. Unfortunately, that history has been changing and is about to end altogether. Shortly after World War II, the U.S. shipbuilding industry became the world's leading builder of military and commercial ships. Just a few decades later, that same industry is struggling to survive. The impacts of this decline are devastating.

Not only are there the obvious impacts in lost jobs, wages, and tax revenues but there are the impacts of our national defense capabilities. If this decline continues unabated, our military will not have U.S.-flag vessels necessary for sealift capabilities; our reserve fleet will be inoperable due to a lack of trained merchant seamen; and, foreign shipowners will control the price and availability of ships.

Our military forces today must be prepared to fight with less notice, and must be able to win in shorter order than ever before. These requirements mean that first, our force structure must allow us to respond quickly to contingencies, no matter how suddenly they arise or how far away they are, and second, we must have an increasingly capable industrial base to support the needs of our forces.

With the proliferation of highly lethal weapons, warning times for an attack are greatly reduced. We no longer have the luxury of being able to "tool up" for conflicts. These military requirements become impossible to achieve if we lose our ability to manufacture and repair defense capable ships.

Given these national defense needs, it is imperative that we pass this necessary legislation with the funding levels provided for in the merchant marine amendment. This amendment provides not only ship operating subsidies but also shipbuilding subsidies. It does so at a level of $1.3 billion raised over 10 years without the imposition of new taxes. This is a full $300 million above the Ways and Means Committee proposal. While I respect and admire the leadership provided by the Ways and Means Committee on this issue, I must urge my colleagues to support the merchant marine funding proposal. As the committee with jurisdiction over the merchant marine and maritime industry, it is the Merchant Marine and Fisheries Committee proposal which best reflects the needs of that industry and which best provides for its recovery and long-term health.

Mr. Chairman, I strongly urge my colleagues to support the Merchant Marine Committee amendment providing for an alternative funding mechanism and an adequate funding level. Thank you. I yield back the balance of my time.

The CHAIRMAN. The Chair would inform the committee that the gentleman from Massachusetts [Mr. STUDDS] has 5 minutes remaining in general debate; the gentleman from Texas [Mr. FIELDS] has 5½ minutes; the gentleman from Florida [Mr. GIBBONS] has 9 minutes remaining; and the gentleman from Texas [Mr. ARCHER] has 7 minutes remaining.

The Chair would also inform Members that the order of closing for general debate is as follows: The gentleman from Texas [Mr. ARCHER] would be the first to speak, the gentleman from Florida [Mr. GIBBONS] would be the second, the gentleman from Texas [Mr. FIELDS] would be the third, and the gentleman to close debate would be the gentleman from Massachusetts [Mr. STUDDS].

Mr. ARCHER. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, let us make sure we understand what this debate is not about. It is not about national defense. It is not about the security of the United States. And it is not about making sure that we simply tip the balance in the difference between survival in the area of maritime.

Most of you have watched a railroad car go by, trains go by at railroad crossings nowadays, and there are no cabooses on those railroads. The reason there are not any cabooses is because we decided to get rid of featherbedding in railroads, and the cabooses were the primary example of featherbedding. We had folks who were not really working on those trains riding in the cabooses. We simply decided to get rid of the featherbedding, so you could get rid of the cabooses.

What we have in front of us today is a proposition that we take 50 ships, 21 sailors a ship, 2 crews a year, 42 sailors a year, for 50 ships. Divide that into the amount of money that they are asking for, and it comes out to $50,000 a sailor, a small price to pay for national security. The only trouble is these folks are not ready, are not used, and are not needed. They do not offer the kind of ship that the military needed in our most recent military engagement in the Middle East. We charter those ships.

If you want to do something about national security, take this money and set it aside so that when we need it we can charter those ships with a trust fund available for the chartering of the ships, if you are concerned about national security.

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If you are concerned about the role of the United States maritime in the world today, take a look at the fundamental laws of economics under which we operate. If you want to repeal some of those, we can go back in time and be a major maritime country. What we are doing here is asking for a small subsidy relative to the bigger picture for a small group of folk who do not want to change.

Do not believe this vote has anything to do with national security. It has to do with an attempt to perpetuate a way of life that ought to go the way of the caboose.

If you let economics determine, you will not do this; if you let sentiment and inside politics prevail, then you are going to vote this little subsidy to keep the hope and the promise alive under the false presumption you are doing something in the name of national security.

This is how you wind up, bit by bit, piece by piece, with a $200 billion-per-year deficit. Do not do it.

Vote no.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I ask our esteemed colleague, Mr. THOMAS of California, a rhetorical question:

How can you charter something that doesn't exist?

A few minutes ago, the esteemed chairman of the Ways and Means Committee talked about the new agreement negotiated within the OEECD as a reason why the Congress should not vote in the amendment whose purpose is to enable building of those merchant vessels we need to help the flow of commerce to and from the United States.

I would like to point out here that the negotiations within the OEECD have been ongoing for some 6 years under pressure from the United States. The only reason they have reached the point as announced was because of the overwhelming passage of H.R. 2151 last year and the progress of H.R. 4003 in recent days.

In that so-called agreement, any ship contract negotiated before the signing can continue up until 1999. This means that the $8 billion subsidy now being paid to the shipyards within the OEECD can continue up until 1999. And there is no limitation on the capacity or expansion. And the agreement is nowhere near finished. In fact, we understand France is endeavoring to be allowed to set its own terms for its yards and ships.

And Belgium, Spain, Portugal, and Korea are asking to have their yards grandfathered so they can continue as they have in the past. And Spain is seeking to establish a new $1.4 billion program.

So I question how real the OEECD agreement is and want to point out that the congressional committees have not been able to obtain a copy of that agreement. How real is it?

Mr. Chairman, on June 6 of this year, we all watched in awe the replay of the D-Day landing at Normandy 50 years earlier which was the turning point of World War II.

Mr. Chairman, all segments of the Armed Forces were praised and their exploits recounted time and again on this anniversary occasion—that is, all sectors except one even though that one was most often in view on those 50-year-old films.

That segment of course, was the merchant marine. There were 2,700 U.S. built and U.S. manned merchant ships providing the supplies needed by our brave men and women for that historic invasion to liberate mainland Europe. Our country was able to provide not only those 2,700 vessels—but double that number—in 4 short years because the United States had an industrial base from which to begin that vast shipbuilding program.

The United States led the free world to victory because its skilled men and women worked round the clock and because it had the machine shops, the machine tool companies, and the shipyards to send the ships down the ways.

That type of industrial strength enables the United States of America not only to lead but to become a true power in the industrial world because of the far-reaching ramifications of these many segments that made America a strong industrial nation.

We will retain a small part of that vital industry if today this House votes in favor of the Merchant Marine and Fisheries amendment to title II of H.R. 4003. And we will have a nucleus merchant fleet flying the Stars and Stripes proudly on the fantails of the ships, ready to provide the kind of protection and competition to American shippers who otherwise would be at the mercy of foreign-flag fleets. History has proven that our shoreside shippers truly are taken over the coals when American vessels disappear from the horizon.

With this bill, our Nation will have a fleet on which it can count and it will have a maritime manpower base and intermodal cargo carrying capability essential to strong sealift under our own control.

Mr. Speaker, I endorse H.R. 4003 and urge strong support for its final passage today as well as for the Merchant Marine and Fisheries Committee's amendment.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The Speaker pro tempore (Mr. MCNULTY) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The committee will resume its sitting.

MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

The committee resumed its sitting.

Mr. GIBBONS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ARCHER. Mr. Chairman, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank our ranking member, the gentleman from Texas [Mr. FIELDS], for yielding this time to me. I want to take even a part of this precious 2 minutes to express my appreciation and admiration for the chairman of our committee and the chairman of the subcommittee who made it possible for us to bring this totally bipartisan effort to the floor.

It is not an overstatement to suggest that unless we fund H.R. 2151, which we overwhelmingly passed last year, the last American-flag vessel will disappear from the seas of the world. That is not a theory, that is a fact. And with the last American-flag vessel we will lose the capability in the future to man American ships to haul our international commerce, especially to look after our national security concerns in the future.

Without funding all of H.R. 2151, including the series transition payment to shipbuilders, American shipbuilding will not be able to get on that so-called competitive level playing field after 1999.

Let me emphasize to my colleagues in the House that we have not signed an international agreement. The agreement has not even been reduced to writing and ready for signature. It is not contemplated that anyone will sign it until after October.

Even if signed in the form in which it has been negotiated, as discussed with me by the principal American negotiator, it protects the subsidies of other nations who have, and for some time and continue now, in their authority to continued subsidy practices in practical terms until 1999.

For the American shipbuilding industry we ask only a very modest pittance for a transition program that would end before any agreement comes into effect which will permit American shipbuilders to be competitive in that international marketplace.

Mr. ARCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the remaining minute.

I think it is important for my colleagues to ask themselves what is at stake here, what is this debate really all about? You can crystallize the debate fairly simple: It is about 250,000 jobs, jobs that both operate ships and jobs that build ships. We are talking about closed shipyards if this particular piece of legislation is not passed; we are talking about diminished national security; we are talking about whether this country can move commerce.

We are talking about what I think is a fundamental question, and that is whether we as a country will continue to have control over our own destiny? I do not think there is a more fundamental question that can be put to this House, and I encourage my colleagues to support not only the legislation but the amendment that is brought in the nature of a substitute by the Committee on Merchant Marine and Fisheries.

Mr. STUDDS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to commend all those who have spoken. This is a very, very important matter. I think members understand that.

I would insist, however, that this really is a debate, among other things, about national security, and anyone who doubts that should really contemplate the very real possibility of the next century dawning with this Nation as the only superpower on Earth having no ships in foreign commerce flying our flag, none. The principal operators have already notified us of their intention to go foreign flag within a year if we do not enact the legislation before us. And at the same time, this Nation being without the capacity to build such a vessel, even, will have diminished our capacity to do the one thing, one thing we do know how to do, which is build naval vessels for military purposes. It is fundamentally a question of national security.

Nor is it simply a question of the basic law of economics. Every other shipbuilding nation in the world—and, hopefully, this agreement will change that—but to date it subsidizes their vessels in the shipbuilding industry.

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There are consequences that flow from that, and there are jobs at stake, lots of very good jobs, jobs in operating vessels, jobs in building vessels. There is a lot at stake here.

One final observation:

This is not an uncapped entitlement as was suggested. We are strictly PAYGO here. Nothing is spent that is not paid for by this bill. It is not an open-ended entitlement. It is terribly important, and once again I want to commend especially the members of our committee who have in a bipartisan fashion done themselves, all of us, I think, proud in this House.

Ms. SNOWE. Mr. Chairman, our maritime industries are fast becoming likely candidates for top spots on the endangered species list, and our actions today can reverse this rush to extinction. And that is the clear choice before us today—extinction or survival. But we can—and should—change that right now. And it is a change that is necessary not only for our shipyards, but for the industry, for American jobs, and even for our national security.

To those who might doubt the severity of decline of our commercial shipbuilding industry, I offer a quick lesson in the facts.

Consider that, in 1960, the United States privately owned, oceangoing fleet ranked fourth in the world with over 1,000 ships. In 1993, our fleet consisted of only 384 ships and is ranked 16th in the world and behind such nations as Malta, Panama, Liberia, and China.

Consider that in 1981 our Nation's shipyards employed 186,700 men and women. Ten years later, 50 of those shipyards have vanished and shipyard jobs have fallen to 129,300, and total job loss by 1998 will be almost 160,000.

Consider that between 1965 and 1992, the number of jobs on privately owned, large oceangoing American vessels decreased from about 51,000 to just over 9,150.

To be successful in our national security interest, we must be—as a nation—successful in our commercial shipbuilding capabilities as well. The two are clearly dependent on one another. For example, a March 1994, DOD report on the adequacy of our shipbuilding industry identified a clear, long-term national security benefit from the successful reentry of the global commercial shipbuilding market by American shipbuilders, and it stated that "the best long-term solution to maintain a robust shipbuilding industrial base is to obtain a respectable percentage of the global commercial shipbuilding market."

And to do this, the commercial shipyards of the United States must be able to rely on the support of the U.S. Government. And that means adequate subsidies.

The Gibbons bill contains maritime subsidies—but only for shipping lines, and not for our shipyards. Isn't it important that, 5 years from now, we are able to ensure that there is a fair and equitable amount of American-made commercial ships traveling on those shipping lines?

By providing subsidies for the ship lines and not our shipyards, the Gibbons bill would have the same effect of providing funds to build and maintain miles and miles of American roads, but doing nothing to help ensure that American cars travel those roads.

Certainly, no one is questioning the merits of a level playing field for commercial shipbuilding between major industrialized nations: according to the Paris agreement, all government subsidies are to cease on January 1, 1999. After that time, the commercial shipbuilding industries of the signatories will operate on the same basis.

What we must take a good, hard look at is what occurs in the years between 1994 to 1999. Mr. Speaker, it is the next 5 years that will in effect determine whether our commercial shipbuilding industry even survives economically to be able to compete after the year 1999. That is the issue here today. So, while foreign governments heavily subsidize their shipbuilding industries, American shipyards will remain shutout and in danger of being shutdown. In Spain alone, new subsidy aid will be permitted to the extent of $1.4 billion even before the 1999 cutoff date. Is that a sign of a fair agreement?

Mr. Chairman, I can tell you from personal experience that this bill and this issue are critically important to my State. Bath Iron Works is the largest private employer in the State of Maine. It is over 100 years old and it is currently the Navy's lead shipyard for the construction of *Aegis* destroyers. For decades, BIW has proven that it can build the world's best warships.

Now BIW has embarked on an ambitious 5-year plan to turn its skills and resources toward building world-class merchant ships at world prices. But it, and shipyards like it, need our help to make their plan a success.

There is a large international shipbuilding market which is projected to grow at a modest rate in the next 5 to 10 years. But world shipbuilding capacity is potentially greater than this market demand, thus only the most efficient shipyards will prosper in the long run—BIW intends to be one of those shipyards.

BIW has made a commitment to invest in the technologies and process needed to compete in the next century's international shipbuilding market. But what BIW needs most is a level playing field in the international market.

But because of the flaws in the new international subsidy agreement, that level playing field won't materialize until 1999. We must provide BIW, and other shipyards dependent on naval construction, with the assistance necessary to survive and prosper when that level playing field arrives.

Mr. Chairman, that's what it comes down to—extinction or survival. We need to act today to take our shipyards and other maritime industries off the endangered species list and place them squarely on the road to survival.

Mr. DELLUMS. Mr. Chairman, I cannot stress too strongly how essential H.R. 4003 is to the future well-being of our country. For more than 200 years, from before the birth of the United States of America, an active merchant fleet has been a necessary component of our economy and national security. In wars large and small, in the peacetime commerce of our farms and factories, U.S.-flag commercial shipping has represented a reliable and cost-effective means of transport.

Today, we are in great danger of losing this national treasure. Most of our maritime promotional programs have either ended or are slated for extinction. So far, nothing has been produced to fill the void, thereby throwing the domestic registry into chaos. Without a stable economic environment, private investors are understandably hesitant about making the huge capital investments that new shipping assets entail.

As for existing assets, they too will disappear. The two largest U.S.-flag liner operators, Sea-Land Service and American President Lines, have applied to reflag a substantial number of their ships under a foreign registry. There is no reason to think that this is an isolated action. On the contrary, we can reasonably expect a wholesale flight from the U.S. flag; that is, if we in the Congress are unwilling to provide our citizens with the tools they need to compete against the unfair trading practices and substandard manning and safety regulations of the foreign flags.

H.R. 4003 is a wake-up call to our Nation. It reconfirms our commitment to providing for a merchant marine of sufficient strength to serve as a strategic asset during times of war, and as a source of jobs and prosperity during times of peace. It is a step back from the precipice to which our past inaction has brought us. It is our last, best chance of saving an essential piece of America. I urge my colleagues in joining me in support of the merchant marine panel's amendment to H.R. 4003.

Mr. ABERCROMBIE. Mr. Chairman, often overlooked in the debate over maritime policy is what it means to average citizens, who despite low-interest rates are hesitant to buy a new car or a home. They all know someone, a relative or a friend, who recently lost a job, and they are afraid that next time it will be their turn. With the economic recovery sluggish at best, Members need to ask themselves whether we can afford to lose yet another major industry.

For lose it we will if we fail to act to support full funding for maritime reform. Already, U.S.-flag operators are poised to register their vessels offshore. An entire generation of skilled labor is being lost, perhaps forever.

What is going to happen to the port communities along our thousands of miles of coastline and inland waters? What are we going to do with the tens of thousands of workers who will be cast aside by a disappearing maritime industry? What about factory workers whose plants need dependable waterborne transportation to get raw materials and to ship finished goods to market?

While we quibble about the cost of a new maritime program, we ignore the enormous social cost of inaction. I, for one, would prefer to help keep shipboard workers actively employed, rather than incur the revenue losses and welfare costs of giving them a pink slip.

Yes, by all means, let us support maritime reform for its role in national defense. But let us not forget that the jobs of our constituents also hang in the balance. A vote for final passage of H.R. 4003 are votes cast for them.

Mrs. UNSOELD. Mr. Chairman, I would first like to commend the chairman of the Ways and Means Committee for the way in which he worked with the Merchant Marine and Fisheries Committee on this important piece of legislation. I also wish to commend Chairman STUDDS, Chairman LIPINSKI, and the ranking minority member of the Merchant Marine and Fisheries Committee, JACK FIELDS, for their tireless work to bring maritime reform legislation to the floor.

I rise to urge my colleagues to support the rule and the Studds/Fields amendment that will be offered later this afternoon. I do so because the fate of the amendment will spell the difference between whether our domestic maritime industry will get a huge boost or only a slight nudge in the right direction.

The case for meaningful maritime reform legislation and for the Studds/Fields amendment can best be made by keeping in mind a few telling statistics:

Two thousand American-flagged vessels plied international waters 50 years ago, while less than 200 do so today.

Fifty years ago, if you measure by total tonnage, we were the leading shipping nation in the world. Today we are ninth.

Fifty years ago our ocean going vessels provided 250 thousand American jobs, today only one-tenth of those jobs remain.

Fifty years ago, 1.5 million Americans received pay checks working in our shipyards. Today, our yards employ 125,000.

Our final statistic makes the need for the Studds/Fields amendment and for maritime reform abundantly clear. Today, only 4 percent of American goods shipped abroad go on vessels flying an American flag. I'll repeat that—only 4 percent of goods produced in our country and sent overseas on ships go on U.S.-flag vessels.

Today, our economy is growing again. Yet despite progress and significant growth in gross national product, unemployment rates remain frustratingly high. That's not new. We've been faced with unacceptably high unemployment rates too long. With that in mind, no one should be cavalier about the significance of preserving American jobs in American shipyards, on American vessels, and at American ports.

Maritime reform is also about national security. They may not be as glamorous as the newest stealth technology, but without the basic ability to get our troops, equipment and supplies where they need to be in an emergency, we're sunk. It is a never ending frustration that some people are so enamored of new high-priced weaponry that they disregard the nuts and bolts of security. We dare not take this vital security resource for granted.

If this body does the right thing and passes the Studds/Fields amendment, it will provide the means to allow twice as many ocean-going ships to fly the U.S. flag. That means more jobs for our workers and greater security for our country. It will also mean that maritime reform will have smoother sailing from here on it. If we fail to adopt the Studds/Fields amendment the maritime reform effort may end up on the rocks and we will have missed our last best chance to save the American merchant marine.

Make no mistake, whether we enact real maritime reform legislation this year is crucial. Without it we will lose well-paying jobs and much of the remaining infrastructure needed to build and repair ships. Without it, the last remnants of our ocean-going maritime fleet will likely vanish and we will be left to go shopping at "rent a fleet" the next time a national security emergency erupts.

I urge my colleagues to support the Studds/Fields amendment and then to pass H.R. 4003.

Ms. PELOSI. Mr. Speaker, I rise in support of the amendment offered by the chairman of the Merchant Marine and Fisheries Committee, Mr. STUDDS, to H.R. 4003, the Maritime Administration Authorization Act. This legislation would raise $1.35 billion over the next 10 years through an increase in existing tonnage fees collected from ships that arrive in U.S. ports. These revenues could then be used for direct assistance contracts under the proposed new shipbuilding and ship operating programs.

Mr. Speaker, U.S. shipbuilders and operators are subject to higher standards for safety, health, and employment than their foreign counterparts.

This, in combination with the subsidies that foreign yards receive, gives foreign operators a clear advantage because their vessels are less expensive to construct and operate. By voting "yes" on the Studds amendment, Congress has the opportunity to not only preserve, but to create, jobs for American seafaring and shipbuilding workers and to increase the competitiveness of the U.S.-flag commercial fleet. Over the last two decades, the number of U.S. ships in the merchant marine has been reduced from 798 to 385. This decline must be stopped. This amendment and the bill itself is an effort to ensure that the United States retains a merchant marine built in America, owned by Americans, and crewed and maintained by American sailors. I urge my colleagues to support the Studds amendment and vote for the passage of H.R. 4003.

Mr. STUDDS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries printed in the bill, modified by the amendment recommended by the Committee on Ways and Means printed in the bill, and by the amendment printed in part 1 of House Report 103-646, is considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 4003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maritime Administration and Promotional Reform Act of 1994".

TITLE I—MARITIME ADMINISTRATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Maritime Administration Authorization Act for Fiscal Year 1995".

SEC. 102. AUTHORIZATIONS FOR THE MARITIME ADMINISTRATION.

(a) AUTHORIZATIONS.—For fiscal year 1995, there are authorized to be appropriated to the Secretary of Transportation for use for the Maritime Administration the following amounts:

(1) Any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1995 portion of the total contract authority.

(2) $43,076,000 for expenses related to manpower, education, and training, including—

(A) $30,701,000 for maritime training at the United States Merchant Marine Academy at Kings Point, New York;

(B) $10,525,000 for assistance to the State maritime academies (including reimbursement of fuel costs associated with the operation of training vessels), of which $1,200,000 may be used for training simulators for the State maritime academies; and

(C) $1,850,000 for manpower and additional training.

(3) $35,124,000 for operating programs, including—

(A) $20,866,000 for general administration;

(B) $9,216,000 for development and use of water transportation systems;

(C) $3,627,000 for research, technology, and analysis; and

(D) $1,415,000 for national security support capabilities.

(4)(A) $248,800,000 for the National Defense Reserve Fleet (including the Ready Reserve Force component of that fleet), including—

(i) $228,448,000 for maintenance and operations in support of the Ready Reserve Force;

(ii) $6,352,000 for maintenance and operations in support of the National Defense Reserve Fleet;

(iii) $4,000,000 for facilities; and

(iv) $10,000,000 to repair and convert the vessel T–AGS 39 MAURY for use as a training vessel at the California Maritime Academy.

(B) As a condition of making any payment from amounts appropriated under subparagraph (A)(iv), the Secretary shall require that the California Maritime Academy agree to make the T–AGS 39 MAURY available to the Ready Reserve Force of the National Defense Reserve Fleet upon request by the Secretary and the Secretary of Defense.

(5) $4,000,000 to pay administrative costs related to new loan guarantee commitments under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), relating to Federal ship mortgage insurance.

(6) $50,000,000 for costs (as that term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of new loan guarantee commitments under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.).

(b) USE OF PROCEEDS OF SALES.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels, that are currently collected and retained by the Maritime Administration, as follows:

(1) For facility and ship maintenance, modernization and repair, acquisition of equipment, training simulators, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and the State maritime academies.

(2) The Secretary shall pay from those proceeds $4,000,000 to the California Maritime Academy to repair and convert the vessel T-AGS 39 MAURY for use as a training vessel at the Academy.

(3) The Secretary shall pay from those proceeds up to $50,000 to the Great Lakes Maritime Academy for operation of the training vessel of the Academy.

SEC. 103. REIMBURSEMENT OF CERTAIN FEES BY STATE MARITIME ACADEMIES.

(a) CONDITION OF ASSISTANCE.—Section 1304(d) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295(d)) is amended by adding at the end the following:

"(3)(A) Subject to subparagraph (B), an agreement under this subsection shall require a State maritime academy to reimburse each qualified individual for any fee or charge for which the individual is liable to the United States for—

"(i) the issuance of an entry level license under chapter 71 of title 46, United States Code;

"(ii) the first issuance of a merchant mariner's document under chapter 73 of that title;

"(iii) an evaluation or examination for such a license or merchant mariner's document conducted before the end of the period described in subparagraph (D)(ii); or

"(iv) an application for such a license, merchant mariner's document, evaluation, or examination.

"(B) A State maritime academy shall reimburse qualified individuals under subparagraph (A) to the extent amounts are available under subparagraph (C).

"(C) In addition to annual payments under paragraph (1)(A) and subject to the availability of appropriations, the Secretary shall pay annually to each State maritime academy that enters into an agreement under paragraph (1) amounts to reimburse qualified individuals under subparagraph (A).

"(D) In this paragraph, the term 'qualified individual' means an individual who—

"(i) is attending or is a graduate of a State maritime academy;

"(ii) fulfills the requirements for a license or merchant mariner's document described in subparagraph (A) not later than 3 months after the date the individual graduates from a State maritime academy; and

"(iii) is liable for a fee or charge described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) is effective October 1, 1994.

(c) AMENDMENT OF EXISTING AGREEMENTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Transportation shall amend agreements under section 1304(d) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)) pursuant to the amendment made by subsection (a).

(d) ADDITIONAL APPROPRIATIONS AUTHORIZED.—In addition to amounts authorized to be appropriated in section 102 for assistance to State maritime academies, there is authorized to be appropriated $300,000 for fiscal year 1995 to reimburse qualified individuals pursuant to the amendment made by subsection (a).

SEC. 104. TERMINATION OF CONDITION FOR STATE MARITIME ACADEMY ASSISTANCE.

(a) IN GENERAL.—Section 1304(f)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(f)(1)) is amended to read as if section 3 of the Act of October 13, 1989 (Public Law 101–115; 103 Stat. 692), had not been enacted.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective October 13, 1989.

(c) CLERICAL AMENDMENTS.—

(1) Section 3 of the Act of October 13, 1989 (Public Law 101–115; 103 Stat. 692), is repealed.

(2) Section 706 of the Federal Maritime Commission Authorization Act of 1990 (46 App. U.S.C. 1295c note) is repealed.

SEC. 105. MAINTENANCE CONTRACTS FOR NATIONAL DEFENSE RESERVE FLEET VESSELS.

The Secretary of Transportation may enter into a contract for the maintenance of the National Defense Reserve Fleet, including the Ready Reserve Force, only for—

(1) the repair, activation, operation, berthing, towing, or lay-up of a vessel;

(2) a vessel used by a State maritime academy; or

(3) obtaining maintenance technical services when—

(A) the technical expertise required for that service is beyond the capabilities of the Fleet staff or when the Fleet has insufficient personnel resources to adequately maintain the Fleet; and

(B) the contract does not result in reducing employment at the Fleet site.

SEC. 106. MAINTENANCE OF READY RESERVE FORCE VESSELS IN REDUCED OPERATING STATUS.

The Secretary shall, during fiscal year 1995, maintain in a reduced operating status—

(1) at least 29 vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, or

(2) a lesser number of those vessels that the Secretary determines to be practicable based on the appropriations available for that fiscal year for maintenance of vessels in that force.

SEC. 107. VESSEL REPAIR AND MAINTENANCE PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a pilot program to evaluate the feasibility of using long-term contracts for the maintenance and repair of outported vessels in the Ready Reserve Force to enhance the readiness of those vessels. Under the pilot program, the Secretary, subject to the availability of appropriations and within 6 months after the date of the enactment of this Act, shall award 9 contracts for this purpose.

(b) USE OF VARIOUS CONTRACTING ARRANGEMENTS.—In conducting a pilot program under this section, the Secretary of Transportation shall use contracting arrangements similar to those used by the Department of Defense for procuring maintenance and repair of its vessels.

(c) CONTRACT REQUIREMENTS.—Each contract with a shipyard under this section shall—

(1) subject to subsection (d), provide for the procurement from the shipyard of all repair and maintenance (including activation, deactivation, and drydocking) for 1 vessel in the Ready Reserve Force that is outported in the geographical vicinity of the shipyard; and

(2) be effective for 3 years.

(d) LIMITATION OF WORK UNDER CONTRACTS.—A contract under this section may not provide for the procurement of operation or manning for a vessel that may be procured under another contract for the vessel to which section 11(d)(2) of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1774(d)(2)) applies.

(e) GEOGRAPHIC DISTRIBUTION.—The Secretary shall seek to distribute contract awards under this section to shipyards located throughout the United States.

(f) REPORTS.—The Secretary shall submit to the Congress—

(1) an interim report on the effectiveness of each contract under this section in providing for economic and efficient repair and maintenance of the vessel covered by the contract, no later than 20 months after the date of the enactment of this Act; and

(2) a final report on that effectiveness no later than 6 months after the termination of all contracts awarded pursuant to this section.

SEC. 108. AMENDMENTS RELATING TO COAST GUARD MARITIME ACADEMY RESERVE TRAINING PROGRAM.

(a) NAVAL RESERVE STATUS.—Section 1304(g)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(2)) is amended by inserting before the period the following: ", unless the individual participates in the Coast Guard Maritime Academy Reserve Training Program".

(b) RESERVE SERVICE OBLIGATION.—Section 1304(g)(3)(D) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(3)(D)) is amended by—

(1) inserting "(i)" after "commissioned officer";

(2) inserting "(except as provided in clause (ii))" after "the United States Coast Guard Reserve"; and

(3) inserting before the semicolon at the end the following: "; or (ii) in the United States Coast Guard Reserve for such period following that date of graduation as may be established by the Secretary of the department in which the Coast Guard is operating, in the case of an individual that participates in the Coast Guard Maritime Academy Reserve Training Program".

(c) PENALTIES FOR FAILURE TO FULFILL INCENTIVE PAYMENT AGREEMENT.—Section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)) is amended—

(1) in paragraph (4) by inserting ", except as provided in paragraph (8)," after "such individual may";

(2) in paragraph (5) by inserting ", except as provided in paragraph (8)," after "such individual may"; and

(3) by adding at the end the following:

"(8)(A) Paragraphs (4) and (5) shall not apply to a failure to fulfill a part of an agreement, by an individual who—

"(i) is enlisted in the United States Coast Guard Reserve; and

"(ii) participates in the Coast Guard Maritime Academy Reserve Training Program.

"(B) If the Secretary determines that an individual described in subparagraph (A) has failed to fulfill any part of the agreement (required by paragraph (1)) described in paragraph (3), the individual may be ordered to active duty in the Coast Guard to serve for a period of time determined by the Commandant of the Coast Guard, not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this subparagraph.".

(d) COAST GUARD MARITIME ACADEMY RESERVE TRAINING PROGRAM DEFINED.—Section 1304(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)), as amended by this section, is further amended by adding at the end the following:

"(9) In this subsection, the term 'Coast Guard Maritime Academy Reserve Training Program'

means that program established by the Commandant of the Coast Guard, as in effect on the date of the enactment of the Maritime Administration Authorization Act for Fiscal Year 1995.''.

SEC. 109. MERCHANT SHIP SALES ACT OF 1946 AMENDMENT.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended as follows:

(1) In subsection (b)(2) by striking ''Secretary of the Navy,'' and inserting ''Secretary of Defense,''.

(2) By striking subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 110. REEMPLOYMENT RIGHTS FOR CERTAIN MERCHANT SEAMEN.

(a) IN GENERAL.—Title III of the Merchant Marine Act, 1936 (46 App. U.S.C. 1131) is amended by inserting after section 301 the following new section:

''SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty.

''(b) An individual may submit an application for certification under subsection (c) to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

''(c) Not later than 20 days after the date the Secretary of Transportation receives from an individual an application for certification under this subsection, the Secretary shall—

''(1) determine whether or not the individual—

''(A) was employed in the activation or operation of a vessel—

''(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946, in a period in which that vessel was in use or being activated for use under subsection (b) of that section;

''(ii) that is requisitioned or purchased under section 902 of this Act; or

''(iii) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

''(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable) of title 46, United States Code; and

''(2) if the Secretary makes affirmative determinations under paragraph (1) (A) and (B), certify that individual under this subsection.

''(d) For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate referred to in paragraph (1) of section 4301(a) of title 38, United States Code.''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to employment described in section 302(c)(1)(A) of the Merchant Marine Act, 1936, as amended by subsection (a), occurring after August 2, 1990.

(c) EMPLOYMENT ENDING BEFORE ENACTMENT.—Notwithstanding subsection (b) of section 302 of the Merchant Marine Act, 1936, as amended by this Act, an individual who, in the period beginning August 2, 1990, and ending on the date of the enactment of this Act, completed a period of employment described in subsection (c)(1)(A) of that section may submit an application for certification under subsection (c) of that section with respect to that employment not later than 45 days after the date of the enactment of this Act.

(d) REGULATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations implementing this section.

SEC. 111. PILOT PROGRAM ON SEALIFT TRAINING.

The Secretary of Transportation shall establish, subject to the availability of appropriations in addition to the amount authorized to be appropriated under section 102(a)(2), a 3-year period pilot program for Sealift Training at the Massachusetts Maritime Academy.

SEC. 112. MASSACHUSETTS CENTER FOR MARINE ENVIRONMENTAL PROTECTION.

The Secretary of Transportation shall pay, subject to the availability of appropriations in addition to the amount authorized to be appropriated under section 102, $242,000 to the Massachusetts Maritime Academy for assistance to the Massachusetts Center for Marine Environmental Protection.

SEC. 113. REPORT ON SEALIFT MANPOWER MOBILIZATION PROGRAM.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Congress on—

(1) the feasibility of conducting on Ready Reserve Force vessels a program to familiarize civilian merchant mariners with the operation of those vessels, for the purpose of facilitating national defense mobilizations involving those vessels; and

(2) the ability of the Coast Guard to track the availability of qualified civilian merchant mariners for service on those vessels during those mobilizations.

SEC. 114. VESSEL DOCUMENTATION.

Notwithstanding section 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the fisheries for the vessel ABORIGINAL (United States official number 942118).

SEC. 115. MARITIME POLICY REPORT.

(a) REPORT.—The Secretary of Transportation shall transmit to the Congress a report setting forth the Department of Transportation's policies for the 5-year period beginning October 1, 1994, with respect to—

(1) fostering and maintaining a United States merchant marine capable of meeting economic and national security requirements;

(2) improving the vitality and competitiveness of the United States merchant marine and the maritime industrial base, including ship repairers, shipbuilders, ship manning, ship operators, and ship suppliers;

(3) reversing the precipitous decrease in the number of ships in the United States-flag fleet and the Nation's shipyard and repair capability;

(4) stabilizing and eventually increasing the number of mariners available to crew United States merchant vessels;

(5) achieving adequate manning of merchant vessels for national security needs during a mobilization;

(6) ensuring that sufficient civil maritime resources will be available to meet defense deployment and essential economic requirements in support of our national security strategy;

(7) ensuring that the United States maintains the capability to respond unilaterally to security threats in geographic areas not covered by alliance commitments and otherwise meets sealift requirements in the event of crisis or war;

(8) ensuring that international agreements and practices do not place United States maritime industries at an unfair competitive disadvantage in world markets;

(9) ensuring that Federal agencies promote, through efficient application of laws and regulations, the readiness of the United States merchant marine and supporting industries; and

(10) any other relevant maritime policies.

(b) DATE OF TRANSMITTAL.—The report required under subsection (a) shall be transmitted along with the President's budget submission, pursuant to section 1105 of title 31, United States Code, for fiscal year 1996.

SEC. 116. TITLE XI LOAN GUARANTEES.

Title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) is amended—

(1) in section 1101(b), by striking ''owned by citizens of the United States'';

(2) in section 1104B(a), in the material preceding paragraph (1), by striking ''owned by citizens of the United States''; and

(3) in section 1110(a), by striking ''owned by citizens of the United States''.

SEC. 117. STUDY OF FEASIBILITY OF SHIP REPAIR DIFFERENTIAL ASSISTANCE PROGRAM.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the feasibility of establishing a program of financial assistance to qualified ship repair yards, to make those yards more competitive in international ship repair markets by paying to those yards the difference between the cost of repairing vessels in those yards and the cost of repairing vessels in foreign ship repair yards.

(b) REPORT.—The Secretary of Transportation shall submit to the Congress by not later than 1 year after the date of the enactment of this Act a report on the findings and recommendations of the study required by subsection (a).

(c) QUALIFIED SHIP REPAIR YARD DEFINED.—For purposes of this section, the term ''qualified ship repair yard'' has the meaning given that term in section 118(d).

SEC. 118. QUALIFIED SHIP REPAIR YARD MODERNIZATION ASSISTANCE.

(a) GRANT AUTHORITY.—The Secretary of Transportation may use available amounts to make grants to qualified ship repair yards to pay 75 percent of the cost of acquiring advanced ship repair technology and modern ship repair technology.

(b) CONDITION OF ASSISTANCE.—As a condition of receiving a grant under this section, the Secretary shall require that a qualified ship repair yard provide, in cash contributions, 25 percent of the costs incurred in acquiring advanced ship repair technology and modern ship repair technology with the grant.

(c) PRIORITY.—In making grants under this section, the Secretary shall give priority to qualified ship repair yards for which assistance under this section will permit the performance of ship repairs more efficiently and in a manner that is more competitive with foreign ship repair yards.

(d) DEFINITIONS.—For purposes of this section:

(1) ADVANCED SHIP REPAIR TECHNOLOGY.—The term ''advanced ship repair technology'' includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving ship repair and related industrial production which advance the state-of-the-art; and

(B) novel techniques and processes designed to improve ship repair quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

(2) MODERN SHIP REPAIR TECHNOLOGY.—The term "modern ship repair technology" means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of ship repair yards.

(3) QUALIFIED SHIP REPAIR YARD DEFINED.—The term "qualified ship repair yard" means a shipyard located in the United States that meets the eligibility qualification requirements for obtaining and retaining a Master Ship Repair Agreement with the United States Navy.

(e) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section there are authorized to be appropriated to the Secretary of Transportation $17,500,000 for fiscal year 1995, to remain available until expended.

SEC. 119. GREAT LAKES ENDORSEMENTS.

(a) REPEAL OF GREAT LAKES ENDORSEMENT.—

(1) Section 12107 of title 46, United States Code, is repealed.

(2) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(3) Section 12101(b)(3) of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking "coastwise, Great Lakes endorsement" and all that follows through "foreign ports," and inserting "registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,"; and

(B) by striking ", as if from or to foreign ports".

(2) The Act of March 8, 1910 (46 App. U.S.C. 132; 32 Stat. 234, chapter 86), is amended by striking "shall be exempt" and all that follows through the end of the section and inserting "shall be exempt from section 36(a) of the Act of August 5, 1909 (36 Stat. 111).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

TITLE II—REVENUE PROVISIONS

Subtitle A—Tonnage Duties

SEC. 201. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) The Coast Guard—

(A) will spend over $400,000,000 in fiscal year 1995 conducting search and rescue operations far into the Atlantic and Pacific Oceans and the Gulf of Mexico to protect life and property on United States and foreign-flag vessels;

(B) inspects vessels of all nations to ensure their compliance with international treaties and conventions;

(C) will spend over $470,000,000 in fiscal year 1995 providing navigational aids to vessels from around the world through the operation of—

(i) LORAN, OMEGA, and the Differential Global Positioning System; and

(ii) over 46,000 lighthouses, buoys, daybeacons, fog signals, radar reflectors and Vessel Traffic Service systems; and

(D) will spend over $86,000,000 in fiscal year 1995 providing icebreaking services for vessels from all nations.

(2) It is reasonable for vessel owners of all nations that benefit from these services, including owners of United States-flag vessels, to pay tonnage duties to help offset the cost of providing these services.

(b) Purpose.—The purpose of this subtitle is to increase the tonnage duties imposed on vessels entering the United States to help offset the cost of providing Coast Guard services to those vessels.

SEC. 202. INCREASE IN TONNAGE DUTIES.

(a) Increased Duties.—Section 36 of the Act of August 5, 1909 (46 App. U.S.C. 121, 36 Stat. 111), is amended—

(1) by designating the first paragraph as subsection (a) and amending it to read as follows:

"(a) Tonnage Duty Imposed on Certain Entries.—

"(1) Duty imposed.—There is imposed on a vessel making an entry described in paragraph (2) before fiscal year 2005 a duty of 22 cents per ton, except that the duty for a vessel under this paragraph shall not exceed in the aggregate $2.64 per ton in any 12-month period.

"(2) Entry described.—An entry referred to in subparagraph (A) is any of the following:

"(A) Formal entry from foreign port or place.—A formal entry in any port of the United States from any foreign port or place, other than an entry by a vessel that is in distress or is not engaged in trade.

"(B) Other entry.—An entry by a vessel that departs a United States port or place and returns to the same port or place without being entered in the United States from another port or place, other than—

"(i) an entry by a vessel of the United States, a recreational vessel, or a barge (as those terms are defined in section 2101 of title 46, United States Code); and

"(ii) an entry by a vessel that is in distress or is not engaged in trade.

"(3) Offsetting receipts of coast guard.—Amounts received by the United States as duty imposed under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."; and

(2) by designating the remainder of the section as subsection (b).

(b) Effective Date.—The amendments made by subsection (a) shall take effect October 1, 1994.

Subtitle B—Other Revenue Provisions

SEC. 211. INCREASE IN PER PASSENGER TAX ON TRANSPORTATION BY WATER.

(a) In General.—Subsection (a) of section 4471 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by water) is amended by adding at the end the following new sentence: "If the value (as determined under section 4462(a)(5)(B)) of the covered voyage is $150 or more, the preceding sentence shall be applied by substituting '$5' for '$3'."

(b) Effective Date.—The amendment made by subsection (a) shall apply to voyages beginning after December 31, 1994.

SEC. 212. TAX ON FUEL USED IN INTERNATIONAL COMMERCIAL WATER TRANSPORTATION.

(a) In General.—Subchapter B of chapter 31 of the Internal Revenue Code of 1986 (relating to retail excise taxes) is amended by adding at the end the following new section:

"SEC. 4043. FUEL USED IN INTERNATIONAL COMMERCIAL WATER TRANSPORTATION.

"(a) In General.—There is hereby imposed a tax on any liquid—

"(1) sold in the United States by any person to an owner, lessee, or other operator of a taxable commercial vessel for use as a fuel in such vessel, or

"(2) purchased in the United States and used by any person as a fuel in such a vessel during foreign transportation unless there was a taxable sale of such fuel under paragraph (1).

"(b) Rate of Tax.—The rate of the tax imposed by subsection (a) shall be 1 cent per gallon.

"(c) Exemption From Tax for Vessels Not Engaged in International Shipping.—

"(1) Exemption where tax imposed at time fuel loaded in vessel.—In the case of fuel which is loaded into the bunker of a vessel at the time of the sale on which tax is imposed by subsection (a), if the purchaser reasonably estimates the amount of fuel to be used in foreign transportation before the next purchase of fuel for such vessel, the tax imposed by subsection (a) shall apply only to fuel purchased at such time in the amount certified by the purchaser to the seller as being equal to the excess of such estimate over the fuel in the bunker at such time on which tax was imposed by subsection (a).

"(2) Other cases.—In any case in which tax is imposed by subsection (a) before the time referred to in paragraph (1), a rule similar to the rule of paragraph (1) shall apply under regulations prescribed by the Secretary.

"(3) Ordering rule on fuel use.—For purposes of determining, at the time of purchase of fuel, the amount of tax-paid fuel which is in the bunker of the vessel, the vessel shall be treated as having used tax-paid fuel (to the extent thereof) when in foreign transportation.

"(d) Definitions.—For purposes of this section—

"(1) Foreign transportation.—

"(A) In general.—The term 'foreign transportation' means transportation by water—

"(i) from any point within the United States,

"(ii) to any point outside the United States where passengers or cargo are loaded or unloaded, and

"(iii) to any point thereafter (whether or not outside the United States).

"(B) Inclusion of certain transportation between 2 points within the United States.—The term 'foreign transportation' includes transportation between 2 points within the United States if any of the passengers or cargo being transported by the vessel between such 2 points is to be transported by such vessel in foreign transportation (as defined in subparagraph (A)).

"(C) Exclusion for transportation exclusively within the great lakes.—Notwithstanding subparagraphs (A) and (B), the term 'foreign transportation' does not include transportation exclusively within the Great Lakes.

"(2) Taxable commercial vessel.—The term 'taxable commercial vessel' means any commercial vessel (as defined in section 4462(a)(4)) which is designed primarily for use on the high seas and which has a draft of more than 12 feet.

"(3) United States.—The term 'United States' has the meaning given such term by section 4612(a)(4)(A).

"(e) Special Rules.—

"(1) Treatment of offshore fueling.—For purposes of this section, the delivery of fuel into the bunker of a vessel by pipeline or another vessel shall be treated as occurring in the United States if such fuel was removed from the United States for such delivery.

"(2) No penalty for sale of dyed fuel.—Section 6715 shall not apply to any liquid on which tax is imposed by this section."

(b) Credit or Refund for Tax-Paid Fuel Not Used in International Commercial Water Transportation.—Subchapter B of chapter 65 of such Code is amended by adding at the end the following new section:

"SEC. 6428. FUEL NOT USED IN INTERNATIONAL COMMERCIAL WATER TRANSPORTATION.

"(a) In General.—If tax has been imposed by section 4043 on the sale of any fuel and the purchaser establishes to the satisfaction of the Secretary that such fuel was not used in foreign transportation (as defined in section 4043(d)), the Secretary shall pay (without interest) to the purchaser an amount equal to the tax imposed by section 4043 on such fuel.

"(b) Applicable Laws.—Rules similar to the rules of section 6427(j) shall apply for purposes of this section, and any reference in subtitle F to such section shall be treated as including a reference to this subsection."

(c) Conforming Amendments.—

(1) Subsection (a) of section 6675 of such Code is amended by striking "or" before "6427" and by inserting after "purposes)" the following "or 6428 (relating to fuel not used in international commercial water transportation)".

(2) Subsection (b) of section 6675 of such Code is amended by striking "or 6427" and inserting "6427, or 6428".

(3) The section 6714 of such Code added by section 13242 of Public Law 103-66 is redesignated as section 6715.

(4) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by redesignating the item relating to the section 6714 that was added by such section 13242 as relating to section 6715.

(5) The table of sections for subchapter B of chapter 31 of such Code is amended by adding at the end the following new item:

"Sec. 4043. Fuel used in international commercial water transportation."

(6) The table of sections for subchapter B of chapter 65 of such Code is amended by adding at the end the following new item:

"Sec. 6428. Fuel not used in international commercial water transportation."

(d) Effective Date.—The amendments made by this section shall apply to fuel sold on or after January 1, 1995.

SEC. 213. LIMITATION ON CONTRACT AUTHORITY.

(a) Limitation on Contract Authority.—The Secretary of Transportation may not obligate more than $1,000,000,000 in total contracts under the Maritime Security and Competitiveness Act of 1993 or this Act between October 1, 1994, and September 30, 2004.

(b) Limitation on Outlays.—The Secretary of Transportation shall not enter into any agreements under the Maritime Security and Competitiveness Act of 1993 or this Act that would result in total payments under such agreements for any fiscal year in excess of the limitations in the following table.

In the case of fiscal year:	**The limitation (in millions) is:**
1995	**$56**
1996	**$70**
1997	**$70**
1998	**$72**
1999	**$121**
2000	**$123**
2001	**$124**
2002	**$124**
2003	**$126**
2004	**$126.**

(c) Coordination With Title III.—Subsections (a) and (b) shall apply notwithstanding title III of this Act; except that such subsections shall not apply to the extent additional amounts are provided by appropriation laws (including section 302 of this Act).

TITLE III—FUNDING FOR MARITIME PROMOTIONAL PROGRAMS

SEC. 301. CONTRACT AUTHORITY.

The Secretary of Transportation shall expeditiously enter into agreements under the Maritime Security and Competitiveness Act of 1993. However, the Secretary may not obligate more than $1,700,000,000 in total contracts between October 1, 1994, and September 30, 2004, except to the extent additional amounts are provided by appropriations laws (including section 302).

SEC. 302. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary for entering into and making payments under agreements under the Maritime Security and Competitiveness Act of 1993.

SEC. 303. CONTINUING AVAILABILITY.

Amounts available or authorized to be appropriated under this title shall remain available until expended.

The CHAIRMAN. No amendment directly or indirectly changing title II of the substitute, as modified, is in order except the amendment printed in part 2 of House Report 103-646. That amendment may be offered only by a Member designated in the report, shall be considered as read, shall be debatable by the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment.

Are there amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. . PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. All this talk about a superpower. There are no superpowers that continue to use trade deficit, my colleagues, and I do not know what our program is around here, but it sure, as hell, is not helping my district. I do not even see any common sense in what we do as a Congress at all, at all.

Mr. Chairman, I think we ought to just turn the damn budget over to Japan who keeps our products out, and we have people here that laugh on these committees with jurisdiction.

I think it is getting to be a joke.

Mr. Chairman, I want to commend the gentleman from Massachusetts [Mr. STUDDS] and the ranking member, the gentleman from Texas [Mr. FIELDS], for the bill, for their willingness to stand up in their committee of jurisdiction, do what they have to do to finance a program and a mechanism that will ensure there will be a few American flags flying once again in the oceans of the world.

Mr. Chairman, I plan to support the bill even though I had my reservations pursuant to the arguments made by the fine gentleman from Texas [Mr. ARCHER]. We are in one tough mess. My amendment does not go far enough, and with this new GATT business, Mr. Chairman, it will even throw out some of this. We do not even recommend any more consumers buy American products. The crime bill, because of one Senator, is going to throw out a fraudulent label provision for the first time in our history.

Mr. Chairman, Congress does not govern. Congress meets and sends out press releases. I say, you have a small group of conferees that draft all our laws, and we sit here, and we wallow in a quagmire of grayness and do not even know where we are going, and the trade deficit with Japan keeps going. We drive the dollar down, and it is so low it could walk under a closed door with a top hat on.

Nothing is happening. I wish my colleagues would accept the amendment.

That speech is long enough, Mr. Chairman.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT]. We have examined the amendment, and we are perfectly prepared to accept it.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, we have had an opportunity to examine the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]. We have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BATEMAN

Mr. BATEMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BATEMAN: Section 102(a)(6) is amended by striking "$50,000,000" and inserting "$200,000,000".

Mr. BATEMAN. Mr. Chairman, I would like to make my colleagues aware that the thrust of this amendment is to increase the authorization level for funding for the title XI loan guarantee program. This is a program which is worked with some modest success. It has, unfortunately, been a very modest success, but it does have the potential, if utilized, to assist us in staying alive in the shipbuilding industry.

There are pending before the Maritime Administration more requests for loan guarantees than the amount of money that is presently authorized would permit. The purpose of this amendment is to increase that amount as an incentive and as a hope that we will again begin to build ships in American shipyards.

Mr. Chairman, reference has been made to the fact that we in the United States have not subsidized shipbuilding since 1981, and that is indeed the case, and I think it fair to point out that since we no longer subsidize ships after 1981, a total of three contracts for the construction of merchant ocean-going vessels have been constructed in American shipyards, only three, and those all for our Jones Act or our internal trade within our coastal waters, nothing for international commerce. Certainly, if we are going to purport to remain a maritime power, we cannot let American shipbuilding die. It needs this assistance, and I would urge the approval of this amendment.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman from Virginia [Mr. BATEMAN], and I indicate to him that we support his amendment. I hesitate to elaborate too much on that because it may pain the gentleman in the way in which I support it.

Let me just observe, if the gentleman will allow, that in the event that the gentleman from Florida is correct, that an international agreement should come into effect which precludes the STP shipbuilding subsidy program which we had hoped to do, at the very least we would have the alternative and, to date, very successful method of the title XI loan guarantee program by the Maritime Administration. As the gentleman may know, very substantial contracts have been announced pursuant to that program.

Mr. Chairman, I think the gentleman is doing precisely the right thing. We fully support it.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. STUDDS], and let me comment briefly within the remaining time I have that I believe he is correct. I do not believe, and I want to make it clear, that, by offering this amendment, I do not offer it in the sense that it makes unnecessary the serious transition payments which is the program which American shipbuilders look to as their brightest and best hope for survival to play on that level playing field.

Mr. Chairman, this is a proper step. I hope the amendment will be adopted, but not at the sacrifice of the serious transition program.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, I just want to rise in support of the gentleman's efforts and point out to the House that he and others, and particularly this gentleman, have been in the forefront of the efforts to revitalize ship construction in this country, and I think the gentleman is to be complimented, and I also want to take the time to compliment the gentleman from Illinois [Mr. LIPINSKI] and the gentleman from Massachusetts [Mr. STUDDS] for the way in which they worked with the gentleman from Virginia and others in a bipartisan fashion.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman from Texas [Mr. FIELDS] for his comments, and I would hope the amendment would be accepted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. ANDREWS of Maine. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my colleagues, last night the rock group the Rolling Stones were in Washington, DC, and they have a song, a popular song, in which they sing the words: "You can't always get what you want, but, if you try, sometimes you just may find that you get what you need."

Well, my colleagues, for the past several years the shipbuilders in this country have not been able to get what they want, a level playing field, a chance to compete fairly with competitors around the world. But there is one thing that those shipbuilders need. They need a government that is on their side. They need a Congress that is on their side. They need an administration that is on their side so that they can get what they want, a fair chance to take advantage of the tremendous opportunities that we are looking at right now in this country, and that is the promise of shipbuilding contracts to meet the demands of a potential explosion of orders to meet this tremendous opportunity of international trade.

The fact of the matter is, my colleagues, that we have watched the elimination of 120,000 good-paying shipbuilding jobs in this country over the last 10 years because the shipbuilders of this country have not had a government on their side willing to stand firm with them and for them to give them the chance to compete fairly.

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As a result, we have lost good paying jobs to our competitor nations overseas. And despite the fact that we are looking at the promise of new opportunities and new shipbuilding orders that could create good paying jobs in this country, we understand that some are projecting a further loss of 180,000 more jobs unless we are able to turn this unacceptable situation around.

Some analysts have projected a $356 billion commercial shipbuilding trade opportunity over the course of the next 10 years. We have to decide in this Congress whether or not we are going to give our shipbuilders what they need, a fair opportunity to compete for that market. And if we are serious about giving them what they need, then we have got to give them a lot more than a bunch of political platitudes and hot air in the halls of Congress. We have got to give them the resources to do the job. We have got to stand up and say yes, we are going to provide you with the loan guarantees that will make you competitive; we are going to stand up and help you to modernize your shipyards so that you can be competitive; we are going to be willing to provide you with the tools and the resources and the investment that you need in order to compete on a level playing field now that we are finally making progress and leveling the international trade playing field across this planet.

The shipbuilders of this country are not asking for a lot. They are asking for fairness. They are pointing to their competitors, and their competitor nations, that have been on their side for the last 12 years, who have been on their side with unfair subsidies and investments, who have been on their side taking away our jobs. And all our shipbuilders are asking is for their government, our government, to be on their side as well, to give them the chance to compete, to give them the chance to succeed, to give them the chance to have good paying jobs not only remain in this country, but grow in this country, to be able to take market share, and be able to build first class ships with innovative designs and technology to meet this growing demand internationally.

Is that too much to ask? Is that too much to ask? I do not think so.

Mr. Chairman, I hope that when we finally cast our votes on this very important issue that we will be willing to go to the wall and do what needs to be done to provide our shipbuilders with what they need, a Congress that is on their side, and with what they want, a fair chance to compete.

Mr. DIAZ-BALART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take 5 minutes. I wanted to, nevertheless, go on record in strong support of the effort of the Committee on Merchant Marine and Fisheries, which I think has really been extraordinary and truly bipartisan in nature due to its leadership on both sides of the aisle. I am grateful both to the chairman of the committee and the subcommittee, as well as the ranking members, for the way in which they have made the work of this committee truly inclusive.

I think that this legislation, obviously any analysis of the status of our Merchant Marine, will bring us to the conclusion that it is truly in a crisis, and that the trend must be reversed.

I think it is very important when we get to the issue of deciding on which of the proposals before us today we embark on, that we focus upon the strengths of the Studds-Fields amendment to this legislation, H.R. 4003. It provides twice as many ships as the other plan that we could decide on today, and would help American shipyards compete, and strictly meets the pay-go requirements, as well as being consistent with all international agreements.

I think this is a very serious effort. So I am in support of this legislation, as hopefully it will be amended by the Studds-Fields amendment.

Mr. MANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, later today, the House will consider title II of H.R. 4003, legislation to provide emergency assistance for a critically ill industry.

At that time, we will hear about pay-go Gramm-Rudman, and the Ways and Means text. All of this discussion should not obscure the most critical fact—that the Ways and Means funding language will only ensure a merchant fleet of 26 vessels. The Merchant Marine and Fisheries Committee bill will guarantee a fleet of 52 liner vessels—twice as many as Ways and Means.

While some of my colleagues are concerned about the cost of H.R. 4003, I urge them to not look on this as discretionary spending. If we could delay passage of this legislation until we get the deficit under control, I would support that approach; however, that is not the case. This is an emergency that can no more wait for an appropriate response than an injured accident victim. Perhaps the accident victim's family cannot afford medical care, but they cannot accept the option of doing nothing. The U.S. maritime and shipbuilding industries are in a critical state and failure to act could kill these essential industries and the thousands of jobs they generate.

These key industries are confronted by foreign competitors which receive extensive government subsidies and hire cheap foreign labor. The special problems facing our maritime and shipbuilding industries were recognized long before any of us came to Congress and our national response was to create an assistance program that is currently embodied in the Merchant Marine Act of 1936.

As we prepared for World War II, Congress and the President recognized that a nation which depends on foreign ships is at the mercy of others. Without a viable U.S. Merchant Marine, we would have to rely on foreign vessels to transport our troops in time of war and industrial and consumer goods in peacetime.

In regard to the role of the merchant marine in war, we need look no further back than Operation Desert Storm. That victory was a victory of logistics and quick response.

The U.S.-flag fleet moved the equivalent of a midsize city to Saudi Arabia in a matter of weeks. True, we had to rely on some foreign vessels, but could we have relied totally on foreign vessels? Do we want to rely on foreign traders who might not share our goals?

As for the merchant marine's peacetime mission, we all know that competition benefits the consumer. Our merchant fleet provides the competition to foreign fleets that helps keep shipping costs down. Ocean shipping costs are a fraction of the costs of U.S. imports and exports and that is in large part due to the competition among carriers. Eliminate the U.S. fleet and shipping costs will go through the ceiling.

Regrettably, during the early 1980's in an attempt to reduce government spending, Congress unfortunately allowed the elimination of shipyard assistance programs. This action cost jobs and turned taxpaying workers into wards of the state.

We also allowed the U.S. fleet to decline to historically low levels—less than 400 vessels.

Now is the time to correct the mistakes of the past. Title II will fund the emergency assistance needed for these important industries, maintain jobs and lead to a more efficient and streamlined Merchant Marine.

Chairmen STUDDS and LIPINSKI are to be commended for their fine work on this important issue.

I strongly urge a yes vote on this important measure and support for the proposed advanced by the Merchant Marine and Fisheries Committee.

Ms. CANTWELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to urge my colleagues to support the Maritime Administration and Promotion Reform Act and the Merchant Marine Committee language. These provisions would levy tonnage fees on ships that call at U.S. ports and use the money to rebuild America's merchant marine fleet—as directed by the vital maritime reform measures passed overwhelmingly by this Congress last year.

America must act quickly and decisively to rebuild its merchant fleet. The percentage of America's international oceanborne commerce carried on U.S.-flag ships has decreased from 42.6 percent in 1950 to only 4 percent today. Since 1981, 50 American shipyards have closed; today we have only 16 shipyards capable of building oceangoing vessels.

This steady decline of U.S. shipping and shipbuilding has put our Nation's security at risk. We must act now or face the prospect of losing forever the skills and industrial infrastructure necessary to make the United States a major maritime power again.

But for maritime reform to happen, Congress must also pass a budget offset that meets pay-as-you-go requirements. The Studds-Fields amendment gives us a solution that provides the money necessary to rebuild America's merchant fleet. I urge my colleagues to vote for H.R. 4003 and the Studds-Fields amendment.

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Ms. SCHENK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just returned from the White House where the President announced a $22.8 million loan guarantee to the National Steel & Shipbuilding Co. in my San Diego district.

NASSCO and the other shipyards will use these loans to invest in advanced shipbuilding technologies, the first time in recent memory this has occurred

Mr. Chairman, we were once a great commercial shipbuilding nation, but for over a decade this critical industry was allowed to languish as it was starved for new capital. So much so, that since 1988 this country completed only one commercial ship—only one.

Meanwhile, our foreign competitors were subsidizing and modernizing and building ships.

The significance of the shipbuilding industry to our national security and to our economic security, is beyond reasonable question.

Shipbuilding may not capture the imagination as does the space program, but it is as vital to fulfilling the American dream of the next century as it was to the last.

If our country is going to retain its leadership in building fighting vessels and regain its leadership in building commercial vessels, we need to expand program, such as title XI Mr. Bateman's amendment would do just that, and I commend him for bringing it to the floor the title XI shipyard program is proving more successful than anyone envisioned when this Congress approved it last year. The number of innovative proposals for improving ship and shipyard technology coming to the Maritime Administration exceeds all expectations. This is a program that is working. Let us give it our support.

But our Nation's shipyards need support beyond the title XI program, and that is why I urge my colleagues to also support the Studds-Fields amendment coming up later this afternoon. Since 1980, 50 U.S. shipyards have closed. Only 16 yards are still capable of building the large ocean-going commercial vessels on which world trade depends. Only one such yard remains on the west coast. The decline of our shipbuilding industry threatens our national security, as Navy orders decline, the only way for our Nation to retain the skills necessary to build the new vessels for the military we will someday require is to build commercial vessels of peace and compete in the international market.

Fifty-seven other maritime nations support their shipbuilding industries with subsidies. All of our competitors have shipbuilding subsidies today. We were told that they have promised to give them up, but the seed is not the fruit. We have not as yet even seen the language of this OECD agreement, and some nations are openly antagonistic to it.

My motto is to hope for the best but plan for the worse. There is nothing in the OECD agreement to prohibit our support for our shipbuilding industry between now and the agreement's final implementation. In 1999 if our competitors give up their subsidies, that's great. But they are not going to drop their subsidies between now and 1999, why should we not be prepared if the OECD agreement falls apart.

Last fall, this House passed the first real comprehensive maritime reform bill since 1936. Today we are called on to find the funds to implement that reform. The Ways and Means language fails adequately to meet that challenge. With the Studds-Fields amendment we can live up to the promises we made last year. I urge my colleagues to support the Studds-Fields financing amendment as it did the Bateman amendment on title XI authorization.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the opportunity to come and to speak today in favor of this bill that has been presented by the gentleman from Massachusetts [Mr. STUDDS] and those on the Committee on Merchant Marine and Fisheries. As chairman of the Maritime Task Force, industry task force, we have spent many hours deliberating the needs. We have discovered the needs, and we have discovered the fact that the U.S. shipyards can be competitive if we play on a level field. This presents an opportunity for us to play on a level field.

There is no one today that has come before this committee and said that there is no need for this bill. There are some that argue there might be a better way. But I submit to my colleagues that the task force that I chair and the Committee on Merchant Marine and Fisheries have done yeomen work in this effort. This is the best route to take at this time.

I would encourage my colleagues to support this legislation, to revitalize the shipbuilding industry in America, and to make this a stronger country and a needed, needed Navy force that some day may arise.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to ask my colleagues to support a very important piece of legislation, H.R. 4003, the Maritime Administration and Promotional Reform Act of 1994 by voting and supporting the Studds-Fields amendment.

The Committee on Merchant Marine and Fisheries has worked hard to prepare a bill that has bipartisan support. The Studds-Fields amendment not only has bipartisan support but is also supported by a variety of groups, such as labor organizations and businesses in the shipbuilding industry.

I ask members of the Texas Delegation to support the amendment our colleague, the gentleman from Texas [Mr. FIELDS] is offering, along with Chairman STUDDS. Southern States stand to benefit from the Studds-Fields amendment because of the significance the shipbuilding industry has in these States. Since 1981, 50 American shipyards have closed; today there are only 16 yards capable of building oceangoing vessels. This amendment helps American shipyards compete and most importantly includes programs for ship construction and support for ship repair.

We know our maritime industry has suffered tremendously, H.R. 4003 will restore and strengthen our American maritime industry. I urge my colleagues to vote to support the Studds-Fields amendment.

We must have a strong domestic merchant marine fleet employing U.S. seamen.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment printed in part 2 of House Report 103-646.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STUDDS: Strike title II and title III and insert the following:

TITLE II—TONNAGE DUTIES

SEC. 201. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Coast Guard—

(A) will spend over $400,000,000 in fiscal year 1995 conducting search and rescue operations far into the Atlantic and Pacific Oceans and the Gulf of Mexico to protect life and property on United States and foreign-flag vessels;

(B) inspects vessels of all nations to ensure their compliance with international treaties and conventions;

(C) will spend over $470,000,000 in fiscal year 1995 providing navigational aids to vessels from around the world through the operation of—

(i) LORAN, OMEGA, and the Differential Global Positioning System; and

(ii) over 46,000 lighthouses, buoys, daybeacons, fog signals, radar reflectors and Vessel Traffic Service systems; and

(D) will spend over $86,000,0000 in fiscal year 1995 providing icebreaking services for vessels from all nations.

(2) It is reasonable for vessel owners of all nations that benefit from these services, including owners of United States-flag vessels, to pay tonnage duties to help offset the cost of providing these services.

(b) PURPOSE.—The purpose of this title is to increase the tonnage duties imposed on vessels entering the United States to help offset the cost of providing Coast Guard services to those vessels.

SEC. 202. INCREASE IN TONNAGE DUTIES.

(a) INCREASED DUTIES.—Section 36 of the Act of August 5, 1909 (46 App. U.S.C. 121, 36 Stat. 111), is amended—

(1) by designating the first paragraph as subsection (a) and amending it to read as follows:

"(a) TONNAGE DUTY IMPOSED ON CERTAIN ENTRIES.—

"(1) DUTY IMPOSED.—There is imposed on a vessel making an entry described in paragraph (2) before fiscal year 2005 a duty of 38 cents per ton, except that for any vessel the duty under this paragraph shall not apply with respect to more than 25 entries by the vessel in any 12-month period.

"(2) ENTRY DESCRIBED.—An entry referred to in subparagraph (A) is any of the following:

"(A) FORMAL ENTRY FROM FOREIGN PORT OR PLACE.—A formal entry in any port of the United States from any foreign port or place, other than an entry by a vessel that is in distress or is not engaged in trade.

"(B) OTHER ENTRY.—An entry by a vessel that departs a United States port or place and returns to the same port or place without being entered in the United States from another port or place, other than—

"(i) an entry by a vessel of the United States, a recreational vessel, or a barge (as those terms are defined in section 2101 of title 46, United States Code); and

"(ii) an entry by a vessel that is in distress or is not engaged in trade.

"(3) OFFSETTING RECEIPTS OF COAST GUARD.—Amounts received by the United States as duty imposed under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."; and

(2) by designating the remainder of the section as subsection (b).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1994.

SEC. 203. CONTRACT AUTHORITY.

(a) REQUIREMENT TO ENTER AGREEMENTS.—The Secretary of Transportation shall expeditiously enter into agreements under the Maritime Security and Competitiveness Act of 1993. However, the Secretary of Transportation may not obligate more than $1,350,000,000 in total contracts under the Maritime Security and Competitiveness Act of 1993 or this Act between October 1, 1994, and September 30, 2004.

(b) LIMITATION ON OUTLAYS.—The Secretary of Transportation shall not enter into any agreements under the Maritime Security and Competitiveness Act of 1993 or this Act that would result in total payments under such agreements for any fiscal year in excess of the limitations in the following table.

In the case of fiscal year:	The limitation (in millions) is:
1995	$105
1996	$105
1997	$105
1998	$105
1999	$155
2000	$155
2001	$155
2002	$155
2003	$155
2004	$155.

(c) LIMITATION ON APPLICATION.—Subsections (a) and (b) do not apply to the extent additional amounts are provided by appropriation laws.

SEC. 204. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

In addition to amounts otherwise available, there are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary for entering into and making payments under agreements under the Maritime Security and Competitiveness Act of 1993.

SEC. 205. CONTINUING AVAILABILITY.

Amounts available or authorized to be appropriated under this title shall remain available until expended.

The CHAIRMAN. Under the rule, the amendment is not subject to amendment.

The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. GIBBONS. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] will be recognized in opposition to the amendment.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on behalf of the bipartisan leadership of the Merchant Marine and Fisheries Committee.

The Studds-Fields amendment asks for a total of $1.3 billion over 10 years, exclusively through an increase in fees paid by vessels calling at U.S. ports.

The Studds-Fields amendment represents a compromise between the funding levels approved by the two committees. As reported from our committee, the bill would raise $1.7 billion solely from an increase in tonnage fees; as reported from the Ways and Means Committee, it would raise only $1 billion through a combination of tonnage fees, a new penny-a-gallon diesel fuel tax on ships, and an increase in the cruise ship passenger departure tax.

The Studds-Fields committee amendment accomplishes several important goals, two of which need to be emphasized.

First, it provides the bare minimum required to retain the current size fleet of 52 U.S.-flag carriers which need Government assistance to compete with subsidized foreign fleets.

As a result of the mysteries of the budget bean counting process, the provisions approved by the Ways and Means Committee would allow only 26 ships to participate in the new Maritime Security Fleet Program. Clearly not enough in anyone's mind.

Second, it provides the opportunity to make some help available to American shipyards as they make the transition from building military to commercial vessels.

Last year, when the House approved H.R. 2151 and 3 months ago, when the Merchant Marine and Fisheries Committee approved this funding mechanism, the international commercial shipbuilding world was a much different place. It was heavily subsidized and just to get our yards in the game, we proposed our own program.

Today, we are on the brink—we hope—of a new international shipbuilding age. An age of ships built without subsidy, without the financial assistance of their governments. The agreement negotiated by the United States and every other shipbuilding nation in the world to end subsidies, is a long-sought, long-necessary change in policy.

While the agreement is still under review and not yet signed, if what we believe is true is in fact true, it is not our intent, nor will it be our result, to include in our final maritime reform package any program which would violate either the spirit or the letter of that agreement.

If we cannot provide the assistance envisioned by our original Series Transition Program, we can still help shipyards modernize and compete through the title XI loan guarantee program. The availability of $100 million in loan guarantees would translate into $1 billion in ship construction. Every dollar we add to the pool of money available to maritime reform is worth tenfold when it is applied to the title XI program.

Passage of the Studds-Fields amendment, to this bill, this session, is possibly the only hope we have to ensure that this Nation has the ships, the trained merchant mariners, the shipyards, and the skilled shipyard workers we need to protect our national and economic security.

Anything less than the funds provided by the Studds-Fields committee amendment will send U.S.-flag ships to foreign registries, and close the doors on even more American shipyards.

Don't let it happen. Support our American maritime industries. Vote for the bipartisan Studds-Fields Merchant Marine and Fisheries Committee amendment.

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Mr. Chairman, I reserve the balance of my time.

Mr. GIBBONS. Mr. Chairman, I rise in opposition to the amendment, and I yield 5 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, like any Member in this Chamber, I favor a strong domestic maritime security fleet and a competitive U.S. maritime industry. And no one would accuse me of ducking the tough votes when it comes time to either cut spending or raise the revenues necessary to pay for worthy programs.

The merchant marine and fisheries bill, however, lacks any sense of balance and fairness. The original proposal—a tripling of the tonnage tax in order to subsidize roughly 52 U.S.-flag cargo vessels—imposes a tremendous financial burden on many regions of the country, especially the port of Chicago and the Great Lakes ports. Indeed, even though there are no U.S.-flag ocean-going vessels providing services to the Great Lakes, these ports would see their taxes tripled in order to support these services.

For example, according to the Federal Marine Terminals in Chicago, a vessel calling at this facility currently pays $22,887. Under the merchant marine and fisheries original bill, this same vessels would be forced to pay $95,146 in annual taxes.

Because such an increase would have a devastating impact on the region, costing jobs, reducing competition and ultimately increasing prices to American industries and consumers, the Committee on Ways and Means crafted an alternative funding mechanism. This compromise sought to maintain a viable ready defense fleet while spreading its cost more fairly among beneficiaries.

The Studds amendment before us now continues to impose significant hardship on the port of Chicago and the Great Lakes ports. More than any other region, the Great Lakes faces significant trade diversion to Canada. United States and Canadian Great Lakes ports are fiercely competitive. To use the Chicago terminal example again, a vessel calling at this facility currently pays $22,887. Under the Studds amendment, this same vessel would see its annual taxes raised to $68,218.

An increase of this amount in the tonnage tax will increase the cost of U.S. goods sold competitively in international trade. Most of the Great Lakes trade is in bulk or heavy cargoes such as grain. Price increases of a few cents a ton can make the difference as to who gets the sale—a U.S. supplier or a foreign supplier. Lost sales of U.S. export products will lead to lost jobs in many U.S. industries.

Furthermore, Canadian ports, which impose no tonnage tax, provide an easily accessible alternative to the port of Chicago for shipment of United States products. This amendment gives our Canadian neighbors our business and related port and longshore jobs.

Mr. Chairman, I urge my colleagues to oppose the Studds amendment.

Mr. STUDDS. Mr. Chairman, I ask unanimous consent that the gentleman from Texas [Mr. FIELDS] be allowed to manage one-half of my time, 7½ minutes.

The CHAIRMAN. Without objection, the request is granted.

There was no objection.

The CHAIRMAN. The Chair would note that the gentleman had 11 minutes remaining, which would mean that the gentleman from Massachusetts [Mr. STUDDS] has 5½ minutes remaining.

Mr. FIELDS of Texas. Mr. Chairman, I thank the gentleman from Massachusetts for granting me the time, and I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the Studds-Fields bipartisan committee substitute amendment.

As we have heard today, the House authorized the most comprehensive maritime reform program last fall when we overwhelmingly passed H.R. 2151. Today, we consider the method of funding that program. In our opinion, this compromise amendment to title II of H.R. 4003 would provide the fairest, most reasonable method of raising the revenues necessary to fund that program.

Our substitute amendment acknowledges the concerns raised by many that our original tonnage fee proposal would have imposed hardships on various maritime sectors. This substitute would establish a flat tonnage fee of 38 cents per net registered ton. In addition, it would increase from 5 to 25 the number of transits, or calls, to U.S. ports when the fees would be collected.

This proposal would raise approximately $1.3 billion over 10 years, which is $400 million less than our original measure, and $300 million more than the alternative suggested by the Committee on Ways and Means.

Approval of our substitute amendment will provide adequate funding for a maritime reform program that will ensure that essential military equipment is carried on U.S.-flag vessels; that trained seafarers will be available, not only for the private sector commercial fleet, but also for the Government's Ready Reserve Force ships; and that we have shipbuilding capability in the United States.

The decision to support this increase in tonnage fees did not come easily. However, I believe that without this maritime program, the future of this Nation's maritime might is in serious jeopardy. We have crafted this fee so that the predominant users of our Coast Guard's services—foreign-flag shipping—pay the bill. That is only fair.

Mr. Chairman, we are running out of time in this Congress to make the difficult decisions that need to be made if the United States is to retain its status in the world as a major maritime power. If we do not approve this amendment, and this bill, America will lose it U.S.-flag containership fleet and the ability to construct, and repair, oceangoing commercial vessels, as well as naval combatant vessels.

Mr. Chairman, I urge all of our colleagues in this House to join us in support of our amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair would also remark that the Chair misunderstood the request by the gentleman from Massachusetts [Mr. STUDDS]. The gentleman from Texas [Mr. FIELDS] began with 7½ minutes, instead of 5½ minutes. He gained 2 minutes.

Mr. FIELDS of Texas. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. FIELDS] has 6 minutes remaining.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARCHER], the ranking minority member of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, I join the chairman of the Committee on Ways and Means in strong opposition to the Studds substitute, which in my opinion makes a bad bill far worse. The amendment proposed by the gentleman from Massachusetts [Mr. STUDDS] would seriously harm American exports, particularly grain, coal, and fertilizer, anything that is a bulk item with a low-unit value.

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Based on estimates prepared by the National Coal Association, the Studds amendment would increase coal prices by 3 to 14 cents per ton on export. By other estimates, prices for American grains would rise by 8 to 10 cents per ton. These commodities are extraordinarily competitive on the world markets where a fraction of a cent can make a difference in the sale. It is not surprising that American exporters solidly oppose the 38-cent tonnage tax rates proposed in the amendment of the gentleman from Massachusetts [Mr. STUDDS]. It could very well price them right out of the market.

When the Committee on Ways and Means took up the original merchant marine bill, it was abundantly clear to nearly all that a 53-cent tonnage tax was unacceptable. The Committee on Ways and Means recommended instead a 22-cent a ton tonnage tax which many of us opposed even at that level.

Now the gentleman from Massachusetts [Mr. STUDDS] is back asking the House to approve an amendment which supposedly represents a compromise of 38 cents. That is not a compromise, Mr. Chairman. It is a big tax increase for a big new entitlement spending program not governed by caps under the Budget Act. I urge my colleagues to reject it.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I would like to first thank the chairman for yielding some time to this Member from the Committee on Ways and Means, for I come before you to support the Studds amendment that is pending before the House.

Mr. Chairman, what is at issue here today is not whether or not we should increase the tonnage tax. At issue is what level that increase should be pegged at. Another issue before the committee is whether or not we should provide funds for shipbuilding subsidies in this country. On that question, the answer that I come up with after talking to the experts from the committee, the subcommittee chairman, the gentleman from Illinois [Mr. LIPINSKI], the answer to that is yes. In fact, in a conversation I had with the gentleman from Illinois [Mr. LIPINSKI], he indicated to me about a week and a half ago that the question on shipbuilding subsidies is not to level the playing field, it is to bring us onto the field. Even though the chairman of the Committee on Ways and Means, the gentleman from Florida [Mr. GIBBONS], indicates that a treaty is pending, there is no guarantee that that treaty will be adopted. In fact, I am already told that France is objecting very strenuously to it and the chances are it might be rejected. However, in the window that we have between now and 1999, I think it is time to worry about American jobs and American industry, and so when the bill was before the committee, I tried to provide an alternative which would provide the necessary funds for the shipbuilding subsidies. That amendment was to the committee amendment and it would have the effect of increasing the diesel tax an extra cent. The committee saw fit not to support that and so now we are down to the question of how do we best support the shipbuilding subsidies.

I look at the amendment from the gentleman from Massachusetts [Mr. STUDDS] which takes that tonnage to 38 cents, an additional per ton charge, and I say to you that is reasonable. Looking at where we have been, the administration came forth with a tonnage increase for ocean-going vessels to the tune of the highest rate being 71 cents. The committee's version was 53 cents. As a Great Lakes legislator, I think the 38 cents is a pretty decent compromise looking at the other options.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise in strong support of the Studds Amendment to H.R. 4003, the Maritime Administration and Promotional Reform

Act of 1994. I commend the chairman of the Merchant Marine Committee for his commitment to this critical industry and for bringing his amendment to the floor of the House.

This amendment is critical to the future of this Nation's commercial shipbuilding industry as well as our national economic interests and our national security interests. In fact, the fate of the Studds amendment will determine nothing less than the survival of the American shipbuilding industry. Most importantly, the Studds amendment would provide our domestic shipbuilders with a much-needed chance to compete on the world marketplace—a marketplace that has been dominated for too long by our heavily subsidized foreign competitors.

And it is because our competitors have been playing the field with the overwhelming advantage of being subsidized that our industry has been devastated. There is no doubt that we have paid the price: In the 1950's this country was the world's greatest shipbuilding nation. but today the United States ranks around 24th in the world in shipbuilding. In 1981, the United States eliminated its direct subsidy for the shipbuilding industry. Since that time, the industry has lost 40 shipyards and about 120,000 jobs. With the decline in Navy construction, thousands of more good-paying shipbuilding jobs are at risk. And, of the 22 largest U.S. shipyards in business in 1980, only 8 remain today.

The real culprit for this decline in the U.S. shipbuilding industry is not the high cost of American labor or expensive equipment. The culprit is billions and billions of dollars in unfair foreign shipbuilding subsidies—subsidies that give a foreign-built ship a tremendously unfair advantage over similar ships built in American shipyards.

Just consider the average level of subsidies that other major industrialized nations provide to their shipyards, and it becomes crystal clear that we are sending our commercial shipbuilding industry into the global marketplace with both hands tied behind our back: South Korea—$2.4 billion per year. Germany—$2.3 billion per year. Japan—$1.9 billion per year. Italy—$940 million per year. Spain—$897 million per year. And when was the last time any commercial U.S. shipyard received any subsidies? In 1981, 13 long years ago.

But opponents of this amendment casually dismiss the facts and these numbers and instead point to a trade agreement that was signed in Paris last month between the United States and the major industrialized nations that would phase out their shipbuilding subsidy practices. Signing this agreement were representatives from the United States, Japan, South Korea, and virtually all of the major industrialized nations of Europe. It took 5 hard years of negotiating to bring about that agreement, but as a result our shipbuilding competitors have pledged to end their subsidies by 1999.

But the harsh reality is that this agreement to end these foreign subsidies is far from perfect. In fact, between now and January 1, 1996, existing foreign shipbuilding subsidy programs can continue with no budget ceilings. In addition, foreign subsidies approved before that date can be carried over until January 1, 1999. What this means is that those nations that are currently subsidizing their shipyards will have at least another 4 years to flood the world marketplace with their subsidized ships. But our commercial shipyards can't afford to play catch up in 5 years because they won't have the time or the resources to be able to play catch up. In trying to help our private shipyards for long term, we have potentially put them at a competitive disadvantage over the short term.

Mr. Chairman, one only has to look to such shipyards as Bath Iron Works in my home state of Maine to see the challenges that daunt our shipbuilding industry. Just recently, after visiting this shipyard that is the largest private employer in Maine with a tradition for excellence in quality and craftsmanship, I was briefed on BIW's 5-year plan for competitive commercial shipbuilding. The success of this plan is essential to maintaining BIW's workforce levels and to their very survival as a shipyard—a shipyard that has existed for over 100 years.

Ironically, under the terms of the Paris agreement BIW's 5-year plan falls within the time frame when our shipyards will be competing empty handed with the highly efficient, highly subsidized, modern shipyards of our competitors. How can we close BIW's window of opportunity at such a critical time? How can we turn our backs on BIW's workers when they need us most? We cannot, and we must not.

The answer to this short-term problem is to pass the Studds amendment. This amendment provides financing for the series transition payments that would provide much-needed financial aid to U.S. shipyards. These payments were authorized last year and will help our shipyards compete with foreign shipyards until the foreign shipbuilding subsidies are phased out in 1999.

Mr. Chairman, last November this body passed by a wide margin of 347-65, H.R. 2151, the Maritime Security and Competitiveness Act of 1993 which first authorized the series transition payments. The House's overwhelming passage of H.R. 2151 sent the unmistakable signal that we are committed to helping our shipyards become competitive in the world marketplace. And by passing the Studds amendment this body would be living up to that commitment, meeting the expectations of our shipbuilding industry, and fulfilling the intentions of our actions last November. I strongly urge all of my colleagues to support this amendment.

Mr. STUDDS. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. I thank the gentleman very much for yielding me the time.

Mr. Chairman, first I would like to say that I have the greatest respect and admiration for the gentleman from Illinois [Mr. ROSTENKOWSKI]. In fact it was he who put me on this committee almost 12 years ago when he said to me, "I would like you to go on the Committee on Merchant Marine and Fisheries to try to do something about the Port of Chicago, try to help it out." I have steadfastly tried to do that over the course of the last 12 years. But we come here today and the gentleman from Illinois [Mr. ROSTENKOWSKI] and I have a difference of opinion on figures. According to the figures I have from the Maritime Administration, it is only going to cost the vessels on the Great Lakes $260,000 a year with the increase in the tonnage fees.

No. 2. Right now they pay $2,050 per ship per year. Underneath our amendment, they will pay $3,078 per year. That to me is $1,028 per vessel per year. Eighty percent of all commerce on the Great Lakes is exempt from this tonnage tax. Consequently, I have to say, I do not believe that the Port of Chicago, the Great Lakes harbors, the Great Lakes vessels, are going to be unduly impacted by this amendment or by this piece of legislation. All areas of the country will have to give up a little bit to save the American maritime industry, the operating industry and the shipbuilding industry.

My colleagues, it has been said countless times on the floor today, "If you want to have American commercial vessels, if you want to have an American shipbuilding industry creating jobs, creating economic development, vote for the Studds-Fields amendment and vote for this bill."

□ 1550

Mr. FIELDS of Texas. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, there is much more to be said about this than I have time to say. Let me emphasize two points.

On the question of structuring of the tax, fuel tax, passenger tax versus all tonnage tax, it is not so simple I would say to those who are talking about the impact of these different measures on particular lay interests. If we take the fuel tax which is paid on every ship that departs the port without limit, and add it to the tonnage tax proposed by the Committee on Ways and Means, we will have some shippers paying more tax that way than they will under the Merchant Marine and Fisheries Committee bill.

Let me suggest that the real essence of this argument and the real logic that I hear is do not fund anything for the U.S. shipbuilding industry where as many as 180,000 jobs are involved, not even to the tune of $300 million over a 10-year period that we know is going to be more nearly 5 or less years, do not do that, but we do not object to $1 billion to save a fraction of that number of jobs. I am for saving those jobs that the $1 billion will save. But is it not preposterous to say that we cannot expend $30 billion a year to save the American shipbuilding industry and 180,000 jobs?

Mr. FIELDS of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, in the Committee on Rules I spoke about fairness, I talked about a committee that works for the betterment of the American people, and I really believed that talk and I still do. When I said a shipbuilding industry that is dying, I should have said industries. It is not just shipbuilding and ship repair, but it is the union workers, the small business workers that are working for contracts, it is the title X problems we have. And I understand the President just announced that we would have some title XI moneys which are going to San Diego.

We are trying to solve a problem, and it is in the best interest of the American people to do it in the way that Chairman STUDDS has come forward with. We look at something as to how we do not increase spending and that is budget neutral. We look at a way in which we can solve the problems of education, of maritime and our national security with our defense and the lack of the merchant marine itself, and it is not asking too much to set aside turf battles between the two committees and work for the American people.

For one of the first times in history since I have been here for 3 years this is a bipartisan bill that is working toward the American people and for the American people, not for committee strength, not for political power of a party, but for the American people. I ask Members' support and ask support for Chairman STUDDS and the gentleman from Texas, Mr. JACK FIELDS, on this amendment. Very seldom do we do something like this, and I ask for the support of the Members.

PREFERENTIAL MOTION OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. TAYLOR of Mississippi moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. TAYLOR of Mississippi. Mr. Chairman, in a few moments this House will make a decision about one of the most important industries not only in this Nation but every nation. Since the time of Christ, the great nations of the world have always been great maritime powers. That is not lost on our international trading partners.

This morning I had the opportunity to visit with one of our U.S. Senators, and we discussed the bill. He told me how fervently he was against subsidies. And I said to that Senator, "Well, I guess you think we ought to be like the Japanese?" And he said, "Absolutely, we should be like the Japanese."

I said, "Well, perchance we should fund our maritime industry, shipbuilding industry to the tune of $1.8 billion a year, just like the Japanese?" and he was dumbfounded. As a matter of fact, that Senator from a Midwestern State did not know that the Germans also subsidize their shipbuilding industry to the tune of $1.5 billion a year.

I went on to remind him that we give foreign aid to 16 nations that build more ships than we do. Last year the nation of Vietnam built more ships than we did. They built one.

This committee has now come up with a very modest proposal. Yes, it costs some money, and yes, we will ask those people who use our ports, because 95 percent of all of the vessels that enter our ports are foreign flag, 99 percent of all of the cruise ships that enter our ports are foreign flag, we are going to ask them to give something back to the American taxpayer that spends $4.3 billion a year making sure that there is a Coast Guard there for them should they catch on fire or start to sink or need their LORAN coordinates given to them or global positioning coordinates given to them or need a lighthouse or a buoy.

The American taxpayer has been borrowing money to make our ports available to our foreign competitors. Today the Merchant Marine and Fisheries Committee is just asking those same people who have benefited from this, who now have over a $100 billion trade surplus at our expense, to just give a little bit of it back.

The Ways and Means Committee says oh, we cannot do that. The same committee that just put a 22-cent-a-gallon tax on American recreational boaters who happen to have a diesel engine, the same committee that passed the recreational boat users fee, who said they have to pay their own way, would not even consider asking our foreign competitors to pay their own way.

Who are we running this country for? Who are we running it for? If we cannot ask those people the same things we ask of our own people, then what the heck are we doing being paid rather large sums of money to represent the people of this country?

Mr. Chairman, I do not like new taxes. No one in this body likes new taxes. I am particularly pleased to see tough guys like the gentleman from California, DUKE CUNNINGHAM, and many of my Republican colleagues lining up and saying yes, we have no alternative, we have to pay for this. We have a $4 trillion debt for which we are paying $800 million a day in interest on that debt, and we cannot pretend the money to revitalize the American shipbuilding industry is going to fall from the sky. So we are going to ask those people who benefited from America's ports to give a little bit of it back.

So, Mr. Chairman, I want to rise in support of the Studds-Fields plan. I want to make it perfectly clear to the Committee on Ways and Means that yes, you have a tough job to do. You have to finance this country. But if you are so willing to tax Americans, just this once let us tax our foreign competitors who get the benefit of our ports and industries.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the motion. I have no intention of using all the time. I simply want to commend the gentleman from Mississippi for his passion. No member of our committee, I think it would be safe to say, has had a more passionate commitment to trying to see to it that this Nation does not lose this industry. I commend the gentleman.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Mississippi [Mr. TAYLOR].

The preferential motion was rejected.

The CHAIRMAN. The time remaining is as follows: The gentleman from Texas [Mr. FIELDS] has 30 seconds, the gentleman from Florida [Mr. GIBBONS] has 7 minutes, and the gentleman from Massachusetts [Mr. STUDDS], with the right to close, has 1 minute remaining.

□ 1600

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I would ask my colleagues, particularly my Republican colleagues, to focus on one word as they contemplate their vote on the merchant marine substitute, and that is destiny, the destiny of this country, both in terms of international commerce and in terms of being able to domestically build in our shipyards. To me that word is important. It is foundational. It is important to point out our particular version does not authorize any new taxes. It authorizes only tonnage fees.

Ninety-six percent of those tonnage fees are going to be paid by ships flying a foreign flag. So it is important to support the Studds-Fields substitute.

Mr. GIBBONS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I will be very brief in closing. I think all people who realize how the market system works realize that the fees or taxes levied here will be paid out of the proceeds of goods that are sold in this market or exported to a foreign market. Yes, they will be collected from people who fly a foreign flag, but they will be paid by us, or they will be paid in the competitive marketplace in the price of our products as they move overseas.

As I said in the beginning, I support the bill, but if it is amended as the Committee on Merchant Marine and Fisheries wishes to amend it, I cannot support it. I think the tonnage tax that their amendment would levy is excessive. The Merchant Marine and Fisheries amendment would increase the tonnage tax to 38 cents per ton, as opposed to 22 cents per ton in the bill as reported by the Committee on Ways and Means. The result of this amendment would be to increase the maximum yearly amount of tonnage fees from $2.64 per ton in the bill as reported by the Committee on Ways and Means to $9.50 per ton under the Merchant Marine and Fisheries amendment. That is a substantial increase to be borne by American products, particularly when some of these products sell for only $20 a ton.

Mr. Chairman, we export products from my area that sell for $20 a ton. There also are many tons of coal exported from the United States. I cannot give you the exact price quote, but I realize that coal sells in the international market, and that the price of a quarter of a cent per ton is a market breaker in getting coal contracts.

So miners in Alabama and West Virginia and other places around the United States could be adversely affected by this rather rapid increase in the tonnage tax.

We think that the Ways and Means revenue title was more carefully crafted. In fact, I heard of no opposition to the revenue title as we crafted it, but I have heard a lot of opposition to the straight tonnage fee increase here.

Let me say, in conclusion, that it has been a pleasure to work with Chairman STUDDS, the ranking minority member, and the gentleman from Illinois [Mr. LIPINSKI] on the Committee on Merchant Marine and Fisheries. They are all highly motivated gentlemen and did an excellent job in presenting their case. We wish them well in the jurisdiction that they control.

We would like to see the American merchant marine prosper.

As for the tax that would be to the shipbuilding subsidy, I would just like to point out that we will be the first country of all of the shipbuilding countries to violate the standstill arrangement that we entered into when we agreed to this shipbuilding subsidy. It is kind of a travesty. We have been the country who pushed the rest of the world into getting rid of shipbuilding subsidies, and now we would be the first country to violate the agreement into which we urged all other countries to enter.

Mr. STUDDS. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I return the collegial salute of the acting chairman of the Committee on Ways and Means. It has been a pleasure for all of us to work with him and with his staff.

Mr. Chairman, last fall we made a commitment to the American people in enacting the Maritime Competitiveness Act. We come here today to keep that commitment.

As Members contemplate their vote, I invite them to consider the extraordinary diversity of this House that has risen to speak with one voice on this question, and I quite frankly challenge you to think of any other subject matter in which the diversity of views, however you want to describe them, from right to left, conservative to liberal, moderate to vegetarian, we have spoken from all corners of this country; Members who rarely speak together on a matter of consequence and a matter, as you have heard, with some controversy, with one voice. It is the national security of the country. It is the economic security of the country. It is a very important thing we are about to do.

I urge your support for the bipartisan committee amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GIBBONS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 153, not voting 18, as follows:

[Roll No. 370]

AYES—268

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baker (LA)
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Cantwell
Cardin
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Condit
Coppersmith
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Dornan
Dunn
Engel
English
Eshoo
Evans
Everett
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Goss
Green
Gutierrez
Hall (TX)
Hamburg
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Hoyer
Hughes
Hunter
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kildee
King
Kleczka
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Markey
Martinez
Mazzoli
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pombo
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Scott
Serrano
Sisisky
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—153

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bereuter
Bevill
Boehner
Bonilla
Boucher
Brewster
Bunning
Burton
Camp
Canady
Collins (GA)
Collins (IL)
Combest
Cooper
Costello
Cox
Crane
Crapo
DeLay
Dickey
Dooley
Doolittle
Dreier
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Ewing
Fawell
Franks (NJ)
Gallegly
Gallo
Gibbons
Glickman
Goodlatte
Gordon
Grams
Grandy
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Houghton
Huffington
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kennelly
Kim
Kingston
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kyl
LaRocco
Leach
Lewis (FL)
Lewis (KY)
Lightfoot
Long
Lucas
Manzullo
Margolies-Mezvinsky
Matsui
McCandless
McCurdy
McInnis
McKeon
McMillan
Meyers
Michel
Minge
Moorhead
Nussle
Orton

Oxley
Packard
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickle
Pomeroy
Porter
Portman
Poshard
Ramstad
Regula
Reynolds
Roberts
Rogers
Rohrabacher
Rostenkowski
Roth
Rowland
Royce
Santorum
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Skaggs
Skeen
Skelton
Smith (IA)
Smith (OR)
Smith (TX)
Stearns
Stenholm
Stump
Sundquist
Talent
Tanner
Thomas (CA)
Thomas (WY)
Valentine
Walker
Williams
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Ackerman
Carr
Clay
Collins (MI)
Conyers
DeFazio
Dingell
Ford (TN)
Inhofe
Laughlin
Montgomery
Sharp
Slattery
Slaughter
Smith (MI)
Underwood (GU)
Washington
Wheat

□ 1627

Messrs. HEFLEY, SKELTON, BARTLETT of Maryland, SHAW, and McINNIS changed their vote from "aye" to "no."

Messrs. McDADE, BARCIA of Michigan, HASTINGS, and HEFNER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FIELDS of Louisiana) having assumed the chair, Mr. WISE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4003) to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes, pursuant to House Resolution 500, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, nays 122, not voting 18, as follows:

[Roll No. 371]

AYES—294

Abercrombie
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Bachus (AL)
Baker (LA)
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Cantwell
Cardin
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Coppersmith
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dixon
Duncan
Dunn
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kreidler
LaFalce
Lambert
Lancaster
Lantos
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Snowe
Solomon
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—122

Allard
Andrews (TX)
Archer
Armey
Baesler
Baker (CA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bereuter
Boehner
Bonilla
Bunning
Burton
Camp
Canady
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Crane
Crapo
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Durbin
Ehlers
Emerson
Ewing
Fawell
Franks (NJ)
Gallegly
Gibbons
Gingrich
Glickman
Goodlatte
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Herger
Hobson
Hoekstra
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Kopetski
Kyl
LaRocco
Leach
Lewis (FL)
Lewis (KY)
Lightfoot
Long
Lucas
Manzullo
Matsui
McCandless
McKeon
McMillan
Meyers
Mica
Miller (FL)
Minge
Moorhead
Nussle
Oxley
Packard
Paxon
Penny
Petri
Pickle
Pombo
Porter
Portman
Poshard
Pryce (OH)
Ramstad
Roberts
Rogers
Rohrabacher
Rostenkowski
Roth
Royce
Sensenbrenner
Shays
Smith (IA)
Smith (OR)
Smith (TX)
Stearns
Stenholm
Stump
Talent
Thomas (CA)
Thomas (WY)
Upton
Walker
Williams
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Ackerman
Carr
Clay
Collins (MI)
Conyers
DeFazio
Dingell
Ford (TN)
Inhofe
Laughlin
McCrery
Montgomery
Santorum
Sharp
Slattery
Smith (MI)
Washington
Wheat

□ 1648

Ms. PRYCE of Ohio and Mrs. MEYERS of Kansas changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1650

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 4003, MARITIME ADMINISTRATION AND PROMOTIONAL REFORM ACT OF 1994

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4003, the Clerk be authorized to make corrections in spelling, punctuation, cross-references, title and section designations, and to make any other necessary technical and conforming changes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4003, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow, Wednesday, August 3, 1994.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT OF REVISION OF DEADLINE FOR PRINTING OF AMENDMENTS ON HEALTH CARE BILL

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, last week I informed the Members that they would have until tomorrow night to file amendments to the health care bill. However, because of the backup in the legislative counsel's office, it seems that it would be a physical impossibility to carry out and get all these substitutes ready during that time. Therefore, I am informing the Members that that time will be moved until Monday, August 8, at 6 o'clock p.m., at which time Members will have amendments and substitutes on the health care bill ready for printing.

Mr. HASTERT. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, just a point of inquiry. The amendments or bills that are in process will be required by Monday night at 6 p.m., and that will be all technical language, everything together? There will be no holdovers to correct, is that correct? Everything has to be completed?

Mr. MOAKLEY. That is our hope. We just finished a bipartisan meeting in the Speaker's office pertaining to technical amendments, and we may make some language possible so that they will be able to make technical amendments.

Mr. HASTERT. If the gentleman will continue to yield, Mr. Speaker, there may be some time for cleanup, technical cleanup, after?

Mr. MOAKLEY. Yes, but nothing substantial.

Mr. HASTERT. Mr. Speaker, when is it intended, then, that this bill will go before the Committee on Rules?

Mr. MOAKLEY. Mr. Speaker, I would think that with C-SPAN, and we have to get the CBO estimates, and we would probably get about 100 witnesses, so I would probably think the end of the week.

Mr. HASTERT. I thank the gentleman.

Mr. MOAKLEY. Again, that is something that the bipartisan conference is discussing.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the matter would not get to the Committee on Rules until the end of the week, then, I would ask the gentleman?

Mr. MOAKLEY. We moved the date for the substitute up until Monday, August 8, and we will meet as soon as we can after that.

Mr. WALKER. If the gentleman will yield further, the question becomes, of course, when we would end up having it on the floor. If the committee is going to hear 100 witnesses, and it probably does not start until Tuesday or Wednesday——

Mr. MOAKLEY. Mr. Speaker, all I can tell the gentleman is that the ranking member and myself will work as quickly as we can, but there is just so much time it is going to take, and the scheduling of the bill, as the gentleman well knows, it still the subject of discussion between the bipartisan group.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say that in the bipartisan meeting we just had, that the Speaker of the House is still talking about an adjournment date of August 12, so if we do have the filing date of Monday at 6 p.m., the Committee on Rules will take it up on Tuesday or Wednesday, and then certainly there would be votes on Thursday or Friday, if we meet the Speaker's deadline.

REPORT ON DEVELOPMENTS CONCERNING NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–289)

The SPEAKER pro tempore (Mr. MANN) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection; referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of March 3, 1994, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. member States temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq, to finance Iraq's obligations for U.N. activities with respect to Iraq, such as expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. Member States also may make voluntary contributions to the account. The funds placed in the escrow account are to be returned, with interest, to the member States that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the U.N. Security Council. No member State is required to fund more than half of the total transfers or contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive orders"). The report covers events from February 2, 1994, through August 1, 1994.

1. During the reporting period, there were no amendments to the Iraqi Sanctions Regulations.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. There are currently 30 enforcement actions pending. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq. Three penalties totaling $38,450 were collected from three banks for violation of the prohibitions against Iraq, and noncompliance with reporting requirements and an Office of Foreign Assets Control directive license.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals ("SDNs") of the Government of Iraq. One Jordanian-Iraqi joint venture company prominently involved in shipments to Iraq was identified as an SDN of Iraq on May 4, 1994. A copy of the notice is attached.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On March 1, 1994, following payments by the Governments of the United Kingdom ($447,761.19), the Netherlands ($1,566,994.55), Australia ($476,110.00), and the European Community ($3,758,310.31), respectively, to the special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $6,240,176.05 from the blocked account it holds to the United Nations-controlled account. Similarly, on March 22, 1994, following the payment of $525,182.50 by the Government of the Netherlands, $2,478,089.89 by the European Community, $2,352,800.00 by the Government of the United Kingdom, $444,444.44 by the Government of Denmark, $1,204,899.30 by the Government of Sweden, and $3,100,000.00 by the Government of Japan, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $10,105,416.13 to the United Nations-controlled account. Again on June 30, 1994, the Federal Reserve Bank of New York was directed to transfer $6,969,862.89 to the United Nations-controlled account, an amount corresponding to the aggregate total of recent payments by the governments of other Member States: European Community ($1,042,774.31), United Kingdom ($1,570,804.48), the Netherlands ($1,062,219.51), Kuwait ($2,000,000.00), and Sweden ($1,294,064.59). Cumulative transfers from the blocked Federal Reserve Bank of New York account since issuance of Executive Order No. 12817 have amounted to $130,928,726.04 of the up to $200 million that the United States is obligated to match from blocked Iraqi oil payments, pursuant to United Nations Security Council Resolution 778.

5. The Office of Foreign Assets Control has issued a total of 496 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 52 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, food intended for humanitarian relief purposes, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq.

6. The expenses incurred by the Federal Government in the 6-month period from February 2, 1994, through August 1, 1994, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about $2.3 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

7. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraqi's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Four years after the invasion, a pattern of defiance persists: a refusal to recognize the international boundary with Kuwait or to account for missing Kuwaiti detainees, sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors, and ongoing widespread human rights violations, among other things. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights of its own citizens through systematic repression of minorities and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not be bound by United Nations Security Council Resolution 688. For more than 3 years, Baghdad has maintained a complete blockade of food, fuel, and medicine on northern Iraq. The Iraqi military routinely harasses residents on the north, and has attempted to "Arabize" Kurdish, Turcomen, and Assyrian areas in the north. Iraq has not relented in its military artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring States.

In 1991, the United Nations Security Council adopted Resolutions 706 and

712, which would permit Iraq to sell up to $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. The resolutions also provide for the payment of compensation to victims of Iraqi aggression and other U.N. activities with respect to Iraq. The equitable distribution within Iraq of this humanitarian assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Nearly a year ago, the Iraqi government informed the United Nations that it would not implement Resolutions 706 and 712.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions require that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraqi's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1994.*

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE REPORT ON H.R. 4822, MAKING CERTAIN LAWS APPLICABLE TO THE LEGISLATIVE BRANCH OF THE FEDERAL GOVERNMENT

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the Committee on House Administration have until midnight tonight to file its report on the bill (H.R. 4822) to make certain laws applicable to the legislative branch of the Federal Government.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to simply inquire of the gentleman from North Carolina [Mr. ROSE] whether or not we have some assurance that in September, the rest of the congressional reform package will come to the floor.

As the gentleman well knows, Mr. Speaker, the congressional compliance bill that he is seeking to bring to the floor in the next few days was one part of the total congressional reform package that came out of the Hamilton-Dreier committee. We were somewhat concerned about separating the package, because there are a number of other reforms that we think need to be taken up.

Mr. Speaker, I would ask the gentleman, can I get some assurance that we will see the rest of the package and we will have an opportunity to amend that package on the floor sometime in September?

Mr. ROSE. Mr. Speaker, the remainder of that package, as the gentleman knows, does not come through my committee, but I have been assured by the Speaker, and the gentleman has seen his assurances, that the remaining portion of the package will come to the floor in September.

Mr. Speaker, it is my understanding and belief that the answer to the gentleman's question is yes, we will have it up in September. It will be brought to the floor. It should be brought to the floor in such a way that it can be amended as the gentleman has suggested.

Mr. WALKER. I thank the gentleman for his information and for his courtesy on that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

IN SUPPORT OF THE CRIME BILL AND H.R. 4050, THE REEMPLOYMENT ACT OF 1994

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the crime bill is coming up, and because of special interests, whether it be the gun issue or others, the outcome may be in doubt. If there is one issue that our constituents want us to act on, it is crime. Let us not let gridlock prevail. Let us make sure that we can govern. That is the question on the crime bill.

Mr. Speaker, the President has a lot of initiatives that have been politicized: health care, welfare reform, Haiti policy. But when it comes to crime, let us ensure that we do not politicize this issue, and the vote on the rule and the vote on final passage in the next couple of days will determine whether Congress can govern.

Another good initiative the President has is the Reemployment Act, a jobs bill that helps self-employed workers, makes them eligible for training. Ranchers and farmers in rural areas benefit.

Mr. Speaker, the President has a lot of good initiatives out there. Let us act on them.

Mr. Speaker, our country is the greatest nation in the world because the men and women of this country have a commitment to hard work. A healthy work force is the lifeline to maintaining the health of America.

I am a cosponsor of the Reemployment Act because it is the medicine that small towns across America need to ensure their wellness into the 21st century. In a fast paced, high turnover job market the Reemployment Act makes sure that hardworking Americans have the skills they need to be a part of the work force.

A large part of the people that I represent live in small rural towns and villages. The Reemployment Act is good for my rural district because it helps farmers and ranchers. The Reemployment Act specifically identifies farmers and ranchers as self-employed workers and makes them eligible for income and training if they become unemployed as a result of general economic conditions. In addition, part-time and seasonal workers, who are a large part of the rural work force, will have access to the training that they need if they suffer permanent job loss.

Small town economies can be devastated by one plant closing or layoff. Dislocated workers in these areas will have improved employment options by better access to labor market information on job openings, and the option of receiving unemployment insurance benefits while starting a new business, or training to upgrade their skills.

Mr. Speaker, we owe the men and women of America the tools that they need to be a part of the greatest work force in the world and we can do that by supporting the Reemployment Act.

GATT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. ROHRABACHER. Mr. Speaker, as a free trader, I was a strong supporter of NAFTA. Normally I would be an enthusiastic vote for GATT. But there are stealth changes, imbedded in the GATT implementing legislation, that will make it impossible for me to support this trade deal. I am talking about the patent harmonization provision that if implemented will drastically dilute our inventors' patent rights.

Our patent system has ensured the primacy of our country in biotechnology, electronics, environmental, and other futuristic industries. Protecting patent rights in the United States has been a mainspring of job and wealth creation.

Now, the Japanese, and our own multinational corporations, are scheming to insidiously change our patent law.

The big guys, Japanese and American, are using GATT as a cover for legalizing their own grand theft of the little guys inventions. Worse, these changes are not necessary for this trade deal, totally unnecessary to be in compliance with GATT.

I ask my colleagues to oppose GATT unless the powers-that-be back off on this attack on our patent rights.

Mr. Speaker, I include for the RECORD the following:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 29, 1994.

Hon. WILLIAM JEFFERSON CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We urge you to reconsider including the administration provision in the GATT implementing legislation that will fundamentally change our present patent system.

The proposed changes in the law go beyond the General Agreements on Tariffs and Trade (GATT) agreement, which was signed by Vice President Gore in Marrakesh on April 15. The changes would limit U.S. patents to 20 years from the date of application; would provide for provisional applications giving a U.S. filing date even though the application was filed in a foreign language without claims or named inventors; and would publish all applications 18 months after filing.

These changes have been demanded by Japan and are supported by many multinationals. Neither the inventor, the small businessman, nor the government will profit from this critical change in American patent law. However, it will benefit foreign companies who will able to copy technology with impunity.

For a number of years, Foreign governments have pushed to have the American patent system weakened because patents are one measure of a country's economic strength and future. The New York Times, reports that high quality patents, (which are patents most often cited in patent filings), are seen as a symbol of a nation's future prosperity signaling the emergence of important new technologies which will be under a patent holder's exclusive control for many years. In 1993, the United States led the world in influential patents with 59,588, which is almost twice as many as Japan, Italy, the United Kingdom, France and Germany.

This system, protected in the Constitution under Article I, Section 8, Clause 8, must not be harmonized with foreign systems without hearing the voice of the small inventors and entrepreneurs in Congressional hearings.

We urge you to reconsider the need to change our system to accomodate these foreign companies. Americans have had the incentive to forge ahead and develop many revolutionary inventions that have made America a technology leader.

This system, which protects the intellectual property of the inventors and the American people must not be change without adequate hearings. It is the secret of America's success in job creation and industrial strength.

Thank you for your prompt consideration.

Sincerely,

Helen Delich Bentley; Dana Rohrabacher; Terry Everett; Ed Royce; Ken Calvert; Marcy Kaptur; G.L. Poshard; Bernard Sanders; Tom Lewis; Duncan Hunter; Peter DeFazio; Mike Bilirakis; George E. Brown, Jr.; James Traficant, Jr.; Barbara F. Vucanovich; Dan Burton; Lucien E. Blackwell; James H. Bilbray; Cass Ballenger; Elton Gallegly; Jill Long; Gene Taylor; Bob Walker; Ron Klink; Sherrod Brown; Chris Cox; John J. Duncan, Jr.; James Sensenbrenner; Robert K. Dornan; Jerry Solomon; Rod Grams.

□ 1700

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

THE BILLION-DOLLAR QUESTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I guess we are being asked to make a very big stretch these days in this country. The United Nations has just declared that Haiti is a threat to regional peace and security under Article 7 of the U.N. Charter. It is a little hard for me to imagine just how Haiti is going to be a threat to our peace and security, to our borders in any way, but nevertheless the administration has convinced through negotiations and wheeling and dealing in New York apparently other countries to declare now that Haiti is a threat to regional peace and security and, therefore, subject to some type of an invasion or any action it will take to bring that situation under control.

I wonder if there is anybody in this country that actually believes that this friendly neighboring country which is very, very poor, has very, very few amenities to it, has trouble feeding itself, is really a threat to anybody except its own self? I wonder if there is anybody who really believes the postulate that has been put out there that Haiti is a central linchpin in the international drug cartel corridors.

If Haiti is, I wonder, what does that say about our friends in Colombia and Ecuador and Peru and the Bahamas and other countries like Jamaica where we know we get cooperation in drug trafficking and drug interdiction efforts and it is a big, big problem that we have to keep working on.

The question has been raised, are there United States citizens in danger in Haiti? Well, that is a very serious question and one we want to take a good, close look at. But the most recent information we have from our embassy in Port-Au-Prince, is that they acknowledge there is no clear indication of any threat to United States citizens presently in Haiti.

The next question is, well, it must be then that the security question goes to the mass immigrant exodus. Why is this happening? When we look into the exodus, we discover that it has slowed down. There are not as many refugees leaving Haiti these days as there were. It turns out, the reason is that the Haitians who were leaving thought they were going to get to the United States to a better way of life. Now that that message has been sent that that is not going to happen, that they are going to put into a safe haven in Guantanamo or some other Caribbean country, the desire to leave Haiti has waned a little bit, even though the situation there is truly miserable and even though there is political persecution, human rights violations, and tremendous economic despair, no jobs, and all kinds of suffering and humanitarian problems going on with food and medicine and so forth.

I guess the question then has to be, and it is a billion-dollar question: Why in the world is the United States of America talking about invading Haiti and going to the United Nations to go through all these machinations to declare that they are a danger to our national security and to the region's peace and security?

I think that it is a billion-dollar question and perhaps several billion because we are told that if this thing works right, that the idea is that our troops will go in there, they will be there about 6 months, and that is going to cost, well, just hundreds of millions, we do not know exactly how many, but they will be out in about 6 months. Then we are going to go and we will ratchet down from 12,000 to 15,000 troops who are going to go through the countryside and assist in the disarming of the army and the people there. Then those people are going to leave and we are going to have 6,000 other troops, at least 30 percent of them will be United States, and they are going to stay there until February or January 1996, something like that, and all this is going to be funded out of the DOD budget except the part that will be funded out of the State budget. When you add it all up, it comes to over $1 billion. Some of that money is needed for other higher priorities where there are some real problems and some real defense needs and some real State needs.

I think what we have got now is some very poor explanations for some indefensible actions that are being taken to support a policy which is bankrupt and does not work.

I am going now to a statement in the Washington Post of May 5, the statement of Larry Pezzullo who was previously the Special Adviser on Haitian affairs, and I want to quote a little bit if I can because it is so relevant. This is the solution, it is the solution we should be pursuing today and the only reason that Mr. Pezzullo is not there today pursuing this solution is because this is a politically incorrect solution:

> On the political front, Aristide's own prime minister and political ally, Robert Malval, took the initiative, convincing Aristide that his political alliance should be broadened to include legitimate political parties represented in the legitimate parliament. But Aristide soon reversed himself, and rejected Malval's idea as power-sharing with the military. Malval resigned in December.

We will continue this, because the answer lies in a negotiated settlement around the people like Malval who want to solve the problem without warfare.

HOLLOWING OUT OUR FORCES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I am here to talk tonight about the continuing degradation of America's security and national defenses, but before I do that, I would like to comment 1 minute on the announcement by the majority that they are going to be bringing up the so-called health reform bill shortly and just comment that at least as one Representative who has talked to his people for the last year or so about this prospective bill, then called the Clinton package, it takes a while for the American people to understand what is in this package. I think what defeated the President's initial effort was the fact that the people saw the package. I think it is appropriate for the majority to give the American people a chance to see it, to see the package, a chance for small business to look at the mandates that they will be operating under, decide whether or not they are going to have to lay off people as a result of those mandates, decide how many people they are going to have to lay off, talk a little bit to their employees, some of whom will be the prospective folks who will be laid off as a result of these burdens, and let the American people analyze this, what I call the Clinton II health care package. Because it was the people, not this House and not people in Washington but the people of the United States who essentially defeated the President's first attempt to socialize medicine. They should certainly have a chance to look at this second attempt before we vote on this bill.

Mr. Speaker, let me talk about an issue that was a very important issue in the late 1970's and is becoming important again because it is becoming an issue of some urgency, and that is the security of our country. It is the degradation in the readiness of our Armed Forces to carry out our national security policy and to enforce our foreign policy. Disturbing trends are coming out of the Pentagon right now. They are coming from all the services. The Army, the Marines, the Air Force, and the Navy are all reporting that it is more difficult now for them to recruit qualified personnel, a problem that we had in the hollow military of the late 1970's before President Reagan was elected and rebuilt national defense with the Republicans. We are seeing a degradation in our repair rates for equipment. The operation and maintenance rates, major repair of large pieces of equipment is now down to about 62 percent of what we need to be doing.

We have an ammunition stockpile that is deteriorating. We saw, at least with respect to the report that I have examined, the expenditure of almost all of our smart weapons, those weapons that can zero in on a small target and be guided very accurately to their target. We have seen that stockpile reduced to the point where in a regular conflict, in a medium-sized conflict, all those smart weapons would be used in about 1 day.

We have seen transportation problems. We understand now that we do not have a good ammunition port on the west coast, that it might be very, very difficult to bring all of our Reserves up in time to start moving transportation of heavy equipment and supplies to a regional conflict. And the recent reports on readiness that have been coming from the Defense Science Board and from the Pentagon itself say that it is going to be, very, very difficult to handle two regional conflicts at the same time.

President Clinton has decided to cut $129 billion out of national security over the next 5 years and that is below the $50 billion cut that then-President Bush, then-Secretary of Defense Dick Cheney and then-Chairman of the Joint Chiefs Colin Powell decided to make a couple of years ago. So they went $50 billion under the projected 5-year plan and then President Clinton came along, having been elected, and decided to cut $129 billion below that plan and that, my colleagues, is hollowing out our forces.

Remember that phrase in the 1970's, the hollow forces? We are hollowing out right now America's military capability.

□ 1710

Back in the 1970's we had young Navy families that were on food stamps. They were being told by their commanders not to be ashamed to line up and get food stamps to supplement the hard-earned pay they received for sometimes working 10, 12, and 18 hours a day.

Well today our military families are up to $27 million annually usage of food stamps. They have gone up $3 million in just the last year.

I will continue this special order tomorrow and get into other areas.

SMALL BUSINESS ADMINISTRATION PROMOTION OF EMPLOYER MANDATES

The SPEAKER pro tempore (Mr. MANN). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, when I came here 2 years ago as a former small business owner, I thought that I would have an opportunity to work to help small businesses. Unfortunately, that doesn't seem to be the case.

This morning, I was going to offer an amendment to a bill—H.R. 4801—which was scheduled to be debated and voted on today, but suddenly the entire bill was removed.

My amendment was simple: It would prohibit the Small Business Administration from spending taxpayer dollars to promote employer mandates.

This amendment is necessary because the SBA spent over $100,000 in fiscal year 1994 funds to promote employer mandates—telling small business owners that employer mandates would be good for them. The SBA has also spent appropriated funds to send Erskine Bowles, the SBA Administrator, to town hall meetings to spread the word about the benefits of employer mandates.

What is disturbing about this is that the SBA is promoting employer mandates in spite of the fact that employer mandates will hurt the very small businesses that the SBA is supposed to represent.

In case you have any doubt about this fact, just look at the evidence: Almost every credible study predicts substantial wage and job loss as a result of employer mandates. A study by the CONSAD Research Corp., for example, predicts that over 1 million workers could lose their jobs as a result of employer mandates. Another study, done by the State of California, predicts that over 3 million employees will lose their jobs.

The evidence also shows that the owners and employees of small businesses are overwhelmingly opposed to employer mandates. For example, in six out of seven White House conferences on small business, held in seven different States, small business owners voted overwhelmingly to reject employer mandates.

In other words, the SBA has spent taxpayer dollars to promote a policy which the evidence shows will be bad for small businesses and which the owners and employees of small businesses overwhelmingly oppose.

My amendment would address this shameful situation by prohibiting the Small Business Administration from spending funds authorized by H.R. 4801 to promote employer mandates.

Then, the Rules Committee, which decides what amendments are allowed to be offered on the floor, voted to prohibit me from offering my amendment—even though the amendment was ruled perfectly germane by the House Parliamentarian.

In response to this ridiculous situation, I was going to offer a motion to recommit before the vote on final passage. This motion would have forced the House to vote on my amendment.

Not surprisingly, just as I was preparing to offer my motion, the Democratic leadership—without any warning—suddenly decided to pull H.R. 4801 from the floor—despite the fact that we had already started to debate the bill last Friday.

Why did they do this? The answer is simple: They are terrified. They are terrified that if the issue of employer mandates comes up for a vote in the House, this body might vote to reject this job-killing proposal. In fact, they are so terrified that they won't even let my amendment—which is a simple amendment dealing with the activities of the SBA—come to the floor for a vote.

This is an example of why the American people are so frustrated with Congress. This body is supposed to debate issues, but we give the American people the impression we avoid tough questions by delaying and hiding behind parliamentary rules.

For this reason, I urge the leadership of this body will come to its senses and allow us to vote on my amendment. I think we owe that to the owners and employees of small businesses.

GUARANTEED HEALTH INSURANCE ACT OF 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes.

Mr. DURBIN. Mr. Speaker, last week the leadership of this House presented the Guaranteed Health Insurance Act of 1994, the final version of a bill which Congress has been working on for almost 2 years.

When compared to some of the earlier proposals, I believe this bill offers more of what the American people want and less of what they do not want.

First and foremost, as this chart illustrates, this plan will guarantee health care that can never, even be taken away, not when you lose your job, not when you are struck by a serious illness, not when the insurance company wants to cancel your coverage.

I had a town meeting in Taylorville, IL, about 10 days ago. A gentleman was standing by the side of the room and he said to me, "Do I look to you like I am unhealthy?" I said no, not at all. He said, "Well the fact is, despite my young age, I had a stroke 4 or 5 years ago." He said "it was very minor. He said, "It has not affected anything I can do, but the fact that I have had a stroke means that I cannot buy hospitalization insurance."

If you think that is a exception, I am afraid it is not. There are 81 million Americans today who have a preexisting condition. They have been treated for cancer. They may have had some back surgery. They may have had a heart problem. They may be diabetic, a series of different things that might disqualify them from hospitalization insurance or in fact cause them to pay premiums their families cannot afford.

The interesting thing about the health care reform debate is that so many Americans, fortunate as I am and the other 9 million Federal employees who have Federal health insurance programs, we tend to tune out this debate and say this is somebody else's problem. This is an issue for somebody else to worry about. But in fact, each of us is an illness away from being as vulnerable as the man who came to my town meeting.

What we are trying to do with health care reform is say once and for all to the health insurance industry: You cannot do this to the American people. You have to put us all together in community rating, the same pool, spread the risk and not cut off a family because the child that is going to be born to them may be born with a problem. That to me is not only fair, it is sensible, and it is the kind of reform we will achieve with the health care reform act before Congress.

It makes sure in this plan that every single American is covered. That is the only way we can control costs. We have got to get every American under the tent paying their own way as best they can.

Today, 37 million Americans are uninsured. People show up for treatment when they are in serious trouble, and we end up shifting the cost of this treatment to someone else.

The gentleman from California who spoke before me said small businesses should not be required to insure their employees. I beg to differ with him. Those employees of small business who do not have health insurance today are being protected by the rest of us who are paying premiums and taxes and are in fact picking up the cost of those businesses which do not cover their own employees. I do not think that is fair, and it certainly does not give any peace of mind to the employees of small businesses.

I do believe, and this bill believes that we should help the smaller businesses which may face serious problems in paying for health insurance so if they have a lower number of employees we give them a helping hand to pay for that insurance. But it is only fair that every business accept a shared responsibility, employers and employees, and that this become the American way of doing things. Too many Americans think the 37 million uninsured are poor, unemployed young people. All three are wrong. The poorest in America are already taken care of by Government health insurance.

□ 1720

Eighty-five percent of the uninsured in my district work for a living at a job that does not provide health care benefits. They are not young people. Over half of them are over the age of 30.

I did a television show last week with a colleague of mine in Illinois. We made this point on the air. When it was finished a young lady at the studio nearby came up afterward and said, "I am glad you made that point, Congressman. I am a single mother, two kids, no health insurance for 6 years. I show up every day behind that camera and do my best to make a living."

Those are the folks who should be protected. Those children should be protected. This plan will make sure that that happens.

It is going to guarantee our freedom to choose our own doctor. I want that freedom. I want to make sure I can pick the right doctor for me, the right doctor for my family. I also want to make sure that I can afford that doctor, once making that choice, and this health care reform plan will do that. It also says if you are set about changing jobs, insurance will stay with you.

Do you know that two-thirds of the American people when asked say they are afraid to change jobs for fear of what it might do to their health care benefits?

I would conclude by saying this health care reform plan we are proposing meets the basics the American people are looking for. I implore my colleagues and all those listening to listen closely to this debate during the next several weeks.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Haller, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 2457. An act to direct the Secretary of the Interior to conduct a salmon captive broodstock program; and

H.J. Res. 374. Joint resolution designating August 2, 1994, as "National Neighborhood Crime Watch Day."

The message also announced that the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 868) entitled "An Act to strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales with a telephone, and for other purposes".

THE 50TH ANNIVERSARY OF THE WARSAW UPRISING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise tonight to pay tribute to the courageous people of Poland on their upcoming 50th anniversary of the Warsaw Uprising. This is the fifth in a series of special orders I will give this week to bring attention to this event. I will continue this evening by reading to the membership, excerpts from the book, "Forgotten Holocaust: The Poles Under German Occupation, 1939–1944," by Richard Lucas.

The turning point of the uprising was the Polish defeat in Old Town, which began in earnest on August 19 and went on until September 2.

One source estimated that during the two-week battle 3,500 to 4,500 tons of shells fell on an area three quarters of a square mile, perhaps the largest amount of steel to be expended in so small an area during the war. The buildings of the sector soon became the collective graves of thousands of men and women who were buried alive. By the third day of the struggle, out of the 1,100 buildings in Polish hands, 400 had been completely destroyed and 300 had been burned.

There was only one way left for the 1,500 defenders of Old Town to get out. That was the sewer. There never had been anything but a small detachment which made the trek through the sewers before. And to evacuate the entire detachment would mean leaving Old Town totally undefended while the men retreated underground. To make matters worse, if the Germans discovered what was afoot, a few well-placed bombs would decimate the group. And how could the 1,500 men be concealed from the enemy when the manhold they had to use was only a few hundreds yards from German positions? For Bor, it was one of the most difficult decisions he had to make during the uprising. On the night of September 1, 1,500 soldiers, 500 civilians and 100 German prisoners began the 1,700 yard trek through the slime. Old Town was defenseless. If the Germans had attacked, there would have been no opposition. Fortunately, the Germans did not enter the sector until the next day.

The level of violence increased so much during the first two weeks of September that the Germans suffered 5,000 causalities.

The atrocities returned. German soldiers used women as a screen for their advance into Powisle. There were reports that German soldiers ordered patients from the hospitals into bomb craters and then machine gunned them.

"All other wards, as well as the staircase, were on fire; the smell of burning corpses, indescribable thirst; the wounded seized medicine bottles for lack of water, one of my neighbors mad from the heat and thirst; seized a bottle of iodine and drank the contents, poisoning himself to death; for myself, together with some others, I moistened my lips with peroxide solution. So we lay until the morning of the following day when, with a superhuman effort, we managed to creep out from the burning rains."

They hoped that recent British and American diplomatic pressures on Moscow might force the Soviet Army to roll again, or at least give the AAF permission to use Russian bases for relief of Warsaw.

Ever since September 9, Bach-Zelewski substantially increased artillery barrages to convince the Poles to capitulate. Seeing Soviet military activity increase steadily, the Poles allowed General Reinhardt's deadline to pass and opted to continue the struggle, lasting political and military victory, the Poles—incredibly—put their faith in the Soviet Union for the second time in two months, and the bloodbath continued. It was to be August all over again.

Russian planes flew several times over the area but dropped their loads frequently without parachutes. The consequence was that the supplies were so damaged as to make much of them useless. The Soviet drops, however, came in time.

The Red Army had the Germans on the run.

The series of attempts to cross the river in mid-September ring of Stalinist cynicism: He used Polish troops who were expendable in an operation that he probably never intended to support strongly enough by Soviet artillery and aircraft and by effective liaison with the AK. To Stalin, the crossings were a gesture only, not a genuine effort to take Warsaw from the Germans.

After repeated pleas from the Poles to the United States to aid them and Soviet refusals to allow the AAF to use their bases, which were essential for B–17s to drop supplies over Poland, Washington waited helplessly as the Germans relentlessly pounded the Varsovians. After Stalin's belated effort to aid the Polies early in September, he finally dropped his opposition to AAF use of Soviet bases, knowing by then that Polish surrender to the armada, consisting of 110 B–17s and three groups of P–51s, took off from English airfields. The big planes, flying between 14,000 and 17,000 feet, dropped 1,284 containers with multicolored parachutes. Approximately, 288 of them reached Polish hands.

The people had been on starvation rations for days. People searched vainly for the few remaining dogs to eat.

Bor told London, "Warsaw has no longer any chance of defence. I have decided to enter into negotiations for surrender with full combatants rights, which the Germans fully recognize."

On October 2, 1994, Polish representatives worked out the final surrender terms: AK soldiers were to be treated as prisoners of war. On October 5, Bor inspected his security platoon for the last time. There had been 128 of them on August 1. Now there were 36. By 9:15 AM the Home Army was ready to march out with their arms and surrender to the waiting Germans, just a few hundred yards away. A woman darted from the crowd and gave Bor a medal from the Polish insurrection of 1863. It was an emotional moment, heightened by the fact that Bor began to sing the Polish national anthem. Jeszcze Polska Nie Zginela ("Poland is Not Yet Lost"). The crowd was in tears.

No one knows for certain how many people perished in Warsaw during the two-month inferno that began on August 1. Various estimates abound. The official history of the Polish armed forces estimates that there were 21,600 military casualties in Warsaw—10,000 killed, 6,600 wounded and 5,000 missing in action. The same source places German casualties at 26,000—10,000 killed, 9,000 wounded and 7,000 missing in action. Bach-Zelewski himself estimated German casualties at 20,000. On the other hand, a respected German scholar estimated that the Germans suffered 11,000 casualties—2,000 killed and 9,000 wounded. Total losses, military and civilian, in Warsaw appear to have amounted to approximately 200,000.

The Warsaw Uprising doomed the Poles in the capital to defeat and destroyed the heart of the political and military institutions of the Polish underground, a goal that Stalin needed to accomplish before his armies occupied Warsaw and installed his own political proteges as the rulers of Poland.

NAPOLEON OF THE OZARKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I want to do, or I am signed up to do, God willing, two special orders tomorrow and the next night, and two on Wednesday and Thursday of next week.

I am getting so many requests for special orders, so I want people to know when I am going to do them and when other Republicans are going to do them and what the subject matter will be.

Tonight, during these 5 minutes, I want to touch on Haiti, but I will be doing another special order Thursday night for the better part of an hour, also on foreign/military affairs.

Tomorrow, I am going to discuss Joycelyn Elders and why I even went so far as to consider drawing up articles of impeachment against this Clinton official. Instead, I will suffice to do a special order and ask that she be removed or resign.

My title for that discussion tomorrow will be "The Condom Queen***," a title she does not seem to mind, or "The Condom Queen Must Be Deposed."

My title for the Haiti-Cuba-Rwanda-North Korea special order on Thursday, and I consider each of those nations in ascending importance, with North Korea being dominant, I will title that one, "An Indecisive Non-Leader for the New World Disorder."

On Wednesday of next week I hope to do one called "Feeding Christians to the Media Jackals." this, of course, will cover the whole Christian-bashing issue with emphasis on some of the attacks in this town by sitting Members of both gender in this House against my beloved denomination in the Christian faith.

And then on Thursday of next week I will do a special order that is a quote from Clinton's December 3, 1969, letter to Colonel Holmes, a Bataan death march survivor and one-time head of the Arkansas Reserve Officer Training Program. I will lift a line from that letter, beginning with an ellipsis "*** come to Loathe the Military." It will discuss what is now 15 specific Clinton or Clinton staff insults to uniformed military personnel. A subtitle might be "Loathe to Command, an Unworthy Chief."

Tonight I would call, taking a line from an article by Samuel Francis, which I will ask unanimous consent to put in the RECORD at the end of my remarks, "Napoleon of the Ozarks," and it is about this rush to invade Haiti.

Mr. Speaker, here is the concurrent resolution that I was an original cosponsor of, by the gentleman from Florida [Mr. GOSS], who spoke to this subject earlier tonight, called Consideration of U.S. Military Action Against Haiti. It reads:

> It is the sense of Congress the United States should not undertake any military action directed against Haiti unless the President first certifies to the Congress that there exist a clear and present danger to the citizens of the United States and the United States' interests require such action.

Today, there are dozens of sponsors of this concurrent resolution.

That sentence is very understandable, "clear and present danger," which is the title of a movie that is about to open soon that will probably be another Tom Clancy runaway box office hit, but we mean this quite seriously. Where is the clear and present danger?

What I will bring out on Thursday night is that Haiti is important but fades in importance next to Cuba, a dictatorship where there are far greater massacres, far more political prisoners, far more torture, and far more cancer in this hemisphere, the Western Hemisphere.

And don't forget Rwanda, with far more loss of life, a far more compelling issue: 500,000 murdered by machetes, and 18,000 still dying of disease many of the families of those murdered by machete killers, innocent women and children, dying in and around Goma, Zaire.

But, as bad as that issue is, one North Korean nuclear weapon unleashed at South Korea, Japan, or even our ships at sea, would produce a far larger death toll in a microsecond than has been killed in Rwanda, tragically, since April 5, when the massive killings started there.

Mr. Speaker, I would like to put in the RECORD, again for about the eighth time, my 10 commandments expanded upon what I call 7-year Secretary of Defense Cap Weinberger's 6 commandments. He did not call them commandments. He called them suggestions. I say they should be commandments, expanded to 10, on the use of U.S. combat forces.

Mr. Speaker, in closing, let me say that I am putting in the RECORD at this point the Dornan 10 commandments urging Clinton to avoid military intervention in Haiti and two columns by Samuel Francis and the brilliant Charles Krauthammer, on why we should not invade Haiti.

(From Congressman Robert K. Dornan)

DORNAN OFFERS 10 COMMANDMENTS ON USE OF U.S. COMBAT FORCES

WASHINGTON, D.C.—The United States should not send its troops into combat unless 10 stringent conditions are met, states U.S. Rep. Robert K. Dornan (R–CA/46), a member of the House Armed Services Committee.

"The potential for armed conflict in violence-ridden areas such as North Korea, Haiti and Bosnia necessitates a reasoned, sound approach for the use of American military forces," says Dornan, a former Air Force pilot.

"The first year and a half of the Clinton presidency has painfully demonstrated the fallacy of using public opinion polls to determine U.S. foreign and defense strategy. Judicious policy, not politics, should be our guide, especially when American lives are at stake."

The first six commandments were adapted from a November 1984 speech by Caspar Weinberger, the seven-year secretary of defense during the Reagan administration. Weinberger last month agreed with Dornan on a seventh commandment regarding foreign command of U.S. troops. The congressman had previously authored similar legislation. Dornan developed the last three commandments after visiting U.S. troops in Somalia a few days after the October 3 and 4 "firefight from hell" in which 18 young soldiers were killed in action.

The 10 commandments for committing U.S. combat forces are as follows:

(1) Thou shalt not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests;

(2) Thou shall not commit U.S. Combat forces unless all other options already have been used or considered;

(3) Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory;

(4) Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives;

(5) Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objectives change;

(6) Thou shall not commit U.S. combat forces unless the American people and Congress support the action;

(7) Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty;

(8) Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress;

(9) Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information, including human intelligence; and

(10) Thou shall not commit U.S. Combat forces unless the commander in chief and Congress can explain to the loved ones of any American soldier, sailor, Marine, pilot or aircrewman killed or wounded why their family member or friend was sent in harm's way.

CONCURRENT RESOLUTION CONCERNING CONSIDERATION OF UNITED STATES MILITARY ACTION AGAINST HAITI

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the United States should not undertake any military action directed against Haiti unless the President first certifies to the Congress that there exists a clear and present danger to the citizens of the United States and that United States interests require such action.

(From Congressman Robert K. Dornan)

CLINTON URGED TO AVOID MILITARY INTERVENTION IN HAITI

REPRESENTATIVES SAY NORTH KOREA IS GREATER SECURITY THREAT

WASHINGTON, DC.—Military intervention in Haiti would be an ill-advised diversion from the situation in North Korea, which poses a greater threat to U.S. national security, says U.S. Rep. Robert K. Dornan (R–CA/46).

"Foreign policy and military decisions should be made using a sound, well-reasoned approach based on the vital interests of the American people," Dornan says.

"Even though Clinton and his political advisors are addicted to public opinion polls, it's not the proper way to govern, either on domestic or foreign affairs issues. I hope the president will avoid this tendency regarding Haiti and North Korea."

Dornan and over 20 of his House colleagues are urging President Clinton to avoid sending U.S. troops to solve Haiti's political crisis. The president has not ruled out military intervention in Haiti, and the Navy is sending four amphibious assault ships to the area to assist in any evacuation efforts.

"We believe that an invasion of Haiti would be a tragic mistake, not only in and of itself, but in the context of the looming crisis in Korea," the representatives write in a letter to Clinton.

"We strongly believe that the greatest threat to our security at this point is North Korea, and that this is where our military attention should be focused. Regardless of our negotiating strategy with the North, the need for a buildup of the combined U.S.-South Korean forces is critical, for both deterrence and to save lives in the event of hostilities. This buildup will require a significant amount of manpower, equipment and financial resources."

The representatives say military intervention is not the answer to the situation in Haiti. "In the overall scheme of things, Haiti must rank lower than North Korea as a U.S. military priority," the letter to Clinton states. "The tragedy in Haiti certainly deserves our attention, but it does not lend itself to military solution."

HOUSE OF REPRESENTATIVES,
Washington, DC, June 17, 1994.

Hon. BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, we are deeply concerned over reports that an invasion of Haiti is imminent and urge you in the strongest possible terms to refrain from any such action.

Mr. President, we feel that an invasion of Haiti would be a tragic mistake, not only in and of itself, but in the context of the looming crisis in Korea. We strongly believe that the greatest threat to our security at this point is North Korea, and that this is where our military attention should be focused. Regardless of our negotiating strategy with the North, the need for a comprehensive buildup of the combined U.S.-South Korean forces is critical, for both deterrence and to save lives in the event of hostilities. This buildup will require a significant diversion of manpower, equipment and financial resources. With the defense build-down, diversion of defense funds to non-military purposes and multiple commitments around the world, we fear that our forces may already be stretched too thin. And needless to say, should hostilities break-out in Korea, it will demand all of our attention and resources. Thus, we don't need diversions.

Invading Haiti, in our view, would be a diversion. In the overall scheme of things, Haiti must rank lower than North Korea as a U.S. military priority. The tragedy in Haiti certainly deserves our attention, but it does not lend itself to military solution. The junta in Port-au-Prince, however repugnant to our ideals, poses no military threat to us. They have no military ambitions outside their borders. And even if we can vanquish the junta, what next? Any military campaign in Haiti would involve us in the complex politics of this historically undemocratic country and, we fear, bog us down there indefinitely. "Nation-building" or any variant thereof would be futile and may end in a Somalia-like disaster.

Mr. President, we in Congress stand ready to work with your administration to resolve both of these issues. However, we are implacably opposed to an invasion of Haiti. It would represent a massive perversion of our priorities. We implore you to drop any invasion plans for Haiti and to immediately order a comprehensive buildup of our forces in Korea.

Sincerely,

GERALD B. SOLOMON.
ROBERT K. DORNAN.
PORTER J. GOSS.

[From the Washington Times, July 12, 1994]

EXCUSE FOR A MILITARY INVASION OF HAITI

(By Samuel Francis)

William Gray hastened to say it wasn't so. "There is no military invasion imminent," he pronounced. The next day the New York Times reported recent military maneuvers by U.S. Army Rangers involving the simulated seizure of the Port-au-Prince airfield. Haiti being such a perennial menace to our national security, probably the Rangers just practice invading it as a routine matter all the time.

Meanwhile, U.S. refugee policy was also wobbling, with the president abandoning the more liberal approach he started a few weeks ago by announcing that no longer would we accept Haitian boat people for resettlement here. Last month, he announced we would consider their refugee claims aboard navy vessels and settle those who convinced us they really were refugees. That proved to be such a boondoggle that Mr. Clinton was forced to impose the no-admissions policy last week.

Somehow you get the impression that on Haiti the president doesn't know what he's doing—as opposed to all those other areas of grand policy in which the Napoleon of the Ozarks is such a star.

The proximate cause of the Haiti catastrophe is the insistence of the U.S. government that the country's military despots abdicate and let poor little Father Jean-Bertrand Aristide return to his democratically elected position as president. The despots, of course, have no intention of letting that happen. Whatever else may be said of them, they know something about Haiti that few Americans, liberal or conservative, seem to grasp.

One thing they know is that letting Father Aristide return will do nothing to advance "democracy," let alone justice, which is not necessarily the same as democracy. What the good father really wants to do is to make use of his mass political base to smack around the Haitian oligarchy the despots represent.

That is more or less what he did in the few months he was in power, when he presided over, if he did not actually encourage, the most vicious butchering and terrorization of his political opponents, and today he would have even more scores to settle than then. The insistence of the Clinton administration, following the Bush administration, that all would be swell if the mean old despots departed and the good father returned is nothing more than a legend born of a childishly excessive credulity in what "democracy" can accomplish.

The despots also know that the very concept of "democracy" in Haiti is a joke. I am not quite prepared to say that in the 200 years since black Haitian slaves chopped up as many whites as they could lay their hands on, only one Haitian head of state has actually managed to die in his bed naturally, but after searching various encyclopedias on the subject, I am unable to name any more who did.

That one, possibly the most brutal of the whole bunch, was the late Francois "Papa Doc" Duvalier, who achieved this triumph of Haitian statecraft by making certain everybody who even looked like a political rival died before he did. Hain has not seen statesmanship of his caliber since.

I do not say Haiti is not capable someday of evolving a stable and decent government, and maybe democracy too. I say only that there is no evidence that it can, that what Father Aristide offers is not that and that to base a "policy" (if that is the proper term for the dismal and disastrous record of incompetence Mr. Clinton has so far chalked up) on "restoring," "creating" or "building" "democracy" on the island, and to involve American troops in a war to do so, is irresponsible.

In the United States in the 1990s, we talk about going to war with a different country just about every month and for the most banal of reasons; but in Haiti, it's beginning to look like Mr. Clinton might do more than just talk. If he's serious about an invasion, he needs to be stopped now, and Congress and the American people need to let him know he will be.

[From the Washington Post, Aug. 2, 1994]

GOODBYE MONROE DOCTRINE

(By Charles Krauthammer)

The Clinton administration, preparing for a possible invasion of Haiti, went to the United Nations to ask for prior approval. Sunday it got it. Seems like a simple act of international propriety. On the face of it, Clinton is merely aping what George Bush did before the gulf war.

But Iraq is very different from Haiti. Iraq is far away. It had a formidable army that threatened serious fighting. The United States needed allies to share the perhaps considerable burdens ahead. It needed Saudi territory to stage a counterinvasion. To induce others to sign up, it needed international cover.

Cover, leverage, allies: In Haiti none of this applies. It is a pushover perched on a tiny nearby island. The invasion will be almost unopposed. There is no need for allied soldiers or foreign staging rights.

In fact, the appropriate analogy is not Bush in Iraq but Bush in Panama. Bush determined that Noriega was a threat to American interests. Confident that he had right, power and American interests on his side, he did the job and asked questions later.

The Clinton administration is deeply uncertain about right, distrustful of American power and disoriented regarding American interests. It is, accordingly, the first administration in U.S. history to ask United Nations approval for intervention in our own hemisphere.

And Clinton did not just ask permission. He had already dealt away American interests in order to get it. In a deal largely unremarked except by Lally Weymouth in The Post [op-ed, July 24], the United Nations last month quietly approved Russian "peacekeeping" troops in formerly Soviet Georgia. Russia had threatened to veto U.N. approval of a Haiti invasion if refused a free hand in its former colony.

These are the same Russian troops that stirred up the Georgian trouble they are now charged with pacifying. Their role is less to keep peace than to restore a small piece of the old Soviet empire and signal Russia's intent to reestablish hegemony over the rest.

The Russians might restore their hegemony regardless, but they covet international recognition of their power grab. And in the Security Council we gave it to them. In return for what? For Haiti—a living hell for which we have no desire and even less need.

Only last month, Clinton led off a string of justifications for intervention in Haiti by saying, "First of all, it's in our back yard." One does not ask permission to put out a fire in one's own back yard.

We come here to the root weakness of the Clinton foreign policy: It has no conception of the prerogatives of power. It appreciates the obligations of power—in Rwanda, for example, the world cries out for someone to "do something" and Clinton (rightly) rushes in. But with obligations come prerogatives. And to these prerogatives the administration is dead.

It is the prerogative of a great power to do what it must to secure its interests without asking. China sends warships to secure a South China Sea oil patch it claims from Vietnam. Deng Xiaoping does not ask for U.S. approval. Yet Clinton, absurdly, seeks Deng's approval to act in Haiti. (Sunday, at the Security Council, he got an abstention.)

Moreover, unlike China, we are a global superpower. We shoulder unique responsibilities. We are not a country like any other. Yet the Clinton administration, running around the U.N. gathering signatures for our Haitian send-off, acts as if we are.

Such thinking comes naturally to the lawyers who make up the Clinton team. After all, here everyone is equal under the law. When Warren Christopher represented his clients, the rules applied to everyone.

But the international system is utterly different. In that arena, the players are radically unequal, the law is but a piece of paper, and there is no outside source of enforcement. In fact, the only enforcer is the big guy on the block, the superpower, which in this post-Cold War era happens to be us.

It is we who take the risk to restore order when disorder arises. It is we who bear the brunt of war to secure the oil supplies of Japan and Germany and the world's other free riders. It is we who mount the great air relief to Rwanda.

We are not an ordinary player. We are the world's fireman, on whose exertions the rest of the world rides free. In return, we are entitled to certain prerogatives. When our interests are threatened, we have well earned—from those who benefit from our actions elsewhere—room to maneuver. A nation with such global burdens both needs and is owed the prerogative to act expeditiously and independently to secure its own interests.

A great power does not ask for such prerogatives. (Once you've asked for it, you've forfeited it.) A great power feels it, asserts it, exercises it. Yet this administration does not move unless the United Nations nods, Micronesia applauds and a dozen allies hold our hand.

I happen to believe that invading Haiti is a bad idea. But if Clinton thinks Haiti is an important national interest, he should act. Scrounging for prior approval from Security Council members Djibouti and Oman is not an act of propriety. It is an act of flaccidity. It betrays not just a lack of self-confidence but a profound misapprehension of America's place in the world.

THERE HAS TO BE A BETTER WAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, we learn oftentimes that the slogan "There has to be a better way" is more than a slogan. It should be a lifestyle for the Members of Congress in both this House and in the other House. We oftentimes will take a very complicated approach to something that, in reality, could be quite simple.

Mr. Speaker, that is why this evening I rise in support of H.R. 4592, which is a bill that I have cosponsored along with the gentleman from Wisconsin [Mr. SENSENBRENNER]. This bill is called the Tax Rebate to Fight Crime Act. It is very simple. It goes on this philosophy: that the best people who know how to fight crime are those who are closest to it, the local sheriffs, chiefs of police, mayors, county administrators, county boards, city councils, and eventually the Governor, of course.

This bill recognizes the fact that this body is not in a position to preempt the wisdom and knowledge of, for example, the chiefs of police on how to fight crime.

What does this bill do? Mr. Speaker, this bill says that 2 percent of all of the individual Federal income taxes that are paid by each State is rebated back to the State by an automatic check as soon as the money comes in to the Federal Government, to the Department of the Treasury.

That means, for example, the State of Illinois would receive somewhere between $600 and $700 million each year with no strings attached, a continued amount of money obviously that will increase as the economy grows and more income taxes are paid.

Now, what can the State and local government officials do with that money? First of all, there are no Washington strings attached, and today we have the ignominious splendor taking place in this country where the American taxpayer sends a tax dollar to Washington where it is legally shrunk by 41 cents, and the remaining 59 cents is held up and waved by a Federal bureaucrat to the State and local officials who are saying, "If you want this money, which really belongs at home anyway, then you must apply for a grant and at our discretion," at the bureaucrats' discretion, "then the money will go back to the States from whence it came initially."

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This bill says eliminate the bureaucrats in Washington and let the people back home determine how to spend that money. The problem with the present crime bill, the $33 billion crime bill, is that it sets up a huge group of programs; in fact, 50 of the new programs being set up are programs that are already in existence of the some 600 Federal programs already available to the States and local governments.

What does this bill do? It says the State and local officials can use the money to pay police officers, to build and operate prisons, to pay criminal court judges, prosecutors, criminal defenders, or even rebate the money back to the taxpayers.

Mr. Speaker, this is a very simple bill based upon a very simple concept: that chiefs of police, mayors, law enforcement officers are in a much better position to know how to spend taxpayer dollars than 535 people located here in Washington, DC.

A unique approach, yes, but it speaks of something called federalism, the division of power, the separation of powers of the Federal Government from the State and local governments. It empowers State and local officials to use the taxpayer dollars, keep them at home and battle crime.

When I talk to the States' attorneys back home about how a bill like this would work, they say, "Hooray, we need something like that," because in many instances the money that a State's attorney will need will be to hire clerks in the circuit court's criminal division to take care of the amount of paperwork. Some States' attorneys, chiefs of police want to increase jail space, some want to have more probation officers, some need more prosecutors, some need more cops. But leave those decisions, leave all those decisions, let us put feet to the proposition that crime is local, that crime is best fought at the local level. Let us empower our State and local officials with the money and means, without red tape, to fight crime.

The documents referred to are as follows:

[From the Heritage Foundation Issue Bulletin, Aug. 2, 1994]

THE CRIME BILL: FEW COPS, MANY SOCIAL WORKERS

INTRODUCTION

Congress this week will vote on final passage of a crime bill which purportedly puts 100,000 new police officers on the beat, funds the construction of new prison space, and directs billions in federal funds toward "crime prevention." In reality, the bill provides funding to increase the number of uniformed police officers by only 3 percent nationwide, places a huge new unfunded mandate on the states, and will finance an expensive new layer of social welfare programs.

Specifically, the bill:

Guarantees full funding for only 20,000 permanent new cops over the next six years, or one-fifth the number claimed by the bill's supporters. This is equivalent to adding about one new officer to every police department in the nation.

Assumes state and local governments will pick up as much as $33 billion in new expenditures over the next six years if the bill is to meet the target of 100,000 officers.

Gives the Attorney General the discretion to decide which cities and states receive the Community Policing funds. This invites handouts to politically connected big-city mayors and politicians.

Adds at least $8.7 billion in new social spending, and nearly 30 new social programs, to a welfare system which has cost taxpayers over $5 trillion since the War on Poverty was created in 1965.

Will put two new social workers on the street for every new cop it fully funds.

In short, the crime bill turns out to promise more cops on America's streets. In reality, it means few cops, a big tab for cities, and plenty of new social programs and social workers.

WHY THE NUMBERS DO NOT ADD UP

The most publicized portion of the crime bill is the $8.845 billion Community Policing grant program. The White House claims this measure will put 100,000 now cops on the street over the next six years. But a closer inspection of this claim reveals that the figures simply do not add up.

The intention of the Community Policing grant program in reality is to provide "seed" money to local governments to hire 100,000 new police officers, not to fully fund these positions. So the bill assumes that once these new officers have been hired with Washington's help, state and local governments will find the billions of new dollars to keep them on permanently. The bill actually provides just one-fifth of the funds needed to keep 100,000 new cops on the street for the next six years, leaving the states with the massive cost of fulfilling the bill's promise. Even worse, the bill allows local governments to use some of these Community Policing funds for purposes other than hiring new cops, so there is no guarantee that even 20,000 new officers' positions will actually be funded and cops hired.

Based on salary levels for police officers and overhead costs reported by police departments, the cost of putting one new cop on the street for one year in a high-crime area is estimated at between $70,000 to $80,000.[1] Therefore the actual cost of putting 100,000 cops on the street is at least $7 billion per year, or a minimum of $42 billion over the six-year life of the bill. But the crime bill provides only $8.845 billion over the six-year period, or $1.475 billion per year. Thus in order to permanently place 100,000 new police officers on America's streets over the next six years, state and local governments who apply for Community Policing grants will have to supplement Washington's contribution with some $33 billion of their own funds.

This highly publicized crime bill provides only one-fifth the necessary funding for 100,000 permanent new police. If cities do not cut back on other services or raise taxes, the funds provided in the bill can keep at most just 20,000 permanent cops on the street over the next six years. There are some 600,000 uniformed police officers nationwide, so 20,000 represents an increase of just 3 percent, or the equivalent of adding just one new officer for every police department in the nation.[2]

Another way to look at this financial sleight-of-hand is to calculate how much funding the bill provides per police officer per year. On average, the bill authorizes $1.475 billion per year for 100,000 new officers. This amounts to just $14,750 per cop per year—roughly the poverty level for a family of four. Since it is ridiculous to think that quality police officers could be hired for minimum wage salaries, state and local governments would have to absorb the remaining roughly $60,000 per year cost of hiring and keeping each of these new cops. To meet the 100,000 target, local governments would be responsible for some $6 billion per year in total new costs.

Supporters of the bill no doubt will argue that local governments will not be stuck with a big tab. They might say, for instance, that the bill caps at $75,000 the amount local governments may spend initially to hire a new cop and it also limits the federal share of this cost at 75 percent. But this changes the real-world scenario very little. If, for instance, Chicago were to spend $75,000 to hire a new cop and contribute 25 percent of this cost, the federal share of this new hiree would be over $56,000. Now, dividing this amount into the $1.47 billion the bill provides annually for new police would mean it funds only 26,222 permanent new cops. This is still far short of the 100,000 promised.

However the computation is made, the result is the same: the bill actually funds only a small fraction of the promised new officers.

An often overlooked detail, moreover, is the fact that the bill does not require local governments to use all of these Community

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Footnotes at end of article.

Policing funds to hire new cops. Indeed, 15 percent of these funds can be used for a variety of social or community activities only tangentially related to law enforcement, and 20 percent of the remaining funds can be spent on equipment, computers, and overtime for existing officers.

For example, cities may use the funds in the following ways:

To enhance police officers' "conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community";

To "develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime"; and

To "develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy."

Cities actually have an incentive to use Community Policing funds for other purposes because such programs will not add the future costs of a police officer's pension and other benefits to the municipal budget. Spending the money on items other than new police officers means a city does not have to find ways of covering a funding shortfall after the first year of the bill. Such an incentive system virtually guarantees that fewer than 20,000 new cops will be hired, let alone the purported 100,000.

Supporters of this bill, moreover, have been less than forthcoming in noting that 75 percent of these Community Policing funds can be distributed at the discretion of the Attorney General. This means that there is no guarantee that the funds will be targeted toward cities that are in greatest need of new police. It does mean, however, that the Administration may play politics with these funds and reward politically loyal mayors and local politicians, rather than addressing areas of greatest need.[3]

SOCIAL WELFARE PORK

Roughly $8.7 billion of the funds in the crime bill is dedicated to creating nearly 30 new "crime prevention" programs ($7.4 billion for programs identified as "prevention" and $1.3 billion for new "Drug Courts"). It turns out that many of these new programs are little more than social welfare pork barrel, adding a new layer of programs onto a welfare system that already costs taxpayers at all levels of government over $310 billion per year.[4]

Unlike the Community Policing grants, these new grant programs are permanent and will not require matching funds by local government or the private social service organizations who receive the funds. This means that recipients will have more incentive to apply for these funds than the grants intended for new cops. Thus new social service workers will be much less costly for jurisdictions to hire than new police officers. Indeed, if all this new social welfare money goes toward hiring new social workers, the bill will add a minimum of 40,000 social workers per year—at least two social workers will be hired for every cop the bill puts on the street.[5]

The assumption behind these new social programs is that potential criminals can be steered away from a life of crime by targeted government initiatives aimed at altering their environment. In other words, crime will be reduced if government provides community development aid, social services, job training, and recreational activities.

This argument may sound attractive to many taxpayers. But it belies the fact that society has spent $5 trillion on the War on Poverty since 1965, yet the national crime rate stands at its highest level ever. As shown in Chart 1, welfare spending since 1965 has grown in real terms by 800 percent while the number of major felonies per capita today is roughly three times the typical rate before 1960.[6] While these two sets of statistics may not be directly correlated, welfare spending appears to have little impact on reducing the crime rate.

Chart 2 shows that government already has spent lavishly on programs identical to the ones created in the new crime bill. Since 1965, government has spent $161 billion on community development and economic aid programs, $202 billion on social service programs, $204 billion on job training programs, and $292 billion on targeted education programs. These are exactly the types of federal assistance boosted in the crime bill. They have not cut crime. Moreover, the new programs created by this bill will duplicate at least 50 existing federally funded "crime prevention" grant programs. Among other things, this will compound the overall problem of duplication and overlapping programs identified last year by Vice President Al Gore's National Performance Review. The Performance Review found that:

Some "14 separate government departments and agencies invest $24 billion a year, through 150 employment and training programs."[7]

Washington spends "about $60 billion a year on the well-being of children. But we have created at least 340 separate programs for families and children, administered by 11 different federal agencies and departments."[8]

"Much of Washington's domestic agenda, $226 billion, to be precise," is allocated to state and local governments "through an array of more than 600 different grant programs."

Ten such examples of the 30 new programs added to the current 600, include:

1) Local Partnership Act. This new community aid program will hand out $1.8 billion to local governments on a formula basis. The formula is written to reward areas with high tax rates, high unemployment, and low personal income. In other words, cities which have overtaxed their residents will benefit most from the Local Partnership Act.

2) Model Intensive Grants. This program gives the Attorney General the discretion to award $895 million to 15 high-crime areas. These funds are intended to accomplish the vague goals of relieving "conditions that encourage crime" and providing "meaningful and lasting alternatives to involvement in crime." In reality, this is likely to be a traditional pork barrel program because priority will be given to areas marketed by the "deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting * * * or employment services offices."[9]

(3) Youth Employment Skills (YES). This problem will spend $650 million to "test the proposition that crime can be reduced * * * through a saturation jobs program." The 150 job training programs already being funded seem to have done little to reduce the crime rate. The bill's supporters assume spending more will have an impact.

(4) Ounce of Prevention. This program creates a new interagency council to distribute $100 million for summer and after-school programs, mentoring and tutoring programs, substance abuse treatment, and job placement. This program duplicates dozens of established federal programs and countless programs run by local governments and nonprofit organizations.

(5) Family and Community Endeavor Schools (FACES). This program authorizes the Secretary of Education to dole out some $270 million to "community-based" organizations. These organizations can use the funds for activities such as "work force preparation, entrepreneurship, cultural programs, arts and crafts," dance programs, and supervised sports programs. However, community organizations "may not use such funds to provide sectarian worship or instruction."[10]

(6) Midnight Sports. This well-publicized $40 million program directs the Secretary of Housing and Urban Development to establish so-called midnight basketball leagues. The bill specifies how many teams must be in a league, how many players must be on each team, and requires that at least half of the players must live in public housing. Youth involved in this program must live in an area with a substantial drug problem, high crime rates, large numbers of people infected with AIDS, and high illegitimacy rates. One problem apparently overlooked by those supporting the midnight league is that many of the cities toward which this program presumably is targeted have curfews for adolescents.

(7) Violence Against Women. This $1.8 billion program funds an array of grant programs intended to assist law enforcement agencies and nonprofit groups develop strategies to prevent crimes against women. A large portion of these funds must go to "nonprofit nongovernmental victim services." The bill establishes the Attorney General's Task Force on Violence Against Women at a cost of $500,000. The Task Force may hire an Executive Director at an annual salary of some $69,000 (GS–15 level) and pay consultants up to $200 per day.

(8) Drug Courts. Though not officially designated a "prevention" program, this $1.3 billion grant program is no different from the other new social programs. The Drug Court grants are to be used by local governments or private organizations involved in "continuing judicial supervision over specified categories of persons with substance abuse problems, and that involve the integrated administration of other sanctions and services." These "other services" include: substance abuse treatment, health care, education, vocational training, job placement, housing placement, and child care or other family support services.[11]

9) Juvenile Drug Trafficking and Gang Prevention Grants. This $125 million program authorizes the Director of the Bureau of Justice Assistance to make grants to local public and nonprofit organizations for projects intended to steer young people away from gangs and drug activities. Such projects include "school programs that teach that drug and gang involvement are wrong," and "programs such as youth sports and other activities, including girls and boys clubs, scout troops, and little leagues."

10) Missing Alzheimer's Patients. The bill approves $3 million in grants to establish a Missing Alzheimer's Disease Patient Alert Program. Many Americans may approve of such an effort, but it is unclear how this would eliminate violent crime in America's streets.

CONCLUSION

The crime bill conference report Congress will act on this week does not live up to supporters' promises to put 100,000 new police officers on the beat. At best the bill will fully fund only 20,000 permanent new cops. Most likely it will mean far fewer because of the strong incentive it gives local governments to use the Community Policing grants for other programs. Still, the bill is good news for social workers: the bill funds a massive expansion of the social welfare system and could put two social welfare workers on the street for every new police officer officer.

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Research interns Brad Hodge and Bill Knee assisted in preparing this study.

The Crime Bill's New Social Welfare Programs

New social program	*Six-year cost ($ millions)*
Local partnership act	1,800
National community economic partnership	300
Model intensive grants	895
Ounce of prevention	100
Child-centered activities	630
Family and community endeavor Schools (FACES)	270
Violence Against Women	1,800
Youth Employment Skills (YES)	650
Prison Drug Treatment (State)	300
Prison Drug Treatment (Federal)	125
Juvenile drug trafficking gang prevention	125
Midnight sports	40
Community youth academies	40
Hope in youth	20
Gang prevention services	20
Anticrime youth councils	5
Boys and girls clubs	30
Police partnerships for children	20
Safe low-income housing	10
Triads	6
Olympic youth development	50
Youth violence prevention	50
Child visitation	30
Gang resistance education and training (GREAT)	22
Missing Alzheimer's patients	3
Family unity	22
Urban parks and Recreation	5
Safe seniors corridors	2
Prevention total	7,370
Drug courts	1,300
Total new social welfare programs	8,670

Fifty current programs duplicated by the crime bill—dollars in millions

CFDA number	Program	*Estimated fiscal 1994 funding*
16.001	Law Enforcement Assistance—Narcotics and Dangerous Drugs—Laboratory Analysis	3.73
16.004	Law Enforcement Assistance—Narcotics and Dangerous Drugs Training	5.79
16.005	Public Education on Drug Abuse—Information	3.59
16.304	Law Enforcement Assistance—National Crime Information Center	7.73
14.218	Community Development Block Grants	2,871.00
16.300	Law Enforcement Assistance—FBI Advanced Police Training	13.74
16.540	Juvenile Justice and Delinquency Prevention—Allocation to states	72.11
16.541	Juvenile Justice and Delinquency Prevention—Special Emphasis	8.89
16.542	National Institute for Juvenile Justice and Delinquency Prevention	13.90
16.544	Juvenile Gangs and Drug Abuse and Drug Trafficking	5.60
16.547	Victims of Child Abuse	8.00
16.548	Title Delinquency Prevention Program	13.00
16.550	Criminal Justice Statistics Development	2.20
16.574	Criminal Justice Discretionary Grant Program	0.15
16.575	Crime Victim Assistance	65.46
16.576	Crime Victim Compensation	60.68
16.577	Emergency Federal Law Enforcement Assistance	0.22
16.579	Drug Control and System Improvement—Formula Grant	358.00
16.580	Drug Control and System Improvement—Discretionary Grant	24.76
16.601	Corrections—Training and Staff Development	2.03
16.602	Corrections—Research and Evaluation and Policy formulation	0.22
16.603	Corrections—Technical Assistance/Clearinghouse	3.50
17.201	Apprenticeship	16.52
17.250	Job Training Partnership Act (JTPA)	2,412.35
27.004	Federal Employment For Disadvantaged Youth—Summer	
36.001	Fair Competition Counseling and Investigation of Complaints	92.66
84.013	Chapter 1 Program for Neglected and Delinquent Children	35.41
84.014	Follow Through	8.48
84.047	Upward Bound	182.94
84.184	Drug-Free Schools and Communities—National Programs	15.00
84.186	Drug-Free Schools and Communities—State Grants	372.97
84.188	Drug-Free Schools and Communities—Regional Centers	15.60
84.207	Drug-Free Schools and Communities—School Personnel Training	13.61
84.233	Drug-Free Schools and Communities—Emergency Grants	24.55
84.253	Supplementary State Grants for Facilities, Equipment, and other Program Improvement Activities	
93.102	Demonstration Grants for Residential Treatment for Women and their Children	29.23
93.122	Cooperative Agreements for Substance Abuse Treatment and Recovery Systems for Rural, Remote and Culturally Distinct Populations	4.00
93.144	Demonstration Grants for the Prevention of Alcohol and Other Drug Abuse Among High-Risk Youth	57.38
93.580	Family resource Centers	5.91
93.600	Head Start	3,326.29
93.608	Child Welfare Research and Demonstration	6.47
93.645	Child Welfare Services—State Grants	294.62
93.647	Social Services Research and Demonstration	13.83
93.648	Child Welfare Services Training Grants	4.44
93.657	Drug Education and Prevention for Homeless Youth	14.60
93.660	Youth Initiative/Youth Gangs	10.65
93.671	Family Violence Prevention and Services	27.68
93.67	Community-Based Prevention Program	5.27
93.902	Model Comprehensive Drug Abuse treatment Programs for Critical Populations	40.21
93.903	Model Criminal Justice Drug Abuse Treatment for Incarcerated Populations, Non-incarcerated populations and Juvenile Justice Populations	31.00
	Total	10,605.98

FOOTNOTES

[1] According to the Census Bureau's March 1993 Current Population Survey, the nation-wide average salary for a police officer is $36,366, and for larger cities the figure is closer to $40,000. A fiscal officer in the San Francisco Police Department reported in a telephone interview that the actual cost of putting a new officer on the street is at least $71,000. Salary and benefits for this officer are some $61,000 and the cost of recruiting, examination, and background checks is at least $10,000. Moreover, for every three new officers hired a typical department must purchase one new police vehicle. This and other administrative costs are not included in the above figure. These one-time costs mean the costs of the typical officer rise to over $71,000. In addition, quotas and other hiring practices—which are mandated in the crime bill—will make the cost of hiring new officers very expensive, reports the financial officer in the San Francisco Department. To hire 50 qualified officers meeting the quota standards, that department assumes it must recruit, screen, and test at least 200 applicants.

[2] But the impact of this additional officer will be slight. Because of rotational schedules, most large city police departments require at least five officers to cover a beat in a 24-hour period.

[3] Last year, Congress passed an emergency supplemental bill which included $150 million in aid to hire 2,000 new police officers. Nearly 45 percent of these funds went to four states: California, Florida, Illinois, and Texas.

[4] Robert Rector, "A Comprehensive Urban Policy: How to Fix Welfare and Revitalize America's Inner Cities," Heritage Foundation Memo To: President-Elect Clinton No. 12, January 18, 1993, p. 17.

[5] According to the Current Population Survey, the typical social worker earns less than $23,000 annually—fully one-third less than the average police officer. Most social workers, especially those working in the non-profit agencies largely funded by the bill, do not have as generous benefits packages as unionized police officers or the training costs (The typical recreational worker earns less than $12,000 annually). This calculation assumes that the value of a social workers benefit package is half-again as much as their salary, or some $12,000, for a total cost per social worker of $36,000.

[6] Rector, op. cit.

[7] The National Performance Review, Creating a Government that Works Better and Costs Less (Washington, D.C.: U.S. Government Printing Office) September 7, 1993, p. 49.

[8] Ibid., p. 51.

[9] This specific language was contained in the House version of the crime bill (H.R. 4092) pages 111–112. The Conference Committee language was not available at the time this analysis was written.

[10] H.R. 4092, p. 120.

[11] H.R. 4092, p. 149.

THE ROLE OF TELEMEDICINE IN HEALTH CARE

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Idaho is recognized for 5 minutes.

Mr. LAROCCO. Mr. Speaker, several months ago at a hospital in St. Maries, a small town in the northern panhandle of Idaho, emergency medical technicians were concerned about a boy who had been injured in a serious car accident. Unfortunately, a radiologist is available in St. Maries only twice a week, and the accident has not happened on one of those days.

Instead of driving 90 minutes to the nearest radiologist, however, the boy was given a cervical x ray in St. Maries. The x-ray film was then put through a phone line digitizer and sent to the town of Couer D'Alene, where a radiologist accessed the image on the screen of his personal computer and examined it.

The radiologist called the St. Maries hospital with good news: There was no fracture. What could have been a much more costly and painful experience for the boy was avoided through teleradiology, a combination of health care expertise and modern communications technology. An x-ray technician in St. Maries told me later, "It was not a life or death situation for the boy. But it was wonderful because so much time was saved. And, best of all, the family was reassured."

This situation is not unique of Idaho—or to other rural areas in America. In rural America, communication can mean the difference between life and death. That is why it is important for Congress to move on this issue.

This year, Congress has a unique opportunity to improve both the Nation's health care and communications infrastructures. We can then take emergency medical services to places that, until now, have been considered off the path. Doing so will require a major commitment on the part of businesses, educators, libraries, health care providers, and all levels of government.

Mr. Speaker, Idaho's First Congressional District, which I represent, is the 19th largest in the country. It stretches 530 miles up the west side of Idaho, from Nevada to Canada. It contains the largest wilderness area in the lower 48 States. By some standards, it is one of the most rural districts in the country.

Its rural nature lends advantages: Fertile farmland, beautiful landscapes, some of the best fishing, skiing and hunting in America. There are also disadvantages, not the least of which is impaired access to health care. Idaho faces an acute shortage of primary care physicians, a lack of health care infrastructure, and vast distances to overcome. The drive to a tertiary care center is often a matter of hours, sometimes on bumpy roads that can cause excruciating pain or exacerbated injuries to a patient.

In 1994, with the advanced technology that exists to create the concept of long-distance telemedicine, there is no excuse for rural residents to keep paying for unnecessary services. There is no excuse for them to keep making unnecessary 100-mile treks.

Telemedicine may not always make the difference in saving lives. But it will make an enormous difference in saving time and money. A 1992 study by the international consulting firm, Arthur D. Little, estimated that a nationwide telecommunication infrastructure for high-speed, high-resolution video, image and data exchange among medical centers could cut the Nation's health care bill by as much as $36 billion.

The bulk of this, about $30 billion, will be saved through electronic management and transport of patient information. It has been said that for every dollar spent for health care delivery, four are spent for administration. Improved access to patient information would help cut some of those administrative dollars.

This would go hand-in-hand with Vice President GORE's initiative to create an information superhighway. But as the example of the St. Maries patient demonstrated, we do not have to rely on future technology to improve access. We can use technology that already exists. In constructing a rural telemedicine infrastructure, we should use as many off-the-shelf components as possible. We should avoid committing large amounts of capital to innovations that will be obsolete in the near future. We cannot wait for the perfect high technology development. We need to start trying and demonstrating now. We need to be building modest networks that work and fit together. We need to put the little pieces together right; then we need to connect them.

Connecting these little pieces of rural America will lead to secondary benefits: First, it will keep money flowing into small, local hospitals and allow them to stay open. Second, physicians will be more willing to practice medicine in rural areas when they know they have increased access to backups from specialists in urban areas.

All of these benefits will only be realized after Congress takes initiative. That is precisely why I introduced the Rural Telemedicine Development Act, which would establish three grant programs to encourage development of telemedicine. The first program would help create rural health care networks, with the goal of producing more of the successes that have been experienced in St. Maries, ID. The second program would strengthen the link between existing rural health care networks through interactive video consultation. The third program would help link more networks to fiber optic cables.

I am working for the inclusion of these telemedicine provisions into the health care reform legislation we will soon be considering. If our goals in reforming health care are to provide increased service and more efficient spending, then taking advantage of existing telemedical facilities offers the perfect vehicle. The health of rural Americans depends on this. As one Idahoan told me, "In rural and frontier areas, telemedicine is no longer just an option. It's a necessity."

Mr. Speaker, I know it will serve my constituents, and all of rural America, if we accept the opportunity that has presented itself and focus on rural health care delivery. I urge my colleagues to come together and create a telecommunications model for the future.

LET US MOVE FORWARD WITH HEALTH CARE REFORM

The SPEAKER pro tempore. Under he Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Maryland [Mr. HOYER] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOYER. Mr. Speaker, I want to congratulate the gentleman in the well who just spoke, the gentleman from Idaho [Mr. LAROCCO] for his idea. It is obviously a way to save money and give better health care. That is what we are about in the Congress this year.

Mr. Speaker, I am pleased to take this time to talk about health care reform. There is no more important issue confronting this Congress. In fact, in the next few days the Members of this House, Members of the Senate will probably have the opportunity to vote on the most important bill that they will vote upon during course of their career, a bill which will have a substantial positive impact on the quality of life in this country. We in the Congress have been talking about health care reform for some 4 or 5 years now. As a matter of fact, as the President pointed out, President Nixon himself back in the early 1970's proposed a very substantial health care reform bill, much along the lines of the bills that we will consider on the floor.

Prior to that, two decades before, President Truman said that we needed to give health care assurance to all Americans.

□ 1740

Notwithstanding that timeframe in which we have considered health care reform, families in America, those who work hard for a living and are having a tough time making ends meet, and businessmen and women who are seeing a larger and larger part of their payroll going to cover insurance premiums, and taxpayers across the country who feel an ever-growing bite taken out of their tax dollars for Federal, State, and local health care costs; they, too, have been talking about the problems with health care systems for years, even before we started intensively reviewing this subject some 4 or 5 years ago.

Today, Mr. Speaker, we take the floor to talk about solutions, talk about what the American people sent us here to do, take action to solve real problems confronting real Americans, not rich Americans, not poor Americans, but every American, and particularly the hard-working middle class that makes this country what it is. They go to work every day. They perform services for their employers, for their neighbors, for their communities, which make a difference. They, as we have pointed out, play by the rules, and they need to be assured that they and their families will have health care that will always be there.

The solution offered by House Democrats, Mr. Speaker, is the result of the input of literally hundreds of thousands of Americans who, over the past 5 years, have met with Members of both sides of the aisle, talking to them about their concerns, their problems, and the problems confronting their families. Democrat Representatives have held thousands of town meetings, and Republican Members have as well, to get a grasp of the problem their constituents face every day and to learn their priorities for a comprehensive solution. As caucus chairman, I have presided over nearly 40 meetings of the House Democrats on health care over the last 5 years to compare our notes and work together towards a real solution, one that builds on the current system, a comprehensive solution that works.

The package House Democrats presented last week is that solution, Mr. Speaker. First, it builds, as I said, on the current system. Most Americans who work for a living are not sure, and more than 8 out of 10 of the uninsured either work or have someone who works in their family. Eighty percent of the uninsured, a work-related context, they or their family members, but they cannot afford insurance, and their employers do not provide insurance, and their families are at risk. This reform will extend health security to each and every one of the 250 million Americans that sent each of us in this House here, who said to us:

> Go to Washington. Don't just talk. Don't point fingers at one another. Don't carp. Don't play partisan politics with my family's well-being.

They said: "Go to Washington. Put your heads together," and, as my kids used to tell me, "Be real. Do something for us that will make a difference for the security of our families."

This reform, of which the majority leader will speak in just a few seconds, this reform guarantees, not as an afterthought, but as a fundamental principle, the same or better choice of doctor and hospital than we in this House have today. This reform cuts the rapid growth in health costs through competition so that health insurance remains within the reach of average working families, average working families, average working families. They are not average at all, and, as we say, the common man is indeed a very uncommon person who has made this country what it is, but who is now concerned that the hard work he or she has extended on behalf of themselves and their families can be lost overnight with an illness that can devastate their family. The majority leader will, perhaps, speak tonight of the family crisis that he confronted when his son was stricken with cancer.

Mr. Speaker, I have a daughter. She is now 23 years of age. Two and half years ago, Mr. Speaker, she was diagnosed with a heart problem. She had an extra electrical conduit in her heart, and it made her heart beat too fast. It was life threatening. She had an operation at Johns Hopkins University, one of the great health care centers in this country, and they took out that extra electrical charge. During the course of that operation, which took 5½ hours, they went inside her heart. They never had to cut her open. With high technology, two catheters up her legs and one through her shoulder blade, they first found that extra electrical charge, and then they burned it out. She is fine today. Her mother and I did not care what that procedure cost. It was irrelevant. Thankfully we were covered by health care insurance. Thankfully she is 100-percent healthy today because of that high technology, expensive though it was, life changing, life saving and giving to our family and to that young woman's assurance of health.

Mr. Speaker, this reform guarantees, as the majority leader will point out, a minimum benefits package so that Americans, like all of us, get the care they need, and the costs are borne fairly by all, the American family. That is the concept we share, and the concept of insurance of course, Mr. Speaker, is that we share. Well, not all who are at risk have a loss or health-care-crisis-causing expense, but we surely know that some of us will, and we need a system to ensure that all of us will be covered in that event.

This reform, Mr. Speaker, achieves our goals without new Government bureaucracies, as the majority leader is going to point out, without new broad-based taxes. Democrats feel that we spend enough on health care already. We have to spend it smarter, however. For most Americans, Mr. Speaker, those with steady jobs and good health coverage, there will be little change in how we get coverage. What will change is that the cost of our premiums will not rise as fast and as far. What will change is the choice of coverage; options will be retained or expanded, and the choice will be ours to make, each and every one of us. Each and every one of us will have choice, not simply the choice of the employer, but the employee as well. What will change is that, when we go to bed at night, we need not worry that a child's cough is our first step toward financial ruin because we will be covered, covered even if that cough develops into a serious illness, even if one loses their job or changes their job.

When Members of the House of Representatives first started to focus on the problems that our constituents were having with health care several years ago, the gentleman from Missouri [Mr. GEPHARDT] was already working towards solutions. Indeed since his first days here in the House in the 1970's, Mr. Speaker, he has been a leader on health care reform engaged in making sure that average Americans were not forgotten by the system. Those years of hard work, Mr. Speaker, culminated in the crafting of a comprehensive solution to those problems, one that will not only address the specific problems of average Americans, but one that will control the ever-growing numbers of tax dollars that go to pay for health care through Medicaid and Medicare both at the Federal level and at the State level.

☐ 1750

Because just like at the family table, when we sit down to plan the Federal budget each year, an ever growing percentage of the pie is going to pay for health care. That is money that is not going to critical education programs. That is money that is not going into student loans, more police, to build better roads, or to repair our bridges.

Mr. Speaker, at this time I yield to the majority leader. No one in this House has been more responsible for making sure that the House of Representatives addressed this critical problem for Americans.

I want to congratulate the gentleman for his work, and yield for a more expansive explanation of the program that resulted, as he will point out, from the work of major committees of this House, and literally every Member of this House has had input into the creation of this plan.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. I thank the gentleman for taking this time tonight. I know we have a number of Members who want to be involved in this discussion.

This issue of health care is coming soon to the floor of the House of Representatives, and we hope and believe that this will be a historic debate in the House over the next weeks, as we in the House, and as all Americans, are about to try to make a decision about where we want to go with our health care system, whether we need to change it, whether we want to make it better, or whether we would continue the status quo.

As the gentleman has well said, our committees in the House, the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Education and Labor, and other committees, have been working for almost a year to put together the legislation that we announced on Friday and that we will bring to the floor in the next weeks.

I would like to start tonight, before I describe our plan in some detail with some charts, I would like to kind of back up and try to explain what this really is all about.

We hear a lot of terms that are confusing to people. Americans have been saying to me, people I have seen in my own district, people around the country have been saying, this thing is so complicated. There are so many issues, there is so much fine print, there are so many different provisions. They hear words like triggers, mandates, universal coverage, and lots of issues that most people do not know what they mean. They do not know what we are talking about.

So, to begin tonight, I would like to get us to all back up for a minute and talk for a moment about really what this is all about.

We all know what health care is, we all know what doctors are, hospitals, illness, But what is our health care system and how do we pay for it? How do we get health care?

Before World War II in this country, we got health care by going to a doctor usually. And if we went to the doctor, we had to have money, and we paid the doctor for whatever needed to be done. If you did not have the money, you probably did not go to the doctor, because you could not afford it.

In the thirties, we decided that we did not want people to be dying and going into their old age with no money. We did not want that. So we said we would have a pension system called Social Security. Because at the time we passed Social Security in the thirties, lots of elderly people, after their productive years, had no savings, had no money. Many died destitute, without anything. So we made a decision as a country that we would have a Social Security System. We decided that in the mid-thirties. We put together a requirement, some would call it a mandate, a requirement that every employer in the country and every employee would pay a certain amount a month so that when you retired, you would have a pension called Social Security. And it has worked. It has worked wonderfully. It is the most popular program in America. Anyone who would suggest we get rid of that requirement would really be in trouble in our political system, because it is a popular program.

Then in the sixties we found that about half the American people, when they hit 65 and after, they again did not have any active income coming in, were not able to see a doctor. Half the elderly in America in 1965 did not have the money to go and see a doctor. So we made a decision as a country that we would have another requirement on employers and employees that there would be a tax paid, a Medicare tax, and that every senior citizen in the country would have prepaid insurance that they could use if they got sick and needed to see a doctor. Now almost every American citizen who is retired can go and see a doctor and know that Medicare will be there to pay for it.

Now, in 1994, 30 years after Medicare, we are discussing whether or not we should have a requirement in our society that every employer and every employee should pay something as prepaid insurance so that when we get sick, there will be something there to help us pay the doctor and the hospital to get us well.

Now, after World War II, a lot of Americans who worked decided that we needed to have prepaid insurance, and a thing called Blue Cross and Blue Shield came into being. It was set up by doctors and hospitals, and it was offered to ordinary Americans to prepay their health insurance costs. I will never forget when my mom and dad, my dad was a milk truck driver in St. Louis, my mom was a secretary, they both worked, and my dad got the Blue Cross. I was a young kid, but I remember him coming home and saying we are now in Blue Cross and Blue Shield to pay the doctor. It was a wonderful day. We were in Blue Cross and Blue Shield, and I knew that if I had to go to the doctor, we would be able to pay. It wasn't just dad getting out the wallet to see what he had. We would be able to pay through our insurance.

But then we got sophisticated, and smart insurance companies and employees figured out that if we got more well people in our plan and we segregated our people into a plan with only well people and young people, we could get a cheaper rate, because we would not have to pay for the sicker, older people. And then someone else figured out that if we could get well people together and young people together, if we could keep the cancer patients out and the heart patients and the tuberculosis patients, and all the people that had illnesses, if we could kick them out of the plan, we could have a cheaper plan.

Then we figured out, some people figured out, well, gee, I am young and healthy, I don't even need a plan. Why should I pay anything? I will just stay out of the plan because I will pick the plan up when I hit 50 years old, or maybe I will just wait for Medicare. Maybe I will be lucky and never need to prepay for health insurance, so I will just stay out. And we got more and more sophisticated and more and more smart, and we got everybody in little-bitty groups and got all fragmented and isolated and pulled apart from one another. And the whole idea of insurance from the beginning was not that we would all get fragmented, but that we would all be in the same pool. And if you are in the same pool, then you do not have to pay as much, and it is like that fire extinguisher, all of you know about fire extinguishers. You know about a fire extinguisher. When you need it, you need it. You really need it.

We have a fire extinguisher in our house, and I go by it every night and I look at it and I do not even think about it. I do not care about it. It never crosses my mind.

But if we have a fire in the House, boy, am I going to want to have that fire extinguisher. It is going to be the most important thing in my life, to get the fire out.

□ 1800

That is health insurance. You do not need it until you need it. And it has to be affordable. It has to be a fire extinguisher that you can always afford. But what we have done over the last 40 years is segment and isolate and fragment and get everybody into a different group, and we have lost the idea of community that was the basic idea of insurance.

So the main reason for this bill and the reason that we want the American people to understand and to be for this bill is that the bill is about getting everybody back into the pool, back into the prepaid health pool, on a level playing field, paying more or less the same amount of money so that when you need that plan, it is there for everybody.

Now, this is not just about rights. We Democrats are known for talking about rights. We are good at that. We believe people do have rights. And I believe people have a right to an insurance policy. But I also think to have rights you have to have responsibilities. You have to be responsible. And a lot in this bill is about responsibility as well as rights. Because we are not going to have any rights if we are not all responsible.

One of the tenets, the basic tenets of this bill is that everybody pays and everybody gets. We do not want that young person to be able to decide anymore, I do not need to afford insurance, I am well, I do not need it. You may need it. You may get sick. You may be a burden on the rest of society. So you need to pay; you need to be responsible. And employers need to be responsible.

This bill is more about responsibility than it is rights, but it is about both.

Now, let me, if I can, give an explanation of what our bill does, what it does not, address some of the concerns, some of the special areas of concern so that have everyone who is watching and in the hall tonight can understand.

First, it ensures that everyone will have a health insurance policy by January 1, 1999. Now, there are some that would say, do it tomorrow. There are some who would say, do it next year. We will get a huge debate about when to start this. I understand that.

The effort here is to find a date that is reasonable. This is a big change. We are asking people to get involved in health insurance. And I know they cannot do it overnight. And I am thinking about my small business people in St. Louis and Jefferson County, Saint Genevieve County, MO. I do not want to ask them to do something they cannot do. I want to give them time.

So we picked a time that we thought was reasonable. Two years for companies over 100; 4 years for companies below 100. So we give the small companies the longest time to get ready for this change. But on that date, it has to happen.

Now, why is it important that this requirement happen? We hear all kinds of arguments: Well, let us put in a trigger. Let us take time. Let us see what can happen.

Let me tell you why it is important. It is important because people want and deserve certainty. Business people tell me all the time, I do not care what the rules are but just tell me what the rules are. Do not keep me up in the air. I need to plan my life. I have got to plan my business. If you tell me this is something that we are all going to do, that is fine. But tell me when it is going to happen. Do not put something out there and leave it totally uncertain and we never know what is going to happen.

So I think we need to plant the flag. We need to let people know what the requirement is.

Now, we need to help, and we will get to that in a moment, small employers who are going to have some difficulty doing this. We understand that. We are not going to ask someone to do something that is impossible or unreasonable. But we need to make it certain so it is, in our bill, certain.

Second, we accomplish everybody being involved in health care coverage through employer/employee shared responsibility. And we ask employers to contribute 80 percent and employees 20 percent. Why do we pick those numbers?

Well, again, it is a reasonable solution. There are some employers that pay 100 percent today. There are some that pay 90; some who pay 80; some pay 75; some pay 70; some pay 50; some pay none.

We have got people at all different places on the racetrack. And if we are going to ask everybody to do the same thing, then we have got to find a consensus. You may say 70 would be better. Somebody else may say 50 would be better.

One of the problems we have is that a lot of people are at 80. A lot of people that have insurance are at 90, and a lot are at 100. If we go to 50, then they are going to get worried that their employers will say, well, the national standard now is 50. You need to come down from 90 to 50.

All the time today, when I go home, people who have insurance are saying, what does this bill mean to me? What is going to happen to me? Am I going to have my insurance reduced? Am I going to have to pay more? That is a very legitimate question.

So we believe if we go below 80/20, employer/employee share, that a lot of people who have insurance will feel disadvantaged, and they will be asked by their employers to go to a lower amount. So we have tried to pick what we feel is a consensus and an area that is reasonable in splitting the difference between what exists today.

Third, as I said, we have subsidies for small employers and families. I will explain more in a moment exactly how those work. But obviously, if we are asking employers and employees who have not been involved in health insurance, hey, you have to get involved, we have to help them at least for a period of transition, of 5 years, so they have the wherewithal to be involved.

Fourth, we have a program that is an option called Medicare Part C. Why have we gone to this? The reason we have gone to this is because there needs to be a place where small employers, where Medicaid patients, where unemployed people, part-time people, seasonally unemployed people, in other words, where people who have had trouble getting insurance can be certain that they can get insurance. And that is Medicare Part C. It is like the Medicare program, but it is not the same as the classical Medicare program for the elderly.

It would allow people in that program to make choices. First of all, you will have a choice if you even want Medicare C. Second, if you are in Medicare C, if that is your choice, you still have choices. You can buy a managed care plan, an HMO, as many senior citizens do today and like it very much and get a very good deal. Or many of the people in Medicare C will be able to have a voucher and be able to go out and but any fee-for-service plan. That is a plan where you can pick any doctor you want, or they can go by some other managed care plan. Or many in Medicare C will be able to buy health care exactly as the Members of Congress and other Federal employees do, through what we call the Federal Employees Health Benefit Plan, which has a whole array of choices that people will have.

We are not trying to limit people's choices. We are trying to increase choices. We are trying to foster competition. We are trying to get people to make choices between plans so that we get the best possible product, highest quality at the lowest possible price, which is, as in health care, what we want in everything else.

We believe, therefore, that we will constrain costs without cost controls, without premium caps by the very competition that we will foster.

Again, you get everybody back in the pool. You get everybody on more or less of a level playing field. And then let the competition start. And believe me, I believe with all my heart there will be a tremendous competition in this country for the health care dollars that will be there.

What are the options today? Some people say, well, you are going to have two-tier health care. Do you know what you have today? You have four tier, at least, private payment, Medicare, Medicaid and no pay, four different ways of payment.

Under our program, you are either going to have private or you are going to have Medicare A, B and C, the Medicare programs.

□ 1810

Believe me, Mr. Speaker, a furious competition is going on today for Medicare patients in all parts of the country, to get them into managed care in the Medicare Program. I was in an HMO in my own district where they are offering all the Medicare benefits, $1,200 worth of prescription drugs free, as an inducement to get into their HMO, and they are making money.

What does that tell you? That tells you that real competition produces real results, that people really will compete. Managed care plans will go after all of these people that will be covered under our health care system. Therefore, competition will make all policies of all people more affordable than they are today.

Mr. Speaker, the problem with the health care system has been that costs have been going up at 20 and 30 and in some areas of the country 40 and 50 percent a year, driving people out of health care, because they cannot afford it.

The reason to get everybody involved in the health care system, Mr. Speaker, and to have real competition, is to keep health care affordable for all Americans.

Mr. ABERCROMBIE. Will the gentleman from Maryland yield for a question?

Mr. HOYER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Speaker, in that context, the gentleman from Missouri has made a point about how this competition will work for the advantage of small companies, of small business. Some businesses, small businesses, are offering their employees insurance now.

What I am interested in is, under the guaranteed health plan that we are proposing, would small companies who do comply now be disadvantaged, and/or how can we get those companies that will have the period of time to phase in their coverage be given an incentive to join as soon as possible, so that we don't have some in the plan and some out of the plan?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I think there is a clear advantage for any company and any person who has health insurance today, first of all. I'm going to talk more about that in a minute. However, the great advantage they will get is that by getting everybody involved and by having more competition, we will have lower costs and lower cost increases for everybody who has insurance.

Small businesses today, as the gentleman knows, are getting out of health care because they couldn't afford the cost increases. Part of the reason they cannot afford the cost increases is because maybe their competitors do not provide insurance, and add their costs to their policies.

Mr. ABERCROMBIE. Isn't it a fact that many businesses are now providing insurance, and those that do not have the cost shift it onto those who are already paying their insurance?

Mr. GEPHARDT. Exactly. I often say that health care is unlike any other commodity we buy. If I go down to the corner car dealer and buy a car today, and they roll it out and I get the keys and I say, "This is great, but I don't have any money, I don't intend to pay," they will take the keys back. I will not get the car.

If I have a heart attack here in the next 5 minutes and you all take me over to the emergency room over here and I go in and say, "I don't have any money and I don't have any insurance," they will probably take care of me. Then they will add the cost of that to your policy and his policy and their policy and this gentleman's. Everybody who has a policy will have to pay for me, so I am a freeloader in that case.

It is because, as a compassionate, decent society, we are willing to say, "We are not going to have anybody die in the streets." We are going to take care of people if they have needs, even if they have no money, even if they have no insurance, and it should be that way. We are not going to change that.

As long as we allow people to not be involved in health care insurance, the people who have insurance are going to pay their bills, and it is wrong. It is wrong for them to be stuck with their bills.

Mr. ABERCROMBIE. Is it the case, then, that this plan will enable working people who cannot now afford insurance and companies who wish to be able to give their employees insurance, thus stabilizing their businesses, the opportunity to be able to get guaranteed, affordable insurance?

Mr. GEPHARDT. Absolutely. Most of the small employers that I have talked to who do not provide insurance want to provide insurance. It is not a matter of being selfish. It is not a matter of not wanting to get their people involved. They would love to do it. They just have not been able to figure out how they can afford it.

One of our main purposes here, Mr. Speaker, is to allow them to be able to afford to give their people what they both want, which is guaranteed health insurance.

As I said, we have a choice of plans. In the private sector you have to have one managed care plan, one play where you can choose your own doctor. Again, some can choose through the Federal employees' plan. Some can choose, if they want, Medicare C.

We also put an option in for a medical savings account. We have not talked much about this, but it is a very attractive option. You can fulfill your requirement in this plan by saying to your employee, "We are going to buy a $2,000 deductible major medical policy," and put the difference between buying that kind of policy and the premium for a comprehensive policy in the bank.

We get a tax deduction for doing it. It is not taxed. Then the interest can grow, and every year you can put that amount of money in the bank as the premium, instead of paying it to an insurance company, and the employee can use the savings to go pay doctors' bills. Then when they get to $2,000 a year, the insurance policy kicks in, so the options are many.

Finally, we have a nationally guaranteed benefit package. Many people have said, "Why do you have to define what the package is?"

The reason to do that is, again, if we do not get people on a level playing field, if we do not have a package that everybody is required to have, then we are going to have, again, all of the segregating going on; you know, fragmenting: "I am well, I do not need a policy," or "I will buy a little bitty policy that covers one hospital day a year, and that is it," or "I will buy a policy that really does not do anything, so I will avoid the costs."

Again, we all have to be on a level playing field, so the benefit package includes prescription drugs, hospital stays, doctor's visits, preventive care, mental health, long-term care, and it is a good program. It includes all of the different benefits that a normal, rational policy would have.

I have tried to explain this to people, and I don't know how to quite get it across. They say, "Is this a rich package or is it a meager package?" The only analogy I can think of is an automobile. I have said, "It is not a Cadillac and it is not a motor scooter." It is somewhere in between.

I guess it is a Ford Taurus, maybe. I don't want to give an ad for any car. Maybe it is a Chevy Lumina, or something. It is one of those kind of family cars that is not too big and not too little, but it works. I do not think it has a CD player in it, and it may have a radio and a heater, but it is a good car. It is serviceable, it gets the job done.

Finally, Mr. Speaker, our plan, and this is important, one of my great worries about health care is we get everybody involved and then we do not have an adequate delivery system out there to help them. They have coverage but there is no doctor in their community, there is no hospital, there is no clinic.

So we have a substantial part of our bill that is to induce doctors and health professionals to go to rural areas and to go to inner cities that are now underserved, to also build clinics in rural areas, in inner city areas, where they do not have the kind of facilities that we need. So that is a very important part of our plan.

Mr. Speaker, let me quickly go through the rest of the charts to explain. What does our plan do for the American people? It provides guaranteed health insurance that can never be taken away.

If you change jobs, you don't lose your coverage.

No preexisting conditions or exclusions.

It provides a choice of doctors.

It keep insurance costs down.

People with health coverage now stay the same or get better.

That brings me to the next chart. People, as I said, have asked, "What happens to me if I have already got health insurance. What does your plan do to me?" Your present coverage will stay the same or it will get better. There is nothing in our plan that says, "Your plan has to be reduced." If you have a good plan, you will keep it.

However, there are other advantages for passing our plan. First of all, you will not be able to lose your coverage because of illnesses, as you can today. There are a lot of plans out there that if you get sick, they boot you out. We do not allow that anymore.

Third, if you change jobs, a lot of people do not want to change jobs because the new job does not have coverage. Our plan takes care of that and says, "You will have coverage wherever you go."

Your parents in the Medicare program or your grandparents will get prescription drugs in the classical Medicare program. We are going to have a long-term care program through the States that will help us with home health care and keeping people out of nursing homes.

Again, we are going to increase the number of providers in rural and urban areas and we are going to simplify the forms.

□ 1820

A lot of people have said, how is this plan different from the Clinton plan?

First, no mandatory alliances. We listened and we learned and we decided they were not helpful.

Second, no new large government bureaucracies to run the system.

Third, no automatic price controls as Government would serve only as a backup to the private sector efforts.

Fourth, no disruption to the large majority of Americans who already have health insurance. And again we guarantee every American to choose their own doctor and health plan and we establish a Federal safety net insurance plan to ensure that an affordable plan is available to every American.

A lot of our Members have said, "This sounds great, but golly, what does it do to the Federal budget? Doesn't it bust the budget?" Well, no, it does not. The plan is paid for and I will explain in a moment how we do that, but our preliminary estimates from the Congressional Budget Office is that we reduce the deficit by $2 billion in the first 5 years and by 15 additional billion dollars reduction in deficit in the second 5 years. So the plan is not going to hurt the budget, it will help get the deficit down.

How will the plan be paid for?

First, from slowing the growth of Medicare and Medicaid which saves money that we can use for this plan.

Second, a gradual and moderate increase of 45 cents in the tax on tobacco products.

Third, we eliminate a present tax subsidy for what are called cafeteria plans, plans with many options in them that few, but some, employers have.

And, fourth, a 2-percent surcharge on private health insurance premiums.

Many have said: What does this mean to me? How do I come out if I have a family plan? If I am an employer, what are my obligations going to be?

On this chart we have example 1, a single-parent working family with 1 child with different income levels, $11,000 down to $27,600. We then have what the annual family premium would be under our plan. It would be about $800 per family. That would be the family cost. But the actual premium owed because of the subsidies for the individual families would go from zero dollars if you are a low-income family, the highest as you can see would be $69 for a family earning $27,000 and up. That would be $69 a month. For two-parent working families we can see different income levels. Again, $16,000 to $38,000. We see what the family premium is. About $1,100 per year. But with the subsidies, depending upon their income, their monthly payment would be a range from zero dollars to a maximum of $49 a month.

The next chart shows the protections for low-wage workers and other low-income individuals. Here we have different income level individuals. For these people, individuals about $7,000 a year, single parents $11,000 a year, two-parent families, $16,000 a year, they would have no premiums, no premium obligations, no cost sharing and a comprehensive package for children. If they earned more than that, $7,000 to $17,000 as an individual, $11,000 to $27,000 as a single-parent family, or $16,000 to $38,000 as a two-parent family, they would have premium subsidies, they would be helped on a sliding scale. There would be no cost sharing for pregnant women, children, and cash recipients. Again, a comprehensive benefit package for children.

Some people have asked me: Give me a hypothetical. Talk to me about a small company in my district and what would happen to them. So we picked out the Acme Shoe Co., employing four low-wage workers, what would happen to them if this bill became law? In 4 years, they would have 4 years in which they would have to do nothing. But on January 1, 1999, they would be required to cover 80 percent of their employees' health insurance. They could do it by enrolling employees in Medicare Part C, or offering a choice of at least two private plans, one where you choose your own doctor, one managed care. They could buy a medical savings account for the employee, $2,000 deductible, put the rest in the bank. Or they could put them into the Federal employees type plan. So there are options.

These payments are fully deductible to the company, they can write them off their income tax, and Acme would be subsidized for 50 percent of their employees' health care costs. So that rather than paying 80 percent, they would only pay 40 percent. Because again for 5 years we would be helping them be able to pay for their employees' health care costs.

Small business people have been very concerned about this package, and with good cause. Many of them are basically getting by, they are worried about new costs. We reduce again their premiums, depending on their size and the low-wage mix, by up to 50 percent of their requirement to buy these policies. In a minute, I will show exactly in dollars and cents what they would owe. But they also get some other benefits.

We are going to community rating. A lot of small businesses today have to pay much higher rates than large businesses because they do not have the buying power. They do not have enough people to bring to the plan. We have thrown that out. We say a small business under our plan has just as much buying power as a huge corporation. So that is a big benefit for all of our small business people.

Third, we have included a change in workers' compensation, so that we are now going to require that the health insurance be the place where we get workers' comp injuries taken care of. That is going to lower workers' compensation insurance premiums for our small employers, another benefit for small businesses, of passing our plan.

Fourth, they are going to have access to this Medicare C program. Again, they do not have to choose it. It is an option. But it is a good option for many small businesses because it is a reasonable insurance premium.

Fifth, they can buy this medical savings account again. They do not have to buy any insurance plan, they can put the money in the bank, buy a high deductible policy and help their people that way.

Finally, self-employed individuals who today get a zero tax deduction when they buy their health care under our plan will get an 80-percent tax deduction for the cost of their health care policy.

The next chart is very specific and tells exactly what our small employers and other employers would have to pay. What we did on this chart was take 18 hypothetical firms, we put down the number of employees in each firm, so we have firm 1 has 5 employees, firm 3 has 100 employees, and on down. Then we put the average wage in that firm, the first 6 firms have a low average wage, $11,000 a year, the second group of firms have a higher wage, $25,000 average a year. Then the third firms come in at about $40,000 a year. Then we have put the exact annual average employer payment per worker with the subsidies for these firms. Firm 1 would have to pay about $1,200 per year per employee. Or to analogize it to a minimum wage increase, 61 cents an hour is what it would cost them. Firm 2 would have to pay 78 cents an hour. Firm 3, $1.26 an hour, then on down, they are at about that level. So for about $1.26 an hour, firms who today do not cover people could cover their people.

We did a minimum wage increase in 1988 of about 90 cents an hour. I know a lot of small employers found that a hard thing to do, but they did it. If we are able to pass this health care plan, we are not going to have a minimum wage increase for 4 years, maybe longer. Why would we? We are asking firms to come up with the analogy of a minimum wage increase, $1.20 an hour, or 61 cents an hour or 78 cents an hour. There would be no reason to have a minimum wage increase. We would not do that, because they are being asked to do this. So it really is asking small employers to do little more than a minimum wage increase, to get all their people covered. I think it is a good deal. Plus the subsidy would go to firms who now cover as well as to those who do not now cover. For the 70-percent of small business that now buys insurance, they would get the subsidy help. We would lower their costs of insurance for the people that are already doing what they have been asked.

The next chart talks about the needs of rural America. I will not go through every part of it. Suffice it to say that we have got lots of inducements for doctors and health professionals to go to rural areas and we have got money in the program funded to build bricks and mortar and health care clinics throughout rural America.

For senior citizens, a new prescription drug benefit would be added to the Medicare Program, would provide unlimited prescription drug coverage with a $1,000 cap on out-or-pocket costs per year.

□ 1830

Finally, I do not think the alternative plans that we are hearing about will work. If I thought they would, I would be for them.

The reason is this: If we just do insurance reform, all we are doing is saying to everybody, "Hey you cannot get in that little fragmented group anymore. You have to pay for the cancer patients. We are not going to keep them out of your plan anymore. You have to pay for them." That is going to add to everybody's costs.

I do not want to pass a bill that just says to most Americans, "Hey, you are going to pay more of a health care premium. Congratulations. That is health care reform." We have to do something more than that. We have to get everybody in the pool. If all we do is say you cannot kick out the cancer patient anymore, we also have to say we are going to bring in the people that do not have coverage. If we are going to raise your premium because we are making everybody be in the pool who is sick, we will then have to bring in the people who have opted out of the system because they do not want to pay premiums so that as the premium goes up, it comes back down because we get the people involved who have opted out of the system.

So these alternative plans that say we can do this incrementally, slowly, I think are wrong. I think we will have another catastrophic bill out here where we make a lot of pretenses about what we have done, and then the people find out it does not work, we have to take it back out.

Let me sum up with this: I think this issue is the most fundamental issue that we will face while we are in the Congress. This question is about who we are and what we are for.

The gentleman from Maryland [Mr. HOYER] has told the story of his daughter. When my son was 2 he had cancer. They gave him no hope, said he would not live for 6 weeks. We could not even talk to him. He was too young to understand what was wrong with him and why he hurt so badly. We were lucky. Like STENY, we had health insurance. We were very lucky. We had wonderful doctors and nurses who helped us. We prayed. We had people who helped us in our church, at my work, at my wife's work. Everybody got behind us to help us get through this crisis.

Many a night in the hospital I met with parents. You know when you are in that kind of a situation you pour your heart out to somebody who has gone through the same travail. I would sit there as he got the chemotherapy and the drip treatment and I would talk to other fathers and mothers. Many of them were from rural Missouri, rural Illinois, St. Louis, workers. These are workers. These are not people that did not work. These are workers who did not have health insurance. They told me their great worry was not that their kid was going to die of cancer. Their great worry was that their kid was going to die because they did not have the $200 or the $300 for the next chemotherapy treatment.

Nobody in this country should be awake at night worrying that a loved one is going to die, not because of the disease but because they do not have the wherewithal to get the therapy to solve the disease.

We can do this. This is a great country, it is a just country, it is a decent country. Just as in 1935 we did Social Security and said elderly people will not die in poverty, and just as in 1965 we said elderly people will be able to go and see a doctor and will not be denied health care, in 1994 we have to say that every American has the right and the responsibility to have decent, just, fair health care. We can do this. We can get the votes for this. We can make this decision. The American people want this to happen, and we must stand in an active sense and with common sense and courage and vote for it in these next weeks.

Mr. SKAGGS. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I really want to congratulate the leader on his presentation of a very, very complex and far-reaching proposal. I think all of us are particularly sensitive to the plight of small businesses in this country right now. They are the biggest source of job creation. I know when I am home in Westminster, CO, what I hear about a lot with regard to health care reform is how is small business going to handle what they see as another cost in a world that is already squeezing them real hard.

How under the plan that you have just outlined are small businesses, who now cannot afford insurance, going to be able to handle this additional requirement?

Mr. GEPHARDT. First, again, they will have 4 years to get ready to do this. There is no requirement until 1999.

After 1999 there are 5 years in which they will be subsidized up to 50 percent of their costs by the way the plan works. In other words, they will not have to pay the full costs of their employees' policies. They only have to pay half the cost that they would ordinarily have to pay.

Third, because we are getting everybody involved, everybody's health costs will be held down. The cost increases that we have experienced in the last 10 years will not happen anymore in the future, because through real competition, everybody's costs will be held down so that the small employer who has been unable to do this, who has wanted to do it, will now find it affordable and be able to do this with their employees.

Mr. SKAGGS. Long lead time, phase-in, subsidy, cost containment.

Mr. GEPHARDT. Exactly. Now we need to start remembering also not just the people who do not do this now, we also need to remember the 70 percent of small businesses that do this. They are here too, they are Americans too, and they are asking us tonight and in the days ahead to get everybody involved. They do not want to be disadvantaged. They do not want to be competing against people that are not doing this when they are doing it. They want everybody in the pool. They want fair rules. They want everybody on a level playing field.

So it is right to be worried about those who are not doing it and what we are asking them to do. But it is also right to find a way for them to be able to afford this so it does not threaten their business. I think we have done that.

But we also need to think of the majority of small businesses that are doing this today, that are playing by the rules, that are doing the right thing and have found a way to do it.

Mr. HOYER. Mr. Leader, I thank you for your statement and for the job you have done. Our time is just about up, but in closing you might want to reference something that we discussed, and that is the cost of doing nothing.

The gentleman talked about a 2-percent premium tax. Right now the average American who has insurance is paying about an 18 percent to 25 percent premium tax for those people who are not in the system, for the so-called uncompensated care people who go to the emergency room and do not have any insurance. But somebody picks up the bill for the heat, and for the lights, for the doctors, for the nurses, for the instruments and everything, and of course it is the premium payers, whether they are business or individuals, the premium payers.

Mr. GEPHARDT. One way to say it is that we have universal treatment in this country, but we do not have universal coverage. It goes back to the story that if I have a heart attack and I go to emergency room, and I do not have any money for coverage, I get taken care of, and then it is tacked on to everybody else's bill.

The head of Aetna Insurance told me recently that he thinks in the last 10 years, 12 years, or 15 years that at least half of his price increases on health insurance have been because of uncompensated care. So half of the reason, roughly half of the reason all of us have seen all of these cost increases in our health insurance is because we have been unable or unwilling to find a way to get everybody involved in health care insurance.

Mr. HOYER. Of course, that is being made worse by the fact that thousands of people a month now are losing their health insurance, and as they lose their health insurance the number of people having uncompensated care will go up and, therefore, the cost of those of us who have insurance inevitably goes up.

Mr. GEPHARDT. So it cannot be insurance reform alone. If all we do is reform the insurance system, everybody's costs will go up. They did that in the State of New York, and instead of having 83 percent of the people covered, more people got out. So if all you do is insurance reform, you are going to reduce the number of people that are covered rather than increase it. We need to get everybody involved.

Mr. HOYER. Mr. Leader, I thank you for your statement. We will be discussing this some more as the week goes on.

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SOCIAL SPENDING AND THE CRIME CONFERENCE REPORT

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. HYDE] is recognized for 60 minutes as the designee of the minority leader.

Mr. HYDE. Mr. Speaker, the subject tonight that I would like to talk about concerns the crime bill that recently emerged from a conference committee and which we expect to debate and vote on this Thursday on the floor.

We are all baffled and angry at the dramatic increase in the crime rate. Lots of well-meaning people spend lots of effort and money searching for the root causes of crime. Some of these causes are uncontrollable. For example, the age of our population, the more young males, the more young crime; crime also might be blamed on trends that could be changed perhaps in the long run, but certainly not in the short run, such as the loss of authority over the young by families, churches, schools, and communities.

Traditional root causes are poverty and ignorance, envy, and just plain wickedness but to the criminal, the cost of crime is the risk of punishment, the real risk, not the threatened risk. The actual risk of punishment is distressingly small, and therein lies the problem.

This legislation that we recently dealt with in conference by providing for more police and more prison space does help a little, but at a disproportionate cost, an irresponsible cost, and that is what I would like to discuss this evening.

On Thursday of last week the House and Senate conferees on the crime bill completed work on a $32 billion, that is billion dollars, package. Since the conferees first met in mid-June, their role was to carefully set priorities both in policies and spending, to achieve the goal of keeping violent criminal offenders off the streets and away from innocent citizens.

Unfortunately, whatever good this legislation accomplishes is heavily offset by about $9 billion in social welfare spending, all gratifying to the root-cause school of criminology, but excessive and duplicative of existing programs.

Some have said that for every police officer this bill funds, its also funds two new social workers. You can call it money to fight root causes, you can call it revenue sharing, or you can call it crime pork. No matter what you call it, we have been investing in social welfare programs since the days of Franklin Delano Roosevelt. Since 1965 we have spent almost $5 trillion dollars on the War on Poverty and urban aid, and we still cannot say which of these programs have proven effective in fighting crime, if any of them have. We just do not know.

We do know the situation they are supposed to cure, the poverty and the crime, are worse, not better.

The conferees have funded almost $9 billion in social spending in this bill under the heading of prevention programs. Not only do these programs duplicate existing programs already in operation, we are double- and triple-funding the same programs in the bill for arts and crafts classes, self-esteem classes, and have funded multimillion-dollar grant programs based on untried and untested notions that have very little to do with crime or even crime prevention.

Society has not ignored crime-ridden inner cities. Government has showered these areas with programs and money, and too many of them are costly failures, and here our answer is more of the same.

I will focus on just one example: job training. The bill that we are talking about creates a new $900 million program, Youth Employment Skills. YES is the acronym, YES, Youth Employment Skills, and it is to "test the proposition that crime can be reduced in neighborhoods with high incidences of crime and poverty through a saturation jobs program."

But just a moment, as this chart shows, prepared by my friend, Senator ORRIN HATCH, the Federal Government already funds 154 different jobs programs at a total cost this year of almost $25 billion. Remember, a billion is a thousand million dollars. Lest you say that there may be 154 jobs programs, but none for at-risk populations targeted by crime-prevention programs, youth and the economically disadvantaged, let me inform you today nine jobs programs specifically target the economically disadvantaged at a cost this year of $2.66 billion, and if you look at this chart, you will see that 16 jobs programs specifically target youth at a cost of $4.5 billion.

The next chart will show that 6 of these 16 programs were enacted in the last 5 years. So what is wrong with adding another program? Program No. 10 or No. 17 or No. 155? What is wrong is that everyone agrees we have got too many programs as it is, and this duplication has driven up costs and reduced quality.

Vice President GORE's National Performance Review finds that the Federal Government should, and I quote, "consolidate training programs for unemployed people." In recent months the General Accounting Office, the GAO, has repeatedly attacked the proliferation of jobs training programs. In testimony before the House Government Operations Committee, Clarence Crawford, Associate Director for Education and Employment Issues of the GAO's Health, Education, and Human Services Division, states that, "The current fragmented system of employment and training programs is not meeting the needs of workers, employers, or administrators, and thus is not helping the United States meet the challenges of increased global competition." Crawford goes on to say the more than 150 programs providing employment training assistance have well-intended purposes but collectively they create confusion and frustration for their clients and administrators, hamper the delivery of services tailored to the needs of those seeking assistance, and create the potential for duplication of effort and unnecessary administrative costs.

He concludes that, "A new system consisting of significantly fewer programs affords the best opportunity for improving the quality of employment training services."

So in this bill are we helping or are we hurting? The National Commission for Employment Policy and Welfare Simplification and the Coordination Advisory Committee, both creatures of Congress, urge that Federal jobs programs stop proliferating, that they be consolidated. The Vice President, Congress' General Accounting Office, and Federal Commissions are urging streamlining and consolidation, and yet the Democrats in Congress, with the support of the President, want to create an entirely new $900 million jobs program. Incredible.

Let us focus on the nine current jobs programs for the economically disadvantaged. We will fine-tune this.

Linda Morra, director of education and employment issues of the GAO's Health, Education, and Human Services Division, finds, "The overlap we found among the nine programs serving the economically disadvantaged is an example of how overlap can occur at each level of government, Federal, State, and local, and potentially add administrative costs."

Clarence Crawford reports that seven of these programs often share common goals, serve the same categories of clients, provide overlapping services, but are administered through five separate Federal agencies, each with its own structure.

You have to ask yourself are we crazy here? Do we just proliferate programs and throw money around as though it is bacteria?

How much overlap is there? Well, one of these charts, chart D: Of the nine jobs programs for the economically disadvantaged, these are already existing jobs, not what we are going to superimpose on it, six of them assess clients' employability skills, five teach adult basic education, five tutor clients for the high school equivalency test, six provide classroom vocational skills training, five provide employer-specific training, five provide job-search training, and six provide life-skills training.

Gee, one or two programs would do fine. But do we need five and six of them all competing for the same clientele? Besides adding to costs, this duplication confuses and frustrates potential clients.

Mr. Crawford finds that, "The current patchwork of employment training programs can create confusion for those seeking assistance, because it has no clear entry point and no clear path from one program to another. The minutiae that those seeking services must master is flabbergasting."

□ 1850

In determining who is economically disadvantaged and thus eligible, there are six different standards to define low-income levels, five different definitions for family or household and five schemes of what is to be included in income.

Looking at the youth job training programs, the lower age limits range from 11 to 16 and the upper limits range from 19 to 27. This is not only confusing to clients but to administrators as well. There are now 21 separate Federal and State committees or councils to try to coordinate different programs. And it is confusing to employers wanting to hire program graduates. Clarence Crawford notes, and I quote, "Employers also experience problems with the fragmented system of employment training programs. Employers want a system that is easy to access and provide qualified job candidates. Instead, employers must cope with many programs that provide job referral and placement assistance." The competition for bodies can result in job seekers being placed in inappropriate programs. Mr. Crawford states, "For job seekers to get the most from the assistance provided, the services must be tailored to their specific needs. However, because local service providers who are under contract with local employment training programs often do their own outreach and have a financial stake in directing clients to their own program or are isolated from one another, little attempt is generally made to refer clients to other programs."

With all these programs, no one knows which are effective. Mr. Crawford states that, "Another concern with the fragmented system is that fragmented efforts to monitor the program performance and outcomes are difficult because some programs cannot readily track participant progress across programs, and sometimes within programs." Is that not marvelous? Billions of dollars for these programs, and we cannot monitor them. They overlap, they are redundant, they are duplicative, and we just keep throwing the money out, throwing the money out. It seems everyone agrees we have to reduce the number of Federal jobs programs, everybody but the Democratic drafters of this crime bill. They should jettison their ill-conceived youth employment skills program. If they just read the reports put out by their own administration, by their own legislative colleagues and pay attention to them.

Let us look at some of the big-ticket items in the bill.

The Local Partnership Act provides $1.8 billion in formula grants for direct funding to localities around the country for drug treatment, education and jobs, oh, yes. The formula takes into account the community's relative affluence, unemployment levels and rate of taxation. Larger grants would be awarded to areas with higher taxes as a percentage of their citizens' income. So the Federal Government will be rewarding communities which tax their citizens the most, a rather perverse incentive, I would say.

The model intensive grant program will distribute $895 million—see what a bargain. If it just went up another $100 million, it would be $1 billion. That is for model crime prevention programs targeted at high-crime neighborhoods.

Under this program, the Attorney General may award grants to no more than 15 chronic high-intensive crime areas to develop comprehensive model crime prevention programs that "attempt to relieve conditions that encourage crime" and "provide meaningful and lasting alternatives to involvement in crime." If they could do that, it would be well worth the money, but do not hold your breath.

Priority is to be given to proposals that "are innovative in approach." That is a favorite word of drafters of grant programs, "innovative in approach" and "vary in approach."

The purpose of this program—I guess helping the churches and the communities and helping preserve the family is too old-fashioned and traditional, not innovative enough. The purpose of this program is to see which model programs work so that the Federal Government can pump more money into them in the future—$895 million is a lot to spend on experimental efforts that lack guidelines and are terminally vague.

Now we have the Community Economic Partnership, which will give $300 million—a pittance—to the Secretary of Health and Human Services, for lines of credit to community development corporations to stimulate business and employment opportunities for low-income, unemployed and underemployed individuals, to improve the quality of life in rural and urban areas. This sounds remarkably like President Clinton's defeated fiscal stimulus program. And so, like Dracula at sunset, here it comes again.

Money is scattered everywhere without any thought of duplication, whether the program has been successful in the past or whether the taxpayer will really get any return on the spending. Here is a sampling of the "youth" programs in the bill:

The Community Youth Services and Supervision Grant Program Act of 1994 provides $630 million for after-school, weekend, and summer programs in athletics, culture, education and arts and crafts. This program is supposed to provide children with positive activities and alternatives to the street life of crime and drugs.

I imagine if some of this money could be differently allocated, a lot of these youngsters could go to Harvard with this money.

The bill gives $270 million to the FACES program, the family and community endeavor schools. I do not know how they think of these titles. I would have run out by now with these repetitive programs. Under this program, local entities chosen by the Education Secretary and the Secretary of Health and Human Services are given money to "improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, and so on."

Grants also go to community-based organizations to supervise various activities, including sports, arts and crafts—our favorite words back again—"social activities and," yes, "dance programs."

There is a $125 million grant for the Attorney General to make grants to assist children who have "come into contact with gangs," to "reach their full potential as contributing, law-abiding citizens." This program is supposed to give young people positive alternatives to gangs such as—and here they are again—"music, art, and drama activities, physical fitness training, life skills training and mental health counseling."

Now, there is an additional $40 million for a program known as "community youth academies." The Attorney General will make grants to organizations to provide residential services to youth aged 11 to 19 who are at risk of dropping out of school or coming in contact with the juvenile justice system to increase their self-esteem, assist them in making healthy and responsible choices, improve the academic performance of such youth and provide them with vocational and life skills.

Believe me, I do not ridicule the objects of these programs, I am just awestruck at their proliferation, at the repetition, the overlapping, the redundancy and the billions that they cost. Somebody ought to look at this, put this together, spend a month, 2 months, and study these and get rid of those that duplicate those that are not effective and work on the ones that are effective. But this explosion, this cornucopia of programs, all at high expense, is absurd.

Now there is also $5 million to establish "youth anticrime councils," to give students a structured forum to work with community organizations, law enforcement officials, Government and media representatives, to address issues regarding youth and violence. In other words, to sit around the gym and talk about these things, somebody gets $5 million. The councils must be composed of not more than five students and meet at least once a month. Thank goodness, there are some guidelines there.

Finally, there is the GREAT Program. GREAT stands for "gang resistance, education, and training." This program will provide $22 million for the establishment of at least 50 additional gang resistance, education, and training projects by the Secretary of the Treasury.

This bill is a grab-bag of programs worthy of the wildest fantasies of the most imaginative social workers. My point is not very complicated: Some of these programs may have merit, many may not; all are expensive. If we in Congress are to be responsible and accountable, we ought not spend $9 billion so casually.

I would support some model programs and demonstration projects tests that are carefully chosen and carefully supervised. I fear, however, that we are acting out the old banality of throwing money at a problem in hopes that it will go away.

□ 1900

We all know that this Congress and this country do not have unlimited financial resources. We must carefully and critically choose programs that will have the greatest effect in protecting our citizens.

I am afraid that this conference report is not something that we can proudly present to the American people. I would hope that we can take this bill back to the conference and get rid of its duplicative, redundant, overlapping programs and fund those that we can agree on have a real chance to work. As this bill now stands, it is not as the President said, the toughest, smartest crime bill in history. It is a bloated, extraordinarily overpriced tradeoff to every faction in the Democratic Party.

Mr. Speaker, the people deserve better, and I yield to my friend, the gentleman from Pennsylvania [Mr. GEKAS], a very valued member of the Committee on the Judiciary.

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE] for yielding, but I thank him more for the excellent presentation which he made.

I believe that the gentleman from Illinois has succeeded in demonstrating to the American people that the way we do business around here, especially with such an important issue as crime, has got to be changed. The gentleman has outlined the overlapping programs, the billions of dollars that are being thrown into these social programs, midnight basketball, and training, and arts and crafts, and all those apparent good things for the neighborhood when at the same time we have ongoing programs to meet exactly those purposes. But here is an added element which I wish to bring out with the guidance of the gentleman from Illinois, and that is this, that what we have before us is a ruse; that is, a temptation. The people who know, like the gentleman and I do, that the death penalty and strong law enforcement by the way of new and better prisons for the violent offenders, and for three strikes and you're out, and for prisons, and for a hundred thousand new policemen and so forth, the law enforcement portion of the crime bill, parts of which, or maybe all of which, we confirm and endorse, are in a dilemma because thrown into the bill are these social programs and big bucks programs that the gentleman has outlined.

What is the individual who is for strong law enforcement supposed to do? The theory is: "Well, if you want these strong law enforcement bills, you better vote for the bill, and, as an added benefit, you're going to get these social programs which we feel might be wasted." That is why we have to defeat the rule; is it not? The rule that comes up before the House will give us an opportunity to point out this difference. Some of us want strong law enforcement——

Mr. HYDE. The only way to send the bill back to conference would be to defeat the rule, absolutely.

Mr. GEKAS. Some of us want strong law enforcement, the death penalty, all these extra measures against the violent offender, and we are repelled by the social programing of the kind that the gentleman has presented here this evening.

Mr. HYDE. Let me say to my friend from Pennsylvania that it is very easy to vote yes on these programs, and then to pat yourself on the back and say, "I've really struck a blow for law enforcement." It is hard, miserable work, going through every one of these hundreds of programs and trying to oversee them, monitor them, see if they work, having to say no to people. That is the toughest thing a politician has to do, say no.

But we have not done it, and the result has been a terrible burden on the taxpayers' back, a plethora of ineffective programs that cross each other out, that neutralize each other, and the problem is getting worse. If it were getting better, I would say, "More of the same is a great idea." But the problem is worse than ever, and so obviously we are doing a lot of things wrong. We have got to find out what we can do right.

The gentleman and I know the restoration of the family is at the core of our problem.

Mr. GEKAS. Welfare reform.

Mr. HYDE. Too many kids wandering the streets, without parents watching them, latchkey kids learning their morals at the level of the street and the alley. We have horrible problems. Some of these programs are designed to give these kids something to do, but it is a terrible shame that we do not have government get out of the way of institutions that are already there, such as churches, help them once more have some authority in the community.

But I yield further to my friend.

Mr. GEKAS. I just want to point out one other thing that is a further travesty here:

The people, like the gentleman and I, and many others who support the death penalty, for instance, have before us a bill now in the form of a conference report that has been crafted—now I say this advisedly—crafted by opponents of the death penalty. That is why they have created such a structure in the jury portion of the deliberations on the ultimate penalty, death penalty, that it may well be found to be unconstitutional. Thus the opponents of the death penalty, of whom there are legion in this House and on the Committee on the Judiciary on which the gentleman and I serve, will be voting for a bill for their social programs which they want vastly to take place while at the same time voting, "Ha ha," for the folks back home, for a death penalty, showing how tough they are when they well know that it may be so entrapped with loose language that it would fall constitutionally, and thus at the end of the process, lo and behold, the liberal elements of the Congress will have voted for social programs and for a laughingly death penalty——

Mr. HYDE. Evisceration of the death penalty.

Mr. GEKAS. And the only thing left will be more spending, more——

Mr. HYDE. We conservatives have been bought off with some additional money for prisons and with additional death penalties which are utterly meaningless because most of the murders do not occur in a post office, or on a Federal reserve, or on a military reserve. They occur out on the street and are State problems, not Federal problems.

Mr. Speaker, I say, "It's posturing to say you're tough on criminals by passing a litany of death penalties which are relatively meaningless, providing some money for additional prison space, which is good, but then, to get that much, you have to accept the rest of the baggage, which is eight or nine, properly figured, billion dollars worth of duplicative, probably hollow, social programs."

Now the hundred thousand police, which is also a carrot in front of the nose of many mayors and cities in the country, has a catch to it, as the gentleman knows. The local people are going to have to pay 25 percent of the costs the first year, 25 the second, and 25 the third, and 25 the fourth, and they will find out this is a very costly benefit that they have received because, Mr. Speaker, I say to my colleagues, "When you get these additional few policemen, there are going to have to be additional squad cars, and uniforms, and locker space, and salaries, and insurance, and so it isn't all the great boon it's painted to be, but it's great posturing."

Mr. GEKAS. One further illustration on how we are confronted with a sham of a conference bill, and that is on the death penalty itself. I speak about this because the gentleman and I have been involved in this battle for many, many years. When the Committee on the Judiciary, notwithstanding the amendments that we offer to straighten out the death penalty, pass the current—the bill which eventually went before the House, we again came to the floor, and we were successful with an overwhelming House vote to reinstate into the jury instructions on the death penalty the direction that the jury must take to take the aggravating circumstances that occurred in a killing, like the rape, or multiple killings, or the use of horrible weaponry, or the maiming, or the torturing, aggravating circumstances that could lead reasonable people on a jury to find for the defendant and then to weigh against that mitigating circumstances, the age of the defendant, the mental capacity, the tenderness of disposition, those kinds of things that can be adduced in favor of the defendant. Then the jury has the duty of weighting those against each other, and they find aggravating circumstances. Then they should bring in the death penalty.

□ 1910

What the Judiciary Committee did was forbid my amendment that would have cured that. But the House overwhelmingly voted for it. I was happy about that.

Later, in the period of time when the conference was forming for the bill, I then asked for a motion to instruct conferees and repeated that salutatory portion of the death penalty instruction, and again overwhelmingly the House voted to instruct our conferees, the House conferees, to make that point at the conference.

This just absolutely shakes me, I say to the gentleman from Illinois, it shakes me so much I almost forgot your State, but when the conferees gathered in the conference, I am told, our conferees, not only did they not adopt the Gekas amendment that passed the House during the course of the bill——

Mr. HYDE. The gentleman got rolled in conference. That has happened every year. It happens not only on the gentleman's amendment, but it happens on very significant things like habeas corpus reform. We did not even touch that this year. And a law that permits a John Wayne Gacey to be convicted and sentenced to death, and 14 years to elapse between the time of the sentence and the time of his execution is a pretty bad law. It makes a mockery of our justice system, and it burdens the families of the victims unconscionably. But we did not touch that because the Democrats did not want to, and that is another tragedy.

But the gentleman is right. The other party controls the conferences, and they determine what lives and what dies, what survives and what does not, and never mind what the Senate has passed or the House has passed.

I want to thank my friend for his brilliance, for his courage, and for his persistence on behalf of justice, as he understands it and as most people understand it. He is a very valuable and effective member of the Committee on the Judiciary. I want to thank George Fishman of my staff and Catherine Hazeem of my staff and Tom Smeeton of my staff, who worked very long and very hard to assemble the data analyzing these various social programs and, frankly, in showing how they overlap and duplicate existing programs. I think they have performed an invaluable service, and I am most grateful to them.

If the gentleman has nothing further——

Mr. GEKAS. Just one other thing. Just the way we are being tempted to vote for this because of the goodies on the other side, there are also provisions that help in women's issues that are in this bill. We are all for those. But they cannot tempt us to vote for this bill, with all its excesses and all its flaws, nor should they try to tempt us, because there happen to be good features in it for the protection of women. We all want that and will vote time and time again when issues are brought to us clearly and singularly on those issues. Do not let the American people feel that this comprehensive big bill is good for everybody. It is not.

Mr. HYDE. I thank the gentleman.

TRIBUTE TO JACQUELINE KENNEDY ONASSIS

The SPEAKER pro tempore (Mr. MANN). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from New York [Mrs. MALONEY] is recognized for 60 minutes as the majority leader's designee.

Mrs. MALONEY. Mr. Speaker, I have called this special order and rise to pay tribute to a constituent of mine who recently passed away. Her name is Jacqueline Kennedy Onassis.

From the day assassin's bullets desecrated Camelot until her stroll in Central Park the weekend before she died, Mrs. Onassis embodied the strength, resilience and independence that is the very essence of America.

We live in an age when our leaders and icons are brutally assaulted by character assassins. Gentility has steadily declined into an abyss of cynicism and tabloid commercialism.

Somehow, with her graceful manner, philanthropic spirit and infinite cultural breadth, Mrs. Onassis symbolized the last of American royalty. The end of her life brought the end of an era.

Today, Mrs. Clinton is transforming the role of the First lady in the White House. In the early 1960's, Mrs. Jacqueline Kennedy transformed the White House itself.

For the first time, she invited the American people inside the White House, making it our house instead of a remote Government bastion shrouded in mystery. With her impeccable aesthetic sensibility and expansive grasp of history, she populated the White House with elegant artifacts of the past, which brought an exalted spirit to the present.

Jacqueline Kennedy's artistic passion gave rise to a White House fine arts commission, and even wowed typically cool Parisians who embraced her with open arms. After their trip to France, President Kennedy referred to himself as "the man who accompanied Jacqueline Kennedy to Paris * * *"

Mrs. Kennedy's grand elegance in Washington and blossoming, barefoot motherhood on the beaches of Martha's Vineyard contributed to a thousand days of nostalgia that many of us equate with our innocence.

Surviving a miscarriage, a stillbirth and the assassination of her husband and his brother, Mrs. Onassis looked fate square in the eye, and steadfastly refused to be pitied by anyone.

Still, she was not invulnerable. Five years after her husband's assassination, when she became engaged to Aristotle Onassis, she told a friend: "You don't know how lonely I've been."

In an age when seemingly everyone wants to broadcast their inner secrets on TV talk shows, Mrs. Onassis treasured and guarded her privacy after leaving the White House, turning down thousands of interview requests.

How ironic that a woman who began her career as an inquiring photographer would shy away when the lens was turned toward her.

Mrs. Onassis believed that her life was a precious possession that was not to be trivialized. She refused to become anyone's property.

In everything Mrs. Onassis did, she gave a great deal of herself, but she never gave herself away.

As a book editor in later life, she was described as a writer's editor who worked with painstaking sensitivity and close interaction with the author. In an age of narcissism, she realized that there were stories worth telling other than her own.

She did create two of her own masterpieces. Their names are John and Caroline.

I feel a particular gratitude to Mrs. Onassis for the many contributions she made to local causes in the community where she lived and which I am privileged to represent in Congress. She was a driving force in her support for the historic preservation of the East Side of Manhattan. She showed unwavering dedication to the preservation of Grand Central Station, and strived for the preservation of low-cost housing, one of New York's most dire needs.

In her final years, Mrs. Onassis had the good fortune to be joined in life by Maurice Templesman, a wonderful, caring man whom many in this Chamber have the privilege of knowing.

To the world, Mr. Speaker, Mrs. Onassis lived a life of majesty and tragedy on a grand stage. But she never bought into that image of herself. Millions wanted her to live a public life, but instead she chose an inner life. Perhaps that is why so many private citizens identify with her so closely. Unlike most of the rich and famous, she was not one of them. In that regard, she was one of us.

Thank you, Jacqaueline Kennedy Onassis, for all you gave us, and all you showed us. May you sleep in heavenly peace.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today with a deep sense of sadness and sorrow over the passing of Jacqueline Kennedy Onassis. Our prayers are with her children, her grandchildren, and other members of her family.

Many of us came of age when this beautiful and gifted woman and President Kennedy held the attention of a hopeful Nation. In Jacqueline Kennedy Onassis, we had the most gracious First Lady to occupy the White House in modern times. She was the epitome of grace, charm, intellect, and beauty. Any one who can remember the week of November 22, 1963, cannot forget how she led us through that difficult period following the assassination of President Kennedy.

Jacqueline Kennedy Onassis represented the very best of America. She was a source of inspiration to millions of Americans. For many of us, her passing means the loss of a dear and special friend.

Mrs. Onassis was always charming and generous. She was a great supporter of the arts and historic preservation. Many historic buildings in New York City, Washington, DC, and all around the country are standing because of her tireless efforts.

Mrs. Onassis will be missed by millions of Americans. Her passing is a great loss.

Ms. KAPTUR. Mr. Speaker, I rise tonight to commemorate Jacqueline Kennedy Onassis who devoted her life to the enrichment of the human spirit and for this, we will always be indebted to her.

Throughout her life, Jacqueline continually gave to others, never losing her sense of self. Following President Kennedy's assassination, during times of uncertainty, Jacqueline's inspirational strength and quiet courage provided a tower of strength to guide our Nation through the dark winter of 1963. Jacqueline overcame her own personal loss in order to selflessly bind the country together as a family.

During the following years, she raised two children with character, while founding the Kennedy Library. She hoped that this library would be a living legacy to her husband. Jacqueline's love of excellence, perpetual optimism, and hope enriched the lives of millions. She never cashed in her life's story nor wore her life on her sleeve. In this day of tell all she protected her privacy and her children's privacy. She exemplified excellence by her determination to promote the arts and all that is fine in life. Her adventurous spirit and tireless search for a new and better world brightened all our lives. Her life including her research and contributions to her husband's Pulitzer prize winning "Profiles in Courage" have truly earned her a chapter in that famous book.

Throughout history Jacqueline's spirit of fortitude, adventure, and courage will always live on and fill the hearts of America.

Mr. ZELIFF. Mr. Speaker, Jacqueline Bouvier Kennedy Onassis, or Jackie, as America adoringly called her. She came into our lives and charmed not only a nation, but an entire world as well. She symbolized an America that was wide-eyed and young and fresh, and by the side of JFK she not only captured America's heart, but, said Charles de Gaulle of her remarkable composure following the assassination of her husband, "She gave an example to the world of how to behave."

Beautiful and demure, the aura of mystery which surrounded her was like an unquenchable thirst of the public who adored her. We watched as this new chapter of American history unfolded, a young, handsome President, his charming, beautiful wife and the children America has doted over almost as much as did their mother. This woman we called Jackie once said of these two, whom she adored and fiercely protected, "I want John and Caroline to grow up to be good people." An image which will be forever etched in the minds of all Americans is of young John, saluting his father, beside a beautiful, courageous widow.

Ironically, the one thing coveted above all else by this adored public figure was her privacy. She spent her lifetime shielding both herself and her family from the public who cherished them. She gracefully acknowledged the adoration of the world, often with only the flash of her brilliant smile.

John Kennedy Jr. said his mother had died "surrounded by her friends and her family and her books. She did it in her own way and in her own terms." Her image is synonymous with beauty and elegance. She has left not only America but the world as well with unforgettable memories of a time gone by, a time of innocence and charm in our country's history which will never be forgotten, a time called Camelot.

Mr. SLATTERY. Mr. Speaker, I am privileged to have this opportunity to pay tribute today to Jacqueline Kennedy Onassis. She was a woman of immeasurable intelligence and strength, who traveled life's journey on an often long and arduous path. Her distinguished sense of self, love of family, commitment to country, and belief in God forged a bond with our Nation, and carried her through her journey with dignity and grace.

Jacqueline Kennedy Onassis was a true student of history with a love of culture and a desire to bring out the best in America. She sought the beauty in life and sought to live life to the fullest. I was young, a part of the generation of hope. I admired the vision of John Kennedy. I also admired young Jacqueline Kennedy and her strong sense of human decency. Her poise and radiance, displayed even during the most adverse circumstances, inspired Americans everywhere and gave us strength.

Jacqueline Kennedy Onassis once stated that "Everything in the White House must have a reason for being there." I truly believe that there was a reason she was with us. She taught us about courage, faith, and values, a reminder for today of all that is necessary for the foundation of our dreams.

The funeral of President John F. Kennedy was a somber reminder of the vitality of youth and the seconds it takes to have it stripped away. We should all live our lives to the fullest, as if every hour on Earth may be our last. We should follow the example of Jacqueline Kennedy Onassis, remembering to seek out the beauty in life and to put faith and family first. These are the bonds which remain strong, even in death.

Individually, and as a nation, we should be extremely grateful for all of her life that was given to us.

Mr. ROMERO-BARCELÓ. Mr. Speaker, I rise to join in this special tribute to former First Lady, Jacqueline Kennedy Onassis.

The widow of former President John F. Kennedy brought a special charm to the White House during the Kennedy years. She became a legendary part of the Presidential aura. As an individual with her own special skills, sense of culture and knowledge of American history, the former First Lady continued on in her own unique career after the President's tragic assassination.

She put her children and her family first in her order of priorities, continuing to be the gracious and loving mother she always was until the end.

In the public eye, she was different things to many Americans and throughout difficult periods in her life she never lost sight of who she was and what, in the history of this country, she meant as a public figure.

Her buoyancy in life, her appreciation of what the Presidency meant to the American people and to our traditions and values, never left her, not in the years when the youth and vigor of the Kennedy administration resonated throughout the country, nor in the tragic aftermath of the President's passing.

We still miss her and shall have her in our prayers forever.

Mrs. LOWEY. Mr. Speaker, this evening I join my colleagues in paying tribute to the life and memory of Jacqueline Kennedy Onassis. Her days, filled with great triumph and great tragedy, remind us that, in the end, character rises above circumstance.

Jacqueline Bouvier was very young when she enchanted the people of Massachusetts as the bride of their junior Senator. She was pregnant with her second child, and needed to be shielded from the campaign trail's wind and rain when her husband sought the Presidency. But in her own unique way, she still captured the Nation's imagination.

As First Lady, she made individuality fashionable, displaying a grace borne not of pretense but of confidence. She seemed the embodiment of the Nation we hoped to be—a dream made real, at least for a time. And on that terrible fall day in 1963, it was her image which most touched us, reaching to grasp the empty air, standing beside the new President, blood stains on her suit, to affirm the endurance of our democracy, and directing a tribute to her husband which enabled all of us to face the awful news, and yet move forward.

Since then, Jacqueline Kennedy Onassis has been less before our eyes, but perhaps more in our hearts. Those of us from New York thought of her as the city's first citizen, concerned always with preserving New York's special vitality, made visible in the brick and mortar of countless structures and monuments. She was a patron of the arts whose personal commitment to beauty and expression enriched the cultural experience of our entire community. She was an editor, an author, a mother, a dreamer, and a doer.

And though she never sought the glare of a public life, Jacqueline Kennedy Onassis never denied to us the warmth of her personality, or the inspiration of her example.

Mrs. Onassis lives on in our memories as a model of grace, intelligence, and integrity. Through trials that would break many men and women, she remained always true to herself, never losing sight of the values she thought so important to our nation, never dimming the spirit that shined through even the darkest experience.

We will miss her.

Mr. MAZZOLI. Mr. Speaker, today we pay tribute to Jacqueline Bouvier Kennedy Onassis, an extraordinary woman who lived in extraordinary times.

In 1960, she swept into the light of the cameras and dazzled America and the world with her charm, beauty, and elegance. As First Lady, her restoration of the White House was done with intelligence, sensitivity, and an excellent sense of history. And, today, millions of Americans can be proud of the house that belongs to all citizens of this Nation.

She was never considered average, but she strived to live a quiet and unassuming life amid all the clamor and glamour of political life in Washington. Mrs. Onassis' joys in life were simple: her family, her friends, her books, and her work. The world watched her, studied her, and admired her because of her serenity and simplicity in the midst of anxiety and complexity.

Jacqueline Bouvier Kennedy Onassis touched the lives of all Americans with her style, grace, and intellect. Mrs. Onassis will be most remembered, however, for the public courage she displayed after the assassination of her husband, the President of the United States. As the world mourned our Nation's tragedy, she bravely continued her role as mother to her fatherless children. For that act of courage, Americans will remain eternally grateful.

Mr. BILBRAY. Mr. Speaker, when I was a college student, I was asked to be a part of the effort to help elect John F. Kennedy, a distinguished young Senator from Massachusetts, to become president of the United States.

I quickly accepted and became the southern Nevada coordinator of the Students for Kennedy. I remember my dad, who was in political office at the time, told me that John Kennedy could not win because he was a catholic and not a mason. My dad was a baptist and a mason. This statement made me work even harder.

After he won the November election, I remember how proud all of us were. The First Lady, Jacqueline Kennedy gave elegance and refinement to the White House that had not been seen since Dolly Madison. I remember my wife, Mikey, making me be quiet or telling me to quit blocking the TV when Jackie was speaking or just in the picture. All of us believed we were part of something special and when the phrase "Camelot" was coined, it felt perfect. And even though I could not be considered a knight of the round table, I felt I was at least a page in the fabulous court.

Jack Kennedy was certainly Arthur and Jackie was his Guinevere.

That awful day in November 1963 when Camelot came to an end will be remembered by all of us. It will never be forgotten. Something truly important, not only to America, but to my wife and I personally, had come to an end. But we do have wonderful memories.

All of us were amazed at the grace and dignity of Jacqueline during that terrible ordeal. Over the years my wife and I have always followed her walk through history. She was grace and elegance beyond compare. There will never be another one like her. So I say in conclusion, "farewell, fair Guinevere. We do miss you."

Mr. HILLIARD. Mr. Speaker, John Doone, the 14th century English poet, wrote about the democracy of death, and I quote:

It comes equally to us all, and makes us all equal when it comes. The ashes of an oak in the chimney are no epitaph of that oak to tell me how high or large it was; it tells me not what flocks it sheltered while it stood, nor what men it hurt when it fell. The dust of a great persons' grave it speechless too, it says nothing. It distinguishes nothing.

What does distinguish us are the good deeds we do in life, and how we handle the darkest moments of our existence. During one of the saddest moments of our Nation's history, the spirit and strength of Jacqueline Kennedy Onassis illuminated our hearts and souls. Her image will be forever etched in all of our minds. To say she was memorable is superfluous. But whomever is old enough to remember Mrs. Kennedy in 1963, dressed in black, attending her husband's funeral, just two rooms over in this Capitol's rotunda, will never forget her.

Mrs. Kennedy's composure, was America's composure. Mrs. Kennedy's strength, was our strength. Mrs. Kennedy's loss, was our loss, and Mrs. Kennedy's dignity was America's pride.

A door was closed in the history of our Nation when she left us. After all, she was a link to our glorious past, as well as to the legacy of the presidential years of her beloved husband Jack Kennedy, our late, fallen President. In closing, let us remember the words of the verse that she so often quoted:

Don't let it be forgot, that once there was a spot, for one brief shining moment that was known as Camelot.

God bless you Jackie, and God bless your family. We will never forget you or Camelot?

Mr. RANGEL. Mr. Speaker, I would like to bring to the floor at this time, special words of tribute for one whom we hold so dear, to a woman who epitomized courage and grace, and to one who will forever remain in our hearts—the lady of which I speak is Jacqueline Kennedy, our former First Lady.

Long admired for her beauty, style, and grace, Jacqueline Kennedy was certainly a most gracious First Lady. Her charm was insatiable and everyone loved her, for it was easy to observe her outer beauty, and a pleasure to know the inner beauty that was there.

From her love of family to her passion for the arts, Jacqueline Kennedy was a treasure to behold. She brought vision and dignity to the White House and forever changed the way we came to think of that special residence. It wasn't long after she arrived at the White House that she focused on its restoration, and with a talent and style that could match no other, made it a cultural showpiece and shared it with all Americans as she later hosted, "A Tour of the White House with Mrs. John F. Kennedy."

While she had much tragedy in her life, it was certainly not tragic. She would rise above that dreadful day in Dallas, to enjoy a successful career in the publishing world. For all her genuineness, nobility, and depth of character, Jacqueline Kennedy Onassis will be missed—her contributions to American history never forgotten—and her legacy—an inspiration.

Thank you Jackie.

GENERAL LEAVE

Mrs. MALONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

IN-DEPTH INVESTIGATIVE REPORT ON VINCE FOSTER SUICIDE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the minority leader's designee.

Mr. BURTON of Indiana. Mr. Speaker, over the past several weeks there has been a lot of questions about the death of Vince Foster and the connection of his death to the Whitewater investigation, and I have had nine people on my staff at the Republican Study Committee and my personal staff and some outside sources investigating this, because the Committee on Banking, Finance and Urban Affairs here in the House that is doing the Whitewater investigation on a party line vote has limited the scope of the investigation to such a degree that one Member said that if the same principles had been applied to the O.J. Simpson case, the one thing you could ask O.J. Simpson is how was your trip to Chicago. You couldn't ask any other questions. That is how limited the investigation is. There is a deliberate attempt to minimize the investigation and, I think, to cover up a lot of the facts.

On the Senate side we have a similar problem. It is not quite as bad over there, but nevertheless a lot of the information that must come out regarding Vince Foster's death and his connection to the Whitewater matter needs to be explored.

□ 1920

So tonight, even though I have been castigated by a lot of the people in the media, even though some Members of the Senate committee and the House Banking Committee have indicated that we have made some comments that are not very understanding as far as Mr. Foster's family is concerned, I feel compelled to go through this tonight one more time with one addition. Because we have been taken to task because of things I have said on the floor, I went out and found the confidential witness, the man that found Vince Foster's body, and I got a sworn statement. He swore before God the things that I am going to read to you tonight are factual.

So I am going to go into the entire litany, the entire chronology of Vince Foster's death and the connection to Whitewater. Then I will read to you excerpts, very important excerpts. I would read the whole thing to you, but we would be here all night because it is a 50-page sworn statement. But I will read to you excerpts that verify everything I have been saying before this body.

On July 20, 1993, Vince Foster left his White House office at 1 p.m. He was later found dead by a confidential witness at Fort Marcy Park. The confidential witness is the person that gave this sworn testimony to me. Nobody knows who he is except two FBI agents, Gordon Liddy, and myself.

Emergency medical service personnel discovered the body shortly after they arrived at the park at 6:09 p.m. The confidential witness was interviewed by G. Gordon Liddy on March 27. He was interviewed by me on July 21st, and in between he was interviewed by the FBI agents who Mr. Liddy urged him to talk to.

The confidential witness told Mr. Liddy and me that he approached to within 2½ to three feet of Vince Foster's head and he leaned over and looked directly down into Mr. Foster's eyes. He stated very specifically that the head was looking straight up and that the hands were at his side, palms up with no gun in either hand.

The Fiske report quotes the confidential witness as saying that he may have been mistaken and that there may have been a gun in Foster's hands, that he did not see because of the dense foliage and the position of the hand.

The confidential witness told me that the FBI agents pressed him on the issue of the gun, asking him as many as 20 to 25 times if he was sure there was no gun. And according to the confidential witness, the FBI said, "what if the trigger guard was around the thumb and the thumb was obscured by foliage and the rest of the gun was obscured by the foliage and the hand?" In other words, the trigger guard would be around the thumb, the gun would be underneath the thumb and a leaf would be over that and you would not see it.

The confidential witness, after being asked about 20 to 25 times said, "If what you described were the case, then I suppose it could be possible because I did not count his fingers, but I am sure that the palms were definitely opened and facing up."

At this point the confidential witness still had not seen a copy of the photograph of Foster's hand that was shown on ABC news. The photo showed the right hand palm down with the thumb trapped in the trigger guard. He had not seen that. When I went to see this gentleman, I showed him the photo. He was sitting at his kitchen table, and he stood up and walked around the table twice saying, That is not the way it was; that is not the way it was. Those hands, that hand was moved.

Why did he get so angry when he saw the photo? He told me not only that the hand had been moved but some of the things he told the FBI were not mentioned in the report. For instance, the vegetation at the bottom of the body had been trampled like somebody had been walking around there. Why was no mention of the trampled vegetation in the Fiske report?

The confidential witness also reported that he saw a wine cooler bottle near Mr. Foster's body. Such a bottle was not noted in the Fiske report. We are going to talk about these wine cooler bottles a little later. There was in the Fiske report, there was a blood stain on the right side of Mr. Foster's face. Mr. Fiske's report noted that the blood stains on Foster's right cheek and his right shoulder were inconsistent with the head being upright. In other words, if the head was sitting up, how did the blood get on the cheek and the right shoulder? So somebody had to move the head.

But the problem is, before the police or anybody got there, the head was already straight up. So who moved the head? The report describes the stain on his cheek as a contact stain, typical of having been caused by a blotting action such as would happen with a blood soaked object brought in contact with the side of the face and taken away.

So at sometime his face had to be in contact with his shoulder according to the report. Mr. Fiske's report assumes that one of the early emergency personnel that came to the park moved the head. But the confidential witness said the head was already moved. And he was the first person to see the body before anybody got there.

In addition, Mr. Fiske, after interviewing all the people at the scene, fails to identify anybody that admits to touching the body and moving the head. So he assumes it was moved by somebody after the body was found, but he does not know who it was. Yet the confidential witness that found the body said it was already straight up. Why did not Mr. Fiske assume that one of the persons who arrived after the confidential witness moved his head, when the confidential witness was the first person to find Foster's body? He said the head was facing straight up at the time.

Now, the FBI did not find the bullet or skull fragments at the park. On July 20, 1993, the park police conducted a search for the bullet that killed Foster using only one metal detector. And they found nothing at all after lengthy search. Why did they only use one metal detector? This is one of the highest ranking people in the Clinton White House. They had one metal detector running around through the woods there, and this did not find anything. Then 9 months later, on April 4, 1994, 16 FBI agents and experts searched Fort Marcy for the bullet and they found 12, not one, not two, but 12 modern day bullets. But they did not find the one that killed Vince Foster.

The FBI searched immediately beneath where Foster's body was found by digging and hand sifting the soil and other debris. They excavated down a foot and half. They found no bullet and no bone fragments. In the search for the bullet, the FBI personnel marked out a grid of the most likely area for the bullet to be found after passing through Foster's skull. The area was searched using a metal detector. Once against, 12 modern day bullets were found, but the FBI lab determined that none were the ones that shot Vince Foster or came out of his gun.

Now, I contacted a ballistics expert in California who stated that after passing through a man's skull a 38 caliber bullet should travel no more than 1,200 to 1,600 feet or about 300 to 500 yards. The FBI should have been able to find that bullet with all the people that were out there and all the expertise they had, if the bullet was in the park. So why was it not found?

Get this, once again this is very important. There were no fingerprints on the gun, and there were no fingerprints on 27 separate pieces of the suicide note. Can you imagine a suicide note torn into 27 pieces without a fingerprint on it? You would have to wear surgical gloves. Here is how he explained that. The FBI found no fingerprints on the 38 caliber Colt revolver. The Fiske report states, "the latent fingerprints can be destroyed due to exposure to heat."

So if it was a real hot day, they are saying the fingerprints could have melted off the gun. Yet they do not explain why, when they took the trigger guard off the gun, there was a fingerprint on it that had been on there probably for years. But the fingerprints of that Vince Foster allegedly put on the gun were melted off. I went out to the site and walked all over that area. There is no sun that hits the place where they found his body. The sun could not have done that. Even on a hot day, it is very doubtful, according to forensic experts I talked to, that there would be no sign of any fingerprints on the gun but it was completely smooth, no fingerprints on the gun, except a little bit on the trigger guard where they found his thumb. I do not know how you could hold a gun with one or both hands and not leave one fingerprint.

In addition, the note that was found in Foster's briefcase was torn, as I said, in 27 pieces and had no prints. It was not exposed to the heat. So why were there no fingerprints found on either the gun or the note? Makes no sense.

There was no dirt on his shoes. There was a little bit of mica, but there was no dirt on his shoes. When Mr. Foster's clothing was examined by the FBI lab, it did not contain any coherent soil.

□ 1930

They did find small parcels of mica, which is off of leaves, on much of Foster's clothing, including his shoes, which is consistent with the soil in Fort Marcy Park.

The Fiske report states it was dry on the day that Foster died and that foliage leading up to and around Foster's body was dense. It concludes that "It was unlikely that there was a great deal of exposed moist soil in the park that would have soiled Foster's shoes."

Foster would have had to walk a long way from his car to the second cannon. I walked all the way from the parking lot up to that second cannon, and it was a dry day and I had dust all over my shoes. It is about 300 yards.

For them to say there was no dirt on his shoes does not make any sense, unless possible he had been moved to that position. Even on a dry day his shoes would have been stained by either grass or dirt or at least dust. Why was no dirt or dust or grass found on his shoes?

Now, there was blond to light brown hair that did not match Mr. Foster's hair found on his tee shirt, pants, belt, and socks and shoes. In response to a question from Robert Novak, Mr. Fiske said "While we have not concluded where the blond hair came from, there is no evidence to suggest that it provides any evidence of circumstances connected to his death." How does he come to that kind of a conclusion?

Carpet fibers of various colors were found on his jacket, tie, shirt, shorts, pants, belt, socks and shoes. Did they check his office to see if the carpet fibers were off of his office carpet? Did they check his home to see if the carpet fibers were out of his home, and if they were not from either one of those places where did those carpet fibers come from?

It is not mentioned in the report. You just forget about that. Yet everybody, the media and everybody, is accepting this report at face value, even through the confidential witness that found that body said the hands were moved and so was the head.

Why didn't Mr. Fiske attempt to find out who the blond hair belonged to? Why didn't Mr. Fiske attempt to determine where the carpet fibers and wool fibers found on Foster's body came from? Why would Mr. Fiske assume that this evidence was not relevant without investigating it first?

Then 70 pages of the report are devoted to the credentials of the four forensic experts that wrote the report on Mr. Foster's death. They had four experts that wrote a report saying it was a suicide at Fort Marcy Park, but they based their conclusions, probably 90 percent of them, on the coroner's report.

Now if the coroner made a mistake and he screwed up the report, then their report has to be questioned as well. Let us check on the coroner. He testified 2 days ago before the Senate.

Fiske goes to great length to highlight the credentials of the four pathologists, as I just mentioned. Their résumés take up 70 pages of the report. Yet none of these people ever saw Foster's body, because he had been dead and buried for 9 months before they wrote the report. Their findings were wholly reliant on Dr. James Beyer, northern Virginia's deputy medical examiner.

He said that Vince Foster's death was consistent with a self-inflicted wound, but according to the Washington Times, Dr. Beyer, the coroner, overlooked critical evidence in the 1989 Timothy Easley stabbing and supported a police finding that the death was a suicide. The death was later changed to a murder, a homicide, after an outside expert, Dr. Harry Bonnell, noted that Dr. Beyer's original report contained glaring errors, including a missing stab wound in the victim's hand where he was defending himself and getting the color of his hair wrong.

The coroner did not even get the color of his hair right. This is the guy on which they are basing the entire forensic report of Vince Foster. The autopsy report said Tim Easley's hair was gray when his hair was dark brown.

Regarding the stab wound in his hand, Dr. Bonnell said "I cannot understand how any competent forensic pathologist would miss a stab wound in the hand." Dr. Beyer later said "The cut on Easley's right hand was consistent with a needle mark," though he noted no such mark on his report. Forensic pathologists are supposed to make note of everything in their reports.

Dr. Bonnell also said that it was doubtful that the Easley stab wound to the chest could have been self-inflicted. He said it could not have been self-inflicted, and yet the coroner said it was.

Eventually it was found out that Easley's girlfriend, Candy Wharton, was the killer, and she admitted stabbing Easley to death. So he missed it.

He made a terrible mistake, and he missed very important things that any forensic expert would have found, according to Dr. Bonnell, any competent expert.

Then in December 1991, in another autopsy, Dr. Beyer ruled the death of Thomas Burkett, Jr., as consistent with a self-inflicted wound, and this was a gunshot to the mouth, much like Vince Foster's. According to the New York Post, a second autopsy conducted by a Dr. Erik Mitchell detailed serious omissions in the Beyer autopsy.

This second autopsy came after the family had the body exhumed. They dug him up. It noted trauma and discoloration to this gentleman's right ear, which could indicate he was beaten to death before the shot was fired into his mouth. His ear had been all smashed up, and at the funeral they noticed it and they thought he had been shot in the ear, but he was not, he had been shot in the mouth.

Burkett's family noted that the ear was so disfigured and bloody, they thought he had been shot there. Dr. Beyer never even mentioned the trauma to the man's ear in the report.

Dr. Beyer also failed to identify a fractured lower jaw. His jaw was broken. He did not mention that in the report, which could also indicate a beating.

The second autopsy also noted that Burkett's lungs had not been dissected, although the report said they had been. He said he did a complete autopsy, cut open the man's chest, checked his lungs. When they exhumed the body and did the second autopsy, they found he lied. He did not even do that. This is the man on whom they based their findings in the Vince Foster case.

The second autopsy in this case also found no trace of gunpowder in the mouth, and Dr. Beyer said he inadvertently left the section for powder burns off of the gunshot wound chart.

So why did Mr. Fiske's pathologists base so much, if not all of their report on the conclusions of a medical examiner who has been challenged in the past for flawed and erroneous autopsies? Why did Mr. Fiske's pathologists base so much of their report on the autopsy of a medical examiner who has a history of omitting important evidence from his autopsy reports?

The Fiske report states that Dr. Beyer was unable to take x rays of Mr. Foster's head because his x ray machine was broken. However, the Park Police report, which was submitted last summer, quotes Dr. Beyer as stating that the x rays of Mr. Foster's head indicated there was no evidence of bullet fragments in his skull.

Determining if there are bullet fragments in the skull is very important to determining how far the bullet would have traveled. Did Beyer take x rays of Vince Foster's head or didn't he? At the Senate the other day he said he did not, so why did he tell the Park Police he did? I don't know.

Mr. Speaker, the security guards, directly, about 100 yards away from the place they found Vince Foster's body, across Chain Bridge Road, there is the Saudi Arabian Ambassador's residence. There are five trained security guards there all the time. There are three that roam around, one in a van and one in a little security guardhouse there.

There people were there all the time. They even checked that park across the street occasionally, because they are concerned about somebody trying to get to the Saudi Arabian Ambassador, and they said that day they heard no gunshot. The Fiske report says that as result of traffic out there and construction traffic, and because with a gun in the mouth in that position there would not have been a lot of noise.

We, at my house, with a homicide detective, tried to re-create a head and fired a .38 inch barrel into that, to see if the sound could be heard from 100 yards away. Even though there was an earth mover moving around in the background, making all kinds of racket, you could hear the bullet clearly.

Now, this is the information that I have used in the past. I went out to see the confidential witness, and when I showed him the picture he was upset. He told me that rather than me writing down a statement for him to sign, he wanted to give me a statement in his own words. I let him dictate a statement to me in his own words and he signed it.

I came back to this body and I gave my colleagues this signed statement. I did not give his name, because I promised I would keep his confidence. However, I read into the record what he said, and I sent it out to many people in the media.

Mr. Speaker, some people said "We don't know if Burton is credible or not, we do not know if he is making this up," so they started questioning whether or not I was just once again beating a dead horse.

What did I do? I called the confidential witness there to get his sworn statement.

So last Thursday night on July 28, I took two other Congressmen, Congressman DANA ROHRABACHER of California and Congressman JOHN MICA of Florida, with me, and we took a court reporter from the Block Court Reporting Services and we recorded 50 pages, 49 pages, of statements from the confidential witness.

So tonight, Mr. Speaker, I want to read into the RECORD excerpts from that which will verify everything that I have said. This man was sworn and he took an oath before God that what he is saying is absolutely correct.

So we started off, I said, "Why don't we start off by reading into the record what you said." Here is the confidential witness reading into the record:

> Involving the statement about the gun in Vince Foster's hand, I made it very clear that the palms of his hands were facing up and at his sides. The agents investigating stated that the gun was hooked on his thumb and partially obscured by the back of his hand. Based on their explanation of how the gun was being held, I conceded that all that was visible—that if all that was visible was the trigger guard on his thumb, and the dense foliage, that I could have missed seeing it. I again stated that I saw both of the man's palms, but did not count his fingers.
>
> After having seen the photo of the hand and the gun, I am sure, I am sure the hand had been moved, because the palms were both face up when I saw Mr. Foster's body.

□ 1940

Then I started questioning him as well as did Congressman ROHRABACHER and Congressman MICA.

"Would you tell us how close you were to the body and how close you got to his face, his hands and everything else."

The confidential witness said, "I stood directly over the top of his head at the head of the berm. My right foot, I'm sure that it was my right foot, was somewhere between 24 to 30 inches from the top of his head. No closer. At that point, learning over with my left foot extended behind me I looked directly down into his eyes from about 3 foot to 4 foot maximum above his face, my face from his."

I said, "You were directly above him?"

He said, "Directly above him looking straight down the body. The man's head was facing straight up. If it was tilted, it was tilted very slightly because I looked into both eyes. I was questioned numerous times by the agents about are you sure the head wasn't tilted, and I kept telling, no, I looked straight down into both eyes. Do you want me to go on and explain what I say?"

I said, "Yeah, Go ahead. Tell us what you saw."

He said, "I saw blood traces on his nose and around his lips. There was not streams of blood on the side of his face. There was not trickles of blood as indicated in the Foster report. I was looking straight down into the man's face and saw the blood."

"On his mouth and nose."

Congressman MICA said, "Was there a gun in the hands?"

The confidential witness says,"There was no gun in his hand. His—both palms were face up, thumbs out to the side."

Congressman MICA. "You did not see a gun?"

He said, "I did not see a gun next to the body."

Congressman MICA, "Did you touch the body or did you shake him?"

The confidential witness said, "Oh, God, no. I wouldn't touch him for no amount. I mean, no way would I disturb any evidence, period."

Then I said, "I want you to look at this picture because you say you saw no gun in the hands."

And I showed him once again the hand that was on ABC News, the picture.

He said, "I also, when I saw nothing in his hands, I leaned to both sides of his head and to the back of his head to see if he had been hit in the head and saw nothing visible."

Congressman MICA said, "Did you look at his hands again?"

He says, "I did not look back at his hands again because I clearly saw his hands were empty and he had no signs that he had, was defending himself or something."

Then I said, "Now, you said—what did you see beside the body?"

He said, "There was a wine cooler bottle laying I would say 24 to 30 inches to the right, between his shoulder and his elbow, laying on the berm, held up by some twigs, not on the berm but on the down side of the hill being held up by some twigs because it's a very steep grade."

Then I said, "Was it sitting straight up or just laying on its side?"

He says, "Laying sideways still probably one quarter of its contents in the bottle."

Then Congressman MICA said, "Did you see—you said the palms were out?"

And the confidential witness said once again. "The palms were face up."

I said, "Both? Both palms?"

He said, "Right beside him neatly. Just like that."

And he showed us, just like that.

He said, "So that they were not in this position? Congressman MICA rolled his hands over."

He said, "It was not in that position at all."

Then I said, "Tell me about the picture. You—the FBI—you asked the FBI what, about the picture, and the head?"

The confidential witness said, "Numerous times."

I said, "What did you ask them about the head and——"

He said, "If you will show me the picture."

This is what he said to the FBI agents.

He said, "If you will show me the picture of the head and the picture of his hands that you said there was no gun in—that I said there was no gun in and you said there was, then I could tell you point blank if somebody had tampered with it, with Mr. Foster's body."

Then I said, "What did they say when you asked them to see the pictures?"

And this is what he said the FBI people said. "Well, it will jeopardize our investigation, I cannot show it to you at this time. We will be more than glad to show it to you when all this investigation is over and that was the common answer I got from the FBI every time."

Then I said, "Over how long a period of time—how many times did they say that to you?"

He said, "4, 5 times I directly inquired, let me see the picture."

They never let him see the picture of the hands.

Congressman MICA said, "You have never seen this picture before?"

The confidential witness said, "I had never seen that picture until the Congressman," that is me, "handed it to me. Mr. Liddy had told me that that picture had been published somewhere but I had never saw it or I would have probably been—I know I would have been screaming."

Then I said, "So you were no more than 2 feet, 3 feet above his head?"

He said, "I would say 2 to 3 feet. I had said 24 to 30 inches, my face was from his face."

Then he went on to say that he thought he had been there for a while because his clothes were very tight, there was a stain, just about like that, he showed me where the stain was on his shoulder.

Congressman ROHRABACHER said, "What color?"

Congressman MICA said, "You are pointing to your shoulder."

He said, "On his right shoulder. It was a—the stain on his shoulder was——"

Congressman ROHRABACHER said, "Was it red? Or was it blood?"

The confidential witness said, "No, it was very light purple, almost identical color of the wine cooler."

I said, "So you don't think it was blood?"

He said, "I do not think it was blood. In the very center of—it looked like he had thrown up on his right shoulder. In the very center there was one small speck area, probably no larger than a silver dollar that was black, that could have been blood in the very center of it."

The reason I'm skipping through is there is a lot of repetition here because we kept asking the questions over to make sure we had it correct.

Congressman ROHRABACHER said, "Hold on. Let's make this point very clear. The FBI when they were talking to you and when they kept going on this question referred to the palm being up and the gun being underneath the palm?"

The confidential witness says, "He, the FBI agent, demonstrated with his hand like this with his palm up."

And he showed the palm to us like this and said that the trigger guard was on the thumb and the gun could have been obscured underneath the hand and that leaves might have been covering the thumb so he would not have seen the trigger guard.

Congressman ROHRABACHER said, "So the question—when they claim that you had in some way conceded that, well, maybe perhaps you didn't see it, if indeed it was below the palm, that was based on a description by the FBI that the palm was up and that the gun was underneath the back of the hand?"

Then I said, "But it's not possible. Look at this."

Because I had a gun and I put it on my thumb to show.

Congressman ROHRABACHER said, "No. But that's not what this picture shows."

The confidential witness said, "Exactly."

Then I said, "But if the thumb is in there, look at this, you can't——"

Then Mr. ROHRABACHER said, "The more important part is that the FBI was describing something to him that was not——"

The confidential witness said, "Exactly right."

Then I asked him, "But in the report they say you believed that the palms were up but you say there is no doubt?"

He said, "I never said—I said I believe it. I mean, I know it."

He said, "I never said I believe it. I know it."

That the palms were up.

Congressman ROHRABACHER said, "Okay."

Then the confidential witness says: "And he said the confidential witness believes it, and that's as straight as they can be."

Mr. MICA, "But you never indicated——"

He said, "Otherwise. Those palms were up always."

Congressman MICA, "And both palms?"

Confidential witness, "Both palms, neatly at his side and they were just like that."

Congressman MICA, "With nothing in them?"

He said, "Nothing in the hands."

Congressman ROHRABACHER. "And when you made the concession to the FBI after repeating that you didn't believe there was a gun in the hand, over and over again, when you finally made the concession it was based on a description by the FBI that the gun was found with—the man was found with his palms up and that gun was underneath the palm?"

He said, "That was all that would have been visible was the trigger guard, would I have missed seeing a gun, with the dense foliage? If that being the case, it's possible I could have missed it."

In other words, if it was only the trigger guard and if the gun was obscured under the hand. But when we put the gun in the hand in the position it was in in the picture and we rolled the hand over, the butt of the gun was up or the gun was lying across the palm of the hand. You could not have missed it. It would have been impossible. And I do not know why Fiske did not check that out. A blind man could see it. Yet everybody is accepting this report at face value, saying it is a great report, and forensic experts are perfect, everthing else is perfect and it is so full of holes you could not put water in it. It is terrible. It makes me sick.

I do not want to upset Mr. Foster's family. I am sure that they would like this thing to go away. I am sure that O.J. Simpson, the families of the people who lost their lives in the O.J. Simpson case, I am sure they would like for it to go away. But you do not stop an investigation because people want it to go away, especially if there are questions that are not answered. You get to the bottom of it. When a homicide detective goes out to investigate a site like Mr. Foster's death scene, they assume it is a homicide until they prove it is a suicide. In this case, they tried to do just the opposite.

Other questions.

Congressman ROHRABACHER. "Well, we have two discrepancies here. We have one discrepancy when he says he doesn't—he never saw the gun and the other discrepancy is that he is absolutely certain that the palms were up. So thus, we have two major descrepancies."

Then we go on.

I said, "But the point is, see, that gun is shoved under his leg partially, but you are saying the palms were definitely——"

The confidential witness said for about the 90th time. "The palms were up."

I said, "And if the palms were up in that position, you would have seen the gun?"I11And he said, "I would have seen the gun."

Other questions.

I said, "Okay, now tell us about the cabin."

There was a cabin there.

I said, "You said you knew the guy that owned that cabin years ago."

There's a cabin about 175 yards away from the site where they found the body."

He said, "I knew a retired Navy commander who lives in that project. He was going to set me up with the owner."

I said, "But there is a private road that goes back to that cabin"

He said, "There is a private road that goes right back to it from the housing development right next to it."

I said, "If somebody came back that road, they wouldn't be seen?"

He said, "They would not be seen, period."

I said, "How far is that from the cabin?"

He said, "150 to 175 yards."

□ 1950

Congressman BURTON. "So they could have walked around that and come right up—"

He says, "They are dead in the woods all the way, and there is a path that leads right straight up to where they found the body.

I do not know if somebody brought the body in that way or not. I had no idea. But that was something that was not investigated, because when they told the FBI about it they did not even know there was a cabin back there. He had to go show them.

Then we started talking about when he left to call the police after he found the body. He said,

"I went, got in my van, started up the parkway because I was on the parkway, I got up to where the park headquarters are, about two, two and a half miles, maybe a little further up the road, the right-hand side. There is a little phone sign right there. I pulled in, there was a couple of vehicles on the left. I had never been in there before. There is two phones there. I never saw them because I saw the guys there, the phones sat back behind the trees over here on the right side. I saw the guys there. I was looking at them, drove by, still didn't see any phones, looked both ways but apparently drove right by the phones and never saw them, backed up, turned around, started back out, was going to ask them to use the phone, motioned for them to come over. The younger white man walked over. I asked him for a phone. He stated that, you know, why? And I says, well, it's an emergency, I need to use the phone. Can you get me to a phone? Yes, but why? And he says—I think he said it the third time. At that point I went, wait a minute. Fine. Are you familiar with Fort Marcy? Oh, yeah, I know it well. Do you know where the two cannons are? Oh, yes, I know it well. Do you know the one up on the hill to the right? Oh, yeah. The next Chain Bridge Road now. Not the one on the left up there, the one on the right all the way up on top. Oh, yeah, I know it well. I says, right beside it, down over the bank is a dead man. You call the police and tell them. Oh, sure, great. I don't need the headaches that go with possibilities of going to courts and hearings and crap that all I done was come onto a body. That's all. Hey, I done my duty, I'm gone. He went to call the police, I simply drove off. And I stayed quiet for approximately six months."

The reason he stayed quiet for 6 months was because he was afraid. He found this body under mysterious circumstances and did not want to get into it.

Now he got into it, decided to become semi-public when he was coming back from Africa. He went over there to take some pictures of some animals. And I said, "Now, you were coming back from Africa, you went to Kenya. Tell them about coming back from Africa and how you decided to call Gordon Liddy," to talk about it.

He said: "When I got back from Africa I was reading—the London Times was eating that story up and I was sitting in the hotel reading it."

Congressman BURTON. "This was what month?"

He said "This was April. Yeah. It was, I believe it was in April. It was either April or May." He is talking to his girlfriend:

"Hun, when was I in Africa?"

She says: "I don't know. I didn't go. You left me home, remember?"

Congressman BURTON. "Okay. Go ahead."

CW. "And it's when I got back, my brother came over and told me, says you hear the story that the New York Times printed about the two park rangers have changed their story and stated that they had made up the story about the guy in the white van, that they had snuck off down to the park to have a drink and discovered the body and to cover themselves they made this story and at that point I went wait a minute. Who in the world can put that kind of pressure on two career employees to make them tell that kind of garbage? I better cover my hind quarters. So I was thinking about what to do and my brother had been listening a lot to Liddy and I have also respected Liddy for his word. And he went into his background and he said, "And he was really hammering on the evidence, you know, that was being presented about the Foster case and the doubts."

So he called Gordon Liddy.

He said, "But having read about him, I decided that would be as good a—what I knew would become public and if there was a threat to me, that, that possibility of danger would be greatly, greatly reduced simply by the fact that what I knew would have been now made official."

Congressman BURTON, "So you called Liddy because you wanted to get the facts out number one and number two you thought you would be safer if the facts were—"

CW, "Exactly right."

Then Congressman ROHRABACHER said, "There wasn't any—foliage didn't seem to be—did it seem like somebody dragged him up there?"

The confidential witness says, "Now, I did not read anything in this report and this has been stated numerous times. Below this man's feet, all the way down into the bottom of the ditch, approximately ten feet or better, up the berm on the other side, over the hill to the walking trail, everything had been trampled completely flat like the man had walked back and forth at least a dozen times or better. It was, at least 24, maybe 30 inches wide that everything was trampled completely flat. Every twig, every leaf trampled from the bottom of his feet all the way down the valley and over the hill?"

CW, "Completely flat."

Congressman BURTON, "Like somebody had been walking back and forth there?"

CW, "He had paced back and forth many times. At least a dozen times. You can't trample down that flat."

Congressman BURTON, "And they didn't put that in that report?"

CW, "Nothing in the report that I read. That I have read."

That is not in the report. Below the body somebody had walked back and forth along this ditch, along this hill.

Congressman BURTON: "Let me get this straight. You are saying that there was a path almost from the bottom of his body down into the bottom, up over this other hill?"

CW: "And out to the walking trail on the other side. As I showed you here, from here, down and out over that hill. This is, this was very, very dense."

Congressman BURTON: "And it was flattened out?"

CW: "It was walked completely flat. The agents had known about this and known about this. Nothing in that report. I don't know. I don't know. Did it disappear or what happened ?"

Congressman ROHRABACHER: "Your analysis——"

Congressman BURTON: "Wait a minute. This is very important. You are saying that you told the agents this?"

CW: "Oh, I told them numerous times."

But it was not in the report.

Congressman BURTON: "That the ground was——

Then I said, "Let me finish here. You went out to the site with the FBI and you told them at the site where the ground was trampled and how far it went?"

CW: "Yes. I also walked them—that doesn't make any sense was their statement about, why would they bring him in this way. It was simple from the cabin. What cabin is what their answer was. The one right over there."

Congressman BURTON: "So they said, that makes no sense, why would there be a path here like this and you said because that's where the cabin and the driveway is?

CW: "Uh-huh. And they did not know about the cabin and I walked them back there and showed it to them."

Then Congressman ROHRABACHER says, "Is it conceivable that somebody could have been on that path when you were relieving yourself without you seeing them?"

The confidential witness went into the park to relieve himself because of the traffic. And so Congressman ROHRABACHER was asking him is it conceivable somebody could have been there with the body and hiding in the woods while you were there. The guy says, the confidential witness says, "Absolutely. Absolutely. It was that dense," that they could have been hiding in the trees.

Congressman MICA says, "And you didn't see any—you didn't see any evidence that someone had committed suicide, any blood in, say around the grass or anything behind the head?"

CW: "We had no significant rain for 30 days. The ground at the top of the hill in this area might get a small amount of sun a day because there is very big trees around that area. Anything over that berm and down that berm never gets any sun; completely shaded out."

Yet they say the fingerprints melted off of the gun.

Congressman MICA: "But around the head——"

CW: "There was no—I mean I bent over and looked. I didn't lay my head flat on the ground. I probably lent my head down to within 16 inches of the ground. No signs, not a sign of," blood around the head.

Then I said, "But you didn't see any blood as close as you got around the head or anything like that?"

CW: "None."

Then Congressman MICA talking about when he went back out to his car after he found the body. "Did you look at the cars when you came back?"

CW: "As I walked down the hill, you are coming off and you are parked in the parking lot. You go up on either side of the parking lot to a walking area that's elevated well above the parking, up to a sign with the description of the fort area and what it was all about and the history. As you are walking back down, which I'm walking back down the hill to go back to my van, as you are coming down the hill you can see right down into the car and the car was parked either second or third."

Congressman MICA: "What kind of a car was it?"

CW: "White Honda and it was a light brown or a cream colored Japanese made car on the other end of the parking lot. On the passenger seat of the white Honda was a folded jacket, very, very similar in color to suit pants," worn by Mr. Foster. "The FBI tells me I have got the wrong car, that was not his. They said the brown one was his."

Congressman ROHRABACHER: "Say that again."

CW: "The FBI said that that was not his car. I thought sure that was his car because the jacket was so similar to the pants he had on."

Congressman BURTON: "Yeah."

CW: "In the passenger floor board was a four-pack wine cooler, two gone."

You remember the wine cooler bottle by his body, and there were two wine coolers gone out of the four pack.

Congressman ROHRABACHER says, "This was in the car the FBI said did not belong?"

CW: "Was not belong. And I asked them, how well did you check out those other two people that were still in the park when you got there? Oh, there is no doubt, they were just two lovers up there."

□ 2000

Then I said, "But you're saying in this car you saw a jacket that looked like the one that matched the pants on the body?" He said, "Exactly." I said, "You said that also you saw a wine cooler pack on the floor?" The confidential witness said, "A four-pack wine cooler with two gone, the same color as it was—it had a light pink-like label." I said, "OK, but did it look like the bottle you saw beside the body?" He said, "Exactly like the bottle beside the body." But that was not in the report. The confidential witness said, "Strange thing, when I went back with the agents, one of the agents spent about 15 minutes kicking around all of the leaves and everything looking for the wine cooler bottle," but that was 9 months later, for crying out loud.

"The palms were up, you say?" This is, once again, talking to the confidential witness. He said, "Absolutely," about the 90th time. "How sure are you the palms were up," Congressman MICA said. The confidential witness says, "As sure as I am standing right here, I am absolutely and totally, unequivocally, the palms were up. I looked at both palms. There was nothing in his hands. I didn't look at one and assume the other. I looked at both of them."

This is the man that found the body.

Congressman MICA, "How long did you spend over the body, 5 seconds, 10 seconds?" He said, "Oh, no, 2 minutes." Congressman Mica, "Two or 3 minutes?" "Not—well, that is a tough one. Because I wasn't panicked. I think I was fairly deliberate in studying."

That is the end of the relevant information in the report. This is a sworn report by the only person to find the body. He says the Fiske report is wrong, and yet nobody is paying any attention to it.

Mr. Fiske, who is a friend of Bernie Nussbaum's, a close associate of Presidents Clinton's, has worked with him on Wall Street, he is the special counsel. Mr. Fiske has chosen not to pursue these very important questions. It is just terrible.

And yet we are supposed to walk away and not even talk about it.

Now, they said there is no connection between Vince Foster's office and the Whitewater files that were taken out of his office.

I am going to try to finish up this. I want to go through this hurriedly, because there are a lot of things that need to be talked about.

I am going to tell my friends and my colleagues now why I believe there is a connection between Vince Foster's death and the Whitewater investigation that is not being pursued.

First of all, he died under very mysterious circumstances. His body was moved. There is no question about it. Yet nobody accepts that.

At 6 p.m. on July 20, 1993, Vincent Foster was found dead in Fort Marcey Park. Shortly after 9 p.m., White House Chief of Staff Mack McLarty was informed of his death. McLarty ordered the Vince Foster office sealed. However, the office remained unlocked overnight. They did not seal it even though they were told to by the chief of staff. Despite this order, less than 3 hours after the body was found, White House officials removed records, business deals between President Clinton and his wife and the Whitewater Development Corp. from Foster's office without telling the Federal authorities about it.

They were the people that went in there. Bernie Nussbaum, the White House counsel, the President's special assistant, Patsy Thomasson, and Hillary Clinton's chief of staff, Margaret Williams.

Bernie Nussbaum said they were in there 10 minutes, but the Park Police said they were in there over 2 hours.

During this first search, Whitewater files and President's Clinton's tax returns were removed and turned over to David Kendall, President Clinton's attorney. Why did they not give them to the FBI? Why did they not give them to the people investigating his death?

White House officials did not confirm the July 20 search of Foster's office until December. They did not even tell anybody they were in there taking those files out until December. Why? This is an investigation of a man's death, for crying out loud.

Then there was a second search 2 days later on July 22. Mr. Nussbaum and White House officials searched Foster's office for a second time. They got more documents. Some were sent to President Clinton's attorney, and others were sent to Vince Foster's attorney, James Hamilton.

During the second search, Mr. Nussbaum, citing executive privilege, kept Park Police and FBI agents from going through and watching them go through the files. Dee Dee Myers, the White House press secretary, said Bernie Nussbaum went through and sort of described contents of each of the files and what was in the drawers while representatives of the Justice Department, the Secret Service, the FBI, and other members of the counsel's office were present.

According to other White House sources, however, FBI agents and Park Police were ordered to sit on chairs right in the hallway right at the entrance while White House staff went through the documents, and Mr. Nussbaum gave the FBI agents and Park Police no indication of what he was taking. One FBI agent was reprimanded when he stood up and peered into the room to see what was going on.

Park Police later discovered Whitewater records had been removed from Foster's office during the second search after they visited James Hamilton, Foster's lawyer, a week after the death, to review a personal diary that was also taken during one of the searches.

Hamilton allowed the Park Police to briefly inspect Vince Foster's dairy and other documents. However, he did not allow them to make copies, citing privacy concerns. He refused to request for access to the diary and documents from the Justice Department.

Did Fiske review Vince Foster's diary? His report says nothing about it. Foster's diary might help to identify whom the blond hair on his clothes belonged to, maybe where he was that day, and maybe they could find out from the carpet samples. This is important evidence.

On July 27, 1993, the White House officials revealed on July 26 they found a note supposedly written by Vince Foster at the bottom of his briefcase in his office torn into 27 pieces with no fingerprints on it. Now, you go home tonight and tear a piece of paper into 27 pieces and tell me there is no fingerprint on it. It cannot be done. It was not out in the sun. Those fingerprints did not melt off of that.

And yet they said they did not explain why there were no fingerprints on it. They said they missed the note in their first two searches even though they had looked in the briefcase. How can you miss all of that torn-up paper in the briefcase if you looked in there twice? Maybe because it was not in there. I do not know.

Now, we have a million questions we want to ask about all of this. I am not going to go into the questions now. I think I have pretty well covered that.

Now, I want to go to the Rose Law Firm down in Little Rock, AR.

Jeremy Hedges, a part-time courier at the Rose Law Firm, told a grand jury he was told to shred documents from the files of Vince Foster after Special Prosecutor Robert Fiske had announced he would look into Foster's death. Fiske was appointed on January 20, 1994.

Even before a subpoena is issued, the law prohibits people from intentionally impeding an investigation by destroying evidence they know investigators want, and yet even though after they had picked the special counsel, they were down there shredding these documents.

In February after Fiske served subpoenas on the law firm's employees, Jeremy Hedges and the other couriers employed by the firm were called to a meeting with Ron Clark and Jerry Jones, two of the Rose Law Firm's partners. Jones said to Hedges, he challenged his recollection that he had shredded documents belonging to Foster. He cautioned him about relating assumptions to investigators. "I said," Hedges recounted, "I shredded some documents of Vincent Foster's 3 weeks ago." And Jones, the partner, replied, "How do you know they were Foster's? Don't assume something you don't know," trying to lead him. Hedges said he was certain they were Foster's files. Jones then said, "Don't assume they had anything to do with Whitewater." It is funny.

The box Hedges was told to shred and all its file folders were marked "VWF," Foster's initials. None of the documents he saw related to the Whitewater Development, Hedges said, but how would he know when he was shredding as fast as he could.

However, another Rose employee told the Washington Times that documents showing the Clintons' involvement in the Whitewater projects had also been ordered destroyed, and the shredding reportedly occurred February 3, 1994, at the Rose Law Firm.

During the 1992 Presidential campaign, three current or former Rose employees said that the couriers from the Rose Law Firm were summoned to the Arkansas Governor's Mansion by Hillary Clinton, who personally handed over records to be shredded at the Rose Law Firm downtown. The shredding began after the New York Times reported on March 8, 1992, the involvement of Governor Bill Clinton and Hillary Clinton in the Whitewater deal.

Couriers made at least six other runs during the campaign. They were given sealed, unmarked envelopes with instructions that they were to be shredded at the firm. The shredding continued through the November 3 general election. Records belonging to Webster Hubbell, Vincent Foster, William H. Kennedy III were also shredded.

A current employee said a conservative estimate would be that more than a dozen boxes of documents were ultimately destroyed. A lot of people say, well, are you sure those were Whitewater documents? Why would you think they were Whitewater documents? They were at the Governor's Mansion. Well, let us look into that.

James McDougal and his wife, Susan, who are now divorced, have said they personally delivered all the Whitewater records to the Governor's Mansion in December 1987 at Mrs. Clinton's request, and she was the one giving the couriers the documents to go back over to the Rose Law Firm to be shredded after the New York Times article in 1992 during the President's campaign.

And then during the Presidential campaign, President Clinton and his wife said that the records had disappeared.

Now, where do you think they disappeared to?

Today in the Washington Post, Margaret Williams, and remember Margaret Williams is Hillary Clinton's chief of staff, and I want you to listen to this:

> A Whitewater file taken from the office of White House Deputy Counsel Vincent Foster after his death last year was given to Hillary Rodham Clinton's chief of staff and, at the First Lady's direction, transferred to the White House residence before being turned over to the Clintons' personal lawyer, administration officials said yesterday. It was unclear yesterday why then-White House Counsel Bernard Nussbaum gave the file to the First Lady's chief of staff, Margaret Williams, rather than transferring it directly to Robert Barnett, the Clintons' personal lawyer at the time.

Why did they not give it to the police? They were the ones investigating this case.

"A White House official said Williams, after being asked by Nussbaum to take charge of the documents, checked with the First Lady in Little Rock, AR. Hillary Clinton told Williams to check with another White House employee about a safe place in the residence to store the documents, the official said."

□ 2010

The files were moved from the west wing of the White House where Williams and Nussbaum worked, to a locked closet on the third floor of the White House residence, where other personal papers were kept. Williams had a key to the closet, the official said. Barnett picked up the documents 5 days later.

Now, get the rest of this: After Foster's death, officials said his personal papers were given to the Foster family lawyer and his official files were distributed among other lawyers in the counsel's office.

In December the White House disclosed that a Whitewater file also had been found in Foster's office. The revelation helped fuel the White House controversy and raised suspicion the White House was not providing a fair picture of the events. I wonder why.

At that time the White House did not reveal Williams' involvement or the fact that the files were kept at the residence. They did not tell anybody that. The statement at the time by communications director Mark Gearan said only that the files were sent to the Clinton personal attorney. White House sources said that the statement was drafted by Nussbaum and that he, Gearan, did not know of Williams' involvement at the time. They did not even tell this guy they were giving the report out that Williams had taken the files up to Hillary's residence and locked them in her closet.

Sources familiar with the handling of the file said Nussbaum called Williams 2 days after Foster's death to ask her to take charge of Clinton's personal papers. Williams checked with Hillary Clinton, who agreed that the papers should be given to Barnett. Then they said that the President and the First Lady never looked at the papers before they gave them to the attorney.

They took them upstairs, she was instructed to take them up there and lock them in their closet, and then they later gave them to their attorney, but they said they never looked at the papers.

Well, the bottom line is the Fiske report is inaccurate, the Fiske report has glaring holes in it, the Fiske report, as it is presently constituted, is not worth the paper it is written on.

I do not care about the credentials of the four forensic experts. I am sure they were very competent men, but they based their findings on the coroner's report 9 months earlier and the coroner has been proven on two separate occasions to be incompetent as far as autopsies are concerned.

There just is no question about the major question about the death of Vince Foster. The man who found the body said the hands were moved. He swears before God that the hands were moved in a court report. He swears the head was moved. There were no fingerprints on the gun. There were no fingerprints on the suicide note.

The counsel, Mr. Fiske, never checked the carpet samples from his office to see if those were the same ones on his clothes. At least he did not say so in the report. He did not check his house to see if the carpet samples were off his home. Where did those carpet samples come from? There is just a ton of questions that need to be answered.

For any intelligent person to hear what I have said tonight and to read this report and to conclude that this is accurate, they just must have their eyes closed. I just do not know how they can believe that.

So, Mr. Speaker, as I conclude my remarks, let me say once again that this investigation should not be closed, it should be reopened. We should bring the confidential witness, keep his confidentiality, we should bring the confidential witness in a confidential way so he can be protected before the people that are involved and let me them see what I have seen. In fact, if you do not bring him forth, take my report before anybody in the Congress, take my document here that is sworn before a court reporter, and at least look at it, at least look at it.

You know, there is a poem by Cesar Gilbert Horn, Mr. Speaker, which says, in part: "Long rules the land and waiting justice sleeps." And I think that is the case with Vince Foster.

He may have committed suicide, I do not know, but I do know this: That body was moved, and if the body was moved, the report is wrong, and if the report is wrong, we need to ask Mr. Fiske why.

CONFERENCE REPORT ON H.R. 3841

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 3841), to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching:

CONFERENCE REPORT (H. REPT. 103-651)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3841), to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—INTERSTATE BANKING AND BRANCHING

Sec. 101. Interstate banking.
Sec. 102. Interstate bank mergers.
Sec. 103. State "opt-in" election to permit interstate branching through de novo branches.
Sec. 104. Branching by foreign banks.
Sec. 105. Coordination of examination authority.
Sec. 106. Branch closures.
Sec. 107. Equalizing competitive opportunities for United States and foreign banks.
Sec. 108. Federal Reserve Board study on bank fees.
Sec. 109. Prohibition against deposit production offices.
Sec. 110. Community Reinvestment Act evaluation of banks with interstate branches.
Sec. 111. Restatement of existing law.
Sec. 112. GAO report on data collection under interstate branching.
Sec. 113. Maximum interest rate on certain FMHA loans.
Sec. 114. Notice requirements for banking agency decisions preempting State law.
Sec. 115. Moratorium on examination fees under the International Banking Act of 1978.

TITLE II—GENERAL PROVISIONS

Sec. 201. Amendments to Federal Deposit Insurance Act and Federal Home Loan Bank Act.
Sec. 202. Sense of the Senate concerning multilateral export controls.
Sec. 203. Amendments relating to silver medals for Persian Gulf veterans.
Sec. 204. Commemoration of 1995 Special Olympic World Games.
Sec. 205. National Community Service Commemorative Coins.
Sec. 206. Robert F. Kennedy Memorial Commemorative Coins.
Sec. 207. United States Military Academy Bicentennial Commemorative Coins.
Sec. 208. United States Botanic Garden Commemorative Coins.
Sec. 209. Mount Rushmore Commemorative Coins.
Sec. 210. Study and report on the United States financial services system.
Sec. 211. Flexibility in choosing boards of directors.

TITLE I—INTERSTATE BANKING AND BRANCHING

SEC. 101. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE BANKING.—

"(1) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF BANKS.—The Board may approve an application under this section by a bank holding company that is adequately capitalized and adequately managed to acquire control of, or acquire all or substantially all of the assets of, a bank located in a State other than the home State of such bank holding company, without regard to whether such transaction is prohibited under the law of any State.

"(B) PRESERVATION OF STATE AGE LAWS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), the Board may not approve an application pursuant to such subparagraph that would have the effect of permitting an out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

"(ii) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.—Notwithstanding clause (i), the Board may approve, pursuant to subparagraph (A), the acquisition of a bank that has been in existence for at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

"(C) SHELL BANKS.—For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired.

"(D) Effect on State contingency laws.—No provision of this subsection shall be construed as affecting the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(i) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or bank holding companies;

"(ii) that State law was in effect as of the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994;

"(iii) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(iv) the appropriate Federal banking agency for such bank has not found that compliance with such State law would place the bank in an unsafe or unsound condition.

"(2) Concentration limits.—

"(A) Nationwide concentration limits.—The Board may not approve an application pursuant to paragraph (1)(A) if the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the acquisition for which such application is filed would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

"(B) Statewide concentration limits other than with respect to initial entries.—The Board may not approve an application pursuant to paragraph (1)(A) if—

"(i) immediately before the consummation of the acquisition for which such application is filed, the applicant (including any insured depository institution affiliate of the applicant) controls any insured depository institution or any branch of an insured depository institution in the home State of any bank to be acquired or in any host State in which any such bank maintains a branch; and

"(ii) the applicant (including all insured depository institutions which are affiliates of the applicant), upon consummation of the acquisition, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

"(C) Effectiveness of State deposit caps.—No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(D) Exceptions to subparagraph (B).—The Board may approve an application pursuant to paragraph (1)(A) without regard to the applicability of subparagraph (B) with respect to any State if—

"(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

"(ii) the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(E) Deposit defined.—For purposes of this paragraph, the term 'deposit' has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

"(3) Community reinvestment compliance.—In determining whether to approve an application under paragraph (1)(A), the Board shall—

"(A) comply with the responsibilities of the Board regarding such application under section 804 of the Community Reinvestment Act of 1977; and

"(B) take into account the applicant's record of compliance with applicable State community reinvestment laws.

"(4) Applicability of antitrust laws.—No provision of this subsection shall be construed as affecting—

"(A) the applicability of the antitrust laws; or

"(B) the applicability, if any, of any State law which is similar to the antitrust laws.

"(5) Exception for banks in default or in danger of default.—The Board may approve an application pursuant to paragraph (1)(A) which involves—

"(A) an acquisition of 1 or more banks in default or in danger of default; or

"(B) an acquisition with respect to which assistance is provided under section 13(c) of the Federal Deposit Insurance Act;

without regard to subparagraph (B) or (D) of paragraph (1) or paragraph (2) or (3).".

(b) State Taxation Authority Not Affected.—Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended—

(1) by striking "No provision" and inserting "(a) In General.—No provision"; and

(2) by adding at the end the following new subsection:

"(b) State Taxation Authority Not Affected.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

(c) Definitions.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(n) Incorporated Definitions.—For purposes of this Act, the terms 'insured depository institution', 'appropriate Federal banking agency', 'default', 'in danger of default', and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(o) Other Definitions.—For purposes of this Act, the following definitions shall apply:

"(1) Adequately capitalized.—The term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

"(2) Antitrust laws.—Except as provided in section 11, the term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

"(3) Branch.—The term 'branch' means a domestic branch (as defined in section 3 of the Federal Deposit Insurance Act).

"(4) Home state.—The term 'home State' means—

"(A) with respect to a national bank, the State in which the main office of the bank is located;

"(B) with respect to a State bank, the State by which the bank is chartered; and

"(C) with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of—

"(i) July 1, 1966; or

"(ii) the date on which the company becomes a bank holding company under this Act.

"(5) Host state.—The term 'host State' means—

"(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

"(B) with respect to a bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, a bank subsidiary.

"(6) Out-of-state bank.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(7) Out-of-state bank holding company.—The term 'out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.".

(d) Subsidiary Depository Institutions as Agents.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(r) Subsidiary Depository Institutions as Agents for Certain Affiliates.—

"(1) In general.—Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution affiliate.

"(2) Bank acting as agent is not a branch.—Notwithstanding any other provision of law, a bank acting as an agent in accordance with paragraph (1) for a depository institution affiliate shall not be considered to be a branch of the affiliate.

"(3) Prohibitions on activities.—A depository institution may not—

"(A) conduct any activity as an agent under paragraph (1) or (6) which such institution is prohibited from conducting as a principal under any applicable Federal or State law; or

"(B) as a principal, have an agent conduct any activity under paragraph (1) or (6) which the institution is prohibited from conducting under any applicable Federal or State law.

"(4) Existing authority not affected.—No provision of this subsection shall be construed as affecting—

"(A) the authority of any depository institution to act as an agent on behalf of any other depository institution under any other provision of law; or

"(B) whether a depository institution which conducts any activity as an agent on behalf of any other depository institution under any other provision of law shall be considered to be a branch of such other institution.

"(5) Agency relationship required to be consistent with safe and sound banking practices.—An agency relationship between depository institutions under paragraph (1) or (6) shall be on terms that are consistent with safe and sound banking practices and all applicable regulations of any appropriate Federal banking agency.

"(6) Affiliated insured savings associations.—An insured savings association which was an affiliate of a bank on July 1, 1994, may conduct activities as an agent on behalf of such bank in the same manner as an insured bank affiliate of such bank may act as agent for such bank under this subsection to the extent such activities are conducted only in—

"(A) any State in which—

"(i) the bank is not prohibited from operating a branch under any provision of Federal or State law; and

"(ii) the savings association maintained an office or branch and conducted business as of July 1, 1994; or

"(B) any State in which—

"(i) the bank is not expressly prohibited from operating a branch under a State law described in section 44(a)(2); and

"(ii) the savings association maintained a main office and conducted business as of July 1, 1994.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

SEC. 102. INTERSTATE BANK MERGERS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 44. INTERSTATE BANK MERGERS.

"(a) APPROVAL OF INTERSTATE MERGER TRANSACTIONS AUTHORIZED.—

"(1) IN GENERAL.—Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 18(c) between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

"(2) STATE ELECTION TO PROHIBIT INTERSTATE MERGER TRANSACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a merger transaction may not be approved pursuant to paragraph (1) if the transaction involves a bank the home State of which has enacted a law after the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and before June 1, 1997, that—

"(i) applies equally to all out-of-State banks; and

"(ii) expressly prohibits merger transactions involving out-of-State banks.

"(B) NO EFFECT ON PRIOR APPROVALS OF MERGER TRANSACTIONS.—A law enacted by a State pursuant to subparagraph (A) shall have no effect on merger transactions that were approved before the effective date of such law.

"(3) STATE ELECTION TO PERMIT EARLY INTERSTATE MERGER TRANSACTIONS.—

"(A) IN GENERAL.—A merger transaction may be approved pursuant to paragraph (1) before June 1, 1997, if the home State of each bank involved in the transaction has in effect, as of the date of the approval of such transaction, a law that—

"(i) applies equally to all out-of-State banks; and

"(ii) expressly permits interstate merger transactions with all out-of-State banks.

"(B) CERTAIN CONDITIONS ALLOWED.—A host State may impose conditions on a branch within such State of a bank resulting from an interstate merger transaction if—

"(i) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or any subsidiary of such bank or company (other than on the basis of a nationwide reciprocal treatment requirement);

"(ii) the imposition of the conditions is not preempted by Federal law; and

"(iii) the conditions do not apply or require performance after May 31, 1997.

"(4) INTERSTATE MERGER TRANSACTIONS INVOLVING ACQUISITIONS OF BRANCHES.—

"(A) IN GENERAL.—An interstate merger transaction may involve the acquisition of a branch of an insured bank without the acquisition of the bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank in such State without acquiring the bank.

"(B) TREATMENT OF BRANCH FOR PURPOSES OF THIS SECTION.—In the case of an interstate merger transaction which involves the acquisition of a branch of an insured bank without the acquisition of the bank, the branch shall be treated, for purposes of this section, as an insured bank the home State of which is the State in which the branch is located.

"(5) PRESERVATION OF STATE AGE LAWS.—

"(A) IN GENERAL.—The responsible agency may not approve an application pursuant to paragraph (1) that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

"(B) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.—Notwithstanding subparagraph (A), the responsible agency may approve a merger transaction pursuant to paragraph (1) involving the acquisition of a bank that has been existence at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

"(6) SHELL BANKS.—For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank or branch shall be deemed to have been in existence for the same period of time as the bank or branch to be acquired.

"(b) PROVISIONS RELATING TO APPLICATION AND APPROVAL PROCESS.—

"(1) COMPLIANCE WITH STATE FILING REQUIREMENTS.—

"(A) IN GENERAL.—Any bank which files an application for an interstate merger transaction shall—

"(i) comply with the filing requirements of any host State of the bank which will result from such transaction to the extent that the requirement—

"(I) does not have the effect of discriminating against out-of-State banks or out-of-State bank holding companies or subsidiaries of such banks or bank holding companies; and

"(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation incorporated in another State that engages in business in the host State; and

"(ii) submit a copy of the application to the State bank supervisor of the host State.

"(B) PENALTY FOR FAILURE TO COMPLY.—The responsible agency may not approve an application for an interstate merger transaction if the applicant materially fails to comply with subparagraph (A).

"(2) CONCENTRATION LIMITS.—

"(A) NATIONWIDE CONCENTRATION LIMITS.—The responsible agency may not approve an application for an interstate merger transaction if the resulting bank (including all insured depository institutions which are affiliates of the resulting bank), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

"(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.—The responsible agency may not approve an application for an interstate merger transaction if—

"(i) any bank involved in the transaction (including all insured depository institutions which are affiliates of any such bank) has a branch in any State in which any other bank involved in the transaction has a branch; and

"(ii) the resulting bank (including all insured depository institutions which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

"(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.—No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(D) EXCEPTIONS TO SUBPARAGRAPH (B).—The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) without regard to the applicability of subparagraph (B) with respect to any State if—

"(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

"(ii) the transaction is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(E) EXCEPTION FOR CERTAIN BANKS.—This paragraph shall not apply with respect to any interstate merger transaction involving only affiliated banks.

"(3) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction, the responsible agency shall—

"(A) comply with the responsibilities of the agency regarding such application under section 804 of the Community Reinvestment Act of 1977;

"(B) take into account the most recent written evaluation under section 804 of the Community Reinvestment Act of 1977 of any bank which would be an affiliate of the resulting bank; and

"(C) take into account the record of compliance of any applicant bank with applicable State community reinvestment laws.

"(4) ADEQUACY OF CAPITAL AND MANAGEMENT SKILLS.—The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) only if—

"(A) each bank involved in the transaction is adequately capitalized as of the date the application is filed; and

"(B) the responsible agency determines that the resulting bank will continue to be adequately capitalized and adequately managed upon the consummation of the transaction.

"(5) SURRENDER OF CHARTER AFTER MERGER TRANSACTION.—The charters of all banks involved in an interstate merger transaction, other than the charter of the resulting bank, shall be surrendered, upon request, to the Federal banking agency or State bank supervisor which issued the charter.

"(c) APPLICABILITY OF CERTAIN LAWS TO INTERSTATE BANKING OPERATIONS.—

"(1) STATE TAXATION AUTHORITY NOT AFFECTED.—

"(A) IN GENERAL.—No provision of this section shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(B) IMPOSITION OF SHARES TAX BY HOST STATES.—In the case of a branch of an out-of-State bank which results from an interstate merger transaction, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by the host State, or any political subdivision of such host State that imposes such tax based upon a method adopted by the host State, which may include allocation and apportionment.

"(2) APPLICABILITY OF ANTITRUST LAWS.—No provision of this section shall be construed as affecting—

"(A) the applicability of the antitrust laws; or

"(B) the applicability, if any, of any State law which is similar to the antitrust laws.

"(3) RESERVATION OF CERTAIN RIGHTS TO STATES.—No provision of this section shall be construed as limiting in any way the right of a State to—

"(A) determine the authority of State banks chartered by that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(4) STATE-IMPOSED NOTICE REQUIREMENTS.—A host State may impose any notification or reporting requirement on a branch of an out-of-State bank if the requirement—

"(A) does not discriminate against out-of-State banks or bank holding companies; and

"(B) is not preempted by any Federal law regarding the same subject.

"(d) OPERATIONS OF THE RESULTING BANK.—

"(1) CONTINUED OPERATIONS.—A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

"(2) ADDITIONAL BRANCHES.—Following the consummation of any interstate merger transaction, the resulting bank may establish, acquire, or operate additional branches at any location where any bank involved in the transaction could have established, acquired, or operated a branch under applicable Federal or State law if such bank had not been a party to the merger transaction.

"(3) CERTAIN CONDITIONS AND COMMITMENTS CONTINUED.—If, as a condition for the acquisition of a bank by an out-of-State bank holding company before the date of the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994—

"(A) the home State of the acquired bank imposed conditions on such acquisition by such out-of-State bank holding company; or

"(B) the bank holding company made commitments to such State in connection with the acquisition,

the State may enforce such conditions and commitments with respect to such bank holding company or any affiliated successor company which controls a bank or branch in such State as a result of an interstate merger transaction to the same extent as the State could enforce such conditions or commitments against the bank holding company before the consummation of the merger transaction.

"(e) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.—If an application under subsection (a)(1) for approval of a merger transaction which involves 1 or more banks in default or in danger of default or with respect to which the Corporation provides assistance under section 13(c), the responsible agency may approve such application without regard to subsection (b), or paragraph (2), (4), or (5) of subsection (a).

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) ADEQUATELY CAPITALIZED.—The term 'adequately capitalized' has the same meaning as in section 38.

"(2) ANTITRUST LAWS.—The term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

"(3) BRANCH.—The term 'branch' means any domestic branch.

"(4) HOME STATE.—The term 'home State'—

"(A) means—

"(i) with respect to a national bank, the State in which the main office of the bank is located; and

"(ii) with respect to a State bank, the State by which the bank is chartered; and

"(B) with respect to a bank holding company, has the same meaning as in section 2(o)(4) of the Bank Holding Company Act of 1956.

"(5) HOST STATE.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

"(6) INTERSTATE MERGER TRANSACTION.—The term 'interstate merger transaction' means any merger transaction approved pursuant to subsection (a)(1).

"(7) MERGER TRANSACTION.—The term 'merger transaction' has the meaning determined under section 18(c)(3).

"(8) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(9) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.

"(10) RESPONSIBLE AGENCY.—The term 'responsible agency' means the agency determined in accordance with section 18(c)(2) with respect to a merger transaction.

"(11) RESULTING BANK.—The term 'resulting bank' means a bank that has resulted from an interstate merger transaction under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REVISED STATUTES.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(A) by redesignating subsections (d) through (h) as subsections (h) through (l), respectively; and

(B) by inserting after subsection (c) the following new subsections:

"(d) BRANCHES RESULTING FROM INTERSTATE MERGER TRANSACTIONS.—A national bank resulting from an interstate merger transaction (as defined in section 44(f)(6) of the Federal Deposit Insurance Act) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 44 of the Federal Deposit Insurance Act.

"(e) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—

"(1) IN GENERAL.—Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 13(f), 13(k), or 44 of the Federal Deposit Insurance Act.

"(2) RETENTION OF BRANCHES.—In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if—

"(A) the bank had no branches in such State; or

"(B) the branch resulted from—

"(i) an interstate merger transaction approved pursuant to section 44 of the Federal Deposit Insurance Act; or

"(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 13(c) of such Act.

"(f) LAW APPLICABLE TO INTERSTATE BRANCHING OPERATIONS.—

"(1) LAW APPLICABLE TO NATIONAL BANK BRANCHES.—

"(A) IN GENERAL.—The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except—

"(i) when Federal law preempts the application of such State laws to a national bank; or

"(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

"(B) ENFORCEMENT OF APPLICABLE STATE LAWS.—The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

"(2) TREATMENT OF BRANCH AS BANK.—All laws of a host State, other than the laws regarding community reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

"(3) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.".

(2) ACT OF MAY 1, 1886.—Section 2 of the Act entitled "An Act to enable national banking associations to increase their capital stock and to change their names and locations." and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

"(c) COORDINATION WITH REVISED STATUTES.—In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 5155(e)(2) of the Revised Statutes.".

(3) FEDERAL DEPOSIT INSURANCE ACT.—

(A) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES OF STATE NONMEMBER BANKS.—Section 18(d) of the Federal Deposit Insurance Act

(12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

"(3) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—

"(A) IN GENERAL.—Effective June 1, 1997, a State nonmember bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in section 44(f)(4)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of a branch in such State by a State nonmember bank is authorized under this subsection or section 13(f), 13(k), or 44.

"(B) RETENTION OF BRANCHES.—In the case of a State nonmember bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in section 44(f)(4)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in subparagraph (A), to acquire, establish, or commence to operate a branch in such State if—

"(i) the bank had no branches in such State; or

"(ii) the branch resulted from—

"(I) an interstate merger transaction approved pursuant to section 44; or

"(II) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Corporation under section 13(c).".

(B) ACTIVITIES OF BRANCHES OF STATE BANKS RESULTING FROM INTERSTATE MERGER TRANSACTIONS.—Section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) is amended by adding at the end the following new subsection:

"(j) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS.—

"(1) IN GENERAL.—The laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch of a bank chartered by that State.

"(2) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch in a host State may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(3) DEFINITIONS.—The terms 'host State', 'interstate merger transaction', and "out-of-State bank' have the same meanings as in section 44(f).".

(4) ACT OF NOVEMBER 7, 1918.—The Act entitled "An Act to provide for the consolidation of the national banking associations." and approved November 7, 1918, (12 U.S.C. 215 et seq.) is amended—

(A) by redesignating section 2 as section 3;

(B) by redesignating section 3 as section 5;

(C) in the 1st section, by striking "That (a) any national banking association" and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Bank Consolidation and Merger Act'.

"SEC. 2. CONSOLIDATION OF BANKS WITHIN THE SAME STATE.

"(a) IN GENERAL.—Any national bank"; and

(D) by inserting after section 3 (as so redesignated under subparagraph (A) of this paragraph) the following new section:

"SEC. 4. INTERSTATE CONSOLIDATIONS AND MERGERS.

"(a) IN GENERAL.—A national bank may engage in a consolidation or merger under this Act with an out-of-State bank if the consolidation or merger is approved pursuant to section 44 of the Federal Deposit Insurance Act.

"(b) SCOPE OF APPLICATION.—Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 44(a)(3) of the Federal Deposit Insurance Act.

"(c) DEFINITIONS.—The terms 'home State' and 'out-of-State bank' have the same meaning as in section 44(f) of the Federal Deposit Insurance Act.".

(5) HOME OWNERS' LOAN ACT.—Section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended—

(A) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(B) by inserting after subsection (e), the following new subsection:

"(f) STATE HOMESTEAD PROVISIONS.—No provision of this Act or any other provision of law administered by the Director shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on such date, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.".

SEC. 103. STATE "OPT-IN" ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.

(a) NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by inserting after subsection (f) (as added by section 102(b)) the following new subsection:

"(g) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

"(A) there is in effect in the host State a law that—

"(i) applies equally to all banks; and

"(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

"(2) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.—

"(A) ESTABLISHMENT.—An application by a national bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

"(B) OPERATION.—Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 44 apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 44.

"(3) DEFINITIONS.—The following definitions shall apply for purposes of this section:

"(A) DE NOVO BRANCH.—The term 'de novo branch' means a branch of a national bank which—

"(i) is originally established by the national bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(B) HOME STATE.—The term 'home State' means the State in which the main office of a national bank is located.

"(C) HOST STATE.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

(b) STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (3) (as added by section 102(b)(3) of this title) the following new paragraph:

"(4) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Corporation may approve an application by an insured State nonmember bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

"(i) there is in effect in the host State a law that—

"(I) applies equally to all banks; and

"(II) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(ii) the conditions established in, or made applicable to this paragraph by, subparagraph (B) are met.

"(B) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.—

"(i) ESTABLISHMENT.—An application by an insured State nonmember bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for a merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b).

"(ii) OPERATION.—Subsections (c) and (d)(2) of section 44 shall apply with respect to each branch of an insured State nonmember bank which is established and operated pursuant to an application approved under this paragraph in the same manner and to the same extent such provisions of such section apply to a branch of a State bank which resulted from a merger transaction under such section 44.

"(C) DE NOVO BRANCH DEFINED.—For purposes of this paragraph, the term 'de novo branch' means a branch of a State bank which—

"(i) is originally established by the State bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(D) HOME STATE DEFINED.—The term 'home State' means the State by which a State bank is chartered.

"(E) HOST STATE DEFINED.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

SEC. 104. BRANCHING BY FOREIGN BANKS.

(a) IN GENERAL.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) INTERSTATE BRANCHING AND AGENCY OPERATIONS.—

"(1) FEDERAL BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the Comptroller of the Currency of an application, a foreign bank may establish and operate a Federal branch or agency in any State outside the home State of such foreign bank to the extent that the establishment and operation of such branch would be permitted under section 5155(g) of the Revised Statutes or section 44 of the Federal Deposit Insurance Act if the foreign bank were a national bank whose home State is the same State as the home State of the foreign bank.

"(2) STATE BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the appropriate State bank supervisor of an application, a foreign bank may establish and operate a State branch or agency in any State outside the home State of such foreign bank to the extent that such establishment and operation would be permitted under section 18(d)(4) or 44 of the Federal Deposit Insurance Act if the foreign bank were a State bank whose home State is the same State as the home State of the foreign bank.

"(3) CRITERIA FOR DETERMINATION.—In approving an application under paragraph (1) or (2), the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(A) shall apply the standards applicable to the establishment of a foreign bank office in the United States under section 7(d);

"(B) may not approve an application unless the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(i) determine that the foreign bank's financial resources, including the capital level of the bank, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act; and

"(ii) consult with the Secretary of the Treasury regarding capital equivalency; and

"(C) shall apply the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

"(4) OPERATION.—Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch and agency of a foreign bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section apply to a domestic branch of a national or State bank (as such terms are defined in section 3 of such Act) which resulted from a merger transaction under such section 44.

"(5) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—Except as provided in this section, a foreign bank may not, directly or indirectly, acquire, establish, or operate a branch or agency in any State other than the home State of such bank.

"(6) REQUIREMENT FOR A SEPARATE SUBSIDIARY.—If the Board or the Comptroller of the Currency, taking into account differing regulatory or accounting standards, finds that adherence by a foreign bank to capital requirements equivalent to those imposed under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act could be verified only if the banking activities of such bank in the United States are carried out in a domestic banking subsidiary within the United States, the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency may approve an application under paragraph (1) or (2) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.

"(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

"(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.

"(9) HOME STATE OF DOMESTIC BANK DEFINED.—For purposes of this subsection, the term 'home State' means—

"(A) with respect to a national bank, the State in which the main office of the bank is located; and

"(B) with respect to a State bank, the State by which the bank is chartered.".

(b) CONTINUED AUTHORITY FOR LIMITED BRANCHES, AGENCIES, OR COMMERCIAL LENDING COMPANIES.—Section 5(b) of the International Banking Act of 1978 (12 U.S.C. 3103(b)) is amended by adding at the end the following new sentence: "Notwithstanding subsection (a), a foreign bank may continue to operate, after the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before the date of the enactment of such Act to the extent the branch, agency, or subsidiary continues, after the enactment of such Act, to engage in operations which were lawful under the laws in effect on the day before such date.".

(c) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—In the case of a foreign bank that has a domestic bank subsidiary within the United States—

"(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

"(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic bank to establish branches outside the home State of the domestic bank to the extent permitted under section 5155(g) of the Revised Statutes or section 18(d)(4) or 44 of the Federal Deposit Insurance Act, as the case may be.".

(d) HOME STATE DETERMINATIONS.—Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

"(c) DETERMINATION OF HOME STATE OF FOREIGN BANK.—For the purposes of this section—

"(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected to be the home State by the foreign bank or, in default of any such selection, by the Board; and

"(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.".

SEC. 105. COORDINATION OF EXAMINATION AUTHORITY.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (g) the following new subsection:

"(h) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) IN GENERAL.—The appropriate State bank supervisor of a host State may examine a branch operated in such State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or a branch established in such State pursuant to section 5155(g) of the Revised Statutes or section 18(d)(4)—

"(A) for the purpose of determining compliance with host State laws, including those that govern banking, community reinvestment, fair lending, consumer protection, and permissible activities; and

"(B) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

"(2) ENFORCEMENT.—If the State bank supervisor of a host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in paragraph (1) or that the branch is being operated in an unsafe and unsound manner, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a State law enforcement officer may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(3) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(4) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of an appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.".

SEC. 106. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1) is amended by adding at the end the following new subsection:

"(d) BRANCH CLOSURES IN INTERSTATE BANKING OR BRANCHING OPERATIONS.—

"(1) NOTICE REQUIREMENTS.—In the case of an interstate bank which proposes to close any branch in a low- or moderate income area, the notice required under subsection (b)(2) shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

"(2) ACTION REQUIRED BY APPROPRIATE FEDERAL BANKING AGENCY.—If, in the case of a branch referred to in paragraph (1)—

"(A) a person from the area in which such branch is located—

"(i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and

"(ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of

banking services in the area affected by the closing of the branch; and

"(B) the agency concludes that the request is not frivolous,

the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency and other interested depository institution regulatory agencies with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) as the agency may determine, in the discretion of the agency, to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

"(3) NO EFFECT ON CLOSING.—No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) have been met by such bank with respect to the branch being closed.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INTERSTATE BANK DEFINED.—The term 'interstate bank' means a bank which maintains branches in more than 1 State.

"(B) LOW- OR MODERATE-INCOME AREA.—The term 'low- or moderate-income area' means a census tract for which the median family income is—

"(i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or

"(ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.".

SEC. 107. EQUALIZING COMPETITIVE OPPORTUNITIES FOR UNITED STATES AND FOREIGN BANKS.

(a) REGULATORY OBJECTIVES.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(2) by inserting after "sec. 6" *the following new subsection:*

"(a) OBJECTIVE.—In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.".

(b) REVIEW OF REGULATIONS.—

(1) IN GENERAL.—Each Federal banking agency, after consultation with the other Federal banking agencies to assure uniformity, shall revise the regulations adopted by such agency under section 6 of the International Banking Act of 1978 to ensure that the regulations are consistent with the objective set forth in section 6(a) of the International Banking Act of 1978.

(2) SPECIFIC FACTORS.—In carrying out paragraph (1), each Federal banking agency shall consider whether to permit an uninsured branch of a foreign bank to accept initial deposits of less than $100,000 only from—

(A) individuals who are not citizens or residents of the United States at the time of the initial deposit;

(B) individuals who—

(i) are not citizens of the United States;

(ii) are residents of the United States; and

(iii) are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(C) persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(D) foreign businesses and large United States businesses;

(E) foreign governmental units and recognized international organizations; and

(F) persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

(3) REDUCTION IN REGULATORY DE MINIMIS EXEMPTION.—In carrying out paragraph (1), each Federal banking agency shall limit any exemption which is—

(A) available under any regulation prescribed pursuant to section 6(d) of the International Banking Act of 1978 providing for the acceptance of initial deposits of less than $100,000 by an uninsured branch of a foreign bank; and

(B) based on a percentage of the average deposits at such branch;

to not more than 1 percent of the average deposits at such branch.

(4) ADDITIONAL RELEVANT CONSIDERATIONS.—In carrying out paragraph (1), each Federal banking agency shall also consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy.

(5) DEADLINE FOR PRESCRIBING REVISED REGULATIONS.—Each Federal banking agency—

(A) shall publish final regulations under paragraph (1) in the Federal Register not later than 12 months after the date of enactment of this Act; and

(B) may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were permissible under regulations that were in effect before the date of enactment of this Act.

(6) DEFINITIONS.—For purposes of this subsection—

(A) the term "Federal banking agency" means—

(i) the Comptroller of the Currency with respect to Federal branches of foreign banks; and

(ii) the Federal Deposit Insurance Corporation with respect to State branches of foreign banks; and

(B) the term "uninsured branch" means a branch of a foreign bank that is not an insured branch, as defined in section 3(s)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)(3)).

(c) AMENDMENT AFFIRMING THAT CONSUMER PROTECTION LAWS APPLY TO FOREIGN BANKS.—Section 9(b) of the International Banking Act of 1978 (12 U.S.C. 3106a) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after "which—" the following new subparagraph:

"(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after "which—" the following new subparagraph:

"(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;".

(d) INSURED BANKS IN TERRITORIES NOT TREATED AS FOREIGN BANKS FOR PURPOSES OF RETAIL DEPOSIT-TAKING RULE.—Section 6(d) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) (as so redesignated by subsection (a)(1) of this section) is amended by adding at the end the following new paragraph:

"(3) INSURED BANKS IN U.S. TERRITORIES.—For purposes of this subsection, the term 'foreign bank' does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.".

(e) AMENDMENT RELATING TO SHELL BRANCHES.—

(1) IN GENERAL.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(k) MANAGEMENT OF SHELL BRANCHES.—

"(1) TRANSACTIONS PROHIBITED.—A branch or agency of a foreign bank shall not manage, through an office of the foreign bank which is located outside the United States and is managed or controlled by such branch or agency, any type of activity that a bank organized under the laws of the United States, any State, or the District of Columbia is not permitted to manage at any branch or subsidiary of such bank which is located outside the United States.

"(2) REGULATIONS.—Any regulations promulgated to carry out this section—

"(A) shall be promulgated in accordance with section 13; and

"(B) shall be uniform, to the extent practicable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective at the end of the 180-day period beginning on the date of enactment of this Act.

(f) MEETING COMMUNITY CREDIT NEEDS.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) (as amended by section 104 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

"(8) CONTINUING REQUIREMENT FOR MEETING COMMUNITY CREDIT NEEDS AFTER INITIAL INTERSTATE ENTRY BY ACQUISITION.—

"(A) IN GENERAL.—If a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank is, or is part of, a regulated financial institution (as defined in section 803 of the Community Reinvestment Act of 1977), the Community Reinvestment Act of 1977 shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a regulated financial institution.

"(B) EXCEPTION FOR BRANCH THAT RECEIVES ONLY DEPOSITS PERMISSIBLE FOR AN EDGE ACT CORPORATION.—Paragraph (1) shall not apply to any branch that receives only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to receive.".

SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.

(a) IN GENERAL.—Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

"SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

"(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System

shall obtain a sample, which is representative by geographic location and size of the institution, of—

"(1) certain retail banking services provided by insured depository institutions; and

"(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machine transactions.

"(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

"(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

"(2) CONTENTS OF THE REPORT.—Each report prepared pursuant to paragraph (1) shall include—

"(A) a description of any discernible trend, in the Nation as a whole and in each region, in the cost and availability of retail banking services which delineates differences on the basis of size of the institution and engagement in multistate activity; and

"(B) a description of the correlation, if any, among the following factors:

"(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

"(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

"(iii) A decrease in the availability of such services.

"(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.".

(b) SUNSET.—The requirements of subsection (a) shall not apply after the end of the 7-year period beginning on the date of enactment of this Act.

SEC. 109. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.—The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in interstate branching pursuant to this title, or any amendment made by this title to any other provision of law, primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Regulations issued under subsection (a) shall include guidelines to ensure that interstate branches operated by an out-of-State bank in a host State are reasonably helping to meet the credit needs of the communities which the branches serve.

(c) LIMITATION ON OUT-OF-STATE LOANS.—

(1) LIMITATION.—Regulations issued under subsection (a) shall require that, beginning no earlier than 1 year after establishment or acquisition of an interstate branch or branches in a host State by an out-of-State bank, if the appropriate Federal banking agency for the out-of-State bank determines that the bank's level of lending in the host State relative to the deposits from the host State (as reasonably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant sources) for all banks the home State of which is such State—

(A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs—

(i) the agency may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) CONSIDERATIONS.—In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977;

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) BRANCH CLOSING PROCEDURE—

(A) NOTICE REQUIRED.—Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) HEARING.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding brought under this paragraph.

(d) APPLICATION.—This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title or any amendment made by this title to any other provision of law.

(e) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY, BANK, STATE, AND STATE BANK.—The terms "appropriate Federal banking agency", "bank", "State", and "State bank" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) HOME STATE.—The term "home State" means—

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) HOST STATE.—The term "host State" means a State in which a bank establishes a branch other than the home State of the bank.

(4) INTERSTATE BRANCH.—The term "interstate branch" means a branch established pursuant to this title or any amendment made by this title to any other provision of law.

(5) OUT-OF-STATE BANK.—The term "out-of-State bank" means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

SEC. 110. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(e) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.

"(3) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "The public" and inserting the following:

"(A) CONTENTS OF WRITTEN EVALUATION.—The public"; and

(3) by adding at the end the following new subparagraph:

"(B) METROPOLITAN AREA DISTINCTIONS.—The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.".

SEC. 111. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way—

(1) the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any such bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law;

(2) the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code; or

(3) the applicability of section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.

SEC. 112. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that the implementation of the interstate branching provisions contained in this title will result in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 113. MAXIMUM INTEREST RATE ON CERTAIN FMHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

SEC. 114. NOTICE REQUIREMENTS FOR BANKING AGENCY DECISIONS PREEMPTING STATE LAW.

Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by adding at the end the following new section:

"SEC. 5244. INTERPRETATIONS CONCERNING PREEMPTION OF CERTAIN STATE LAWS.

"(a) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall—

"(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue);

"(2) give interested parties not less than 30 days in which to submit written comments; and

"(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, consider any comments received.

"(b) PUBLICATION REQUIRED.—The appropriate Federal banking agency shall publish in the Federal Register—

"(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

"(2) any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes.

"(c) EXCEPTIONS.—

"(1) NO NEW ISSUE OR SIGNIFICANT BASIS.—This section shall not apply with respect to any opinion letter or interpretive rule that—

"(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

"(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

"(2) JUDICIAL, LEGISLATIVE, OR INTRAGOVERNMENTAL MATERIALS.—This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

"(3) EMERGENCY.—The appropriate Federal banking agency may make exceptions to subsection (a) if—

"(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

"(B) the opinion letter or interpretive rule is issued in connection with—

"(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 3 of the Federal Deposit Insurance Act); or

"(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.".

SEC. 115. MORATORIUM ON EXAMINATION FEES UNDER THE INTERNATIONAL BANKING ACT OF 1978.

(a) BRANCHES, AGENCIES, AND AFFILIATES.—Section 7(c)(1)(D) of the International Banking Act of 1978 shall not apply with respect to any examination under section 7(c)(1)(A) of such Act which begins before or during the 3-year period beginning on July 25, 1994.

(b) REPRESENTATIVE OFFICES.—The provision of section 10(c) of the International Banking Act of 1978 relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.

TITLE II—GENERAL PROVISIONS

SEC. 201. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND FEDERAL HOME LOAN BANK ACT.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended by adding at the end the following new subparagraph:

"(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

"(i) IN GENERAL.—In the case of any tort claim described in clause (ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended by adding at the end the following new subparagraph:

"(E) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—In the case of any tort claim described in subparagraph (A)(ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.".

SEC. 202. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet

Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

SEC. 203. AMENDMENTS RELATING TO SILVER MEDALS FOR PERSIAN GULF VETERANS.

Title III of Public law 102-281 (31 U.S.C. 5111 note) is amended—

(1) in section 303(b), by striking "entitlement" and inserting "enactment"; and

(2) in section 307 by striking subsection (b) and inserting the following:

"(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS.—The Secretary of the Treasury shall begin minting and issuing the medals described in section 302 whenever there are any funds available to cover the cost of minting and issuing any such medals from amounts received by the Secretary under section 305 and donations by private persons, and shall continue minting and issuing such medals, subject to the availability of funds to cover the costs, until all of the medals authorized have been issued.".

SEC. 204. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY OF COINS.—The coins authorized under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section during the period beginning on January 15, 1995, and ending on December 31, 1995.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(5) INTERNATIONAL SALES.—The Secretary, in cooperation with the 1995 Special Olympics World Games Organizing Committee, shall develop an international marketing program to promote and sell coins outside of the United States.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to—

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 205. NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins to commemorate students who volunteer to perform community service, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

(c) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of community services provided by student volunteers.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

(i) a designation of the value of the coin;

(ii) an inscription of the year "1996"; and

(iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins authorized by this section shall be—

(A) selected by the Secretary after consultation with the National Community Service Trust and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section shall be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than September 1, 1996.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Community Service Trust as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS.—A coin shall not be issued under this section unless the Secretary has received—

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 206. ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins to commemorate the life and work of Robert F. Kennedy, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

(c) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of the life and work of Robert F. Kennedy.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

(i) a designation of the value of the coin;

(ii) an inscription of the year "1998"; and

(iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins authorized by this section shall be—

(A) selected by the Secretary after consultation with the Robert F. Kennedy Memorial and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section shall be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than January 1, 1998.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the Robert F. Kennedy Memorial for the purpose of improving the endowment of the Robert F. Kennedy Memorial.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Robert F. Kennedy Memorial as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS.—A coin shall not be issued under this section unless the Secretary has received—

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 207. UNITED STATES MILITARY ACADEMY BICENTENNIAL COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary shall issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the $1 coins shall be emblematic of the United States Military Academy and its motto "Duty, Honor, Country". On each such coin there shall be a designation of the value of the coin, an inscription of the year "2002", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design of the coins minted under this section shall be selected by the Secretary after consultation with the Commission of Fine Arts and the Bicentennial Steering Group, Association of Graduates, United States Military Academy. As required by section 5135 of title 31, United States Code, the designs shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY AND MINT FACILITY.—The coins authorized under this section may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(2) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section during the period beginning on March 16, 2002, and ending on March 16, 2003.

(3) SUNSET PROVISION.—No coins shall be minted under this section after December 31, 2002.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this *section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.*

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the Association of Graduates, United States Military Academy to assist the Association of Graduates' efforts to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets, United States Military Academy.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Association of Graduates, United States Military Academy as may be related to the expenditure of amounts paid under subsection (g).

(i) NUMISMATIC PUBLIC ENTERPRISE FUND.—The coins issued under this section are subject to the provisions of section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

(j) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 208. UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS.

(a) COIN SPECIFICATIONS.—

(1) ONE-DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be a rose, the national floral emblem, and a frontal view of the French facade of the United States Botanic Garden. On each coin there shall be a designation of the value of the coin, an inscription of the years "1820–1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCE OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins minted under this section shall be—

(1) selected by the Secretary after consultation with the National Fund for the United States Botanic Garden and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this section during the period beginning on January 1, 1997, and ending on December 31, 1997.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins authorized under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Fund for the United States Botanic Garden.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Fund for the United States Botanic Garden as may be related to the expenditures of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefore;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 209. MOUNT RUSHMORE COMMEMORATIVE COINS.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

SEC. 210. STUDY AND REPORT ON THE UNITED STATES FINANCIAL SERVICES SYSTEM.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall, after consultation with the Advisory Commission on Financial Services established under subsection (b), and consultation in accordance with paragraph (3), conduct a study of matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of the system's users, including the needs of—

(A) individual consumers and households;

(B) communities;

(C) agriculture;

(D) small-, medium-, and large-sized businesses;

(E) governmental and nonprofit entities; and

(F) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and how those changes affect the financial services system's ability to efficiently meet the needs of the national economy and the system's users during the next 10 years and beyond; and

(B) the adequacy of existing statutes and regulations, and the existing regulatory structure, to meet the needs of the financial services system's users effectively, efficiently, and without unfair, anticompetitive, or discriminatory practices.

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Commodity Futures Trading Commission;

(C) the Comptroller of the Currency;

(D) the Director of the Office of Thrift Supervision;

(E) the Federal Deposit Insurance Corporation;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities and Exchange Commission;

(H) the Director of the Congressional Budget Office; and

(I) the Comptroller General of the United States.

(b) ADVISORY COMMISSION ON FINANCIAL SERVICES.—

(1) ESTABLISHMENT.—There is established the Advisory Commission on Financial Services (hereafter in this section referred to as the "Advisory Commission").

(2) MEMBERSHIP OF COMMISSION.—The Advisory Commission—

(A) shall consist of not less than 9 nor more than 14 members appointed by the Secretary from among individuals—

(i) who are—

(I) users of the financial services system; or

(II) experts in finance or on the financial services system; and

(ii) who are not employees of the Federal Government; and

(B) shall include representatives of business, agriculture, and consumers.

(3) CHAIRPERSON.—The Secretary or the Secretary's designee shall serve as Chairperson of the Advisory Commission.

(4) TRAVEL EXPENSES.—Members of the Advisory Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performing services for the Advisory Commission.

(5) TERMINATION.—The Advisory Commission shall terminate 30 days after the date of submission of the report required under subsection (d).

(c) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Secretary shall develop such recommendations as may be appropriate for changes in statutes, regulations, and policies to improve the operation of the financial services system, including changes to better—

(1) meet the needs of, and assure access to the system for, current and potential users;

(2) promote economic growth;

(3) protect consumers;

(4) promote competition and efficiency;

(5) avoid risk to the taxpayers;

(6) control systemic risk; and

(7) eliminate discrimination.

(d) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report describing the study conducted under subsection (a) and any recommendations developed under subsection (c).

SEC. 211. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

(a) IN GENERAL.—Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

(b) PROVISION REPEAL.—Effective on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, this section and the amendment made by this section are repealed.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOSEPH KENNEDY,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,

As additional conferees from the Committee on Agriculture, for consideration of sec. 109 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE STENHOLM,
HAROLD L. VOLKMER,
TIMOTHY J. PENNY,
TIM JOHNSON,
PAT ROBERTS,
LARRY COMBEST,
WAYNE ALLARD,

As additional conferee from the Committee on Foreign Affairs, for consideration of sec. 402 of the Senate amendment, and modifications committed to conference:

BEN GILMAN,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 101–03 of the House bill, and title II and secs. 102–03 of the Senate amendment, and modifications committed to conference:

R.L. MAZZOLI,
BILL HUGHES,
DAN GLICKMAN,
RICK BOUCHER,
JOHN BRYANT,
HAMILTON FISH,
CHAS T. CANADY,
BOB GOODLATTE,

Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
JIM SASSER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SUMMARY OF MAJOR PROVISIONS

TITLE I—INTERSTATE BANKING AND BRANCHING

INTERSTATE BANKING

The legislation permits bank holding companies to acquire banks in any State one year after enactment of the legislation. State laws which require the acquiring company to acquire a bank that has been in existence for a specified minimum period of time (not to exceed five years) are preserved. Any State law which requires a bank to be acquired to be in existence for more than five years applies as if it requires that the bank being acquired be five years old.

Section 3(d)(1)(D) of the Bank Holding Company Act, as amended by section 101, protects the applicability of a State law that makes the acquisition of a bank contingent upon a requirement that a portion of the bank's assets be available to a State-sponsored housing entity established under State law, under the conditions that the State law is not discriminatory, that the State law was in effect as of the date of enactment of this Act and that compliance with the State law would not result in an unacceptable risk to the deposit insurance fund and would not place the bank in an unsafe or unsound condition.

The Federal Reserve Board may not approve an interstate acquisition if, as a result of the acquisition, the bank holding company would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States or 30 percent or more of the deposits in the home State of the bank to be acquired. Notwithstanding the 30 percent limit, the Board could approve such a transaction if the home State waives the 30 percent limit either by statute, regulation, or order of the appropriate State official based on standards that do not have the effect of discriminating against out-of-State institutions.

The above concentration limits do not apply to initial entry into a State by a bank holding company. If, however, a State has a deposit concentration cap which applies in a nondiscriminatory manner to both in-State and out-of-State bank holding companies making initial entry acquisitions, then nothing in the legislation affects the State's authority to impose such deposit cap.

Community Reinvestment Laws

The Board shall continue to comply with its responsibilities under the Community Reinvestment Act of 1977 with respect to applications under section 3(d) of the Bank Holding Company Act of 1956. Currently the Board reviews applications under section 3(d) in accordance with existing regulations (such as Regulations Y and BB) and practices, and the conferees intend that nothing in this bill will alter or affect such regulations and practices as established by the Board.

In acting on an application under section 3(d), the Board shall also consider the applicant's record of compliance with applicable state community reinvestment laws.

Applicability of Antitrust Laws

The title provides that no provision of the antitrust laws is to be construed as being affected by the interstate banking amendments to the Bank Holding Company Act, including the Act's provisions on concentration limits. The applicability, if any, of State antitrust laws is likewise preserved. Nothing in this provision is intended to affect or expand the existing applicability of State antitrust laws, under current statutory or case law, to interstate acquisitions.

STATE TAXATION AUTHORITY

Section 101(b) amends the Bank Holding Company Act of 1956 to provide that nothing in that Act shall be construed as affecting the authority of any State or political subdivision to adopt, apply or administer any tax or method of taxation to any bank, bank holding company or foreign bank, or their affiliates, to the extent that such tax or tax method is otherwise permissible under the Constitution or other Federal law. This is intended to clarify that it is not the Conferees' intent to overturn existing State tax law pertaining to distinct legal entities within a corporate structure. The provision recognizes the existence of corporate affiliates and reaffirms that States may segregate the separately incorporated entities within a bank or bank holding company for state taxation purposes, to the extent permissible under the Constitution or other Federal law.

Similar amendments are made to section 44 of the Federal Deposit Insurance Act and to Title I.

AFFILIATED BANKS AS AGENTS

The Conferees accepted a modified version of a provision in the House bill permitting certain affiliated depository institutions to act as agents for each other for purposes of receiving deposits, renewing time deposits, closing loans, servicing loans and receiving payments on loans and other obligations for other affiliated depository institutions, with several amendments.

The modified provision permits bank subsidiaries, rather than depository institution subsidiaries, of bank holding companies to act as agents for depository institution affiliates. Subject to certain conditions, insured savings associations which were affiliated with banks as of July 1, 1994, may act as agents for such banks under this provision.

As used in this provision, the term "receive deposits" means the taking of deposits to be credited to an existing account and is not meant to include the opening or origination of new deposit accounts at an affiliated institution by the agent institution.

The Conferees deleted the authority in the House bill for affiliated depository institutions to disburse the proceeds of loans for other affiliated depository institutions and substituted authority to service loans. The Conferees intend that, under this authority to service loans, agent banks may perform ministerial functions for the principal bank making a loan. Those ministerial functions include such activities as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information (such as outstanding loan balances), and receiving payments. It does not include such loan functions as evaluating applications or disbursing loan funds. The term "close loans" does not include the making of a decision to extend credit or the extension of credit.

The Conferees also intend that the provision permit affiliated banks to act as agents for one another regardless of whether the institutions are located in the same or different states.

Under section 18(r)(3) of the Federal Deposit Insurance Act (as added by section 101(d) of this title), a bank may not conduct any activity as an agent that such bank is prohibited from conducting as principal under applicable Federal or State law. Prohibited activities under this provision include activities by a bank acting as agent that would be prohibited to the bank acting as principal under the applicable consumer protection, powers and other laws of the State where the bank is situated. The Conferees intend that the limitation on acting as agent under section 18(r)(3) shall also be applied to all United States offices of foreign banks covered under the definition of bank in the Act, when acting as agent for a depository institution affiliate. Agency relationships may be used to promote operational efficiencies, but they may not be used to evade applicable consumer protection, powers, and other laws of the State where the agent institution is situated.

The Conferees also intend to clarify, through the addition of a savings clause, that this section does not affect the authority of a depository institution to be an agent for a depository institution under any other provision of law, nor does it affect a determination under any other provision of law whether the agent should be considered to be a branch of the depository institution. The Conferees do not intend that new subsection 18(r) of the Federal Deposit Insurance Act affect the application of other provisions of law which permit agency relationships between affiliated depository institutions. The Conferees note that subsection 18(r) applies narrowly only to affiliated depository institutions acting as agents, and has no application to agency relationships concerning nondepositories as agent, whether or not affiliated with the depository institution.

Section 18(r) shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from one Federal deposit insurance fund to the other Federal deposit insurance fund.

INTERSTATE BRANCHING

Introduction

The Conferees decided on an interstate branching structure somewhat different than the structure of either the House or the Senate bills. Under the House structure, branching (other than the establishment of de novo branches) was permitted three years after enactment through a one-step acquisition of an existing bank and its conversion to branches of the acquiring bank, under the National Bank Act for national banks or the Federal Deposit Insurance Act for State banks. The Senate structure used a two-step process effective June 1, 1997, with the interstate acquisition of a bank under the Bank Holding Company Act of 1956 subsequently followed by a consolidation of the newly acquired bank with another bank owned by the holding company.

The Conferees adopted a structure under which a bank would engage in a merger transaction with the out-of-State bank and convert any of its offices into branches of the resulting bank under the authority of a new section of the Federal Deposit Insurance Act. Such a transaction would be subject to approval under the Bank Merger Act.

The House bill authorized bank holding companies to consolidate affiliated banks into a single bank with interstate branches 18 months after enactment of the legislation. The Senate bill did not provide for early consolidation. The House receded to the Senate, thereby permitting consolidation of affiliated banks in different States through an interstate merger transaction when interstate branching takes effect on June 1, 1997.

Once a bank has established branches in a host State through an interstate merger transaction, such bank may establish and acquire additional branches at any location in the host State where any bank involved in the interstate merger transaction could have established or acquired branches under applicable Federal or State law.

Interstate Branching Through Mergers

Beginning June 1, 1997, a bank may merge with a bank in another State so long as both States have not opted out of interstate branching between the date of enactment and May 31, 1997. States may enact laws opting-out of interstate branching before June 1, 1997, subject to certain conditions. States may also enact laws permitting interstate merger transactions before June 1, 1997. Host States may impose conditions on a branch resulting from an interstate merger transaction that occurs before June 1, 1997, if the conditions do not discriminate against out-of-State banks, are not preempted by Federal law, and do not apply or require performance after May 31, 1997.

State laws requiring out-of-State banks or bank holding companies to merge with, or acquire a bank that has been in existence for a specified minimum period of time (not to exceed five years) are preserved with respect to interstate merger transactions. Any such State law which imposes a minimum age requirement of more than five years on a bank to be acquired is to be applied as if the minimum age requirement is five years.

Any bank that files an application for an interstate merger transaction shall comply with any filing requirement of any host State of the bank resulting from the transaction, to the extent the requirement does not discriminate against out-of-State banks or bank holding companies, and is similar to any requirement imposed on nonbanking corporations incorporated in another State that engage in business in the host State. Banks must also file a copy of the application for the interstate merger transaction with the State bank supervisor of the host State. The responsible agency may not approve an application if the applicant materially fails to comply with the host State's filing requirements.

The responsible agency may not approve an application for an interstate merger if the resulting bank would control more than 10 percent or more of the total amount of deposits of insured depository institutions in the United States or 30 percent or more of the deposits in any State affected by the interstate merger. Notwithstanding the 30 percent limit, the responsible agency could approve such a transaction if the home State waives the 30 percent limit either by statute, regulation, or order of the appropriate State official based on standards that do not have the effect of discriminating against out-of-state institutions.

The concentration limits do not apply with respect to any interstate merger transactions involving affiliated banks. The concentration limits also do not apply to initial entry into a State by a bank or its affiliates. If, however, a State has a deposit concentration cap which applies in a non-discriminatory manner to both in-State and out-of-State banks and bank holding companies, then nothing in the legislation affects the State's authority also to impose such deposit caps to initial entries.

The responsible agency may approve an application for a merger only if each bank involved in the transaction is adequately capitalized as of the date the application is filed, and the agency determines that the resulting bank will continue to be adequately capitalized and adequately managed.

The laws of the host State regarding community reinvestment, consumer protection (including applicable usury ceilings), fair lending, and establishment of intrastate branches shall apply to any branch of a national bank in the host State to the same extent as such State laws apply to a branch of a bank chartered by that State, except when Federal law preempts, or when the Comptroller determines that the law has a discriminatory effect on the branch in comparison to branches of State-chartered banks. Such laws shall be enforced by the Comptroller of the Currency.

Acquisition of Branches

New section 44(a)(4)(A) of the Federal Deposit Insurance Act (as added by section 102(a)) permits the responsible Federal regulator to approve the acquisition of a branch of an insured bank without the acquisition of the entire bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank without acquiring the bank. The Conferees intend that, in approving such acquisitions, Federal regulators will ensure that state minimum age restrictions under paragraph (5) which apply to such acquisitions are preserved. Federal banking agencies should not approve the acquisition of a branch (if permitted under paragraph (4)) in host States which have minimum age laws regarding the acquisition of banks, unless such laws expressly permit branches in the host state to be acquired without the acquisition of the bank.

Applicability of Community Reinvestment Laws

Under current law, most interstate movement by banking organizations takes place via the Bank Holding Company Act. Current regulations and practices of the Board of Governors of Federal Reserve System delineate the scope of CRA performance considered by the Board in acting on applications by a bank holding company to move interstate via section 3(d) of the Bank Holding Company Act.

Section 44(b)(3) of the Federal Deposit Insurance Act (as added by section 102(a) of this title) provides that, only with respect to initial entry into a host state by a bank without branches or a bank affiliate in that host state, the scope of CRA performance considered by the responsible Federal banking agency in connection with an interstate branching application will parallel the scope of CRA performance which would be considered by the Board of Governors of the Federal Reserve System (to the same extent as outlined in the statement of managers accompanying section 3(d)(3) of the Bank Holding Company Act of 1956, as amended by section 101(a) of this title) if the application were for an interstate bank holding company acquisition pursuant to section 3(d) of the Bank Holding Company Act. Hence, in those cases of initial entry, the Conferees intend that the responsible federal banking agency comply with its responsibilities under section 804 of CRA consistent with current regulations and practices with respect to bank mergers and also to take into account the CRA record, including the most recent written evaluation, of any affiliate banks of the resulting bank.

With respect to all other interstate branching applications apart from those involving initial entry into a host state, the responsible Federal banking agency shall carry out its responsibilities under section 804 of the Community Reinvestment Act consistent with its current regulations and practices with respect to bank mergers.

In all cases, when taking into account the CRA performance of an institution with branches in more than one state in connection with acting on an interstate branching application, the Conferees expect that the responsible Federal banking agency will take into account the institution's performance under CRA in each state in which it maintains branches.

In addition, when acting on a interstate branching application, the responsible Federal banking agency shall take into account the records of compliance with applicable State community reinvestment laws of any applicant bank.

Applicable State Law

States have a strong interest in the activities and operations of depository institutions doing business within their jurisdictions, regardless of the type of charter an institution holds. In particular, States have a legitimate interest in protecting the rights of their consumers, businesses, and communities. Federal banking agencies, through their opinion letters and interpretive rules on preemption issues, play an important role in maintaining the balance of Federal and State law under the dual banking system. Congress does not intend that the Interstate Banking and Branching Efficiency Act of 1994 alter this balance and thereby weaken States' authority to protect the interests of their consumers, businesses, or communities.

Accordingly, the title emphasizes that a host state's laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches will apply to interstate branches of national banks established in the host state to the same extent as those laws apply to a branch of a State bank, except when Federal law preempts application of the State laws to a national bank, or when the Comptroller of the Currency determines that the State laws have a discriminatory effect on the branch as compared with their effect on a branch of a State bank.

Under well-established judicial principles, national banks are subject to State law in many significant respects. The laws of the State in which a national bank is situated will apply to the national bank unless those State laws are preempted by Federal law. Generally, State law applies to national banks unless the State law is in direct conflict with the Federal law, Federal law is so comprehensive as to evidence Congressional intent to occupy a given field, or the State law stands as an obstacle to the accomplishment of the full purposes and objectives of the Federal law. In this regard, the impact of a State law on the safe and sound operations of a national bank is one factor that may be taken into account in considering whether Federal law preempts State law. Courts generally use a rule of construction that avoids finding a conflict between the Federal and State law where possible. The title does not change these judicially established principles.

During the course of consideration of the title, the Conferees have been made aware of certain circumstances in which the Federal banking agencies have applied traditional preemption principles in a manner the Conferees believe is inappropriately aggressive, resulting in preemption of State law in situations where the federal interest did not warrant that result. One illustration is OCC Interpretive Letter No. 572, dated January 15, 1992, from the OCC to Robert M. Jaworski, Assistant Commissioner, State of New Jersey Department of Banking, concluding that national banks in New Jersey are not required to comply with the New Jersey Consumer Checking Account Act. It is of utmost concern to the Conferees that the agencies issue opinion letters and interpretive rules concluding that Federal law preempts state law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches only when the agency has determined that the Federal policy interest in preemption is clear. In the case of Interpretive Letter No. 572, it is the sense of the Conferees that the fact the Congress has acknowledged the benefits of more widespread use of lifeline accounts through the enactment of the Bank Enterprise Act did not indicate that Congress intended to override State basic banking laws, or occupy the area of basic banking services to such an extent as to displace State laws, or that the existence of State basic banking laws frustrated the purpose of Congress.

The Conferees have similar concerns regarding the scope of the OCC interpretive rule that appears at 12 C.F.R. §7.8000, which broadly asserts that Federal law governing the deposit-taking functions of national banks preempts any State law that attempts to prohibit, limit, or restrict deposit account service charges. In light of the Conferees' views regarding the proper application of recognized preemption standards discussed above, the Conferees urge the OCC to review Interpretive Ruling 7.800 to determine if it should be withdrawn or revised.

The Conferees understand that in certain cases some states have imposed conditions on, or obtained commitments from, bank holding companies in connection with a company's acquisition of banks outside its home state. The title provides that such conditions or commitments existing as of the date of enactment of the Interstate Banking and Branching Efficiency Act of 1994 will continue to be enforceable against the bank holding company or an affiliated successor company to the same extent as they were previously if a bank holding company with bank subsidiaries in more than one state chooses to combine its banks under new section 44 of the Federal Deposit Insurance Act (as added by section 102(a) of this title). The title does not create any new State enforcement authority with respect to any conditions imposed or commitments made before the enactment of the title.

Interpretations Concerning Federal Preemption of State Law

In view of the Congressional concern regarding preemption of State law regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, the Conferees concluded that a more open process for reaching preemption conclusions in these areas, with a clearly structured, meaningful opportunity for interested parties to communicate their views to the agency, was warranted. Also, it is important that the agencies make their determinations on Federal preemption of State law available to the public in a timely and accessible manner. Accordingly, the title imposes certain procedural requirements on agency preemption opinion letters and interpretive rules in connection with State laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, whether or not related to interstate branching. The Conferees believe that the public notice and openness provided by the new process will be a vital safeguard to ensure that an agency applies the recognized principles of preemption, discussed above, in a balanced fashion.

The title provides that before issuing any opinion letter or interpretive ruling concluding that Federal law preempts State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches, the appropriate Federal banking agency will publish notice in the Federal Register of the request, or of the agency's intention on its own motion, to determine whether Federal law preempts a particular State law. The notice should describe each State law in question and otherwise provide information sufficient to enable interested parties to comment meaningfully on the issue under consideration. The agency also should promptly make available upon request a copy of any incoming request letter. The title also requires the agency to publish in the Federal Register a copy of the final opinion letter or interpretive rule.

The Federal Register publication requirement is intended to provide readily available and widespread notice to interested parties of the opportunity to comment on preemption matters that have not been previously resolved by the agency or courts. The title requires the agency to give interested parties not less than 30 days in which to submit comments. In establishing the length of the comment period, the Conferees intend that the agencies should take into account the complexity of the preemption issue involved and the number of parties likely interested in responding to the solicitation of public comment and the resources of those parties. The Conferees also expect the agencies to be flexible in extending the comment period if requested to do so by an interested party for good cause shown. The title further requires the agency to take the public comments into account in reaching its decision, even though each particular comment need not be specifically discussed in the final product.

This process is not intended to confer upon the agency any new authority to preempt or to determine preemptive Congressional intent in the four areas described, or to change the substantive theories of preemption as set forth in existing law. Rather, it is intended to help focus any administrative preemption analysis and to help ensure that an agency only makes a preemption determination when the legal basis is compelling and the Federal policy interest is clear.

The public notice and comment process is not required when a particular request raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the agency or the courts, or when the incoming request regarding preemption contains no significant legal basis upon which to make a preemption determination. The title also exempts materials prepared for use in judicial proceedings, for submission to Congress or a member of Congress, and for intra-governmental use from the new public notice requirements. The intra-governmental use exception, in particular, is intended to carve out an exception for materials provided to or from, or shared with, agency personnel or other agencies in the Executive Branch. Examples of the type of such material include, but are not limited to, memoranda, letters, correspondence, advisory opinions, or other materials that are part of the deliberative process that governs the making of decisions and policies within the Executive Branch. An exception to the notice and comment provisions is also provided in cases when the appropriate Federal banking agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of a national bank.

The Comptroller must follow the notice and comment process in making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes that State laws discriminate against a branch of a national bank as compared with a branch of a State bank.

The Conferees expect that the Federal banking agencies will be receptive to well-supported requests from interested parties seeking reconsideration of previous interpretive rules or opinions regarding state community reinvestment, consumer protection, fair lending and intrastate branching laws, consistent with the approach to preemption discussed above.

Host State Notification Requirements

Host States may impose any notification or reporting requirement on a branch in the State if the requirement does not discriminate against out-of-State banks and is not preempted by Federal law. Such requirement is in addition to the filing requirement for individual transactions.

State Opt-Out of Interstate Branching

Section 44(a)(2) of the Federal Deposit Insurance Act (as added by section 102(a)) provides that States may opt out of interstate branching by enacting legislation after the date of enactment of the title and before June 1, 1997. If a State opts-out, no bank in any other state may establish a branch in that State, either State, either through an acquisition or de novo. A bank whose home State opts-out of interstate branching may not participate in any interstate merger transaction.

Interstate Branching De Novo With State Authorization

The appropriate Federal regulator may approve an application by a bank to establish and operate a de novo branch in a State in which the bank does not maintain a branch if a State opts-in to de novo branching, and expressly permits de novo branching. The establishment of the initial branch in a host State which permits de novo interstate branching is subject to the same requirements which apply to the initial acquisition of a bank in the host State, other than the deposit concentration limits. Those limits are inapplicable to de novo entry since, by definition, the bank would not control any deposits in the host State at the time of entry.

Once a bank has established a branch in a host State by de novo branching such bank may establish and acquire additional branches at any location in the host State in the same manner as a bank could have established or acquired under applicable Federal or State law.

Exclusive Means of Interstate Branching

The Conferees adopted provisions to assure that the comprehensive framework for interstate branching established by Title I will, when the provisions take effect, be the exclusive means for national and State banks to enter new States with interstate branches.

Paragraphs (2) an (3) of section 102(b) amend the National Bank Act and the Federal Deposit Insurance Act, respectively, to state that when the interstate merger and branching provisions take effect, initial interstate entry into a host State may, with exceptions for certain emergency situations, occur only in accordance with this legislation. These provisions will assure that the conditions and safeguards which accompany initial interstate branching will apply to the establishment of interstate branching networks at the time those provisions take effect.

The Comptroller of the Currency (OCC) has used the 30 mile relocation provision of the National Bank Act (section 2 of the Act of May 1, 1886, 12 U.S.C. 30), to approve several transactions which have permitted national banks to move their main offices to other States but to retain branches in the States left by the main offices. Section 102(b)(2) amends the provision so that after June 1, 1997, a national bank relocating its main office to another state may maintain its branches in the first state only if those branches could have been established by a bank with its home State in the new State. However, along with the OCC's approval for the relocation, the bank would be required to obtain the Comptroller's approval under section 5155 of the Revised Statutes to continue to operate any remaining branch offices located in State other than the State of its new main office. Thus, the bank would be required to file a consolidated application with the OCC covering both aspects of the transaction; the OCC would be authorized to act on the remaining out-of-State branch aspect of the transaction only pursuant to section 5155. State banks are treated in a similar manner.

The Conferees are aware of the OCC procedures in permitting relocation across state lines. The Conferees concur with those procedures, including the application of appropriate State law and authority. The Conferees expect the OCC to continue to follow those procedures until the provisions of Title I become fully applicable on June 1, 1997.

Banks that have moved their main offices pursuant to 12 U.S.C. 30 should not be treated differently than other banks with their main offices in that state. Specifically, for purposes of section 3(d) of the Bank Holding Company, and sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, such banks shall be able to make acquisitions and establish branches in the state to which their main office is relocated to the same extent as any other bank with its main office in that state.

AMENDMENT TO THE HOME OWNERS LOAN ACT

The amendment made to the Home Owners Loan Act by section 102(b)(5) of the bill overturns an interpretation of that Act in *First Gibraltar Bank* v. *Morales*, (5th Cir., Dkt. 93-8170, decided April 29, 1994). In the case the United States Court of Appeals for the Fifth Circuit held that the Office of Thrift Supervision had the authority to issue a regulation preempting a provision in the Texas Constitution protecting homesteads of consumers in the State.

This amendment clarifies that neither the Home Owners Loan Act nor any other provision of law provides the Director of the Office of Thrift Supervision with the authority, through regulation or otherwise, to preempt Texas law in the area of homestead protection.

PROVISIONS RELATING TO DIRECT BRANCHES OF FOREIGN BANKS

Establishment of Direct Branches of a Foreign Bank Outside the Foreign Bank's Home State

Under the House bill, section 5(a) of the International Banking Act of 1978 (IBA) was amended to permit a foreign bank to establish and operate State-licensed branches, either de novo or by acquisition and merger, in any State outside its home State to the same extent that a bank chartered by the foreign bank's home State may establish such branches de novo or by acquisition and merger, respectively. A parallel provision allowed a foreign bank to establish and operate Federally-licensed branches in any State outside its home State to the same extend that a national bank from the foreign bank's home State may do so. In addition, the House bill restates the provision of current law that allows a State to permit foreign banks to establish agencies or limited branches that accept only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to accept.

The Senate bill did not amend the IBA. As a result, the Senate bill permitted foreign banks to engage in interstate branching only if they first established or acquired a bank in the United States and then followed the same procedures applicable to U.S. Banks. The Senate adopted its approach to address its concern that the wholesale direct branches of foreign banks enjoy competitive advantages over U.S. banks because such branches are not subject to the Community Reinvestment Act or to deposit insurance coverage and assessments.

The Conferees agreed to adopt the House structure regarding foreign banks. However, in order to address concerns regarding a level playing field between wholesale direct branches of foreign banks and domestic banks, the Conferees added provisions regarding: (a) continued application of CRA requirements to a direct branch resulting from an initial interstate entry by acquisition of a regulated financial institution: (b) revision of the regulations governing the types of deposits that may be accepted by uninsured direct branches of a foreign bank; (c) types of activities at offshore shell branches managed and controlled by U.S. branches and agencies of foreign banks; and (d) application of consumer protection laws to direct branches of foreign banks. These provisions are among those described below.

Requirement for a separate subsidiary. Section 5(a) of the IBA is amended to provide that the Federal Reserve Board or the Comptroller of the Currency may require a foreign bank to establish a separate U.S. subsidiary bank in order to engage in interstate branching if the Board or the Comptroller finds that it is the only way to verify that a foreign bank adheres to capital requirements that are equivalent to those applicable to a U.S. bank engaged in interstate branching.

Continued application of CRA requirements to a direct branch resulting from an initial interstate entry by acquisition of a regulated financial institution. The Conferees added section 5(a)(8) to the IBA to provide that in cases where a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank was, or was part of, immediately prior to the acquisition, a regulated financial institution as defined in the Community Reinvestment Act (CRA), the CRA shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a reguated financial institution. The Conferees note that the requirements of section 6(c) of the IBA will still apply. The requirements of section 5(a)(8) would not apply in the case of a branch that results from such acquisition that accepts only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to accept.

Continued authority for branches, agencies and commercial lending companies established prior to this Act. Section 5(b) of the IBA is amended to include a provision that permits foreign banks that lawfully established and operated interstate branches, agencies or commercial lending company subsidiaries before the date of enactment of this Act to continue to operate such offices or subsidiaries after the enactment of this Act.

Determining home State of foreign bank. Section 5(c) of the IBA is amended to provide that any foreign bank that operates a branch, agency, subsidiary commercial bank or commercial lending company must have a home State.

Clarification of direct branching rules in the case of a foreign bank with a domestic bank subsidiary. Section 5(d) is added to the IBA to clarify that a foreign bank may establish direct branches and agencies on an interstate basis and also own or control a U.S. subsidiary bank, and that a national or State subsidiary bank of a foreign bank may acquire, establish or operate branches outside its home State to the same extent as any other national or State bank, respectively, from the subsidiary bank's home State.

Deposits That May be Accepted by Uninsured Direct Branches of Foreign Banks

Revision of regulations governing types of deposits that may be accepted by uninsured direct branches of foreign banks. The IBA was amended in 1991 to prohibit a foreign bank from establishing any new branches which take domestic retail deposits that have balances of less than $100,000 and require deposit insurance. As a result, a foreign bank must establish a U.S. subsidiary bank in order to conduct a domestic retail deposit-taking business. Regulations issued by the Federal Deposit Insurance Corporation (FDIC) and the Comptroller of the Currency under section 6 of the IBA govern the types of deposits that may be accepted by uninsured direct branches of foreign banks. To address concerns that these regulations may permit such branches to engage to some extent in domestic retail deposit-taking activity, in regard to which they are not subject to FDIC insurance coverage and assessments or to the requirements of the Community Reinvestment Act, the Conferees added a requirement that the FDIC and the Comptroller revise their regulations to ensure that foreign banking organizations do not receive an unfair competitive advantage over U.S. banking organizations.

In reviewing their regulations in accordance with this subsection, the agencies must consider whether to permit the acceptance of initial deposits of less than $100,000 only from specified types of customers. As part of this revision, the agencies must reduce—from five percent of average branch deposits to no more than one percent—the exemption that allows such branches to accept initial deposits of less than $100,000 from any party on a de minimis basis. In carrying out this revision, the agencies must take into account the importance of maintaining and improving the availability of credit to all sectors of the U.S. economy, including the international trade finance sector of the U.S. economy. The agencies must publish final regulations no later than twelve months after the date of enactment of this Act and may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were previously permissible.

Treatment of FDIC-insured banks chartered in Puerto Rico, Guam, American Samoa, Virgin Islands and U.S. territories. Section 6(d) of the IBA is amended to clarify that banks insured by the FDIC and chartered in any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands are not included as foreign banks for purposes of the requirement to establish a banking subsidiary to engage in a domestic retail deposit-taking business. This provision clarifies that such insured banks (which are also subject to CRA requirements) are to be treated like any other FDIC-insured bank for purposes of acceptance of retail deposits and are therefore not subject to the provisions of section 6(c).

Types of Activities at Offshore Shell Branches Managed and Controlled by U.S. Agencies and Branches of Foreign Banks

U.S. banking agencies do not regulate or supervise the activities of offshore shell branches of foreign banks, even if such branches are managed and controlled by U.S. agencies and branches of foreign banks. The Conferees wanted to avoid any potential for a foreign bank to use its U.S. branches or agencies to manage types of activities through offshore shell branches that could not be managed by a U.S. bank at its foreign branches or subsidiaries.

To address this concern, the Conferees added Section 7(k) to the IBA to provide that a U.S. branch or agency of a foreign bank may not, through an offshore shell branch that it manages or controls, manage types of activities that a U.S. bank is not permitted to manage at a foreign branch or subsidiary. Any regulations promulgated to carry out this section must be promulgated in accordance with section 13 of the IBA and must be uniform, to the extent practicable.

Other Foreign Bank Provisions

Application of consumer protection laws to direct branches of foreign banks. Section 9(b) of the IBA is amended to affirm that direct branches and agencies of foreign banks and commercial lending company subsidiaries are, by various statutory provisions, subject to the following consumer protection laws: Electronic Funds Transfer Act, Equal Credit Opportunity Act, Expedited Funds Availability Act, Fair Credit Billing Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, Truth in Lending Act, Truth in Leasing Act, and Truth in Savings Act.

Foreign bank examination fees. Sections 7(c) and 10(c) of the International Banking Act state that the Federal Reserve Board shall assess the cost of any examination of a branch, agency or representative office of a foreign bank against the foreign bank. The conference report provides a three-year moratorium on any assessments under these sections.

COORDINATION OF EXAMINATION AUTHORITY REGARDING INTERSTATE BRANCHES

Section 105 permits the appropriate State bank supervisor of a host State to examine branches of out-of-State Banks to assure compliance with host State laws, including those governing banking, community reinvestment, fair lending, consumer protection and permissible activities, and to assure that the activities of the branch are conducted in a safe and sound manner.

The host State bank supervisor, or other host State law enforcement officer (if authorized under host State law) may take appropriate enforcement actions and proceedings regarding the branch.

State bank supervisors are permitted to enter into cooperative agreements to facilitate supervision of State banks operating interstate. Under the Senate-passed bill, such agreements would have been subject to approval of the appropriate Federal regulator. The House-passed bill had no requirement for approval. The Senate receded to the House on this issue. Both bills contained a provision that nothing in the section affected the authority of Federal banking agencies to examine branches of insured depository institutions, and the Conferees enclosed such a provision in the title.

BRANCH CLOSURES

The House-passed bill added a new section 42(d) to the Federal Deposit Insurance Act, setting forth a procedure for notice, comment, consultation with community leaders and a meeting of representatives of the appropriate Federal banking agency whenever an interstate bank proposes closing a branch in a low- or moderate-income area. The Senate-passed bill contained no comparable provision.

The House provision was amended by the Conferees to specifically include other interested agencies in the required meeting in order to include the National Credit Union Administration in the meetings for the purpose of exploring the development of the use of community development credit unions.

This section does not effect the authority of an interstate bank to close a branch, or the timing of the closing.

FEDERAL RESERVE BOARD STUDY ON BANK FEES

The Federal Reserve is required to conduct an annual survey of the fees charged by banks for retail banking services. Each report shall describe any national or state trends in the cost and availability of such services. Reports are required for seven years.

PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES

In order to assure that the new interstate branching authorities provided by the Interstate Banking and Branching Efficiency Act of 1994 do not result in the taking of deposits from a community without concern for the credit needs of that community, section 107 requires each appropriate Federal banking agency to promulgate regulations effective June 1, 1997, prohibiting interstate branches from being used as deposit production offices. The regulations are to include guidelines to ensure that each interstate branch is reasonably helping to meet the credit needs of the community in which the branch operates.

The Conferees do not intend that section 109 creates any additional regulatory or paperwork burdens for any institution.

The regulations must require that if the percentage of loans made by an out-of-state bank in the host state relative to the deposits taken by the out-of-State bank in the host state is less than half the average of such percentage for all host-state banks, the appropriate federal banking agency shall review the loan portfolio of the bank and determine whether the out-of-state bank is reasonably helping to meet the credit needs of the community served by the bank in the host state. If the agency determines that it is not, it may order the branch to be closed and the bank which established the branch may not open to a new branch in that State, unless the bank provides reasonable assurances to the agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host state.

In making such a determination, the appropriate Federal banking agency shall consider a number of factors including whether the branch was acquired as part of the purchase of a failed or failing depository institution; whether the branch was acquired under circumstances where there was a low loan-to-deposit ratio; whether the branch has a higher concentration of commercial and credit card lending; and the ratings received by the out-of-state bank in CRA evaluations.

This provision applies to new interstate branches of national banks, state banks, and foreign banks established pursuant to this title or any amendment thereto.

COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES

For each insured institution that maintains branches in two or more states, the appropriate Federal banking agency must prepare a written evaluation (pursuant to sections 807(a), (b), and (c) of the Community Reinvestment Act) of the institution's overall CRA performance, along with separate written evaluations and ratings of the institution's CRA performance in each state in which it maintains branches. If an institution has branches in two States in a single muli-state metropolitan area, the agency will prepare a separate written evaluation of the institution's CRA performance within that metropolitan area, and adjust the state-by-state evaluations of the institution accordingly.

Each state-by-state evaluation is to present information separately for each metropolitan area (within that state) in which the institution maintains one or more branches, and separately for the nonmetropolitan area of the state if the institution has at least one branch in such non-metropolitan area.

RESTATEMENT OF EXISTING LAW

State Taxation Authority

Section 111(1) restates as part of Title I the provisions of section 7(b) of the Bank Holding Company Act of 1956 regarding state taxation authority. Section 111(2) states that nothing in the title shall be construed as affecting the existing authority of any state or political subdivision of any state to impose and maintain a nondiscriminatory franchise or other nonproperty tax on any bank, branch or bank holding company.

Applicability of Section 5197 of the Revised Statutes and Section 27 of the FDI Act

Section 111(3) specifically states that nothing in Title I affects sections 5179 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act. Accordingly, the amendments made by the Interstate Banking and Branching Efficiency Act of 1994 that authorize insured depository institutions to branch interstate do not affect existing authorities with respect to any charges under section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act imposed by national or state banks for loans or other extensions of credit made to borrowers outside the state where the bank or branch making the loan or other extension of credit is located.

GAO REPORT ON DATA COLLECTION

The Conferees adopted a Senate provision requiring a General Accounting Office report no later than 9 months after enactment on existing requirements for insured depository institutions to collect and report deposit and lending data and determine what modifications are needed so that interstate branching results in no material loss of information important to regulatory or congressional oversight of insured depository institutions. The House-passed bill had no similar provision.

PREEMPTION OF ARKANSAS USURY CEILING AS IT APPLIES TO CERTAIN LOANS

The Conferees adopted a Senate-passed provision preempting Arkansas usury limit for Consolidated Farm and Rural Development Act loans, while providing the State with a three-year period in which to reenact its limitation. The House-passed bill had no similar provision.

TITLE II—GENERAL PROVISIONS

STATUTE OF LIMITATIONS

Section 201 of the bill as adopted by the conference would permit the FDIC or the RTC, as conservator or receiver of a failed depository institution, to "revive" under certain circumstances, certain tort claims that had expired under a State statute of limitations within five years of the appointment of the conservator or receiver. This provision does not affect other applicable State laws concerning the running or the tolling of statutes of limitations (by reason of adverse domination or otherwise), nor does it alter section 11(k) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(k), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The revival of expired claims is an extraordinary remedy because it is a form of the retroactive application of law which the courts and Congress have generally disfavored. Accordingly, section 201 would limit this extraordinary remedy to claims arising from an egregious class of conduce, i.e., fraud, intentional misconduct resulting in unjust enrichment, and intentional misconduct resulting in substantial loss to the institution. This three-pronged, fraud/intentional misconduct standard is precisely the same as the one that Congress adopted last year, after considerable debate, with respect to a retroactive statute of limitations extension in the Resolution Trust Corporation Completion Act of 1993.

As with last year's reauthorization of the RTC, the intentional misconduct standard for revival in this provision is not intended to apply to claims arising from negligence, whether pleaded as simple, ordinary, or gross negligence. Claims arising from such negligent conduct by directors, officers, and outside professionals, such as negligent approval or review of loan applications, do not warrant the extraordinary remedy of revival if it is in the contravention of State law.

Section 201 would recognize that there is a level of misconduct which justifies Congressional actions to retroactively set aside a State statute of limitations, particularly where, for example, this misconduct involves individuals who improperly manipulated institutional affairs to prevent themselves from being brought to justice before the State period of limitations expired. This level of misconduct is reflected in particular forms of intentional behavior. The intentional misconduct standard is written to specifically include conduct such as self-dealing that result in unjust enrichment or a substantial loss to the institution, manipulation by institution insiders that results in a running of a statute of limitations, falsifying financial records that disguises increased financial loss, and conspiracy to violate banking rules or regulations.

SENSE OF THE SENATE REGARDING EXPORT CONTROLS

The Conferees adopted a Senate provision expressing the Sense of the Senate that the President should work toward establishment of a multilateral system to prevent acquisition by rogue regimes of products and technologies which could pose a threat to the national security of the United States. The House bill contained no similar provision.

AMENDMENT RELATING TO SILVER MEDALS FOR PERSIAN GULF WAR VETERANS

The purpose of the LaRocco Amendment is to permit the Secretary of the Treasury to begin production of the Persian Gulf silver medals, which were authorized by the 102nd Congress and signed into law by President Bush. These medals are in recognition of service rendered to the nation by members of the U.S. Armed Forces who served in the Gulf War. The amendment will allow the Secretary of the Treasury to use funds that have already been generated through ongoing sales of bronze replicas to begin production and continue so long as funds remain available.

COMMEMORATION OF 1995 SPECIAL OLYMPICS WORLD GAMES

The 1995 Special Olympics World Games Commemorative Coin Act authorizes the issuance of 800,000 one-dollar silver coins, which will be emblematic of the 1995 Special Olympics World Games. The coins will be issued during the period beginning on January 15, 1995 and ending on December 31, 1995, and will result in no net cost to the United States Government. The dates of issuance are not intended to conflict with any other coins authorized under this Act.

The 1995 Special Olympics World Games will be held July 1–9, 1995 in New Haven, CT and will attract more than 6,500 athletes from around the world. Funds raised through the ten dollar surcharge on the sale of each coin will be used to: (1) provide a world-class sporting event for athletes with mental retardation; (2) demonstrate to a global audience the talents, dedication and courage of persons with mental retardation; and (3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS

The National Community Service Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of community service volunteers. The coins will be issued for a period of no less than six months, and no more than 12 months, beginning no later than September 1, 1996, and will result in no net cost to the United States Government.

Funds raised through the ten dollar surcharge on the sale of each coin will be paid to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS

The Robert F. Kennedy Memorial Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of the life and work of former Attorney General and United States Senator Robert F. Kennedy. The coins will be issued for a period of no less than six months, and no more than 12 months, beginning no later than January 1, 1998, and will result in no net cost to the United States Government.

Funds raised through the ten dollar surcharge on the sale of each coin will be used to improve the endowment of the Robert F. Kennedy Memorial.

UNITED STATES MILITARY ACADEMY BICENTENNIAL COMMEMORATIVE COIN

This legislation provides for the minting of coins to commemorate the bicentennial of the U.S. Military Academy located in West Point, New York. The Academy will celebrate its bicentennial on March 16, 2002.

The Military Academy has provided our nation with the core of its military officers. It was founded in 1802, principally as a result of the vision of George Washington. West Point has been the source of most of our Nation's great military leaders, like Robert E. Lee, Ulysses S. Grant, John Pershing, Dwight Eisenhower, and Norman Schwarzkopf. However, West Point is much more than a training school for military leaders: It has always been a national bedrock of values which are best expressed by the Academy's motto, "Duty, Honor, Country."

In the year 2002, the United States Mint will issue 500,000 silver dollars to commemorate West Point's bicentennial. The silver dollars will be struck at the United States Bullion Depository at West Point. A $10 surcharge will be added to the cost of the coins. The money raised from the surcharges will be used by the Association of Graduates to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets at the United States Military Academy. The Association of Graduates provides important activities and programs for the Cadets in hopes of helping each young person adjust to the tough and demanding four years at West Point. These activities and programs are not funded by the taxpayers. These coins will be minted at no net cost to the government.

UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS

The United States Botanic Garden Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of the 175th anniversary of the founding of the United States Botanic Garden. Although the coins will be issued beginning on January 1, 1997, and ending on December 31, 1997, the coins shall be inscribed with the years 1820–1995 in order to properly commemorate the Garden's 175th anniversary. No other dates shall appear on the coin. The issuance of these coins will result in no net cost to the United States Government.

MOUNT RUSHMORE COMMEMORATIVE COINS

In 1990, legislation was passed directing the U.S. Treasury to mint a series of Mount Rushmore commemorative coins in 1991. The legislation specified that 50 percent of the surcharge from each coin sold was to be directed to the Mount Rushmore Society to preserve the Memorial and upgrade its facilities. The other 50 percent of the surcharge was to be directed to the U.S. Treasury for the purposes of deficit reduction. At the time the legislation was passed, it was anticipated that all of the coins would be sold, providing revenues of $18,750,000 each of the Mount Rushmore Society and the U.S. Treasury.

Unfortunately, sales of the Mount Rushmore Commemorative Coins generated only $12 million. This left the Mount Rushmore Society with revenues of only $6 million—less than a third of what was anticipated and not enough to fund the Monument's preservation and improvement. This provision would direct the first $18,750,000 in surcharges to the Society, and allocate the remainder to the U.S. Treasury.

FINANCIAL SERVICES COMMISSION

The Conferees adopted a modified version of a Senate provision requiring a study of the United States financial services system. The House bill contained no similar provision.

The provision directs the Secretary of the Treasury to conduct a study of the strengths and weaknesses of the U.S. financial services system in meeting the needs of users of the system. The Secretary is to appoint between 9 and 14 members to an Advisory Commission on Financial Services, with which the Secretary is to consult in conducting the study. The Secretary is also to consult with enumerated federal agencies and officials in conducting the study. The Secretary is to report the results of the study and any recommendations not later than 15 months after the date of enactment of the legislation.

FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS

The Conferees agreed to reduce from two-thirds to a majority the proportion of the board of directors of a national bank who must reside in the same state in which the bank is located (or within 100 miles of the main office).

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOSEPH KENNEDY,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,

As additional conferees from the Committee on Agriculture, for consideration of sec. 109 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE STENHOLM,
HAROLD L. VOLKMER,
TIMOTHY J. PENNY,
TIM JOHNSON,
PAT ROBERTS,
LARRY COMBEST,
WAYNE ALLARD,

As additional conferee from the Committee on Foreign Affairs, for consideration of sec. 402 of the Senate amendment, and modifications committed to conference:

BEN GILMAN,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 101–03 of the House bill, and title II and secs. 102–03 of the Senate amendment, and modifications committed to conference:

R.L. MAZZOLI,
BILL HUGHES,
JAN GLICKMAN,
RICK BOUCHER,
JOHN BRYANT,
HAMILTON FISH,
CHAS T. CANADY,
BOB GOODLATTE,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
JIM SASSER,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 3474

Mr. GONZALEZ submitted the following conference report and statement on the bill (H.R. 3474), to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–652)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474), to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Riegle Community Development and Regulatory Improvement Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

Sec. 101. Short title.
Sec. 102. Findings and purposes.

Sec. 103. Definitions.
Sec. 104. Establishment of National Fund for Community Development Banking.
Sec. 105. Applications for assistance.
Sec. 106. Community partnerships.
Sec. 107. Selection of institutions.
Sec. 108. Assistance provided by the Fund.
Sec. 109. Training.
Sec. 110. Encouragement of private entities.
Sec. 111. Collection and compilation of information.
Sec. 112. Investment of receipts and proceeds.
Sec. 113. Capitalization assistance to enhance liquidity.
Sec. 114. Incentives for depository institution participation.
Sec. 115. Recordkeeping.
Sec. 116. Special provisions with respect to institutions that are supervised by Federal banking agencies.
Sec. 117. Studies and reports; examination and audit.
Sec. 118. Inspector General.
Sec. 119. Enforcement.
Sec. 120. Community Development Revolving Loan Fund for credit unions.
Sec. 121. Authorization of appropriations.

Subtitle B—Home Ownership and Equity Protection

Sec. 151. Short title.
Sec. 152. Consumer protections for certain mortgages.
Sec. 153. Civil liability.
Sec. 154. Reverse mortgage disclosure.
Sec. 155. Regulations.
Sec. 156. Applicability.
Sec. 157. Federal Reserve study.
Sec. 158. Hearings on home equity lending.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

Sec. 201. Short title.
Sec. 202. Small business related security.
Sec. 203. Applicability of margin requirements.
Sec. 204. Borrowing in the course of business.
Sec. 205. Small business related securities as collateral.
Sec. 206. Investment by depository institutions.
Sec. 207. Preemption of State law.
Sec. 208. Insured depository institution capital requirements for transfers of small business obligations.
Sec. 209. Joint study on the impact of additional securities based on pooled obligations.
Sec. 210. Consistent use of financial terminology.

Subtitle B—Small Business Capital Enhancement

Sec. 251. Findings and purposes.
Sec. 252. Definitions.
Sec. 253. Approving States for participation.
Sec. 254. Participation agreements.
Sec. 255. Terms of participation agreements.
Sec. 256. Reports.
Sec. 257. Reimbursement by the Fund.
Sec. 258. Reimbursement to the Fund.
Sec. 259. Regulations.
Sec. 260. Authorization of appropriations.
Sec. 261. Effective date.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Sec. 301. Incorporated definitions.
Sec. 302. Administrative consideration of burden with new regulations.
Sec. 303. Streamlining of regulatory requirements.
Sec. 304. Elimination of duplicative filings.
Sec. 305. Coordinated and unified examinations.
Sec. 306. Eighteen-month examination rule for certain small institutions.
Sec. 307. Call report simplification.
Sec. 308. Repeal of publication requirements.
Sec. 309. Regulatory appeals process, ombudsman, and alternative dispute resolution.
Sec. 310. Electronic filing of currency transaction reports.
Sec. 311. Bank Secrecy Act publication requirements.
Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.
Sec. 313. Flexibility in choosing boards of directors.
Sec. 314. Holding company audit requirements.
Sec. 315. State regulation of real estate appraisals.
Sec. 316. Acceleration of effective date for interaffiliate transactions.
Sec. 317. Collateralization of public deposits.
Sec. 318. Modification of regulatory provisions.
Sec. 319. Expedited procedures.
Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.
Sec. 321. Reduction of post-approval waiting periods for certain acquisitions and mergers.
Sec. 322. Bankers' banks.
Sec. 323. Bank Service Corporation Act amendment.
Sec. 324. Merger transaction reports.
Sec. 325. Credit card accounts receivable sales.
Sec. 326. Limiting potential liability on foreign accounts.
Sec. 327. GAO reports.
Sec. 328. Study and report on capital standards and their impact on the economy.
Sec. 329. Study on the impact of the payment of interest on reserves.
Sec. 330. Study and report on the consumer credit system.
Sec. 331. Clarification of provisions relating to administrative autonomy.
Sec. 332. Exemption for business accounts.
Sec. 333. Study on check-related fraud.
Sec. 334. Insider lending.
Sec. 335. Revisions of standards.
Sec. 336. Alternative rules for radio advertising.
Sec. 337. Deposit broker registration.
Sec. 338. Amendments to the Depository Institution Management Interlocks Act.
Sec. 339. Adverse information about consumers.
Sec. 340. Simplified disclosure for existing depositors.
Sec. 341. Feasibility study of data bank.
Sec. 342. Timely completion of CRA review.
Sec. 343. Time limit on agency consideration of completed applications.
Sec. 344. Waiver of right of rescission for certain refinancing transactions.
Sec. 345. Clarification of RESPA disclosure requirements.
Sec. 346. Notice procedures for bank holding companies to seek approval to engage in certain activities.
Sec. 347. Commercial mortgage related securities.
Sec. 348. Clarifying amendment relating to data collection.
Sec. 349. Guidelines for examinations.
Sec. 350. Revising regulatory requirements for transfers of all types of assets with recourse.

TITLE IV—MONEY LAUNDERING

Sec. 401. Short title.
Sec. 402. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.
Sec. 403. Single designee for reporting of suspicious transactions.
Sec. 404. Improvement of identification of money laundering schemes.
Sec. 405. Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.
Sec. 406. Imposition of civil money penalties by appropriate Federal banking agencies.
Sec. 407. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.
Sec. 408. Registration of money transmitting businesses to promote effective law enforcement.
Sec. 409. Uniform Federal regulation of casinos.
Sec. 410. Authority to grant exemptions to States with effective regulation and enforcement.
Sec. 411. Criminal and civil penalties for structuring domestic and international transactions.
Sec. 412. GAO study of cashiers' checks.
Sec. 413. Technical amendments and corrections.

TITLE V—NATIONAL FLOOD INSURANCE REFORM

Sec. 501. Short title.

Subtitle A—Definitions

Sec. 511. Flood Disaster Protection Act of 1973.
Sec. 512. National Flood Insurance Act of 1968.

Subtitle B—Compliance and Increased Participation

Sec. 521. Nonwaiver of flood purchase requirement for recipients of Federal disaster assistance.
Sec. 522. Expanded flood insurance purchase requirements.
Sec. 523. Escrow of flood insurance payments.
Sec. 524. Placement of flood insurance by lenders.
Sec. 525. Penalties for failure to require flood insurance or notify.
Sec. 526. Fees for determining applicability of flood insurance purchase requirements.
Sec. 527. Notice requirements.
Sec. 528. Standard hazard determination forms.
Sec. 529. Examinations regarding compliance.
Sec. 530. Financial Institutions Examination Council.
Sec. 531. Clerical amendment.

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

Sec. 541. Community rating system and incentives for community floodplain management.
Sec. 542. Funding.

Subtitle D—Mitigation of Flood Risks

Sec. 551. Repeal of flooded property purchase and loan program.
Sec. 552. Termination of erosion-threatened structures program.
Sec. 553. Mitigation assistance program.
Sec. 554. Establishment of National Flood Mitigation Fund.
Sec. 555. Additional coverage for compliance with land use and control measures.

Subtitle E—Task Forces

Sec. 561. Flood Insurance Interagency Task Force.
Sec. 562. Task Force on Natural and Beneficial Functions of the Floodplain.

Subtitle F—Miscellaneous Provisions

Sec. 571. Extension of flood insurance program.
Sec. 572. Limitation on premium increases.
Sec. 573. Maximum flood insurance coverage amounts.
Sec. 574. Flood insurance program arrangements with private insurance entities.

Sec. 575. Updating of flood maps.
Sec. 576. Technical Mapping Advisory Council.
Sec. 577. Evaluation of erosion hazards.
Sec. 578. Study of economic effects of charging actuarially based premium rates for pre-FIRM structures.
Sec. 579. Effective dates of policies.
Sec. 580. Agricultural structures.
Sec. 581. Implementation review by Director.
Sec. 582. Prohibited flood disaster assistance.
Sec. 583. Regulations.
Sec. 584. Relation to State and local laws.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Oversight hearings.
Sec. 602. Technical amendments to the Federal banking laws.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Community Development Banking and Financial Institutions Act of 1994".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban, rural, and Native American communities face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to equity investments and loans for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community; and

(3) community development financial institutions have proven their ability to identify and respond to community needs for equity investments, loans, and development services.

(b) PURPOSE.—The purpose of this subtitle is to create a Community Development Financial Institutions Fund to promote economic revitalization and community development through investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

SEC. 103. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Fund appointed under section 104(b).

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and also includes the National Credit Union Administration Board with respect to insured credit unions.

(3) AFFILIATE.—The term "affiliate" has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

(4) BOARD.—The term "Board" means the Community Development Advisory Board established under section 104(d).

(5) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community development financial institution" means a person (other than an individual) that—

(i) has a primary mission of promoting community development;

(ii) serves an investment area or targeted population;

(iii) provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate;

(iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and

(v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

(B) CONDITIONS FOR QUALIFICATION OF HOLDING COMPANIES.—

(i) CONSOLIDATED TREATMENT.—A depository institution holding company may qualify as a community development financial institution only if the holding company and the subsidiaries and affiliates of the holding company collectively satisfy the requirements of subparagraph (A).

(ii) EXCLUSION OF SUBSIDIARY OR AFFILIATE FOR FAILURE TO MEET CONSOLIDATED TREATMENT RULE.—No subsidiary or affiliate of a depository institution holding company may qualify as a community development financial institution if the holding company and the subsidiaries and affiliates of the holding company do not collectively meet the requirements of subparagraph (A).

(C) CONDITIONS FOR SUBSIDIARIES.—No subsidiary of an insured depository institution may qualify as a community development financial institution if the insured depository institution and its subsidiaries do not collectively meet the requirements of subparagraph (A).

(6) COMMUNITY PARTNER.—The term "community partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, a quasi-governmental entity, and an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(7) COMMUNITY PARTNERSHIP.—The term "community partnership" means an agreement between a community development financial institution and a community partner to provide development services, loans, or equity investments, to an investment area or targeted population.

(8) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(9) DEVELOPMENT SERVICES.—The term "development services" means activities that promote community development and are integral to lending or investment activities, including—

(A) business planning;

(B) financial and credit counseling; and

(C) marketing and management assistance.

(10) FUND.—The term "Fund" means the Community Development Financial Institutions Fund established under section 104(a).

(11) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning as in section 4(10) of the Indian Child Welfare Act of 1978, and shall include land held by incorporated Native groups, regional corporations, and village corporations, as defined in or established pursuant to the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

(12) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(14) INSURED CREDIT UNION.—The term "insured credit union" has the same meaning as in section 101(7) of the Federal Credit Union Act.

(15) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(16) INVESTMENT AREA.—The term "investment area" means a geographic area (or areas) including an Indian reservation that—

(A)(i) meets objective criteria of economic distress developed by the Fund, which may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, rural population outmigration, lag in population growth, and extent of blight and disinvestment; and

(ii) has significant unmet needs for loans or equity investments; or

(B) encompasses or is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

(17) LOW-INCOME.—The term "low-income" means having an income, adjusted for family size, of not more than—

(A) for metropolitan areas, 80 percent of the area median income; and

(B) for nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide nonmetropolitan area median income.

(18) STATE.—The term "State" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(19) SUBSIDIARY.—The term "subsidiary" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that a community development financial institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation.

(20) TARGETED POPULATION.—The term "targeted population" means individuals, or an identifiable group of individuals, including an Indian tribe, who—

(A) are low-income persons; or

(B) otherwise lack adequate access to loans or equity investments.

(21) TRAINING PROGRAM.—The term "training program" means the training program operated by the Fund under section 109.

SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a corporation to be known as the Community Development Financial Institutions Fund that shall have the duties and responsibilities specified by this subtitle and subtitle B of title II. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

(2) WHOLLY OWNED GOVERNMENT CORPORATION.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

(b) MANAGEMENT OF FUND.—

(1) APPOINTMENT OF ADMINISTRATOR.—The management of the Fund shall be vested in an

Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator.

(2) CHIEF FINANCIAL OFFICER.—The Administrator shall appoint a chief financial officer, who shall have the authority and functions of an agency Chief Financial Officer under section 902 of title 31, United States Code. In the event of a vacancy in the position of the Administrator or during the absence or disability of the Administrator, the chief financial officer shall perform the duties of the position of Administrator.

(3) OTHER OFFICERS AND EMPLOYEES.—The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

(4) EXPEDITED HIRING.—During the 2-year period beginning on the date of enactment of this Act, the Administrator may—

(A) appoint and terminate the individuals referred to in paragraphs (2) and (3) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (3) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) GENERAL POWERS.—In carrying out the functions of the Fund, the Administrator—

(1) shall have all necessary and proper authority to carry out this subtitle and subtitle B of title II;

(2) shall have the power to adopt, alter, and use a corporate seal for the Fund, which shall be judicially noticed;

(3) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which business of the Fund may be conducted and such rules and regulations as may be necessary or appropriate to implement this subtitle and subtitle B of title II;

(4) may enter into, perform, and enforce such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this subtitle and subtitle B of title II;

(5) may determine the character of and necessity for expenditures of the Fund and the manner in which they shall be incurred, allowed, and paid;

(6) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(7) may execute all instruments necessary or appropriate in the exercise of any of the functions of the Fund under this subtitle and subtitle B of title II and may delegate to the officers of the Fund such of the powers and responsibilities of the Administrator as the Administrator deems necessary or appropriate for the administration of the Fund.

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established an advisory board to the Fund to be known as the Community Development Advisory Board, which shall be operated in accordance with the provisions of the Federal Advisory Committee Act, except that section 14 of that Act does not apply to the Board.

(2) MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) the Secretary of Agriculture or his or her designee;

(B) the Secretary of Commerce or his or her designee;

(C) the Secretary of Housing and Urban Development or his or her designee;

(D) the Secretary of the Interior or his or her designee;

(E) the Secretary of the Treasury or his or her designee;

(F) the Administrator of the Small Business Administration or his or her designee; and

(G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and gender diversity, including—

(i) 2 individuals who are officers of existing community development financial institutions;

(ii) 2 individuals who are officers of insured depository institutions;

(iii) 2 individuals who are officers of national consumer or public interest organizations;

(iv) 2 individuals who have expertise in community development; and

(v) 1 individual who has personal experience and specialized expertise in the unique lending and community development issues confronted by Indian tribes on Indian reservations.

(3) CHAIRPERSON.—The members of the Board specified in paragraph (2)(G) shall select, by majority vote, a chairperson of the Board, who shall serve for a term of 2 years.

(4) BOARD FUNCTION.—It shall be the function of the Board to advise the Administrator on the policies of the Fund regarding activities under this subtitle. The Board shall not advise the Administrator on the granting or denial of any particular application.

(5) TERMS OF PRIVATE MEMBERS.—

(A) IN GENERAL.—Each member of the Board appointed under paragraph (2)(G) shall serve for a term of 4 years.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Members may continue to serve following the expiration of their terms until a successor is appointed.

(6) MEETINGS.—The Board shall meet at least annually and at such other times as requested by the Administrator or the chairperson. A majority of the members of the Board shall constitute a quorum.

(7) REIMBURSEMENT FOR EXPENSES.—The members of the Board may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(8) COSTS AND EXPENSES.—The Fund shall provide to the Board all necessary staff and facilities.

(e) CONFORMING AMENDMENTS.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (M) as subparagraphs (C) through (N), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) the Community Development Financial Institutions Fund;".

(f) GOVERNMENT CORPORATION CONTROL ACT EXEMPTION.—Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 108.

(g) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and the United States Government arising out of any investment in a community development financial institution in accordance with this subtitle shall be limited to the amount of the investment. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory, or the District of Columbia. Nothing in this subsection shall affect the application of any Federal tax law.

(h) PROHIBITION ON ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

(i) COMPENSATION.—Title 5, United States Code, is amended in section 5313, by adding at the end the following:

"Administrator of the Community Development Financial Institutions Fund.".

(j) ASSISTED INSTITUTIONS NOT UNITED STATES INSTRUMENTALITIES.—A community development financial institution or other organization that receives assistance pursuant to this subtitle shall not be deemed to be an agency, department, or instrumentality of the United States.

(k) TRANSITION PERIOD.—

(1) IN GENERAL.—During the transition period, the Secretary of the Treasury may—

(A) assist in the establishment of the administrative functions of the Fund listed in paragraph (2); and

(B) hire not more than 6 individuals to serve as employees of the Fund during the transition period;

(2) CONTINUED SERVICE.—Individuals hired in accordance with paragraph (1)(B) may continue to serve as employees of the Fund after the transition period.

(3) ADMINISTRATIVE FUNCTIONS.—The administrative functions referred to in paragraph (1)(A) shall be limited to—

(A) establishing accounting, information, and recordkeeping systems for the Fund; and

(B) procuring office space, equipment, and supplies.

(4) EXPEDITED HIRING.—During the transition period, the Secretary of the Treasury may—

(A) appoint and terminate the individuals referred to in paragraph (1)(B) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (1)(B) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CERTAIN EMPLOYEES.—During the transition period, employees of the Department of the Treasury may only comprise less than one-half of the total number of individuals hired in accordance with paragraph (1)(B).

(6) TRANSITION EXPENSES.—Amounts previously appropriated to the Department of the Treasury may be used to pay obligations and expenses of the Fund incurred under this section, and such amounts may be reimbursed by the Fund to the Department of the Treasury from amounts appropriated to the Fund for fiscal year 1995.

(7) DEFINITION.—For purposes of this subsection, the term "transition period" means the period beginning on the date of enactment of this Act and ending on the date on which the Administrator is appointed.

SEC. 105. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

(b) MINIMUM REQUIREMENTS.—Except as provided in sections 106 and 113, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant

will be properly managed and will have the capacity to operate as a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area or targeted population; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant's plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subtitle, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subtitle and the assistance agreement; and

(B) will expand its operations into a new investment area or serve a new targeted population, offer more products or services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or targeted populations, to demonstrate that the applicant—

(A) has a record of success in serving investment areas or targeted populations; and

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

(c) PREAPPLICATION OUTREACH PROGRAM.—The Fund shall provide an outreach program to identify and provide information to potential applicants and may provide technical assistance to potential applicants, but shall not assist in the preparation of any application.

SEC. 106. COMMUNITY PARTNERSHIPS.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community partnership application—

(1) to meet the minimum requirements established for community development financial institutions under section 105(b), except that the criteria specified in paragraphs (1) and (2)(A) of section 105(b) shall not apply to the community partner;

(2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community partnership application based on—

(1) the community development financial institution coapplicant—

(A) meeting the minimum selection criteria described in section 105; and

(B) satisfying the selection criteria of section 107;

(2) the extent to which the community partner coapplicant will participate in carrying out the partnership;

(3) the extent to which the community partnership will enhance the likelihood of success of the community development financial institution coapplicant's strategic plan; and

(4) the extent to which service to the investment area or targeted population will be better performed by a partnership as opposed to the individual community development financial institution coapplicant.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community partner or an affiliate or subsidiary thereof.

(e) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community partnerships.

SEC. 107. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—Except as provided in section 113, the Fund shall, in its sole discretion, select community development financial institution applicants meeting the requirements of section 105 for assistance based on—

(1) the likelihood of success of the applicant in meeting the goals of its comprehensive strategic plan;

(2) the experience and background of the management team;

(3) the extent of need for equity investments, loans, and development services within the investment areas or targeted populations;

(4) the extent of economic distress within the investment areas or the extent of need within the targeted populations, as those factors are measured by objective criteria;

(5) the extent to which the applicant will concentrate its activities on serving its investment areas or targeted populations;

(6) the amount of firm commitments to meet or exceed the matching requirements and the likely success of the plan for raising the balance of the match;

(7) the extent to which the matching funds are derived from private sources;

(8) the extent to which the proposed activities will expand economic opportunities within the investment areas or the targeted populations;

(9) whether the applicant is, or will become, an insured community development financial institution;

(10) the extent of support from the investment areas or targeted populations;

(11) the extent to which the applicant is, or will be, community-owned or community-governed;

(12) the extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;

(13) in the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving them; and

(14) other factors deemed to be appropriate by the Fund.

(b) GEOGRAPHIC DIVERSITY.—In selecting applicants for assistance, the Fund shall seek to fund a geographically diverse group of applicants, which shall include applicants from metropolitan, nonmetropolitan, and rural areas.

SEC. 108. ASSISTANCE PROVIDED BY THE FUND.

(a) FORMS OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide—

(A) financial assistance through equity investments, deposits, credit union shares, loans, and grants; and

(B) technical assistance—

(i) directly;

(ii) through grants; or

(iii) by contracting with organizations that possess expertise in community development finance, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(2) EQUITY INVESTMENTS.—

(A) LIMITATION ON EQUITY INVESTMENTS.—The Fund shall not own more than 50 percent of the equity of a community development financial institution and may not control the operations of such institution. The Fund may hold only transferable, nonvoting equity investments in the institution. Such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(B) FUND DEEMED NOT TO CONTROL.—Notwithstanding any other provision of law, the Fund shall not be deemed to control a community development financial institution by reason of any assistance provided under this subtitle for the purpose of any other applicable law to the extent that the Fund complies with subparagraph (A). Nothing in this subparagraph shall affect the application of any Federal tax law.

(3) DEPOSITS.—Deposits made pursuant to this section in an insured community development financial institution shall not be subject to any requirement for collateral or security.

(4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred by the Fund only to the extent that appropriations of budget authority to cover their cost, as defined in section 502(5) of the Congressional Budget Act of 1974, are made in advance.

(b) USES OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance made available under this subtitle may be used by assisted community development financial institutions to serve investment areas or targeted populations by developing or supporting—

(A) commercial facilities that promote revitalization, community stability, or job creation or retention;

(B) businesses that—

(i) provide jobs for low-income people or are owned by low-income people; or

(ii) enhance the availability of products and services to low-income people;

(C) community facilities;

(D) the provision of basic financial services;

(E) housing that is principally affordable to low-income people, except that assistance used to facilitate homeownership shall only be used for services and lending products—

(i) that serve low-income people; and

(ii) that—

(I) are not provided by other lenders in the area; or

(II) complement the services and lending products provided by other lenders that serve the investment area or targeted population; and

(F) other businesses and activities deemed appropriate by the Fund.

(2) LIMITATIONS.—No assistance made available under this subtitle may be expended by a community development financial institution (or an organization receiving assistance under section 113) to pay any person to influence or attempt to influence any agency, elected official, officer, or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or

modification of any State or local government contract, grant, loan, or cooperative agreement (as such terms are defined in section 1352 of title 31, United States Code).

(c) Uses of Technical Assistance.—

(1) Types of activities.—Technical assistance may be used for activities that enhance the capacity of a community development financial institution, such as training of management and other personnel and development of programs and investment or loan products.

(2) Availability of technical assistance.—The Fund may provide technical assistance, regardless of whether or not the recipient also receives financial assistance under this section.

(d) Amount of Assistance.—

(1) In general.—Except as provided in paragraph (2), the Fund may provide not more than $5,000,000 of assistance, in the aggregate, during any 3-year period to any 1 community development financial institution and its subsidiaries and affiliates.

(2) Exception.—The Fund may provide not more than $3,750,000 of assistance in addition to the amount specified in paragraph (1) during the same 3-year period to an existing community development financial institution that proposes to establish a subsidiary or affiliate for the purpose of serving an investment area or targeted population outside of any State and outside of any metropolitan area presently served by the institution, if—

(A) the subsidiary or affiliate—

(i) would be a community development financial institution; and

(ii) independently—

(I) meets the selection criteria described in section 105; and

(II) satisfies the selection criteria of section 107; and

(B) no other application for assistance to serve the investment area or targeted population has been submitted to the Administrator within a reasonable period of time preceding the date of receipt of the application at issue.

(3) Timing of assistance.—Assistance may be provided as described in paragraphs (1) and (2) in a lump sum or over a period of time, as determined by the Fund.

(e) Matching Requirements.—

(1) In general.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the basis of not less than one dollar for each dollar provided by the Fund. Such matching funds shall be at least comparable in form and value to assistance provided by the Fund. The Fund shall provide no assistance (other than technical assistance) until a community development financial institution has secured firm commitments for the matching funds required.

(2) Exception.—In the case of an applicant with severe constraints on available sources of matching funds, the Fund may permit an applicant to comply with the matching requirements of paragraph (1) by—

(A) reducing such matching requirement by 50 percent; or

(B) permitting an applicant to provide matching funds in a form to be determined at the discretion of the Fund, if such applicant—

(i) has total assets of less than $100,000;

(ii) serves nonmetropolitan or rural areas; and

(iii) is not requesting more than $25,000 in assistance.

(3) Limitation.—Not more than 25 percent of the total funds disbursed in any fiscal year by the Fund may be matched as authorized under paragraph (2).

(4) Construction of "Federal government funds".—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal Government funds.

(f) Terms and Conditions.—

(1) Soundness of unregulated institutions.—The Fund shall—

(A) ensure, to the maximum extent practicable, that each community development financial institution (other than an insured community development financial institution or depository institution holding company) assisted under this subtitle is financially and managerially sound and maintains appropriate internal controls;

(B) require such institution to submit, not less than once during each 18-month period, a statement of financial condition audited by an independent certified public accountant as part of the report required by section 115(e)(1); and

(C) require that all assistance granted under this section is used by the community development financial institution or community development partnership in a manner consistent with the purposes of this subtitle.

(2) Assistance agreement.—

(A) In general.—Before providing any assistance under this subtitle, the Fund and each community development financial institution to be assisted shall enter into an agreement that requires the institution to comply with performance goals and abide by other terms and conditions pertinent to assistance received under this subtitle.

(B) Performance goals.—Performance goals shall be negotiated between the Fund and each community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 105(b)(2). Such goals may be modified with the consent of the parties, or as provided in subparagraph (C). Performance goals for insured community development financial institutions shall be determined in consultation with the appropriate Federal banking agency.

(C) Sanctions.—The agreement shall provide that, in the event of fraud, mismanagement, noncompliance with this subtitle, or noncompliance with the terms of the agreement, the Fund, in its discretion, may—

(i) require changes to the performance goals imposed pursuant to subparagraph (B);

(ii) require changes to the strategic plan submitted pursuant to section 105(b)(2);

(iii) revoke approval of the application;

(iv) reduce or terminate assistance;

(v) require repayment of assistance;

(vi) bar an applicant from reapplying for assistance from the Fund; and

(vii) take such other actions as the Fund deems appropriate.

(D) Consultation with tribal governments.—In reviewing the performance of any assisted community development financial institution, the investment area of which includes an Indian reservation, or the targeted population of which includes an Indian tribe, the Fund shall consult with, and seek input from, any appropriate tribal government.

(g) Authority To Sell Equity Investments and Loans.—The Fund may, at any time, sell its equity investments and loans, but the Fund shall retain the power to enforce limitations on assistance entered into in accordance with the requirements of this subtitle until the performance goals related to the investment or loan have been met.

(h) No Authority To Limit Supervision and Regulation.—Nothing in this subtitle shall affect any authority of the appropriate Federal banking agency to supervise and regulate any institution or company.

SEC. 109. TRAINING.

(a) In General.—The Fund may operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development finance activities.

(b) Program Activities.—The training program shall provide educational programs to assist community development financial institutions and other members of the financial services industry in developing lending and investment products, underwriting and servicing loans, managing equity investments, and providing development services targeted to areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(c) Participation.—The training program shall be made available to community development financial institutions and other members of the financial services industry that serve or seek to serve areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(d) Contracting.—The Fund may offer the training program described in this section directly or through a contract with other organizations. The Fund may contract to provide the training program through organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(e) Coordination.—The Fund shall coordinate with other appropriate Federal departments or agencies that operate similar training programs in order to prevent duplicative efforts.

(f) Regulatory Fee for Providing Training Services.—

(1) General rule.—The Fund may, at the discretion of the Administrator and in accordance with this subsection, assess and collect regulatory fees solely to cover the costs of the Fund in providing training services under a training program operated in accordance with this section.

(2) Persons subject to fee.—Fees may be assessed under paragraph (1) only on persons who participate in the training program.

(3) Limitation on manner of collection.—Fees may be assessed and collected under this subsection only in such manner as may reasonably be expected to result in the collection of an aggregate amount of fees during any fiscal year which does not exceed the aggregate costs of the Fund for such year in providing training services under a training program operated in accordance with this section.

(4) Limitation on amount of fee.—The amount of any fee assessed under this subsection on any person may not exceed the amount which is reasonably based on the proportion of the training services provided under a training program operated in accordance with this section which relate to such person.

SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES.

The Fund may facilitate the organization of corporations in which the Federal Government has no ownership interest. The purpose of any such entity shall be to assist community development financial institutions in a manner that is complementary to the activities of the Fund under this subtitle. Any such entity shall be managed exclusively by persons not employed by the Federal Government or any agency or instrumentality thereof, or by any State or local government or any agency or instrumentality thereof.

SEC. 111. COLLECTION AND COMPILATION OF INFORMATION.

The Fund shall—

(1) collect and compile information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving such institutions; and

(2) make such information available to promote the purposes of this subtitle.

SEC. 112. INVESTMENT OF RECEIPTS AND PROCEEDS.

(a) Establishment of Account.—Any dividends on equity investments and proceeds from the disposition of investments, deposits, or credit union shares that are received by the Fund as a result of assistance provided pursuant to section 108 or 113, and any fees received pursuant to section 109(f) shall be deposited and accredited to an account of the Fund in the United States Treasury (hereafter in this section referred to as "the account") established to carry out the purpose of this subtitle.

(b) INVESTMENTS.—Upon request of the Administrator, the Secretary of the Treasury shall invest amounts deposited in the account in public debt securities with maturities suitable to the needs of the Fund, as determined by the Administrator, and bearing interest at rates determined by the Secretary of the Treasury, comparable to current market yields on outstanding marketable obligations of the United States of similar maturities.

(c) AVAILABILITY.—Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

SEC. 113. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide assistance for the purpose of providing capital to organizations to purchase loans or otherwise enhance the liquidity of community development financial institutions, if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than one dollar for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization that receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(3) CONSTRUCTION OF FEDERAL GOVERNMENT FUNDS.—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal Government funds.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 105(b) and 107, as appropriate.

(c) AMOUNT OF ASSISTANCE.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization or its subsidiaries or affiliates under this section during any 3-year period. Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—Organizations that receive assistance from the Fund in accordance with this section shall—

(1) submit to the Fund, not less than once in every 18-month period, financial statements audited by an independent certified public accountant, as part of the report required by paragraph (2);

(2) submit an annual report on its activities; and

(3) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, or territory. Nothing in this paragraph shall affect the application of Federal tax law.

(2) LIABILITY OF GOVERNMENT.—This section does not oblige the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall not be construed to imply that any such organization or any obligations or securities of any such organization are backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans by an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 114. INCENTIVES FOR DEPOSITORY INSTITUTION PARTICIPATION.

(a) FUNCTION OF ADMINISTRATOR.—

(1) IN GENERAL.—Of any funds appropriated pursuant to the authorization in section 121(a), the funds made available for use in carrying out this section in accordance with section 121(a)(4) shall be administered by the Administrator of the Fund, in consultation with—

(A) the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the National Credit Union Administration;

(B) the individuals named pursuant to clauses (ii) and (iv) of section 104(d)(2)(G); and

(C) any other representatives of insured depository institutions or other persons as the Administrator may determine to be appropriate.

(2) APPLICABILITY OF BANK ENTERPRISE ACT OF 1991.—Subject to subsection (b) and the consultation requirement of paragraph (1)—

(A) section 233 of the Bank Enterprise Act of 1991 shall be applicable to the Administrator, for purposes of this section, in the same manner and to the same extent that such section is applicable to the Community Enterprise Assessment Credit Board;

(B) the Administrator shall, for purposes of carrying out this section and section 233 of the Bank Enterprise Act of 1991—

(i) have all powers and rights of the Community Enterprise Assessment Credit Board under section 233 of the Bank Enterprise Act of 1991 to administer and enforce any provision of such section 233 which is applicable to the Administrator under this section; and

(ii) shall be subject to the same duties and restrictions imposed on the Community Enterprise Assessment Credit Board; and

(C) the Administrator shall—

(i) have all powers and rights of an appropriate Federal banking agency under section 233(b)(2) of the Bank Enterprise Act of 1991 to approve or disapprove the designation of qualified distressed communities for purposes of this section and provide information and assistance with respect to any such designation; and

(ii) shall be subject to the same duties imposed on the appropriate Federal banking agencies under such section 233(b)(2).

(3) AWARDS.—The Administrator shall determine the amount of assessment credits, and shall make awards of those credits.

(4) REGULATIONS AND GUIDELINES.—The Administrator may prescribe such regulations and issue such guidelines as the Administrator determines to be appropriate to carry out this section.

(5) EXCEPTIONS TO APPLICABILITY.—Notwithstanding paragraphs (1) through (4) of this subsection, subsections (a)(1) and (e)(2) of section 233 of the Bank Enterprise Act of 1991, and any other provision of the Federal Deposit Insurance Act relating to the Bank Enterprise Act of 1991, do not apply to the Administrator for purposes of this subtitle.

(b) PROVISIONS RELATING TO ADMINISTRATION OF THIS SECTION.—

(1) NEW LIFELINE ACCOUNTS.—In applying section 233 of the Bank Enterprise Act of 1991 for purposes of this section, the Administrator shall treat the provision of new lifeline accounts by an insured depository institution as an activity which is qualified to be taken into account under section 233(a)(2)(A) of such Act.

(2) DETERMINATION OF ASSESSMENT CREDIT.—For the purpose of this subtitle, section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(3)) shall be applied by substituting the following text:

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of an assessment credit which may be awarded to an insured depository institution to carry out the qualified activities of the institution or of the subsidiaries of the institution pursuant to this section for any semiannual period shall be equal to the sum of—

"(A) with respect to qualifying activities described in paragraph (2)(A), the amount which is equal to—

"(i) 5 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is not a community development financial institution; or

"(ii) 15 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is a community development financial institution; and

"(B) with respect to qualifying activities described in paragraph (2)(C), 15 percent of the amounts determined under such subparagraph.".

(3) ADJUSTMENT OF PERCENTAGE.—Section 233(a)(5) of the Bank Enterprise Act of 1991 shall be applied for purposes of this section by—

(A) substituting "institutions which are community development financial institutions" for "institutions which meet the community development organization requirements under section 234"; and

(B) substituting "institutions which are not community development financial institutions" for "institutions which do not meet such requirements".

(4) DESIGNATION OF QDC.—Section 233(b)(2) of the Bank Enterprise Act of 1991 shall be applied for purposes this section without regard to subparagraph (A)(ii) of such section 233(b)(2).

(5) OPERATION ON ANNUAL BASIS.—The Administrator may, in the Administrator's discretion, apply section 233 of the Bank Enterprise Act of 1991 for purposes of this section by providing community enterprise assessment credits with respect to annual periods rather than semiannual periods.

(6) OUTREACH.—The Administrator shall ensure that information about the Bank Enterprise Act of 1991 under this section is widely disseminated to all interested parties.

(7) QUALIFIED ACTIVITIES.—For the purpose of this subtitle, section 233(a)(2)(A) of the Bank Enterprise Act of 1991 shall be applied by inserting "of the increase" after "the amount".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANK ENTERPRISE ACT OF 1991.—

(1) ASSISTANCE TO CDFI MAY BE TAKEN INTO ACCOUNT AS QUALIFYING ACTIVITY.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(2)) is amended—

(A) in the material preceding subparagraph (A), by striking "shall be eligible" and inserting "may apply for";

(B) in subparagraph (A), by striking "financial assistance" and inserting "assistance";

(C) by striking "and" at the end of subparagraph (A);

(D) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(E) by adding at the end the following new subparagraph;

"(C) any increase during the period in the amount of new equity investments in community development financial institutions.".

(2) ADDITIONAL ASSISTANCE WHICH MAY BE CONSIDERED AS QUALIFYING ACTIVITIES.—Section 233(a)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(4)) is amended—

(A) in the material preceding subparagraph (A), by striking "financial"; and

(B) by adding at the end the following new subparagraphs:

"(L) Loans made for the purpose of developing or supporting—

"(i) commercial facilities that enhance revitalization, community stability, or job creation and retention efforts;

"(ii) business creation and expansion efforts that—

"(I) create or retain jobs for low-income people;

"(II) enhance the availability of products and services to low-income people; or

"(III) create or retain businesses owned by low-income people or residents of a targeted area;

"(iii) community facilities that provide benefits to low-income people or enhance community stability;

"(iv) home ownership opportunities that are affordable to low-income households;

"(v) rental housing that is principally affordable to low-income households; and

"(vi) other activities deemed appropriate by the Board.

"(M) The provision of technical assistance to residents of qualified distressed communities in managing their personal finances through consumer education programs either sponsored or offered by insured depository institutions.

"(N) The provision of technical assistance and consulting services to newly formed small businesses located in qualified distressed communities.

"(O) The provision of technical assistance to, or servicing the loans of low- or moderate-income homeowners and homeowners located in qualified distressed communities.".

(3) RESTRICTION ON ADJUSTMENT OF PERCENTAGES.—Section 233(a)(5) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(5) is amended by striking "paragraph (3)" and inserting "paragraph(3)(A)".

(4) CREDIT LIMITED TO ORIGINATIONS BY INSTITUTIONS.—Section 233(a)(6) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(6)) is amended by striking "Investments by any insured depository institution in loans and securities" and inserting "Loans, financial assistance, and equity investments made by any insured depository institution".

(5) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—Section 233(a) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)) is amended by adding at the end the following new paragraph:

"(7) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—The Board may establish guidelines for analyzing the technical assistance described in subparagraphs (M), (N), and (O) of paragraph (4) for the purpose of quantifying the results of such assistance in determining the amount of any community assessment credit under this subsection.".

(6) PROHIBITION ON DOUBLE FUNDING FOR SAME ACTIVITIES.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended—

(A) by redesignating subsection (g) as subsection (j); and

(B) by inserting after subsection (f) the following new subsection:

"(g) PROHIBITION ON DOUBLE FUNDING FOR SAME ACTIVITIES.—No community development financial institution may receive a community enterprise assessment credit if such institution, either directly or through a community partnership—

"(1) has received assistance within the preceding 12-month period, or has an application for assistance pending, under section 105 of the Community Development Banking and Financial Institutions Act of 1994; or

"(2) has ever received assistance, under section 108 of the Community Development Banking and Financial Institutions Act of 1994, for the same activity during the same semiannual period for which the institution seeks a community enterprise assessment credit under this section.".

(7) ADDITIONAL ADMINISTRATIVE REQUIREMENTS.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended by inserting after subsection (g) (as added by paragraph (6) of this subsection) the following new subsections:

"(h) PRIORITY OF AWARDS.—

"(1) QUALIFYING LOANS AND SERVICES.—

"(A) IN GENERAL.—If the amount of funds appropriated for purposes of carrying out this section for any fiscal year are insufficient to award the amount of assessment credits for which insured depository institutions have applied and are eligible under this section, the Board shall, in awarding community enterprise assessment credits for qualifying activities under subparagraphs (A) and (B) of subsection (a)(2) for any semiannual period for which such appropriation is available, determine which institutions shall receive an award.

"(B) PRIORITY FOR SUPPORT OF EFFORTS OF CDFI.—The Board shall give priority to institutions that have supported the efforts of community development financial institutions in the qualified distressed community.

"(C) OTHER FACTORS.—The Board may also consider the following factors:

"(i) DEGREE OF DIFFICULTY.—The degree of difficulty in carrying out the activities that form the basis for the institution's application.

"(ii) COMMUNITY IMPACT.—The extent to which the activities that form the basis for the institution's application have benefited the qualified distressed community.

"(iii) INNOVATION.—The degree to which the activities that form the basis for the institution's application have incorporated innovative methods for meeting community needs.

"(iv) LEVERAGE.—The leverage ratio between the dollar amount of the activities that form the basis for the institution's application and the amount of the assessment credit calculated in accordance with this section for such activities.

"(v) SIZE.—The amount of total assets of the institution.

"(vi) NEW ENTRY.—Whether the institution had provided financial services in the designated distressed community before such semiannual period.

"(vii) NEED FOR SUBSIDY.—The degree to which the qualified activity which forms the basis for the application needs enhancement through an assessment credit.

"(viii) EXTENT OF DISTRESS IN COMMUNITY.—The degree of poverty and unemployment in the designated distressed community, the proportion of the total population of the community which are low-income families and unrelated individuals, and the extent of other adverse economic conditions in such community.

"(2) QUALIFYING INVESTMENTS.—If the amount of funds appropriated for purposes of carrying out this section for any fiscal year are insufficient to award the amount of assessment credits for which insured depository institutions have applied and are eligible under this section, the Board shall, in awarding community enterprise assessment credits for qualifying activities under subsection (a)(2)(C) for any semiannual period for which such appropriation is available, determine which institutions shall receive an award based on the leverage ratio between the dollar amount of the activities that form the basis for the institution's application and the amount of the assessment credit calculated in accordance with this section for such activities.

"(i) DETERMINATION OF AMOUNT OF ASSESSMENT CREDIT.—Notwithstanding any other provision of this section, the determination of the amount of any community enterprise assessment credit under subsection (a)(3) for any insured depository institution for any semiannual period shall be made solely at the discretion of the Board. No insured depository institution shall be awarded community enterprise assessment credits for any semiannual period in excess of an amount determined by the Board.".

(8) ADDITIONAL DEFINITIONS.—Subsection (j) of section 233 of the Bank Enterprise Act of 1991 (as redesignated by paragraph (6) of this subsection) is amended by adding at the end the following new paragraphs:

"(4) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'community development financial institution' has the same meaning as in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994.

"(5) AFFILIATE.—The term 'affiliate' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

SEC. 115. RECORDKEEPING.

(a) IN GENERAL.—A community development financial institution receiving assistance from the Fund shall keep such records, for such periods as may be prescribed by the Fund and necessary to disclose the manner in which any assistance under this subtitle is used and to demonstrate compliance with the requirements of this subtitle.

(b) USER PROFILE INFORMATION.—The Fund shall require each community development financial institution or other organization receiving assistance from the Fund to compile such data, as is determined to be appropriate by the Fund, on the gender, race, ethnicity, national origin, or other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.

(c) ACCESS TO RECORDS.—The Fund shall have access on demand, for the purpose of determining compliance with this subtitle, to any records of a community development financial institution or other organization that receives assistance from the Fund.

(d) REVIEW.—Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

(e) REPORTING.—

(1) ANNUAL REPORTS.—The Fund shall require each community development financial institution receiving assistance under this subtitle to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subtitle, in such form and manner as the Fund shall specify.

(2) AVAILABILITY OF REPORTS.—The Fund, after deleting or redacting any material as appropriate to protect privacy or proprietary interests, shall make such reports submitted under paragraph (1) available for public inspection.

SEC. 116. SPECIAL PROVISIONS WITH RESPECT TO INSTITUTIONS THAT ARE SUPERVISED BY FEDERAL BANKING AGENCIES.

(a) CONSULTATION WITH APPROPRIATE AGENCIES.—The Fund shall consult with and consider the views of the appropriate Federal banking agency prior to providing assistance under this subtitle to—

(1) an insured community development financial institution;

(2) any community development financial institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency; or

(3) any community development financial institution that has as its community partner an institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(b) REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.—

(1) IN GENERAL.—Except as provided in paragraph (4), notwithstanding any other provisions of this subtitle, prior to directly requesting information from or imposing reporting or recordkeeping requirements on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, the Fund shall consult with the appropriate Federal banking agency to determine if the information requested is available from or may be obtained by such agency in the form, format, or detail required by the Fund.

(2) TIMING OF RESPONSE FROM APPROPRIATE FEDERAL BANKING AGENCY.—If the information, reports, or records requested by the Fund pursuant to paragraph (1) are not provided by the appropriate Federal banking agency in less than 15 calendar days after the date on which the material is requested, the Fund may request the information from or impose the recordkeeping or reporting requirements directly on such institutions with notice to the appropriate Federal banking agency.

(3) ELIMINATION OF DUPLICATIVE INFORMATION AND REPORTING REQUIREMENTS.—The Fund shall use any information provided the appropriate Federal banking agency under this section to the extent practicable to eliminate duplicative requests for information and reports from, and recordkeeping by an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(4) EXCEPTION.—Notwithstanding paragraphs (1) and (2), the Fund may require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency to provide information with respect to the institution's implementation of its strategic plan or compliance with the terms of its assistance agreement under this subtitle, after providing notice to the appropriate Federal banking agency.

(c) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this section shall be construed to permit the Fund to require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, to obtain, maintain, or furnish an examination report of any appropriate Federal banking agency or records contained in or related to such a report.

(d) SHARING OF INFORMATION.—The Fund and the appropriate Federal banking agency shall promptly notify each other of material concerns about an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, and share appropriate information relating to such concerns.

(e) DISCLOSURE PROHIBITED.—Neither the Fund nor the appropriate Federal banking agency shall disclose confidential information obtained pursuant to this section from any party without the written consent of that party.

(f) PRIVILEGE MAINTAINED.—The Fund, the appropriate Federal banking agency, and any other party providing information under this section shall not be deemed to have waived any privilege applicable to any information or data, or any portion thereof, by providing such information or data to the other party or by permitting such data or information, or any copies or portions thereof, to be used by the other party.

(g) EXCEPTIONS.—Nothing in this section shall authorize the Fund or the appropriate Federal banking agency to withhold information from the Congress or prevent it from complying with a request for information from a Federal department or agency in compliance with applicable law.

(h) SANCTIONS.—

(1) NOTIFICATION.—The Fund shall notify the appropriate Federal banking agency before imposing any sanction pursuant to the authority in section 108(f)(2)(C) on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of that agency.

(2) EXCEPTIONS.—The Fund shall not impose a sanction referred to in paragraph (1) if the appropriate Federal banking agency, in writing, not later than 30 calendar days after receiving notice from the Fund—

(A) objects to the proposed sanction;

(B) determines that the sanction would—

(i) have a material adverse effect on the safety and soundness of the institution; or

(ii) impede or interfere with an enforcement action against that institution by that agency;

(C) proposes a comparable alternative action; and

(D) specifically explains—

(i) the basis for the determination under subparagraph (B) and, if appropriate, provides documentation to support the determination; and

(ii) how the alternative action suggested pursuant to subparagraph (C) would be as effective as the sanction proposed by the Fund in securing compliance with this subtitle and deterring future noncompliance.

(i) SAFETY AND SOUNDNESS CONSIDERATIONS.—The Fund and each appropriate Federal banking agency shall cooperate and respond to requests from each other and from other appropriate Federal banking agencies in a manner that ensures the safety and soundness of the insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

SEC. 117. STUDIES AND REPORTS; EXAMINATION AND AUDIT.

(a) ANNUAL REPORT BY THE FUND.—The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions and other organizations assisted pursuant to this subtitle, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (f).

(b) OPTIONAL STUDIES.—The Fund may conduct such studies as the Fund determines necessary to further the purpose of this subtitle and to facilitate investment in distressed communities. The findings of any studies conducted pursuant to this subsection shall be included in the report required by subsection (a).

(c) NATIVE AMERICAN LENDING STUDY.—

(1) IN GENERAL.—The Fund shall conduct a study on lending and investment practices on Indian reservations and other land held in trust by the United States. Such study shall—

(A) identify barriers to private financing on such lands; and

(B) identify the impact of such barriers on access to capital and credit for Native American populations.

(2) REPORT.—Not later than 12 months after the date on which the Administrator is appointed, the Fund shall submit a report to the President and the Congress that—

(A) contains the findings of the study conducted under paragraph (1);

(B) recommends any necessary statutory and regulatory changes to existing Federal programs; and

(C) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and other private sector capital institutions to better serve such populations.

(d) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Thirty months after the appointment and qualification of the Administrator, the Comptroller General of the United States shall submit to the President and the Congress a study evaluating the structure, governance, and performance of the Fund.

(e) CONSULTATION.—In the conduct of the studies required under this section, the Fund shall consult, as appropriate, with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Farm Credit Administration, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, Indian tribal governments, community reinvestment organizations, civil rights organizations, consumer organizations, financial organizations, and such representatives of agencies or other persons, at the discretion of the Fund.

(f) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in accordance with section 9105 of title 31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 118. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App. 11) is amended—

(1) in paragraph (1), by inserting "; the Administrator of the Community Development Financial Institutions Fund;" before "and the chief"; and

(2) in paragraph (2), by inserting "the Community Development Financial Institutions Fund," after "the Agency for International Development,".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a).

SEC. 119. ENFORCEMENT.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the appointment and qualification of the Administrator, the Fund shall promulgate such regulations as may be necessary to carry out this subtitle.

(2) REGULATIONS REQUIRED.—The regulations promulgated under paragraph (1) shall include regulations applicable to community development financial institutions that are not insured depository institutions to—

(A) prevent conflicts of interest on the part of directors, officers, and employees of community development financial institutions as the Fund determines to be appropriate; and

(B) establish such standards with respect to loans by a community development financial institution to any director, officer, or employee of *such institution as the Fund determines to be appropriate, including loan amount limitations.*

(b) ADMINISTRATIVE ENFORCEMENT.—The provisions of this subtitle, and regulations prescribed and agreements entered into under this subtitle, shall be enforced under section 8 of the Federal Deposit Insurance Act by the appropriate Federal banking agency, in the case of an insured community development financial institution. A violation of this subtitle, or any regulation prescribed under or any agreement entered into under this subtitle, shall be treated as a violation of the Federal Deposit Insurance Act.

(c) CRIMINAL PROVISION.—Section 657 of title 18, United States Code, is amended by inserting "or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994," after "small business investment company,".

SEC. 120. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

(a) REPEAL.—Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by striking subsection (k).

(b) REVOLVING LOAN FUND.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after section 129 the following new section:

"SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

"(a) IN GENERAL.—The Board may exercise the authority granted to it by the Community Development Credit Union Revolving Loan Fund Transfer Act, including any additional appropriation made or earnings accrued, subject only to this section and to regulations prescribed by the Board.

"(b) INVESTMENT.—The Board may invest any idle Fund moneys in United States Treasury securities. Any interest accrued on such securities shall become a part of the Fund.

"(c) LOANS.—The Board may require that any loans made from the Fund be matched by increased shares in the borrower credit union.

"(d) INTEREST.—Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to an appropriations Act.

"(e) DEFINITION.—As used in this section, the term 'Fund' means the Community Development Credit Union Revolving Loan Fund.".

SEC. 121. AUTHORIZATION OF APPROPRIATIONS.

(a) FUND AUTHORIZATION.—

(1) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the Fund, to remain available until expended—

(A) $60,000,000 for fiscal year 1995;
(B) $104,000,000 for fiscal year 1996;
(C) $107,000,000 for fiscal year 1997; and
(D) $111,000,000 for fiscal year 1998;

or such greater sums as may be necessary to carry out this subtitle.

(2) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Of amounts authorized to be appropriated to the Fund pursuant to this section, not more than $5,550,000 may be used by the Fund in each fiscal year to pay the administrative costs and expenses of the Fund. Costs associated with the training program established under section 109 and the technical assistance program established under section 108 shall not be considered to be administrative expenses for purposes of this paragraph.

(B) CALCULATIONS.—The amounts referred to in paragraphs (3) and (4) shall be calculated after subtracting the amount referred to in subparagraph (A) of this paragraph from the total amount appropriated to the Fund in accordance with paragraph (1) in any fiscal year.

(3) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under paragraph (1) may be used as provided in section 113.

(4) AVAILABILITY FOR FUNDING SECTION 114.—33⅓ percent of the amounts appropriated to the Fund for any fiscal year pursuant to the authorization in paragraph (1) shall be available for use in carrying out section 114.

(5) SUPPORT OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The Administrator shall allocate funds authorized under this section, to the maximum extent practicable, for the support of community development financial institutions.

(b) COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.—There are authorized to be appropriated for the purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $4,000,000 for fiscal year 1995;
(2) $2,000,000 for fiscal year 1996;
(3) $2,000,000 for fiscal year 1997; and
(4) $2,000,000 for fiscal year 1998.

(c) BUDGETARY TREATMENT.—Amounts authorized to be appropriated under this section shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

Subtitle B—Home Ownership and Equity Protection

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Home Ownership and Equity Protection Act of 1994".

SEC. 152. CONSUMER PROTECTIONS FOR CERTAIN MORTGAGES.

(a) MORTGAGE DEFINITION.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

"(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

"(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

"(i) 8 percent of the total loan amount; or

"(ii) $400.

"(2)(A) After the 2-year period beginning on the effective date of the regulations promulgated under section 155 of the Riegle Community Development and Regulatory Improvement Act of 1994, and no more frequently than biennially after the first increase or decrease under this subparagraph, the Board may by regulation increase or decrease the number of percentage points specified in paragraph (1)(A), if the Board determines that the increase or decrease is—

"(i) consistent with the consumer protections against abusive lending provided by the amendments made by subtitle B of title I of the Riegle Community Development and Regulatory Improvement Act of 1994; and

"(ii) warranted by the need for credit.

"(B) An increase or decrease under subparagraph (A) may not result in the number of percentage points referred to in subparagraph (A) being—

"(i) less that 8 percentage points; or

"(ii) greater than 12 percentage points.

"(C) In determining whether to increase or decrease the number of percentage points referred to in subparagraph (A), the Board shall consult with representatives of consumers, including low-income consumers, and lenders.

"(3) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

"(4) For purposes of paragraph (1)(B), points and fees shall include—

"(A) all items included in the finance charge, except interest or the time-price differential;

"(B) all compensation paid to mortgage brokers;

"(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes), unless—

"(i) the charge is reasonable;

"(ii) the creditor receives no direct or indirect compensation; and

"(iii) the charge is paid to a third party unaffiliated with the creditor; and

"(D) such other charges as the Board determines to be appropriate.

"(5) This subsection shall not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for any extension of credit.".

(b) MATERIAL DISCLOSURES.—Section 103(u) of the Truth in Lending Act (15 U.S.C. 1602(u)) is amended—

(1) by striking "and the due dates" and inserting "the due dates"; and

(2) by inserting before the period ", and the disclosures required by section 129(a)".

(c) DEFINITION OF CREDITOR CLARIFIED.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end the following: "Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this title.".

(d) DISCLOSURES REQUIRED AND CERTAIN TERMS PROHIBITED.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 128 the following new section:

"SEC. 129. REQUIREMENTS FOR CERTAIN MORTGAGES.

"(a) DISCLOSURES.—

"(1) SPECIFIC DISCLOSURES.—In addition to other disclosures required under this title, for each mortgage referred to in section 103(aa), the creditor shall provide the following disclosures in conspicuous type size:

"(A) 'You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.'

"(B) 'If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.'.

"(2) ANNUAL PERCENTAGE RATE.—In addition to the disclosures required under paragraph (1), the creditor shall disclose—

"(A) in the case of a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

"(B) in the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to section 1204 of the Competitive Equality Banking Act of 1987.

"(b) TIME OF DISCLOSURES.—

"(1) IN GENERAL.—The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

"(2) NEW DISCLOSURES REQUIRED.—

"(A) IN GENERAL.—After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

"(B) TELEPHONE DISCLOSURE.—A creditor may provide new disclosures pursuant to subparagraph (A) by telephone, if—

"(i) the change is initiated by the consumer; and

"(ii) at the consummation of the transaction under which the credit is extended—

"(I) the creditor provides to the consumer the new disclosures, in writing; and

"(II) the creditor and consumer certify in writing that the new disclosures were provided by telephone, by not later than 3 days prior to the date of consummation of the transaction.

"(3) MODIFICATIONS.—The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

"(c) NO PREPAYMENT PENALTY.—

"(1) IN GENERAL.—

"(A) LIMITATION ON TERMS.—A mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

"(B) CONSTRUCTION.—For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

"(2) EXCEPTION.—Notwithstanding paragraph (1), a mortgage referred to in section 103(aa) may contain a prepayment penalty (including terms calculating a refund by a method that is not prohibited under section 933(b) of the Housing and Community Development Act of 1992 for the transaction in question) if—

"(A) at the time the mortgage is consummated—

"(i) the consumer is not liable for an amount of monthly indebtedness payments (including the amount of credit extended or to be extended under the transaction) that is greater than 50 percent of the monthly gross income of the consumer; and

"(ii) the income and expenses of the consumer are verified by a financial statement signed by the consumer, by a credit report, and in the case of employment income, by payment records or by verification from the employer of the consumer (which verification may be in the form of a copy of a pay stub or other payment record supplied by the consumer);

"(B) the penalty applies only to a prepayment made with amounts obtained by the consumer by means other than a refinancing by the creditor under the mortgage, or an affiliate of that creditor;

"(C) the penalty does not apply after the end of the 5-year period beginning on the date on which the mortgage is consummated; and

"(D) the penalty is not prohibited under other applicable law.

"(d) LIMITATIONS AFTER DEFAULT.—A mortgage referred to in section 103(aa) may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of a mortgage referred to in subsection 103(aa) is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate shall be computed by any method that is not less favorable than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

"(e) NO BALLOON PAYMENTS.—A mortgage referred to in section 103(aa) having a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.

"(f) NO NEGATIVE AMORTIZATION.—A mortgage referred to in section 103(aa) may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

"(g) NO PREPAID PAYMENTS.—A mortgage referred to in section 103(aa) may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

"(h) PROHIBITION ON EXTENDING CREDIT WITHOUT REGARD TO PAYMENT ABILITY OF CONSUMER.—A creditor shall not engage in a pattern or practice of extending credit to consumers under mortgages referred to in section 103(aa) based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment.

"(i) REQUIREMENTS FOR PAYMENTS UNDER HOME IMPROVEMENT CONTRACTS.—A creditor shall not make a payment to a contractor under a home improvement contract from amounts extended as credit under a mortgage referred to in section 103(aa), other than—

"(1) in the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

"(2) at the election of the consumer, by a third party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

"(j) CONSEQUENCE OF FAILURE TO COMPLY.—Any mortgage that contains a provision prohibited by this section shall be deemed a failure to deliver the material disclosures required under this title, for the purpose of section 125.

"(k) DEFINITION.—For purposes of this section, the term 'affiliate' has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

"(l) DISCRETIONARY REGULATORY AUTHORITY OF BOARD.—

"(1) EXEMPTIONS.—The Board may, by regulation or order, exempt specific mortgage products or categories of mortgages from any or all of the prohibitions specified in subsections (c) through (i), if the Board finds that the exemption—

"(A) is in the interest of the borrowing public; and

"(B) will apply only to products that maintain and strengthen home ownership and equity protection.

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit acts or practices in connection with—

"(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

"(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.".

(e) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking the item relating to section 129 and inserting the following:

"129. Requirements for certain mortgages.".

(2) TRUTH IN LENDING ACT.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(A) in the second sentence of section 105(a), by striking "These" and inserting "Except in the case of a mortgage referred to in section 103(aa), these";

(B) in section 111(a)(2), by inserting before the period the following: ", and such State-required disclosure may not be made in lieu of the disclosures applicable to certain mortgages under section 129"; and

(C) in section 111(b)—

(i) by striking "This" and inserting "Except as provided in section 129, this"; and

(ii) by adding at the end the following: "The provisions of section 129 do not annul, alter, or affect the applicability of the laws of any State or exempt any person subject to the provisions of section 129 from complying with the laws of any State, with respect to the requirements for mortgages referred to in section 103(aa), except to the extent that those State laws are inconsistent with any provisions of section 129, and then only to the extent of the inconsistency.".

SEC. 153. CIVIL LIABILITY.

(a) DAMAGES.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by striking "and" at the end of paragraph (2)(B);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a failure to comply with any requirement under section 129, an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.".

(b) STATE ATTORNEY GENERAL ENFORCEMENT.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by adding at the end the following: "An action to enforce a violation of section 129 may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. The State attorney general shall provide prior written notice of any such civil action to the Federal agency responsible for enforcement under section 108 and shall provide the agency with a copy of the complaint. If prior notice is not feasible, the State attorney general shall provide notice to such agency immediately upon instituting the action. The Federal agency may—

"(1) intervene in the action;

"(2) upon intervening—

"(A) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(B) be heard on all matters arising in the action; and

"(3) file a petition for appeal.".

(c) ASSIGNEE LIABILITY.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORTGAGES.—

"(1) IN GENERAL.—Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the documentation required by this title, the itemization of the amount financed, and other disclosure of disbursements that the mortgage was a mortgage referred to in section 103(aa). The preceding sentence does not affect rights of a consumer under subsection (a), (b), or (c) of this section or any other provision of this title.

"(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

"(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

"(B) with respect to all other causes of action, the sum of—

"(i) the amount of all remaining indebtedness; and

"(ii) the total amount paid by the consumer in connection with the transaction.

"(3) OFFSET.—The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

"(4) NOTICE.—Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

SEC. 154. REVERSE MORTGAGE DISCLOSURE.

(a) DEFINITION OF REVERSE MORTGAGE.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(bb) The term 'reverse mortgage transaction' means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer's principal dwelling—

"(1) securing one or more advances; and

"(2) with respect to which the payment of any principal, interest, and shared appreciation or equity is due and payable (other than in the case of default) only after—

"(A) the transfer of the dwelling;

"(B) the consumer ceases to occupy the dwelling as a principal dwelling; or

"(C) the death of the consumer.".

(b) DISCLOSURE.—Chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

"SEC. 138. REVERSE MORTGAGES.

"(a) IN GENERAL.—In addition to the disclosures required under this title, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

"(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 credit transaction periods, as determined by the Board, including—

"(A) a short-term reverse mortgage;

"(B) a term equaling the actuarial life expectancy of the consumer; and

"(C) such longer term as the Board deems appropriate; and

"(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

"(b) PROJECTED TOTAL COST.—In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into account—

"(1) any shared appreciation or equity that the lender will, by contract, be entitled to receive;

"(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

"(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

"(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).".

(c) HOME EQUITY PLAN EXEMPTION.—Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) is amended by adding at the end the following:

"This subsection does not apply to reverse mortgage transactions.".

(d) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 137 the following:

"138. Reverse mortgages.".

SEC. 155. REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to carry out this subtitle, and such regulations shall become effective on the date on which disclosure regulations are required to become effective under section 105(d) of the Truth in Lending Act.

SEC. 156. APPLICABILITY.

This subtitle, and the amendments made by this subtitle, shall apply to every mortgage referred to in section 103(aa) of the Truth in Lending Act (as added by section 152(a) of this Act) consummated on or after the date on which regulations issued under section 155 become effective.

SEC. 157. FEDERAL RESERVE STUDY.

During the period beginning 180 days after the date of enactment of this Act and ending 2 years after that date of enactment, the Board of Governors of the Federal Reserve System shall conduct a study and submit to the Congress a report, including recommendations for any appropriate legislation, regarding—

(1) whether a consumer engaging in an open end credit transaction (as defined in section 103 of the Truth in Lending Act) secured by the consumer's principal dwelling is provided adequate protections under Federal law, including section 127A of the Truth in Lending Act; and

(2) whether a more appropriate interest rate index exists for purposes of subparagraph (A) of section 103(aa)(1) of the Truth in Lending Act (as added by section 152(a) of this Act) than the yield on Treasury securities referred to in that subparagraph.

SEC. 158. HEARINGS ON HOME EQUITY LENDING.

(a) HEARINGS —Not less than once during the 3-year period beginning on the date of enactment of this Act, and regularly thereafter, the Board of Governors of the Federal Reserve System, in consultation with the Consumer Advisory Council of the Board, shall conduct a public hearing to examine the home equity loan market and the adequacy of existing regulatory and legislative provisions and the provisions of this subtitle in protecting the interests of consumers, and low-income consumers in particular.

(b) PARTICIPATION.—In conducting hearings required by subsection (a), the Board of Governors of the Federal Reserve System shall solicit participation from consumers, representatives of consumers, lenders, and other interested parties.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Small Business Loan Securitization and Secondary Market Enhancement Act of 1994".

SEC. 202. SMALL BUSINESS RELATED SECURITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraph:

"(53)(A) The term 'small business related security' means a security that is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization, and either—

"(i) represents an interest in 1 or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company; or

"(ii) is secured by an interest in 1 or more promissory notes or leases of personal property (with or without recourse to the issuer or lessee) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes or leases described in clause (i).

"(B) For purposes of this paragraph—

"(i) an 'interest in a promissory note or a lease of personal property' includes ownership rights, certificates of interest or participation in such notes or leases, and rights designed to assure servicing of such notes or leases, or the receipt or timely receipt of amounts payable under such notes or leases;

"(ii) the term 'small business concern' means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act;

"(iii) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(iv) the term 'insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act.".

SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.

Section 7(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(g)) is amended by inserting "or a small business related security" after "mortgage related security".

SEC. 204. BORROWING IN THE COURSE OF BUSINESS.

Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended in the last sentence by inserting "or a small business related security" after "mortgage related security".

SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COLLATERAL.

Clause (ii) of section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by inserting "or any small business related security" after "mortgage related security".

SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

"(S) SMALL BUSINESS RELATED SECURITIES.—Investments in small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.".

(b) CREDIT UNIONS.—Section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by inserting "or" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both;".

(c) NATIONAL BANKING ASSOCIATIONS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the last sentence in the first full paragraph of paragraph Seventh, by striking "or (B) are mortgage related securities" and inserting the following: "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities".

SEC. 207. PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(b) OBLIGATIONS OF THE UNITED STATES.—Section 106(a)(2) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(c) PREEMPTION OF STATE LAWS.—Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(c)) is amended—

(1) in the first sentence, by striking "or that" and inserting ", that"; and

(2) by inserting ", or that are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934)" before "shall be exempt".

(d) IMPLEMENTATION.—Section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—

"(1) LIMITATION.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this subsection, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) STATE REGISTRATION OR QUALIFICATION REQUIREMENTS.—Any State may, not later than 7 years after the date of enactment of this subsection, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.".

SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF SMALL BUSINESS OBLIGATIONS.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a small business loan or a lease of personal property with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) CAPITAL AND RESERVE REQUIREMENTS.—With respect to the transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) AGGREGATE AMOUNT OF RECOURSE.—The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans and leases of personal property under subsections (a) and (b) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR EXCEED AGGREGATE LIMITS.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfers of small business loans or leases of personal property that occurred during the time that the institution was qualified and did not exceed such limit.

(f) PROMPT CORRECTIVE ACTION NOT AFFECTED.—The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 38 of the Federal Deposit Insurance Act.

(g) REGULATIONS REQUIRED.—Not later than 180 days after the date of enactment of this Act each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) ALTERNATIVE SYSTEM PERMITTED.—

(1) IN GENERAL.—At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small business loans and leases of personal property with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) EXISTING TRANSACTIONS NOT AFFECTED.—Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans and leases of personal property with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) DEFINITIONS.—For purposes of this section—

(1) the term "adequately capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act;

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(4) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(5) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "other capital measures" has the meaning as in section 38(c) of the Federal Deposit Insurance Act;

(7) the term "recourse" has the meaning given to such term under generally accepted accounting principles;

(8) the term "small business" means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act; and

(9) the term "well capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

SEC. 209. JOINT STUDY ON THE IMPACT OF ADDITIONAL SECURITIES BASED ON POOLED OBLIGATIONS.

(a) JOINT STUDY REQUIRED.—The Board and the Commission shall conduct a joint study of the impact of the provisions of this subtitle (including the amendments made by this subtitle) on the credit and securities markets. Such study shall evaluate—

(1) the impact of the provisions of this subtitle on the availability of credit for business and commercial enterprises in general, and the availability of credit in particular for—

(A) businesses in low- and moderate-income areas;

(B) businesses owned by women and minorities;

(C) community development efforts;

(D) community development financial institutions;

(E) businesses in different geographical regions; and

(F) a diversity of types of businesses;

(2) the structure and operation of the markets that develop for small business related securities and commercial mortgage related securities, including the types of entities (such as pension funds and insurance companies) that are significant purchasers of such securities, the extent to which such entities are sophisticated investors, the use of credit enhancements in obtaining investment-grade ratings, any conflicts of interest that arise in such markets, and any adverse effects of such markets on commercial real estate ventures, pension funds, or pension fund beneficiaries;

(3) the extent to which the provisions of this subtitle with regard to margin requirements, the number of eligible investment rating categories,

preemption of State law, and the treatment of such securities as government securities for the purpose of State investment limitations, affect the structure and operation of such markets; and

(4) in view of the findings made pursuant to paragraphs (2) and (3), any additional suitability or disclosure requirements or other investor protections that should be required.

(b) REPORTS.—

(1) IN GENERAL.—The Board and the Commission shall submit to the Congress a report on the results of the study required by subsection (a) before the end of—

(A) the 2-year period beginning on the date of enactment of this Act;

(B) the 4-year period beginning on such date of enactment; and

(C) the 6-year period beginning on such date of enactment.

(2) CONTENTS OF REPORT.—Each report required under paragraph (1) shall contain or be accompanied by such recommendations for administrative or legislative action as the Board and the Commission consider appropriate and may include recommendations regarding the need to develop a system for reporting additional information concerning investments by the entities described in subsection (a)(2).

(c) DEFINITIONS.—As used in this section—

(1) the term "Board" means the Board of Governors of the Federal Reserve System; and

(2) the term "Commission" means the Securities and Exchange Commission.

SEC. 210. CONSISTENT USE OF FINANCIAL TERMINOLOGY.

Not later than 2 years after the date of enactment of this Act, the Financial Institutions Examination Council shall report to the Congress on its recommendations for the use of consistent financial terminology by depository institutions for small business loans or leases of personal property which are sold for the creation of small business related securities (as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934).

Subtitle B—Small Business Capital Enhancement

SEC. 251. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns are a vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to debt capital is a critical component for small business development, productivity, expansion, and success in the United States;

(3) commercial banks are the most important suppliers of debt capital to small business concerns in the United States;

(4) commercial banks and other depository institutions have various incentives to minimize their risk in financing small business concerns;

(5) as a result of such incentives, many small business concerns with economically sound financing needs are unable to obtain access to needed debt capital;

(6) the small business capital access programs implemented by certain States are a flexible and efficient tool to assist financial institutions in providing access to needed debt capital for many small business concerns in a manner consistent with safety and soundness regulations;

(7) a small business capital access program would complement other programs which assist small business concerns in obtaining access to capital; and

(8) Federal policy can stimulate and accelerate efforts by States to implement small business capital access programs by providing an incentive to States, while leaving the administration of such programs to each participating State.

(b) PURPOSES.—By encouraging States to implement administratively efficient capital access programs that encourage commercial banks and other depository institutions to provide access to debt capital for a broad portfolio of small business concerns, and thereby promote a more efficient and effective debt market, the purposes of this subtitle are—

(1) to promote economic opportunity and growth;

(2) to create jobs;

(3) to promote economic efficiency;

(4) to enhance productivity; and

(5) to spur innovation.

SEC. 252. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Fund" means the Community Development Financial Institutions Fund established under section 104;

(2) the term "appropriate Federal banking agency"—

(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act;

(3) the term "early loan" means a loan enrolled at a time when the aggregate covered amount of loans previously enrolled under the Program by a particular participating financial institution is less than $5,000,000;

(4) the term "enrolled loan" means a loan made by a participating financial institution that is enrolled by a participating State in accordance with this subtitle;

(5) the term "financial institution" means any federally chartered or State-chartered commercial bank, savings association, savings bank, or credit union;

(6) the term "participating financial institution" means any financial institution that has entered into a participation agreement with a participating State in accordance with section 254;

(7) the term "participating State" means any State that has been approved for participation in the Program in accordance with section 253;

(8) the term "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, except that such term shall not include—

(A) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate (other than the business of passive ownership of real estate); or

(B) the ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase;

(9) the term "Program" means the Small Business Capital Enhancement Program established under this subtitle;

(10) the term "reserve fund" means a fund, established by a participating State, earmarked for a particular participating financial institution, for the purposes of—

(A) depositing all required premium charges paid by the participating financial institution and by each borrower receiving a loan under the Program from a participating financial institution;

(B) depositing contributions made by the participating State; and

(C) covering losses on enrolled loans by disbursing accumulated funds; and

(11) the term "State" means—

(A) a State of the United States;

(B) the District of Columbia;

(C) any political subdivision of a State of the United States, which subdivision has a population in excess of the population of the least populated State of the United States; and

(D) any other political subdivision of a State of the United States that the Fund determines has the capacity to participate in the program.

SEC. 253. APPROVING STATES FOR PARTICIPATION.

(a) APPLICATION.—Any State may apply to the Fund for approval to be a participating State under the Program and to be eligible for reimbursement by the Fund pursuant to section 257.

(b) APPROVAL CRITERIA.—The Fund shall approve a State to be a participating State, if—

(1) a specific department or agency of the State has been designated to implement the Program;

(2) all legal actions necessary to enable such designated department or agency to implement the Program have been accomplished;

(3) funds in the amount of at least $1 for every 2 people residing in the State (as of the last decennial census for which data have been released) are available and have been legally committed to contributions by the State to reserve funds, with such funds being available without time limit and without requiring additional legal action, except that such requirements shall not be construed to limit the authority of the State to take action at a later time that results in the termination of its obligation to enroll loans and make contributions to reserve funds;

(4) the State has prescribed a form of participation agreement to be entered into between it and each participating financial institution that is consistent with the requirements and purposes of this subtitle; and

(5) the State and the Fund have executed a reimbursement agreement that conforms to the requirements of this subtitle.

(c) EXISTING STATE PROGRAMS.—

(1) IN GENERAL.—A State that is not a participating State, but that has its own capital access program providing portfolio insurance for business loans (based on a separate loss reserve fund for each financial institution), may apply at any time to the Fund to be approved to be a participating State. The Fund shall approve such State to be a participating State, and to be eligible for reimbursements by the Fund pursuant to section 257, if the State—

(A) satisfies the requirements of subsections (a) and (b); and

(B) certifies that each affected financial institution has satisfied the requirements of section 254.

(2) APPLICABLE TERMS OF PARTICIPATION.—

(A) STATUS OF INSTITUTIONS.—If a State is approved for participation under paragraph (1), each financial institution with a participation agreement in effect with the participating State shall immediately be considered a participating financial institution. Reimbursements may be made under section 237 in connection with all contributions made to the reserve fund by the State in connection with lending that occurs on or after the date on which the Fund approves the State for participation.

(B) EFFECTIVE DATE OF PARTICIPATION.—If an amended participation agreement that conforms with section 255 is required in order to secure participation approval by the Fund, contributions subject to reimbursement under section 257 shall include only those contributions made to a reserve fund with respect to loans enrolled on or after the date that an amended participation agreement between the participating State and the participating financial institution becomes effective.

(C) USE OF ACCUMULATED RESERVE FUNDS.—A State that is approved for participation in accordance with this subsection may continue to implement the program utilizing the reserve funds accumulated under the State program.

(d) PRIOR APPROPRIATIONS REQUIREMENT.—The Fund shall not approve a State for participation in the Program until at least $50,000,000 has been appropriated to the Fund (subject to an appropriations Act), without fiscal year limitation, for the purpose of making reimbursements pursuant to section 257 and otherwise carrying out this subtitle.

(e) AMENDMENTS TO AGREEMENTS.—If a State that has been approved to be a participating State wishes to amend its form of participation agreement and continue to be a participating State, such State shall submit such amendment for review by the Fund in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Fund.

SEC. 254. PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency, to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Fund.

(b) PARTICIPATING FINANCIAL INSTITUTIONS.—Upon entering into the participation agreement with the participating State, the financial institution shall become a participating financial institution eligible to enroll loans under the Program.

SEC. 255. TERMS OF PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—The participation agreement to be entered into by a participating State and a participating financial institution shall include all provisions required by this section, and shall not include any provisions inconsistent with the provisions of this section.

(b) ESTABLISHMENT OF SEPARATE RESERVE FUNDS.—A separate reserve fund shall be established by the participating State for each participating financial institution. All funds credited to a reserve fund shall be the exclusive property of the participating State. Each reserve fund shall be an administrative account for the purposes of—

(1) receiving all required premium charges to be paid by the borrower and participating financial institution and contributions by the participating State; and

(2) disbursing funds, either to cover losses sustained by the participating financial institution in connection with loans made under the Program, or as contemplated by subsections (d) and (r).

(c) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the participating financial institution in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(d) EARNED INCOME AND INTEREST.—Interest or income earned on the funds credited to a reserve fund shall be deemed to be part of the reserve fund, except that a participating State may, as further specified in the participation agreement, provide authority for the participating State to withdraw some or all of such interest or income earned.

(e) LOAN TERMS AND CONDITIONS.—

(1) IN GENERAL.—A loan to be filed for enrollment under the Program may be made with such interest rate, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower, consistent with applicable law.

(2) LINES OF CREDIT.—If a loan to be filed for enrollment is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn by the borrower against the line of credit.

(f) ENROLLMENT PROCESS.—

(1) FILING.—

(A) IN GENERAL.—A participating financial institution shall file each loan made under the Program for enrollment by completing and submitting to the participating State a form prescribed by the participating State.

(B) FORM.—The form referred to in subparagraph (A) shall include a representation by the participating financial institution that it has complied with the participation agreement in enrolling the loan with the State.

(C) PREMIUM CHARGES.—Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.

(D) SUBMISSION.—The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.

(2) ENROLLMENT BY STATE.—Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has not complied with the participation agreement in enrolling the loan.

(g) COVERAGE AMOUNT.—In filing a loan for enrollment under the Program, the participating financial institution may specify an amount to be covered under the Program that is less than the full amount of the loan.

(h) PREMIUM CHARGES.—

(1) MINIMUM AND MAXIMUM AMOUNTS.—The premium charges payable to the reserve fund by the borrower and the participating financial institution shall be prescribed by the participating financial institution, within minimum and maximum limits set forth in the participation agreement. The participation agreement shall establish minimum and maximum limits whereby the sum of the premium charges paid in connection with a loan by the borrower and the participating financial institution is not less than 3 percent nor more than 7 percent of the amount of the loan covered under the Program.

(2) ALLOCATION OF PREMIUM CHARGES.—The participation agreement shall specify terms for allocating premium charges between the borrower and the participating financial institution. However, if the participating financial institution is required to pay any of the premium charges, the participation agreement shall authorize the participating financial institution to recover from the borrower the cost of the payment of the participating financial institution, in any manner on which the participating financial institution and the borrower agree.

(i) RESTRICTIONS.—

(1) ACTIONS PROHIBITED.—Except as provided in subsection (h) and paragraph (2) of this subsection, the participating State may not—

(A) impose any restrictions or requirements, relating to the interest rate, fees, collateral, or other business terms and conditions of the loan; or

(B) condition enrollment of a loan in the Program on the review by the State of the risk or creditworthiness of a loan.

(2) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect the applicability of any other law to the conduct by a participating financial institution of its business.

(j) STATE CONTRIBUTIONS.—In enrolling a loan under the Program, the participating State shall contribute to the reserve fund an amount, as provided for in the participation agreement, which shall not be less than the sum of the amount of premium charges paid by the borrower and the participating financial institution.

(k) ELEMENTS OF CLAIMS.—

(1) FILING.—If a participating financial institution charges off all or part of an enrolled loan, such participating financial institution may file a claim for reimbursement with the participating State by submitting a form that—

(A) includes the representation by the participating financial institution that it is filing the claim in accordance with the terms of the applicable participation agreement; and

(B) contains such other information as may be required by the participating State.

(2) TIMING.—Any claim filed under paragraph (1) shall be filed contemporaneously with the action of the participating financial institution to charge off all or part of an enrolled loan. The participating financial institution shall determine when and how much to charge off on an enrolled loan, in a manner consistent with its usual method for making such determinations on business loans that are not enrolled loans under this subtitle.

(l) ELEMENTS OF CLAIMS.—A claim filed by a participating financial institution may include the amount of principal charged off, not to exceed the covered amount of the loan. Such claim may also include accrued interest and out-of-pocket expenses, if and to the extent provided for under the participation agreement.

(m) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Except as provided in subsection (n) and paragraph (2) of this subsection, upon receipt of a claim filed in accordance with this section and the participation agreement, the participating State shall promptly pay to the participating financial institution, from funds in the reserve fund, the full amount of the claim as submitted.

(2) INSUFFICIENT RESERVE FUNDS.—If there are insufficient funds in the reserve fund to cover the entire amount of a claim of a participating financial institution, the participating State shall pay to the participating financial institution an amount equal to the current balance in the reserve fund. If the enrolled loan for which the claim has been filed—

(A) is not an early loan, such payment shall be deemed fully to satisfy the claim, and the participating financial institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim; or

(B) is an early loan, such payment shall not be deemed fully to satisfy the claim of the participating financial institution, and at such time as the remaining balance of the claim does not exceed 75 percent of the balance in the reserve fund, the participating State shall, upon the request of the participating financial institution, pay any remaining amount of the claim.

(n) DENIAL OF CLAIMS.—A participating State may deny a claim if a representation or warranty made by the participating financial institution to the participating State at the time that the loan was filed for enrollment or at the time that the claim was submitted was known by the participating financial institution to be false.

(o) SUBSEQUENT RECOVERY OF CLAIM AMOUNT.—If, subsequent to payment of a claim by the participating State, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the participating financial institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any expenses incurred by the institution in collection of such amount.

(p) PARTICIPATION AGREEMENT TERMS.—

(1) IN GENERAL.—In connection with the filing of a loan for enrollment in the Program, the participation agreement—

(A) shall require the participating financial institution to obtain an assurance from each borrower that—

(i) the proceeds of the loan will be used for a business purpose;

(ii) the loan will not be used to finance passive real estate ownership; and

(iii) the borrower is not—

(I) an executive officer, director, or principal shareholder of the participating financial institution;

(II) a member of the immediate family of an executive officer, director, or principal shareholder of the participating financial institution; or

(III) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(B) shall require the participating financial institution to provide assurances to the participating State that the loan has not been made in order to place under the protection of the Program prior debt that is not covered under the Program and that is or was owed by the borrower to the participating financial institution or to an affiliate of the participating financial institution;

(C) may provide that if—

(i) a participating financial institution makes a loan to a borrower that is a refinancing of a loan previously made to the borrower by the participating financial institution or an affiliate of the participating financial institution;

(ii) such prior loan was not enrolled in the Program; and

(iii) additional or new financing is extended by the participating financial institution as part of the refinancing,

the participating financial institution may file the loan for enrollment, with the amount to be covered under the Program not to exceed the amount of any additional or new financing; and

(D) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this subtitle.

(2) DEFINITIONS.—For purposes of this subsection, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a participating financial institution as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(q) TERMINATION CLAUSE.—In each participation agreement, the participating State shall reserve for itself the ability to terminate its obligation to enroll loans under the Program. Any such termination shall be prospective only, and shall not apply to amounts of loans enrolled under the Program prior to such termination.

(r) ALLOWABLE WITHDRAWALS FROM FUND.—The participation agreement may provide that, if, for any consecutive period of not less than 24 months, the aggregate outstanding balance of all enrolled loans for a participating financial institution is continually less than the outstanding balance in the reserve fund for that participating financial institution, the participating State, in its discretion, may withdraw an amount from the reserve fund to bring the balance in the reserve fund down to the outstanding balance of all such enrolled loans.

(s) GRANDFATHERED PROVISION.—

(1) SPECIAL TREATMENT OF PREMIUM CHARGES.—Notwithstanding subsection (b) or (d), the participation agreement, if explicitly authorized by a statute enacted by the State before the date of enactment of this Act, may allow a participating financial institution to treat the premium charges paid by the participating financial institution and the borrower into the reserve fund, and interest or income earned on funds in the reserve fund that are deemed to be attributable to such premium charges, as assets of the participating financial institution for accounting purposes, subject to withdrawal by the participating financial institution only—

(A) for the payment of claims approved by the participating State in accordance with this section; and

(B) upon the participating financial institution's withdrawal from authority to make new loans under the Program.

(2) PAYMENT OF POST-WITHDRAWAL CLAIMS.—After any withdrawal of assets from the reserve fund pursuant to paragraph (1)(B), any future claims filed by the participating financial institution on loans remaining in its capital access program portfolio shall only be paid from funds remaining in the reserve fund to the extent that, in the aggregate, such claims exceed the sum of the amount of such withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.

(3) CONDITIONS FOR TERMINATING SPECIAL AUTHORITY.—If the Fund determines that the inclusion in a participation agreement of the provisions authorized by this subsection is resulting in the enrollment of loans under the Program that are likely to have been made without assistance provided under this subtitle, the Fund may notify the participating State that henceforth, the Fund will only make reimbursements to the State under section 257 with respect to a loan if the participation agreement between the participating State and each participating financial institution has been amended to conform with this section, without exercise of the special authority granted by this subsection.

SEC. 256. REPORTS.

(a) RESERVE FUNDS REPORT.—On or before the last day of each calendar quarter, a participating State shall submit to the Fund a report of contributions to reserve funds made by the participating State during the previous calendar quarter. If the participating State has made contributions to one or more reserve funds during the previous quarter, the report shall—

(1) indicate the total amount of such contributions;

(2) indicate the amount of contributions which is subject to reimbursement, which shall be equal to the total amount of contributions, unless one of the limitations contained in section 257 is applicable;

(3) if one of the limitations in section 257 is applicable, provide documentation of the applicability of such limitation for each loan for which the limitation applies; and

(4) include a certification by the participating State that—

(A) the information provided in accordance with paragraphs (1), (2), and (3) is accurate;

(B) funds in an amount meeting the minimum requirements of section 253(b)(3) continue to be available and legally committed to contributions by the State to reserve funds, less any amount that has been contributed by the State to reserve funds subsequent to the State being approved for participation in the Program;

(C) there has been no unapproved amendment to any participation agreement or the form of participation agreements; and

(D) the participating State is otherwise implementing the Program in accordance with this subtitle and regulations issued pursuant to section 259.

(b) ANNUAL DATA.—Not later than March 31 of each year, each participating State shall submit to the Fund annual data indicating the number of borrowers financed under the Program, the total amount of covered loans, and breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers financed.

(c) FORM.—The reports and data filed pursuant to subsections (a) and (b) shall be in such form as the Fund may require.

SEC. 257. REIMBURSEMENT BY THE FUND.

(a) REIMBURSEMENTS.—Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Fund shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Fund pursuant to section 256 and this section. The Fund shall reimburse participating States, as it receives reports pursuant to section 256(a), until available funds are expended.

(b) SIZE OF ASSISTED BORROWER.—The Fund shall not provide any reimbursement to a participating State with respect to an enrolled loan made to a borrower that has 500 or more employees at the time that the loan is enrolled in the Program.

(c) THREE-YEAR MAXIMUM.—The amount of reimbursement to be provided by the Fund to a participating State over any 3-year period in connection with loans made to any single borrower or any group of borrowers among which a common enterprise exists shall not exceed $75,000. For purposes of this subsection, "common enterprise" shall have the same meaning as in part 32 of title 12 of the Code of Federal Regulations, or any successor to that part.

(d) LOANS TOTALING LESS THAN $2,000,000.—In connection with a loan in which the covered amount of the loan plus the covered amount of all previous loans enrolled by a participating financial institution does not exceed $2,000,000, the amount of reimbursement by the Fund to the participating State shall not exceed the lesser of—

(1) 75 percent of the sum of the premium charges paid to the reserve fund by the borrower and the participating financial institution; or

(2) 5.25 percent of the covered amount of the loan.

(e) LOANS TOTALING MORE THAN $2,000,000.—In connection with a loan in which the sum of the covered amounts of all previous loans enrolled by the participating financial institution in the Program equals or exceeds $2,000,000, the amount of reimbursement to be provided by the Fund to the participating State shall not exceed the lesser of—

(1) 50 percent of the sum of the premium charges paid by the borrower and the participating financial institution; or

(2) 3.5 percent of the covered amount of the loan.

(f) OTHER AMOUNTS.—In connection with the enrollment of a loan that will cause the aggregate covered amount of all enrolled loans to exceed $2,000,000, the amount of reimbursement by the Fund to the participating State shall be determined—

(1) by applying subsection (d) to the portion of the loan, which when added to the aggregate covered amount of all previously enrolled loans equals $2,000,000; and

(2) by applying subsection (e) to the balance of the loan.

SEC. 258. REIMBURSEMENT TO THE FUND.

(a) IN GENERAL.—If a participating State withdraws funds from a reserve fund pursuant to terms of the participation agreement permitted by subsection (d) or (r) of section 255, such participating State shall, not later than 15 calendar days after such withdrawal, submit to the Fund an amount computed by multiplying the amount withdrawn by the appropriate factor, as determined under subsection (b).

(b) FACTOR.—The appropriate factor shall be obtained by dividing the total amount of contributions that have been made by the participating State to all reserve funds which were subject to reimbursement—

(1) by 2; and

(2) by the total amount of contributions made by the participating State to all reserve funds, including if applicable, contributions that have been made by the State prior to becoming a participating State if the State continued its own

capital access program in accordance with section 253(b).

(c) USE OF REIMBURSEMENTS.—The Fund may use funds reimbursed pursuant to this section to make reimbursements under section 257.

SEC. 259. REGULATIONS.

The Fund shall promulgate appropriate regulations to implement this subtitle.

SEC. 260. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are authorized to be appropriated to the Fund $50,000,000 to carry out this subtitle.

(b) BUDGETARY TREATMENT.—The amount authorized to be appropriated under subsection (a) shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

SEC. 261. EFFECTIVE DATE.

This subtitle shall become effective on January 6, 1996.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

SEC. 301. INCORPORATED DEFINITIONS.

Unless otherwise specifically provided in this title, for purposes of this title—

(1) the terms "appropriate Federal banking agency", "Federal banking agencies", "insured depository institution", and "State bank supervisor" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

(a) AGENCY CONSIDERATIONS.—In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions and customers of depository institutions; and

(2) the benefits of such regulations.

(b) ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.—

(1) IN GENERAL.—New regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless—

(A) the agency determines, for good cause published with the regulation, that the regulation should become effective before such time;

(B) the regulation is issued by the Board of Governors of the Federal Reserve System in connection with the implementation of monetary policy; or

(C) the regulation is required to take effect on a date other than the date determined under this paragraph pursuant to any other Act of Congress.

(2) EARLY COMPLIANCE.—Any person who is subject to a regulation described in paragraph (1) may comply with the regulation before the effective date of the regulation.

SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS.

(a) REVIEW OF REGULATIONS; REGULATORY UNIFORMITY.—During the 2-year period beginning on the date of enactment of this Act, each Federal banking agency shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest—

(1) conduct a review of the regulations and written policies of that agency to—

(A) streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act, consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) submit a joint report to the Congress at the end of such 2-year period detailing the progress of the agencies in carrying out this subsection.

(b) REVIEW OF DISCLOSURES.—The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested persons, shall—

(1) review the regulations and written policies of the Board with respect to disclosures pursuant to the Truth in Lending Act with regard to variable-rate mortgages in order to simplify the disclosures, if necessary, and make the disclosures more meaningful and comprehensible to consumers;

(2) implement any necessary regulatory changes, consistent with applicable law; and

(3) not later than 2 years after completion of the review required by paragraph (1), submit a report to the Congress on the results of its actions taken in accordance with this subsection and any recommended legislative actions.

SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS.

The Federal banking agencies shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.

(a) IN GENERAL.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraphs:

"(6) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions—

"(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with principles of safety and soundness and the public interest—

"(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

"(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations;

"(iii) work to coordinate with the appropriate State bank supervisor—

"(I) the conduct of all examinations made pursuant to this subsection; and

"(II) the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions, and the type and amount of information required to be included in such reports; and

"(iv) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor to eliminate duplicative requests for information; and

"(B) not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies shall be the lead agency responsible for managing a unified examination of each insured depository institution and its affiliates, as required by this subsection.

"(7) SEPARATE EXAMINATIONS PERMITTED.—Notwithstanding paragraph (6), each appropriate Federal banking agency may conduct a separate examination in an emergency or under other exigent circumstances, or when the agency believes that a violation of law may have occurred.

"(8) REPORT.—At the time the system provided for in paragraph (6) is established, the Federal banking agencies shall submit a joint report describing the system to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Thereafter, the Federal banking agencies shall annually submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives regarding the progress of the agencies in implementing the system and indicating areas in which enhancements to the system, including legislature improvements, would be appropriate.".

(b) STATE ACCESS TO FEDERAL AGENCY REPORTS.—The first sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "and, with respect to any State depository institution, any appropriate State bank supervisor for such institution," after "The Corporation".

SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

(a) IN GENERAL.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

(2) in subparagraph (C), by striking "and its composite condition was found to be outstanding; and" and inserting "and its composite condition—

"(i) was found to be outstanding; or

"(ii) was found to be outstanding or good, in the case of an insured depository institution that has total assets of not more than $100,000,000;";

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

(b) AGENCY DISCRETION TO RAISE ASSET LIMIT.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(8) AGENCIES AUTHORIZED TO INCREASE MAXIMUM ASSET AMOUNT OF INSTITUTIONS FOR CERTAIN PURPOSES.—At any time after the end of the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the appropriate Federal banking agency, in the agency's discretion, may increase the maximum amount limitation contained in paragraph (4)(C)(ii), by regulation, from $100,000,000 to an amount not to exceed $175,000,000 for purposes of such paragraph, if the agency determines *that the greater amount would be consistent with the principles of safety and soundness for insured depository institutions.".*

SEC. 307. CALL REPORT SIMPLIFICATION.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.

(a) REVISED STATUTES.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) in the 5th sentence of subsection (a), by striking "; and the statement of resources" and all that follows through "as may be required by the Comptroller"; and

(2) in subsection (c), by striking the 4th sentence.

(b) FDIA.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the 4th sentence.

(c) FEDERAL RESERVE ACT.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended in the last sentence of the 6th undesignated paragraph, by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

SEC. 309. REGULATORY APPEALS PROCESS, OMBUDSMAN, AND ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure that—

(1) any appeal of a material supervisory determination by an insured depository institution or insured credit union is heard and decided expeditiously; and

(2) appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.

(d) AGENCY OMBUDSMAN.—

(1) ESTABLISHMENT REQUIRED.—Not later than 180 days after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall appoint an ombudsman.

(2) DUTIES OF OMBUDSMAN.—The ombudsman appointed in accordance with paragraph (1) for any agency shall—

(A) act as a liaison between the agency and any affected person with respect to any problem such party may have in dealing with the agency resulting from the regulatory activities of the agency; and

(B) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(e) ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall develop and implement a pilot program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the "alternative dispute resolution program") that is consistent with the requirements of subchapter IV of chapter 5 of title 5, United States Code, if the parties to the dispute, including the agency, agree to such proceeding.

(2) STANDARDS.—An alternative dispute resolution pilot program developed under paragraph (1) shall—

(A) be fair to all interested parties to a dispute;

(B) resolve disputes expeditiously; and

(C) be less costly than traditional means of dispute resolution, including litigation.

(3) INDEPENDENT EVALUATION.—Not later than 18 months after the date on which a pilot program is implemented under paragraph (1), the Administrative Conference of the United States shall submit to the Congress a report containing—

(A) an evaluation of that pilot program;

(B) the extent to which the pilot programs meet the standards established under paragraph (2);

(C) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and

(D) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies and the National Credit Union Administration Board.

(4) IMPLEMENTATION OF PROGRAM.—At any time after completion of the evaluation under paragraph (3)(A), any Federal banking agency and the National Credit Union Administration Board may implement an alternative dispute resolution program throughout the agency, taking into account the results of that evaluation.

(5) COORDINATION WITH EXISTING AGENCY ADR PROGRAMS.—

(A) EVALUATION REQUIRED.—If any Federal banking agency or the National Credit Union Administration maintains an alternative dispute resolution program as of the date of enactment of this Act under any other provision of law, the Administrative Conference of the United States shall include such program in the evaluation conducted under paragraph (3)(A).

(B) MULTIPLE ADR PROGRAMS.—No provision of this section shall be construed as precluding any Federal banking agency or the National Credit Union Administration Board from establishing more than 1 alternative means of dispute resolution.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MATERIAL SUPERVISORY DETERMINATIONS.—The term "material supervisory determinations"—

(A) includes determinations relating to—

(i) examination ratings;

(ii) the adequacy of loan loss reserve provisions; and

(iii) loan classifications on loans that are significant to an institution; and

(B) does not include a determination by a Federal banking agency or the National Credit Union Administration Board to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act or section 212 of the Federal Credit Union Act, as appropriate.

(2) INDEPENDENT APPELLATE PROCESS.—The term "independent appellate process" means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(3) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—The term "alternative means of dispute resolution" has the meaning given to such term in section 571 of title 5, United States Code.

(4) ISSUES IN CONTROVERSY.—The term "issues in controversy" means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver or for which a liquidating agent has been appointed, as the case may be;

(B) any final action taken by an agency in the agency's capacity as conservator or receiver for an insured depository institution or by the liquidating agent appointed for an insured credit union; and

(C) any other issue for which the appropriate Federal banking agency or the National Credit Union Administration Board determines that alternative means of dispute resolution would be appropriate.

(g) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Administration Board to take enforcement or supervisory action.

SEC. 310. ELECTRONIC FILING OF CURRENCY TRANSACTION REPORTS.

Section 123 of Public Law 91–508 (12 U.S.C. 1953) is amended by adding at the end the following new subsection:

"(c) ACCEPTANCE OF AUTOMATED RECORDS.—The Secretary shall permit an uninsured bank or financial institution to retain or maintain records referred to in subsection (a) in electronic or automated form, subject to terms and conditions established by the Secretary.".

SEC. 311. BANK SECRECY ACT PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"SEC. 5329. STAFF COMMENTARIES.

"The Secretary shall—

"(1) publish all written rulings interpreting this subchapter; and

"(2) annually issue a staff commentary on the regulations issued under this subchapter.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5328 the following new item:

"5329. Staff commentaries.".

SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ESTATE SETTLEMENT PROCEDURES ACT REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This Act does not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.

(a) IN GENERAL.—Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A) and indenting appropriately;

(2) by striking "Except with respect" and inserting the following:

"(1) IN GENERAL.—Except with respect"; and

(3) by striking paragraph (2) and inserting the following:

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(ii) has—

"(I) total assets, as of the beginning of such fiscal year, of $5,000,000,000, or more; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(2) LARGE INSTITUTIONS.—For purposes of this subsection, in the case of an insured depository institution described in paragraph (1)(B)(ii) that the Corporation determines to be a large institution, the audit committee of the holding company of such an institution shall not include any large customers of the institution.

"(3) APPLICABILITY BASED ON RISK TO FUND.—The appropriate Federal banking agency may require an institution with total assets in excess of $9,000,000,000 to comply with this section, notwithstanding the exemption provided by this subsection, if it determines that such exemption would create a significant risk to the affected deposit insurance fund if applied to that institution.".

(b) WRITTEN NOTICE OF REQUIREMENT FOR AUDIT OF QUARTERLY REPORTS.—Section 36(g)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(2)) is amended by adding at the end the following new subparagraph:

"(D) NOTICE TO INSTITUTION.—The Corporation shall promptly notify an insured depository institution, in writing, of a determination pursuant to subparagraph (A) to require a review of such institution's quarterly financial reports.".

SEC. 315. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(B) by striking "A State" and inserting the following:

"(1) IN GENERAL.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR INTERAFFILIATE TRANSACTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) is amended by adding at the end the following new subparagraph:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 5(e)(9) of the Federal Deposit Insurance Act), shall be subject to subsection (e) of section 5 of the Federal Deposit Insurance Act as if paragraph (6) of that subsection did not apply.".

(b) REPEAL PROVISION.—Effective on January 1, 1995, subparagraph (C) of section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) (as added by subsection (a) of this section) is repealed.

SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indent appropriately;

(2) by striking "No agreement" and inserting the following:

"(1) IN GENERAL.—No agreement"; and

(3) by adding at the end the following new paragraph:

"(2) PUBLIC DEPOSITS.—An agreement to provide for the lawful collateralization of deposits of a Federal, State, or local governmental entity or of any depositor referred to in section 11(a)(2) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or with any changes in the collateral made in accordance with such agreement.".

SEC. 318. MODIFICATION OF REGULATORY PROVISIONS.

(a) IN GENERAL.—Section 39(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(b), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall prescribe standards, by regulation or guideline, for all insured depository institutions relating to asset quality, earnings, and stock valuation that the agency determines to be appropriate.".

(b) ESTABLISHING STANDARDS.—Section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1(d), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in the subsection heading, by striking "BY REGULATION"; and

(2) in paragraph (1)—

(A) in the 1st sentence, by inserting "or guideline" before the period; and

(B) in the 2d sentence, by inserting "or guidelines" after "Such regulations".

(c) HOLDING COMPANIES EXCLUDED FROM SCOPE OF STANDARDS.—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p-1, as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subsections (a), by striking "and depository institution holding companies"; and

(2) in subsection (e)—

(A) by striking "or company" each place such term appears;

(B) in paragraphs (1)(A) and (2), by striking "or depository institution holding company";

(C) in paragraph (1)(A)—

(i) by striking "or (b) the agency shall require" and inserting the following: "or (b)—

"(i) if such standard is prescribed by regulation of the agency, the agency shall require"; and

(ii) by striking the period at the end and inserting the following: "; and

"(ii) if such standard is prescribed by guideline, the agency may require the institution to submit a plan described in clause (i)."; and

(D) in paragraph (1)(C)(i), by striking "and companies".

(d) EFFECTIVE DATE.—The amendments made by this section shall be construed to have the same effective date as section 39 of the Federal Deposit Insurance Act, as provided in section 132(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 319. EXPEDITED PROCEDURES.

(a) AMENDMENTS TO THE BANK HOLDING COMPANY ACT.—The 2d sentence of section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking "or (B)" and inserting "(B)"; and

(2) by inserting before the period the following: "; or (C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchanges their shares of the bank for shares of a newly formed bank holding company and receives after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition—

"(I) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; and

"(II) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act);

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization;

"(iii) the company provides 30 days prior notice to the Board and the Board does not object to such transaction during such 30-day period; and

"(iv) the holding company will not acquire control of any additional bank as a result of the reorganization.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5(d)(3) of the Federal

Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) CONVERSIONS ALLOWED.—Notwithstanding paragraph (2)(A), and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).";

(2) in subparagraph (E)—

(A) in clause (i), by striking "(and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board)";

(B) in clause (ii), by striking "or Board"; and

(C) in clause (iv)—

(i) by striking ", and the appropriate Federal banking agency for any depository institution holding company,";

(ii) by striking "each"; and

(iii) by striking ", and any depository institution holding company which controls such institution,";

(3) in subparagraph (F)—

(A) by striking "The Board" and all that follows through "a Bank" and inserting "A Bank"; and

(B) by striking "unless the Board determines that" and inserting "may not be the acquiring, assuming, or resulting depository institution in a transaction under subparagraph (A) unless"; and

(4) by striking subparagraph (K).

SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph:

"(12) Any equity security issued in connection with the acquisition by a holding company of a bank under section 3(a) of the Bank Holding Company Act of 1956 or a savings association under section 10(e) of the Home Owners' Loan Act, if—

"(A) the acquisition occurs solely as part of a reorganization in which security holders exchange their shares of a bank or savings association for shares of a newly formed holding company with no significant assets other than securities of the bank or savings association and the existing subsidiaries of the bank or savings association;

"(B) the security holders receive, after that reorganization, substantially the same proportional share interests in the holding company as they held in the bank or savings association, except for nominal changes in shareholders' interests resulting from lawful elimination of fractional interests and the exercise of dissenting shareholders' rights under State or Federal law;

"(C) the rights and interests of security holders in the holding company are substantially the same as those in the bank or savings association prior to the transaction, other than as may be required by law; and

"(D) the holding company has substantially the same assets and liabilities, on a consolidated basis, as the bank or savings association had prior to the transaction.

For purposes of this paragraph, the term 'savings association' means a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation.".

SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIODS FOR CERTAIN ACQUISITIONS AND MERGERS.

(a) ACQUISITIONS.—Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting before the period at the end of the 4th sentence the following: "or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

(b) MERGERS.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence the following: "or, if the agency has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 322. BANKERS' BANKS.

(a) OWNERSHIP BY BANKERS' BANKS.—

(1) SECTION 5136.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the 5th proviso—

(A) by inserting "or depository institution holding companies (as defined in section 3 of the Federal Deposit Insurance Act)" after "(except to the extent directors' qualifying shares are required by law) by depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')".

(2) SECTION 5169.—Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended—

(A) by inserting "or depository institution holding companies" after "(except to the extent directors' qualifying shares are required by law) by other depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')".

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes or in section 5169(b) of the Revised Statutes, on the same terms and conditions as a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the 2d sentence.

(2) MANAGEMENT INTERLOCKS ACT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" the first place such term appears and all that follows through the end of the subparagraph and inserting "and is a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes; or".

(d) LENDING LIMIT FOR LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" each place such term appears and inserting "15 percent".

SEC. 323. BANK SERVICE CORPORATION ACT AMENDMENT.

Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) in subsection (a), by striking "the prior approval of" and inserting "prior notice, as determined by"; and

(2) in subsection (c), by inserting "or whether to approve or disapprove any notice" after "approval".

SEC. 324. MERGER TRANSACTION REPORTS.

Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a banking agency shall not be required to file a report requested by the responsible agency under this paragraph if such banking agency advises the responsible agency by the applicable date under the preceding sentence that the report is not necessary because none of the effects described in paragraph (5) are likely to occur as a result of the transaction.".

SEC. 325. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from the waiver of or failure to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right *to repudiate an agreement or lease under this section.*

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list, except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 326. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"(a) EXCEPTIONS FROM REPAYMENT REQUIREMENT.—A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection, or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located;

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances.

"(b) REGULATIONS.—The Board and the Comptroller of the Currency may jointly prescribe such regulations as they deem necessary to implement this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (p) the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action addressed by that section arising from events or circumstances that occurred before the date of enactment of this Act.

SEC. 327. GAO REPORTS.

Section 102(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1825 note) is amended to read as follows:

"(1) QUARTERLY REPORTING.—Not later than 90 days after the end of any calendar quarter in which the Federal Deposit Insurance Corporation (hereafter in this section referred to as the 'Corporation') has any obligations pursuant to section 14 of the Federal Deposit Insurance Act outstanding, the Comptroller General of the United States shall submit a report on the Corporation's compliance at the end of that quarter with section 15(c) of the Federal Deposit Insurance Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such report shall be included in the Comptroller General's audit report for that year, as required by section 17 of the Federal Deposit Insurance Act.".

SEC. 328. STUDY AND REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal banking agencies, shall conduct a study of the effect that the implementation of risk-based capital standards for depository institutions, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions;

(2) the availability of credit, particularly to individuals and small businesses; and

(3) economic growth.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report shall contain any recommendations with respect to capital standards that the Secretary of the Treasury may determine to be appropriate.

SEC. 329. STUDY ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation and the National Credit Union Administration Board, shall conduct a study and report to the Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall jointly conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

SEC. 330. STUDY AND REPORT ON THE CONSUMER CREDIT SYSTEM.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, the Administrator of the Small Business Administration, the Secretary of Housing and Urban Development, and the other Federal banking agencies, shall conduct a study of the process, including any Federal laws, by which credit is made available for consumers and small businesses in order to identify procedures, including any Federal laws, which have the effect of—

(1) reducing the amount of credit available for such purposes or the number of persons eligible for such credit;

(2) increasing the level of consumer inconvenience, cost, and time delays in connection with the extension of consumer and small business credit without corresponding benefit with respect to the protection of consumers or small businesses or the safety and soundness of insured depository institutions; and

(3) increasing costs and burdens on insured depository institutions, insured credit unions, and other lenders without corresponding benefit with respect to the protection of consumers or small business concerns or to the safety and soundness of insured institutions.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report required by paragraph (1) shall contain any recommendations for administrative action or statutory changes that the Secretary of the Treasury may determine to be appropriate.

(c) PUBLIC PARTICIPATION.—In conducting the study required by subsection (a), comments shall be solicited from consumers, representatives of consumers, insured depository institutions, insured credit unions, other lenders, and other interested parties.

SEC. 331. CLARIFICATION OF PROVISIONS RELATING TO ADMINISTRATIVE AUTONOMY.

(a) PUBLIC LAW 93–495.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

(b) REVISED STATUTES.—

(1) SECTION 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by inserting "or section 301(f)(1) of title 31, United States Code," after "provisions of this section".

(2) SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by adding at the end the following: "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency.".

(3) SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following new subsection:

"(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

(c) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 3(b) of the Home Owners' Loan Act (12 U.S.C. 1462a(b)) is amended—

(1) in paragraph (3), by striking "unless otherwise provided by law" and inserting "(including agency enforcement actions) unless otherwise specifically provided by law"; and

(2) by adding at the end the following new paragraph:

"(4) BANKING AGENCY RULEMAKING.—The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Director.".

(d) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY.—The Board may act in its own name and through its own attorneys in enforcing any provision of this title, regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), or other entity, or the administration of its operations.".

(e) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 9(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a)) is amended in paragraph Fourth, by inserting "by and through its own attorneys," after "complain and defend,".

SEC. 332. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274(1) of the Truth in Savings Act (12 U.S.C. 4313(1)) is amended to read as follows:

"(1) ACCOUNT.—The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 333. STUDY ON CHECK-RELATED FRAUD.

(a) STUDY.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study on the advisability of extending the 1-business-day period specified in section 603(b)(1) of the Expedited Funds Availability Act, regarding availability of funds deposited by local checks, to 2 business days.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Board shall consider—

(1) whether there is a pattern of significant increases in check-related losses at depository institutions attributable to the provisions of the Expedited Funds Availability Act; and

(2) whether extension of the time period referred to in subsection (a) is necessary to diminish the volume of any such check-related losses.

(c) REPORT TO THE CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Board shall submit a report to the Congress concerning the results of the study conducted under this section and including any recommendations for legislative action.

SEC. 334. INSIDER LENDING.

(a) LOANS TO EXECUTIVE OFFICERS BY MEMBER BANKS.—Section 22(g)(2) of the Federal Reserve Act (12 U.S.C. 375a(2)) is amended by striking "With the specific prior approval of its board of directors, a member" and inserting "A member".

(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)) is amended—

(1) by striking "MEMBER BANK.—FOR" and inserting the following: "MEMBER BANK.—

"(A) IN GENERAL.—For"; and

(2) by adding at the end the following:

"(B) EXCEPTION.—The Board may, by regulation, make exceptions to subparagraph (A), except as that subparagraph makes applicable paragraph (2), for an executive officer or director of a subsidiary of a company that controls the member bank, if that executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank.".

SEC. 335. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 336. ALTERNATIVE RULES FOR RADIO ADVERTISING.

(a) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) RADIO ADVERTISEMENTS.—

"(1) IN GENERAL.—An advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to be in compliance with the requirements of subsection (a) if such advertisement clearly and conspicuously—

"(A) states the information required by paragraphs (1) and (2) of subsection (a);

"(B) states the number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;

"(C) includes—

"(i) a referral to—

"(I) a toll-free telephone number established in accordance with paragraph (2) that may be used by consumers to obtain the information required under subsection (a); or

"(II) a written advertisement that—

"(aa) appears in a publication in general circulation in the community served by the radio station on which such advertisement is broadcast during the period beginning 3 days before any such broadcast and ending 10 days after such broadcast; and

"(bb) includes the information required to be disclosed under subsection (a); and

"(ii) the name and dates of any publication referred to in clause (i)(II); and

"(D) includes any other information which the Board determines necessary to carry out this chapter.

"(2) ESTABLISHMENT OF TOLL-FREE NUMBER.—

"(A) IN GENERAL.—In the case of a radio broadcast advertisement described in paragraph (1) that includes a referral to a toll-free telephone number, the lessor who offers the consumer lease shall—

"(i) establish such a toll-free telephone number not later than the date on which the advertisement including the referral is broadcast;

"(ii) maintain such telephone number for a period of not less than 10 days, beginning on the date of any such broadcast; and

"(iii) provide the information required under subsection (a) with respect to the lease to any person who calls such number.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A)(iii) shall be provided verbally or, if requested by the consumer, in written form.

"(3) NO EFFECT ON OTHER LAW.—Nothing in this subsection shall affect the requirements of Federal law as such requirements apply to advertisement by any medium other than radio broadcast.".

(b) STUDY OF ADVERTISING RULES.—Not later than 365 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress on—

(1) the current rules applicable to credit advertising;

(2) how such rules could be modified to increase consumer benefit and decrease creditor costs; and

(3) how such rules could be modified, if at all, for radio advertisements without diminishing consumer protection.

SEC. 337. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized (as defined in section 38)" after "includes any insured depository institution";

(2) by striking "of any insured depository" and inserting "of such";

(3) by striking "(with respect to such deposits)"; and

(4) by striking "having the same type of charter".

SEC. 338. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) MANAGEMENT EXEMPTION.—Section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) is amended—

(1) in subsections (a) and (b), by striking "15 years after the date of enactment of this title" each place it appears and inserting ", subject to the requirements of subsection (c), 20 years after the date of enactment of this title"; and

(2) by adding at the end the following new subsection:

"(c) REVIEW OF EXISTING MANAGEMENT INTERLOCKS.—Upon the timely filing of a submission by a person petitioning to serve as a management official in more than 1 position pursuant to subsection (a) or (b), each appropriate Federal depository institutions regulatory agency shall, not later than 6 months after the date of enactment of this Act—

"(1) review, on a case-by-case basis, the circumstances under which such person has served as a management official under the provisions of subsection (a) or (b); and

"(2) permit the management official to continue to serve in such position only if—

"(A) such person has provided a resolution from the boards of directors of each affected depository institution, depository holding company, or company described in subsection (b), certifying to the appropriate Federal depository institutions regulatory agency for each of the institutions involved that there is no other qualified candidate from the community described in paragraph (1) or (2) of section 203 who—

"(i) possesses the level of expertise necessary for such service with respect to the affected depository institution, depository holding company, or company described in subsection (b); and

"(ii) is willing to serve as a management official at the affected depository institution, depository holding company, or company described in subsection (b); and

"(B) the appropriate Federal depository institutions regulatory agency determines that continuation of service by the management official does not produce an anticompetitive effect with respect to each affected depository institution, depository holding company, or company described in subsection (b).".

(b) AMENDMENTS TO SECTION 209.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended—

(1) by striking "Rules" and inserting "(a) IN GENERAL.—Rules";

(2) by striking ", including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204,"; and

(3) by adding at the end the following new subsections:

"(b) REGULATORY STANDARDS.—An appropriate Federal depository institution regulatory agency may permit, on a case-by-case basis, service by a management official which would otherwise be prohibited by section 203 or 204 only if—

"(1) the board of directors of the affected depository institution, depository institution holding company, or company described in section 206(b), provides a resolution to the appropriate Federal depository institutions regulatory agency certifying that there is no other candidate from the community described in paragraph (1) or (2) of section 203 who—

"(A) possesses the level of expertise necessary for such service with respect to the affected depository institution, depository institution holding company, or company described in section 206(b) and is not prohibited from service under section 203 or 204; and

"(B) is willing to serve as a management official at the affected depository institution, depository institution holding company, or company described in section 206(b); and

"(2) the appropriate Federal depository institutions regulatory agency determines that—

"(A) the management official is critical to the safe and sound operations of the affected depository institution, depository institution holding company, or company described in section 206(b);

"(B) continuation of service by the management official does not produce an anticompetitive effect with respect to the affected depository institution, depository institution holding company, or company described in section 206(b); and

"(C) the management official meets such additional requirements as the agency may impose.

"(c) LIMITED EXCEPTION FOR MANAGEMENT OFFICIAL CONSIGNMENT PROGRAM.—

"(1) IN GENERAL.—Notwithstanding the requirements of subsection (b), an appropriate Federal depository institutions regulatory agency may establish a program to permit, on a case-by-case basis, service by a management official which would otherwise be prohibited by section 203 or 204, for a period of not more than 2 years, if the agency determines that such service would—

"(A) improve the provision of credit to low- and moderate-income areas;

"(B) increase the competitive position of minority- and woman-owned institutions; or

"(C) strengthen the management of newly chartered institutions that are in an unsafe or unsound condition.

"(2) EXTENSION OF SERVICE PERIOD.—The appropriate Federal depository institutions regulatory agency may extend the 2-year period referred to in paragraph (1) for one additional period of not more than 2 years, subject to making a new determination described in subparagraphs (A) through (C) of paragraph (1).".

SEC. 339. ADVERSE INFORMATION ABOUT CONSUMERS.

Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:

"(4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.".

SEC. 340. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.—

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail not later than September 12, 1994.

"(II) SECOND NOTICE.—Make a second transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a third transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.".

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 341. FEASIBILITY STUDY OF DATA BANK.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall—

(1) study the feasibility, including the costs and benefits to insured depository institutions, of establishing and maintaining a data bank for reports submitted by any depository institution to a Federal banking agency; and

(2) report the results of such study to the Congress.

(b) ADDITIONAL FACTORS.—The study required under subsection (a) shall consider the feasibility of—

(1) permitting depository institutions to file reports directly with the data bank; and

(2) permitting Federal banking agencies, State bank supervisors, and the public to obtain access to any appropriate report on file with the data bank which such agency or supervisor or the public is otherwise authorized to receive.

SEC. 342. TIMELY COMPLETION OF CRA REVIEW.

The comprehensive regulatory review of the Community Reinvestment Act of 1977 that, as of the date of enactment of this Act, is being conducted by the Federal banking agencies, shall be completed at the earliest practicable time.

SEC. 343. TIME LIMIT ON AGENCY CONSIDERATION OF COMPLETED APPLICATIONS.

(a) IN GENERAL.—Each Federal banking agency shall take final action on any application to the agency before the end of the 1-year period beginning on the date on which a completed application is received by the agency.

(b) WAIVER BY APPLICANT AUTHORIZED.—Any person submitting an application to a Federal banking agency may waive the applicability of subsection (a) with respect to such application at any time.

SEC. 344. WAIVER OF RIGHT OF RESCISSION FOR CERTAIN REFINANCING TRANSACTIONS.

Not later than 6 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested parties, shall submit recommendations to the Congress regarding whether a waiver or modification, at the option of a consumer, of the right of rescission under section 125 of the Truth in Lending Act with respect to transactions which constitute a refinancing or consolidation (with no new advances) of the principal balance then due, and any accrued and unpaid finance charges of an existing extension of credit by a different creditor secured by an interest in the same property, would benefit consumers.

SEC. 345. CLARIFICATION OF RESPA DISCLOSURE REQUIREMENTS.

Section 6(a)(1)(B) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)(1)(B)) is amended—

(1) by striking "(B) for each of the most recent" and inserting "(B) at the choice of the person making a federally related mortgage loan—

"(i) for each of the most recent";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately;

(3) by striking "and" at the end of subclause (II) (as redesignated by paragraph (2)) and inserting "or"; and

(4) by inserting after clause (i) (as redesignated by paragraph (1)) the following new clause:

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

SEC. 346. NOTICE PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN CERTAIN ACTIVITIES.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end the following new subsection:

"(j) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No bank holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in activities based on subsection (c)(8) or (a)(2) without providing the Board with written notice of the proposed transaction or activity at least 60 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 60-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 60-day period referred to in clause (i) for an additional 30 days. The Board may further extend the period with the agreement of the bank holding company submitting the notice pursuant to this subsection.

"(iii) DETERMINATION OF PERIOD IN CASE OF PUBLIC HEARING.—In the event a hearing is requested or the Board determines that a hearing is warranted, the Board may extend the notice period provided in this subsection for such time as is reasonably necessary to conduct a hearing and to evaluate the hearing record. Such extension shall not exceed the 91-day period beginning on the date that the hearing record is complete.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for a shorter notice period with respect to particular activities or transactions.

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire or retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) or (a)(2) that has not been previously approved by regulation, the Board may extend the notice period under this subsection for an additional 90 days. The Board may further extend the period with the agreement of the bank holding company submitting the notice pursuant to this subsection.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board shall consider whether performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) GROUNDS FOR DISAPPROVAL.—The Board may deny any proposed transaction or activity for which notice has been submitted pursuant to this subsection if the bank holding company submitting such notice neglects, fails, or refuses to furnish the Board all the information required by the Board.

"(C) CONDITIONAL ACTION.—Nothing in this subsection limits the authority of the Board to impose conditions in connection with an action under this section."; and

(2) in subsection (c), by striking the penultimate sentence.

SEC. 347. COMMERCIAL MORTGAGE RELATED SECURITIES.

(a) IN GENERAL.—Section 3(a)(41)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i)) is amended —

(1) by striking "or on a residential" and inserting "on a residential"; and

(2) by inserting before the semicolon ", or on one or more parcels of real estate upon which is located one or more commercial structures".

(b) AMENDMENT TO THE REVISED STATUTES.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the twelfth sentence, by striking "(15 U.S.C. 78c(a)(41))), subject to such regulations" and inserting "(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes (as amended by subsection (b)), to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of promulgation of final regulations under subsection (c).

(e) STATE OPT OUT.—Notwithstanding the amendments made by this section, a note that is directly secured by a first lien on one or more parcels of real estate upon which is located one or more commercial structures shall not be considered to be a mortgage related security under section 3(a)(41) of the Securities Exchange Act of 1934 in any State that, prior to the expiration of 7 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided by the amendments made by this subsection. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto, and shall not require the sale or other disposition of any securities acquired prior thereto.

SEC. 348. CLARIFYING AMENDMENT RELATING TO DATA COLLECTION.

Section 7(a)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(9)) is amended by adding at the end the following: "In prescribing reporting and other requirements for the collection of actual and accurate information pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions that are well capitalized (as defined in section 38) while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution for purposes of compliance with this Act.".

SEC. 349. GUIDELINES FOR EXAMINATIONS.

(a) ADEQUACY OF STATE EXAMINATIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(9) STANDARDS FOR DETERMINING ADEQUACY OF STATE EXAMINATIONS.—The Federal Financial Institutions Examination Council shall issue guidelines establishing standards to be used at the discretion of the appropriate Federal banking agency for purposes of making a determination under paragraph (3).".

(b) EFFECTIVE DATE OF INITIAL GUIDELINES.—The initial guidelines required to be issued pursuant to the amendment made by subsection (a) shall become effective not later than 1 year after the date of enactment of this Act.

SEC. 350. REVISING REGULATORY REQUIREMENTS FOR TRANSFERS OF ALL TYPES OF ASSETS WITH RECOURSE.

(a) REVIEW AND REVISION OF REGULATIONS.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, consistent with the principles of safety and soundness and the public interest—

(A) review the agency's regulations and written policies relating to transfers of assets with recourse by insured depository institutions; and

(B) in consultation with the other Federal banking agencies, promulgate regulations that better reflect the exposure of an insured depository institution to credit risk from transfers of assets with recourse.

(2) REGULATIONS REQUIRED.—Before the end of the 180-day period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall prescribe the regulations developed pursuant to paragraph (1)(B).

(b) REGULATIONS REQUIRED.—

(1) IN GENERAL.—After the end of the 180-day period beginning on the date of enactment of this Act, the amount of risk-based capital required to be maintained, under regulations prescribed by the appropriate Federal banking agency, by any insured depository institution with respect to assets transferred with recourse by such institution may not exceed the maximum amount of recourse for which such institution is contractually liable under the recourse agreement.

(2) EXCEPTION FOR SAFETY AND SOUNDNESS.—The appropriate Federal banking agency may require any insured depository institution to maintain risk-based capital in an amount greater than the amount determined under paragraph (1), if the agency determines, by regulation or order, that such higher amount is necessary for safety and soundness reasons.

(c) COORDINATION WITH SECTION 208(b).—This section shall not be construed as superseding the applicability of section 208(b).

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "Federal banking agency", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

TITLE IV—MONEY LAUNDERING

SEC. 401. SHORT TITLE.

This title may be cited as the "Money Laundering Suppression Act of 1994".

SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO REDUCE NUMBER AND SIZE OF REPORTS CONSISTENT WITH EFFECTIVE LAW ENFORCEMENT.

(a) IN GENERAL.—Section 5313 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and the following categories of entities:

"(A) Another depository institution.

"(B) A department or agency of the United States, any State, or any political subdivision of any State.

"(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.

"(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

"(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a).

"(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

"(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term 'qualified business customer' means a business which—

"(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

"(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

"(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter are carried out without requiring a report with respect to such transactions.

"(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

"(4) GUIDELINES.—

"(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

"(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

"(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

"(A) review, at least once each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

"(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

"(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

"(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

"(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e) unless the institution—

"(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

"(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

"(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

"(A) the authority of the Secretary, under section 5318(a)(6), to revoke such exemption at any time; and

"(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

"(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution'—

"(1) has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act; and

"(2) includes—

"(A) any branch, agency, or commercial lending company (as such terms are defined in section 1(b) of the International Banking Act of 1978);

"(B) any corporation chartered under section 25A of the Federal Reserve Act; and

"(C) any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.".

(b) REPORT REDUCTION GOAL; REPORTS.—

(1) IN GENERAL.—In implementing the amendment made by subsection (a), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by at least 30 percent of the number filed during the year preceding the date of enactment of this Act.

(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistent with the purposes of such section and effective law enforcement.

(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate to—

(1) redesign the format of reports required to be filed under section 5313(a) of title 31, United States Code, by any financial institution (as defined in section 5312(a)(2) of such title) to eliminate the need to report information which has little or no value for law enforcement purposes; and

(2) reduce the time and effort required to prepare such report for filing by any such financial institution under such section.

SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUSPICIOUS TRANSACTIONS.

(a) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

"(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

"(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement or supervisory agency.

"(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any other applicable provision of law.".

(b) REPORTS.—

(1) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under paragraph (2) on the number of suspicious transactions reported to the officer or agency designated under section 5318(g)(4)(A) of title 31, United States Code, during the period covered by the report and the disposition of such reports.

(2) TIME FOR SUBMITTING REPORTS.—The 1st report required under paragraph (1) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994 and each subsequent report shall be filed within 90 days after the end of each of the 5 calendar years which begin after such date of enactment.

(c) DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY.—The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) shall be made before the end of the 180-day period beginning on the date of enactment of this Act.

SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES.

(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

(2) review and enhance procedures for referring cases to any appropriate law enforcement agency.

(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall provide, on a regular basis, information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency in order to enhance each agency's ability to examine for and identify money laundering activity.

(c) REPORT TO CONGRESS.—The Financial Institutions Examination Council shall submit a report on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b) to the Congress by the end of the 1-year period beginning on the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS SUBJECT TO RECORDKEEPING AND REPORTING REQUIREMENTS.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) as the Secretary of the Treasury shall provide by regulation for purposes of section

5316, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.".

SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY APPROPRIATE FEDERAL BANKING AGENCIES.

Section 5321 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

"(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

"(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

"(3) TERMS AND CONDITIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

"(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).".

SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 5313(g) of title 31, United States Code); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

(3) REPORTING REQUIREMENTS.—A requirement that any business described in subsection (a)(1)—

(A) disclose to the appropriate State agency the fees charged to consumers for services described in subsection (a)(1)(A); and

(B) conspicuously disclose to the public, at each location of such business, the fees charged to consumers for such services.

(4) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(5) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Not later than the end of the 3-year period beginning on the date of enactment of this Act and not later than the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable to—

(1) enact a statute which meets the requirements described in subsection (b);

(2) undertake adequate activity to enforce such statute; or

(3) make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations of the Secretary which are designed to facilitate the enactment and enforcement by the State of such a statute.

(f) FEDERAL FUNDING STUDY.—

(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs which will be incurred by the States in carrying out the purposes of this section.

(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) not later than the end of the 18-month period beginning on the date of enactment of this Act.

SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSINESSES TO PROMOTE EFFECTIVE LAW ENFORCEMENT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress hereby finds the following:

(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

(ii) evade the requirements of such subchapter II, the Internal Revenue Code of 1986, and other laws of the United States.

(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

(2) PURPOSE.—It is the purpose of this section to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money transmitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.

(b) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"§5330. Registration of money transmitting businesses

"(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

"(1) IN GENERAL.—Any person who owns or controls a money transmitting business shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury not later than the end of the 180-day period beginning on the later of—

"(A) the date of enactment of the Money Laundering Suppression Act of 1994; or

"(B) the date on which the business is established.

"(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, by regulation, the form and manner for registering a money transmitting business pursuant to paragraph (1).

"(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

''(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subchapter.

''(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

''(1) The name and location of the business.

''(2) The name and address of each person who—

''(A) owns or controls the business;

''(B) is a director or officer of the business; or

''(C) otherwise participates in the conduct of the affairs of the business.

''(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

''(4) An estimate of the volume of business in the coming year (which shall be reported annually to the Secretary).

''(5) Such other information as the Secretary of the Treasury may require.

''(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

''(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall—

''(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

''(B) make the list and other information available on request to any appropriate law enforcement agency.

''(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section.

''(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business other than the United States Postal Service which—

''(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments;

''(B) is required to file reports under section 5313; and

''(C) is not a depository institution (as defined in section 5313(g)).

''(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

''(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

''(1) IN GENERAL.—Any person who fails to comply with any requirement of this section or any regulation prescribed under this section shall be liable to the United States for a civil penalty of $5,000 for each such violation.

''(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

''(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.''.

(c) CRIMINAL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—Section 1960(b)(1) of title 18, United States Code, is amended to read as follows:

''(1) the term 'illegal money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

''(A) is intentionally operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law; or

''(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section;''.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5329 (as added by section 311) the following new item:

''5330. Registration of money transmitting businesses.''.

SEC. 409. UNIFORM FEDERAL REGULATION OF CASINOS.

Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z), respectively; and

(2) by inserting after subparagraph (W) the following new subparagraph:

''(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

''(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

''(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);''.

SEC. 410. AUTHORITY TO GRANT EXEMPTIONS TO STATES WITH EFFECTIVE REGULATION AND ENFORCEMENT.

(a) IN GENERAL.—Section 5318(a) of title 31, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) exempt from the requirements of this subchapter any class of transactions within any State if the Secretary determines that—

''(A) under the laws of such State, that class of transactions is subject to requirements substantially similar to those imposed under this subchapter; and

''(B) there is adequate provision for the enforcement of such requirements; and''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The penultimate sentence of section 5318(a)(6) of title 31, United States Code (as so redesignated by the amendment made by subsection (a) of this section) is amended by inserting ''under this paragraph or paragraph (5)'' after ''exemption''.

SEC. 411. CRIMINAL AND CIVIL PENALTIES FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS.

(a) CRIMINAL PENALTY.—Section 5324 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(c) CRIMINAL PENALTY.—

''(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

''(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.''.

(b) AMENDMENT RELATING TO CIVIL PENALTY.—Section 5321(a)(4)(A) of title 31, United States Code, is amended by striking ''willfully''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting ''or 5324'' after ''section 5315'' each place such term appears.

(2) The following sections are each amended by striking ''section 5322 of title 31'' and inserting ''section 5322 or 5324 of title 31'' each place such term appears in such sections:

(A) Sections 8(g)(1)(A)(ii), 8(w)(1)(B), and 11(c)(5)(M) of the Federal Deposit Insurance Act.

(B) Sections 131(a)(2), 206(h)(1)(C), 206(i)(1)(A)(ii), and 206(v)(1)(B) of the Federal Credit Union Act.

(C) Section 5239(d)(1)(B) of the Revised Statutes of the United States (as redesignated by section 413(b)(2) of this Act).

(D) Section 5(w)(1)(B) of the Home Owners' Loan Act.

(E) Sections 984(a), 986(a), and 1956(g) (the first place it appears) of title 18, United States Code.

SEC. 412. GAO STUDY OF CASHIERS' CHECKS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to—

(1) determine the extent to which the practice of issuing of cashiers' checks by financial institutions is vulnerable to money laundering schemes;

(2) determine the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashiers' checks; and

(3) analyze such other factors relating to the use and regulation of cashiers' checks as the Comptroller General determines to be appropriate.

(b) REPORT REQUIRED.—Before the end of the 6-month period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a); and

(2) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

SEC. 413. TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting ''any violation of'' after ''causing''.

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking ''section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325'' each place such term appears and inserting ''section 5313(a) or 5325 or any regulation prescribed under any such section''; and

(B) by striking ''with respect to such transaction''.

(b) AMENDMENTS RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of such Act is amended by striking "5314" and inserting "5318".

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the 2d subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d).

(c) Title 18, U.S.C., Amendments.—

(1) Section 1956 of title 18, United States Code, is amended—

(A) in subsection (a)(2)—

(i) by inserting "not more than" before "$500,000"; and

(ii) by striking "transfer." each place such term appears and inserting "transfer";

(B) in subsection (b)—

(i) by inserting "or (a)(3)" after "(a)(1)"; and

(ii) by striking "transfer." and inserting "transfer";

(C) in subsection (c)(7)(B)(iii), by inserting a close parenthesis after "1978";

(D) in subsection (c)(7)(D), by striking "section 9(c) of the Food Stamp Act of 1977" and inserting "section 15 of the Food Stamp Act of 1977";

(E) in subsection (c)(7)(E), by striking the period which follows a period;

(F) in subsection (e), by striking "Environmental" and inserting "Environmental"; and

(G) by redesignating subsection (g), the second place it appears, as subsection (h).

(2) Section 1957(f)(1) of title 18, United States Code, is amended by striking the comma which follows a comma.

(d) Repeal of Obsolete Technical Correction to Section 1956 of Title 18, U.S.C.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective on the date of enactment of such Public Law.

TITLE V—NATIONAL FLOOD INSURANCE REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "National Flood Insurance Reform Act of 1994".

Subtitle A—Definitions

SEC. 511. FLOOD DISASTER PROTECTION ACT OF 1973.

(a) In General.—Section 3(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—

(1) by striking paragraph (5) and inserting the following new paragraph:

"(5) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;";

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

"(8) the term 'improved real estate' means real estate upon which a building is located;

"(9) 'lender' means a regulated lending institution or Federal agency lender;

"(10) 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

"(11) 'servicer' means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

(b) Conforming Amendment.—Section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(b)) is amended by striking "Federal instrumentality described in such section shall by regulation require the institutions" and inserting "Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender,".

SEC. 512. NATIONAL FLOOD INSURANCE ACT OF 1968.

(a) In General.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) the term 'repetitive loss structure' means a structure covered by a contract for flood insurance under this title that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event;

"(8) the term 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

"(9) the term 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

"(10) the term 'improved real estate' means real estate upon which a building is located;

"(11) the term 'lender' means a regulated lending institution or Federal agency lender;

"(12) the term 'natural and beneficial floodplain functions' means—

"(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge from storms, and (ii) reduce flood related damage; and

"(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

"(13) the term 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

"(14) the term 'servicer' means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

(b) Conforming Amendment.—Section 1322(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4029(d)) is amended by striking "federally supervised, approved, regulated or insured financial institution" and inserting "regulated lending institution or Federal agency lender".

Subtitle B—Compliance and Increased Participation

SEC. 521. NONWAIVER OF FLOOD PURCHASE REQUIREMENT FOR RECIPIENTS OF FEDERAL DISASTER ASSISTANCE.

Section 311(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5154(b)) is amended by adding at the end the following new sentence: "The requirements of this subsection may not be waived under section 301.".

SEC. 522. EXPANDED FLOOD INSURANCE PURCHASE REQUIREMENTS.

(a) In General.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended to read as follows:

"(b) Requirement for Mortgage Loans.—

"(1) Regulated Lending Institutions.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974) shall by regulation direct regulated lending institutions not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less.

"(2) Federal Agency Lenders.—A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1). Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1).

"(3) Government-Sponsored Enterprises for Housing.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

"(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and

"(B) purchased by such entity,

the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

"(4) Applicability.—

"(A) Existing Coverage.—Except as provided in subparagraph (B), paragraph (1) shall apply on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

"(B) NEW COVERAGE.—Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

"(C) CONTINUED EFFECT OF REGULATIONS.—Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately before the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of such Act take effect.".

(b) EXEMPTION FOR SMALL LOANS.—Section 102(c) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(c)) is amended—

(1) by striking "(c) Notwithstanding" and inserting the following:

"(c) EXCEPTIONS TO PURCHASE REQUIREMENTS.—

"(1) STATE-OWNED PROPERTY.—Notwithstanding"; and

(2) by adding at the end the following new paragraph:

"(2) SMALL LOANS.—Notwithstanding any other provision of this section, subsections (a) and (b) shall not apply to any loan having—

"(A) an original outstanding principal balance of $5,000 or less; and

"(B) a repayment term of 1 year or less.".

SEC. 523. ESCROW OF FLOOD INSURANCE PAYMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by adding at the end the following new subsection:

"(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

"(3) APPLICABILITY OF RESPA.—Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974.

"(4) DEFINITION.—For purposes of this subsection, the term 'residential improved real estate' means improved real estate for which the improvement is a residential building.

"(5) APPLICABILITY.—This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 524. PLACEMENT OF FLOOD INSURANCE BY LENDERS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(e) PLACEMENT OF FLOOD INSURANCE BY LENDER.—

"(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Director (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

"(2) PURCHASE OF COVERAGE ON BEHALF OF BORROWER.—If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the insurance.

"(3) REVIEW OF DETERMINATION REGARDING REQUIRED PURCHASE.—

"(A) IN GENERAL.—The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the Director to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the Director shall be final.

"(B) EFFECT OF DETERMINATION.—Any person to whom a borrower provides a letter issued by the Director pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title to require the purchase of flood insurance for such building or mobile home during the period determined by the Director, which shall be specified in the letter and shall begin on the date on which such letter is provided.

"(C) EFFECT OF FAILURE TO RESPOND.—If a request under subparagraph (A) is made in connection with the origination of a loan and the Director fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

"(4) APPLICABILITY.—This subsection shall apply to all loans outstanding on or after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 525. PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsections:

"(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

"(1) CIVIL MONETARY PENALTIES AGAINST REGULATED LENDERS.—Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity for lending regulation in the amount provided under paragraph (5).

"(2) LENDER VIOLATIONS.—The violations referred to in paragraph (1) shall include—

"(A) making, increasing, extending, or renewing loans in violation of—

"(i) the regulations issued pursuant to subsection (b) of this section;

"(ii) the escrow requirements under subsection (d) of this section; or

"(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968; or

"(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

"(3) CIVIL MONETARY PENALTIES AGAINST GSE'S.—

"(A) IN GENERAL.—If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3), the Director of such Office shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

"(B) DEFINITION.—For purposes of this subsection, the term 'enterprise' means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(4) NOTICE AND HEARING.—A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

"(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed $350 for each violation under paragraph (2) or paragraph (3). The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed $100,000.

"(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b).

"(7) EFFECT OF TRANSFER ON LIABILITY.—Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any

penalty under this subsection. A lender shall not be liable for any violations relating to a loan committed by another regulated lending institution that previously held the loan.

"(8) DEPOSIT OF PENALTIES.—Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968.

"(9) ADDITIONAL PENALTIES.—Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

"(10) STATUTE OF LIMITATIONS.—No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this subsection.

"(g) OTHER ACTIONS TO REMEDY PATTERN OF NONCOMPLIANCE.—

"(1) AUTHORITY OF FEDERAL ENTITIES FOR LENDING REGULATION.—A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

"(2) DETERMINATION OF VIOLATIONS.—A determination under this paragraph shall be a finding that—

"(A) the regulated lending institution has engaged in a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968; and

"(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f).".

SEC. 526. FEES FOR DETERMINING APPLICABILITY OF FLOOD INSURANCE PURCHASE REQUIREMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(h) FEE FOR DETERMINING LOCATION.—Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

"(1) BORROWER FEE.—The borrower under such a loan may be charged the fee, but only if the determination—

"(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

"(B) is made pursuant to a revision or updating under section 1360(f) of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection (h) or (i) of section 1360 that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Director, may reasonably be considered to require a determination under this subsection; or

"(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2).

"(2) PURCHASER OR TRANSFEREE FEE.—The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.".

SEC. 527. NOTICE REQUIREMENTS.

Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a) is amended to read as follows:

"NOTICE REQUIREMENTS

"SEC. 1364. (a) NOTIFICATION OF SPECIAL FLOOD HAZARDS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home that the regulated lending institution determines is located or is to be located in an area that has been identified by the Director under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. The regulations shall also require that the regulated lending institution retain a record of the receipt of the notices by the purchaser or lessee and the servicer.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require notification in the manner provided under paragraph (1) with respect to any loan that is made by the Federal agency lender and secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1).

"(3) CONTENTS OF NOTICE.—Written notification required under this subsection shall include—

"(A) a warning, in a form to be established by the Director, stating that the building on the improved real estate securing the loan is located, or the mobile home securing the loan is or is to be located, in an area having special flood hazards;

"(B) a description of the flood insurance purchase requirements under section 102(b) of the Flood Disaster Protection Act of 1973;

"(C) a statement that flood insurance coverage may be purchased under the national flood insurance program and is also available from private insurers; and

"(D) any other information that the Director considers necessary to carry out the purposes of the national flood insurance program.

"(b) NOTIFICATION OF CHANGE OF SERVICER.—

"(1) LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, in connection with the making, increasing, extending, renewing, selling, or transferring any loan described in subsection (a)(1), to notify the Director (or the designee of the Director) in writing during the term of the loan of the servicer of the loan. Such institutions shall also notify the Director (or such designee) of any change in the servicer of the loan, not later than 60 days after the effective date of such change. The regulations under this subsection shall provide that upon any change in the servicing of a loan, the duty to provide notification under this subsection shall transfer to the transferee servicer of the loan.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation provide for notification in the manner provided under paragraph (1) with respect to any loan described in subsection (a)(1) that is made by the Federal agency lender. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1) of this subsection.

"(c) NOTIFICATION OF EXPIRATION OF INSURANCE.—The Director (or the designee of the Director) shall, not less than 45 days before the expiration of any contract for flood insurance under this title, issue notice of such expiration by first class mail to the owner of the property covered by the contract, the servicer of any loan secured by the property covered by the contract, and (if known to the Director) the owner of the loan.".

SEC. 528. STANDARD HAZARD DETERMINATION FORMS.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:

"STANDARD HAZARD DETERMINATION FORMS

"SEC. 1365. (a) DEVELOPMENT.—The Director, in consultation with representatives of the mortgage and lending industry, the Federal entities for lending regulation, the Federal agency lenders, and any other appropriate individuals, shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director as an area having special flood hazards and in which flood insurance under this title is available. The form shall be established by regulations issued not later than 270 days after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

"(b) DESIGN AND CONTENTS.—

"(1) PURPOSE.—The form under subsection (a) shall be designed to facilitate compliance with the flood insurance purchase requirements of this title.

"(2) CONTENTS.—The form shall require identification of the type of flood-risk zone in which the building or mobile home is located, the complete map and panel numbers for the improved real estate or property on which the mobile home is located, the community identification number and community participation status (for purposes of the national flood insurance program) of the community in which the improved real estate or such property is located, and the date of the map used for the determination, with respect to flood hazard information on file with the Director. If the building or mobile home is not located in an area having special flood hazards the form shall require a statement to such effect and shall indicate the complete map and panel numbers of the improved real estate or property on which the mobile home is located. If the complete map and panel numbers are not available because the building or mobile home is not located in a community that is participating in the national flood insurance program or because no map exists for the relevant area, the form shall require a statement to such effect. The form shall provide for inclusion or attachment of any relevant documents indicating revisions or amendments to maps.

"(c) REQUIRED USE.—The Federal entities for lending regulation shall by regulation require the use of the form under this section by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the form with respect to any loan made by such Federal agency lender. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities. A lender or other person may comply with the requirement *under this subsection by using the form in a printed, computerized, or electronic manner.*

"(d) GUARANTEES REGARDING INFORMATION.—In providing information regarding special flood hazards on the form developed under this section, any lender (or other person required to use the form) who makes, increases, extends, or renews a loan secured by improved real estate or a mobile home may provide for the acquisition or determination of such information to be made by a person other than such lender (or other person), only to the extent such person guarantees the accuracy of the information.

"(e) RELIANCE ON PREVIOUS DETERMINATION.—Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination), if the previous determination was made not more than 7 years before the date of the transaction and the basis for the previous determination has been set forth on a form under this section, unless—

"(1) map revisions or updates pursuant to section 1360(f) after such previous determination have resulted in the building or mobile home being located in an area having special flood hazards; or

"(2) the person contacts the Director to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous determination.

"(f) EFFECTIVE DATE.—The regulations under this section requiring use of the form established pursuant to this section shall be issued together with the regulations required under subsection (a) and shall take effect upon the expiration of the 180-day period beginning on such issuance.".

SEC. 529. EXAMINATIONS REGARDING COMPLIANCE.

(a) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(i) FLOOD INSURANCE COMPLIANCE BY INSURED DEPOSITORY INSTITUTIONS.—

"(1) EXAMINATIONS.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the national flood insurance program.

"(2) REPORT.—

"(A) REQUIREMENT.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to the Congress on compliance by insured depository institutions with the requirements of the national flood insurance program.

"(B) CONTENTS.—Each report submitted under this paragraph shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(b) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsection:

"(e) FLOOD INSURANCE COMPLIANCE BY INSURED CREDIT UNIONS.—

"(1) EXAMINATION.—The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the national flood insurance program.

"(2) REPORT.—

"(A) REQUIREMENT.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years, the Board shall submit a report to the Congress on compliance by insured credit unions with the requirements of the national flood insurance program.

"(B) CONTENTS.—The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(c) AMENDMENT TO FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319B(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of—

"(A) whether the procedures established by each enterprise pursuant to section 102(b)(3) of the Flood Disaster Protection Act of 1973 are adequate and being complied with, and

"(B) the results and conclusions of any examination, as determined necessary by the Director, to determine the compliance of the enterprises with the requirements of section 102(b)(3) of such Act, which shall include a description of the methods used to determine compliance and the types and sources of deficiencies (if any), and identify any corrective measures that have been taken to remedy any such deficiencies,

except that the information described in this paragraph shall be included only in each of the first, third, and fifth annual reports under this subsection required to be submitted after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 530. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

"(g) FLOOD INSURANCE.—The Council shall consult with and assist the Federal entities for lending regulation, as such term is defined in section 1370(a) of the National Flood Insurance Act of 1968, in developing and coordinating uniform standards and requirements for use by regulated lending institutions under the national flood insurance program.".

SEC. 531. CLERICAL AMENDMENT.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by striking the section heading and inserting the following new section heading:

"FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS".

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

SEC. 541. COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended—

(1) by striking "After December" and inserting the following:

"(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—

"(1) IN GENERAL.—After December"; and

(2) by adding at the end the following new subsection:

"(b) COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.—

"(1) AUTHORITY AND GOALS.—The Director shall carry out a community rating system program, under which communities participate voluntarily—

"(A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361 and evaluate such measures;

"(B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;

"(C) to encourage floodplain and erosion management; and

"(D) to promote the reduction of Federal flood insurance losses.

"(2) INCENTIVES.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Director determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the Director may provide for credits to flood insurance premium rates in communities that the Director determines have implemented measures that protect natural and beneficial floodplain functions.

"(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 1366, the credits shall be phased in a manner, determined by the Director, to recover the amount of such assistance provided for the community.

"(4) REPORTS.—Not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and not less than every 2 years thereafter, the Director shall submit a report to the Congress regarding the program under this subsection. Each report shall include an analysis of the cost-effectiveness of the program, any other accomplishments or shortcomings of the program, and any recommendations of the Director for legislation regarding the program.".

SEC. 542. FUNDING.

Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) for carrying out the program under section 1315(b);".

Subtitle D—Mitigation of Flood Risks

SEC. 551. REPEAL OF FLOODED PROPERTY PURCHASE AND LOAN PROGRAM.

(a) REPEAL.—Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) is hereby repealed.

(b) Transition Phase.—Notwithstanding subsection (a), during the 1-year period beginning on the date of enactment of this Act, the Director of the Federal Emergency Management Agency may enter into loan and purchase commitments as provided under section 1362 of the National Flood Insurance Act of 1968 (as in effect immediately before the enactment of this Act).

(c) Savings Provision.—Notwithstanding subsection (a), the Director shall take any action necessary to comply with any purchase or loan commitment entered into before the expiration of the period referred to in subsection (b) pursuant to authority under section 1362 of the National Flood Insurance Act of 1968 or subsection (b).

SEC. 552. TERMINATION OF EROSION-THREATENED STRUCTURES PROGRAM.

(a) In General.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by striking subsection (c).

(b) Transition Phase.—Notwithstanding subsection (a), during the 1-year period beginning on the date of enactment of this Act, the Director of the Federal Emergency Management Agency may pay amounts under flood insurance contracts for demolition or relocation of structures as provided in section 1306(c) of the National Flood Insurance Act of 1968 (as in effect immediately before the enactment of this Act).

(c) Savings Provision.—Notwithstanding subsection (a), the Director shall take any action necessary to make payments under flood insurance contracts pursuant to any commitments made before the expiration of the period referred to in subsection (b) pursuant to the authority under section 1306(c) of the National Flood Insurance Act of 1968 or subsection (b).

(d) Repeal of Findings Provision.—Section 1302 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001) is amended by striking subsection (g).

SEC. 553. MITIGATION ASSISTANCE PROGRAM.

(a) In General.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"MITIGATION ASSISTANCE

"Sec. 1366. (a) Authority.—The Director shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 1367, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this title. Such financial assistance shall be made available to States and communities in the form of grants under subsection (b) for planning assistance and in the form of grants under this section for carrying out mitigation activities.

"(b) Planning Assistance Grants.—

"(1) In general.—The Director may make grants under this subsection to States and communities to assist in developing mitigation plans under subsection (c).

"(2) Funding.—Of any amounts made available from the National Flood Mitigation Fund for use under this section in any fiscal year, the Director may use not more than $1,500,000 to provide planning assistance grants under this subsection.

"(3) Limitations.—

"(A) Timing.—A grant under this subsection may be awarded to a State or community not more than once every 5 years and each grant may cover a period of 1 to 3 years.

"(B) Single grantee amount.—A grant for planning assistance may not exceed—

"(i) $150,000, to any State; or

"(ii) $50,000, to any community.

"(C) Cumulative state grant amount.—The sum of the amounts of grants made under this subsection in any fiscal year to any one State and all communities located in such State may not exceed $300,000.

"(c) Eligibility for Mitigation Assistance.—To be eligible to receive financial assistance under this section for mitigation activities, a State or community shall develop, and have approved by the Director, a flood risk mitigation plan (in this section referred to as a 'mitigation plan'), that describes the mitigation activities to be carried out with assistance provided under this section, is consistent with the criteria established by the Director under section 1361, and provides protection against flood losses to structures for which contracts for flood insurance are available under this title. The mitigation plan shall be consistent with a comprehensive strategy for mitigation activities for the area affected by the mitigation plan, that has been adopted by the State or community following a public hearing.

"(d) Notification of Approval and Grant Award.—

"(1) In general.—The Director shall notify a State or community submitting a mitigation plan of the approval or disapproval of the plan not later than 120 days after submission of the plan.

"(2) Notification of disapproval.—If the Director does not approve a mitigation plan submitted under this subsection, the Director shall notify, in writing, the State or community submitting the plan of the reasons for such disapproval.

"(e) Eligible Mitigation Activities.—

"(1) Use of amounts.—Amounts provided under this section (other than under subsection (b)) may be used only for mitigation activities specified in a mitigation plan approved by the Director under subsection (d). The Director shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

"(2) Determination of eligible plans.—The Director may approve only mitigation plans that specify mitigation activities that the Director determines are technically feasible and cost-effective and only such plans that propose activities that are cost-beneficial to the National Flood Mitigation Fund.

"(3) Standard for approval.—The Director shall approve mitigation plans meeting the requirements for approval under paragraph (1) that will be most cost-beneficial to the National Flood Mitigation Fund.

"(4) Priority.—The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage.

"(5) Eligible activities.—The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) comply with the requirements under paragraph (1). Such activities may include—

"(A) demolition or relocation of any structure located on land that is along the shore of a lake or other body of water and is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or flooding;

"(B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

"(C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, for public use, as the Director determines is consistent with sound land management and use in such area;

"(D) minor physical mitigation efforts that do not duplicate the flood prevention activities of other Federal agencies and that lessen the frequency or severity of flooding and decrease predicted flood damages, which shall not include major flood control projects such as dikes, levees, seawalls, groins, and jetties unless the Director specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;

"(E) beach nourishment activities;

"(F) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities;

"(G) other activities that the Director considers appropriate and specifies in regulation; and

"(H) other mitigation activities not described in subparagraphs (A) through (F) or the regulations issued under subparagraph (G), that are described in the mitigation plan of a State or community.

"(f) Limitations on Amount of Assistance.—

"(1) Amount.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period may not exceed—

"(A) $10,000,000, to any State; or

"(B) $3,300,000, to any community.

"(2) Geographic.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period to any one State and all communities located in such State may not exceed $20,000,000.

"(3) Waiver.—The Director may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community for any 5-year period during which a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act) as a result of flood conditions is in effect with respect to areas in the State or community.

"(g) Matching Requirement.—

"(1) In general.—The Director may not provide mitigation assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds to develop a mitigation plan under subsection (c) and to carry out mitigation activities under the approved mitigation plan. In no case shall any in-kind contribution by any State or community exceed one-half of the amount of non-Federal funds contributed by the State or community.

"(2) Non-federal funds.—For purposes of this subsection, the term 'non-Federal funds' includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the mitigation activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

"(h) Oversight of Mitigation Plans.—The Director shall conduct oversight of recipients of mitigation assistance under this section to ensure that the assistance is used in compliance with the approved mitigation plans of the recipients and that matching funds certified under subsection (g) are used in accordance with such certification.

"(i) Recapture.—

"(1) Noncompliance with plan.—If the Director determines that a State or community that has received mitigation assistance under this section has not carried out the mitigation activities as set forth in the mitigation plan, the Director shall recapture any unexpended

amounts and deposit the amounts in the National Flood Mitigation Fund under section 1367.

"(2) FAILURE TO PROVIDE MATCHING FUNDS.—If the Director determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount certified under subsection (g), the Director shall recapture any unexpended amounts of mitigation assistance exceeding 3 times the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 1367.

"(j) REPORTS.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter, the Director shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

"(k) DEFINITION OF COMMUNITY.—For purposes of this section, the term 'community' means—

"(1) a political subdivision that (A) has zoning and building code jurisdiction over a particular area having special flood hazards, and (B) is participating in the national flood insurance program; or

"(2) a political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (1).".

(b) REGULATIONS.—Not later than 6 months after date of enactment of this Act, the Director of the Federal Emergency Management Agency shall issue regulations to carry out section 1366 of the National Flood Insurance Act of 1968, as added by subsection (a).

SEC. 554. ESTABLISHMENT OF NATIONAL FLOOD MITIGATION FUND.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"NATIONAL FLOOD MITIGATION FUND

"SEC. 1367. (a) ESTABLISHMENT AND AVAILABILITY.—The Director shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 1366.

"(b) CREDITS.—The National Flood Mitigation Fund shall be credited with—

"(1) amounts from the National Flood Insurance Fund, in amounts not exceeding—

"(A) $10,000,000 in the fiscal year ending September 30, 1994;

"(B) $15,000,000 in the fiscal year ending September 30, 1995;

"(C) $20,000,000 in the fiscal year ending September 30, 1996; and

"(D) $20,000,000 in each fiscal year thereafter;

"(2) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and

"(3) any amounts recaptured under section 1366(i).

"(c) INVESTMENT.—If the Director determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the Director may invest any excess amounts the Director determines advisable in interest-bearing obligations issued or guaranteed by the United States.

"(d) REPORT.—The Director shall submit a report to the Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.".

(b) NATIONAL FLOOD INSURANCE FUND AS SEPARATE ACCOUNT.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "is authorized to" and inserting "shall"; and

(B) by inserting after "which shall be" the following: "an account separate from any other accounts or funds available to the Director and shall be"; and

(2) by adding after paragraph (6) (as added by the preceding provisions of this title) the following new paragraph:

"(7) for transfers to the National Flood Mitigation Fund, but only to the extent provided in section 1367(b)(1); and".

SEC. 555. ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—The national flood insurance program established pursuant to subsection (a) shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under section 1361 for—

"(1) properties that are repetitive loss structures;

"(2) properties that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and

"(3) properties that have sustained flood damage on multiple occasions, if the Director determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require compliance with the land use and control measures.

The Director shall impose a surcharge on each insured of not more than $75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.".

(b) APPLICABILITY.—The provisions of subsection (a) shall apply only to properties that sustain flood-related damage after the date of enactment of this Act.

Subtitle E—Task Forces

SEC. 561. FLOOD INSURANCE INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Flood Insurance Task Force (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, who shall be the designees of—

(A) the Federal Insurance Administrator;

(B) the Federal Housing Commissioner;

(C) the Secretary of Veterans Affairs;

(D) the Administrator of the Farmers Home Administration;

(E) the Administrator of the Small Business Administration;

(F) the Chairman of the Board of Directors of the Farm Credit Administration;

(G) a designee of the Financial Institutions Examination Council;

(H) the Director of the Office of Federal Housing Enterprise Oversight;

(I) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(J) the chairman of the Board of Directors of the Federal National Mortgage Association.

(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the national flood insurance program.

(c) DUTIES.—The Task Force shall carry out the following duties:

(1) RECOMMENDATIONS OF STANDARDIZED ENFORCEMENT PROCEDURES.—Make recommendations to the head of each Federal agency and enterprise referred to under subsection (b)(1) regarding establishment or adoption of standardized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the national flood insurance program to ensure fullest possible compliance with such requirements.

(2) STUDY OF COMPLIANCE ASSISTANCE.—Conduct a study of the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the national flood insurance program and submit to the Congress a report describing the study and any conclusions.

(3) STUDY OF COMPLIANCE MODEL.—Conduct a study of the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the national flood insurance program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions.

(4) RECOMMENDATIONS FOR ENFORCEMENT AND COMPLIANCE PROCEDURES.—Develop recommendations regarding enforcement and compliance procedures, based on the studies and findings of the Task Force, and publish such recommendations.

(5) STUDY OF DETERMINATION FEES.—Conduct a study of—

(A) the reasonableness of fees charged pursuant to 102(h) of the Flood Disaster Protection Act of 1973 for costs of determining whether the property securing a loan is located in an area having special flood hazards; and

(B) whether the fees charged pursuant to such section by lenders and servicers are greater than the amounts paid by such lenders and servicers to persons actually conducting such determinations and the extent to which the fees exceed such amounts.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairman or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b)(1).

SEC. 562. TASK FORCE ON NATURAL AND BENEFICIAL FUNCTIONS OF THE FLOODPLAIN.

(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Task Force on Natural and Beneficial Functions of the Floodplain (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—The Task Force shall be composed of 5 members, who shall be the designees of—

(1) the Under Secretary of Commerce for Oceans and Atmosphere;

(2) the Director of the United States Fish and Wildlife Service;

(3) the Administrator of the Environmental Protection Agency;

(4) the Secretary of the Army, acting through the Chief of Engineers; and

(5) the Director of the Federal Emergency Management Agency.

(c) DUTIES.—The Task Force shall—

(1) conduct a study to—

(A) identify the natural and beneficial functions of the floodplain that reduce flood-related losses; and

(B) develop recommendations on how to reduce flood losses by protecting the natural and beneficial functions of the floodplain; and

(2) make the information and recommendations under subparagraphs (A) and (B) publicly available.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairperson or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b).

Subtitle F—Miscellaneous Provisions

SEC. 571. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

SEC. 572. LIMITATION ON PREMIUM INCREASES.

(a) PROPERTY-SPECIFIC LIMITATION.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in subsection (c), by striking "Notwithstanding any other provision of this title" and inserting "Subject only to the limitation under subsection (e)"; and

(2) by inserting after subsection (d) the following new subsection:

"(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 10 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period.".

(b) REPEAL OF PROGRAM-WIDE LIMITATION.—Subsection (d) of section 541 of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is hereby repealed.

SEC. 573. MAXIMUM FLOOD INSURANCE COVERAGE AMOUNTS.

(a) IN GENERAL.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended as follows:

(1) RESIDENTIAL PROPERTY.—In paragraph (2), by striking "an amount of $150,000 under the provisions of this clause" and inserting the following: "a total amount (including such limits specified in paragraph (1)(A)(i)) of $250,000".

(2) RESIDENTIAL PROPERTY CONTENTS.—In paragraph (3), by striking "an amount of $50,000 under the provisions of this clause" and inserting the following: "a total amount (including such limits specified in paragraph (1)(A)(ii)) of $100,000".

(3) NONRESIDENTIAL PROPERTY AND CONTENTS.—By striking paragraph (4) and inserting the following new paragraph:

"(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of $500,000 for each structure and $500,000 for any contents related to each structure; and".

(b) REMOVAL OF CEILING ON COVERAGE REQUIRED.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (5), by striking "; and" at the end and inserting a period; and

(2) by striking paragraph (6).

SEC. 574. FLOOD INSURANCE PROGRAM ARRANGEMENTS WITH PRIVATE INSURANCE ENTITIES.

Section 1345(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4081(b)) is amended by striking the period at the end and inserting the following: "and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 575. UPDATING OF FLOOD MAPS.

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsections:

"(e) REVIEW OF FLOOD MAPS.—Once during each 5-year period (the 1st such period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994) or more often as the Director determines necessary, the Director shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

"(f) UPDATING FLOOD MAPS.—The Director shall revise and update any floodplain areas and flood-risk zones—

"(1) upon the determination of the Director, according to the assessment under subsection (e), that revision and updating are necessary for the areas and zones; or

"(2) upon the request from any State or local government stating that specific floodplain areas or flood-risk zones in the State or locality need revision or updating, if sufficient technical data justifying the request is submitted and the unit of government making the request agrees to provide funds in an amount determined by the Director, but which may not exceed 50 percent of the cost of carrying out the requested revision or update.

"(g) AVAILABILITY OF FLOOD MAPS.—To promote compliance with the requirements of this title, the Director shall make flood insurance rate maps and related information available free of charge to the Federal entities for lending regulation, Federal agency lenders, State agencies directly responsible for coordinating the national flood insurance program, and appropriate representatives of communities participating in the national flood insurance program, and at a reasonable cost to all other persons. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

"(h) NOTIFICATION OF FLOOD MAP CHANGES.—The Director shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. Such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.

"(i) COMPENDIA OF FLOOD MAP CHANGES.—Every 6 months, the Director shall publish separately in their entirety within a compendium, all changes and revisions to flood insurance map panels and all letters of map amendment and letters of map revision for which notice was published in the Federal Register or otherwise provided during the preceding 6 months. The Director shall make such compendia available, free of charge, to Federal entities for lending regulation, Federal agency lenders, and States and communities participating in the national flood insurance program pursuant to section 1310 and at cost to all other parties. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

"(j) PROVISION OF INFORMATION.—In the implementation of revisions to and updates of flood insurance rate maps, the Director shall share information, to the extent appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.".

SEC. 576. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director of the Federal Emergency Management Agency (in this section referred to as the "Director"), or the Director's designee, and 10 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or his or her designee);

(B) a member of recognized surveying and mapping professional associations and organizations;

(C) a member of recognized professional engineering associations and organizations;

(D) a member of recognized professional associations or organizations representing flood hazard determination firms;

(E) a representative of the United States Geologic Survey;

(F) a representative of State geologic survey programs;

(G) a representative of State national flood insurance coordination offices;

(H) a representative of a regulated lending institution;

(I) a representative of the Federal Home Loan Mortgage Corporation; and

(J) a representative of the Federal National Mortgage Association.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

(3) submit an annual report to the Director that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as established pursuant to the amendment made by section 675; and

(C) a summary of recommendations made by the Council to the Director.

(d) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the "Chairperson").

(e) COORDINATION.—To ensure that the Council's recommendations are consistent to the maximum extent practicable with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to OMB Circular A-16).

(f) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(g) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less than twice each year at the request of the Chairperson or a majority of its members and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(h) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(i) STAFF OF FEMA.—Upon the request of the Chairperson, the Director may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(j) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research as it considers appropriate.

(k) TERMINATION.—The Council shall terminate 5 years after the date on which all members of the Council have been appointed under subsection (b)(1).

SEC. 577. EVALUATION OF EROSION HAZARDS.

(a) REPORT REQUIREMENT.—The Director of the Federal Emergency Management Agency (in this section referred to as the "Director") shall submit a report under this section to the Congress that—

(1) lists all communities that are likely to be identified as having erosion hazard areas;

(2) estimates the amount of flood insurance claims under the national flood insurance program that are attributable to erosion;

(3) states the amount of flood insurance claims under such program that are attributable to claims under section 1306(c) of the National Flood Insurance Act of 1968;

(4) assesses the full economic impact of erosion on the National Flood Insurance Fund; and

(5) determines the costs and benefits of expenditures necessary from the National Flood Insurance Fund to complete mapping of erosion hazard areas.

(b) ESTIMATE OF FLOOD CLAIMS.—In developing the estimate under subsection (a)(2)—

(1) the Director may map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes, and, if technologically feasible, riverine areas; and

(2) the Director shall take into consideration the efforts of State and local governments to assess, measure, and reduce erosion hazards.

(c) ECONOMIC IMPACT.—

(1) IN GENERAL.—The assessment under subsection (a)(4) shall assess the economic impact of—

(A) erosion on communities listed pursuant to subsection (a)(1);

(B) the denial of flood insurance for all structures in communities listed pursuant to subsection (a)(1);

(C) the denial of flood insurance for structures that are newly constructed in whole in communities listed pursuant to subsection (a)(1);

(D) the establishment of (i) actuarial rates for existing structures in communities listed pursuant to subsection (a)(1), and (ii) actuarial rates for such structures in connection with the denial of flood insurance as described in subparagraph (C);

(E) the establishment of actuarial rates for structures newly constructed in whole in erosion hazard areas in communities listed pursuant to subsection (a)(1);

(F) the denial of flood insurance pursuant to existing requirements for coverage under the national flood insurance program;

(G) erosion hazard assessment, measurement, and management activities undertaken by State and local governments, including building restrictions, beach nourishment, construction of sea walls and levees, and other activities that reduce the risk of damage due to erosion; and

(H) the mapping and identifying of communities (or subdivisions thereof) having erosion hazard areas.

(2) SCOPE.—In assessing the economic impact of the activities under subparagraphs (A) through (H) of paragraph (1), the assessment under subsection (a)(4) shall address such impact on all significant economic factors, including the impact on—

(A) the value of residential and commercial properties in communities with erosion hazards;

(B) community tax revenues due to potential changes in property values or commercial activity;

(C) employment, including the potential loss or gain of existing and new jobs in the community;

(D) existing businesses and future economic development;

(E) the estimated cost of Federal and State disaster assistance to flood victims; and

(F) the mapping and identifying of communities (or subdivisions thereof) having erosion hazard areas.

(3) PREPARATION.—The assessment required under subsection (a)(4) shall be conducted by a private independent entity selected by the Director. The private entity shall consult with a statistically valid and representative number of communities listed pursuant to subsection (a)(1) in conducting the assessment.

(d) COSTS AND BENEFITS OF MAPPING.—The determination under subsection (a)(5) shall—

(1) determine the costs and benefits of mapping erosion hazard areas, based upon the Director's estimate of the actual and prospective amount of flood insurance claims attributable to erosion;

(2) if the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas, further assess whether using flood insurance premiums for costs of mapping erosion hazard areas is cost-beneficial compared to alternative uses of such amounts, including—

(A) funding the mitigation assistance program under section 1366 of the National Flood Insurance Act of 1968 (as added by section 553 of this Act);

(B) funding the program under section 1304(b) of the National Flood Insurance Act of 1968 (as added by section 555(a) of this Act) that provides additional coverage under the national flood insurance program for compliance with land use and control measures; and

(C) reviewing, revising, and updating flood insurance rate maps under subsections (e) and (f) of section 1360 of the National Flood Insurance Act of 1968 (as added by the amendment made by section 575 of this Act);

(3) if the Director determines under subsection (b)(1) that mapping of riverine areas for erosion hazard areas is technologically feasible, determine the costs and benefits of conducting the mapping of erosion hazards in riverine areas (A) separately from the mapping of other erosion hazard areas, and (B) together with the mapping of other such areas;

(4) if the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas in riverine areas, assess whether using flood insurance premiums for costs of mapping erosion hazard areas in riverine areas is cost-beneficial compared to alternative uses of such amounts, including the uses under subparagraphs (A) through (C) of paragraph (2); and

(5) determine the costs and benefits of mapping erosion, other than those directly related to the financial condition of the National Flood Insurance Program, and the costs of not mapping erosion.

(e) DEFINITION.—For purposes of this section, the term "erosion hazard area" means, based on erosion rate information and other historical data available, an area where erosion or avulsion is likely to result in damage to or loss of buildings and infrastructure within a 60-year period.

(f) CONSULTATION.—In preparing the report under this section, the Director shall consult with—

(1) representatives from State coastal zone management programs approved under section 306 of the Coastal Zone Management Act of 1972;

(2) the Administrator of the National Oceanic and Atmospheric Administration; and

(3) any other persons, officials, or entities that the Director considers appropriate.

(g) SUBMISSION.—The Director shall submit the report to the Congress as soon as practicable, but not later than 2 years after the date of enactment of this Act.

(h) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "(except as otherwise provided in this section)" after "without fiscal year limitation"; and

(2) by inserting after paragraph (7) (as added by the preceding provisions of this title) the following new paragraph:

"(8) for costs of preparing the report under section 577 of the Riegle Community Development and Regulatory Improvement Act of 1994, except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of $5,000,000 over the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 578. STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALLY BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES.

(a) STUDY.—The Director of the Federal Emergency Management Agency (in this section referred to as the "Director") shall conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage made available under the national flood insurance program for pre-FIRM structures to the full actuarial risk based premium rate determined under section 1307(a)(1) of the National Flood Insurance Act of 1968 for the area in which the property is located. In conducting the study, the Director shall—

(1) determine each area that would be subject to such increased premium rates; and

(2) for each such area, determine—

(A) the amount by which premium rates would be increased;

(B) the number and types of properties affected and the number and types of properties covered by flood insurance under this title likely to cancel such insurance if the rate increases were made;

(C) the effects that the increased premium rates would have on land values and property taxes; and

(D) any other effects that the increased premium rates would have on the economy and homeowners.

(b) DEFINITION OF PRE-FIRM STRUCTURE.—For purposes of subsection (a), the term "pre-FIRM structure" means a structure that was not constructed or substantially improved after the later of—

(1) December 31, 1974; or

(2) the effective date of the initial rate map published by the Director under section 1360(a)(2) of the National Flood Insurance Act of 1968 for the area in which such structure is located.

(c) REPORT.—The Director shall submit a report to the Congress describing and explaining the findings of the study conducted under this section. The report shall be submitted not later than 12 months after the date of enactment of this Act.

SEC. 579. EFFECTIVE DATES OF POLICIES.

(a) 30-DAY DELAY.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(c) EFFECTIVE DATE OF POLICIES.—

"(1) WAITING PERIOD.—Except as provided in paragraph (2), coverage under a new contract for flood insurance coverage under this title entered into after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, and any modification to coverage under an existing flood insurance contract made after such date, shall become effective upon the expiration of the 30-day period beginning on the date that all obligations for such coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed.

"(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to—

"(A) the initial purchase of flood insurance coverage under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan; or

"(B) the initial purchase of flood insurance coverage pursuant to a revision or updating of floodplain areas or flood-risk zones under section 1360(f), if such purchase occurs during the 1-year period beginning upon publication of notice of the revision or updating under section 1360(h).".

(b) STUDY.—The Director of the Federal Emergency Management Agency shall conduct a study to determine the appropriateness of existing requirements regarding the effective date and time of coverage under flood insurance contracts obtained through the national flood insurance program. In conducting the study, the Director shall determine whether any delay between the time of purchase of flood insurance coverage and the time of initial effectiveness of the coverage should differ for various classes of properties (based upon the type of property, location of the property, or any other factors related to the property) or for various circumstances under which such insurance was purchased. Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Director shall submit to the Congress a report on the results of the study.

SEC. 580. AGRICULTURAL STRUCTURES.

Section 1315(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4022(a)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

"(2) AGRICULTURAL STRUCTURES.—

"(A) ACTIVITY RESTRICTIONS.—Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

"(i) is a repetitive loss structure; or

"(ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"(B) PREMIUM RATES AND COVERAGE.—To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 1308 at the estimated risk premium rates under section 1307(a)(1). If resources are available, the Director shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet floodproofing and other flood damage reduction measures for agricultural structures. The Director shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet floodproofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Director.

"(C) PROHIBITION ON DISASTER RELIEF.—Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Director or any other Federal agency.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'agricultural structure' means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and

"(ii) the term 'agricultural commodities' means agricultural commodities and livestock.".

SEC. 581. IMPLEMENTATION REVIEW BY DIRECTOR.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) by striking "The Director" and inserting "(a) IN GENERAL.—The Director"; and

(2) by adding at the end the following new subsection:

"(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The Director shall include, as part of the biennial report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 582. PROHIBITED FLOOD DISASTER ASSISTANCE.

(a) GENERAL PROHIBITION.—Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) TRANSFER OF PROPERTY.—

(1) DUTY TO NOTIFY.—In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) FAILURE TO NOTIFY.—If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) PROPERTY DESCRIBED.—For purposes of paragraph (1), a property is described in this

paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

(1) by striking ", during the anticipated economic or useful life of the project,"; and

(2) by adding at the end the following: "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.".

(d) DEFINITION.—For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to disasters declared after the date of enactment of this Act.

SEC. 583. REGULATIONS.

The Director of the Federal Emergency Management Agency and any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title and the applicable amendments made by this title.

SEC. 584. RELATION TO STATE AND LOCAL LAWS.

This title and the amendments made by this title may not be construed to preempt, annul, alter, amend, or exempt any person from compliance with any law, ordinance, or regulation of any State or local government with respect to land use, management, or control.

TITLE VI—GENERAL PROVISIONS

SEC. 601. OVERSIGHT HEARINGS.

It is the sense of the Senate that—

(a) Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the Government, including matters related to any governmental investigations which may, from time to time, be undertaken.

(b) the Majority Leader and the Republican Leader should meet and determine the appropriate timetable, procedures, and forum for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS').".

(c) no witness called to testify at these hearings shall be granted immunity under sections 6002 and 6005 of title 18, United States Code, over the objection of Special Counsel Robert B. Fiske, Jr.

(d) the hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

SEC. 602. TECHNICAL AMENDMENTS TO THE FEDERAL BANKING LAWS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3—

(A) in subsection (i)(1), by striking "(11)(h)" and inserting "(11)(m)";

(B) in subsection (l)(4), by striking "bank's or" and inserting "a bank's or a"; and

(C) in subsection (q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966".

(2) in section 5(b)(5), by striking the semicolon at the end and inserting a comma;

(3) in section 5(e)(4), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B) respectively, and indenting appropriately;

(4) in section 7(a)(3), by striking "Chairman of the" before "Director of the Office of Thrift Supervision";

(5) in section 7(b)(3)(C), by striking the first period at the end;

(6) in section 7(j)(2)(A), in the third sentence—

(A) by striking "this section (j)(2)" and inserting "this paragraph"; and

(B) by striking "this subsection (j)(2)" and inserting "this paragraph";

(7) in section 7(j)(7)(A), by striking "monoplize" and inserting "monopolize";

(8) in section 7(l)(7), by striking "the ratio of the value of" and inserting "the ratio of";

(9) in section 7(m)(5)(A) by striking "savings association institution" and inserting "such institution";

(10) in section 7(m)(7), by inserting "the" before "Federal";

(11) in section 8(a)(3), by striking "subparagraph (B) of this subsection" and inserting "paragraph (2)(B)";

(12) in section 8(a)(7)—

(A) by inserting a comma after "Board of Directors"; and

(B) by striking "the period the period" and inserting "the period";

(13) in section 8(b)(4), by striking "subparagraph (3)" and inserting "paragraph (3)";

(14) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(15) in section 8(g)(2), by striking "depository institution" each place such term appears and inserting "bank";

(16) in section 8(o)—

(A) in the second sentence, by striking "subsection (b)" and inserting "subsection (d)"; and

(B) by striking "board of directors" each place such term appears and inserting "Board of Directors";

(17) in section 8(p), by striking "banking" each place such term appears and inserting "depository";

(18) in section 8(r)(2), by striking "therof" and inserting "thereof";

(19) in section 10(b)(1), by striking "claim" and inserting "claims";

(20) in section 10(b)(2)(B), by adding "and" at the end;

(21) in the section heading for paragraph (4) of section 11(a), by striking "PROVISIONS" and inserting "PROVISIONS";

(22) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(23) in section 11(d)(8)(B)(ii), by inserting "provide" before "a statement";

(24) in section 11(d)(14)(B), by striking "statute of limitation" and inserting "statute of limitations";

(25) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(26) in section 11(e)(8)(D)(v)(I), by inserting a closing parenthesis after "1934";

(27) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers'";

(28) in section 11(f)(3)(A), by striking "TO" in the heading and inserting "WITH";

(29) in the second sentence of section 11(i)(3)(A), by striking "other claimant or category or claimants" and inserting "other claimant or category of claimants";

(30) in section 11(n)(4)(E)(i), by adding "and" at the end;

(31) in section 11(n)(12)(A), by striking "subparagraphs" and inserting "subparagraph";

(32) in the second sentence of section 11(q)(1), by striking "decided" and inserting "held";

(33) in section 11(u)(3)(B), by striking "subsection (c)(9)" and inserting "section 40(p)";

(34) in section 13(c)(1)(B)—

(A) by striking "a in default insured bank" and inserting "an insured bank in default"; and

(B) by striking "such in default insured bank" and inserting "such insured bank";

(35) in section 13(c)(2)(A)—

(A) by striking "with an insured institution" and inserting "with another insured depository institution"; and

(B) by striking "by an insured institution" and inserting "by another insured depository institution";

(36) in section 13(f)(2)(B)(i), by striking "the in default insured bank" and inserting "the insured bank in default";

(37) in section 13(f)(2)(B)(iii), by striking "of of" and inserting "of";

(38) in section 13(f)(3), by striking "CLOSING" in the heading and inserting "DEFAULT";

(39) in section 13(f)(6)(A), by striking "bank that has in default" and inserting "bank that is in default";

(40) in section 13(f)(6)(B)(i), by striking the semicolon at the end and inserting a period;

(41) in section 13(f)(7)—

(A) in subparagraph (A), by striking "or" at the end; and

(B) in subparagraph (B), by striking the period at the end and inserting "; or";

(42) in section 13(f)(12)(A), by striking "is less than" and inserting "are less than";

(43) in section 15(c)(1), by striking "OBLIGATIONS LIABILITIES" in the heading and inserting "OBLIGATIONS, GUARANTEES, AND LIABILITIES";

(44) in section 18(b), by striking ", if such bank shall deposit" and inserting "if the insured depository institution deposits";

(45) in section 18(c)(1)(B), by inserting "or" at the end;

(46) in section 18(c)(4), by striking "other two banking agencies" each place such term appears and inserting "other Federal banking agencies";

(47) in section 18(c)(6), by striking "other two banking agencies" and inserting "other Federal banking agencies";

(48) in section 18(c)(9), by striking "with the following information:" and inserting "with—";

(49) in section 18(f)—

(A) by striking "such bank" and inserting "such insured depository institution"; and

(B) by striking "the bank" and inserting "the insured depository institution";

(50) in section 18(k)(4)(A)(ii)(II), by striking "or" at the end;

(51) in section 20(a)(3), by inserting "or" at the end;

(52) in section 21(c), by striking "the bank" and inserting "the insured depository institution";

(53) in section 21(d)(2), by striking "the bank" and inserting "the insured depository institution";

(54) in section 21(e), by striking "the bank" and inserting "the insured depository institution";

(55) in section 25(a), by striking "the bank" each place it appears and inserting "the insured depository institution, insured branch, or bank";

(56) in section 28(c)(2)(A)(i) by striking ", or" and inserting "; or";

(57) in section 28(d)(4)(C), by striking "subparagraphs" and inserting "subparagraph";

(58) in section 28(e)(4), "any other" and inserting "and any other";

(59) in section 30(e)(1)(A), by striking "venders" and inserting "the vendors";

(60) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors";

(61) in section 33(c)(1), by striking the comma at the end and inserting a semicolon;

(62) in section 34(a)(1)(A)(iii)—

(A) by striking "sections" and inserting "section"; and

(B) by striking "and" and inserting "or";

(63) in section 34(a)(2), by adding a period at the end;

(64) in section 38(f)(6), by striking "Commission" and inserting "Commission";

(65) in section 40(c)(4)(A), by striking "subsections (p)(12)(B) and (C)" and inserting "subparagraphs (B) and (C) of subsection (p)(12)"; and

(66) in section 40(d)(8)(A), by striking "meeting" and inserting "meeting the".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(11), by striking "a United States District Court" and inserting "a United States district court";

(2) in subsection (b)(11)(B)(iii), by striking the comma after "chapter 5";

(3) in subsection (b)(11)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(4) in subsection (b)(11)(G), by inserting "ADVISORY PERSONNEL.—" before "The Corporation shall";

(5) in subsection (r)(4), by striking "subsection.—" and inserting "subsection, the following definitions shall apply:";

(6) in subsection (s)(2), by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(7) in subsection (u)(5), by striking "subsection—" and inserting "subsection, the following definitions shall apply:".

(c) RESOLUTION TRUST CORPORATION COMPLETION ACT.—Section 21(a) of the Resolution Trust Corporation Completion Act (107 Stat. 2406) is amended—

(1) by striking "33(a)" and inserting "33";

(2) by striking "1831j(a)" and inserting "1831j";

(3) in paragraph (1), by striking "paragraph (1)" and inserting "subsection (a)(1)"; and

(4) in paragraph (2), by striking "paragraph (2)" and inserting "subsection (a)(2)".

(d) FEDERAL RESERVE ACT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289) is amended—

(1) in paragraph (1)(B), by inserting "(A)" after "subparagraph"; and

(2) in paragraph (2), by striking "subparagraph (A)" and inserting "paragraph (1)(A)".

(e) REPEAL OF PROVISIONS IN THE REVISED STATUTES.—The following sections of the Revised Statutes are hereby repealed:

(1) Section 5170 (12 U.S.C. 28).
(2) Section 5203 (12 U.S.C. 87).
(3) Section 5206 (12 U.S.C. 88).
(4) Section 5196 (12 U.S.C. 89).
(5) Section 5158 (12 U.S.C. 102).
(6) Section 5159 (12 U.S.C. 101a).
(7) Section 5172 (12 U.S.C. 104).
(8) Section 5173 (12 U.S.C. 107).
(9) Section 5174 (12 U.S.C. 108).
(10) Section 5182 (12 U.S.C. 109).
(11) Section 5183 (12 U.S.C. 110).
(12) Section 5195 (12 U.S.C. 123).
(13) Section 5184 (12 U.S.C. 124).
(14) Section 5226 (12 U.S.C. 131).
(15) Section 5227 (12 U.S.C. 132).
(16) Section 5228 (12 U.S.C. 133).
(17) Section 5229 (12 U.S.C. 134).
(18) Section 5230 (12 U.S.C. 137).
(19) Section 5231 (12 U.S.C. 138).
(20) Section 5232 (12 U.S.C. 135).
(21) Section 5233 (12 U.S.C. 136).
(22) Section 5185 (12 U.S.C. 151).
(23) Section 5186 (12 U.S.C. 152).
(24) Section 5160 (12 U.S.C. 168).
(25) Section 5161 (12 U.S.C. 169).
(26) Section 5162 (12 U.S.C. 170).
(27) Section 5163 (12 U.S.C. 171).
(28) Section 5164 (12 U.S.C. 172).
(29) Section 5165 (12 U.S.C. 173).
(30) Section 5166 (12 U.S.C. 174).
(31) Section 5167 (12 U.S.C. 175).
(32) Section 5222 (12 U.S.C. 183).
(33) Section 5223 (12 U.S.C. 184).
(34) Section 5224 (12 U.S.C. 185).
(35) Section 5225 (12 U.S.C. 186).
(36) Section 5237 (12 U.S.C. 195).

(f) REPEAL OF OTHER OBSOLETE PROVISIONS IN BANKING LAWS.—The following provisions of law are hereby repealed:

(1) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c).

(2) Section 12 of the Act entitled "An Act To define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes." and approved March 14, 1900 (12 U.S.C. 101).

(3) Section 3 of the Act entitled "An Act To amend the laws relating to the denominations of circulating notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(4) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(A) Section 5 (12 U.S.C. 105).
(B) Section 3 (12 U.S.C. 121).
(C) Section 8 (12 U.S.C. 126).
(D) Section 4 (12 U.S.C. 176).

(5) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(A) Section 8 (12 U.S.C. 177).
(B) Section 9 (12 U.S.C. 178).

(6) The Act entitled "An Act to amend the national bank act in providing for the redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125).

(7) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153).

(g) AMENDMENTS TO OTHER LAWS.—

(1) The 8th paragraph of the 4th undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 341) is amended by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury".

(2) Section 11(d) of the Federal Reserve Act (12 U.S.C. 248(d)) is amended—

(A) by striking "bureau under the charge of the Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Comptroller" and inserting "Secretary of the Treasury".

(3) The 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418) is amended by striking "the Comptroller of the Currency shall under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall".

(4) The 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419) is amended to read as follows:

"When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.".

(5) The 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420) is amended—

(A) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System".

(6) The 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421) is amended to read as follows:

"The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.".

(7) The 6th undesignated paragraph of section 18 of the Federal Reserve Act (38 Stat. 269) is amended—

(A) by striking "Comptroller of the Currency" each place it appears and inserting "Secretary of the Treasury"; and

(B) in the 7th sentence, by striking "Comptroller" and inserting "Secretary of the Treasury".

(8) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve bank notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(A) in the 1st section (12 U.S.C. 121a)—

(i) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(ii) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(B) in section 2 (12 U.S.C. 122a)—

(i) by striking "National-bank notes and"; and

(ii) by striking "national-bank notes and".

(9) The 1st section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875, is amended in the 1st paragraph which appears under the heading "NATIONAL CURRENCY" by striking "Secretary of the Treasury: Provided, That" and all that follows through the period and inserting "Secretary of the Treasury.".

(10) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "That the cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(11) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(12) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association".

(13) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the 1st sentence.

(14) Section 5119(b)(2) of title 31, United States Code, is amended by adding at the end the following: "The Secretary shall not be required to

reissue United States currency notes upon redemption.".

(h) AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.—

(1) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(A) in the 2d sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(B) by striking the 3d sentence.

(2) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(A) in the 1st sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b).";

(B) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(C) by striking subsection (c).

(i) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5156 the following new item:

"5156A. Mergers, consolidations, and other acquisitions authorized.";

and

(B) by striking the items relating to sections 5141 and 5151.

(2) The table of sections for chapter 2 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5158.
(B) Section 5159.
(C) Section 5160.
(D) Section 5161.
(E) Section 5162.
(F) Section 5163.
(G) Section 5164.
(H) Section 5165.
(I) Section 5166.
(J) Section 5167.
(K) Section 5170.
(L) Section 5171.
(M) Section 5172.
(N) Section 5173.
(O) Section 5174.
(P) Section 5175.
(Q) Section 5176.
(R) Section 5177.
(S) Section 5178.
(T) Section 5179.
(U) Section 5180.
(V) Section 5181.
(W) Section 5182.
(X) Section 5183.
(Y) Section 5184.
(Z) Section 5185.
(AA) Section 5186.
(BB) Section 5187.
(CC) Section 5188.
(DD) Section 5189.

(3) The table of sections for chapter 3 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections:

(A) Section 5193.
(B) Section 5194.
(C) Section 5195.
(D) Section 5196.
(E) Section 5202.
(F) Section 5203.
(G) Section 5206.
(H) Section 5209.
(I) Section 5212.

(4) The table of sections for chapter 4 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5239 the following new item:

"5239A. Regulatory authority.";

and

(B) by striking the items relating to the following sections:

(i) Section 5222.
(ii) Section 5223.
(iii) Section 5224.
(iv) Section 5225.
(v) Section 5226.
(vi) Section 5227.
(vii) Section 5228.
(viii) Section 5229.
(ix) Section 5230.
(x) Section 5231.
(xi) Section 5232.
(xii) Section 5233.
(xiii) Section 5237.
(xiv) Section 5243.

And the Senate agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment (except titles II and V), and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
LARRY LAROCCO,
WILLIAM ORTON,
JIM BACCHUS,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

Provided, that for consideration of section 348(b) of the Senate amendment, Mr. Klein is appointed in lieu of Mr. LaFalce.

HERB KLEIN,

Provided, that for consideration of title VI of the Senate amendment, Mr. Lazio is appointed in lieu of Mr. Ridge.

RICK LAZIO,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
WILLIAM ORTON,
HERB KLEIN,
NYDIA M. VELÁZQUEZ,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title V of the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
CHARLES SCHUMER,
BARNEY FRANK,
JIM LEACH,
DOUG BEREUTER,
BILL MCCOLLUM,

As additional conferees from the Committee on Education and Labor, for consideration of section 209 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT WILLIAMS,
WILLIAM L. CLAY,
DALE E. KILDEE,
GEORGE MILLER,
BILL GOODLING,
MARGE ROUKEMA,
HARRIS W. FAWELL,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 201–05, 207, 320 and 347 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD MARKEY,
PHIL SHARP,
AL SWIFT,
CARDISS COLLINS,
RICK BOUCHER,
THOMAS J. MANTON,
RICHARD H. LEHMAN,
LYNN SCHENK,
MARJORIE MARGOLIES-MEZVINSKY,
MIKE SYNAR,
RON WYDEN
BILL RICHARDSON,
JOHN BRYANT,
CARLOS J. MOORHEAD,
JACK FIELDS,
TOM BLILEY,

As additional conferees from the Committee on Energy and Commerce for consideration of sections 503–05, 507 and 706 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD MARKEY,
CARDISS COLLINS,
E. TOWNS,
RICHARD H. LEHMAN,
CARLOS J. MOORHEAD,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 703 of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,

As additional conferees from the Committee on the Judiciary, for consideration of section 139 of the House bill, and sections 325, 408 and 409 of the Senate amendment, and modifications committed to conference:

CHARLES E. SCHUMER,
DON EDWARDS,
JOHN CONYERS, Jr.
BILL HUGHES,

As additional conferees from the Committee on Small Business, for consideration of section 348(b) of the Senate amendment, and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,
JAN MEYERS,

As additional conferees from the Committee on Ways and Means, for consideration of sections 210 and 502–04 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,

SAM GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
BILL ARCHER,
PHIL CRANE,
BILL THOMAS,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,

From the Committee on Finance, for matters solely within the Finance Committee's jurisdiction, including sections 209, 210, and 408 of the Senate amendment:

DANIEL MOYNIHAN,
MAX BAUCUS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

SUBTITLE A—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

SECTION BY SECTION

Section 101. Short title

The subtitle is called the Community Development Banking and Financial Institutions Act of 1994.

Section 102. Findings and purposes

Section 102 articulates the findings of Congress regarding the need to assist community development financial institutions. The section also states the purposes of the legislation.

Section 103. Definitions

The House and Senate bills contain many identical or similar definitions. The Senate language was retained but modifications were made to the terms "community development financial institution," "Indian reservation", "investment area", and "targeted population". The House terms for "Indian tribe" and "state" were retained. The new term "training program" was added.

Section 103(5) requires a community development financial institution to have a primary mission of community development, serve an "investment area" or "targeted population", provide development services in conjunction with loans or equity investments (directly or through a subsidiary or affiliate), maintain community accountability, and not be an agency or instrumentality of government. It is the Conferees' intent that a depository institution holding company may only qualify as a community development financial institution if the holding company and its subsidiaries and affiliates collectively satisfy the definition of community development financial institution. Furthermore, no subsidiary or affiliate of a depository institution holding company may qualify as a community development financial institution unless the holding company and its subsidiaries and affiliates also collectively meet such requirements. The Conferees also intend that no subsidiary of an insured depository institution may qualify as a community development financial institution unless the insured depository institution and its subsidiaries collectively meet the requirements of section 103(5).

A community development financial institution is required to serve an "investment area" or "targeted population." The Fund will be responsible for developing "objective criteria" to be used to identify areas experiencing "economic distress" as well as criteria for determining "unmet needs for loans and equity investments." In assessing the extent of distress in an investment area, the Fund shall take into account the unique characteristics of rural, urban and Native American communities. It is the Conferees' intent that the Fund develop separate criteria for different types of communities which best capture the nature of distress in those communities. For example, in many rural communities, population out-migration is a good indicator of economic distress. Areas receiving the Federal designation as empowerment zones and enterprise communities will meet the definition of investment area.

The Conferees recognize that an overwhelming majority of Indian reservations continue to be among the most disinvested and poverty-stricken areas in the United States, and that, many of these conditions are attributable to weak private sector economies and lack of banking and financial services. The Conferees assume that, in most cases, Indian reservations will meet the criteria for designation as an "investment area" by virtue of decades long neglect by the banking and financial services industry.

The Conferees find that certain groups or individuals lack access to sources of debt and equity capital due to factors that are unrelated to their credit worthiness. In determining which groups or individuals qualify as a "targeted population", the Conferees believe that the fund should focus on low income persons and those who are otherwise underserved by financial institutions (including those historically denied access to financial services based on their race, gender, ethnicity, or national origin), as stated in the legislative language. The Conferees also intend that, in accordance with Section 115, the Fund will require assisted institutions to compile and maintain disaggregated data to ensure that targeted populations are adequately served and to demonstrate success in meeting their performance goals.

Section 104. Establishment of Fund

Section 104 establishes the Community Development Financial Institutions Fund to administer the programs authorized under this Subtitle and Subtitle B of Title II. The Fund is a wholly-owned government corporation managed by an Administrator. The Administrator is appointed by the President and confirmed by the Senate. A fifteen-member advisory board is established to advise the Administrator on the policies of the fund with respect to its activities under this Subtitle. The board will operate in accordance with the Federal Advisory Commission Act (excluding Section 14 of such Act). The advisory board is composed of the Secretaries (or their designees) of the Departments of Agriculture, Commerce, Housing and Urban Development, Interior, and Treasury, the Administrator (or his designee) of the Small Business Administration, and nine private citizens (to be appointed by the President) with community development finance or lending experience.

Section 104(k) provides for a transition period prior to appointment of the Administrator. During the transition period, the Secretary of Treasury is authorized to assist in the establishment of the Fund's administrative functions and to hire up to six individuals to serve as employs of the Fund. During the transition period and for up to two years following the date of enactment, Fund employs may be hired without regard to civil service laws and regulations. This is intended to permit the expedited hiring of employs for the Fund, so that the Fund may be operational as soon as possible.

Section 105. Applications for assistance

Section 105 describes the minimum elements that must be part of an application for assistance. At a minimum, each application submitted to the Fund must (1) establish that the applicant is, or will be, a community development financial institution; (2) include a comprehensive strategic plan; and (3) include a detailed description of plans to secure matching funds.

The central component of the application is the institution's comprehensive strategic plan. The plan is intended to demonstrate an applicant's capacity to function as a community development financial institution and be financially viable (not be dependent on future assistance). Furthermore, the plan should demonstrate an institution's capacity to catalyze redevelopment. Such a demonstration should include an assessment of the nature and extent of need within the communities that will be served and an indication of how the applicant will meet those needs.

Section 105 directs the Fund to operate a pre-application outreach program. The outreach activities may be used to provide information and technical assistance to potential applicants. However, the Fund may not assist in the preparation of any application.

Section 106. Community partnerships

Section 106 permits community development financial institutions to form "community partnerships" with other organizations to carry out activities authorized under this Subtitle. A "community partner" is an entity that provides loans, equity investments, or development services and may include (among others) depository institution holding companies, insured depository institutions, insured credit unions, non-profit organizations, state or local government agencies, and investment companies authorized pursuant to Small Business Investment Act of 1958.

The Conferees' intent in creating community partnerships is to leverage Federal resources and to encourage collaboration between community development financial institutions and other organizations. The Conferees believe it is critical for the Fund to closely scrutinize the relationship between community partners and community development financial institutions. The Fund should ensure that the community development financial institution is an active participant, that it has a strong track record of promoting lending or equity investments for community development purposes (if it is an existing institution), and that the community partner will enhance the service to investment areas or targeted populations. Such scrutiny is necessary to ensure that community development financial institutions that participate in partnerships are (or will be) independent, self-sufficient, and not dependent on the resources of the community partner for continued viability.

Community partnerships are selected based on the extend (1) that the community development financial institution co-applicant compares favorably with the criteria set forth under Section 107; (2) that the community partner co-applicant participates in the partnership; (3) to which the partnership will enhance the likelihood of success of the community development financial institution in meeting its performance goals; and (4) to which service to the investment area or targeted population will be better performed or enhanced by a partnership as opposed to the individual community development financial institution co-applicant.

The bill provides that a community partnership consist of an agreement between a community development financial institution and a community partner to provide development services, loans or equity investments to an investment area or targeted population. An application will specify the functions that the community development financial institution and the community partner will each perform to achieve the partnerhip's goals. All federal assistance must be distributed to the community development financial institution and cannot be used for activities carried out directly by the community partner. The Fund is required to negotiate performance goals as part of its assistance agreement which shall specify the duties required of each co-applicant. All other requirements and limitations imposed on community development financial institutions shall be applicable, in a manner that the Fund deems to be appropriate, to community partnerships.

Section 107. Selection of institutions

The Conference Agreement describes criteria to be used by the Fund to evaluate and select institutions for assistance. The criteria enumerated accord favorable weight to applicants with the specified attributes and are intended to provide guidance to the Fund in considering competing applications. The Fund is given discretion to consider additional criteria and evaluate the relative importance of each criterion. In granting assistance, the Fund must seek to select a geographically diverse group of applicants serving metropolitan, and rural areas from different regions of the United States.

Section 108. Assistance provided by the Fund

Section 108(a) authorizes the Fund to provide financial assistance through a variety of mechanisms including equity investments, grants, loans, credit union shares, and deposits. Although the Fund may provide assistance in the form of equity investments, it is prohibited from holding more than a 50-percent nonvoting interest in any community development financial institution or controlling the operation of any assisted institution. Section 108(b) specifies the types of activities for which assisted institutions may use Federal financial assistance. The Fund is also authorized to provide technical assistance.

The Conference Agreement prohibits any provision in the subtitle from limiting the authority of the bank regulatory agencies to supervise or regulate an insured institution or holding company. This provision is intended to prevent any interpretations of provisions in this Subtitle that would alter or otherwise interfere with regulation of assisted insured depository institutions and holding companies.

Assisted institutions are prohibited from using Federal assistance made available under this Subtitle for political activities.

The Conference Agreement limits to $5 million (in any three-year period) the amount of assistance any community development financial institution and its subsidiaries and affiliates can receive. However, the Conference Agreement creates an exception to the assistance limits for an institution that proposes to establish a subsidiary or affiliate for the purpose of serving an investment area or targeted population in another state. An institution or its affiliates or subsidiaries may be eligible to receive up to $8.75 million (in any three year period) provided that not less than $3.75 million of that assistance is used to establish such a subsidiary or affiliate. The bill permits institutions to receive up to such amounts only if they propose to establish a subsidiary or affiliate in a new state and such subsidiary or affiliate will not be located in a metropolitan area currently served by the institution.

The House bill, as introduced, would have provided greater amounts of assistance for insured community development financial institutions. The Conference Agreement does not contain any such distinction. It is the intent of the Conferees that insured and noninsured community development financial institutions will be treated the same with respect to the levels of assistance they are eligible to receive.

The funding limitations discussed above are essential to furthering the goal of this Subtitle to create a national network of community development financial institutions. The Conferees intend that the Fund will assist a variety of different types of institutions that fall within the definition of community development financial institution.

Assisted institutions are required to provide matching funds from sources other than the Federal government for all assistance received. The Fund is given the discretion to waive the matching requirements for not more than 25% of funds dispersed by the Fund in any fiscal year for applicants with "severe constraints" on matching sources.

The Conferees recognize that retained earnings enable community development financial institutions, like conventional financial institutions, to increase their ability to leverage new funds for the communities they serve by building equity or net worth. For the purpose of meeting the matching requirements of Section 108(e), it is the intent of the Conferees that retained earnings of existing community development financial institutions shall qualify as matching resources. However, it is not the intent of the Conferees to permit applicants to pledge future earnings to meet their matching requirements. Furthermore, it is not the intent of Congress to limit the amount of such retained earnings that may used toward meeting the matching requirements. Start-up or net worth financing shall not be treated as retained earnings under this Subtitle.

The Conferees believe that it is critical that all assisted community development financial institutions be financially and managerially sound. The Fund will be responsible for developing standards of financial accountability for assisted institutions that are not insured depository institutions or depository institution holding companies. Prior to awarding assistance or imposing sanctions on insured depository institutions and depository institution holding companies, the Fund will consult with the appropriate bank regulatory agencies to ensure that any actions by the Fund will not threaten the safety and soundness of such institutions.

An institution selected for assistance will enter into an agreement with the Fund specifying the terms and conditions of assistance, including performance goals. Performance goals will be negotiated between the Fund and an assisted institution and will be based on the assessment of community needs and plans for addressing the needs described in the institution's strategic plan. The Fund should measure the success of a community development financial institution in achieving specific lending, investment and development objectives against its performance goals.

To facilitate the enforcement of conditions placed on assistance, the Fund should structure the initial assistance agreement so that the performance goals and other obligations of the applicant will continue in effect even if the Fund transfers its ownership or repayments rights to a third party.

The Fund may impose sanctions on a community development financial institution for noncompliance with its assistance agreement for fraud, mismanagement, and noncompliance with this Subtitle.

Section 109. Training

Section 109 authorizes the Fund to operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development finance activities. The Fund may impose fees for persons participating in the activities of the training program. Such fees will be limited to the cost of providing the service.

Section 110. Encouragement of private entities

Section 110 of the Conference Agreement permits the Fund to assist in the establishment of private entities that complement the activities of the Fund.

Section 111. Collection and compilation of information

Section 111 directs the Fund to collect, compile and make information available that is pertinent to create, develop, expand, and preserve community development financial institutions.

Section 112. Investment of receipts and proceeds

Section 112 provides that any dividends from equity investments and proceeds from disposition of loans, investments, deposits, or credit union shares that are received as a result of assistance provided pursuant to Sections 108 and 113, and fees received pursuant to Section 109(f) shall be used to carry out the purposes of this Subtitle.

Section 113. Capitalization to enhance liquidity

Section 113 permits the Fund to provide assistance for the purpose of capitalizing organizations that purchase loans or otherwise enhance the liquidity of community development financial institutions. The Conference Agreement prescribes requirements, limitations, and criteria for assistance.

Section 114. Bank Enterprise Act

The Section 114 program, which is based on the Bank Enterprise Act, provides voluntary bank and thrift applicants with incentives for private investment in targeted activities within qualified distressed communities.

Through the section 114 program, the Conferees hope to immediately affect economically distressed communities through infusion of private dollars into loans, services, technical assistance and equity investments in community development financial institutions. The Section 114 program is geared to support the objectives of the community development financial institution program both by increasing the incentive rebates threefold for community development financial institution related activities in qualified activities and by creating a priority for equity investments in community development financial institutions in the application selection criteria. Bank and thrift applicants will earn triple credit under the Section 114 program for equity investments in community development financial institutions and insured community development financial institutions will earn triple credit for their activities in qualified distressed communities. The Administrator of the Fund is given broad discretion to administer both programs. However, the Fund monies must be disbursed in the following proportion—2/3 for the CDFI program and 1/3 for the Section 114 program.

Section 114 is a "results-driven" program. It rewards participating financial institutions for results—new lending and investment of private dollars in economically underserved urban and rural communities. The federal assistance is not an entitlement. Nothing in Section 114 is intended to affect the amount of deposit insurance assessment paid by an insured depository institution. Applicants will be selected through competition for limited federal dollars. The amount of assistance is computed based on the weighted periodic increases in loans, services, technical assistance, and investment by the applicant bank or thrift.

The Conferees believe that the qualified activities of subsidiaries of insured depository institutions should be eligible for assistance under Section 114. The Conferees do not intend, however, that an insured depository can apply for assistance for the purpose of capitalizing its subsidiaries under Section 114. But, the Conferees recognize that the weight of the capital and experience of the parent combined with the innovative underwriting and investments of the subsidiary are a potent combination for urban and rural community revitalization. This, the Conferees believe, is appropriate to permit activities carried out by such a subsidiary to be used in determining the amount of assistance an applicant is eligible to receive. The Conferees note that such non-insured subsidiaries may not apply directly for assistance under Section 114.

The Section 114 program will strengthen federal support to community development financial institution by attracting private investment by traditional financial service providers. The Conferees hope that Section 114 supported investments in community development financial institutions will be a catalyst for establishment of permanent private banking relationships to ensure that CDFIs thrive for the benefit of the people in the neighborhoods they serve.

The Conferees believe that the community development financial institution and Section 114 programs comport with the President's goal to promote revitalization and build long-term private market capacity for the delivery of financial services and technical assistance—which is crucial to sustaining revitalization—and empower residents of underserved communities to realize homeownership and business development opportunities.

Support for community development financial institutions:

Section 121(a)(5) states that the Administrator should allocate appropriated funds, to the maximum extent practicable, to support equity investment in community development financial institutions. This Section acknowledges the addition of equity investment in community development financial institutions as a new qualifying activity for purposes of receiving assistance under the Section 114 program.

Awards:

The application process, the targeting of bank and thrift investment into certain qualifying activities in qualified distressed communities and the selection criteria for ranking applications provides sufficient parameters for the Administrator to make awards on a competitive basis. Section 114 prohibits an institution from receiving assistance under both the community development financial institution program and Section 114. Award caps are included to ensure that Section 114 assistance is distributed to maximize the benefit to a greater number of underserved communities. However, the Administrator is given the sole discretion for establishing additional restrictions on the allocation of assistance and for setting the amount of awards within the statutory formula.

Performance report:

Section 117(d) requires the Comptroller General to report to the President and the Congress, 30 months after the appointment of the Administrator, on the structure, governance and the performance of the Fund, which includes review of the implementation of the Section 114 program for certain investments in qualified distressed communities.

Section 115. Recordkeeping

The Conference Agreement prescribes recordkeeping requirements for community development financial institutions and others receiving assistance pursuant to this Subtitle. Assisted institutions are required to compile pertinent data on individuals that utilize their services. The Fund will annually review the performance of each assisted community development financial institution in achieving its performance goals. Community development financial institutions are required to submit an annual report on their activities to the Fund, including an audited financial statement.

Section 116. Special provisions with respect to institutions that are supervised by Federal banking agencies

Section 116 addresses notice by the Fund to the appropriate Federal banking agency ("AFBA") regarding provision of assistance, information requests, and the imposition of sanctions on insured community development financial institutions and other institutions that are examined by or subject to the reporting requirements of an AFBA. This section is intended to ease the regulatory burden on insured community development financial institutions and other institutions that are examined by or subject to the reporting requirements of an AFBA by preventing overlapping and duplicative requests for information, reports, and records.

Subsection (a) requires the Fund to consult the AFBA before providing assistance to an insured community development financial institution. This consultation requirement also covers an institution that is examined by or subject to the reporting requirements of an AFBA and a community development financial institution that has as a community partner an institution that is examined by or subject to the reporting requirements of an AFBA.

Subsection (b) provides that, other than the information that the Fund may require with respect to an institution's implementation of its strategic plan or compliance with its assistance agreement, the Fund and the AFBA must consult to determine if the additional information needed by the Fund is already available from or may be obtained by the AFBA in the form, format, or detail required by the Fund. If the AFBA does not provide the information within 15 days, the Fund may access the information directly with notice to the AFBA.

Subsection (c) clarifies that this Subtitle does not permit the Fund to require an insured community development financial institution or other institution that is examined by or subject to the reporting requirement of the AFBA to disclose the AFBA's report or examination or records contained in or related to such report. Reports of examination generally are deemed to be the property of the AFBA that conducted the examination. However, as provided by subsection (d), the AFBA is required to provide the Fund with the appropriate information from examination reports relating to any material concerns about an insured community development financial institution or other institution examined by or subject to the reporting requirements of the AFBA.

Subsection (e) prohibits the unauthorized disclosure of any confidential information provided by the Fund to the AFBA or by the AFBA to the Fund. Section (f) provides that neither the Fund, the AFBA, nor any other party providing information under this section will be deemed to have waived any privilege that is applicable to the information that is provided to or used by any party. Subsection (g) clarifies that neither the Fund nor the AFBA is authorized to withhold any information from Congress or another Federal department or agency upon an appropriate request.

Under the Senate-passed version of H.R. 3474, the Fund is required to notify the AFBA before imposing any sanctions on an insured community development financial institution. The Fund may not impose the sanctions if the AFBA disapproves within 15 days. The House passed version only required that the Fund consult with the AFBA before imposing any sanction on an insured community development financial institution.

Subsection (h) of the Conference Agreement takes a generally similar approach to the Senate version and extends the time period within which the AFBA must disapprove a sanction to 30 days. This extended period is intended to give the AFBA and the Fund adequate time to consider appropriate sanctions. If the AFBA objects to a proposed sanction with the 30-day time period, it is required, among other things, to propose comparable alternative action. Both parties are expected to cooperate and take expeditious action to respond to each other's requests in a manner that ensures the safety and soundness of financial institutions.

Section 117. Studies and reports; examination and audit

Section 117 requires the Fund to annually evaluate and report on the activities carried out by the Fund and community development financial institutions and institutions assisted pursuant to Sections 113 and 114. The performance report will, among other things, analyze and compare the overall leverage of Federal assistance provided pursuant to Sections 108, 113 and 114 with private resources, and the impact of the expenditure of such resources on "investment areas", "targeted populations", and "qualified distressed communities". The performance report should also describe the Administrator's efforts to allocate, to the maximum extent practicable, the funds authorized under section 121(a) to support the activities of community development financial institutions.

The report will be submitted to the President and Congress 120 days after the end of each fiscal year. The Fund may conduct other studies, as necessary, to facilitate investment in distressed communities. The

Fund is directed to conduct a study on the impediments to lending and investment on Indian reservations and other land held in trust by the United States. The Comptroller General is directed to conduct a study evaluating the structure, governance and performance of the Fund.

Section 118. Inspector General

Section 118 creates an Inspector General of the Fund and authorizes appropriation of such sums as necessary for the operation of the Office of Inspector General.

Section 119. Enforcement

Section 119 directs the Fund to issue regulations within 180 days after appointment of the Administrator. Such regulations should prevent conflicts of interest on the part of directors, officers, and employees of community development financial institutions that are not insured and should establish standards with respect to loans by such institution to their directors, officers, or employees. Insured community development financial institutions must adhere to conflict of interest and insider lending laws and regulations that apply to insured depository institutions. Section 119 states that the provisions of this Subtitle, and regulations promulgated and agreements entered into under this Subtitle will be enforced by the Fund in accordance with Section 8 of the Federal Deposit Insurance Act (insured community development financial institutions only) and that Section 657 of title 18 of the United States Code will apply to institutions receiving assistance pursuant to this Subtitle.

Section 120. Community Development Revolving Loan Fund for credit unions

Section 120 permits the Board of the National Credit Union Administration to invest any idle funds of the Community Development Credit Union Revolving Loan Fund in United States Treasury securities and permits earned interest to become part of the Fund. Section 120 permits the Board to require any loans made by the Fund to be matched by increased shares in the borrower credit union. Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to appropriations acts.

Section 121. Authorizations

Section 121 authorizes $382 million over four years or such greater sums as may be provided by appropriations acts. Of amounts authorized, $5,550,000 may be used for administrative expenses. The Conference Agreement provides that costs associated with the training and technical assistance are not to be considered administrative expenses. After administrative expenses are deducted, one-third of the funds appropriated shall be used to carry out section 114. The Community Development Credit Union Loan Fund is authorized at $10 million over four years.

Section 121(a) requires the Administrator to allocate, to the maximum extent practicable, assistance appropriated pursuant to this Section to benefit community development financial institutions. Accordingly, in implementing this Act, the Administrator should favor institutions that invest in, or are, community development financial institutions. The Conferees believe this requirement imposes an affirmative responsibility on the Administrator to promote and provide information on the availability of assistance pursuant to Sections 108, 109, 113, and 114 to capitalize, enhance the capacity and liquidity of, and promote investment in, community development financial institutions.

TITLE I

SUBTITLE B—HOME OWNERSHIP EQUITY PROTECTION

Summary

Subtitle B of Title I, entitled "The Homeownership and Equity Protection Act of 1994," addresses the problem of "Reserve Redlining." Redlining is the practice of denying credit within certain geographic boundaries, often based on race or ethnicity. The term "reverse-redlining" describes the targeting of residents of the same communities for credit on unfair terms. Considerable testimony before the Senate and House Banking Committees has indicated that communities lacking access to traditional lending institutions are being victimized in this fashion by second mortgage lenders, home improvement contractors, finance companies, and banks who peddle high-rate, high-fee home equity loans to cash-poor homeowners.

Subtitle B is needed to address reverse redlining and to protect borrowers who might enter into these transactions. The legislation does not create a usury limit or prohibit loans with high rates or high fees. At the same time, the Conferees believe that these loan structures are potentially dangerous when misused and warrant a heightened degree of consumer protection in order to ensure that borrowers are not victimized by abusive lending practices.

The bill amends the Truth in Lending Act (TILA) to define a class of non-purchase or non-construction loans with high interest rates or up-front fees. To ensure that consumers understand the terms of such loans and are protected from high pressure sales tactics, the legislation requires creditors making such loans to provide a special, streamlined disclosure three days before consummation of the transaction, in addition to the other disclosures required by the TILA. The bill also restricts the use of certain loan terms such as negative amortization and balloon payments that have proven particularly problematic. Finally, the bill provides increased civil liability for failure to comply with the requirements for such loans and enables a borrower to assert all claims and defenses against an assignee of the mortgage that could be asserted against the originator.

SECTION-BY-SECTION

Section 151. Short title

This subtitle is titled "The Homeownership and Equity Protection Act of 1994."

Section 152. Consumer protections for certain mortgages

a. Definition

Subsection (a) creates a special category of loans to be covered by this legislation (§103(aa) loans). This category is made up of closed-end loans secured by a consumer's principal dwelling, but not obtained for purchase or construction of the dwelling, in which:

(1) the annual percentage rate is more than 10 percentage points greater than the yield on a Treasury security of comparable maturity; or

(2) points and fees exceed the greater of 8% of the loan amount or $400. This amount includes compensation paid to brokers.

The definition specifically excludes open end credit transactions and reverse mortgage transactions.

The points and fees trigger includes certain fees listed in Section 106(e) of the TILA such as fees paid to a third party for title examination, document preparation, credit reports, notary services, and appraisal, unless the charges meet three criteria. First, the charge must be reasonable. The Conferees intend that this provision shall be interpreted consistently with interpretations of the existing reasonableness standard necessary to exclude such charges from the finance charge under Regulation Z (§226.4(c)(7)). Second, the creditor must not receive direct or indirect compensation for such charges. Third, the fee must be paid to a third party unaffiliated with the creditor. As such information is readily available to the creditor, it is the creditor's burden to establish that any such charge meets these three criteria for exclusion. The Federal Reserve Board has authority to include additional charges in calculating the triggers, such as credit insurance premiums, if evidence establishes that such charges are being used to circumvent or evade the provisions of this legislation.

The Federal Reserve Board is also provided authority to adjust the 10% trigger between 8% and 12%. The Conferees are concerned that the 10% level may not be appropriate, particularly given changes in the credit markets. The legislation states that the Board may adjust the 10% level no sooner than two years after final regulations are promulgated pursuant to Section 1555 and no more frequently than every two years thereafter. To move the trigger, the Board must make an express determination that the increase or decrease is consistent with the consumer protections against abusive lending contained in this legislation and that the change is warranted by the need for credit. The conferees intend that before making such a change, the Board will consult with representatives of consumers, particularly low income consumers, and lenders.

The Conferees intend that nothing in this subsection be construed to limit the finance charges or rates that may be imposed on §103(aa) loans. The triggers in the legislation are not intended as caps, but rather to ensure that enhanced protections are provided to consumers who are most vulnerable to abuse without impeding the flow of credit.

At the same time, the fact that a loan does not meet the trigger provisions of the legislation does not mean that it is necessarily free of abusive terms or provisions. Loans that do not meet the triggers will continue to be regulated by other provisions of the TILA, as well as by other applicable laws.

b. Material disclosures

Subsection (b) defines the specific disclosures required for §103(aa) loans as "material disclosures", thereby providing the consumer with a right of rescission (as with other TILA disclosures) for up to three years in the event that the required disclosures are not provided.

c. Definition of "creditor"

Subsection (c) provides that a person who originates two or more §103(aa) mortgages in a given year or originates such a mortgage through a broker is a "creditor" and must comply with the requirements of the TILA and this legislation.

d. Disclosure required and terms prohibited

Subsection (d) amends the TILA by creating a new section, Section 129, which delineates certain requirements for §103(aa) mortgages.

Disclosures

Prior to originating such a mortgage, a creditor must conspicuously disclose that the consumer could lose his/her home for failure to meet the loan obligations and is not obligated to complete the agreement.

The creditor must disclose the annual percentage rate and the regular monthly payment or, for a variable rate loan, the annual percentage rate, monthly payment, and a statement that the interest rate and monthly payment can increase. Variable rate transactions must also indicate the maximum possible monthly payment possible under the loan. The Competitive Equality Banking Act of 1987 requires all variable rate transactions to include interest rate caps (12 U.S.C. §3806). The Conferees expect the maximum payment to be calculated based on the cap in the transaction by assuming the maximum possible increases in rates in the shortest possible time periods.

The creditor must provide the required disclosures in writing at least three days before consummation of the transaction. Section 152 prohibits subsequent changes in the loan terms that affect the APR or monthly payment unless revised disclosures are provided in writing three days prior to consummation. The Federal Reserve Board may modify or waive the disclosures for bona fide emergencies.

The legislation provides that revised disclosures may be provided by telephone if the changes in loan terms are initiated by the consumer and the parties certify in writing at consummation that the telephone disclosures were provided three days prior to closing.

Prohibited terms

This subsection further mandates that §103(aa) loans may not include the following terms: default interest rates higher than the rate prior to default; balloon payments if the loan term is shorter than 5 years; negative amortization; prepaid payments of more than 2 periodic payments consolidated and paid in advance from the loan proceeds; or payment to a home improvement contractor other than in a form payable to the consumer or jointly to the consumer and contractor, or, at the election of the consumer, to an escrow agent. The subsection also prohibits creditors from engaging in a pattern or practice of extending mortgage credit to consumers through §103(aa) loans unless they have given consideration to a consumer's current or expected income, current obligations, repayment capacity, or employment. These underwriting factors are intended to be illustrative, and not prescriptive or restrictive. Assessing the expected income of an employed borrower, for example, would not be necessary. Such an assessment, however, would be necessary for an unemployed borrower.

Finally, §103(aa) loans are prohibited from containing prepayment penalties. Testimony before the Senate and House Banking Committees indicated that consumers were often trapped in abusive mortgages by outrageous terms that made it prohibitively expensive to prepay their loans. The legislation specifies that the term "prepayment penalty" includes any refund of unearned scheduled interest that is computed by a method that is less favorable than the actuarial method, as defined in section 933(d) of the Housing and Community Development Act of 1992. (The Conferees recognize that some states have defined "actuarial method" and intend that a creditor use a state definition where applicable for purposes of computing a refund of unearned scheduled interest provided that the refund would be equal to, or greater than, one computed pursuant to section 933(d) of the Housing and Community Development Act of 1992.) This reference is not intended to be limiting, however, and common forms of prepayment penalties such as percentages of outstanding balance or number of months of interest are also prohibited under the legislation.

The subsection provides an exception from the prepayment restrictions provided (1) that the consumer's total monthly debt service under all obligations including the mortgage in question does not exceed 50% of the consumer's monthly gross income as verified through financial statements, a credit report, payment records, or verification from an employer; (2) that the penalty applies only to a prepayment made from amounts obtained by a means other than a refinancing with the same creditor; (3) that the penalty does not apply after 5 years following consummation of the loan; and (4) the penalty is not otherwise prohibited under state law.

Where the exception to the prepayment prohibition applies, the bill does not limit the amount of a prepayment penalty. The Conferees recognize, however, that some prepayment penalties that are permissible under subtitle B may nevertheless be prohibited by some other applicable law. The bill is not intended to override these more restrictive laws.

Inclusion of any of these prohibited terms is deemed a failure to deliver "material disclosures" as required by the TILA, thereby providing the borrower with rescission rights under §125 of that Act.

The subsection authorizes the Federal Reserve Board to exempt specific mortgage products or categories of mortgage products from these prohibitions if it makes an express finding that the exemption is in the interest of the borrowing public and will apply only to products that maintain and strengthen home ownership and equity protection. The Conferees are concerned, for instance, that some loans under government programs and certain short-term "bridge" construction loans may be inappropriately captured by this legislation. In general, the Conferees intend that the Board will not grant board exemptions, but rather weigh carefully the potential for each such product to be used in the abusive fashion which this legislation seeks to address and to assure that the product is used to facilitate homeownership and strengthen the homeowner's equity interest.

At the same time, the Board is required to prohibit acts and practices that it finds to be unfair, deceptive, or designed to evade the section and with regard to refinancings that it finds to be associated with abusive lending practices or otherwise not in the interest of the borrower. The Conferees recognize that new products and practices may be developed to facilitate reverse redlining or to evade the restrictions of this legislation. Since consumers are unlikely to complain directly to the Board, the Board should consult with its Consumer Advisory Council, consumer representatives, lenders, state attorneys general, and the Federal Trade Commission, which has jurisdiction over many of the entities making the mortgages covered by this legislation. In making any determination, the Board should look to the standards employed for interpreting state unfair and deceptive trade practices acts and the Federal Unfair and Deceptive Practices Act (15 U.S.C. §45(a)(1)).

This subsection also authorizes the Board to prohibit abusive acts or practices in connection with refinancings. Both the Senate and House Banking Committees heard testimony concerning the use of refinancing as a tool to take advantage of unsophisticated borrowers. Loans were "flipped" repeatedly, spiraling up the loan balance and generating fee income through the prepayment penalties on the original loan and fees on the new loan. Such practices may be appropriate matters for regulation under this subsection.

e. Conforming amendments

Subsection (e) clarifies that the provisions of this subtitle preempt state law only where federal and state law are inconsistent and only to the extent of an inconsistency. The Conferees intend to allow states to enact more protective provisions than those in this legislation. Many states, for example, ban all prepayment penalties on mortgage loans. Such a ban would remain in effect following enactment of this legislation.

Subsection (e) also specifies that states which are exempt from portions of the TILA disclosure requirements are not exempt from the requirements of this legislation.

Section 153. Civil liability

a. Damages

Subsection (a) provides that, in addition to other penalties available under the Act, a material failure to comply with requirements imposed by the subtitle carries potential civil liability in an amount equal to all finance charges and fees paid by the consumer. The Conferees intend the word "material" to reference a common legal standard, not to reference "material disclosures" under TILA. Case law under §130(c) may be used to evaluate materiality and the reasonableness of the procedures for preventing errors under this section. The Conferees intend that miscalculations, computer malfunctions, and printing mistakes shall not be deemed material if the creditor maintained reasonable procedures to prevent such mistakes.

b. State attorney general enforcement

Subsection (b) allows a State attorney general to bring actions in federal district court to enforce the provisions of this subtitle for up to three years following violations. The state must notify the appropriate Federal agency responsible for enforcement and the agency will have the right to intervene.

c. Assignee liability

Subsection (c) eliminates holder-in-due-course protections for purchasers and assignees of §103(aa) mortgages. Consumers maintain all claims and defenses in connection with such mortgages against assignees that can be asserted against creditors. With this provision, the Conferees intend to ensure that the market polices itself in order to eliminate abuses. Similar liability has been previously extended by the FTC to consumer installment paper, including automobile loans, without a significant impact on credit availability.

To ensure that the assignee liability provision of this bill does not reach beyond §103(aa) loans, the legislation insulates an assignee from liability if the assignee can demonstrate, by a preponderance of the evidence, that a reasonable person, exercising ordinary due diligence, could not determine from the loan documentation that the loan was covered by this legislation. Such a determination would require review of the documentation required by the TILA, including, but not limited to, the disclosures required by this legislation, as well as a disclosure of disbursements or itemization of amounts financed. While this exception limits the liability of an assignee under this subsection, it is not intended to limit liability under other portions of the TILA (including other subsections of Section 131) or other causes of action.

This section also limits the damages available under the assignee liability language in the legislation. For TILA violations, damages are limited to relief available under Section 130. For all other causes of action, damages are limited to the sum of all remaining indebtedness and the total amount previously paid by the consumer in connection with the transaction. The amount of damages awarded in the latter instance must be reduced by any damages awarded under the TILA. The Conferees intend to limit an assignee's potential liability to all amounts previously paid and currently owed by a consumer.

To ensure that assignees are aware of their potential liability, the legislation requires any party assigning a §103(aa) mortgage to include a prominent notice of potential liability.

Section 154. Reverse mortgage disclosure

a. Definition

The Conferees are aware that many reverse mortgage transactions could be covered by the definition created in Section 152. Such transactions include significant up-front costs, yet provide for only limited initial payments to the consumer. However, the unique nature of reverse mortgages makes them ill-suited for the triggers and associated consumer protections established in this legislation. For this reason, the legislation creates a statutory definition of "reverse mortgage transactions" and exempts such transactions from the legislation (see Section 152). Reverse mortgage transactions are defined as non-recourse transactions in which a security interest is taken against the consumer's principal dwelling for the purpose of securing one or more advances to the consumer, but requiring repayment (other than in default) only after one of the following occurrences: transfer of the dwelling; the consumer ceases to occupy the dwelling as a principal dwelling; death of the consumer.

b. Disclosure

While the Conferees believe that the protections provided through Sections 152 and 153 are not appropriate for reverse mortgages, they are concerned that consumers are not currently receiving adequate information for such transactions. Reverse mortgages are complex transactions that have high up-front costs and are primarily designed for elderly consumers who have substantial equity in their homes.

To ensure that consumers are adequately informed about the costs and risks associated with reverse mortgages, this legislation creates a special disclosure for such transactions. The duration of a reverse mortgage is inherently uncertain at the time it is originated because it is designed to terminate upon the death of the consumer, transfer of the dwelling, or the consumer's ceasing to use the dwelling as a primary residence. Likewise, many such mortgages contain shared appreciation or shared equity features which further lend uncertainty to the transaction. The costs to a consumer and the payments that the consumer will receive are estimable only based on assumptions regarding factors such as life expectancy and appreciation in the value of the dwelling.

The disclosure required by this legislation must indicate the cost of the transaction based on three loan terms (two years, the consumer's life expectancy, and such longer period as the Federal Reserve Board deems appropriate). Likewise, the disclosure must indicate the cost of the transaction assuming three appreciation rates for the dwelling. The "cost" of the transaction shall be expressed as an annual interest rate and include all payments made to and for the consumer, all costs and charges to the consumer, the cost of any annuity associated with the transaction, and any limitation on the liability of the consumer.

The Conferees intend the reverse mortgage disclosure to be modeled after the matrix disclosure currently provided through the Federal Housing Administration's Home Equity Conversion Mortgage Program and required by Section 255 of the National Housing Act. This disclosure will indicate how certain variables impact the transaction. For instance, the interest rate implicit in a reverse mortgage is reduced as the consumer lives longer.

c. Home equity plan exemption

Section 154 also clarifies the inapplicability of Section 137(b) of the TILA to reverse mortgages. This provision is not intended to substantively change current law, but rather to codify current interpretation that Section 137(b) should not be construed so as to prevent acceleration of a reverse mortgage upon death of the consumer. The intent of Congress in this area was first clarified in Section 520 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715(z)-20(j)) with respect to the Home Equity Conversion Mortgage Program. This action affirms the exclusion for all reverse mortgages.

Section 155. Regulations

This section requires the Federal Reserve Board to issue regulations under the subtitle within 180 days of enactment of the Act. The regulations will become effective according to the schedule outlined in the TILA.

Section 156. Applicability

The provisions of this legislation will apply to mortgages consummated after regulations promulgated pursuant to Section 155 become effective.

Section 157. Federal Reserve study

Section 157 requires the Federal Reserve Board to conduct a study and submit a report to Congress regarding whether a consumer engaging in an open end credit transaction is provided adequate protections under Federal law, including under Section 127(A) of the TILA. This legislation exempts open end credit plans, such as home equity lines of credit. Hearings on reverse redlining produced insufficient evidence to establish whether there are significant numbers of abusive home equity loan transactions in the open and credit market. However, if the market changes, or the Board finds that open end credit plans are being used to circumvent this legislation, the Board has the authority to address abuses under Section 152(d). The Board must complete the study within 2 years and provide a report to Congress, along with any legislative recommendations.

Section 158. Hearings on home equity lending

Section 158 requires the Federal Reserve Board to conduct public hearings within 3 years and regularly thereafter to examine the home equity loan market and the adequacy of existing law and regulation in protecting consumers, particularly low-income consumers. These products have provided important liquidity to millions of consumers. By their nature, however, they also place at risk the equity that consumers have established in their homes. When problems arise in the home equity loan market, they are profoundly damaging.

The Conferees believe that this legislation is an important step to protect homeownership. Under this Conference Agreement, they have given the Federal Reserve Board the flexibility to address future problems before legislation is necessary and before consumers have lost their homes. These hearings will enable the Federal Reserve Board to develop a better understanding of home equity lending and ensure that regulatory policy responds to market developments in a timely fashion.

In conducting such hearings, the Federal Reserve Board should solicit the participation of consumers (particularly low income consumers), representatives of consumers, lenders, regulators, and other interested parties. The Congressional hearings that led to this legislation cast light on an entire segment of the credit market which had been largely ignored. Section 158 is designed to ensure that such aspects of the credit markets are better understood in the future.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A of Title II is intended to increase small business access to capital by removing impediments in existing law to the securitization of small business loans and leases. Subtitle A builds on the framework for securitization established by the Secondary Mortgage Market Enhancement Act of 1984, known as SMMEA. SMMEA was enacted to increase the flow of funds to the housing market by facilitating the participation of the private sector in the secondary mortgage market. To accomplish this, SMMEA amended the Securities Exchange Act of 1934 (Exchange Act) to facilitate the development of a forward trading market in "mortgage related securities" and designated such securities as "legal investments" for state and Federally regulated financial institutions. Subtitle A of Title II would create a similar framework for "small business related securities," with the goal of stimulating a similar flow of funds to small businesses. It is the hope of the Conferees that this improved access to capital will help create new jobs and stimulate economic growth in the United States.

The Conferees adopted sections 201 through 208 of the Senate bill.

Section 209 calls for the Board of Governors of the Federal Reserve System (the Board) and the Securities Exchange Commission (the Commission) to conduct a joint study of the impact of the provisions of this title on the credit and securities markets. The study will include an evaluation of the impact of the amendments made by this subtitle and by section 347 of this Act on the availability of credit for businesses and commercial enterprises in general, and in particular for businesses in low- and moderate-income areas, businesses owned by women and minorities, community development efforts, community development financial institutions, different geographical regions, and a diversity of types of businesses.

The section 209 study will examine the structure and operation of the markets that develop for small business related securities and commercial real estate mortgage related securities (as provided under section 347 of the Act), including the types of entities, such as pension funds and insurance companies, that are significant purchasers of these securities. The study will also discuss any adverse effects of these markets on commercial real estate ventures, pension funds, or pension fund beneficiaries. Depending on how these markets develop, the Board and the Commission shall have flexibility to modify or supplement, as appropriate, the issues to be addressed in the joint study. In keeping with the findings of these reviews, the study may contain recommendations for any additional suitability or disclosure requirements or other investor protections that should be required.

The Board and the Commission will report to Congress on their joint study every two years over a six-year period beginning on the date of enactment of Subtitle A. These reports are to be accompanied by recommendations to Congress of administrative or legislative action as the Board and the Commission deem appropriate.

Section 210 calls for the Federal Financial Institutions Examination Council (FFIEC) to study the need for the use of consistent financial terminology by depository institutions for small business loans or leases which are sold for the creation of small business related securities. The results of the study and any appropriate policy recommendations will be reported to Congress within two years after the date of enactment of this Act. The Conferees do not intend that small business loans should have common terms and conditions. Rather, the Conferees direct FFIEC to determine whether the words used to describe loans and leases should have commonly understood definitions and meanings. The Conferees further intend that the FFIEC consult with the Commission to assure that any recommendations do not conflict with the terminology developed concerning securitization under the federal securities laws.

The Conferees did not agree to include in the Conference Report section 209 as passed by the Senate. That section provided that the Secretary of Labor, in consultation with the Secretary of the Treasury, may exempt transactions involving small business related securities from the prohibited transactions provisions of the Employee Retirement Income Security Act of 1974 (ERISA). Since the Secretary of Labor already has the authority to issue either individual or class exemptions for all types of securities, including those provided for under section 347 of this Act, the Senate-passed section 209 was unnecessary.

Subtitle B of Title II provides for the use of $50 million in Federal funds to encourage and expand Capital Access Programs administered by States and certain localities. The Conference Report substitutes the Community Development Financial Institutions Fund, established under Section 104 of the Conference Report, for the Department of Housing and Urban Development as the program administrator. The Fund's responsibilities with respect to the capital access program are limited and similar to the Fund's assistance responsibilities under Title I of the Conference Report.

Second, the Conference Report extends the commencement date of the capital access program from the date of the bill's enactment to January 6, 1996. This change will afford those States that have not established qualifying programs additional time to act in order to benefit from the program's assistance.

The subtitle authorizes the appropriation of $50 million to implement the program and requires the appropriation of this amount without fiscal year limitation prior to the Fund's approval of State or local jurisdictions as recipients of assistance. The Conference Committee intends for funds appropriated to the Fund to carry out the capital access program to include an amount for program administrative expenses. In light of the Fund's very limited responsibilities under the program, the Committee expects the Fund to administer the program with a lean staff that minimizes its administrative expenses. Therefore, the Committee expects only a small portion of the appropriated amount to be needed for such expenses.

TITLE III: PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

SECTION-BY-SECTION

Section 301. Incorporated definitions

The terms "appropriated Federal banking agency," "Federal banking agencies," "insured depository institution," and "insured credit union" are defined to have the same meanings as in the Federal Deposit Insurance Act and the Federal Credit Union Act.

Section 302. Administrative consideration of burden with new regulations

In setting the effective date of new regulations and imposing new administrative compliance requirements, the Federal banking agencies are directed to consider the burden and benefits of those requirements for depository institutions and their customers. The agencies should take into account institution size and are specifically directed to give consideration to small institutions.

Section 302 also states that new regulations and amendments to existing regulations that impose reporting, disclosure, and other requirements on depository institutions shall take effect on the first day of a calendar quarter. This effective date requirement will provide insured depository institutions with a consistent date for complying with Federal banking regulations. Currently, regulations can become effective at any time, requiring insured depository institutions to constantly review and update their policies and procedures. This process is burdensome and costly, especially to smaller institutions. By having regulations generally take effect on only four days each year, insured depository institutions will be more regularly informed of new rules with which they must comply and will be able to effectuate training, software, and other operational modifications in a coherent manner.

Under this section, the requirements of the Administrative Procedures Act will continue to apply, requiring a minimum of thirty days between publication of a regulation and its effective date. A banking agency may accelerate the effective date for good cause and must publish the reasons for such a determination with the regulation. Likewise, depository institutions may comply with the regulation prior to its effective date. This rule does not apply to regulations issued by the Board of Governors of the Federal Reserve in connection with the implementation of monetary policy.

Section 303. Streamlining of regulatory requirements

Each Federal banking agency must review and streamline its regulations and written supervisory policies within 2 years, removing regulatory inconsistencies, outmoded or duplicative requirements and unwarranted constraints on credit availability. Where agencies have adopted different requirements in regulations or other general guidance to banks implementing a common statutory scheme or supervisory concern, the agencies must make their requirements uniform. The agencies must report on their progress after one year and again at the end of the two-year period for completing this streamlining.

In addition, section 303 requires the Federal Reserve Board to review the regulations and policies regarding variable rate mortgages in order to simplify the disclosures, if necessary, and make the disclosures more comprehensible. The Board must work with consumers in conducting this review and report to Congress within two years with findings and any legislative recommendations.

Section 304. Elimination of duplicative filings

The agencies must work together to eliminate, to the extent possible, requests for duplicative and other unnecessary information in connection with applications and notices. In addition, the agencies are required to harmonize any inconsistent publication and public notice requirements they have adopted pursuant to regulatory authority.

Section 305. Coordinated and unified examinations

Section 305 requires the Federal banking agencies to coordinate their examinations and, in two years, to jointly develop and implement a system under which one of the federal banking agencies will take the lead in managing a unified examination of the insured institutions that it supervises and the other insured banks, thrifts and other companies in each banking organization. Upon establishment of the system, the agencies are required to submit a joint report to Congress, followed thereafter by annual reports.

The goals of the system should be to eliminate unnecessary examination overlap and to improve supervision and accountability. The Conferees intend the system to reduce the regulatory burden experienced by institutions that confront multiple duplicative exams from the four agencies through their national, regional and subregional offices. The Conferees also intend the system to resolve disagreements that arise among the different regulators in reviewing the same loans, activities and practices of the organization. Such duplication and disagreement undermine industry confidence in federal regulation.

Section 305 contemplates that the agencies will have the discretion to create and modify the unified examination system, as they agree. The requirement of a lead agency will not preclude the assignment of adequately trained and experienced examiners from the Federal banking agencies. Rather, the unified examination system is intended to permit the agencies to apply their resources more effectively, to allocate examiners appropriately, to draw on the expertise of all the agencies, and to promote safety and soundness. In addition, requiring one of the agencies to take the lead in managing the examination will provide a mechanism for resolving disagreements and will promote agency accountability.

Section 305 permits each appropriate federal banking agency to conduct a separate independent examination in an emergency or other exigent circumstances, or when the agency believes that a violation of law may have occurred. In these instances, there is an explicit preservation of the agencies' ability to individually pursue examinations in addition to the agency designated by the established system.

Section 306. 18 month examination rule for certain small institutions

Current law provides an on-site examination of an insured depository institution every 12 months, except that the examination cycle is extended to 18 months for an institution with assets less than $100 million that (1) is well-capitalized; (2) is well managed and has an outstanding composite condition (e.g., a CAMEL rating of "1"); (3) has not undergone a change of control within one year of its last examination; and (4) is not subject to a formal enforcement proceeding or order. Section 306 raises the asset threshold for the extended 18-month cycle to $250 million for such institutions.

In addition, section 306 also broadens the exception to institutions with a good composite condition (e.g., a CAMEL rating of

"2") and assets less than $100 million. After 2 years, the agencies may increase the $100 million level for such institutions to an amount not to exceed $175 million if the agency determines by regulation that the greater amount would be consistent with principles of safety and soundness.

Section 306 does not affect the existing discretion of the agencies to examine an institution more frequently than is required by statute.

Section 307. Call report simplification

To reduce the burden of filing and publishing reports of condition, commonly referred to as call reports, this section instructs the federal banking agencies to develop a system under which an institution may file call report data by electronic means. The section also provides that the agencies make these reports available to the public electronically. In addition, within one year the agencies must report to Congress on any other measures that would make reporting and dissemination more efficient.

The agencies are required to work jointly to adopt a single form for the filing of core information and to streamline the schedules supplementing the core information by eliminating requirements that are not warranted "for reasons of safety and soundness or other public purposes." The conferees intended that information requested by the banking agencies to determine an insured depository institution's semiannual assessment be considered as "warranted for reasons of safety and soundness or other public purposes" under section 307(c)(2).

The Conferees intend section 307 to apply to reporting pursuant to Federal banking laws. Reporting requirements relating to disclosures under the Federal securities laws, such as those required under the Securities Exchange Act of 1934, are not affected by section 307. These financial statements should continue to be prepared in accordance with generally accepted accounting principles and the Securities and Exchange Commission's Regulation S-X, 17 C.F.R. §210.

Section 308. Repeal of publication requirements

This section repeals requirements in section 5211 of the Revised Statutes, section 7(a)(1) of the Federal Deposit Insurance Act and section 9 of the Federal Reserve Act for newspaper publication by a bank of its reports of condition. The section does not affect the public availability of this information.

Section 309. Regulatory appeals process, ombudsman, and alternative dispute resolution

This section requires each Federal banking agency and the National Credit Union Administration Board (NCUA) to establish an internal regulatory appeals process for insured depository institutions within 6 months. The appeals process must be available to review material supervisory determinations and provide for expeditious review under appropriate safeguards to protect the institution from retaliation by agency examiners. The term "material supervisory determinations" is defined to include determinations relating to examination ratings, adequacy of loan loss reserves, and significant loan classifications. The appeals process does not affect the authority of the agencies and the Board to take enforcement or supervisory action against an institution.

Section 309 also requires each banking agency and the NCUA to appoint an ombudsman to act as liaison with respect to any problem that any party may have in dealing with the agency. The Conferees recognize that implementation of these provisions could impose an undue burden on certain federal agencies with limited staff and budgetary resources. Specifically, the Conferees expect that the National Credit Union Administration might meet the requirements by an appropriate part-time employee. Nonetheless, the Conferees intend that these provisions be carried out by each agency identified in section 309.

Some of the Federal banking agencies have in place procedures to settle disputes between the agency and a financial institution that may satisfy the requirements of this provision. In addition, some agencies, for example, the Comptroller of the Currency, may already have appointed an ombudsman to hear appeals. Nothing in this section is intended to interfere with such existing programs.

Finally, the Conferees have included an alternative dispute resolution (ADR) provision in this Act to encourage Federal banking agencies and the NCUA to utilize the various methods of ADR instead of litigation in resolving issues in controversy. ADR has been used in the private sector for many years and has proven to be quicker, less costly, and more efficient than litigation in resolving disputes. The use of ADR by all Federal banking agencies would save taxpayer money and decrease the regulatory burden for insured depository institutions and individuals who have claims with Federal banking agencies.

Section 309 requires only that each Federal banking agency and the NCUA establish a pilot program to resolve claims against insured depository institutions or credit unions for which the agency has been appointed conservator or receiver, claims involving any final action taken by a banking agency in its capacity as conservator or receiver for an insured depository institution, and any other issue which the agency determines appropriate. The use of ADR must be agreed to by all interested parties, including the agency itself. It is up to each agency to decide whether to implement ADR agency-wide, based on the success and effectiveness of the pilot program.

This section provides each agency with discretion in determining the method or methods of ADR it wishes to utilize. ADR methods include, among other things, mediation, fact finding, mini-trials, arbitration, and the utilization of an ombudsman. This section also requires the Administrative Conference of the United States to conduct an independent evaluation of each pilot program.

Section 310. Electronic filing of currency transaction reports

This section amends the Bank Secrecy Act to require the Secretary of Treasury to permit financial institutions and uninsured banks to maintain and submit electronically the currency transaction reports (CTRs) and other records currently required under the Act. The Secretary is authorized to prescribe terms and conditions for electronic filing. Electronic record-keeping and filing would remain optional for banks.

Section 311. Bank Secrecy Act publication requirements

To ease the burden on institutions and promote compliance, this section requires the Secretary of the Treasury to publish all written rulings concerning money laundering reporting or other requirements placed on banks under chapter 53 of title 31 of the U.S. Code. The Secretary must also issue, on an annual basis, staff commentary to the regulations implementing the chapter.

Section 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements

Section 312 amends the Real Estate Settlement Procedures Act to exempt business purpose residential real estate loans from coverage under the Act. The language of the amendment is modeled after §226.3 of Regulation Z, the Truth in Lending Act regulation. The Conferees intend the Department of Housing and Urban Development, the agency responsible for RESPA regulation, to use the Truth in Lending Act as a basis for its regulations but also to retain discretion to define what constitutes a transaction "primarily for a business, commercial or agricultural purpose" for purposes of the RESPA.

Section 313. Flexibility in choosing boards of directors

This section revises section 5146 of the Revised Statutes to provide that a majority, instead of two-thirds, of the board of directors of a national bank must reside in the area in which the bank is located.

Section 314. Holding company audit requirements

This section amends section 36(i)(2) of the Federal Deposit Insurance Act to allow insured depository institutions with total assets of more than $9 billion and CAMEL ratings of 1 or 2 that are subsidiaries of holding companies to satisfy the requirements of section 36 at the holding company level. Further, when applying this new provision, if the FDIC determines that an institution is a "large institution," the holding company's audit committee may not include any large customers of the institution. Under this section, services and functions comparable to those required by section 36 must be provided at the holding company level, as is required by section 36(i)(1).

Under current law, section 36(i)(2) offered the holding company option only to institutions with assets of less than $5 billion or assets of between $5 billion and $9 billion and a CAMEL rating of 1 or 2. Under the FDIC's guidelines implementing section 36, services and functions are considered "comparable" if the holding company has an audit committee appropriate to its largest subsidiary institution, and management's report on the effectiveness of internal controls and compliance with designated laws is based on information regarding the activities and operations of all subsidiary institutions subject to section 36.

With respect to larger institutions that would be eligible under this section to satisfy the section 36 requirements at the holding company level, the Conferees expect that services and functions performed at the holding company level will be comparable to those that would otherwise be performed at all covered subsidiary institutions consistent with the FDIC's existing guidelines. Similarly, the scope of the duties and responsibilities of the holding company's audit committee will include all such subsidiary institutions. Nothing in these amendments should be construed as providing any basis for weakening current guidelines relating to comparable services and functions for holding companies under section 36(i).

Notwithstanding the availability of the holding company option to larger institutions, the section provides that a Federal banking agency may require a subsidiary depository institution with assets greater than $9 billion to comply with the section 36 requirements, if the agency determines that allowing the exemption would cause significant risk to the deposit insurance system.

The availability of an exemption under section 314 does not alter or provide an exemption from any requirement of a publicly held bank holding company or publicly held savings and loan holding company (or publicly held institution that does not have Federal insurance) to file audited financial statements with the Securities and Exchange Commission under the Federal securities laws or the rules and regulations promulgated thereunder.

Finally, section 314 requires the FDIC to notify an institution in writing if the FDIC requires the institution to have its quarterly reports reviewed by an independent public accountant under section 36.

Section 315. State regulation of real estate appraisals

This section instructs the Federal Appraisal Subcommittee of the Federal Financial Institutions Examination Council to encourage the States to develop reciprocity agreements so that appraisers licensed or certified by one State may perform appraisals in other States. The amendment also provides that a State agency may not impose excessive fees or burdensome requirements on out-of-State appraisers engaged in temporary practice in a State.

Section 316. Acceleration of effective date for interaffiliate transactions

This provision accelerates the availability, for certain well-capitalized thrifts, of the so-called "sister bank" exemption for thrifts, which is not scheduled to become effective until January 1, 1995. Currently, under this exemption, transactions between banks that are 80% owned by the same company are exempt from otherwise applicable affiliate transaction restrictions. Under this provision, well-capitalized thrifts that are 80% owned by the same company would likewise be exempt from such affiliate transaction restrictions, subject to the cross-guaranty liability provisions of section 5(e)(6) of the Federal Deposit Insurance Act that would otherwise not be effective until August 9, 1994. This provision does not alter the availability of this exemption for all other thrifts which is scheduled to become effective on January 1, 1995.

Section 317. Collateralization of public deposits

Section 13(e) of the Federal Deposit Insurance Act permits the FDIC to disavow a collateral agreement unless the agreement is in writing, is approved by the bank's board of directors, was executed contemporaneously with the acquisition of the asset, and has been an official record of the institution.

A recent court decision, *North Arkansas Medical Center* v. *Barrett*, 962 F.2d 780 (8th Cir. 1992), raised concerns among various parties that are secured by collateral received from an insured depository institution because the court upheld the FDIC's authority to claim collateral which was not pledged in strict compliance with section 13(e). To address the concerns of secured parties, the FDIC issued a policy statement in March 1993 indicating that it would not seek to void a security interest solely because the security agreement did not comply with the contemporaneous execution requirement.

Section 317 provides that in cases involving deposits made by Federal, state or local government entities, the FDIC will not invalidate a collateralization agreement solely because the agreement was not executed contemporaneously with the acquisition of the collateral or because changes were made in the collateral in accordance with the agreement. This codifies the FDIC policy statement with regard to securities pledged for public deposits. The Conferees note that the provision is not intended to affect the validity of the FDIC's policy regarding the contemporaneous execution requirement as it relates to other types of agreements with insured depository institutions.

Section 318. Modification of regulatory provisions

This section amends section 39 of the Federal Deposit Insurance Act to give the banking agencies greater flexibility in implementing standards relating to asset quality, earnings, and stock valuation. Under current law, these standards must be implemented by regulation. When an agency determines that an institution has violated a standard, the agency must require the institution to submit a plan indicating how the institution will correct the deficiency. Section 318 permits the banking agencies to implement these standards by either regulation or guideline. When an agency implements these standards by guideline, the agency can decide whether or not to compel institutions that fail to meet the guideline to submit compliance plans. The agency does not have this discretion when it acts by regulation—the law requires the submission of a plan.

Further, section 318 eliminates the requirement that standards implemented pursuant to section 39 apply to depository institution holding companies. The Conferees intend these requirements to apply only to the depository institutions.

Section 319. Expedited procedures for forming a bank holding company

Section 319 replaces the formal application process currently required under section 3 of the Bank Holding Company Act with a simplified 30-day notice procedure in cases in which the owners of a bank seek to reorganize their ownership interests into a bank holding company structure. This new procedure is available only for reorganizations in which the shareholders of the bank will receive substantially the same proportional share interest in the holding company as they held in the bank (except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under state or Federal law); the bank will be adequately or well capitalized immediately following the reorganization; the bank holding company meets all of the capital and other financial standards (including debt requirements) prescribed by the Federal Reserve Board; and the holding company does not engage in any activities other than managing or controlling banks. This new notice procedure would not apply to cases in which the shareholders seek to acquire an additional bank or to engage in nonbanking activities as part of the reorganization.

Section 320. Exemption of certain holding company formations from registration under the Securities Act of 1933

Section 320 adds section 3(a)(12) to the Securities Act of 1933 to facilitate the establishment of holding company structures for banks and savings associations. This section provides an exemption from the registration requirements (but not the anti-fraud provisions) of the Securities Act for equity securities issued or exchanged in the context of a reorganization of a bank or savings association into a holding company structure.

The exemption generally requires that, as part of the reorganization, the security holders exchange their equity securities of the bank or savings association for equity securities of a newly formed holding company that will have no significant assets other than the securities of the bank or savings association and the existing subsidiaries of the bank or savings association; the security holders receive securities representing the same proportional interest in the holding company as they held in the bank or savings association before the transaction; the rights and interests of security holders in the holding company are substantially the same as those in the bank or savings association before the transaction; and, after the reorganization, the holding company has substantially the same assets and liabilities, on a consolidated basis, that the bank or savings association had before the transaction.

These conditions are intended to ensure that the exemption is available only where the transaction is for the sole purpose of the formation of a holding company. The exemption is not available for transactions which transfer corporate control or substantially alter the proportional interests of shareholders. These transactions would have to comply with the registration provisions of the Securities Act. Additionally, the exemption would not be available for a holding company formed in connection with the concurrent conversion from mutual to stock ownership.

A newly formed holding company would be subject to the registration requirements of section 5 of the Securities Act for any subsequent offerings of securities for which another exemption is not available. In this regard, the exemptions in section 3(a)(2) and 3(a)(5) of the Securities Act are inapplicable for securities issued by a holding company. The registration, reporting, and other requirements under the Securities Exchange Act of 1934 would be applicable if the holding company applies for listing on a national securities exchange or if it is required to register under section 12(g) of the Act.

Section 321. Reduction of post-approval waiting period for certain acquisitions and mergers

Section 321 reduces the 30-day post-approval waiting period for mergers involving depository institutions and for certain bank holding company acquisitions to a minimum of 15 days, provided the Attorney General concurs and has not adversely commented on the proposed merger prior to its approval.

Section 322. Bankers' banks

Under current law, national banks may purchase shares of an insured bank, or the holding company of an insured bank, that is entirely owned by insured depository institutions and is engaged in providing services for such institutions (commonly referred to as a bankers' bank). Through a bankers' bank, a group of banks (in particular, small banks) can provide services to themselves on a cost efficient basis that they might otherwise have to purchase from correspondent banks.

Section 322(a) authorizes national banks to invest in a bankers' bank in which depository institution holding companies are investors and permits bankers' banks to provide services to such holding companies and their officers, directors, and employees. Section 322(a) also permits bankers' banks to provide correspondent banking services at the request of other depository institutions or their holding companies. Corresponding changes are also made to national banking laws to permit the Comptroller to charter bankers' banks that provide these services.

Section 322(b) gives a Federal savings association the authority to invest in a bankers' bank on the same terms and conditions as a national bank.

Section 322(d) increases the Federal Reserve Act limit on the percentage of a member bank's, including a national bank's, capital and surplus that may be represented by loans secured by stocks. The current 10 percent limit is increased to 15 percent.

Section 323. Bank Service Corporation Act amendment

This section replaces the "prior approval" requirement for an investment in a bank service corporation with a "prior notice" requirement. The "Prior notice" standard of review has been applied in the past by the Federal banking agencies for other types of bank investments in subsidiaries and limited partnerships.

Section 324. Merger transaction reports

This section provides that a Federal banking agency does not have to file a report on the competitive implications of a merger if it notifies the banking agency with jurisdiction that such a report is not necessary because the merger does not raise competitiveness issues. This section does not eliminate the requirement for the filing of a competitive report by any appropriate Federal banking agency that finds that there are competitive issues implicated by a particular merger.

Section 325. Credit card accounts receivable sales

This section allows the FDIC to waive the right to repudiate, at a later date, an institution's sale of its credit card accounts receivable. The grant of a waiver is totally within the discretion of the FDIC.

Section 326. Limiting potential liability on foreign accounts

This section amends the Federal Reserve Act and the Federal Deposit Insurance Act to limit a domestic bank's liability for deposits in a foreign branch in cases of a sovereign action by that country or in cases of war, insurrection, or civil strife.

Section 327. GAO reports

Section 327 reduces the reporting burden on the General Accounting Office (GAO). The GAO is currently required to report quarterly on the FDIC's compliance with its statutory borrowing limits, whether or not the FDIC has borrowed any money from the Treasury. This section restricts the reporting requirements to those quarters for which the FDIC has outstanding debt owed to the Treasury, the Federal Financing Bank, or members of the Bank Insurance Fund.

Section 328. Study and report on capital standards and their impact on the economy

This section requires the Secretary of the Treasury, in consultation with the Federal banking agencies, to conduct a study of the effect of risk-based capital standards on both the safety and soundness of insured depository institutions, economic growth, and the availability of credit, particularly with respect to individuals and small business concerns. Section 328 requires the Secretary, within one year, to submit his findings and conclusions to Congress as well as any recommendations that are deemed appropriate.

Section 329. Studies on the impact of the payment of interest on reserves

Section 329 requires the Federal Reserve Board, in consultation with the FDIC and the NCUA, to report to Congress within six months on the monetary policy and banking implications of payment and nonpayment of interest on sterile reserves. Also within 6 months, the Office of Management and Budget and the Congressional Budget Office, in consultation with the Senate and House Budget Committees, must report on the budgetary impact of the payment of interest on sterile reserves to banks or to the deposit insurance funds.

Section 330. Study and report on the consumer credit system

This section requires the Secretary of the Treasury, in consultation with the Federal Reserve Board, the Administrator of the Small Business Administration, the Secretary of the Department of Housing and Urban Development, and the Federal banking agencies, to conduct a study of the process by which credit is made available to consumers and small businesses in order to identify procedures that reduce the amount of credit available, increase inconvenience and cost to consumers and business, or unnecessarily increase inconvenience costs and burdens on lenders. As part of the study, section 330 requires the Secretary to solicit comments from consumers, representatives of consumers, lenders and other interested parties. Within one year, the Secretary must submit a report to Congress containing any recommendations for administrative or statutory changes that are deemed appropriate.

Section 331. Clarification of provisions relating to administrative autonomy

Section 331 contains a number of provisions to clarify the degree of autonomy of the Office of the Comptroller of the Currency and the Office of Thrift Supervision as bureaus of the Treasury Department. The OCC and the OTS are responsible for supervising and regulating national banks and thrift institutions, which hold nearly two-thirds of the total assets in U.S. depository institutions, and must be impartial and accountable in carrying out their responsibilities. Section 331 provides for direct submission of testimony and other statements to Congress without prior review by any other agency; clarifies the status of the OCC chief counsel as an employee reporting solely to the Comptroller; and states that the Treasury Secretary will not intervene in any matter or proceeding before the OCC or the OTS, including enforcement proceedings, unless otherwise specifically provided by law.

With regard to rulemaking, section 331 provides that the Secretary shall not delay or prevent the issuance of regulations developed by the OTS or OCC. The Conferees do not intend to preclude the Treasury Department and the respective agencies from communicating during a rulemaking process regarding the Treasury Department's policy goals and objectives. However, regulations developed by the OCC and OTS shall no longer be subject to a Treasury Department review or clearance process that allows the Treasury to block, delay or rewrite any OCC or OTS proposed or final regulation that the Comptroller of the Currency or the Director of the OTS has determined to issue. The bill does not alter the Treasury Secretry's ability to express policy views to the Comptroller of the Currency and to the Director of the OTS.

Section 331 also provides the FDIC, the Federal Reserve Board and the OCC with the authority to conduct litigation through their own attorneys in enforcing the statutes governing the institutions that they oversee.

The provisions granting these agencies such independence are exceptions to the longstanding policy of the federal government that litigation in which the United States or an agency or officer thereof is a party should be conducted by the Attorney General (generally set forth in 28 U.S.C. §§515–519). The Conferees believe that this exceptional grant of authority is most appropriately exercised by the federal banking agencies where legal actions are central to their "core" function of regulating and supervising financial institutions. The Conferees expect these banking agencies to refer to the Department of Justice, or coordinate with the Department of Justice, any litigation involving matters with governmentwide implications, such as claims involving the Freedom of Information Act, the Privacy Act, and the Federal Tort Claims Act.

The Conferees intend to provide the Board of Governors of the Federal Reserve System with authority to litigate in its own name and through its own attorneys when it does so in its capacity as a bank regulator, not in it other primary role as the nation's monetary policy authority. The Board would, therefore, have independent litigating authority similar to that provided to the other federal bank regulators. The phrase "other entity" as used in the amendment is intended to cover individual and financial institutions, other than banks and bank holding companies, which are regulated by the Board, such as Edge Act corporations. In addition, the authority granted with respect to "the administration of its operations" should be construed to include only its internal regulatory operations, such as personnel and contract disputes, and not to include administrative matters unrelated to bank regulatory activities, such as Freedom of Information Act requests for monetary policy information.

Section 332. Exemption for business accounts

Section 332 defines the term "account" for purposes of the Truth in Savings Act as an account used by consumers primarily for personal, family, or household use. The Conferees intend this section to provide a business purpose exemption similar to that provided in the Truth in Lending Act. Under this provision, accounts of unincorporated businesses (i.e., generally, non-profit entities) are exempt from coverage under the Truth in Savings Act.

Section 333. Study on check related fraud

Section 333 requires the Federal Reserve Board to conduct a study regarding the advisability of extending to 2 business days the 1 business day period governing the availability of funds deposited by local checks under the Expedited Funds Availability Act. The Conferees intend the Board to determine whether there is a pattern of check related losses attributable to the 1 day period and whether extending the period to 2 days would significantly reduce these losses. The Conferees believe that there is a lack of reliable evidence indicating whether or not institutions are experiencing fraud losses as a result of the check schedule mandated by the Expedited Funds Availability Act. The Board is required to submit a report to Congress within 2 years of enactment containing its findings and any legislative recommendations.

Section 334. Insider lending

Section 334 amends the Federal Reserve Act to eliminate the requirement that prior approval of the board of directors be granted before an institution may make a loan to an executive officer that is secured by a first lien on the officer's residence. Such loans remain subject to the individual and aggregate lending limits established under section 22(h) of the Federal Reserve Act for loans to executive officers and directors.

Section 334 also enables the Federal Reserve Board, by regulation, to make exceptions from the lending restrictions placed on bank insiders for directors and officers of subsidiaries of a company that controls a bank if those persons do not have the authority to participate, and do not participate, in the policy making functions of the bank. However, the provisions under section 22(h)(2) that prohibit banks from making loans to insiders on preferential terms are not excepted with respect to bank loans to such directors and officers.

Under Regulation O, executive officers of nonbank subsidiaries of a bank holding company are not subject to certain insider lending restrictions provided the individual: (a) is excluded from participation in major policymaking functions of the member bank by resolutions of the boards of directors of both the subsidiary and the member bank and (b) does not actually participate in such major policy-making functions. It is not the intent of the Conferees to affect the exemptions that the Federal Reserve Board has already extended to executive officers, but rather to allow the Board the authority to provide appropriate treatment for directors.

Section 335. Revision of standards

Section 335 specifies that in considering revisions to the risk-based capital standards, each Federal banking agency shall ensure that the standards take into account the size and activities of the institutions and not cause undue reporting burdens.

Section 336. Alternative rules for radio advertising

Section 336 of Title III provides streamlined disclosures for radio advertising of consumer leases. This alternative enables radio advertisers to reduce the amount of information that must be disclosed in an advertisement under the Consumer Lease Act and instead permits additional information to be disseminated to consumers through the use of a toll-free telephone number referenced in an advertisement or through a print advertisement.

The Conference Agreement also requires the Federal Reserve Board to submit a report to Congress, within one year from the date of enactment, on the rules applicable to credit advertising, how these rules could be modified to increase consumer benefit and decrease creditor costs, and how these rules could be modified for radio advertisements without diminishing consumer protection.

The Federal Reserve Board has begun considering whether and how Regulation M, which implements the Consumer Lease Act, should be simplified and clarified to permit an alternative method for advertising disclosures. The Board should fully review the comments of all interested parties and consider promulgating a rule to streamline the disclosures for media other than radio, such as television or print. Television advertisements, for example, raise complex questions regarding the content prominence, and duration of disclosures necessary to simplify the process and to convey more meaningful information to consumers. These issues are properly considered in the context of a rulemaking proceeding where a detailed record will be generated prior to any action. Section 336 is not intended to interfere with the Board's authority to conduct such a rulemaking.

Section 337. Deposit broker registration

This provision clarifies that insured depository institutions that are well capitalized do not have to register as deposit brokers.

Section 338. Amendments to the Depository Institution Management Interlocks Act

This section amends section 206 of the Depository Institution Management Interlocks Act by extending for an additional 5 years the grandfathering authority for otherwise prohibited management interlocks, subject to certain restrictions. In particular, the Federal banking agencies are directed to review, on a case-by-case basis (within 6 months of the date of enactment of this Act), timely requests by management officials who wish to continue to serve in dual capacities pursuant to this grandfathering authority. In determining whether to permit a management official to continue to serve in a dual capacity, the agencies are directed to consider the circumstances under which the person has already served in such positions.

The Federal banking agencies are directed to approve a request for continuation of a previously grandfathered management interlock under this provision only if: (i) the management official has provided a resolution from the boards of directors of each affected institution or company certifying to each appropriate regulatory agency that there are no other candidates available to serve who possess the level of expertise necessary for such position, and (ii) the agency determines that continuation of service by the management official does not produce an anticompetitive effect.

The section also amends section 209 of the Interlocks Act to repeal the Federal banking agencies' current exemption authority and replace such authority with specific exemption criteria similar to, but more restrictive than, that applicable to the new grandfathering authority criteria outlined above. Notwithstanding this more restrictive exemption authority, the section includes a limited exception for management official consignment programs established by the Federal banking agencies.

To date, the Federal banking agencies, generally, have used their exemptive authority to assist depository institutions that are particularly in need of management guidance and expertise to operate in a safe and sound manner. The types of institutions that have received case-by-case exemptions under the agencies' previous exemptive authority include institutions that are: (i) located in low-income or economically depressed areas, (ii) owned by women or minorities, (iii) new institutions that are just getting organized, or (iv) troubled institutions that are in an unsafe or unsound condition.

The limited exception for management consignment programs established by the Federal banking agencies will ensure that the agencies may continue to grant case-by-case exemptions from the prohibitions in the Interlocks Act consistent with the objectives outlined above. Such exceptions may be granted for up to two years, with one additional two year extension at the option of the agency. Examples of exceptions permissible under an agency management official consignment program include improving the provision of credit to low- and moderate-income areas, increasing the competitive position of minority- and women-owned institutions, and strengthening he management of newly chartered institutions or institutions that are in an unsafe or unsound condition. The program would be periodically monitored by each agency's Inspector General to ensure it is not being used to evade the restrictions of the Interlocks Act.

Section 339. Adverse information about consumers

This section amends the Fair Credit Reporting Act to require a consumer reporting agency to make certain disclosures when it maintains any information that has resulted or may result in an "adverse characterization" of a consumer because of one or more checks written on the consumer's account. Specifically, the consumer reporting agency must disclose to the consumer the dates, original payees, and amount of any checks upon which any adverse characterization of a consumer is based. This provision is intended to address consumer complaints that some consumer reporting agencies have not provided them with the basic facts that led, for example, to an adverse characterization that resulted in the denial of a check at a store or the denial of an opportunity to open a deposit account. Without knowing the basic facts upon which the adverse characterization is based, a consumer cannot readily dispute an incorrect characterization.

Section 340. Simplified disclosures for existing depositors

This section establishes alternative customer notice procedures, in lieu of written customer acknowledgement, that a depository institution is not Federally insured and that customers may not get back their money if the institution fails. The Conferees believe that the alternative notice procedures are warranted for existing customers because many such customers do not visit the institution and thus cannot be asked to sign an acknowledgement in person, and some customers who receive mailed notices and requests do not respond. For existing depositors, institutions may either obtain a written acknowledgement or comply with the notification requirements specified in this section.

Section 341. Feasibility study of data bank

This section requires the Federal Financial Institutions Examination Council to complete a study of the feasibility of creating and maintaining a data bank for depository institution reports. The study must be completed within 18 months of enactment of this Act.

Section 342. Timely completion of CRA review

Section 342 requires the Federal banking agencies to complete their regulatory review of the Community Reinvestment Act at the earliest practicable time.

Section 343. Time limit on agency consideration of completed applications

This section requires each Federal banking agency to complete action on an application to that agency within one year of receipt of the completed application. The applicant may waive the applicability of this section at any time. This section is intended to apply prospectively only, and not to any application that was filed with any Federal banking agency prior to the date of enactment of this legislation.

Section 344. Waiver of the right of rescission for certain refinancing transactions

Section 344 mandates a study by the Federal Reserve Board regarding whether a waiver or modification of the right of rescission with respect to loan transactions involving a refinancing or consolidation of existing indebtedness by a different creditor would benefit consumers. The provision specifies that the Board must determine whether granting the consumer the option to waive or modify the right of rescission would benefit the consumer. In conducting the study, the Board is to consult with consumers, representatives of consumers, lenders, the Consumer Advisory Council, and other interested parties.

Section 345. Clarification of RESPA disclosure requirements

Section 345 allows creditors to comply with the disclosure requirement concerning assignment, transfer, or sale of mortgages under the Real Estate Settlement Procedures Act (RESPA) by providing a statement indicating that "the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans" rather than providing the more extensive disclosure currently required under RESPA.

Section 346. Notice procedures for bank holding companies to seek approval to engage in certain activities

Section 346 establishes a new notice procedure for bank holding companies seeking to engage directly or through a company in nonbanking activities permissible under section 4(c)(8) of the Bank Holding Company Act. This section replaces the current application procedure with a 60-day notice procedure, and permits proposals to be consummated immediately if approved by the Federal Reserve Board at an earlier time during this period. Section 346 also authorizes the Board to prescribe shorter notice periods by regulation for particular activities or transactions. This authority would permit the Board to shorten or waive any notice in cases, for example, involving the de novo conduct of routine nonbanking activities previously approved by regulation.

By substituting a notice procedure for the current application requirement, section 346 is intended both to simplify and expedite the approval process for nonbanking activities and to reduce the information burden associated with an application. Permitting the notice period to begin upon the filing of a "complete" notice permits the Board to obtain information needed to assess the statutory factors, but should not unduly extend the process. Moreover, this section limits the ability of the Board to extend the processing period beyond the initial notice period.

At the same time, section 346 preserves the Board's authority to obtain any information that it needs to assess fully the statutory factors raised by nonbanking proposals, and authorizes the Board to object to any proposed transaction or activity if the notificant neglects, fails, or refuses to provide all the information required by the Board. The Conferees intend that this section will not affect the continuing ability of all interested parties, including community groups and consumers, to provide comments on the notice. Section 4(c)(8) requires the Board to consider whether the activity will "produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects." Community groups and consumers may provide important information for the board to consider in making such an evaluation.

This section is not intended to alter the Board's authority to impose conditions on the conduct of nonbanking activities or to change the standards applied by the Board in reviewing proposed transactions or activities under section 4(c)(8).

Section 347. Commercial mortgage related securities

Section 347 amends the Secondary Mortgage Market Enhancement Act of 1984 (SMMEA) by adding commercial real estate to the definition of "mortgage related security" under the Exchange Act. Section 347 confers upon commercial mortgage related securities the benefits of SMMEA treatment and removes certain impediments to trading and investing in commercial real estate-mortgage-backed securities, including eased margin requirements under the federal securities laws and permission for depository institutions to purchase these securities under conditions established by their regulators. SMMEA's preemption of state legal investment and blue sky laws would also apply to commercial mortgage related securities. However, the states may override the legal investment preemption by enacting a statute specifically referring to this section within 7 years of the Act's enactment.

The Conferees note that Section 347 preserves the existing authority of the Federal bank regulators to regulate bank purchases of commercial mortgage related securities. As part of their responsibility to ensure the safety and soundness of insured depository institutions, the appropriate regulators may limit or restrict bank purchases of investment securities. This includes the authority to regulate insured depository institutions' purchases for their own accounts for mortgage related securities.

Section 347 extends the definition of mortgage related security to include certain loans secured by 'one or more parcels of real estate upon which is located one or more commercial structure.' The Conferees wish to make clear that this extended definition includes multi-family residential loans secured by more than one parcel of real estate upon which is located more than one structure.

Section 348. Clarifying amendment relating to data collection

Seciton 348 clarifies that compliance with section 7(a)(9) of the Federal Deposit Insurance Act by the FDIC requires the collection of actual and accurate information on the amount of insured, uninsured and preferred deposits at each insured depository institution. Estimates of this information are inadequate and represent noncompliance with this legal requirement. The FDIC is directed to begin immediate compliance with section 7(a)(9), which has been in effect since 1991. The FDIC is directed to minimize the regulatory burden on well capitalized institutions in connection with the reporting requirement; but in all cases, institutions are obligated to report actual and accurate information on their deposits, and not estimates.

Section 349. Guidelines for Examinations

Section 349 requires the FFIEC to issue guidelines establishing standards regarding the adequacy of examinations by State regulators for purposes of section 10(d) of the Federal Deposit Insurance Act. Under section 10(d), a Federal banking agency may conduct an annual on-site examination of an institution in alternate 12 month periods, if the agency determines that a state exam of that institution conducted during the intervening period is adequate. The standards developed by the FFICE are intended to be used solely at the discretion of the Federal banking agencies.

Section 350. Revising Regulatory Requirements for Transfers of All Types of Assets with Recourse

Section 350 addresses an anomalous provision of current bank capital rules that requires more capital to be held for some assets transferred with recourse than the amount at risk. This creates an unnecessary disincentive to sell such loans. This section requires all Federal banking agencies to review their regulations and policies with respect to transfers of assets with recourse, to consult with other Federal banking agencies, and to issue new regulations within 180 days of the bill's date of enactment. After the 180 day period, the amount of risk-based capital required to be held by an insured depository institution with respect to an asset transferred with recourse may not exceed the maximum amount for recourse for which the institution is liable unless a higher amount is determined to be necessary for that institution's safety and soundness. Regulations issued by the Federal banking agencies may permit institutions to hold less capital than the amount at risk in appropriate situations. This provision does not supersede the recourse provisions for small business loans and leases with recourse under section 208(b).

TITLE IV—MONEY LAUNDERING

BSA REPORTING REQUIREMENTS AND TREASURY'S EXEMPTION PROGRAM

Section 402 of the Conference Report requires the Secretary of the Treasury (Secretary) to seek to substantially reduce the number of currency transaction reports (CTRs) filed by depository institutions pursuant to the Bank Secrecy Act (BSA). This reduction in CTR filings will be accomplished by reforming the Department of the Treasury (Treasury) procedures for exempting transactions between depository institutions and their customers.

The Conferees believe that reducing routine filings is important because these reports are expensive for financial institutions to file and for the Treasury to process, and impede law enforcement by cluttering Treasury's CTR database. Currently Treasury's database contains more than 50 million CTRs, and the General Accounting Office (GAO) expects this number to reach 92 million by 1996. However, IRS officials estimate that CTR filings could be reduced by at least 30 percent by exempting routine transactions. This estimate is the basis for the Conference Report's requirement that the Secretary seek to reduce filings by 30 percent.

Treasury currently has exemption procedures in place which are designed to reduce routine filings, but even Treasury's Assistant Secretary for Enforcement has characterized the procedures as "cumbersome and difficult to understand." Two key factors have inhibited the widespread use of exemptions. First, Treasury provides only guidelines regarding customer exemptions. Banks that make wrong exemption determinations based on these guidelines can be severely penalized. Last year, two banks paid large penalties due to errors involving exemptions. The current system does not provide banks with strong incentives to exempt customers. One bank representative informed the House Banking Committee during a hearing that his institution once exempted more than 200 customers, but has since cut that list to only 17.

Second, many banks have purchased automated CTR filing systems. Under the current exemption procedures, these systems make it more cost effective to file a report on all transactions above $10,000 than to exempt a small number of customers.

The Conference Report establishes a two-tier system for reforming exemption procedures. Mandatory exemptions shall be designated by the Treasury and shall include transactions which a depository institution has with (1) another depository institution; (2) any U.S. government department or agency, any State, or any political subdivision of a State; (3) any entity established under Federal or State law that exercises governmental authority on behalf of the Federal or State government; or (4) any business or category of business where the CTRs have little or no value for law enforcement purposes. The Treasury is required to publish the mandatory exemption list at least annually in the Federal Register.

The discretionary exemption list shall include transactions between a depository institution and its qualified business customers. These customers must meet criteria which the Secretary determines are sufficient to ensure that the purposes of the BSA are carried out without requiring a report with respect to such transactions. A discretionary exemption shall be effective only after the depository institution submits a list of its customers to the Treasury and the Secretary approves the application of the exemption to such customer. Depository institutions must annually review their lists of customers and resubmit the lists for the Secretary's approval. The Secretary is authorized to phase in the discretionary exemption process over two years.

The Conference Report also addresses the issue of banks' liability relating to exemptions. Depository institutions that have been granted either a mandatory or discretionary exemption will receive a limited safe harbor from the penalty provisions for failing to file a CTR.

Implementing these provisions will make the CTR data base more manageable and meaningful and will reduce the reporting burden on depository institutions. Depository institutions, however, will continue to be responsible for reporting on suspicious activities where routine CTRs are no longer filed.

Finally, the Conference Report directs the Secretary to redesign the format of the CTRs to eliminate the need to report information which has little or no law enforcement purposes and to reduce the reporting burden on financial institutions. The American Bankers Association testified during a Senate Banking Committee hearing that:

> In 1993, the industry filed about 10.1 million currency reports. The time for completing one of these reports runs anywhere from 20 to 30 minutes. Based on those parameters, financial institutions believe that it costs anywhere from $3, which is the number we accept, to as high as $15, depending on whether or not the filing is manual or done by magnetic media.

As mentioned above, there is also a cost associated with processing the report once it arrives at Treasury. The Conferees intend that the redesigned format will be less costly to complete and process.

REPORTING OF SUSPICIOUS TRANSACTIONS

Reporting suspicious currency transactions is a key ingredient in the anti-money laundering effort. Permitting depository institutions to exempt certain customers from reporting requirements, as provided by section 402 of the Conference Report, makes it even more critical that depository institutions know their customers and report suspicions of money laundering activity. One way for a financial institution to do this is to check the box marked "suspicious transaction" on the CTR form (these are referred to as "Suspicious CTRs"). Section 403 of the Conference Report is intended to help law enforcement make more effective use of these reports by establishing a central collection point for them. Such a collection point is meant to improve coordination among law enforcement agencies and the agencies accountable for following up on each legitimate report. The Conference Report also requires a report on the disposition of Suspicious CTRs in order to give the Congress an idea of how law enforcement uses these reports.

The Conferees believe that Treasury has not capitalized on the potential of suspicious transaction reporting. Reporting suspicious transactions is not a requirement under Treasury's regulations. Instead, it is covered in Administrative Ruling 88-1 dated June 22, 1988:

> Treasury *encourages* all financial institutions to be aware of the possibility that their institutions may be misused by those who intentionally structure transactions to evade the reporting requirement or engage in transactions that may involve illegal activity. (emphasis added)

The Conferees have found that the use of central collection for Suspicious CTRs would also be helpful to filers. Currently, many financial institutions are asked to file the same report with several different law enforcement agencies. The institutions may also be asked to communicate the information by telephone.

The Conferees understand that there is some overlap between the use of Suspicious CTRs and of Criminal Referral Forms (CRF), which are employed to report many types of suspected criminal activity at depository institutions. The GAO addressed this issue in response to a question during a House Banking Committee hearing:

> . . . there appears to be considerable duplication in the system that could lead to a great deal of confusion . . . [B]lanks can report suspected money laundering of currency violations either with a Form 4789 (CTR) with the 'suspicious transactions' block checked, through a Criminal Referral Form, or both. It is our understanding that a third form is also being used for banks in the western part of the United States. Finally, some banks are simply reporting their suspicions on the phone to the local IRS office. Use of a single form would not only reduce the duplication and confusion, but could also lead to a better system of controls to ensure that the information is acted on.

The Conferees concur with GAO's recommendation that to the extent practicable consistent with effective law enforcement, a single form be established for bank and nonbank financial institutions. Furthermore, if such a form is created, the Conferees believe that a single collection point, similar to the one mandated by this legislation for Suspicious CTRs, be established to improve coordination among the law enforcement agencies. The Conferees urge all law enforcement agencies to enhance their cooperation in areas of overlapping jurisdiction.

IDENTIFYING MONEY LAUNDERING SCHEMES DURING BANK EXAMINATIONS

Presently, bank examiners' anti-money laundering efforts are primarily directed toward assuring compliance with BSA reporting and recordkeeping requirements, although regulators also are required to make a criminal referral when an examiner discovers evidence of criminal behavior. The Conference Report directs the Federal banking agencies to enhance their training and examination procedures to improve the identification of money laundering schemes.

The Conferees note that the Federal Reserve has already begun field testing procedures which direct examiners to look for money laundering activities in a bank. For example, under these procedures, the examiner is to take a sample of individual or multiple cash transactions of less than $10,000, and look for evidence of structured transactions, evidence of "concentration accounts" (accounts which have frequent cash deposits aggregating less than $10,000 on any business day, and relatively few transfers of large amounts out of the accounts, by check or wire), customers with frequent cash transactions of less than $10,000 who have not provided tax identification numbers, and customers with frequent cash transactions who have provided either a foreign address or post office box or have requested that the bank hold monthly statements.

In order to improve their methods of identifying money laundering schemes, bank examiners will need up-to-date information on common money laundering techniques. For this reason, the Conference Report requires law enforcement to regularly provide the Federal banking agencies with such information. The Conferees intend law enforcement agencies to share as much useful information as possible, consistent with their clear responsibility to protect information about open cases.

The intent of this section is to make sure that examiners are using the most effective means, through the examination process, to identify and report on money laundering. The section is not intended to make examiners into criminal investigators. Its purpose is to focus supervisory efforts on identifying money laundering schemes, rather than ensuring that institutions are filling out forms correctly.

NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS

Currently, the BSA requires a person who transports currency or monetary instruments of greater than $10,000 into or out of the United States to complete a Report of International Transportation of Currency or Monetary Instruments (CMIR). "Monetary instruments" is a term defined by statute to include negotiable instruments (such as checks, drafts, notes, and money orders) in bearer form. Section 405 of the Conference Report expands the definition of monetary instruments for the purpose of requiring CMIRs to include checks, drafts, notes, money orders, and similar instruments which are drawn on a foreign financial institution, regardless of whether or not the instruments are in bearer form.

The Conferees' concern about these instruments stems from reports by Treasury that they are frequently used in money laundering schemes. At a House Banking Committee hearing in July 1993, the Director of the Financial Crimes Enforcement Network (FinCEN) specifically identified foreign bank drafts as a money laundering tool. These drafts are U.S. dollar-denominated checks drawn by the foreign bank on its own account at a U.S. bank and sold to customers like cashier's checks. FinCEN has determined that a common money laundering technique is to smuggle currency across the U.S. border and present it to a bank in a foreign country which does not have currency reporting requirements. The cash then can be exchanged at the bank for a bank draft. Since no report is currently required when the bank draft is brought into the U.S. money launderers can successfully repatriate their wealth without detection.

Based on this information, FinCEN's Director recommended at the July 1993 hearing that reporting requirements be imposed on certain non-bearer foreign drawn instruments. Assistant Secretary of the Treasury Ronald Noble reaffirmed this position at a House Subcommittee on Financial Institutions hearing in October 1993. The Customs Service, which would be responsible for monitoring compliance with this requirement, also agrees. In response to a letter from Chairman Gonzalez, Customs stated that it sought legislation which would "define foreign issued bank drafts drawn on U.S. accounts as reportable monetary instruments regardless of whether they are in bearer form or not. These bank drafts would be subject to filing under CMIR provisions."

It is the Conferees' intent that the Secretary avoid unnecessary burdens on routine financial transactions of foreign financial institutions. Specifically, the Conferees intend that an exemption should be prescribed with regard to CMIRs when the monetary instruments cross the border as part of the interbank collection and reconciliation process. The Conferees also believe that Treasury, in adopting regulations under this section, should consider whether a foreign country is participating in the Financial Action Task Force (FATF), has implemented the FATF's recommendations for combatting money laundering, and has appropriate currency record-keeping or reporting requirements.

IMPOSITION OF CIVIL PENALTIES UNDER THE BSA

The failure to file reports required by the BSA can result in criminal and civil penalties, depending on the nature of the violation. Criminal investigations are the responsibility of IRS's Criminal Investigation Division. Civil penalties are assessed by the Department of the Treasury's Office of Financial Enforcement (OFE). Civil penalties can range from $500 for negligent violations and from $25,000 to $100,000 per willful violation.

OFE currently receives civil penalty referrals from Federal banking agencies, the IRS, financial institutions and others. OFE sends each referral to IRS's Criminal Investigative Division to determine whether it should be handled as a criminal investigation or whether such an investigation is already underway. Once OFE receives clearances from IRS to pursue a civil penalty case, the referral is categorized as formal and assigned to a BSA specialist for processing. The Assistant Secretary for Enforcement makes the final decision to assess a penalty.

In the past, OFE did not process BSA civil penalty cases in a timely manner. In some instances, OFE was so slow that cases had to be closed because the statute of limitations expired. From 1985–1991, case processing times averaged 21 months, according to the GAO. While OFE's record has improved substantially in the last few years, the Conferees believe that it would be more efficient to allow the Federal banking agencies to impose civil penalties directly.

Section 406 of the Conference Report requires the Secretary to delegate any authority to assess a civil money penalty on depository institutions under the BSA to the appropriate Federal banking agencies, subject to any term or condition imposed by the Secretary. Because these agencies already examine depository institutions for BSA compliance, the authority to impose penalties flows naturally from their current responsibilities. Furthermore, the Federal banking agencies currently have penalty authority and experience under other banking laws. OFE would still be able to oversee the process and ensure that penalties are consistently imposed. OFE would also continue to promulgate the regulations under which any penalties would be imposed.

The Assistant Secretary of the Treasury for Enforcement testified before the House Subcommittee on Financial Institutions that "serious consideration should be given to delegation of penalty assessment not only to the Federal banking agencies, but also to IRS for the non-bank financial institutions and to Customs for CMIR violators." The Conferees fully support any additional delegations of civil penalty enforcement authority if appropriate for Treasury to do so, and if the result is a more efficient system.

MONEY TRANSMITTERS

Sections 407 and 408 of the Conference Report address the issue of money laundering at money transmitters. Money transmitters are businesses other than depository institutions that provide check cashing, currency exchange, money transmitting or remittance services, or issue or redeemed money orders, travelers' checks, or other similar instruments. The Conferees believe that such businesses are particularly vulnerable to money laundering schemes because their level of BSA compliance is generally lower. At a hearing before the House Subcommittee on Financial Institutions, the Assistant Secretary of the Treasury for Enforcement echoed this view:

It is indisputable that as banks have become more active in preventing and detection of money laundering, money launderers have turned in droves to the financial services offered by a variety of [money transmitters].

The IRS' Examination Division is responsible for identifying money transmitters, educating them about the reporting requirements, and conducting compliance checks to assess and enforce compliance with the BSA. However, there are simply not enough IRS agents to supervise and identify the tens of thousands of money transmitters nationwide.

Section 407 of the Conference Report expresses the sense of the Congress that states should develop and adopt uniform laws to license and regulate money transmitting businesses. The Conferees intend for these laws to cover only money transmitting businesses outside of the regulated financial sector. Therefore, section 407 is not meant to cover persons or entities registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

Licensing and regulation of money transmitters have proven to be effective anti-money laundering weapons in some states. For example, during the House Banking Committee's July 1993 field hearing in San Antonio, Texas, the Texas Attorney General testified that his state's enactment of a licensing requirement on currency exchanges had significantly curtailed those businesses' money laundering activity. In fact many of the currency exchanges, known as casas de cambio along the border, simply went out of business in order to avoid the scrutiny of the licensing process. In testimony before the Committee, the Assistant Secretary of the Treasury expressed full agreement with Congress' recommendation to the states:

State licensing and regulation [of money transmitters] is essential to insure that these businesses are run to offer legitimate financial services and that they not be purchased or exploited for illegal purposes.

The House version of the Money Laundering Suppression Act of 1994 (H.R. 3235) included a provision reflecting Congress' sense that the model statute should require an appropriate State agency to review and approve the fee structure of institutions covered by the statute before granting those institutions a license. The Senate amendment did not include any reference to the fees charged by these businesses. The Conference Report replaces the House language with a provision reflecting Congress' sense that the model statute should require the businesses covered by the Statute to display their fee structure at each business location and to disclose the fee structure to an appropriate state agency.

Section 408 of the Conference Report requires the operators of money transmitting businesses to register with the Secretary. This provision was strongly supported by the Department of the Treasury in testimony before the Senate Banking Committee. The Conferees intend for the registration requirement to apply only to money transmitting businesses outside of the regulated financial sector. Therefore, section 408 does not require the registration of persons or entities registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

The purpose of the registration requirements is to promote effective law enforcement by the Secretary and to encourage business cooperation in that effort. The Conferees also intend that the registration requirement be used as a way to educate money transmitters about their responsibilities under the BSA. To this end, the Conferees strongly urge the Secretary to include information on SBA compliance as well as the civil and criminal penalties for violating BSA requirements in the registration packets sent to money transmitters. The registration process should include an acknowledgement by the owner of the business that he or she has read and understands the information.

The Conference Report also contains a provision authorizing the Secretary to prescribe regulations that would require money transmitting businesses to maintain lists containing the names and addresses of their agents and make those lists available to appropriate law enforcement agencies.

Section 408 contains both civil and criminal penalties for violating the registration requirement. Both the House and Senate versions of the Money Laundering Suppression Act had also contained a civil forfeiture provision. The Conferees deleted the civil forfeiture provision so that the Attorney General may complete a comprehensive review of civil forfeiture policy.

The Conferees recognize that the contents of both the registration of a money transmitting business and the agent list maintained by the business will include privileged and confidential trade secrets, commercial, and financial information. To assist the Secretary in the enforcement of laws, yet not harm the competitive position of registrants by exposing the registration and list information to competitors, the Conferees intend that confidential proprietary, or trade secret information provided by registrants under section 408 shall only be disclosed subject to applicable law.

The Conferees also recognize that some of the data to be contained in the registrations will have legitimate uses outside of law enforcement. It is the Conferees' intent that the Secretary make such information available to the public in a manner which balances the need to protect confidential business information and the need of the public to have access to information about the businesses which serve it. Accordingly, the Conferees expect the Secretary to make such information available to the public in as much detail as possible without revealing confidential information.

The Conference Report also authorizes the Secretary to prescribe regulations establishing a threshold beyond which agents are treated as "money transmitting businesses" for purposes of applying the registration requirements to such agents. The intent of the Conferees is to eliminate the need for all agents of money transmitting businesses to register with the Secretary. Such massive registration of thousands of agents would only create another needless and costly administrative burden. This legislation is designed to reduce unnecessary paperwork, not create additional administrative burdens for law enforcement.

INDIAN CASINOS

The House version of the Money Laundering Suppression Act of 1994 expanded the definition of a financial institution subject to BSA reporting requirements to include casinos or gaming establishments with an annual gaming revenue of more than $1,000,000 which (1) are licensed as a casino or gaming establishment under the laws of any State or any political subdivision of any State; or (2) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act, other than an operation which is limited to class I gaming. The Conferees adopted this provision.

The Conferees believe this expansion of the definition of financial institution is necessary to eliminate confusion about which currency reporting system applies to Indian casinos. The confusion originated in 1988, when Congress enacted the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. This Act governs gaming operations conducted on Indian lands. Section 20(d)(1) of the Act provides that certain provisions of the Internal Revenue Code, including section 6050I, shall apply to Indian gaming operations. As a result of the Act, Indian casinos are presently subject only to the limited currency reporting requirements under Section 6050I. In comparison, the BSA mandates a comprehensive currency reporting and detailed recordkeeping system with numerous anti-money laundering safeguards.

IRS recommended that Congress adopt a statutory amendment to the BSA to specify that Indian Gaming operations are subject to that law's requirements. IRS stated that the comprehensive nature of the BSA would provide additional safeguards to the tribes, while providing law enforcement the paper trail necessary to conduct financial investigations.

BSA EXEMPTIONS FOR STATES

The BSA provides the Secretary with authority to "prescribe an appropriate exemption" from its requirements (31 U.S.C. 5318(a)(5)). In 1985, when Treasury established regulations for casinos to comply with the BSA requirements, the Secretary used this authority to grant an exemption to casinos supervised by Nevada's Gaming Control Board (GCB). This agreement was partly based on the GCB's pledge to establish reporting and recordkeeping requirements similar to those found in the BSA. Other state agencies have reportedly expressed interest in a similar exemption.

The House version of the Money Laundering Suppression Act of 1994 contained a section which would have revoked all exemptions granted to a State or political subdivision of a State on behalf of any financial institution that would otherwise be subject to the BSA. Furthermore, the House version would have prohibited the granting of this type of exemption in the future. The Conferees agreed to delete the House language and replace it with a section that explicitly permits the Secretary to exempt classes of transactions within a State if the Secretary determines that those transactions are subject to State requirements that are substantially similar to BSA requirements, and that there is adequate provision for enforcement of such requirements. This provision does not limit Treasury's broad authority under 5318(a)(5) to grant exemptions to BSA requirements or repeal any existing exemption under that section. However, the Conferees do not expect the Secretary to grant an exemption to a class of transactions within a State if that State's requirements are not substantially similar to those of the BSA.

CRIMINAL AND CIVIL PENALTY FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS

Section 410 of the Conference Report was adopted in order to correct the recent Supreme Court holding in *Ratzlaf* v. *U.S.*, U.S. Supreme Court No. 92-1196 (January 11, 1994). That case held that the government must prove not only that the defendant acted with the purpose of evading a financial institution's reporting requirement under 31 U.S.C. 5324, but also that the defendant knew his or her conduct to be unlawful. The legislation amends 31 U.S.C. 5324 by adding a criminal penalty and excepting section 5324 from the current criminal penalty provision found in section 5322 of title 31. Thus, a defendant is subject to the criminal penalty if he or she engaged in the actions described in section 5324 for the purpose of the evading the reporting requirement of section 5313(a), 5316, or 5325 of title 31 or the regulations prescribed thereunder. This section restores the clear Congressional intent that a defendant need only have the intent to evade the reporting requirement as the sufficient reason for the offense. The prosecution would need to prove that there was an intent to evade the reporting requirement, but would not need to prove that the defendant knew that structuring was illegal. However, a person who innocently or inadvertently structures or otherwise violates section 5324 would not be criminally liable.

The civil penalty provisions of section 5321(a)(4)(A) of title 31 are similarly amended so that civil penalties could be imposed on persons who structure transactions with an intent to evade reporting requirements, without a showing that such person knew such structuring was unlawful.

CASHIER'S CHECKS

The BSA currently does not require any reporting or recordkeeping requirements for cashier's checks unless the checks are purchased with currency. However, the Conferees believe that these checks can be a very useful tool in a money laundering scheme. For example, after a launderer smurfs (i.e., structures his deposits in amounts less than $10,000) his currency into a bank account, he or she can ask the bank to issue a cashier's check for the amount in the account. Since the cashier's check is actually drawn on the bank's account, it will be difficult for an investigator to make a connection between the cashier's check and the withdrawal from the launderer's account.

The Conference Report requires the Comptroller General to study the extent to which cashier's checks are vulnerable to money laundering schemes and the extent to which additional recordkeeping requirements should be imposed on financial institutions that issue cashier's checks. The Conferees intend for the GAO to specifically address the issue of whether it would be useful to require banks to make copies of cashier's checks retrievable by customer name or account rather than just chronologically as is generally the practice. The Conferees also intend that GAO determine whether the recordkeeping requirements scheduled to be imposed on wire transfers may also be applicable for cashier's checks. Both wire transfers and cashier's checks can be used to disguise the illegitimate source of the money.

TITLE V—FLOOD INSURANCE

The conferees believe this legislation contains important reforms to improve the financial condition of the National Flood Insurance Program (NFIP). First, this legislation will improve compliance with the mandatory purchase requirements of the NFIP by lenders and secondary market purchasers. Improved program compliance will increase participation nationwide by those individuals who have mortgaged homes or businesses in special flood hazard areas but have not purchased or maintained flood insurance coverage. Increasing compliance and participation in the NFIP will provide added income to the insurance fund and decrease the financial impact of flooding to the federal government, to taxpayers, and to citizens who are victims of floods.

Next, this legislation creates a new supplementary mitigation insurance program intended to reduce the number of properties in the program that do not comply with current flood protection standards. This will protect the NFIP by reducing claims over time. This expanded coverage will be used to rebuild repetitive and substantial loss properties up to current building code standards. This will mean less risk to the fund because the structure will be built up to a building code designed to provide less risk of future flood damage. In addition, the policy holder who rebuilds up to code will be required to pay actuarial premiums to the flood insurance fund.

Also, this legislation codifies the current Community Rating System Program (CRS) administered by FEMA. The CRS program provides incentives, in the form of reduced premiums, to communities who voluntarily adopt and enforce measures that reduce the risk of flood damage that exceed the current program criteria. If a community has utilized grants from the new mitigation assistance grant program, then reductions in premiums to the community will be phased in as those grants are repaid to the mitigation grant program.

This legislation creates mitigation assistance grants to states and communities. These grants will be used for a wide variety of eligible mitigation activities in order to reduce the risk of flooding and therefore to reduce exposure to flood damage of insured structures. Mitigation projects must be cost-beneficial.

This legislation also requires a study on the economic impact of mapping erosion hazard areas: on the value of residential and commercial properties, on changes in community tax revenues, on employment, and existing and future economic development. Other areas to be studied include: the economic impact of identified erosion hazard areas with regard to the denial of flood insurance; the establishment of actuarial rates in erosion hazard areas; determining the costs and benefits of mapping erosion hazard areas; the economic effect of previous and current denials of flood insurance; the economic impact of state and community activities undertaken to reduce flood-related damage; and determining the amount of flood insurance claims that are attributable to erosion.

SUBTITLE B—COMPLIANCE AND INCREASED PARTICIPATION

The compliance provisions of Subtitle B are intended by the Conferees to ensure that those who should have flood insurance, pursuant to the mandatory purchase requirements of existing law, obtain it and maintain it. Increasing compliance and participation in the NFIP will provide added income to the insurance fund and decrease the financial impact of flooding to the federal government, and to citizens who are victims of floods.

Section 521. Nonwaiver of flood purchase requirements of recipients of Federal disaster assistance

The Conference Committee is concerned that federal agencies have not fully implemented the mandatory purchase requirement in the wake of flooding disasters. In some instances, federal agencies providing relief in the wake of natural disasters have waived the requirement that uninsured recipients purchase flood insurance as a condition for obtaining disaster assistance to repair or rebuild structures damaged by flooding. Some recipients of federal disaster assistance continue to remain uninsured, thereby increasing the chances they will need federal disaster assistance, yet again, in the future. It is the Committee's intent that the purchase requirement not be waived for any purpose. Disaster assistance for temporary housing and for purposes other than repairing or rebuilding structures are not affected by this provision.

Section 522. Expanded flood insurance purchase requirements

The Committee intends that compliance with the mandatory purchase requirement will be the responsibility of the primary lender and the secondary market purchaser, if any (the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association).

The 1973 Act provides that flood insurance must be secured at the time of origination, extension or renewal of a loan secured by improved real estate or a mobile home in a special flood hazard area that is made by a federal agency or by a federally-regulated, -supervised or -insured financial institution. This section clarifies the law to specify that flood insurance is required for the life of the loan so long as the underlying collateral is designated or determined to be in a special flood hazard area. If a flood map revision determines that a property is no longer in a special flood hazard area, flood insurance is no longer required. It is the Committee's view that flood insurance is required under existing law if a re-mapping or review of the flood designation subsequent to loan origination, extension, or renewal results in the underlying collateral being designated as located within a special flood hazard area. Although disputed by some local officials, the Committee further believes that current law requires lenders to maintain coverage for the term of the loan. This section establishes a mortgagor's or mortgage servicer's obligation to require the purchase of flood insurance at origination, or at any time thereafter during the life of the loan when the institution determines that the improved property or mobile home is located in an area having special flood hazards.

For regulated lending institutions, which includes any bank, savings and loan association, credit union, or similar institution supervised, regulated or insured by a federal entity for lending regulation, the Committee expects the Federal Deposit Insurance Corporation, the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration, as appropriate, to develop regulations which direct regulated institutions not to make, increase, extend, or renew any loan on a structure located in a special flood hazard area unless flood insurance is purchased and maintained for the term of the loan. Refinancing an existing loan should be considered as the making of a new loan for purposes of the mandatory flood insurance purchase requirements.

Federal agency lenders, which include any federal agency that makes direct loans secured by improved real estate, must issue similar regulations.

It is the view of the Conference Committee that the making, increasing, extending or renewing of a loan serves as a "tripwire" of sorts for compliance with the flood insurance purchase requirements. In the modern mortgage marketplace, this approach makes the compliance by lenders increasingly more likely, as borrowers obtain new loans on existing structures, for example, or refinance existing loans. At each designated "tripwire" in the mortgage process, it is the Committee's intent that the lender ensure that flood insurance is purchased and maintained, where required.

The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are required to implement procedures reasonably designed to ensure that loans required to have flood insurance at the time of origination or at any time during the time of the mortgage are covered by flood insurance for the term of the loan.

This section provides an exemption from the mandatory purchase requirements for any small loan that is made for $5,000 or less with a repayment term of one year or less.

Section 523. Escrow of flood insurance payments

Section 523 requires the escrowing of flood insurance premiums if the private lender, federal agency lender, or other servicer of a mortgage is required to maintain an escrow account for the loan for any other purpose. The Committee is mindful that a major reason for the lack of compliance with the NFIP is that many homeowners, believing they will not be flooded, simply stop paying premiums on their flood insurance policies. Requiring lenders to escrow for flood insurance premiums will significantly improve participation in the NFIP. At the same time, the Conference Committee decided to limit this escrow requirement to instances where a lender establishes an escrow account for a loan for another purpose. Consequently, if a lender terminates an escrow account for a loan, the lender is no longer required to escrow flood insurance premiums. This policy will balance the need to increase participation with the Conference Committee's desire not to establish significant new burdens on lenders and borrowers.

Section 524. Placement of flood insurance by lenders

Section 524 requires lenders and servicers to force-place insurance which has not been purchased by a borrower who is required by law to purchase such insurance. If a lender or servicer determines that insurance must be purchased, the borrower must be notified accordingly. If the borrower fails to purchase insurance within 45 days, the lender shall do so on behalf of the borrower. This provision is intended to ensure that properties in special flood hazard areas are covered by flood insurance, regardless of whether the area in which the property is located is designated by the Director of FEMA as a special flood hazard area before or after the mortgage is originated. The most common and practical situation in which this will occur is when a community or area is re-mapped by FEMA, with the consequences that properties which were not located in a special flood hazard area at the time the mortgage was made are later identified, as a result of re-mapping, to be in a special flood hazard area.

This requirement, which is effective for all loans outstanding on or after the date of enactment of the legislation, recognizes existing servicers as one of several components in a renewed effort to ensure compliance with purchase and maintenance of federal flood insurance. The Committee has found that while some lenders purchase flood insurance at the time of loan origination, this authority has been used sparingly because of concerns raised by lenders about its validity.

It is the Committee's further understanding that there are questions with regard to whether lending institutions have the authority to force-place under the Flood Disaster Protection Act of 1973 as it existed prior to the adoption of this Act. Congress intended lenders to have such authority under 1973 Act. That earlier Act was founded on the understanding that the Director of FEMA would engage in continual re-mapping as flood hazards were identified. Because the effectiveness of federal flood insurance was and is dependent upon the authority of lenders to require borrowers to obtain necessary flood insurance, the coverage of the borrower and the borrower's property from flood perils is just as important whether the flood zone is identified before or after the borrower has obtained a mortgage on the property.

Therefore, this provision reinforces the authority of lenders and servicers to require a borrower whose improved property is in a special flood hazard area to obtain insurance at the borrower's expense at any time during the loan, regardless of when the property is determined to be in a special flood hazard area. This legislation makes it clear that the institution may procure such insurance at the borrower's expense if the borrower fails to obtain insurance after due notice. The term "servicer" is broadly defined and is derived from the Real Estate Settlement Procedures Act (RESPA), and is intended to grant authority to those institutions that are covered by the RESPA definition.

It is the intention of the Conference Committee that the length of time specified in a letter from the Director resolving a contested determination reflect the likelihood that the area in question will be scheduled for imminent re-mapping. Thus, the effective duration of a letter pertaining to an area that has recently been re-mapped will be substantially longer than for one which pertains to an area that is scheduled to be re-mapped in the near future.

It is the further intention of the Conference Committee that the period under which the Director is required to reply to a contested determination applies only to those requests that are made in connection with the origination of a loan and not a re-mapping or map revisions.

Section 525. Penalties for failure to require flood insurance or notify

The penalty provided in this section for a pattern or practice of noncompliance with flood insurance purchase or notification requirements is $350 per loan, up to $100,000 annually for any single federally regulated or insured lending institution, or GSE.

Penalties may be assessed by the appropriate federal entity for lending regulation, in the case of regulated lending institutions or by the Director of the Office of Federal Housing Enterprise Oversight with respect to GSE's. Penalties should not be assessed unless a pattern or practice of noncompliance is found by the regulator.

To remedy patterns of noncompliance, the federal entities for lending regulation, in the case of regulated lending institutions, have broad authority to take such remedial actions as are necessary if an institution has engaged in a pattern or practice of noncompliance or has not demonstrated measurable improvement in compliance following assessment of civil money penalties.

Penalties assessed under this section will be deposited in the Mitigation Fund created by the Act.

Section 527. Notice requirements

Section 527's notice requirements are intended to increase compliance with flood insurance purchase requirements. One of the reasons for the low rate of compliance may be that parties to the mortgage process—including borrowers, lenders, lessees, servicers, and purchasers—often are not sufficiently aware that a property that is security for a mortgage is in a special flood hazard area. Section 627 establishes notice requirements that are intended to insure that relevant parties are aware of their responsibilities concerning obtaining and maintaining flood insurance.

Section 528. Standard hazard determination forms

The Conferees recognize and intend that the guarantees for third party information in this provision are adequate to protect the interests of the borrower and to ensure the quality of the information provided by the third party. Since the lender is relying on the guarantee in order to ensure compliance with the mandatory flood insurance purchase requirements, lenders have ample incentives to ensure that the guarantees are adequate to protect the lender.

SUBTITLE C—RATINGS AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT PROGRAMS

Section 541. Community Rating System and Incentives For Community Floodplain Management

The Conferees further intend that the Director will phase in the recovery of grants for mitigation activities so as to encourage, and not discourage, the early implementation of mitigation consistent with the need to maintain the strong financial condition of the Fund.

SUBTITLE D—MITIGATION OF FLOOD AND EROSION RISKS

Section 553. State and community mitigation assistance

The Committee intends that the FIA will make states and communities aware of the mitigation grant program and provide education and encouragement for them to participate in the program.

Eligible mitigation activities described in the Act are not intended to be an exhaustive list. The Director of FEMA should be flexible in funding various activities and take into consideration regional differences, specific flooding problems confronting a community, and the past history of flood events.

However, in order to be eligible for mitigation assistance, activities must be technically feasible and cost-beneficial. In order to ensure that the limited resources for mitigation activities are used in a manner that maximizes the benefits to the Fund, the Director must fund those activities that are cost-beneficial to the Fund.

Activities that may be worthy of funding include minor physical mitigation efforts which do not duplicate the flood prevention activities of other federal agencies and which will lessen the frequency or severity of flooding and decrease predicted flood damages. Minor physical changes can reduce flooding, and losses, for whole groups of homes, and even whole neighborhoods. In many cases it may be far more cost-effective for the Mitigation Fund to pay for minor physical changes which will protect a group of homes or a neighborhood, than to pay to move or elevate each and every home in that area. Examples of such minor physical mitigation efforts would include: flood-proofing sewers; grading to direct flood waters away from homes; and installing or improving of flood gates, retention ponds, drain pipes, and pumping stations. Specifically excluded from the list of eligible mitigation activities are major flood control activities funded by other agencies like constructing dikes, levees, seawalls, groins and jetties unless they are deemed to be among the most cost-effective means of reducing risk to the Fund.

The Committee intends that the activities of the Flooded Property Purchased and Loan Program (Section 1362 of the National Flood Insurance Act of 1968) a program which is abolished under this Act, should continue to be funded through mitigation assistance grants which this section creates.

The Conferees believe that the effectiveness of the current Section 1362 program has been impeded by the Director's inability, in connection with pending buyouts, to provide communities with a list of policyholders within 30 days of a request. Therefore, the Committee believes it is reasonable to expect the FIA to provide this information within 30 days. In addition, once a local community has submitted a buyout request, the Committee believes that the FIA can evaluate the proposal and if approved, begin appraising property within 90 days.

No mitigation grant can be made to a state or community without an approved mitigation plan. The FIA may provide technical assistance as requested and make such suggestions to the plan as to maximize the effect of flood reduction. The legislation requires that mitigation activities be technically feasible and cost-effective. More importantly, the legislation requires the Director to approve only those plans that are the most cost-beneficial to the Fund. The National Flood Mitigation Fund may make grants to states and communities for mitigation activities that benefit uninsured properties. The Committee further recognizes that currently uninsured properties that are floodproofed or elevated will remain subject to the mandatory purchase requirements in the future.

The bill specifies the basic elements of a mitigation plan. The plan of a community must be adopted by the appropriate public body after at least one public hearing. The Committee intends that the citizens of a community be involved in the development of a mitigation plan. FEMA must coordinate the program and have the final approval authority for mitigation plans. Federal, state, and local officials and private citizens are encouraged to participate in the program and to be receptive to new approaches in reducing flood-related losses.

The conferees are further aware that new technologies may provide feasible means of floodproofing residential structures in flood-prone areas. The conferees expect FEMA to be accommodating to the testing of such technologies, so long as such testing is performed using uninhabited structures that are dismantled after testing is complete.

To the extent such technologies are shown to be equivalent in effect to permanent elevation of a structure through use of pilings or technologies permitted under current regulations and practices, the conferees expect FEMA to consider making flood insurance available for such structures under the same terms and conditions as if structures were permanently elevated. In determining if a technology is equivalent in effect to permanent elevation of a structure, the conferees expect that FEMA will review the extent to which the new technology would provide levels of protection of the structure from flood damage and levels of protection for personal safety that are equivalent to levels provided by permanent structural elevation through existing technologies, as well as to the extent which levels of active human maintenance involved in the new technology are equivalent to those involved in permanent elevation of the structure through existing technologies.

The Conferees intend that planning assistance monies provided in this section for development of mitigation plans should be used to facilitate various aspects of the planning process, including evaluation of alternatives. However, the Conferees intend that while the identification of the level of risk to which specific structures are exposed may be included, these funds are not be used to develop new or improved floodplain mapping.

Section 555. Additional coverage for compliance with land use and control measures

It is the intent of the Committee that the Director provide insurance coverage to cover the cost to repair and reconstruct repetitive loss structures and substantially damaged insured buildings, or otherwise mitigate future hazards to those buildings to comply, with local building codes and floodplain management.

The Committee recognizes and appreciates the benefits of mitigation insurance, and believes that this concept must be embraced to ensure that flood risks are reduced and removed when it is most cost-beneficial to do so. The Conferees further recognize that inclusion of mitigation insurance in the standard flood insurance policy is an excellent mechanism to deliver funding to individuals to bring their flood-damaged structures into compliance with floodplain management standards.

This mandatory coverage will have a surcharge cap of $75. This cap will not be subject to the 10% risk classification cap established in this Act.

SUBTITLE E—FLOOD INSURANCE TASK FORCE

Section 562. Task Force on natural and beneficial functions of the floodplain

The Committee intends that the Director of FEMA, the Undersecretary of Commerce for Oceans and Atmosphere, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency, and the Secretary of the Army, shall serve on a Task Force on the National and Beneficial Functions of the Floodplain, which shall identify the natural and beneficial functions that reduce flood losses and make recommendations on how the nation can further reduce flood losses through the protection of the natural and beneficial functions of the floodplain.

In addition, the Conferees expect that the study will include a discussion of examples of the uses of natural floodplain management to reduce flood losses, and the status of, range of benefits associated with, and potential that may exist for protecting relatively natural floodplain functions. The study should also address tradeoffs and costs and benefits associated with such floodplain management approaches, the range of uses usually considered compatible with the protection of such floodplain functions, and benefits that may be associated with ancillary floodplain functions, such as protecting water quality, recharging groundwater, and provision of habitat that may accompany protection of relatively undisturbed natural floodplains. In addition, the study should consider the appropriate roles of local, state, and federal government agencies and the private sector in identifying, managing, and protecting such floodplain functions, how such approaches may relate to other approaches to reduce flood losses, and make recommendations for administrative and legislative initiatives to best utilize natural floodplain resources.

The Task Force is also encouraged, to the extent appropriate, to consult with other relevant departments and agencies, such as the National Park Service Rivers and Trails Program, state and local government officials, and the public in preparing this study.

SUBTITLE F—MISCELLANEOUS PROVISIONS

Section 575. Updating of flood maps

It is the Conferees intention that FEMA recognize that the mapping needs of all communities are to be fairly assessed in the 5-year review process. Requests by states and local communities to update maps does not effect FEMA's obligation under this section to revise and update outdated maps.

Section 577. Evaluation of erosion hazards

It is the intent of the Conferees that the Director conduct a study, through an independent entity, regarding the various effects that erosion has on the NFIP, its policyholders, and communities prone to erosion.

This study shall examine three areas. The first area of the report is designed to determine the amount of flood insurance claims that are attributable to erosion. In developing the data to make this determination, the Director may map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes, and, if technologically feasible, riverine areas.

The second part of the study shall examine the economic impact of proposals to change the Program by denying flood insurance, or making flood insurance available at actuarial rates in communities having erosion hazard areas. This economic study is designed to assist Congress in determining whether the NFIP needs to revise its treatment of structures at risk of erosion. Specifically the study would address the economic impact of erosion on communities, the denial of flood insurance for structures in the identified communities, the establishment of actuarial rates for existing structures, the establishment of actuarial rates for existing structures in connection with the denial of insurance, the establishment of actuarial rates for new structures, the previous and present denials of flood insurance, the erosion hazard management activities undertaken by states and communities, and the mapping and identifying of communities having erosion hazard areas.

The third area of the study will concentrate on whether the costs of mapping erosion hazard areas exceed the benefits to the Fund. In addition, the study will determine whether the expenditure of insurance premiums to map erosion hazard zones is the most cost-beneficial use of these funds to the Program.

Section 578. Study of economic effects on charging actuarial based premium rates for pre-FIRM structures

The bill requires FEMA to study the economic effects that would result from increasing premium rates for flood insurance coverage for pre-FIRM structures. The Committee is concerned by information provided by FEMA which indicates that the Program had a deficit of $668 million on pre-FIRM structures from 1978–1992, which negated the $250 million surplus the Program enjoyed on post-FIRM structures in the same period. However, a recent GAO study found that increasing the premiums for Pre-FIRM structures would cause many policyholders to terminate flood insurance coverage and thereby exacerbate the need for federal disaster assistance when flooding occurs.

Section 579. Effective date of policies

Section 579 states that new contracts for flood insurance entered into after the date of enactment shall not become effective for 30 days. The Committee is concerned by information that arose from the 1993 Midwest flooding that suggests that some homeowners bought flood insurance only when flooding was imminent. This section provides an exemption by FEMA to the 30-day delay period in instances regarding the initial purchase of flood insurance in connection with the making, increasing, extending, or renewing of a loan or when the insurance coverage is purchased within one year of a re-mapping or map revision. The bill also provides for a study regarding effective date of coverage.

Section 580. Agricultural structures

It is the intent of the Conferees that Agricultural structures that are substantially damaged by flood are exempt from the building requirements under the Act provided that they are assessed actuarial rates and are no longer eligible for federal disaster assistance. In addition, the Director is not required to make flood insurance available unless "wet-floodproofing" is incorporated in the reconstruction of the structure.

Section 582. Prohibited flood disaster assistance

It is the intent of the Conferees that a structure that received federal disaster assistance subsequent to a flooding occurrence that was subject to the homeowner purchasing flood insurance, shall not be eligible for federal disaster assistance at any later date if the homeowner has let the flood insurance policy lapse.

Section 582 now makes it explicitly clear that once the federal government provides flood disaster relief assistance to repair or replace property that was not previously insured, flood insurance must be maintained on the property for the useful life of the property, regardless of the transfer in ownership of the property.

TITLE VI—GENERAL PROVISIONS

SECTION-BY-SECTION

Section 601. Oversight hearings

This section expresses the Sense of the Congress regarding hearings on matters related to Whitewater Development Corporation.

Section 602. Additional technical amendments to the Federal banking laws

This section makes numerous technical changes to the Federal banking statutes, including eliminating obsolete statutes that govern the issuance, replacement, redemption and failure to redeem circulating notes issued by national banks. National banks no longer issue such notes. It also repeals obsolete provisions of statutory law that govern the deposit and return of U.S. bonds that back a national bank's circulating notes, the issuance of post notes by national banks, and the formation of banks to issue gold notes to circulate as money. National banks no longer issue post or gold notes.

This section also repeals provisions of law that, among other things, require banks to receive circulating notes equal in value to the United States bonds deposited with the Treasury, authorize specific denominations of circulating notes and limit the amount of notes that a bank may circulate, and authorize the Comptroller of the Currency to require the printing of national charter numbers on all national bank notes.

Additionally, this section transfers authority for the engraving and printing of Federal Reserve notes to the Secretary of the Treasury from the Office of the Comptroller of the Currency. The responsibility for printing currency is no longer consistent with the OCC's duties as a regulator of national banks and is, in fact, performed by other Treasury bureaus. Accordingly, these functions are transferred to the Secretary of the Treasury for appropriate delegation elsewhere within the Treasury Department. In addition, this section amends provisions of land to eliminate and simplify language relating to the currency function.

Section 602 also repeals section 5170 of the Revised Statutes, an obsolete provision that requires national banks to publish the OCC's certification to commence business. The amendment to the Act of March 3, 1875 in section 602 has the effect of repealing 12 U.S.C. §106, which authorizes the Comptroller to require distinctive paper for the printing of national bank notes. The other provisions of that Act generally relate to appropriations and are not affected by this legislation.

The amendments made to sections 5199 and 5204 of the Revised Statutes by this section delete outdated statutory restrictions relating to national banks' dividend payments and replaces the outdated term "net profits" with "undivided profits" or "net income" as appropriate.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment (except titles II and V), and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOE KENNEDY,
FLOYD H. FLAKE,
KWEISI MFUME,
LARRY LAROCCO,
WILLIAM ORTON,
JIM BACCHUS,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,
TOBY ROTH,
AL MCCANDLESS,
R.H. BAKER,
JIM NUSSLE,

Provided, that for consideration of section 348(b) of the Senate amendment, Mr. Klein is appointed in lieu of Mr. LaFalce.

HERB KLEIN,

Provided, that for consideration of title VI of the Senate amendment, Mr. Lazio is appointed in lieu of Mr. Ridge.

RICK LAZIO,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment and modifications committed to conference:

HENRY GONZALEZ,

Steve Neal,
John J. LaFalce,
Bruce F. Vento,
Charles Schumer,
Barney Frank,
Paul E. Kanjorski,
Joe Kennedy,
Floyd H. Flake,
Kweisi Mfume,
William Orton,
Herb Klein,
Nydia M. Velázquez,
Jim Leach,
Bill McCollum,
Marge Roukema,
Doug Bereuter,
Tom Ridge,
Toby Roth,
Al McCandless,
R.H. Baker,
Jim Nussle,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title V of the Senate amendment, and modifications committed to conference:

Henry Gonzalez,
Steve Neal,
John J. LaFalce,
Charles Schumer,
Barney Frank,
James Leach,
Doug Bereuter,
Bill McCollum,

As additional conferees from the Committee on Education and Labor, for consideration of section 209 of the Senate amendment, and modifications committed to conference:

William D. Ford,
Pat Williams,
William L. Clay,
Dale E. Kildee,
George Miller,
Bill Goodling,
Marge Roukema,
Harris W. Fawell,

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 201–05, 207, 320 and 347 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Edward Markey,
Phil Sharp,
Al Swift,
Cardiss Collins,
Rick Boucher,
Thomas J. Manton,
Richard H. Lehman,
Lynn Schenk,
Marjorie Margolies-Mezvinsky,
Mike Synar,
Ron Wyden,
Bill Richardson,
John Bryant,
Carlos J. Moorhead,
Jack Fields,
Tom Bliley,

As additional conferees from the Committee on Energy and Commerce for consideration of sections 503–05, 507 and 706 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Edward Markey,
Cardiss Collins,
E. Towns,
Richard H. Lehman,
Carlos J. Moorhead,

As additional conferees from the Committee on Foreign Affairs, for consideration of section 703 of the Senate amendment, and modifications committed to conference:

Lee H. Hamilton,
Sam Gejdenson,

As additional conferees from the Committee on the Judiciary, for consideration of section 139 of the House bill, and sections 325, 408 and 409 of the Senate amendment, and modifications committed to conference:

Charles E. Schumer,
Don Edwards,
John Conyers, Jr.,
Bill Hughes,

As additional conferees from the Committee on Small Business, for consideration of section 348(b) of the Senate amendment, and modifications committed to conference:

John J. LaFalce,
Neal Smith,
Jan Meyers,

As additional conferees from the Committee on Ways and Means, for consideration of sections 210 and 502–04 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam Gibbons,
J.J. Pickle,
C.B. Rangel,
Pete Stark,
Bill Archer,
Phil Crane,
Bill Thomas,
Managers on the Part of the House.

Don Riegle,
Paul Sarbanes,
Christopher Dodd,

From the Committee on Finance, for matters solely within the Finance Committee's jurisdiction, including sections 209, 210, and 408 of the Senate amendment:

Daniel Moynihan,
Max Baucus,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss Collins of Michigan (at the request of Mr. Gephardt), for yesterday and today, on account of official business.

Mr. Foglietta (at the request of Mr. Gephardt), for August 1, on account of medical procedure.

Mr. Ford of Tennessee (at the request of Mr. Gephardt), for today, on account of personal business.

Mr. DeFazio (at the request of Mr. Gephardt), for today, on account of illness in the family.

Mr. Montgomery (at the request of Mr. Gephardt), after 2 p.m. today and tomorrow, August 3, on account of official business.

Ms. Slaughter (at the request of Mr. Gephardt), for today, between 4 and 5 p.m., on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. Hunter, for 5 minutes, today.

Mr. Kim, for 5 minutes, today.

Mr. Rohrabacher, for 5 minutes, today.

Mr. Dornan, for 5 minutes, today.

Mr. Manzullo, for 5 minutes, today.

(The following Members (at the request of Mr. Olver) to revise and extend their remarks and include extraneous material:)

Ms. Norton, for 5 minutes, today.

Ms. Pelosi, for 5 minutes, today.

Mr. LaRocco, for 5 minutes, today.

Mr. Durbin, for 5 minutes, today.

Ms. Kaptur, for 5 minutes, today.

Mr. Cardin, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Goss) and to include extraneous matter:)

Mr. Combest.
Mr. Santorum.
Mr. Portman.
Mr. Ewing.
Mr. Gingrich in two instances.
Mr. Packard in two instances.
Mr. Smith of Michigan.
Mr. Grams.
Mr. DeLay.

(The following Members (at the request of Mr. Olver) and to include extraneous matter:)

Ms. Harman.
Mr. Berman.
Mr. Stark.
Mr. Mazzoli.
Ms. Norton.
Mr. Johnson of Georgia.
Mr. Manton.
Mr. Richardson.
Mrs. Schroeder.
Mr. Swift.
Mr. Olver.

(The following Members (at the request of Mr. Burton of Indiana) and to include extraneous matter:)

Mr. Lantos.
Mr. Minge.
Mr. Filner.
Mr. Olver.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 15 minutes p.m.), under its previous order, the House adjourned until tomorrow, August 3, 1994, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3620. A letter from the Deputy Assistant Secretary, Department of the Air Force, transmitting notice of decision to convert to contract operations the military family housing maintenance function at Randolph Air Force Base, TX, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

3621. A letter from the Chairman, National Commission on Manufactured Housing, transmitting the Commission's final report, pursuant to Public Law 101-625, section 943(d)(2) (104 Stat. 4414; 103 Stat. 1150); to the Committee on Banking, Finance and Urban Affairs.

3622. A letter from the Secretary of Labor, transmitting the Secretary's annual report on employment and training programs for 1990 and 1991, pursuant to 29 U.S.C. 1579(d); to the Committee on Education and Labor.

3623. A letter from the Secretary of Transportation, transmitting a report regarding the implementation of the "Imported Vehicle Safety Compliance Act of 1988" for fiscal year 1993, pursuant to 15 U.S.C. 1397 note; to the Committee on Energy and Commerce.

3624. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification for Presidential determination regarding the drawdown of defense articles and services for the Government of Jamaica, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

3625. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Japan (Transmittal No. DTC-15-94), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3626. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending June 30, 1994, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

3627. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(b)(a); to the Committee on Foreign Affairs.

3628. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination that it is in the national interest of the United States to furnish assistance and permit United States executive directors to vote in favor of international financial institutions loans to Nicaragua, pursuant to Public Law 103-236, section 527(g); to the Committee on Foreign Affairs.

3629. A letter from Manager, Employee Benefits, AgriBank, transmitting the annual report of the retirement plan for the employees of the Seventh Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3630. A letter from the Director of Employee Benefits, Farm Credit Bank of Baltimore, transmitting a copy of the 1993 report for the Farm Credit District of Baltimore Thrift Plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3631. A letter from the Chairman, U.S. International Trade Commission, transmitting the 78th quarterly report on trade between the United States and China, the successor states to the former Soviet Union, and other title IV countries during January-March 1994, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

3632. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the intended program and process for purposes of Nonproliferation and Disarmament Fund activities, pursuant to 22 U.S.C. 5858; jointly, to the Committees on Foreign Affairs and Appropriations.

3633. A communication from the President of the United States, transmitting the economic development plan of the Republic of Palau, including supporting material, pursuant to Public Law 101-219, section 101; jointly, to the Committees on Natural Resources and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with an amendment (Rept. 103-601, Pt. 4). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. H.R. 4822. A bill to make certain laws applicable to the legislative branch of the Federal Government; with amendments (Rept. 103-650 Pt. 1). Ordered to be printed.

Mr. ROSE: Committee on House Administration. H.R. 4822. A bill to make certain laws applicable to the legislative branch of the Federal Government; with amendments (Rept. 103-650 Pt. 2). Ordered to be printed.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 3841. A bill to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching (Rept. 103-651). Ordered to be printed.

Mr. GONZALEZ: Committee of Conference. Conference report on H.R. 3474. A bill to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes (Rept. 103-652). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON (for herself, Mr. Moran, Mr. Wynn, Mr. Hoyer, Mr. Wolf, Mrs. Morella, Mrs. Byrne, and Mr. Mfume):

H.R. 4884. A bill to authorize noncompetitive, career or career-conditional appointments for employees of the Criminal Justice Information Services of the Federal Bureau of Investigation who do not relocate to Clarksburg, WV; to the Committee on Post Office and Civil Service.

By Mr. de la GARZA:

H.R. 4885. A bill entitled, "The North American Border Stations Improvements Act"; to the Committee on Public Works and Transportation.

By Mr. EWING:

H.R. 4886. A bill to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. GRAMS:

H.R. 4887. A bill to amend the Nuclear Waste Policy Act of 1982 to reaffirm the obligation of the Secretary of Energy to provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998, and for other purposes; jointly, to the Committees on Energy and Commerce and Natural Resources.

By Ms. NORTON:

H.R. 4888. A bill entitled, "District of Columbia Government Revenue Bond Delegation Authority Act of 1994"; to the Committee on the District of Columbia.

By Mr. TORRES:

H.J. Res. 397. Joint resolution designating the week beginning September 12, 1994, as "National Hispanic Business Week"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GILLMOR:

H.R. 4889. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for the vessel *Island Star*; to the Committee on Merchant Marine and Fisheries.

By Mr. ROSE:

H.R. 4890. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and the fisheries for the vessel *Raven*; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Fazio.

H.R. 70: Mrs. Byrne and Mr. Doolittle.

H.R. 127: Mr. Pomeroy, Mr. Hoke, Mr. Doolittle, Mr. DeLay, Mr. Leach, Mr. McDade, Mr. Cox, and Mr. Johnson of South Dakota.

H.R. 140: Ms. Harman and Mr. Shays.

H.R. 301: Mr. Knollenberg and Mr. Calvert.

H.R. 688: Mr. LaFalce.

H.R. 967: Mr. Wolf, Mr. Deutsch, Mr. Barca of Wisconsin, and Mr. Ehlers.

H.R. 998: Mr. Doolittle.

H.R. 1009: Mr. Doolittle.

H.R. 1056: Mr. DeFazio, Mr. Taylor of Mississippi, Mr. Pete Geren of Texas, and Mr. Cunningham.

H.R. 1099: Mr. Calvert.

H.R. 1110: Mr. McDade.

H.R. 1168: Mr. Saxton.

H.R. 1297: Mr. Cox.

H.R. 1433: Mr. McCurdy, Ms. Margolies-Mezvinsky, Mr. Pombo, Mr. Taylor of North Carolina, Mrs. Johnson of Connecticut, Mr. Price of North Carolina, Mr. Fingerhut, Mr. Barca of Wisconsin, and Mr. Hoagland.

H.R. 1509: Mr. Dicks, Mr. Vento, Mr. Abercrombie, Mr. Andrews of Maine, Mr. Thompson, Mr. Conyers, and Mr. Foglietta.

H.R. 1627: Mr. Lewis of Kentucky.

H.R. 1671: Mr. Reed, Mr. Quinn, Mr. Meehan, Mr. Engel, and Mr. Neal of North Carolina.

H.R. 1989: Mr. Kingston, Mr. Dornan, and Mr. Cox.

H.R. 2292: Mr. Gejdenson and Mr. McCrery.

H.R. 2365: Mr. Saxton.

H.R. 2556: Mr. Torricelli.

H.R. 3017: Mr. Doolittle.

H.R. 3086: Mr. Knollenberg.

H.R. 3179: Mr. Herger.

H.R. 3250: Mr. Knollenberg and Mr. Doolittle.

H.R. 3263: Ms. DeLauro and Ms. Margolies-Mezvinsky.

H.R. 3288: Mr. Barrett of Nebraska.

H.R. 3337: Ms. DeLauro.

H.R. 3457: Ms. Schenk.

H.R. 3766: Ms. Schenk.

H.R. 3794: Mr. Everett.

H.R. 3955: Mr. Mazzoli and Mr. Miller of Florida.

H.R. 3967: Mr. Saxton.

H.R. 3978: Mr. Kim.

H.R. 3990: Mrs. Fowler, Mr. Gene Green of Texas, and Mr. Hastings.

H.R. 4024: Mr. Conyers.

H.R. 4036: Mrs. Roukema, Mr. Klug, Mr. Saxton, and Mr. Lipinski.

H.R. 4056: Mr. Boehner.

H.R. 4057: Mr. Mica, Mr. Stearns, Mr. Zimmer, and Mr. Talent.

H.R. 4077: Mr. Richardson.

H.R. 4091: Mr. Gutierrez and Mr. Foglietta.

H.R. 4142: Mr. Matsui, Mr. Boehlert, Mr. Owens, Mr. Barca of Wisconsin, Mr. Hinchey, Ms. Shepherd, Mrs. Byrne, Mrs. Johnson of Connecticut, and Mr. Torricelli.

H.R. 4327: Mr. Penny, Mr. Zimmer, Mr. Jacobs, Mr. Collins, of Georgia, Mr. Ballenger, and Mr. Shays.

H.R. 4379: Mr. McHugh, Mr. Frost, Mr. Wilson, Mr. Solomon, Mr. Thompson, and Mr. Barrett of Nebraska.

H.R. 4517: Mr. Foglietta.

H.R. 4527: Mr. Boucher, Mr. Spratt, Mr. Taylor of North Carolina, Mr. Duncan, Mr. Stenholm, and Mr. Shaw.

H.R. 4643: Mr. DeLay.

H.R. 4675: Mr. Canady.

H.R. 4697: Mr. Pastor, Mr. Coppersmith, Mr. Stump, Mr. Kyl, and Mr. Kolbe.

H.R. 4742: Mr. Condit, Mr. Weldon, Mr. Gallegly, Mr. Crapo, Mr. Smith of Oregon, Mr. Bonilla, Mr. Pombo, Mr. Baker of California, Mr. Lucas, Mr. Schaefer, Mr. Dornan, and Mr. Hefley.

H.R. 4779: Mr. Gillmor.

H.R. 4802: Mr. Levy, Ms. Snowe, Mr. Canady, Mr. McCloskey, Mr. LaFalce, and Mr. Neal of Massachusetts.

H.R. 4805: Ms. Eddie Bernice Johnson of Texas and Mr. Penny.

H.R. 4831: Mrs. Lloyd.

H.R. 4841: Ms. Norton.

H. Con. Res. 138: Mr. Waxman, Mr. Hinchey, and Mr. Peterson of Minnesota.

H. Con. Res. 148: Mr. Kleczka, Mr. Bateman, Ms. Eddie Bernice Johnson of Texas, and Mr. Abercrombie.

H. Con. Res. 179: Mr. Levy.

H. Con. Res. 243: Mr. Hastings, Mr. Schiff, Ms. Eshoo, and Ms. Pelosi.

H. Con. Res. 254: Mr. Jefferson.

H. Con. Res. 256: Ms. Pryce of Ohio and Ms. Margolies-Mezvinsky.

H. Con. Res. 257: Mr. Deutsch and Mr. Mineta.

H. Con. Res. 269: Mr. Ballenger and Mr. Fawell.

H. Res. 21: Mr. Cox and Mr. Canady.

H. Res. 117: Mr. Schiff.

H. Res. 181: Mr. Cox.

H. Res. 190: Mr. Cox.

H. Res. 234: Mr. Baker of California, Mr. Bateman, and Mr. Solomon.

H. Res. 270: Mr. Schaefer.

EXTENSIONS OF REMARKS

ROOFERS PROVIDE EXAMPLE OF FEDERAL OVER-REGULATION

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. EWING. Mr. Speaker, over 2 years ago I brought to the attention of my colleagues a column written by the National Roofing Contractors Association [NRCA] which appeared in the Wall Street Journal, "So You Want To Get Your Roof Fixed * * *". This column detailed all of the Federal regulations which a roofer must comply with to perform a simple roof repair. This column, which I am including below, gave us a very vivid example of how just one industry is affected by excessive Federal regulations.

I am also including a recent letter I received from Mr. Charles E. Bechtel, president of the NRCA. Mr. Bechtel asked his staff to provide an updated version of "So You Want To Get Your Roof Fixed * * *". What this effort showed is that, over 2 years later, there has been no change for the better and in fact the situation is getting worse. When Federal regulation should be shrinking, it is instead growing worse every day.

I encourage my colleagues to review the updated version of "So You Want To Get Your Roof Fixed * * *." and join me in efforts to reduce costly and unnecessary Federal regulations.

NATIONAL ROOFING
CONTRACTORS ASSOCIATION,
Dayton, OH, July 28, 1994.

Hon. THOMAS W. EWING,
House of Representatives,
Washington, DC.

DEAR MR. EWING: Two-years ago, then-president of the National Roofing Contractors Association (NRCA), Richard Rosenow, wrote an article on federal regulations for fixing a neighbor's garage roof. On February 4, 1992, Mr. Rosenow's "So You Want to Get Your Roof Fixed. . . ," was run in The Wall Street Journal.

Today, I am president of NRCA and federal regulations are still growing unchecked. For example, the Occupational Safety and Health Administration is pursuing new regulations on reporting illnesses and injuries, hazard abatement notification and indoor air quality. It is formulating lead and fall protection standards, and will soon publish a massive regulatory proposal concerning "ergonomics."

There are also many new regulations from the Department of Transportation, Environmental Protection Agency, Department of Labor, and various other agencies and commissions. Furthermore, there are countless state and local regulations.

NRCA staff annotated, "So You Want To Get Your Roof Fixed. . . ," to see whether the regulations cited had been eased. I regret to tell you that not much has changed. We slightly altered the story to feature a school building, as opposed to a neighbor's garage, but the regulations from the original remain applicable.

I've enclosed both the original and the annotated versions. We are grateful for your efforts in the fight against overregulation and hope that you will call our Washington Office at (202) 546-7584 if we can be of assistance.

Sincerely,
CHARLES E. BECHTEL,
President, National Roofing Contractors Association.

Enclosure.

[From the Wall Street Journal, Feb. 4, 1992]

SO YOU WANT TO GET YOUR ROOF FIXED

(By Richard Rosenow)

Suppose you own a roofing business, and one morning you get a call from your neighbor, whose garage roof is leaking. He tells you that the roof is asphalt-based, and you agree to send a repair crew to try to fix it. In order to fully comply with federal regulations that are in effect today, you would have to:

First examine the roof to determine whether asbestos is present. There is a good chance that an asphalt roof will at least include asbestos-containing base flashings and cements; if they do, Environmental Protection Agency regulations will apply, and Occupational Safety and Health Agency regulations may apply.

It is very likely that you won't know from a visual examination whether asbestos is present. In that case, you will have to cut a sample from the roof, and patch it to avoid leaks at the point of the sample cut. You will then send the sample, after you have bagged it properly, to an accredited laboratory, and delay your repair work until the sample is analyzed. (In some states, only a certified abatement contractor is allowed to make this test cut.)

If you discover that asbestos is contained in the roof, you must:

notify the owner (your neighbor) in writing;

notify the EPA Regional Office (10 days prior to beginning work, which will mean your neighbor's roof will continue to leak);

be sure that at least one person on your repair crew is trained to satisfy EPA requirements;

conduct air monitoring on the job, once you are able to start work, to determine whether emissions of asbestos will exceed OSHA's action level. You can't do this, of course, until the 10-day EPA notification period has passed.

Once you begin any repair work, you will have to "adequately wet" the materials. EPA defines this as "thoroughly penetrating" the asbestos-containing material, which is an interesting concept for a waterproof material like asphalt. EPA also stipulates that there be no "visible emissions" on the job, even if you can demonstrate that the emissions contain no asbestos fibers.

You will then have to vacuum the dust generated by any "cutting" that you do, put it in double bags, and take it to an approved landfill.

You will also be responsible for prohibiting smoking on the job site, and are subject to fine if one of your employees lights up.

You will probably wonder why your neighbor will be asked to absorb all of the costs associated with these steps, since hundreds of test samples have shown no asbestos exposures above acceptable limits in roofing operations.

You must ensure that your crew is trained about any hazardous materials that they may encounter. (These will include the gasoline you use to power the pump on your roofing kettle.) You will also have to be sure that copies of the appropriate regulations at the work site, and that ask containers are properly labeled.

Your crew must also be thoroughly trained in handling these materials. This will be determined not by what steps you have taken to train them, but by why your employees tell the OSHA inspector who asks them what they have been taught.

Because you are transporting asphalt at a temperature above 212 degrees, so that your crew won't have to wait two or three hours at your neighbor's home for the asphalt to heat, you must:

Mark the side of your roofing kettle with a sticker that says "HOT" in capital letters;

Complete shipping papers before the truck leaves your yard;

Have emergency response procedures developed in the event the kettle should turn over en route to your neighbor's home;

Be sure that your driver has been drug-tested, and has a commercial driver's license;

Be sure that the driver completes his logs sheets for the day, and stops 25 miles after he leaves your yard to see if the load has shifted;

Be sure that your kettle has a hazardous material placard, in addition to the "HOT" sticker mentioned above.

Because your vehicle is being driven for work-related matters, you must be sure that the driver wears his seat belt, and has received driver training. If he does not wear his seat belt, of course, he will be fined.

Assuming you have met other OSHA safety standards, and are satisfied you will be in compliance with local and state regulations, it is now safe for you to begin. Your most dangerous act, however, is yet to come: presenting your neighbor with his bill, and explaining why your costs have increased so dramatically in the three years since these regulations have been promulgated.

SO YOU WANT TO GET YOUR ROOF FIXED

(Annotated Version of 2/4/92 WSJ Article, Revised 6/21/94)

Suppose you own a roofing business, and one morning you get a call from the facilities manager at a local school, where the roof is leaking. He tells you that the roof is asphalt-based, and you agree to send a repair crew to try to fix it before school opens. In order to comply with federal regulations that are in effect today, here are some of the things you would have to do:

First, examine the roof and take samples to determine whether asbestos is present. There is a good chance that an asphalt roof will contain asbestos fibers, which have been embedded in asphalt, and which have been shown to remain in the asphalt even when the roof is cut into sections to be removed. If the roof is asbestos-containing, then Environmental Protection Agency and Occupational Safety and Health Administration Agency regulations will apply;[1] of course, they are different.

You will have to cut a sample from the roof, and patch it to avoid leaks at the point of the sample cut. You will then send the sample, after you have bagged it properly, to an accredited laboratory, and delay your repair work until the sample is analyzed.[2] (In some cases, only a certified asbestos abatement contractor is allowed to make this test cut.) You also need to examine the school's interior to make sure no asbestos would be disturbed by reroofing activities.

If you discover that asbestos is present, you must:

Notify the school in writing;

Notify the EPA Regional Office 10 days prior to beginning work, which means that the leaks will continue;[3]

Be sure that at least one person on your repair crew is trained to EPA's satisfaction;[4]

Conduct air monitoring on the job, once you are able to start work, to determine whether emissions of asbestos will exceed OSHA's action level or permissible exposure limits.[5]

You can't do this, of course, until the 10-day EPA notification period has passed;

Once you begin repair work, mist the roof while you are cutting it, then vacuum up what you have cut, put this dust into bags, label the bags, carefully lower them to the ground via a hoist, crane or enclosed chute, and have them taken to an approved landfill;[6]

Ensure that your employees don't smoke on the job, recognizing that you—not they—will be fined if they do.[7]

You may wonder why the school should be asked to absorb all the costs associated with these steps, since hundreds of test samples have shown no asbestos exposure above acceptable limits in roofing operations.[8]

You must ensure that your crew is trained about any hazardous materials that they may encounter. (These will include the gasoline you use to power the pump on your roofing kettle.) You will also have to be sure that copies of the appropriate Material Safety Data Sheets are present at the work site, and that all containers are properly labeled.

Your crew must also be thoroughly trained in handling these materials. This will be determined not by what steps you have taken to train them, but by what your employees tell the OSHA inspector who asks them what they have been taught.[9]

Because you are transporting asphalt at a temperature above 212F degrees, so that your crew won't have to wait two or three hours at the school for the asphalt to heat, you must:

Mark the side of your roofing kettle with a sticker that says "HOT" in capital letters;[10]

Complete shipping papers before the truck leaves your yard;[11]

Have emergency response procedures developed in the event the kettle should turn over en route to the school;[12]

Be sure that your driver has been drug-tested and has a commercial driver's license;[13]

Be sure that your driver completes his log sheets for the day[14] and stops 25 miles after he leaves your yard to see if the load has shifted;[15]

Assuming you have met other OSHA safety standards,[16] and are satisfied you will be in compliance with local and state regulations, it is now safe for you to begin. Your most dangerous act, however, is yet to come: presenting the engineer with the bill, and explaining why your costs have increased so dramatically in the three years since these regulations have been promulgated.

FOOTNOTES

[1] EPA NESHAP 40 CFR 61, 61.140 through 61.152 OSHA Asbestos Standard 1926.58, and proposed revisions.

[2] EPA Asbestos-Containing Materials in Schools 40 CFR Part 763—Asbestos Hazard Emergency Response Act (AHERA)—Under AHERA, Laboratories must be accredited and follow EPA requirements for analysis of bulk samples and/or air samples of asbestos.

[3] EPA NESHAP 40 CFR 61—61.145.

[4] EPA NESHAP 40 CFR 61—61.145 and EPA notice of guidance FR 46380, September 12, 1991.

[5] OSHA Asbestos Standard 1926.58 and amendment issued September 14, 1988.

[6] EPA NESHAP 40 CFR 61.145 and letter to Honorable Sonny Callahan, House of Representatives from EPA's John Seitz, Director, Office of Air Quality Planning Standards.

[7] 1926.58 Amended February 5, 1990.

[8] "Exposure to Asbestos During Roofing Removal", SRI International and Fowler Associates, 1990.

[9] OSHA Hazard Communication Standard, 1926.59 and Safety Training, 1926.21.

[10] 49 CFR Part 172.325 Elevated Temperature Materials.

[11] 49 CFR Part 177.817 Shipping Papers.

[12] 49 CFR Part 172.203(n) Additional description requirements.

[13] 49 CFR Part 391 Subpart H—Controlled Substance Testing and Part 383—Commercial Driver's License Standards.

[14] 49 CFR Part 395 Hours of Service of Drivers and 396.11 Driver's Inspection Report.

[15] 49 CFR Part 392.9(b)(2) Safe loading.

[16] 29 CFR 1926.21 Safety Training and education; 1926.500(g) Guarding of low-pitched roof perimeters; 1926.28 Personal protection equipment.

NO NUKES FOR NORTH KOREA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. STARK. Mr. Speaker, when the House further considers the Export Administration Act, I hope we will adopt a sense-of-the-Congress amendment I have proposed, against providing nuclear powerplants to North Korea.

Following is an op ed from today's Washington Post that makes some of the arguments against the idea of sharing light-water reactors with North Korea.

NO QUICK FIX ON KOREA

(By Victor Gilinsky)

The idea has gotten about that there is a neat technical fix to the threat posed by North Korea's homemade nuclear reactors. This involves replacing their reactors, which are fueled with natural uranium and geared to producing plutonium, with ones like ours, which are more "proliferation resistant." It was explained in the headline of a recent Post story: "U.S. to Dangle Prospect Reactor at N. Korea; Deal Would Allow Nuclear Plant for Electricity" [front page, July 7]. Jimmy Carter is said to have supported this idea in his talks with North Korea.

It was actually the North Koreans who came up with the offer to switch technologies. During U.S.-North Korean talks a year ago, they said they would rather have U.S.-style power reactors (called light-water reactors, or LWRs) than the outmoded ones they possess. Because the two reactors they are building would soon multiply their weapon potential many times, this offer by the North Koreans seemed almost too good to be true.

In a joint communique of July 19, 1993, the United States agreed that if the "nuclear issue" could be resolved finally, then it was "prepared to support the introduction of LWRs and to explore with the [North Koreans] ways in which LWRs could be obtained." A year later, the idea seems to be very much alive. The Post story cited above quotes a "senior U.S. official" as saying "the attitude is, if that's what they want, that's what we'll give them."

We had better stop and think.

Sure, it would be great if we would switch their nuclear plants into less threatening ones with a snap of our fingers. But the reality of such an exchange is more tangled than it might appear, and the attempt would likely do more harm than good.

To begin with, for the United States to provide technology and assist with financing (North Korea is without funds or credit), the president would have to override our strict statutory standards for nuclear exports. He would have to make favorable findings about North Korea that, in effect, would make us accomplices to its violations of Nonproliferation Treaty inspection rules.

By thus buying off an international troublemaker, we would be giving the wrong idea to others similarly inclined (as well as to those who have played by the rules). The undermining of international nuclear export rules would not be lessened if we sent U.S. technology through another country with weaker export rules (South Korea has been mentioned), or (this is the latest proposal) if we paid the Russians to export their version of LWRs to the North Koreans.

In an era when we are extolling the virtues of the marketplace, it is also more than a little inconsistent to indulge the technological vanities of dictators for uneconomic prestige projects. A nuclear power plant of even modest size needs an infrastructure of people and equipment and a sizable and secure electrical grid that—from everything one hears—is lacking in the North. To develop these, to train large numbers of North Koreans and to build a plant would take most of a decade. Do we really want to do this?

If North Korea is willing to trade its outmoded nuclear plants for their modern electrical equivalent, then coal-fired plants make such more sense. And more than a new generation of nuclear plants, the North Koreans need to improve the efficiency of the way they transmit and use electricity. Such changes would be relatively cheap and would produce results much faster, perhaps within a year. Whether North Korea seeks genuine improvements or prefers an uneconomic prestige nuclear project is a test of its goodwill and judgment.

It will no doubt be argued that, given the nature of the North Korean regime, a prestige project from the West is exactly what is needed to get it off its dangerous course toward nuclear weapons. Moreover, the multiyear duration of the project—and its dependence on enriched uranium fuel, which North Korea would have to import from one of the advanced countries—would allow us to remain in control. The same factors would seem to give the North Koreans the incentive to hold up their end of the bargain.

Let us not, however, deceive ourselves. Barring a miraculous change in the regime (in which case the deal would be unnecessary), the North Koreans are not likely to give up their plutonium production potential during the 10-year construction of replacement reactors. And they will likely want a sufficient stockpile of enriched uranium fuel so they will not be at our mercy when those reactors do operate.

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[1] Footnotes at end of article.

Instead of being under our control, the project is likely to develop strong constituencies and to take on a life of its own. We should not imagine that we would be able to turn it off if the North Koreans did not keep their promises. If history is any guide, we would be the hostages, not the North Koreans.

In the end, what is wrong with the LWR proposal is that it presumes a level of goodwill on North Korea's part that, were it present, would obviate the need for the proposal. If the North Koreans are interested in electricity, there are much cheaper, better and safer ways to provide it. If they insist on a prestige nuclear project, we can be sure the deal is, in fact, too good to be true. There are no neat technological fixes to the present impasse. What is needed is change in North Korea.

TRIBUTE TO BRIAN EARLEY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to a truly outstanding athlete, Mr. Brian Earley of Aliso Viejo, CA. Mr. Earley recently competed at the U.S. Olympic Festival in St. Louis. He won a Silver Medal in the 1-meter springboard competition.

Mr. Earley has competed in numerous national and international competitions. He has been diving for 17 years and trains 2 to 5 hours per day.

His diving career is distinguished, with such accolades as qualifying first on the 1-meter springboard at the 1994 Alamo World Diving Trials, 1994 U.S. 1-meter champion, winner of the Phillips Performance Award at the 1994 Phillips 66 National Diving Championships, and 1994 and 1992 NCAA platform champion. He has also placed in international events such as the China Open, Four Nations Meet, and several other competitions. He has been a national team member in 1990, 1992, and 1994. He was trained by his father, Mr. Rick Earley, a former diving olympian.

Mr. Brian Earley recently graduated from the University of Southern California with a B.S. degree in business. I commend Brian for his achievements thus far and wish him the best in his future endeavors.

Mr. Speaker, I hope you and my colleagues will join me in recognizing the accomplishments of Brian Earley. It is my sincere belief that Mr. Earley will further distinguish himself in the sport of diving. I join friends and family who salute him.

INTRODUCTION OF REVENUE BOND AUTHORITY BILL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Ms. NORTON. Mr. Speaker, today I am introducing legislation that presents a unique and extraordinary economic opportunity for the District of Columbia. This bill offers this unprecedented opportunity through revenue bonding authority, including the authority to build a new convention center, as well as a new sports arena downtown. These are not only remarkable projects. In light of the District's need for revenue in the midst of a severe economic crisis, these projects are remarkably timed. These two buildings hold virtually the only promise for indispensable economic development for a city that otherwise faces an unprecedented and painful fiscal crisis. The bonding authority authorized in this bill will mark a critical step toward the revival of the economy of the District.

Today, the Washington Convention Center operates at a 90 percent occupancy range. In this year alone, the District will lose over $80 million in economic impact because of the loss of shows that are too large for the present center. However, the new convention center will be three times the size of the current center. That translates into over $2.8 billion in direct convention revenue for the District between 1998 and 2003. On the other hand, without the new center, the District will lose $968 million in direct convention revenue by the year 2002.

A new sports arena also could not come at a better time for the District. Moving the arena from the Maryland suburbs to downtown Washington will result in more than $100 million in net new spending in the District annually from people buying tickets and purchases from concessions at events, as well as patronizing restaurants in the area. The arena also will create a minimum of 540 full-time equivalent jobs in the city.

I strongly urge support for this legislation. It will help give the District of Columbia the tools to become again the master of its own economic destiny.

THE CLINTON PLAN—LABOR WITHOUT PAINKILLERS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. GINGRICH. Mr. Speaker, I rise today to submit into the RECORD a column which recently appeared in the Washington Times, written by syndicated columnist Mona Charen. It draws to your attention the importance of maintaining a proper perspective when considering a huge government overhaul of the health care system.

HEALTH CARE HESITATION * * *

Recently, Senate Minority Leader Robert Dole, Kansas Republican, paused in the middle of a speech to issue a special thanks to the president and first lady for keeping the issue of health-care reform at the "front and center" of the nation's attention.

That is exactly what is wrong with the Republican Party. Sen. Malcolm Wallop, Wyoming Republican, captured the "Stockholm Syndrome" afflicting Republicans perfectly when he said that if the Democrats proposed legislation to burn down the Library of Congress, the Republicans would respond with a three-year phase-in.

Republicans are afraid of the popularity of health-care reform. Perhaps they are right. Perhaps even after they are given all of the facts, the American people will choose the Rube Goldberg, bureaucratic behemoth that the Clintons have advanced.

But the American people will certainly get no opportunity to make a sensible choice if Republicans roll over, failing to make any philosophical or practical arguments against reform.

If the Clinton proposal is a terrible idea, then it is silly for the Republican leader to thank the administration for proposing it. It's like Michael Fay thanking Singapore for keeping the law-and-order issue "front and center."

The leaders of the Republican Party have abdicated their role on health care, leaving it to private citizens to marshal that arguments. One such extraordinary individual is Dr. Gonzalo M. Sanchez of Sioux Falls, S.D.

Dr. Sanchez is a pilot, a hunter, a wildlife photographer, the father of four had a neurosurgeon who loves his adopted country and hates what the Clintons propose to do to it and to his chosen vocation. And so, Dr. Sanchez published two closely reasoned, fact-rich newspaper advertisements in the Sioux Falls Argus Leader about health care in America.

He took aim at the false premises on which the Clinton plan is based. Costs are not (surprise!) spiraling out of control. In 1990, according to Labor Department figures, health-care costs increased by 9.6 percent. By 1993, the rate of increase had dropped to 5.4 percent.

But costs are high. Is it because doctors, nurses and hospitals are greedy? Hardly. Costs are high because government-funded programs like Medicare and Medicaid create unlimited demand for medical services. Also, costs are high because medical care has become ever more sophisticated and effective. Patients, like heart-attack victims and premature infants, who only a few years ago would have died, now live and rack up health-care expenses.

Costs are high because America's social pathologies—specifically urban violence and illegitimacy—create special burdens for the health-care system. Illegitimate babies are far more likely to be low birth weight and therefore at greater risk for birth defects, illnesses and early death.

And finally, costs are high because American culture demands valiant efforts to preserve life, no matter what the cost. This sets us apart from other countries, like Germany, which does not fund life-prolonging treatment for the terminally ill.

What about the cost of imposing the Clintons' huge, bureaucratic octopus? When Medicare was introduced in the mid-1960s, Dr. Sanchez reminds us, President Johnson projected that its cost would reach $8 billion by 1990. He was off by $90 billion. The Clintons claim that their monster would cost $700 billion. Expect that figure to be low as well.

That will mean higher taxes. Higher taxes will mean less economic growth. Less economic growth will mean more poverty. And more poverty will mean, you guessed it, fewer healthy Americans.

Why even talk of a massive overhaul of the best health system in the world when all that needs fixing are some gaps in insurance coverage? Because, argues Dr. Sanchez, the Clintons are not really concerned about improving your health care—their true aim is the vast enlargement of government authority that health reform would mean.

If they succeed, the most intimate decisions we make, like when to get a mammogram or a TPA test to screen for prostate cancer, will be dictated by interest groups politics. In Canada, some women are being denied access to epidurals in childbirth, partly to save money and partly because feminists oppose them.

Labor without painkillers seems a pretty good metaphor for the Clinton health plan.

NICHOLAS ROYCE, A DEDICATED ACTIVIST

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. BERMAN. Mr. Speaker, I commend to my colleagues the following National Catholic Register article which depicts the activism Los Angeles film distributor Nicholas Royce has undertaken for the rights of Orthodox Christians in what has historically been the center of Eastern Christianity.

CONSTANTINOPLE'S SON

Background: Eastern Orthodox activist wages tireless campaign for the rights of Christian minorities in Turkey.

For Christians, not all roads lead to Rome. Some lead to Constantinople—Istanbul, as the Turks call it now. Reminding Americans of this simple historical fact and the reality that Christians are persecuted today in what has historically been the center of Eastern Christianity is the quest of Los Angeles film distributor Nicholas Royce.

"Rome has to look for its roots in the East," Royce argues, noting that present-day Turkey was for hundreds of years the Center of Christianity, including the site of ecumenical councils which brought leaders of both Western and Eastern Churches together.

Now, however, Turkey is dominated by Islam. And Moslem militants have made life difficult for the few thousand Christians who remain, most of whom are of Greek descent.

Under the leadership of Ecumenical Patriarch Bartholomeos, who as leader of the Church in Istanbul is considered the spiritual leader of 270 million Eastern Orthodox Christians worldwide, Christians in Turkey are quietly enduring a persecution which has continued for centuries, says Royce.

Even the Christian dead are not immune. In recent years, hundreds of Christian gravesites have been vandalized. And the Patriarch, who is among only 5,000 ethnic Greeks still residing in Istanbul, has been criticized by some Moslem militants for attempting to construct a "second Vatican" in an Islamic country.

Three years after his election as spiritual leader of the world's Orthodox Christians, Bartholomeos is planning to travel the world, meeting with Orthodox communities in Eastern Europe and joining in ecumenical discussions with Pope John Paul II and the Archbishop of Canterbury, among others.

Royce would like to see the Patriarch speak forcefully about the persecution of Christians in Turkey. Too often, he says, Orthodox Christians have tried appeasement and have failed to better their situation. "Our people are still being crucified," he stresses, noting that for centuries Orthodox leaders "have been very passive." "We need martyrs today," he says.

Royce has taken his campaign for the rights of Orthodox Christians to the United Nations and to every U.S. president since Jimmy Carter. He found that American Cold War politicians were reluctant to offend Turkey, then considered a vital strategic U.S. friend on the Soviet border.

Royce is a tireless contributor to the religious press of all denominations as he attempts to generate outrage about the persecutions.

The activist recently persuaded the Los Angeles Council of Churches to petition the U.N. Human Rights Office in Geneva for the return of St. Sophia Cathedral in Istanbul, now a museum, to religious uses. The Council of Churches group also called for the reopening of seminaries and the return of Church property now administered by the Turkish government.

The campaign has not yet proven successful. But that hasn't stopped Royce.

Born in Bethlehem, Pa., as Nicholas Vlangas, he and his Greek-American family soon moved to Baltimore, where he was raised.

The Catholic youths in his neighborhood made fun of his Eastern Orthodox ways, recalls Royce, who is 68. Later he realized that responding to their taunts inadvertently helped him to learn more about his tradition.

"It was up to me not to become bitter but to study my culture and my traditions," he says.

At 14, he was entertaining American military troops and eventually he made a career as a nightclub singer and dancer, appearing on the Ed Sullivan show and other national network programs in the '50s. He changed his ethnic name like other big-name entertainers of that time.

But while his name changed, Royce never forgot his ethnic origins and his religious tradition. For years he helped wage an ultimately successful campaign to have Orthodox chaplains admitted into the American military.

"We had to educate the Christian world." Royce declares, saying that before his campaign the only groups allowed chaplains in the military were Catholics, Protestants and Jews. It took nine years to recognize the rights of Orthodox Christians in the military.

Next, he embraced the cause of Orthodox Christians in Turkey, inspired by the sight of devastated churches and shrines he saw on a trip there. That has proven to be a more difficult effort.

Ultimately, Royce wants to educate Roman Catholics—he emphasizes that Orthodoxy also embraces the "Catholics" term—to the spiritual links they have to the Eastern Church. Istanbul, formerly Constantinople, was for centuries one of the two great centers of the Church, sharing its role with Rome. "We were all united at one time," he emphasizes.

HEALTH CARE REFORM

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. COMBEST. Mr. Speaker, I would like to address some of my biggest concerns with the ongoing debate on health care reform.

I believe that the proposed Clinton health care reform plan mandating insurance coverage, in any of its many guises, would devastate the economy of this Nation.

Currently, many of the strengths of our economy are based upon "Mom and Pop" enterprises—small businesses. They employ an ever increasing number of workers, while the percentage of the employment provided by the great multinational corporations continues to shrink. Yet the successful small business is a rare and fragile organization. Right now, only 3 of 10 new small businesses will survive their first 5 years.

Another threat is now held over fledgling enterprises in the form of employer mandates.

Small businesses generally pay 10 to 40 percent more for health insurance than large companies. The majority of small businesses spend more than 12 percent of their payroll on health insurance. One can see very easily that when a small business with a small fixed labor cost is forced to pay more for their employees' health insurance, that firm will need to lay off employees to make up the difference. But that is not just my opinion; several studies evaluated the effect the proposed mandates would have on our Nation's economy. The following statistics are startling:

Estimates have been made that between 1 and 2 million workers would lose their jobs in this country;

The State of Texas alone would lose between 51,000 and 68,000 jobs;

Nearly half of all jobs lost nationally would occur in firms with less than 100 employees;

One-third of small businesses say any mandate would put them out of business;

Those most likely to lose their jobs would be low-wage workers with families;

Nationally, we could see a drop of as much as $93 billion in lost wages;

Personal income would drop for Texans by more than $7 billion.

Many of the issues that are key to successfully reforming our health care system already enjoy bipartisan support: optional medical savings accounts; health insurance portability; the elimination of the ban on preexisting conditions; medical malpractice reform; product liability reform for FDA approved drugs and devices; incentives to eliminate waste, fraud, and abuse in the health care system; and the reduction of paperwork. All this could be achieved without additional Federal spending, thereby eliminating the need for costly employer or individual mandates.

I believe that we should proceed with caution in enacting any reforms to the health care system. We stand to lose far more than we might gain.

DEFEND PEACE IN POLAND—SANTORUM SUPPORTS NATO MEMBERSHIP

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. SANTORUM. Mr. Speaker, as thousands of Polish Americans are meeting today in my district to celebrate the 63d annual Polish-American Day at Kennywood Park, I rise to join my colleagues in cosponsoring H.R. 4210, the NATO Expansion Act of 1994.

Mr. Speaker, this important piece of legislation assists and promotes the emerging democracies in Poland, Hungary, the Czech Republic, and Slovakia. H.R. 4210 provides aid and military assistance in helping these countries in their transition to full NATO membership by 1999. The people of Poland were instrumental in pushing forward with democratic reforms and paved the way for the fall of the Iron Curtain. Now, with the dissolution of the Warsaw Pact, it is crucial that the United States continue its tradition of aiding Eastern Europe in consolidating their democratic and market reforms and in gaining NATO membership.

During the remainder of the 103d session of Congress, I will continue to work to move this historic legislation toward consideration on the House floor.

IN HONOR OF GINNY LEEUWENBURGH AND GORDANA SWANSON

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Ms. HARMAN. Mr. Speaker, I would like to honor two great community leaders from my district, Gordana Swanson and Ginny Leeuwenburgh, both of whom are retiring from many years of service as city council members for the city of Rolling Hills.

Ginny Leeuwenburgh was first elected to the council in 1982, and has served as mayor twice. The list of her contributions to her city is very long, and shows the range of her interests: the Traffic Commission, Emergency Services Disaster Preparedness Committee, the City/School Committee, Liaison to the Community Association and the Women's Community Club, Special Events Chair, Delegate to the Palos Verdes Regional Law Enforcement Committee, League of California Cities, California Contract Cities Association, Peninsula Geotechnical Task Force, Peninsula Mayors Committee, and the Peninsula Open Space Committee.

While on the council, Ginny demonstrated a deep concern for public safety, particularly the safety of the community's children, and unwavering support for quality education for the children of the peninsula. She has worked hard to maintain open space for recreational use and to preserve the rolling hills of our community in their natural beauty.

Ginny has also worked hard for many groups in the South Bay: the United Way Corporate Board, Harbor Advisory Council, Peninsula Seniors, Friends of the Library, and the League of Women Voters.

I know that Ginny will continue to be a vibrant part of her community, and I wish to recognize her for the important contributions she has made.

Gordana Swanson is another dynamic woman who has contributed greatly to her city and her community. She began serving on the Rolling Hills City Council in 1976, served as mayor three times, and as traffic commissioner, Chair of the City's Sewer Study Committee, liaison to the Planning Commission and the Caballeros Club, and a member of the Budget/Finance Subcommittee, Rubbish Franchise Committee, and the city's delegate to the Southern California Association of Governments, League of California Cities, California Contract Cities Association, South Bay Cities Association, South Bay Corridor Steering Committee, and the Peninsula Mayors Committee.

Gordana also served on the Boards of the Los Angeles County Sanitation Districts, West Basin Water Association, South Bay Juvenile Diversion Program, Coachella Valley Joint Powers Insurance Authority, and Southern California Rapid Transit District. She served on the Criminal Justice Council, the League of California Cities State Policy Committee on Transportation, and as fund raising chair for the South Bay District of the Red Cross. In 1981 she was selected as Citizen of the Year by the Palos Verdes Peninsula Chamber of Commerce.

During her years on the Rolling Hills City Council, Gordana worked tirelessly to maintain orderly low density development and an equestrian atmosphere in the city, and spearheaded the formation of the Rolling Hills Wildlife Preservation Committee. She became an expert on transportation issues, and was always available to speak out for the South Bay and its transportation needs. Her most recent success was as founder and first president of the National Women's Political Caucus of the South Bay.

Mr. Speaker I am privileged to know these two inspiring women, and proud to pay tribute to them as they retire from the Rolling Hills City Council.

DIABETES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. STARK. Mr. Speaker, health care reform is the best thing we can do for America's 14 million diabetics.

The leadership bill will guarantee health coverage for all Americans, thus ensuring that every diabetic will be able to get the help they need.

The bill will eliminate pre-existing conditions clauses in health insurance policies. This means that diabetic children will be able to buy their own policies when they leave the family's coverage. It means that a diabetic adult will be able to switch jobs or retire early without fear of losing health insurance.

The bill ensures choice of provider. Diabetics will be able to seek and obtain care from the doctor and the specialist that they want. Managed care plans will have to ensure access to centers of excellence and specialized treatment. Individuals won't be trapped in managed care plans that limit service.

For the individual diabetic or the diabetic in a small company, the bill will ensure that insurance is affordable. Private insurance will be available at community rates and one will also be able to join Medicare part C.

The bill's cost containment provisions will slow the rate of health inflation and give diabetics and their family needed financial relief.

The bill also dedicates billions to medical research, hopefully speeding the day that we find genetic cures to this serious illness.

The legislation also includes a special demonstration project to develop new and better ways of treating diabetics. This project will help ensure that the findings of the NIH's 10-year diabetes control and complications trial are translated into better education, training, and treatment of diabetics. The DCCT results prove that we can greatly improve the quality of health and life for millions of diabetics. Passage of health care reform can help transform the DCCT's findings into reality for the nation's diabetic community.

Halfway measures—partial insurance reforms, limited cost containment, soft-triggers—won't meet the needs of these 14 million Americans.

Let's do the right thing, and pass a comprehensive reform bill.

MORE TIME NEEDED TO CONSTRUCT HEALTH CARE BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. PACKARD. Mr. Speaker, Congress is racing to find the cure for what ails our health care system. However, the remedy the congressional leadership is hastily concocting may be more toxic than the disease.

The ingredients for this potion include taxes, mandates, global budgets, and huge Federal wage and price controls. If the American people are forced to swallow this brew, they will suffer from lost jobs, less choice, rationed care and higher taxes.

I believe that the American people deserve more than a last-ditch, last minute, closed-door effort by Members to turn the world's best health care system over to Government bureaucrats.

The cure the American people are looking for is a carefully constructed bill which would ensure access, choice and quality—not high costs, lost jobs and 50,000 more paper-shufflers.

Recent polls show that the majority of the American people oppose the Clinton-Gephardt approach to health care reform. However, some Members of Congress think that the views of the American people are insignificant, proclaiming that "we are going to push through health care reform regardless of the views of the American people."

Mr. Speaker, we are not mad scientists working in darkened labs to satisfy our own whims and objectives. We are here to serve the interests of the American people. We need to take the time to listen to those interests and construct a bill which addresses those concerns.

THE 10TH ANNIVERSARY OF THE NATIONAL POLITICAL CONGRESS OF BLACK WOMEN

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Ms. NORTON. Mr. Speaker, I rise in recognition of the 10th anniversary of the National Political Congress of Black Women

[NPCBW]. I am very proud to be a founder of the NPCBW, the most important black organization devoted exclusively to building the political strength of black women. The NPCBW was founded 10 years ago today, on August 2, 1984, when the Honorable C. DeLores Tucker called together a group of 35 African-American women leaders of diverse groups to organize for greater involvement in the political process. At the third meeting of the NPCBW, on August 9, 1984, the Honorable Shirley Chisholm, the first black woman to serve in the Congress, was elected the first chair of the organization—a position which she held until she assumed the title of chair emeritus.

The NPCBW is a nonpartisan organization that has worked long and hard to prepare African-American women to enter the political process. Its broad mission includes: First, mentoring African-American women; second, encouraging African-American women, on a nonpartisan basis, to engage in political activities, including voter registration; third, offering training to African-American women in understanding the political process; fourth, encouraging African-American women to seek office at all levels of government; and fifth, seeking the appointment of African-American women at all governmental levels.

Today is a historic date in the political history of African-American women. I am pleased to rise today in honor of the 10th anniversary of the National Political Congress of Black Women.

INTRODUCTION OF THE SPENT NUCLEAR FUEL DISPOSAL ASSURANCE ACT OF 1994

HON. ROD GRAMS

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. GRAMS. Mr. Speaker, today I am introducing the Spent Nuclear Fuel Disposal Assurance Act which will reaffirm the existing legal requirement that the Secretary of Energy provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998. Only by reaffirming this requirement will the Department of Energy [DOE] be forced to fix a Government program which is now seriously broken.

The Secretary of Energy recently acknowledged that it is highly unlikely that DOE will be able to fulfill its legal obligation to begin accepting commercial spent nuclear fuel by 1998, as it is required to do so by the Nuclear Waste Policy Act. Moreover, DOE now is attempting to avoid its responsibility altogether by maintaining that it has no legal obligation to accept spent nuclear fuel absent an operational permanent waste repository, which only the DOE has the authority to build.

If the Department of Energy fails to meet its commitment to accept nuclear waste by 1998, an industry which today provides more than 30 percent of Minnesota's energy needs and 20 percent of all the electricity used in the United States will be threatened. Most importantly, electricity costs to tens of millions of consumers, our constituents, could unnecessarily increase. We cannot afford to let this happen.

In 1982, Congress enacted the Nuclear Waste Policy Act which required the Department of Energy to site and build a permanent repository for electric utility spent nuclear fuel. The act also required the DOE to accept nuclear fuel for disposal beginning not later than January 31, 1998. All utilities with nuclear generating plants have signed contracts with the Department of Energy which obligate the DOE to accept waste accordingly.

The civilian nuclear waste program financed almost entirely by annual fees paid by the ratepayers of nuclear utilities. To date, our constituents have paid more than $9.7 billion into a special fund which is intended to finance the waste program. In Minnesota alone, ratepayers have contributed more than $200 million to the nuclear trust fund. Despite the expenditure of over $3.8 billion, the DOE has fallen far behind in its schedule for siting and constructing a permanent nuclear waste storage facility. Originally promised for 1998, the DOE now says that a permanent facility will not be available before 2010, at the earliest.

Similarly, the DOE has made little progress in finding a site for a temporary monitored retrievable storage facility where spent fuel could be stored until a permanent repository becomes available.

Realizing the unlikelihood of its ability to fulfill its legal obligation to begin accepting waste by January 31, 1998, the Department of Energy issued a notice of inquiry on May 25, 1994 which raises questions about its obligations or willingness to accept nuclear waste. The notice indicated that it is the "Department's preliminary view that it does not have a statutory obligation to accept spent nuclear fuel in 1998 in the absence of an operational repository or other facility constructed under the [Nuclear Waste Policy Act]."

Mr. Speaker, the Government's failure to keep the waste program on schedule is not acceptable. The recent problems Minnesota faced with storage at Prairie Island should serve as a wake up call to the DOE—States are no longer willing to sit idly by as DOE drags its feet in accepting spent nuclear fuel—they are not willing to become de facto permanent storage facilities. And electric consumers are being burdened with unnecessary costs: Costs for continued onsite storage and with the prospect of having to purchase alternative supplies of power if we are forced to close powerplants before the end of their useful lives.

The Spent Nuclear Fuel Disposal Assurance Act will force the Department of Energy to move expeditiously to construct interim storage by reaffirming the Department's legal obligation to begin accepting spent nuclear fuel no later than January 31, 1998. My legislation will also make it easier for the Department to construct a temporary monitored retrievable storage facility by eliminating the current requirement that a permanent repository be selected and licensed before construction of such a temporary facility would be permitted.

Enactment of the Spent Nuclear Fuel Disposal Assurance Act is necessary in order to avoid saddling our constituents with the costs of yet another failed Federal program. I urge all members to join me in support of this important legislation. Thank you.

PRESIDENT CLINTON'S ROMANIA INITIATIVE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. RICHARDSON. Mr. Speaker, I would like to direct my colleagues attention to a new U.S. foreign policy initiative undertaken by President Clinton. The Romanian-American Enterprise Fund is a bold plan to further democratic progress in that country. This fund will supply loans, investments, and technical assistance to the Romanian people as they rebuild their nation. I urge my colleagues to take note of this fund and I applaud President Clinton for this important foreign policy initiative.

Mr. Speaker, I was pleased to learn that on July 6 President Clinton appointed the eight directors for the new Romanian-American Enterprise Fund. This board of distinguished Americans will be ably chaired by Robert L. Wald, one of the most respected members of Washington's legal community.

The aid fund will have $50 million with which to make investments and loans in addition to providing technical assistance to nurture private companies and entrepreneurs in Romania.

When the fund is fully operating later this year, it will provide significant additional momentum for Romania's already impressive progress in building a free market economy form scratch.

Since the December 1989 revolution that set the nation on a democratic course, Romanians have struggled to establish a stable economy that would allow a free market to flourish. Inflation has been tamed, a convertible currency has been established, reforms and laws to spur further privatization are in place and planning for a stock market is underway. In recognition of Romania's success, major international financial institutions are supplying critical support.

During the last several months, the International Monetary Fund, World Bank, and G–24 nations have pledged a total of more than $1 billion in loans and guarantees to Romania, and more is being considered.

The establishment of the Romanian-American Enterprise Fund is another welcome sign to the Romanian people that they have chosen the right path and that the United States supports their efforts.

I invite my colleagues to join me in congratulating President Clinton, the newly appointed directors of the Romanian-American Enterprise Fund and the courageous people of Romania.

TRIBUTE TO CHIEF DAVID R. BELL

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to Mr. David Bell, who recently retired as chief of the Deerfield Police Department after 14 years of service. It is my pleasure to join the town of Deerfield in honoring a man who has remained firmly committed to his profession and to serving his community.

Mr. Bell began his distinguished career in law enforcement in 1953 as a Chanceman [probationary patrolman] with the West Caldwell, NJ Police Department. While at West Caldwell, he took pride in his position as firearms instructor and excelled as a member of the pistol team, scoring a perfect 300 in one competition. In 1977, he was one of a select few admitted to the FBI National Academy where he further exemplified his skills on the firing range and qualified as a master in marksmanship. While at the Academy, he sharpened his natural artistic talent through the study of composite drawing, a skill he maintains to this day. Upon retiring as a captain of the West Caldwell force in 1980, David Bell had received numerous commendations over his 28 years of service.

Throughout his career as chief of the Deerfield Police Department, David Bell kept on the cutting edge of modern police techniques and helped the department to grow in both size and ability. He revamped the recordkeeping system and was instrumental in getting Deerfield on line with the LEAPS teletype. Moreover, Mr. Bell demonstrated an outstanding ability to communicate with people of various age groups and social backgrounds. Along with his accomplishments, his special understanding of human nature always earned him the respect of his fellow officers and the community he served.

Although Mr. Bell will be missed in his role as chief, the town of Deerfield is fortunate to have such an exemplary citizen. In honor of his contributions, I ask my colleagues to join me in wishing Mr. Bell continued success in the years to come.

THE AMERICAN CODE

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. SWIFT. Mr. Speaker, I have received many letters from my constituents who are worried about our Nation's crime problem, and Congress has had vigorous debates on the best solutions to stop this violence. We need to find a way to make sure our children become productive members of society and not callous criminals. Yet, there are limits to what Congress can do to stop violence. Individuals need to take personal responsibility for their actions—to step back and see that how they treat others directly impacts our society. Mrs. Nordica Wiggins, of Everett, WA, has developed a code of conduct which she calls The American Code, which we should all take the time to read. Her code provides a valuable guide for individuals, families, and communities to follow in order to return to those positive values of decency, courtesy, and respect.

I am submitting a copy of her letter for the RECORD.

THE AMERICAN CODE

1. I will respect my fellow Americans in speech, attitude and behavior.

2. I will not kill.

3. I will not steal.

4. I will not bear false witness against a fellow citizen.

5. I will protect children.

6. I will be kind to animals.

7. I will protect the environment.

8. I will obey the laws and pay the taxes that pertain to me.

9. I will not discriminate against others who differ from me in appearance, beliefs and customs.

10. I will respect and protect the American flag.

TRIBUTE TO FATHER DONAL FORRESTER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to a fine man, Father Donal Forrester. He has illustrated true loyalty not only to his country, but to his religion and community as well. On Sunday, May 22, 1994, he celebrated his 60th anniversary as a Paulist Father in St. Paul's the Apostle Church in New York City.

A wartime comrade to a number of other World War II veterans, Father Forrester has given his time to the friends and family of his colleagues. He appointed himself lifelong chaplain for the 809th battalion where he watches over them constantly.

In addition, many years ago, the Texas legislature honored him for services he did over the years. This year he was the celebrant of the 25th anniversary of his founding of a baseball league for the youth of the San Francisco Chinese community.

In his role as chaplain, Father Forrester has conducted an annual memorial and ecumenical mass for the 809th battalion at their yearly reunions for almost 50 years. He has done it for the ever-growing list of our fallen comrades. He allows for the remembrance of the important feats his comrades did for their battalion.

Although Father Forrester is Catholic, he had devoted himself to all of his comrades, no matter what faith they might be. For example, he accompanied the body of a Jewish companion to the gravesite where he was called upon to share his thoughts about Bernard Rosenbloom to soothe the family and friends gathered there.

In a day and age where selfishness is the norm for so many in our society, it is reassuring to know there are still people like Father Forrester. Those who are close to him continue to call him friend, comrade as well as chaplain. I commend Father Forrester for his dedication to his family, friends, and comrades. I know my colleagues join me in commending Father Donal Forrester on his 60th anniversary as a Paulist Father.

FEAR AND PAIN OF CRIME IN THE NATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mrs. SCHROEDER. Mr. Speaker, I was handed the enclosed poems by a young man named Joe Ford at the June 4 "Beat the Street" walkathon in Denver. I was deeply moved by his poem, and as the timing coincides with our consideration of the crime bill conference report, I want to share it with my colleagues in the House. Joe's words remind us of the reality on the streets and take us beyond this room to the truth—the fear and pain—of crime in this Nation. After reading this poem, it is difficult to question the importance of the work we are doing here today.

THE END

1993 was a bad summer for me,
Violence started and didn't stop.
It was like a war zone
Everyone was getting popped.
Pop pop as the cylinder rotated
The bullet from the gun
Was hitting everyone in its way.

THE END—PART TWO

Mothers and fathers who cried a
River of tears
To bury their child who
Didn't make it this year.

As each summer comes and goes
I'll always remember that violence
Has claimed its toll.

His message is certainly an important one and his words express it powerfully.

NEXT OF KIM

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. GINGRICH. Mr. Speaker, although there are many important issues before us, we must not neglect a critical foreign policy problem: nuclear proliferation in North Korea. I urge all Members of Congress to read "Next of Kim," an article written by our former colleague, Stephen J. Solarz, and published in the New Republic. As Solarz points out, the Korean dilemma warrants our attention and immediate action so that we can prevent proliferation of nuclear weapons both in Southeast Asia and in the Middle East.

NEXT OF KIM

(By Stephen J. Solarz)

When Jimmy Carter, after concluding several hours of discussions in Pyongyang with North Korea's Great Leader, Kim Il Sung, declared that "the crisis is over" on the Korean peninsula, a sigh of relief could be heard around the world. It appeared as if the drift toward a diplomatic and economic confrontation, and possibly even a military conflict, had been averted. If Carter was right, and no one could say with certainty that he was wrong, the stage had been set for a peaceful resolution of the North Korean nuclear challenge.

Pyongyang subsequently agreed to permit inspectors from the International Atomic

Energy Agency (IAEA) to remain in North Korea to verify its commitment not to reprocess the fuel rods that it had recently extracted from its reactor (which would have given it the capacity to make five or six nuclear weapons by the end of the year), and to refrain from reloading its only operational reactor while negotiations were underway with the United States; and this, too, put wind in the sails of the optimists. So did the setting of dates for a third round of negotiations with Washington in July and the first summit ever between the leaders of the two Koreas in August.

Then Kim Il Sung died. (The Great Leader's fuel rods were finally spent.) In Pyongyang, nothing was clear. The struggle for succession, if such a struggle is taking place, is obscure; and the likely successor, the Dear Leader, Kim Jong Il, the son of the Great Leader, is even more obscure. It is hard, of course, to make foreign policy in circumstances so uncertain; but it would be a great blunder for American policymakers to allow gossip from Pyongyang and diplomatic politesse to interfere with the historical and strategic understanding of the North Korean problem. Idle speculation about the succession, or even informed speculation, matters less than the words and the actions of North Korea at the negotiating table in Geneva and at the nuclear facilities in Yongbyon.

This problem has a past and a logic. Pyongyang has persistently prevaricated on the nuclear issue. Over the years it has consistently said one thing and done another. It signed the Nuclear Non-Proliferation Treaty (NPT) but refused to carry it out. It agreed to let the IAEA inspect its nuclear facilities but interfered with the IAEA's efforts to do so. It entered into an agreement with South Korea obligating it to dismantle its reprocessing plant but blithely ignored the pact.

My own experience in North Korea suggests that its commitments have about the same value as Tsarist war bonds. In 1980, when I met Kim Il Sung for the first time, he told me that he favored ameliorating the human consequences of the division of Korea by permitting family visitations, the exchange of correspondence and trade between the peoples on both sides of the thirty-eighth parallel. More than a decade later virtually none of these reforms has taken place. In 1991, when I met him for the second time, the Great Leader assured me that he had no interest in obtaining nuclear weapons, and that North Korea was not attempting to construct a reprocessing facility, in spite of the fact that there was incontrovertible evidence the country was doing both.

Now, despite its promise to "freeze" its nuclear program while talks are underway with the United States, North Korea continues work on a 200 megawatt reactor, which will give it the capacity to produce enough fissile material for ten or more atom bombs per year when it is completed in 1996. It is also still constructing a "second line" in its reprocessing plant, which will enable it to produce additional nuclear weapons more rapidly should it decide to resume reprocessing in the future. What is needed now, in short, is not wishful thinking but hard-headed analysis.

Such an analysis must begin with a recognition of the fact that the North Korean nuclear project constitutes the most serious threat to the preservation of regional peace and global nonproliferation in the world today. An unconstrained North Korean nuclear program would give Pyongyang the ability to produce and to stockpile dozens, and eventually hundreds, of nuclear weapons. Far from being over, the crisis may soon be upon us. In the absence of a verifiable agreement bringing its nuclear weapons project to an end, the North Koreans will be in a position to make up to fifteen atom bombs per year by 1996, and could easily have more than fifty by the end of the century.

An atomic arsenal of this magnitude would have a number of dangerous and destabilizing consequences.

It would increase the risks of another conventional war on the Korean peninsula. Should it decide once again to attempt to reunify Korea under Communist control, or should it decide to break, by military means, the international community's efforts to thwart its nuclear program. Pyongyang would have enormous leverage to end the fighting on its terms, which might encourage it to begin the fighting in the first place.

It would increase the prospects for a nuclear arms race in Northwest Asia by putting pressure on Japan and South Korea, the countries most immediately threatened by North Korea's nuclear potential, to join the nuclear club themselves.

It would increase the chances that Japan, for the third time, and South Korea, for the first time, will become victims of a nuclear attack.

It would increase the possibilities of nuclear proliferation by giving North Korea the capacity to earn desperately needed foreign exchange by selling its fissile material, and even off-the-rack nuclear weapons, to whoever is able to buy them.

It is likely that the first three of these potential consequences could be averted by the realities of America's conventional military power and nuclear deterrent. North Korea has no interest, after all, in inviting its own destruction by launching another conventional war against South Korea or a nuclear attack against Japan; and so long as the United States credibly reaffirms its determination to consider a nuclear strike against South Korea or Japan the equivalent of a nuclear attack against itself, our allies would most probably continue to refrain from joining the nuclear's club. For this reason, some have dismissed concerns about North Korea's nuclear program on the grounds that, just as we prevented the Soviet Union and China from using their nuclear weapons through a policy of containment and deterrence, we can prevent Pyongyang from launching its nuclear weapons as well.

But this rather sanguine assessment overlooks the real problem, which is that Pyongyang is more likely to sell its nuclear weapons that use them. If this were to happen, and with an unconstrained North Korean nuclear program it surely will, it would dash whatever hopes still exist for a truly effective and global nonproliferation regime. The Hermit Kingdon, remember, has consistently demonstrated its difference to established norms of national behavior. Among its more notable exercises in international terrorism were its efforts in the 1980s to assassinate the entire South Korean Cabinet during the course of an official visit to Rangoon, the blowing up of a South Korean civilian airliner over the Andaman Sea and the abduction of a leading South Korean actress to satisfy the cinematic appetites of Kim Jong II. Its record of selling intermediate-range missiles to Iraq, Syria, Libya and Iran leaves little doubt that it will provide fissile material and nuclear weapons to whatever rogue regimes and terrorist groups are prepared to pay the market price.

It is one thing to describe the threat. It is quite another to figure out how to deal with it. The Clinton administration has three options: diplomacy, sanctions and force. With the moment of truth fast approaching, it is important to consider each of these options, and for the United States and its Asian allies to determine not only what they want from North Korean, but what they are prepared to do in order to get it.

Obviously, the best way to resolve the problem would be through a negotiated agreement in which Pyongyang undertook to abandon its nuclear weapons program. Such a settlement would entail North Korea Dismantling its reprocessing facility, stopping any further work on its 200 megawatt reactor, relinquishing all the fissile material it has already produced, including its recently discharged spent fuel, and accepting "special inspections" by the IAEA. Without the latter, which would entitle the IAEA to inspect not just Pyongyang's declared facilities but also any location where it has reason to suspect that prohibited activities may be taking place, it would be impossible to preclude the possibility that, like Iraq before the Gulf war, North Korea had a clandestine program or arsenal. North Korea, after all, has a long history of building large-scale munitions factories underground, as it did during the Korean War, and tunnels under the demilitarized zone, as it did in the years after.

Such a settlement will require the United States and its Asian allies to be clear about what they would be willing to give North Korea in exchange for such commitments. In the discussions that preceded the recent meeting in Geneva, we said only that we would talk about the normalization of our relationship with Pyongyang if it agreed to our demands, and refrained from spelling out what we would be willing to do for North Korea if it abandons its nuclear project. A purely diplomatic strategy entails making North Korea an offer it can't refuse. (There is always the chance that Pyongyang, which has spoken from time to time about a "package deal," might accept it.) And so we should offer North Korea full diplomatic relations; a no-first-use pledge about the use of nuclear weapons; and whatever economic assistance it needs for its legitimate energy requirements, including, if necessary, a light water nuclear reactor. Japan and some of the other OECD countries would join in providing the resources for the construction of such a facility.

An offer of this magnitude would be a relatively small price to pay for the termination of North Korea's nuclear enterprise. Actually, all things being equal, the establishment of diplomatic relations with North Korea is in our interest as much as it is North Korea's, given the desirability of exposing Pyongyang as much as possible to the realities of the changing world situation. During the 1980s, when Beijing and Moscow had as little to do with Seoul as Washington and Tokyo had to do with Pyongyang, we pursued a policy of "cross recognition," in which the United States and Japan promised to establish diplomatic relations with North Korea if China and the Soviet Union established them with South Korea. Now that Moscow and Beijing have embassies in Seoul, and a thriving trade with South Korea, Washington and Tokyo are still without a diplomatic presence in Pyongyang, and have minimal economic involvement with North Korea. Recognizing Pyongyang without an acceptable resolution of the nuclear issue would be very foolish, since it would give up one of the main cards in our hand; but extending it in a nuclear agreement would be very wise.

Such an offer would be worth making, moreover, even if Pyongyang rejected it. With North Korea's real intentions—its preference for membership in the nuclear club over normalization of relations with the United States, South Korea and Japan—unambiguously exposed, it would be easier to muster the support, at home and abroad, that will be politically necessary to take the tougher steps, involving sanctions and perhaps even force, that may be necessary to solve the problem.

Instead of rejecting such a proposal out of hand, Pyongyang is more likely to retort that the offer does not go far enough, that what is really needed is a peace treaty to replace the armistice that has existed for the last forty years. With such a treaty, the United States would naturally be expected to withdraw its forces from South Korea. To be sure, the acceptance of such a demand in the absence of a phased and verifiable reduction in the armed strength of both Koreas, and the establishment of an acceptable balance of indigenous power in the Korean peninsula, is unthinkable. The likelihood, anyway, is that the North Koreans will not agree to all of our demands, even if we provide them with diplomatic recognition, security assurances and economic assistance.

What, then, will the North Koreans do? At the worst, they will begin to reprocess the extracted fuel rods when they cool off sometime in August, reload their now empty five megawatt reactor and continue to move forward on their nuclear project. At best, they will agree to terminate a future nuclear program, while insisting that we forgo any effort to make them relinquish the fissile material they have already produced, thereby enabling them to maintain a limited nuclear arsenal of at least one or two atom bombs. Each of these possible actions on the part of Pyongyang needs to be carefully analyzed, since each calls for a somewhat different reaction.

If North Korea once again repudiates its pledges and goes ahead with its nuclear project, we will have no choice but to impose sanctions. Yet we must recognize that sanctions are not likely to be effective in persuading Pyongyang to accept the proposal that would presumably still be on the table. North Korea already has the most autarchic economy in the world. And it is better positioned than Iraq and Cuba, which have resisted sanctions, for three years and thirty, to go it alone.

But the real problem with sanctions is that their effectiveness is almost wholly dependent on China, which provides Pyongyang with up to 80 percent of its oil, and is the only country with which North Korea has any significant economic relationship. Fearing that sanctions will be ineffectual at best and counterproductive at worst, Beijing does not want to risk either precipitating a collapse of the North Korean regime or alienating its only remaining Communist ally in Asia. Even if it abstained on a U.N. Security Council vote to impose sanctions, which is by no means certain, China is unlikely to close its border with North Korea.

In the event that diplomacy and sanctions fail, the only remaining recourse would be the use of force. Just as Israel destroyed the Iraqi nuclear reactor at Osirak in Iraq, such a scenario would require the United States to launch a surgical strike against the North Korean nuclear complex at Yongbyon. From a technical and military perspective, such an operation is feasible. We have the capacity, using a combination of cruise missiles and stealth bombers, to render North Korea's nuclear facilities inoperable. And if we were to launch an attack when its reactor and reprocessing facilities were empty, as they are now, the spread of radioactive materials beyond the Yongbyon complex could be greatly diminished, if not entirely eliminated.

Here is where the worst-case scenario starts getting spun. With more than 1 million men under arms just north of the demilitarized zone, and with its artillery batteries within easy range of Seoul, the continued quiescence of North Korea's frontline troops cannot be taken for granted. The use of force is likely to provoke a retaliatory response that could have catastrophic consequences. There is a real possibility that it could lead to another major military conflict on the Korean peninsula. The United States and South Korea would undoubtedly prevail, but the cost of victory in blood and treasure would be high. So high, in fact, that there are few people in the corridors of power in Washington, Tokyo or Seoul prepared to seriously consider the military option.

Yet this worst-case scenario may be deeply flawed. the North Korean regime is immoral and irresponsible, but it is not suicidal. Some kind of retaliation by Pyongyang for an attack on Yongbyon would probably be inevitable. Still, a full-scale attack against the South, or an artillery barrage against Seoul, is doubtful, given the likelihood that it would result in the destruction of the North and the collapse of its regime. More likely would be a Scud missile attack against one or more of the eleven nuclear reactors in South Korea, or acts of terrorism directed against the United States or Japan. But even here, the notorious inaccuracy of Scuds, and the presumptive protection of Patriot missiles, would almost certainly blunt such an attack. Terrorism would be harder to combat, but also less threatening.

The other possible, and more likely, response to a generous diplomatic offer in Geneva is that North Korea will agree to forgo the future production of fissile material in exchange for a comprehensive package of diplomatic, security and economic benefits. It will also insist that its past program is off-limits, thereby enabling it to keep weapons-grade material already produced. And this will present the United States with a tough choice. We will have to decide whether it is better to cut off North Korea's future production of fissile material at the price of permitting it to keep what is already has, or whether we should insist on total compliance with the NPT and the North-South agreement on the denuclearization of the Korean peninsula.

It is essential to understand that complete compliance with its obligations as a signatory of the NPT will not suffice: North Korea could continue to produce fissile material and to extract plutonium from it under the eyes of the inspectors. We must insist, therefore, on the implementation of the North-South Accord on the De-Nuclearization of the Korean Peninsula, which requires Pyongyang to dismantle its reprocessing facility. Our aim is that North Korea shuts it down and takes it apart. But the future of the North Korean program should concern us more than its past. Our stubbornness should not be misplaced. It would make little sense to let Pyongyang assemble a stockpile of nuclear weapons simply because it refuses to surrender the one or two weapons it already may possess; and in such circumstances it would be better to reach an understanding with Pyongyang in which it is permitted to keep the fissile material it already has in exchange for precluding it from accumulating any more. A single North Korean bomb will not threaten global nuclear stability. Many North Korean bombs will.

Forging a consensus among Washington, Tokyo and Seoul will not be easy. South Korea and Japan, understandably concerned about the possible use of nuclear weapons by North Korea against them, have a greater interest than the United States in preventing Pyongyang from being permitted to keep even one or two atomic bombs. The United States, on the other hand, has a greater interest than Japan or South Korea in preventing the proliferation of nuclear weapons around the world. Just as another conventional war on the Korean peninsula would be a worst-case scenario from the perspective of Seoul and Tokyo, the acquisition of nuclear weapons by rogue regimes and terrorist groups would be a worst-case scenario from the perspective of Washington. To honor these differing perspectives, the president should tell South Korea and Japan that we would be prepared to reject any North Korean proposal that would leave it with even a minimal atomic arsenal, should Seoul and Tokyo insist that we do so. In exchange, if Pyongyang refuses to abandon its nuclear project, Seoul and Tokyo should agree to the surgical strike that will be necessary to prevent North Korea from becoming a major and mischievous nuclear state. The chances are that the Japanese and the South Koreans will choose a negotiated settlement over a surgical strike, but choose they must.

Time is running out. In August the North Koreans may move their fuel rods and start to reprocess them. In such circumstances, sanctions, which will serve as a warning to other proliferators, will work too slowly to affect this proliferator. The crisis that Carter said was over will then be upon us. What will matter is the determination of the president. If the only way left to stop a nuclearizing North Korea is the use of force, the president should find the will, and the nerve, to order an attack. This will be a difficult decision to make; but if Clinton finds a way to stop North Korea from becoming a nuclear power, he will have established himself as the leader that the post-cold war world needs him to be. A decade from now, if Pyongyang has proceeded with its nuclear project, and sold atomic bombs to Libya, Iran, Syria and Iraq, not to mention terrorist groups and nationalist armies, historians will rightly describe our timidity as one of the greatest and grimmest failures in history.

JEWS AND THE CHRISTIAN RIGHT

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. DELAY. Mr. Speaker, I commend the following advertisement from the New York Times to my colleague's attention.

[From the New York Times, Aug. 2, 1994]

SHOULD JEWS FEAR THE "CHRISTIAN RIGHT"?

On June 9, 1994, the Anti-Defamation League (ADL) issued a report entitled "The Religious Right: The Assault on Tolerance & Pluralism in America." We are a group of Jews who wish to make it known that we reject the implications of this report and deplore its publication.

We do not question that it is the proper role of the Anti-Defamation League to identify the enemies of the Jewish community.

Jewish tradition, and indeed Jewish law, demand that the first concern of our communal organizations be the protection and survival of the community.

But the so-called "evidence" of a conservative Christian threat to Jewish security is derived from such discreditable techniques as insinuation and guilt by association. Thus the report uses the words and actions of a few marginal extremists to impeach individuals and groups whose only crime seems to be the seriousness with which they act on their Christian convictions.

It ill behooves an organization dedicated to fighting against defamation to engage in defamation of its own.

Insofar as the objections to the religious Right are honestly presented in the ADL report, they are mainly political ones: Christian conservation advocate positions that run counter to many people's beliefs about such issues as abortion, school prayer, homosexual rights, and the meaning of the First Amendment.

And not only do Christian conservatives advocate these positions, but in recent years they have begun to organize, publicize, and attempt to elect candidates sympathetic to their views. This is no different from what many other groups, including Christian liberals, have always done. By what proper definition of the term, then, does the political activity of Christian conservatives constitute an assault on pluralism?

The separation of church and state is not the same thing as the elimination of religious values and concepts from political discourse.

Moreover, Judaism is not, as the ADL seems to suggest, coextensive with liberalism. Nor, we wish to emphasize, does the Jewish community speak with one voice on the religious and moral—and political—issues of our time.

Above all, on the issue with which this community does speak in one voice namely, the survival of Israel, the Jews have no more stalwart friends than evangelical Christians. Judaism teaches the principle of Hakarat Hatov, that we have the duty to acknowledge the good done to us. In issuing The Religious Right the ADL has among other things seriously violated that principle.

For all these reasons, we call on our fellow Jews to reject this study. As a people whose history so vividly illustrates the bitter results of bigotry, we have a special obligation to guard against it, and all the more so when, as in the case of the ADL attack on our Christian fellow citizens, it emanates from within our own community.

Elliott Abrams, Hadley Arkes, Philip Aronoff, Robert Asher, Murray Baron, Matthew Berke, Herbert Berkowitz, Marshall Breger, Brian Camenker, Mona Charen, Daniel Cohen, Rabbi David Dalin, Midge Decter, Henry Delfiner, and Rabbi Samuel Dresner.

Shimon Erem, John Erthein, Rabbi Leonid Feldman, Suzanne Fields, Chester Finn, Harvey Friedman, Felice Friedson, Michael Friedson, Si Frumkin, Joseph Gelman, Richard Gilder, Douglas Glant, Al Grossberg, Roger Hertog, and Bruce Herschensohn.

Gertrude Himmelfarb, Milton Himmelfarb, David Horowitz, David Ifshin, Rael Jean Isaac, Erich Isaac, Binyamin Jolkovsky, Leo Kahn, Ruth King, Howard Klein, David Klinghoffer, Irving Kristol, Rabbi Daniel Lapin, Michael Ledeen, and Barbara Ledeen.

Esther Levens, Edward C. Levy, Jr., Rabbi Yamin Levy, Erich Licht, Hadassah Linfield, Elizabeth B. Lurie, Robert R. Mazer, Michael Medved, Adam Meyerson, Rabbi David Neiman, Rabbi Jacob Neusner, Rabbi David Novak, Gary Polland, Suzanne Peyser, and Dennis Prager.

Joyce Press, Morton Press, Lewis G. Regenstein, Henry Rosin, Jonathan D. Sarna, Ricky Silberman, Max Singer, Arnold Soloway, John Uhlmann, Rubert Unger, Joel M. Weingarten, Ruth Wisse, Fred Zeidman, Herbert Zweibon, and Fred Zeidman.

DIABETES RESEARCH

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to urge my colleagues to support continued funding for diabetes research. Diabetes affects more than 13 million people in the United States, but the frightening thing is that more than half of those people are unaware that they have diabetes. Too often, they learn that they have the disease only when one of its symptoms—blindness, kidney disease, or heart disease—surfaces.

I speak from experience. My grandfather was diabetic; my father was diabetic; and I am diabetic. I live every day with the awareness that I must balance my diet, exercise, and medication to avoid the complications of diabetes.

Research into the treatment and potential cure for diabetes is an investment against future costs. Each year, diabetes costs this country over $90 billion in health-care expenses and the loss of productivity. Diabetics account for 5.8 percent of the total personal health-care expenditures in the United States while accounting for only 2.2 percent of the population.

Since 1987, the percentage of personal health-care expenditures for diabetes has more than doubled. The total economic cost of diabetes has quadrupled. Diabetes is more than a threat to the health of Americans—it is a threat to the economic health of this country. Vital research into the cure for this disease is being done, thanks to Federal funding. I urge my colleagues to support the continuation of this funding.

BARRE, MA, MOURNS LOSS

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. OLVER. Mr. Speaker, last week the town of Barre, MA, mourned the loss of Police Chief Michael J. Ryder.

Chief Ryder served his community for 23 years and, during that time, built a legacy of dedication to and compassion for the people of Barre. Having come to the police department in 1971 after earning a purple heart in Vietnam, Michael Ryder started as a short-term hire funded by a government grant and proceeded to rise to the rank of police chief by the youthful age of 25.

Known for his sense of humor and ability to communicate, Chief Ryder won a place in the hearts of fellow officers and town officials. He became a fixture in Barre, getting involved in activities ranging from helping out high school youths to leading the annual Memorial Day parade. He gave back to the community in which he grew up, and he will be sorely missed by the people he touched.

I join the citizens of Barre in lamenting the death of Chief Michael J. Ryder. My heart goes out to his family, friends, and associates, and to the people he served.

IN MEMORIAL: DR. JOHN B. BRITTON AND JAMES H. BARRETT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. FILNER. Mr. Speaker, how long will the violence continue in front of women's health clinics? How long will we tolerate pure terrorism in the streets of America?

Last year in my hometown of San Diego, clinics were attacked with butyric acid—a dangerous toxic substance. In Florida, Dr. David Gunn was shot and killed for performing legal medical procedures. Across the Nation, clinics have been attacked, doctors and nurses have been attacked, and patients have been attacked. And now this latest tragedy in Florida, where Dr. John Britton and his escort, James Barrett, were murdered while Britton's injured wife, June, lay nearby.

When will the violence stop? Whether you call yourself pro-choice or pro-life—it doesn't matter. We must all be antiviolence. We must all be antiterrorism. We must all be antichaos. In a Nation such as ours, based on the rule of law, no one can place themselves above the law and commit acts of murder.

Last year, we were told that the FBI would look into these senseless acts. But talk is cheap and the violence continues. We must demand that the FBI do whatever is necessary to stop the continuing acts of terrorism taking place in front of clinics across this Nation. Sending out the U.S. Marshalls is a welcome step, but the only permanent solution is to prosecute and arrest those who advocate the use of violence against doctors. Let us not wait for another doctor to be slain. Those who incite this violence and those who commit this violence must finally be dealt with.

Nothing we do can bring back Dr. Gunn, or Dr. Britton, or Mr. Barrett. But they gave their lives to protect a woman's right to choose. Now we have to honor that commitment with determined action. For their sake, we must replace violence with justice, fear with confidence, and terrorism with freedom. Thank you.

TRIBUTE TO DR. WALTER GWENIGALE

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. MINGE. Mr. Speaker, I would like to take this opportunity to recognize the contributions of an outstanding individual, whose leadership and commitment toward his people in a time of civil war should not go unnoticed. This person is Dr. Walter Gwenigale of Liberia.

Dr. Gwenigale grew up in a bush village in Liberia, attended the University of Puerto Rico Medical School, receiving a degree in 1967. In 1968, Dr. Gwenigale completed his internship in the United States and returned to Liberia to practice medicine.

In 1974, Dr. Gwenigale attained the position of medical director and chief surgeon of the Phebe Hospital, a 179-bed hospital, near Gbanga, Liberia. During his directorship, Liberia suffered through a 3½-year civil war. Dr. Gwenigale has carefully avoided being identified with the conflicting sides in this tragic war. Instead, Dr. Gwenigale and the hospital have been essential in treating the sick and the injured. The hospital was the only facility to consistently remain open throughout the conflict. In fact, the Phebe Hospital remained open even after it was damaged by a Nigerian fighter jet.

Dr. Gwenigale's leadership has been essential for the hospital to remain open. For example, he coordinated with many organizations in order to acquire moneys for the funding of the Phebe Hospital. These organizations include: the Lutheran, Methodist, and Catholic Churches, Christian Health Association of Liberia, and German and U.S. foreign aid. Also, Dr. Gwenigale is deeply respected for his continued commitment to provide for the health and welfare of the Liberian people. Dr. Gwenigale directs a 179-bed hospital with a staff of three doctors. Furthermore, even with a limited facility and staff, the Phebe Hospital is able to admit 7,000 patients a year and use an outpatient program to visit 70,000 more. Dr. Gwenigale has continued this mission at great personal risk. Tens of thousands have been killed or driven from their homes by parties in the conflict. At the same time he has not taken the easy path of emigrating to another area and practicing his profession in safety for far greater financial rewards. For these reasons, it seems fitting to bestow upon Dr. Gwenigale this body's sincerest appreciation for his work with the people of Liberia, and more broadly, his humanitarian work.

GEORGE SOROS' INSIGHT ON THE PROMISES AND PITFALLS OF BUILDING OPEN SOCIETIES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 2, 1994

Mr. LANTOS. Mr. Speaker, it is quite commonplace to observe today that the initial euphoria after the fall of the Communist regimes in Eastern Europe and the former Soviet Union has given way to widespread alienation, suspicion, and disenchantment as the peoples of these regions continue to see their expectations for a better material life unfulfilled, while crime, corruption, and unemployment mount daily. While there appears to be little reason to fear a return to the totalitarian regimes of the past, there is no certainty that stable democratic, market-oriented regimes will develop either.

Instead, some scholars, like Philippe Schmitter at Stanford, have noted the possibility of ad hoc democracies that muddle through but never really take root and gain legitimacy. They continue almost by default, but as time goes by they are beset by an ever increasing number of internal and sometime external threats to their survival. Obviously, that situation provides fertile ground for extremists who seek to advance their narrow, sectarian interests at the cost of the general good. They are more than happy to attack the institutions of pluralistic society, why they perceive as inimical to their goals. Of course, it has happened before in that part of the world and could happen again if these peoples are not vigilant in promoting and protecting their newly won liberties, and if they do not receive much greater material support from the West.

My good friend, George Soros, explained the problems and pitfalls and possibilities most eloquently in a statement he made yesterday at a hearing of the Subcommittee on International Security, International Organizations and Human Rights, which I have the honor to chair. George Soros does not paint an optimistic picture, and unfortunately I share his concerns.

Gerge Soros needs no introduction here in the Congress, but I will do it anyway. Not since John Maynard Keynes have we had an individual like George Soros who combines both great practical financial acumen and an intellectual understanding of the subtleties of international affairs. It is an intellectually stimulating treat to spend and hour with George to discuss these issues.

George Soros, who has born in Hungary and has extensive experience in the former Soviet Union and Central and Eastern Europe, is president of Soros Fund Management and Chief Investment Advisor to Quantum Fund, N.V., a $12 billion international investment fund, which is generally recognized as having had the best performance record in the world during its 25-year history.

In addition to his business interests, Mr. Soros founded the Open Society Fund in 1979, and he has established a network of foundations operating in 24 countries throughout Central and Eastern Europe and the former Soviet Union, as well as South Africa and the United States. These foundations are focused on helping to build open and democratic societies. The Soros foundations have contributed some $300 million to assist the new Republics of the former Soviet Union and the countries of Central and Eastern Europe in their transition to democracy. I wish, Mr. Speaker, that other governments including our own were as generous.

In his appearance before our subcommittee yesterday, George Soros gave a particularly insightful and thoughtful presentation regarding the problems of building open, pluralistic, and democratic societies since the fall of the Soviet Union. Mr. Speaker, it will be several weeks before the full transcript of that committee hearing will be available to Members of Congress. I ask that Mr. Soros' prepared statement from that hearing be placed in the RECORD, and I ask that my colleagues give it serious and careful attention.

TESTIMONY OF GEORGE SOROS

I welcome this opportunity to testify before your committee on the dangers of the post-communist world. I feel reasonably well qualified to speak on the subject and I have a great deal to say—perhaps too much for this hearing.

I have devoted much of my time, energy, and money to Central and Eastern Europe and the former Soviet Union in the last five years because I believed that the collapse of the Soviet system was a historic, revolutionary event and that the outcome would shape the course of history.

I have established a network of foundations whose aim is to help and promote the transition from a closed to an open society. Actually, I set up the foundation in 1979 and started the first local operation in my native Hungary in 1984, but my involvement increased as the collapse of the Soviet system accelerated. There are now foundations operating in 23 different countries and my annual contributions have risen from three million dollars in 1979 to 300 million dollars in 1993—but the amount of dollars spent is not the best indication of the efficacy of the operation because some of the best projects take the least money.

At the time I became involved, communist dogma had given rise to a closed society in which the state was dominated by the party and society was dominated by the state. The individual was at the mercy of the party-state apparatus.

Communist dogma was false exactly because it was a dogma that claimed to incorporate the ultimate truth. It could be enforced only by doing a great deal of violence to reality and, even then, it could not be sustained indefinitely. The gap between dogma and reality became ever more evident—the sway of dogma over people's minds ever more tenuous—until, eventually, the regime collapsed in a rapidly accelerating fashion that amounted to a revolution.

There was a moment of euphoria, in 1989, when people felt liberated from an oppressive regime and that moment could have been used to set into motion the transition to an open society. That was the opportunity I saw which induced me to throw all my energies into the process. But I must now admit that the moment has passed and the opportunity has been missed.

The breakdown of a closed society does not automatically lead to an open society, because open society is a more advanced, more sophisticated form of organization than a closed one. Freedom is not merely the absence of repression. A society in which people are free requires institutions which protect freedom and, above all, it requires people who believe in those institutions. The institutions themselves need to be much more sophisticated because they must allow for the expression of different view and interests, whereas a closed society recognizes only one point of view, the ruling one. In short, the transition from a closed to an open society is a step forward and upward and it cannot be accomplished in one leap without a helping hand from the outside. That was my motivation for getting so involved. But the open societies of the free world were not similarly motivated. There was a lot of good will toward Eastern Europe at the time, but somehow it was not translated into effective action. Government policy, both in Europe and in the United States, were characterized by a singular lack of comprehension and lack of vision.

Compare the reaction to the collapse of the Soviet empire with the collapse of the Nazi empire. Then, the United States still had the vision, and the generosity, to engage in the Marshall Plan, and the Marshall Plan worked wonders. It did not merely provide assistance, it provided a framework for the countries of Europe to cooperate. It did not merely send technical experts to impart their wisdom, it brought large numbers of Europeans to the United States and allowed them to form their own agenda. We seem to have forgotten all these positive experiences. By the time the Soviet empire collapsed, there was no political support for any kind of large-scale assistance and the Marshall Plan had become a dirty word.

In the absence of Western leadership, the collapse of the Soviet system did not lead to the emergence of open societies. Moreover, there can be no assurance that what was not accomplished in the heat of the revolutionary moment would be attained by a slower, more laborious process. On the contrary, insofar as a pattern is emerging, it is pointing in the opposite direction.

The breakdown of a closed society based on the universal dogma of communism has led to a widespread rejection of all universal ideas, and the countries which used to constitute the Soviet empire are trying to find an organizing principle in their own particular history. There are, of course, exceptions to the rule. But the dominant theme which seems to be emerging is national or ethnic identity rather than any universal concept such as democracy or human rights or the rule of law or open society.

This creates a very dangerous situation because national grievances can be exploited to form more or less closed societies, and that is a recipe for conflict. In order to mobilize society behind the state, you need an enemy and, if you do not have one, you have to invent one. That is what Hitler did when he identified Jews as the enemies of the German Volk, and he has many imitators in the post-communist world. Unfortunately, there is no shortage of grievances, because communist regimes used to suppress all national or ethnic aspirations which did not suit their purposes.

Although some of the nationalist leaders are former dissidents, former communists are usually more adept at exploiting national sentiment because they understand better how to operate the levers of power. They can forge greater national consensus than democratic leaders striving for an open society. Look at Milosevic in Yugoslavia, Tudjman in Croatia, Meciar in Slovakia, and Kravchuk in Ukraine, and compare the kind of majorities they could muster at the height of their popularity with the narrow political base that pro-Western democratic governments have had to contend with in countries like Russia, Poland, Bulgaria, or Macedonia.

In the context, I do not find the recent electoral victories of former communist parties in countries like Hungary, Poland or Lithuania disturbing at all. These are reform communists who want to get away from communism as far as possible. Their re-emergence constitutes a welcome extension of the democratic spectrum. I am particularly pleased with the outcome of the recent elections in Hungary. The nationalist line was rejected by the electorate, and the fact that the Socialist party entered into a coalition with the Free Democrats on the basis of a well-conceived and well-articulated reform program augurs well for the future. In the case of Poland, the changeover is less fortunate because the radical and painful reforms undertaken in 1990 had just begun to bear fruit and the government had just begun to function properly when it was defeated. But the course of reform is irreversible and Poland is probably the most dynamic country in Europe today, both in terms of its economy and its spirit. The worst that can happen is that it loses some momentum.

All in all, I see hardly any chance of a reversal to communism. Communism as a dogma is well and truly dead. The real danger is the emergence of would-be nationalist dictators—I call them "NADIs" for short. They are playing in a field that is definitely tilted in their favor. It is much easier to mobilize society behind a real or imagined national injury than behind an abstract idea like democracy or open society. Building the open society is essentially a constructive process, and it is only too easy to use ethnic conflict to undermine its foundations.

Take the case of Yugoslavia, a relatively prosperous country which had been open to the West for twenty years and had developed the intellectual resources which are needed for an open society. I remember 1990, when monetary reform was introduced in Yugoslavia and Poland at the same time. Yugoslavia was much better prepared to carry it out. It had a group of people who had been trained by the IMF and the World Bank, and the reform was, in fact, much more successful than in Poland. That was in May 1990. Then Milosevic raided the treasury in the course of his electoral campaign and destroyed monetary stability. That was the end of the attempt to transform Yugoslavia into an open society.

And now we have an even more striking example: Greece. Here is a country that is a member of the European Union, of NATO, fully integrated into the international community. Yet it has been possible to whip up national sentiment to a frenzy over the name "Macedonia." A small and weak neighbor to the north is blown up into a threat to the territorial integrity of Greece. Admittedly, there is a minority in Macedonia which harbors irredentist dreams based on ethnic injuries suffered in the past. But the government of Macedonia is genuinely devoted to the creation of a multi-ethnic, democratic state. It is ready to make every concession short of giving up its own identity. But Greek public opinion resonates to the Macedonian extremists, not to the Macedonian government, and the issue has been exploited for domestic political purposes in Greece.

In the meantime, the Macedonian economy, already severely damaged by the sanctions against Serbia, is collapsing under the weight of the Greek embargo. The railroad connections run north and south, and Macedonia is cut off on both sides. As a result heavy industry, which relies on rail transportation, has been brought to a standstill. The economic crisis has endangered political stability. The multi-ethnic, democratic coalition is threatened by extremists on both the Slavic-Macedonian and the Albanian sides. It may easily fall apart in the next elections and, if Macedonia falls apart, we have a third Balkan war.

As you can see, there is plenty to worry about in Eastern Europe. When I embarked on my project, I was planning on a short-term campaign to seize the revolutionary moment and to provide an example that would be followed by the more slowly moving, more cumbersome institutions of our open societies. But I was sadly mistaken. Now I must think in biblical terms—forty years in the wilderness. The battle for open society is not lost, as the examples of Poland and Hungary demonstrate, but it will take a long time and a lot of help from the outside and that is what I am worried about.

I have always been aware of a fatal weakness in the concept of open society. The weakness is that people living in an open society do not even recognize that they are living in an open society, let alone treat open society as a desirable goal for which it is worth striving and making sacrifices. In one way, freedom is like the air: people struggle for it only when they are deprived of it. When it is there, they take if for granted. But, in another way, freedom is very different; if you do not care for it, and do not protect it, it has a tendency to disappear.

If there is any lesson to be learned from the revolutionary events we have witnessed in Eastern Europe since 1989, it is that freedom is not merely the absence of repression, and the collapse of a closed society does not automatically lead to an open society.

The trouble is that this lesson has not been learned. When the Soviet empire collapsed, we had no hesitation in declaring it a victory for the free world. But, equally, we had no inclination to make any sacrifices for the sake of establishing free and open societies in that part of the world. The consequences are now painfully obvious, but we have not even started to recognize them.

What has gone wrong? I believe our concept of freedom has changed. In the Second World War, it was promoted into an idea that we were ready to fight for and to sacrifice for. And the idea as it was then conceived involved freedom not only in our own country, but also in the countries which were the victims of a totalitarian regime. This conception carried over into the post-war period. It was responsible for the dismantling of colonial regimes and the forging of an anti-communist alliance.

But gradually the idea faded and another idea emerged which explicitly rejected the pursuit of freedom as a valid objective for foreign policy. That idea was "geopolitics" which maintained that states ought to pursue their own self-interest as determined by their geopolitical situation, and moral or ethical considerations have only a secondary role to play. They can be useful for propaganda purposes—mobilizing public opinion at home or abroad—but you can get into a lot of trouble if you actually believe your own propaganda.

The companion piece to geopolitics in international relations was the concept of laissez-faire in economics, which enjoyed a miraculous revival in the 1980s. As you know, it holds that the unhampered pursuit of self-interest leads to the best allocation of resources. These have been the two main concepts which have guided us in our response to the collapse of the Soviet system and which continue to guide us today. I find that they are woefully inadequate for the situation at hand.

As long as we were locked in deadly combat with the Evil Empire we lived in a stable world order and we had a clear view of our own place in the world. The world order was stable because both sides had the capacity to destroy each other and therefore neither side could risk all-out war. And we could define ourselves in terms of our enemy: we were the leaders of the free world. But the stability of the world order has been destroyed by the internal disintegration of the Soviet empire and, what is worse, we have lost our sense of identity. We still want to be a superpower and leader of the free world but we do not know what these terms mean. We do not know what the free world stands for and, what is worse, we don't know whether we should stand for the free world because we have come to believe that our way of life is based on the pursuit of self-interest, as exemplified by the doctrines of geopolitics and laissez-faire.

In some ways the present situation is unprecedented. In the past, peace and stability have been maintained either by an imperial power or by a balance of powers or by a combination of the two. Right now, we do not have either. The United States does not have the capacity, or the interest, to dominate the world the way Britain did in the 19th century. Britain derived enough benefit from free trade to justify maintaining a fleet in being; but the United States is no longer the main beneficiary of free trade and it cannot afford to be the policeman of the world. We must depend on collective action but we have no clear idea what the collective interest is.

The result is a dangerous power vacuum. There was some hope that it would be filled by the United Nations, but the United Nations is no better than the states that constitute it. Indeed, it is worse, because the member states generally pursue their own national self-interest, to the detriment of the collective interest, and the U.N. is managed by a bureaucracy that is more interested in its own survival than in the survival of our civilization. There has been no instance in history when peace was maintained by an international institution and there is no reason to believe that the current situation will be any different.

What is to be done? I don't have all the answers, but I have a suggestion which may help. I propose that we should declare the creation and preservation of open societies as one of the objectives of foreign policy, and in the case of the former Soviet sphere we should declare it as the main objective. I draw a distinction between the former Soviet sphere and the rest of the world because the Soviet system has irretrievably broken down; what system takes its place will have a profound influence on the course of history and therefore on our own future. In the rest of the world, the promotion of open societies is one of many competing objectives, but in the former Soviet sphere it is of paramount importance. In my opinion even the nuclear issue ought to be subordinated to it.

When I speak of open society, I mean a form of organization that can be loosely described as democracy. But the concept of open society is more comprehensive. It means not only a democratically elected government but also a society that is not dominated by the state; that means a strong civil society and the rule of law. And it is not enough for the government to be elected by a majority; it must also respect minorities and minority opinions. In other words, I propose substituting the framework of open and closed societies for the old framework of communism versus the free world. The old framework was highly suspect even when it was relevant, because anti-communism could be used to justify actions which were incompatible with the behavior of an open society. The new framework allows us to define ourselves in terms of what we stand for rather than in terms of our enemies. It provides a perspective which is woefully lacking at present. For one thing, it tells us that nationalist dictatorships are as much of a threat today as communism used to be.

How can this perspective be translated into policy recommendations? First, we need a strong European Union capable of taking foreign policy decisions. This is missing today, as the quagmire in Bosnia has so sadly demonstrated. Second, the European Union needs to become more open, especially towards the East, and not turn into a fortress protecting itself against the turmoil outside its walls. The countries of East Central Europe need the clear prospect of being able to join the European Union in order to complete the transition to open societies. They need private investment more than they need government aid, and the prospect of membership is the best recipe for attracting private investment. I believe that the United States and Germany, if not all the other members of the European Union, would agree on this point.

Third, NATO—which is essentially an alliance between North America and Europe—ought to serve as a mainstay of the new world order. Whether a direct link is needed between NATO and our Asian allies like Japan and Korea is an open question. But one thing is certain: NATO cannot fill the power vacuum that has been created by the collapse of the Soviet empire; there needs to be an alliance between NATO on the one hand and Russia and the other successor states on the other. NATO can be extended to include the Central European states which are candidates for membership in the European Union but, if it also included Russia, it would be so diluted as to become meaningless. That is the origin of the Partnership For Peace but, in its present form, it does not even begin to fulfill the function for which it was designed. It is not much more than an empty gesture. It is a worthy successor of the vacuous and dilatory policies of the Bush Administration, and it is perceived as such in Russian. Here is the point where a fresh perspective could come in useful.

I have argued that Russia and the other successor states are in need of outside assistance in order to make headway with their internal transformation. They do not perceive issues of external security as a threat; rather, they see them as opportunities to divert attention from their economic failure and to mobilize political support. In these circumstances a Partnership For Peace, on its own, is bound to remain an empty gesture. It needs to be accompanied by a "Partnership For Prosperity," a latter-day version of the Marshall Plan, to give it substance.

The idea is not a preposterous as we have conditioned ourselves to believe. It could be financed by the IMF with an issue of Special Drawing Rights and, if successful, it could be repaid in full. It would solve the most burning issue of the region: how to create a common economic space without total political domination by Russia. In this context, the recent presidential elections in Ukraine which produced a president who is genuinely interested in economic reform offers an opportunity which I hope we shall not miss. A genuine Partnership For Peace, coupled with a Partnership For Prosperity, would provide a firm foundation for a new world order. In its absence, we are going to have world disorder.

Let me end with Macedonia. This is a clear case where an ounce of prevention can save us tons of troubles. We ought to make it a matter of priority to come to the aid of this tiny country with a democratic, multi-ethnic government, which is on the verge of economic collapse for reasons which are beyond its control.

HOUSE OF REPRESENTATIVES—*Wednesday, August 3, 1994*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we and every other person make the decisions of life, both great and small, may we, O gracious God, think of those decisions in the light of the values that guide and nurture us day by day. As a people we have been blessed by the high traditions that have served us well—traditions of justice and respect and integrity and character and principle. As determinations are made in the course of events, may we hold high the values that strengthen us and give direction for the way ahead. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. KINGSTON] please come forward and lead the House in the Pledge of Allegiance.

Mr. KINGSTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1458) "An Act to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes" with an amendment.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1897. An act to expand the boundary of the Santa Fe National Forest, and for other purposes;

S. 1919. An act to improve water quality within the Rio Puerco watershed and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices which are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region;

S. 2185. An act to require the Secretary of the Treasury to transfer to the Administrator of General Services the Old U.S. Mint in San Francisco, and for other purposes;

S.J. Res. 157. Joint Resolution to designate 1994 as "The Year of Gospel Music"; and

S.J. Res. 196. Joint Resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

GEPHARDT BILL WOULD DELIVER REAL HEALTH CARE REFORM

(Ms. DELAURO asked and was given permission to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, for the past 10 months, Members of this body have come to this podium each morning to stress the need for health care reform. Now, finally, we have the opportunity to address that need. Let us not fail the very people we set out to help.

Let us not fail the millions of people who have shared their heartbreaking stories with us—working families who worry that one accident or one illness will drive them to financial ruin, small businesses struggling to keep pace with skyrocketing health care costs, and senior citizens forced to choose between prescription drugs and their next meals.

The Gephardt bill is the only alternative that meets the health care needs of all these people, because it is the only bill that starts with universal coverage. Simply put, that means private insurance for every American.

The time has come for Congress to stand up and deliver. Stand up for the American people and deliver health care reform that meets the needs of every American.

THE CRIME BILL

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, no wonder the White House is calling it a crime bill. It has waited around so long that it could have been arrested for vagrancy and now that it has finally arrived it should be prosecuted for false and misleading advertising.

This bill is a crime bill in name only. In action it is another of this administration's patented big spending, feel-good, social programs.

In the case of the so-called crime bill, they have simply dressed their pet program up in a police uniform and viola, the failed social programs of the sixties become the failed crime fighters of the nineties.

Of the $30 billion this bill will cost American taxpayers, only a fraction—$13 billion—actually goes to law enforcement.

Of that $13 billion, less than $9 billion will go to pay for the much-touted 100,000 new police officers.

Where will the rest of the $17 billion go? To social programs like midnight basketball, like craft and art activities, and self-esteem enhancement programs.

On second thought, instead of being arrested for false advertising maybe the Clinton crime bill should be arrested for grand larceny.

HEALTH REFORM MUST COVER EARLY RETIREES

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, as the debate over health care reform continues, we must remember that true reform begins and ends with guaranteed health insurance for every American.

There are some who would exclude coverage for early retirees—the 5.3 million Americans aged 55 to 65 who no longer work and are too young to receive Medicare. We cannot allow these early retirees to fall through the cracks of health care reform.

When health care is concerned, early retirees are often left to choose between a rock and a hard place. The General Accounting Office estimates that 96 percent of America's employers offer no health benefits to former employees.

And, as we all know, people between the ages of 55 and 64 are highly vulnerable to job loss and this same age group has great difficulty finding new jobs.

The tragic irony of early retirees falling through cracks in the health care system is that most people who stop working before their 65th birthday do so for health-related reasons.

Coverage for early retirees is also an American competitiveness issue. Other industrialized nations that make steel, cars, computers, and many other products, cover their early retirees through broad-based programs, which gives these foreign nations an advantage over our companies.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, we should ensure that health care reform guarantees health insurance for all—including early retirees.

BIG DISAPPOINTMENT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the crime bill conference report to be voted on this week is a big disappointment. The Wall Street Journal put it best in their editorial today:

> Members of Congress have finally found a way to make crime pay: Use it as a pretext for funding their social welfare programs.

The American people believe the Government is too big and spends too much on wasteful programs. Nothing confirms this sentiment more than this crime bill conference report.

Let me give a good example: $1.3 billion for drug courts. This money can be used to provide benefits to drug users, including child care, job placement, and vocational training. Question: Most working Americans who play by the "rules" and "pay their taxes" don't get guaranteed child care, job placement and vocational training, so why should drug users!

Mr. Speaker, this conference report is unacceptable. I urge my colleagues to send this bill back to conference.

W. PAT JENNINGS DIES, FORMER MEMBER, HOUSE CLERK

(Mr. BOUCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOUCHER. Mr. Speaker, it is my sad duty to inform my colleagues in the House of the death yesterday of W. Pat Jennings, who both represented the Ninth District of Virginia—my district—and was the Clerk of the House during his service to this institution.

Pat served the House with distinction and dedication for six terms, beginning on January 3, 1955, and ending on January 3, 1967—the 84th through the 89th Congresses. Following his service as a Member he was elected Clerk of the House for the 90th Congress, and was reelected to serve from January 10, 1967, to November 15, 1975, when he resigned to head an association here in Washington.

This tragic death occurred because of injuries Pat received in a tractor accident. He was an experienced tractor operator because of his life-long work on his family farm, but in a freakish accident, his injuries caused his death in the hospital.

Pat initially served on the House Committee on Agriculture, where he championed the interest of the family farmer, the development of the national forests located in the Ninth District, and he worked diligently to enhance the overall interest of our agriculture economy. His sponsorship of legislation to create the Mount Rogers National Recreation Area has resulted in the development of a major tourist attraction on the east coast. One of Pat's first bills when he came to the House provided for the processing of the Nation's surplus wheat and corn into flour and cornmeal that could be provided to the School Lunch Program and to needy families. Subsequently, he supported the authorization of the initial Food Stamp Program, and one of the first pilot programs was established in the Ninth District.

As his House career developed, he was elected by his Democratic colleagues to the Committee on Ways and Means, where he continued to support legislation for the people of the Nation, including the Medicare Program. He did not win reelection to the 90th Congress.

Pat consistently sponsored and supported programs that were planned to assist in economic development. This included expansion of research to find new uses and new markets for our coal, the Interstate Highway System, the Appalachian Highway Program along with its other initiatives for people of Appalachia, airport development, flood control, and industrial and business expansion.

In 1967, Pat sought and was elected to the position of Clerk of the House, our chief administrative and financial officer at that time. His resignation to head the Slurry Pipeline Association kept him in the business of promoting new uses for coal. The association's principle objective was to see coal slurry moved to markets through pipes.

Pat loved farming and kept up his farm throughout his life. He was a graduate of Virginia Tech and was serving on its board at the time of his death. He served in the U.S. Army during World War II, and was discharged as a major. He established an automobile dealership in Marion, VA, with a friend and partner, and it still operates today under the guidance of two sons. He later became active in the U.S. Air Force Reserves and retired with the rank of colonel. In addition to farming, Pat remained active in civic and Democratic political affairs. He served a term on the Virginia Mental Health Board when asked by Governor Baliles. Earlier, prior to his election to Congress, he was twice elected sheriff of Smyth County; he was a delegate to many State and national Democratic conventions and was a former member of the Democratic National Committee.

Pat's love for the House, politics, and farming were legend. But his first love was his family. His wife of many years, Ann, four children, and several grandchildren and great grandchildren survive. Funeral services will be conducted Friday in Marion, VA. Both my office, extension 53861, and the House Clerk's office, extension 57000, have details, if any of my colleagues would like to contact us.

Our sympathy is extended to all members of Pat's family.

McBLUFF: THE CRIME POODLE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, a popular ad campaign began several years ago. It featured a cartoon dog named "McGruff" dressed in a trenchcoat. McGruff offered crime fighting tips and ended each with the admonition to "take a bite out of crime."

It seems the Clinton administration has come up with another cartoon crime fighter. It's called the crime bill.

However, instead of being McGruff the crime dog, the Clinton crime bill is more like McBluff the crime poodle. Not only does it not take a bite out of crime, it does not even take the bark out of crime.

Clinton's crime bill is a little yipping toy poodle that goes for crime's ankles rather than its throat.

It is a fluffy bit of social spending, groomed and manicured with arts and crafts, dance, self-esteem, and midnight basketball programs.

It sports a diamond-studded multibillion-dollar collar of sixties social engineering that brought us many of the problems this toy poodle is supposed to solve.

Rather than take a bite out of crime, the Clinton crime bill is a dog that will lick its face.

□ 1210

THE CRIME CONFERENCE REPORT

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, last year Congress attacked violent crime by enacting a 5-day waiting period on handgun purchases to weed out convicted felons. Earlier this year we passed measures to keep three-time violent criminals behind bars for life and to ensure that other violent offenders serve out their sentences.

But just consider that violence kills more children than disease, and you know we must do more. The crime conference report fleshes out the initial attacks on crime. It contains $8 billion for new prisons. There is major funding for crime prevention programs that keep our kids out of criminal lifestyles. The bill details vigorous measures to prevent violence against women.

The crime conference report clearly defines the consequences of criminal behavior and provides mechanisms to strengthen our communities and break the cycles of violence that imprison so many neighborhoods.

We must pass the conference report if we hope to launch an effective offensive against crime.

THE CRIME BILL MAKES GOVERNMENT BIGGER

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, the crime bill that liberals finally agreed to last week does not do much to provide safe and secure neighborhoods for Americans.

In fact, this crime bill more resembles the President's stimulus package that failed last year because almost a third of its total funding goes to new social programs.

For example, one new program in the bill, the Ounce of Prevention Council, only serves to coordinate this pork barrel feast for urban politicians.

To coordinate this effort, President Clinton's Secretaries of Housing, Justice, Agriculture, and Labor will spend $100 million a year.

Mr. Speaker, only in Washington could $100 million be considered an ounce—that is more than the entire yearly GNP of some countries.

The Government is already too big and spends too much.

The only thing this crime bill aims to do is to make the Government bigger and more expensive, and doing little to punish criminal behavior.

MEMBERS URGED TO PASS HEALTH REFORM BEFORE THE AUGUST BREAK

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, last night I returned a phone call to a small businessman in my district. He called to urge me to vote for a health care bill that would provide relief for his small company. You see, Mr. Speaker, this gentleman has himself, with one part-time employee. After taxes and everything else he clears about $9,000 a year. He cannot afford to pay for health care for himself nor for his employee.

I listened and I learned, and I believe that we are trying to respond. The bill we recently presented would help my small business constituents in Houston.

The Guaranteed Health Insurance Act of 1994 will help low-wage small businesses who would otherwise have a difficult time making their payment for insurance in several ways.

First, subsidies will be provided to small, low-wage businesses to reduce the amount they must contribute toward their workers premiums. In fact, businesses with 25 or fewer employees would be eligible for a subsidy of 50 percent.

Second, community rating would keep premiums affordable when an employee gets sick.

Third, there will be relief through changes made to workers compensation.

It is time for serious policy, not cynical politics. If we really care about health security we will pass the health reform before we go home for our August break.

We must stand up for what we believe in. We must stand up for the working families and struggling small businesses in our districts. We can make a difference by passing this bill.

CALL FOR A VOTE AGAINST RULE ON THE CRIME BILL CONFERENCE REPORT

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the American people want Congress to pass a crime bill which will take a large bite out of crime. But the crime bill which will be considered this week would only take a nibble out of crime.

There are some things in the bill which I support including "three strikes you're out," expanded death penalties, and more copes on the streets.

However, almost one-third of the crime bill is made up of spending on social programs which have nothing to do with controlling crime. For example, this bill would fund midnight basketball, arts, crafts, and dance programs and self-esteem programs. This bill contains $9.1 billion for programs like this, many of which will be duplicative to already existing programs. The American people already know that Government is too big and spends too much.

I urge my colleagues to vote against the rule on the crime bill to send it back to conference. Let us craft a crime bill which will really take a bite out of crime, not a big bite out of the American taxpayer's pocket.

THE MISSION IN HAITI MUST START IN CONGRESS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, Sunday the administration received authorization from the U.N. Security Council for an American-led invasion to remove the military regime in Haiti. Unfortunately, there is no indication that the President will seek authorization from the only body the Constitution vests with the power to grant it: The U.S. Congress.

Today my colleagues, SHERWOOD BOEHLERT and RICHARD DURBIN, and I are introducing a resolution expressing the sense of Congress that the President is required to obtain the approval of Congress before sending United States forces into Haiti to implement the U.N. resolution.

The purpose of this resolution is quite simple. Under the Constitution, Congress has the power and the responsibility to decide when this country will commence a war or lead an invasion of another country. In our rush to change the government in Haiti, let us not lose sight of how we are supposed to govern the United States.

If the President can make the case for an invasion of Haiti, and the Congress gives him authority to proceed, the country will be united behind the effort. If, on the other hand, the case cannot be made and the support is not there, it is better to find out ahead of time.

When President Bush made the case for expelling Saddam Hussein from Kuwait, the Congress gave its approval. The debate in Congress, and the decision by Congress, strengthened the President's hand. Following the Constitution worked as the Founding Fathers intended.

We now have a similar constitutional challenge, and I urge my colleagues to join in affirming our constitutional duty. It would be a bad bargain indeed if we damaged democracy in America while attempting to restore it in Haiti.

AARP SHOULD OPPOSE CLINTON-GEPHARDT

(Mr. MILLER of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, I rise today to ask a simple question. Why is the American Association of Retired Persons not representing the interests of its membership? As I stated yesterday, the Clinton-Gephardt plan contains $480 billion in Medicare cuts over 10 years. It is ludicrous to believe that cuts of this magnitude will not impact on the quality and availability of health care for our senior citizens.

Yet, the AARP remains silent. Yesterday, I received a letter from the AARP urging me to oppose the Rowland-Bilirakis bill—a bill that basically leaves Medicare alone. I received another letter from 46 organizations urging me to oppose the Medicare cuts in Clinton-Gephardt because of their impact on the quality of care to senior citizens. The AARP did not sign that letter. Every action they have taken indicates their support for the Clinton-Gephardt bill. That certainly is not the message I hear from my constituents. The senior citizens in my district want their health care left alone. They want reform—but reform does not mean accepting a lower standard of care. Rather than hopping on the partisan bus, the AARP should forcefully oppose the Clinton-Gephardt plan, before its membership gets taken for a ride.

PASS THE CRIME BILL

(Mr. BERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, the crime bill conference report provides us the opportunity to take tough and effective action on a problem of great concern to all of us: Violent crime and its consequences for our quality of life in this country.

I am appalled by the rising rate of violent crime. It makes me angry that our parks have become off-limits, that increasing numbers of our elderly residents are afraid to venture out of their homes, that women find their freedom restricted, that many of us forsake modern conveniences like ATM machines, not to speak of the pleasure of strolling in our own neighborhoods.

I am especially saddened that children—and their parents—can no longer enjoy peace of mind about the safety of our schools.

I am absolutely convinced that the single most effective step we can take to confront this problem is to put more cops on the beat in our communities. H.R. 3355 does that to the tune of an additional 100,000 police officers nationally, a full 20-percent increase in the Nation's police force levels.

Nothing prevents crime quite so well as the likelihood of being caught. But in so many of our communities around the country, that likelihood is very slim, and both the law-abiding and the law-breakers know it. That is why criminals act with impunity, and the rest of us are plain scared. Putting 100,000 new cops on the street is the single most effective way to start turning that around.

The first obligation of government is to ensure the safety and security of its citizens. By returning tax dollars to our communities to fund the hiring of an additional 100,000 police officers, we are making a major stride toward ending the scourge of crime in America.

I urge my colleagues to support the crime bill conference report and the rule for its consideration.

CRIME BILL NOT GOOD ENOUGH

(Mr. KINGSTON asked and was given permission to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the crime bill, like the American neighborhoods it is designed to protect, is a mixture of good and bad; like the neighborhood streets, the bad appears to be outweighing the good.

There is good in it, but not enough. The bill talks about funding 100,000 new police officers, but only pays for 20,000. The bill talks about new prison construction, but unlike the House version, only funds about $6 billion for this versus $16 billion.

The bill talks about truth in sentencing, but in actuality only affects 1 percent of the crimes under that category.

□ 1220

And then there is the social spending, which is about one-third of the entire cost of the bill.

If you are wondering where last year's pork-barrel stimulus program went, it has been found in the crime bill. On top of the $24 billion which we already spend on 154 warm, fuzzy, and ineffective social programs, we will not add another $9 billion.

What is worse, there is no formula for allocation of these programs. It is all left up to the President's discretion.

How convenient for an election year.

Let us recommit this bill and start all over. The American people and the American neighborhoods deserve better.

DEATH PENALTY SHOULD BE IMPOSED IN THIS CASE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a triple execution is scheduled in Arkansas. Hoyt Clines, James Holmes, and Darryl Richly, convicted for brutally murdering Don Layman.

Liberal groups around the country are saying there should be a last-minute reprieve, this triple execution is barbaric, cruel, and uncivilized.

Ladies and gentlemen, what about murder? What about the fact that these three creeps tortured and raped the wife of the victim and the daughter of the victim before they executed him? Was that civilized? Was that humane?

I say they deserve to die, they earned it. They did not give Don Layman any last-minute reprieve. "Good night, sweet prince."

As this crime bill comes out, think about it.

CRIME CONFERENCE: WHAT TYPE OF PROCESS IS THIS, ANYWAY?

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, when we sent the crime bill off to conference, our plan would cost the American taxpayers a little over $27 billion, while the Senate forwarded a $22 billion package. So what did we get, a compromise of $32 billion.

By any measure, this is an astronomical amount of money, especially considering the wasteful social programs authorized.

This is unbelievable. And where is this money going? Midnight basketball tournaments—$40 million; and new inner-city arts and crafts courses—$630 million.

Where were our conferees when this was going on? Being bought off with $10 million grants to schools in their home district.

Instead of being a comprehensive crime bill, this pork-laden measure is nothing more than an ill-conceived economic stimulus package.

Mr. Speaker, the American people want real crime control measures. They do not want more expansive bureauracy or wasteful spending.

I strongly urge my colleagues to listen closely to their constituents, and join me in sending this radical Government-spending package back to conference.

BASEBALL: PARTIES SHOULD CONTINUE NEGOTIATIONS DURING COOLING-OFF PERIOD

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, there are only 9 days left to go before the baseball strike, and because baseball is not within the Federal jurisdiction because a long time ago people felt it was not in interstate commerce, there is not a lot we in the Congress can do. We probably cannot put in a cooling-off period because we have no authority over them that we could do in many other areas.

But let me give a little sense of this congresswoman: They would be very well advised to voluntarily put in their own cooling-off period rather than rush to this strike, because I fear if they do not do that they are going to find many of their fans cooling off and they may also find the Congress is a whole lot more interested in changing that long, old historic law and decide that we really ought to get into baseball.

Baseball is the national pastime; we are supposed to play ball, not just pay for ball and not get anything in return. So I hope they chill.

CRIME BILL: GREAT HOAX OF THE 1990'S

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, Mark Twain once said:

> It could probably be shown by facts and figures that there is no distinctly native American criminal class except Congress.

Well, the crime bill conference report seems to buttress that assertion. Rarely has so much money been spent on so few to do so little.

With the American people clamoring for tough anticrime measures, the Congress delivers midnight basketball plus 29 other new social programs.

With the failure of the Great Society programs of the sixties, Congress is about to pass the great hoax of the 1990's. Government is too big, and spends too much.

Mr. Speaker, there are some good things in this crime bill. It does spend money on prisons. It does spend money on more police. And it does not include quotas in death sentencing.

But there is so much wasteful spending in this bill, the American people should take a second look. Let us vote down the rule and send the crime bill back to conference.

DISCHARGE PETITION NO. 25: FEDERALLY UNFUNDED MANDATE ACT OF 1994

(Mr. CONDIT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONDIT. Mr. Speaker, I rise today to simply notify the Members of the House that I have filed a discharge petition, Discharge Petition No. 25. That is the release of H.R. 140.

Now, H.R. 140 is simple, it is the Federally Unfunded Mandate Act of 1994, simply says that the Federal Government must stop putting mandates on States and local governments. It is the bill that says no money, no mandate.

Mr. Speaker, I encourage the Members of this House to come down today and join with me in signing Discharge Petition No. 25 for H.R. 140. It is an attempt, it is our opportunity to get this Government to start talking in a serious way about a comprehensive proposal to stop federally unfunded mandates.

So I would encourage my colleagues to join me today and sign the petition; remember, it is Petition 25.

DISCHARGE PETITION NO. 25: FEDERALLY UNFUNDED MANDATE ACT OF 1994

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, I rise today to join my colleague, GARY CONDIT, who just spoke regarding Discharge Petition No. 25. Mr. Speaker, I urge Members to sign this discharge petition, which has just been open for signatures.

There is no issue more crucial to our constituents and to the taxpayers of America than unfunded Federal mandates. This petition calls for a very fair rule on this crucial issue. It allows not only H.R. 140 to be brought to the floor, the no money, no mandate bill, but it also allows for the ranking Republican on the Committee on Government Operations, the gentleman from Pennsylvania [Mr. CLINGER], to have an, amendment, as well as the chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS], to have an amendment in the form of a substitute.

It is a good, fair rule. I hope it will get the support of Members, the 227 who have cosponsored H.R. 140 and others as well. Again, Discharge Petition No. 25, and I urge my colleagues to sign it.

STILL THE SAME

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, according to news reports, the majority leader has crafted a new and improved health care reform bill. The Democrat strategy is to try to convince the American people that this new bill is vastly different from the President's wildly unpopular proposal.

But I urge the American people to not be fooled. The Gephardt approach will contain the same misguided proposals as the Clinton bill.

I will still have employer mandates, whether they come next year or 10 years from now.

It will still have the mandated community ratings that hurt younger taxpayers. It will still have global budgeting. And it will continue to have a strong Government presence in our health care delivery system.

Mr. Speaker, a leopard cannot change its spots, and the Clinton bill won't change with a new title.

I urge my Democrat colleagues to abandon once and for all the Clinton health care bill. Work with Republicans in a bipartisan fashion to achieve commonsense health care reform now.

MORE ON WELFARE REFORM

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, when Jennifer Ireland got pregnant at the age of 15, she made the difficult decision to keep her child. She went on to graduate third in her class and won a full scholarship to the University of Michigan. At 19, Jennifer was on her way to earning a college degree that would help her support herself and her child without public assistance. For her courage and hard work, what was her reward? Jennifer Ireland lost custody of her daughter, Maranda, to the father, Steve Smith. Why would the court grant custody to an absentee father? Evidently the judge thought Jennifer should have dropped out of high school at 15 and started collecting welfare so she could be at home with Maranda full time. He took the child away from Jennifer, who planned to enroll her daughter in day care, because Steve's family could take care of Maranda during the day. We should keep Jennifer Ireland in mind as we debate welfare reform. The system—not just the welfare system but the courts and other Government programs—create perverse incentives for single mothers to drop out of school and rely on welfare rather than finishing their educations or going to work and becoming self-sufficient. The system reflects outdated and often sexist biases that perpetuate welfare dependency.

GEORGIA TREND: ECONOMIC GOOD NEWS

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Ms. MCKINNEY. Mr. Speaker, the July issue of Georgia Trend magazine begins its "State of the Economy" page with a startling revelation: "This year has fooled most economists."

This year's boom also seems to have fooled our Republican colleagues and they are purposely trying to fool America, too.

Georgia Trend predicts that Georgia will be the fastest growing State east of the Mississippi River in 1994. Along with Nevada, Utah, and Idaho, Georgia is fueling America's economic recovery.

The Southeast has further accounted for roughly 50 percent of all the job creation in America.

Mr. Speaker, the evidence is clear and the verdict is in. This Democratic administration and this Democratic Congress have triumphantly struggled for hard-working Americans.

As Republican witchcraft makes several hundred thousand dollars disappear over a cauldron of Whitewater hearings, I want to warn all hard-working Americans: Do not let the gridlock gang work their voodoo on you.

WHERE IS THE BILL?

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, while the Clinton health care reform plan reminds some of Frankenstein, to me it resembles the invisible man. Where is the bill? Has anyone seen the bill?

I have heard about it, I have read about it, but I have never seen it. The latest intelligence says that it will be available Monday.

If I remember correctly, the original Clinton bill was due in the spring of 1993. Hillary Clinton promised it would be signed into law in the Rose Garden on Christmas Eve as "a present to the American people." But it was not introduced as a bill until Thanksgiving of 1993, and it proved to be a turkey rather than a present.

And now, here it is August 3, 1994, and still no bill to vote on.

My colleagues and I would like to see it and have time to study it before we vote on it. If it is like the last Clinton present to the American people, I am sure we will end up returning this one, too.

NORTH CAROLINA COURTS CORRECT INTERPRETATION OF THE VOTING RIGHTS ACT

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, I rise today, in support of the true interpretation of the Voting Rights Act. A court earlier this summer ruled the new district map of Louisiana unconstitutional. The holding of that case indicates that when race is a significant factor in drawing district lines, strict guidelines must be followed and compactness and distinct regional interests must be considered.

However, just the other day in North Carolina, a court ruled that a district drawn based on race was constitutional so long as the redistricting plan comports with the strict constitutional standard of being narrowly tailored to further the State's compelling interest in complying with the Voting Rights Act.

Mr. Speaker, the fundamental question here is, when Congress passed the Voting Rights Act of 1965, was it doing so for appearances, or did it do so to make a real difference. I believe that what Congress planted in 1965, bore fruit in 1992, and I commend the court in North Carolina for recognizing these results and giving the correct interpretation.

SBA BILL HELD HOSTAGE BY THE DEMOCRATS

(Mr. KIM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIM. Mr. Speaker, yesterday I was shocked to learn that the SBA authorization bill was removed from the floor.

I was even more shocked to learn that it was because of my amendment, my intention to offer a motion to recommit.

My motion would simply send the message to the American people that the SBA should not spend any tax dollars to promote employer mandates.

Last year the SBA spent nearly $100,000 telling small business people that employer mandates would be good for them.

Why was the SBA bill removed? Could it be that the Democrat leadership is afraid my motion would pass?

Could it be that the Democrat leadership knows that the American people do not want employer mandates?

Every day that the SBA bill is held hostage by the Democrat leadership is another day that the American people are denied the truth about employer mandates.

The Democrat leadership must be held accountable.

This is day two with truth held hostage.

PLEASE SUPPORT H.R. 4590

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last week the CIA reported to Congress that the United States trade deficit with China for this year will increase by nearly 23 percent, to $28 billion, an increase of $5 billion over last year. We all know that China has a huge share of the United States market for toys, games, and clothing. These are the leading categories of Chinese imports into the United States and comprise a large amount of exports to the United States. The report said that China's share of the United States market for imported footwear, for example, increased from 30 to 40 percent of the entire United States shoe import market, 40 percent of our market. Mr. Speaker, we have grown used to the fact that labor-intensive, low-wage jobs that produced these kinds of products will be exported.

But what was important about the report was that China has also increased its share of high technology electronic and telecommunication products exported to the United States amounting to 6.5 percent of the United States market. The report said that since 1987, our trade deficit with China alone increased by roughly 700 percent.

Mr. Speaker, as my colleagues know, we are concerned about trade, human rights, and proliferation. Please support H.R. 4590 to address these problems.

A VOTE OF CONSCIENCE

(Mr. WOLF asked and was given permission to address the House for 1 minute.)

Mr. WOLF. Mr. Speaker, I want to bring to the attention of the body these pictures that we took when we were in Beijing Prison No. 1. I think it is important to know that what the Pelosi bill does, it targets the People's Liberation Army, which we all know how evil, and what they have done, and also slave labor goods.

Mr. Speaker, these were socks that we picked up in Beijing Prison No. 1, and below here are prisoners, prisoners from Tiananmen Square that were working on these socks.

So, the Members ought to know when they vote on the Pelosi bill, Mr. Speaker, they are not voting to take away MFN for all the industries. They are solely targeting the People's Liberation Army and the state run industries, and also we know that there are terrible human rights violations, and how would we go back and tell American textile workers that they are competing against slave labor goods?

I urge all Members, as a vote of conscience, to support the Pelosi bill.

□ 1240

CRIME BILL GIVES PROMISE OF BETTER SECURITY TO AMERICA'S NEIGHBORHOODS

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, everyday life in this country is not what it used to be. It used to be you could walk down the street at night for an ice cream and not have to worry about who was waiting for you around the corner.

It used to be you could leave your house unlocked when you went away for vacation so your neighbors could water the plants.

Mr. Speaker, sad to say, those days are over.

Today, thousands of people from Massachusetts and across the country feel like prisoners in their own homes and helpless spectators to the loss of our streets.

Mr. Speaker, the crime bill we will vote on in the next few days does something about that. It funds about 2,300 new police officers in the Commonwealth alone and provides for 100,000 new police officers nationwide.

It helps build new prisons and expand old ones. It also includes boot camps for young offenders so that prison does not turn into a finishing school for criminals.

And it bans military style assault weapons that no one can mistake for hunting rifles and that are turning our streets into war zones.

And the crime bill does not just stop with today's crime. It helps stop tomorrow's by reaching young delinquents before they become adult criminals with 28 new programs including antigang initiatives, job training, and antidrug programs for which Massachusetts can expect at least $96 million.

Mr. Speaker, American families are tired of watching their neighborhoods taken over by criminals. Let us pass this bill and do something about it.

DEFENDING HIS RECORD

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, tonight the President will face the Nation during an evening press conference. Let us hope that his answers are a lot less dissembling than Roger Altman's.

Mr. Clinton will be using his crime bill as an example of the success of his presidency. Indeed this conference report is genuinely symbolic of this administration, because like his so-called stimulus package, like his welfare reform package, and like his health care bill, the President's crime bill is a billion dollar boondoggle.

Half of the money in this bill does go to worthy and important anticrime initiatives, but the other half is a giveaway to the protectors of the welfare state.

Money goes to organized lobbyists for more Federal spending. It goes to help social workers get organized. It goes to the Health and Human Services Secretary to upgrade the management of community development corporations, and it goes to dozens of programs of the Great Society, which, as the American people are increasingly aware, are often the cause, not the cure, for our social ills.

Mr. Speaker, President Clinton's White House has a radical, left-wing agenda. The President will defend his record tonight at a press conference, but there is little defense for the crime bill conference report.

A GOOD BALANCE OF PUNISHMENT AND PREVENTION IN THE CRIME BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I have been in the House for a number of years, during which I have seen many anticrime bills scuttled because the bills went too far in the area of punishment and did too little in the area of trying to prevent crime. The genius of the bill that will be before the House in a day or two is the fact that it combines both approaches.

It combines punishment, with more determinant sentencing, with more police on the beat, and with more prison construction, with prevention in the forms of social programs, educational programs, and sports programs to try to do something with our young people to deter them from a life of crime.

If I may use a pun, Mr. Speaker, it would be a crime if this crime bill were scuttled at this stage of the game.

Let me urge my colleagues to adopt what I consider to be an appropriate package of both punishment and prevention. This is what the American people deserve, and let us please give the American people this kind of a balanced anticrime package.

THE PROBLEM OF PREEXISTING CONDITIONS AND HEALTH INSURANCE COVERAGE

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORKILDSEN. Mr. Speaker, one of the biggest and cruelest problems with our health care system today is that people with preexisting conditions are almost always denied health insurance.

Many people who are laid off or change their jobs lose their health insurance. After losing their insurance, many find it impossible to purchase new health insurance coverage due to preexisting conditions.

Many people suffer from preexisting conditions, and even if those conditions are minor, they are denied health insurance.

Also, many people remain in jobs that are personally and/or economically unfulfilling, simply to retain whatever health care insurance they have.

True health care reform must create a system in which everyone, regardless or prior medical history, has access to affordable health insurance.

As we debate the many health care packages next week, there is one reform which we should all agree upon: Let us eliminate deniability of coverage for preexisting conditions.

CLINTON HEALTH CARE PLAN SEEN AS UNACCEPTABLE TO THE AMERICAN PEOPLE

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, with the newest proposals to overhaul the health care system, buyers should beware. While the label may read Gephardt, Mitchell, or something else, inside you will find pure, generic Clinton.

The prescription is always the same—price controls, higher taxes, and job-killing employer mandates. But this will not sell to the American people—they will not swallow this plan.

That does not matter to the Democrats, however. They want to pass a health care package—no matter how bad the plan, harmful the effects, or deadly the results. As Senator JAY ROCKEFELLER said, the Democrats will pass a plan, regardless of what the American people want. And you bet the centerpiece of this plan will be the employer mandate tax. Democrats may try to couch it in different ways, but the outcome is still the same—jobs on death row until Congress pulls the trigger.

I have a message from Minnesota to Dr. Clinton and his assistants in Congress. A man approached me at a parade and said, "Rod, keep the Government out of my health care, keep its hands out of my pockets, and deliver my mail on time. That's all I want from you guys."

So listen to the American people.

THE PRESIDENT'S LEGAL EXPENSE FUND

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, the Clintons have been ill-served by their attorneys. Their better-late-than-never lawyering will not be enough to bail them out of the problems created by the Presidential legal expense fund. A month after the fund's creation the Office of Government Ethics OK'd the fund, saving the President much embarrassment. You see, the President is forbidden by law from soliciting gifts. But the fund calls for solicitations, including direct mail solicitation, no less. The fund was advertised with much fanfare at a press conference, and the address to which contributions can be made has been distributed all over Washington and published in the press.

Back where I come from you call them as you see them, and if this does not constitute soliciting donations, I do not know what does. The OGE's opinion is prospective only and the White House says they will not do it anymore. I ask my colleagues to join me in signing a letter to OGE requesting an assessment of activities already taken place. Our President should take another look at the law.

PROVIDING FOR CONSIDERATION OF S. 1357, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND THE LITTLE RIVER BAND OF OTTAWA INDIANS ACT

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 501, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 501

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (S. 1357) to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. Each section of the bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from California [Mr. DREIER], for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 501 is an open rule providing for the consideration of S. 1357, the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. Under the rule, the bill shall be considered for amendment under the 5-minute rule and each section shall be considered as having been read. Finally, the rule provides one motion to recommit.

Mr. Speaker, S. 1357 is an important and long overdue bill which extends Federal recognition to a small group of approximately 1,500 Indians who reside near their ancestral homeland in northern Michigan. This bill reaffirms and clarifies the Federal relationship with these Indians known as the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians. Because these Indians have not received the proper recognition, the bands and their members are not eligible for services provided by the Bureau of Indian Affairs and the Indian Health Service. This bill simply provides that Federal laws and regulations generally applicable to Indian tribes will also apply to them, when funds are specifically appropriated for this purpose.

Mr. Speaker, S. 1357, which has already passed the other body, is the result of hearings and many careful consultations. I am pleased that we have an open rule which was unanimously passed in the Rules Committee by a voice vote. I urge my colleagues to adopt it.

□ 1250

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule. I am not supportive of the rule itself, but I support the fact it is a rule that allows for an open amendment process, and, equally important, it does in fact ensure that we are not waiving points of order, which is something that is often debated down here when they on the other side have a tendency to call things an open rule, even when there are all kinds of waivers involved. I would like to underscore I am pleased it has an open amendment process, and, at the same time, does not have any waivers in it. I strongly support it.

Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 1066, RESTORATION OF FEDERAL SERVICES TO THE POKAGON BAND OF POTAWATOMI INDIANS

Mr. HALL of Ohio. Mr. Speaker, by direction of the House Committee on Rules, I call up House Resolution 502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 502

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (S. 1066) to restore Federal services to the Pokagon Band of Potawatomi Indians. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule. Each section of the bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 502 is an open rule providing for the consideration of S. 1066, the restoration of Federal Services to the Pokagon Band of Potawatomi Indians. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. Under the rule, the bill shall be considered for amendment under the 5-minute rule and each section shall be considered as having been read. Finally, the rule provides one motion to recommit.

Mr. Speaker, S. 1066, is an important bill which restores Federal services to the Pokagon Band of Potawatomi Indians. This small band of approximately 1,500 Indians is the only one of several Potawatomi Bands that is not treated as a federally recognized tribe, and its members are not eligible for services provided by the Bureau of Indian Affairs and the Indian Health Service. This bill simply provides that Federal laws and regulations generally applicable to Indian tribes will also apply to them, when funds are specifically appropriated for this purpose.

Mr. Speaker, S. 1066, which has already passed the other body, is the result of hearings and many careful consultations. I am pleased that we have an open rule which was unanimously passed in the Rules Committee by a voice vote. I urge my colleagues to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as with the past rule, this is an open amendment process and there are no waivers. I congratulate my colleagues on the Committee on Rules for reporting out a rule that does that. While I oppose the legislation, I strongly support the rule, and would like the RECORD to show I greatly appreciate the fact that my friend from Dayton has gone to the trouble of specifically naming the certain bands, which I am not mentioning in my statement.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time; I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND THE LITTLE BAND OF OTTAWA INDIANS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 501 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1357.

□ 1256

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1357) to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes, with Mr. MENENDEZ in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 30 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, S. 1357 is sponsored by Senator LEVIN and cosponsored by Senator RIEGLE of Michigan. The bill reaffirms and clarifies the Federal relationship with the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians. These two groups are the political successors to the signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit. The two groups have 1,500 members who continue to reside near their ancestral homeland in northern Michigan. The subcommittee held a hearing on this bill September 17, 1993, at which the tribes submitted well documented evidence that they should be immediately recognized. The companion, bill, sponsored by Representative KILDEE, was reported out of subcommittee by voice vote on November 8, 1993. This bill passed the Senate on May 25 and was reported out of the Natural Resources Committee on June 29 by voice vote without amendment.

I urge my colleagues to support this bill.

□ 1300

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to S. 1357, the Odawa Recognition Act, which would extend Federal recognition to the Odawa Indians, completely bypassing the BIA's Federal Acknowledgment Process [FAP] through which all other nonrecognized must pass.

The reasons for my opposition are identical to the reasons I oppose S. 1066, the Pokagon Recognition Act, which we will take up next. I will outline them briefly for the benefit of the House, before discussing them in greater detail.

Mr. Chairman, let me tell you all the things this bill is not. No matter how many times the proponents repeat themselves—probably in the hopes that if they repeat it often enough it will become the truth—this is not a restoration or a reaffirmation bill. This is a recognition bill, pure and simple.

I know that the bands claim they are descended from a treaty signatory, and that they say that means they are recognized. But as I have previously stated, the Federal courts have completely rejected that thesis in such cases a Untied States versus Washington. Simply because a group existed as a federally recognized tribal entity in 1820 or 1830 in no way guarantees that they have continued to exist in the same unaltered state until today.

Many groups have split, become extinct, joined with others, or have become absorbed in to the surrounding non-Indian community. Many others have ceased to function as tribal entities. That's what we have the FAP process for, to weed out those groups that can no longer meet the criteria for government-to-government recognition. The Pokagon should have to go through it just like any other nonrecognized tribe.

Mr. Chairman, this bill is not about what is or is not wrong with the FAP process. The Odawa's argument that the process is too complex or ineffective is completely disingenuous. Neither of these groups has even tried the process. Neither has done anything more than submit letters to the BIA informing that agency that they intend to petition for recognition at some unspecified time in the future: the Little River Band on June 4, 1991, and the Little Traverse Bay Band on September 27, 1989. How can they complain about a process that they haven't even attempted to pursue?

Mr. Chairman, this bill is not about whether the Odawa are Indians; clearly they are. The question is whether, today, they can meet all the criteria to prove that they presently constitute a recognizable tribe; whether they live together in an identifiable community separate from the surrounding non-Indian community, whether they exercise political control over their members. This is why we have sanctioned the FAP process, to make this complex determination.

Mr. Chairman, this bill is not fair to all the other groups which must complete the FAP process to be recognized. These tribes have seen fit to go through the proper channels, so why shouldn't the Odawa?

Similarly this bill is not fair to those groups that have already gone through the process, especially those that were turned down. Should we now let them have a second bite of the apple and allow them to pursue legislative recognition.

Mr. Chairman, bills like this are not supported by the vast majority of recognized tribes in this country. I have heard from several tribal chiefs, including Chief Philip Martin of the Mississippi Choctaw, and several umbrella organizations representing large groups of tribes.

Mr. Chairman, this bill is not supported by the BIA. In a statement in the other body in February of this year, the BIA made its position clear:

> We oppose enactment of S. 1357 * * *. The date, neither of the [bands] has submitted the documentation necessary for us to make an evaluation on whether either Band meets the mandatory acknowledgment criteria.

Mr. Chairman, more than 180 members of this body voted against a similar recognition bill last October—the Lumbee recognition bill. I hope that those members will support me in opposing this bill.

Let me now flesh out my position for the benefit of the Members of the House not familiar with this topic. S. 1357 presents this Congress, us, with one of the most difficult contemporary public policy issues in Indian affairs: In which cases, if any, should we exercise our authority to extend Federal recognition to a group seeking formal acknowledgment as an Indian tribe outside the established administrative process? In the last two Congresses, we have been asked to consider acknowledgment of two bands of Odawa Indians. So far, we have declined to exercise that authority in their regard. The proponents of this bill present no compelling justification why we should depart from that well-reasoned course now.

The question of whether a native American group constitutes an Indian tribe is one of immense significance in the field of Federal Indian law. Because Congress' power to legislate for the benefit of Indians is limited by the Constitution to Indian tribes, for most Federal purposes it is not enough that an individual simply be an Indian to receive the protections, services, and benefits offered to Indians; rather, the individual must also be a member of an Indian tribe. Though it might seem to the layperson that there is only one kind of Indian tribe, for purposes of American Indian law there are actually two—those that are recognized by the Federal Government and those that are not.

"Recognized" is more than a simple adjective; it is a legal term of art. It means that the Government acknowledges as a matter of law that a particular native American group is a tribe by conferring a specific legal status on that group, thus bringing it within Congress' legislative powers. This Federal recognition is no minor step. A formal, political act, it permanently establishes a government-to-government relationship between the United States and the recognized tribe as a "domestic dependent nation," and imposes on the Government a fiduciary trust relationship to the tribe and its members. Concomitantly, it institutionalizes the tribe's quasi-sovereign status, along with all the powers accompanying that status such as the power to tax and to establish a separate judiciary. Finally, it imposes upon the Secretary of the Interior specific obligations to provide a panoply of benefits and services to the tribe and its members. In other words, unequivocal Federal recognition of tribal status is a prerequisite to receiving the services provided by the Department of the Interior's Bureau of Indian Affairs [BIA], and establishes tribal status for all Federal purposes.

Prior to the 1930's, Federal recognition of tribes took many forms: congressionally sanctioned treaties, court cases, administrative decisions, and executive orders—and "was essentially sporadic, or, at best * * * plagued with all sorts of pitfalls and a lack of a systematic approach * * *." Instead of a process based on a well-reasoned set of standardized criteria, the granting of recognition was, by all accounts, nothing better than arbitrary and excessively political.

In 1871, Congress provided that no tribe could thereafter be recognized as an independent sovereign entity with which the United States could conclude a treaty. Similarly, in 1919 Congress retired another method of recognizing an indigenous group as a tribe when it prohibited the President from creating reservations by executive order. Thus, by the early 1900's this curtailment of available avenues of dealing with the tribes, coupled with the growing involvement of the BIA in managing the daily affairs of the tribes, meant that Congress had effectively delegated—either explicitly or implicitly—much of its authority over Indian matters to the BIA.

Those agencies, however, continued to deal with the tribes in a somewhat desultory fashion. The early principles of administrative recognition were based on a Supreme Court decision which offered a rather vague guide to defining a tribe. In an effort to remedy this disorganization, in 1942 the Solicitor of the BIA, Felix Cohen, first proposed a workable set of criteria designed to provide a uniform framework for tribal recognition. The so-called Cohen criteria considered both the tribal character of the native group and any previous Federal actions treating it as a bribe. However, application of the criteria proved to be no less haphazard than the process they replaced. Besides the Cohen criteria, the BIA relied on a patchwork mixture of court opinions, limited statutory guidance, treaty law, and evolving departmental policy and practice. Thus by 1975, faced with a steadily increasing number of groups seeking recognition, the BIA held in abeyance further acknowledgment decisions pending the development of regulations for a systematic and uniform procedure to recognize Indian tribes.

About this same time the congressionally-established American Indian Policy Review Commission [AIPRC] proposed the formation of a firm legal foundation for the establishment and recognition of tribal relationships with the United States, and the adoption of a "valid and consistent set of factors applied to every Indian tribal group. * * *." Joining the chorus for standardization was the National Congress of American Indians, which called for a "valid and consistent set of criteria applied to every group which petitions for recognition * * * based on ethnological, historical, legal, and political evidence." Senator James Abourezk, AIPRC's chairman, took the issue to the floor of the Senate, and introduced legislation calling for the establishment of an office in the BIA to handle recognition petitions in a uniform way.

In 1978, the Interior Department, after exhaustive consultations with Indian country, established procedures to provide a uniform approach to the recognition process. Called the Federal Acknowledgment Process [FAP], the regulations set forth seven criteria a petitioning group must meet to be deemed a "recognized" tribe. Under the criteria, based in part on Cohen's model, for a group to be recognized as a tribe it must.

> (a) establish that it has been identified from historical times to the present on a substantially continuous basis as "American Indian" or "aboriginal;" (b) establish that a substantial portion of the group inhabits a specific area or lives in a community viewed as * * * Indian and distinct from other populations in the area, and that its members are descendants of an Indian tribe which historically inhabited a specific area; (c) furnish a statement of facts which establishes that the group has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present; (d) furnish a copy of the group's present governing document * * *; (e) furnish a list of all known members, and show that the membership consists of individuals who have established descendency from a tribe that existed historically or from historical tribes that combined and functioned as a single autonomous entity; (f) establish that the membership is composed principally of persons who are not members of any other North American Indian tribe; (g) establish that neither the group nor its members are the subject of congressional legislation that has expressly terminated or forbidden the federal relationship.

The BIA FAP office is staffed by two teams of professionals including historians, genealogists, ethnologists, and anthropologists. These teams do exhaustive research on the petitions they receive, and examine such factors as Indian identity and community, as well as political and cultural cohesiveness. Once a petition is received it is reviewed for any obvious deficiencies. These are noted for the tribe, which is given the opportunity to supply additional material to supplement its petition. The petitions are then placed on active consideration in the order received.

S. 1357 seeks to legislatively extend Federal recognition to a group of Indians in the State of Michigan, completely bypassing the established BIA FAP process. The bill's proponents posit two principal arguments for recognition: First, that the group was previously recognized by the Federal Government, and that their recognition has simply fallen into abeyance over the years and needs to be reaffirmed; and second, that the FAP process is arbitrary and unworkable and therefore they are justified in bypassing it. Neither argument is persuasive.

The proponents of S. 1357 posit that theirs is not a recognition bill at all; rather, they contend that it is reaffirmation legislation. They argue that there formally existed a government-to-government relationship between the Odawa and the United States, but that the relationship—while continuing in law—has not continued in fact due to the actions, or inactions, of the BIA and the Federal Government. The Odawa claim descent from signatories to a series of treaties between the United States and several Odawa, Chippewa, and Potawatomi bands during the early 1800's. Specifically, the bands claim that they are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit. Therefore, they conclude, they are automatically entitled to have their status as a recognized group reaffirmed by the Federal Government.

The Odawa position, however, rests upon several fatally flawed stylobates. To begin with, I am aware of no precedent in Federal Indian law for a concept of congressional reaffirmation. Traditionally, there are only four statuses available to Indian tribes: recognized, unrecognized, terminated, and restored. Clearly, the last two do not apply here; the Odawa have never been the subject of congressional termination legislation, the logical prerequisite to both termination and restoration. Just as clearly, the Odawa bands are not now federally recognized; their members do not presently receive services from the BIA because of their status as Indians, and they do not appear on the Secretary's most recent list of recognized tribes dated October 1993. That leaves the bands only one possible status: unrecognized.

The bands, however, argue that they were recognized in a series of treaties in the early 1800's. They contend that over the intervening years the Federal

Government and BIA allowed that recognition to atrophy to the point of nonexistence. They conclude, therefore, that their recognized status was never terminated but lies dormant, only needing to be reawakened by Congressional reaffirmation. They are wrong.

The argument that Indian groups benefit from a presumption of continuing tribal existence—and thus Federal recognition—solely on the basis that their ancestors belonged to groups with which the United States signed treaties has been soundly rejected by the Federal courts. The reason for that rejection is fairly straightforward: Just because a group existed as a federally recognized Indian entity in the 1800's in no way guarantees that they have continued to exist in that same unaltered condition to the present day.

Over the years, some Indian groups have broken up and blended into the dominant, non-Indian culture. Others have ceased to function as tribes. There are countless Indian groups extant today that cannot meet the Federal Government's criteria for recognition, notwithstanding the fact that they are descended from treaty signatories. The consummate example are the Miami of Indiana. The Miami are descended from a group that signed a series of treaties with the United States between 1795 and 1867. Yet despite the existence of these treaties, the group was denied recognition by the BIA on August 17, 1992. The Miami were unable to satisfy the second and third FAP criteria; they could not establish that "a substantial portion of the group inhabits a specific area or lives in a community viewed as * * * Indian and distinct from other populations in the area," and they could not show that they "maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present."

The Washington decision, and experience with groups such as the Miami, support the responsibility of the BIA to inquire de novo as to the maintenance of a group's tribal existence. Without that maintained, cohesive, existence there can be no Federal recognition.

The proponents of S. 1357 take great pains to posit that the Pokagon meet all the criteria used by the BIA in determining tribal status. However, while the proponents' remarks on this bill, as well as the majority's report, focus extensively on their highly subjective judgments about whether the Pokagon people meet these criteria, I decline to engage in debate over this topic since it is largely irrelevant in terms of my position on this legislation. I do not argue that the Pokagon are not of Indian descent; moreover, I make no judgments on the question of their tribal status, or the adequacy of their recognition petition. Rather, I believe very strongly that neither the members of the Natural Resources Committee, nor of the full House, are in a position to make a rational and informed decision as to whether this group constitutes a federally recognizable tribe.

True, as the chairman of the committee has previously pointed out, "[t]his is not about us being experts. It is about weighing the evidence that the experts have given us. That is our job on this and so many other subjects." However, we have heard from only one of the experts, Dr. McClurken, and there is not one member of the committee, nor of our staffs, with the specialized educational background necessary to make an informed decision in this area. Properly done, the process of recognition requires an evaluation of complex and often ambiguous data and issues of ethnohistory, cultural anthropology, and genealogy. Not only do we lack that expertise, but there are precious few members of this committee with any more than the most superficial knowledge on the subject at all. Such a decision is replete with out-of-the-ordinary complexities which require more than just a simple one-page staff memo to understand fully. Needless to say, if those of us charged with the day-to-day oversight of Indian affairs do not have the necessary expertise—or even knowledge—in this area, how will the balance of our Members appropriately exercise those judgments as they will be called upon to do today?

Aside from our lack of expertise, other considerations militate against removing the recognition process from the BIA in this case. Foremost among these is the fact that recognition should be based on established principles free from the eddies and currents of partisan politics and influence—this was the reason the FAP criteria were established in the first place. Congress is by nature, however, a highly partisan institution. A single, powerful Member in the majority party is perfectly capable of moving a recognition bill through this body with little reference to its actual merits. As one attorney has noted:

> Neither this Committee nor the Senate Committee has adopted any self-policing criteria [to use] to judge the petitions. It has to do with the nature of the arguments that are put forward before [the Committee], the proponents of the legislation bring their historians and anthropologists and say absolutely this is a tribe. The member or sponsor of the bill lobbies of members of the Committee on behalf of his [petitioning] constituent and depending on whether he's persuasive or not perhaps he is successful. Some professional staff pointed out to me one day, what happens the day that Dan Rostenkowski[, Chairman of the House Ways and Means Committee,] goes to George Miller[, Chairman of the House Natural Resources Committee,] and says the [Illini] tribe are alive and living in downtown Chicago. That should not be the way the federal recognition is granted. There has to be some sort of criteria and I think that is the bottom line.

Moreover, a bill introduced by a Member of the party in control of the majority has a much better chance of passage than does one introduced by a minority Member.

In other words, while we clearly have the power to recognize a tribe, that does not mean that the wisest use of that power is its exercise. In the absence of any discernible criteria by which we judge tribal status, and of any particularized background or knowledge, the Congress should leave the decision up to those best qualified to make it: the BIA.

There is simply no precedent for congressional passage of a bill like S. 1357. Since 1978, the year the BIA promulgated the FAP regulations, Congress has approved 18 acts pertaining to recognition of tribal groups. None of these, however, can be characterized as a recognition bill such as S. 1357. More than half of the cited acts were bills restoring Federal recognition to groups that had once been officially recognized, but were terminated by legislation—a status to which the Pokagon cannot lay claim. The rest involved unique circumstances not applicable here.

More than half of the bills cited as legislative recognition legislation are actually restoration bills—the word "restoration" appears in the title of each act cited. There is a clear legal distinction between a recognition bill, which establishes the government-to-government relationship between the United States and a tribe for the very first time, and a restoration bill, which simply reinstates a relationship which once existed but was expressly terminated by statute or treaty. No amount of obfuscation can turn one into the other. These 10 bills, therefore, cannot possibly serve as precedent for the Pokagon case.

Of the eight remaining acts, four were related to the recognition of tribes in the context of eastern land claims. In these bills, Congress extended recognition to several groups as part of settlements of the tribes' legal claims to land in Maine, Connecticut, and Massachusetts. Another act pertained to a tribe that had already been recognized as part of another tribal entity; one acknowledged a band as a subgroup of another recognized tribe; and one act involved a group that was aboriginally indigenous to Mexico and thus specifically excluded from the administrative regulations.

This leaves only one act, the Texas Tiwa legislation. In 1968, Congress transferred responsibility over the Tiwa Tribe—now known as the Ysleta del Sur Pueblo—and their lands to the State of Texas, thereby terminating any Federal relationship with the tribe. The act read, in pertinent part:

> Responsibility, if any, for the Tiwa Indians of Ysleta del Sur is hereby transferred to the State of Texas. Nothing in this Act shall

> make such tribe or its members eligible for services performed by the United States for Indians because of their status as Indians * * * and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to [them].

Congress later reversed itself, thereby restoring recognition to the Tiwa, when informed by the State that the latter could not legally hold tribal land in trust for the tribe.

Despite previous attempts to characterize the Tiwa Act as recognition legislation, it is not; the Tiwa Act was restoration legislation, a status set forth in the very name of the act itself. As I have previously noted, recognition and restoration are two completely different legal concepts, and consequently the Tiwa Act (restoration) is not precedentially analogous to the Odawa case (recognition). Furthermore, no similar transfer of responsibility has ever taken place between the United States and Michigan with regard to the Odawa, nor has the United States ever held land in trust for this group.

In sum, the Odawa are not automatically entitled to recognition simply because they are descended from treaty signatories, given that fact, no amount of verbal obfuscation can transmute this bill into anything other than what it is: recognition legislation. As such, the Odawa should pass through the same recognition process required of every other tribe in this country, and not exempted by this ill-considered legislation for which there is no congressional precedent.

The Odawa next posit that they are justified in bypassing the FAP because the process is cumbersome and ineffective. The FAP has come under fire over the last few years. There are those who argue—correctly in some instances—that the process takes longer to complete than is provided for in the agency's regulations, costs each group financial resources they do not have, and is subject to the whims of the BIA staff. In limited defense, I point out that because the FAP establishes a permanent government-to-government relationship with a tribe, the BIA is very cautious about its determinations. This kind of exhaustive research takes a lot of time, as does the process of preliminary review, notification to the tribe of deficiencies, and waiting for the tribe to respond to these deficiencies with a supplemental petition. In addition, the FAP teams have been historically underfunded by this Congress and there have never been more than two. Still, the process clearly has its faults.

Regardless, the Odawa are hardly in a position to complain about the process. First, neither of the bands have done any more than submit a letter of intent to petition. How can they complain about a process that they haven't evenly participated in yet? Second, the BIA recently finalized a number of significant new regulations designed to address many of the concerns expressed about the process. So, not only are the Odawa complaining about a process to which they have not yet given a chance to work, they're complaining about a process which no longer exists in the same form. Finally, all indications are that the BIA will issue a positive finding in the Odawa case, should they ever submit a petition. I am sure that the gentlemen from New Mexico [Mr. RICHARDSON] and Michigan [Mr. KILDEE] are aware of this, yet here we are.

Furthermore, while I have always agreed that the FAP is in need of repair, it is not as feckless as the bill's proponents would have this House believe. For example, we have repeatedly heard Members state that there is a backlog of 120 cases waiting to be processed, and that only eight tribes have made it through the process since its inception. However, those numbers—off-parroted as the premier example of why the FAP should be bypassed—are patently spurious and unsupported by the record.

There were 40 petitions on hand when the FAP office organized in October, 1978, and 110 petitions or related inquiries have been filed since then for a total of 150 cases. Of these, 9 groups have been recognized; 13 have been denied recognition; 1 was determined to be part of a recognized tribe; 1 had its status confirmed by the Assistant Secretary for Indian Affairs; 1 had its status clarified by legislation at the BIA's request; 1 had its previously-terminated recognition restored; 3 were legislatively acknowledged; 1 withdrew its petition and merged with another petitioner; and 7 require legislative action to permit processing. This means that a total of 37 cases, not 8 as others contend, have been resolved since 1978: 26 by the BIA, 4 by Congress, 1 of its own accord, and 7 because they are precluded from petitioning.

Of the 113 remaining cases, 26 are incomplete petitions and thus are not yet eligible for review. A full 74 cases are similarly unreviewable because the groups have submitted only letters of intent to petition informing the BIA that at some unspecified time in the future they will submit their actual petitions.

That leaves us with 13 cases that could possibly be considered to be pending. In three of those, the BIA has already completed its review and announced its findings; those findings do not become final for regulatory purposes, however, until the close of a prescribed comment period. Of the remaining 10 cases, 6 are presently under active consideration. That leaves 4 cases—not 120, but 4—that are currently backed-up and awaiting review. In simpler terms, only 3 percent of the total number of cases filed with the BIA are pending BIA action. This is hardly an insuperable barrier justifying congressional redress.

In any event, the logical solution to the problems posed by the FAP process is to correct them. Several bills have been introduced over the past few years to overhaul and streamline the process. Despite the chorus of Democrat complaints about the process, though, the majority has—until last month—never seriously pursued any of these bills in committee, seeming to prefer instead the introduction of a string of ad hoc recognition bills designed to circumvent the process entirely.

Finally this May, the subcommittee chairman and I introduced H.R. 4462, a bill to radically overhaul the FAP process by, inter alia, extracting it from the BIA entirely; a similar bill exists in the Senate. The Chairman has stated on several occasions that he intends to pass this bill out of the House this session. In fact, we held a lengthy hearing on the legislation just last Friday. Given that we are on the verge of reforming the process and addressing those same concerns which motivate some tribes to seek legislative recognition, I think it makes little logical sense to deracinate a tribe therefrom.

Bypassing the process not only ignores the problem, but is unfair to all of the recognized tribes. There exists a formal government-to-government relationship between the recognized tribes and the United States. If Congress creates tribes at will, without meaningful uniform criteria or substantial corroborated evidence that the group is indeed a tribe, then we dilute and weaken that relationship. A sizable majority of tribes have objected to similar bills for just this reason. We have received resolution that support the FAP process and a strict adherence to a systematic procedure from tribes in 12 States, from regional intertribal organizations representing all the tribes of the Pacific Northwest, Montana, and Wyoming, the united south and eastern tribes (representing all the tribes from Maine to Florida and west to Louisiana), all of the 10 southwestern Pueblo tribes, and 25 of the 26 tribes of Arizona.

Passage of S. 1357 is also patently unfair to all of the other petitioning groups. If the process is so ineffectual that the Odawa should be excused from it, then what of the other 100 or so groups presently in the process? If we decide to recognize the Odawa in whole or in part because we deem the FAP process to be necrotic, does not equity require that we immediately put before the House bills to provide for the recognition of all these other groups too? It is sadly ironic that the Odawa would have us consider their cause unique. Finally, what about those groups that have been denied recognition under this superfluous FAP process; do we now open our doors to them and allow them another bite of the recognition apple? It would be patently unfair to require some groups to be judged under the administrative standards and allow other groups to be judged in Congress under no discernible standards simply because they are able to avail themselves of an influential congressional sponsor.

Aside from the obvious inequities to other native groups, I cannot help but consider the effects of a case in which we are wrong in our assessment of a group seeking legislative recognition? As I have repeatedly stressed, we are not equipped to make an informed decision in this area. It has been estimated by one authority that at least 15 percent of groups currently seeking recognition are essentially bogus Indian groups, or Indian descendent recruitment organizations, composed of predominantly non-Indian persons. If we make a mistake, and recognize a group that should not have been accorded that status, then we sully the relationship with the tribes even further.

Moreover, legislative acknowledgment of the Odawa in the absence of any established recognition criteria raises serious constitutional questions. Despite our plenary power over Indians, Congress may not arbitrarily confer Federal recognition as an Indian tribe on any group claiming to be a tribe. If we act to recognize the Odawa, or any other group, in the absence of any set guidelines, then it seems to us that we act ultra vires—outside the bounds of what is constitutionally permissible.

In conclusion, while the recognition process is in need of repair, it is not as crippled as many would have us believe. There is only a backlog of at the most 4 petitions, not the 120 cases often cited. While I concede that the process is imperfect, the most rational solution is to fix it. Continually seeking to bypass it only ignores the problems and forces us to address it over and over again. In addition, it undermines the role of the BIA, is unfair to both the recognized and unrecognized tribes, and raises constitutional concerns.

This committee must decide if it will continue to support the utilization of an equitable and standardized method of determining which Indian groups should be recognized by the Federal Government, or if it will return us to the pre-1978 days of piecemeal and arbitrary recognition through individual bills such as S. 1357. While it is clearly within our power to recognize Indian tribes, we have tried our hand at it before. Because we did it so badly and so politically, however, leaders from both parties on the committees of jurisdiction and from throughout Indian country insisted on a better way—the administrative FAP process of the BIA. Passage of bills like S. 1357 is contrary to the recommendations of the America Indian Policy Review Commission, opposed by the overwhelming majority of tribes and contrary to logic. We have seen that passage by the House of the Lumbee recognition bill late last Session has opened the floodgates of recognition legislation. S. 1357 can only serve to undermine further an already beleaguered recognition process, to encourage other groups to circumvent that process, and to place recognition in an arena where emotional arguments, influential sponsors, and the partisan nature of Congress replace merit and fact.

The overwhelming number of tribes in this country oppose bills like S. 1357. I strongly urge the House to do the same.

Mr. Chairman, I submit the following document to be included in the RECORD, and reserve the balance of my time.

Summary Status of Acknowledgment Cases [As of May 16, 1994]

Petitions on active status (petitions on active) Total: 9.

BAR's action items: 6.

Proposed findings in progress: 6.

Final determinations pending: 0.

Petitioner's action items: 3.

Commenting on proposed finding: 3.

Petitions ready for active (petitions ready) Total: 4.

Other petitions (other petitions) Total: 100.

Incomplete petitions (not ready) 26.

Letters of intent to petition: 74.

In litigation (Cases being litigated) Total: 2.

Cases resolved (Cases resolved) Total: 30.

By Department: 25.

Through acknowledgment process: 22.

Acknowledged: 9.

Denied acknowledgment: 9.

Status clarified by legislation at department's request: 1.

Status clarified by other means: 2.

By Congress: 4.

Legislative restoration: 1.

Legislative recognition: 3.

By other means: 1.

Merged with another petitioner: 1.

Legislative action required (to permit processing under 25 CFR 83) (Cases requiring legislation) Total: 7.

Historical Note:

Petitions on hand when acknowledgment staff organized Oct 1978: 40.

New petitioners since Oct 1978: 110.

Total petitions received to date: 150.

Includes eight groups that initially petitioned as part of other groups but have since split off to petition separately.

Petitions Active, Ready or in Litigation

[As of May 16, 1994]

ACTIVE STATUS

Proposed finding in progress: 6.

Members

17616: United Houma Nation, Inc., LA (#56) (Active 5/20/92; in draft)

356: Duwamish Indian Tribe, WA (#25) (Active 5/1/92; in draft)

c250: Huron Potawatomi Band, MI (#9) (Active 7/27/93)

313: Jena Band of Choctaws, LA (#45) (Active 7/27//93):

Chinook Indian Tribe, Inc., WA (#57) (Active 1/28/94)

c2500: Pokagon Potawatomi Indians of Indiana & Michigan, IN (#75/78) (Active 1/28/94)

Petitioner Commenting on Proposed Finding: 3.

836: Snohomish Tribe of Indians, WA (#12) (Active 1/7/81: proposed negative finding pub'd 4/11/83; edited staff notes provided 3/25/91; comment period reopened 12/1/91, extended indefinitely at petitioner's request pending resolution of Samish litigation)

313: Snoqualmie Indian Tribe, WA (#20) (Active 5/21/90; proposed positive finding pub'd 5/6/93; comment period extended to 9/30/94)

c2500: Ramapough Mountain Indians, Inc., NJ (#58) (Active 7/14/92); proposed negative finding pub'd 12/8/93, comment period extended to 10/7/94)

Final Determination Pending: 0.

READY STATUS

Ready, waiting for active consideration: 4.

Petitioners have corrected deficiencies and/or stated their petition should be considered "ready" for active consideration. Priority among "ready"petitions is based on the date the petition is determined "ready" by the Branch of Acknowledgment and Research (BAR).

Ready date and name of petitioner

11/19/91: MOWA band of Choctaw, AL (#86) (doc'n recv'd 14/28/88; OD ltr 2/15/90; rspns recv'd 11/8/91; complete 11/19/91)

4/23/93: Yuchi Tribal Organization, OK (#121) (doc'n recv'd 9/9/91); OD ltr 9/14.92; partial rspns 3/23/93; complete 4/23/93)

9/24/93: Juaneno Band of Mission Indians, CA (#84) (doc'n recv'd 2/24/88; OD ltr 1/25/90; rspns recv'd 9/24/93, complete)

4/04/94: Cowlitz Tribe of Indians, WA (#16) (doc'n recv'd 2/1/83); OD ltr 6/15/83); rspn recv'd 2/10/87; 2nd OD ltr 10/21/88; rspns recv'd 2/24/94, complete)

In Litigation:

Samish Indian Tribe, WA (#14) (Denied Acknowledgment eff. 5/6/87).

Miami Nation of Indians of IN (#66) (Denied Acknowledgment eff. 8/17/92).

Petitions Resolved

[As of May 16, 1994]

RESOLVED BY DEPARTMENT: 25

Acknowledged through 25 CFR 83: 9.

Members:

297: Grand Traverse Band of Ottawa & Chippewa, MI (#3) (eff. 5/27/80).

175: Jamestown Clallam Tribe, WA (#19) (eff. 2/10/81).

200: Tunica-Biloxi Indian Tribe, LA (#1) (eff. 9/25/81).

199: Death Valley Timbi-Sha Shoshone Band, CA (#51) (eff. 1/3/83).

1170: Narragansett Indian Tribe, RI (#59) (eff. 4/11/83).

1470: Poarch Band of Creeks, AL (#13) (eff. 8/10/84).

521: Wampanoag Tribal Council of Gay Head, MA (#76) (eff. 4/11/87).

188: San Juan Southern Paiute Tribe, A2 (#71) (eff. 3/28/90).

972: Mohegan Indian Tribe, CT (#38) (eff. 5/14/94).

Denied acknowledgment through 25 CFR 83: 13.

1041: Lower Muskogee Creek Tribe-East of the MS, GA (#8) (eff. 12/21/81).

2696: Creeks East of the Mississippi, FL (#10) (eff. 12/21/81.

34: Munsee-Thames River Delaware, CO (#26) (eff. 1/3/83).

324: Principal Creek Indian Nation, AL (#7) (eff. 6/10/85).

1530: Kaweah Indian Nation, CA (#70a) (eff. 6/10/85).

1321: United Lumbee Nation of NC and America, CA (#70) (eff. 7/2/85).

823: Southeastern Cherokee Confederacy (SECC), GA (#29) (eff. 11/25/85).

609: Northwest Cherokee Wolf Band, SECC, OR (#29a) (eff. 11/25//85).

87: Red Clay Inter-tribal Indian Band, SECC, TN (#29b) (eff. 11/25/85).

304: Tchinouk Indians, OR (#52) (eff. 3/17/86).

590: Samish Indian Tribe, Inc., WA (#14) (eff. 5/6/87).

275: MaChis Lower AL Creek Indian Tribe, AL (#87) (eff. 8/22/88).

4381: Miami Nation of Indians of IN, Inc., IN (#66) (eff. 8/17/92).

Status clarified by legislation at Department's request: 1.

c224: Lac Vieux Desert Band of Lake Superior Chippewa Indians, MI (#6) (legis clarification of recog'n status 9/8/88).

Status Clarified by Other Means: 2.

650: Texas Band of Traditional Kickapoos, TX (#54) (Determined part of recognized tribe 9/14/81; petition withdrawn).

32: Ione Band of Miwok Indians, CA (#2) (Status confirmed by Assistant Secretary 3/22/94).

RESOLVED BY CONGRESS: 4

Legislative Restoration: 1

328: Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, OR (#17) (legis restoration 10/17/84).

Legislative Recognition: 3

651: Cow Creek Band of Umpqua Indians, OR (#72) (legis recogn 12/29/82).

55: Western (Mashantucket) Pequot Tribe, CT (#42) (legis recogn 10/18/83 in association with eastern land claims suit).

611: Aroostook Band of Micmacs, ME (#103) (legis recog'n 11/26/91).

RESOLVED BY OTHER MEANS: 1

Petition withdrawn (merged with another petition): 1.

Potawatomi Indians of IN & MI, Inc., MI (#75) and Potawatomi Indian Nation, Inc. (Pokagon), MI (#78) merged; now Pokagon. (#78).

Legislative Action Required

Cases requiring legislation to permit processing under 25 CFR 83: 7.

Lumbee Regional Development Association (LRDA/Lumbee) (#65).

Hatteras Tuscarora Indians, NC (#34).

Cherokee Indians of Robeson and Adjoining Counties, NC (#44).

Tuscarora Indian Tribe, Drowning Creek Res., NC (#73).

Waccamaw Siouan Development Association, Inc., NC (#88).

Cherokee Indians of Hoke County, Inc., NC (#91).

Tuscarora Nation of North Carolina, NC (#102).

Historical note:

Petitions on hand when Acknowledgment staff organized Oct 1978: 40.

New petitioners since Oct 1978: 110.

Total Petitions received to date (as of 4/29/94): 150.

Includes 8 groups that initially petitioned as part of other groups but have since split off to petition independently.

Register of Documented, Ready Petitions

[As of May 16, 1994]

Note: Priority among petitions that are documented and "ready" for active consideration is based on the date the petition is determined complete and "ready" by the Branch of Acknowledgement and Research (BAR).

Date ready, name of petitioner, and date active—

11/19/1991: MOWA Band of Choctaw, AL (#86).

4/23/1993: Yuchi Tribal Organization, OK (#121)

9/24/1993: Juaneno Band of Mission Indians, CA (#84)

4/04/1994: Cowlitz Tribe of Indians, WA (#16).

Register of Incomplete Petitions and Letters of Intent to Petition

[As of May 16, 1994]

Administrative note: Priority numbers assigned to petitions under the "old regs" have been retained to avoid the confusion that renumbering would be likely to create. For the purpose of this Register, petitioners are listed in numerical sequence based on the chronological order in which the Branch of Acknowledgment and Research (BAR) received the petition and/or letter of intent to petition. Gaps in numbering represent petitions that have already been resolved or are now in active status.

Priority No. and name of petitioner.

4[1]: Shinnecock Tribe, NY (2/8/78).

5: Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan de Guadalupe (formerly Tiwa Indian Tribe), NM (doc'n recv'd 3/24/92; OD ltr 8/25/93).

9a[1]: GunLake Village Band & Ottawa Colony Band of Grand River Ottawa Indians, MI (6/24/92).

11: Steilacoom Tribe, WA (doc'n recv'd 10/27/84; OD ltr 11/30/87; response 3/25/94).

15[1]: Mashpee Wampanoag, MA (doc'n recv'd 8/16//90; OD ltr 7/30/91).

18[1]: Little Shell Band of North Dakota, ND (#18, 11/11/75).

21[1]: Mono Lake Indian Community, CA (7/9/76).

22[1]: Washo/Paiute of Antelope Valley, CA (7/9/76).

22a[1]: Antelope Valley Paiute Tribe, CA (7/9/76).

23: Four Hole Indian Orgn/Edisto Tribe, SC (partial doc'n recv'd 1983).

24: Maidu Nation, CA (partial doc'n recv'd 5/30/90).

27[1]: Cherokee Indians of Georgia, Inc., GA (8/8/77).

28[1]: Piscataway-Conoy Confederacy & Sub-Tribes, Inc., MD (2/22/78).

30: Clifton Choctaw, LA (doc'n recv'd c.9/28/90; OD ltr 8/13/91).

31: Little Shell Tribe of Chippewa Indians of MT (OD ltr 4/18/85; partial response 11/2/87, 10/26/89; "not ready" 8/17/90).

32[1]: Florida Tribe of Eastern Creek Indians, FL (6/2/78).

33[1]: Delaware-Muncie, KS (#33, 6/19/78).

35: Eastern Pequot Indians of Connecticut, CT (doc'n recv'd 5/5/89; OD ltr 3/13/90).

36[1]: Tsimshian Tribal Council, AK (7/2/78).

37[1]: Choctaw-Apache Community of Ebarb, LA (7/2/78).

39[1]: Coree (aka Faircloth) Indians, NC (8/5/78).

40[1]: Nanticoke Indian Association, DE (8/8/78).

41: Georgia Tribe of Eastern Cherokees, Inc. (aka Dahlonega), GA (doc'n recv'd 2/5/80; OD ltr 8/22/80).

41a[1]: Cane Break Band of Eastern Cherokees, GA (1/9/79).

43[1]: Tuscola United Cherokee Tribe of FL & AL, Inc., FL (1/19/79).

46[1]: Kah-Bay-Kah-Nong (Warroad Chippewa), MN (2/12/79).

47[1]: Kern Valley Indian Community, CA (2/27/79).

48[1]: Shawnee Nation U.K.B., IN (formerly Shawnee Nation, United Remnant Band, OH) (3/16/79).

49[1]: Hattadare Indian Nation, NC (3/16/79).

50[1]: North Eastern U.S. Miami Inter-Tribal Council, OH (4/9/79).

53[1]: Santee Tribe, White Oak Indian Community, SC (6/4/79).

55: Delawares of Idaho (doc'n recv'd 6/14/79; OD ltr 9/24/79; partial response 12/10/79).

60[1]: Alleghenny Nation (Ohio Band, OH) (11/3/79).

61[1]: United Rappahannock Tribe, Inc., VA (11/16/79).

62[1]: Upper Mattaponi Indian Tribal Association, Inc., VA (11/26/79).

63: Haliwa-Saponi, NC (doc'n recv'd 10/19/89; OD ltr 4/20/90).

64[1]: Consolidated Bahwetig Ojibwas and Mackinac Tribe, MI (12/4/79).

67[1]: Brotherton Indians of Wisconsin, WI (4/15/80).

68: St. Frnacis/Sokoki Band of Abenakis of VT (OD ltr 6/14/83; "ready" 8/1/86; petitioner says "not ready" 9/18/90).

69a: Nipmuc Tribal Council of MA (Hassanamisco Band) (doc'n recv'd 7/20/84; OD ltr 3/1/85; response 6/12/87; 2nd OD ltr 2/5/88).

69b: Nipmuc Tribal Council of MA (Chaubunagungamaug Band) (doc'n recv'd 7/20/84; OD ltr 3/1/85; response 6/12/87; 2nd OD ltr 2/5/88).

74[1]: Coharie Intra-Tribal Council, Inc., NC (3/13/81).

77[1]: Cherokees of Jackson County, Alabama, AL (9/23/81).

79[1]: Schaghticoke Indian Tribe, CT (12/14/81).

80[1]: Coastal Band of Chumash Indians, CA (3/25/82).

81: Golden Hill Paugussett Tribe, CT (doc'n recv'd 4/12/93; OD ltr 8/26/93; response 4/1/94).

82: American Indian Council of Mariposa County (aka Yosemite), CA (doc'n recv'd 4/19/84; OD ltr 5/1/85; rspn 12/12/86; 2nd OD ltr 4/11/88).

83: Shasta Nation, CA (doc'n recv'd 7/24/84; OD ltr 5/30/85; response 6/8/86; 2nd OD ltr 10/22/87).

85: Tolowa Nation, CA (doc'n recv'd 5/12/86; OD ltr 4/6/88).

89: Seminole Nation of FL (aka Traditional Seminole) (doc'n recv'd 11/10/82; OD ltr 10/5/83, lacks genealogy; prtl rspn 12/7/83.

90: North Fork Band of Mono Indians, CA (doc'n recv'd 5/154/90; OD ltr 10/28/91).

92[1]: Dunlap Band of Mono Indians, CA (1/4/84).

93: Hayfork Band of Nor-El-Muk Wintu Indians, CA (doc'n recv'd 9/27/88; OD ltr 2/26/90).

94[1]: Christian Pembina Chippewa Indians, ND (6/26/84).

95[1]: Cherokee-Powhattan Indian Association, NC (9/7/84).

96[1]: San Luis Rey Band of Mission Indians, CA (10/18/84).

97[1]: Wintu Indians of Central Valley, California, CA (10/26/84).

98[1]: Wintoon Indians, CA (10/26/84).

99[1]: Chukchansi Yokotch Tribe of Coarsegold, CA (5/9/85).

100[1]: Northern Cherokee Tribe of Indians, MO (7/26/85).

100a[1]: Chickamauga Cherokee Indian Nation of AR & MO (9/5/91).

100b[1]: Northern Cherokee Nation of Old Louisiana Terr. MO (2/19/92).

101[1]: Burt Lake Band of Ottawa & Chippewa Indians, Inc., MI (9/12/85).

104: Yokayo, CA (doc'n recv'd 3/9/87; OD ltr 4/25/88).

105[1]: Pahrump Band of Paiutes, NV (11/9/87).

106[1]: Wukchumni Council, CA (2/22/88).

107[1]: Cherokees of SE Alabama, AL (5/27/88).

108: Snoqualmoo of Whidbey Island, WA (doc'n recv'd 4/16/91; OD ltr 8/13/92).

109[1]: Choinumni Council, CA (7/14/88).

110[1]: Coastanoan Band of Carmel Mission Indians, CA (9/16/88).

111[1]: Ohlone/Coastanoan Muwekma Tribe, CA (5/9/89).

112: Indian Canyon Band of Coastanoan/Mutsun Indians of CA (doc'n recv'd 7/27/90; OD ltr 8/23/91).

113[1]: Paucatuck Eastern Pequot Indians of CT (6/20/89).

114[1]: Canoncito Band of Navajos, NM (7/31/89).

115[1]: Little Traverse Bay Bands of Odawa Indians, MI (9/27/89).

116[1]: Salinan Nation, CA (10/10/89).

117: Oklewaha Band of Seminole Indians, FL (doc'n recv'd 2/12/90; OD ltr 4/24/90).

118[1]: Revived Ouachita Indians of AR & America (4/25/90).

119[1]: Meherrin Indian Tribe, NC (8/2/90).

120[1]: Amah Band of Ohlone/Coastanoan Indians, CA (9/18/90).

122[1]: Etowah Cherokee Nation, TN (1/2/91).

123[1]: Upper Kispoko Band of the Shawnee Nation, IN (4/10/91).

124[1]: Piqua Sept of Phio Shawnee Indians, OH (4/16/91).

125[1]: Little River Band of Ottawa Indians, MI (6/4/91).

126[1]: Lake Superior Chippewa of Marquette, Inc., MI (12/31/91).

127[1]: Nanticoke Lenni-Lenape Indians, NJ (1/3/92).

128[1]: Tsnungwe Council, CA (9/22/92).

129[1]: Mohegan Tribe and Nation, CT (10/6/92).

130[1]: Waccamaw-Siouan Indian Association, SC (10/16/92).

131[1]: Esselen Tribe of Monterey County, CA (11/16/92).

132[1]: Ohlone/Costanoan-Esselen Nation, CA (12/3/92).

133[1]: Council for the Benefit of Colorado Winnebagos, CO (1/26/93).

134[1]: Chicora-Siouan-Indian-People, SC (2/10/93).

135[1]: Swan Creek Black River Confederated Ojibwa Tribes, MI (5/4/93).

136[1]: Chukchansi Yokotch Tribe of Mariposa, CA (5/25/93).

137: Wintu Tribe, CA (doc'n recv'd 8/25/93; OD ltr 12/8/93).

138[1]: Caddo Adais Indians, Inc., LA (9/13/93).

139[1]: Salinan Tribe of Monterey County, CA (11/15/93).

140[1]: Gabrielino/Tongva Tribal Council, CA (3/21/94).

1451[1]: Langley Band of the Chickamogee Cherokee Indians of the Southeastern U.S., AL (4/15/94).

[1] Letter of intent only.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me state that the Bureau of Indian Affairs has opposed all Federal recognition bills over the years. The President would sign this bill. I have a bill with the gentleman from Wyoming [Mr. THOMAS] that we will pass in September that fixes this process that does not work. There exists today at the Bureau of Indian Affairs what many individuals consider to be one of the most inefficient agencies in Government.

The gentleman from Oklahoma [Mr. SYNAR], the excellent work that he has done over the years in his subcommittee has attested to that. Our subcommittee has attested to that. We have held three hearings over the years on this tribe. It is a legitimate claim that they have that they are native Americans.

We have the power to act. We are acting and we should not penalize them because the process is broken.

Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. KILDEE], the author of this legislation.

Mr. KILDEE. Mr. Chairman, I rise today to urge my colleagues to support passage of S. 1357, a bill to reaffirm the Federal status of the Little Traverse Bay bands of Odawa Indians, and the Little River band of Ottawa Indians. In addition, I strongly support passage of S. 1066, a bill to reaffirm the Federal status of the Pokagon band of Potawatomi Indians.

Mr. Chairman, I use the words "reaffirm" and "restore" rather than "recognize" because historical documentation proves that these tribes have, in fact, had formal government-to-government relations with the United States from the time Americans first entered the Great Lakes region to the present.

It is simply the legal status of that relationship that we seek to clarify through this legislation.

These bills merely seek to confirm de jure the legal status of these tribes, which has been continuously recognized de facto by other federally recognized tribal governments, State and local governments, and for many purposes the Bureau of Indian Affairs.

The House Natural Resources, and the Senate Indian Affairs Committees have each spent 3 years looking at the facts and have determined that these Michigan tribes deserve formal recognition by the Federal Government. Moreover, both committees realized that the Federal acknowledgment process is not designed to address situations of this nature. It was instead designed to address recognition of tribes which had never had a treaty relationship with the United States. That is why it is appropriate and necessary for these tribes to seek reaffirmation of their political relationship with the Federal Government through this legislation. In addition, at the current rate of progress recognition from the BIA could take 50 years.

It is important to note that these are small tribes, comprising less than 1,000 members each. Their members are of extremely high native American blood quantum and their historical evidence is strong. All of these tribes have gathered hundreds of documents, including their ethno-histories and submitted them to the committees. It is interesting to note that all of the major pieces of historical information which these tribes have used to justify their existence has come directly from the Interior Department files.

Mr. Chairman, I know these Indians. My grandparents, who emigrated from Ireland and settled in northern Michigan, traded directly with the grandparents of these Indians. At that time, the Indians were able to move around more easily before they were forced into increasingly smaller areas. As the grandson of those immigrants, I am well aware of these Indians' rich history and tribal culture. I feel a strong sense of responsibility to correct this injustice for the grandchildren of those who helped my family. I often say that we should all visit the National Archives to read the treaties that the United States entered into with Germany, Japan, Great Britain, and the treaties that the United States entered into with the Indians.

Mr. Chairman, too many generations of tribal leaders have been forced to struggle just to get the Government to recognize and enforce the promises made to their tribes. The time to acknowledge our obligations to these tribes is long overdue. These bills will permit this and future generations of tribal leaders to address the more pressing problems of providing for the economic and social welfare of their people. For these reasons, I urge my colleagues to support this most important legislation.

☐ 1310

Mr. Chairman, I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, let me begin by saying that there are no two Members that I have a deeper amount of respect for than the gentlemen from Michigan, Mr. UPTON and Mr. KILDEE.

As the chairman of the oversight committee for the Department of the Interior and specifically for the Bureau of Indian Affairs, I have had a personal interest in this matter for some time. I also happen to be the Congressman from the largest native American congressional district in the United States. We have over 30 bands and tribes located within my district, so I have some personal knowledge on what the gentlemen are trying to do today.

There are two arguments that are being made by the gentlemen from Michigan, Mr. KILDEE and Mr. UPTON.

First, that the bands were previously recognized by the Federal Government through treaties drawn up in the 1800's, so this is not really a recognition but a process of what is called reaffirmation; and second, the Federal acknowledgment process is arbitrary and unworkable, and must be bypassed.

Let me address these two arguments.

With respect to the reaffirmation, there is no precedent in Indian law for the concept of congressional reaffirmation. Tribes are either recognized or not, terminated or restored, period.

Mr. Chairman, there are countless tribes that cannot meet the Federal criteria for recognition, despite the fact that they are descended from treaty signatories. It has been affirmed by the courts also that the Bureau of Indian Affairs has a responsibility to inquire de novo as to the maintenance of the group's tribal existence. This process of reaffirmation has never been supported by the courts, and the Congress has never moved in that direction.

With respect to the second argument, that the Federal acknowledgment process is arbitrary and unworkable, let me suggest that I agree that the process is not a sacred cow, and that I think it can be streamlined and even changed in order to take into account such facts and give them the requisite weight for deliberation on the merits.

However, we must deal with the process and not the uniqueness of these two issues. Claiming that the Federal acknowledgement process is flawed in these two cases is even less credible when we look at these two tribes, because the Pokagon are presently under active consideration by the process that they now claim they want to go around, and second, the Odawa Tribe has never even started through the process, so how can they make the argument that it is unworkable and arbitrary?

In conclusion, Mr. Chairman, let me suggest to my colleagues that a democracy at its most fundamental level is a system of government whereby elected leaders govern according to a set of procedures and processes that are orderly, based upon common principles that can be modified if they do not meet the test of law, or serve the citizens in a fair and equitable way. I believe it is premature to do the kind of governmental end run that we are now contemplating today with these two pieces of legislation.

Mr. Chairman, I ask my colleagues to vote "no" on these bills and to allow the process to move forward, which I am confident, based on the arguments made by the two gentlemen from Michigan, will be in the favor of these Michigan tribes.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just correct the record. The Congress has recognized tribes through the congressional process. The Micmac Tribe of Maine, we restored the Ponca of Nebraska, the Coquille, the Auburn Rancheria just last week, the Lumbees recently. We have taken steps. We have the authority to do this. We are changing and fixing the process.

Mr. Chairman, this is the first time we have had a Subcommittee on Native American Affairs, and in this first year we have a bill that I have with the gentleman from Wyoming [Mr. THOMAS] that we are going to move in September that changes the acknowledgment process in the BIA that does not work. That is the point. The reason we are here is that the BIA process does not work. It does not even move. They do not have enough people there. That is why we are here, and why should native Americans have to wait around for bureaucrats to get their act together? That is why we are here.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to take this opportunity to highlight a tremendous injustice brought about by a treaty in 1836, which not only affected the Little Traverse Bay Band and the Odawa Band, but the Burt Lake Band who also signed the treaty. The treaty ceded most of the western half of lower Michigan and a portion of the Upper Peninsula, while granting the tribe a thousand acre tract of land adjacent to Burt Lake in northern lower Michigan.

Some 158 years later, the Federal Government has still not kept its half of the bargain and never created a reservation for the band. To secure their own land, the tribe pooled their resources in the 1840's and purchased a tract of land, which was placed in a trust with the Governor. They were again betrayed when the Governor of the State of Michigan gave away the land through an illegal tax sale around the turn of the century. The final insult occurred when a local lumber baron burned the remaining village to the ground, leaving the tribe homeless and destitute.

In 1914, the United States filed suit as guardian of the band to recover the remaining lands. In its complaint the Federal Government recognized the Burt Lake Band as an Indian tribe. The final decision by the Federal court noted that the Burt Lake Band was a full-fledged Indian tribe with a government-to-government relationship.

After the Indian Reorganization Act of 1934, a number of tribes in Michigan's Lower Peninsula petitioned the Department of the Interior to be recognized under the terms of the act. Officials at the Department of the Interior rejected their petition based on lack of sufficient funds to provide services to the tribe.

Mr. Chairman, the Burt Lake Band has never been terminated by treaty or act of Congress. It is therefore imperative that we reaffirm the relationship through legislation, and I have introduced a bill which would accomplish this goal. I ask Chairman RICHARDSON and Chairman KILDEE for their consideration of this legislation. I look forward to working with them and other Members on this issue in the future. With these assurances, I will not be offering any amendment today. I urge my colleagues to support S. 1357.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me just comment that I noted in the tribes that the chairman of the committee listed that they were all recognized as part of land claim settlements. Moreover, the Lumbees, which were alluded to, have not been recognized. The bill is still in the Senate.

Mr. Chairman, I yield 6 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman from Wyoming [Mr. THOMAS] for yielding time to me.

Mr. Chairman, this is probably one of the most distasteful experiences that I have had on the floor of the House, because I have tremendous regret for the way I conducted myself last week in terms of my absolute aggravation that the House would be considering either bill on the Consent Calendar, Suspension Calendar, and I offer my apologies to both the gentlemen from Michigan, Mr. KILDEE and Mr. UPTON, and to their staffs, because they are two extraordinarily fine people, and I think part of my frustration is that they are kind of caught up in something that is much larger than their two bills.

☐ 1320

I do not know if either tribe, the one the gentleman from Michigan [Mr. UPTON] is promoting or the other gentleman from Michigan [Mr. KILDEE] is promoting deserve to be federally recognized. I cannot really speak to the merits of that issue and, candidly, no one in Congress can. That is why it should not be before Congress.

My concern, based on this issue, is the fact that when we are talking about Federal recognition of a tribe that we have no basis to really determine its validity. We are providing sovereign nation status to that tribe. They become a nation within a nation. They can get automatic Federal aid, and they also—and this is the centerpiece of unfortunately what motivates some, but these tribes—they get the right for major gambling facilities if they so choose. And I do not mean to connect these two tribes, but Federal recognition gives the Indians that have been recognized the opportunity to have gaming facilities.

So what you have now is a greater interest in this issue. You have gambling interests going to Indian tribes, getting them to continue to seek Federal recognition in the hope of cashing in—and when I talk about cashing in, I am talking about literally hundreds of millions of dollars.

The chairman, in bringing this bill out, made reference to the fact that the BIA is not working. In part it is not working because it is understaffed, and in part the process needs to be streamlined. But to say there are 137 letters of intent waiting to go through the process strikes me as a little misleading, with all due respect, to what really has happened.

There is a process, a step-by-step process, to determine the validity of whether a tribe petitioning should be a Federal tribe, and of those who have gone through the process, only four have sought to seek the process to the point where they are pending, their applications are pending, waiting for active consideration, and there are four on active consideration, one of which is the Pokagon tribe, which will be considered very shortly.

To say that there are 137 tribes waiting is misleading, because they have not done the process that the law requires them to do. Some have not done it because it takes a while, and some have not done it, in my judgment, because they cannot meet the test that was set up in the 1978 law.

The seven BIA criteria for recognition are fairly important. They need to establish a historic tie that goes back to before whites settled in the United States. They need to show that they have consisted and existed both politically and economically and socially for those times. They need to provide a list of who is in the tribe. They need to document the continuation of their tribe before the Europeans settled in the United States.

This is not easy. Some cannot do it, so they simply seek to bypass the process.

What gives us the qualifications here to determine whether they truly are a tribe? I have not looked at the records, yet we are being asked to vote on this.

I have personal experience in my own State, and that is why I have become alert to this act, because we have the Golden Hill Paugussett Tribe seeking to be federally recognized, and they are slowly going through the process. The process requires them to put forward a petition of intent. It requires them to put forward their application. The BIA then sends it back with technical deficiencies. It used to be called obvious deficiencies. It is to help the tribe to know when they are not meeting the test what areas are they weak in so that the tribe can come back and make these corrections. Then the tribe looks at that and comes forward with an application, meaning trying to meet where they have the so-called technical deficiencies or obvious deficiencies.

Of those tribes that have gone through the process there are only eight that are either on waiting or on active consideration, not the 100-plus that have been mentioned in this committee.

My sense is that we should not pass any Federal recognition bills until we revise the process to get it to work the way the gentleman from New Mexico [Mr. RICHARDSON] suggested it should work. I plead with this House to understand that behind this process, if we bypass the BIA, that there will be more Members who are going to come before this committee and say bypass the process, and some of those requests, not all, not these certainly, but some of them will be because people want gambling, and there is so much money that is being spread around that the process will be totally perverted.

I plead with the staff who may be listening to this debate, I will ask for a rollcall vote on every Indian bill that comes before us. There will be a time when people look back and say, "How did this process get to where it is? Where were you as a Member of Congress?"

This should be a "no" vote. We should go through the BIA process.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me once again correct the record because I think it is important that we know what we are doing here.

A hundred and thirty tribes have asked the BIA for the acknowledgement process, one that does not work for recognition. They do include tribes with very little money and resources.

Let me say that one tribe has even sent a book, the Odawas that we are considering right now, they compiled a book on their historical claims and sent it to this committee.

We have the authority in the Indian Affairs Subcommittee to deal with these issues. Most of the members of this subcommittee have substantial native American populations in their districts.

Out of those 130 requests for acknowledgement, only 25, 25 over 16 years have been resolved by the BIA, 9 have been recognized. The rest, some 100 other tribes, they have not even looked at the file, or maybe it is buried under dusty files.

Is this the right way to treat our Indian people? We are talking about a tribe that is the political successor to the signatories of the 1836 Treaty of Washington, and the 1855 Treaty of Detroit. Mr. Chairman, these tribes do deserve, both Mr. KILDEE'S and Mr. UPTON'S bill, to be recognized.

Mr. Chairman, I yield 3 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I want to commend the chairman of our subcommittee, the gentleman from New Mexico for bringing this legislation for consideration. And I also want to commend the gentlemen from Michigan, Mr. KILDEE and Mr. UPTON, as sponsors of this bill.

Mr. Chairman, I rise today in strong support of S. 1357, a bill to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes.

Mr. Chairman, this is yet another example of the difficulties native American Indians have in being recognized as tribes and preserving their land and culture. The current system takes too long, is arbitrary, and unfair. Some tribes receive recognition and some do not, not based on whether they are Indian tribes or not, but rather on whether someone in their tribe, or some governmental agency has kept written records of their existence. Some tribes cannot meet the seven criteria because they cannot afford the legal fees. Some tribes cannot meet the seven requirements because even the bureaucrats at BIA could not properly advise the tribes of such requirements.

This is another example of the process we put American Indians through. After forcibly moving Indians from their ancestral lands, trying to exterminate them, signing treaties on which the United States later reneged, here we are today with two more bills to give Federal recognition to tribes which should have been recognized long ago.

While I am pleased to rise in support of the groups we consider for Federal recognition today, others such as the Lumbees continue to languish for over 100 years.

Mr. Chairman, the Natural Resources Subcommittee on Native American Affairs held a hearing on this very issue last month and we gained some valuable insight into the current problems in the Federal process of recognition. I hope that holding the hearing, together with our continued push to recognize tribes which the Bureau of Indian Affairs refuse to acknowledge as Indian, will move the Congress forward so that we can address this problem on a more permanent basis.

Mr. Chairman, I recall when we held hearings on the recognition process, the gentleman who authored the BIA regulations on how to get an Indian tribe federally recognized—even he admitted the current regulatory process is a nightmare. Yes, we have an administrative process—but the process simply does not work.

So, the Congress still has the authority to take corrective action as we are doing today in this Chamber. The other body, going through, the same deliberative manner, has moved to approve these pieces of legislation, and I urge my colleagues to support the Senate bill, S. 1357.

□ 1330

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself 2 minutes to make the point again that this is a procedural issue. This is not an issue of whether these tribes were involved in something in the past. It is a process issue, and what we are doing here is we are saying whoever in this Congress can gather up enough votes is able to have this process accomplished regardless of the criteria. Now, that is not the right way to do it.

Mr. Chairman, certainly I agree the process does not work and have indeed a bill in that will change that, but in the meantime, we have tribes standing in the aisles waiting to do this political process rather than the process of determining eligibility.

Let me clear up a little bit on numbers. We are talking about 137 here. There are actually four who have documents ready for petitions. There are 137 on the BIA's own paper who have incomplete petitions and letters of intent only. So that is not an accurate statement to suggest that there are 137 who are prepared to be considered and have not been considered.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Chairman, I rise today in support of this legislation which formally recognizes the tribal government and people of the Little River Band of Ottawa Indians and the Little Traverse Bay Band of Odawa Indians. By formally reaffirming the government-to-government relationship between the government of the tribes and the Government of the United States, this legislation will ensure that the tribes receive the just and equitable treatment that they deserve. Fair and equitable treatment has been absent from our Government's policy toward these tribes in the past—it is time to restore honor and decency to our Nation's treatment of these native Americans.

Opponents of this bill will argue that they should attempt to weave their way through the bureaucracy, which all sides agree is woefully inadequate.

Like most of us here, I came to Washington to help replace bureaucracy with common sense. This bill accomplishes this goal. While the answer will ultimately lie in repairing the Federal acknowledgement process, we should not let these bands become victims of the bureaucracy.

I urge my colleagues to support recognition for these native Americans, and pass this legislation.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I would like to ask the gentleman, for the record, since we do have some disagreement as to what has happened in the process: Is it your testimony that there are more than four individuals waiting on the active list to be considered by the BIA?

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Yes. There are 130 tribes that have sent letters of petition to the BIA seeking to be recognized.

Mr. SHAYS. Is it not true, Mr. Chairman, that just sending a petition is just a note to let them know they then intend to apply? Have these tribes applied?

Mr. RICHARDSON. That is the beginning of the process.

Mr. SHAYS. That is the beginning of the process. With due respect, have they continued the process?

Mr. RICHARDSON. Yes. They have been persistent. Our subcommittee, if the gentleman will let me answer the question, the answer is yes, there is a continuing process. These tribes, because they get no response, then come to our subcommittee to petition a procedure.

Now, let me also state that there is only one tribe right now, the Mowa native Americans of Alabama, that we are considering in our subcommittee at this time, one.

Mr. SHAYS. Reclaiming my time, sir, I do need to be very clear as to what I am asking. And the question I am asking is there is a process that has to follow. First, the tribe submits a petition for recognition. This should contain documents to prove it meets the seven criteria for recognition such as a membership list and constitution.

Now, what is your testimony, that 137 tribes have done that?

Mr. RICHARDSON. We have right now 137 requests.

Mr. SHAYS. That is not what I asked, sir.

Mr. RICHARDSON. One hundred thirty-seven requests for recognition.

Mr. SHAYS. Is that to the committee or to the BIA?

Mr. RICHARDSON. Different tribes. No. This is to the BIA; different tribes have ways of making a petition. Now, 137 letters is not just letters. They are documents. They are tribal histories. There are videos. There are many ways that they make their petition.

Now, if the gentleman is trying to make the point that only 4 right now are actively being considered, that is the problem, the BIA only has the capacity, knowledge, will, or whatever to consider 4 right now, when there are 137 tribes in this country that are simply seeking recognition. That is why we have this problem.

Mr. SHAYS. Reclaiming my time, as the gentleman knows, there is a very direct process that has been required under the law that we are supposed to follow and the BIA is supposed to follow. They cannot act on an application that has not been submitted. A petition is not an application. It is simply not true. It is not true. It is not true that 137 have submitted applications.

This tribe has not gone through the process. It is not fair to blame the BIA. They have a law. We have a law that should be followed. It is a fact that this tribe has not put through an application. They have not put forward an application that the BIA can then come back and say, "You have obvious deficiencies," which is what has to happen. When they have the obvious deficiencies, they have not obviously then resubmitted their application for a review.

To say there are 137 applications is totally and completely misleading to the floor, and in my judgment does an injustice. There is a process, and this process has not been followed.

Instead of the process being followed, these 100-plus tribes are circumventing the BIA and coming directly to the floor of the House to try to have us determine whether they meet this criteria, and the criteria was set up by Congress.

The petitions must establish they have been identified from historic times to the present as American Indians, as an American Indian community; evidence that a substantial portion of the petitioners inhabit a specific area or live in a community viewed as American Indian and distinct from other populations; statements of fact that the tribe has maintained tribal political influence over its members through time; they must also demonstrate they have Government documents stating how they govern themselves; they must have a membership list based on the tribe's own criteria. They have got to document that before the BIA. This tribe has not done that. That is a fact.

The hundreds of other tribes waiting have not done that. They have not gone through the process. They are trying to circumvent the process, trying to circumvent the law, to get us just simply based on a Member's wish to determine a tribe.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me correct the record one more time.

The BIA: There is no law on this issue. It is a regulatory process the BIA has set up. Congress passes the laws. We have not passed a law to establish a Federal recognition process.

Let me repeat it again, because I think it is a major hole in the gentleman's argument. He is claiming that the BIA is following the law. There is no law. It is a regulatory process they change continuously, and the problem with the BIA regulatory process is that it does not work, and that we have 137 tribes that wish to be recognized, and a strong majority are not even being considered. That is why we are here.

That is why many tribes feel frustrated, especially those that have strong cases, and they come to the Congress because we have the ability, as the Federal trust responsibility mandator of tribes.

Now, again, we can talk numbers all we want, but I think the BIA experts, historians, in testimony before our committee have admitted that the BIA process does not work. The BIA itself in our committee admits the process does not work. They know that they do not have the resources, the tools.

They asked us for more money. What they have is a backlog. That is why we are here.

Mr. FALEOMAVAEGA. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, the chairman will also recall at the hearing that there was a recognition of the fact that one of the problems attending this whole regulatory process was the fact that even those working for the recognition process were not even experts in their given field, especially if you were a tribe from Alabama, this bureaucrat in the BIA does not know anything about the history of the Indians whether it be from Alabama or Michigan or other places.

That is another problem that we were faced with.

Mr. RICHARDSON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this legislation, more out of loyalty to my great-grandmother, who was of the Ottawa Tribe, named Red Heifer.

You know, when my mother was living, she told me much about the tribe. The tribe was in northern Illinois when my great-grandmother was born. They had no reservation because they were a very small tribe, farmers primarily, who moved about. So they never had a tribal reservation. They moved about. My mother as a child lived on a reservation, whether it was in the territory of New Mexico or Arizona someplace out west, she did not know because they did not have a reservation.

So I think it is altogether proper that we in Congress recognize there is a culture and value here that we who are not native Americans ought to help restore. So this is a small way in which to recognize some of these smaller tribes who have not had any recognition.

I am going to vote for it, and I thank the gentleman for his time.

Mr. RICHARDSON. Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to read just a little bit out of the committee report with respect to these numbers. These are the materials that were put forth by the BIA: Petitions ready for action, petitions ready, total four. That means those are the tribes that have completed the process and provided the information that is necessary.

Other petitions, 100. Incomplete petitions, not ready, 26. Letters of intent, 74.

Now, when you are talking about the process, a letter of intent is not the process. A letter of intent is the very first step. You certainly cannot expect BIA to certify a tribe without knowing the background. That is their job. By the way, I think many of them are very good at what they do and certainly better than the Congress.

Ask Members of Congress what they know about this tribe in terms of its background. Nothing. And nothing in committee, because we did not talk about that. We talked about the process, and that is what this is all about. I wonder if the chairman is willing to concede that all 100 of these tribes ought to be handled on the floor, considered on the floor? If not, why not? Why should we take these 2 and not the other 100? It is a question of process, it is a question of fairness. What we are saying here is that while we have the political buddies we want to do something with, but we are not willing to do it for the other 100. That is not fair, not right, not equitable.

Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I simply am perplexed at the responses. I apologize for dragging this debate out. I am perplexed at the responses I am receiving on the other side.

In the committee's own report we know there are six active items, we know there are three that have been determined by the BIA, and there are responses from the tribes. We know that there are four petitions waiting for consideration. I am not reading this from my own documents. I am reading this from the committee's own report.

Then we come to another list: Other petitions, total 100. This is an interesting list. Incomplete petitions, not ready, 26; letters of intent to petition, 74. A letter of intent, as the chairman knows, is simply saying that we intend to apply. The BIA cannot act on the petition until they have the petition; 74 have not applied.

In litigation, two. Then there have been a number of cases that have been resolved, 30.

The bottom line is that 74 have simply said they intend to apply. How can the BIA act on an intention? It has to act on an application.

So I really caution the gentleman when he talks about over 100, it misleads those of us who do not pretend to be experts.

Somehow we think the BIA has failed. The BIA has not failed if they do not have even an application to act on.

I submit for the record that what this points out in debate is that we simply have to revise the process. Do not blame the BIA. They are following the law. They were asked to develop regulations, and they have done it. If you do not like the process, change the process. The ends do not justify the means here.

That is my problem. I do not have any basic problem with Mr. KILDEE's bill or Mr. UPTON's bill. They may in fact be Indians. I do not know.

I have a problem with the process, and in my judgment, that comes close to being absurd, outrageous, and very dangerous.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think we have debated this long enough. Let me summarize.

First, this committee, our subcommittee, held three hearings, substantive hearings over the years, as part of the Natural Resources Committee, on this specific case.

We have had experts—the inventor of the Federal acknowledgment process, Bud Shepard; Christine Grabowski, Ph.D.; Karen Cantrell, Ph.D.; and native American experts.

They have all testified that the current process does not work.

The gentleman from Wyoming and I have a bill that we will take up to streamline the process, to set deadlines, to give an independent commission a chance to fix this process that I think everybody acknowledges is not working.

Mr. KILDEE has been an expert on native American affairs, not in the Natural Resources Committee, but there is probably nobody in this Congress who knows more about Indian education.

What we are talking about are tribes that are the political successors to the signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

Now, John Collier, during the time of the Indian Reorganization Act, found that these were Indians, but there was not adequate funding to make them a tribe. Most of the members of these tribes and full-blooded, they are half-blood Indians and have higher blood quantums that many tribes in the United States.

So, Mr. Chairman, I think we should move ahead with this bill, with Mr. UPTON's bill; we should pass them. The committee should support the efforts of the Natural Resources Committee in September where Mr. THOMAS of Wyoming and I will move a bill to amend this process and then we will follow through with this new Federal acknowledgment process that the Congress is fixing.

If you leave it up to the BIA to fix, it is never going to happen. The BIA, for whatever reason, has not done a good job in handling it. Those are the facts.

This is not something that I am making up, this is something that for 2 years as chairman of the subcommittee, we have had problems with the BIA on reorganization issues, on self-governance issues, on trust funds. They mismanage trust funds. Two billion dollars' worth of trust funds from native American tribes in royalties, documented, again, by my friend, Mr. SYNAR.

They mismanaged it. We want to improve the management of the BIA. We are doing that with this new bill on acknowledgment that we are going to be doing in September, but in the meantime, should we leave some of these tribes to suffer the indignity of not being recognized as an Indian tribe by their own Government?

Mr. RICHARDSON. Mr. Chairman, I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the chairman and his work. I agree with all that he has said. Certainly the BIA and this administration need a great deal of repair.

But the fact is we are working on that. The choice is pretty simple. If you agree on a process, we ought to fix the BIA process and these tribes ought to go through it. If on the other hand you agree we ought to politically do it because someone asked us to bring it here, what about the other 135? Are we going to let them go? How do you differentiate? Mr. KILDEE is here, and that is fine. I have no trouble with that. But what makes his tribe different than the other 137?

We ought to fix the process, go through the process, and that is what I think this is all about.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill will be considered under the 5-minute rule by sections, and each section is considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

S. 1357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consists of at least 1,000 eligible members who continue to reside close to their ancestral homeland as recognized in the Little Traverse Reservation in the 1836 Treaty of Washington and 1855 Treaty of Detroit, which area is now known as Emmet and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland as recognized in the Manistee Reservation in the 1836 Treaty of Washington and reservation in the 1855 Treaty of Detroit, which area is now known as Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, attested to the continued social and political existence of the Bands and concluded that the Bands were eligible for reorganization. Due to a lack of Federal appropriations to implement the provisions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out many of their governmental functions through the Northern Michigan Ottawa Association, while retaining individual Band control over local decisions.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

The CHAIRMAN. Are there amendments to section 2? If not, the Clerk will designate section 3. The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Bands" means the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term "member" means those individuals enrolled in the Bands pursuant to section 7; and

(3) the term "Secretary" means the Secretary of the Interior.

The CHAIRMAN. Are there amendments to section 3? If not, the Clerk will designate section 4. The text of section 4 is as follows:

SEC. 4. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—Federal recognition of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians is hereby reaffirmed. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), which are not inconsistent with any specific provision of this Act shall be applicable to the Bands and their members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—The Bands and their members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians, and notwithstanding any other provision of law, such services and benefits shall be provided after the date of the enactment of this Act to the Bands and their members without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) SERVICE AREAS.—

(A) LITTLE TRAVERSE BAY BANDS.—For purposes of the delivery of Federal services to the enrolled members of the Little Traverse Bay Bands of Odawa Indians, the areas of the State of Michigan within 70 miles of the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs "third" and "fourth" of the Treaty of 1855, 11 Stat. 621, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named service area unless prohibited by law or program regulations.

(B) LITTLE RIVER BAND.—For purposes of the delivery of Federal services to enrolled members of the Little River Band of Ottawa Indians, the Counties of Manistee, Mason, Wexford and Lake, in the State of Michigan, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named Counties unless prohibited by law or program regulations.

The CHAIRMAN. Are there any amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. REAFFIRMATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Bands, and their members thereof, which may have been abrogated or diminished before the date of the enactment of this Act are hereby reaffirmed.

(b) EXISTING RIGHTS OF TRIBE.—Nothing in this Act shall be construed to diminish any right or privilege of the Bands, or of their members, that existed prior to the date of enactment of this Act. Except as otherwise specifically provided in any other provision of this Act, nothing in this Act shall be construed as altering or affecting any legal or equitable claim the Bands might have to enforce any right or privilege reserved by or granted to the Bands which were wrongfully denied to or taken from the Bands prior to the enactment of this Act.

The CHAIRMAN. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. TRANSFER OF LAND FOR THE BENEFIT OF THE BANDS.

(a) LITTLE TRAVERSE BAY BANDS.—The Secretary shall acquire real property in Emmet and Charlevoix Counties for the benefit of the Little Traverse Bay Bands. The Secretary shall also accept any real property located in those Counties for the benefit of the Little Traverse Bay Bands if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(b) LITTLE RIVER BAND.—The Secretary shall acquire real property in Manistee and Mason Counties for the benefit of the Little River Band. The Secretary shall also accept any real property located in those Counties for the benefit of the Little River Band if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(c) ADDITIONAL LANDS.—The Secretary may accept any additional acreage in each of the Bands' service area specified by section 4(b) of this Act pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act").

(d) RESERVATION.—Subject to the conditions imposed by this section, the land acquired by or transferred to the Secretary under or pursuant to this section shall be taken in the name of the United States in trust for the Bands and shall be a part of the respective Bands' reservation.

Are there any amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. MEMBERSHIP.

Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals currently enrolled for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

The CHAIRMAN. Are there any amendments to section 7?

□ 1350

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendent offered by Mr. THOMAS of Wyoming: On page 8 strike lines 23 through 25; and on page 9, strike lines 1 through 8, and insert in lieu thereof the following:

"(a) LIST OF PRESENT MEMBERSHIP.—Not later than 90 days after the date of enactment of this Act, the Bands shall submit to the Secretary a list consisting of all individuals who were members of the respective Bands as of the date of enactment.

"(b) LIST OF THOSE ELIGIBLE FOR MEMBERSHIP.—Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals eligible for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in the Bands' governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.".

Mr. THOMAS of Wyoming (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. THOMAS of Wyoming. Mr. Chairman, let me briefly explain my amendment, which I introduce at the express request of the Department of the Interior.

This amendment would require each of the Bands, with 90 days of enactment, to submit a list of their members as of the date of enactment to the Secretary. This information is important to the Department because it gives them a base membership roll from which to work, and makes easier the complex job of defining tribal membership during the transition period from nonrecognized to recognized tribe.

If we pass this legislation, the Secretary is charged with assisting the bands in a whole host of involved processes: formulating a constitution and governing body, defining membership criteria, assuming into trust tribal lands. This task is made easier, and conflicts and misunderstandings avoided, if the Secretary can ascertain during this interim period who is and is not a member of the bands.

Mr. Chairman, we may hear today that this can be accomplished through agency regulations. Why, then, has the Department specifically requested this change? Why, then, has a similar provision been included in every recognition bill that has been introduced in this Congress: H.R. 334, the Lumbee bill, in section 4(b)(1); H.R. 2366, the Jena bill, in section 9(a); and H.R. 923 and H.R. 3605, the Mowa Choctaw bill, in section 7(a).

Mr. Chairman, some may try to avoid discussing the merits of this amendment by off-handedly dismissing the Department's request as an attempt to delay passage of this bill. Such an assertion is completely belied by the record. The Department first made its request in testimony before the Senate Committee on Indian Affairs on February 10, 1994, well before S. 1066 even passed the other body.

This added requirement is not a burden to the bands, since it can be compiled from information that they should already have. Conversely, it is of great benefit to the Department. I urge adoption of the amendment.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman from Wyoming [Mr. THOMAS], and let me say that I want to extend my accolades to him for the great work he has done on our subcommittee over the last 2 years. Let me ask the gentleman:

We both discussed a technical corrections bill that we would be doing in September. If I commit to the gentleman that this specific concern that he has, the membership list, can be addressed in that technical corrections bill, and I assure the gentleman that we would pass it in September, would my good friend, in the interest of expediting this process, be willing to withdraw his amendment at this time?

Mr. THOMAS of Wyoming. Mr. Chairman, I feel strongly about it, and I know the gentleman from New Mexico does as well. Should this pass, then we need the tools for implementation, and certainly the gentleman does follow through on his agreements, and, if that is the situation, we can accomplish it that way, and I would be happy to do what the gentleman has suggested.

Therefore, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The CHAIRMAN. Without objection, the amendment is withdrawn.

The Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purposes of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; commonly referred to as the "Indian Reorganization Act").

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Bands.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a), the Bands shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respective governing constitutions. The elections shall be conducted according to the procedures described in the Bands' constitutions and bylaws.

(2) INTERIM GOVERNMENTS.—Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing bodies shall be those governing bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.

The CHAIRMAN. Are there any amendments to section 8?

Are there any further amendments to the bill?

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the chair, Mr. MENENDEZ, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1357) to reaffirm and clarify the Federal relationship of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes, pursuant to House Resolution 501, he reported the Senate bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Speaker, on that I demand the yeas and nays.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 238, nays 180, not voting 16, as follows:

[Roll No. 372]

YEAS—238

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Camp
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Holden
Horn
Hoyer
Hunter
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Klein
Klink
Knollenberg
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Solomon
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Tejeda
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Reynolds
Slattery
Thompson
Washington
Wheat
Whitten

NAYS—180

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (NJ)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoke
Houghton
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kennelly
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Nussle
Orton
Packard
Parker
Paxon
Penny
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (OR)
Smith (TX)
Snowe
Spence
Stearns
Stenholm
Stump
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

Carr
Clyburn
DeFazio
Ford (TN)
Laughlin
Machtley
McCandless
McCurdy
Montgomery
Oxley

☐ 1416

Mr. KIM and Mr. FISH changed their vote from "yea" to "nay."

Mr. BROWDER changed his vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above reported.

A motion to reconsider was laid on the table.

RESTORATION OF FEDERAL SERVICES TO THE POKAGON BANK OF POTAWATOMI INDIANS

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 502 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1066.

☐ 1416

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House of the State of the Union for the consideration of the Senate bill (S. 1066) to restore Federal services to the Pokagon Band of Potawatomi Indians, with Mr. MENENDEZ in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 30 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, S. 1066 is sponsored by Senator RIEGLE from Michigan and is cosponsored by Senator LEVIN. This bill restores Federal services to the Pokagon Band of Potawatomi Indians. The subcommittee held a hearing on this bill on September 17, 1993. The tribe submitted convincing evidence that they should be recognized and are the political successors to the signatories of several treaties between the Potawatomi Indians and the United States. Significantly, in the 1833 Treaty of Chicago, the Pokagon Band specifically negotiated the right to remain in Michigan. This small tribe of 1,500 has continued to exist as a distinct political community in Michigan and resides near their ancestral home in the southwestern part of the State. The companion bill sponsored by Mr. UPTON was reported out of the Subcommittee on Native American Affairs November 8, 1993, by voice vote.

This bill passed the Senate on June 10 of this year and was reported out of the Natural Resources Committee by voice vote on June 29 without amendment.

Mr. Chairman, I urge my colleagues to support this measure.

□ 1420

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong opposition to S. 1066, a bill to extend Federal recognition to the Pokagon Band of Potawatomi Indians.

Since my position on this legislation is well-known, and is similar to the other bill we consider today, let me briefly summarize my views here. Despite attempts to cloak this bill in restoration language this is not a restoration bill, and no amount of verbal gymnastics can turn it into one. This is recognition legislation pure and simple. S. 1066 would extend Federal recognition to the Pokagon Indians, completely bypassing the BIA's Federal Acknowledgment Process [or FAP] through which all other nonrecognized must pass.

I know that the band claims they are descended from a treaty signatory, and that that means they are recognized. But I, and the Federal courts in such cases as United States versus Washington, disagree. Descent from a treaty signatory in the early 1800's does not mean that the band has continued in an unaltered tribal state until today. To make that determination we have the BIA recognition process, and the Pokagon should have to go through it just like any other nonrecognized tribe.

Similarly, I find the band's argument that they are entitled to legislative recognition because the FPA process is so ineffective to be completely unconvincing. Their recognition petition is under active consideration as we speak, and all indications are that they will receive a positive finding.

Mr. Chairman, I am not saying that the Pokagon are not Indians; clearly they are. But we have a process in the BIA for making a determination as to whether they presently constitute a recognizable tribe. Bypassing that process in one or two cases is unfair to all the other groups which must complete it to be recognized.

The overwhelming majority of Indian tribes in this country opposes bills like S. 1066, as does the Department of the Interior. More than 180 Members of this body voted against a similar recognition bill last October—the Lumbee recognition bill. I add my voice to that opposition.

Having summarized my position, Mr. Chairman, let me now discuss in detail my opposition to this legislation. S. 1066 presents this Congress with one of the most difficult contemporary public policy issues in Indian Affairs: In which cases, if any, should we exercise our authority to extend Federal recognition to a group seeking formal acknowledgement as an Indian tribe outside the established administrative process? In the last two Congresses, we have been asked to consider acknowledgement of the Pokagon Band of Potawatomi Indians. So far, we have declined to exercise that authority in their regard. The proponents of this bill present no compelling justification why we should depart from that well-reasoned course now.

So that the Members of this House can fully understand the magnitude of the issues presented by S. 1066, a brief background on the importance of Federal recognition is in order. The question of whether a Native American group constitutes an Indian tribe is one of immense significance in the field of Federal Indian law. Because Congress' power to legislate for the benefit of Indians is limited by the Constitution to Indian tribes, for most Federal purposes it is not enough that an individual simply be an Indian to receive the protections, services, and benefits offered to Indians; rather, the individual must also be a member of an Indian tribe. Though it might seem to the layperson that there is only one kind of Indian tribe, for purposes of American Indian law there are actually two—those that are recognized by the Federal Government and those that are not.

"Recognized" is more than a simple adjective; it is a legal term of art. It means that the Government acknowledges as a matter of law that a particular Native American group is a tribe by conferring a specific legal status on that group, thus bringing it within Congress' legislative powers. This Federal recognition is no minor step. A formal, political act, it permanently establishes a government-to-government relationship between the United States and the recognized tribe as domestic dependent nation, and imposes on the government a fiduciary trust relationship to the tribe and its members. Concomitantly, it institutionalizes the tribe's quasi-sovereign status, along with all the powers accompanying that status such as the power to tax, and to establish a separately judiciary. Finally, it imposes upon the Secretary of the Interior specific obligations to provide a panoply of benefits and services to the tribe and its members. In other words, unequivocal Federal recognition of tribal status is a prerequisite to receiving the services provided by the Department of the Interior's Bureau of Indian Affairs [BIA], and establishes tribal status for all Federal purposes.

Prior to the 1930's, Federal recognition of tribes took many forms: Congressionally sanctioned treaties, court cases, administrative decisions, and Executive orders—and "was essentially sporadic, or, at best * * * plagued with all sorts of pitfalls and a lack of a systematic approach * * *." Instead of a process based on a well-reasoned set of standardized criteria, the granting of recognition was, by all accounts, nothing better than arbitrary and excessively political.

In 1871, Congress provided that no tribe could thereafter be recognized as an independent sovereign entity with which the United States could conclude a treaty. Similarly, in 1919 Congress retired another method of recognizing an indigenous group as a tribe when it prohibited the President from creating reservations by Executive order. Thus, by the early 1900's, this curtailment of available avenues of dealing with the tribes, coupled with the growing involvement of the BIA in managing the daily affairs of the tribes, meant that Congress had effectively delegated—either explicitly or implicitly—much of its authority over Indian matters to the BIA.

Those agencies, however, continued to deal with the tribes in a somewhat desultory fashion. The early principles of administrative recognition were based on a Supreme Court decision which offered a rather vague guide to defining a tribe. In an effort to remedy this disorganization, in 1942 the Solicitor of the BIA, Felix Cohen, first proposed a workable set of criteria designed to provide a uniform framework for tribal recognition. The so-called Cohen criteria considered both the tribal character of the native group and any previous Federal actions treating it as a tribe. However, application of the criteria proved to be no less haphazard than the process they replaced. Besides the Cohen criteria, the BIA relied on a patchwork mixture of court opinions, limited statutory guidance, treaty law, and evolving departmental policy and practice. Thus by 1975, faced with a steadily increasing number of groups seeking recognition, the BIA held in abeyance further acknowledgement decisions pending the development of regulations for a systematic and uniform procedure to recognize Indian tribes.

About this same time the congressionally established American Indian Policy Review Commission [AIPRC] proposed the formation of a firm legal foundation for the establishment and recognition of tribal relationships with the United States, and the adoption of "valid and consistent set of factors applied to every Indian tribal group * * *." Joining the chorus for standardization was the National Congress of American Indians, which called for a "valid and consistent set of criteria applied to every group which petitions for recognition * * * based on ethnological, historical, legal, and political evidence." Senator James Abourezk, AIPRC's chairman, took the issue to the floor of the Senate, and introduced legislation calling for the establishment of an office in the BIA to handle recognition petitions in a uniform way.

In 1978, the Interior Department, after exhaustive consultations with Indian country, established procedures to provide a uniform approach to the recognition process. Called the Federal Acknowledgment Process [FAP], the regulations set forth seven criteria a petitioning group must meet to be deemed a recognized tribe. Under the criteria, based in part on Cohen's model, for a group to be recognized as a tribe it must:

> (a) establish that it has been identified from historical times to the present on a substantially continuous basis as "American Indian" or "aboriginal;" (b) establish that a substantial portion of the group inhabits a specific area or lives in a community viewed as * * * Indian and distinct from other populations in the area, and that its members are descendants of an Indian tribe which historically inhabited a specific area; (c) furnish a statement of facts which established that the group has maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present; (d) furnish a copy of the group's present government document * * * (e) furnish a list of all known members, and show that the membership consists of individuals who have established descendency from a tribe that existed historically or from historical tribes that combined and functioned as a single autonomous entity; (f) establish that the membership is composed principally of persons who are not members of any other North American Indian tribe; (g) establish that neither the group nor its members are the subject of congressional legislation that has expressly terminated or forbidden the federal relationship.

The BIA FAP office is staffed by two teams of professionals including historians, genealogists, ethnologists, and anthropologists. These teams do exhaustive research on the petitions they receive, and examine such factors as Indian identity and community, as well as political and cultural cohesiveness. Once a petition is received it is reviewed for any obvious deficiencies. These are noted for the tribe, which is given the opportunity to supply additional material to supplement its petition. The petitions are then placed on active consideration in the order received.

S. 1066 seeks to legislatively extend Federal recognition to a group of Indians in the State of Michigan, completely bypassing the established BIA FAP process. The bill's proponents posit two principal arguments for recognition: First, that the group was previously recognized by the Federal Government, and that their recognition has simply fallen into abeyance over the years and needs to be reaffirmed; and second, that the FAP process is arbitrary and unworkable and therefore they are justified in bypassing it. Neither argument is persuasive.

The proponents of S. 1066 posit that theirs is not a recognition bill at all; rather, they contend that it is reaffirmation legislation. They argue that there formally existed a government-to-government relationship between the Pokagon and the United States, but that the relationship—while continuing in law—has not continued in fact due to the actions, or inactions, of the BIA and the Federal Government. The Pokagon claim descent from signatories to a series of treaties between the United States and several Odawa, Chippewa, and Potawatomi bands during the early 1800's. Specifically, the band claims that it is the descendant of, and political successor to, signatories of the 1821 Treaty of Chicago and the 1832 Treaty of Tippecanoe River. Therefore, they conclude, they are automatically entitled to have their status as a recognized group reaffirmed by the Federal Government.

The Pokagon position, however, rests upon several fatally flawed stylobates. To begin with, I am aware of no precedent in Federal Indian law for a concept of congressional reaffirmation. Traditionally, there are only four statuses available to Indian tribes: Recognized, unrecognized, terminated, and restored. Clearly, the last two do not apply here; the Pokagon have never been the subject of congressional termination legislation, the logical prerequisite to both termination and restoration. Just as clearly, the Pokagon band is not now federally recognized; its members do not presently receive services from the BIA because of their status as Indians, and it does not appear on the Secretary's most recent list of recognized tribes dated October 1993. That leaves the band only one possible status: unrecognized.

The band, however, argue that they were recognized in a series of treaties in the early 1800's. They contend that over the intervening years the Federal Government and BIA allowed that recognition to atrophy to the point of nonexistence. They conclude, therefore, that their recognized status was never terminated but lies dormant, only needing to be reawakened by congressional reaffirmation. They are wrong.

The argument that Indian groups benefit from a presumption of continuing tribal existence—and thus Federal recognition—solely on the basis that their ancestors belonged to groups with which the United States signed treaties has been soundly rejected by the Federal courts. The reason for that rejection is fairly straight-forward: Just because a group existed as a federally-recognized Indian entity in the 1800's in no way guarantees that they have continued to exist in that same unaltered condition to the present day.

Over the years, some Indian groups have broken up and blended into the dominant, non-Indian culture. Others have ceased to function as tribes. There are countless Indian groups extant today that cannot meet the Federal Government's criteria for recognition, notwithstanding the fact that they are descended from treaty signatories. The consummate example are the Miami of Indiana. The Miami are descended from a group that signed a series of treaties with the United States between 1795 and 1867. Yet despite the existence of these treaties, the group was denied recognition by the BIA on August 17, 1992. The Miami were unable to satisfy the second and third FAP criteria; they could not establish that "a substantial portion of the group inhabits a specific area or lives in a community viewed as * * * Indian and distinct from other populations in the area," and they could not show that they "maintained tribal political influence or other authority over its members as an autonomous entity throughout history until the present."

The Washington decision, and experience with groups such as the Miami, support the responsibility of the BIA to inquire de novo as to the maintenance of a group's tribal existence. Without that maintained, cohesive, existence there can be no Federal recognition.

The proponents of S. 1066 take great pains to posit that the Pokagon meet all the criteria used by the BIA in determining tribal status. However, while the proponents' remarks on this bill, as well as the majority's report, focus extensively on their highly subjective judgments about whether the Pokagon people meet these criteria, I decline to engage in debate over this topic since it is largely irrelevant in terms of my position on this legislation. I do not argue that the Pokagon are not of Indian descent; moreover, I make no judgments on the question of their tribal status, or the adequacy of their recognition petition. Rather, I believe very strongly that neither the members of the Natural Resources Committee, nor of the full House, are in a position to make a rational and informed decision as to whether this group constitutes a federally recognizable tribe.

True, as the chairman of the committee has previously pointed out, "[t]his is not about us being experts. It is about weighing the evidence that the experts have given us. That is our job on this and so many other subjects." However, we have heard from only one of the experts, a Dr. McClurken, and there is not one member of the committee, nor of our staffs, with the specialized educational background necessary to make an informed decision in this area. Properly done, the process of recognition requires an evaluation of complex and often ambiguous data and issues of ethnohistory, cultural anthropology, and genealogy. Not only do we lack that expertise, but there are precious few members of this committee with any more than the most superficial knowledge on the subject at all. Such a decision is replete with out-of-the-ordinary complexities which require more than just a simple one-page staff memo to understand fully. Needless to say, if those of us charged with the day-to-day oversight of Indian affairs do not have the necessary expertise—or even knowledge—in this area, how will the balance of our Members appropriately exercise those judgments as they will be called upon to do today?

Aside from our lack of expertise, other considerations militate against removing the recognition process from the BIA in this case. Foremost among these is the fact that recognition should be based on established principles free from the eddies and currents of partisan politics and influence—this was the reason the FAP criteria were established in the first place. Congress is by nature, however, a highly partisan institution. A single, powerful Member in the majority party is perfectly capable of moving a recognition bill through this body with little reference to its actual merits. As one attorney has noted:

> Neither this Committee nor the Senate Committee has adopted any self-policing criteria [to use] to judge the petitions. It has to do with the nature of the arguments that are put forward before [the Committee], the proponents of the legislation bring their historians and anthropologists and say absolutely this is a tribe. The member or sponsor of the bill lobbies the members of the Committee on behalf of his [petitioning] constituent and depending on whether he's persuasive or not perhaps he is successful. Some professional staff pointed out to me one day, what happens the day that Dan Rostenkowski[, Chairman of the House Ways and Means Committee,] goes to George Miller[, Chairman of the House Natural Resources Committee,] and says the [Illini] tribe are alive and living in downtown Chicago. That should not be the way the federal recognition is granted. There has to be some sort of criteria and I think that is the bottom line.

Moreover, a bill introduced by a member of the party in control of the majority has a much better chance of passage than does one introduced by a minority Member.

In other words, while we clearly have the power to recognize a tribe, that does not mean that the wisest use of that power is its exercise. In the absence of any discernible criteria by which we judge tribal status, and of any particularized background or knowledge, the Congress should leave the decision up to those best qualified to make it: the BIA.

There is simply no precedent for congressional passage of a bill like S. 1066. Since 1978, the year the BIA promulgated the FAP regulations, Congress has approved 18 acts pertaining to recognition of tribal groups. None of these, however, can be characterized as a recognition bill such as S. 1066. More than half of the cited acts were bills restoring Federal recognition to groups that had once been officially recognized, but were terminated by legislation—a status to which the Pokagon cannot lay claim. The rest involved unique circumstances not applicable here.

More than half the bills cited as legislative recognition legislation are actually restoration bills—the word "restoration" appears in the title of each act cited. There is a clear legal distinction between a recognition bill, which establishes the government-to-government relationship between the United States and a tribe for the very first time, and a restoration bill, which simply reinstates a relationship which once existed but was expressly terminated by statute or treaty. No amount of obfuscation can turn one into the other. These 10 bills, therefore, cannot possibly serve as precedent for the Pokagon case.

Of the eight remaining acts, four were related to the recognition of tribes in the context of eastern land claims. In these bills, Congress extended recognition to several groups as part of settlements of the tribes' legal claims to land in Maine, Connecticut, and Massachusetts. Another act pertained to a tribe that had already been recognized as part of another tribal entity; one acknowledged a band as a subgroup of another recognized tribe; and one act involved a group that was aboriginally indigenous to Mexico and thus specifically excluded from the administrative regulations.

This leaves only one act, the Texas Tiwa legislation. In 1968, Congress transferred responsibility over the Tiwa Tribe, now known as the Ysleta del Sur Puebo, and their lands to the State of Texas, thereby terminating any Federal relationship with the tribe. The act read, in pertinent part:

> Responsibility, if any, for the Tiwa Indians of Ysleta del Sur is hereby transferred to the State of Texas. Nothing in this Act shall make such tribe or its members eligible for services performed by the United States for Indians because of their status as Indians . . . and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to [them].

Congress later reversed itself, thereby restoring recognition to the Tiwa, when informed by the State that the latter could not legally hold tribal land in trust for the tribe.

Despite previous attempts to characterize the Tiwa Act as recognition legislation, it is not; the Tiwa Act was restoration legislation, a status set forth in the very name of the act itself. As I have previously noted, recognition and restoration are two completely different legal concepts, and consequently the Tiwa Act [restoration] is not precedentially analogous to the Pokagon case [recognition]. Furthermore, no similar transfer of responsibility has ever taken place between the United States and Michigan with regard to the Pokagon, nor has the United States ever held land in trust for this group.

In sum, the Pokagon are not automatically entitled to recognition simply because they are descended from treaty signatories. Given that fact, no amount of verbal obfuscation can transmute this bill into anything other than what it is: recognition legislation. As such, the Pokagon should pass through the same recognition process required of every other tribe in this country, and not exempted by this ill-considered legislation for which there is no congressional precedent.

The Pokagon next posit that they are justified in bypassing the FAP because the process is cumbersome and ineffective. The FAP has come under fire over the last few years. There are those who argue—correctly in some instances—that the process takes longer to complete than is provided for in the agency's regulations, costs each group financial resources they do not have, and is subject to the whims of the BIA staff. In limited defense, I point out that because the FAP establishes a permanent government-to-government relationship with a tribe, the BIA is very cautious about its determinations. This kind of exhaustive research takes a lot of time, as does the process of preliminary review, notification to the tribe of deficiencies, and waiting for the tribe to respond to these deficiencies with a supplemental petition. In addition, the FAP teams have been historically underfunded by this Congress and there have never been more than two. Still, the process clearly has its faults.

Regardless, the Pokagon are hardly in a position to complain about the process. First, their petition was only recently placed on active consideration: January 28, 1994. How can they complain about a process that they have not even participated in yet? Second, the BIA recently finalized a number of significant new regulations designed to address many of the concerns expressed about the process. So, not only are the Pokagon complaining about a process to which they have not yet given a chance to work, they are complaining about a process which no longer exists in the same form. Finally, all indications are that the BIA will issue a positive finding in the Pokagon's case. I am sure that the gentleman from New Mexico [Mr. RICHARDSON] and the gentleman from Michigan [Mr. UPTON] are aware of this, yet here we are.

Furthermore, while I have always agreed that the FAP is in need of repair, it is not as reckless as the bill's proponents would have this House believe. For example, we have repeatedly heard Members state that there is a backlog of 120 cases waiting to be processed, and that only 8 tribes have made it through the process since its inception. However, those numbers—oft-parroted as the premier example of why the FAP should be bypassed—are patently spurious and unsupported by the record.

There were 40 petitions on hand when the FAP office organized in October, 1978, and 110 petitions or related inquiries have been filed since then for a total of 150 cases. Of these, 9 groups have been recognized; 13 have been denied recognition; 1 was determined to be part of a recognized tribe; 1 had its status confirmed by the Assistant Secretary for Indian Affairs; 1 had its status clarified by legislation at the BIA's request; 1 had its previously terminated recognition restored; 3 were legislatively acknowledged; 1 withdrew its petition and merged with another petitioner; and 7 require legislative action to permit processing. This means that a total of 37 cases, not 8 as others contend, have been resolved since 1978: 26 by the BIA, 4 by Congress, 1 of its own accord, and 7 because they are precluded from petitioning.

Of the 113 remaining cases, 26 are incomplete petitions and thus are not yet eligible for review. A full 74 cases are similarly unreviewable because the groups have submitted only letters of intent to petition informing the BIA that at some unspecified time in the future they will submit their actual petitions.

That leaves us with 13 cases that could possibly be considered to be pending. In 3 of those, the BIA has already completed its review and announced its findings; those findings do not become final for regulatory purposes, however, until the close of a prescribed comment period. Of the remaining 10 cases, 6 are presently under active consideration. That leaves 4 cases—not 120, but 4—that are currently backed-up and awaiting review. In simpler terms, only 3 percent of the total number of cases filed with the BIA are pending BIA action. This is hardly an insuperable barrier justifying congressional redress.

In any event, the logical solution to the problems posed by the FAP process is to correct them. Several bills have been introduced over the past few years to overhaul and streamline the process. Despite the chorus of Democrat complaints about the process, though, the majority has—until last month—never seriously pursued any of these bills in committee, seeming to prefer instead the introduction of a string of ad hoc recognition bills designed to circumvent the process entirely.

Finally this May, the subcommittee chairman and I introduced H.R. 4462, a bill to radically overhaul the FAP process by, inter alia, extracting it from the BIA entirely; a similar bill exists in the Senate. The chairman has stated on several occasions that he intends to pass this bill out of the House this session. In fact, we held a lengthy hearing on the legislation just last Friday. Given that we are on the verge of reforming the process and addressing those same concerns which motivate some tribes to seek legislative recognition, I think it makes little logical sense to deracinate a tribe therefrom.

Bypassing the process not only ignores the problem, but is unfair to all of the recognized tribes. There exists a formal government-to-government relationship between the recognized tribes and the United States. If Congress creates tribes at will, without meaningful uniform criteria or substantial corroborated evidence that the group is indeed a tribe, then we dilute and weaken that relationship. A sizable majority of tribes have objected to similar bills for just this reason. We have received resolutions that support the FAP process and a strict adherence to a systematic procedure from tribes in 12 States, from regional intertribal organizations representing all the tribes of the Pacific Northwest, Montana and Wyoming, the United South and Eastern Tribes—representing all the tribes from Maine to Florida and west to Louisiana—all of the 10 southwestern Pueblo tribes, and 25 of the 26 tribes of Arizona.

Passage of S. 1357 is also patently unfair to all of the other petitioning groups. If the process is so ineffectual that the Pokagon should be excused from it, then what of the other 100 or so groups presently in the process? If we decide to recognize the Pokagon in whole or in part because we deem the FAP process to be necrotic, does not equity require that we immediately put before the House bills to provide for the recognition of all these other groups too? It is sadly ironic that the Pokagon would have us consider their cause unique. Finally, what about those groups that have been denied recognition under this superfluous FAP process; do we now open our doors to them and allow them another bite of the recognition apple? It would be patently unfair to require some groups to be judged under the administrative standards and allow other groups to be judged in Congress under no discernible standards simply because they are able to avail themselves of an influential congressional sponsor.

Aside from the obvious inequities to other native groups, I cannot help but consider the effects of a case in which we are wrong in our assessment of a group seeking legislative recognition. As I have repeatedly stressed, we are not equipped to make an informed decision in this area. It has been estimated by one authority that at least 15 percent of groups currently seeking recognition are essentially bogus Indian groups, or Indian descendent recruitment organizations, composed of predominantly non-Indian persons. If we make a mistake, and recognize a group that should not have been accorded that status, then we sully the relationship with the tribes even further.

Moreover, legislative acknowledgment of the Pokagon in the absence of any established recognition criteria raises serious constitutional questions. Despite our plenary power over Indians, Congress may not arbitrarily confer Federal recognition as an Indian tribe on any group claiming to be a tribe. If we act to recognize the Pokagon, or any other group, in the absence of any set guidelines, then it seems to us that we act ultra vires—outside the bounds of what is constitutionally permissible.

In conclusion, while the recognition process is in need of repair, it is not as crippled as many would have us believe. There is only a backlog of at the most 4 petitions, not the 120 cases often cited. While I concede that the process is imperfect, the most rational solution is to fix it. Continually seeking to bypass it only ignores the problem and forces us to address it over and over again. In addition, it undermines the role of the BIA, is unfair to both the recognized and unrecognized tribes, and raises constitutional concerns.

This committee must decide if it will continue to support the utilization of an equitable and standardized method of determining which Indian groups should be recognized by the Federal Government, or if it will return us to the pre-1978 days of piecemeal and arbitrary recognition through individual bills such as S. 1066. While it is clearly within our power to recognize Indian tribes, we have tried our hand at it before. Because we did it so badly and so politically, however, leaders from both parties on the committees of jurisdiction and from throughout Indian country insisted on a better way—the administrative FAP process of the BIA. Passage of bills like S. 1066 is contrary to the recommendations of the American Indian Policy Review Commission, opposed by the overwhelming majority of tribes, and contrary to logic. We have seen that passage by the House of the Lumbee recognition bill late last session has opened the floodgates of recognition legislation.

S. 1066 can only serve to undermine further an already beleaguered recognition process, to encourage other groups to circumvent that process, and to place recognition in an arena where emotional arguments, influential sponsors, and the partisan nature of Congress replace merit and fact. For these reasons, I strongly oppose passage of S. 1066.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. UPTON], the author of this legislation.

Mr. UPTON. Mr. Chairman, when I was a boy, there was a television series called "Broken Arrow." It was about an Indian agent at the Apache Reservation and his friendship with the great chief, Cochise.

If the same series were filmed toady, they would have to call it "Broken Promises," for no phrase better describes the sorry history of our relationships with the peoples who preceded us on this continent.

In the 1950's, of course, we shook our heads in disapproval at the way many of these people were treated, safe in the knowledge that all this had happened half a century or more earlier. Surely there were no more broken promises.

Well, here we stand at the threshold of a new century and guess what? The Indian Agents are still around, in the form of the Bureau of Indian Affairs—the beloved BIA—and, what's more, they are still making promises and they are still breaking them.

Let me give three recent examples:

First, the Potawatomis applied to the BIA for recognition in 1981. A decade later, in 1991, the BIA wrote to them and said, "We will place the Pokagon Band of Potawatomi Indians' petition for Federal acknowledgment on active consideration on November 18, 1991."

In the very next sentence, the BIA went on to say, "The acknowledgment regulations at 25 CFR 83.9(f) require that a proposed finding be published within one year of the date the petition is placed on active consideration."

Again, this was in June 1991, 196 years after the Potawatomis signed their first treaty with the U.S. Government.

Second, on January 28 of this year, the BIA wrote to the band and said, "[We] will begin active consideration of the petition requesting Federal acknowledgment of the Pokagon Band of Potawatomi Indians as of January 28, 1994."

Almost 3 years after BIA said they would place the band on active consideration they got around to doing it. Coincidentally, this was days before the Senate Indian Affairs Committee begin active consideration of the bill before us today. Funny thing.

Third, at the Senate hearings in February, BIA's witness told our colleagues, "We anticipate completing the Pokagon petition by July 1994."

July 1994 has come and gone and there is no sign anywhere that the BIA has made any progress on this petition.

It is now 199 years since the Potawatomis signed that first treaty with the U.S. Government.

Some of my colleagues believe, or say they believe, that this bill represents some kind of special treatment for this group of Indians, presumably at the expense of others. Their logic eludes me. There are 545 tribes currently enjoying recognition; will cutting the pie a 546th time or a 547th time do some great injustice to tribes in other States or congressional districts? I doubt it.

Some say we shouldn't "go around" the BIA's administrative process, but the Federal Acknowledgement Process, the FAP, is a broken arrow. In the words of my good friend from Wyoming. "The FAP is in practice a dismal failure."

He and some of my other good friends on the Natural Resources Committee have introduced seven separate bills to fix the FAP, but they are moving about as fast as the BIA. In recent testimony on that legislation, one of the principal authors of the current FAP system said:

> The vague and subjective nature of the regulations has directly resulted in need for massive amounts of time and money to prepare and evaluate a petition. The current process is impossibly slow. The acknowledgment regulations have been in place for 16 years this coming October. During that period, the BIA has resolved a total of 24 cases. That works out statistically to be 1.3 cases per year. At that rate it will take 110 years to complete the process or until the year 2078 AD. Of the 21 cases completed by the BIA, 18 were completed during the first 10 years of the existence of the acknowledgment staff. Only three cases have been completed in the last six years. Of the nine groups that are in the "active" stage of the process, one was in the process for six years before a final determination was issued; one group has been waiting for a proposed finding for three years and another for two years despite the regulatory requirement that such a decision be rendered within one year. One group, the Snohomish have been enmeshed in the process for 13½ years at this writing. Of the four groups waiting for the Bureau to start working on their petition, one has been waiting for 11 years, two for six years and one for three years. The Samish tribe of Washington State has been involved in the process and subsequent litigation for 16 years.
>
> The times mentioned above are the time it takes the Bureau to complete a petition and do not reflect the time that it takes for the petitioner to find finances, locate and employ professional researchers, to research and prepare an adequate petition and then respond to requests for information from the BIA. All of this will take the most efficient and organized of the petitioners no less than three years. For most groups it takes from four to six years. The Bureau's estimate of eight months for a petitioner to complete a petition is a ludicrous attempt to avoid the provisions of the Paperwork Reduction Act.

Mr. Chairman, legislation to fix the FAP is in no danger of passage soon. Even if it were enacted tomorrow, we know from experience that BIA would need years to promulgate the regulations. We think that 199 years are enough.

The gentleman from Indiana [Mr. ROEMER] and I did not wake up one morning and say, "Gee, let's introduce an Indian bill." We did so because we have finally lost patience in the BIA and its fatuous FAP process. We have lost patience with bureaucratic delay, useless redtape, and broken promises.

This group of Americans has signed many agreements with the U.S. Government.

More importantly, they have kept these agreements. They have paid their taxes, obeyed the laws, and served in the Armed Forces.

They have kept the faith for two centuries.

It is time we did the same.

□ 1430

Mr. Chairman, I include for the RECORD this editorial by the Herald Palladium from February 14, 1993; and a paper written by Casey Eyeleshymer in support of recognition:

POKAGONS DESERVE U.S. RECOGNITION

Native American tribes not receiving federal services have had to petition for federal recognition under the 1934 Indian Reorganization Act. Getting that federal recognition has proved difficult for the Pokagon band of the Potawatomi Indians in Southwest Michigan and northern Indiana.

Their petition was denied for the first time in 1940, but not because they didn't meet the requirements. The Department of the Interior was out of money and had no more to spend on programs for Indians. So an administrative decision was made not to extend recognition to any tribes in Michigan's Lower Peninsula.

Today, more than a half of century later, the Potawatomi still wait as their latest petition sits at the federal Bureau of Indian Affairs.

Recognition as an independent Indian nation will allow the Pokagons to assume their rightful legal place in relationship to the U.S. government.

"The Potawatomi, though rich in heritage, are really slighted for not getting the same recognition from the federal government as other Indian tribes from around the country," says Rep. Fred Upton, R-St. Joseph, who has joined the Potawatomi in their fight for recognition. Federal recognition also would make the Potawatomi eligible for federal programs available to other American Indians for housing, health care, education and job training.

These programs could be used to provide better health care and job opportunities for the Potawatomi, many of whom are poor. Tribal officials hope the group can become more self-sufficient in time.

While we would not like to see Potawatomi Indians or any other group become overly dependent on government assistance, any help that is given should be distributed equally and fairly.

It's not right that other Potawatomi bands, including the Hannahville Indian Community in Michigan's Upper Peninsula, receive services to which Potawatomi in Berrien, Cass, Van Buren and Allegan counties are not entitied.

Local Potawatomi tribal leaders started another drive for federal recognition in 1981. The petition requires thousands of hours of research, and each member must trace his or her ancestry back to the treaty. The tribe itself must prove its continuous presence in our area.

That petition was completed and submitted to Washington in November 1989. Boxes and boxes of information were sent. So far, local tribal leaders have heard nothing. The petition still is under review by the Bureau of Indian Affairs.

On Feb. 4, Reps, Upton and Tim Roemer, D-South Bend, introduced a bill to give federal recognition by law to the Pokagon band of the Potawatomi Indians. The legislation was discussed last week by Upton at tribal headquarters in Cass County's Silver Creek Township.

We support this bill and hope it brings an end to the long struggle by area Potawatomi for something by area Potawatomi for something that is rightfully theirs.

Federal recognition for the Pokagon band is long overdue.

The Potawatomi: Keepers Of The Fire

"The Indians survived our open intention of wiping them out, and since the tide turned they have even weathered our good intentions toward them, which can be much more deadly."—John Steinbeck, "America and Americans"

From long before the 1600's to the 19th century, southwestern lower Michigan was dominated by a native American people called the Potawatomi. They were a noteworthy tribe which gave the world such great Indian chiefs as Topinabee, Weesaw, Pokagon, Pontiac and many others. The Potawatomi were a passive group by nature, but they became involved in many wars with the more aggressive tribes who surrounded their peaceful northern woodland home. The neighboring Indian tribes and the civilization forced upon them by the European settlers would one day break up the woodland Indians including the Potawatomi. Although theirs was a never-ending battle to prosper with not only their pride, culture, heritage, land, and natural resources intact, this fight was made more difficult by the encroachment of the white man or "Hairy face." This cultural battle little by little whittled away at their pride and resistance forcing them to bargain away some of their priceless possessions in an attempt to survive as a united people. Although many tribes can claim that European "civilization" caused them to relocate and suffer hardship, the Potawatomi disbanded due to the white man's attempts to move and civilize them.

The Potawatomi were a people who believed in staying together. They generally built villages along rivers such as the St. Joseph or resided on the shores of the Great Lakes such as Lake Michigan. During the winter months they lived in buildings called long houses. The multi-family houses often had many fireplaces in the house, normally one for each family. In the summer they lived in teepees where they piled up logs in the shape of an inverted cone and covered it with animal skins or bark. There was a hole that could be opened at the top to let out smoke or cool the air and provided ventilation in the teepees in the hot humid days of summer. (Clifton, p. 20)

The Potawatomi, were a passive people; however, the neighboring five nations—the Oneida, Cayuga, Mohawk, Seneca and Onondaga were not quite so peace loving. The Iroquois tribes wanted the land around "Mitchigami" or Big Water. The Potawatomi, not wanting war, retreated from Mitchigami to the Green Bay area around east central Wisconsin. They lived there for many years in harmony with the other native tribes, the Miami and Menominee. Still, the Iroquois nations persisted on conquering the Potawatomi. They came all the way from New York to meet the Green Bay area tribes. The Iroquois were well equipped with firearms from having made an alliance with the French army. Being hungry and tired from the long, arduous journey the Iroquois were easily defeated by their foes, the Potawatomi. The Iroquois, at any rate, did not learn from their first attempt and attacked the Green Bay area two more times. The Iroquois were defeated on both attempts. The Potawatomi pursued and nearly destroyed their enemies completely. (Clifton, p. 25)

In the late 1660's the French established numerous trading posts all throughout the northern midwest. The Indians took advantage of this by selling their furs to the trappers and traders. The French government gave the Indians supplies to assist them, such as traps, food and firearms. During the winter months the government loaned the Indians traps and supplies which would be paid off the following spring. The Indians were adopting the business practices and beginning to think more on terms of the whiteman. This European trading and loan system, I feel, was one of the turning points in the corruption in the Indians world or rather the "unwhite" Indian world as it introduced them to western culture. The Indians saw the settlers as helpful and were glad to have them there, but they would soon learn the devastation the white man would bring in the years that followed.

The settlers and the Indians thought they had at least one thing in common; peace. To bring about this peace the white man conceived a number of treaties to document these thoughts. The settlers took advantage of the naive trusting personalities of the Potawatomi and produced several major treaties. If the Potawatomi resisted in authorizing the treaties, the white men would bribe the chiefs by promising teachers, blacksmiths, whiskey and tobacco. (Clifton p. 64)

After the French and Indian War of 1763, the British government tried to keep the whiteman east of the Appalachian Mountains and along the coast. Colonists routinely ignored this law and many began a western migration. To the detriment of the Indians, the British government lost the American Revolutionary War in 1776, and the effort to contain the colonists east of the mountains was no longer valid or enforced by the British. The settlers began streaming across the mountains in droves. (Reader's Digest; America's Fascinating Indian Heritage. p. 105)

THE ACT OF 1803

In 1803 Congress passed a new law stating that the Indians must leave their land and resettle their reservations to the west of the Mississippi River thus pushing them into Kansas and neighboring states. While the Indians were angered, most went without violent uprisings or strong protests.

THE TREATY OF 1821

The treaty of 1821, was signed in August in Chicago when General Cass representing the United States met with Chiefs Topenabee, Weesaw and 53 other Potawatomi leaders. The Indians agreed to give them the Michigan counties of Van Buren and parts of Berrien county which lie east and north of the Saint Joseph River, with some exceptions. The total take for the U.S. government was nine entire counties and parts of five others, all in Southwest Michigan, and a strip ten miles south of the Michigan–Indiana line. In turn, the U.S. would give $5000 in cash each year to the Potawatomi tribe for a period of twenty years. Also an additional $1000 was provided to the tribe for a period of fifteen years to provide for a farmer, blacksmith, and a school teacher. This may seem as if it were a good deal in 1821 prices, but the U.S. government took five million acres of the Indian's native land for about five cents an acre, and then sold it to white settlers for a tremendous profit. Not only were the ethics wrong for this treaty, but the Potawatomi were deluged by people of marginal relation, half breeds, and others who also wanted their share of the money as well. They were consuming much of the Indian's desperately needed funds.

THE SAUKS AND THE FOXES

In 1804, the U.S. government met with representatives of these two tribes and wanted to negotiate for their tribal homelands. The representatives of the government gave the Indians alcohol and got their agreement to a treaty to cede all tribal lands east of the Mississippi River to the government. Later it was learned that the "chiefs" were not given the power to negotiate for their tribes, and were not really chiefs at all, but the government representatives did not care. (R. David Edwards, p. 266.) The two tribes were allowed to stay on their land until 1829, when they were forced to move west of the Mississippi. In 1832, about one thousand tribesmen and women rallied around a leader by the name of Black Hawk. Black Hawk felt that he could convince the U.S. government to allow them to return to their ancestral lands in Illinois. When he tried to enter Illinois to convince white settlers to allow them to return, they were met with a militia trying to expel them. Black Hawk now realized that his cause was hopeless and tried to negotiate an exit to the western bank of the river. White settlers panicked and fired upon the Indians. The angry Black Hawk and his followers later conducted raids on settler's farms. Over two hundred settlers and about one half of Black Hawk's warriors were killed in these fights. The news of Black Hawk's failures quickly spread to other woodland Indians including the Ojibwa, the Iowa, the Sioux, and the Potawatomi. They knew that they could not stand up to the government and with their passive nature would later submit to these pressures. (Reader's Digest, America's Fascinating Indian Heritage. p. 153.)

THE TREATY OF 1833

Though not actually a treaty this document just reinforced the Act of 1803 by authorizing the use of force against the Indians who refused to voluntarily relocate and pushed them west to make sure all the Indians were relocated to make way for white expansion into the new territory acquired in the Louisiana Purchase. The Treaty of 1833 was considered one of the darkest pages in American history since it forced native American peoples to be forced from their ancestral homes to a new land hundreds of miles away sometimes at the point of a bayonet. (Wilbur M. Cunningham, page 116.)

Over eighty odd years the Indians signed approximately 60 treaties. This is twice as many treaties than was made by any other single tribe. Since Governor Lewis Cass knew the Potawatomi well, many of these treaties were a direct result of his familiarity with the tribe. Governor Cass had one explanation:

"The Indians always arrive at our treaty grounds poor and naked, they expect to receive some part of the consideration at the moment to sign the treaty. This * * * furnishes the only motive for their attendance, and much the most powerful motive for their assent to the measures proposed to them." (Clifton, p. 62.)

The signing of the treaties seemed to be the end for some Potawatomi. Around two thousand moved west to Kansas. Still some others moved northeast to Canada. The lucky Catholic Potawatomi remained with the help of the great Chief Leopold Pokagon. with his mighty tongue and a sharp understanding of the treaties, he convinced the U.S. to let his band of Potawatomi remain in southwestern lower Michigan. Also important in this decision was the fact that the government could not forcibly move the

Pokagon Tribe since they had adopted European traditions of owning land and farming peacefully and federal law prohibited removal of "civilized" Indians. Added to this was the fact that they did not fit what the white man thought of as savages.

The early French missionaries taught Christian tenants to Pokagon's father. Pokagon himself was baptized by Father Frederick Reze in 1837. (Edmunds, p. 264) His Christianity and the fact that he and his followers owned land allowed them to be exempt from the relocation. The relocation of many of the Potawatomi continued to splinter and weaken their tribe. Many of the Midwestern tribesmen were collected by Alexis Coquillard to be forcibly relocated to west of the Mississippi. Some escaped to Canada where their ancestors remain today, others ran away to Wisconsin, but later submitted to the relocation since they were starving. Many others also submitted and were moved to Missouri and Kansas. Today, the Prairie Band is located in Kansas. The Citizen's Band is located in Oklahoma. There are other settlements along Lake Huron shoreline in Ontario as well the Huron Band's reservation in Michigan (Clifton 1987).

The Potawatomi were once a proud woodland Indian. The encroachment of the whiteman and his "civilization" led directly to their disintegration. The fact that some were allowed to stay, some escaped to Canada, and others moved more peacefully allowed the group to become splintered. While many tribes stayed relatively intact, like the Cherokees and the Sioux, the Potawatomi have faded. They are currently trying to reinstate the tribal rights. Many of their rights were apparently taken from them under questionable circumstances. It also seems wrong that the government negotiated with them when they were very naive and unfamiliar with European ways.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am a strange one to argue with the logic of my friend in terms of bureaucracy, because I could not agree with him more. I could not agree more that it does not work. However, when he talks about the eligibility and he talks about the need of this particular tribe, which I do not deny, what about the San Juan Southern Paiute Tribe? What about the Principal Creek Indian Nation? What about the Red Clay Intertribal Indian Band? What about 137 others? They have the very same argument that the gentleman does, the very same argument.

Mr. Chairman, what do we say to them? Do we say, "Well, we had some political friends here and we got it done, but you cannot do it"? That is what we are talking about. That is wrong. It is absolutely wrong.

Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I oppose this bill, the Pokagon Tribe recognition, as I did earlier for the Ottawas. The debate occurred basically on the prior bill, so I do not intend to speak very long, but just to reemphasize that there is a process that Congress established that we should abide by, and go through that process. The one difference between this bill and the other bill, admittedly, I have to say, is that this tribe has gone through the process where it was under active consideration, and the BIA has only 1 year left by their own regulations to come up with a verdict.

The bottom line, Mr. Chairman, is that every time we recognize a tribe by bypassing the Bureau of Indian Affairs, and we decide, based on what limited knowledge we have to determine whether a group, a tribe, known by the State or local government should be a Federal tribe, we are simply making it more likely that those who do not deserve to be tribes will become tribes.

What my concern is, the reason why I stand on the floor today, is that what is motivating too many tribal applications around this country is the hope that they can in fact enjoy gambling revenues, and what is motivating too many who are helping these tribes, other tribes, not this one, is the hope that they can reap part of the benefit of gambling.

In my judgment, when we create a federally recognized tribe, we have created a sovereign nation-state within a nation. They do not have to abide by certain laws. They can forget OSHA, they can forget minimum wage, they can forget many things. It is not something we do lightly. They get automatic Federal aid.

However, Mr. Chairman, what concerns me the very most of all is gambling is sweeping through this Nation, and they could not do it one way as quickly as they wanted, so now they see the opportunity to do it through the Indians, bypassing the process, find someone politically powerful enough to get a bill through, and then we end up with this Federal recognition.

Mr. Chairman, like the past bill, I urge that we not support this one.

Mr. RICHARDSON. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I would first like to thank the gentleman from New Mexico, Mr. RICHARDSON, for his hard work and expertise on this issue, and thank the gentleman from Michigan, Mr. FRED UPTON, who joined with me in introducing this legislation 2 years ago.

Mr. Chairman, this is a simple piece of legislation. As many of the Members walk in to ask what we are voting on, I would just say that there are three reasons to vote for the recognition of the Pokagon Band of the Potawatomi Indians: First of all, because Congress does, in fact, have a role; second, if we want to reinvent Government, if we want to make Government work better, we will vote "yes"; third, because this is the right and the just thing to do for the dignity of this Indian tribe.

Mr. Chairman, last week, when we talk about a congressional role, and with all due respect to the gentleman from Wyoming [Mr. THOMAS], he has said Congress should not enter into this debate. He said a little bit earlier, "You do not gather up votes to see if you can pass this legislation. It should go through a process, and it is unfair if we do this."

Mr. Chairman, I would argue, and argue adamantly, that the process we have set up is unfair and unworkable and unjust. If we do not do something about voting on this in our constitutional role, then we are not doing what we are sent here to do by our constituents.

Mr. Chairman, just last week Members of Congress voted on the Suspension Calendar to approve the Auburn Indians for this recognition, and the Auburn Indians had been a terminated tribe from the 1950's. Last week, July 25, we voted on a similar occasion to recognize the Auburn Indians.

Second, the recognition process, and the gentleman from New Mexico [Mr. RICHARDSON] has spoken very eloquently to this, the recognition process is not only broken, it is unworkable. It is unworkable. It started in 1979. There have been 129 petitions. They have, out of 129 petitions, resolved 25, and they have approved 9, 16 years later, 16 years, and we are going to say, "No, we do not have a role. We are going to let the bureaucracy work its will, and maybe in the year 2010 we will get to the Pokagon Potawatomi Tribe."

Mr. Chairman, I think we need to vote on this we need to set the process in working order. Mr. Chairman, I hope that this problem is fixed through the committee process and through the system in the very near future, and hopefully these votes that we are casting are moving that process along.

Finally, Mr. Chairman, this is the just and the right thing to do. We can say up here today that the bureaucrats will eventually do it, that someone will someday solve this problem, but we can give them an answer today with a "yes" vote.

Mr. Chairman, we can either say we will continue to let the bureaucratic, unworkable redtape process continue to throw havoc into the system, or we will give the Pokagon Potawatomi Tribe an answer today with an affirmative vote. That is the right thing to do, it is the just thing to do, and it is the reinventing governmental action to take. I encourage my colleagues to vote "yes."

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just simply want to invite the gentleman to join with us in trying to reinvent. This is not reinventing, this is politically going around the system. How badly does the gentleman feel about the others? I do not hear him talking about any other tribes, just his. That is too bad.

Mr. Chairman, we have a process here that needs to be resolved, and that is the whole issue.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Wyoming. Certainly, I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, as the gentleman knows, he has worked on this process a few years now, the Micmac Indians, the Auburn Indians, and now the last vote we cast, this vote we cast, I think it is unfair not to include them.

Mr. THOMAS of Wyoming. Reclaiming my time, Mr. Chairman, that simply is not accurate and the gentleman knows that. Those were land settlements. The Auburns were terminated by the Congress and they were reinstated. Those are totally different situations. It is unfair to say that those are the same. They simply are not. Would the gentleman like to comment on that?

Mr. ROEMER. If the gentleman will continue to yield, Mr. Chairman, I would argue with the gentleman that it is unfair to let the BIA continue to say to Congress, "We are not going to fix the system, we are going to take 16 years to work these problems out, therefore, do not vote on it, Congress."

Mr. THOMAS of Wyoming. Reclaiming my time, Mr. Chairman, we are working on it. We are trying to fix it, rather than go around it. I would probably do the same thing. If I were the gentleman, I would probably vote for it. I think it is wrong in structure, and that is why I oppose it.

Mr. ROEMER. If the gentleman will yield further, I would say to the gentleman that I hope to work with him in fixing the process. That is certainly something we have to do as well.

Mr. THOMAS of Wyoming. Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield 4 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I do not want to sound repetitious while we debate the merits of this bill, but first of all I want to again commend the chairman of our Subcommittee on Native American Affairs of the Committee on Natural Resources, the gentleman from New Mexico [Mr. RICHARDSON]. I want to also recognize and commend the gentleman from Michigan [Mr. UPTON], as the chief sponsor of this legislation, Senate bill 1066.

Mr. Chairman, like Senate bill 1357 that we just passed a few minutes ago, I would restate again my concerns of how inadequate the current system is for recognition of American Indian tribes by the Federal Government.

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Again, I submit the current administrative process simply does not work; and that's the reason why the languages within its constitutional rights and privileges, needs to deal with native American Indian tribes so they can be recognized by enactment of appropriate legislation.

Mr. Chairman, while I respect any good friends, and colleagues from Wyoming and Connecticut for not supporting this bill—we have an honest disagreement on how to properly address the grievances and critical needs of native American Indians.

Mr. Chairman, the correct administrative process for recognition of Indian tribes is not only a disgrace but typical of how we sometimes have had to deal with the needs of native Americans.

Mr. Chairman let's talk about process again. I can account for at least four historical processes that native American Indians were subjected to by the Congress and the Federal Government.

First, the initial process was to kill Indians; second, we then devised another process called assimilation; that is, make them all Americans—the fact is Indians were not even granted U.S. citizenship until 1924; then another process was promulgated by the Federal Government to terminate the Indian tribes, that is, no longer recognize them as native American Indians; now, we come to an administrative process that was developed by administrative regulations of the BIA.

The problem, Mr. Chairman, is that the system doesn't work. Some tribes simply do not have the financial resources to pay experts and legal practitioners; some tribes complain of the fact that BIA bureaucrats themselves do not have capable experts to review historical and cultural knowledge of these tribes.

Mr. Chairman, I recall one gentleman, a member of the Lumbee Indian Nation of North Carolina, who for 50 years has testified before Congress and the BIA on how Indian he was—still after 100 years, the Lumbee Nation is not federally recognized.

Mr. Chairman, I urge my colleagues to support Senate bill 1066.

Mr. THOMAS of Wyoming. Mr. Chairman, would the gentleman from New Mexico, chairman of the subcommittee, enter into a colloquy for just a second?

Mr. RICHARDSON. I certainly will.

Mr. THOMAS of Wyoming. As the gentleman will recall, in the past we sought to remedy the need for a membership list, and I had an amendment.

Would the gentleman suggest that what we did last time would equally apply to this bill?

Mr. RICHARDSON. Yes, the gentleman has my commitment that on this bill as well as on the previous bill, the gentleman's concern on the membership lists will be dealt with in the technical corrections bill that the gentleman and I will pass in September.

Mr. THOMAS of Wyoming. Mr. Chairman, I appreciate that, and I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS], a very valuable member of the subcommittee who chaired the hearing on the Federal acknowledgment process, the most recent one that we had.

Mr. WILLIAMS. Mr. Chairman, up in Montana we have, as I think most people recognize, a number of Indian reservations, Indians of great renown. One cannot spend significant amounts of time with them as I have done or be the senior member of the House Committee on Indian Affairs without recognizing that all the native Americans share, it seems to me, one attribute. I do not know if they are to be praised or faulted for this attribute, but it is clear that they all share it. It is called patience. They are extraordinarily patient people, patient in the face of broken promise after broken promise after broken promise. You see, native American people who live on America's Indian reservations have the worst housing conditions of any people in this country but they are patient, because we have told them it will get better, and so they have continued to be patient almost, in my judgment, to a fault.

Native Americans living in their homeland have the lowest income levels of any people in America, but they have been told to be patient and they have been, to a fault. But their income levels do not rise.

Adult native Americans have the lowest longevity of any people in this country. We tell them that will change if they will just be patient, and so patient they have been, and die early they do, including their children, who have the highest mortality rates of any children in this Nation, but we tell them to be patient and they are.

We asked the Little Traverse Bay Band of the Odawa to be patient, and they were throughout their entire existence, until finally, carefully and cautiously they came to this Congress and said, "We really would like to be recognized as a tribe, which we are. Please recognize us." So we have voted on the bill of the gentleman from Michigan [Mr. KILDEE], and the House of Representatives has said, "Yes, let's do that."

Now comes the Pokagon of the Potawatomis who first petitioned this Congress in 1861, and the Congress said, "Be patient," and so they have been patient. They came back hoping not to disturb us, but they came back in 1930 and said, "Remember us? We talked to you in 1861. You told us to be patient. We were. We'd like to be recognized." That was in 1930.

They came back at the beginning of the last decade, in 1981, and said, "What about us?" We said, "Be patient." And they have been.

These people are too patient. This Congress is too slow to act. BIA is too slow to act. Today is the day for at least these two bands of these proud Indians. Let us recognize them. Let us tell them patience does not get it anymore. We are prepared to follow their lead. Please vote for this legislation.

Mr. RICHARDSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MILLER], the distinguished chairman of the Committee on Natural Resources.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend our colleague, the chairman of the subcommittee and, for all of the work that they have put in on this, the gentleman from Montana [Mr. WILLIAMS] who just spoke, the gentleman from Indiana [Mr. ROEMER], and the gentleman from Michigan [Mr. UPTON].

Mr. Chairman, there is no other instance in which the Members of the Congress would suggest that their constituents should have to go back to a bureaucracy to render a decision that is as badly flawed as the Acknowledgement Process within the Department of the Interior. The gentleman from Wyoming [Mr. THOMAS] knows that it is flawed and we have discussed this and we want to work it out and redesign it, do what we have to do to make it work. He does not think that we should recognize tribes until that is done. But we should not make what have become the problems of the bureaucracy the problems of this band of Indians. They have gone through this in good faith, in good effort year after year after year, and the process is now so badly flawed that it is unable to render them a decision on the merits, and that is when the Congress of the United States should step in. We get far more requests for recognition than we deal with in the committee. I would prefer to have an administrative process and I think one of the highest priorities of our committee in the next session is either to get rid of this process or to fix this process.

But again that problem should not be visited upon this band or the Potawatomis. Why should they have to pay for the sins of the bureaucracy, for the failures of the bureaucracy? You would not do this to any of your constituents. You would not send them back into the IRS. You would not send them back into the EPA if the process was as unable to render a decision on the merits as this one is. That is the job of the Congress. We are to sort out these difficult issues. We try to rectify in some instances justice where it has been deprived. That is what this committee has brought to the floor, that is what the subcommittee has labored long and hard on. I would hope my colleagues on the floor would pass this legislation. It is long overdue and it is rightfully due.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I was not going to speak until I heard the chairman of the committee speak on this issue, and I am very perplexed by his comments, that we would not ask.

I have a tribe in my district, called the Golden Hill Paugossetts and they want to be recognized, and I am telling them there is a process to go through, and I am telling them that they have to prove that process, and if they abide by that process, that I believe they should be, in fact, an Indian tribe.

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I am telling them I will not bypass the process. I am telling them to go through the BIA as the chairman says Members are not doing. The reason I am doing that is I do not have the capability to determine if, in fact, they are a tribe or not.

What concerns me with this tribe is that when they met with me they said that they wanted this, they wanted me to make sure they were federally recognized, that they had 200 acres in the city of Bridgeport, and that they were given a sum of money, and that they were allowed to have gambling. When I said no and other Members in Connecticut said no, when we said no the tribe accused us of kind of untoward things like because they are a black Indian tribe, and there are black Indian tribes and white Indian tribes, because they were a black Indian tribe that there was something racist behind this.

My problem, Mr. Chairman, is I am tired of blaming the BIA for what we established in law and asked them to develop in regulations. If we do not like the process, change the process, do not circumvent the process.

My point to this full House is what I fear beyond anything I can say, there is nothing I fear more than the fact that we have allowed this process to be circumvented.

I have a tribe in my district that wants to circumvent it like everyone else, and they want gambling, and they want to be a tribe, and because we have not gone forward, somehow we should be held accountable.

Fix the process. Get a fair process, Mr. Chairman, but do not bypass the process.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I am delighted to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the point the gentleman is making is that the tribe under discussion with him wants to be recognized, and the gentleman has told them to go through the process.

Mr. SHAYS. The gentleman is correct.

Mr. MILLER of California. That is fine. This band went through the process and simply were not treated fairly within the process. They have been denied that treatment.

I have no problem. If you want to send people into this process, you can send people into this process, and it develops an awful lot of evidence, and an awful lot of good information. It just does not render a decision. So the gentleman ought also to withhold himself the ability as a Member of Congress representing those people to deliver justice when people are treated unjustly within the system.

And we are right, we should fix the system, and we will fix the system. But we cannot use that for people who have languished in the system. The gentleman's tribe has not languished in the system for the length of time that these other tribes that we have selectively legislatively recognized. They have languished there in many instances for 70 years. The time has come when we must make that declaration. That is the difference.

Mr. SHAYS. Reclaiming my time, I thank the chairman for making that point. I do not disagree that there are some who are having an extraordinarily difficult time, in the case of this tribe they are 1 year from learning the decision, and in the case of the tribe earlier they have not gone through the process.

But my biggest concern is with gambling out there, that this process will be circumvented by people with financial interests and an intent to cash in. And I caution this Congress more than I can ever say, stop bypassing the BIA process. Get a system that will work. It is our job, not the BIA's. Then let us follow that system.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not disagree with the gentleman from Montana. I have two tribes that I represent in Wyoming. Those tribes went through the process, by the way. I do not disagree with what we have said here.

But the chairman of the committee has selectively said let us do this for this tribe. What about the other 130, should we not do it for them? Are they different? Do they not qualify somehow?

It also says this tribe has been unsuccessful. That is not true. They are now being considered. There are only four tribes being considered and they are one of them. So it is a matter of process. And I understand your jurisdiction and that you are for that. But I think it is a mistake for us to go around a process and selectively treat tribes and leave the other tribes to be victims of the process. We need to change the process and we need to treat people equally under that process.

Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just conclude. I think this has been a good debate. Let me say that both the gentleman from Connecticut [Mr. SHAYS], and my good friend, the gentleman from Wyoming [Mr. THOMAS], have made some good points about the process. We disagree on how to fix it. But I think we all agree that we need to move ahead and establish a process that the Congress stipulates should be followed by the BIA. The regulatory system that the BIA has established does not work.

Let me say in this case with the Potawatomis, the BIA supports this bill. This tribe was in the process. It rose to the top of the list. As we talk about this famed BIA process, as soon as this bill started moving, all of a sudden it is now at the top of the list. The BIA supports the immediate recognition. They have reviewed their petition. They are a tribe. They are a tribe in the BIA's opinion. I do not think we need to go through the convincing evidence that this tribe has already submitted. They have submitted convincing evidence that they are the political successors to the signatories of several treaties between the Potawatomis and the United States.

I am going to very briefly read some treaties between the United States and this tribe. The Treaty of Greenville, 1795; the Treaty of Grouseland, 1805; the Treaty of Spring Wells, 1815; the Treaty of the Rapids of the Miami of Lake Erie, 1817; the Treaty of St. Mary's, 1818; the Treaty of Chicago, 1821; the Treaty of the Mississinewa on the Wabash, 1826; the Treaty of St. Joseph, 1827; the Treaty of St. Joseph, 1828; the Treaty of Tippecanoe River, 1832; and the Treaty of Chicago II, 1833.

This tribe secured the rights to remain in Michigan, and I think as the gentleman from California [Mr. MILLER] mentioned, in 1935 they were acknowledged by the Commissioner of Indian Affairs, "You are Indians. However, we don't have any money, so you can't become an Indian tribe."

In the 1800's, as the gentleman from Montana [Mr. WILLIAMS] mentioned, they petitioned. Delay, broken promises, 1935, broken promises because they were told, "Oh yes, you are Indians, but we cannot give you any money."

So here we sit today with a great Native American lineage. I dare one Member to say to these native Americans that they are not, because their lineage of being first Americans is probably stronger than many of us here in this Chamber if not everyone in this Chamber and in this country.

So, Mr. Chairman, we are going to fix this process. There is no question it needs help. There is no question this committee is committed, as the gentleman from California [Mr. MILLER] said, to do that. We have legislation. We plan to move it in September. It sets up an independent commission. It sets time deadlines. It tells the BIA they have got to, based on historical record and not bureaucracy and redtape or excuses about acting or not acting for this reason, that they are to move. For this reason we should not hold hostage this deserving tribe and this deserving Member from Michigan, and the entire delegation of Michigan, and many other tribes that might not look at a new process that will work.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered under the 5-minute rule by sections, and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

S. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The Pokagon Band of Potawatomi Indians is the descendant of, and political successor to, the signatories of the Treaty of Greenville 1795 (7 Stat. 49); the Treaty of Grouseland 1805 (7 Stat. 91); the Treaty of Spring Wells 1815 (7 Stat. 131); the Treaty of the Rapids of the Miami of Lake Erie 1817 (7 Stat. 160); the Treaty of St. Mary's 1818 (7 Stat. 185); the Treaty of Chicago 1821 (7 Stat. 218); the Treaty of the Mississinewa on the Wabash 1826 (7 Stat. 295); the Treaty of St. Joseph 1827 (7 Stat. 305); the Treaty of St. Joseph 1828 (7 Stat. 317); the Treaty of Tippecanoe River 1832 (7 Stat. 399); and the Treaty of Chicago 1833 (7 Stat. 431).

(2) In the Treaty of Chicago 1833, the Pokagon Band of Potawatomi Indians was the only band that negotiated a right to remain in Michigan. The other Potawatomi bands relinquished all lands in Michigan and were required to move to Kansas or Iowa.

(3) Two of the Potawatomi bands later returned to the Great Lakes area, the Forest County Potawatomi of Wisconsin and the Hannahville Indian Community of Michigan.

(4) The Hannahville Indian Community of Michigan, the Forest County Potawatomi Community of Wisconsin, the Prairie Band of Potawatomi Indians of Kansas, and the Citizen Band Potawatomi Indian Tribe of Oklahoma, whose members are also descendants of the signatories to one or more of the aforementioned treaties, have been recognized by the Federal Government as Indian tribes eligible to receive services from the Secretary of the Interior.

(5) Beginning in 1935, the Pokagon Band of Potawatomi Indians petitioned for reorganization and assistance pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., commonly referred to as the "Indian Reorganization Act"). Because of the financial condition of the Federal Government during the Great Depression it relied upon the State of Michigan to provide services to the Pokagon Band. Other Potawatomi bands, including the Forest County Potawatomi and the Hannahville Indian Community were provided services pursuant to the Indian Reorganization Act.

(6) Agents of the Federal Government in 1939 made an administrative decision not to provide services or extend the benefits of the Indian Reorganization Act or any Indian tribes in Michigan's lower peninsula.

(7) Tribes elsewhere, including the Hannahville Indian Community in Michigan's upper peninsula received services from the Federal Government and were extended the benefits of the Indian Reorganization Act.

(8) The Pokagon Band of Potawatomi Indians consists of at least 1,500 members who continue to reside close to their ancestral homeland in the St. Joseph River Valley in southwestern Michigan and northern Indiana.

(9) In spite of the denial of the right to organize under the Indian Reorganization Act, the Pokagon Band has continued to carry out its governmental functions through a Business Committee and Tribal Council from treaty times until today.

(10) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Band from 1795 until the present.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2. The text of section 2 is as follows:

SEC. 2. FEDERAL RECOGNITION.

Federal recognition of the Pokagon Band of Potawatomi Indians is hereby affirmed. Except as otherwise provided in this Act, all Federal laws of general application to Indians and Indian tribes, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), shall apply with respect to the Band and its members.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3. The text of section 3 is as follows:

SEC. 3. SERVICES.

Nothwithstanding any other provision of law, the Band and its members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes without regard to the existence of a reservation for the Band or the location of the residence of any member on or near an Indian reservation.

Mr. THOMAS of Wyoming. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 4. TRIBAL MEMBERSHIP.

Not later than 18 months after the date of the enactment of this Act, the Band shall submit to the Secretary membership rolls consisting of all individuals eligible for membership in such Band. The qualifications for inclusion on the membership rolls of the Band shall be determined by the membership clauses in the Band's governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

SEC. 5. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot and in accordance with the provisions of section 16 of the Act of June 18, 1934 (25 U.S.C. 476), an election to adopt a constitution and bylaws for the Band.

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as a new constitution is adopted under paragraph (1), the governing documents in effect on the date of enactment of this Act shall be the interim governing documents for the Band.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Band adopts a constitution and bylaws pursuant to subsection (a), the Secretary shall conduct elections by secret ballot for the purpose of electing officials for the Band as provided in the Band's constitution. The election shall be conducted according to the procedures described in subsection (a), except to the extent that such procedures conflict with the Band's constitution.

(2) INTERIM GOVERNMENT.—Until such time as the Band elects new officials pursuant to paragraph (1), the Band's governing body shall be the governing body in place on the date of the enactment of this Act, or any new governing body selected under the election procedures specified in the interim governing documents of the Band.

SEC. 6. TRIBAL LANDS.

The Band's tribal land shall consist of all real property, including the land upon which the Tribal Hall is situated, now or hereafter held by, or in trust for, the Band. The Secretary shall acquire real property for the Band. Any such real property shall be taken by the Secretary in the name of the United States in trust for the benefit of the Band and shall become part of the Band's reservation.

SEC. 7. SERVICE AREA.

The Band's service area shall consist of the Michigan counties of Allegan, Berrien, Van Buren, and Cass and the Indiana counties of La Porte, St. Joseph, Elkhart, Starke, Marshall, and Kosciusko.

SEC. 8. JURISDICTION.

The Band shall have jurisdiction to the full extent allowed by law over all lands taken into trust for the benefit of the Band by the Secretary. The Band shall exercise jurisdiction over all its members who reside within the service area in matters pursuant to the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), as if the members were residing upon a reservation as defined in that Act.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) the term "Band" means the Pokagon Band of Potawatomi Indians;

(2) the term "member" means those individuals eligible for enrollment in the Band pursuant to section 4; and

(3) the term "Secretary" means the Secretary of the Interior.

The CHAIRMAN. Are there any amendments to the bill?

If not, under the rule, the Committee rises.

☐ 1500

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. MENENDEZ, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1066) to restore Federal services to the Pokagon Band of Potawatomi Indians, pursuant to House Resolution 502, he reported the Senate bill back to the House.

The SPEAKER pro tempore (Mr. MCNULTY). Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SHAYS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 174, not voting 12, as follows:

[Roll No. 373]

YEAS—248

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Camp
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Doolittle
Durbin
Edwards (CA)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoekstra
Holden
Horn
Hoyer
Hunter
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Knollenberg
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Mica
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pombo
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Shuster
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Sundquist
Swift
Tejeda
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—174

Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Calvert
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dornan
Dreier
Duncan
Dunn
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Fish
Fowler
Franks (NJ)
Gallegly
Gallo
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoke
Houghton
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Lucas
Manzullo
McCandless
McCrery
McCurdy
McHugh
McInnis
McKeon
Meyers
Michel
Miller (FL)
Minge
Molinari
Moorhead
Nussle
Orton
Packard
Parker
Paxon
Penny
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Sisisky
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Stump
Swett
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thompson
Torricelli
Valentine
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Carr
DeFazio
Edwards (TX)
Ford (TN)
Laughlin
Machtley
Montgomery
Oxley
Reynolds
Slattery
Washington
Wheat

□ 1526

Mr. YOUNG of Alaska changed his vote from "yea" to "nay."

Messrs. MCMILLAN, POMBO, and DOOLITTLE changed their vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, I inadvertently voted "yea" on rollcall Nos. 372 and 373. It was my intention to vote "no" on both those votes.

GENERAL AVIATION REVITALIZATION ACT OF 1994

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1458) to amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The text of the Senate amendment to the House amendment is as follows:

Senate amendment to House amendment: Page 4 strike out all after line 14 over to and including line 3 on page 5 and insert:

(3) the term "limitation period" means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection of the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, reserving the right to object, and I will not object. Could the gentleman from Texas, the distinguished chairman of the Committee on the Judiciary, explain to the Members of the House the change made in S. 1458 by the other body? It is my understanding that the only change made in the General Aviation bill by the other body deals with the limitation period and sets that statute of repose limitation period at 18 years for all categories of general aviation.

Am I correct, sir?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. BROOKS. To my distinguished friend, the gentleman from New York [Mr. FISH], I want to say that the purpose of my request is to agree to the Senate amendment to the bill which would enable it to go to the President for signature. What the Senate did was make it 18 years across the board as a repose for piston planes, helicopters, and jets, and it seemed like a very responsible accord and had been very close to the original language introduced in the House. I personally am delighted that we could reach an appropriate resolution of this matter, and I would want to especially commend the gentleman from Kansas [Mr. GLICKMAN], the chief sponsor and champion of the legislation, and hope that the gentleman would yield to him for a discussion as well.

Mr. FISH. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kansas [Mr. GLICKMAN], the chief sponsor of the bill.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman from New York [Mr. FISH].

Mr. Speaker, the gentleman from New York and the chairman are correct. The only change in this bill is that it goes to a straight 18-year statute of repose for all general aviation aircraft. Otherwise all of the provisions in the House bill previously adopted are exactly the same as they were before.

I want to thank especially, if I may just quickly, the gentleman from Texas [Mr. BROOKS] and the gentleman from New York [Mr. FISH] for their tremendous work, especially the gentleman from Utah [Mr. HANSEN], my colleague. Without it this would not have been done, and I also thank the gentleman from California [Mr. MINETA], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Pennsylvania [Mr. CLINGER] and my colleagues from Kansas, Senators KASSEBAUM and DOLE, for their help.

□ 1530

We have worked on this bill for 8 years. This is going to put thousands of people back to work, but it does not cost the Federal Treasury one cent. So this is a great day for Kansas, a great day for wherever airplanes are made in this country, and a great day for America as well. I thank the gentleman for yielding.

Mr. FISH. Mr. Speaker, further reserving the right to object, the gentleman from Kansas spoke of the great contribution without which this bill would not be here today of our colleague, the gentleman from Utah [Mr. HANSEN].

Mr. Speaker, I am pleased to yield to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I appreciate so much of the work of my friend from Kansas [Mr. GLICKMAN]. As pointed out, there has been a tremendous amount of work that has gone into this particular piece of legislation. Nothing really changed. We agreed on this originally. I really appreciate the great work of Chairman BROOKS and the gentleman from New York. I hope people realize, this is a jobs bill. We are not having one red cent of Federal money going into this. I thank the gentleman so much. I am glad to see the culmination of this particular issue.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF EULOGIES AND ENCOMIUMS OF THE LATE PRESIDENT RICHARD M. NIXON

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 248) providing for the printing of eulogies and encomiums of the late President of the United States, Richard M. Nixon, as expressed in the House of Representatives and the Senate, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON] to explain the bill.

Mr. MANTON. Mr. Speaker, House Concurrent Resolution 248, as amended, was introduced by minority leader BOB MICHEL and would authorize the printing of eulogies of the late President Richard M. Nixon, as expressed in the House of Representatives and the Senate.

My colleagues should note that the resolution contains language to make certain that actual printing costs stay within GPO cost estimates.

Mr. Speaker, this publication will be a small tribute to a man who devoted his life to this Nation. Richard Nixon came to Congress in January 1947 and was appointed to the Senate in 1950. In 1952, he was elected Vice President of the United States and in 1968 President of the United States.

Let us remember President Nixon for his achievements that helped shape the world. He opened diplomatic relations with the People's Republic of China, strove for a peaceful solution in the Middle East, and became the first President to visit the Soviet Union and sign a nuclear arms agreement.

Ms. DUNN. Mr. Speaker, further reserving the right to object, as my colleague, the gentleman from New York, has noted, this resolution that was introduced by minority leader BOB MICHEL authorizes a small tribute to the memory of President Richard Milhous Nixon.

As a former Member of Congress, U.S. Senator, Vice President, and President of the United States, Richard Nixon helped to shape America and world history for 40 years. His impact on relations with China, the former Soviet Union, and the nations of the Middle East will be studied by historians for years to come.

I urge my colleague to support this resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 248

Resolved by the House of Representatives (the Senate concurring), That there be printed with illustrations as a House document the eulogies and encomiums of the late President of the United States, Richard M. Nixon, as expressed in the House of Representatives and the Senate. Such publications to include the text of the funeral services held in Yorba Linda, California; and that thirty-two thousand five hundred additional copies shall be printed, of which twenty-two thousand one hundred and fifty shall be for the use of the House of Representatives and ten thousand three hundred and fifty shall be for the use of the Senate; or such numbers of copies of the document as does not exceed a total production and printing costs of $500,000.

SEC. 2. The copy shall be prepared and bound in such style as the Joint Committee on Printing may direct.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MANTON:

Strike out all after the resolving clause and insert the following:

That the eulogies and encomiums for the late President of the United States, Richard M. Nixon, as expressed in the House of Representatives and the Senate, together with the text of the funeral services for the late President in Yorba Linda, California, shall be printed as a House document, with illustrations and suitable binding. The document shall be prepared under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number, there shall be printed the lesser of—

(1) 32,500 copies of the document, of which 22,150 copies shall be for the use of the House of Representatives and 10,350 copies shall be for the use of the Senate; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $500,000, with distribution to be allocated in the same proportion as described in paragraph (1).

Mr. MANTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. MANTON].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

TITLE AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "Concurrent resolution providing for the printing of eulogies, encomiums, and funeral services for the late President of the United States, Richard M. Nixon.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING REPRINTING OF BOOK ENTITLED "THE UNITED STATES CAPITOL: A BRIEF ARCHITECTURAL HISTORY"

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 38) to authorize the reprinting of the book entitled "The United States Capitol: A Brief Architectural History," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON] to explain the resolution.

Mr. MANTON. Mr. Speaker, Senate Concurrent Resolution 38 was introduced by Senator GEORGE MITCHELL and cosponsored by Senator ROBERT DOLE and would authorize the printing of "U.S. Capitol: A Brief Architectural History," as prepared by the office of the Architect of the Capitol. The resolution authorizes the reprinting of House Document 101–144 which is presently out of stock. It is designed to give a brief examination of the Capitol's history. My colleagues should note that the resolution contains language to make certain actual printing costs stay within GPO cost estimates.

Ms. DUNN. Mr. Speaker, further reserving the right to object, I compliment my colleague, the gentleman from New York, for working with us to include caps to keep these printing costs from spiraling out of control. I want my colleagues to know these caps have been included in each of the other resolutions we will be considering.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BECERRA). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 38

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "The United States Capitol: A Brief Architectural History", prepared by the Office of the Architect of the Capitol.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed—

(1) 56,500 copies for the use of the Commission on the Bicentennial of the United States Capitol; or

(2) such number of copies as does not exceed a total production and printing cost of $69,206.

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 1, strike out line 10 and all that follows through page 2, line 2, and insert in lieu thereof the following:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Commission on the Bicentennial of the United States Capitol, the lesser of—

(1) 56,500 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $69,206.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution, as amended.

The Senate concurrent resolution, as amended, was concurred in.

TITLE AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'The United States Capitol: A Brief Architectural History'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF "HISTORY OF THE UNITED STATES CAPITOL"

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 39) to authorize the printing of a new annotated edition of Glenn Brown's "History of the United States Capitol," originally published in two volumes in 1900 and 1903, prepared under the auspices of the Architect of the Capitol, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON], to explain the resolution.

Mr. MANTON. Mr. Speaker, Senate Concurrent Resolution 39, introduced by Senators GEORGE MITCHELL and BOB DOLE, authorizes the printing of a new annotated edition of Glenn Brown's "History of the United States Capitol."

This book was originally published in two volumes in 1900 and 1903, prepared under the auspices of the Architect of the Capitol. The new annotated history will provide historical context and contemporary perspective on Glenn Brown and his philosophy.

My colleagues should note that the resolution contains language to ensure that actual printing costs stay within GPO cost estimates.

Ms. DUNN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 39

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Glenn Brown's History of the United States Capitol", as prepared under the auspices of the Architect of the Capitol, with support from the United States Capitol Preservation Commission and the United States Capitol Historical Society.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed—

(1) 6,500 copies for the use of the Senate and the House of Representatives, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) such number of copies as does not exceed a total production and printing cost of $112,265.

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 1, line 3, strike out "entitled" and all that follows through "as" on line 4, and insert in lieu thereof "entitled 'History of the United States Capitol', by Glenn Brown, as".

Page 2, strike out line 3 and all that follows through line 10, and insert in lieu thereof the following:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Senate and the House of Representatives, the lesser of—

(1) 6,500 copies of the document, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $112,265, with distribution to be allocated as described in paragraph (1).

Mr. MANTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution as amended.

The Senate concurrent resolution, as amended, was concurred in.

TITLE AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'History of the United States Capitol'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF THE BOOK ENTITLED "CONSTANTINO BRUMIDI: ARTIST OF THE CAPITOL"

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 40) to authorize the printing of the book entitled "Constantino Brumidi: Artist of the Capitol," prepared by the Office of the Architect of the Capitol, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

□ 1540

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON] to explain the resolution.

Mr. MANTON. Mr. Speaker, Senate Concurrent Resolution 40 introduced by Senators MITCHELL and DOLE authorizes the printing of the book entitled: "Constantino Brumidi: Artist of the Capitol," prepared by the office of the Architect of the Capitol.

This new publication will include a central essay on Brumidi's work on the Capitol supplemented by essays on the architectural context, and his Italian background.

My colleagues should note that the resolution contains language to ensure that actual printing costs stay within GPO cost estimates.

Ms. DUNN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BECERRA). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 40

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Constantino Brumidi: Artist of the Capitol", as prepared by the Office of the Architect of the Capitol.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed—

(1) 15,000 copies for the use of the Senate and the House of representatives, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) such number of copies as does not exceed a total production and printing cost of $55,489.

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANTON.

Page 1, strike out line 10 and all that follows through page 2, line 6 and insert in lieu thereof the following:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Senate and the House of Representatives, the lesser of—

(1) 15,000 copies of the document, to be allocated as determined jointly by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $55,489, with distribution to be allocated as described in paragraph (1).

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

The Senate concurrent resolution, as amended, was concurred in.

AMENDMENT TO THE TITLE OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'Constantino Brumidi: Artist of the Capitol'.".

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF THE BOOK ENTITLED "THE CORNERSTONES OF THE UNITED STATES CAPITOL"

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 41) to authorize the printing of the book entitled "The Cornerstones of the United States Capitol," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON] to explain the resolution.

Mr. MANTON. Mr. Speaker, Senate Concurrent Resolution 41 introduced by Senators MITCHELL and DOLE, authorizes the printing of the book entitled, "The Cornerstones of the United States Capitol" as prepared by the Office of the Architect of the Capitol. This publication will focus on the architectural evolution of the Capitol through its four cornerstones as part of the commemoration of the bicentennial of the building.

My colleagues should note that the resolution contains language to ensure that actual printing costs stay within GPO cost estimates.

Ms. DUNN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 41

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "The Cornerstones of the United States Capitol", prepared by the Office of the Architect of the Capitol.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed—

(1) 50,000 copies for the use of the Commission on the Bicentennial of the United States Capitol; or

(2) such number of copies as does not exceed a total production and printing cost of $59,697.

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 1, strike out line 10 and all that follows through page 2, line 2 and insert in lieu thereof the following:

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Commission on the Bicentennial of the United States Capitol, the lessor of—

(1) 50,000 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $59,697.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

The Senate concurrent resolution as amended was concurred in.

AMENDMENT TO THE TITLE OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amend the title so as to read: "Concurrent resolution authorizing the printing of the book entitled 'The Cornerstone of the United States Capitol'.".

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the five resolutions just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CRIME AND VIOLENCE HAVE BECOME A CRISIS IN THIS COUNTRY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, understandably, the Republicans are mad today because once again the Democrats beat them in the annual congressional baseball game. But in reality, Mr. Speaker, I think the Republicans are mad because the Democrats and President Clinton have stolen the crime issue from them. Here is what they are going to vote against when they vote against the crime bill: three strikes and you're out; more cops on the beat; death penalty expansion; sentencing reforms, and forcing States to have their criminals serve 85 percent of their sentences.

Now, here are the social programs they are railing against: Programs to keep kids out of gangs; summer school programs; special drug courts; special programs for violence against women; money for training judges and prosecutors; pro-arrest policies; and funds for increased security.

Mr. Speaker, these are not social programs, these are important programs to deal with our Nation's youth. These are important programs that illuminate a good strategy on the crime bill, more cops, more prevention, and more punishment.

Mr. Speaker, crime and violence have become a crisis in this country because:

The family values that prevent kids from adopting a life of crime in the first place have broken down.

We have a revolving door justice system that puts criminals back on the street long before their sentences are up.

We allow anyone to buy military-style assault weapons, including convicted felons, spouse abusers, and mental patients.

We have too few police on the streets, protecting our neighborhoods.

We fought to close the revolving door by passing a law that will:

Give three-time violent criminals life in prison with no possibility of parole and force States to make violent criminals serve at least 85 percent of their sentences before they are put back on the streets.

To make sure the police are not outgunned by the criminals, and to start to reduce the level of violence in our neighborhood, we fought successfully:

To ban military-style assault weapons.

To pass the Brady bill to require a 5-day waiting period before buying a handgun.

To put 100,000 more cops on the street nationwide, to patrol our neighborhoods and arrest those who commit crimes.

The crime bill also includes:

Smart prevention.—The bill includes midnight sports, programs to keep young people out of gangs, programs for summer school programs and after-school programs.

Youth crime.—The bill includes boot camp style incarceration for young offenders, and special drug courts that use intensive court supervision to help young people beat drug addiction.

Violence against women.—The crime bill provides substantial money for a grant program to support increased security; training for judges and prosecutors; pro-arrest policies; and other initiatives. It also allows victims of gender-based violence to pursue civil remedies in Federal court with assistance from prosecutors.

DEMOCRATS OWNED BY THE PACS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous material.)

Mr. LIVINGSTON. Mr. Speaker, the Washington Post recently displayed a list of the top 47 House recipients of Political Action Committee contributions in the 1994 election cycle. The results reveal the true reason why the

Democrat leadership is unable to pass a campaign finance reform bill that would reduce the role of Political Action Committees.

Forty-four of the top 47 recipients of PAC money in the current election cycle are incumbent Democrats. The Democrats are apparently owned by the special interest PACs. No wonder the House Democrats will not reduce the $5,000 PAC contribution limit.

Worse yet, PAC's gave to House incumbents over challengers by nearly 50 to 1 in the first 15 months of the cycle. Since the Democrat leadership is devoted to preserving their majority status, they will not even consider changes in the PAC system to guarantee that challengers will have a chance against entrenched incumbents.

The American people should know that the Democrats represent the special interests more than the people's interest. The cash proves the case.

PAC CONTRIBUTION TO HOUSE INCUMBENTS—THOSE SEEKING REELECTION IN 1994 WITH PAC RECEIPTS OF MORE THAN $260,000

While Congress struggles to reach agreement on campaign finance reform legislation, incumbents continue to solicit donations for this fall's elections, especially from political action committees. A new study by the watchdog group Common Cause, which is lobbying to reduce the current $5,000-per-election limit on what PACs can give, shows that House incumbents have raised nearly $61 million in PAC money during the first 18 months of this election cycle. That is 46 percent of their total receipts for the period ending June 30. The House passed a bill that would limit the total amount of PAC money a candidate could accept during the two-year election cycle to about $260,000. The study shows that 47 House incumbents, including 3 Republicans, raised more than that in 18 months. PACs gave to House incumbents over challengers by nearly 50 to 1 in the first 15 months of the cycle, the report noted.

Name	Total receipts	PAC receipts	Percent from PACs
Richard A. Gephardt (D-Mo.)	$1,757,829	$869,100	49
Vic Fazio (D-Calif.)	1,039,164	683,516	66
Dan Rostenkowski (D-Ill.)	1,271,092	680,194	54
Martin Frost (D-Tex.)	1,069,831	638,117	60
John D. Dingell (D-Mich.)	808,385	627,105	78
Thomas S. Foley (D-Wash.)	1,138,251	575,325	51
Bill Brewster (D-Okla.)	728,077	512,721	70
Jack M. Fields Jr. (R-Tex.)	904,831	490,741	54
Steny H. Hoyer (D-Md.)	806,809	482,344	60
Peter Hoagland (D-Neb.)	633,376	470,358	74
David E. Bonior (D-Mich.)	633,616	468,515	74
Robert T. Matsui (D-Calif.)	702,758	459,954	65
Marjorie Margolies-Mezvinsky (D-Pa.)	917,500	448,180	49
Lynn Schenk (D-Calif.)	855,561	440,261	51
Charles B. Rangel (D-N.Y.)	702,242	432,560	62
Norman Y. Mineta (D-Calif.)	665,275	426,111	64
Charles Wilson (D-Tex.)	656,025	425,500	65
John P. Murtha (D-Pa.)	751,881	415,900	55
Newt Gingrich (R-Ga.)	1,070,742	407,914	38
Sherrod Brown (D-Ohio)	514,490	380,942	74
Gene Green (D-Tex.)	484,075	367,450	76
Lewis F. Payne Jr. (D-Va.)	423,132	363,794	86
Richard J. Durbin (D-Ill.)	592,905	343,512	58
Thomas J. Bliley Jr. (R-Va.)	415,024	333,388	80
Jack Brooks (D-Tex.)	467,420	331,917	71
Jane Harman (D-Calif.)	799,890	331,295	41
Fortney "Pete" Stark (D-Calif.)	549,468	327,450	60
Greg Laughlin (D-Tex.)	461,392	324,231	70
Earl Pomeroy (D-N.D.)	485,278	321,457	66
W.J. "Billy" Tauzin (D-La.)	492,621	321,051	65
Richard H. Lehman (D-Calif.)	548,437	318,850	58
Sander M. Levin (D-Mich.)	601,168	309,525	51
Rick Boucher (D-Va.)	441,968	304,233	69
Dale E. Kildee (D-Mich.)	426,827	303,538	71
Bart Gordon (D-Tenn.)	712,908	302,740	42
Larry LaRocco (D-Idaho)	445,667	297,607	67
Joe Moakley (D-Mass.)	670,317	296,500	44
Thomas J. Manton (D-N.Y.)	455,307	295,268	65
Peter Deutsch (D-Fla.)	641,326	284,539	44
Carolyn B. Maloney (D-N.Y.)	507,362	281,541	55
Mike Kreidler (D-Wash.)	446,245	279,300	63
Sam Gibbons (D-Fla.)	567,976	279,096	49
Sam Gejdenson (D-Conn.)	737,937	277,037	38
Pete Geren (D-Tex.)	476,813	266,714	56
James P. Moran Jr. (D-Va.)	654,815	264,235	40
Tom Barlow (D-Ky.)	342,424	262,317	77
John Lewis (D-Ga.)	314,318	260,230	83

Note: Jan. 1, 1993, through June 30, 1994.
Source: Common Cause, based on Federal Election Commission records.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, we have talked a lot about the situation in Haiti, and we talk about it quite often here in the abstract as a foreign policy debate and wonder why the President of the United States has not consulted with the U.S. Congress. But while we are talking in the abstract about this policy and the procedures and the niceties of protocol and the best wisdom that we can provide to the President in this matter of foreign policy, there is a reality of life.

The reality of life in Haiti today is pure misery. While we are going through this process up here, I think it is important to know that every American should understand that this is costing more than just taxpayers' dollars. We are talking about hundreds of billions of taxpayers' dollars to support the President's policy right now, but I want to talk about it for a moment in terms of Haitian lives.

Americans are supporting a foreign policy, whether they know it or not, right now, that is investing money in the systematic destruction of the infrastructure of a friendly foreign nearby country, the country of Haiti. It is a fact that more than 1,000 children a month are dying there now, because they lack food, they lack medical treatment, they lack necessary sanitation facilities.

There is fouled water there everywhere. It is rampant. There is more disease than ever before. That was a problem that we had even before we had this embargo, these sanctions that are being placed on that community.

There is no trash removal, of course, of any type. And we have got vermin and flies and bugs and disease-carrying from rodents and so forth running around biting the children and the population of the island, creating even more disease. Of course, without the relief supplies getting through, there is no medical treatment.

We find that in the places where there has been medical treatment, in places like the wards in the St. Catherine's Hospital in the poorest part of town, in Cite Soleil, in Port-au-Prince, we find they are turning the children away who desperately need the services because the malnourishment wards are full. There is no more room for these children.

We find that some of the desperate and poor Haitian families are actually abandoning their children in hospitals with missionaries, hoping that somebody will be able to provide for them better than they are able to provide for them.

We have even gone so far as to hear reports that people are raiding the cemetaries and digging up the coffins, stealing the brass handles off the coffins so they can sell them and then using the coffins, chopping them up for wood for fuel, because wood is so precious in the country and fuel is what they need for cooking, to clean the water, and so forth. This is a very, very bad situation in a nearby, friendly country. And we are helping to make this through our embargo.

No American should misunderstand that fact. I hope no American can condone that fact. I certainly cannot.

We talk also about the problems now of, well, what about the refugees? How about the people who want to get away from this. It turns out there is something like 1,400 Haitians right now who are stranded in Haiti who have been approved to come to the United States through our process down there, but because of the embargo there is no way to get them here. They are trying every way they can to get out of Haiti and get to the United States to get the attentions that they need.

Apparently you cannot charter aircraft or do anything because it takes a violation or a waiver of the sanctions and we are reluctant to ask for a waiver for the U.N. sanctions because we are trying to make this embargo work, which is missing the target, of course, and hitting only the poor and making them more miserable.

It is not only can we not get these folks out of harm's way and out of misery in Haiti who have been approved to come to the United States under the processing situation we have, we have no way to protect them while they are there. We are now beginning to see reports of people standing in line to get to the consulate to get this processing done to come to this country who are legitimate refugees. And we find we cannot protect them and they are being beaten by thugs and some of the military.

How much of this is true, we do not know, but we are beginning to read these reports in the newspaper.

We are also reading reports about people trying to, as it were, scalp ways to get to the United States or scalp tickets to get on an aircraft.

□ 1550

In fact, they are even scalping permission to get into these consular sections that are United States property, United States territory, where we are going about our processing business, and the Haitian guards outside will not allow people to go in who are just standing in line unless there is a little payoff involved. It is beginning to look something like Casablanca, for those who saw the movie. Unfortunately, in this one there is no Humphrey Bogart to come riding to the rescue. There is no last seat on the plane to Lisbon, here. These people are stuck there in harm's way, and we are making much of the harm. I think it is, frankly, inexcusable.

Mr. Speaker, there are many other reports that are going on right now about the cost to the American taxpayer in this, but I think the most important point that I want to make, at this stage, is that there is a better way to do what we are doing.

Lawrence Pezzello, who was the assistant who was working on this, the assistant to the President, who got fired for political reasons, has clearly stated that we were making good progress negotiating a settlement with the properly duly elected, democratically elected members of the congress, and we need to talk to those people. They said they want to talk to us. I believe we can avoid all this misery and provocation and talk of invasion if we will talk to the members of congress who are duly elected in Haiti.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4507

Mr. OWENS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4507.

The SPEAKER pro tempore (Mr. BECERRA). Is there objection to the request of the gentleman from New York?

There was no objection.

CALLING FOR ACTION FROM THE UNITED STATES ON HUMAN RIGHTS ABUSES IN CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, I stand here today to voice the outrage and despair of a people. The Cuban community in exile is still in agony over the tragic deaths of the 32 Cubans in the tugboat incident of July 12 in which a tugboat filled with over 70 Cuban refugees sank at the hands of Castro's military men as the freedom-seeking Cubans attempted to flee the island in search of liberty and democracy. Last week my colleagues and I came before the House to bring attention to the deliberate torture imposed on the 70 people trying to leave the island nation. It is extremely disturbing to think of what will happen to other Cubans who attempt to escape from the infernal clutches of that ruthless dictator who has no regard for humanity.

The 90-mile journey from Cuba to the Florida Keys that kills thousands of Cuban refugees each year, has now become the convenient scapegoat of the Castro regime. Mr. Speaker, how many more lives will Castro have to kill before the international community takes notice? For 35 years, this great country, the United States, has been fighting to save the people of Cuba, but to no avail. The international community has been silent on this issue. We still stand alone in our crusade to liberate the people of Cuba. The United Nations and the Organization of American States uphold the beliefs of human rights and democracy and condemn violations of these beliefs in almost every region of the world, except in the tiny island only 90 miles from the coast of the United States. The United Nations has spoken quite clearly on the subject of Haiti. Why? Because the United States had put pressure on this international body. But what about Cuba? Why the silence on Cuba? Is Cuba's regime any less bloody? Any less ruthless? Why does the United States not pressure our allies to stand with us on the issue of Cuba? How can it be that the world's compassion has not yet reached the people of Cuba? Will the people of Cuba have to continue to sink into the depths of hell, and torture, before someone will take notice?

In his speech to the Cuban people, Raoul Castro, Fidel's brother, blamed the immigration policy of the United States toward Cuba as the actual culprit in the deaths of the 32 Cubans. Mr. Speaker, this blatantly false accusation cannot go unanswered. It is the responsibility of the government of every sovereign nation to provide a better life for its people. We have a commitment to humanity to protect those Cubans who face oppression for merely speaking out on behalf of freedom and democracy. As part of our commitment to humanity, we provide safe havens for the thousands of Cubans who have been forced out of their country.

For 35 years, we have had to save thousands of Cuban refugees facing death because of a single madman's thirst for power and wealth. Castro does not have the best interest of the Cuban people in his mind or in his heart, and he proved this on July 12, when he allowed his boats to continuously ram the tugboat carrying 70 Cubans to freedom. The United States is not at fault in this tragic and deliberate action by the Castro regime nor should this great country stand by and allow Castro's thugs to accuse us before the international community.

Castro would rather see the death of his own people before he admits that his policies have failed. We must strengthen our positions against the Castro regime among our allies around the world. We must send out a message to Fidel Castro that we will not tolerate his crimes against humanity. History has proven that the longer we allow men like this to remain in power, the longer they have to systematically torture, brainwash, and dispose of people who oppose him. Not only are the Cuban people forbidden to have basic human rights, but they are also not allowed to leave Cuba because they are in opposition to the tyrannical rule of Fidel Castro.

Mr. Speaker, recent years have seen the end to many tragic situations around the world. This great Nation has been instrumental in its commitment to promote and defend democracy around the world, and we have seen the results of our determination in places such as the former Soviet Union and the eastern nations of Europe. We have also seen many of our neighboring countries in this hemisphere reform themselves, yet we cannot make a dent in the misery of the Cuban people, due to Castro's ruthless grip on every aspect of a Cuban's life. As long as Fidel Castro is allowed to continue to degrade the people of Cuba, this hemisphere is not safe. There will never be peace and tranquility in our hemisphere as long as Castro is allowed to blame the United States for the crimes he commits. Peace can only be achieved by people with good intentions, and, sadly enough, the trail of dead bodies Fidel Castro has left behind is proof that his intentions are quite short of being good or peaceful.

We must label the actions of Fidel Castro as acts of terrorism, and we must work to achieve international condemnation and isolation of Cuba until Castro is removed from power. He is a threat to the very existence of a people and that is the equivalent of genocide. Many Cuban men, women, and children have died trying to inform the world of the tragedy that befalls their island nation and now it is time for us to carry the torch of freedom for them.

The United States must do more to have our international allies condemn this brutal act.

The United States has been forceful on Haiti. Why are we so silent on Cuba?

DOD'S INTERIM RULE CONCERNING THE REVITALIZATION OF BASE CLOSURE COMMUNITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I want to take this opportunity to address an issue that is of concern to many communities that are experiencing base closures, and this is regarding DOD's interim rule regarding base closures and regarding implementing the so-called Pryor amendment.

Mr. Speaker, I would like to state very clearly that the people of Guam, including myself, have very strong objections to the Department of Defense's implementation of the Pryor rule. We all know that at the beginning of the base closure process and at the beginning of this administration, President Clinton issued a 5-point plan which was designed to help communities affected by base closures. The plan aimed to expedite the turnover of property in order to create jobs, foster economic development, and provide a minimum of transition problems related to any base closure. The Pryor amendment explicitly stated that the Federal Government can best contribute to community development by making base property available to communities which are affected by such closures, and Guam is certainly one of them, with the closure of naval air station Agana. The DOD interim rule, however, contravenes the spirit of the Pryor amendment, and indeed the whole spirit of the Clinton 5-point plan. It allows private entities to bid against local governments trying to put property to public use.

□ 1600

It allows the Department of Defense to take 60 percent of all profits from property sales pursuant to base closures and it gives the military the sole discretion over how these properties are to be evaluated, and moreover it even allows the possibility of the sale of these properties to foreign interests.

The people of Guam, like Americans across the country, want a greater voice in the decisionmaking process than the interim rule proposes. For example, the rule only gives local reuse committees an advisory rule, not a substantive position, to determine future land uses. Community reuse plans are currently developed through a process characterized by diverse interests, negotiation and consensus-building. What use are these reuse plans if they are not implemented?

This lack of meaningful community participation means that the interim rule stumbles into a longstanding problem on Guam. In the beginning this land which we now call NAS was originally the property of the original inhabitants of Guam. The original NAS airstrip was built by Chamorros during the Japanese occupation and now that there is an opportunity to get this property back into the hands of the people of Guam, we have this interim rule. Moreover, would not it be a great irony that Japanese foreign interests are allowed to buy this property under the existing rules?

In 1993 under a Base Realignment and Closure Commission directive, the people of Guam finally won the right to reclaim that land. To tamper with the complete and unfettered transfer of NAS Agana to the people of Guam would not just be a procedural miscalculation but a continuation of a series of historical injustices surrounding land issues on Guam. Furthermore, it would be a bitter irony to see such an action this year, the 50th anniversary of the liberation of Guam from Japanese hands.

I am concerned that the services, in particular the Navy, are implementing the interim rule too quickly. For example, the Director of Naval Real Estate for the Pacific Division wrote to our base reuse committee to inform us that the proper valuation process under the interim rule was being initiated, even as a new time period has been allowed for public comment on these very interim rules. On August 5, this Friday, there will be a public hearing on the rules which the Navy in its haste has begun to process.

I commend the Department of Defense for holding the hearing, but I call upon them to implement the prior amendment and to implement all the rules within the spirit of the 5-point plan of the Clinton administration.

It is a bitter irony in particular, the possibility of sale to foreign interests of this property.

We have all heard about Buy American. How about Sell American.

MORE ON ATROCITIES IN CUBA

The SPEAKER pro tempore (Mr. BECERRA). Under a previous order of the House, the gentleman from Florida [Mr. DIAZ-BALART] is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Speaker, I rise today because of the massacre of July 13, I am not going to let it die. It cannot be forgotten. Those 40 innocent refugees, unarmed refugees who were brought to their death by the express order of the dictator of Cuba, their deaths cannot be permitted to be in vain. So we are going to continue to remind as many people as we can of that massacre and of why that massacre occurred.

Those bodies must be recovered. They lie at the bottom of the sea. The remains of those refugees must be returned to their families for burial, and as both the Senate of the United States formally requested of the administration less than 2 weeks ago and a number of us formally requested of the Secretary of State last week, there needs to be an effort by the United States to seek condemnation by the U.N. Security Council of the massacre by the Castro dictatorship of July 13.

Our strength and our weight in the U.N. Security Council was demonstrated very vividly just a few days ago when we obtained, for the first time in history, authorization from the U.N. Security Council for military action in this hemisphere. The U.N. Security Council authorized its member states, the member states of the United Nations, to take military action to depose the Haitian dictatorship, a few days ago, due to our requests.

If there is any symptom, any sign of the weight and power of the United States in the United Nations Security Council, I think that it was seen just a few days ago. Yet as my colleague from Florida stated just a few moments ago, where is the U.S. leadership with regard to the dictatorship that even closer to our shores has oppressed its people for 35 years? I received a call today from a journalist in Argentina and they are worried because there is verification of a connection between Fidel Castro and the bombing of the Jewish Center in Argentina in cahoots with and in cooperation with Iranian terrorists.

The Argentinian journalist was talking to me and he asked me, "How do you justify the emphasis given by the United States on Haiti and the ignoring on the part of the United States of the Castro dictatorship?"

I said, "Really I cannot justify it. I cannot justify it."

Speaking as someone who not only has sympathy for but continually seeks to express solidarity with the people of Haiti and who has approved all measures and supported all measures to try to accelerate the return of the democratically elected government in Haiti, I find it completely objectionable and unacceptable that many of those who continue to speak out for democracy in Haiti are completely silent, dreadfully silent, deafeningly silent with regard to democracy in Cuba. Let us look at category after category.

Number of refugees, geography, who is closer, Haiti or Cuba? Degree of oppression, who has more political prisons, prisoners? Who is engaged in more executions, carried out more executions? the duration of the terms of the political prisons, Cuba's dictatorship or Haiti's dictatorship? The duration of the oppression, 2½ years versus 35 years. Signs of opposition to the dictatorship, intensity of the opposition to the dictatorship. Drug trafficking. There is a draft indictment in the Southern District of Florida, the U.S. attorney for the Southern District of Florida indicting the Cuban Government and naming Raoul Castro himself for drug trafficking. What has happened to that draft indictment? The fugitives from U.S. law? Who harbors fugitives from U.S. law? The Cuban dictatorship, starting with Robert Vesco, an indicted fugitive from U.S. law who has been absent from the United States since 1972 and is the de facto minister of crime for the Castro dictatorship.

Danger to U.S. national interests. Who has confiscated U.S. property? Who remains a danger to the rest of the hemisphere? Who is drilling for oil 90 miles from our shores, 90 miles from Florida? Who is drilling for oil like a madman, bringing in foreign interests to try to find oil in the tourist center, in the premier tourist center of Cuba? Who is trying to build nuclear power plants 90 miles from our shores that could threaten this hemisphere like few other things could? The Castro dictatorship.

In category after category after category. And speaking from someone who supports all measures to bring democracy to Haiti, I think that it cannot be denied that the Cuban dictatorship, category after category is much more of a threat to the national interests of the United States and a threat to the interests of this hemisphere. Yet there is silence with regard to Cuba.

Am I asking for an invasion? No. Do I think it is fair that those who want to fight for Cuba's freedom are not allowed to do so? No, that is not fair. Do I think it is fair that we continue to abide by the terms of the Kennedy-Khrushchev agreement even though there is no Soviet Union left and we continue to prosecute those who want to fight for Cuba's freedom? No.

We need to talk about this further, Mr. Speaker.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEAR 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. SABO] is recognized for 5 minutes.

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1994.

This report is to be used in applying the fiscal year 1994 budget resolution (H. Con. Res. 64), for legislation having spending or revenue effects in fiscal year 1994. I am also submitting today a separate report dealing with the current levels of spending and revenues for fiscal years 1995 through 1999, to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218).

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, August 3, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting an updated status report on the current levels of on-budget spending and revenues for fiscal year 1994.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of July 29, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 64, the concurrent resolution on the budget for fiscal year 1994. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with "section 602(a)" allocations for discretionary action made under H. Con. Res. 64 for fiscal year 1994. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations were printed in the Congressional Record for March 31, 1993, on pages H. 1784–87.

The third table compares the current levels of discretionary appropriations for fiscal year 1994 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on June 16, 1994 (H. Rept. 103-549).

Sincerely,

MARTIN OLAV SABO,
Chairman.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1994 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 64

REFLECTING ACTION COMPLETED AS OF JULY 29, 1994

(On-budget amounts, fiscal year 1994)

	Millions
Appropriate level (as set by House Concurrent Resolution 64):	
Budget authority	$1,223,400
Outlays	1,218,300
Revenues	905,500
Current level:	
Budget authority	1,218,333
Outlays	1,216,991
Revenues	905,429
Current level over(+)/under(−) Appropriate Level:	
Budget Authority	−5,067
Outlays	−1,309
Revenues	−71

BUDGET AUTHORITY

Enactment of measures providing more than $5.067 billion in new budget authority for fiscal year 1994 (if not already included in the current level estimate) would cause fiscal year 1994 budget authority to exceed the appropriate level set by House Concurrent Resolution 64.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase fiscal year 1994 outlays by more than $1.309 billion (if not already included in the current level estimate) would cause fiscal year 1994 outlays to exceed the appropriate level set by House Concurrent Resolution 64.

REVENUES

Enactment of any measure producing any revenue loss in fiscal year 1994 (if not already included in current level estimate) would cause fiscal year 1994 revenues to fall further below the appropriate level set by House Concurrent Resolution 64.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT, SECTION 602(a)

[Fiscal year, in millions of dollars]

	1994		
	BA	Outlays	NEA
House Committee			
Agriculture:			
Allocation	−65	−66	−60
Current Level	−99	−106	−402
Difference	−34	−40	−342
Armed Services:			
Allocation	−128	−128	−128
Current Level	−153	−163	−167
Difference	−25	−35	−39
Banking, Finance and Urban Affairs:			
Allocation	0	−338	0
Current Level	−417	−915	0
Difference	−417	−577	0
District of Columbia:			
Allocation	0	0	0
Current Level	0	0	0
Difference	0	0	0
Education and Labor:			
Allocation	0	0	118
Current Level	−142	−155	−787
Difference	−142	−155	−905
Energy and Commerce:			
Allocation	0	−1700	−180
Current Level	2	−2398	42
Difference	2	−698	222
Foreign Affairs:			
Allocation	0	0	0
Current Level	−35	−35	−3
Difference	−35	−35	−3
Government Operations:			
Allocation	0	0	0
Current Level	0	0	0
Difference	0	0	0
House Administration:			
Allocation	0	0	0
Current Level	1	1	0
Difference	1	1	0
Judiciary:			
Allocation	0	0	0
Current Level	0	0	0
Difference	0	0	0
Merchant Marine and Fisheries:			
Allocation	0	0	0
Current Level	−1	3	0
Difference	−1	3	0
Natural Resources:			
Allocation	−117	−112	0
Current Level	−74	−78	0
Difference	43	34	0
Post Office and Civil Service:			
Allocation	−66	−66	−77
Current Level	−256	−256	−218
Difference	−190	−190	−141
Public Works and Transportation:			
Allocation	2092	−13	0
Current Level	−78	−13	0
Difference	−2170	0	0
Science, Space, and Technology:			
Allocation	0	0	0
Current Level	0	0	0
Difference	0	0	0
Small Business:			
Allocation	0	0	0
Current Level	0	0	0
Difference	0	0	0
Veterans' Affairs:			
Allocation	−11	−11	70
Current Level	−11	−11	28
Difference	0	0	−42
Ways and Means:			
Allocation	−2876	−2054	−2036
Current Level	−1216	−824	261
Difference	1600	1230	2297
Perm. Select Committee on Intelligence:			
Allocation	0	0	0
Current Level	7	7	7
Difference	7	7	7

NEA=New Entitlement Authority.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1994—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (June 16, 1994)		Current level		Difference	
	BA	0	BA	0	BA	0
Agriculture, Rural Development	14,595	14,205	14,595	14,205	0	0
Commerce, Justice, State	23,470	23,887	22,800	23,217	−670	−670
Defense	240,319	255,151	239,897	255,151	−422	0
District of Columbia	700	698	700	698	0	0
Energy and Water Development	22,017	21,585	21,689	21,585	−328	0
Foreign Operations	13,444	13,878	12,690	13,878	−754	0
Interior	13,736	13,726	13,727	13,726	−9	0
Labor, Health and Human Services, and Education	67,283	68,066	67,189	68,012	−94	−54
Legislative branch	2,270	2,267	2,264	2,262	−6	−5
Military construction	10,066	8,784	9,464	8,759	−602	−25
Transportation	13,284	34,889	12,435	34,878	−849	−11
Treasury-Postal Service	11,469	11,642	11,312	11,639	−157	−3
VA-HUD-independent agencies	68,311	69,979	68,053	69,976	−258	−3
Grand total	500,964	538,757	496,815	537,986	−4149	−771

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1994.
Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1994 in comparison with the appropriate levels for those items contained in the 1994 Concurrent Resolution on the Budget (H. Con. Res. 64), and is current through July 29, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 64)	Current level +/ resolution
Budget authority	1,218,333	1,223,400	−5,067
Outlays	1,216,991	1,218,300	−1,309
Revenues:			
1994	905,429	905,500	−71
1994–1998	5,105,866	5,153,400	−47,534

Since my last report, dated July 13, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT 103D CONGRESS, 2D SESSION HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1994 AS OF CLOSE OF BUSINESS JULY 29, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			905,429
Permanents and other spending legislation [1]	721,126	695,196	
Appropriation legislation	724,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,648	1,216,855	905,429
Enacted this session			
Emergency Disaster Supplemental (P.L. 103–211)	(2,286)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Extending Loan Ineligibility Exemption for Certain Colleges (P.L. 103–235)	5	3	
Foreign Relations Authorization Act (P.L. 103–236)	(2)	(2)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		4	
Airport Improvement Program Temporary Assistance Act (P.L. 103–260)	(65)		
1994 FHA Supplemental (P.L. 103–275)	([5])	(2)	
Total enacted this session	(2,748)	(645)	0
Entitlements and mandatories			
Budget resolution estimates of appropriated entitlements and other mandatory programs not yet enacted) [2]	(5,567)	781	
Total current level [3] [4]	1,218,333	1,216,991	905,429
Total budget resolution	1,223,400	1,218,300	905,500
Amount remaining:			
Under budget resolution	5,067	1,309	71
Over budget resolution			

[1] Includes budget committee estimate of $2.4 billion in outlay savings for FCC spectrum license fees.

[2] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–66 and P.L. 103–140.

[3] In accordance with the Budget Enforcement Act, the total does not include $14,203 million in budget authority and $9,079 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $757 million in budget authority and $291 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount as an emergency requirement.

[4] At the request of committee staff, current level does not include scoring of sec. 601 of P.L. 102–391.

[5] Less than $500 thousand.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

This report is to be used in applying the fiscal year 1995 budget resolution (H. Con. Res. 218), for legislation having spending or revenue effects in fiscal years 1995 through 1999. I am also submitting today a separate report dealing with the current levels of spending and revenues for fiscal year 1994, to be used in applying the fiscal year 1994 budget resolution (H. Con. Res. 64).

COMMITTEE ON THE BUDGET,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 3, 1994.
Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of July 29, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 218, the concurrent resolution on the budget for fiscal year 1995. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1995 because appropriations for those years will not be considered this session.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 218 for fiscal year 1995 and for fiscal years 1995 through 1999. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations are printed in the conference report on H. Con. Res. 218 (H. Rept. 103–490).

The third table compares the current levels of discretionary appropriations for fiscal year 1995 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on June 9, 1994 (H. Rept. 103–539).

The aggregate appropriate levels and allocations reflect the adjustments required by section 25 of H. Con. Res. 218 relating to additional funding for the Internal Revenue Service compliance initiative.

Sincerely,

MARTIN OLAV SABO,
Chairman.

Report to the Speaker From the Committee on the Budget—Status of the Fiscal Year 1995 Congressional Budget Adopted in House Concurrent Resolution 218

REFLECTING ACTION COMPLETED AS OF JULY 29, 1994

(On-budget amounts, in millions of dollars)

	Fiscal year 1995	Fiscal years 1995–1999
Appropriate level (as set by H. Con. Res. 218):		
Budget authority	1,238,705	6,892,705
Outlays	1,217,605	6,767,805
Revenues	977,700	5,415,200
Current Level:		
Budget authority	730,011	NA
Outlays	916,222	NA
Revenues	977,700	5,393,058
Current Level over(+)/under(−) Appropriate Level:		
Budget authority	−508,694	NA
Outlays	−301,383	NA

(On-budget amounts, in millions of dollars)

	Fiscal year 1995	Fiscal years 1995–1999
Revenues	0	−22,142

NA=Not applicable because annual appropriations acts for fiscal years 1996 through 1999 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $508.694 billion in new budget authority for fiscal year 1995 (if not already included in the current level estimate) would cause fiscal year 1995 budget authority to exceed the appropriate level set by House Concurrent Resolution 218.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase fiscal year 1995 outlays by more than $301.383 billion (if not already included in the current level estimate) would cause fiscal year 1995 outlays to exceed the appropriate level set by House Concurrent Resolution 218.

REVENUES

Enactment of any measure producing any net revenue loss in fiscal year 1995 (if not already included in the current level estimate) would cause fiscal year 1995 revenues to fall below the appropriate level set by House Concurrent Resolution 218.

Enactment of any measure producing any net revenue loss for the period fiscal year 1995 through fiscal year 1999 (if not already included in the current level estimate) would cause revenues for that period to fall further below the appropriate level set by House Concurrent Resolution 218.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1995			1995–99		
	BA	Outlays	NEA	BA	Outlays	NEA
HOUSE COMMITTEE						
Agriculture:						
Allocation	0	0	0	0	0	4,861
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	−4,861
Armed Services:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Banking, Finance and Urban Affairs:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
District of Columbia:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Allocation	0	0	309	0	0	5,943
Current Level	0	0	0	0	0	0
Difference	0	0	−309	0	0	−5,943
Energy and Commerce:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Allocation	0	0	0	0	0	0
Current Level	−4	−4	0	2	2	0
Difference	−4	−4	0	2	2	0
Government Operations:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
House Administration:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current Level	2	2	0	10	10	0
Difference	2	2	0	10	10	0
Merchant Marine and Fisheries:						
Allocation	0	0	0	0	0	0
Current Level	0	3	0	0	−2	0
Difference	0	3	0	0	−2	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Post Office and Civil Service:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Allocation	2,161	0	0	64,741	0	0
Current Level	0	0	0	0	0	0
Difference	−2,161	0	0	−64,741	0	0
Science, Space, and Technology:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	0	0	340	0	0	5,743
Current Level	0	0	0	0	0	0
Difference	0	0	340	0	0	−5,743
Ways and Means:						
Allocation	0	0	0	0	0	214
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	−214
Perm. Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1995			1995–99		
	BA	Outlays	NEA	BA	Outlays	NEA
Current Level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

NEA=New entitlement authority.

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1995—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (June 9, 1994)		Current level		Difference	
	BA	0	BA	0	BA	0
Agriculture, Rural Development	13,817	13,945	0	4,197	−13,817	−9,748
Commerce, Justice, State	26,057	24,818	2	6,322	−26,055	−18,496
Defense	243,432	250,515	0	86,480	−243,432	−164,035
District of Columbia	720	722	0	2	−720	−720
Energy & Water Development	20,373	20,853	0	8,801	−20,373	−12,052
Foreign Operations	13,795	13,736	0	8,167	−13,795	−5,569
Interior	13,525	13,943	375	5,063	−13,150	−8,880
Labor, Health and Human Services, & Education	69,978	69,819	1,771	41,702	−68,207	−28,117
Legislative Branch	2,468	2,424	2,367	2,380	−101	−44
Military Construction	8,837	8,554	0	6,345	−8,837	−2,209
Transportation	13,584	36,445	0	24,562	−13,584	−11,883
Treasury-Postal Service	12,049	12,260	0	2,953	−12,049	−9,307
VA-HUD-Independent Agencies	70,418	72,945	813	43,270	−69,605	−29,675
Reserve	2,106		0	0	−2,106	−0
Grand total	511,159	540,979	5,328	240,244	−505,831	−300,735

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1994.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1995 in comparison with the appropriate levels for those items contained in the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218), and is current through July 29, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 218)	Current level +/− resolution
Budget Authority	730,011	1,238,705	−508,694
Outlays	916,222	1,217,605	−301,383
Revenues:			
1995	977,700	977,700	
1995–1999	5,393,058	5,415,200	−22,142

Since my last report, dated July 13, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT 103d CONGRESS, 2d SESSION HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS JULY 29, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			977,700
Permanents and other spending legislation	747,135	705,985	
Appropriation legislation		242,066	
Offsetting receipts	(203,682)	(203,682)	
Total previously enacted	543,453	744,370	977,700
Enacted this session			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	18	(832)	
Federal Workforce Restructuring Act (P.L. 103–226)	443	443	
Offsetting receipts	(269)	(269)	
Foreign Relations Authorization Act (P.L. 103–236)	(4)	(4)	
Marine Mammal Protection Act Amendments (P.L. 103–238)		3	
Independent Counsel Reauthorization Act (P.L. 103–270)	2	2	
Legislative Branch Appropriations (P.L. 103–283)	2,367	2,174	
1994 FHA Supplemental (P.L. 103–275)	(2)	*	
Total enacted this session	2,555	1,518	
Entitlements and mandatories			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	184,003	170,335	
Total Current level [1] [2]	730,011	916,222	977,700
Total Budget Resolution	1,238,705	1,217,605	977,700
Amount remaining:			
Under Budget Resolution	508,694	301,383	
Over Budget Resolution			

[1] In accordance with the Budget Enforcement Act, the outlay total does not include $4,568 million for funding of emergencies that have been designated as such by the President and the Congress, and $252 million for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

[2] At the request of Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

Notes: Numbers in parentheses are negative. Detail may not add due to rounding.

SBA SENDS TAXPAYER MONEY TO PROMOTE MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, I am going to change the subject a little bit from an international issue to a domestic issue which is troubling me and troubling a lot of us from the State of California.

Two years ago I came here as a former small business owner thinking that I could have a real opportunity to help this Nation's small businesses. However, I found out over the last 2 weeks that that is not necessarily true.

Let me tell what happened the last 2 weeks. Several weeks ago I found out that SBA, a Federal agency that is supposed to act as an advocate of small businesses, spent over $100,000 of taxpayers' money to promote employee mandates.

I was shocked that the SBA would do such a thing, especially since small business owners and employees overwhelmingly oppose employer mandates. They are frightened for good reason: Every credible study predicts substantial job losses as a result of the employer mandates.

☐ 1610

So, I decided to offer an amendment which would change this ridiculous situation. My amendment was simple: It would prohibit the SBA from spending taxpayer dollars to promote employer mandates.

The first thing I found out is that my amendment will not be allowed to be offered on the floor unless the Rules Committee approves. The Rules Committee decides which amendments can and cannot be offered on the House floor for debate.

So I went to the Rules Committee to offer my amendment. * * * I thought that this was a simple amendment and that it should not have any problem being accepted.

When I walked into the Rules Committee, I was surprised. I found out something interesting. * * * There are nine Democrats and only four Republicans serving on that Committee. Suddenly, I had a bad feeling about my amendment's chances.

Sure enough, the Democrat-controlled Rules Committee rejected my amendment. Remember, my amendment is simply asking SBA not to spend taxpayers' money to promote employer mandates. It was simply rejected. They said that the SBA bill was not the appropriate place to debate health care issues. * * * Despite the fact that my amendment dealt specifically with the SBA and despite the fact that our own House Parliamentarian ruled that my amendment was perfectly germane.

This ruling was obviously very unfair, so I went to the House floor to try and overturn the Rules Committee's decision.

And you can guess it. I was defeated again. * * * Even though 10 brave Democrats stood up and joined all of the Republicans in voting to overturn this unfair decision, my amendment again was blocked.

Despite this defeat, I was not willing to give up the fight for small businesses. In fact, I found out that I had one last chance to get a vote on my amendment. * * * I decided to offer a so-called motion to recommit, which would have forced the House to debate and vote on my amendment.

Just as I was preparing to offer my motion, the Democratic leadership removed the entire SBA bill—the bill I was trying to amend—off the floor!

Why did they do this? Let me tell you why. Because they did not want to have a vote on my amendment.

They are scared to have a vote on my amendment.

They are terrified that this body might actually pass my amendment and reveal the truth: That the American people don't want employer mandates and being taken over by government. Small business people do not want employer mandates, California people do not want employer mandates because they know that with employer mandates, it is not a question of whether jobs will be lost, * * * it is just a question of how many jobs will be lost.

This is exactly why the American people are so frustrated with Congress. They are frustrated because instead of debating issues openly and honestly, the Democrat leadership of this body delays and hides behind parliamentary rules. The American people are frustrated because instead of telling the truth about employer mandates, the Democratic leadership uses its dominance of the House to force Members to toe the big-government line on health care reform.

The American people should know the Democrat leadership is holding a bill hostage which would provide funding for an entire agency because they do not want to deal with employer mandates, which is my amendment.

Sadly, this is just business as usual in the House of Representatives. I am telling you that this is day two of the truth held hostage.

AVAILABILITY OF HEALTH CARE TO RURAL AMERICANS

The SPEAKER pro tempore (Mr. BECERRA). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, as I have expressed to my colleagues earlier this week, I am gravely concerned about the need for an improved health delivery system as well as for accessible, affordable health care in rural areas.

The problems of the Nation's current health care system are greatly magnified in rural areas. This is where we find high unemployment and underemployment, and where family farmers, small business owners and factory workers continue to struggle to support their families. This is also where there is a lack of health care facilities, and a lack of adequate health care providers.

Currently, in my congressional district in North Carolina there are over 92,000 individuals who are without insurance. Of those uninsured, 75,000—or 81 percent—are in working families. Of this outrageous number, 27,000 are children. This is despicable. This is unacceptable.

I maintain that with guaranteed universal coverage, those 92,000 individuals and their children would enjoy access to health care that I and other Members of this body and our families enjoy; that is, health coverage and the security of knowing if we face an illness we will be able to seek medical guidance and treatment. I believe that all families should have the comfort of knowing that they can provide health assistance for their children.

Considering that such a high number of uninsured are hard-working families—81 percent—I think it is imperative that these families are offered the opportunity for health coverage, and to receive this through their employment is fair. Please know, I understand and appreciate the concerns of the many small businesses who are fearful of the cost in extending coverage to their employees. There must be accommodation to assist businesses in meeting this obligation and opportunity. The current House health bill provides for subsidies to small businesses with under 100 employees.

However, according to a study by the Rural Policy Research Institute on the impact of health care reform, in the long run "the economic viability of most rural non-health businesses will be unchanged" and our rural families will be enhanced.

Another major factor in improving health care in rural areas that should be addressed in the upcoming health care reform debates is rural health care infrastructure. Toward that goal, we need to insure increased funding for our community health centers. These health centers are the only sources of health care for many miles and for thousands of families. We need to insure that networks of health care facilities—regional hospitals, county hospitals, and health centers—can all work together to provide access to quality health care for rural Americans.

We also need to provide incentives for physicians and other medical care providers to locate their practices in rural communities. Working with teaching hospitals and developing programs where medical students can train in rural health facilities, which is a first step in attracting health professionals into rural underserved areas.

Any true health care reform bill must provide these main ingredients if it is going to improve the health care status of rural citizens. It must provide universal coverage, provisions to improve our health care infrastructure, and a means to attract health care providers to underserved areas.

I urge my colleagues as we debate the draft health care reform legislation to remember the rural communities and citizens. Our rural communities have always been the backbone of America, and it is time we recognized the good citizens of these grassroots communities—and, most importantly, all the children—and provide them with quality health care and the access to that care.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, I rise to applaud the resolution of the United Nations which calls for the use of any means necessary to set the people of Haiti free and restore Democratic government in Haiti.

The people of Haiti are being held hostage by a band of military criminals. These same criminals signed an agreement which the United Nations was part of. The Governors Island agreement must be reinforced.

□ 1620

The Governors Island agreement must be enforced by the United Nations, because they were a party to it. Nobody forced Mr. Cedras to sign that agreement. He signed the agreement, and he has reneged on the agreement.

He insists on holding the nation of Haiti as a hostage. We must free the people of Haiti from this band of military thugs.

The United Nations has enunciated a clear principle of the new world order. It ought to be followed in the new world order from now on. If an agreement is made by an international body like the United Nations, it ought to certainly insist that that agreement be lived up to.

Governments elected by the people will be supported by the United Nations. They will not allow criminals in or out of uniform to hijack a nation and take it over because they happen to have all the guns and they are able to do that.

Haiti has been hijacked. Any democratically elected government anywhere in the world should be able to depend on the nations of the world which are legitimate, legitimate governments of the world, not to recognize illegitimate governments, or certainly not to recognize criminal governments taken over by gunpoint.

In this country, negative politics have distorted the facts about Haiti. There are some people who are so concerned with embarrassing the administration on its foreign policy, no matter what it might be, that they are overlooking, confusing, lying, and doing everything necessary to escape the truth of the Haitian situation. The truth of the Haitian situation is that America has always dominated Haiti. From the very point where it received its independence, this Nation has always played a dominating role in determining policy in Haiti.

This Nation trained the army in Haiti. This Nation, until very recently, had the leaders of the military government of Haiti on the payroll of the CIA. We are very much involved in the affairs of Haiti, and to talk about it as if it is somebody else's business, to say that Haiti is not worth one drop of American blood is to distort the facts. We dominate the situation.

Most of the businesses in Haiti that are foreign businesses are American businesses. We have dominated it for long before we invaded Haiti, before we dominated the Haitian situation.

If we want to leave the Haitian situation, take hands off, leave them to their own fate, first we must correct our past errors. First, we remove the army we trained, remove the army we supplied the equipment for, and we supplied supplies, the leaders who were on the payroll of the CIA. They are the problem. We must take care of the problem we created before we do anything else.

The administration and congressional leadership must act on the basis of the facts which they know historically to be true and on current facts which are not known by the general public. The current facts are that 70 percent of the people voted to elect the present leader. The head of the Government of Haiti is here in Washington.

We will not be invading Haiti. The United Nations is not talking about invading Haiti. It is talking about using any means necessary to restore the legal, democratically elected Government of Haiti. In other words, we are going to take back the head of the Haitian Government, and we are going to protect the head of the Haitian government and all the other people who were elected in Haiti. This is our duty.

We are to understand also that only the people who have the facts in leadership can make these kinds of judgments. It should not be done by public opinion polls. When Abraham Lincoln decided to free the slaves, Abraham Lincoln was outvoted by his Cabinet. Every member of the Cabinet said, "No, you should not issue the Emancipation Proclamation." But Abraham Lincoln not only had the facts but he had the vision, and he set America free, began the process of setting America free from the evils of slavery.

When President Truman was called upon to recognize the State of Israel, everybody in his Cabinet said, "No." The public opinion polls said, "No, we should not recognize the State of Israel." President Truman decided to recognize the State of Israel. He set in motion a process by which other nations recognized the State of Israel, and a whole new democracy was born in the Middle East as a result.

We are at that kind of critical point. The President and the leadership of the Nation should show the kind of vision and the kind of understanding of the situation that is shown in these two critical situations.

Let us put the fate of the Haitians back in their own hands. Let us do that by first removing the mad dogs, the war criminals, the people who have hijacked the nation from office, and restoring John Bertrand Aristide, who is the legally, democratically elected President of Haiti, as soon as possible.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 366

Mr. ALLARD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 366.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

HEALTH CARE REVISITED

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Colorado [Mr. ALLARD] is recognized for 30 minutes as the designee of the minority leader.

Mr. ALLARD. Mr. Speaker, on Friday, the Democratic leadership announced its health care plan. Despite all the rhetoric about this plan not being the Clinton plan, the leadership plan is the Clinton plan's next of kin.

Included in this plan is the job-killing employer mandate. Although some of my colleagues on the other side of the aisle would like to believe otherwise, this mandate will cost jobs. It will probably not greatly affect those with high-wage jobs who already have health insurance at their place of employment. But many minimum-wage workers will likely be laid off as their employers cannot offset the cost of health benefits with lower wages.

Some Democrats might think that the subsidies included in the plan will be sufficient to save the low-wage jobs. But they were wrong. These subsidies do not absorb the entire cost of insuring those workers.

Businesses cannot afford to be the vehicles for the Federal Government's social policies. Whether Washington likes it or not, businesses must make a profit in order to continue to exist. And more to the point, we must stop penalizing businesses. It is the businesses, and not the Government that have given the American people the highest standard of living in the world. And it is the businesses, not the Government that will continue to provide for the American people—if we will let them.

Mr. Speaker, the small businesses of this Nation are already doing their fair share. Let us not make them do more than their fair share by imposing upon them these crippling mandates.

And then there is the one-size-fits-all minimum benefits package. This is a diverse Nation which defies being characterized by a single medical benefit package. Mr. Speaker, the American people should be left with the freedom to design their health care as they see fit. Healthy people should be left with the option of selecting only a catastrophic insurance package, leaving them free to spend the rest of their income as they wish rather than forcing them to subsidize the health care of others. Or if we are going to force them to pay for the health care of others, let's at least be honest with them.

Along that same vein is the community rating concept. This requires insurers to charge everyone in a locality the same premiums regardless of age or health. Mr. Speaker, this is nothing but a tax on younger, healthier people. Many of the people who are in this group are now struggling to make ends meet since they lack the experience needed to obtain higher waged jobs. Many of the currently uninsured are in this group. They have made the rational decision that they are healthy enough that they do not need comprehensive medical insurance. Now, we are proposing to force them to pay premiums for comprehensive insurance which they may not need and forcing them to forego future wage increases which they do need.

Mr. Speaker, this is wrong. We should not be telling people how they will allocate their hard earned money.

They know better than we do what their needs are and how best to provide for them. It is amazing to me how little attention community rating has received. By dictating that premiums must be the same for all individuals we penalize the young, and undercut incentives and rewards for remaining healthy.

And finally, included in the Democrat leadership bill is a proposal that can truly be said not to have been in the Clinton health bill—Medicare Part C. Mr. Speaker, it amazes me that Congress would advocate the expansion of an entitlement program which we have proven that we are incapable of controlling. When Medicare was created in 1965, the Government projected that it would cost between $9 billion and $12 billion by 1990. It actually cost $107 billion, and now, only 4 years later, will cost $144 billion. Do we actually want to expand a program that has seen such astronomic growth? This is a recipe for a budgetary disaster.

Mr. Speaker, many in this body have advocated that we move in the direction of the Canadian health care system, and indeed, the leadership bill does permit States to establish Canadian-style single payer systems. Supporters applaud the Canadian system's ability to provide comprehensive health benefits to all of its citizens, entitling rich and poor alike to anything from nutritional counseling to lung transplants. All of this care is delivered to patients with no deductibles, no copayments, and no insurance premiums, but instead is financed through general tax revenues. This plan appears to be a consumer's proverbial free lunch. But a closer look at this system reveals that it would be anything but a free lunch for the American people.

Mr. Quesnelle, a Canadian citizen, paid nothing out-of-pocket for his triple bypass. And yet, he paid in other ways. Among other delays, Mr. Quesnelle had to wait an appalling 3 months for his operation, nearly having a second heart attack as he waited. Another Canadian citizen, Albert Palmer, had to wait 3 months for an operation to improve the blood supply to his feet. "You don't want to wait when you're in pain, but there's no other choice," Mr. Palmer said of his ordeal.

The Canadian Government may boast of providing comprehensive benefits to all, but, in practice, comprehensive benefits mean little if there are no doctors or technologies to provide the care. To curb costs, the Canadian Government restricts the number of specialists who are trained, compelling patients to wait weeks or months for all but the most urgent operations.

A Toronto heart surgeon states that in theory, people who desperately need operations go to the top of the wait list, but, in practice, people die on the waiting lists. The Government limits the purchase of expensive new technologies, often forcing patients to undergo outdated and less effective treatments. The Government permits only a few hospitals to perform many specialized procedures, requiring patients to travel long distances in order to obtain care.

As if the above scenario weren't dire enough, the Canadian system is presently facing a financial crisis. Canadian citizens are demanding ever more care, but are unwilling to pay the higher taxes needed to cover the costs. As the Canadian system is confronted with a flood of new expensive technologies and an aging, sicker population, many experts predict longer waits, increasingly outdated technology, and maybe even overt rationing. Rather than misleading the American people by asking them if they want a system like Canada's which provides universal coverage with no out-of-pocket costs, let's tell them the whole story and then let them choose. Let's ask them if they would be willing to wait 3 months for a triple bypass. Let us ask them if they would be willing to travel long distances in order to get the care they need.

Mr. Speaker, the Clinton health plan and the Clinton-like Democratic leadership bills are both based on a fundamental belief in the ability of Government to solve the problems that face us. It goes against the belief in the individual that this Nation was built on. Let me repeat that. This Nation was built on a distrust in Government and a belief that individuals are capable of providing for their own needs. Therein lies the difference between the Democratic leadership bill which places its trust in the Government and its bureaucracies, and the bipartisan and Republican alternatives which place their faith in the ability of the individual to judge what his health care needs are.

Mr. Speaker, our health care system is in need of reform. But we must not turn our health care system over to the Government. Only a market-based reform plan will give people access to affordable health care while maintaining our present high level of health care.

Mr. Speaker, a lot of political rhetoric has gone into emphasizing the current employer-based health insurance system. The Democratic leadership seems to have failed to understand the fundamental reason why our system is the way it is. The current tax system has given an overwhelming incentive for a employer-based health insurance system since only employer-based health benefits are tax-deductible. The simple solution to this problem would seem to be to extend tax deductions to all health insurance premiums. However, by failing to extend full tax-deductibility for all health insurance premiums, the Democratic leadership has shown its desire to perpetuate the current employer-bases system. Why might this be? Perhaps the current system provides the easiest way to impose a hidden tax to finance this Government takeover of our health care system.

Mr. Speaker, for some reason, the administration and some Members of Congress oppose responsible malpractice reform. This is in spite of the fact that the status quo is one of the major causes of preventable medical inflation. Fear of frivolous lawsuits inspires doctors to perform batteries of unneeded tests just to be on the safe side. The latitude given to juries to decide malpractice awards has caused malpractice insurance premiums to skyrocket. Case study after case study of the health care systems of other countries mention the relative infrequency of medical malpractice suits when compared to the United States.

Mr. Speaker, we need a cap on non-economic damages that will permit victims of true medical negligence to receive their just compensation, but will prohibit juries from granting excessive awards. We also need to require plaintiffs to go through an alternative dispute resolution system before they can go to court. If the plaintiff rejects the decision, chooses to go to court, and fails to receive a higher award, he should pay the defendant's legal fees. These reforms would make plaintiffs think before pressing a malpractice suit, but would leave patients with the right to sue if they have truly been injured by a doctor's carelessness. If the Democratic leadership is serious about controlling costs, these reforms are not an option. Medical costs will continue to spiral out of control until we get a handle on this.

Mr. Speaker, the greatest thing that we could do to regain control of health care costs would be to give medical savings accounts the same tax treatment that employer-based health insurance premiums now enjoy. This would allow patients to pay for their smaller medical bills with funds from their medical savings accounts while having a catastrophic health insurance policy to protect them from financial ruin should they get seriously ill.

Despite the current tax disadvantage of medical savings accounts, companies that offer their employees this alternative have seen much lower employee health costs than companies that do not offer this option. The reason for this is simple. Under the current system, a consumer rarely asks up front how much a medical service will cost him. This is because insurance will pick up about 80 percent of the cost, while the patient will only have to pay about 20 percent out of his own pocket. Since he must directly pay for such a small portion of the cost, he has little reason to forego the procedure. On the other hand, if he decides not to purchase the care, the patient reaps only

20 percent of the benefit for his actions. Other people who have the same insurer will reap the other 80 percent.

Extending full tax-deductibility to medical savings accounts would correct this market distortion and thereby, control costs. Individuals would reap the full benefit and likewise bear the full costs for their actions. In addition, all medical decisions would be left to patients and their doctors rather than to a bunch of bureaucrats.

Opponents of medical savings accounts do not think that individuals are capable of making their own health care decisions. The First Lady has said that under medical savings accounts, many people would save the money and fail to obtain necessary care "unless they are required to be responsible." A Member of this body has been quoted as saying that individuals think they are "invincible" when they are well, but are "absolutely irrational, brain-dead, sniveling, begging and fantasizing ills and pains" when they are sick. According to these policymakers, then, our only remedy is to allow the Government to protect the American people from their own stupidity.

Mr. Speaker, this is a blatant example of the arrogance which seems to pervade the Federal Government. Ordinary people are assumed to be too ignorant to run their own lives, so we, as elected officials, must deign to share our superior wisdom and make their decisions for them. This is the ultimate in what former British Prime Minister Margaret Thatcher has called the nanny state. Mr. Speaker, I think it is safe to say that our Founding Fathers would be thoroughly horrified by this contempt for individuals.

There are several reforms that enjoy widespread support. Workers must be ensured that their health coverage will be portable and that they cannot be denied insurance due to pre-existing conditions. This would stop workers from feeling locked into an undesirable job because of insecurity over health benefits.

In addition, small businesses must be allowed to pool so that they can negotiate better health insurance rates. The key word here is "allowed."

Mr. Speaker, we must not force businesses to pool. If businesses are allowed to pool and they judge that by so doing they will save money, they will decide on their own to pool. They will not need the Government to tell them what to do.

I now turn to what I view as one of the most important aspects of this debate—the budget and tax impact of this massive new entitlement.

It is frightening to consider the massive budget implications of creating another universal entitlement at a time when we have annual deficits in excess of $200 billion.

That is why I set out from the beginning of this debate to ensure that the budget implications of the Clinton proposal are understood. It is critical that any Government-mandated health care plan be completely on-budget with all mandates scored as Federal taxes or receipts, and all related expenditures scored as outlays.

This plan federalizes and socializes the health care of this Nation, and the budget should reflect that fact.

Congressman PENNY and I offered the health care on-budget language as legislation in the House earlier this year where it attracted over 140 cosponsors. I offered the amendment in the House Budget Committee earlier this year. It was approved and included in the budget resolution. It was also included in the Senate budget resolution. Unfortunately, it was removed in conference. When the health reform bill comes to the floor I plan to once again offer the on-budget amendment.

Earlier in the year, the Congressional Budget Office was asked to render a decision regarding the proper budget treatment of the Clinton health plan. The CBO stated that the Clinton plan should be scored completely on-budget. However, the CBO decision was advisory, and Congress must specify in the legislative language of health care reform what the budget treatment will be.

In recent months, it appeared that Congress might be moving away from a plan that included mandates. However, it is now clear that the leadership intends to have the House vote on a plan very close to the Clinton plan. The budget treatment issue therefore remains central.

Strong arguments remain for complete on-budget treatment of the Gephardt plan.

As the original CBO recommendation stated:

> CBO bases this view [that payments to and from the alliances should be on-budget] primarily on its judgment that the Administration's proposal would establish a federal entitlement to health benefits and that the mandatory premiums used to finance the new entitlement would constitute an exercise of sovereign power.

While the mandatory alliances have been replaced with insurance pools, the Gephardt plan clearly establishes a Federal entitlement to health benefits, and relies on the sovereign power of the government to exact mandatory premiums to finance that entitlement.

The Gephardt bill attempts to bring control of the entire health care system of this country under the thumb of the Federal Government. Businesses, alliances, insurance companies, States, and providers would all be acting as agents of the Federal Government. Those agents would be delegated the responsibility of delivering the universal health care entitlement. The CBO's original decision relied on the fact that the Clinton plan used agents to carry out the directives in that plan.

Finally, the 1967 Report of the President's Commission on Budget Concepts, which remains today the only authoritative statement on Federal budgetary accounting, recommends that:

> To work well, the governmental budget process should encompass the full scope of the programs and transactions that are within the Federal sector and not subject to the economic disciplines of the marketplace . . . the budget should, as a general rule, be comprehensive of the full range of Federal activities.

The health plan envisioned under the Gephardt bill would be within the Federal sector, and would not be subject to the disciplines of the marketplace.

I will not let this issue be swept under the rug. The best medicine for America in the health care debate is honesty. Federal mandated premiums are tax increases, and the Federal budget must reflect that fact.

Mandated premiums, lack of choice in plans and in doctors, potential rationing, and the massive budget implications, have all helped to discredit the Clinton plan. In fact, support for the plan has dropped dramatically as the American people have learned more about it.

Despite this, the Democrat leadership intends to try and force-feed us the Clinton Plan. They intend to do this by cutting just enough deals to secure their usual one-vote victory.

The Nation's health care is being drafted in a back room by the Democrat leadership with the help of lobbyists and every special interest under the sun.

Remember last year's one-vote victory for the Clinton tax hike? The victory was assured only through special deals and the President's promises of pork-barrel spending.

A tax bill is one thing, our health care is quite another. We must not turn the health of our children, our parents, our spouses, and all those we care for, over to a back room deal, where lobbyists slip in their favorite provisions only to be discovered months after the legislation has passed.

This is not the way to reform our Nation's health care system. The American people deserve the right to have each of the major bills that Congress will vote on publicly available for at least 2 weeks before there is a vote.

This is a democracy. Decisions in North Korea, Cuba, and China are made by elites in back rooms—that is not how we are supposed to make law in this country, particularly when the law will impact the lives and the health of every American.

Mr. Speaker, it is my hope that we will reject the Clinton-Gephardt proposal. In its place we should approve a bipartisan plan which preserves our market-based system, and makes the incremental reforms that increase access to health care for all Americans without sacrificing our freedom and our values.

□ 1650

CONSIDER CRIME BILL CAREFULLY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11 and June 10, 1994, the gentleman from New Mexico [Mr. SCHIFF] is recognized for 15 minutes as the designee for the minority leader.

Mr. SCHIFF. Mr. Speaker, polls and news reports and information from constituents leave no doubt that the American people believe that the fight against crime is the No. 1 issue facing our country. And I agree.

I believe that the first purpose of government is public safety, and that is for the very simple reason that we cannot solve our other problems, serious as they might be, whether they are addressing the health care system, educational system, or employment, if we are not free to go from our homes to our jobs, if we are not free to send our children to school in safety in fact, if we are not free to be in our homes safely.

Possibly as early as tomorrow, the House of Representatives may consider a conference report on a proposed crime bill, a bill that has been under discussion between the House of Representatives and the other body for at least the last 3 years. It should be stated, and the reason I am taking the floor, is to express reasons why there are reservations about this bill. After all, if public safety is the number one issue, and I believe it is, and properly so, and if we are going to consider a proposed anticrime bill, why would it not just pass without any reservations at all?

That is because in its many hundreds of pages it contains many provisions. It contains a number of provisions with which you and I agree. As a Member of the Committee on the Judiciary, I hope I helped fashion some of them. I think a number of these positive provisions have been emphasized in the media, and time does not permit a reiteration of them here. But I wanted to acknowledge there are provisions in this bill which I think are positive.

Unfortunately, there are provisions which are not positive, which I think in fact are counterproductive. I want to take a few minutes to talk about these.

First of all, I want to talk about some of the spending provisions. I believe in a special order last evening Congressman HENRY HYDE from Illinois went into these in more depth than I am going to now. But the area that I am talking about is the area that is called crime prevention.

Now, we are all in favor of crime prevention. It is difficult to assess, however, what is crime prevention. Clearly the idea behind the spending provisions in the crime bill is that crime prevention is largely the result of lack of economic opportunity.

I personally believe, and this is after a career as a criminal prosecutor before coming to Congress, as well as having been a defense attorney for 2 years, crime is extremely complex, there are no simple reasons or causes. There are no simple solutions. So I am not prepared to say anything does not have a role altogether in crime, and, therefore, in crime prevention.

I would point out that we read day after day in the newspaper, maybe in smaller boxes than some of the more highly publicized cases, of some lawyers stealing from their trust accounts, some physicians fraudulently over billing Medicare, some business people cheating on taxes, some bankers stealing from savings and loans, some real estate representatives fraudulently selling real estate, and so forth.

Of course, these are not the majority of the members of any of these professions. But we see these enough times, and I could go on, of CIA agents selling out their country, so they could have a bigger house and bigger car, law enforcement officers taking bribes. There are enough of these stories to reach the conclusion that having a good education and having a good job does not guarantee that an individual will not also be a criminal.

But what I would point out in the bill is I do not think we have to question how different social programs, economic programs for education, might solve crime, because there are provisions in the crime prevention section that have never had anything to do with crime prevention, even if one does accept that the broad-based social program to help disadvantaged youth will stop crime.

I would just give as one example the Local Partnership Act. The Local Partnership Act would spend $1.8 billion over the next several years.

When this act was introduced into the House of Representatives at the beginning of 1993, it was accompanied by its sponsors putting in a preamble as to why we needed this act. And the preamble was basically that we needed economic stimulus. In other words, we needed to spend money on urban aid for the primary purpose of stimulating the economy and stimulating spending in urban areas. It was, in other words, a House version of the President's economic stimulus package which failed to pass in 1993.

Now, I understand there are reasons behind this kind of proposal, and it is not my purpose to debate them for or against right here and now. What I want to emphasize is this program never had anything to do with crime prevention. It became the Local Partnership Act to prevent crime when it could not pass any other way.

So there is another example of $1.8 billion in the approximately $30 billion in this bill added simply as a spending initiative on the part of the sponsor, a pork barrel program I would submit by its opponents, but which never when introduced mentioned crime prevention at all. But there it is, in the crime prevention section of this bill.

Now, this is significant, because money is not unlimited. We are supposed to gain the money to pay this approximately $30 billion through the savings accrued by the reduction in the number of Federal employees, according to plans outlined by the Vice President.

Now, the question is, and the question has not been answered, are we going to be able to reduce Federal employment enough to raise $30 billion over the next several years as planned? If not, we do not fund any of these programs perhaps, since this bill is an authorization, which means, of course, we say we may spend the money. But we have to get the money to spend to perfect that. And I submit that since we do not know that we will have enough money to fund the propolice and the law enforcement provisions, we should take out those provisions that would filter money and siphon off money to programs that have nothing to do not only with law enforcement, but with crime prevention.

Another provision I would like to bring to the attention of my colleagues is that this bill changes the mandatory minimum laws dealing with certain drug traffickers. In other words, if this bill takes effect, certain individuals who are convicted of drug trafficking are no longer subject to the mandatory minimum provisions of the law in terms of being required to serve time in prison.

The bill even goes further than that. Not only does it take a large group of drug traffickers out of a mandatory minimum provision, it places them over to the sentencing guidelines way of sentencing them. The sponsors decided the sentencing guidelines were too stiff and directed they be reduced. And I believe, I have not seen the final wording, that this provision will be retroactive. And if it is retroactive, thousands of individuals in prison for drug trafficking could be released.

Now, it is interesting, Mr. Speaker, that when I hear the President around the country and the Attorney General around the country making speeches supporting this bill, they never mention that provision. I have yet to hear the President or Attorney General or any other sponsor of this bill say we need this bill so that we can turn drug traffickers loose. If they are proud of this and believe this is an accomplishment, why do they not talk about it? Why do they not publicize it? I think it is because they hope it stays hidden in the bill.

Now, the argument in favor of this provision, obviously, is that these are nonviolent criminals who do not need to be in prison for as long. I submit that anyone who traffics in drugs is not a nonviolent criminal, any more than the driver of the get-away car in an armed robbery is not a nonviolent criminal. Anyone who traffics in narcotics is a willing participant in a very violent enterprise, whether they choose to hold a gun or not.

□ 1700

I would say that there is at least an argument that one size fits all needs to be addressed. In other words, under the present law, all drug traffickers seem to be applied to the same provisions of the law, the big trafficker and the small trafficker. And I could see some reasons for making distinction. But I would keep that distinction within a mandatory minimum prison sentence, because that is our policy on drug traffickers. I would not take it all the way down to outside of mandatory minimums, much less lower the sentencing guidelines on top of it.

Another provision is on prison funding. There is indeed funding proposed here. All funding, again, is subject to the availability of funds from the savings we are expected to get but have not yet gotten, I do not believe, from the realignment of Federal employment. But the prison language is bifurcated. Forty percent of the prison funds would go to those States which encourage truth in sentencing. Meaning, as under the Federal system today, those convicted of crimes need to serve 85 percent of their sentences. The 60 percent, the other 60 percent goes toward those States which have a policy of freeing up space, in other words, letting certain criminals go, called nonviolent criminals, so that they would create space for the more violent criminals. Certainly we want violent criminals incarcerated, but there are many times when nonviolent criminals, so-called, need to be incarcerated.

I personally believe even nonviolent criminals can become violent in a hurry. People come home and surprise a nonviolent burglar. That burglar may become violent in a hurry.

The point is this, it is true people do not want to be robbed at gun point, but they do not want their houses broken into by nonviolent criminals. And they do not want their cars stolen by nonviolent criminals. They do not want their businesses broken into by nonviolent criminals. I do believe that on a case-by-case basis there will be those that are convicted of a crime who, considering all of the circumstances, should be given another chance in society.

I am not saying, and I do not believe, every convicted criminal needs to serve time in prison. I think that those individuals who after going through the whole process have been determined by a court, you should be in prison, they should serve their sentence and they should serve at least 85 percent of that sentence. Because when the service of sentence gets down to well below that, if individuals who get a headline saying—sentenced to 10 years in prison—are out in 4 or 5 years, it not only is a danger to society, it creates an obvious cynicism in the public of the criminal justice system because we are not truthful about what we are saying.

They are sentenced to 10 years in prison. They do not serve 10 years in prison. That is another provision that has not been publicized.

Just one more provision, Mr. Speaker. There are provisions which would fund more police, provisions which would fund more prisons. But you do not get from arrest to prison or any other type of sentence unless there is a conviction in court. The only provision I saw for funding the district attorneys was a provision that talked about community justice programs.

It required the district attorneys who applied for grants under this bill to have a program in coordination with social workers and educators and so forth. Is there anything wrong with district attorneys working with social workers, educators, other people in the community? I certainly hope there is not. But I suspect that, I suggest, rather, that the first duty of the district attorney is to prosecute cases in court and, if they are just cases and if there is evidence to support the charge, to win those cases, to get the conviction. But I did not find a single grant program that funded the district attorneys just to do the main part of their job.

The point is, Mr. Speaker, that I have seen enough problems with this bill that when it comes up, it is my intention to vote against the rule that will bring it to the House floor. In this particular case, at least, we are advised as of this time it will be presented to the House of Representatives upon a rule from the Committee on Rules, a rule of procedure to handle the bill on the House floor and to take care of other legal matters that may be joined with the bill.

I intend to vote no, to send this bill back to the conference committee. I do not want to kill a crime bill. I think the American people need a good crime bill too much. But I think there is enough wrong with this bill, particularly in areas that have not received considerable media attention, that I think we need to send it back to the conference committee and say, We need you to do some more work on this. And hopefully, come up with a better bill, because the way this institution works, it is unlikely we will have any other bill for quite some time.

THE MARINE CORPS

The SPEAKER pro tempore (Mr. BECERRA). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. ROHRABACHER] is recognized for 15 minutes as the designee of the minority leader.

Mr. ROHRABACHER. Mr. Speaker, since the end of the cold war there has been a continuing debate over the size and purpose of our Armed Forces. No one questioned the need for cuts after the Soviet Union's collapse. Rather, the debate has focused what to cut and by how much.

We conducted "bottom-up reviews" and "top-down reviews" and "sideways inside-out reviews." These reviews seem to have produced a defense strategy that is little more than a scaled-back cold war budget. That approach does not cut it, no pun intended.

We do not need to build more submarines or long range missile systems. In the post-cold-war world, America needs to maximize its ability to project power and safeguard itself from the threat of nuclear attack. Long-range transport and bomber aircraft which can operate from U.S. bases should be a priority. We should scrap the ABM treaty and vigorously develop space-bassed antimissile defense systems. We need to maintain our special operations forces and look for ways to improve our intelligence capabilities, especially in the Third World.

Finally, we should insure that we have a strong Navy and a strong Marine Corps which can project power anywhere in the world at any time our Nation's interests are threatened. Mr. Speaker, it is this last piece of the defense equation that I would like to address in detail today.

As I said earlier, reducing defense spending was justified. Totally unjustified, however, has been treatment, budgetary and otherwise, of the U.S. Marine Corps. The Marines are threatened by "death by a thousand cuts," even as their mission has expanded. The rationale for trimming our defense budget has been the demise of the Soviet Union. However, it was never the Marines' mission to confront the Red army. The Marines' job was and is to provide an ever-ready force which can be rapidly deployed and capable of dealing with everything from major hostilities to low-intensity conflict, and from rescue missions to showing the flag. Why, then, are we cutting the Marines' budget?

In the post-cold-war world, the Nation needs a more capable Marine Corps, not a smaller, weaker Corps. As we close overseas bases, the Marines' budget should be increased, not reduced. We need one more Marine brigade, not one less. In an ill-conceived effort to spread reductions evenly among all the services, we are cutting back on the exact forces we need to handle small regional conflicts, the mission which has been elevated by the end of the cold war.

Let us face it, by the time we have to make a decision on who to send to a troublespot, the Marines are already there. Because they are forward deployed on ships, we have to practically go out of our way to use units from the other services in many situations. They just do not have the mobility, flexibility, and most important, the logistics, capability to do what the Marines are organized to do. Since the gulf war the Marines have been called on to deal with some 20 crises. The Marines have been more active over the last 4 years than during most of the cold war.

Five years ago when the Berlin Wall came down, we didn't know what kind of forces we would need to deal with the new global realities. Now we know. We need Marines.

Mr. Speaker, instead of strengthening the corps, we are cutting it back. Since 1990 we have cut 20,000 marines from the active force, and there are rumors of deeper cuts. The Marines' new amphibious ship, the LHD–7, is now in question. It seems the Navy, which has been selling its budget to Congress with their "from the sea" strategy, may now want to delay acquisition of new amphibs for the Marines until the year 2000. That will increase the price of the new ship by over $615 million. The Navy is apparently more interested spending billions to maintain the submarine industrial base, rather than providing the appropriate naval forces our military challenges require. Maybe their new strategy should be called, from the pork barrel instead of from the sea.

Meanwhile, the Marines aren't being given the weapons equipment they need to do their job. The Marines are short 172 tanks. The Army has 1,500 too many tanks. Rather than transfer these extra tanks to the Marines, who need them now, the Army is trying to send these tanks to the Army National Guard. The marines may be landed in a troublespot tomorrow, and the lives of those leathernecks hang in the balance. Do we give tanks to those now on the frontline or send them to people who may, someday, be called up?

And in the event of a major conflict and a callup of the reserves, those tanks will be well used. The Marines are usually the first in, holding ground till reinforcements arrive.

One of the secrets of the Marines success has been the Maritime Preposition Ships [MPS] Program. This forward positioning of weapons and equipment enables the Marines to be the "911" service for our country. After the gulf war, Navy and Marine planners determined that the MPS Program could be maximized with the addition of three MPS ships. The Marines have been battling for the $330 million needed for these ships without much success—$330 million, less than the money we are planning to spend in Rwanda, would not only enable us to project more force, but would also make humanitarian operations more feasible and cost effective.

In 1990, in the middle of Operation Desert Shield, the Marines were called upon to evacuate personnel from our embassy in Mogadishu. Almost immediately, the daring rescue was launched from ships in the Persian Gulf. Covering thousands of miles at night, refueling in flight, the Marine task force, flying in helicopters built before they were born, rescued United States and foreign diplomats just as Somali militiamen came over the walls of the embassy compound.

Two years later, in 1992, the Marines came ashore again in Somalia and the Marines are still in Somalia. Even though the situation is as bad as it has ever been, with technical vehicles and warlords dominating the scene, over 50 Marines remain deployed to Somalia. Their job is to protect the embassy. In an ill-conceived effort to lend credibility to the United Nations effort in Somalia, these 50 Marines are serving without plausible backup from any United States units.

Everyone remembers the Marines taking Kuwait City, but don't forget the humanitarian operations in Bangladesh, months in Liberia, emergency assistance when Mt. Pinatubo erupted in the Philippines, hurricane relief in south Florida and Guam, and policing role during the LA riot.

Today, a battalion of Marines is in Cuba processing Haitian refugees. Other Marine units are in Port Au Prince protecting the embassy, and thousands of Marines were offshore, poised for invasion if needed. Two battalions of Marines are fighting fires in the Northwest United States and other units are off the coasts of Korea and Bosnia. They are in the Indian Ocean and fighting the drug war in Latin America.

☐ 1710

Mr. Speaker, I submit an article by Steven Walsh for the RECORD. It details the heroic efforts made by individual marines today:

[From the Pittsburgh Gazette, July 20, 1994]

MARINES, NOT MAGICIANS

(By Steven L. Walsh)

WASHINGTON.—After being away six months, Marines in the 24th Marine Expeditionary Unit were home only two weeks when they deployed again for Haiti. It is only the latest in a long line of recent crises Marines have responded to, all of which now blur in memory.

Clearly, Marines are America's force-of-choice in an increasingly unstable and uncertain post-Cold War world. But, while the demands grow, Marines are having to meet them with less resources and greater personal sacrifice.

During the Cold War, Marines responded to crises about three to four times a year, depending upon what was counted. Since Desert Storm, they have been called on to meet some 20 crises—about six times annually. The increase reflects a greater reliance on Navy and Marines aboard ships, as overseas bases diminish. To meet such crises, three Marine Expeditionary units—each with 2,000 Marines embarked aboard ships—are routinely deployed throughout the globe. Today, however, the world situation finds five Marine Expenditionary Units on the high seas. These 10,000 Marines afloat as well as 17,500 in Japan are away from their families for six to 12 months at a time.

Marines have made these contributions with a disproportionately small amount of resources. Historically, Marines received 5 percent of the Defense Budget. Seventy-five percent of the Marines budget is devoted to manpower. But, in an era of defense downsizing, Marines find themselves stretched between growing demands on the one hand and declining budgets on the other. Marine pilots now fly helicopters older than they are and badly in need of replacement. Funds used to repair their equipment and facilities are being diverted to pay for unscheduled operations, like Haiti, Somalia and others. Today, Marines number 174,000—20,000 less than 10 years ago.

For the sake of accomplishing the mission—their Holy Grail—Marines have had to do more to compensate for shortages. Fewer Marines means they are away from home more often. In 1993, Marines in the operating forces spent 43 to 45 percent of their time deployed. Before they deployed, they spent 8.6 months out of a 3-year period in the field developing the requisite teamwork and expertise, time also away from families. While working in their home base they averaged a 52-hour work week.

The individual Marine has been the elasticity in this equation. But, if the gap between requirements and resources widens further, a breaking point will be reached. Good Marines and their families will not stay if their separation time goes beyond reasonable expectations and if their quality of life continues to erode. Nor can they successfully meet operational challenges with less than adequate equipment.

While big-ticket defense items gain attention in the Washington area, the less costly aspects of defense often get the most use—such is the case for the Marine Corps. Their primary concern was never a now-defunct Soviet threat on which defense cuts are now based. In addition to participating in all-out war, they also handle those troublesome little crises that are so much a part of the international scene. For Marines, there has been no shortage of crises in today's environment, only a shortage of resources. It is a situation all too familiar to Marines off the coast of Haiti.

Mr. Speaker, the real price of our lack of a coherent foreign policy is being paid by the individual Marine. In another article which appeared in a local paper it was noted that:

> The Marine Corps has no fat left to cut—only muscle. Moreover, it has become commonplace for Marines to repeatedly go in harms way on foreign shores and defray a fair amount of the cost to the taxpayer through personal sacrifice.

Mr. Speaker, I submit this article by Thomas Linn for the RECORD.

[From the Washington Post, June 17, 1994]

HOW LEAN THE MARINES

(By Thomas C. Linn)

Marines in Fighter Squadron 224 flying missions over Bosnia live in tents. They eat in mess halls and watch videos in tents (at

> Aviano Air Base in Italy). Their counterparts in other services live in hotels and dine at restaurants—all at government expense.
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> Marines wouldn't trade places, either. They wear frugality like a badge of honor. It sets them apart, as well as providing taxpayer savings. Unfortunately, however, this distinguishing virtue is beginning to look like the Marine Corps' greatest weakness.
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> The Marines are notorious for being tightfisted. The Corps gets five cents of every defense dollar and provides in return 18 percent of the nation's active ground divisions, 15 percent of its tactical aircraft and 11 percent of its reserve divisions. As Rep. Carl Vinson used to say, Marines give the nation "more fight for the dollar than anybody else."
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> The Marine Corps bargain lies in keeping its overhead as low as possible. It is by no means a top-heavy organization. For every one officer, the Corps has nine enlisted Marines, the lowest ratio of the services. Seventy-two percent of its officers are in the junior grades—lieutenants and captains—while 50 percent of enlisted Marines are privates and lance corporals. Of the 470 military installations in the United States, the Marine Corps maintains only 15 major bases. Without question the Marine Corps is the leanest service.
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> Ironically, a prominent retired Army general has called Marines "an antique luxury" and asserted that "resources devoted to them could be used far more effectively elsewhere." But in fact, the Marine Corps has done a lot over the years with little in the way of resources. Since 1945, Marines have been used in some 200 crises—about four times annually—from disaster relief in Bangladesh to rescuing Americans in Liberia. And in the Vietnam and gulf wars, Marines deployed the largest percentage of their forces of any service.
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> The Marine Corps' frugality, however, may be its greatest vulnerability. Marines cannot help feeling the impact of even modest budget cuts. All too vivid in institutional memory is a Marine Corps left emaciated by indiscriminate cuts following World War II and Vietnam. Now budget cuts are the order of the day, and Marines are taking their "fair share." But treating everyone the same is not equality if they are different as Aristotle once said. Unless its distinction is recognized, an already lean Marine Corps faces the possibility of death by a thousand cuts in the near future.
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> Marines also differ from the rest of defense in one very important respect—their purpose. The Marine Corps' primary focus was never the Soviet threat, the demise of which is the reason for reducing defense. Its congressional mandate is to serve as "a national force-in-readiness * * * capable of suppressing minor international disturbances" * * * and "hold[ing] a full scale aggression at bay while the nation mobilized." The need for such a force has been constant, if not increasing, in American defense, and the Marine Corps meets that need.
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> The Marine Corps has no fat left to cut—only muscle. Moreover, it has become commonplace for Marines to repeatedly go in harm's way on foreign shores and defray a fair amount of the cost to the taxpayer through personal sacrifice. In doing so, they shouldn't have to scrounge for money on the banks of the Potomac. Being good, cheap, and in demand ought to count for something in defense.

Mr. Speaker, sacrifice is the hallmark of the Marines. But today it is going beyond the pale. The Marines are overtasked and underfunded, and individual marines are spending more time separated from their families than they are with them. One married marine who spent only 30 days in the United States last year captured the essence of it when he said, "The United States? It's a decent liberty port, hope I get to come back someday."

The Marines esprit de corps is still strong but we could well end up losing our best people. Throw in all the social experiments that social engineers in the White House dream up, and you can imagine the dismay of our country's courageous defenders.

On shore and off, the Marines have been there. At home and overseas, the Marines have always been on duty and continuously faithful to America. On call 24 hours a day, the Marines are ready whenever Americans lives are at risk, or our strategic interests are threatened.

Mr. Speaker, my father retired after a career as a marine pilot and I know that the Marines are good at what they do. And what they do best is fight for their country and their fellow countrymen. They are asked to be flexible, and they comply. They are asked to deploy on a moment's notice, and they do. How long can we expect a force of 174,000 Marines to do the work of 225,000 on a budget for 135,000.

Honest people have disagreed about how to cut our defense spending. But everyone should understand, by now, that we need to stop whittling away our Marine Corps, and start giving serious consideration to expanding the size and budget of the corps.

Finally, let me salute General Mundy and all the Marines by acknowledging that it is our responsibility in Congress to see to it that when Marines put their lives on the line, that they have the weapons and equipment they need to complete the mission and come home safely to their families. Calvin Coolidge said, "The nation that forgets its defenders will someday itself be forgotten."

We owe it to those dedicated and courageous Marines who put themselves in harm's way for us. They are doing their duty, and they are relying on us to do ours, Semper Fi.

MOST-FAVORED-NATION TRADING STATUS FOR CHINA

The SPEAKER pro tempore (Mr. BECERRA). Under the Speaker's announced policy of February 11 and June 10, 1994, the gentleman from California [Mr. DREIER] is recognized for 5 minutes as the designee of the minority leader.

Mr. DREIER. Mr. Speaker, let me first extend my appreciation to my good friend, the gentlewoman from Connecticut [Ms. DELAURO], and my colleagues who are waiting to take their hour special order. I want to take just a very brief unit of time to respond to a number of statements that have been made here on the floor over the past few days, and frankly, the debate is going to intensify as we begin to address, finally, the issue of most-favored-nation trading status for the People's Republic of China.

Many people have very accurately pointed to the fact that we have seen reprehensible human rights violations, and pictures have been shown and examples have been given of regular abuse of human rights. I'm not here as an apologist at all. In fact, I am here to join in demonstrating my outrage over the human rights violations that have taken place in China.

I am here to say that while there is a great deal of partisanship going on in the Congress today, and saying that Republicans may be responsible for trying to block the crime bill, or the health care bill, there are very important areas of bipartisanship, and we Republicans are providing support to this President when he is right.

He was right when he made the decision that we should renew most-favored-nation trading status for the People's Republic of China. Why? Because it clearly is, and has proven to be, the most effective tool for us to deal with human rights abuses that exist in the People's Republic of China.

The examples which have been shown are horrible, but we have to look at recent history, and we have to juxtapose the situation today to the way it was 25 to 30 years ago.

Not long ago the Washington Post did a series in which it came out that 80 million people were killed 30 years ago during the period of time of the Mao era. It seems to me that we have just now come to the realization that 80 million people have been killed.

Quite frankly, the transition that has occurred over the past several years, as we have opened up China, the largest country in the world, with 1.2 billion people, that kind of reprehensible action could not take place today without the rest of the world knowing it. The fact of the matter is we have seen tremendous improvements in human rights within the past several years.

This summer we marked the fifth anniversary of the Tiananmen Square massacre, and the world was outraged as we saw the tragic developments that took place on June 4, 1989. However, if we take the past 15 years and look at how exposure to Western values and U.S. business investment has improved the plight of the people of China, it is very, very great, and an amazing testimonial to what can be done if we do not close the door, but in fact open the door and open it wider.

In fact, I believe that the most responsible way for us to deal with the human rights situation in the People's Republic of China is for us to do everything that we can to encourage more

United States business and Western investment in China.

□ 1720

That is the way in which we can further develop an improvement in the human rights situation.

Every shred of evidence that we have seen has shown that while the situation is not good and in fact we need desperately to improve it, it has improved over the past several years.

So I simply want, Mr. Speaker, the record to show that the President is right in calling for renewal of most-favored-nation trading status because it is the single most responsible way for us to improve the plight of the people of China who have been victims of human rights violations. I hope very much that this House will see fit to give President Clinton the support that he seeks in renewing MFN.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3474, REGULATORY REFORM ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–659) on the resolution (H. Res. 506) waiving points of order against the conference report to accompany the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3841, INTERSTATE BANKING EFFICIENCY ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–658) on the resolution (H. Res. 505) waiving points of order against the conference report to accompany the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4426, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–657) on the resolution (H. Res. 504) waiving points of order against the conference report to accompany the bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, which was referred to the House Calendar and ordered to be printed.

HEALTH CARE: UNIVERSAL COVERAGE VERSUS INCREMENTAL REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the majority leader.

Ms. DELAURO. Mr. Speaker, I want to say thank you to my colleagues who are joining me this evening for this special order with an opportunity to talk about health care.

As we round the final curve and we head down the health care reform stretch, the homestretch, if you will, there are two reform proposals that are emerging from the pack: The first is health care reform. That includes universal coverage. Simply put, this means that every American—I repeat, every American—would be guaranteed private health insurance that can never be taken away for any reason.

The second is what is being called incremental reform. This model would rely on various insurance reforms. This would mean that we make some changes in some of the insurance policies that exist today. For instance, ending preexisting condition exclusions, ending age discrimination, and making certain that health insurance is postable. These are all very laudable goals, goals which I support and my colleagues support. But this insurance reform only, or incremental reform, does not guarantee coverage to a single American. It does not guarantee coverage to a single American. It does not guarantee coverage to a single American, and that is where the plan falls short.

The claim that insurance reforms alone will achieve the same kind of an end as comprehensive health insurance reform is just plain wrong. A study of both approaches for the Catholic Health Association which analyzed the impact of each approach on middle-class Americans shows the dangers of this incremental, or insurance reform, process only. The study was conducted by Lewin VHI, a respected independent, and I add independent, a nonpartisan health care consulting firm which has authored numerous studies regarding premium costs, insurance pools and managed care.

The study shows that the middle class comes out a winner under universal coverage and a loser under this incremental or insurance reform only proposal. In fact, the average insured American family, those making between $30,000 and $39,999 per year, will see their yearly insurance costs under incremental reform by $344, that portion of the chart that is up here. I repeat. They will see yearly insurance costs increase under incremental reform by $344. Conversely, the same family would see their yearly health insurance costs decrease under a universal coverage plan where everyone is in the pool, everyone is being covered, they would see a decrease of $165.

Moreover, under the incremental model, everybody pays more for health care. In fact, those who make less pay more. This is what the study found. I am not standing here making up these numbers and creating them out of whole cloth. This was a study again by an independent agency. The second chart displays what I am talking about.

Those with incomes between $20,000 and $29,999 would pay $201 more a year for their health care, the red block of the chart here.

Those with incomes between $30,000 and $39,999 would pay $344 more a year for health care as I mentioned before.

Those with incomes between $40,000 and $49,999 would pay $137 more a year for health care. And those with incomes between $50,000 and $74,999 would pay $76 more a year for health care. Those who make less, at this end of the chart, wind up paying more for their health care.

In contrast, this independent study found that under a plan that includes universal coverage, health care costs in fact would be reduced no matter what the income level. That is the blue portion of this chart, the blue blocks. Those with incomes between $20,000 and $29,999 would pay $39 less a year for their health care; those with incomes between $30,000 and $39,999 would pay $165 less a year for their health care; those with incomes between $40,000 and $49,999 would pay $147 less a year for health care; and those with incomes between $50,000 and $74,999 would pay $114 less a year for health care.

Not only would the incremental or just the insurance reform proposal raise costs for working families but it would raise the total cost of the health care system as a whole. The problem with this model is that it enacts insurance reforms but does nothing about containing costs and it does not have any costs controls. In other words, it would open the system up to hundreds of thousands of Americans who are currently denied but contains no mechanism to offset the increased costs. The results would be disastrous for this country.

We take a look at the next chart. It is a vicious, upward spiral of insurance premiums that would ensure should we pass a health care bill that dealt with insurance reforms only.

Insurance reforms extend coverage, as I said, to the sick and older, higher users of health care services. Without universal coverage, everyone in the pool to ensure that low-risk individuals are included in these insurance pools, the average level of risk increases. Higher risk insurance pools result in premium increases for those who are currently insured, thereby causing a number of the healthy individuals who are in these pools and small businesses to drop out because the premiums are going up because we have taken in so many who are at high-risk. Shrinking those insurance pools further increases the level of risk for those who remain in the pool which in turn again escalates the premium costs. Additional premium increases drive out more young and healthy people and small businesses. Once again we have got the high-risk pools, resulting in an increased premium, causing again healthier individuals and those in small businesses to drop out and the cycle goes on and on and on, which we can see displayed in this chart.

□ 1730

By making health insurance available but not required, we can be assured that the only people who will have the incentive to purchase health insurance will be those who are ill and those who are elderly. That means that the pool of healthy young people paying into the system is depleted, and the people participating in the system are only those who are requiring the most expensive care.

The result can only be skyrocketing premiums, as we have tried to point out here. Then who would pay the brunt of these increases? You guessed it: Working, middle-class families who continue to pick up the cost for everyone else who has been put into these pools.

To find an example of how this cycle impacts working families we need only take a look to New York State which has attempted to enact insurance reform without going to universal coverage, again, getting everyone into this pool to be insured. What happened there confirms what the Lewin VHI study found, that the only way to control health care costs is through universal coverage.

According to the New York Insurance Department, when New York instituted insurance reforms that opened its enrollment without universal coverage, premiums soared. Some premiums went up by more than 100 percent. One hundred percent, incredible. Similar insurance reforms on a national level would truly devastate our working families.

The most telling statistic from this Lewin VHI study may be the projected number of uninsured Americans under this incremental or insurance reform only compared to our current system, which is demonstrated in this chart. Current estimates put the uninsured population at around 37.2 million. If we enact insurance reform only without any universal coverage, the number of uninsured only drops to 36.1 million. Even if we coupled with the insurance reform help or discounts or subsidies for working families at a particular wage scale, but do not include universal coverage, the number of uninsured remains high at 22.3 million.

These sad figures really only serve to confirm what President Clinton, what Majority Leader RICHARD GEPHARDT and other leaders in the health care reform debate have been saying all along. Universal coverage is the only way to get everyone covered and control costs at the same time. This is private, guaranteed health insurance for every single American that is affordable and that can never be taken away. It has got to be the foundation of any health care reform that this body passes. Anything less, and quite frankly, we have failed, and we will go back to the current system that we have today.

My view, and I know the view of my colleagues here tonight is let us not fail the 40 million uninsured Americans. Let us not fail the 81 million Americans with preexisting conditions. Let us not fail the millions of Americans who are one accident or one illness away from losing their health care. Let us not fail small business owners who are desperately trying to do the right thing, to cover their employees, even though the deck is stacked against them. Let us not fail our seniors forced to squander there retirement savings on prescription drug coverage. Let us not fail the working families of this country who will be the real victims if we enact soft-boiled reform.

We have an opportunity in this body to pass health care reform that guarantees private health insurance to every single American. The American people deserve nothing less.

I yield to the distinguished gentleman from Illinois [Mr. DURBIN], who is the chairman of the Agriculture Subcommittee of the Committee on Appropriations, to join with us in this conversation tonight.

Mr. DURBIN. Mr. Chairman, let me thank my colleague, the gentlewoman from Connecticut [Ms. DELAURO], for calling this special order. Let me speak for a few moments on the issue which she has raised, which I think is critically important information.

First, as we used to say when I took debate in high school, let us define terms. A Member of Congress recently had a town meeting and a lady held up her hand and said, "I am opposed to universal coverage." The Congressman said, "Why"? She said, "Because, Congressman, we can't afford to take care of the people in the United States, let alone everybody in the world."

Let me assure everyone listening that the universal coverage that we are discussing this evening refers strictly to the United States of America and to make sure that every person and every family has the peace of mind knowing that they have health care insurance.

This debate has been going on for about 2 years. It would be an interesting book for someone to write and to plot the course of it and how it has changed, and to note the difference in approach between the two political parties in discussing universal care. It is almost as if we are reading different sections of the Bible or different sections of moral teaching. Some might say that the poor will always be with us, and Democrats have gotten carried away with this universal health care in the belief that we can somehow give this peace of mind to every American. Some others might take a look at the same book and say wait a minute, if I understood the Sermon on the Mount, we do have a responsibility to everyone, to make sure everybody and every brother and sister has that peace of mind in knowing that they have health insurance.

But it turns out, as the gentlewoman from Connecticut has pointed out, what we are talking about here is not some moralistic debate as to how far our obligations go to our fellow man and woman, but we are talking about dollars and cents, and how to, on the most cost-effective basis, change America's health care system for the better. Myself and many others believe that universal health care is central to health care reform, not just because of some moral obligation, because economically we believe it is essential. I have felt this from the beginning. Now we have a study that has been referred to, the Lewin VHI study to the Catholic Health Association that analyzed this concept and said what if you did only part of this. What if you sat down, Congress, and just tried to take those pieces of the system that appear the most outrageous, and the most unfair, and change those alone. When it is all said and done, are we better off as a Nation or worse off? And you hear the argument yourself I think from time to time. Some of our neighbors will say why do they want to change the whole thing.

□ 1740

Why do they not just take care of the problems? And the problems they are referring to, as have been noted this evening, the fact that we are discriminated against if we have preexisting conditions. If you have had a back surgery, a heart problem, diabetes, cancer in your family, a child born to your family that has a difficulty, all of a sudden the insurance companies say, "We may not want you." Your employer says, "You have become a big risk for us." That preexisting-condition exclusion worries every one of us.

Each one of us is only an illness away from falling in that category, and 81 million Americans, a third of our population, are already there, already being discriminated against.

So some of the folks who just want to do a little tinkering here and there say, "Get rid of that preexisting-condition exclusion and you have done something good, Congress, and you can go home." What this study shows, and shows clearly, is that if you just do that and you do not address the underlying difficulty of getting every American insured, you create more problems than you solve, and that is the bottom line.

The bottom line here is if people can wait until they get sick to buy insurance, enough healthy people will not be in the insurance pools to keep the premiums at a reasonable level.

What the gentlewoman from Connecticut has said this evening in her special order and what has been said by the study is that if you take a look at really addressing health care reform, really bringing down costs and helping working families who are going to bear the brunt of paying these health insurance premiums, you have got to bring everybody in the tent. You have got to make sure every American has the peace of mind and assurance of health care protection. Then you can address the reforms. Then you can spread the risk.

Mr. MILLER of California. Mr. Speaker, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from California.

Mr. MILLER of California. I just want to follow up on the gentleman's point.

As I understand it, even if you do the insurance reforms that you outlined that almost all of our constituents support now, even many of the insurance companies have supported, because there are such outrageous exclusions of American families, even if you do that, you still have the problem that you have not done anything about making that insurance affordable or providing that coverage to those individuals.

So the person who is working in one company today and that person is laid off or the job is terminated or they go to another employer on their own volition, if that employer is in fact not offering insurance, all you have is that you have the right to buy it, but not the question of whether or not you can afford it, and if you are a low-income person and your employer, under the proposals, some of the proposals, we have seen in the Senate and elsewhere, if your employer does not offer it, does not offer to help you with it, then you have no ability to get that insurance.

So universal coverage is the key also for having access to that system after we reform it. Is that not correct?

Mr. DURBIN. Absolutely. And the failure to include universal coverage means many of these reforms are going to backfire. Most of all, they backfire on working families. I think that is what the gentlewoman from Connecticut demonstrated in her charts. Working families pay more unless you take a look at the big picture. I think that is the critical point that is to be made.

Mr. MILLER of California. The simple notion that insurance companies would no longer be allowed to prevent you from having insurance is sort of like going and getting fire insurance after your house is on fire. You are now sick. You were not able to or you were not responsible enough to provide for your insurance; now you are sick; now you can go and say, "You must insure me," and those of us who have been paying for insurance over the years now have to pick up the cost of your irresponsibility because you have not contributed anything to the pot.

Mr. DURBIN. Absolutely.

In the State of New York, they tried to do it with insurance reform. They basically said, "We are going to do away with preexisting conditions." What happened, or course, is a lot of people who had been out of the insurance pools were brought in. The insurance premiums went up, and as a result of those premiums going up, a lot of younger people who were healthy with low premiums said, "Hold the phone. I cannot afford to pay these premiums." They dropped out. The families that were left in had higher premiums.

You just do the reform without the overall, take a look at universal coverage, I think you lose the picture of what the ultimate goal is.

Let me conclude by saying this: My point of view is this, it is not a question between the bleeding-heart liberals and the styptic-hearted conservatives. It goes down to basic economics. If you do not provide universal coverage and bring everybody in to share the risk, tinkering at the edges can make things worse than they are today.

If Congress has any responsibility to the people, the millions who send us here to represent them, it is to do more than to put out a press release, pat ourselves on the back, and go home. We have got to face the most fundamental challenge here to bring as many Americans as possible, moving us toward the universal coverage, under the tent, under that protection, and make sure that working families do not end up, because of some incremental reform, holding the bag.

I thank the gentlewoman for this special order, because I think this is a critical point to be brought up in the closing weeks of this debate.

Ms. DELAURO. I thank the gentleman from Illinois and my colleague, the gentleman from California, first, the gentleman from Illinois for defining the issue of universal care, and second, the whole issue of preexisting condition.

I am a survivor of cancer. I have a preexisting condition. If I did not have insurance and did not have it now, but was let into a pool that would then cover me, yes, in fact, if we only did that reform, others would pay for the high risk of my illness. That is not right. That is unfair. Everybody needs to be in so it is a shared cost, which is what this system was meant to be all along. So I thank you for talking about those two issues.

Mr. Speaker, I yield to the gentlewoman from Utah [Ms. SHEPHERD] who is here to participate with us this evening.

Ms. SHEPHERD. I thank the gentlewoman for yielding, and to my colleagues who have come before and explained so well why it is utterly and absolutely essential that every single American be covered in order for all of us to feel the security that we can be taken care of when we are sick, and that is a very basic need that we all have. It is as essential as having a roof over your head.

If you are a mother, you need to know you can take your child to the doctor when the child is sick. If you are a child, you need to know that when your parents are sick and they need help, you can afford to get them that help.

I am here really to talk about what universal coverage means to ordinary people who are citizens of America, who are watching this debate.

For 2 years now, special-interest groups have been working to prevent the passage of health care reform. They have been spending a fortune on television, scaring people to death, making them believe that if we reform health care they will lose, when the truth is the American people will gain. But the special interests will lose, and in this 11th hour of the health care debate, I am here to urge the Members of the House of Representatives to listen to the people, to their constituents, and not to special interests.

It has been hard to hear, because the noise has been so loud about who is really talking, and I finally, wringing my hands not knowing how I could hear what people wanted, made a program for myself where I got on a plane every single solitary weekend, went home, and every single Saturday got out and knocked on doors, door to door, 3 hours every Saturday this whole year, and I ask my constituents what they wanted. I was there to listen, not to tell them what it should be.

The answer is absolutely clear to me. The constituents that come from the Second District in Salt Lake County, UT, want every American to have health care coverage, because they understand that that is the basic idea of shared risk, and that is the basic idea of insurance, and they know that if some people do not have it and they get sick, and that other people have to pay for it. And so they say they are willing to do their part if everyone else is willing to do their part as well.

I would like to say to the Members of the House of Representatives that my constituents, and I believe theirs, are willing to do their fair share, and this is not the time to pander to Washington-based special interest groups, but it is the time for us to listen to our constituents. They understand that real health care reform guarantees health care coverage for everyone. They understand that if they now have insurance, they are paying for people who do not through cost shifts.

They want us to address their problems responsibly. They do not want us to run and cower and shrink from making these tough decisions, because they know what we decide today is going to affect their lives tomorrow.

Furthermore, they know, because they read the newspapers and they watch television, that incremental reform does not work.

As my colleagues have already so credibly explained and with charts and with graphs and with data, we know what works. But if that is not enough, we can just look at the case of New York State. New York State has tried incremental reform. They did basic simple insurance reform.

□ 1750

And all they have gotten for their trouble is higher premiums for those people who have it and more people falling off insurance because they cannot afford it, and more and more debilitated families because they are being devastated by health care costs that they cannot afford and for which they are not covered.

This Congress must not bow to the special interests' call that we ignore the will of our constituents. We must work together to provide our constituents with the security of reliable health care coverage.

That is what we were sent here to do, and now is the time for us to get that job done.

Mr. Speaker, I thank the gentlewoman from Connecticut [Ms. DELAURO], for giving me this opportunity to join in her special order.

Ms. DELAURO. I thank the gentlewoman for her comments.

There are just a few points here. I think the New York experience is really quite extraordinary. The premiums went up 100 percent, and that is incredible. We have data that tells us that this is not going to work and we have examples around the country where this is not working. If we want to apply this to the entire country, we are in for just some devastating effects.

I also mention, the gentlewoman talked about the amount of money that the interest groups are using in order to really defeat health care or not make health care move forward or not change what we are doing and not change the system. I read that it is calculated that about $50 million has been spent against health care reform, the largest expenditure of funds against any piece of legislation that has ever come before this body, before the Congress; $50 million to defeat health care.

Now, that tells you something about the kind of money that is involved in this effort, and we should not be really following the special interests on this but following the dictates of the people, as the gentlewoman pointed out.

Ms. SHEPHERD. It also tells us something about how much these special interests have to spend and how much they believe they will lose if we pass health care reform.

We are trying to get more care to people, not more money to special interests. They have the reverse desire.

Ms. DELAURO. Amen.

Again, I thank the gentlewoman from Utah [Ms. SHEPHERD].

Mr. Speaker, I yield to the gentleman from Florida [Mr. JOHNSTON]. The gentleman from Florida has spoken on, talked about, has his own legislation early on in health care, and as someone who has been leading the way in health care reform.

I thank the gentleman from joining us this evening.

Mr. JOHNSTON of Florida. Mr. Speaker, I thank the gentlewoman from Connecticut and I appreciate the opportunity to speak on health care.

Before coming to the Chamber, I had a conversation with one of my constituents from Palm Beach, FL, Mr. Feder, who is probably in his late seventies or early eighties. The only disagreement I have with the gentlewoman from Utah [Mr. SHEPHERD] and also the gentleman from Illinois [Mr. DURBIN] is that this debate has not started in the last 2 years, this debate has been going on for 60 years.

Mr. Feder pointed out some of the rhetoric that was used back in 1935 when Social Security was passed and in 1965 when Medicare was passed; same rhetoric today.

If you go back in the CONGRESSIONAL RECORDS of 1935 and 1965 when the prophets of doom and gloom got up and said that this is going to bankrupt the country, they are saying today that it is going to bankrupt the country, that this is socialized medicine. Well, it is not, it is not.

Mr. Feder and I were talking about what a historic time it is to be in Congress and what a historic vote it is going to be. In this century we could probably bring it down to five votes: the declaration of war in 1917, the institution of Social Security in 1935, the declaration of war in 1941 in this Chamber, and Medicare, the fourth, and the fifth vote being this monumental vote dealing with universal health care.

I am Harry, I am not the Harry of "Louise and Harry." I want to assure you that. Do not, do not get caught up in the rhetoric of Louise and Harry. They are doom and gloom if there ever was one.

I want to point out that what we are trying to do is to give to the American public, we in Congress, the same thing the American public have given to us in our health care. It is really simple. It is not complex at all. Yet they would make you think this is as big as a Sears, Roebuck catalog, the health care. It is not.

It has become more so in the last several days with the new bill being presented by the gentleman from Missouri, our majority leader, RICHARD GEPHARDT. We are cutting out a tremendous amount of bureaucracy. As the gentlewoman from Connecticut said and the gentlewoman from Utah, the costs involved in the delivery of health care in this country, $1 out of every $4 goes to administration. Talking about $250 billion; we are cutting that down substantially.

We are encouraging, under this bill, in cost prevention, now, preventive medicine, something that you never had before. For every dollar we spend in prenatal care, we save $3 from that.

In my hometown, in St. Mary's Hospital, there is a prenatal clinic that costs $1,500 to $2,500 per day to have a premature baby in that clinic.

In France, when a woman goes in for her fourth prenatal checkup, they give her $1,000. True story. Why? Because she saves that much in having prenatal care, from what it would be.

The other thing is by having universal health care, we are going to cut out the cost shifting that goes on. Any of you who have ever been to a hospital recently and read that hospital bill, that is the greatest piece of fiction since "War and Peace." It really is.

We are going to cut out the $10 and $12 aspirin there. We were looking at, the other night, the incremental plans, probably talking about the Dole plan—and I remind you, Senator DOLE in 1965 voted against Medicare. That is a matter of record.

Now, the Congressman from Connecticut has gone through this very carefully and delineated that. Now let me bring it down to a local level.

In Florida we have 2.6 million people who are uninsured, 591,000 children are involved there. In my district, in Palm Beach, and I will repeat that, Palm Beach in Broward County, a very affluent area, we have 88,000 people who have no coverage whatsoever, 17,000 of those are children.

Donna Shalala talked to us the other day, I say to the gentlewoman from Connecticut, and she will recall that Donna Shalala said if we have national health coverage in this country, approximately 1 million will come off the welfare rolls. Why? Because a woman, a single parent, woman or man, who has a child, who has an earache or a broken arm or something like that, literally cannot afford to go to work and lose her Medicaid benefits. If she does and it does not have health care benefits, she will literally go into bankruptcy.

Let me briefly talk about the fiscal responsibility. This is a conservative bill, I might point out. When we passed this bill, when I got involved in health care 5 years ago, we were spending $500 billion a year in the delivery of health care in this country. Today we are spending $1 trillion. By the year 2000 we will spend $1,650,000,000,000. It is bleeding us to death.

We are spending 14 percent of our gross national product and by the year 2000 we will be spending 18 percent of our GNP. Medicare goes up, it doubles, Medicaid goes up, it doubles.

Employers, we are talking about employer mandates, their employees. By the year 2000 they will pay $303 billion. It will almost double there.

Families today are spending 13 percent of their income, by the year 2000 they will be spending 18.5 percent of their income just to be covered.

Let me close by telling you what is going to happen to the Medicare recipients. Medicare recipients, everyone thinks they are getting a free ride in this country. Well, their premiums are, in large part, based on what the costs are. They are going to be paying one-fourth of the premium cost for part of their Medicare. That is going up at 10 percent a year while the Social Security COLA's are going up only 2 percent or 3 percent a year. We are trying to get that under control to make sure that Medicare costs are even with that, with cost of inflation.

Finally, we are trying to increase in the Medicare benefits prescription drugs that the gentlewoman from Connecticut said, and home health care, which is the start, and a good start, for long-term care.

I appreciate the opportunity to be here because of the importance to my district in Florida and also to the Members and the constituents in the entire State. I thank the gentlewoman.

□ 1800

Ms. DELAURO. I thank the gentleman.

I just want to mention to my colleague, or even ask my colleague:

There has been so much misinformation that has been sent to seniors in particular, and I know that the gentleman represents a large number of our older Americans, and I would ask him if that is what he is hearing from some of his constituents who are older Americans. They are getting bombarded through the mail, through phone calls, with all kinds of misinformation about how they are going to be hurt by health care reform.

Mr. JOHNSTON of Florida. The distortion of what we are trying to do here is obscene and immoral. It really is, because it is just the reverse.

As I said, we are trying to get the American public what we have, and the senior citizen, we are trying to protect them, and prescription drugs, and their costs are going up twice of their premiums on Medicare than what they are getting. Their COLA's are wiped out before they even get the second COLA or the fourth COLA, so the gentlewoman is absolutely right, and I am asking them to stick with us and make sure they look at what we are trying to do before they make a judgment that we are doing wrong, because we are not. The same rhetoric in 1965 when they got their Medicare; same rhetoric in 1935 when they got the Social Security.

Ms. DELAURO. Mr. Speaker, I thank the gentleman.

Just one other point, which is the welfare reform point, and what we want to do in this body, the President wants to do, a number of us want to, reform welfare which needs to be reformed, and we talk about having people go out and get a job, and we need to reward work. That is what welfare needs to be about. It has not been about that.

On the other hand, as the gentleman pointed out, if we mandated someone to go get a job, and we said: "You got to do it," and they go, and there is no health care benefits to take advantage of; when we think about the systems that we have created, oftentimes we think that they are in two different arenas, that they do not meld with each other. But, if we say to someone they need to get a job, and they go for a job, and now they get 100 percent of their health care covered, and they go to that job, and they do not have health care, where is the incentive? What have we done to make these two systems work together effectively so someone can work, get rewarded for that work, participate in paying for health care, as everyone should do in this country? It should not be a free ride for anyone.

Mr. JOHNSTON of Florida. The gentlewoman from Connecticut is absolutely right. Welfare reform will never work unless we have universal coverage.

I mean the statistics show that. People on welfare want to go back to work. But they cannot do it at the jeopardy of their family and their children and lose all their health benefits. Give them universal coverage, and, as I say, we will take a million people off of the welfare rolls tomorrow.

Ms. DELAURO. Amen. I thank the gentleman, and we know he is not the Harry of Harry and Louise.

I would now like to recognize my colleague, the gentlewoman from California [Ms. ESHOO] who has been just an indefatigable participant in the health care debate in trying to get health care passed in this body.

Ms. ESHOO. Mr. Speaker, I would like to thank the gentlewoman from Connecticut [Ms. DELAURO] who has been a great leader on this issue.

Many evenings when I am working late in the office, Mr. Speaker, I still have my TV on, and who is on but the gentlewoman from Connecticut [Ms. DELAURO] being instructive and enlightening, obviously not only to her own constituents, but really to all of our constituents, and I thank her for that. This is so important, Mr. Speaker, to be educational this evening, and that is why I welcome it.

Our colleague, the gentlewoman from Utah [Ms. SHEPHERD] spoke about the unprecedented amount of dollars, the most amount of dollars in the history of this Nation, that have been spent lobbying against providing health reform and universal coverage for every single American. That is a statement in and of itself, and so, even though we are up against costly special interests, I think that we need to educate and talk more about this idea that we want to make real of universal coverage.

What does it mean? Very often my constituents have said, "If you bring everyone in, isn't it going to cost more?" It is almost counterintuitive, and yet we know, and the gentlewoman from Connecticut has done a superb job this evening with her charts, and graphs, and the quotes from the various studies about what universality will bring to every American.

Some of our, perhaps, well-meaning colleagues are advocating what they call incremental health care reforms; in other words, small steps, baby steps, that then add up to something much farther down the road where they would reform the insurance market without having everyone participating in actually having health care coverage. Now an incremental or a small step approach may sound like a good idea, but in my view, and in many other professional views, make no mistake about it. It would be bad public policy. The supporters of this incremental approach want us to believe and the American people to believe that incremental means careful, that it means thoughtful, that it means cautious policy making, but in fact, when we take the veil away, when we remove the veil of this word "incremental" in not bringing everyone in under the tent, as the gentleman from Illinois [Mr. DURBIN] said earlier, we find, and look at the findings of a recent study by Lewin-VHI, which is the largest nonpartisan—so for those who think we are making a partisan pitch here tonight, this is the largest nonpartisan health care research organization in our country, and the States that have implemented incremental reform, it becomes absolutely clear that this so-called reform is something that is half baked. It is incomplete policy making.

Mr. Speaker, that is really what the report uncovers, and most important, it hurts the very people we are trying to help, and that is working, middle class Americans that either do not have health coverage now, and imagine working, paying taxes, playing by the rules and not having this. If I have it, and it works for me and my family, I ask, "Why shouldn't the families in my district have it?"

Incidentally, I have a district, I represent a district, that many regard as extraordinarily wealthy, and there are many people in my district that are indeed wealthy and very blessed, but I also have and represent 88,000 working families, working families, not welfare recipients, but working families that do not have coverage at all today. They either cannot afford to buy it, or they have been knocked out of the market by these preexisting conditions.

Mr. MILLER of California. Mr. Speaker, if the gentlewoman would yield on that point, I was reviewing the figures for my congressional district across the bay in the San Francisco Bay area from the gentlewoman's district, and I think the figures for my district were essentially the same, that there were about 85 percent of the families that did not have health care coverage insurance with members of working people—where people were working in the family, and I think about 20 percent of the uncovered individuals were children, and so what the gentlewoman is saying, even in her district, which I believe probably has a higher income per household than my district, that she has the same kind of situation where we have a substantial number of people in the district, tens of thousands of people in the district, that do not have that kind of coverage even though they are living in a household where somebody is working.

Ms. ESHOO. I think what has become confused in the health care debate, and we have had a healthy one; anyone that says we need more time has not tuned into all the things that are going on in this country, including the Congress, but there are 13,000 children that are part of these families that have no health care coverage whatsoever.

Again I think that there has been a confusion when we say people without health care coverage. Some might assume that we are only referring to the poor——

Mr. MILLER of California. Mr. Speaker, if the gentlewoman would yield——

Ms. ESHOO. Not that they should not be covered, and we want to bring them in and have them be part of all of this as well——

Mr. MILLER of California. If the gentlewoman would yield, I see our colleague from West Virginia [Mr. WISE] on the floor who has raised this issue around employers, and small employers, and people providing and not providing health care coverage, and so what the situation is according to the Treasury Department, we have people in our district who are working every day, get up every morning, go to work, perform their functions, participate in the American economic system, except when they come home at night and they are all done with what they have provided their employer they do not have coverage.

☐ 1810

So a person could work in my district, go to Pizza Hut, and they can work around hot ovens and wait on tables and clean up after people and provide the wherewithal for that Pizza Hut to make money, to make a profit as that company does, and yet they do not have it. And the person can go to work next door in a competing pizza parlor, and if that employer is responsible enough, that person can have coverage.

So this is just the luck of the draw, apparently. Because we represent suburban districts where it is tough in the California economy, but essentially most people in our districts go to work every day, and yet they find themselves without coverage, simply through the luck of the draw of the job they went to.

Mr. WISE. If the gentlewoman would yield, you are correct, and we will be talking about the employer mandate parts, shared responsibility, tomorrow. McDonald's, for instance, no insurance. Management personnel, yes. The folks that stand on their feet 8 to 10 hours a day, do what society is asked, do not earn welfare, earn minimum wage or slightly better, serve the burgers, pizza, tacos, whatever, no insurance.

The irony to that situation is it is bad business and economics. When they get their medical care, they will get it from the hospital at four times the cost, and we all as taxpayers will pay for it. So it is bad for the taxpayer, it is bad for the consumer. We save nothing by a lower price on a burger to the extent there would be an increase.

Incidentally, the price of health care to most pizza parlors would be about the price of two or three extra pepperonis on the pizza. We save nothing as a consumer or a business person doing it that way.

Mr. FARR of California. If the gentlewoman would yield, the Department of Treasury indicated in the district that I represent in California, which is typical of a lot of agricultural areas, rural areas, as well as a tourist economy, where you have a lot of small mom and pop businesses, we have 158,000 people that are uninsured. Now, that is about 20 percent of the entire region. That is almost what it is across this Nation. These are people that are not on the dole. They are working, 20 percent of them, or 80 percent of them, are working people without insurance.

So what happens is, as was indicated here, that these people are in business where the competitor, who is providing insurance for their employees, is at an unequal level, unequal playing field. Indeed, I think when we talk about universal coverage, we talk about coverage for everyone.

Mr. MILLER of California. What the gentleman is pointing out here is if you really want to look at one of the more effective groups that has been lobbying the Congress against universal coverage, against mandates, for some piecemeal, haphazard approach to insurance, it is really a group of employers who decided that they will, in an irresponsible fashion, not provide insurance to their employees, even though their competitor in the plumbing business, or in the tire changing business, or in the retail business, even though that individual, small business person, is providing insurance, they decided they simply will not do it. They simply will have people show up to cook their pizzas or sell retail goods or repair the appliances, and will simply not provide them with insurance.

These people now have a national campaign to try and convince America that universal coverage is bad for America.

What I do not understand is the place where we have universal coverage is among the elderly, and the elderly love it. You get coverage simply by the fact that you are 62 years old and under Social Security. And my mother, because of universal coverage, is able to go out when she is ill and choose her doctor, go to the doctor, the doctor can tell her if she needs to go to the hospital or have a test. She can do that, and it is taken care of.

Who are these people who are trying to deny universal coverage to America when the largest class of people in the country, the elderly, have it, love it, would not give it up, and would throw all of us out of office if we tried to take it away? I don't understand this lobbying group that is being given such credibility.

Ms. DELAURO. The most incredible thing is that in fact it is a mandate on everyone else to pick up the tab for those who do not want to exercise responsibility and make it available. They are not going to pick up the entire tab. It is to allow there to be shared responsibility between employer and employee. Nobody is saying they are going to do the entire thing.

Mr. MILLER of California. I think the gentlewoman is exactly right. This group that is lobbying us has decided that everybody else shall have to pay, and if they really get sick or their employees, they can go to the emergency room, the most expensive way to get medical care, and everybody else in society will pay, and won't, and they will pocket the differential.

This is like the group of uninsured motorists lobbying America for their right not to have automobile insurance. In California a lot of people don't have automobile insurance, and people are upset because they are getting into wrecks with people without automobile insurance, and then they have to take it out of their insurance.

What gives people the right to go around without insurance and, when you bump into them, they say, oh, you pay? This is the equivalency of an irresponsible motorist saying I am going to drive without insurance. If something happens, I will go to the county hospital, I will go to the emergency facility, and you will have to pay for your damaged car, for your medical care. I will go on my way. This is a group of small businessmen that the Congress is going to look up to and listen to when they lobby? It doesn't make any sense?

Mr. FARR of California. Let me tell you another incident that happened in a town hall meeting, where a young woman came in with her two young children and indicated she was on welfare and would like to get off. Her youngest daughter has serious medical problems and has to be treated every week. She indicated to everybody in the room if she took the job offer, her young daughter wouldn't be able to get the medical insurance, and therefore she was in a dilemma as a parent. Does she provide for the one child by going to work and having a better income, and at the same time let the sick child suffer? She presented the dilemma to the audience. She said I am in a dilemma because of health care costs that I have to decide which child I want to give up. Nowhere in America should we have anyone faced with that kind of a problem.

Mr. WISE. Last weekend I stopped at a fast food restaurant where I am sure the employees were not covered by insurance, it is a national franchise, and there on the counter top was a glass jar with a 13 year old's picture saying I have to have dialysis. This is what I need to save my life. Thank you for any support you can give.

I checked with a Medicaid official, and it is the same situation. If that girl's parents are working, the chances are they are above the income level that qualifies for Medicaid, unless they spend down, unless they lose enough of their assets so that they then can qualify and trigger in. It is very likely they don't have insurance, so they are caught in this nether world that the gentleman so aptly describes. That is one of the things that universal coverage is all about.

Ms. ESHOO. I would like to get back to what this Greek chorus that is chanting funereal sounds on the side of the stage, saying America's roof will fall in if in fact we have everyone under the tent. We are the United States of America, first of all, and we are so proud of that, and we salute the flag and say the United States of America, except for, and then fill in the blanks.

The Lewin-VHI study that we have all quoted from this evening shows if we were to take this incremental reform that some espouse, it would force working families that make between $20,000 and $75,000 a year, which represents 60 percent of the families in our country, to spend more on health care. So as they keep saying that this is going to cost so much, just as those voices from the distant past when Social Security was debated, when Medicare was debated, they said the same old thing then, and they say that they are fiscal conservatives and that they are guarding the purse of the American people, they are not doing a darn thing for working middle class families. They are going to force them, by this incremental reform that they keep chanting about, into spending more for their premiums. And the study, this nonpartisan study, proves that out in its figures.

So as we are seeking to continue to educate, both our constituents, frankly I think my constituents are the best educators in the world, because they keep stating over and over again what they want and how they think it should be done, and I really believe that the majority leader's bill that is emerging now really reflects what working families with the decent backbone in this country have stated over and over again they want. And it is not incremental. We know that that is going to cost more and do less. A universal approach where everyone is in, and, as I said earlier, to some seems counterintuitive, as you bring more in, some say it is going to cost more. No.

□ 1820

Just ask any major corporation in this country what they have been able to do by having more in their pool. Do you know what they have? They have market muscle. They can then go to the providers and say, we have 5,000 people here that we want to insure. Do you know what they get? They get lower costs because they have got the market muscle.

If a 5,000 group can do it, look what we could do with everyone being brought into and under this tent with what we keep saying is universal coverage.

Mr. MILLER of California. I think the whole point of universal coverage is built on the principles that we know is insurance in this country and basically throughout the rest of the world. That is that we are going to share the risk and that some of us are going to be healthier than others. Some of us are wealthier than others. Some of us will have a lot of children and some of us few children. Some of those children will grow to thrive and some will not. But we will pool the risk as a society.

It is what bonds us together. It is what bonds us together as a nation, that we are prepared to share this risk, to drive down the costs so that most people can participate in this and when, unfortunatley, they need it, it will be there for them at that moment of need instead of walking around without the coverage and then throwing themselves onto either the public rolls, the taxpayers, or unreimbursed costs.

Ms. DELAURO. I would like to thank my colleagues for joining tonight. We will spend many more hours on this floor in the pursuit of this issue.

I went to speak today at the Health Security Express, those folks who have come cross-country fighting every single day and talking about health care, making it real for people.

As I left that hall today, a woman in a wheelchair stopped me and she said, "I will fight as hard as I can." and I said to myself, we need to fight as hard as you are fighting.

Second, there was a gentleman on that bus who lost his wife several days ago. She had stomach cancer. No health insurance. He got aboard that bus to come cross-country to talk to us about passing health care reform.

That is the grit that is out there. We have to match that here in passing universal health care for every one in this Nation.

AN INDECISIVE NONLEADER FOR THE NEW WORLD DISORDER

The SPEAKER pro tempore (Mr. BECERRA). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 30 minutes as the designee of the minority leader.

Mr. DORNAN. Mr. Speaker, I was going to speak tonight about why I believe the Surgeon General should be deposed or fired by the people at the White House, but I decided to switch that subject to tomorrow night's special order and speak instead tonight about Haiti and our erratic foreign policy, because the President, in just an hour and 37 minutes, will be having his press conference. I assume that he will be mentioning Haiti in this conference, but then the questions will likely be dominated by the Senate and the House Banking Committees' hearings on that 1 or 2 percent of the whole Whitewater scandal that those two esteemed committees are allowed to discuss.

Mr. Speaker, I have said on this House floor many times that the one person who writes most cogently about all matters military and military/political is a retired Army colonel who spent much of his life in combat in Vietnam analyzing our political lack of will and failure of foreign policy during that decade from the mid-1960's to the mid-1970's. That expert is Col. Harry Summers. Here is an article from Colonel Summers that I will put in the RECORD later this week, from the

Washington Times of July 30, 1994. I think it is a good prolog or lead-in to a discussion of Haiti. And I will briefly touch on Rwanda and North Korea, the latter which is the one issue we should be debating in this House, not for hours but for days. What do we do about North Korea, a country driving toward not only nuclear capability but also selling this nuclear weapons technology to renegade terrorist states like the current government in Iran?

Harry Summers writes, July 30:

> Incidentally, notes Walter Scott, in his Personality Parade column on July 24th, "Marilyn Quayle's father, Dr. Warren Tucker, was a follower of Colonel Robert Thieme, a Houston evangelist known for his hostile attacks on Communists." It was not intended as a compliment. A telling reflection on a peculiar moral blindness among America's liberal intelligentsia.
>
> The only acceptable comment on the Nazis who murdered 12 million people in their concentration camps is to call it a hostile attack. And those who deny the realities of the Holocaust are rightly condemned. But such "hostile attacks on Communists" as Mr. Scott makes clear, are still beyond the pale.
>
> For many years, anti-anti-Communism has been in fashion among the cognoscente. In those elite circles, Ronald Reagan's categorization of the USSR as an "evil empire" is still a matter of scorn and derision. This remains true even after the horrific revelations from their own official state files of the former Soviet Union detailing the extent of Communist atrocities.
>
> As the Washington Post noted on July 17, last month, a week before Mr. Scott's column appeared in the Parade Magazine supplement, Soviet Dictator Joseph Stalin is believed responsible for between 30 million and 40 million unnatural deaths. These atrocities included the Ukrainian famine in the 1930s, where Stalin deliberately starved to death some 10 million peasants in a manufactured disaster designed to consolidate his power.

Now, William F. Buckley's Firing Line show that aired in this District of Columbia area a week ago Sunday had Robert Conquest, the great scholar and author on all Soviet affairs, and he closed the show with a line that while there are no more pro-Communists around in the cognoscente, those that Harry Summers calls "America's liberal intelligentsia," are still anti-anti-Communists.

I just sent for that transcript of Bill Buckley's show. I hope to put it in the RECORD later this week in the Extension of Remarks.

Now, these people that still have never apologized for being on the wrong side of the whole horrible, almost half-century struggle since World War II, three quarters of a century if you take the Communist revolution of 1917 with Lenin coming to power, these people who have never apologized for attacking Ronald Reagan over saying "evil empire," or never lifted their finger, as I have said about Bill Clinton, never lifted a pinky in his entire adult life in that struggle against Communism, now they want to marshall the forces of the United States against a little island nation that has never known democracy but is certainly not a threat to the vital interests of the United States.

On this very day, 80 years ago, April 3, 1914, Germany declared war against France. There had been a whole week of declarations of war leading up to this event. I mentioned the Austro-Hungarian Empire declaring war on Serbia 80 years ago last week on July 28. That started the series of back and forth events with Russia defending Serbia and Germany weighing in against this or that country.

□ 1830

The United States, in a deeply isolationist mode, sat back, looked at this thing, and quoted George Washington and said "Leave those people across the oceans to their own horrors," and everybody on all sides thought the war would be over in a month in Europe.

Four years later, 11 million people, most of them the flower of the European youth, were gone, buried in all the mass graves from Flanders Fields to the Italian Alps to all across the Eurasian continent, 11 million people, most of them young males in their early marriage or premarriage years.

Only God, when we die, will ever be able to tell us what World War I, which led to World War II, how that horrible bloodletting, changed the surface of mankind for all of history.

Obviously, Haiti is not a problem that is going to develop into a massive loss of human life. Haiti can be crushed quickly by American forces, including United States Marines. I have in front of me what cannot even properly be called an order of battle, with their little troops aligned against the world's only remaining superpower.

The Presidential Guard has 1 infantry battalion, and a battalion, for those who do not track military affairs, is a little over 500 men, and in their case probably a lot less.

They have one armored squadron. Usually it takes four squadrons or so to make up a battalion. They have one other infantry battalion, a special forces battalion, and I can tell you, these are not like our special forces, Mr. Speaker.

They have 2 artillery brigades, 6 garrison detachments of about 25 small companies. They do have some old Stuart tanks, a handful of them. They have a handful of personnel carriers. They have some old Cadillac gauge Commando V–150 personnel carriers they bought used from France.

They have aircraft, Mr. Speaker, but most of them are grounded. They do not have any spare parts. Just a little Cessna Skymaster, 50-year-old Curtis C–46 Commandos, now down to just one. They have some Twin Islanders, Norman Islanders, Beavers, a Baron, a Twin Bonanza, one F–33 Bonanza, a Cessna 172, and three little tiny Cessna 150's, all grounded.

However, in their guns, they have ten 57-millimeter guns, four 57-millimeter towed air defense guns, 40-millimeter air defense guns, and 37-millimeter guns. They have five 75-millimeter M–116 guns, four M–105 howitzers, four 20-millimeter Vulcan Gatling gun air defense howitzers, and six 20-millimeter twin-towed air defense guns.

Mr. Speaker, all of these weapons will probably be taken out in the first few hours, but how many young American men will die? How many would kiss a wife goodbye down at Norfolk, or already have kissed a wife or a fiance goodbye months ago, sitting out there on the *Wasp* or *Hornet* under those horrible conditions, seven or eight young Marines stacked up in these hot bunks, that as soon as they jump out of, somebody else is getting into that warm bunk, and they have been out there, with the morale going down for weeks now just circling around Haiti. What about their cost?

How many of them have already said goodbye to their families for the last time, and for what? For an Aristide, who called this Nation a satanic nation in front of crowds there some months back?

Mr. Speaker, I have an article in front of me from the July American Spectator Magazine called "Aristide Development." The subtitle is "Not Content With Having Destroyed the Haitian Economy Through Sanctions, the U.S. Now Wants to Impose a Would-be Tyrant by Force," Aristide. "How Haiti policy has turned into a con-job by the administration and a cash cow for its friends," and it is written from Port-au-Prince, a fascinating article. I include it in the RECORD. For those who do not know how to get to the American Spectator, they can get this in their library from the CONGRESSIONAL RECORD in a few weeks.

Mr. Speaker, if we do not make this tragic mistake of smashing this little island to restore this tyrant, they will certainly learn all the ins and outs of the finances from this American Spectator article.

Mr. Speaker, we are going to put, and are in the process of doing that right now, 4,000 Americans into Rwanda, and we are going to spend about $250 million in United States aid, and that is 40 percent of the whole humanitarian effort, to help those thousands of people whose husbands and fathers were the murderers of half a million to one million Tutsis, these forsaken Hutu women and children, where 2,000 starve today in Rwanda, and cried out for us to go in there at great expense, and our Secretary of Defense said our American men and women may be in there for a year or more, 4,000 of them, $250,000 cost, and that is just an opening.

Mr. Speaker, if I know this House, they will try to take it out of the hide of the Defense budget, instead of providing for a special supplemental bill or taking it out of foreign affairs, but we should be in there in Rwanda in some way to help this ghastly human tragedy.

However, when we have our hands full with that, why are we creating starvation with enhanced sanctions in Haiti when there is no effort at all with a special ops or covert operation?

If this Clinton White House thinks it has the right to take out the military officer corps there, what right do we have to endanger young men in a Marine expenditionary force when we will not do something with more senior, better-trained, covert people? And then if we were to wipe out the whole officer corps, I have an article here that says "The problem is the NCO corps."

As bothersome as the officer corps is there, up to and including General Cedras—he ought to be a colonel, by the way, he does not rate three stars because he does not have the men for that—the attention it diverts from North Korea is the most frustrating thing of all of this mess.

Mr. Speaker here is a cartoon from the Orlando Sentinel today. I found it on the desk here when I was getting ready to speak, and it shows a boat, a little boat, loaded with tragic Haitian refugees. They are looking up at a United States destroyer-type ship, and one of the officers on the deck says to the commander, "I forgot, what is the Clinton policy on Haiti," meaning do we pick up these tragic boat people. The skipper of the ship says "Beats me. What time is it?"

Yes, the Clinton foreign policy does change from minute to minute. Listen to this story by New House News Service, David Wood, dateline a few days back, Washington, DC:

> The United States has planned and rehearsed a military invasion of Haiti, but it is ill-prepared for the most difficult days and weeks that would follow the landing of troops, according to senior military officials. According to senior officers and others, the Clinton Administration has no coherent political-military plan to restore democracy and to halt the flow of refugees fleeing repression and poverty in the Caribbean nation.

When President Bush left office, the odds were 1 in 40 that a Haitian refugee could be accepted into the United States. Now those odds are down to one in four. What a magnet, what a tremendous draw on the people that have the physical strength and the imagination to get out of this place as the sanctions, I repeat, again, crippled, more than anybody else, the humble Haitians.

In addition to creating an erratic foreign policy, I put in the RECORD yesterday, so I will not do it again today, the superb article by Charles Krauthammer saying "Good-bye Monroe Doctrine." He points out that this is the first time in history that the United States has ever gone to the United Nations to get permission to take care of the problem in what Clinton refers to as "our own backyard." I call it our front yard. Our backyard is our close, very close friendship with Canada and Mexico.

Guess what we had to deal away. First of all, China gave us an abstention, so we got nothing out of them. But to get the Soviet Union to give us permission to try to resolve this Haitian island problem, we had to give the Soviet Union permission to go into Georgia, Stalin's hometown, which he had as a home nation state, for which he had a particular vengeance for tearing up to get even with his own fellow Georgians, who never did accept him.

□ 1840

The Russian troops that stirred up the Georgian trouble in the first place are now, under the United Nations, being allowed to keep peacekeeping troops in the formerly Soviet Georgia. "Russia had threatened to veto U.N. approval of a Haiti invasion if refused a free hand in its former colony," what they call in this threatening manner their near abroad.

So Russia has in its plans to not just keep peace but "to restore a small piece of the old Soviet empire," Krauthammer writes, "and signal Russia's intent to reestablish hegemony over all the rest of as many of the former 14 so-called Soviet republics that were under the control of the Kremlin."

Mr. Speaker, what I have come across, and I think it is probably the most revealing document, the Republican Study Committee has written up a fine paper on it, is the so-called Dante Caputo memo which was leaked to the press. It was a confidential May 23 memo from U.N. special envoy to Haiti Dante Caputo. Listen to this:

"The Wall Street Journal published a brief extract from the memo way back on June 16, with an editorial"—that I thought had a catchy title—"called Real Voodoo."

"The Washington Times also mentioned the memorandum in a June 15 story." They had the scoop on it. "U.S. Poised for Invasion of Haiti within 2 Months." Thank heavens that 2-month window is almost gone. That would end on the Ides of August, August 15.

"The memo contained fascinating insights into the White House's suspect motives for invading this tiny little impoverished nation. The leaked document suggests that from the United States perspective, the economic sanctions are not intended or expected to dislodge Haiti's military rulers but to serve as merely a diplomatic cover for the real objective—an armed invasion timed to take place before this November, that is, before the United States elections! Caputo explained that the United States intends to leave Haiti after 1 month," no matter what, "passing the torch," those are his words, "to the United Nations. The only constraint on the Clinton administration from Caputo's perspective is whether it can find countries to mount a multinational operation after the United States gets out."

"Would the President really risk the lives of American soldiers to boost his party's electoral prospects? This probable intention is underlined by the fact that the Clinton White House, which until now has been fixated on multilateral and U.N. sanctioned military interventions," a la the concept of Morton Halperin, Strobe Talbott, and all of the former pro-Hanoi voices of the past, "is now preparing to go it alone with" this U.N. approval "despite major reservations" from the Latin American countries'.

As my colleague LINCOLN DIAZ-BALART from south Florida said today, he got a call from an acquaintance, a diplomat in Argentina that said, "Why aren't you doing anything about Cuba?" Castro is still a more evil, corrupt dictator, has more political prisoners, more people suffering, including the massacre of over 32 people—that Raoul Castro, his brother, is blaming upon us, although it was his fire boats that hosed these women and children that drowned in the Caribbean.

We have Western democratic allies that are saying to us, "What is your policy here?"

"Among Caputo's conclusions are the following damning statements attributed to none other than the No. 2 man at the State Department, old Strobe "pro-Hanoi" Talbott himself:

"The United States administration considers that an invasion of Haiti is its best option. In the same fashion, the President of the United States' main advisers are of the opinion that not only does this option constitute the lesser evil but that is "politically" desirable. Thus we think that the current opposition of public opinion to an armed intervention will change radically once it will have taken place. The Americans see in this type of action a chance to show after the strong media criticism of the administration, the President's decisionmaking capability and the firmness of leadership in international political matters."

Minutes from a May 24 discussion between Secretary General Boutros-Ghali and Dante Caputo also leaked. The minutes cited Mr. Caputo as saying—now this is May 24, and the very day before, May 23, the father of one of these excellent Delta Force senior sergeants that was killed by a warlord in the streets, the filthy alleys of Mogadishu, Somalia, the father of a posthumously awarded Medal of Honor hero refused to shake the President's hand in the White House in the East Ballroom because he said the President had no concept of military operations and was not fit to be the Commander in Chief—the next day after that, May 24, here is this Caputo leak in his meeting with Boutros-Ghali who wants to be a world military leader using American blood. Boutros-Ghali, that is.

"The Americans will not be able to stand much longer until August at the latest"—and here we are on August 3—"the criticism of their foreign policy inside their own domestic front. They want to do something. They are going to try to intervene militarily."

The notes from that Caputo/Boutros-Ghali meeting said that Caputo expected Aristide to condemn the intervention after having asked for it, and that:

"Mr. Caputo predicts a disaster. The United States will make the United Nations bear the responsibility to manage the occupation of Haiti. With Aristide as President during 2 or 3 years, it will be hell."

In other words, the people in the White House know that this Bertrand Aristide, this fallen away radical ex-priest who hates the Pope and calls the United States and the U.S. Government satanic, that he is going to be a disaster.

One of the most brilliant leaders in the Black Caucus told me and everyone else at the Intelligence Committee meeting a few weeks back that Aristide can probably get elected any day in the week but he never ever will have the ability to govern that country.

Coming back to the leaked information on this Caputo meeting:

"It is not so much the armed intervention itself that we have to avoid. What we do not want is to inherit a baby," I think he is referring to Baby Doc Duvalier, another one of the misfortunes of Haiti, the father and son set up their ugly, vicious, murdering secret police, the Tom Tom Macoutes. Not so secret. They walked around all day long in their fedoras and their sunglasses, beating up people with truncheons or shooting them arbitrarily in alleys.

"For the Americans are fixing to leave quickly. They would not intervene if they had to remain."

Think of that last line. If Clinton knew he had to stay there, if Secretary of Defense Perry knew that he would have to stay in Haiti as long as Perry is predicting we are going to be in Rwanda, for over a year, we would never go in.

Here is a fabulous article here that I want to ask unanimous consent to put in about what happened when the Americans were in Haiti for 19 years, pulling out in 1934. Nothing else changed.

Finishing up on the Caputo meeting with the Secretary-General of the United Nations:

"To the Minister's question, a U.N. minister, about the existence of another alternative, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention has now become inevitable. The Secretary-General fears that the United States will take a unilateral decision and that it will repeat the Somalian experience," that when 5 or 3 or 4 or 2 Americans get killed by some of this limited but still working artillery and small arms fire, when the mothers and fathers go on Hard Copy, First Edition, Inside Edition, and the evening news and start to tell their story of how they lost their son who was about to get out in a month, who had written them at home, reading from their letters that they were sweating out there, stacked up on these marine expeditionary deployment assault carriers without even understanding the policy of what was putting them there, when BOB DORNAN comes to the floor and talks about flying flags as I did on Thanksgiving or the Fourth of July for these young heroes that died for this tyrant and that I called the parents and got their viewpoint and bring that word to this House floor, to put the Members on the other side of the aisle, to put them up against their own convictions that we should expend our blood for this erratic Aristide?

Listen to how this ends. You bet it can repeat the Somalian experience.

"The Secretary-General himself concludes, it should not be forgotten that the Haitian people suffer now because of the U.S. sanctions and the U.S.-asked-for increased sanctions. A final confidential "Notes for the File" describes a May 19 meeting between Dante Caputo and the Canadian Foreign Affairs Minister, Andre Ouellet:"

"Dante Caputo stresses the different options for a solution and relates, for the Minister's benefit, the reactions observed in Paris and Washington. The first option consists of waiting for the sanctions to be put in place"—that has happened—"to produce the desired effect, the military leader's departure."

□ 1850

General Cedras; it has not happened. However, stresses Dante Caputo, the United States would not be ready to wait several months for this to produce the desired effect, concerning the United States position, "such as that laid out by Strobe Talbott." They even have his name misspelled with one t.

"Dante Caputo thinks time is short, and that the situation cannot last beyond July. Dante Caputo emphasizes that Haiti represents a test case for which the United States has to have found a solution before November."

Mr. Speaker, again, I am betting that at the press conference tonight, in an hour and 10 minutes, the press will bore in on Whitewater, on the committee hearings and probably open up, which they should, with a great many questions about the crime bill, where it is, why it is still bogged down, what is holding it up, when he expects to have it on his desk. Hopefully, they will ask him about some of these dance classes, some of the social money in the crime bill where we are going to allocate money to teach people in prison to dance. Since our prisons are separated, males and females, who gets to lead at those dances? Do we have murderers lead one week, child molesters the next? Is it going to be step dancing, is it going to be the tango, are we going to bring back the jitterbug? What is this midnight basketball? Why not at 9 o'clock at night to keep them from the heavy burglary hours from 9 to 1 o'clock in the morning? I do not know or understand. So much money is squandered in that crime bill. But all of this questioning is probably going to prevent key questions on Haiti.

Mr. Speaker, I put in the RECORD yesterday my Cap Weinberger/BOB DORNAN Ten Commandments. I wish the press would just go down these commandments with the President and say: "Would you explain to us, Mr. President, what vital interests there is to the United States or our allies in Haiti? Would you explain to us what other options have been rejected, like covert options? If you want to take Cedras out, why not kidnap him and fly him to the Riviera in France? Is there a commitment to achieve some kind of victory, or are we going to pull out? Are there clearly defined political and military objectives? What is the commitment of our force if we are stuck there for a few months and Congress does not want to fund it? What will happen if the American people turn on you along with Congress, will you pull out immediately as with Somalia, because there are dead young men and families to account for," like the tremendous Green Beret father of Casey Joyce who testified so brilliantly on the Senate side.

Mr. Speaker, I am going to put in my Ten Commandments again. So let me finish in the last few minutes and put in the Harry Summers article, the historical article about what we learned from our 19-year occupation in Haiti in the past, and again the American Spectator article.

The materials referred to follows:

The 10 commandants for committing U.S. combat forces are as follows:

1. Thou shall not commit U.S. combat forces unless the situation is vital to U.S. for allied national interests;
2. Thou shall not commit U.S. combat forces unless all other options already have been used or considered;
3. Thou shall not commit U.S. combat forces unless there is a clear commitment, including allocated resources, to achieving victory;
4. Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives;
5. Thou shall not commit U.S. combat forces unless our commitment of these forces will change if our objectives change;
6. Thou shall not commit U.S. combat forces unless the American people and Congress support the action;

7. Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty;

8. Thou shall not commit U.S. combat forces unless properly equipped, trained and maintained by the Congress;

9. Thou shall not commit U.S. combat forces unless there is substantial and reliable intelligence information, including human intelligence; and

10. Thou shall not commit U.S. combat forces unless the commander in chief and Congress can explain to the loved ones of any American soldier, sailor, Marine, pilot or aircrewman killed or wounded why their family member or friend was sent in harm's way.

As it becomes increasingly likely that the current Administration will use U.S. military personnel to force a solution in Haiti, I would like to bring to your attention the following article from Sunday's edition of the Washington Post. It would be very unwise and dangerous to forget the lessons of history with regards to American intervention in this country.

Best regards,

ROBERT K. DORNAN,
U.S. Congressman.

WHEN WE LAST INVADED HAITI * * * WE STAYED A LONG TIME: HISTORY'S CAUTIONARY LESSONS

(By Hugh De Santis and Kenneth J. Dillon)

As pressures mount on President Clinton to send a military expedition to Haiti, he may want to reflect on the lessons of our last intervention there. Nearly 80 years ago, Woodrow Wilson dispatched Marines to Haiti for many of the same reasons that appear to be motivating Clinton. That intervention led to a 19-year occupation that ended in a failure to foster democracy.

There are, of course, many differences between 1915 and 1994. Eighty years ago, when Secretary of State William Jennings Bryan was intrigued by the fact that black Haitians were capable of speaking French, it was the "white man's burden" that inspired American intervention. Today the leading advocates of intervention are in the Congressional Black Caucus. In 1915, we excluded other nations from any involvement in Haiti; now we eagerly solicit their participation under the aegis of the United Nations.

Still, there are cautionary lessons to be learned.

In 1915, the immediate grounds for intervention were a collapse of public order in Port-au-Prince. Haiti's peasant mercenaries, known as cacos, had revolted against President Vilbrun Guillaume Sam. In retaliation for the execution of 167 political prisoners by his police chief, a mob burst into the French legation where Sam was hiding and dismembered him, parading the corpse through the streets. Enter the U.S. Marines.

This was not the first time the United States had intervened in the Central American-Caribbean region, either to protect the Panama Canal or to reinforce American domination in the area. But Wilson justified the occupation of Haiti on legal grounds. Like Theodore Roosevelt and every other American president after 1823, in accord with the Monroe Doctrine Wilson was prepared to defend the security of the Western hemisphere against European incursions.

Missionary zeal also prompted Wilson's decision. Like Secretary of State Bryan, Wilson was a self-conscious evangelist of democracy who believed that the United States was obligated to inculcate its values into other societies. Indeed, Wilson drew a distinction between de facto governments, even those more or less popularly elected, and de jure governments that adhered to American liberal-democratic principles.

Following the Marine intervention and the gradual occupation of the whole of Haiti, the American admiral in charge saw to it that the National Assembly elected a president who was politically acceptable to the United States. To ensure order, the United States seized the customs houses, declared martial law and muscled through the Haitian legislature a bilateral treaty that gave it control over the country's financial and administrative affairs. To sanctify its presence and, not insignificantly, protect its interests, the United States drafted a new constitution that became the law of the land in 1918.

The Marines quickly mopped up the bands of cacos, and for a while the occupation went smoothly. As one American officer in the expeditionary force noted, "No matter what we did, nothing could be worse than their old regime"—a comforting thought that is doubtless occurring to some Clinton administration officials today.

But for Haitians the humiliation of subjection to foreign rule, the racist attitudes of the invasion forces and abuses in the public works programs set up by the occupation authorities were intolerable. In 1918, a major rebellion—Second Cacos War—broke out, leading to the deaths of some 1,500 insurgents and 15 Marines. The U.S. soldiers put on blackface and hunted down Charlemagne Peralte, the leader of the rebellion. They then strung up his corpse on a post, took a photograph and distributed copies throughout the country in an effort to break the spirit of resistance. This bit of psychological warfare backfired when many Haitians compared their slain leader's posture with that of Jesus Christ on the cross.

Eventually Americans wearied of imposing tutelary democracy on a recalcitrant Haiti. The anti-democratic nature of America's presence in the region proved an embarrassment. In 1929, when Marines fired into a threatening crowd in a Haitian town, killing a dozen demonstrators, President Hoover ordered an investigation into the occupation. In 1934, the Marines departed. Despite their prolonged stay, Haiti remained unaffected by democracy.

How applicable is history to the current crisis in Haiti? While there are many differences, the attitudes that underlie the Clinton administration's deliberations bear striking similarity to those that galvanized American intervention in 1915.

True. Haiti poses no strategic threat to the United States—but the prospect of hundreds of thousands of refugees is its psychological equivalent. An American military presence on the island might stem the tide of migration. Moreover, the Haitian military's armed challenge to democracy might give sustenance to anti-democratic tendencies elsewhere in the Western Hemisphere. When Clinton expresses his concern about the security implications of social unrest in Haiti, he is implicitly invoking Theodore Roosevelt's corollary to the Monroe Doctrine whereby the United States can intervene to bestow order and civilization on the region as much as to preserve American security.

There is also the moral dimension. Clinton and Secretary of State Warren Christopher (Like Wilson and Bryan) are latter-day evangelists of democracy. They feel duty-bound to ensure that Jean-Bertrand Aristide—the de facto and de jure president of Haiti—fulfills his mandate.

The consequences of American intervention, should Clinton decide to invade Haiti, are likely to be similar to those that the United States experienced between 1915 and 1934. As in the past, armed intervention would probably meet little resistance from the ill-equipped and poorly trained Haitian military, and it is bound to be supported by the pro-Aristide public. In all likelihood, however, an occupation is almost certain to last longer than the Clinton administration, the liberal hawks in Congress, and such activists as Randall Robinson think.

The danger is likely to lie less in clashes between American forces and cacos-type guerillas, although that cannot be entirely precluded, than in confrontations between occupation forces and unruly crowds such as the one that occurred in 1929. It is not hard to imagine protracted violence between pro- and anti-Aristide forces that would make Americans prisoners of their own occupation. And the longer the occupation, the more the United States would expose itself to criticism of its imperialistic behavior, and not only from foreign countries.

The very constituencies that today are prodding Clinton to intervene may hold the administration responsible tomorrow if it fails to preserve democracy in Haiti—the probable outcome in a country with ingrained traditions of dictatorship and political violence—at the possible expense of the president's domestic agenda, not to mention his reelection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEFAZIO (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. FORD of Tennessee (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. OXLEY (at the request of Mr. MICHEL), for today, on account of minor surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes each day, on August 10, 11, and 12.

Mr. KIM, for 5 minutes, today.

(The following Members (at the request of Mr. DEUTSCH) to revise and extend their remarks and include extraneous material:)

Ms. PELOSI, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Mr. SABO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. NUSSLE.
Mr. WALSH.
Mr. MOORHEAD.
Mr. PACKARD.
Mr. SCHIFF.
Mr. BURTON of Indiana.

(The following Members (at the request of Mr. DEUTSCH) and to include extraneous matter:)

Mr. HAMILTON.
Mr. REED.
Mr. HALL of Ohio.
Mr. KLEIN.
Mr. SPRATT.
Mr. UNDERWOOD.
Mr. SWETT.
Mr. GEPHARDT.
Mr. LIPINSKI.
Mr. STRICKLAND.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. SCHIFF.
Mr. BURTON of Indiana.
Mr. ANDREWS of Texas.
Mr. ANDREWS of Maine.
Mr. HUTTO.
Mr. POSHARD.
Mr. HUGHES.
Mr. LANTOS.
Mr. NADLER.
Mr. DORNAN.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1919. An act to improve water quality within the Rio Puerco watershed and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices which are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region; to the Committee on Natural Resources and the Committee on Merchant Marine and Fisheries;

S.J. Res. 157. Joint resolution to designate 1994 as "The Year of Gospel Music"; to the Committee on Post Office and Civil Service; and

S.J. Res. 196. Joint resolution designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag; to the Committees on Post Office and Civil Service and Veterans' Affairs.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 195. Joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Thursday, August 4, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3634. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Russia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3635. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–314, "Washington Convention Center Authority Act of 1994," pursuant to D.C. Code, section, 1–233(c)(1); to the Committee on the District of Columbia.

3636. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–315, "Arena Tax Amendment Act of 1994," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3637. A letter from the Secretary of Energy, transmitting the status of Exxon and stripper well oil overcharge funds as of March 30, 1994; to the Committee on Energy and Commerce.

3638. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed transfer of defense equipment to the Federal Republic of Germany (DRSA–1–94), pursuant to 22 U.S.C. 2753(d)(3); to the Committee on Foreign Affairs.

3639. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the outstanding expropriation claims of U.S. persons, pursuant to Public Law 103–236, section 527(f); to the Committee on Foreign Affairs.

3640. A letter from Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination (94–37) that certain military sales are in the national security interest, pursuant to Public Law 103–87, section 527; jointly, to the committee on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Natural Resources. H.R. 3508, A bill to provide for tribal self-governance, and for other purposes; with an amendment (Rept. 103–653). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN of California: Committee on Science, Space, and Technology. H.R. 4489. A bill to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics and technology, mission support, and inspector general, and for other purposes; with an amendment (Rept. 103–654). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4545. A bill to amend the Federal Railroad Safety Act of 1970, and for other purposes; with amendments (Rept. 103–655). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. H.R. 2461. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals (Rept. 103–656). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 504. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4426) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, (Rept. 103–657). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 505. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, (Rept. 103–658). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 506. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3474) to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes, (Rept. 103–659). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3342. A bill to establish a toll free number in the Department of Commerce to assist consumers in determining if products are American-made; with an amendment (Rept. 103–660). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3967. A bill to amend the Helium Act to prohibit the Bureau of Mines from refining helium and selling refined helium, to dispose of the U.S. helium reserve, and for other purposes; with an amendment (Rept. 103–661). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4751. A bill to reauthorize appropriations for the weatherization program under section 422 of the Energy Conservation and Production Act; with an amendment (Rept. 103–662). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4752. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; with an amendment (Rept. 103–663). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3433 is referred to the Committee on Government Operations for a period ending not later than August 9, 1994, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(j) of rule X.

Referral to the Committee on Government Operations of H.R. 4263 extended for a period ending not later than August 12, 1994.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HAMILTON (for himself, Mr. Ackerman, Mr. Faleomavaega, Mr. Martinez, Mr. Deutsch, Mr. Gibbons, Mr. Matsui, Mr. Kolbe, Mr. Dreier, Mr. Lightfoot, Mr. Roemer, Ms. Harman, Mr. Bacchus of Florida, and Mr. Orton):

H.R. 4891. A bill concerning United States efforts to promote respect for internationally recognized human rights in China; to the Committee on Foreign Affairs.

By Mr. MOAKLEY:

H.R. 4892. A bill to make certain laws applicable to the legislative branch of the Federal Government; jointly, to the Committees on House Administration, Education and Labor, Rules, the Judiciary, and Government Operations.

By Mr. BARCA of Wisconsin (for himself, Mr. Penny, Mr. Zimmer, Ms. Cantwell, and Mr. Barrett of Wisconsin):

H.R. 4893. A bill to repeal the North/South Center Act of 1991; to the Committee on Foreign Affairs.

By Mr. HUGHES:

H.R. 4894. A bill to prohibit unauthorized fixation of sound recordings and music videos of live musical performances and provide copyright protection in restored works, and for certain other purposes; to the Committee on the Judiciary.

By Mr. SPRATT:

H.R. 4895. A bill to provide for the tax treatment of income and transactions relating to the Catawba Indian Tribe of South Carolina Land Claims Settlement Act of 1993; to the Committee on Ways and Means.

By Mr. WHEAT (for himself and Mrs. Meyers of Kansas):

H.R. 4896. A bill to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

By Mr. SKAGGS (for himself, Mr. Boehlert, and Mr. Durbin):

H. Con. Res. 276. Concurrent resolution concerning deployment of United States Armed Forces in Haiti; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 88: Mr. Packard.

H.R. 127: Mr. Houghton, Mr. Lantos, and Mr. Lightfoot.

H.R. 193: Mr. Barrett of Nebraska, Mr. Emerson, Mr. Solomon, Mr. Spence, Mr. Stump, and Mr. Walker.

H.R. 561: Mr. Huffington.

H.R. 642: Mr. Dicks and Mr. Crapo.

H.R. 885: Mr. Canady.

H.R. 1110: Mr. King and Mr. Saxton.

H.R. 1190: Mr. Sam Johnson.

H.R. 1205: Mr. Cox and Mr. Doolittle.

H.R. 1277: Mr. Condit.

H.R. 1300: Mr. Cox, Mr. Knollenberg, and Mr. Saxton.

H.R. 1309: Mrs. Meyers of Kansas.

H.R. 1620: Mr. Saxton and Mr. Dornan.

H.R. 2420: Mr. Sawyer.

H.R. 2676: Mr. Engel.

H.R. 2918: Mr. Miller of California, Mr. Filner, and Mr. Schiff.

H.R. 3334: Mr. Zimmer and Mr. Thomas of Wyoming.

H.R. 3397: Mr. Mazzoli and Ms. Kaptur.

H.R. 3455: Mr. Cox.

H.R. 3486: Mr. Minge.

H.R. 3526: Ms. DeLauro, Mr. Serrano, Mrs. Clayton, Mr. Meehan, Mr. Franks of New Jersey, Ms. Eshoo, Ms. Roybal-Allard, and Ms. Slaughter.

H.R. 3668: Mr. Bacchus of Florida, Mr. Bryant, Mr. Hochbrueckner, Mr. Mineta, Mr. Rangel, Mrs. Mink of Hawaii, and Mr. Flake.

H.R. 3751: Mr. Smith of New Jersey.

H.R. 3762: Mr. Hastings and Mr. Swift.

H.R. 3820: Mr. Olver.

H.R. 3866: Mr. Yates.

H.R. 3905: Mr. Minge, Mr. Clay, and Ms. Shepherd.

H.R. 3971: Mr. Quillen.

H.R. 3994: Mr. Zeliff.

H.R. 4026: Ms. Pelosi.

H.R. 4048: Mr. Johnston of Florida.

H.R. 4050: Mr. Price of North Carolina.

H.R. 4051: Mr. Washington and Mr. Martinez.

H.R. 4088: Mr. Evans.

H.R. 4162: Mr. Evans.

H.R. 4198: Mr. Lucas.

H.R. 4318: Mr. Miller of California, Mr. Gene Green of Texas, Mr. Martinez, and Ms. Collins of Michigan.

H.R. 4386: Mr. Evans.

H.R. 4412: Ms. Dunn.

H.R. 4457: Mr. Archer, Mr. Burton of Indiana, and Mr. Weldon.

H.R. 4491: Mr. McHugh and Mr. Gunderson.

H.R. 4528: Ms. Schenk.

H.R. 4618: Mr. Stark.

H.R. 4643: Mr. Towns.

H.R. 4669: Mr. Stark.

H.R. 4708: Mr. Scott, Mr. Becerra, and Mr. Berman.

H.R. 4824: Mr. Barcia of Michigan.

H.R. 4831: Mr. Torkildsen.

H.R. 4840: Mr. Barton of Texas.

H.R. 4860: Mr. Bonior.

H.R. 4883: Mr. King.

H.J. Res. 117: Mr. Bereuter.

H.J. Res. 383: Mr. Kasich, Mr. Ackerman, Mr. McHugh, Mr. Machtley, Mr. Frost, and Mr. Wilson.

H.J. Res. 385: Mr. Gingrich, Mr. Young of Alaska, and Mr. King.

H. Con. Res. 148: Mr. Blackwell, Mr. Sawyer, Mr. Cox, and Mr. Roberts.

H. Con. Res. 166: Mr. Sangmeister, Mr. Sawyer, and Mr. Gunderson.

H. Con. Res. 171: Mr. Swett, Mr. Nadler, Mr. Martinez, and Mrs. Meyers of Kansas.

H. Con. Res. 252: Mr. Boehlert, Mr. Fish, Mr. Gilman, Mr. Hinchey, Mr. Hochbrueckner, Mr. McHugh, Mr. Manton, Ms. Molinari, Mr. Schumer, Ms. Velázquez, and Mrs. Maloney.

H. Con. Res. 255: Mr. Sawyer.

H. Res. 191: Mr. Cox.

H. Res. 432: Ms. Brown of Florida, Ms. McKinney, Mr. Reynolds, and Mr. Swift.

H. Res. 434: Mr. McHale and Mr. Fingerhut.

H. Res. 481: Mr. Lipinski and Mr. Sarpalius.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4507: Mr. Owens.

H.J. Res. 366: Mr. Allard.

SENATE—*Wednesday, August 3, 1994*

(Legislative day of Wednesday, July 20, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee.

The PRESIDING OFFICER. Today's prayer will be offered by Guest Chaplain Rabbi Maurice Lyons of St. Louis, MO.

PRAYER

Guest Chaplain Rabbi Maurice Lyons, of St. Louis, MO, offered the following prayer:

Let us pray:

Our Father of the arching heavens, and undulating Earth, ruling in sublimity, from the evolution of the first amoeba, to the glorious emergence of man; from the morning-burst of time, to its endless mystical haze, Thou art eternal, and all creation palpitates to Thine imprint.

While Thy rulership holds eternal sway over the universe, we, Thy transitory children, can but exercise dominion over a portion of this small planet, Thy footstool.

Ever since the founding of our beloved country, have we Americans permeated Thy teaching throughout our Government, for the benefit of all our citizens. And, to this end, have we selected, for regnancy, those leaders whom we felt would embrace Thine exhortation of love, mercy, and brotherhood.

And, standing in the effulgence of Thy Shekinah, I feel uplifted by the presence of this august body—the finest of all legislative instruments—in supplication to Thee.

I pray that Thou render sharp and universal, the wisdom of our esteemed Senators, that it reach, therapeutically, across party lines and political differences, to our common, bedrock American heritage.

In the reverential language of King Solomon to the God of Israel, I, too, humbly pray: Grant, O Lord, to each of our beloved Senators, a "discerning heart, to understand between right and wrong." May their speech and, above all, action, reflect the altruism and glory of the Founders of our great country.

And, in conclusion, I rejoice in pronouncing over this esteemed legislative body, the ancient priestly benediction:

"May the Lord bless you, and keep you;

"May the Lord make His face to shine upon you, and be gracious unto you:

"May the Lord lift His countenance upon you, and grant you peace."—Nu. 6:24–26.

Peace of heart; peace of mind; peace in all the paths you may tread, now and forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 3, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARLAN MATHEWS, a Senator from the State of Tennessee, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. MATHEWS thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

VA-HUD APPROPRIATIONS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 4624, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4624) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations and offices for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bumpers amendment No. 2444, to reduce funding for the implementation of the space station program for the purpose of terminating the program.

The ACTING PRESIDENT pro tempore. The pending question is the Bumpers amendment No. 2444, on which there remains 1 hour 45 minutes. The Senator from Maryland [Ms. MIKULSKI] controls 30 minutes; the Senator from Arkansas [Mr. BUMPERS] shall control 60 minutes; and the Senator from Ohio [Mr. METZENBAUM] shall control 15 minutes.

Who yields time?

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum and ask the time to be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. BUMPERS. Mr. President, last night, I pointed out, and would like to do so again, the cost of the space station. As I said last night, the cost is not just $2.1 billion for 1995. It is going to be $2.1 billion for about 2 or 3 more years, and then it goes up to almost $4 billion a year. And when it is all said and done, it is going to be, according to NASA, $70.8 billion. But that was last week, Mr. President.

Now this week we find that NASA failed to include $1.5 billion for civil service costs. That is almost like buying an automobile and looking under the hood and finding it did not have an engine. Can you imagine NASA giving the U.S. Congress these figures, and we find that they omitted $1.5 billion for civil service costs, which you think would be one of the first things they would have thought of?

I said last night I would be reluctant to ride on the space station designed and built by somebody who forgot $1.5 billion. But now I find that we have to add another $1.8 billion. So now the cost is $72.3 billion. And then you add the $1.8 billion that I am getting ready to tell you about, and you come up to $74.1 billion. The cost has gone up $3.3 billion in the past week.

What is this $1.8 billion? It is what GAO announced the day before yesterday; the cost of bringing the Russians into the plan. We were going to give the Russians $400 million so they could do a part of the contract of building of this space station. And do you remember how the Clinton administration said that by bringing Russia into this it could save $2 billion?.

The day before yesterday we find out it not only does it not save $2 billion,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

it is going to cost an additional $2 billion. Now we are up to $74.1 billion. There is no end to the costs of this project. I see the Senator from Iowa on the floor, Senator GRASSLEY. I voted for the Exon-Grassley amendment last year to cut $26 billion out of discretionary spending because I thought we could and should do it. And when we went to conference with the House, that cut was reduced to $13 billion. That means for the years 1995 through 1999, we have to find $13 billion in spending cuts in order to come into compliance with the amendment of the Senator from Iowa and the Senator from Nebraska.

Mr. President, as chairman of the Agriculture Appropriations Subcommittee this year I agonized over how we were going to cut almost $1 billion for 1995, from $14 billion for 1994 to some $13 billion for 1995.

Agriculture appropriations took a $1 billion cut so that some of the other programs, like the space station, could be funded. But that is peanuts compared to what we are going to do next. We have to find $5.4 billion to cut next year.

Do you know where to find it? Eighty percent of it can be found by torpedoing the biggest waste of money we have ever embarked on: $10.4 billion of it can be found by voting "aye" on the Bumpers amendment this morning.

Do you know what is tragic? We will not do it. I said last night the thing I enjoyed about being a trial lawyer was knowing that when I had 12 good and true faithful jurors in front of me and started to argue a lawsuit, I had as good a chance as my opponent of winning. We started out even, and the best man usually won. Sometimes I thought there was a miscarriage of justice, especially when I lost, but I knew those 12 jurors were at the mercy of me and the other lawyers. All they knew about the case was what we were able to deduce from the witnesses and what we told them in our final summation.

Here in the U.S. Senate, you can rail all you want to about anything, but if the lobbyists and the people who pass out the jobs to the various States get to them first their minds are closed. This debate is utterly meaningless, except for the satisfaction a few of us get out of making the point.

The space station does create 14,000 jobs, and they only cost $160,000 a piece. When I was Governor of my State, if I had said to General Motors, "I will give you $160,000 for every job you create in my State," I promise you, the whole General Motors operation would be in Arkansas today.

Think about it, $160,000 per job, and yet that is one of the reasons people will vote against this amendment.

I want you to look at this chart. I do not intend to denigrate my colleagues, but I have to make this point.

Everybody wants to balance the budget. Everybody wants to go home and tell their constituents what fiscal conservatives they are and make them come to their feet and applaud. But look at this. Sixty-three Senators in the U.S. Senate voted last year to amend our precious Constitution to provide for a balanced budget amendment. Forty-three of those sixty-three who said we want to stop all this spending and balance the budget, voted against this amendment last year, and I expect those 43 Senators will do the same thing again this year.

As I said, everybody loves fiscal responsibility, but they love spending just a bit more.

Mr. President, where are we going to find the $5.4 billion that we have to cut next year? All the chairmen of the Subcommittees on Appropriations are going to have to grapple with that. Unfortunately, Senators are not thinking about it, but next year they are going to be squealing like a pig under a gate when they have to face the reality of a $5.4 billion cut.

You can get it out of veterans programs. That will be very popular back home with the veterans. You go home and tell the veterans, "I am really sorry we had to shut down 100 beds in your hospital, but we had this little thing we call the space station that we had to fund. Sorry about that."

You can take it from crime prevention. We just put $30 billion in the crime bill for prevention. We have not agreed to the conference report yet. The Senator from Texas says it is a bad bill, that it is not tough enough. I am not sure we can get an agreement to take $30 billion from crime prevention.

You can take it out of education, the lack of which is at the root of most of the crime problems in this country. Lack of education and poverty are the primary crime breeders. Take it out of education. Maybe we can raise the crime rate a bit higher. Take it out of education because we have to put this space station in orbit and leave it up there for 10 years—for God knows what. Nobody can tell you why we are doing this. To grow crystals? That does not even pass the giggle test. Every physicist in this country will tell you that you can grow better crystals on Earth than you can in space. The Russians have tried it. We have tried it. What is the point in growing crystals in space when we can grow them on Earth?

The Russians, Mr. President, have had seven space stations. Think about that. The Mir that is up there right now is the seventh space station they have built since 1971. Why don't we just buy it? I said last year that we could get it for a year's supply of TV dinners. I am sure they would love to get rid of it. If we think we just have to do something in space, buy the Mir.

The proponents of this say we are going to cure cancer with the space station. The American Cancer Society is adamantly opposed to the space station for the very sensible reason that they know they need the money for cancer research here on Earth.

Take it out of defense. It has a budget of $250 to $280 billion and everyone says that is just bare bones and that you cannot cut anything else out of defense.

And, Mr. President, next Tuesday, we are getting ready to take up the debate on health care, and the reason we cannot have so-called universal coverage is because nobody knows how to pay for it. Think of it; we are embarking on a $74 billion project which, when added to the deficit plus 7 percent interest for the next 35 years, increases to a total of $156 billion. And then we say to the American people that we cannot pass a health care bill that provides universal coverage because we cannot afford it.

I have been in the Senate 20 years, and it has always been a matter of priorities. The reason we have almost a $5 trillion debt is because our priorities have been skewed.

The things that we have started to prove to the world that we were superior to the Soviet Union no longer have any merit. If we wanted to be a big, macho he-man back when the Soviet Union was riding high so we could prove we were smarter and better and richer than they were, that was fine. But that is over. The only reason in God's world we are putting this thing up there is because the Russians had one back when they were the Soviet Union, and on that evening in January 1984 the President said: "We are going to put this space station up; we are going to do it in 10 years; and we are going to do it for $8 billion."

Think of the promise and think of the result. Today, we have spent over $13 billion, and we just now have a design. I have never known of an issue in the Senate where the promise and the result presented as wide a chasm as this one.

Let me repeat something I said last night. We will allow each astronaut 9.2 liters of water per day. There are going to be six of them on board the space station. At that rate, 9.2 liters per day, each astronaut will consume about $320,000 worth of water per day. I said last night that as soon as this debate is over I am going to suggest to Mountain Valley Water down in Hot Springs, AR, to bid on the water contract for the space station. They make by far the finest bottled water in America, so they should bid on that contract.

We are planning to spend $12,880 per pound for every pound of water we ship to the astronauts so they can survive. Think of that. And then total that up for a year. Just providing water to the astronauts is going to cost almost $500 million a year.

Mr. President, if you took this money that we are getting ready to blow on this thing and you went into the poor areas of America and you picked out the poorest children who had any promise and said, "Child, here is a free education for you," do you think this country would be better off? Or do you think we would be better off if we put six people in space to look at each other for 10 years and grow crystals, which you can grow on the ground, and spend $.5 billion a year getting water up to them? Do you want to see the crime rate go down? Do something about poverty. Do something about education. Do not spend $160,000 on a job.

If nothing else impresses my colleagues, I hope this will. This space station costs 14 times its weight in gold.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 having arrived, the Senator from Texas [Mr. GRAMM], is recognized to speak for 15 minutes.

Mr. GRAMM. Mr. President, I thank you for my recognition.

I want to apologize to the dear chairman of the appropriations subcommittee. Yesterday, I was in Whitewater hearings. In fact, I was in those hearings until about 2 o'clock this morning. And since my children, at least during the week, grew up in Washington, DC, I always told them nothing good has ever happened on this planet after 11 o'clock at night. I wish I had taken the advice that I have given, what were then my teenage—one still is—children and gone home and gone to bed at 11 o'clock last night because in reality, even at that important hearing, the later it got the more chaotic it became.

This could well be the last appropriations bill that I work on as a ranking member of this subcommittee because as people leave the Senate, we all change chairs and we often end up on other subcommittees. But I just want to say one thing about the distinguished chairman of this subcommittee. When the Founding Fathers wrote the Constitution and they established the Senate, it seems to me that BARBARA MIKULSKI has to be one of the people they had in mind.

Senator MIKULSKI and I have known each other for many years. We were members of the House Energy and Commerce Committee together. We have disagreed on thousands of issues, but the distinguished chairman of this subcommittee is smart and sincere, and in the service of the greatest Republic in the history of the world, those are clearly the most important characteristics anybody can have. It is said that people often say bad things about each other but go to the grave with good thoughts on their minds.

I just want to say I have the highest regard for the distinguished chairman of this subcommittee. She is a great Senator. I think that she is a tremendous spokeswoman for her State, its interests, and for her view of what America ought to be.

I am proud of this bill in a lot of ways. This is a tougher budget. We were given an allocation of money far below the level that the President requested in his budget. One of my frustrations is that the President writes his budget. He puts all this money in, but the money is not really there, and we end up having to make the hard decisions often without much direction from the White House. That is not a partisan matter. That almost always ends up being the case.

If I were writing this bill by myself, I do not think I need to say to anybody that I would have had the priorities different than those in the bill before us. But I want to say that the distinguished chairman has made me a partner in this process. Given the fact that we are coming at many of these programs from a different perspective, I think we have worked out a reasonable and fair compromise. I support this compromise.

The distinguished Senator from Arkansas has spoken with great passion this morning about killing the space station. I just want to make two important—that is, I think they are important—comments about his proposal.

No. 1, the amendment of the distinguished Senator from Arkansas kills the space station. But every penny that we would save by killing the space station is then available to be spent on something else. So, we are not talking about deficit reduction. Now let me make a bold statement. The Senator from Arkansas would have a tough time writing a budget amendment truly cutting Government spending and lowering the amount we spend that I could not support. In fact, I have offered such proposals, and I take a backseat to no one on this planet in terms of my commitment to cut Government spending. If someone wants to offer an amendment cutting Government spending, and then force us to fight it out as to how we spend the remaining money, I am sure somebody could perhaps craft an amendment that I would not vote for. But I do not believe the Senator from Arkansas could or would. My guess is nobody else could or would either.

I believe the Federal Government is too big. I have talked on many occasions about using my Dicky Flatt test looking at every program of the Government, thinking of some honest to God, flesh-and-blood working person like Dicky Flatt, and asking, "Will the benefits to be derived from spending money on this program be worth taking the money away from a working person in my State?" Dicky Flatt is a printer in my former congressional district. I believe if we used the Dicky Flatt test, the Federal Government over a 5-year period could cut relative Government spending by a third. That is a well-known view that I have. When we have been dealing with real spending cuts, I have voted that way.

But we are not talking about cutting spending here today. We are talking about priorities. It is very important that people understand that.

Given that we are going to spend $1.5 trillion this year at the Federal level in a budget that I voted against because I thought it was too much money—given that we are going to spend that money—should we build the space station, or should we kill it and spend that money on social programs?

Let me remind my colleagues that about 25 years ago we spent 5 percent of the Federal budget on nondefense research and development in technology; 5 percent, 1 nickel out of every dollar we spent in the Federal budget 25 years ago, we spent as an investment in the future in new science, new technology, new know-how—investing not in the next election, but investing in the next generation in technology and science to make America richer, freer, and happy. No nation in history has ever benefited more from science than the United States of America.

What has happened 25 years later? Twenty-five years later, we are spending less than 2 percent of the Federal budget on civilian science and technology, down from 5 percent. We are not spending less money in the total budget. We are spending a lot more money overall. But the point is we are investing the money we are spending in the next election and not the next generation. We are spending it on programs with big political constituencies where the expenditure is going to trigger their response in each November election.

We are not spending the money in areas that will yield a big return to our children and our grandchildren. We have already cut the cost of the space station. We have redesigned the space station. We have brought the Russians into the space station. We have an international agreement with other nations on the space station. As a result of Russian involvement, we are going to spend less and we are going to get more.

The real question before the Senate is, "Are we going to go forward and preserve the 2 percent of the budget that is our seed corn in investing in the future of America in science and technology, pure research, and in this case, in the space program, an overall undertaking that no one would argue that the private sector alone, individual firms acting on their own programs could ever do?" I say the answer to that is yes. I say at a time when we have eaten our seed corn, when we have invested in the next election consistently and not the next generation, the last thing we need to be doing is killing the space station to fund another social program.

We have been debating the space station now for a decade. We have been revising. We have been reengineering.

The clock has been running. The cash register has been ringing. The House has finally decided in a decisive vote to go ahead and build the space station.

I want to ask my colleagues to listen to the debate today, to be respectful of people who disagree with their views, hear them out, but when we decide to vote, let us settle this issue today once and for all.

Let us have a decisive victory for the space station today and from this point on move forward with the design that we have, the design we paid for, the design that we have developed on an international basis, the design that is a commitment through international obligations we have made to the Japanese, to the Europeans, to the Russians, and to the Canadians. Let us go ahead and stop talking and start building.

I want to ask my colleagues, look at this amendment and ask yourself, "Should we be killing what is left of American science in order to allow more spending on other programs that we are already spending money on?" I think the answer to that question is clearly no.

So I want to say to my colleagues, do not just join me in rejecting this amendment, let us reject it by such overwhelming numbers that we do not have this debate next year. Let us go ahead and build the space station. Let us end the debate and get on with the work. We have a good design. We have a good program. I think the time has come to stop debating and to start building. That is what this bill is about.

So I urge my colleagues, look at this amendment. Take note of the fact that not one penny saved by this amendment is going to go to deficit reduction. We are not lowering the spending caps that we have in the budget. We are not saying if you do not spend the money on the space station, you have to apply it to the deficit. Nobody believes that would happen under this amendment. There is certainly no requirement that it happen. This is about priorities. This is the future of America, the future of our children versus the same old past political process which has so often served the Nation and its people so poorly.

So I do not doubt our dear colleague from Arkansas is totally sincere on this amendment. I know he believes everything he is saying. I know he believes what he is saying is right. I believe it is wrong. That is why we have debates here.

To conclude, I want to thank the distinguished chairman again. I am going to yield the rest of my time to my colleague from Texas.

Today, let us not just defeat this amendment. Let us end this debate. Today, let us achieve such a decisive victory on the space station that we will stop debating and start building. That is our duty, I believe, not only to those who have invested their lives in developing the greatest space program in history but also to those future generations that will benefit from the science and technology that will come from it. That is what we can do today.

I yield the remainder of my time to my colleague from Texas.

The PRESIDING OFFICER. The junior Senator from Texas has 3½ minutes remaining.

Mrs. HUTCHISON. Thank you, Mr. President. I thank Senator MIKULSKI for her leadership in this area. No one could do a better job of making the case for the importance of this great project than Senator MIKULSKI has done. And the ranking member, the senior Senator from Texas, has made a great statement talking about the priorities of this country. That is where I want to end our part of this debate.

The Senator from Arkansas has talked about the budget, and he is absolutely right that we have to find the places to cut the budget. But we are never going to make real progress in this country toward eliminating the deficit until we look at the entire budget, as a whole, and decide what our priorities are.

Mr. President, any company, any business, and certainly Government, should look for the long view, which means we have to set out all of the priorities, where this country is going, what we want to do in the future, and have a long-term vision for where this country is going to put its resources. Any corporation or business, and hopefully Government, says we set aside this much for the future, we set aside this much for today, we set aside this much for the needy people in our society, this much for emergencies, and that is the way you plan. That is what planning is.

Any entity that is looking to the future must set aside some amount to make sure that we have seed corn, that we do the research that produces the new technologies that creates the new industries that will give jobs for the future. We will not have jobs in the future if we continue to have a stagnant base. And we will never have jobs for the future if we do not continue to grow and expand our horizons and create knew technology.

Mr. President, when President Kennedy decided we would take off into space, he did not tell us everything we would get. He did not say that we are going to have laser surgery, so that people who used to take 2 weeks to recover from surgery now walk out of the doctor's office in 4 hours. He did not say that because we could never have dreamed that that would be so. He did not say that people would have hearing aids in their ears instead of a big battery in their pocket, because he did not know that is what would come out of space research. He did not say we would have velcro closings on coats and shoes so that people with arthritis could be self-sufficient, and children that are 3 years old could put on their own shoes, because he did not know that is what would happen. But that is why you have research and technology. It is to build for the future.

We cannot dream of all of the things that we will have if we continue our quest and we continue our research. We used to spend 5 percent of our Federal budget on research and technology because we had the commitment for the future. Today, we are down to 1.7 percent of our budget. So I think it is quite consistent. And I say to my colleague from Arkansas that it is entirely consistent to be a budget cutter—which I am—and to say that I want to cut the budget and have a balanced budget amendment, without taking the first priority, which is research and technology—which is thinking for the future—and cutting that first. Of course, you do not do that.

Mr. President, I know my time is up and I thank you for giving me this time. This is not the time to sit back and be stagnant. We must look to the future. That is the American spirit. Thank you, Mr. President.

Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from Wisconsin [Mr. KOHL].

Mr. KOHL. Mr. President I rise today in opposition to the $1.9 billion in funding for the space station provided in this bill. I want to commend Senator BUMPERS for taking on this battle every year. I truly hope this is the year we finally win.

Mr. President, the space station is a project that does not do what it is supposed to do, and it does not do it at a very high price. We have all heard of getting something for nothing. But in this case what we are getting is nothing for something. That something has a price tag that could reach $156 billion over the next 35 years.

To justify this cost, the space station would have to do great things for our country. But it does not, Mr. President. In fact, the space station is best described by what it will not do.

For example, the space station will not, as some proponents claim, be a commercially viable, state-of-the-art manufacturing facility able to make crystals for high-tech American companies. It would cost a business $12,880 to ship 1 pound of payload to the station. At that cost, making crystals in space is, in the words of one semiconductor company CEO, "an absurd business proposition."

Nor will the space station bring us closer to understanding other planets and systems in space. As a representative of the American Physical Society testified, unmanned spacecraft have already gone to Venus, Mars, and even the Sun—voyages that no manned space station envisioned today could make.

Finally, the space station is not, as some have argued, a good way to encourage Russian scientists to put their talents toward peaceful means. GAO has recently reported that NASA severely underestimates the cost and overestimates the benefits of cooperation with the Russians on the station. The space station cannot be justified as necessary foreign policy.

So if it is not commercial policy, space policy, or foreign policy, then what is the space station? What justifies the $11.9 billion already spent on the project without the production of even 1 pound of finished hardware? Where did the money go? And where will it go if we continue to appropriate a couple billion dollars every year?

Mr. President, in these last few weeks, we have all savored the memories of the first Moon landing and the courage of the men and women who worked and flew in this country's manned space program. We in this body are fortunate to serve with one of the true heroes of that time, Senator JOHN GLENN. But we do not dishonor the memory of these great feats by arguing against a program that has none of the vision or public support that our earlier manned space flights did.

Mr. President, these are very difficult financial times for our Government and our country. We are in the process of bringing down our deficit, after years and years of struggling with it unsuccessfully. Now, for the first time in 30 or 40 years, we are going to have three consecutive years of deficit reduction. We have worked awfully hard and struggled to achieve this deficit reduction.

So, if we are going to spend billions of dollars on this space station, to me, it is an indication that our zeal and our fervor about reducing our deficit has been waylaid. We also have numberless unmet needs in our country, programs that need to be funded if we are going to develop our country in ways that truly benefit the people, the men and women who live here, and our children, who are struggling to grow up in a society that provides for their welfare. So we should not pursue our dream of traveling to the stars at the expense of the very real needs of people who live in this country.

Mr. President, the space station costs too much and it does too little. So we ought to kill it before it uses any more of our scarce resources.

I urge my colleagues to support the Bumpers amendment.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield 2 minutes of my time to the Senator from Florida [Mr. GRAHAM].

The ACTING PRESIDENT pro tempore. The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. Thank you, Mr. President, and I thank the floor manager of the bill for affording me the opportunity to make a few remarks in support of the space station.

I would like to pick up on the statements just made by our good friend and colleague from Wisconsin relative to the fact we are sacrificing current needs in order to make this investment in the space station.

Mr. President, that is always the choice that faces mankind. When Christopher Columbus approached Queen Isabella and King Ferdinand, there were needs in Spain at that time that had to be foregone in order to finance that expedition. When Justin Morrill proposed the land-grant college system in the 1860's, there were tremendous needs in this country in the aftermath of the Civil War that had to be foregone in order to make that investment in basic research. Those and many other examples illustrate the fact that by making those types of commitments to the future we not only meet mankind's inevitable quest to explore the boundaries of knowledge but we also add to the prosperity and wealth of that and future generations.

So it is with the space station. No one can tell you today anymore than they could have told those who made the decisions relative to exploration of the New World or those who made the investment to expand the frontiers of American agriculture and engineering what would be the precise end results of those initiatives. No one can tell you what will be the precise end results of our investment in the space station.

I will just suggest three things that I believe will occur. One, in the very short term we will continue what has already been a hallmark of our space program, and that is contributions to the well-being of America and the world. The results in the life sciences, in the extension of life, the ability to explore new approaches to the maintenance of health and mankind have been immediate results of the space program.

Second, we continue to keep America on the forefront of high-technology activities. It is not unrelated that we have made this enormous investment in the space program and have had, as one of our most significant areas of international competitiveness, the aerospace industry.

Third, today we have the opportunity to cement a new relationship not only with our traditional allies but with our former adversaries in the former Soviet Union through exploration of space, taking advantage of Russia's experience in space, particularly long-duration flights. With our technologies we have the opportunity to accelerate the pace of exploration as well as accelerate the pace of a new friendship with our former adversaries.

Mr. President, I believe those are compelling reasons why this investment warrants our continued support.

I urge my colleagues to defeat the amendment before us, which would terminate this important part of America's quest for a better future.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Arkansas has 34 minutes 35 seconds remaining.

Ms. MIKULSKI. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Senator from Maryland has 10 minutes 11 seconds.

Mr. BUMPERS. Mr. President, the Senator from Florida has always been a great champion of the space station, and in all fairness I have to say if I were going to get back a lot more money in my State than it was going to cost, I might be for it, too. In the interest of candor I say that.

Three States—Alabama, California, and Texas—are big winners. I thought Maryland was. Maryland is a big loser in this. It is going to cost them much, much more than they will get back.

But I want to say as an example, even if I lived in Texas——

Ms. MIKULSKI. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Ms. MIKULSKI. What is the Senator's methodology on this about how you win or how you lose? Does he take the gross national revenues of the Nation and divide on this or the total cost of the space station?

Maryland is a big winner in the space program because of Goddard, the Space Institute, the Hubble mission to planet Earth.

In talking about being a big loser in space, what is the methodology?

Mr. BUMPERS. The figures I use deal only with the space station, not the rest of the NASA budget. We are talking about $2.1 billion of it. As I understand it, NASA's budget is about $14 billion next year.

Ms. MIKULSKI. What is the methodology as to how it affects the States?

Mr. BUMPERS. It is not mine. NASA is the one that gave us the figures on how much each State gets in contracts.

Ms. MIKULSKI. I thank the Senator.

Mr. BUMPERS. I know they do not make a mistake, even though they forgot $1.5 billion in civil service costs in these figures. I am willing to accept the figures.

Ms. MIKULSKI. I have a comment on what the Senator says is forgotten.

Mr. BUMPERS. Mr. President, the State of Arkansas is going to pony up $667 million in taxes for this space station. I am not going to go home and ask my constituents if they want to be taxed $667 million to put this turkey in orbit for 10 years? I can tell you the vote would be at least 95 to 5.

I do not care what State you are from. Do you think I would go to South

Carolina and say, "I am going to ask you folks to give $1 billion for the space station?" They would run you out of the State.

Even if I lived in California where they cannot balance the budget but where they do indeed get a big benefit out of the space station, I would hate to run for Governor out there and say, "I am a strong supporter for the space station even though it is going to cost the people of this State $8.5 billion." I guarantee, if you took a vote on it in California, it would be soundly defeated, even though California is one of the big beneficiaries.

Mr. President, when you look at this chart—and I hope all of my colleagues when they walk in will look at this and see what it is going to cost each of their States to build this thing—you may have second thoughts.

I have been waiting for the argument the Senator from Texas made, essentially the argument that if you do not spend it on space, you are just going to waste it.

Nothing could be further from the truth. One of the most important points I have tried to make is that the savings from my amendment would go straight on the deficit, because we have to cut $5.4 billion just next year in order to come into compliance with the Exon-Grassley amendment.

So, yes, we have to cut $13 billion over the next 5 years in discretionary spending in order to get the deficit down to what we promised. If we do not take it out of the space station, we are going to end up taking it out of the other things I mentioned earlier—education, crime prevention, veterans, et cetera.

I am saying the space station is the best place to get 80 percent of what we have to cut over the next 5 years.

Last year, opponents said if we do not spend it on the space station, we would just squander it on something else. I was ready for that argument because I put a provision in the amendment that the savings could only go on the deficit.

All I am saying is that if we do not want to take it out of education, veterans' affairs, crime prevention, research at NIH, and all the other things around here, then vote for my amendment. It provides almost 80 percent of what we will have to cut next year under Exon-Grassley.

Mr. President, Senators will argue that they are for cutting spending by this amount or that amount, and so on. I did a study last year and looked at 20 specific spending cuts proposed on the floor of the U.S. Senate.

Do you know who had the highest percentage of voting to cut spending of anybody in the U.S. Senate? My good friend, Senator KOHL, from Wisconsin. And right behind him was his colleague, RUSS FEINGOLD. Some of the deficit hawks who vote for balanced budget amendments and everything else they can think of so they can go home and make these big pronouncements about what fiscal conservatives they are invariably voted against almost every one of those spending cuts.

So what do they say? They say they vote to cut entitlements. It is easy to hide behind the word "entitlement." You do not even hear anyone say Social Security. You do not even hear anyone say Medicaid. You do not hear anyone say veterans' pensions. You do not hear anyone say Federal employees' pensions. They call it entitlements because 99.9 percent of the people out in the country have no idea what that means. If they have any idea at all, they think it refers to those "shiftless welfare people" getting money. But entitlements around here means Social Security; it means Medicaid; it means pensions; it means school lunches.

So you just go ahead and vote for the space station and everything else you can think of to vote for, and go home and say, "Oh, its those entitlements that are causing the deficit to go up."

I sit on the Subcommittee on Appropriations dealing with the budget of the National Institutes of Health, around $10 billion a year. Every year the National Institutes of Health comes in and tells us that they are only able to fund about 27 percent of the valid, meritorious applications they get for research. A few years ago they were able to fund 35 percent of them, and now they can only fund about 27 percent.

Do you know why the American Cancer Society opposes this space station? Because they know that if you put this money to real, honest-to-goodness research on cancer at the National Institutes of Health and the university medical schools of this country, you might find a cure for cancer. You are not going to find it up there in a microgravity atmosphere.

We have been up there 30 years. What have they been doing in those 30 years? It costs a half-billion to a billion every time the shuttle goes up. They could not even keep newts alive the last trip. They died.

Why are we spending over $70 billion to float somebody in space when we have been up there for 30 years and no cancer cure, no crystals grown, no nothing? "Well, that is the shuttle. If we could just do it on the space station, it would be different."

Do you know what the Russians have to show for having a space station up for 20 years? Zip, zero, zap, nothing. They made a big to-do about a flu vaccine that they developed, until they found out they could make it better and cheaper on Earth.

Mr. President, I take great pride—and the President should take great pride—in the fact that the deficit in this country is declining dramatically.

Last year, as David Broder pointed out in a really good article this morning in the Washington Post—which I recommend to everybody—when we passed the Budget Reconciliation Act, we had a tax increase for the richest 1.2 percent of the people in this country. All over the country we heard wails and yells about how this was going to destroy our economy, small businesses were going to drop by the thousands, and we were raising taxes on the poorest of the poor.

I have been waiting for somebody to write the story that David Broder wrote this morning.

We are so consumed with Whitewater and hate and suspicion, nobody has focused on anything around here that is good.

And I will tell you what is good: The inflation rate. Do you know what else is good? Jobs. We have one of the lowest unemployment rates in recent years. The gross domestic product is holding between 3 and 4 percent, and people are working and they are buying homes. And, best of all, the deficit, which was projected in June of 1993 to be $305 billion this year, is continuing down. Just last week the Congressional Budget Office said it is going to be $200 billion this year, $105 billion less than the prognostication of a year and a half ago.

I have told many of my colleagues in caucus that, if I were up for reelection this year, I would not wait for my opponent to bring up the vote on the budget resolution this last year. I would bring it up myself. I would point to every one of those things, jobs, the deficit, et cetera, and I would point to the fact that, only 1.2 percent of the people in this country are paying more taxes, except for the gasoline tax increase of 4 cents a gallon.

I was doing an interview the other day on what effect religion has in politics. That is a touchy subject, and goes right into "fools walk in where angels fear to tread."

I was taught as a Methodist Sunday school boy that love is the most powerful emotion of all, much more powerful than hate. I have had to change my mind. You know, we all, if we pay attention, do get a little wiser as we grow older.

I am not sure I believe love is more powerful than hate. Hate is so easy to stimulate. It is so easy, as Hitler demonstrated, to point to this one and that one and the other one as the cause of all our problems.

My son-in-law, a very perceptive young man said he disagreed. He thought fear was the greatest emotion of all. And I had to reluctantly agree. I believe that most people in America wake up every morning in fear of something. Sometimes they are deep-seated fears, sometimes they are just nagging, and perhaps there are some lucky people who do not really have much fear of anything.

I fear for my country. I fear for my country because socially and culturally we have been in decline. And the reason is not because people have suddenly gotten meaner or suddenly gotten less caring or indifferent about their fellow man. It is because our Government has misspent its money.

The Senator from Texas mentioned social programs as though they were about as foul words as he could use. I favor social programs. I favor educating poor children; I favor health care for poor people; I favor health care that cannot be taken away from people like my daughter who has a preexisting condition. I hope everyone is assured of that type of coverage before I die.

I favor school lunches; I favor seniors' centers where they get a meal, where they can visit with each other; I favor Meals on Wheels; I favor everything that helps a youngster lift himself out of poverty. Jack Kennedy's words have never been improved upon: "A rising tide lifts all ships."

But when you spend $74 billion, as the very perspicacious Senator from Wisconsin said, you are getting nothing for something.

Mr. President, I would remind my colleagues that we spent a lot of money going to the Moon, but we have not gone back. Nothing there. And I can tell you that the wisest people who study space will tell you that the purpose of this space station is not to grow crystals or to cure cancer. It is to see how long we can leave men in space so we can determine whether we want to go to Mars or not. That is what this is all about. And if we had a $5 trillion surplus instead of a $5 trillion debt, I would be for going to Mars, too.

Mr. President, I do not want to use up all of my time. I have two or three other people who wish to speak, so I yield the floor.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time does the Senator from Arkansas have?

The PRESIDING OFFICER. The Senator from Arkansas has 15 minutes.

Ms. MIKULSKI. How much time do the opponents have?

The PRESIDING OFFICER. The Senator from Maryland has 10 minutes.

Ms. MIKULSKI. And Senator METZENBAUM has 15 minutes; is that correct?

The PRESIDING OFFICER. The Senator from Arkansas has 13½ minutes.

Ms. MIKULSKI. Mr. President, I want to make two points—if I may have the Presiding Officer's attention—I am going to make 2 points and then yield 2 minutes to the Senator from Montana.

First, the Senator from Arkansas wants to talk about what civil service costs are forgotten, in terms of adding their costs. The civil service costs are not charged against total costs of any other Federal procurement.

Let me tell you how this works. For example, when we build an aircraft carrier, we do not estimate the cost of sailors to operate it for 30 years. When we build a new agricultural lab for catfish fertility in Arkansas, we do not add the cost of USDA staff to run it for 30 years, as part of the lab cost to build.

However, NASA has included operation costs of its space station in the estimate of the total space station cost at this chairman's request so we would have a picture of what the life-cycle cost is. They did not forget it. It is never done on any Federal project.

The fact that NASA does not charge off civil service costs of operating and maintenance as part of its space station estimates is not unique. If you want to force NASA to include civil service costs for space station operation and maintenance in the future, then I will offer an amendment that we make it a requirement for every procurement or construction project. That means for every VA hospital that is built, I will want to know its staffing and operation and maintenance for the next 30 years. For every laboratory we build, I will want to know its operation and maintenance for the next 30 years, as its cost; and for every aircraft carrier and every airplane that is built. Then we will make that standard operating procedure.

There is much to be debated in an honorable way about the space station. But I will not let NASA be ridiculed as if they forgot to add something in its civil service costs. No. 2, I do not want NASA to be held to a different standard of accounting, different than any other Federal procurement facility or construction project. So I want to set that record clear.

The other record I want to set clear is this chart, this odd little chart about space station winners and losers. NASA did not make up this chart that is going to be distributed. I want to put everybody who is going to vote on red alert when they come over and get this piece of paper about winners and losers. Whoever made up this unsigned chart in terms of its methodology—there is no signature to this. No one knows where the methodology came from. I do not even know who made this chart up. But NASA did identify what the contracts were.

But this whole thing about paid-in taxes. The Presiding Officer knows that when people pay their taxes they do not earmark for special projects, whether it is soybeans in an agricultural State or whether it is the National Institutes of Health in my State. So when we talk about paid-in taxes, this is some convoluted formula that is as specious as so many other things we get about who pays taxes and who wins and loses.

There is no rationale to the methodology used in this statement. When you ask who are the winners and losers, the question is: Is America in the 21st century going to be a winner, or is America in the 21st century going to be a loser? That is why I advocate the space station, because I want us to be winners in this battle for America's future.

I yield 2 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 2 minutes.

Mr. BURNS. Mr. President, I want to make a couple of points here. When we start talking about research and development, reaching into the unknown—when we start talking about the incalculable payoffs in health, ecology, technology, competitiveness, and world relations, we talk about infrastructure—do we pull back and cease to grow; or do we dream and go into the unknown, as all Americans have been known to do?

I think it is Government's role to provide the infrastructure for all of these magnificent things that this society enjoys. Just produce the infrastructure. Then let everybody else sort of take over and do their own thing.

Montana is not one of those States that is actively engaged in building the space station. Nor do we derive a lot from it. But I will tell you this, I think that the young people of Montana do have a vested interest in these kinds of challenges.

I disagree with the argument we cannot afford the space station.

The list of benefits from the space station is a long one:

Establishing an international space laboratory for the advancement of a wide range of scientific and technical research;

Developing new and improved products like solar powered electric generators, high-density batteries, energy saving air conditioners, water purification systems like those in use in Rwanda to save lives, environmentally safe sewage treatments, radiation-blocking sunglasses, ultrasound scanners, and vital body functions monitors used in hospitals and medical clinics throughout Montana;

Challenging students from grade school to graduate school to expand the frontiers of new learning into space;

Building new bridges between nations for peace and mutual prosperity.

It is very clear that the investment in the space station by our Nation's taxpayers is truly small when compared to the incalculable payoffs in health, ecology, technology, competitiveness, and world relations.

As a Senator from a State with little direct involvement in the actual construction of the space station this is a tough vote. But in this job there is no maybe, just yes or no. When I look at this issue, even with the tough budget constraints under which we are now operating, I see the benefits to Montanans and our Nation clearly outweigh the costs.

While my State may not be participating in the construction of the space station that does not mean Montana is not involved in its mission. Researchers at Montana State University are currently working on a biofilm laboratory with increased resistance to film buildup over long periods of time in space and vibration isolation devices for a higher level of microgravity for experiments in space. A small company in Bozeman is working on ways to incorporate machined plastic parts into the station to reduce its weight which allows the space station to achieve and maintain a higher elevation. A physical therapist in Deer Lodge is developing an all directional isometric exerciser to help maintain muscle and monitor physical conditions of the people living in space.

I want to close with a quote from a letter I received from a veteran from Charlo, MT, Comdr. Ralph F. Stockstad, USN, ret., in support of the space station.

> A vote for the space station is a vote for the future of this great nation—a vote to continue America's economic, scientific and technological leadership in an increasingly competitive global economy.

I could not agree more.

Let us continue to grow. Let us not pull back. I vote for some social programs but I also vote for those activities that provide opportunities and provide an economy so folks can take care of themselves.

This is one of those kinds of projects.

I appreciate the time and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. The manager of the bill would like to ask how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes.

The Senator from Arkansas.

Mr. BUMPERS. I was trying to save some time for my chief cosponsor, Senator WARNER. I see my colleague here now.

Mr. President, I yield my colleague from Virginia 10 minutes.

Mr. WARNER. Mr. President, I thank my distinguished friend. I once again commend him for the leadership he has shown on this issue.

I fully support this endeavor. Both of us, on many occasions, have just sat and pondered the future of this country if we continued to have such enormous expenditures accompanied by or coupled with the uncertainty of returns to meet the ever-growing needs of the people of our Nation, be it our health, our education, transportation, or the like.

Certainly, we want to maintain a cutting edge in technology. It is essential to do it in the areas of national defense and medicine. And we have a very viable and active space program under way at this very moment. But this has so many uncertainties attached to it, balanced against the certainty of the many needs that face this Nation, that it calls for the courage of all Members of the U.S. Senate to ask themselves, is this essential? Because we know this country is headed into a most uncertain future with respect to its fiscal stability.

In many ways, fiscal instability is far more dangerous than any threat beyond our shores because it can undermine the very foundation on which this great Nation rests.

Last year, after many attempts by myself and many others, the Congress finally mustered the courage to vote to end the funding for the superconducting super collider project, and America has survived in terms of the impact—and it was a hardship on many employed in that project—but we survived, and those funds now have gone into the mainstream of the higher priority needs of this Nation.

Now this year, Mr. President, I hope that Congress can come to grips with this issue. I see the distinguished manager here, the Senator from Maryland, if I might just address a brief question. We had a short colloquy last night and I made reference to this debate last year, at which time this Senator, and I believe others, gained the impression that the system of checks and balances we put on the authorization last year required a further examination by the subcommittee that dealt specifically with this program.

I commend my good friend from Maryland. Last year, she indicated to the Senate that we would follow certain procedures. In the course of the evening last night, I think she was very candid. I asked the Senator from Maryland and she indicated to me there were reasons why those checks and balances were not fully met as represented to the Senate.

Mr. President, will the Senator from Maryland clarify that?

Ms. MIKULSKI. Yes, and, of course, I remember the spirited debate we had last year with the Senator from Virginia. We kept our fence until June 30 and incorporated many of the questions we had about lifting the fence in our regular appropriations hearing. We still did not lift the fence, though, until after the House vote in June. Then because of the questions that had been answered in our regular hearing process and then through the House vote, we felt that we could just move away and not have a special hearing, though we reserved the right to do that.

Mr. WARNER. Mr. President, in my recollection, and I in no way am trying to indicate criticism to my good friend from Maryland, but it was represented to this Chamber that we would have a certain hearing and my recollection was the February-March timeframe when a second major portion of the funding that was authorized was to fall due; am I not correct?

Ms. MIKULSKI. That is right. Originally, we were going to lift the fence in March, but we did not lift the fence in March. We lifted it in June and incorporated many of the questions that we had about the space station in our regular hearing process.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Maryland. I have complete confidence in the manner in which she has conducted—

Ms. MIKULSKI. I say this to the Senator from Virginia—and I thank him for his courtesy—if we win today and defeat the Bumpers amendment, if the Senator has questions for NASA that he wishes to explore and if there is any foot dragging of someone, I will join with the Senator in a letter to get him the answers that he has a right as a Senator to pursue.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

Mr. President, since the last Congress, I have endeavored to work with other Senators to terminate funding for the space station. I cosponsored legislation to terminate the funding last year in response to President Clinton's request for further cuts in Federal spending.

Last year, the Congress finally voted to end the funding appropriated to build the superconducting super collider project.

This year, Mr. President, the Congress must finally vote to end the funding appropriated for the space station.

The Congress is confronted with an enormous, costly, and, to date, an unmanageable program at a time when the Congress must be prioritizing the numerous programs in the Federal budget and eliminating spending where necessary.

Mr. President, voting to eliminate the funding for this project is not an easy decision for me because elements of this project are being performed by Virginians. If we are successful, it will result in a direct loss of jobs in my State.

Last year, my concern regarding cost increases, questionable value, and schedule delays of this project prompted me to request that the Government Accounting Office [GAO] prepare a detailed analysis of the project, specifically the direct national security benefits, if any, that might be derived from the project. In a nutshell, the space station will not enhance our national security requirements and the Department of Defense has virtually no use for the space station.

Mr. President, we cannot be No. 1 in everything, not when confronted with our staggering debt and burgeoning Federal deficit.

The space station is not a project; it is a black hole in the Federal budget. NASA informed the House of Representatives Science Committee in March 1994 that it will cost $70.8 billion to build, launch, and operate the station. This is 887 percent more than the $8 billion original sticker price presented to Congress in 1984. Since then, American taxpayers have spent $11 billion and have received only pictures and diagrams of a project in the planning stages.

Even by the most cautious and conservative estimate, using U.S. Government figures from NASA, the U.S. Congressional Research Service, and the U.S. General Accounting Office, it is clear that the total cost of NASA's current space station design will exceed $70 billion.

If we look at the spending on the space station since 1985–1993, this adds up to about $11.2 billion: construction of the station from 1994–2002 will add up to about $17.4 billion; the operation of the station for 10 years will be about $13 billion; the launch of the station will add another $32 billion; payments to Russia will be about another $1 billion. The total of these figures does not even include any salary costs of the many NASA employees who will work on the station over two decades. If we add these figures, we will reach a total of over $75 billion for this project.

Mr. President, I along with my colleagues who are cosponsors of this amendment are convinced that the space station would provide few benefits to national security, economic competitiveness, and the well-being of our people.

However, proceeding with this project will certainly mean further cuts in domestic programs to cover the costs of this project. The funding for this project will continue to have a great impact upon many other programs in the Federal budget which are in danger of further reductions in funding.

Mr. President, it is time Congress ends the debate on whether to fund the space station and begin to use these funds to meet the challenges confronting American taxpayers on Earth.

Mr. President, I just want to express my concern, once again, about the cost increases, the questionable value and schedule delays as relates to this project. The distinguished Senator from Arkansas has addressed more specifically those problems. But, again, we are confronted with enormous uncertainties as relates to this program, and we are faced with certainties at home.

I hope, given that choice, that this body will decide in favor of the pressing needs which we know so well at home, as opposed to the speculative returns that this project may some day, long after most of us in this Chamber have gone on to other, let us say, greener pastures, long after that will we ever know the outcome of this project.

Mr. President, I ask unanimous consent to print in the RECORD the debate between myself and the Senator from Maryland [Ms. MIKULSKI], which occurred last year on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 908

(Purpose: To require the approval of Congress of the expenditure of certain space station funds)

Mr. WARNER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator intend to amend the first committee amendment?

Mr. WARNER. Madam President, I ask unanimous consent the pending amendment be set aside and we proceed to the amendment of the Senator from Virginia.

The PRESIDING OFFICER. Without objection the committee amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

"The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 908.

"On page 60, line 9, after '1994' insert the following: ', and any funds above such $1,000,000,000 may only be obligated with the approval of Congress.' "

Mr. WARNER. Madam President, I send to the desk an amendment in the nature of a second degree.

The PRESIDING OFFICER. The Senator does not have a right to offer an amendment to his amendment at this time.

Mr. WARNER. Madam President, I ask for the yeas and nays on the first amendment.

Mr. GRAMM. On your amendment you ask for the yeas and nays?

Mr. WARNER. The amendment that is at the desk. I ask for the yeas and nays.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I thank the Chair. I thank the managers.

Madam President, I spoke to this amendment earlier. I do not wish to prolong unduly the debate which has been a very good one—I said that earlier—on the space station. My concern is that the committee report on Calendar No. 194, page 145, reads as follows:

"Bill language has been included to allocate these funds accordingly. In addition, the committee has included language that limits NASA from obligating more than $1 billion prior to January 31, 1994, for the space station program. This will enable the committee to assess the final design configuration of the station before agreeing to release the remaining funds appropriated in fiscal year 1994."

Madam President, this amendment is a very simple one. It states that rather than the committee making this assessment at some point in time prior to January 31, 1994, that the Senate as a whole, that the House as a whole, that the Congress as a body shall determine whether or not future authorized dollars by the previous amendment should be appropriated to this program. That is all.

I say to my distinguished colleague from Texas, who possibly has in mind a second-degree amendment, I shall repeatedly bring forth one amendment after another until I get an up-or-down vote on this question, because in the judgment of this Senator, I think this program should be reviewed very intensely by the Senate. It will be my hope we continue oversight on a continuous basis because here in the course of the debate on the space station we have learned facts that I find astonishing, that I find unacceptable, in terms of timely action by this body.

We do not have, in my judgment, before us at this time such firm cost estimates for the completion of this program to justify action by this body. Nevertheless, the body did take action.

It is interesting, if you look at a breakout of the votes here, there are 36 Republicans who voted for the program and 23 Democrats. That is a heavy responsibility. This program now has a very close identity with the Republican Party. This party deliberately delivered the margin of vote to assure the program go forward as directed by the committee. I say that with no disrespect to anyone. A fair battle was fought on the amendment. It is over. It is behind us. But I think it is incumbent upon us to engage this body in such further deliberation as necessary to have one single dollar in addition to the $1 billion, and that roughly is $900 million, almost another $1 billion—before $1 of that sum is released. I think it merits the deliberation of this body, its careful attention, and I would anticipate another record vote.

In that way we have fulfilled our responsibility, our continuing responsibility, toward this program and toward the heavy burden we are casting on the taxpayers to continue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Madam President, I am not sure I understand.

Is this a procedure where we would have to have another affirmative vote in the Senate before any of that money could be spent even though the report was made back?

Let me just give an example. On the Armed Services Committee we fence things and put hurdles in, objectives to be met all the time. We have done that. We did it on B-2. We have done it on several different programs. But the idea on that was not to bring it back for a second vote in the Senate. The idea every time there was to make sure the administration was reporting everything to the committee because we had been misled a few times, reporting everything to the committee and have to report it.

Then, at that point, Members who were either for or opposed to whatever the issue is have a full right to come to the floor, put in legislation, try to alter that. But I would say to my friend from Virginia, if we are to start on appropriations bills and say because we do not like a certain procedure and because we happen to lose a vote on the floor we are then going to come back and require a second vote before anything is released, that is just legislative WPA in the Senate.

The Senate has expressed its vote. It was 59 to 40. Accept it. Why would we have to bring it back again and have another vote on it? I am all for having the report made back here and then if there is objection to the way things are going or it does not come out the way we hoped, we always can bring it back and legislation can be submitted to undo what is being done. But I think we are treading down a path here of just making a lot of excess work for ourselves if every time we have some objection to a thing that passes here on the floor on an appropriations bill, we require a second vote on it. So I would have to oppose it, regretfully.

Mr. WARNER. I respect my good friend from Ohio. He served with me for many years on the committee. But I ask him to review the language. Where did he see here the word "report"? Where is the fencing report we carefully put in the Armed Services Committee? Will my colleague kindly read the language? Or I will read it for him.

Mr. GLENN. If the Senator will yield for a comment, I have not actually read the language. Maybe it does not require a report. But, certainly, I can guarantee the Senator from Virginia, the Senator from Arkansas, and others are going to be following the progress of the planning for the spending of that money very, very carefully, as they should. Then if there is objection——

Mr. WARNER. I do not know how I follow it, to be honest. There is no obligation for them to report that I see here. There is a report inferred, I might say in all fairness. The sentence simply says "This will enable the committee to assess the final design configuration."

That implies some further evidence will be coming before the committee. But I draw to my colleague's attention, January 31, 1994—the Senate meets for a very few days in January and, hopefully, for a very few days in December. It could be the outcome of this is decided by one or two Senators on behalf of the entire body involving $900 million.

I say to my good friend, I am not prepared to yield that discretion, primarily because of the inadequacy of the facts that were presented to this body in support of the amendment that was just acted on.

Ms. MIKULSKI. Will the distinguished Senator from Virginia yield?

If the distinguished Senator will yield the floor to me, recognizing his right to reclaim the floor?

AMENDMENT NO. 909 TO AMENDMENT NO. 908

(Purpose: To require the approval of Congress of the expenditure of certain space station funds)

Mr. WARNER. Madam President, I will be happy to yield, but before doing so, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

"The Senator from Virginia [Mr. Warner] proposes an amendment numbered 909 to amendment No. 908.

"Strike all after the first clause and add: 'any funds above such $1,000,000,100 may only be obligated with the approval of Congress.'."

Mr. WARNER. Madam President, I thank the Chair and I thank the distinguished managers.

I yield the floor.

Ms. MIKULSKI. Madam President, I recognize what the Senator from Virginia is trying to achieve. He wants to ensure fiscal accountability and that the redesign of the space station, an American-led space station with Russian participation, is adequate to the three criteria that the ranking minority member and I have articulated: That it do significant science; that it be fiscally achievable; and that it meet the needs and the criteria of our international participating partners. That is not unreasonable.

What I do not want, Madam President, is to bind the hands of this committee, subject to another vote on the space station, without going through the regular appropriations process. However, what I am prepared to do is, we anticipate that this report will be done by Thanksgiving; and I will assure the Senator that we will not unfence until we have had a hearing exactly on the nature, the content, and the fiscal aspects of this new design. Then, at that time, we can decide if it is so significantly different from what we think we have agreed to tonight, that we might have to return to the body.

I would not want to bind us to a vote, but I am prepared to agree to a hearing because I think that the questions the Senator from Virginia has would be the same questions I would have in order to be able to listen to what the design is. But I really encourage the Senator from Virginia to not have us come back to do a second vote when the normal appropriations process is done except on one item.

I am ready to agree to a hearing. Would that satisfy the Senator from Virginia?

Mr. WARNER. Madam President, I thank the manager, the distinguished Senator from Maryland.

I regret to say that I would not find that an acceptable substitute for the goals of the Senator from Virginia, as manifested by the amendment at the desk. I say that with great respect.

Ms. MIKULSKI. I understand that.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, one of the things that we do to try to see that the will of the Congress and the intent of the law is carried out is to set up a fencing mechanism so that those who are implementing the law have to come back to those of us who write the law and show that, in fact, they have carried out the intent of Congress.

What the distinguished Senator from Virginia has done is sought to magnify a fence that we were trying to use to achieve the purposes that he is supportive of, and now he would like us to have to come back to Congress and bring a bill to the floor of the Senate, which could be filibustered. We could technically have to get a supermajority in order to move ahead with a project that 59 Members of the Senate have just voted in favor of.

Also, this amendment, if adopted, would set what I believe is a very bad precedent because it would either force committees to stop fencing money—and therefore we would lose our ability to have effective oversight—or we would have to subject ourselves to the potential of having multiple votes on basically the same issue.

So I think, again, this is a case—and I made the point when we had the previous debate, and I do not intend to repeat all those speeches tonight—but this is a case where the distinguished chairman and I have tried to exercise oversight; we have tried to hold NASA accountable. The mechanisms we have used, which are conventional mechanisms, in fact, are used routinely by the Armed Services Committee, on which the distinguished Senator from Virginia serves as the senior Republican. What we are trying to do here is simply to exercise oversight. I am afraid if we accepted this amendment, we would be forced to come back and vote on the whole issue again.

I think the Senate has spoken on this subject. I have no doubt that they will speak again with a very clear voice, perhaps with a larger margin, because now we are talking about really attacking the mechanism which the Congress has used to do its work. And so I do not see that we are going to serve any purpose at 7:30 tonight by debating the whole space station again.

The distinguished Senator from Virginia very ably, with great passion and skill, made his case. We had a vote on it. His position did not carry. He is certainly within his right to offer this amendment, but I think that this amendment disrupts what we are trying to do. I think that it discourages the kind of oversight that we all agreed that this project needs.

Therefore, I am opposed to this amendment, and I hope that it will be rejected.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, if I may make a brief reply to my colleague from Texas. During the course of this debate on the amendment, which has now encompassed 2 days, we have had a most astonishing development in the world. The Senator from Arkansas read from the initial reports regarding some developments in Russia which I find are germane to the consideration of this amendment.

I am not going to go back into it, but essentially:

"Boris Yeltsin, the President, moved to take complete control of Russia—"

Complete control of Russia. That is control of this program. That is control of this program; one man——

"in a constitutional coup on Tuesday, ousting the hardline Congress and announcing elections for a new Parliament in December."

One of the more dramatic chapters of this debate is one when we were advised in S-407 that there would be a briefing— regrettably, only five or six Senators showed up, of which I was one, because I felt duty bound—a briefing about how the space program was an integral part of an overall approach by this administration. I commend the President for this overall approach, and I am going to support him. It is an approach whereby we would involve Russia in this program. The sum of $100 million was mentioned.

Madam President, that is just in the brief period of less than 48 hours when the Senate has been dealing with this amendment. I ask my colleagues, I do not know what this report portends for the future of Russian participation in the space station. But I guarantee, Madam President, this Senator wants to know before another dollar is released under the proposed fence. That is why I ask this body to reconvene.

Is it too much to ask this body to spend an hour or two in debate on $900 million? Is that asking too much? This fence delegates to perhaps one or two Senators the responsibility for close to a billion dollars. I say this to my good friend from Texas. He might well be the Senator on this side to make that decision, and he has fought hard for this amendment. He won. He delivered 34 Republican votes. That is a mark of pride.

But I am reminded of my old history professor, I say to my good friend, the senior Senator from Texas. The year was 1946. I came back after a brief tour in the U.S. Navy, matriculated in my father's old school, Washington and Lee University.

The history professor was named Bean, Dr. Bean. He was in his seventies, and he was recognized not only in Virginia, but throughout the Nation, as the foremost expert on that tragic chapter of history from roughly 1860 to 1865. He had a book on his desk, and all students as they walked in, were required to touch the book and then take their seats.

I say to my distinguished colleague from Alabama, my contemporary in life, every student touched that book. The title of that book, a book written by one of Robert E. Lee's aides-de-camp, a man who had traveled with Lee through the various campaigns and had taken an opportunity after that tragic chapter to sit down and write a book, I say to my distinguished friend from Texas, was "The Unbiased History of the Civil War, From the Southern Point of View."

Somehow, I feel the senior Senator from Texas might not apply the objectivity, the depth of analysis, and reasoning that might be required to obligate this body, the U.S. Senate, to $900 million.

I yield the floor.

Ms. MIKULSKI. Madam President, I think there has been said all there is to say on this amendment. I believe we are at an impasse on this, and in a few seconds I will be making a motion which I hope will bring this debate to a close and we can begin to start the debate on ASRM.

I know that when we initially talked about the amendment of the Senator from Virginia it was going to take 15 minutes. It has now taken longer than we anticipated. I believe, whatever the arguments, we would only be repeating ourselves. I truly respect the Senator from Virginia and what he is attempting to do. But, Madam President, I now must move to table Senator WARNER's amendment No. 908, and I ask unanimous consent that the vote on the motion to table occur at 8 p.m.; further, that the amendment be laid aside so that Senator BUMPERS may now offer the ASRM amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. I would just like to ask unanimous consent. It will take 15 seconds.

Ms. MIKULSKI. Could we get this agreement first?

The PRESIDING OFFICER. Is there objection to the agreement?

Mr. BUMPERS. Reserving the right to object, would the distinguished Senator restate the request?

Ms. MIKULSKI. I move to table the Warner amendment No. 908 and ask unanimous consent that the vote on the motion to table occur at 8 p.m.; further, that the amendment be laid aside so that Senator BUMPERS may now offer his ASRM amendment and that we may proceed on the discussion on ASRM.

Mr. WARNER. Madam President, reserving the right to object, I wonder if the distinguished managers of the bill might consider not only laying aside the vote but having the vote occur at some time which would be most convenient to the majority of Senators. It may well be that the distinguished Senator from Arkansas will require a vote later this evening and that the votes could be put back to back. I speak only to accommodate the Senate.

Ms. MIKULSKI. I insist upon my original unanimous consent request.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five and a half minutes.

Mr. BUMPERS. How much time does the opponent have?

The PRESIDING OFFICER. Three minutes.

Mr. BUMPERS. Mr. President, I want first to correct something, or at least explain something I said earlier when I said I feared for my country. I do, because of the things I mentioned—the cultural and social decline, the crime rate, a whole host of things.

But I am also very hopeful—hope springs eternal—and I am always hoping that the U.S. Congress, which has a whopping 15 percent approval rating among the people of this country, will give the country just cause to raise that percentage. The people of the country who distrust Congress so much do so for the wrong reasons. It is too bad the American people cannot hear this debate.

They know that things are not going well and they know that things are not going well in their lives, and they do not see Congress as doing very much that is relevant to their concerns.

It is true Government cannot solve every problem, but I tell you what Government can do. It can provide health care, it can provide home health care, it can provide a nursing home for Aunt Lucy and the elderly people who cannot afford long-term health care. Those are Government functions that I strongly champion.

But I suppose my greatest fear about the future of the country is the deficit and the continuing fiscal irresponsibility of the U.S. Congress. Here is a golden opportunity to save over $10 billion with virtually no adverse effect, and lower the deficit, but because some States will see increased jobs with the space station we cannot realize that savings. In my State of Arkansas, we have to tax ourselves $667 million to pay for our share of the space station. I can tell you if the people of Arkansas knew they were going to have to pony up $667 million, they would kiss that sucker goodbye so fast it would make your head spin.

I can tell you that if the people of Virginia knew they were going to have to pony up almost $2 billion, they could not wait to get rid of this thing.

And if you are out there waiting for a cancer cure, do not wait until the space station is in orbit. We have been doing experiments on shuttles and the Space Station *Mir* for 30 years, and for what? I invite you to tell me one achievement that has improved people's health. Go home and tell your constituents that each astronaut on this station for 10 long years is going to consume $319,000 worth of water a day. Tell them it is going to cost them $400 million-plus a year just to take water to the astronauts. And tell them almost every physicist in this country says this is an utter waste of money if we are planning to grow crystals. And the American Cancer Society says, it is an utter waste of money if you are looking for a cancer cure.

The Senator from Maryland asked me earlier where my figures came from. As I said, the contract cost for 1994 came from NASA. And the other figures are based on population. The truth of the matter is, instead of California only having to pony up $8 billion —my guess is their average per capita tax rate is much higher than it is in Arkansas—they are probably going to pony up about $10 billion. And now the Vice President, who has lobbied virtually every Senator in this body, says it is important to get these Russian scientists involved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President I ask unanimous consent for 1 minute to wrap up.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUMPERS. The Vice President said by getting Russia involved it will save $2 billion. And the General Accounting Office said it will not save $2 billion; it will cost NASA an additional $2 billion. Think of that.

To the distinguished floor manager, who is always so courteous and gracious in these debates, I do want to say it was NASA who told CRS: "We did in fact inadvertently forget civil service cost and we apologize."

Mr. President, if I were to win this debate it would be the biggest miracle ever to occur in the Senate, but I invite all of my colleagues to remember that great novel "To Kill a Mockingbird," when Atticus Finch, defending a black man falsely accused of rape, looked at the jury and closed his statement by saying, "For God's sake, do your duty." I issue that same admonition to my colleagues.

Mr. LAUTENBERG. Mr. President, I rise in support of the Bumpers amendment to terminate funding for the space station.

Mr. President, as a member of the VA-HUD Appropriations Subcommittee, which funds NASA's programs, I have closely reviewed the progress of the space station and its funding levels since it was first proposed by President Reagan in 1984.

At that time, NASA estimated that the total cost of the space station would be $8 billion. Unfortunately, that estimate was not even close.

As of fiscal year 1994, we have already spent approximately $11 billion on the space station and look where we are—still on the drawing boards.

Since we have no real space station, no one really knows its cost. The estimates show us that it will at least cost $30 billion to construct and approximately may cost over $100 billion over the lifetime of the project.

Mr. President, some of the opponents of the Bumpers amendment will say that we should not cancel the space station because we have just entered into an agreement with the Russians to jointly build the space station. I would say that we need to be honest with the Russians. We cannot afford to build the space station and we should not delude them. Frankly, I am not sure they can afford it either.

Furthermore, we should not make the space station the centerpiece of our foreign policy toward Russia and the Republics. I have supported aid to Russia and the Republics in the past but I do not think we should expand it to include the space station.

Also, we should not be linking the future of a multibillion dollar project to the political or economic stability of Russia. We have all witnessed the decline of the Russian economy and the struggles of the Yeltsin government to implement political and free market reform.

Also, I would note that the Russian launch facility is located in Kazakstan and it is deteriorating. Are we certain that this facility will be in friendly hands in the next few years? Are we sure that they will have the money to maintain this launch facility?

Mr. President, when the space station was first conceived, it was argued that it would enhance our national security and help us conduct research in materials science and life science research.

Yet since the 1991 restructuring of the space station, the Space Studies Board and the National Research Council have seriously questioned whether the materials and life science research could actually be done effectively.

Some still argue that there will be biomedical spinoffs resulting from the tests conducted in the weightlessness of the space station. But at what cost?

The space station will cost us over $30 billion for construction before we conduct one biomedical experiment and may cost over $100 billion over the lifetime of the project. To put this into perspective, the National Institutes of Health, the world's premier biomedical research agency, receives a total of $11 billion per year. I say to my colleagues that if we are concerned about investing in biomedical research, we should put more into the NIH, where it probably would do a lot more good.

Mr. President, the space station is a project without a mission that has taken on a life of its own. It adds nothing to the future economic vitality of our Nation. It doesn't contribute to solving our underlying disinvestment in our people and infrastructure, or our technology. And we just can't afford it.

Mr. President, I want to give credit to President Clinton for his initial action on the space station. On February 18, 1993, the President asked NASA to come up with a more cost-effective, redesigned space station. He wanted NASA to present him with redesign options that would cost between $5 and $9 billion over the next 5 years.

After 4 months, NASA came to the conclusion that the space station could not be built for less than $10.5 billion over the next 5 years. And, this so-called redesign is still untested and may be technically infeasible. It certainly will obviate most, if not all, of the original goals of the program.

Mr. President, there is one option available to us to hold the project below $9 billion over the next 5 years. That option is to terminate the space station. It is clear that there is no way to get the cost of this project under control no matter how hard NASA tries to redesign the project.

I urge my colleagues to support the Bumpers amendment.

Mr. DANFORTH. Mr. President, I rise in support of the space station. This year marks the 25th anniversary of the lunar landing of the Apollo 11. In 1969, the United States was torn apart by urban unrest, the Vietnam war, and a host of social problems. However, that year, the exploits of Neil Armstrong, Buzz Aldrin, and Michael Collins helped pull our Nation together and, to this day, their achievement represents the high point of the U.S. space program. Mr. President, we now have the opportunity for an equally remarkable achievement—the construction of an international space station.

We are forced to make some difficult choices among competing national priorities within tough appropriations caps. Unquestionably, the decision to fund a space station is one of those tough choices, but I believe it is the right choice for many reasons.

The space station, and missions like it, are the reason we have a NASA. NASA was never intended to be a typical Government agency. When we think of NASA, we think of pushing American imagination, talent, and resources to the breaking point to accomplish truly remarkable feats. We think of historic milestones like Alan Shepard's manned suborbital flight, JOHN GLENN's orbital flight, and Neil Armstrong's walk on the Moon. At every point in its history, NASA has been in pursuit of at least one bold challenge that has driven and defined our space program. For the next decade, that challenge is the building of a space station.

Once completed, the space station will provide a huge orbital laboratory in which the United States and other nations can conduct important microgravity research. The space station will also provide scientists with information about humans' ability to live and work in space. The data and experience gained from the space station will be critical for any future human missions to the Moon or Mars. I am especially proud that a firm headquartered in my State—McDonnell Douglas—has the task of constructing the massive framework for this international laboratory.

Mr. President, if past missions are any indication, space station research will lead to new drugs, cures for diseases, advanced materials, and breakthroughs in electronics, engineering, and aeronautics. These spinoffs hold the promise of both enhancing the quality of our lives and stimulating U.S. competitiveness. NASA has estimated that, for every dollar invested in past space missions, the U.S. economy has gained $2 in the form of successful private sector spinoffs like pacemakers, communications satellites, and microelectronics. If that holds true for the space station, we can expect enormous long-term benefits from the $30 billion program.

Mr. President, it is important to remember that the space station is an international space mission and that our foreign partners have contributed enormous time, efforts, and money to this project. For instance, Canada is at work on a robotic arm for the space station, and the European Space Agency and Japan are each contributing a laboratory module. So far, our foreign partners have spent about $4 billion of their parts of the project. This massive investment will be wasted if we abandon the space station now. Large space projects are becoming too complicated and costly for any one nation to undertake. If the United States does not honor its commitments to its foreign partners on programs like space station, they will not join with us in any future international projects.

Mr. President, last year marked an historic milestone in the program. The former Soviet Union—our old cold war rival—joined the family of space station partners. The Russians bring 13 years of experience in building and flying space stations. Since 1986, the Russians have had eight space stations. Their current one, Mir, has been in orbit since 1986. Despite recent political and economic troubles in the country, Russia's space program has continued at full speed. Last year, for example, Russia launched 49 spacecraft, with only one failure. By contrast, the U.S. launched 29 spacecraft with 3 failures.

The Russian involvement is one of the main reasons that this latest space station design improves on the previous plan in almost every respect. It reduces space station costs by $2 billion through the completion of its assembly, increases the crew size from four to six, speeds up the assembly schedule, and permits earlier, and greater, research opportunities.

Under current plans, NASA is examining ways of incorporating numerous elements of the Russian space station, including its crew rescue vehicle, its propulsion and navigation systems, and its docking system—to link their shuttle with the space station. These contributions should help the program by eliminating the need for time-consuming research and development in these areas. In addition, the Russians will launch much of the space station hardware, including Russian-built elements, on their own rockets.

Beyond the direct benefits to the space station, Russian participation also advances important U.S. foreign policy interests. Under the United States-Russia space pact, the United States will pay Russia $400 million over the next 4 years to support wide-ranging cooperative activities including shuttle visits to Mir and cosmonaut trips on the shuttle. This cash infusion should help provide some stability for the Russian economy as it moves toward a market economy.

Equally important, the inclusion of Russia in the space station program will lessen the incentive for Russian scientists to sell their space and missile technology indiscriminately around the world. Significantly, shortly after the United States-Russian space pact negotiations began, the Russians canceled their controversial proposal to sell missile technology to India.

The space station is also critical to maintaining U.S. leadership in aerospace. To cancel the space station would undermine that leadership. Aerospace is one of the few industries in which the United States enjoys a trade surplus—over $31 billion in 1992. Just as important, the aerospace industry employs over 2 million Americans. Cancellation would mean the layoff of the 40,000 workers in 37 States who work on the space station. It would also mean a tremendous economic loss to the communities and small companies that depend on the business of those space station workers.

We cannot afford to lose the space station workers. They are the foundation of the U.S. technology base and are critical to our national security and U.S. competitiveness. Preserving a highly skilled work force is particularly important now that the defense industry is making dramatic cutbacks. Moreover, it has been predicted that the United States will face a severe scientific personnel shortage in the next decade. If we continue the space station, we not only maintain its skilled work force, but we also kindle interest among our young people in math and science careers. Many of today's scientists and engineers picked their profession, inspired by the exploits of NASA astronauts. The space station holds the promise of similarly exciting our young about pursuing work in science and technology.

Finally, Mr. President, the public wants the space station. According to an independent study conducted in May by the Yankelovich Partners—a leading research firm—68 percent of the public supports the space station. This is up 5 percent from last year, indicating that public approval is going up, not down. Also, to those who view the Russian participation in a negative light, I point out that the Yankelovich study also indicates that 57 percent of the public believes the United States should build this space station jointly with Russia and other countries. The House of Representatives' approval of the space station in June—by an overwhelming 123-vote margin in contrast to the 1-vote margin the previous year—only further confirms the strong and growing public support for the program.

Mr. President, now is not the time to turn back. I urge my colleagues to vote for space station. A vote for the space station is a vote for our space program, our economy, and our future.

Mr. KERRY. Mr. President, I am proud to be a cosponsor of the pending Bumpers amendment and rise today to urge my colleagues to support this effort to terminate funding for the National Aeronautics and Space Administration [NASA] Space Station Program.

The issue here comes down to the extent to which this space station and the benefits it might or might not provide measure up against the other pressing priorities among which we are required to choose in the name of the American taxpayer.

When you balance the space station's potential benefits against the current reality of the priorities we need to fund in this country, eliminating the space station is not a hard choice, it is the only choice. It is not a pleasant choice, but it is the only choice.

We have already spent $11.9 billion on the space station and, perhaps not surprisingly, have seen few tangible results to date. In 1984, NASA justified the space station based on eight potential uses. Now only one of these assignments remains. The space station will be used as a research laboratory. However, according to most experts, the space station's value as a science laboratory is dubious. The costs for performing scientific research in space simply outweigh the potential benefits. It will cost $12,880 to ship one pound of payload to the space station, according to NASA. In addition, its research potential is restricted by its small crew size, limited number of test racks for experiments, and limited power. According to the Space Sciences board of the National Research Council, "continued development of Space Station *Freedom* * * * cannot be supported on scientific grounds."

All of us have lived with the extraordinary contributions of the space effort and of our astronauts. But when you balance what this space station offers, against the needs that we have here and now, I do not believe we can justify enormous funding level it receives now and will require in the future. Proponents say the space station will cost $17.4 billion. However, this price excludes costs prior to 1994, projected 10-year operating costs, and approximately 90 shuttle flights to carry necessary construction materials into space. Also, it does not include funds to service and maintain the space station nor civil service costs.

The real cost, using NASA's own statistics, will be $72.3 billion. I believe the time has come to exercise greater fiscal responsibility and terminate funding for the space station immediately in order to reduce the $200 billion Federal deficit. By doing so, we would not only save $1.6 billion next year, but some $165 billion—including interest—over the next 35 years.

Many of my colleagues support the space station because of the jobs it creates for the American people. Certainly, creating jobs should be a high national priority, but the space station is not the way to accomplish it, for several reasons. First, it is a grossly inefficient jobs program costing approximately $161,400 per job. Second, it is an unfair jobs program, benefitting only a handful of States but asking all to pay for it. In 1994, 44 States are net losers, paying more in taxes than they receive in contracts. In my home State of Massachusetts, we paid $50.7 million in taxes but only received $1.2 million in contracts, leaving us with a net loss of $49.5 million.

But the fact that the program is grossly inefficient and unfair as a jobs program is not the only problem. Not only does the security of the American citizen suffer when we fund projects like this, but other scientific research about which I care deeply also suffers. As a member of the Commerce Committee, I have fought alongside the chairman to fund many scientific programs. At times we have had to borrow, pray, and steal from other programs to do so, and in the end we often wind up shortchanging most of these programs. Allowing this extraordinary large science program to receive funding at the expense of these other so-called "small science"—but often more valuable—scientific programs is unacceptable.

The enormous level of funding consumed by the station is crowding out much smaller appropriations for satellites and unmanned space probes, which most experts consider more cost-effective than manned missions. Space research has received enormous funding at the expense of environmental research and other important projects that promise to improve the lives of our citizens or enhance our security more completely. Years ago, NASA announced Mission to Planet Earth, a program that would launch satellites to monitor the Earth's atmosphere. However, because of lack of funding, initiation of this effort is not scheduled until 1998.

As you are aware, the building of the space station has become a joint effort between the United States and Russia. Many of my colleagues view this as an incredible accomplishment in light of the recently ended cold war. We all want to see continued progress in United States-Russian relations. However, we should be encouraging Russia to house and feed its people, provide jobs, and above all care for its deteriorating nuclear powerplants, and dismantle its nuclear missiles and warheads. Asking Russia to commit its resources to an uncertain and risky space station instead of encouraging it to these important matters is unwise.

We must really stand back and ask the question: Are we still a Congress that in the name of the American people can pretend to be responsible about the deficit and the budget while we continue to fund things because we would like to do so rather than because they are really vital to our national quality of life and our ability to hold together the fabric of our communities? We need to decide for America what we need to spend money on rather than what we would like to spend money on.

People may argue that we have lost our vision if we terminate the space station. We still have vision. But the vision is to restore the American dream to our citizens, to restore their sense of safety on the streets, to invest in technology that will increase our competitiveness and the quality of jobs, to invest in the research that will cure our deadly diseases, and to restore our communities to the condition where children can learn and dream.

Will terminating this program hurt in California? Will it hurt in Texas? Will the loss of $1.2 million hurt in Massachusetts? Yes, it will hurt. But if we measure that loss against the pain that people across the country are feeling because we are not willing to address our fundamental needs as a Nation, it pales in comparison.

It is time to decide. That is what this is about, and I think the American people are watching impatiently to see whether the U.S. Congress can actually do something for once—whether we can really deliver some spending reductions and make some of the choices we ought to make for our future.

I commend the distinguished Senator from Arkansas for his tenacious leadership on this issue. I urge all of my colleagues to vote to terminate the space station.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the space station and to talk about where America's space program is headed 25 years after we landed on the Moon.

"Houston, tranquility base. The *Eagle* has landed." Those were the first words spoken when the *Apollo 11* lunar module landed on the Moon in 1969.

I remember that day well. The world watched in awe as Neil Armstrong stepped onto the Moon's surface and uttered: "That's one small step for man, one giant leap for mankind." I was filled with wonder and pride.

The technological might of the United States, the great will of the American people, and the courage of our space pioneers combined to produce one of the greatest moments in recent history.

That was more than a quarter of a century ago. Since then, there have been several other Apollo missions which sent astronauts to the Moon. Then skylab—the first U.S. space station—was launched in the early 1970's. Currently, the space shuttle program is underway, and has been very successful despite the tragic *Challenger* accident in 1984.

With each mission, we learn more and more about life sciences, materials sciences, earth sciences, engineering research and technology, and commercial development. And with each new mission we explore the unknown and make discoveries that ultimately help to improve life here on Earth.

The cold war race to the Moon required great advances in engineering and technology, advances that continue to fuel our economy and improve our way of life. For example, the cool suit developed for the Apollo program is now helping to improve the quality of life for multiple sclerosis patients.

Under the space shuttle program we have grown crystals in a weightless environment, which has helped advance research into cancer, diabetes, emphysema, parasitic infections, and immune system disorders. These scientific developments are far superior to any we have reached by growing crystals on Earth.

Although productive, the 1- or 2-week space shuttle missions are limited by the short amount of time in which experiments are conducted. Astronauts are simply not in space long enough to carry out long-duration research in a microgravity environment, to make real-time changes to experiments and to do much-needed trial-and-error work.

That is why the United States must continue its exploration in space with the next logical step—a permanently staffed space station.

The international space station, a post-cold-war cooperative alliance that includes the United States, Russia, Canada, Japan, and Europe, will lead the world toward great advances in space exploration. It will be an orbiting laboratory that will conduct a wide range of scientific and technical research.

As many of my colleagues know, when President Clinton took office, he ordered a comprehensive redesign of the original space station *Freedom*.

After months of hard work by NASA officials, negotiations with our international partners, and review by an expert team headed by MIT President Charles Vest, space station *Freedom* was redesigned into the international space station *Alpha*, and Russia was added as a new partner.

The result: Nearly $20 billion in total savings by the year 2012—taking into account 10 years of operations after the space station has been completed. All using 75 percent of the hardware originally designed for space station *Freedom*.

In addition, the capabilities of the space station will be expanded. The size of the crew will be increased from four astronauts to six. The number of pressurized modules—where astronauts live and work—will be increased from 6 to 10. Power will expand from 56 kilowatts to 110 kilowatts. And the ability to observe the Earth from space will be greatly improved.

In a recent letter to the White House, Charles Vest, who headed the President's advisory committee on the redesign of the space station, said: "This program has progressed to an extent that greatly exceeded my expectations." He continued his praise, emphasing the space station's improved research capability.

So in many regards, the redesigned international space station will be even better than the original space station *Freedom*. Many capabilities have increased, costs have decreased, the schedule has remained relatively the same, and international cooperation has been expanded.

I understand that the General Accounting Office [GAO] has raised questions about the cost of Russian participation. But, I find some of GAO's conclusions—which include costs that are not directly tied to the space station program—questionable. For example, GAO states that $746 million from two space shuttle flights should be scored against the savings from Russian participation.

But NASA will fly eight shuttle flights per year regardless of whether the space station program goes forward. Even if you score the two shuttle flights against the savings from Russian participation, marginal costs for each shuttle mission are estimated at only $40 million. However, GAO uses the average shuttle cost of $320 million per mission. I do not think GAO's math adds up.

NASA Administrator Dan Goldin Also disagrees with GAO's conclusions. He states that Russian participation will "save hundreds of millions, if not billions of dollars. For the American taxpayer, it's a win-win situation. More space station for less cost."

Let me now review the international space station by component and which country is contributing the various parts to the program.

SCIENCE

Europe, Japan, Russia, and the United States will all have pressurized laboratory modules on board.

There will be plenty of room and lab racks for microgravity experiments. And 110 kilowatts of electrical power will be supplied by United States and Russian solar arrays.

CREW

The U.S.-built habitation module will carry six permanent crew members.

Russia will provide the Soyuz spacecraft to serve as the assured crew return vehicle, or "lifeboat," in the event of an emergency.

SUPPORT

Service elements will include Russian life-support modules, a Canadian crane that operates in space, and a Russian-built, United States-owned propulsion unit.

Structural elements include a United States-made truss and a joint United States/Russian airlock.

There will be 18 American, 12 Russian, 2 European, 1 Japanese, and 2 joint rocket launches to carry equipment to assemble the space station.

UTILIZATION

The space station will orbit at a 51.6 degree inclination—allowing for 85 percent Earth observing coverage.

Mission control will be located at Houston, with Kaliningrad in Russia serving as the backup.

Astronauts will be able to stay aboard the space station for 6-month periods.

The newly redesigned international space station is an investment in the future. An investment in science and technology. An investment in international cooperation and peace. An investment in American jobs and knowhow. An investment which takes the next logical step in human space exploration.

With a permanently human tended space station orbiting above earth, astronauts will have a laboratory to conduct experiments and do research on a wide variety of subjects They will be able to conduct long-duration microgravity investigations, which will allow scientists to look deeper into the mechanics of cell functions, combustion, liquid behavior, crystallization, and electromagnetic.

How will this research better life here on Earth? What applications does space research have on the lives of average Americans? Well, here are some specific examples of how research on the space station will benefit people in the United States and around the world:

Topic	Applications on earth
BIOTECHOLOGY	
Tissue Culture Studies	Knowledge of normal and cancerous tissue development. Key to finding treatments and cures to diseases.
Protein Crystal Growth	Designing of pharmaceuticals which block proteins. Possible target: HIV virus.
COMBUSTION	
Droplet/Pool Burning	Improved understanding of fire propagation for improved fire safety.
FLUID PHYSICS	
Interface Dynamics	Improved industrial films and coatings, oil spill recovery techniques, tracking of ground water contaminants, and processing of semiconductor crystals.
Cloud Formation Microphysics	Useful to meteorologists for improved weather predictions.
GLASSES AND CERAMICS	
Fiber Reinforced Components	More effective pyroelectric devices for disasters and crime prevention, environmental control, and life saving.
ELECTRONIC MATERIALS	
Vapor Phase Crystal Growth	Much higher efficiency and density opto-electronics for the communications industry.
Epitaxy Liquid Phase Molecular Beam Vapor Phase	High-speed switching devices and high-density memory, making smaller, more affordable supercomputers possible.
METALS AND ALLOYS	
Casting Processes	Increased ability to produce defect-free casting for industries relying on high-performance arts such as airplanes, bridges, buildings, nuclear plants, and electronics.
POLYMERS AND CHEMISTRY	
Biomaterial Polymer Encapsulation	Development of new technology for long-term storage of hormones used by the medical industry.
Polymerization Phenomena	Better performance of products in the automotive tire and plastic polymer industries through the understanding of "weak forces."
LIFE AND BIOMEDICAL SCIENCES	
Controlled Ecological Life Support	Better waste management and disposal. Recycling of gaseous and liquid consumables. Food plant experiments to increase yield and shorten growth period without pesticides.
Environmental Health	Improved air and water quality sensors, analyzers, and filtering devices. Automated microbiology system enhances identification of bacteria population.
ENGINEERING RESEARCH AND TECHNOLOGY DEVELOPMENT	
Human Support	Enhanced designs for firefighting suits, toxic waste cleanup suits, deep sea divers equipment. Cooling systems for physically impaired persons.
Spacecraft Materials/Environmental Effects	Lightweight oxygen tanks; high-strength, corrosion-resistant pipes; long-life self-healing paints; solar cells for home power generation.
COMMERCIAL DEVELOPMENT	
Remote Sensing	Agricultural crop monitoring, forest mensuration, environmental assessment, land use planning, storm surge level forecasting, erosion effects prediction, ocean currents tracking, oil field location, digital mapping.
OBSERVATIONAL SCIENCE	
Oceanic Research	Monitoring of sea surface temperature, wind speed and sea roughness, ocean currents, sea life, ice coverage, etc.

Scientific research and experiments like those listed above have real life applications here on earth. Space-based research has led to a variety of innovations and technological advances that have, and continue to help people every day. Among them:

Long-distance telephone networks;
International TV broadcasts;
Car chassis and brake designs;
Heart monitors for ambulances;
Structural designs for bridges;
Laser surgery in hospitals;
Programmable pacemakers;
Navigational systems for airplanes; and
Long-range weather forecasting.

It is clear that an investment in space creates enormous benefits for people here on Earth. In fact, a Midwest Research Institute study in 1988 shows that each dollar invested in space programs yields up to $9 in new products, technologies, and processes here at home.

In addition to the enormous benefits to science, medical research, and technology, the space station also maintains U.S. leadership in space and enhances global competitiveness. As Vice President GORE said, "the aerospace industry is our last surviving jewel," accounting for 10 percent of all U.S. exports in 1990 alone.

The space station will also help inspire our children, foster the next generation of scientists, engineers, and entrepreneurs, and satisfies our ancient need to explore and achieve.

The space station is a powerful symbol of U.S. leadership in a changing world, and it represents an international commitment. Our original international partners—Japan, Canada, and Europe—have already committed $9 billion to the space station program, and are counting on America's continued leadership in space.

The space station has also become a tool in international diplomacy in the post-cold war world. Who would have thought just 5 year ago that the United States and Russia would be cooperating in such a venture?

By asking Russia to join the international space station team, the United States can channel the Russian aerospace industry into nonmilitary pursuits. That will reduce the risk of nuclear proliferation as well as slow traffic in high-technology weaponry to developing nations. In addition, an international space station will use existing Russian space technology, capability, expertise, and hardware to build a better space station for less money.

I have had some concerns about Russian involvement in the program—specifically with regard to whether Russia's involvement enhances space station capabilities or, rather, enables it to exist. I strongly believe that Russia's involvement in the program should enhance the space station—

America is not, nor should it be, dependent on Russia for the space station to exist.

I am pleased with NASA's actions to ensure that the United States retains primary control of the international space station. NASA will buy the FGB propulsion module from Russia, so it will be United States owned and operated. In addition, NASA is altering the assembly sequence to ensure that the space station is not dependent on Russian hardware to function. And, the space station will be controlled from the Johnson Space Center in Houston, with a Russian site serving only as a backup.

In addition to the scientific and diplomatic benefits that the international space station offers, it is also an important source of high-quality, high-skilled aerospace jobs in the wake of defense downsizing. The space station program is defense conversion at its best. It will help create new jobs for our former defense workers, who helped the United States win the cold war in the first place.

More than 10,000 direct jobs rely on the space station program, 4,000 of them in my home State of California. And indirectly, 45,000 jobs nationwide have been created because of space station-related activities. At a time when the country—and California in particular—is just starting to recover from the recession, the space station is an important source of economic activity.

For all the reasons I stated above—scientific benefits, medical research, U.S. leadership in space, global competitiveness, post-cold-war international relations, inspiration of future generations, economic spinoffs, and American jobs—I strongly support the international space station.

I urge my colleagues to oppose the Bumpers amendment and support the next logical step of the U.S. space program: the international space station.

Mr. MACK. Mr. President, I rise today to voice my strong support for continued funding for space station *Alpha*.

It seems fitting that as the country has taken time to fondly remember the 25th anniversary of *Apollo 11* and Neil Armstrong's first steps on the Moon, that we are once again deliberating whether as a nation, we have the foresight and fortitude to make this investment in our future.

I believe a manned space station is the next logical step for NASA; America simply cannot afford to bypass this tremendous opportunity. I commend NASA for restructuring the space station to reduce its cost, and for reaching out to include our friends abroad. For the first time in history a multitude of nations will be working hand-in-hand in space exploration.

The restructured space station offers the United States and our allies an unparalleled ability to gain a better understanding of the universe around us. At the same time, a permanently manned station will enable us to conduct long-term experimentation to help develop solutions to many pressing environmental and biomedical problems.

The distinguished Senator from Maryland, Senator MIKULSKI, has been a champion of the space station. She and I may have differing views on many policy issues, but the space station is not one of them. On May 30, she wrote, "The death of the space station would be a national tragedy." I couldn't agree more.

Several weeks ago the House sent a clear message to the American people and to our international partners that the Federal Government is committed to the space station. If NASA is to do its job, explore space, then we must stop haggling back and forth about this issue year-after-year. The Senate must send a strong statement which once and for all will put an end to the yearly debate about building a space station. We owe it to our posterity to explore the universe to the fullest extent possible. Accordingly, I urge my colleagues to vote against the Bumpers amendment and to support continued funding for space station *Alpha*.

Mr. CHAFEE. Mr. President, I strongly support the Bumpers-Warner amendment to terminate funding for the space station. This program is a black hole in the Federal budget we simply cannot afford. In light of many other more compelling obligations, this program is neither cost-effective research, nor a wise investment in terms of our partnership with the Russians.

In 1984, NASA estimated the space station would cost $8 billion. To date, we have spent closer to $11 billion, with a revised price tag from NASA of $17.4 billion to complete construction. Once built, we will face a whole new set of obligations associated with the maintenance and operation of space station *Alpha*. Where will it end?

Our national debt is rapidly approaching $5 trillion. If uncontrolled Federal spending continues, our debt will increase by an additional $1 trillion by the year 2000. We are mortgaging future generations with this profligate spending. A recent article by Laurence Kotlikoff and Jagadeesh Gokhale, which appeared in Public Interest, drives home this point. To finance today's borrowing, the authors conclude, Americans born at the turn of this century will have paid just over a fifth of their lifetime earnings to the government—while those born after 2000 will have to forfeit closer to half of their overall earnings.

Most research planned for the space station—especially the life sciences—could be done cheaper elsewhere. In 1993, the presidents of 10 scientific societies said in a joint statement that the space station is a:

> * * * multibillion project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific vitality of participating nations.

Finally, Mr. President, Russia simply is not a reliable partner for a long-term investment of this magnitude. It is impossible to ensure stable United States-Russian relations for the decades it will take to complete this project. The space station partnership is not necessary to advance our foreign policy interests. Ample cooperative research among our two nations already exists in the areas of weapons dismantlement and nuclear reactor safety. Moreover, the current plan directly contradicts the United States goal of encouraging more privatization in Russia.

For these reasons, I urge my colleagues to vote for the Bumpers-Warner amendment to terminate space station *Alpha* and to stop this wasteful spending.

INTERNATIONAL SPACE STATION AN IMPORTANT STEP FORWARD

Mr. PELL. Mr. President, I have wrestled with the question of whether to continue funding of the international space station. After careful reflection and review, I decided to support funding. It was a difficult choice and I cannot fault the sincerity of either side of the debate.

I voted against the station last year, when it was largely a wing and a prayer, but this year the station has come light years both in terms of its design and its mission. In addition, I found myself strongly influenced by the foreign policy implications if we were to eliminate funding.

NASA now faces the challenge of living up to its promise—building the station within budget and on schedule. If it succeeds, the Nation and the world will be able to point with pride at a highly visible example of U.S. leadership and international cooperation.

The PRESIDING OFFICER. The Senator from Maryland has 2½ minutes.

Ms. MIKULSKI. Mr. President, I have a rousing and rhetorical speech that I could use to wrap up once again this historic debate on the space station. However, I believe that this is not the time for lyrical words or high sounding rhetoric. It is time to talk reality, and therefore I am going to make a very factual statement and bring to the attention of the American people what I believe they need to know as they watch us vote on this amendment.

The total cost to the American taxpayer is not $71 billion, as some people would say. There is $10.1 billion already spent, $17.4 billion for assembly completion and $13 billion for 10 years of operation. The total cost to the Americans will be $40 billion from the year 1984 to the year 2002.

I also want to bring to people's attention that the space station is now capped at $2.1 billion annually. This is one-seventh of 1 percent of the total

Federal budget, or $9 per year per taxpayer—9 bucks to take us into the future. The total cost is capped at $17.4 billion between now and the year 2002 when it is completely assembled.

Now, let us talk about these new designs that everybody says is just one more cost overrun. During these new designs, we used 75 percent of space station *Freedom* elements that we spent nearly $11 billion to develop. We have got cost savings over space station *Freedom*. It is going to cost us less to assemble, and we are going to have fewer civil servants and fewer managers. *Freedom* was going to have 24 civil servants and now we will have less than that.

Let us talk about the wasted effort. What have we got to show for the $11 billion we already spent besides paper and viewgraphs and arguments that make this seem like a technofolly.

Well, as I said, 75 percent of the design for space station *Freedom* will be used in the international space station *Alpha*; 25,000 pounds of flight-quality hardware for the space station is built and it is in its final qualifications stages; a mission control facility at Johnson Space Center.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MIKULSKI. I ask unanimous consent for 1 more minute to wrap up.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Ms. MIKULSKI. Everybody says we are starving science and research. Let me just tell you about space science. It is up 69 percent in my bill. Aeronautics is up 42 percent. And space technology and transfer is up 14 percent.

Well, let us look at other scientific research in this appropriations bill. This chairman has funded $16.2 billion for VA medical care, $7.5 billion for EPA. We have increased the funding for the National Science Foundation to $3.5 billion. We are not starving science. We are not starving VA medical care. We are not starving the types of research and regulatory activity to clean up America's environment. The only thing that is being starved in this debate is imagination, the imagination and fortitude to take us into the 21st century.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio has the time between now and 10:45.

Mr. METZENBAUM. Mr. President, I rise in support of the amendment offered by the Senator from Arkansas.

It seems that every year we come down to debating this issue. And, of course, each year it takes on a new look. Last year, the space station was a key tool in the President's foreign policy agenda. The year before, building the space station helped promote high-tech jobs. Maybe next year the proponents will argue that building the space station will lead to lower taxes. There is an ingenious suggestion made each year as to why we need the space station.

Frankly, nothing would surprise me in the efforts to preserve the space station. This project has taken on so many faces it is hard to keep track of what we are all talking about. In fact, until last year, we did not even have a picture of the space station. But that did not stop us from spending $8 million—$8 million, yes, $8 million—a day, an incredible amount of money. That is what we spent last year on the space station. That money could go to so many worthwhile projects in this country. It could go to help kids. It could go to prevent crime. It could go to reducing the deficit.

But, no, we spent it on the space station. We hand over money to this program hand over fist, and for what reason? Because of a promise. Well, what that promise is I am not quite sure. Is it a promise to spend more money? You bet. Is it a promise to make technological advances? Well, maybe. Every year we keep hearing about spinoffs, what the space station will do in spinoffs, how building the space station will lead to technological advances that we could never imagine.

In fact, this year the folks down in NASA sent up this booklet on spinoffs. According to the folks at NASA, thousands of necessary items have been developed because of space exploration. Now, let us just take a look at some of those that have been developed by reason of space exploration as indicated in the book: Hair styling appliances. Oh, that is very important. Jewelry design, particularly significant for the American family. Self-adjusting sunglasses. We know that we need something like that. That is worth $8 million a day. The dust buster. Not a bad little implement. It works pretty well. But I am not sure it is worth all that money in order to achieve it. Oh, and then one more—the sports bra. Yes, the folks at NASA claim that a brassiere for athletically active women would not have been developed if we had not spent billions on space exploration.

Thanks so much for this program. What wonderful spinoffs we have had from the space station. Of course, the list goes on and on. But I want to highlight one last item that without space exploration would not have been developed. Do you know what they say? Wood burning heaters. Isn't that magnificent? Wood burning heaters were developed as a spinoff of the space station.

I thought we were using wood burning heaters to warm our homes going back to the early days of this country, and other countries as well. The next thing we will hear about from NASA is that Henry Ford was an engineer for them and without space exploration there would have been no Model T. They did not actually say that, but some of the claims they make are so absurd that maybe they will come up with that one as well.

I recognize that there have been some significant advances made as a result of space exploration. But we have to keep those advances in perspective. When we are contemplating expenditure of upwards of $75 billion—that is with a "b," $75 billion—not only do we need to keep these advances in perspective, but we need to evaluate our priorities, especially when we have limited resources.

We could do a lot, a whole lot, with $75 billion. We could make a tremendous investment in children's nutrition programs. According to some studies, for every $1 invested in the WIC Program, $3 are saved in health care costs. It is difficult to fathom saving $225 billion in health care costs for children. But that is the type of money about which we are speaking. If we spent the money on school lunches, we could provide 40 trillion free school lunches for kids. Put another way, we could provide a free school lunch for 14 million kids every day of the school year for every year until their graduation from high school.

Of course, we could spend the money on other projects as well. For example, for $75 billion we could clean up every single site on the Superfund national priorities list. With $75 billion we could fix every bridge in need of repair in our highway system—every single bridge in the entire country. Relying on figures from the 1990 census, we could buy every homeless person a $100,000 home with the $75 billion saved if the space station is killed.

However, having said that, let me be clear. I am not against having a space program. I believe it serves a purpose. But when you can only afford a Chevrolet, you have no business making a downpayment on a Cadillac. The space program has achieved many things for this country of which all of us are very proud, not the least of which is the famous trip around the globe made by my colleague from Ohio. It seems like every year we just put more and more money down on a project that we simply cannot afford. It is time that we recognize the limits of our resources and cut our losses.

I urge my colleagues to support the amendment offered by the Senator from Arkansas. I particularly address myself to those Members of this body who consider themselves conservatives. If you are a conservative and you continue to spend billions of dollars on this wasteful program, I think you have to go home tonight, look at yourself in the mirror, and say, "How could I continue wasting all those dollars on the space program when all the time I have been in the Senate I have been trying to cut programs having to do with nutrition, having to do with feeding of kids, having to do with education, having to do with the cleaning up of the environment?" If you are a conservative, your vote on this amendment has to be "yea."

Mr. President, I yield the floor. I yield the remainder of my time.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that letters supporting the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COUNCIL OF ENGINEERS AND
SCIENTISTS ORGANIZATIONS,
Seattle, WA, August 2, 1994.

DEAR SENATOR, Thank you for all of your help to support the union members over the years. Attached are letters some of support from members of our national workforce coalition. Please enter these letters into the Record on the space station debate. We have worked hard in support of this program and it would be a morale boost for our members to know that their voices are actually being heard in the Congress.

Sincerely,

HAROLD J. AMMOND,
Legislative Director.

COUNCIL OF ENGINEERS AND
SCIENTISTS ORGANIZATIONS,
Seattle, WA, July 27, 1994.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER, We met yesterday at the I.U.E. convention and took a photo for our newsletter. Here is a copy of the letter that we sent to Senator Mikulski and all other members of the Senate. As the letter states, we are a national coalition of unions in twenty states fighting to save the space station.

I understand that you have already received a letter from Mr. Joseph (Slugs) Smarrella, Treasurer of Local 1190 of the United Steelworkers of America (see copy attached). Mr. Smarrella is a spokesman for a coalition of unions representing steel and aluminum workers in the Midwest who have a stake in the space station program.

We would really appreciate your referencing both our letters in the floor debate over the space station. We will use the photos and the floor statements in our newsletters.

Sincerely,

HAROLD J. AMMOND,
Legislative Director.

COUNCIL OF ENGINEERS AND
SCIENTISTS ORGANIZATIONS,
July 18, 1994.

Hon. BARBARA A. MIKULSKI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR CHAIRWOMAN MIKULSKI: My name is Harold Ammond, I am the legislative director for the Council of Engineers and Scientists Organization (CESO). I represent a national coalition of scientists, engineers and production unions in more than 20 states. The unions building the space station want to thank you for your support during the subcommittee deliberations. We realize that you had a tough job balancing the needs of all the different constituencies under the jurisdiction of your subcommittee. You have taken care of the social constituencies especially those in need of low income housing. However, you have also protected the nation's future by making the investment needed to preserve the industrial base and the jobs of tomorrow. Our aerospace workforce coalition strongly supports your bill and have advised our members accordingly.

Over the years we have testified before House and Senate committees on aerospace issues. We have also testified before special blue ribbon panels such as the Augustine Commission. This year it was too late to testify before your subcommittee. Therefore, we are submitting this letter as written testimony so that senators might understand the impact of their decision on funding the space station on the engineering community and the aerospace production workforce.

In the 1960s, President Kennedy's revolutionary call instilled in us the drive to become the leader in space exploration. His space program generated the university courses in math, science, and electronics that attracted our young engineers and scientists. A whole generation of space-age technology was born that produced the manufacturing jobs of today's aerospace industry. At that time, the nation's commitment to NASA made our space program the envy of the world.

However, much has changed. NASA's budget today is almost half of what it was in the late 1960s. From our perspective, this lack of commitment created instability and serious morale problems throughout the aerospace workforce. The countless changes, downsizing, and rescoping of the space station have created chaos in both the program and its workforce. Today's young people are increasingly discouraged from seeking careers in engineering because the nation appears uncommitted to a viable space program.

When President Clinton came into office, he assigned Administrator Goldin with the task of redesigning the space station. The new design had to meet the needs of the scientific and research community and still fit within a very tight presidential budget. So that the aerospace workforce would be part of the redesigning process, Administrator Goldin met with workers across the country to obtain their input. He took the best elements of the old program and fashioned a new space station that is more capable, less expensive, and includes Russian participation. The unions in our coalition support Russian participation as it is a vital part of the President's foreign policy.

Some people mistakenly believe that the space station is chiefly a high-tech program employing only the nation's white-collar workers. In fact, the space station employs thousands of production workers in the basic industries who provide the specialty steel and aluminum materials for the program. With the disappearance of the defense industry, America's industrial base is now threatened. The space program offers a limited opportunity to reinvigorate the industrial base. Some of the members of our workforce coalition represent the steel, aluminum and other basic industries that provide the materials for the space program. Given the President's commitment to defense conversion, the space program offers a logical alternative for re-employing our skilled aerospace workforce as well as workers in the basic industries.

The entire nation will benefit from completing the space station. The space station will once again challenge our young people to make the sacrifices, pursue the advanced degrees, and become contributors to the general well-being of the country. It must also be remembered that the final product will include manufacturing jobs that are so important to employing America's production workforce. Surely a Congress that supports education and training must see that the space station represents an investment in research and technology that will create tomorrow's jobs and keep our country competitive in the global environment.

Two years ago in a speech on the Senate floor, you challenged the Senate to live up to the 500th Anniversary of the Columbus Voyage to the New World. The Senate vote this week comes on the 25th anniversary of landing on the moon. It is the proper time to support the president and get on with the program.

Sincerely,

HAROLD J. AMMOND,
Legislative Director.

UNITED STEELWORKERS OF AMERICA,
LOCAL UNION NO. 3911,
Chicago, IL, July 19, 1994.

Hon. CAROL MOSELEY-BRAUN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: As President of the United Steelworkers of America Local 3911, I am writing to ask you to support the space station. The space program means a lot to our members. We know that when the Senate Appropriations bill comes to the floor, there may be an attempt to kill the space station. That is why we are writing to you.

Our local represents production workers at Reynolds Aluminum in McCook, Illinois where our members are producing the aluminum skins used to build the new aluminum-lithium tank for the space shuttle. With the reduced weight of this tank, the shuttle can carry heavier payloads needed to build and service the space station. The new design of the space station requires a more efficient shuttle system to launch the station.

When people think of the space station they think of Texas and California. The fact is that the materials for the station are made in the Midwest by steel and aluminum workers. If the President doesn't get his budget for the space station, where will we go for jobs? The space program provides hope for unions in the basic industries who want to be a part of what could be this nation's industrial future.

Senator, as a member of the Northeast-Midwest Senate Coalition, surely you can see the job implications the space station program holds for the steelworkers in our region. We have lost almost 50% of our members in the past year. Our company has made investments in new mills so that we could be part of the space program. Our industry has a chance at revival through the space program. If the space station goes, the shuttle goes. If the shuttle goes, jobs for the steelworkers go. We urge you to vote against any attempt to kill the space station, and our future. We need your help.

Very truly yours,

FRED REDMOND,
President.

UNITED STEELWORKERS OF AMERICA,
DISTRICT 23, LOCAL UNION NO.
1190, AFL–CIO–CLC,
Steubenville, OH, July 19, 1994.

Hon. JOHN D. (JAY) ROCKEFELLER IV,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: I am writing as a member of a national workforce coalition. The member unions in the coalition are fighting to preserve the industrial base in this country. I'm writing today to get your help to fund the space station because steel and aluminum workers have an interest in this program. Our industries supply the specialty steel and aluminum alloy metals used in the space program. It's important for members of the Steel Caucus to know how important the space station and shuttle programs are to the tri-state region. Right now, the ferrous and non-ferrous metal industries that employ steelworkers throughout the Midwest contribute to aerospace products. If commercial space programs like the space station are continued, we have a chance to reinvigorate the steel and aluminum industries in the country.

People don't realize that the space program relies on the basic industries for materials. These materials aren't made in California and Texas where everybody thinks the space program is. They're made in the Midwest. Our brother steelworkers of Reynolds Aluminum in Illinois make the aluminum skins for the new lightweight shuttle tank that's assembled by our UAW brothers all the way down in Louisiana. So we're all connected.

If the space station is not given full funding, the cutbacks will go all the way through our members here in the Midwest. If the program continues and is expanded, steel and aluminum companies in the Midwest will make the investments needed for space exploration. This would give our members the opportunity to become more involved in the new technologies that will produce the new jobs. We think this message ought to be given to all the members in the Steel Caucus.

You have always been a champion of the steel and aluminum workers in the tri-state region. We know that you have been a strong supporter of the space program, especially the space station. We want you to know that the workers in the basic industries in our region are counting on you. We hope that you will take the lead in getting other members of the Steel Caucus to understand the importance of the space station to the basic industries in the Midwest.

Sincerely,

JOSEPH SMARRELLA,
Chairman, Ohio Valley Grassroots Coalition of Unions Treasurer.

UAW,
LOCAL 1921,
New Orleans, LA, July 19, 1994.

Hon. JOHN B. BREAUX,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BREAUX: The members of UAW Local 1921 need your help to support the space station. We understand that several senators are going to offer an amendment to terminate the program. We are part of a national workforce coalition of local unions formed to save the space station. We have joined with our union brothers and sisters in the basic industries who supply the materials for the space programs.

Here in New Orleans, Louisiana, we represent the workers at Martin Marietta who build the external fuel tank for the space shuttle. The aluminum alloys for this tank are produced in the Midwest. Steelworkers in Ohio, West Virginia, Pennsylvania and Illinois are very concerned about the future of the space program because they are producing the special metals that are used in the space program. This is important because the number of ferrous and non-ferrous metal workers has been steadily declining. The years of illegal dumping and trade policies favoring foreign steel producers have all but destroyed America's basic industries.

The United Steelworkers of America once had a membership of over 1,300,000 workers. Today they have less than 300,000. The UAW once had a membership of over 1.5 million workers. Today we have less than 800,000. NASA has awarded a contract for research and development of a new aluminum/lithium alloy to be used in the construction of new fuel tanks. The future for the steelworkers lies in the development and production of these new materials and specialty steels that are used in the space program. The future of UAW members in our local is linked to the production of this new tank. If the space station is cancelled, there will be no need for the shuttle and no need for the tank.

Here in Louisiana, we are trying to develop an industrial base that will support good-paying aerospace jobs for our members. With the decline of the defense industry at the close of the Cold War, employment in the aerospace industry has fallen at an alarming rate. Our future depends upon this program. We ask you to oppose any amendment that would terminate the space station.

Sincerely,

DOUG BURRELL,
President.

Mr. DECONCINI. Mr. President, the space station program has been plagued since it was unveiled by President Reagan. In 1984, NASA estimated the cost would be about $8 billion and would be completed by 1992.

Today it is past overdue and the costs are out of control. Today's NASA reestimate, if you can rely on these ever-changing figures, exceeds $75 billion. In truth, NASA has no true estimate of costs at all. In light of the recently announced United States-Russia collaboration, no one knows what this program is supposed to accomplish. Talk about putting the cart before the horse. This program sets a new standard for premature action.

GAO projects the costs could exceed $40 billion to build—and the lifetime costs a staggering $118 billion. This cost is unthinkable given the myriad unmet needs domestically: Homeless people sleep on the Capitol Grounds; veterans are turned away from VA medical centers and cemeteries; and the deficit mushrooms.

President Reagan put the space station on the national credit card. President Bush put the space station on the national credit card. And, my friends, the time has come to pay the bills. We are well over $14 billion in the hole on this program and the financial bleeding has not stopped. This year's request is for $2.1 billion and over $2.1 billion for each of the next 4 years.

Mr. President, there is something very wrong with our priorities. The budget cutting is not over, and funding this new space station *Alpha*—or international space station as it has been cynically renamed to improve its chances for funding—will force us to cut another $13 billion over the next 4 years.

Mr. President, I am the senior Democrat on the Veterans' Committee and my colleagues and I on the committee have been forced to deal with the consequences of the decision to pursue this white elephant in space. I even offered an amendment in 1987 to delay the space station in order to protect veterans health care. I barely escaped the Chamber with my life and managed to get a mere 12 votes.

Mr. President, I said at that time we could not afford this ill-defined program. I said that veterans health care and other programs would suffer if we did not get control of this program. Well, everyone hates to hear it, but I cannot resist saying, "I told you so," when the truth hurts so much.

Sadly, it is the veteran and his survivors who have been paying the biggest price to date. Today, every widow who cared for a service-connected severely disabled veteran cannot get remarried for the rest of her life without losing her CHAMPUS–VA health insurance and survivor's benefits. That is unfair; if you are the survivor, to keep yourself from losing conceivably the only lifeline left between poverty and desperation, you must remain alone in the time following the most tragic loss one can experience: that of a loved one.

This is only one example; there are many more tough budget decisions which have been made to reduce the deficit. But the question should not be how many more, but what exactly will happen in the future to benefits like these if we continue to pursue this pig-eared elephant in space that will be worth its weight in gold? I am loathe to say that they will disappear all together because of the $75 billion we will have to spend on a space station, a space station that most likely will not be completed before the veterans and families and others it denies adequate benefits die.

In sum, Mr. President, it is time we get our financial house in order on Earth together before we embark upon this great adventure to new worlds. I believe in dreams, but I am not a daydreamer. This program does not make sense and we cannot afford it.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—36

Baucus
Boren
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
DeConcini
Dorgan
Exon

Feingold
Harkin
Hollings
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lugar
Mathews
Metzenbaum
Mitchell
Moynihan
Nunn
Pryor
Sasser
Simon
Specter
Warner
Wellstone
Wofford

NAYS—64

Akaka
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Faircloth
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop

So, the amendment (No. 2444) was rejected.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 70, LINE 6

The PRESIDING OFFICER. The Chair will state that the underlying committee amendment on page 70, line 6, is now pending before the Senate.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the underlying committee amendment on page 70, line 6, be adopted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

So the committee amendment on page 70, line 6, was agreed to.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

AMENDMENT NO. 2445

(Purpose: To express the sense of the Senate concerning authorization for the deployment of United States Armed Forces in Haiti)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself, Senator GREGG, and Senator HELMS.

The clerk will report the amendment offered by the Senator from Kansas.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. GREGG, and Mr. HELMS, proposes an amendment numbered 2445.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

LEGAL EFFECT OF SECURITY COUNCIL RESOLUTION ON HAITI

SEC. . It is the sense of the Senate that United Nations Security Council Resolution 940 of July 31, 1994, does not constitute authorization for the deployment of United States Armed Forces in Haiti under the Constitution of the United States or pursuant to the War Powers Resolution (Public Law 93-148).

FIRST COMMITTEE AMENDMENT ON PAGE 3

The PRESIDING OFFICER. If there is no objection, the pending committee amendment will be set aside for the consideration of the DOLE amendment. Is there objection?

Ms. MIKULSKI. Mr. President, reserving the right to object, first of all, the Senate is not in order. I would appreciate it if Senators would sit down so I could clarify with the minority leader.

The PRESIDING OFFICER. The Senate will come to order.

Ms. MIKULSKI. What is the pending business now before the Senate?

The PRESIDING OFFICER. The Chair advises the Senator from Maryland the business is the first committee amendment on page 3. That is the business pending before the Senate.

Ms. MIKULSKI. What is the status of the amendment just offered by the minority leader?

The PRESIDING OFFICER. The Senator from Kansas offers an amendment that purports to be an insert to the bill, so it will take unanimous consent to set aside the pending amendment.

Ms. MIKULSKI. Mr. President, we want to accommodate the minority leader. I suggest the absence of a quorum so we can clarify how best to proceed.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the pending committee amendment be laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Ms. MIKULSKI. Mr. President, I now propound a unanimous-consent request that there be a time limit of 2 hours, divided between Senator DOLE or his designee and Senator DODD or his designee, on the Haiti amendment, with 40 minutes for Senator DODD and 80 minutes for Senator DOLE; that no amendments be in order to his amendment; and that upon the use or yielding back of the time, the Senate, without any intervening action or debate, vote on Senator GREGG's amendment, with the yeas and nays being ordered.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, may I ask for a specified time of 10 minutes for myself?

I understand I have been yielded 10 minutes, so that is satisfactory.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. JOHNSTON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I wonder if we could amend that request by allowing that I be recognized to offer the ethanol amendment immediately after that.

The PRESIDING OFFICER. Does the Senator from Maryland so modify her request?

Ms. MIKULSKI. I so modify that request.

The PRESIDING OFFICER. Is there objection to the unanimous consent request, as modified?

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I would ask that the Senator from Vermont, who is chairman of the Senate Agriculture Committee, be recognized at some point in this for 5 minutes.

Ms. MIKULSKI. During what?

Mr. LEAHY. During debate.

Ms. MIKULSKI. On what?

Mr. LEAHY. On the ethanol amendment.

Ms. MIKULSKI. We are not propounding a unanimous-consent request on ethanol. There is no unanimous-consent request on ethanol.

Mr. LEAHY. I was misinformed.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, would the Chair repeat again what the unanimous-consent request is?

The PRESIDING OFFICER. I would ask the Senator from Maryland to repeat the unanimous-consent request.

Ms. MIKULSKI. Mr. President, I say to the Senator from Iowa that I am asking unanimous consent, on the Haiti amendment, that there be a time limitation of 2 hours, divided between Senator DOLE or his designee and Senator DODD or his designee, with 40 minutes for Senator DODD and 80 minutes for Senator DOLE; that no amendments be in order to his amendment; that upon the use or yielding back of the time, the Senate, without any intervening action or debate, vote on Senator GREGG's amendment; and that upon the conclusion of that vote, then the Senator from Louisiana [Mr. JOHNSTON] be recognized with no time limit on the ethanol issue.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Chair recognizes the Senator from Kansas.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mr. DOLE. Mr. President, the amendment before the Senate is simple. It states that U.N. authorization does not substitute for the U.S. Constitution or for U.S. law on the question of war powers. The entire world knows that the United Nations authorized an invasion of Haiti. The world should also know that the Congress has not authorized an invasion. President Clinton sought the approval of the members of the U.N. Security Council, but has rejected bipartisan calls for congressional authorization.

While the administration was seeking the support of the United Nations, it would not even share copies of the draft resolution with the Congress. This is in stark contrast to President Bush in 1991 who came to Congress, and emerged with a stronger policy.

Why should the opinion of Nigeria matter more than the views of Congress? Nigeria is currently under sanction for narcotics trafficking, and has overturned the results of democratic elections. Some of the countries whose support we sought—in the name of restoring democracy to Haiti—have never even held democratic elections, yet we go up and ask for their consent to intervene in Haiti. Why do we need the permission of these countries to act in our hemisphere?

There is another troubling issue at stake: What did the U.S. have to give up to get U.N. approval? Published reports cite a deal with Russia: In exchange for United States support for Russian actions in Georgia, Russia allowed the Haiti resolution to proceed. That is a bad deal for Georgia, and that is a bad deal for the United States.

Many newspapers have raised serious questions about the administration's latest move toward military intervention. USA Today said the "case has not been made convincingly—not to Congress, not to U.S. voters." The editorial criticized each and every element of what they termed "Clinton's flimsy invasion rationale."

The Washington Post pointed out, "It is a stretch and then some to say that the junta's internal cruelties imperil international peace and security—the U.N. charter's test for armed intervention." The Post concludes by stating the administration "should not drift into a position where it feels compelled to invade because it cannot think of anything else to do."

The New York Times said, "An invasion of Haiti would be a big mistake." The Times went on to say, "presumably, the Clinton administration will heed its constitutional duty and seek previous congressional approval which it may not get." That is the issue addressed in this amendment.

The Senate has twice gone on record with overwhelming votes in support of prior congressional approval before an invasion of Haiti. As I have said before, this is not an emergency like Panama and Grenada. There is plenty of time to seek congressional approval. And there should be no mistake—the U.N. action on Sunday does not give the President legal authority to invade Haiti.

One of the premier experts on separation of powers issues, Louis Fisher of the Congressional Research Service, recently analyzed the role of U.N. authorization in congressional war powers. He concluded:

> The history of the United Nations makes it very clear that all parties in the legislative and executive branches understood that the decision to use military force through the U.N. required prior approval from both Houses of Congress.

That is the issue: Prior approval of Congress. Let's quit the overheated rhetoric and test the policy in Congress. Let's have a full debate over American interests in Haiti. In 1915, President Wilson invaded Haiti without authorization from Congress. The U.S. occupation became an issue of great domestic controversy. Resolutions requiring U.S. withdrawal were considered by the Congress. In 1929, for example, Senator William H. King, Democrat from Utah, introduced Senate Resolution 158, providing for a withdrawal of U.S. forces. As Senator King said at the time, "I have recited by way of preamble, some of the ugly facts attending the conquest and control of Haiti." The last U.S. invasion and occupation was not the high point of our country's history.

I do not believe this administration wants a prolonged occupation of Haiti as happened earlier this century. I do not think this administration wants divisive debate over the occupation of Haiti as happened earlier this century. I do not think the administration wants to face the 1994 equivalent of Senate Resolution 158, which I just referred to.

So I suggest we have time. There is no emergency there now. If the President wants to seek authorization, now would be the time to come to Congress and ask for it. I hope he will do that tonight in his press conference.

There will be a press conference. It will be a good time for the President to suggest that maybe, if he has such a plan to intervene in Haiti, that he will come to Congress. I hope this amendment will be adopted by unanimous vote. I do not know anyone who would oppose it. It is not critical. It just states a policy that I think we should follow.

I think there are other amendments. Maybe Senator SPECTER will discuss an amendment that he has in mind which may come to fruition if we fail in our efforts to persuade the President to come to us and ask for authorization.

I ask unanimous consent the editorials I referred to be made a part of the RECORD, as well as the study by Mr. Fisher.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 3, 1994]

INVASION COUNTDOWN

The American government is conducting a shadow play intended to make an invasion of Haiti unnecessary by making it seem inevitable. This is the meaning of the attack authorization that the United States extracted from the United Nations over the weekend. The invasion countdown doesn't mean American troops are all set to go in and throw out the junta that ousted Haiti's elected president, Jean-Bertrand Aristide. It is the latest tightening of the screw in an effort to force the junta to step down without a fight.

If it works as planned, the Clinton administration will be able to claim a foreign-policy success. But regardless of the result in Haiti, a price will have to be paid. It is a stretch and then some to say that the junta's internal cruelties imperil international "peace and security"—the U.N. Charter's test for armed intervention. A question of consistency arises when it comes to applying a similar standard to friendly authoritarian countries, like some of those that voted to back the United States in Haiti. A precedent is being set that would allow, say, Russia, to seek a similar license in policing what it calls its near abroad.

Nor does the international authorization translate easily into the approval that President Clinton is going to need at home. The prime factor pushing the administration to do something, the specter of Haitian boat people flooding into Florida, rises and falls with the daily traffic—currently very low. Popular enthusiasm for Haitian democracy and compassion for Haitian suffering must vie with the widespread apprehension—which we share—that an invasion of Haiti would be a colonial solution: It would likely saddle the United States with lone responsibility in a virtually limitless swamp of occupation.

At this late point, many politicians find it awkward to be an invasion skeptic. A seemingly irreversible commitment of presidential prestige has been made: How can Bill Clinton climb down now? Nothing else is "on." The thugs in Haiti, moreover, are quick to take comfort from utterances made in the context of American debate. Most skeptics, we guess, would join the general relief if the junta in Port-au-Prince thought better of its initial defiance of the U.N. resolution and stepped down. But this does not absolve the administration from continuing to seek a political solution. It should not drift into a position where it feels compelled to invade because it can't think of anything else to do.

[From the USA Today, Aug. 2, 1994]

U.N.'S VOTE DOESN'T JUSTIFY HAITI INVASION

Our view: The Clinton administration has failed to make a convincing case for an invasion.

Piece by piece, the Clinton administration's strategy for invading Haiti appears to be falling into place. The latest: the U.N.

The Security Council voted unanimously Sunday to endorse an invasion, putting an international imprimatur on the plan.

That's nice. It's better than invading in defiance of the U.N. But even with the U.N.'s fig leaf of approval, a U.S. invasion of Haiti remains a lousy idea for a whole raft of reasons.

President Clinton can package the mission in Haiti as a liberation, or an intervention or a restoration of democracy. He can even tout it as a multinational adventure by tossing in a few soldiers from Barbados or the Bahamas. But thousands of U.S. combat troops should not be storming the beaches of any country—with some certain to die—unless the need is overwhelming.

That case has not been made convincingly—not to Congress, not to U.S. voters.

A look at Clinton's flimsy invasion rationale makes that point:

It's in our back yard. Yes, and so are dozens of other Latin American nations with varying degrees of political and economic problems. We can't invade them all.

Haiti and Cuba are the only non-democracies in the Western Hemisphere. Does that mean we should invade Cuba next?

Haiti is a drug shipment point. True, but Colombia, Peru, Ecuador and other Latin American nations have more lethal connections to drug cartels.

Several thousand U.S. citizens live or work there and many Haitians reside here. Also true, but the same can be said of scores of other countries in and out of this hemisphere. And so far, those in Haiti don't appear to be in any great danger.

Haitians left poor and desperate under the military junta could flood the USA. Kicking out the varmints now running Haiti will not resolve the economic woes of the hemisphere's poorest country. Aside from that reality, massive illegal immigration never justifies military assaults on another nation; otherwise U.S. troops should have been sent to Mexico decades ago.

Clinton, however, has apparently decided he can pull off what no one else has been able to do in Haiti in almost 200 years of independence—impose democracy.

The last time U.S. troops tried—in 1915—they left in failure 19 years later.

This time, the administration says U.S. troops would be needed as part—probably half—of an international peacekeeping force for months, perhaps years.

Yes, Haiti has problems. But they are far from unique and make no case for war.

Clinton has no business setting the USA up as the 911 operator for every nation in turmoil.

[From the New York Times]

A U.N. LICENSE TO INVADE HAITI

If it persuades Haiti's military leaders to leave on their own, then Sunday's U.N. Security Council resolution authorizing a U.S.-led invasion will have done some good. The resolution contains no deadline, and the Clinton Administration has no plans for an imminent military strike.

Perhaps only the treat of force will convince Haiti's top soldiers they should depart. They viscerally oppose the social and economic changes they believe President Jean-Bertrand Aristide would make if he returns. And they are reportedly profiting handsomely from the status quo.

But the threat to use force implies a willingness actually to use it if the military leaders hold fast, and an invasion of Haiti under present circumstances would be a big mistake. Meanwhile, the Administration's strained interpretation of the U.N. Charter to classify the Haitian situation as a threat to regional peace and security damages the U.N.'s legitimacy and invites trouble.

The resolution, orchestrated by Washington, envisions several countries taking part in any invasion, but the operation would remain under direct U.S. military and political control. Presumably, the Clinton Administration will heed its constitutional duty and seek previous Congressional approval, which it may not get. But even a properly authorized invasion would add to the long string of dubious U.S. military interventions in the Caribbean basin during the past century, including a 19-year occupation of Haiti itself.

Some of these actions had nobler ends than others. But very few did any lasting good and each poisoned U.S. relations with the rest of the hemisphere. Significantly, one of the two Latin American members of the Security Council, Brazil, abstained Sunday, while the non-members Mexico, Uruguay, Venezuela and Cuba all spoke out against an invasion. The other Latin member, Argentina, voted yes.

Even though President Aristide implicitly endorsed the resolution, an invasion could weaken his domestic legitimacy while diminishing Haiti's sovereignty. And despite plans to quickly hand off peacekeeping authority to a more broadly based U.N. force, an invasion would saddle the U.S. with political responsibility for controlling the violent vendettas that might erupt once the present repressive structure is disarmed.

To justify the use of U.N. force, Washington recklessly stretched the boundaries of what constitutes a threat to international peace and security under Chapter Seven of the U.N. Charter. Gen. Raoul Cédras's violation of the pledges he made in the Governors Island agreements last year is legitimately an international issue. So is the tide of refugees and systematic violation of human rights. But none of these issues now rise to the threshold necessary to justify invasion. On many of the same grounds, Cuban emigres might well lobby the Clinton Administration to seek U.N. authorization for invading Cuba.

Having taken its lumps trying to be a world police force, the U.N. has now fallen into the unhealthy habit of licensing great-power spheres of influence. In recent weeks the Security Council has commissioned France to send troops to Rwanda and endorsed Russia's "peacekeepers" in Georgia. Now the U.S. is authorized to lead an invasion of Haiti. Such crude power politics damages the U.N.'s standing as an organization valuing the sovereignty of all its member states.

Licensing big-power armies was justified in cases like the Persian Gulf war and the Korean War where the necessary level of force could only be supplied by major military powers. But it is surely not justified in Haiti, with a 7,000-man regular army and a comparable number of lightly armed paramilitary troops.

The Clinton Administration, under attack from critics on the left and right for alleged timidity in deploying U.S. military power, now reveals a dangerously low threshold for using force in Haiti.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 1, 1994.

Senator ROBERT DOLE,
Washington, DC.

DEAR SENATOR DOLE: UN Security Council Resolution 940 of July 31, 1994, authorizing military action against Haiti, raises the same issue that this country faced in 1950 when President Truman relied on a Security Council resolution to take military action against North Korea. The fundamental question: Is a Security Council resolution a legal substitute for explicit congressional approval?

In a paper to be presented next month at the American Political Science Association annual meeting, I conclude that Truman's action violated the Constitution and violated the UN Participation Act, which calls for congressional approval by bill or joint resolution. The UN Charter, entered into by a President and the Senate, was never a means of eliminating the constitutional role of the House of Representatives. In short, UN resolutions are not an appropriate or legal mechanism for circumventing Congress.

If I can be of any further assistance, please contact me at 707-8676.

Sincerely,

LOUIS FISHER,
Senior Specialist in Separation of Powers.

THE KOREAN WAR: ON WHAT LEGAL BASIS DID TRUMAN ACT?

In June 1950, President Harry Truman ordered U.S. troops to Korea without first requesting congressional authority. For legal footing he cited resolutions passed by the United Nations Security Council, a beguiling but spurious source of authority. In 1990 the Bush administration tried the same tactic, relying on the Korean War as an acceptable precedent for taking offensive action against Iraq, again without seeking congressional approval. Like Truman, Bush claimed that UN resolutions were a sufficient base of authority. In Bosnia, President Clinton has relied on UN resolutions and NATO agreements as sufficient authority to use military force without first seeking congressional approval.

UN machinery is not a legal substitute for congressional action. If that were possible, the President and the Senate, through treaty action, could strip from the House of Representatives its constitutional role in deciding questions of war. Following that same logic, the President and the Senate, through the treaty process, could rely on the UN to determine trade and tariff matters, again bypassing the prerogatives of the House of Representatives. The history of the United Nations makes it very clear that all parties in the legislative and executive branches understood that the decision to use military force through the UN required prior approval from both Houses of Congress.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I designate the remainder of our time to Senator GREGG. He can yield time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield 10 minutes to Senator SPECTER.

The PRESIDING OFFICER. Senator SPECTER is recognized for 10 minutes.

Mr. SPECTER. I thank the Senator from New Hampshire.

Mr. President, I support the amendment offered by the distinguished Republican leader. But I am concerned, as Senator DOLE stated in his closing comments, that it does not go far enough or is not sufficiently explicit to assert the constitutional authority of Congress that the President not engage in war in Haiti without prior congressional approval, as is mandated by article I, section 8, of the U.S. Constitution which gives Congress the sole power to declare war.

Call it what you may, as a matter of semantics, if the President of the United States orders an invasion of Haiti by United States military troops, that is a war. There is absolutely no justification in the sequence of events which have arisen, where there is no emergency, for the President to exercise his authority as Commander in Chief to invade Haiti.

From time to time we have discussed on the floor of this Senate a number of amendments. The Senator from New Hampshire [Mr. GREGG] has offered amendments. Senator MITCHELL has offered amendments. They are sense-of-the-Senate amendments, and I am concerned they do not go far enough.

On Monday of this week I discussed with the majority leader the issue as to whether there was an expectation that there would be a request for authorization by the Congress for the use of force in Haiti, which would be equivalent to what was done in Iraq back in 1991, and the majority leader said at that time that he had no plan to do so. I have discussed with both the majority leader and the Republican leader my intention to offer such a resolution so there could be a clear-cut decision, yes or no, on whether the Senate of the United States is prepared to authorize the use of force. Under the Constitution the concurrence of the Senate is indispensable. Only the Congress can declare war, and an invasion is an act of war.

Regretfully, we have seen that the United States has been involved in wars without a declaration of war as required by the Constitution. There is no doubt that the Korean conflict—the Korean war—was in fact a war. That is a subject about which I have questioned a number of Supreme Court nominees in order to try to bring to the fore this very serious constitutional issue. And until Judge Breyer was willing to categorically answer the question on Korea during his recent confirmation hearings—that the incident in Korea was in fact a war—no other nominee was willing to address that subject.

Judge Breyer said it in very candid terms, that the Korean war was in fact a war. And, where you have an invasion by U.S. military troops, that is in fact a war. Were the founders of the Constitution supposed to talk about police actions or about invasions? They made it very plain. If war is to be declared, it is the responsibility of the Congress to do so.

We have learned through the bitter experience of Vietnam that this country cannot sustain a war without public support. And as the Constitution mandates, the best indication of public support is when the Congress of the United States declares war. Now we have the President of the United States going to the United Nations and working very hard in the United Nations to get United Nations authorization for the use of force in Haiti and setting up the responsibility of the United States to undertake the making of that war.

It is amazing to me that President Clinton goes to the United Nations for authorization to have a war in Haiti instead of coming to the Congress of the United States for authority, as is required by the Constitution.

President Clinton has sworn to uphold the Constitution of the United States. He is the Chief Executive Officer of the United States, and under the Constitution, President Clinton has responsibilities to the United States of America. He does not have those responsibilities to the United Nations.

It is a source of amazement as to why we do not confront this issue directly, why the President does not come to the Congress in advance. The only explanation for that is that he does not want to take a risk of having an adverse determination by the Congress which he would have to follow.

Mr. President, I suggest to President Clinton that, whether or not he comes to the Congress and whether or not there is a binding determination by the Congress, it would be unconstitutional for him under these circumstances to initiate an invasion in Haiti.

The amendment, which Senator DOLE offered, I think, answers itself on its face. The resolution says that:

> It is the sense of the Senate that United States Security Council Resolution 940 does not constitute authorization for deployment of United States Armed Forces in Haiti under the Constitution of the United States or pursuant to the war powers resolution.

But I think it is incumbent on the Congress that our declaration and our instruction to the President be unequivocal so that there is no doubt that he does not have the authority to invade Haiti and to engage the United States in war.

I urge the adoption of the resolution, and I look forward to a further statement which will be even more unequivocal that President Clinton does not have the authority to engage the United States in war.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Mr. President, first, I would like to congratulate my colleague from New Hampshire, Senator GREGG, for his persistence on this issue, as well as Senator DOLE. I ask unanimous consent to be added as a cosponsor to this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, a matter of the highest importance, in my opinion, is the Clinton administration's not undertaking an invasion of Haiti without first addressing the question, Under whose authority are we invading? The authority of the United States? Or the authority of the United Nations? That is the question raised by this amendment.

Article I, as Senator SPECTER alluded to, of the U.S. Constitution gives Congress the sole authority to declare war, but the Clinton administration has not been clear as to what authority they intend to exercise. Do they need a declaration of war to invade Haiti? Do they intend to ask for a declaration of war, even authorization from Congress of the type President Bush received for the Persian Gulf war? We do not know. They have not said. Maybe they have not even thought about it.

The Dole-Gregg amendment also mentioned the War Powers Act of 1973. This is a very controversial piece of legislation. Many Senators doubt its constitutionality, and every administration has questioned its validity. So what about the Clinton administration? Do they consider the War Powers Act to be good law or not? Do they intend to abide by its provisions? Again, we do not know, and I doubt that they have given it serious consideration.

All we really know, Mr. President, are two things. First, the Clinton administration, driven by domestic political considerations—a hunger strike, bullying by the liberal leadership of the Black Caucus—has been talking tough about Haiti for several months now. They have painted themselves into a corner with their constant flip-flops and contradictions. So maybe now all they can do is invade.

Second, we know they now have Resolution 940 of the United Nations Security Council, which passed last Sunday, which they feel gives them all the authority they need. As a result, the talk of an invasion is bigger than ever. For example, take the saber-rattling message by U.N. Ambassador Madeleine Albright in the wake of the Security Council's vote speaking symbolically to Haiti's current military regime. This was reported in the Washington Post, August 1, 1994:

> You can depart voluntarily and soon, or you can depart involuntarily and soon. The Sun is setting on your ruthless ambition.

With all due respect to the Ambassador, there appears to be some of this "ruthless ambition" she is talking about in this administration. This sounds to me like President Clinton feels he has the green light from the United Nations Security Council and they can care less what the Congress or the American people have to say about it.

About a week ago, before the Security Council vote, Secretary of State Christopher was asked about the precise question raised by the Dole-Gregg amendment on ABC Good Morning, America. This is on June 25. The question:

> I'm curious why we're going to the United Nations. Why aren't we going to Congress to seek authorization to go in?

I think that is an excellent question. Why are they not? Here is how Secretary Christopher responded:

> Well, we're going to the United Nations because we think it's very important to view this problem as an international one. It's very important to the United States, but it's important to many of the countries of the world, especially in this hemisphere, to have democracy overthrown by a military coup in Haiti, so I think we want to be sure there's international backing for what we do, but that's not exclusive of the Congress. We're in close consultation with the Congress, meeting with them on a regular basis * * * So it's not either/or. * * * We need to keep in very close touch with both.

At this point, the Secretary needs a reality check. He says it is not "either/or" between Congress and the United Nations. So why does the Clinton team go to the Security Council for authorization but Congress only gets consultation? Secretary Christopher says it is important to "view this problem"—that is Haiti—"as an international one." But is it not even more important to see it as an American one? You can talk all you like about other countries and what they think, but the bottom line is this: If we go into Haiti, it will be overwhelmingly Americans fighting and possibly even dying.

It seems to me that Secretary Christopher has this exactly backwards. They should be coming to Congress for authorization and keeping the United Nations consulted, not the other way around.

In that connection, I would like to draw my colleagues' attention to an article in the Washington Post on August 2. The headline reads: "Menem, Despite Opposition, Asks for Authority To Send Invasion Force for Haiti."

The article describes the President of Argentina, which voted with the United States in the Security Council to authorize an invasion of Haiti, going to the Argentine Congress for their authorization. The President of Argentina apparently understands the Security Council resolution is not a substitute for his own country's constitutional order, but it seems the President of the United States does not understand that.

If it is important for Argentina to pay attention to its own constitution and laws, it is even more important for the United States. The United States has far greater responsibilities than Argentina in this hemisphere and in the world. This point was raised in that interview given by Secretary Christopher last week that I referred to earlier. He was asked the following question:

> Well, incidentally, going to the United Nations, though—doesn't that mean, in effect, we put an end to the Monroe Doctrine? I mean, why would we go there [that is, the United Nations]? What if they said no?

I think that is another excellent question. As it turned out, the Security Council agreed with the Clinton administration's position, but what if the Security Council had said no? Would that mean the United States could not go into Haiti? Are we now saying the United Nations Security Council has the power to tell the United States what we can and cannot do in the Western Hemisphere? Here is what Secretary Christopher had to say:

> Well, we certainly are not giving up any of our rights to use unilateral action, but I think it's much better if we can do this under the international umbrella with the support, with the concurrence of the international organizations. It makes it far more acceptable. * * * So I think it's desirable from the standpoint of the American people that we have—we internationalize this and we share the burdens.

Mr. President, I am appalled by the confusion displayed here, which has been typical of this administration, not just in Haiti but also in Bosnia, in North Korea, in Somalia—you name it. Secretary Christopher says we need to internationalize this to share the burden. But everybody knows that if we go into Haiti—or at this point, more like when we go into Haiti—the United States will bear almost the entire burden, U.N. resolution or no U.N. resolution.

Secretary Christopher says having international authority from the United Nations is "better" and "more acceptable." But he does not say why that is. Why is it better for American troops to take action and risk their lives because of the United Nations and not because the elected representatives of the American people authorized it? It seems to me that he has that backward as well.

Secretary Christopher says we are not giving up any of our rights to use unilateral action, but by implication we are. If we ask the United Nations for authorization, we are saying they have the right to say no. In fact, by seeking Security Council authorization while ignoring the Congress, the Clinton administration has done great damage to the Monroe Doctrine. I note that Charles Krauthammer reaches the same conclusion in his essay in the Washington Post on August 2, called: "Goodbye, Monroe Doctrine."

Mr. President, I ask unanimous consent to print that article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 2, 1994]

GOODBYE, MONROE DOCTRINE

(By Charles Krauthammer)

The Clinton administration, preparing for a possible invasion of Haiti, went to the United Nations to ask for prior approval. Sunday it got it. Seems like a simple act of international propriety. On the face of it, Clinton is merely aping what George Bush did before the gulf war.

But Iraq is very different from Haiti. Iraq is far away. It had a formidable army that threatened serious fighting. The United States needed allies to share the perhaps considerable burdens ahead. It needed Saudi territory to stage a counterinvasion. To induce others to sign up, it needed international cover.

Cover, leverage, allies: In Haiti none of this applies. It is a pushover perched on a tiny nearby island. The invasion will be almost unopposed. There is no need for allied soldiers or foreign staging rights.

In fact, the appropriate analogy is not Bush in Iraq but Bush in Panama. Bush determined that Noriega was a threat to American interests. Confident that he had right, power and American interests on his side, he did the job and asked questions later.

The Clinton administration is deeply uncertain about right, distrustful of American power and disoriented regarding American interests. It is, accordingly, the first administration in U.S. history to ask United Nations approval for intervention in our own hemisphere.

And Clinton did not just ask permission. He had already dealt away American interests in order to get it. In a deal largely unremarked except by Lally Weymouth in The Post [op-ed], July 24], the United Nations last month quietly approved Russian "peacekeeping" troops in formerly Soviet Georgia. Russia had threatened to veto U.N. approval of a Haiti invasion if refused a free hand in its former colony.

These are the same Russian troops that stirred up the Georgian trouble they are now charged with pacifying. Their role is less to keep peace than to restore a small piece of the old Soviet empire and signal Russia's intent to reestablish hegemony over the rest.

The Russians might restore their hegemony regardless, but they covet international recognition of their power grab. And in the Security Council we gave it to them. In return for what? For Haiti—a living hell for which we have no desire and even less need.

Only last month, Clinton led off a string of justifications for intervention in Haiti by saying, "first of all, it's in our back yard." One does not ask permission to put out a fire in one's own back yard.

We come here to the root weakness of the Clinton foreign policy: It has no conception of the prerogatives of power. It appreciates the obligations of power—in Rwanda, for example, the world cries out for someone to "do something" and Clinton (rightly) rushes in. But with obligations come prerogatives. And to these prerogatives the administration is dead.

It is the prerogative of a great power to do what it must to secure its interests without asking. China sends warships to secure a South China Sea oil patch it claims from Vietnam. Deng Xiaoping does not ask for U.S. approval. Yet Clinton, absurdly, seeks Deng's approval to act in Haiti. (Sunday, at the Security Council, he got an abstention.)

Moreover, unlike China, we are a global superpower. We shoulder unique responsibilities. We are not a country like any other. Yet the Clinton administration, running around the U.N. gathering signatures for our Haitian send-off, acts as if we are.

Such thinking comes naturally to the lawyers who make up the Clinton team. After all, here everyone is equal under the law. When Warren Christopher represented his clients, the rules applied to everyone.

> But the international system is utterly different. In that arena, the players are radically unequal, the law is but a piece of paper, and there is no outside source of enforcement. In fact, the only enforcer is the big guy on the block, the superpower, which in this post-Cold War era happens to be us.
>
> It is we who take the risk to restore order when disorder arises. It is we who bear the brunt of war to secure the oil supplies of Japan and Germany and the world's other free riders. It is we who mount the great air relief to Rwanda.
>
> We are not an ordinary player. We are the world's fireman, on whose exertions the rest of the world rides free. In return, we are entitled to certain prerogatives. When our interests are threatened, we have well earned—from those who benefit from our actions elsewhere—room to maneuver. A nation with such global burdens both needs and is owed the prerogative to act expeditiously and independently to secure its own interests.
>
> A great power does not ask for such prerogatives. (Once you've asked for it, you've forfeited it.) A great power feels it, asserts it, excrcises it. Yet this administration does not move unless the United Nations nods, Micronesia applauds and a dozen allies hold our hand.
>
> I happen to believe that invading Haiti is a bad idea. But if Clinton thinks Haiti is an important national interest, he should act. Scrounging for prior approval from Security Council members Djibouti and Oman is not an act of propriety. It is an act of flaccidity. It betrays not just a lack of self-confidence but a profound misapprehension of America's place in the world.

Mr. NICKLES. Mr. President, the Dole-Gregg amendment is not just a typical sense-of-the-Senate resolution. This is not just, "we think you ought to do this" or "we think you should not do that." In my opinion, this is far more serious. We are giving what amounts to a formal interpretation of the Constitution and laws of the United States with respect to the President's ability to short circuit our own domestic institutions for the United Nations. Who authorizes the Armed Forces of the United States to invade another country, the Congress of the United States or the United Nations Security Council? That is the issue. And I hope my colleagues will support this amendment.

Mr. President, I think an invasion of Haiti would be a serious mistake. I do not think that Mr. Aristide or reinstating Mr. Aristide is worth the loss of one U.S. life.

Again, I wish to compliment my colleagues, Senator GREGG, Senator DOLE, and others, in trying to reaffirm that the U.S. Congress, solely, has the power and the right to declare war, and we should not delegate that responsibility to the United Nations Security Council.

I thank my friend and colleague.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 minutes, and then I would like to be able to yield to the distinguished chairman of the Foreign Relations Committee, because he has another appointment to make——

The PRESIDING OFFICER. Senator DODD is recognized for 5 minutes.

Mr. DODD. I would like to yield whatever time he may need. But I want to take just a couple minutes if I can at the outset, Mr. President.

First of all, Mr. President, I ask unanimous consent that I be included as a cosponsor of the Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I begin by doing that because I think all of our colleagues understand, ought to understand, that there is absolutely nothing in this amendment that ought to cause any Member of this body to oppose this amendment. The amendment states very clearly what would be the law as far as I am concerned, that the action by the United Nations does not constitute the authority of the Constitution or the war powers resolution to commit United States forces to Haiti. That is self-evident, in my view, and so I would hope that all Members—since a recorded vote has already been requested and approved—would support this amendment by the Senator from Kansas. So for those reasons, Mr. President, I asked to be considered as a cosponsor.

But if I can, I would like to make a few brief remarks in these minutes to comment on it. Before I turn to the substance, Mr. President, of the pending amendment, I would like to commend our U.N. Ambassador, Madeleine Albright, for her tireless efforts to help galvanize the international community behind a united strategy to restore democracy in Haiti.

I am somewhat stunned that that action is being challenged here. It seems to me that while we may disagree about what tactics to employ, I would hope there is no significant debate about the present conditions in Haiti and what occurred in Haiti. Whether one likes President Aristide or not is not really a relevant question; 70 percent of the people of that country decided to elect him President in the fairest election that nation has ever seen.

It is not our business as a matter of policy to decide that we will support or oppose democracy based on what that system produces through the electoral process. We all can, I think, join in a common voice in deploring the hijacking of that democracy by a group of military thugs and their supporters. That was a great tragedy. We now have two countries in this hemisphere, Cuba and Haiti, which do not have democratically elected governments.

The human rights violations, the mass of humanity that is trying to leave Haiti, many of them trying to come to our shores, the substantial allegations about these thugs also engage in significant drug trafficking, are some matters that ought to be considered of significant concern. So the fact that our Ambassador at the United Nations is trying to build some international support to try to deal with the problem in Haiti is one that I assume most people would think is the right way to go.

In fact, I recall most people here—because I think President Bush deserves, in my view, historically, the credit for initiating a new approach to diplomacy worldwide, and that is to try to build, where you can, international support. You are not going to be able to do it in every case, but where you can it is of value in the conduct of foreign policy to try to build international cooperation. That is what President Bush did in the Middle East, and I think he was absolutely right to do so. He did not do so with the thought in mind that every single foreign policy problem that this country faces ought necessarily be solved, or could be solved, through international cooperation. But where possible that ought to be the strategy that the United States follows.

So Madeleine Albright, our Ambassador, is merely building on that concept and idea in Haiti, to try to build international support so that we can all collectively examine ways in which to try to reverse the deplorable conditions, politically, socially and economically, that exist in that country.

It was a remarkable decision by the U.N. Security Council and speaks, I think, of Madeleine Albright's effective leadership. During the Security Council's consideration of this resolution, Ambassador Albright, I think, expressed very succinctly the history of the efforts to restore democracy to the people of Haiti. She said in part, Mr. President:

> This Council has pursued patiently a peaceful and just end to the Haitian crisis. The Organization of American States has pursued a parallel effort. Member States, including my own—

For example, speaking of our country:

> have taken steps independently to encourage the illegitimate leaders to leave. Together, we—the international community—have tried condemnation, persuasion, isolation and negotiation. At Governors Island, we helped broker an agreement that the military's leader signed but refused to implement. We have imposed sanctions, suspended them, reimposed them and strengthened them. We have provided every opportunity for the de facto leaders in Haiti to meet their obligations.

She concluded as follows—and I ask for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. She concluded as follows:

> The status quo in Haiti is neither tenable nor acceptable. Choices must be made. And although the choice in Haiti is complex, this

choice is as simple as the choice between right and wrong. Today, the Council has made the right choice—in favor of democracy, law, dignity and relief from suffering long endured and never deserved.

Mr. President, Madeleine Albright's views I think are ones that all of us can share in this body.

Now, for those reasons I think we ought to try at least to speak with one voice about conditions there. The President, if it is warranted, will come before this body and ask for authorization.

I would point out to my colleagues that in both the case of Panama and Grenada, no such authority was sought. Now, there the President made a case that it was of such an emergency nature that he had to act.

I mentioned to my colleagues here a few weeks ago that I received a call about 1 a.m. from then Secretary of State Jim Baker. That was the consultation. Planes were in the air. Troops were already landing. Within 4 hours, I was appearing on broadcast television supporting President Bush's decision. I think it was the right one to make under those circumstances.

I would hope, as we talk about the conduct of foreign policy, we would at least leave the door open here for Presidents to be able to act. Ideally, he would come before us and ask for permission ahead of time. I wish that had been done in a lot of situations around the world over the last 4 or 5 decades. But to suggest somehow that the President is prepared and ready to charge into Haiti militarily, I do not think is the case.

And so I hope that we would adopt this resolution. It states the obvious. But not imply by that, necessarily, that this President has any less authority than his predecessors, including his immediate past predecessor, to use the powers of the executive as Commander in Chief to respond to situations where military force may be warranted.

With that, Mr. President, again I commend the Senator from Kansas for his amendment; I am glad to cosponsor it; I hope we all do so; because it states the obvious. But let us not engage here in a debate that would suggest by implication, particularly to the leaders of Haiti, that we think that what they did in 1990-91 was tolerable, acceptable or anything with which anyone in this body ought to be associated.

Mr. President, I yield 6 minutes to the distinguished chairman of the Foreign Relations Committee.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL] is recognized for 6 minutes.

Mr. PELL. Mr. President, I thank my colleague from Connecticut. I agree with his statement and the views he expressed.

I would like to comment on several issues raised by the Senator from New Hampshire when the amendment was first offered on this past Monday.

First, the Senator said that the United States support of the U.N. resolution is inconsistent with the sense-of-the-Senate resolution passed overwhelmingly by the Senate on June 29. The Senate resolution in fact does not specifically relate to the U.N. resolution, but more generally to potential United States military operations in Haiti. It expresses the sense of Congress that no funds should be obligated or expended for military operations in Haiti unless authorized by Congress in advance. If such authorization is not provided in advance, the resolution calls for the President to submit a report to Congress that the commitment of troops meets various criteria set forth in the resolution.

As we all are well aware, at this time there is no military operation in Haiti. Thus, the administration has not taken any action inconsistent with the Senate resolution.

Second, the Senator from New Hampshire stated the administration has decided to use force in Haiti. The authorization by the United Nations for multinational force in no way implies that the President has decided to use force in Haiti. In fact, I have advised the President not to use force. But the administration has made it clear that no decision has been made on using military force; that, in fact, its objective is to persuade the military junta to step down without—and I emphasize the word "without"—having to use force.

Third, the Senator raised an issue of great concern to all of us that the Senate be fully consulted on all aspects of United States policy towards Haiti, specifically on United States actions in the United Nations. It is my view that the administration has adequately consulted with the Senate, particularly with regard to the U.N. resolution supported on Sunday.

Only days after the Secretary General issued a report recommending that the United Nations authorize a multinational force to facilitate the restoration of democracy, our State Department briefed the Foreign Relations Committee on the U.N. report and indicated its intention to seek a U.N. resolution within the following 2 weeks, which is just what happened. One week later, the State Department sent a letter to all members of the Senate Foreign Relations Committee regarding the United States intention to support the U.N. resolution. The next day the State Department briefed our committee in detail about the U.N. resolution. So the implication that the administration pays more attention to the United Nations than to the Congress is simply incorrect.

Congress has and will continue to have ample opportunity to express its opinion on United States policy toward Haiti. As my colleagues will recall, the full Senate has debated amendments regarding Haiti twice, two times, in recent weeks, and administration officials have appeared at 70 hearings, briefings, and consultations on Haiti since President Clinton took office. Last month alone, the administration briefed the Foreign Relations Committee on five separate occasions on various aspects of United States policy toward Haiti.

Mr. President, I do not oppose the amendment. I believe, though, it is not necessary, and that it is important to set the record straight regarding the administration's efforts to consult the Senate on an issue of such great importance to the American people.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from New Hampshire controls 57½ minutes, and the Senator from Connecticut controls 27 minutes.

Mr. GREGG. I yield 20 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN], is recognized for 20 minutes.

Mr. McCAIN. Thank you, Mr. President.

Mr. President, at the outset, I would like to say to the Senator from Connecticut that I appreciate his cosponsoring this amendment. I say to him that he somewhat, in his remarks, trivializes this amendment by pointing out that it is just something that we all recognize.

The Senator from Connecticut should understand that this amendment is a way to prevent a full-scale debate on this floor as to whether we should authorize an invasion of Haiti, such as suggested by the Senator from Pennsylvania. Unless the President of the United States begins a consultative process, unless the Senate of the United States—I cannot speak for the other body—feels that they are involved in this decision which puts American lives at risk, the Senator from Connecticut should understand that there will probably be forces from both sides of the aisle seeking to prevent an invasion of Haiti, something that I think personally would set a very dangerous precedent for the future of this country.

So if I were the Senator from Connecticut, I would not trivialize this debate. I would not trivialize this amendment. I would understand that, unless there is some kind of sign that we are not going to invade Haiti, or a sign that, if an invasion is planned, the American people—far more importantly, the American people, I say to the Senator from Connecticut—who now overwhelmingly oppose an invasion of Haiti, and their elected leadership are going to be consulted on both sides of the aisle, we will see this body wrapped in a debate which I think would not really, in the long run, serve any useful purpose.

So I suggest to the Senator from Connecticut and other Members of this body that they pay careful attention not only to what goes on in this debate over the Dole-Gregg amendment, but also to what is going to go on in the country in response to a possible invasion of a country which could entail the loss of American lives not only in the short run, but in the long run.

Mr. President, as I said, I support the amendment. I commend the sponsors for reminding us that the United Nations Security Council cannot authorize the deployment of American troops into combat, or anywhere else, for that matter, without further authorization by the officials whom the American people have elected to exercise this grave and solemn responsibility. Thankfully, the day has not yet arrived when the lives of American servicemen and women are subjected in law to the supreme authority and frequently vacillating, frequently contradictory, and frequently reckless collective impulses of the United Nations.

As I have often stated on this floor, I have strong reservations about prospectively limiting the President of the United States' role as Commander in Chief. I have no such scruples about limiting the U.N. Secretary General's role as commander in chief of the armed forces of the member states of the United Nations.

Congress, of course, has the constitutional authority to declare war or to withhold that declaration. We also have the authority, under the War Powers Resolution, to terminate any U.S. military involvement in overseas hostilities by declining to authorize the operation 60 days after its initiation.

Like many of my colleagues, I am concerned that we have established several precedents for undertaking military operations without congressional authorization before or after they have commenced. For years now, Congress has been in the absurd position of acquiescing by inertia with efforts to circumvent the law Congress has written.

I question the constitutionality of the War Powers Resolution, and I frequently oppose efforts to prospectively restrict the President's ability to use force in defense of American interests abroad. But I am also greatly concerned that by simply ignoring the law of the United States requiring Congress' consent for military operations we are undermining the authority of Congress overall.

Moreover, until we resolve this quietly and routinely ignored contradiction in our practicing checks and balances, we are seriously weakening the connection—the critically important connection—between the brave men and women who risk their lives in service to this country and the men and women who are directly elected by the people of the United States to represent their interests.

It is in no one's interest, Mr. President—not the President's, not Congress', not the United States Armed Forces, and not the American people's—it is in no one's interest for this contradiction to be left uncorrected any longer.

Those who have volunteered to risk life and limb on behalf of all Americans know what their responsibilities are to us. They have a right to know who is responsible for sending them into harm's way. It is unconscionable that Congress would assume in law this responsibility and then, again and again, relinquish it to the President, barely without comment, because Congress will not risk the opprobrium for a mission's failure while expecting the approbation for a mission's success. It is unconscionable and hypocritical.

Mr. President, it is time for the administration and Congress—both houses and both parties—to sit down in good faith and resolve this contradiction. And I hope the leaders and the President will give serious consideration to doing so immediately. Otherwise, with every security question that involves the use of American force and which lacks unanimous support in Congress, we will have occasions where the merits of the case are debated, but the responsibility for the decision deferred.

Today, we are debating whether that decision is the sole authority of the U.N. Security Council. I should think that few of my colleagues, if any, seriously believe that such is the case. Nevertheless, the debate is timely given the increasing likelihood that the United States will soon intervene militarily in a civil dispute in Haiti.

The President, by mistakes of omission and commission, has created an environment in which diplomatic and domestic political imperatives are providing powerful incentive to take the grave step of sacrificing American lives on behalf of a man who—although freely elected by the people of Haiti—hardly qualifies as an enlightened champion of the rights of man.

This amendment and debate is useful because it serves as a needed reminder to the President about his responsibility and ours to never risk the lives of any American unnecessarily. Should we invade Haiti; should that intervention be successful—as it will—in deposing the military thugs who run that police state and in restoring Aristide, at least temporarily, to his presidency; and even if we withdraw from the operation in a relatively short time; even if all these things occur—and I am very concerned that our withdrawal will be much harder to effect than our entry—we can still expect some casualties. We have casualties, Mr. President, in peaceful military exercises. We will certainly have some, though I expect they will be minimal, in offensive military action in Haiti.

Mr. President, Congress will bear some responsibility for the consequences of this operation if the mission somehow goes wrong or, as is more likely, we are unable to extricate ourselves from a situation in which we become little more than a semipermanent presidential guard for Mr. Aristide. And, now, apparently, the Security Council will share some of that responsibility. But let us be very clear, Mr. President, we all know who will shoulder the greatest burden for the mission's failures or receive the greatest credit for the mission's success—the President of the United States.

The anguish the President feels over the loss of American lives in a military operation will not be alleviated by the recollection that the use of force was an international decision. And should those losses occur unnecessarily, the blame will not be shifted by pointing a finger toward the United Nations, or toward the President's supporters in Congress.

Whether others in the administration or the Congress or the United Nations are involved in the decision or not, the President of the United States is a lonely man in a dark room when the casualty reports come in.

Before we intervene, the President should contemplate this unavoidable burden of leadership very carefully and weigh it against the diplomatic and political imperatives that be believes require our involvement in Haiti. It is clear to me, Mr. President, that no vital U.S. interests were placed at risk by President Aristide's unlawful removal from office.

As an advocate for democratic values, I did not welcome his overthrow, but I did not fear its effect on the security of the United States or our allies. Likewise, while the coup in Haiti did not advance the democratization of Haiti's political structures, Aristide's return to power may not advance that process either—given the fact that his own governing philosophy is suspected of leaning toward the tyrannical, and given the fact that he would have been returned to power at the point of American bayonets—a foreign intervention that will predictably incite some popular opposition in Haiti.

Why then is the President considering this intervention? Because in place of a policy for Haiti based on a realistic assessment of Haiti's impact on our security in this hemisphere or on our ability to protect our interests in other regions of the world, the President substituted a policy—or more correctly several policies—which only responded to political exigencies of the moment;

be those exigencies an aversion to illegal immigration or concern about a political hunger strike.

In response to these various political pressures, the President has backed any number of policies with the credibility of the United States. Now, that policy has settled on one imperative only: the current unlawful Haitian regime will be terminated, by American force of arms if necessary, and President Aristide will be returned to power.

At no time during most of the recent saga of United States policy toward the situation in Haiti was any thought given to how Haiti relates to other international concerns of the United States.

One of the most frequent and fair criticisms of this administration's foreign policy is that it lacks a strategic rationale—premised on a sound prioritization of global challenges to the interests and values of the United States—that links our foreign policies in important respects from region to region and country to country. Beyond managed trade, I am uncertain what strategic concept energizes the administration's approach to the post-cold war world.

Conceptual thinking that would respond to the connections between problems for the United States in the Middle East and problems in Argentina, for example—connections that would indicate for the administration what our global priorities should be—has not been evident in much of the administration's foreign policy initiatives. It has certainly been missing in our policies for Haiti.

Among the many serious challenges that cry out for American leadership—the proliferation of weapons of mass destruction; the reemergence of nationalist enmities that had been sublimated to the cold war; the rise of militant Islamic fundamentalism; the political and economic crises in the former constituent republics of the Soviet Union; political and military rivalries in Asia; and many other developments with global implications—nowhere is the situation in Haiti a contributing factor. Nowhere.

But our ability to use the power and prestige of the United States to affect some resolution of these global challenges is—it is now argued—being eroded by the situation in Haiti. Let us be clear about one thing, Mr. President, it is not the Haitian crisis that is eroding our strength. It is the administration's haphazard, poorly reasoned, vacillating, and inexplicable vesting of our credibility in that crisis' outcome that has put our credibility—and, hence, our power—at risk.

The notion that United States failure to restore Aristide will undermine our credibility from Tehran to Pyongyang is becoming more and more a self-fulfilling prophesy with every not-so-veiled administration threat to General Cedras and company—threats that occur almost hourly from almost any administration official who happens to be near a microphone.

I am concerned about the loss of American credibility over Haiti. Just as I am concerned about the loss of credibility incurred in our innumerable policy reversals elsewhere and in the exposure of our empty threats in Bosnia, in Korea, in Somalia, in China, and in Japan. In some instances those policy reversals and withdrawn threats were foolishly made, and despite the damage done to our credibility they deserved to be corrected—especially with regard to China and Japan.

We remain in the world's only superpower, however. We do have some margin for error. It is arguable that the administration has nearly exhausted this margin. But I don't think one more policy change for Haiti will put us over the top. I believe we can still recover enough credibility to positively affect some progress in the critical global problems I have just mentioned.

The administration should begin by investing considerable manhours into arriving at some coherent and realistic strategic rationale for our involvement in the post-cold-war era. I know such an undertaking is not an easy one. Today's international challenges are varied and complex, but they are not incomprehensible. Relations between nations are more chaotic today, but they are not unmanageable.

The threats which deserve our priority attention are recognizable. I have identified some of the more salient ones. They are linked in small ways and large. And the United States, with our long history of imaginative and resourceful statesmanship, should be able to see and address these connections. With the power and prestige that has accrued to us—not only by reason of our economic might and our abundant resources, but by a century of success in the world through two world wars and one long, cold struggle with a militarily powerful adversary—we should be able to affect considerable progress in many, if not all, of the most pressing problems of our time whether or not President Aristide recovers his office.

We must recognize our own abilities and accept as ours the real responsibilities of the sole remaining superpower. We have the largest stake in international stability. As the world's greatest democracy, we have the largest interest in the ascendance of democratic values. But we must, in short, put things in perspective. We must see the currents that are running through this period of world history. We must see how they are related: how each affects one another; how each affects the interests of the United States.

We must prioritize problems and where no impact to our vital interests occurs and where no link to larger problems exists we must assign some problems a lower priority. Problems which have a lower priority—under few, if any circumstances—warrant the use of force to resolve.

If Americans must perish in a foreign conflict—it better be because no other remedy is available and because the cost of leaving the problem unattended is greater than the cost of a single American life. That, Mr. President, is a dimension that the Haiti problem does not possess.

If the administration fails to reorder its statesmanship, then, I fear, the remaining days of the Clinton administration—whether those days consume 2 or 6 years—will be very dangerous days for America and for our interests and values in the world.

There will be other Bosnia's: where American prestige is squandered in a rapidly changing array of policies; where force is easily threatened and just as easily withheld; where we seek to affect some more equitable balance of power and are convinced by others to abandon that pursuit; where at the end of the day all our exertions have only left the situation in about the same condition we found it.

There will be other Somalias: where we thoughtlessly allow—almost without notice—a humanitarian mission to become something for which our troops were not told they would fight and our leaders could not define. Perhaps, it will occur in Rwanda where the President has rightly ordered our troops to help relieve the terrible suffering in that tragic country. Will we soon detect mission creep there which pulls Americans into a political and military quagmire of unimaginable dimensions? We will if we have not learned the lessons of Somalia.

There will be other Koreas: where enormous risks to the most vital interests of the United States are addressed by little more than wishful thinking because the problem is vastly more difficult than a weekend spent restoring a dubious democrat to office in Haiti; where the stability of much of the world is allowed to rest on the whims of an heir presumptive to a tyrant's office; where the ball is always in our adversary's court and never our own.

There will be other Haiti's; where the problems—sad as they are—of a small country whose fortunes will not affect by one degree the security of others or the progress of democracy elsewhere in the world are allowed to consume the foreign policy attention of the greatest Nation in the world; where other problems fester for lack of attention by a distracted superpower; where the United States vests a part of its credibility in the political success of someone whose authority Americans would reject were he in office in this country.

Mr. President, the problem in Haiti is not a grave crisis for the United States. And the aspect of our policy for

Haiti we are considering today is but a small part of the Haiti debate.

But within this debate we see the outlines of a leadership failure that is undermining the interests and aspirations of the United States globally. It is a failure that will cost us dearly in the months ahead if it is not addressed comprehensively. I urge the President and his administration to do so immediately.

For now, let us begin by recognizing that Mr. Aristide's fortunes are not a compelling reason for the sacrifice of American lives. Yes, we have lost some credibility in our feckless response to this problem thus far. But there is probably another way to see that an emerging democracy is not permanently extinguished in Haiti.

Let us call for new elections without requiring the restoration of Aristide's presidency. Let us be mindful that resistance to Aristide will not disappear with the exodus of a few Haitian commanders. The rank and file of the Haitian security apparatus are no more hospitable to Aristide's well-being than General Cedras is.

Mr. President, the administration is apparently prepared to allow North Korea to possess at least two nuclear weapons rather than risk war to prevent this serious calamity from continuing. Surely, the problem in Haiti is not so grave, nor the remedy so difficult nor the cost to our prestige so substantial that we must ransom with blood the office of Haiti's president.

Let us put Haiti in perspective. Accord it the attention that it merits in a world of far more serious threats to the United States. Seek a reasonable resolution of that country's problems that does not require the most serious, the most solemn, the most tragic action the United States can take—the ordering of brave, young Americans into combat. And let us begin, Mr. President, to pursue our interests and promote our values in the world in a manner, that befits the strongest, most enlightened and most benevolent nation on Earth.

The PRESIDING OFFICER. Who yields came?

Mr. GREGG. Mr. President, I yield the Senator from South Dakota 5 minutes.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, I join in support of this amendment. I have predicted an August invasion of Haiti that will take place when Congress goes home. Such an invasion would be a great mistake for reasons stated on this floor.

It seems the Clinton administration is determined to invade Haiti. They have gone to the United Nations. They have fulfilled all the prerequisites, laying the groundwork for invasion. I have attended some of the briefings. They seem to have the military all ready to go.

But nobody, except the President and the Black Caucus, is for an invasion. Of a 40-member Black Caucus, 38 are for it.

Somehow, as I understand the Congressional Black Caucus, they believe it is almost a racist thing if the United States does not invade. I think that perception is very unfortunate because I have not before seen foreign policy made by one small group, nor have I seen the White House respond with a military invasion at the behest of just one group in the Congress.

Invasion of Haiti would be a great mistake. It would neither put democracy in place, nor would it solve the economic problems in Haiti.

What we should have regarding Haiti is a clear, clear policy. Right now our policy is unclear. First we should state very clearly that the United States is not going to invade. Then the Haitians would start trying to solve their own problems instead of anticipating or expecting American troops to solve their problems for them.

Second, we should make it very clear that we want to lift the economic embargo because the economic embargo on Haiti is hurting the poor the most. It is a fact that these embargoes always hurt the poor the most.

Third, we should, of course, state that we are for democracy and human rights, and we are. But those are not going to be instituted by sending United States troops into Haiti.

We should also state and have a clear, clear policy that we are going to follow normal refugee asylum programs insofar as Haiti is concerned, so people stop getting into boats expecting to come to the United States.

What we have instead is this unclear policy driven by the Congressional Black Caucus, and a President who seems determined to have a military adventure. I think maybe the President feels he needs to have military stripes, or something. Unfortunately, invading that little, tiny country will not give him many military stripes.

Let us take a close look at the situation. This Congress should be able to vote on authorizing United States troops to invade Haiti, just as we did for the Persian Gulf war. That has not happened.

The President wants to invade while we are out of town in August during the August recess that runs to September 12. So some time during that period the President seems determined to invade Haiti, and it is just nonsense. It is driven by one group here in Congress, the Congressional Black Caucus. Nobody else is calling for it. Nobody else will stand up on this floor and advocate an invasion. And that is very unwise American foreign policy. It will cost our taxpayers a great deal.

Once we are in, we cannot get out. Once we are in Haiti, people are going to be suing us for years to come for damages, and we are a country that pays restitution and is responsible. We are going to have one or two of our people killed or captured, and it is going to cause a nationwide reaction.

It is true that American Presidents seem to gain popularity by invading very small countries. I do not think that ploy is going to work this time either.

I would plead with President Clinton not to invade Haiti. Instead make a clear, clear policy we are not going to, make a clear, clear policy that our refugee status is going to stay the same, make a clear policy we are going to lift the embargo, make a clear policy the Haitian people have to solve their own problems and develop their own democracy. That is the only way it should be.

If we go in and invade, we will delay democracy and delay human rights.

I strongly urge that this resolution pass as another signal to the President not to engage in this adventure. This White House seems to be determined to have military adventures overseas to prove they are supportive of the military. As a former lieutenant in the Army who served in Vietnam, I can assure the administration it is not that much fun to really go and do it.

I will accept the President as my Commander in Chief, even without invading this little, tiny country.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida. It is the Chair's understanding the Senator is yielded time under the control of the Senator from Connecticut.

Mr. GRAHAM. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM], is recognized for 20 minutes.

Mr. GREGG. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. How much time is remaining to the Senator from Connecticut?

The PRESIDING OFFICER. The Senator from Connecticut has 28 minutes remaining, and the Senator from Florida has yielded 20 minutes of the 28 to himself. The Senator from New Hampshire controls 32 remaining minutes.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President I hope the time taken requesting how much time was remaining will not be counted against my time.

The PRESIDING OFFICER. The Chair assures the Senator it is not.

Mr. GRAHAM. Mr. President, the statement of the resolution before us is self-evident. Obviously, action by the U.N. Security Council does not constitute authorization for the deployment of United States forces in Haiti under the Constitution of the United States or the United States War Powers Act.

Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, the purpose of this resolution is not to just restate the obvious, but rather to again afford a platform and a forum to raise issues about the President's policy in Haiti and his intentions in Haiti.

I would like to respond to some of the comments that have been made. There has been reference that there has been inadequate consultation between the President and his administration and the Congress relative to our policy in Haiti.

Mr. President, I ask unanimous consent to have printed in the RECORD five pages of meetings which have been held since the commencement of this session of Congress relative to the administration providing information to various committees and other agencies of the Congress relative to Haiti.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARINGS AND BRIEFINGS ON HAITI, 103D CONGRESS, 2D SESSION

2 August 1994 Briefing: Special Advisor Gray briefed Republican members: Goss; Chris Smith; Livingston; Fowler; Ros-Lehtinen; Hobson; Shaw; Mica; Boehlert; Houghton; Coble; Hunter; Bateman; Hutchinson; and Buyer.

2 August 1994 Briefing: Special Advisor Gray briefed Majority Leader Gephardt.

2 August 1994 Meeting: Secretary of State met with Rep. Berman on Haiti and other issues.

29 July 1994 Briefings: Haiti Refugee Issues. State and Justice briefed HFAC and House Judiciary Committee staff.

28 July 1994 Briefing: State DAS George Ward briefed SFRC and CJS on the UN Security Council Resolution on Haiti.

27–28 July 1994 Briefings: Haiti Resolution; 5-Day Advance Notice. State DAS Chapman briefed HFAC, CJS, HASC, SFRC, SFRC, House and Senate Appropriations, and Sen. Dole's staff.

22 July 1994 Phone Calls: Ambassador Albright and Under Secretary Tarnoff telephone Members of Congress on U.N. Secretary General's report on U.N. Mission in Haiti peacekeeping force proposal. Members included: Sens. Pell; Helms; and Hollings; and Reps. Obey; Livingston; Mollohan; Payne; Rogers; Gilman; and Torricelli.

21 July 1994 Briefing: Deputy Secretary Talbott briefed Sen. Nunn.

21 July 1994 Meeting: Deputy Secretary Talbott spoke with Rep. Richardson regarding his trip to Haiti.

21 July 1994 Briefing: Special Advisor Gray briefed Senator Wellstone.

21 July 1994 Meeting: Special Advisor Gray met with the Senate Democratic Policy Committee.

21 July 1994 Briefing: Special Advisor Gray briefed Rep. Major Owens.

20 July 1994 Briefing: Special Advisor Gray briefed Rep. Porter Goss.

19 July 1994 Briefing: Special Advisor on Haiti William Gray briefed HFAC members in a closed session.

14 July 1994 Briefing: Assistant Secretary of State Gati and officials from CIA and Justice brief Senate Select Intelligence Committee on Haiti and Iran.

13 July 1994 Briefing: Secs. Christopher, Perry, Ambassador Albright, National Security Advisor Lake, and General Shalikashvili briefed the Senate and House Leadership "Consultative Group" (leadership, chairs and ranking of HFAC/SFRC; HASC/SASC; Intelligence; Appropriations—full committee/DoD/Foreign Operations/Commerce, State, Justice) separately.

13 July 1994 Hearing: OAS Ambassador Babbitt and State DAS Skol testified on Dominican Republic elections and Haiti before the HFAC subcommittee on Western Hemisphere.

13 July 1994 Briefing: Peacekeeping Monthly State official Bob Loftis briefed SASC staff.

13 July 1994 Briefing: Coast Guard officials briefed House Merchant Marine committee members and staff.

13 July 1994 Briefing: State officials briefed House Appropriations staff on Emergency Refugee and Migrant Assistance.

12 July 1994 Briefing: Peacekeeping Monthly State DAS Ward briefed HFAC staff.

12 July 1994 Briefing: Peacekeeping Monthly Ambassador Dobbins briefed senior House staff.

12 July 1994 Briefing: Peacekeeping Monthly State DAS George Ward briefed SFRC staff.

7 July 1994 Briefing: Ambassador Dobbins briefed majority and minority SFRC staff.

7 July 1994 Briefing: Special Advisor Gray briefed HFAC chairman Lee Hamilton.

5 July 1994 Phone Calls: State officials made phone calls to Congressional staff of SFRC and HFAC, and Judiciary on "safehaven" policy.

28 June 1994 Hearing: U.S. Policy Towards Haiti Special Advisor Gray, Assistant Secretary of State Shattuck, State DAS McKinley testified before SFRC Subcommittee on Western Hemisphere Affairs.

28 June 1994 Meeting: Secretary of State met with Speaker Foley on Haiti and other issues.

20 June 1994 State and DoD officials briefed HFAC staff on Dominican Republic elections and the Administration's sanctions-monitoring efforts.

16 June 1994 Briefing: State, DoD, and CIA officials briefed SSCI staff on drug trafficking in Haiti.

15 June 1994 Hearing: Haitian Asylum-seekers; State DAS Brunson McKinley testified before the House Judiciary Subcommittee on International Law, Immigration, and Refugees on Legislation on Haiti introduced by Reps. Meek and Dellums.

8 June 1994 Hearing: Special Advisor Gray testified before House Foreign Affairs Committee

8 June 1994 Briefing: Assistant Secretary of State Watson briefed Senator Bob Graham on Haiti and other regional issues.

1 June 1994 Briefing: Haiti Refugee Processing; State and Justice staff brief HFAC staff.

26 May 1994 Briefing: Ambassador Dobbins briefed Reps. Dixon, Richardson, and Reed prior to their trip to Haiti.

26 May 1994 Briefing: Ambassador Dobbins briefed Rep. Rangel.

25 May 1994 Briefing: Haiti Intelligence Community Briefing (closed) HPSIC Members and Staff. Briefers: CIA/NIA Lattrel, INR, others

24 May 1994 Briefing: Haiti Pre-trip Intelligence Community Briefing, Rep. Dixon and HPSCI staff. Briefers: CIA, INR, DIA, DEA, NSA, JCS/J–2

18 May 1994 Briefing: State and INS officials briefed Senate Judiciary committee staff on Haitian refugee processing.

17 May 1994 Briefing: Special Advisor Gray briefed House Democratic Leadership.

17 May 1994 Briefing: Special Advisor Gray briefed Senate Democratic Leadership.

17 May 1994 Briefing: Special Advisor Gray briefed Congressional Black Caucus.

17 May 1994 Briefing: Special Advisor Gray briefed Senate Republican Leadership.

17 May 1994 Briefing: Special Advisor Gray briefed House Republican Leadership.

17 May 1994 Briefing: Acting Refugee Policy Director Oakley and INS Commissioner Meissner briefed Reps. Mazzoli, Canady, and Lamar Smith on Haiti refugee processing.

12 May 1994 Briefing: Haiti Refugee Policy. House Judiciary Subcommittee on Immigration; RP & INS.

3 May 1994 Briefing: Haiti Refugee Issues: HFAC Staff with RP, ARA, and INS.

3 May 1994 Briefing: Haiti. Senator Dodd and other SFRC Members. Briefers: Acting Secretary Talbott and NSC Sandy Berger.

24 March 1994 Meeting: Assistant Secretary of State Shattuck met with Rep. Joe Kennedy regarding Haiti.

8 March 1994 Hearing: Haiti. SFRC Subcommittee on Western Hemisphere. Witness: Ambassador Pezzullo.

2 March 1994 Meeting: Ambassador Swing met with Rep. Torricelli on Gen. Cedras.

9 February 1994 Hearing: Ambassador Pezzullo and AID official Schneider met with HFAC members in a closed session to brief Members on humanitarian relief.

14 January 1994 Meeting: Assistant Secretary of State Watson met with Sen. Dodd to discuss recent developments in Haiti.

9 November 1993 Briefing: Haiti: Hafac Western Hemisphere Members Briefing; (Amb. Pezzullo).

3 November 1993 Briefing: Haiti (closed); HPSCI Members & Staff. Briefers: State/CIA/DIA/DOD.

27 October 1993 Briefing: Haiti-Intelligence; House Republican Policy Committee Members. Briefers: CIA, DI.

20 October 1993 Hearing; Roundtable on Haiti, HFAC.

20 October 1993 Briefing: Recent Events in Haiti: House Intelligence Committee; State witness TBD (Pezzullo or Watson).

21 July 1993 Hearing: Recent Developments in Haiti; HFAC W. Hemisphere.

21 July 1993 Hearing: Governor's Island Implementation; HFAC.

18 June 1993 Briefing: Haiti; Cong. Toricelli and HFAC staff. Briefer: Amb. Pezzullo.

26 May 1993 Briefing: Assistance from Haiti; Sen. Leahy. Briefers: ARA Pezzullo & Watson.

18 May 1993 Briefing: Haiti; SACFO Minority Staff. Briefers: ARA-Pezullo, AID.

13 May 1993 Briefing: Haiti; SACFO Minority Staff. Briefers: ARA-Pezullo, AID.

13 May 1993; Briefing: Haiti; HAC Foreign OPS Subcommittee and Associate Staff. ATA/Pezzullo, AID, and DOD.

3 May 1993 Briefing: Situation in Haiti/Request for Contingency Fund; SACFO Majority and Minority Staff Briefers: ARA-Pezzullo, AID—Williams.

10 March 1993 Briefing: Haiti; for HAC Foreign OPS Minority Staff w/Majority Staff.

9 March 1993 Briefing: Haiti; for HAC Foreign OPS Minority and Majority Staff. Briefer: ARA.

27 January 1993 Vote: Haiti; HAC Foreign OPS Subcommittee Staff. ARA/Gelbard.

12 January 1993 Briefing: Update on Haiti; Senate Judiciary Committee Staff Briefers: ARA/RP/INS.

Mr. GRAHAM. Mr. President, in fact, this has not been an issue held in the shadows, but an issue which has been receiving increasing visibility before the U.S. public.

I take some offense at the suggestion that the only people who are concerned about our policy in Haiti are members of a particular caucus within the House of Representatives. In fact, the latest public opinion polls indicate that now more than a majority of the American people, if asked the question, "Do you believe it is appropriate and in the national interest to commit U.S. forces if that is necessary in order to avoid a flood of refugees into the United States?" a majority of the American people today, Mr. President, support the use of military force in order to accomplish that objective.

The Senator from South Dakota issued the second challenge in 24 hours to stand up on the floor and make a clear statement. The first challenge was issued yesterday on national television by our majority leader, GEORGE MITCHELL, on another subject in which he challenged those who today are opposing universal health care coverage because of its requirement of employer responsibility, that anyone who wants to stand up and call for the repeal of Social Security because of its requirement of employer responsibility, to do so. I hope someone would have the courage to take that position and be consistent in terms of their public policy.

A challenge has been issued by the Senator from South Dakota for someone to stand up and say they believe the United States should be prepared to use military force in Haiti, to take that position. The United States, in my judgment, cannot afford to take either of the other two alternatives to the use of military force.

One of those alternatives is to continue a policy which started with the Bush administration when, within hours of the ousting of President Aristide in September 1991, now almost 3 years ago, President Bush stated that the policy of the United States was to restore President Aristide to his democratically elected position as President of Haiti. That has continued now in the administration of President Clinton to be the U.S. policy.

I believe that we cannot surrender from that position. I do not believe that we can continue to have a policy which tightens down on the conditions of the mass of Haitians without prospect of accomplishing the objective of a restoration of democracy in Haiti. And, to use the statement of the Senator from Arizona, who stated that the preconditions for the use of U.S. military force should be that no other option is available, I would suggest that, after 3 years of intensive economic and political isolation and sanctions, we are reaching the conclusion that they are unlikely to accomplish the result of a volunteer transfer of power from the current thugs, who took power by the gun, back to the democratically elected President.

The second position of the Senator from Arizona is that the U.S. interest would be more adversely affected by a passivity, by abstaining from action, accepting the consequences, than the consequences to the United States of affirmative action, including the use of force.

In my judgment, we are at that point. We are at the point where the consequences of inaction are greater to America's national interest than the consequences of the use of force.

I would state that case as follows: First, Mr. President, in this post-cold-war era, I believe there is going to be, and in the U.S. interests should be, a regionalization of national security interest.

I, for one, have been very reticent about the United States exposing itself to active involvement in Bosnia. One of the reasons I have resisted such an involvement is that I believe that is essentially a European conflict. I believe that our European allies, such as France and Great Britain, who have had much deeper experience in the Balkans, a greater understanding of the nuances of conflicts in that very volatile region, should assume the leadership for the alliance in terms of policies in that area. Therefore, I am prepared to give considerable weight and deference to the judgment of those European nations as to what our international policy should be in Bosnia.

Conversely, the Western Hemisphere is an area in which the United States has had a similar depth of understanding, a long history of involvement in the affairs of this hemisphere. I believe that this is an area of the world in which we do have a special responsibility. And so, as I look at issues around the globe, those that are within essentially our area of special knowledge and, I believe, responsibility, the Western Hemisphere, to me take on a greater weight in terms of their potential effect on our national interest.

We have seen a confusion in Haiti between causes and effects. The cause in Haiti has been the fact that a democratic regime, which carried with it the embodiment of a long-felt desire by the people of Haiti to rid themselves of authoritarian rule, that democratically elected President was ousted after slightly more than 7 months in office.

We are not here debating an individual. We are debating the principle that the people of Haiti have the right to elect and have the right to expect a political leader to serve his or her term in office. And in this case, the people of Haiti, by a margin of better than 2 to 1, selected President Aristide to be that political leader.

As a result of that ouster, there has been a reign of terror in Haiti—a country which has known terror throughout its 200-year history—unknown in that long history, and a series of political murders, rapes, and abductions have fallen on that country. Now, in the last few weeks the regime has forced the United Nations human rights observers, who were providing some window, some light to shine on those abuses, and knowledge to be made available in a credible form to the world—the regime has forced those human rights observers to leave. So now even a darker cloud has descended over Haiti.

The ouster of the democracy in Haiti has resulted in a signal being sent, not just to that nation, but also to the nations of the Caribbean and Latin America. Twenty-five years ago, you could have counted the fingers on your hand the number of democracies in this hemisphere. Today, 1994, all nations in the Western Hemisphere live under the benefits of a democratic government except for Cuba and Haiti.

Many of those democracies are new, fragile, vulnerable. In many of those democracies there sits in the barracks the son or grandson of the former President of that country. In many of those cases that son or grandson feels that he is superior to the person who has been elected by the people of their country, just as those generals in Haiti thought they were superior to the person that 67 percent of the people of Haiti elected.

So as Haiti goes, we can expect other nations in our hemisphere to go. If the signal is sent and received that it is acceptable behavior, and that there will not be an effective international sanction against the ouster of a democratic government by a military coup, we are planting the seeds for a long summer of those kinds of military actions.

There are consequences to what has happened in Haiti, in our own country. One of those consequences is the increased use of Haiti as a platform from which to ship drugs into the United States. Haiti has become an increasingly favored spot for the international drug cartel to run its traffic through, from South America to the United States. We are seeing the consequences in our streets, from the east coast to the west coast.

We also see the effects of what has happened in Haiti in the increasing number of refugees. We had a surge of refugees in the period from late June to early July. The numbers are down now, but I believe we can anticipate a reemergence of the desire of Haitians to leave when they are able to get access to the materials to continue to build their boats, and when the climate makes it propitious again for them to go to the high seas.

In my judgment, there are important national interests of the United States, national interests that are put more at risk by our willingness to accept the regime that is in Haiti, than the risks which are obviously entailed by committing the United States to a multinational effort to oust the regime in Haiti.

It has been suggested that it is inappropriate to think that the restoration of a single person, President Aristide, to his position as President of Haiti will immediately bring democracy to that country. Obviously that overstates. But it is a prerequisite to the hard work that is going to have to be done, primarily by the Haitian people, but with partnership of the international community, in order to secure the benefits of a democracy in Haiti.

I believe some of the steps that are going to be required in the aftermath of the restoration of President Aristide, and steps that will be made possible by his restoration, include the following:

First, the establishment of a security capacity in Haiti which will be done through a U.N. Peacekeeping Corps, a corps which is currently being assembled.

Second, political reform. A long agenda of political reform. At the top of that list will be a separation of the police function from the military function. Today, Haiti's Army also operates as its police. And it is through that organization that the people are terrorized and maintained in a state of subservience.

I, personally, believe we have an opportunity now, while we have large numbers of refugees in safe havens such as at Guantanamo Naval Station, that we ought to be identifying those persons who can become the foundation of an independent police force for Haiti, and commence the training of those individuals. That would accelerate the time in which there would be a professional, democratic police capability for Haiti. That would, in turn, accelerate the time when the U.N. peacekeepers would be able to turn over security responsibilities.

Three, there will be the need for economic reform—reform in the private sector which had provided a substantial amount of the employment base for Haiti, and in the public sector, such as rebuilding much of the shattered infrastructure in that country.

Back a year ago when the Governors Island Accord was signed—and Mr. President, I point out signed both by President Aristide and by General Cedras. General Cedras' subsequent denial and withdrawal from that agreement is just one evidence of how unlikely it is that current group in control of Haiti is going to voluntarily turn over power—but during that period, the international community had committed $1.5 billion over the next 5 years to the economic rebuilding of Haiti. We need to assure that financial support will continue to be available in the period after the restoration of President Aristide.

Those are some of the things that are going to have to happen and which can occur if President Aristide is restored, which will be necessary in order to deepen the roots of democracy in Haiti.

Mr. PRESSLER. Will my friend yield?

Mr. GRAHAM. Mr. President, I am almost at the conclusion and I will then yield.

I would bring to the attention of the Senate that this debate we are having today, and I am certain we will have in future days, is a fundamental one in terms of U.S. policy in the post-cold-war era. It is fundamental in terms of how the United States is going to organize itself with the international community in order to effectively use force.

I believe it is appropriate that the United States has worked through organizations such as the United Nations and the Organization of American States, to build an international consensus prior to unilateral action. I believe it is appropriate for the United States to recognize that we have a special responsibility in the Western Hemisphere, and thus events such as are occurring in Haiti have a resonance and a impact outside that immediate island nation.

I hope out of this debate and the honest disagreements that are so clearly evident, that we would begin a process of restoring what was so fundamental to the United States in the period immediately after the last great war—not a cold war but the hot war of World War II. This Chamber had a spirit of bipartisanship. A U.S. Senator from Michigan, Republican, Arthur Vandenberg, joined with President Truman in fashioning what became the fundamentals of U.S. foreign policy for almost half a century. We need to begin to restore that spirit of bipartisanship because our Nation is going to be facing equally murky and difficult challenges in the next 50 years, as we faced in the last 50 years. And we need to do it together as Americans.

I yield.

The PRESIDING OFFICER (Mr. EXON). The time of the Senator from Florida has expired. Who yields time?

Mr. GREGG. Mr. President, I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I want to thank the Senator from New Hampshire for focusing our attention on what I think is a very important subject.

In many of today's newspapers, there is a cartoon which I believe adequately sums up the situation in regard to Haiti. In the first four frames of the cartoon, we see a battle-ready clerk and his commanding officer running through items on a check list:

Marine landing force? Check.
Naval support group? Check.
Cooperation from Central American countries? Check.
United Nations support? Check.

The final frame shows the commanding officer and his assistant standing on the foredeck of a battleship in the midst of a full-blown U.S. invasion force:

"Can you think of anything else," asks the officer?

"Er . . . just one thing, sir," says the clerk. "Why are we doing this?"

Mr. President, the question is a good one. And while the cartoon may be amusing, the situation is not. The fact is there is no reason good enough to justify sending United States military men and women into Haiti. There is even less reason for even one of them to die while they are there.

Yet, the action taken this week by the Clinton administration to actively seek United Nations approval for an armed United States invasion of Haiti is dangerous for other reasons as well.

First, it is dangerous because it builds upon the flawed premise of Clinton foreign policy, that any conflict, wherever it might occur, poses a threat to U.S. national interests and is a wrong that must be righted, and that righting those wrongs is a policy that must be part of our national military and security strategy.

Second, like Somalia and Bosnia, United States engagement in Haiti further reinforces the precedent—established for entirely different and justified reasons during the Persian Gulf war—that grants the United Nations Security Council the power to authorize military action, "as may be necessary" against any nation that the United Nations deems "a threat to international peace and security."

Third, it further undermines the ability of the United States to act unilaterally when our own national interest is at stake. And particularly in this case, when the country in question lies within our own hemisphere, it effectively discards the Monroe Doctrine which has guided United States policy for more than a century. Whether or not one agrees that the United States has such a vital interest in Haiti that we ought to send our troops there, a valid question must be raised and addressed as to whether or not the United States needs the cover of U.N. Security Council authorization to take such action.

Fourth, it completely ignores the lessons of recent history with regard to vital national interest and the use of force.

This is yet another example of how this administration uses foreign policy to pursue public relations rather than national security goals.

And most importantly, Mr. President, it demonstrates that the President has not yet learned that it is not enough to successfully make his case in the world court if he has not yet made it credibly to the Congress and to the American people.

Mr. President, I support this resolution offered by the Senator from New Hampshire. I think it is important that this Congress, that this Senate, go on record today in response to the misguided direction of the policy that is emanating from 1600 Pennsylvania Avenue.

I yield back whatever time I have not used.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. McCONNELL. Mr. President, I want to thank the Senator from New Hampshire for his leadership on this most important issue and pick up on what the Senator from Indiana just said.

"President Clinton, it is time to come to Congress." As the Senator from Indiana pointed out, the troops are ready, President Clinton has gone to the United Nations and asked for permission, obviously an abrogation of the Monroe Doctrine. Everything is in place, except the President has not come to Congress to ask for the authority for the invasion that we all know is coming.

I suggest that President Clinton surely must have a rationale, a convincing rationale that he can make to the Congress of the United States to give him the authorization that clearly he needs prior to this invasion. There is no indication that there is any emergency; no indication American lives in Haiti are in danger. Clearly, this is a premeditated plan to invade Haiti. He has to come to Congress. He has asked everybody else, but not us. It is time, it is time, President Clinton; come up here and make your case to the representatives of the people of the United States so they can authorize or fail to authorize this imminent invasion.

The Haiti policy today has only made matters worse. Just last month, policy flip-flops generated over 15,000 refugees. As Charles Krauthammer pointed out in a column on July 22, the refugee flows show a striking mathematical relationship between Clinton's ever changing asylum policies and the number of Haitians taking to their boats.

That policy shift, as we all know, was in response to domestic political considerations. The first thing the President ought to do is lift the embargo because it is making poor people in Haiti more and more desperate and more and more likely to try to get to the United States, thereby exacerbating the problem.

I will concede that it might be possible for President Clinton to establish a rationale for the invasion of Haiti, but I would like to hear it and I would like to say, as for this Senator, I will not rule out in advance listening to the President's argument. There are some on our side who do not believe an invasion of Haiti would be appropriate under any circumstances and would not be open to any argument that might be made.

I for one am willing to listen. I am having a hard time thinking of what kind of rationale the President can make to convince me to support an authorization for the invasion of Haiti, but I am willing to listen.

In any event, whether or not there is a compelling case to be made, the Constitution is clear. This is a premeditated, planned invasion. It requires congressional approval. The President, obviously, felt he needed U.N. approval. I question that. I do not know that we need to ask the United Nations for permission to have our own policy in effect in this hemisphere. We have not done that before, we should not do it now or in the future.

Clearly, the President has to get a handle on what he has in mind. And what the Senator from New Hampshire is saying in this resolution, which will probably be adopted without opposition, is a statement of the obvious, but a very important statement: The United Nations does not determine what we do. Authorization from the United Nations does not get the job done, President Clinton. We are waiting. We are waiting for you to come up here with your rationale for this invasion.

As for me, I am willing to listen to the argument, but it is long overdue. We have been watching this invasion build for months and months and months. We know it is coming. We suspect it is coming when we are not in session, and we in the Senate keep saying to the administration in every way we can: "Don't you do that without our authorization."

Deputy Secretary Talbott has characterized the administration's recent policy shifts as "refinements" of an existing strategy rather than flip-flops and reversals.

In May, responding to Randall Robinson's hunger strike, Clinton offered the possibility of asylum hearings to anyone who could make it to a U.S. ship.

It should have come as no surprise when refugees began arriving at the rate of 1,000 a day.

By July the policy veered course again and we began sending refugees to third countries. Haitians stayed home.

I think Krauthammer had it about right when he said:

> These wild fluctuations in refugee flow are not a function of Haiti's military repression—the repression continues unabated—but of the prospect of admission to the Promised Land. People genuinely in fear of their lives are not terribly fastidious about where they are granted safe haven.

The Haiti policy, like other foreign policy positions taken by the administration seem to be monuments to the mood of the moment—not enduring, principled, well-constructed edifices.

We have all been disheartened by the perilous policy twists and turns—that may be policy refinement in the Clinton play book, but the public cannot understand his calls.

As we creep closer and closer to the use of force, no one understands why.

The administration now has the approval of the United Nations to use all necessary means to remove the coup leaders from power and no one understands why.

I support this amendment because I believe the President needs to explain to the public and to the Congress just what the American national security interests are that could risk American lives.

Right now, there is no clear consistent message.

Vague official commentary about restoring democracy is overshadowed by internal criticism of the alleged symbol of democracy, Aristide.

Concern about the consequences of a tidal wave of refugees is muddled by senior officials who understandably engage in public hand wringing over images of children starving.

And, the talk of invasion, purportedly to protect American lives is rejected by the very Americans who the administration wants to save.

I think Carl Rowan was right when he said he thought the President was about to invade because he didn't have the foggiest notion what else to do.

We have been reduced to this option because we have squandered our credibility and forfeited our resolve in enforcing any other option.

At the end of the day a few thousand poorly trained, barely armed thugs have terrorized a nation and intimated the United States.

In public and private comments the military leadership in Haiti scorns the United States and speaks with contempt at the prospect of an invasion. Bravado? Maybe, but so far they have little reason to believe we are as good as our word.

Mr. President, I have heard senior officials lament time and time again that the policy appears confusing because the situation is changing rapidly and new circumstances must be evaluated and addressed. They are feeling their way through troubled waters.

The administration needs to chart a course and stick with it. Just as the public was skeptical about the Persian Gulf during the build up, when a clear message was consistently delivered, when the economic and political principles at stake were sharply defined, the American people supported President Bush.

I believe they will support President Clinton if he gives them a good reason to. Right now, there are a lot of questions and no answers. This amendment will make sure that before we shed American blood we will at least know why.

I thank the Senator from New Hampshire for his leadership on this important issue.

Mr. DODD. Will the Senator yield?

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired. Who yields time?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me say to my colleague from Kentucky, I think his remarks were excellent on that point. I think he makes a very good point, and one I think most of us can identify with and associate with.

We all have to listen to a case being made, and if the case is made, then I think many of us are prepared to agree with that case if, in fact, a good case is made.

I think the Senator's point—he can correct me if I am wrong—is the idea that we would somehow say, regardless of the point being made, what the facts are, what the circumstances are, under no circumstances—to me it would be a mistake.

Mr. MCCONNELL. Will the Senator yield? What I said—I think the Senator heard me correctly—is that I, for one, am willing to listen to the rationale. Frankly, I am having a hard time conceiving of a rationale that would get my vote, but I do not rule it out in advance. I do not rule it out in advance.

Mr. DODD. I appreciate the remarks of the Senator from Kentucky.

Mr. MCCONNELL. I hope, I say to my friend from Connecticut, that we can convince the President that this premeditated act requires congressional approval in advance. I think he ought to be up here making the case. He might well get my vote.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 7 minutes 20 seconds.

Mr. DODD. How much time remains on the other side?

The PRESIDING OFFICER. Twenty-two minutes and forty-four seconds on the other side.

Mr. DODD. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield 6 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank my friend from New Hampshire. Also, I thank my friend in the chair.

My problem with this entire Haiti matter, in all seriousness, is I think the problem of most Americans. And my problem is: I do not understand the President's willingness even to consider risking the lives of 10,000 U.S. servicemen for the very unwise purpose of trying to restore to office Haiti's deposed President Aristide, because that is an enigma. Not only is it a mistake, it is a puzzling mistake. How did he arrive at that sort of foreign policy decision?

Now, I happen to be ranking member of the Foreign Relations Committee, and I am baffled why the President continues to do this unless it is a political stroke trying to buy influence with a certain group of people—citizens in domestic America.

Aristide is a man who has made clear his hatred for America. He is a man who has advocated mob violence. He is a man who has advocated necklacing of his political opponents. This man is not worth the life of even one American serviceman.

At the same time, much has been said—and as Shakespeare put it, "typical mewling and puking"—about restoring democracy to Haiti. You hear it all the time, in the commentaries on television, on this floor, mainly as far as I know on the other side of the aisle. There has never been any democracy in Haiti unless you want to count the 19-year occupation by United States forces the previous time that a United States President sent troops into Haiti.

Aristide did not rule democratically during his short tenure. He refused to renounce violence against his political opponents. And why any U.S. President would even consider placing American soldiers in harm's way under these circumstances for this man for this purpose is beyond me.

As has been said over and over again here this morning, the administration has gone, hat in hand, to the United Nations to ask the permission of the U.N. Security Council to invade Haiti. But the President, as has been emphasized here, has not bothered to ask the approval of the United States Congress to go to war—and that is what it amounts to—against Haiti. For the past 3 weeks, the President's advisers have been running around the United Nations in New York City lobbying the Russians and lobbying the French for permission to invade Haiti, but the permission of Congress, which is required by the United States Constitution, has not been sought.

I may as well read it into the RECORD again. I am sure others have this morning. Article I, section 8 of the Constitution is quite clear:

> The Congress shall have the power to * * * declare war.

It does not say the President.

> The Congress shall have the power to * * * declare war.

Very straightforward, not a syllable confusing or ambiguous in that constitutional provision. It does not imply, let alone assert, that any President can declare war, nor does it suggest that foreign bureaucrats at the United Nations in New York City can declare war using American troops. The Constitution asserts, and the Founding Fathers meant, that only Congress has the power and responsibility to declare war.

So, Mr. President, the President of the United States and his advisers need to answer some questions before they risk the life of even one American in Haiti. First, the President has attempted to justify his invasion under the guise of a multilateral force, yet when the State Department officials were repeatedly asked this past Thursday, July 28, if there were any other nations that have agreed to participate, they could not identify even one other country willing to join the United States.

So, Mr. President, there is no United States national interest, no United States security interest in Haiti. It is impossible to conceive any reason why the lives of American servicemen and women should be put at risk in Haiti. Haiti, having never had a democracy, obviously has no democracy to restore. And Americans should not be asked to risk their lives to reinstate a man so passionately anti-American as Mr. Aristide.

So, Mr. President—and this time I am talking to the President of the United States. He is not listening of course, but I say to him, "Don't do it, Mr. President. Don't do it. Don't invade Haiti."

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield myself 3 minutes, if I may.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me just again reiterate points that I have made. I think that this amendment deserves support. I do not trivialize it at all, although I will say to those, like the authors, that clearly an action by the U.N. Security Council, as important as it may be in the context of building international support, should never, nor could it ever, constitute a decision to engage U.S. forces by the U.S. Congress or an American President.

So I do not trivialize the debate, but I also think it needs to be stated clearly that no one I know of—and I am confident this amendment will be supported unanimously—I hope it will be—as it reads before us. But I also want to state to my colleagues that the point which needs to be emphasized here is not whether or not we are particularly enamored with some leader. There are plenty of examples around the globe where there have been democratically elected leaders that take actions of which we do not approve. We disagree with them. In fact, they have been hostile to our interests. But I do not know of anyone who has advocated that the process of democracy is less important than the individuals who have assumed positions of authority through that process.

So whether or not my colleagues like Mr. Aristide, whether or not they believe he is a total friend of the United States or not, certainly may be interesting talking points, but when it comes down to the fundamental issue of whether or not the people of Haiti have made a choice and done so democratically, everyone who looked at that election will tell you that election was a fair election; 70 percent of the people chose Mr. Aristide as their President.

We also know that a coup, a successful coup, ousted Mr. Aristide from power and basically robbed that country of its first democratically elected leader in memory, if not in the history of Haiti. And so the question of Mr. Aristide's foreign policy or domestic policy is certainly noteworthy, I suppose, depending upon your point of view. But there is a larger fundamental question here, and that is whether or not we are just going to sit back and say that this can happen wherever and treat it as if it were a nonevent.

Now, many of us here have objected over the last decades to the robbing of Cuba of a democratically elected government, and we have treated Cuba accordingly—the imposition of sanctions, years back even some efforts through covert activities to change the leadership of that country.

The PRESIDING OFFICER. The Chair would remind the Senator that he has used 3 minutes.

Mr. DODD. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, but yet there is an example where democracy was hijacked in that country, has been denied to the people of that nation since 1959, and yet we have not just sat back and said, "Well, so be it." We have imposed sanctions. We have utilized our votes in international bodies, tried to build international support to isolate Cuba as a result of its practices.

Why is it that we find ourselves taking almost diametrically opposed positions with two nations who are virtually the same distance from our own shores, where democracy has been denied in the case of one country by a group of military thugs and in the case of Cuba by Fidel Castro. It seems to me that we ought to try to apply some standards that are consistent. The President has gone to the international community to impose sanctions. I think all of us deplore what happened in Haiti when democracy was robbed in that country. I do not believe at all, nor do I think any other Member of this body believes, that the President of the United States or any President for that matter is somehow salivating over the opportunity to invade Haiti—or any other nation for that matter—subjecting Americans to the potential of great hazard, if not death.

So I hope that we would try to come together and speak with one voice at least about our concern over what is going on in Haiti. And then, when and if the President comes forward and asks for our support on the authorization to use force, we will debate that. Honest people here can and will disagree, and vote against such a resolution.

I am hopeful this evening that the President when he has a major press conference and event will address this issue again—I am confident he will—and identify the rationale and the reasons why this issue is important. I mentioned them already: obviously the flood of humanity. We have 1 million citizens of this country of Haitian descent. Thousands more are seeking to come to this country because of political asylum.

I would point out to my colleagues that prior to the departure of President Aristide that flow of humanity from Haiti to this country virtually stopped. People felt in Haiti there was some hope and some future. So for that reason, as well as the drug trafficking question, there are legitimate interests that our Nation has in what happens in this country some 95 miles off our shores.

For those reasons, I hope this amendment will be agreed to, that we will have a good debate when, and if, that question comes up; and hopefully it will not, sanctions will work, the government will change, and the people who have stolen democracy will leave.

With that, I urge adoption of this amendment, and hope my colleagues will listen to the President this evening and that they will find a clear rationale as to why this issue is important to all of us.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. MURKOWSKI. I thank the Chair. I ask unanimous consent to be added as a cosponsor to the Dole-Gregg resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, U.N. Security Council Resolution 940 does not constitute authorization for the deployment of U.S. Armed Forces under article I of the Constitution or the War Powers Act.

On Sunday, the Security Council voted 12 to 0 to authorize the United States multinational force to use all necessary means to drive out the military leaders in Haiti and return Aristide to power.

I find it rather curious that we would have a U.N. vote but no U.S. vote. The resolutions that have passed have called on the President to seek congressional authorization before invading. If American interests are at stake and American lives will be risked, then the President should get our blessing, not the U.N. Security Council's.

The President has said that he will not seek a vote by this legislative body because he is not sending troops into a war theater.

I beg to differ with that interpretation. It would seem to me that we are sending troops into a situation where the potential for war is very real. We can expect some kind of opposition, and perhaps even guerrilla activities. So clearly it is appropriate that this body reflect on the President's intentions.

It is a U.S.-led force of some 15,000 U.S. troops, U.S. defense funds, and U.S. objectives. No wonder the United Nations approved it unanimously.

Why did the administration seek United Nations rather than United States authorization to invade Haiti? It is easier obviously to get U.N. support than U.S. support. The United States could make deals with the U.N. members to seek support. One deal that has been reported is that the United States and the United Nations quietly approved Russian troops in Georgia in exchange for Russian support of the United States invading Haiti. If that is inaccurate, I would like for somebody to deny it. What did we do for Oman or some of the other countries who voted "yes," but who will not contribute one soldier or one dollar to our efforts?

The President cannot make deals with the American people. He must earn their support for this operation fair and square. In my mind, he has yet to do so. I cannot understand why the administration has become obsessed with returning Aristide to power. Aristide's character and loyalty to America are certainly questionable. But the President seems willing to risk American lives to prop up Aristide's questionable regime.

Congress may not give the President blessing to invade Haiti, but he should ask. At this point, this Senator would simply not support an open-ended U.S. mission to restore Aristide to power. U.N. Resolution 940 indicates that the purpose of the mission will be to establish and maintain a secure and stable environment. The last time we were in Haiti for similar goals we were there for 19 years; from 1914 to 1933.

The President himself said he would not send United States troops into Haiti on an ill-defined mission.

"I have no intention of asking our young people in uniform * * * to go in there to do anything other than implement a peace agreement. * * *"—October 13, 1993, White House remarks.

He now appears to have changed his mind, a not uncommon occurrence down at the White House, after pressure from liberals in Congress and Aristide's lobby. That is not how our foreign policy should be set, Mr. President.

The administration charges that Republicans are hypocrites because we have traditionally supported a strong Presidential hand in foreign policy. That is true. We have supported a strong hand. But when the hand is shaky—and I say it is shaky now—the Congress has a right to seek reassurance. As many have observed, we can easily put troops into Haiti. But when will they come home?

I thank the Chair.

I yield the floor.

Mr. GREGG. Mr. President, I ask unanimous consent that we have an additional 5 minutes on our side so I can accommodate the Senator from South Carolina.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. GREGG. I yield 9 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in strong support of the Dole-Gregg amendment. I am deeply concerned about another U.N.-sponsored "nation-building" exercise involving American military personnel in Haiti. In Haiti there is clearly no national security interest at stake to justify an invasion and the subsequent loss of life—both American and Haitian. Recently the Senate received a briefing on the administration's Haiti policy from the Secretaries of Defense and State, the National Security Advisor, and our Ambassador to the United Nations. It was clear from that briefing that Haiti represents no national security threat to the United States or this hemisphere. The only rationale they could offer for the use of United States armed force against Haiti is to remove an admittedly brutal and dictatorial military regime, and replace it with Mr. Aristide. But in fact, Mr. President, what the administration's national security team described is not a peace operation, but an act of war.

It also concerns me deeply that the administration feels required to seek permission from the United Nations for this ill-considered invasion, but not from the American people, acting through their elected representatives—the Congress. It is the American people, not U.N. bureaucrats, who send their sons and daughters into the Armed Forces. It is the American people, not U.N. bureaucrats, who pay the heavy tax burden that supports this outstanding military establishment. It is the American people, not the United Nations, who will suffer bereavement and the tragedy of loss when their sons and daughters die in an invasion and occupation of Haiti. Above all, it is the American people, not the United Nations, to whom the President and his advisors must hold themselves accountable for the use of force.

As Senator McCAIN has just pointed out, the administration appears to have learned nothing from the debacle in Somalia. Admittedly, Haiti is much closer than Somalia—it is in our own hemisphere. But the purpose of invading Haiti is still poorly defined and unjustified.

Haiti is a nation with a long history of instability and violence. How can we justify risking American lives to restore democracy to a nation and people who have never known it, and perhaps are not capable of sustaining it? The President-elect, Father Aristide, may have received a majority vote in the last election, but he is still hated and distrusted by a large number of the people. What will happen if we restore him to power and his regime turns out to be violent and despotic, which was the case during the short time he last held power? If our soldiers and marines are forced to remain there to prop up another dictatorial regime, even one that masquerades in the trappings of democracy, our people will become targets, just as they did in Somalia.

In conclusion, Mr. President, I urge the administration not to send troops to Haiti without the prior authorization of Congress. If the case for invading Haiti is sufficient, then it will withstand congressional scrutiny, and through that process, the scrutiny of the American people. All Americans deserve answers to these questions, which the President has not adequately answered: Is the policy goal to be served by invading Haiti truly consistent with the national interests? What are the risks? What are the projected costs? Are there contingency plans to wage a long-term urban guerilla war? What are the plans to get out, and when?

If the case for invading Haiti cannot withstand this kind of scrutiny, and if these questions cannot be answered to the satisfaction of the American people, then we should not intervene in that unfortunate country. Otherwise, we may well find the tragedy in Somalia repeating itself in Haiti.

I urge the Senate to support the resolution. I thank the Chair, and yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I yield myself such time as I may consume.

First, I ask unanimous consent that additional cosponsors be added, including Senators BROWN, PRESSLER, LOTT, COVERDELL, and WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President. I am pleased to have this chance to offer a brief statement on behalf of the Dole-Gregg sense-of-the-Senate amendment.

I am gratified to hear my colleagues on both sides of the aisle speak on behalf of this amendment. It is a reasonable amendment, and it has been narrowly drawn so as to be unobjectionable. The substance of it is straightforward: it makes it very clear that we in the Senate do not view ourselves as obliged in any way in favor of the use of force by the recent U.N. action.

While the substance of this amendment is not controversial, the concerns behind it are of great import. This Senate has already gone on record that we expect to be consulted before any use of force is authorized in Haiti. The recent action in the United Nations has prompted a great deal of speculation nonetheless that such an invasion is imminent, and that somehow the United States has signed off on this as the most appropriate course.

I trust that this action today will make it abundantly clear to all observers that the United States has not approved any such action until the U.S. Senate has been consulted and approved it—excepting of course the latitude granted to the President at all times to act in the interest of our national security.

So I am pleased that it appears that we will approve this measure. We should not have continued idle speculation that Congress will tacitly accept a military action in Haiti. Despite this amendment's simplicity, it puts the Senate squarely on record that these decisions will be made here in Washington, and not at the United Nations. I thank my colleagues and I yield the floor.

Mr. BIDEN. Mr. President, I support the amendment offered by the Senate minority leader.

The proposition stated by the amendment is simply a statement of fact: that the U.N. Security Council Resolution authorizing the use of "all necessary means" to restore the legitimately elected government in Haiti does not constitute authorization for the use of force under the Constitution of the United States or the war powers resolution.

I would hope that every Member here agrees with that position.

Three and one-half years ago, the argument was made that a U.N. Security Council resolution constitutes sufficient authority for the President to authorize the use of U.S. Armed Forces.

The Bush administration, an advocate of the monarchist view of Presidential power, asserted repeatedly that the President had legal authority to order such action without congressional assent. The President's mistaken interpretation of the Constitution was supported by many on the other side of the aisle who are now supporting this amendment today.

Only at the last minute—a week before the invasion—did President Bush request congressional action. But even after the war, the President continued to claim that he "didn't have to get permission from some old goat in the U.S. Congress to kick Saddam Hussein out of Kuwait."

As was made clear during the congressional debate in January 1991, when it comes to the most solemn decision that a nation can make—to send women and men to fight and die for their country—a vote in the U.N. Security Council cannot substitute for a vote by the United States Congress.

On this point, the Constitution is as clear as it is plain. While article II of the Constitution gives the President the power to command our troops, article I of the Constitution commits to Congress—and Congress alone—the power to decide if this Nation will go to war.

This is not merely a question of policy—about which branch of Government is the wiser judge of the use of American military power. It is a fundamental question about constitutional authority and constitutional duty—a question of how this Government proceeds in exercising its power.

There is simply no credible argument that the U.N. Security Council resolution provides legal authority to invade Haiti. First, there is the question of whether any treaty, including the U.N. Charter, could—in effect—modify the Constitution's allocation of power to decide if the United States will go to war. I seriously doubt that the President and the Senate could, by treaty, take away the House's role in making this choice.

Second, even if the President and the Senate could do so, is the U.N. Charter such a treaty? Again, the answer is probably not. The law that this Congress enacted in 1945 to implement the U.N. Charter—the U.N. Participation Act, states that "nothing here shall be construed as an authorization to the President by the Congress to make available to the Security Council * * * armed forces * * * in addition to the forces * * * provided for in a special agreement" under article 43 of the U.N. Charter—and no such article 43 "special agreement" has ever been negotiated.

Moreover, even if our ratification of the U.N. Charter did, in 1945, give the President additional powers to go to war under the U.N. Charter, Congress' enactment of the War Powers Resolution of 1973 reversed that decision. Section 8(a) of that act provides that:

> Authority to introduce U.S. Armed Forces into hostilities * * * shall not be inferred from any treaty heretofore * * * ratified.

And finally, even ignoring all of this, and instead assuming that the President could take the Nation to war as directed by the United Nations, the fundamental fact is that no U.N. resolution has directed him to do so. U.N. Security Council Resolution 940 provides only the authority for member States to use all necessary means to facilitate the departure from Haiti of the military leadership. It does not direct member States to do so. Thus, there is no treaty obligation on the President to use force in Haiti.

The need for congressional authorization is not a legal nicety. The framers of the Constitution wanted Congress involved in this decision for two sound reasons: to balance power within our Government, and because congressional support is a sound barometer of a policy's wisdom, and a prerequisite of a policy's sustainability.

The President will undoubtedly be urged by the lawyers in the executive branch to not concede that congressional authorization is required. I urge the President, for both legal and practical reasons, to resist that instinct, and seek congressional authorization of the use of force in Haiti.

Finally, Mr. President, I would state that I am pleased that my friends on the other side of the aisle—who were for so many years attached to the monarchist concept of the war power—now seem prepared to take a new look at the Constitution and to remind themselves that Mr. Republican—Robert Taft—was right: There is a fundamental constitutional role for Congress in the decision to engage this Nation in warfare.

Perhaps now, we have reached a ripe moment for reconsideration of the war powers issue. I have drafted a revision of the War Powers Resolution, and I look forward to working with my colleagues on a comprehensive overhaul of that statute.

Mr. GREGG. I wish to thank all the Members who have come to the floor in support of this amendment, which I originally offered on Monday, and which is now being offered on behalf of myself and, obviously, the leader, Senator DOLE.

I would like to incorporate a statement I made on Monday into my statement today, and this will be much briefer. Essentially, this amendment establishes unequivocally, or states unequivocally, what should be obvious to all but does not appear to be obvious to this administration, which is that both the legal and the moral authority for the use of American force lies with the Congress and with the Presidency, but, most importantly, it lies with the people of the United States.

Nowhere in our Constitution is the United Nations mentioned as the source of authority for the use of American force. Yet, what we see here is an administration and a President which has chosen to go to the United Nations in order to sanction an invasion, but has not been willing to come to this Congress to have such an invasion sanctioned. I think the reason is obvious: They cannot make a case to the American people which can justify a national interest which is so significant in Haiti that putting American lives at risk should occur. Therefore, they have decided to ignore us, to ignore this Congress, and to ignore the American people. This is a mistake. It is a very severe mistake because, clearly, if American lives are to be put at risk, the American people should be in support of that effort.

This has been an administration which has spent too much time chasing its tail on the issue of foreign policy. This, unfortunately, becomes another example of that sort of confusion and mismanagement. This Congress has stated through a sense-of-the-Senate resolution offered by myself, and then offered by the majority leader, that prior to an invasion the administration and President should come to this Congress and explain to us what are the national interests which are so severe and so great that American lives should be put in jeopardy through the use of force. What are the national interests? In addition, if we do invade, how do we get out? What is the plan for getting our people out? And what will be our role after the invasion?

We know the history of Haiti, and it is not a pleasant one for our Nation, or for Haiti, for that matter, or in relationship to our Nation. The last time we invaded that nation, we stayed for 19 years. We clearly need to have a definitive statement from this administration as to, first, what is the national interest that is so great that it is willing to put at risk American lives? And, second, what is the plan for exit once entrance is made through the use of military force?

None of this has been accomplished. Nowhere does it say that this is a government of the United Nations, by the United Nations and for the United Nations This is a Government of the people, by the people, and for the people. When the President of the United States undertakes the most severe responsibility of that Government, which is an act of war—and clearly an invasion, a premeditated invasion such as this, is an act of war—then there is an obligation to follow the order of the society. And the order of the society in our Nation is set out by the Constitution in article I, which says that the right to declare war lies with the Congress. That right is being ignored.

In addition, just the moral responsibility of our Nation and the way it works requires that the President come to the Congress and the American people and explain what it is that is so significant to our national interest that American men and women shall be asked to put their lives at risk. That is not being done.

So this amendment, this sense of the Senate, is put forward in order to, once again, put a shot across the bow of this administration on the issue of the use of military force and to make it clear that, before they exercise that force, they need to come to this Senate and explain why. But, more importantly, they need to come to the American people and explain why.

I yield the remainder of my time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. The question occurs on amendment No. 2445 offered by the Senator from Kansas [Mr. DOLE].

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—100

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

So, the amendment (No. 2445) was agreed to.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, we are now formulating a time agreement on the ethanol amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I just want to apprise my colleagues we are moving to the ethanol amendment. We are waiting to see if four Republicans will agree to our time agreement.

Under the previous agreement, we would go to ethanol. I wonder if the Senator from Louisiana would mind if, during this momentary interim, I could clear my committee amendments without violating the agreement that ethanol really is the next business?

Mr. JOHNSTON. Not at all.

UNANIMOUS-CONSENT AGREEMENT

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of the following list of amendments I now send to the desk: page 22, lines 18 through 25; page 60, line 7 beginning with "and" through line 21, ending with the colon; page 20, lines 14 through 19; page 24, lines 21 through 23; page 41, line 12 through page 42, line 11, page 45, lines 13 through 22; page 47, line 19 through page 48, line 11; page 49, lines 11 through 13; page 49, line 22; page 91, lines 4 through 9; and that the bill, as thus amended, be regarded for the purpose of amendment as original text, provided that no points of order shall have been considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc with the exception of: page 22, lines 18 through 25; page 60, line 7 beginning with "and" through line 21, ending with the colon; page 20, lines 14 through 19; page 24, lines 21 through 23; page 41, line 12 through page 42, line 11; page 45, lines 13 through 22; page 47, line 19 through page 48, line 11; page 49, lines 11 through 13; page 49, line 22; page 91, lines 4 through 9.

Ms. MIKULSKI. Mr. President, I note the Republicans, the other side of the aisle, have been consulted when this was agreed to.

I wish to note for our colleagues that Senator GRAMM, for the Republican minority, is tied up in Whitewater. We are in close contact with his staff and we are working along those lines. His absence from the floor is an indication that he must perform another duty which is being present at the Whitewater hearings.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, while we are waiting for the procedural clearances, it would be my recommendation that Senator JOHNSTON be allowed to lay down his ethanol amendment and at the closure of the Johnston speech, if we have a procedural arrangement, it would be offered at that time.

I ask unanimous consent to do that.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. That is to——

Ms. MIKULSKI. My unanimous-consent request is that the Senator from Louisiana be allowed to lay down his amendment and make his speech while we are waiting for the Republicans to clear but we do not slow ourselves down. When he finishes his speech, then we will have the UC to propound.

Mr. JOHNSTON. I do not think we need unanimous consent for that. We already have one so I can proceed.

Ms. MIKULSKI. I wanted to cover all the bases. I now yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2446

(Purpose: To impose a limitation on the use of funding to promulgate, implement, or enforce an EPA regulation mandating a specified percentage market share for ethanol oxygenates in reformulated gasoline and, in addition, to reduce funding for NASA procurement expenses by $39,300,000)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator intend to offer the amendment to the bill or to the pending committee amendment?

Mr. JOHNSTON. This is an amendment to the bill, and I ask unanimous consent that we temporarily lay aside the pending committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. BRADLEY, Mr. WALLOP, and Mr. DOMENICI, proposes an amendment numbered 2446.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following two new sections:

SEC. . No funds in this Act may be used to promulgate, implement, or enforce any requirement that a specified percentage of oxygen content of reformulated gasoline (as required by 42 U.S.C. 7545(k)) come from renewable oxygenates, such as that requirement proposed as "Regulation of Fuels and Fuel Additives: Renewable Oxygenate Requirement for Reformulated Gasoline" at volume 58 of the Federal Register at pages 68343 through 68353.

SEC. . The budgetary resources provided to the National Aeronautics and Space Administration in this Act for fiscal year 1995 for procurement and procurement-related expenses are reduced by $39,300,000.

Mr. JOHNSTON. Mr. President, this amendment denies funds to enforce, during the period of this year, the ethanol mandate amendment. Since CBO declared that the first year it would take $20 million, we needed an offset, so we have taken an offset from the reinventing government budgetary request which was sent up by the administration.

They say that $59 million in budgetary resources for procurement and procurement-related expenses at the various agencies which comprise this budget is excess and, therefore, this amendment will not cut into the spending of any function under this budget.

A couple of years ago, we passed the Clean Air Act amendments. Those Clean Air Act amendments made a requirement for oxygenates in reformulated gasoline. There are four possible kinds of oxygenates in reformulated gasoline.

When the Clear Air Act was passed, it was determined in that Clean Air Act that you have a 2-percent oxygenate requirement for reformulated gasoline. In the debate that took place on the floor, it was clearly stipulated that any of the oxygenates which could qualify would be suitable to be used in that reformulated gasoline.

Essentially, there are two oxygenates in competition. One is ethanol from corn; the other is methyl tertiary butyl ether [MTBE], which is made from natural gas, either natural gas produced in the United States or produced in Canada, but, in any event, natural gas.

So there was a natural competition at that time between natural gas and ethanol from corn. The Senate was very clearly and specifically told at that time that this amendment was fuel neutral; that the market would be able to make that determination as to which of these two oxygenates to use in order to meet the requirement of 2-percent oxygenates.

In the meantime, the EPA has come up with a rule that is no longer fuel neutral that says next year, 1995, you must have 15 percent of those oxygenates to be ethanol and the next year it must be 30 percent to be ethanol. So, in effect, what we have here is a requirement to use a fuel which otherwise would not be used because it is not efficient in the market, because it cannot compete, because it costs the American taxpayer more, but a requirement by EPA to do that.

Mr. President, I believe this is really a gigantic flimflam to the American public in five different ways, and let me tell you why I believe that is so.

First of all, the American public is not being told what the cost of this amendment is. According to the Congressional Budget Office [CBO], this amendment will cost $249 million over a period of 5 years, cost to the budget, and these are the figures that come from CBO.

In terms of highways, the highway user fund will cost $545 million, according to the Committee on Taxation. So that these figures from the highway trust fund will mean less money for the highways of every single State in this Nation.

Understand, Mr. President, that this cost to the highway trust fund is on top of a yearly cost of $550 million which is now being charged to the highway trust fund because of the 54-cents-a-gallon subsidy for ethanol at the present time. So what you end up with is a subsidy for ethanol paid for by the highway users of every State in this Nation of $1 billion a year. More than $1 billion a year.

You would think that ethanol, which in the past 10 years has received a subsidy of $4.6 billion, that that would be enough to make a noncompetitive fuel competitive. But it is not, and this is an additional subsidy for the highway trust fund.

I ask my colleagues to look at this chart to determine how much each of the States is being impacted by the highway trust fund. Just look. Here is California, $51 million less from the highway trust fund in order to support this rule of the EPA.

A second way that I believe this is a flimflam to the American public is it is being promoted as being good for the environment.

Mary Nichols, who is the Assistant Administrator of EPA, whose regulation this is, who is head of Air and Radiation at EPA, testified at our committee hearing in the Energy Committee:

> We are not claiming any air quality benefits as a result of this proposal. There's nothing you can really point to in the Clean Air Act that says "We give EPA authority to establish a renewables requirement."

Two points in what Mary Nichols says. First, there is no air quality benefit provided for in the EPA rule and, second, she admits that there is nothing in the law that authorizes them to do it.

Third flimflam, Mr. President, is that it is being promoted as renewable energy, renewable energy that is American energy and, therefore, it is going to reduce oil imports. Not so. Argonne National Laboratory was asked to do a study for EPA, and Argonne concluded as follows:

> It is clear there will be increases in oil use associated with the ROS.

(Mrs. FEINSTEIN assumed the chair.)

Mr. JOHNSTON. Let me repeat that, Madam President.

> It is clear there will be increases in oil use associated with the renewable oxygenate standard.

Overall fossil energy use they say:

> The percentage decrease [in overall fossil fuel use] associated with the use of ethanol and ETBE—

ETBE of course, is made from ethanol—

> only range from about one-half to one percent.

These two quotes appear in conflict because this says it will increase oil use and this says it will decrease overall fossil energy use about one-half to 1 percent. That is because natural gas, which is a fossil fuel, is used in the making of MTBE, which is the competing product.

According to the Department of Energy, Madam President, the mandate will increase imports—imports—by roughly 1 percent. It will increase imports by 76,180 barrels per day and add $1.5 million to the daily import bill, or a total increase in oil imports of $547 million per year.

Let me repeat that, Madam President. There will be more oil imports as a result of what EPA does rather than less oil imports. There will be no cleanup of the air and more oil imports.

Now, how about agriculture, Madam President? We are all for agriculture. We romanticize about the American farmer.

Now, the problem is, Madam President, the American farmer is actually hurt by this because it will increase the cost of corn, or the price of corn, according to DOE, by some 4- to 6.7-cents-per-bushel, but that increase in cost to livestock and poultry farmers will increase their cost by $208 million a year to $348 million a year. In other words, if you raise the price of corn, then those who raise chickens and livestock, et cetera, will have to pay another $208 to $348 million a year.

Now, the net cost to farmers is some $80 to $134 million a year if you assume that cost is not passed on to consumers.

Now, how could this be? Well, there is a net cost to farmers, because all of that money does not go to the corn farmer. Rather, the corn farmer gets less support payments, so that the corn farmer does not get all of the 4 to 6.7 cents per bushel increase, but the livestock feeder and the poultry feeder have to pay the full cost. So that farmers in this country are actually suffering a net deficit from this amendment, which is supposed to be a farm amendment.

Madam President, how was it that a moment ago when I said that imports are increased, the air quality is not improved? That sounds counterintuitive. We do know that to burn an oxygenate, whether it be MTBE or ethanol, makes for a better gasoline, of course, than the regular gasoline, but why is it that this rulemaking requiring ethanol results in dirtier air and more imports?

Very simple. It is because to produce a gallon of ethanol it takes more fossil fuel energy, more Btu's than you produce. According to the Department of Agriculture in a letter to DOE, they say it takes 75,000 to 95,000 Btu's for a gallon of ethanol, and yet the gallon of ethanol produces only 76,000 Btu's. So that you actually lose Btu's used in fossil energy in order to produce this gallon of ethanol.

Madam President, the consumer is particularly impacted. I see my colleague from California in the chair. California is one of those States particularly impacted. According to the American Petroleum Institute, the price of gasoline in the impacted area, that is, 13 States and the District of Columbia, which either are in the nonattainment area or have opted into the rule, constitute collectively one-third of the market. And the price of gasoline is to go up 2 to 6 cents per gallon. If you average that out, it is about 4 cents a gallon increase in gasoline.

Now, Madam President, we had a tremendous debate with a huge amount of heat and light here earlier this year on the question of the 4.3 cents per gallon increase in taxes in order to pay off the deficit—a huge debate. And many Senators decried the effect upon consumers. And yet in this measure, hidden within all the great talk about farmers and renewable energy and solar energy and reducing dependence and all of those false arguments, is an increase in cost of gasoline to one-third of the consumers in this country, principally on the east coast, all up and down the east coast as well as the west coast—a third of the gasoline market, an increase of 2 to 6 cents a gallon, call it 4 cents a gallon.

Not only that, but you can bet that the consumer is going to have to pay the cost of that increase in corn prices, in their corn flakes, in their corn meal, in their Fritos, in their you name it. The all-American consumer is going to have to pay.

Now, Madam President, I said this is a flimflam in five different ways because the cost is not talked about, because the environment is not helped, because oil imports are increased rather than decreased, because consumers are not helped. To the contrary, consumers are hurt. But, finally, it is a flimflam, Madam President—and I hate to use that strong a word—because the amendment which is said to authorize this EPA regulation was specifically sold to this Congress as being fuel neutral.

I participated in that debate, Madam President. I was one of the skeptics. In fact, I opposed the amendment to the Clean Air Act which is said to authorize this amendment. I do not believe it does, and I hope and expect that the court will declare it to be illegal. I have all of the congressional debate that took place at that time.

But, Madam President, just to take one of the quotes. This one is from my good friend and great ally on most things, the distinguished Senator from South Dakota [Mr. DASCHLE] who said:

> Our amendment does not lock refiners into any particular fuel composition. Refiners can decide how they want to get octane without toxic aromatics. They can decide how to achieve the oxygenate standard.

Madam President, I have a whole folder full of quotes from my good friends. And, listen, I stand in admiration of my good friends from the farm States. As I told them, if they win this—and I hope and expect that they will not—they ought to give me a medal for having made them heroes in their farm States.

Can you imagine, Madam President, if the oil States came in and said, "Look, we need $1 billion a year to support oil. We want you to do it. It will not cost your consumers but 4 cents a gallon increase in the cost of gasoline. It will not cost you but $1 billion a year from the highway trust fund."

It will not cost you much at the supermarket for higher prices of corn products. It is also going to cost $249 million in the budget, and it is not going to improve oil imports. It is not going to clean up the air. But we want you to do it for us. They would laugh at me, but yet they have been able at least so far to convince EPA to do it.

Madam President, why is it that API says it is going to increase the cost of gasoline by 2 to 6 cents a gallon? Call it 4 cents, and split the difference. It is because ethanol is much more difficult and expensive to use than is MTBE. You see, MTBE can be put in the pipeline and inexpensively transported. Ethanol cannot be put in the pipeline because ethanol, which is a very toxic substance by the way, absorbs water. And there is water in these pipelines. So you cannot use the pipeline.

By the way, a pipeline is 30 times less expensive than trucking. They are going to have to truck ethanol into the markets. So that you are going to have to pay a transportation increment for shipping ethanol to these various centers. At present, all of the refineries are located mostly on the west coast and east coast, some in the Midwest. But by and large, the refineries are located on the east and west coasts where they bring in much of the imported oil by boat.

They also have pipelines from the producing areas which go into the areas where the refineries are located. The gasoline is then manufactured, or as is the MTBE from natural gas, and blended pretty well at close to the markets in which it is produced.

Madam President, when it comes to ethanol, the difference is that you are going to have to ship the ethanol from the Midwest to the Northeast, and to the Midwest where the corn is produced, ship it to California, and ship it to the east coast. How do you get it there? You cannot use the pipelines. So you are going to have to truck a very large percentage of this which is, as I say, 30 times more expensive than shipping by pipeline.

That is why, along with the fact that you do not have the facilities to store it, you also have to have separate facilities to store the ethanol because you cannot store it with any other petroleum products. And you are going to have to have blending facilities closer to the consumer. You will not be able to blend as you would blend gasoline at the present time at the refinery. You are not going to be able to do that. You are going to have to go downstream closer to the consumer where they do not presently have these blending facilities. That is why the cost is going to be so much greater.

Madam President, I do not know how Senators from areas that do not produce corn can be for this amendment. For example, some of my colleagues are from areas that produce a lot of chickens. The State of Louisiana produces a lot of chickens. We are going to be feeding that corn to chickens. It is going to directly impact the chicken producers. It is going to directly impact my highway users. That is why the Highway Users Association is so very strongly against this amendment.

So, Madam President, to summarize very quickly, this amendment has huge costs to the economy, $249 million according to CBO in the next 5 years, huge costs to the Highway Trust Fund, $545 million according to the Committee on Taxation, which has already added $550 million a year to support the 54-cents-a-gallon subsidy on ethanol.

It does not help the environment. Indeed, EPA affirmatively, specifically, literally said, "We are not claiming any air quality benefits as a result of this proposal." "We are not claiming any air quality benefits," so says EPA.

On oil imports, DOE says it is clear there will be an increase in oil use associated with this amendment. For consumers, we have a 2-to-6-cents—call it 4 cents increase in costs to one-third of the gasoline users in this country. For corn users, we have a 4-to-6.7-cents-per-bushel increase in the cost of corn, according to the EPA which is going to be a net loss to farmers.

Consider the corn farmer, consider the cattle feeder, the chicken feeder, the hog feeder, et cetera. Put it all together—and for agriculture—and it comes out with a net loss to American agriculture of $80 to $134 million a year.

Finally, Madam President, the amendment to the Clean Air Act, which supposedly gave authority to do this, to come up with this EPA regulation, was so specifically, and affirmatively, and literally, to this Senate as being fuel neutral. "Our amendment does not lock refiners into any particular fuel composition."

What EPA proposes to do is exactly diametrically opposite from what the Senate was told. We were sold a pig in a poke, Madam President. I hope the court does not let EPA get away with that. And I certainly hope the Senate of the United States is not foolish enough to turn its back on its own words, and to settle for its consumers, its budget, and its Highway Trust Fund, for this huge new subsidy for ethanol refiners.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time between now and 6 p.m. be equally divided between Senators JOHNSTON and HARKIN, or their designees, on the Johnston amendment No. 2446; that at 6 p.m., Senator MIKULSKI be recognized to move to table the amendment; that if the amendment is not tabled, there then be 10 minutes for debate equally divided between Senators HARKIN and JOHNSTON on a motion to invoke cloture on the Johnston amendment, to be followed immediately after the tabling vote, with the mandatory live quorum waived; that if cloture is invoked, the Senate, without any intervening debate, vote on the Johnston amendment; that if cloture is not invoked, the Johnston amendment be withdrawn; that the amendment not be divisible; that no amendments be in order to the Johnston amendment or to any language that may be stricken by his amendment; and that no other amendments on the subject of ethanol be in order to H.R. 4624.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I thank the Republican leader, the managers of the bill, and the distinguished Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Madam President, I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. KERREY. Madam President, the distinguished Senator from Louisiana, as always is the case, has eloquently described the case for this amendment, and said at one point, "I do not understand why States that do not grow corn would support this."

It is a relevant question for any proposal. I must say, why would I support something that does not directly, I mean absolutely directly in every single case, have an immediate positive impact upon my congressional district or upon my State?

That is a very relevant question.

Typically what happens is we say we are also U.S. Senators. In addition to voting for what is just immediately in our interest, we try to consider what is in the national interest. We do that for disaster aid. We do that for the purpose of trying to promote and develop our own oil and natural gas industry, for maintaining as well our own merchant marine, our own ability to move products on U.S. bottoms. There are lots of reasons that this policy is a good policy.

I would like to talk just a little bit about why I say with great respect the Senator from Louisiana—and he used the word "flimflam." I honestly believe quite the opposite. I honestly believe, in fact, that the five arguments made here fit into the category as well. I say that with great respect.

I ask unanimous consent to insert into the RECORD first a letter from the Environmental Protection Agency indicating that this proposed rule is in fact fuel neutral.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, August 3, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: I understand a question has come up as to whether the Environmental Protection Agency's renewable fuels rule violates the reformulated gasoline regulatory negotiation agreement. Since the provisions of the renewable fuels rule were not covered by the negotiated agreement, the renewable fuels rule in no way violates that agreement. It does add to the program outlined in that agreement.

Furthermore, the renewable fuels rule does not violate the principle of fuel neutrality. Any fuel made from renewables (including for example methanol produced from landfill gases) would qualify. The negotiated agreement did not address fuel neutrality in the context of renewable vs. nonrenewable oxygenates.

Sincerely yours,

RICHARD D. WILSON,
Director, Office of Mobile Sources.

Mr. KERREY. Madam President, I ask unanimous consent to have printed in the RECORD a detailed statement that explained that 35 States are not even affected by the Highway Trust Fund. This would not affect every single State.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHWAY TRUST FUND/FEDERAL BUDGET

Statement: The ROS will drain the Treasury and the Highway Trust Fund of hundreds of millions annually.

First, estimates of the impact to the HTF have been greatly exaggerated by the oil industry and intended to mislead people into believing that highway funding in all states will be affected. It will not. Only areas marketing reformulated gasoline, approximately one-third of the nation's fuel, will be affected at all. Fully 35 states will be unaffected by RFG or the ROS, and will realize NO impact on their highway construction dollars.

Even in those areas that will be affected, however, the impact has been greatly overstated. In the first year, when only 15% of RFG must blend with renewable oxygenates, the new demand for ethanol will be approximately 160 million gallons (approximately 180 million gallons are already being sold in ozone nonattainment areas). Thus, the maximum impact to the HTF would be $86 million, which assumes that only ethanol blends are used during the non-VOC control season. But because ETBE will be used during the 5-month VOC control period and ETBE use does not affect the HTF, the actual impact on the HTF will be far less—approximately $50 million. In fact, when the summer-time use of ETBE is considered, the new demand for ethanol created by the ROS would have only an infinitesimal impact on the HTF.

The HTF currently enjoys an $11 billion surplus. Annual payments to the HTF exceed $16 billion. Thus, the potential impact to the HTF resulting from implementation of the ROS is less than 1/tenth of one percent of available HTF revenues, and less than 3/tenths of one percent of the current surplus alone.

Second, it is important to note that an individual state's highway fund allocation is not necessarily effected by a state's contribution to the HTF. Under the complex formula for allocating highway dollars, only those states that are in a minimum allocation situation would be affected by reduced HTF contributions (approximately 30 states). According to the 1994 Federal Aid Highway Program Apportionments, states that will be using RFG, but which will be unaffected by reduced HTF revenues include:

States Whose Highway Funds Are Unaffected by the ROS

Connecticut, New Jersey, Delaware, Maine, Rhode Island, Illinois, New York, District of Columbia, and Massachusetts.

Importantly, these states, particularly Illinois, represent the most likely areas where ethanol will be sold. Renewable oxygenates sold in these states will generate ROS credits that can be used in other areas, meaning that the ultimate impact on federal highway funding will be further mitigated.

Finally, and most importantly, the ROS will actually decrease the federal budget deficit by reducing farm program costs and increasing rural income. A recent analysis by the USDA concludes that the ROS will save more than $2.2 billion over the next 5 years. This recent analysis is consistent with a prior report by the General Accounting Office which concluded that savings to the federal government resulting from the increased production and use of ethanol would be between $480 and $610 million annually.

Opponents of the ROS have alleged that a CBO analysis concludes the ROS will increase budget outlays over the next several years. But this analysis was prepared in response to a very specific request using assumptions that are not realistic. Specifically, the CBO figure cited assumes that USDA adjusts the ARP to hold grain prices at 1994 levels, meaning that farm income falls because of reduced demand for grain used in ethanol production. USDA has clearly stated that this is an unrealistic and unwise assumption, and stands by its budget projection of $2.2 billion in government savings.

Mr. JOHNSTON. Will the Senator yield?

Mr. KERREY. Yes.

Mr. JOHNSTON. The EPA, by saying the amendment is fuel neutral, is underlining what Mary Nichols said is no improvement.

Mr. KERREY. I say, with respect to the Senator, that the proceeding at which Mary Nichols appeared was basically a hearing designed to prove that this rule should not be adopted. She has been quoted several times since then saying that there is good reason to believe that this is good environmental policy. This is a single quote. The EPA would not propose this rule if they believed it was bad for the environment.

Mr. JOHNSTON. But it does not improve air quality, according to Mary Nichols.

Mr. KERREY. Madam President, we can always pull a quote from somebody and put it up on a board and make it look like official Government policy. The Environmental Protection Agency policy is that this rule will improve air quality. They would not propose this if it did not.

I say, with all due respect, that the Mary Nichols quote was delivered at an Energy and Environment hearing that was basically rigged to show that this would be a bad policy to put in place.

Mr. HARKIN. Will the Senator yield?

Mr. KERREY. Yes.

Mr. HARKIN. As long as we are talking about revenues to highways—and I appreciate the comments of my colleague from Nebraska—I have here a letter to me dated today from the U.S. Department of Transportation. It says:

> You have asked about the Department of Transportation's position on the Environmental Protection Agency's proposed Renewable Oxygenates Rule for reformulated gasoline and its potential effect on the Highway Trust Fund.
>
> We support the proposal * * *
>
> While revenues to the Highway Trust Fund would be reduced by the Renewable Oxygenates Rule, DOT does not anticipate a change in distributions to States under authorizations provided in the Intermodal Surface Transportation Efficiency Act of 1991, due to the obligation ceiling established in law.

I ask unanimous consent that a copy of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, DC, August 3, 1994.

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: You have asked about the Department of Transportation's (DOT) position on the Environmental Protection Agency's proposed Renewable Oxygenates Rule for reformulated gasoline and its potential effect on the Highway Trust Fund.

We support the proposal and the use of alternative fuels as a way to partially address the Nation's air quality, energy conservation, and balance of payments problems.

While revenues to the Highway Trust Fund would be reduced by the Renewable Oxygenates Rule, DOT does not anticipate a change in distributions to the States under authorizations provided in the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) due to the obligation ceiling established in law.

If there is any additional information I can provide, please do not hesitate to contact me.

Sincerely,

STEPHEN H. KAPLAN,
General Counsel.

Mr. HARKIN. The point by the Senator from Nebraska is that they say they do not anticipate any change in distributions to States.

Mr. JOHNSTON. Well, that is as a result of the ceilings, not as a result of——

Mr. KERREY. Madam President, do I have the floor?

The PRESIDING OFFICER. Yes.

Mr. KERREY. Next, I ask that a letter of the U.S. Department of Agriculture be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, August 3, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: This letter responds to your request for clarification of the Department of Agriculture's (USDA) policy for setting the annual percentage required for the Acreage Reduction Program (ARP). You have asked me to address this issue in the context of the Congressional Budget Office (CBO) estimates of Federal outlays associated with the amendment sponsored by Senator Johnston.

The CBO has concluded that a permanent suspension of the renewable oxygenate requirement for reformulated gasoline would reduce farm program outlays by $250 million. Thus, reducing the demand for ethanol, which is primarily produced from corn in the U.S., will reduce deficiency payments to corn producers. However, history indicates that a drop in demand, such as lower exports or industrial use of farm output, lowers farm prices and increases deficiency payments. A prime example is the embargo on grain shipments to the Soviet Union in the early 1980's or more recently the drop in exports to the Former Soviet Union.

CBO's analysis of a permanent suspension of the renewable oxygenate requirement for reformulated gasoline is based on an incorrect perception of how the USDA operates the corn price and income support program. CBO assumes that the USDA makes infinitesimal changes in ARP's to maintain a particular price objective for corn. Thus, if demand declines, USDA raises the ARP just enough to keep price unchanged from the "budget baseline" projection. The higher ARP reduces the incentive to participate in the annual program for corn, since producers must idle more land to participate and a higher ARP lowers the acreage eligible for deficiency payments. With prices unchanged and fewer producers and fewer acres eligible for payments, CBO concludes that lower demand for corn caused by a permanent suspension of the renewable oxygenate requirement for reformulated gasoline will reduce total deficiency payments to corn producers.

USDA does not operate the corn program in the manner assumed by CBO. Historical data and the Department's baseline projection clearly indicate the Department does not make through 1999/2000. Over the same time period, the price of corn is projected to range from $2.25 to $2.35 per bushel. If the Department operated the corn program as assumed by CBO, the corn price would be projected to be unchanged over the period and the corn ARP would vary from year-to-year.

History also indicates that the Department does not make infinitesimal changes in the ARP for corn. Since 1985, the ARP for corn has ranged from 0 to 20 percent. Over the 10-year-period from 1985/86 through 1994/95 the corn ARP was announced at 20 percent in 2 years, 17.5 percent in one year, 10 percent in 4 years, 7.5 percent in one year, 5 percent in one year, and 0 percent in one year. These data further confirms that the Department sets the ARP for corn at discrete levels with changes being in increments of at least 2.5 percentage points, rather than making infinitesimal changes in ARP levels to meet a particular price objective.

In setting the ARP, the Department has historically taken into account a number of factors including the previous year's corn price, the level of stocks, and the potential effects on farm income and program outlays. An increase in ARP's reduces farm income because the loss in deficiency payments and production from idling more land exceeds the added income generated by higher prices and the saving in production expenses from idling additional land. Consequently, a modest increase in stocks or reduction in price would not lead to an increase in ARP level if that would aggravate the drop in farm income.

In reality, USDA considers all of these effects when ARP decisions are made. My experience tells me that USDA would never make a policy change like the one assumed in the CBO analysis. That is why the letter I recently wrote you contains different estimates of Federal outlays than does CBO analysis.

Sincerely,

KEITH J. COLLINS,
Acting Assistant Secretary for Economics.

Mr. KERREY. It goes directly at the point of my distinguished colleague and friend from Louisiana that this is going to cost taxpayer money. In fact, the USDA would not adjust their base policy, as CBO indicated. CBO has based their estimates of cost to the taxpayers upon their belief that the USDA would take a certain action. They have not taken this kind of action in the past. The USDA is saying they would not take it in the future. Thus, the cost to the taxpayer, which was on the board of the Senator from Louisiana, simply would not occur.

I ask unanimous consent that two letters of local chambers of commerce be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GREATER YORK AREA
CHAMBER OF COMMERCE,
York, NE, July 28, 1994.

Mr. R. BRUCE JOSTEN,
U.S. Chamber of Commerce,
Washington, DC.

DEAR MR. JOSTEN. It has come to our attention that the U.S. Chamber of Commerce has chosen to support the Johnston/Bradley amendment as it relates to Renewable Oxygenate Requirements. Obviously, a great deal of research and effort went into the regulations recently released by the Environmental Protection Agency (EPA) concerning the use of ethanol as an alternative fuel. This amendment is seen by us as a slap in the face to the EPA.

As a U.S. Chamber member, we wish to express our concern over the Chamber's actions to support the Johnston/Bradley amendment. It is our opinion that this amendment is another attempt by large petroleum companies to "buy" legislation at the expense of America. The York Chamber is in no way one of the "3,000 state and local Chambers of Commerce" mentioned in one of your letters to Congressional leaders supporting the Johnston/Bradley amendment.

The benefits of using ethanol as a renewable energy source are obvious to us. Nebraska currently has $500 million in investment in ethanol plants/facilities. Obviously, we have many jobs at stake. The future of rural America may truly depend upon the future of ethanol.

The future of our environment may also hinge upon the use of alternative fuels such as ethanol. Studies have continued to show that the use of alcohol-based fuels will be less detrimental to our environment than petroleum-based products. Please do not let the special interests of large petroleum companies hinder the rejuvenation of rural America or the destruction of our environment. Again, I would ask the U.S. Chamber to reconsider their decision to support the Johnston/Bradley amendment. We all have a stake in the future.

Sincerely,

RICHARD J. BAIER,
Executive Vice President.

COLUMBUS AREA
CHAMBER OF COMMERCE,
Columbus, NE, July 29, 1994.

Re Your recent letter to members of Congress regarding the Johnston/Bradley amendment to H.R. 4624

R. BRUCE JOSTEN,
Senior Vice President, Membership, U.S. Chamber of Commerce, Washington, DC.

DEAR BRUCE: Our community would definitely be positively affected by acceptance of mandates for a market share of ethanol and in our opinion, so would the country. We want to voice our strong support for the Renewable Oxygenate Standard (ROS) and express our opposition to any amendments to the appropriations bill that would deny funding for this vital economic program. We do not agree with the U.S. Chamber's opposition to the ROS.

Columbus is the home of Minnesota Corn Processors, an expansion of a cooperative first located in Marshll, Minnesota and will soon be grinding 200,000 bushels of local corn a day in production of ethanol, corn starch, corn syrup and fructose. This plant has been a tremendous boon to local farmers, and supporting industries, in the Columbus area.

This program will increase rural income, continue to increase our industrial base, and provide jobs in communities such as ours. We urge the U.S. Chamber to consider positions from Chambers and communities such as ours when deciding a position on such legislation.

Sincerely,

DALE COLLINSWORTH, CCE,
Executive Vice President.

Mr. KERREY. I could get many more letters saying basically that this is going to be good for our economy and that we disagree with the U.S. Chamber, and we wish they would consult at the local level.

Finally, I ask unanimous consent that an article be printed in the RECORD from Congressional Daily.

There being no objection, the article was ordered to be printed in the RECORD as follows:

LEGISLATORS CONTINUE TO PUSH FOR OIL AND GAS CREDITS

A group of Senate and House members from areas with oil and gas interests continued to argue the need to aid the ailing domestic industry today, and voiced optimism that momentum is building for action this year. The members, many of whom recently met with President Clinton to present a series of proposals on the issue, said Clinton has sent a positive signal, particularly on assisting marginal wells and on working to lift a ban on exporting crude oil from Alaska's North Slope. Deputy Energy Secretary Bill White said a high level administration meeting Friday will focus on Alaska, investigating ways around international legal hurdles. A plan pushed by Alaska and California members—lifting the ban and requiring the oil be shipped on U.S. vessels—has raised questions of trade violations. White said he is hopeful of finding a resolution.

"I feel the mood is good," said Senate Energy and Natural Resources Chairman Johnston, referring to the prospects for his bill, which would provide royalty relief for some marginal wells in the Outer Continental Shelf. Johnston, who attached the royalty measure in his hardrock mining reform proposal now being considered in conference, said he believes mining reform cannot pass without it. Rep. Bill Brewster, D-Okla., described a proposal being discussed to allow tax credits if oil prices drop below a certain level. He said members are working toward achieving a plan with administration approval before introducing legislation.

Mr. KERREY. Madam President, this is an article headlined "Legislators Continue To Push for Oil and Gas Credits."

It is a reporting of a news conference that the distinguished Senator from Louisiana had, asking that royalties be waived and that perhaps some additional credits be given to the oil and gas industry.

Madam President, to the statement made by the Senator from Louisiana, "I do not understand why States who do not grow corn would support this," the answer is simple: This would create American jobs. Most of the new methanol that will be produced to satisfy the reformulated gas program will create jobs in Bahrain or the United Arab Emirates. The fuel produced by ethanol will create jobs in the United States—2,200 jobs were created in the State of Nebraska in 1993 alone, with none of that money being invested by Archer Daniels Midland, which is typically pillarized as the enemy in all this.

Second, it is good for the taxpayer. CBO required the Senator from Louisiana to come up with a $30 million offset because it costs taxpayer money.

Third, it is good for farmers who are trying to provide market-based income because it will increase the market-based price for agriculture products.

Last, Madam President, it is good for the environment. The EPA would not support this; the Clinton administration, President Clinton and Vice President GORE, would not support this rule if it was not good for the environment.

I urge my nonforeign corn-producing colleagues to recognize that the flim-flam is not on the side of this policy, or the arguments underlying this policy. The flim-flam is in the arguments opposing it.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN], is recognized.

Mr. HARKIN. I yield 10 minutes to the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Madam President, I thank my colleague for his leadership in this area. I believe we heard in the opening statement of the proponents of this amendment about the 1994 farm program. I do not know whether Senator JOHNSTON was intending to enunciate a policy for cheap grain and what that policy of cheap grain is going to do for agriculture. Who wants us to believe that it is going to fortify the livestock industry? Do you not know that the rules are as old as the hills, that cheap corn brings cheap hogs and cheap pork? I bet it is true of the other animal industries, as well.

The corn/hog ratio is a historical relationship which tells whether there are good years ahead for agriculture or bad years ahead for agriculture. And it is just as plain and simple as the nose on your face. It is just as plain and simple that more corn is going to bring more hogs, and it is going to reduce the price of hogs.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. GRASSLEY. Yes, if the Senator will just take 1 minute.

Mr. JOHNSTON. Yes, Madam President. Is the Senator trying to tell us that the more you pay for corn, the more hogs you produce and the more the hog producer makes by paying a higher price for corn?

Mr. GRASSLEY. Well, I can tell the Senator, Madam President. I will answer that question. But that mere question shows ignorance of the relationship between corn and hogs, or corn and livestock. What is wrong with this whole issue here is that people are trying to make agricultural policy who do not know anything about agricultural policy.

We have to fight this amendment now, not only because it deals with ethanol and is bad for ethanol, but it is bad for agriculture, as the author's own statements indicate. The oil industry does not like competition. Let us get that straight. The oil industry does not like competition. The oil industry battles anything remotely viewed as competition to its monopoly over United States fuel supply. Big oil does like mandates. They may not like an ethanol mandate, but they like mandates.

They like it if it is an oil mandate. When convenient and serving the interests of the oil industry, that industry demands that the Federal Government impose market mandates and protectionist policies to protect it from competition. We saw this during the late 1950's.

Mr. JOHNSTON. Madam President, will the Senator yield for a question on my time? I do not want to use his time.

Mr. GRASSLEY. I think I will go through my statement. I think it is better I get on. I am sure the Senator wants to get this out from being an agricultural debate. I think he has made his own bed.

The oil industry demands that the Federal Government impose market mandates and protectionist policies to protect it from competition. We saw this during the late 1950's when the oil industry was able to get the Federal Government to mandate that 90 percent of America's oil supply had to be produced domestically. At that time, it was convenient for the oil industry to argue that just a mere 10 percent reliance upon foreign oil and the importing of it was a threat, Madam President, to the national security of our country.

Now, of course, we rely upon 50 percent or more of imported energy, but my colleagues may remember during the energy bill debate of 1992, when I suggested a similar but much smaller carve-out for domestically produced alternative fuels, the oil industry and its Senate supporters nearly had a collective heart attack. All of a sudden, in 1992, when you talk about a little mandate compared to what they wanted in the 1950's to protect domestic oil, all of a sudden there is no national security problem. Oil said in 1992, "Let the marketplace decide." That is what they are trying to say here today.

Of course, the oil industry opposes subsidies, do they not. Unless, of course, those subsidies are for the oil company?

Now, Senator JOHNSTON told the full Senate in 1992 that the real cost of imported oil when factoring in the direct and indirect subsidies—and that includes keeping the sea lanes open—amounted to $200 per barrel and that does not count, by the way, the blood of American men and women when we have to use them to defend oil imports when OPEC needs defending.

In view of these subsidies for oil, it is hard to swallow listening to complaints that domestically produced ethanol excise taxes are not high enough, and somehow during this debate it comes out that it deprives a few million dollars for highway construction. The highway trust fund is flush with surplus money.

If my colleagues are really worried about this, then they should require all highway trust funds to be drawn down every year and put into construction. We should also stop the diversion of the highway trust fund to mass transit subsidies. Let the city folks pay the entire bill. But that is not our policy.

But how ironic it is. It is OK to divert the highway trust funds for mass transit, but not for domestically produced alternative fuels so we can be energy independent. The goal behind both mass transit and alternative fuels is to rid ourselves of our dangerous dependence upon foreign energy.

Madam President, some have suggested that they want to support this amendment because they oppose mandates, but these same people supported a number of market mandates in the energy bill in 1992. More important, if the Johnston amendment passes, we will have passed a de facto mandate for MTBE, which, of course, as we all know, is controlled by the oil industry.

But instead of mandating a mere 30 percent of the oxygenated market, as would the program that this amendment seeks to kill, the amendment will mandate a virtual monopoly for MTBE. The reason is simple: because EPA ignored the authors of the reformulated gasoline program in that 1990 clean air bill and implemented a simple model test for certification. By doing so, it blocks out ethanol's participation while guaranteeing MTBE a monopoly over this new market.

So, I say to my colleagues, those who are on the other side from those of us from the farm States on this issue, I hope you like your mandate. If you want to vote for the MTBE monopoly mandate, then support the Johnston amendment. On the other hand, if you want consumer choice, if you want competition for the oxygenated market, then you should oppose the Johnston amendment. Defeat of the Johnston amendment will assure that MTBE faces competition from domestically produced renewable fuels at the 30 percent level. And, remember, it is largely a question of a mandate that will increase the import of foreign MTBE versus a mandate that will increase the production of domestically produced renewable fuels.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I yield myself 3 minutes simply to reply very quickly to what my friend from Iowa has said.

First of all, the question I wanted to ask him was, did he state as follows during the last debate? This is from page 3517 of the Clean Air Act amendment debates:

> Mr. President, there has been considerable misinformation circulated about our amendment. We have been told that this amendment mandates one oxygenated fuel additive over another. That simply is not true.

That is a quote of the distinguished Senator from Iowa [Mr. GRASSLEY].

I was going to ask him if he made that statement. Of course, he did. It is in the CONGRESSIONAL RECORD.

I ask what he meant by it. The statement speaks for itself. And, yet, we are told today when we protest the fact that EPA has done precisely the opposite of what the Senator from Iowa has said, that this is some kind of big oil company conspiracy.

Madam President, how can you fly in the face of what the CONGRESSIONAL RECORD quotes as the Senator's own statement?

Second, I am told that I do not understand agricultural economics, that if I understood agricultural economics, I would understand that charging more for the price of corn gives higher profits to hog farmers or cattle farmers or chicken feeders.

Madam President, we have a pretty good farm community in Louisiana. My family is involved in cotton farming and cattle farming, and I can tell you that that flies in the face of any kind of economics I have ever heard of that says the higher the price of your raw material, the more profit you made on your manufacturing product.

The figures I showed about the net cost to agriculture were from the Department of Agriculture. They are not from some oil company economist. That came from the Department of Agriculture, which says that the net cost to agriculture as a result of this amendment will be $80 to $134 million a year every year unless that cost is passed on to the consumer, in which event the consumer pays that cost.

We are also told that my figures on the cost of this amendment were wrong.

Madam President, I have it in writing from CBO, and I ask unanimous consent that the letter from CBO detailing what the cost of this amendment is be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 1994.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR: At your request, the Congressional Budget Office has reviewed an amendment you proposed on July 14, 1994, to H.R. 4624, the VA, HUD, and Independent Agencies Appropriations Bill, that would prohibit any funds from being used to implement or enforce any requirement that a specified percentage of the oxygen content of reformulated gasoline come from renewable oxygenates. If adopted, this amendment would preclude the Environmental Protection Agency (EPA) from implementing its rule that would mandate that 30 percent (15 percent in 1995) of the oxygenates used in reformulated gasoline come from renewable sources.

ORIGINAL AMENDMENT: NINE-MONTH DELAY

Because the appropriations bill only governs 1995 spending, the EPA rule could be enforced beginning in the following fiscal year. Therefore, this amendment would prohibit enforcement for nine months (from January through September 1995). We estimate that the amendment would reduce ethanol production and use in fiscal year 1995 and, because of delayed plans to expand capacity, also in fiscal year 1996. Because ethanol comes mostly from corn, the provision would affect the corn market and the federal government's agricultural income support payments.

As a result, CBO estimates that an amendment delaying enforcement for nine months would lead to an increase in outlays for federal agriculture programs of $25 million in fiscal year 1995 and $4 million in 1996. Outlays would decline by $12 million in 1997. Because ethanol producers are eligible for tax preferences, a decline in ethanol use would produce a revenue increase for the federal government. The Joint Committee on Taxation has estimated that additional revenues would amount to $26 million in fiscal year 1995 and $37 million in 1996. These amounts are net of reduced income and payroll tax revenues. The estimated budgetary impact of this amendment is summarized in the attached table.

Effects on agricultural spending

Because of reduced ethanol production, the demand for corn would decline for the 1994 and 1995 crop years. (The 1994 corn crop year roughly corresponds to fiscal year 1995.) The price of corn would therefore decline for the 1994 crop year, leading to greater deficiency payments in fiscal years 1995 and 1996. (Deficiency payments are based on the difference between farm-level market prices and a specified target price.)

We expect that the Secretary of Agriculture would seek to offset the impact of lower corn demand on the 1995 crop of corn. Otherwise, carryover stocks would accumulate, depressing prices and leading to reduced farm income. The Secretary could avoid these effects by increasing the acreage reduction percentage (ARP), the proportion of their acreage that program participants must withdraw from production. CBO assumes that the Secretary would increase the ARP enough to nullify the price effect caused by reduced ethanol production. Such a change would cut agriculture spending in two ways. It would avoid an increase in the rate of deficiency payments (by holding up prices), and it would decrease the acreage on which deficiency payments are made.

As a result, the advanced deficiency payments (for the 1995 crop), made in the spring of 1995, would be lower than our baseline projections. The net result of higher payments for the 1994 crop and lower advanced payments for the 1995 crop would be corn program payments $25 million above the baseline level in fiscal year 1995.

Fiscal year 1996 outlays would be slightly above the baseline level because the final payment for 1994-crop corn would be higher than projected in the baseline. In 1997, the anticipated ARP increase for the 1995 crop would yield savings of $12 million, because the final payment for 1995-crop corn would be lower than the baseline level.

Effects on Federal revenues

A decline in ethanol use from delaying implementation of the renewable oxygenates standards would increase federal revenues because firms producing motor fuels that contain ethanol may receive a federal tax preference. Firms have the option of taking the tax preference as either an excise tax exemption or an income tax credit. The Joint Committee on Taxation has estimated that your amendment would lead to additional revenues totaling $63 million in fiscal years 1995 and 1996. This figure is net of reduced income and payroll tax revenues. Under established scorekeeping procedures, revenue effects of appropriation bills do not affect the scoring of those bills relative to the committee's spending allocations and the discretionary spending caps, because the legislative language of the Budget Enforcement Act of 1990 clearly puts all changes in revenues on the pay-as-you-go scorecard.

ALTERNATIVE AMENDMENT; PERMANENT DELAY

You also requested an estimate of the impacts of permanently blocking the EPA renewable oxygenate rule. This would result in a greater reduction in the demand of corn in fiscal year 1996 than under a temporary delay, and would also cause a decline in demand in subsequent years. Consequently, we would anticipate a greater increase in the ARP in 1996 (for crop year 1995), as well as increases in later years, to offset the effects of the lowered demand. Outlays in fiscal year 1995 would still increase, but by only $17 million. This amount is less than the fiscal year 1995 increase from a nine-month delay because advanced deficiency payments for crop year 1995 would be even lower.

The anticipated changes in ARP's would yield outlays savings of $30 million in fiscal year 1996. This figure is larger than the costs in 1995 because the expected ARP adjustment would also reduce the acreage on which corn deficiency payments are made. The savings would grow in subsequent years because larger and larger ARP adjustments would be necessary to offset the growing demand effects. We estimate that, for the five years 1995 through 1999, agriculture program costs would be $249 million below baseline levels.

The Joint Committee on Taxation has estimated that permanently blocking the EPA rule would produce additional revenues totaling $545 million over the 1995–1999 period, net of reduced income and payroll tax revenues.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are David Hull, who can be reached at 226–2860, and Mark Booth, who can be reached at 226–2685.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CBO ESTIMATES OF THE IMPACT ON AGRICULTURAL SPENDING FROM DELAYING IMPLEMENTATION OF EPA'S RENEWABLE OXYGENATE RULE

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
9-month delay:					
Estimated budget authority	25	4	−12	0	0
Estimated outlays	25	4	−12	0	0
Permanent delay:					
Estimated budget authority	17	−30	−69	−78	−89
Estimated outlays	17	−30	−69	−78	−89

Source: Congressional Budget Office.

JCT ESTIMATES OF THE IMPACT ON REVENUES FROM DELAYING IMPLEMENTATION OF EPA'S RENEWABLE OXYGENATE RULE

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
9-month delay:					
Estimated revenues	26	37	0	0	0
Permanent delay:					
Estimated revenues	26	94	121	142	162

Note.—Positive revenue changes refer to an increase in revenues; estimates are net of reduced income and payroll tax revenues.

Source: Joint Committee on Taxation.

Mr. JOHNSTON. Madam President, that is what CBO says, and it is $249 million over the 5 years.

Finally, we are told that unless we do this it mandates a monopoly for MTBE, that somehow ethanol is excluded.

Madam President, that is simply not so. To the contrary, the only reason that ethanol would be excluded is because of the lack of economics of ethanol because you cannot put it in the pipeline because it costs more to make, because it takes more Btu's to manufacture a gallon of ethanol than you get out of the gallon of ethanol. That is what dictates against ethanol. It is the market itself.

We have already had $4.6 billion of subsidy over the last 10 years from ethanol, $4.6 billion, over a half-billion dollars a year subsidy for ethanol. And yet we are told that is not enough, that it would be locked out of the market.

Madam President, I submit to you $550 million annual subsidy for ethanol is enough. If it cannot compete with that, then we should not force-feed it down the throats of consumers, a third of the gasoline users, who would have to pay 2 to 6 cents a gallon more, down the throats of those who pay the budget deficit, and $239 million for those who pay the highway users fund.

One final point. There was a quote from someone on the highway users from the Department of Transportation that says that distribution formula is not changed.

Madam President, we do not claim the distribution formula is changed. We say the amount of money in the highway trust fund is less. It is $545 million over 5 years less.

That is what we claim, and we base it on the Committee on Taxation. We do not claim that the formula is changed. The States get the same percentage, there is just less in the pot.

And why is that? It is common sense, Madam President. The source of the Highway Trust Fund is gasoline taxes. And if you substitute up to 30 percent ethanol, which in turn is subsidized at 54 cents a gallon, you lose that 54 cents a gallon that you pay out in the subsidy. It is a direct loss to the Highway Trust Fund, which in turn means the direct loss to each of the State's in this country. That is what we claim and that is based on the Committee on Taxation.

Madam President, if my colleagues can show me that that is wrong, I will withdraw this amendment without a vote, because I know it is right. The Committee on Taxation says it is right, the Highway Users Association says it is right, and everybody says it is right because it makes sense. I mean, if you subsidize 54 cents a gallon ethanol and substitute that for gasoline, which pays the full tax, and if that full tax funds the highway user fund, it makes sense.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I yield myself 2 minutes.

Listening to the arguments of my good friend from Louisiana—and I will respond at length later on when I will utilize most of my time—I cannot help but think of those little games you play at a county fair, with those little ducks going across a pond and you are supposed to shoot at them and you are constantly looking at a moving target. I have heard all these arguments he is making here and, quite frankly, he is bouncing from one to the other.

We are going to try to nail something down.

On the issue raised by my colleague from Iowa, talking about the formulated gas was fuel neutral, well, Senator GRASSLEY was right. It is fuel neutral. And on the ROS that we are talking about today, the rule that the Senator from Louisiana would support, even in its infancy, it is also fuel neutral. It does not say one word about ethanol. It simply says, renewable oxygenates, 15 percent first year, 30 percent next year. The renewable oxygenates could be methanol, as long as it is made from wood or garbage in landfills. There are a lot of places we can get methanol.

The Senator from Louisiana, of course, I understand wants it from natural gas.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. HARKIN. I will in a second.

So the renewable oxygenate standard that we are talking about today is fuel neutral. It just says a certain portion of the reformulated gas market will be renewables.

I will get on to the debate on renewables a little bit later, but it does not say ethanol. It could be ethanol if they make it from renewables. So the Senator from Iowa is exactly right.

On the issue of agriculture, if this is so tough on the livestock industry and going to hurt them so badly, why do we have a letter here from both the National Cattlemen's Association and the National Pork Producers Association, two of the largest users of corn in this country, supporting the renewable oxygenate standard rule that we are talking about here?

Madam President, I will ask unanimous consent to have this letter printed in the RECORD. It shows that the American Farm Bureau Federation, the National Cattlemen's Association—well, there is a whole host of different farm organizations here that support it. And I have a separate letter from the National Pork Producers Council supporting our position on this.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD as follows:

JULY 27, 1994.

Hon. GEORGE J. MITCHELL,
U.S. Senate,
Washington, DC

DEAR SENATOR MITCHELL: As representatives of America's farmers, we want to reiterate our support for the Renewable Oxygenate Requirement (ROR) for reformulated gasoline, and express our strong opposition to potential amendments to the VA, HUD, and Independent Agencies appropriations bill that would effectively repeal this important program.

The ROR was recently finalized by the Environmental Protection Agency after extensive comment and careful consideration. This is the appropriate forum for consideration of Clean Air rules.

An expanded renewables market will generate demand for grain and other energy crops and provide economic opportunities for rural America. More importantly, this Clean Air rule will enhance the environmental benefits of reformulated gasoline, will contribute to energy security, will reduce emissions of greenhouse gasses, and will provide consumers with a choice of oxygenates. According to EPA, the ROR will maximize reductions of volatile organic compounds. The Department of Energy has concluded that the ROR will provide significant reductions in fossil energy use. The best news is that the positive environmental and energy benefits of the ROR will not increase the cost of reformulated gasoline at the pump for consumers.

The benefits of this Clean Air rule for agriculture are significant. According to an analysis completed by the U.S. Department of Agriculture, the ROR will increase the demand for corn used in ethanol production and will reduce farm program costs by $2.3 billion over the next five years. At the same time, feed co-products of ethanol production will be available to meet the needs of beef, dairy and poultry producers.

The ROR simply makes sense for America. We ask that you support the rule by opposing amendments to repeal this important program.

Sincerely,

American Agriculture Movement, Inc.; American Agri-Women; American Farm Bureau Federation; American Seed Trade Association; American Society of Farm Managers and Rural Appraisers; American Soybean Association; American Sugar Beet Growers Association; National Agricultural Chemicals Association; National Association of State Departments of Agriculture; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Corn Growers Association; National Cotton Council; National Council of Farmer Cooperatives; National Family Farm Coalition; National Farmers Organization; National Farmers Union; National Grain Sorghum Producers; National Grange; National Rural Electric Cooperative Association; Women Involved in Farm Economics.

NATIONAL PORK PRODUCERS COUNCIL,
Washington, DC, July 20, 1994.

Hon. PAUL SIMON,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SIMON: As you know, it has been suggested by some of your colleagues that the U.S. pork industry is not in support of the ethanol industry and the Administration's recent action on reformulated gasoline. To the contrary, the National Pork Producers Council (NPPC), which represents the nation's pork industry, supports a renewable fuels-based ethanol industry in the U.S. and the Clinton Administration's recently announced Renewable Oxygenate Requirement (ROR).

Furthermore, we strongly support the principle of value added agriculture, whether it be producing pork from corn or ethanol from corn. Both create jobs, increase revenues and generated economic activity which are vital to the long term viability of rural America.

Sincerely,

GLEN KEPPY,
President.

Mr. HARKIN. Finally, Madam President—and I will not get into this point now, but I will take my time after some other Senators speak—the Senator from Louisiana keeps saying that this is going to use more energy to make ethanol than what we get out.

Well, Madam President, I am going to talk about seven myths that have come up about renewable oxygenates and about ethanol. And that happens to be one of the biggest one. The fact is that ethanol produces more energy than the fossil energy put in to make it. We get more out of it than what goes into it, and a lot more than methanol.

And, again, if I can prove this, which I believe I can, to the Senator from Louisiana, perhaps he would want to withdraw his amendment, because he is basing so much of it on the fact that it takes more energy to make ethanol than the energy we get out of it. It is a total myth.

Madam President, I now yield 7 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 7 minutes.

Mr. EXON. I thank the Chair and I thank my friend from Iowa.

Madam President, when I talk to my constituents, as I do every weekend, I frequently am asked about the form of debate on the floor of the U.S. Senate, where we continually say, "My good friend and colleague from" such and such a State and then you get into a violent discussion.

Well, I simply want to start out my remarks today to assure my good friend and colleague from the State of Louisiana that he is an honorable man. I have known him for the 16 years that I have been in the U.S. Senate. We have been good friends. We serve on the Budget Committee and have similar views on many, many things. But we have sharp disagreement on this.

I suggest, Madam President, that we have sharp disagreement primarily because we have the responsibility to represent the interests of our States. While I do not agree with very much of what my friend and colleague from the State of Louisiana has thus far said—and I will be talking some more about this later on today—I wanted to address some of the things that I think have not been put into proper perspective but may be, hopefully, during this debate.

Madam President, I heard my colleague from Louisiana talking about our position in this as being a flimflam. Let me put that in perspective. The only flimflam so far in this whole debate—and I suspect it is going to be the centerpiece of this whole debate, so let us put it in perspective. This is big oil against the farmer. We can have all of the attacks that we want, but, the bottom line, Madam President, is big oil against the farmer. Let us lay that on the line and then let us take all of the arguments pro and con thereafter.

Those of us from the agricultural States obviously take the position with the farmer. My colleague from Louisiana, a big oil State, naturally takes the position of the big oil. And I respect him for doing what he thinks is best to represent his constituents. That is part of his job. I do not quarrel with that. I do quarrel, though, when some kind of a flimflam is brought into this debate as if it was all one-sided.

I simply say, Madam President, that my association with ethanol goes way back to the early 1970's, when I served as Governor of Nebraska. Back in those days, we called it gasohol. I believe Nebraska was the first State in the Union to become actively involved in the promotion of the concept of having an additive to gasoline that was not only good for the consumer, good for the environment, but also good for agriculture. And I make no bones about that.

At that time, Madam President, the only forceful opposition that we had that is still with us today is big oil. They are the flimflam boys. They fought us every step of the way back in those early days and they are still at it today.

I will have a chart, or someone will have a chart, later on during this debate that will clearly show that, even if the initiative that the Senator from Louisiana is trying to defeat—and I think we will defeat him—when this becomes operative at the suggestion of the President of the United States and his environmental department, we will clearly show that of all of the gasoline manufactured and consumed in the United States, ethanol would only have 1.2 percent of that; 1.2 percent of the total gasoline.

Why is big oil raising the flimflam situation with the limited amount of competition that would be introduced permanently into their market? Because I believe the big oil flimflam boys recognize that this, in and of itself, is not going to be a killer to their profits. But I firmly believe that big oil recognizes this as a nose under the tent, if you will, an invasion of their marketplace.

Not long ago there was such a connection between big oil and the automobile manufacturers that, when I bought a new automobile a few years ago and was reading through the manual, they said, "Do not use ethanol in this car."

We took them on. We called them up and said, why are you doing that? They have since changed and that does not appear in any of the warning manuals, in any of the instruction guidelines as far as I know in new automobiles today.

Big oil was against this in the 1970's, and if I were big oil I would be against us in the 1990's. For 20 years I fought this battle and I continue to fight it.

I say to the Senator from Louisiana, there are those of us from agricultural States who I think can speak much better for what is good for agriculture than can the Senator from Louisiana. The Senator from Iowa is a farmer. The other Senator from Iowa does an excellent job of representing farmers. We have heard from my colleague, Senator KERREY. We in Nebraska represent agriculture. I think we know what is best.

I have noted the arguments made by the Senator from Louisiana traditionally talk about an official in the Environmental Protection Agency who is behind this move. I want to correct that. The person behind this move is the President of the United States. I will read into the RECORD at this time, and then without objection have printed in the RECORD, a letter of July 22 signed by the President of the United States to the majority leader upon a request I made of the President when I was with him the day before this letter was written. The letter is dated July 22.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, July 22, 1994.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: Last month, the Environmental Protection Agency (EPA) made an important decision to use renewable fuels to help achieve the objectives of the Clean Air Act. By promulgating the renewable oxygenate rule, my Administration made good on a long-standing commitment to a cleaner environment and a stronger economy. The use of reformulated gasoline will help to improve the quality of the air in the nation's district cities. Through this decision EPA is helping to assure that renewable fuels continue to have a fair market share in a changing world of cleaner burning gasoline.

I am award of the attempts by some in Congress to block implementation and enforcement of EPA's rulemaking on renewable oxygenates. I strongly oppose any attempt to interfere with EPA's implementation or enforcement of this rule.

Sincerely,

BILL CLINTON.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. I ask for 10 minutes.

Mr. HARKIN. Madam President, The Senator may continue for 2 additional minutes.

Mr. EXON. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Ms. MOSELEY-BRAUN. Madam President, I rise today in strong opposition to the Johnston amendment, which would block the recently announced EPA ruling requiring a minimum of 15 percent, and ultimately 30 percent of oxygenates used in reformulated gasoline to come from renewable sources.

The Clean Air Act Amendments of 1990 require the use of cleaner-burning gasoline in the nine worst ozone nonattainment areas of the United States, and calls for that reformulated gasoline to contain a minimum oxygen content of 2 percent. In accordance with Federal renewable fuels policies, EPA has called for renewable fuels, including ethanol, to be part of the oxygenate market.

The EPA policy makes good policy sense. I ask unanimous consent to have printed in the RECORD the letter from the President the Senator from Nebraska has recently mentioned.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, July 22, 1994.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: Last month, the Environmental Protection Agency (EPA) made an important decision to use renewable fuels to help achieve the objectives of the Clean Air Act. By promulgating the renewable oxygenate rule, my Administration made good on a long-standing commitment to a cleaner environment and a stronger economy. The use of reformulated gasoline will help to improve the quality of the air in the nation's district cities. Through this decision EPA is helping to assure that renewable fuels continue to have a fair market share in a changing world of cleaner burning gasoline.

I am aware of the attempts by some in Congress to block implementation and enforcement of EPA's rulemaking on renewable oxygenates. I strongly oppose any attempt to interfere with EPA's implementation or enforcement of this rule.

Sincerely,

BILL CLINTON.

Ms. MOSELEY-BRAUN. The policy will reduce our dependence upon foreign fuels, ensure competition in the marketplace, clean our air, and create investment and jobs in rural America. Most importantly, and the point I think we really need to emphasize here, is that we are finally moving away from mining and drilling and extracting a finite supply of fossil fuels from the earth. With the EPA policy, we are turning corn into fuel. And when we run out of corn, we will just simply grow some more.

During the energy shortage of the 1970's, I am sure my colleagues can remember how Americans waited in long lines for a turn at the gas pump, as fuel prices soared. America faced up to a disturbing fact in those years: Dependence upon foreign nations for our energy needs was a serious problem, in terms of both national security, and economic stability.

Twenty years later, Congress was engaged in debate over whether the United States should take military action against Iraq after the Kuwait invasion. Soon we were at war in the Persian Gulf. The origins of this conflict were, in no small part, related to energy policy, and our continued and growing energy dependency on the Middle East.

So, it appears that despite the warning flags that have been raised over the past two decades, nothing much has changed. The United States still imports about half of its crude oil from the Middle East. This is why today's debate is so important.

The EPA has ruled that a certain class of fuel additives, ones produced here in America, not overseas, should not be shut out of a new national gasoline market. That is not a revolutionary idea. It is simply common sense.

Using home-grown, fuel additives as a route to energy independence is not a new concept. In fact, Illinois Senator Everett Dirksen, whose seat I now hold, advocated this idea nearly 50 years ago when he wrote the following words:

> We must alter our internal economy by processing surplus farm crops into alcohol of 10 percent * * * we will be able to establish a balanced agriculture, a balanced industry, and preserve for ourselves the greatest market in all the world: namely the market in our own land for our own people. It is a kind of diversification through which we can preserve an internal prosperity and rid ourselves of a dangerous dependence on the other nations.

The Johnston amendment, in its attempt to block the EPA rule, seems to say that Everett Dirksen was wrong, and that energy dependency is just fine. If the Johnston amendment passes, the Middle East will still govern, to a great extent, our national energy policy.

The EPA policy, the so-called renewable oxygenates standard, is a modest one. It will result in less than 1 percent of the Nation's gasoline being made from renewable materials, such as corn, cellulose, wood, and biomass. The overwhelming market share remains with MTBE, a methanol-based chemical produced by the petroleum industry.

So, with the EPA ruling, the domestic production capacity of MTBE does not decline, but in fact, grows by leaps and bounds. No industry is a loser. The demand for all types of oxygenates expands considerably, holding down the price at the pump, and giving consumers a choice.

However, by blocking EPA policy, as the Johnston amendment proposes to do, renewable additives would be shut out of the market, and a virtual monopoly of MTBE would be created. With renewable oxygenates removed from the equation, the commercial demand for MTBE would be forced far beyond domestic production capacity, and, according to Dewitt & Co. [an oil industry analyst], require a staggering 450 percent increase in MTBE imports. Most of these new MTBE imports would be sourced from OPEC countries.

This seems to me to be a step in the wrong direction, Mr. President. If we are concerned that our foreign policy in the Middle East is still driven in part by energy needs here at home, I urge my colleagues to think twice about voting for the Johnston amendment.

In my hometown of Chicago, ethanol blends have been in use for well over a decade—in fact, over 1 billion gallons of ethanol-blends will be sold in Chicago this year. Consumer surveys show Chicagoans favor ethanol 8 to 1 when asked their preference for ethanol or MTBE.

As one of the ozone nonattainment areas, Chicagoans will soon be using reformulated fuels. Given the preference of Chicagoans for ethanol, I think we have an obligation to assure the city's residents that costs at the pump remain low, and that there remains a choice among the types of oxygen components in the reformulated fuels market.

ENVIRONMENT

There also have been questions raised about the impact on air quality from using renewable fuels, particularly ethanol and ETBE, in the reformulated gasoline program. It is important to note that the very premise of this new rule is the finding by the EPA—after years of deliberation and review of over 12,000 comments—that the renewable oxygenate standard will improve environmental quality.

A Department of Agriculture study estimates that the production and use of renewables emits 27 percent less carbon dioxide than the production and use of gasoline. Other studies show that ethanol's use will reduce greenhouse gas emissions, including reports from Oak Ridge National Laboratory, and Congressional Research Service.

Just this week, in fact, in response to the suit filed against the rule by the American Petroleum Industry, the EPA filed a document stating that "renewable fuels in general, and ethanol in particular, have emerged as important sources of fuel promising significant benefits in * * * greenhouse gas emmissions," and goes on to say that there could be as much as a 5-percent reduction in ozone-forming volatile organic compounds as a result of the incentive to use ETBE in the summertime.

Finally I would like to take a moment to touch upon what I think to be the most exciting aspect of this proposal: The benefits to the American farmer. Again, to paraphrase Senator Everett Dirksen, this EPA policy will encourage the establishment of an energy market by investing in our own land for our own people. By ensuring that renewable oxygenates, at the very least, will have a small share of the reformulated gasoline market, we invest in American land, and in the American farmer. Or, we can vote for the Johnston amendment, and invest overseas.

Over the past 15 years, the American farmer has faced a grain embargo, debts, droughts—and just last year, farmers in Illinois and other Midwestern States were seriously devastated by the Great Flood. The American farmer is hurting.

The EPA rule provides part of the answer for addressing that pain. I have met with hundreds of farmers who see the EPA ruling as helping to revitalize their local economy and reducing their dependence on Government price support programs.

Already, over the past 5 years, the ethanol blending industry has spurred increases of farm sales totaling $8.2 billion, and a $450 million reduction, per year, in farm support payments. The spinoffs to related businesses such as fertilizer, seed, farm implements, and rural economics have been tremendous.

According to the American Farm Bureau Federation, every 100 million bushels of increased ethanol use would result in approximately $120 million annually to wheat producers, $50 million for soybean producers, and $40 million for producers of grain sorghum. As corn demand increases to satisfy new ethanol production, the benefits to rural economies will increase accordingly.

We cannot shut out our agricultural community by voting for the Johnston amendment.

Finally the EPA has ruled in this area after considerable study and debate. I ask my colleagues to seriously consider supporting this ruling of the EPA, to allow this bill on HUD–VA to go as it came out of subcommittee, and without this damaging and counterproductive amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. HARKIN. I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. I thank my friend from Iowa. I will try to help him out with a little bit of time squeeze because I know they are running down to the shorter rows and we all understand what short rows are, especially in this debate.

This issue has a tremendous impact on the agriculture community, even in my State of Montana. I know most of the rhetoric here has been centered around corn. But you can also use wheat and barley. Of course that is what we produce in our part of the country to produce ethanol.

We also have two ethanol plants that are up and running in the State of Montana. The issue, as it stands, is one of the economic viability of a competing industry, the use of ethanol as a fuel source, versus the sole dependence of fossil fuel sources. Due to the present administration's policy, restricting oil exploration and drilling on some of the most productive areas in Montana, as well as most of the West, we are forced now to depend upon importation of the major oil supplies.

I do not know whether America realizes it or not, but I would not sleep very good at night if I went home and I left this society at a security risk. Right now, 60 percent of our trade deficit is oil; 50 percent of our oil needs are imported into this country, and that worries me a little bit whenever we talk about energy security.

The implementation that will allow the use of ethanol as a fuel source will provide additional jobs not only in my State but across the Midwest, where we are striving to maintain our own.

The jobs will be derived from the use of ethanol, not only into a production process but also into fields across Montana. The increase in usage of wheat for the production of ethanol will aid in the pricing structure of wheat as well as decrease the amount paid out in crop support payments. And, of course, that, too, comes from the Government. At a time when we are trying to trim the budget, trying to live inside the budget, we have to provide some way for our farmers to go for another source of income.

We have to look at this and look at it from an environmental standpoint. A majority of high quality wheat is produced in Montana that goes in export. We still face the need to find new and developing markets for our grain we produce. Of course, another benefit that will be derived from the ethanol as used as an alternative fuel source is that of a clean burning gas. That is where we are coming from in this debate. Can we mix it?

I agree with my friend from Louisiana. I hate quotas and mandatory quotas that come down from the Government. But we also have to look at what is happening in my State as far as public lands are concerned and how we provide jobs and opportunities in my State of Montana.

So if we have to go to an alternative source, then we have to look at our renewable resources as a fuel source to keep this country running. The vast reserves of oil and natural gas in Montana are now, with this administration's policy, put at risk of even being extracted.

I stand here today as a defender of some of those jobs, some of those opportunities and, yes, energy security for this country.

Mr. President, I am heartily opposed to this amendment by my friend from Louisiana, knowing exactly where he is coming from, because I do not like the mandates either, but I have to look at a job base, an economic base, and energy security for this Nation called the United States of America.

I appreciate the time, and I yield back the remainder of my time. I thank my friend from Iowa.

Mr. JOHNSTON. Mr. President, I yield 15 minutes to the distinguished Senator from West Virginia.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, the Senate has to make an important decision with this amendment.

We have to make a choice. Are we going to allow the Federal Government to issue a decree of favoritism for one product—despite the fact that basic economics, environmental policy, and fairness argue otherwise? Or are we going to pass this amendment, and tell the Federal Government to stay out of the business of dictating decisions to consumers?

I urge my colleagues to make the only sensible decision. Vote for our amendment to reject the idea of coddling one kind of fuel at the expense of others. It is clear that the Senate has no choice but to force the Environmental Protection Agency to come to its senses, and give up on its baffling effort to stack the deck for a single product, known as ethanol—when other good choices exist for the same overall objectives of cleaning up the air and increasing America's energy security.

When EPA came out with its ruling to guarantee almost one-third of a market to a single product, I couldn't believe it. This ruling will eventually require that 30 percent of the oxygenated fuels sold in the Nation's nine smoggiest cities contain ethanol.

A Government policy that dictates the purchase of ethanol will suppress all of the other alternative fuels that exists as options. Instead of diversifying our energy resources, EPA's ruling sets out to make one product the clear winner. Controlling consumer choice and preventing competition in the marketplace, as we all know, hurt consumers. When you stifle competition, that costs jobs in industries that are more than ready to compete on a level playing field.

For years, I have been championing ways to promote clean-burning, domestically abundant alternative fuels. This is an essential course to continue progress in cleaning up our environment. It's also vital to overcoming the country's dangerous overreliance on foreign sources of energy supplies.

That's why I authored the Alternative Motor Fuels Act of 1988, which helped foster the manufacture of alternative fuel motor vehicles. From there, I put together a series of alternative fuel provisions that were part of the landmark Energy Policy Act of 1992.

My State of West Virginia produces coal and natural gas. Naturally, that means I am hard at work promoting the use of natural gas and methanol, which is derived from either coal or natural gas.

But I don't agree with the idea of the Federal Government picking winners and losers in the alternative fuels marketplace, and nor do I think the Senate should stand for such an idea. Our objectives should be to spur the development and future of a wide range of alternative fuels. We can do that, and still maintain principles like consumer choice, competition, and market economics.

It's in our Nation's interest to promote the use of alternatives to conventional gasoline made from imported crude oil. But it's illogical and too costly for the Government to hand over 30 percent of a market to one kind of alternative fuel. As we encourage other countries to develop market economies, how do we explain an EPA policy that has the Government managing the decisions of our own country's consumers?

Of course, the ethanol industry wants this Government handout. But it's a dangerous precedent. The administration is asking for big trouble if it wants to get into the business of replacing market forces. That's why I say we should get rid of this EPA policy. We should restore the original and still urgent goal of the 1992 Energy Act, which is to promote domestic energy alternatives to foreign imports that also benefit our environment at the lowest possible cost to the consumer. To do that, we should let the market decide which clean fuel makes the most sense.

In favoring ethanol, the EPA is violating a clear record of congressional insistence on fuel neutrality. Throughout the consideration of the recent Clean Air Act, it was made very clear that the Government's interest was in aggressively promoting cleaner fuels made with domestic sources—but it was not to favor one product over another.

If you vote against this amendment, consumers will pay more. Why? Because the EPA ethanol mandate will require the use of a more expensive additive when a more affordable one could do the same or better job. Our guess is that the EPA rule will increase the price at the pump by at least 7 cents per gallon of gasoline.

Handing over a large piece of an otherwise competitive market to ethanol will not only cost consumers more at the fuel pump; it will also increase their grocery bills. If the Federal Government is allowed to rule that more ethanol has to be produced, that's going to push up the demand for corn. Then, watch the price go up for pork, beef, and chicken as higher corn prices are absorbed. If the EPA rule raises the price of corn by a mere 5 percent, consumers will wind up paying an additional billion dollars.

The ethanol mandate will also chew away at the tax base needed to support our highway infrastructure. The highway trust fund is financed with fuel taxes. However, ethanol already has very special treatment in a place called the Tax Code, here, too, in the form of an exemption from 5.4 cents per gallon of the Federal gasoline excise tax.

Due to this tax subsidy, at current production levels, the high trust fund already loses $540 million annually from ethanol sales. Over the past 10 years, the exemption has cost the fund $4.6 billion.

According to the Federal Highway Administration, if the EPA gets its way with this mandate and forces the purchase of more ethanol for the purpose of making reformulated gasoline, the highway trust fund will lose an additional $465 million. Add it all up, and ethanol would cost our highways and bridges over $1 billion every year.

And here again, the mandate will cost jobs on top of everything else. If we deplete this much more from the highway trust fund, using a Federal Highway Administration formula, about 13,000 jobs could be lost.

Other jobs in our economy would go, too. Yes, jobs will be created in the ethanol industry, but at the expense of jobs in the methanol and natural gas industries.

And we all know how desperately we need more money, not less, to repair and upgrade the Nation's infrastructure. This is what makes the idea of giving a handout to ethanol, draining the highway trust fund of tax revenue, seem even more inane.

As far as environmental goals are concerned, requiring the use of ethanol would do nothing to improve air quality and could even make it worse. Ethanol has been shown to produce more greenhouse gases like carbon dioxide and other air pollutants than come from other alternative fuels.

That's the reason that environmental groups, including the Sierra Club and the Environmental Defense Fund—along with State air quality regulators—oppose the mandate.

Even Mary Nichols, Administrator for Air at the Environmental Protection Agency has admitted this, saying that the administration is "not claiming any air quality benefits as a result of this proposal."

And the mandate is not going to strengthen the country's energy security. The ethanol industry likes to call its product renewable—yet at least as much energy is required to plant, harvest and process corn for ethanol production as the fuel itself generates. There's a real possibility that the ethanol mandate could increase the use of energy from other countries.

In fact, experts at the Department of Energy, Resources for the Future, and Stanford University all say the mandate could increase oil imports and wouldn't improve energy security. That's because more gasoline goes into reformulated gasoline when it's made with ethanol, than when it's made with the alternatives—and because oil is used to grow corn and to distill ethanol. And by the way, when we import more oil, the trade deficit increases.

The ethanol industry has attempted to characterize this debate as an attempt by "bid oil," as they put it, to block the mandate.

In fact, the EPA rule is opposed by a broad coalition of interests including consumer groups, oxygenate producers, the natural gas industry, engineers, builders and contractors, truckers, traffic safety groups, chemical manufacturers, the U.S. Chamber of Commerce, and major environmental groups.

Actually, the mandate will guarantee sales for ethanol producers, who will reap the lion's share of the profits.

For this reason, for anyone who is serious about cutting the fat out of Government, the ethanol mandate is a good place to start.

The ethanol industry has grown accustomed to Government subsidies and preferential tax treatment, but it is fiscally irresponsible to give a mandate to a product that is already subsidized. One agribusiness giant, which makes more than 60 percent of the ethanol in the United States, could benefit more than all of the corn farmers combined.

Mr. President, I urge my colleagues to support the Johnston-Bradley amendment to restore fuel neutrality to the reformulated gasoline program.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I listened with great interest to my friend from West Virginia, and he is my friend. But, quite frankly, I have to say that it seems that he has fallen victim to the various myths that are surrounding the production of ethanol and methanol. Myth No. 1 that my friend seems to have fallen for is the myth that somehow the tax benefits accrue only to ethanol.

Let me read from the Tax Code itself. This is providing for the tax benefits.

> The term "alcohol" includes methanol and ethanol but does not include alcohol produced in petroleum, natural gas, or coal.

If you want to make methanol from renewable sources, it gets the same tax benefit as ethanol.

Second, the Senator from West Virginia, as the Senator from Louisiana before him, talks about the great subsidies that we give to ethanol. I am reading from a chart put out by the Alliance to Save Energy. In April 1993, the types of subsidies to conventional versus nonconventional energy sources in 1 year, 1989—total subsidies for fossil fuel, coal, oil, natural gas, mixed oil and gas, was $21 billion. Total subsidy for ethanol was $879 million. That is the difference. $21 billion subsidies for fossil fuel, $879 million for ethanol.

So when we keep hearing about all of these subsidies, let us not lose sight of the fact that fossil fuel gets the lion's share of subsidies in this country.

Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE], is recognized.

Mr. WELLSTONE. Thank you, Mr. President. I thank the Senator from Iowa.

Mr. President, for years I have been working on the policy of our country moving away from traditional sources of energy towards domestic, renewable, more technology to protect the environment. That is why I serve on the Energy and Natural Resources Committee. But every step of the way the entrenched independent energy industry powers, such as the oil industry, have tried to block the way. The case of ethanol is no different. Colleagues listening to this debate must understand that.

The EPA's renewables proposal is the direction we need to go in as a country. The rule is completely in tune with the intentions of the Clean Air Act, and it would represent a historic marriage between clean air policy and renewable energy progress.

So why are we here one more time trying to defend such progress? Moving toward renewable fuels means a cleaner environment, energy security, and rural economic development. Big oil stands for dirtier air, fossil fuel imports, and nonsustainable fuel supplies. The choice between the two should not be difficult for our colleagues.

Mr. President, there are so many issues I would like to debate. When I heard my colleague from West Virginia talk about the subsidies and talk about the whole issue of the market, I thought to myself, look at years and years of a stacked deck of massive subsidies for the oil industry. Now we look at renewable resources, and all of a sudden you have this intense opposition.

Mr. President, I will be the first to admit, and I am proud to admit, that this ruling is important for rural America, for agriculture, for rural Minnesota.

Five hundred farmers in Marshall, MN, this past February gave a standing ovation to a representative of the EPA, a bureaucrat from Washington, DC. There was genuine excitement because this rule communicates a message to rural America: You are not out of sight; you are not out of mind.

This rule gives hope to farmers in rural communities throughout the Midwest who are investing. I heard about Archer Daniels. In Minnesota it is farmer cooperatives who are investing their own savings.

Mr. President, I agree with my colleague from Nebraska when he said the choice is very clear. You vote for big oil interests—and these giants never surrender their privileges gracefully—or you support farmers and you support the environment.

Mr. President, I now want to focus, in the remaining minutes that I have left, on the consumer issues and the environmental issues. I was a college professor for 20 years, and I think I had a good reputation in my State for being a strong consumer advocate and an environmentalist, mainly through my writings. Now I am in the U.S. Senate. I know what my environmental record is, and I am proud of it.

But I have to tell you today that I am not the only consumer advocate who is opposed to this Johnston amendment. Citizen Action, which is the largest consumer organization in this country, opposes the pending amendment and says that the EPA rule "will assure consumers of competition among suppliers of oxygen components and choice in the reformulated fuels market" because, otherwise, the oil industry locks it up. That is really what is at issue. If we want to have competition, then this amendment takes us exactly in the opposite direction; same old monopoly oil companies. They have the infrastructure. They lock up the markets. Where is the competition? This is not Adam Smith's invisible hand.

Mr. President, I will not go into the arguments about the burden on gas buyers at the pump. They are unsound. And I know the Senators from South Dakota and Iowa will speak to them. They are off base. There is not a shred of evidence to support that. But I want to emphasize to fellow Senators there are two environmental reasons to oppose the Johnston amendment.

First, it would kill a rule that will decrease greenhouse gas emissions and smog. Second, it will open up the Clean Air Act policies for amendment through the appropriations process.

Five environmental organizations, including the Sierra Club, Friends of the Earth, the Natural Resources Defense Council, the National Wildlife Federation, and the Environmental Working Group, all oppose this amendment on the basis that this opens up a whole can of worms and is inappropriate and is sadly mistaken.

In addition, when Mary Nichols was quoted—and I think it was a bit out of context. That was before the final rule. But we now have a letter from Carl Brunner of July 22, spelling out clearly the positive environmental effects of their decision.

Mr. President, if Senators plan to vote for the Johnston amendment, do not vote for it because environmental organizations favor this amendment. They oppose it.

I ask unanimous consent that this letter signed by five major environmental organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRIENDS OF THE EARTH, SIERRA CLUB, NATIONAL WILDLIFE FEDERATION, ENVIRONMENTAL WORKING GROUP, NATURAL RESOURCES DEFENSE COUNCIL

JULY 21, 1994.

DEAR SENATOR: When the Senate considers the VA-HUD-Independent Agencies appropriations bill for FY95, we ask that you oppose all new policy amendments affecting the environment. We take this position regardless of the substantive merits of such amendments, which we believe we are not the issue in this case.

Subcommittee Chair Barbara Mikulski and the members of the Subcommittee have reported a bill which focuses on the funding allocations which are the primary purpose of appropriations bills. While it is entirely appropriate to have a lively floor debate about those funding choices, we oppose any new proposal to encumber this bill with amendments which are legislation or limitations restricting specific environmental policies. Whatever the merits of any such proposals, we believe they would be more appropriately pursued through authorizing bills, regulatory procedures or the courts.

We recognize that Congress has a right and a responsibility to set environmental policies when necessary. However, floor amendments to the VA-HUD-Independent Agencies appropriations bill should not be the tool of the first resort. We oppose any floor amendments on takings, risk, cost/benefit and unfunded mandates. Consistent with our general opposition on procedural grounds to new policy floor amendments, we oppose the Johnston amendment to prevent the Environmental Protection Agency from implementing the ethanol rule. We understand that a lawsuit has been filed on this matter, which we believe should be decided through regulatory and legal means.

We make no pretense that the appropriations process is procedurally pure, and believe that each bill should be handled on a case-by-case basis. In the case of this bill, we draw the line on the bill as reported, and urge you to oppose all new environmental policy amendments offered on the floor.

Sincerely,

RALPH DE GENNARO,
Director, Appropriations Project, Friends of the Earth.
DAVID HAWKINS,
Senior Attorney, Natural Resources Defense Council.
A. BLAKEMAN EARLY,
Washington Director, Envir. Quality Program, Sierra Club.
SHARON NEWSOME,
Vice President, Resources Conservation Dept., National Wildlife Federation.
DAVID DICKSON,
Senior Analyst, Environmental Working Group.

Mr. WELLSTONE. Mr. President, the House wants to make the transition to renewable energy technologies. The President wants to make this transition. Why are some in the Senate standing in the way and trying to halt this transition? This is the direction we have to go in. This is about how we produce and consume energy and how we can protect our environment and at the same time promote economic development in our country.

This Johnston amendment represents a huge step backward, away from progressive and sound energy and environmental policy and toward the same old kowtowing to big oil. The administration is really trying to do something good. We have strong support from the minority leader, as well. Those of us who speak on this floor who care about rural America and agriculture, but also the environment, speak passionately for this.

I urge Senators to oppose this amendment.

Mr. JOHNSTON. If the Senator will yield.

The Senator stated that a number of organizations, including the Sierra Club, oppose this amendment on the grounds that it is directing in an appropriation bill what EPA should do. Does the Senator say that we should never tell an agency what to do in an appropriation bill? For example, would the Senator oppose the moratorium on Outer Continental Shelf leasing, which is contained in the Interior appropriations bill for 1995?

Mr. WELLSTONE. Let me respond to the Senator from Louisiana by saying that I take it on a case-by-case basis. I think what these environmental organizations are trying to say, and I simply quote:

> We recognize that Congress has a right and responsibility to set environmental policies when necessary. However, floor amendments to the VA-HUD and Independent Agencies appropriation should not be the tool of first resort. We oppose any floor amendments on procedural grounds and new policy floor amendments. We oppose the Johnston amendment to protect the EPA from implementing the ethanol rule.

I think it speaks for itself.

Mr. JOHNSTON. Would the Senator agree that all these organizations you just mentioned oppose the rule of the EPA, whether they are for or against this amendment, as a way to get at the rule? Would you agree with me that they all opposed it then, and they testified against it, and that they oppose it now?

Mr. WELLSTONE. No. Mr. President, I would not agree with the Senator. As the Senator from Louisiana knows, I am very close to the environmental community, and I have had much discussion with the community. The Sierra Club was originally opposed to the EPA decision. I am not aware that the other organizations in fact are opposed. The Sierra Club made it very clear—and I have this letter. They make it clear that they oppose this amendment and think it is a mistake. In addition, I will quote——

Mr. JOHNSTON. The Sierra Club also opposes the rule, though, that this——

Mr. WELLSTONE. The Senator asked me whether all of these organizations opposed EPA rule. The answer I gave was, no, that is not correct. The Sierra Club opposed it, but other organizations took a different position.

The PRESIDING OFFICER. The time yielded to the Senator from Minnesota has expired.

Mr. JOHNSTON. Before yielding to the Senator from California, I want to take a minute to correct the RECORD on this. There has been a lot of talk here about what did Mary Nichols say, Assistant Administrator of EPA. My friend from Minnesota suggested that the quote that I had maybe was a little bit out of context. If I may put it into the RECORD, here is what she said:

We are not claiming any air quality benefits as a result of this proposal.

What she said in questioning by Senator BRADLEY before our committee is as follows:

I think I was clear in my testimony that we are not claiming any air quality benefits as a result of the proposal.

Senator BRADLEY. No air quality benefits?

Ms. NICHOLS. Correct. The air quality benefits are exactly the same and that is what we are trying to maintain.

Senator BRADLEY. So there are no air quality benefits from this proposal?

Ms. NICHOLS. In the intermediate term, when the regulation goes into effect in 1995, we are not claiming any such benefits.

Skipping to the next page—

Senator BRADLEY. Mr. Riggs, has DOE done any analysis of the impact of this mandate on the refinery industry?

Mr. RIGGS. No.

Senator BRADLEY. Has DOE done an analysis of the impact of this mandate on the marketing and supply industries?

Mr. RIGGS. No.

Senator BRADLEY. Has DOE done any analysis on the impact of this mandate on gasoline prices on a market-by-market basis?

Mr. RIGGS. No.

Senator BRADLEY. Can you assure my constituents that this mandate will not result in spot shortages and price spikes?

Mr. RIGGS. I do not have any evidence that would allow me to do that. I do not know of any such.

So, Mr. President, I would like to offer this. I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator BRADLEY. Does the EPA make the claim that environmental benefits will accompany this proposal?

Ms. NICHOLS. The studies that I have indicated to you indicate environmental benefits over the long term. But I think I was clear in my testimony that we are not claiming any air quality benefits as a result of the proposal.

Senator BRADLEY. No air quality benefits.

Ms. NICHOLS. Correct. The air quality benefits are exactly the same, and that is what we are trying to maintain.

Senator BRADLEY. So that there are no air quality benefits from this proposal?

Ms. NICHOLS. In the immediate term, when the regulation goes into effect in '95 we are not claiming any such benefits.

Senator BRADLEY. Okay. Are you aware that the Deputy Administrator of EPA, Mr. Sussman, on Tuesday said that the CO_2 benefits of the mandate were negligible, if any?

Ms. NICHOLS. I have heard that statement, yes.

Senator BRADLEY. Do you agree with that?

Ms. NICHOLS. I believe that, again looking at the short term, he is correct, and that is what the DOE study would also indicate. I believe that the claims or the interest in renewable fuels is one which is based on the post-2000 need for greater reductions in CO_2 emissions.

Senator BRADLEY. How did you arrive at a 30 percent mandate as opposed to a 50 percent or a 10 percent?

(Pause.)

Why do you not think about that and let me ask Mr. Riggs a couple of questions. I will come back to you, Ms. Nichols. Let me just get Mr. Riggs. I only have five minutes.

Ms. NICHOLS. I have the answer to your question if you would like.

Senator BRADLEY. Mr. Riggs, has DOE done any analysis of the impact of this mandate on the refinery industry?

Mr. RIGGS. No.

Senator BRADLEY. Has DOE done an analysis of the impact of this mandate on the marketing and supply industries?

Mr. RIGGS. No.

Senator BRADLEY. Has DOE done any analysis of the impact of this mandate on gasoline prices on a market by market basis?

Mr. RIGGS. No.

Senator BRADLEY. Can you assure my constituents that this mandate will not result in spot shortages and price spikes?

Mr. RIGGS. I do not have any evidence that would allow me to do that. I do not know of any such.

Senator BRADLEY. Thank you very much. Let me ask you a further question here. Are you aware that the Secretary of Energy described the CO_2 impact of the EPA mandate as being a wash at Tuesday's hearing, meaning there is no significant CO_2 advantages?

Mr. RIGGS. Yes.

Senator BRADLEY. You are aware of that?

Mr. RIGGS. Yes.

Senator BRADLEY. Did DOE provide any official comments to EPA?

Mr. RIGGS. We provided our analysis. We did not provide a comment or recommendation because the analysis was still in draft.

Senator BRADLEY. Did you provide any unofficial comments or other analysis to EPA?

Mr. RIGGS. Not as a DOE position, but our analysts talk regularly with their analysts.

Senator BRADLEY. The answer is no, you did not?

Mr. RIGGS. No official comment.

Senator BRADLEY. Were these unofficial comments part of the EPA official record?

Mr. RIGGS. Yes.

Senator BRADLEY. If DOE did not comment, do you know how the EPA calculated the energy security and global warming benefits?

Mr. RIGGS. I think that is an ongoing process. We provided our analysis based on their proposed standard and they are in the process now of analyzing all the input to determine the final standard. I would have to ask Ms. Nichols * * *.

Mr. DASCHLE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DASCHLE. I noticed, as the Senator from Louisiana discussed the comments made by the official from EPA, the reference was made to "no immediate effect." Would the Senator repeat for the RECORD that particular line?

Mr. JOHNSTON. Yes.

Senator BRADLEY. No air quality benefits.

Ms. NICHOLS. Correct. The air quality benefits are exactly the same.

Senator BRADLEY. So that there are no air quality benefits from this proposal?

Ms. NICHOLS. In the intermediate term, when the regulation goes into effect in '95, we are not claiming any such benefits.

It goes on to say, if I may:

Senator BRADLEY. OK. Are you aware that the deputy administrator of EPA, Mr. Sussman, on Tuesday, said that the CO2 benefits of the mandate were negligible if any?

Ms. NICHOLS. I have heard that statement, yes.

Senator BRADLEY. Do you agree with that?

Ms. NICHOLS. I believe that, again looking at the short-term, he is correct, and that is what the DOE study would also indicate. I believe that the claims or the interest in renewable fuels is one which is based on the post-2000 need for greater reductions in CO2 benefits.

Mr. DASCHLE. If the Senator will yield, that is the point many of us have made all along—that, obviously, during the implementation phase, intermediate phase, it is difficult to calculate the benefits because the rule has not been fully implemented. In fact, it is the Senator's position that it ought never be implemented or delayed, thereby delaying whatever benefits could be created at the time of implementation.

Obviously, we have to provide for an opportunity for this rule to be implemented in order for the benefits to be derived. That is, I think, the point of this testimony. Nobody should be confused. There is a very significant benefit related directly to this rule if it is allowed to be implemented; immediate would be a question, but in the long-term, there is absolutely no question.

Mr. JOHNSTON. Mr. President, the Senator has made a point, and I think it is a valid one. I would like to put it in full context, and I would like this to go into the RECORD. What Ms. Nichols said is that between now and post-2000, there are no benefits. What are the benefits from? Post-2000, at some time, you are going to be able to make methanol and ethanol from wood and other products, they hope, they think, they opine. When those new products come in, if ever—not from corn—they expect you will get some kind of payoff. In the meantime, in the next 6 years, you are losing a billion dollars a year at least from the Highway Trust Fund, with no benefits.

Mr. DASCHLE. If the Senator will yield, it is too bad Ms. Nichols cannot be here to defend herself. This is not their position.

Mr. JOHNSTON. EPA has been told this is the rule.

Mr. DASCHLE. They would not implement this rule where there are no benefits for 6 years. What they are saying is in the immediate or intermediate phase, as the implementation is continuing, that indeed there is a negligible benefit simply because it is not implemented. But, certainly, I think it is very important that we keep the

RECORD accurate here. The accurate statement reflects that EPA's position is that there is a clear benefit, once this rule is implemented, and we do not have to wait until 2000.

Mr. JOHNSTON. I want to put in the RECORD the full record of this, which is very clear as to what Ms. Nichols' testimony is. They are not talking about the transition phase from now and the next couple of years. They are talking about post-2000 when some things may or may not happen, such as methanol from wood or wood products or some kind of new biomass. That is when they are talking about and what makes this clear.

I am having the staff look through to give the Senator the exact quote on that.

In the meantime, Madam President, I yield 10 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Louisiana and thank you, Mr. President.

Mr. President, I have been listening to this discussion. It seems to me there are three issues involved.

One, does it increase gasoline prices anywhere from 2 to 6 cents? Does it increase corn and consumer prices? And does it increase air pollution? And is there a loss to agriculture from $80 to $134 million a year?

I would like to discuss for a moment air pollution in my State.

Mr. President, I ask unanimous consent to print in the RECORD at an appropriate place the affidavit presented in Federal court on July 28 of this year by Mr. James M. Strock, the secretary for the California Environmental Protection Agency.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the U.S. Court of Appeals for the District of Columbia Circuit, No. 94-1502]

AMERICAN PETROLEUM INSTITUTE AND NATIONAL PETROLEUM REFINERS ASSOCIATION, PETITIONERS, *v.* U.S. ENVIRONMENTAL PROTECTION AGENCY, AND CAROL M. BROWNER, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, RESPONDENTS

MOTION FOR LEAVE TO FILE AFFIDAVIT OF THE HONORABLE JAMES M. STROCK, SECRETARY FOR ENVIRONMENTAL PROTECTION FOR THE STATE OF CALIFORNIA

Petitioners American Petroleum Institute ("API") and National Petroleum Refiners Association ("NPRA") hereby move for leave to file the Affidavit of the Honorable James M. Strock, Secretary for Environmental Protection for the State of California, as Exhibit 34 to their "Emergency Motion for Stay Pending Judicial Review." A copy of the Affidavit is attached.

The Affidavit of Mr. Strock demonstrates the environmental harm associated with the ethanol rule, and the harm to other parties that the rule will cause. It supports arguments of Petitioners in both the Emergency Motion for Stay and their simultaneously-filed "Motion for Summary Reversal or Expedited Consideration."

Good cause exists to permit the filing of Mr. Strock's Affidavit. The Affidavit contains important information from an objective high-ranking public official who is not a party to this case. The information was not available to Petitioners when the Motions were filed.

The Affidavit also corroborates the other Exhibits filed with Petitioners' Motions. Filing of the Affidavit therefore should not prejudice the other parties to this action, and should not delay the parties' responses to those Motions. If, however, Respondents or the Renewable Fuels Association wish to respond to Mr. Strock's Affidavit within a reasonable time in a supplemental filing to their responses due August 1, Petitioners would not object.

Respectfully submitted,

MICHAEL F. MCBRIDE,
Rita M. Theisen, LeBoeuf, Lamb, Greene & MacRae, Attorneys for Petitioners.

Dated: July 28, 1994.

[In the U.S. Court of Appeals for the District of Columbia Circuit, No. 94-1502]

AMERICAN PETROLEUM INSTITUTE AND NATIONAL PETROLEUM REFINERS ASSOCIATION, PETITIONERS, *v.* U.S. ENVIRONMENTAL PROTECTION AGENCY AND CAROL M. BROWNER, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, RESPONDENTS

AFFIDAVIT OF JAMES M. STROCK IN SUPPORT OF EMERGENCY MOTION FOR STAY PENDING JUDICIAL REVIEW

I, James M. Strock, declare as follows:

1. I am the Secretary for Environmental Protection for the State of California. I was appointed by Governor Wilson in 1991. I have personal knowledge of the matters set forth herein, and if called upon to do so, I could and would testify competently thereto.

2. As Secretary for Environmental Protection, I head the California Environmental Protection Agency ("Cal/EPA"). I am responsible for ensuring the health and welfare of our citizens and for protecting the environment.

3. The State Air Resources Board ("ARB") is one of the departments within the Cal/EPA structure. The ARB is recognized by the U.S. EPA as the State agency responsible for attaining and maintaining healthful air quality within California.

4. Pursuant to federal and California law, the ARB is vested with the jurisdiction to coordinate efforts to attain and maintain federal and the more stringent California ambient air quality standards, to conduct research into the solutions to air pollution and to attack the problems caused by motor vehicles, the major source of air pollution in Los Angeles and San Diego.

5. As described more fully below, EPA's promulgation of its renewable oxygenates mandate, the Regulation of Fuel and Fuel Additives, Renewable Oxygenate Requirement for Reformulated Gasoline ("ROR Rule"), [Final Rule promulgated June 30, 1994] will result in irreparable injury to the health and welfare of California citizens and to the environment since there are significant costs associated with its implementation in California and because it will exacerbate air quality problems in the Los Angeles and San Diego areas.

6. The ARB has determined that the ROR Rule likely will cause a demonstrable detrimental impact to California air quality during the winter months. Adding Ethanol to gasoline results in an increase of the Reid Vapor Pressure ("RVP"). As a result, the State would suffer increases in ozone, particulate matter (PM10), oxides of nitrogen (NO_x), and a loss of carbon monoxide (CO) emission reduction benefits. These are four of the criteria pollutants for which EPA and the State have set ambient air quality standards for the protection of human health and the environment. We estimate the use of ethanol as a renewable oxygenate would increase the RVP of gasoline by an average of one (1) pound per square inch (PSI) and would result in 20 tons per day of added volatile organic compound (VOC) emissions during the non-RVP season (i.e., the wintertime). VOCs are a significant contributor to smog for which Los Angeles, by far, has the worst problem in the country. To put that number in context, in order to bring the Los Angeles basin into compliance with the ozone standard, the local South Coast Air Quality Management District seeks to reduce 1990 VOC emissions from 1,452 tons per day to 300 tons per day. Therefore, a 20 ton per day increase (even spread out over Los Angeles and San Diego) is unacceptable and could interfere with our efforts to attain the nationally mandated ozone standard in the Los Angeles basin. The negative impacts associated with the other pollutants may not be as dramatic or as well understood. Nonetheless, EPA's action is indefensible on this ground alone.

7. EPA also neglected to adequately consider other impacts of the ROR Rule as applied in California. California has an aggressive reformulated gasoline program which will achieve much greater emission reductions than would be achieved by the federal program alone. California's reformulated fuels program is fuel-neutral to maximize flexibility in fuel production to most effectively and efficiently achieve air quality goals. EPA's specification of renewable oxygenates (ethanol) undercuts the flexibility of California's program without any indication of environmental benefits.

8. I am informed that some California refiners may have to undertake modifications to their facilities in order to comply with the ROR Rule. The ROR Rule will impede California gasoline producers' ability to comply with the extensive regulatory requirements associated with California's program because any modification to a facility will require filing applications with local air agencies for permits to construct and to operate. Those permit applications are required to be evaluated and approved prior to any significant modifications taking place. The agencies cannot be required to process those applications in less than 180 days after receipt of the application.

9. The costs associated with the ROR Rule are not justified since there is no air quality benefit. In fact, California is left with a lose-lose proposition—worse air quality at a substantial price tag for the State, California refiners and consumers.

10. If ethanol is the only renewable oxygenate used, the actual, monetary cost to the State is expected to be $60 million because the increased use of ethanol (for which there is a $0.54 per gallon tax credit) mandated by the ROR Rule will reduce the federal excise tax collected for gasoline in California. This $60 million loss would come in the form of lost federal highway trust funds, thereby exacerbating highway congestion and causing even more emissions from inefficiently performing engines.

11. The cost impacts on California refiners arise from several areas including, but not limited to, requirements to add substantial storage capacity at refineries and terminals, recordkeeping requirements, uncertainty of ethanol supply, refinery modifications and

repermitting. Such costs, to the extent possible, would likely be passed onto consumers and would further hamper recovery from the prolonged recession in Southern California.

12. EPA also recognizes that there will be increases in toxic emissions resulting from the ROR Rule. While the ARB has not had the opportunity to fully study the toxic emission impacts of the ROR Rule, EPA has indicated that additional toxic emissions will result from the use of renewable oxygenates. Addressing this issue, EPA merely states that toxics air standards have been set in the RFG Rule and, therefore, must be met. EPA, however, ignores the impact of the increase in toxic emissions on those refiners which already have emissions lower than the standard prescribed in the ROR Rule. For such refiners, we expect toxic emissions will increase, possibly up to the level (or standard) established in the RFG Rule. For those refiners, there will be actual toxics emission increases. Therefore, there will be irreparable harm to California citizens.

13. For the foregoing reasons, the ARB finds the ROR Rule to be indefensible. The State of California implores this Court to issue the stay requested by petitioners and reverse this ill-conceived, irrational and harmful requirement.

Executed this 29th day of July, 1994, at Sacramento, California.

JAMES M. STROCK,
Secretary, Cal/EPA.

[In the U.S. Court of Appeals for the District of Columbia Circuit, No. 94–1502]

AMERICAN PETROLEUM INSTITUTE AND NATIONAL PETROLEUM REFINERS ASSOCIATION, PETITIONERS, *v.* U.S. ENVIRONMENTAL PROTECTION AGENCY, AND CAROL BROWNER, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY, RESPONDENTS

CERTIFICATE OF SERVICE

I hereby certify that this 29th day of July, 1994, I am serving on the following, by hand delivery and by facsimile, copies of the foregoing Motion for Leave to File Affidavit of The Honorable James M. Strock:

John Hannon, Esq., Office of General Counsel, Air & Radiation Division, Room W545 West Tower, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Correspondence Control Unit Office of General Counsel (LE–13), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Alice Mattice, Esq., Tim Burns, Esq., U.S. Department of Justice, Environmental & Natural Resources Division, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

Barry B. Direnfeld, Esq., Robert S. Taylor, Esq., Michael E. Ward, Esq., Swidler & Berlin, Chtd. 3000 K Street, N.W., Suite 300, Washington, D.C. 20007.

MICHAEL F. MCBRIDE.

Mrs. FEINSTEIN. Mr. President, I rise to support the Johnston-Bradley amendment to prohibit the Environmental Protection Agency from spending funds to implement its renewable oxygenates rule requiring the use of ethanol in reformulated gasoline.

I oppose the mandate to use ethanol in reformulated gasoline for three basic reasons:

It will have no clear environmental benefit. In fact, in California it could adversely affect air quality, increase emissions of volatile organic compounds, particulate matter, and nitrogen oxides;

It will likely increase costs to consumers; and

It will cost California as much as $60 million in lost Federal highway trust funds.

Mr. President, James Strock, secretary for Environmental Protection of the State of California, states EPA's promulgation of its renewable oygenate mandate will result in "irreparable injury to the health and welfare of California citizens and to the environment since there are significant costs associated with its implementation and because it will exacerbate air quality problems in the Los Angeles and San Diego areas."

According to the California Air Resources Board, the rule will adversely impact California's air quality during winter months. Adding ethanol to gasoline increases the Reid vapor pressure. This results in increases in ozone, particulate matter, and oxides of nitrogen [NO_x]. The State of California estimates that the use of ethanol as a renewable oxygenate in gasoline would result in an additional 20 tons per day of volatile organic compound emissions in the wintertime. Volatile organic compounds are a significant contributor to smog, and as I'm sure my colleagues know, Los Angeles has the worst smog problem in the Nation.

In order to bring the Los Angeles area into compliance with the ozone requirements of the Clean Air Act and protect the health of our citizens, the local South Coast Air quality Management District is trying to reduce the 1990 volatile organic compound emissions from 1,452 tons per day to 300 tons per day. An increase of 20 tons of volatile organic compound emissions certainly interferes with the efforts to reduce these emissions and makes the overall goal far more difficult to achieve.

California already has an aggressive reformulated gasoline program which will achieve much greater reductions in emissions that would be achieved under the Federal ethanol mandate. The California program is fuel-neutral and thus maximizes the State's flexibility to attain the air quality goals in the most efficient and cost-effective manner. The ethanol mandate undercuts this flexibility with no air quality benefits.

Moreover, it will increase costs to California refiners, costs that likely will be passed on to consumers. The petroleum industry has already undertaken significant investments in reliance of the fuel-neutral reformulated gasoline rule. If the ethanol mandate goes forward, I understand some refiners may have to make modifications to their facilities in order to comply with this mandate. For example, ethanol cannot be shipped through pipelines and will have to be blended in terminals downstream from the refinery. When ethanol is added downstream, refiners may need to overdesign their refineries to be sure that their gasoline meets the reformulated gasoline specifications. In addition, there are going to be additional record keeping costs. All of these costs are likely to be passed on to consumers. While we do not know the exact amount of the increased costs to produce reformulated gasoline with ethanol since they will be refinery specific, the California Air Resources Board expects the costs to California consumers to be significant.

Additionally, the cost of ethyl tertiary butyl ether [ETBE] is significantly higher than the cost of methyl butyl ether [MTBE] and other comparable ethers. EPA has estimated that gasoline blended with ETBE will cost somewhat more than gasoline blended with MTBE. According to the California Air Resources Board, the increased use of ETBE would increase the total cost to California consumers by $20 million per year.

Finally, Mr. President, the ethanol rule is going to cost the State of California a very substantial amount of money—as much as $60 million. If ethanol is the only renewable oxygenate used, the State of California will lose $60 million in Federal highway trust funds. This is because the increased use ethanol, for which there is a 54 cents per gallon tax credit, will reduce the Federal excise tax collected for gasoline in California.

Mr. President, in sum, the ethanol mandate fails to provide air quality benefits and it is going to cost consumers, refiners and the State money. It is a lose-lose situation. I urge my colleagues to vote for the Johnston-Bradley amendment.

Mr. President, I would like to quote just briefly from some of this affidavit.

> EPA's promulgation of its renewable oxygenate mandate, the regulation of fuel and fuel additives renewable oxygenate requirement for reformulated gasoline will result in "irreparable injury to the health and welfare of California citizens and to the environment since there are significant costs associated with its implementation"—in California—"and because it will exacerbate air quality problems in the Los Angeles and San Diego areas."
>
> The Air Resources Board has determined that the rule will cause a demonstrable detrimental impact to California air quality during the winter months. Adding ethanol to gasoline results in an increase of the Reid vapor pressure. As a result the State would suffer increases in ozone, particulate matter, and oxides of nitrogen and a loss of carbon monoxide emission reduction benefits. These are four of the criteria pollutants for which EPA and the State have set ambient air quality standards for the protection of human health and the environment.
>
> We estimate the use of ethanol as a renewable oxygenate would increase the RVP of gasoline by an average of one pound per square inch and would result in 20 tons per day of added volatile organic compound

> emissions during the non-RVP season the winter time. VOC's are a significant contributor to smog for which Los Angeles, by far, has the worst problem in the country. To put that number in context, in order to bring the Los Angeles basin into compliance with the ozone standard, the local South Coast Air Quality Management District seeks to reduce 1990 VOC emissions from 1,452 tons per day to 300 tons per day. Therefore, a 20 ton per day increase (even spread out over Los Angeles and San Diego) is unacceptable and could interfere with our efforts to attain the nationally mandated ozone standard in the Los Angeles basin.

So here, Mr. President, you have one mandate conflicting with another Federal mandate. What is the State to do? These are not my words. These are the words of James Strock, director of the California Environmental Protection Agency.

He goes on to say.

> California already has an aggressive reformulated gasoline program which will achieve much greater emission reductions than would be achieved under the Federal program alone.
>
> California's reformulated fuels program is fuel-neutral to maximize flexibility in fuel production to most effectively and efficiently achieve air quality goals. EPA's specification of renewable oxygenates (ethanol) undercuts the flexibility of California's program without any indication of environmental benefits.
>
> I am informed that some California refiners may have to undertake modifications to their facilities in order to comply with the ROR rule. The ROR rule will impede California gasoline producers' ability to comply with the extensive regulatory requirements associated with California's program because any modification to a facility will require filing applications with local air agencies for permits to construct and to operate. Those permit applications are required to be evaluated and approved prior to any significant modifications taking place. The agencies cannot be required to process those applications in less than 180 days after receipt of the application.
>
> The costs associated with the ROR rule are not justified since there is no air quality benefit. In fact, California is left with a lose-lose proposition—worse air quality and a substantial price tag for the State, California refiners and for consumers.
>
> If ethanol is the only renewable oxygenate used, the actual monetary cost to the State is expected to be $60 million because the increased use of ethanol (for which there is a $0.54 per gallon tax credit) mandated by the ROR rule will reduce the Federal excise tax collected for gasoline in California. This $60 million loss would come in the form of lost Federal highway trust funds, thereby exacerbating highway congestion and causing even more emissions from inefficiently performing engines.

The affidavit goes on to say that both the Air Resources Board and the director of Cal/EPA finds this rule to be indefensible.

> The State of California implores this Court to issue the stay requested by petitioners and reverse this ill-conceived, irrational and harmful requirement.

Mr. President, I think the point is from our State's perspective that we already have an aggressive reformulated gasoline program which is going to accrue greater reductions than that which would be achieved under this Federal ethanol mandate. Our program is fuel neutral. So it maximizes the State's flexibility to maintain air quality goals in the most cost efficient and air efficient manner.

I think the point that was made earlier that ethanol cannot be shipped through pipelines and will have to be blended in terminals downstream from the refinery is a real point. When it is added downstream, refiners may need to overdesign their refineries to be sure that their gasoline meets the reformulated gasoline specifications. While we do not know the exact amount of the increased cost, there is sure to be some.

Mr. President, these are not my views. These are the views of the California Environmental Protection Agency. I believe they should be entered in full into the RECORD and I hope this adds a positive note to this debate.

I thank you, Mr. President, and I thank the Senator from Louisiana.

I yield the floor.

Mr. HARKIN. Mr. President, I yield 10 minutes to the distinguished Republican leader.

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, I thank my colleague and I thank the Chair.

Mr. President, in the implementation of the Reformulated Gasoline Program contained in the Clean Air Act amendments of 1990, the Environmental Protection Agency has misinterpreted the law, doctored the science and created this massive problem we are here trying to straighten out today.

During the drafting of the Clean Air Act, some considered giving ethanol an advantage in the marketplace by writing into the law an oxygen requirement which MTBE could not meet. At the time, I said I could not support such a proposal, since it was and continues to be my belief that the marketplace should be the arbiter of this fight between ethanol and MTBE. The law was written with policy securely embedded within it—the policy that ethanol and MTBE would compete equally for the reformulated gasoline market.

Following the enactment of the law, EPA undertook the task of writing regulations to implement the law. That process, referred to as reg-neg resulted in a product so foreign to both the letter and spirit of the law that I question the capability of the lawyers at EPA who allowed this abomination to move forward.

What EPA created was a program in which only MTBE could compete—there was no marketplace competition between MTBE and ethanol, there was no ethanol at all, it was a 100 percent mandate for MTBE. What is so outrageous about this approach is that the vast majority of the MTBE we will use will be from imports. That is right, the reg-neg process in a mandate for the United States of America to become even more dependent on foreign sources of energy. I ask my colleagues who are trying to protect the hydrocarbon industry of this country how they can support such a program? How can they lay claim to concern for the oil industry by turning their backs on American energy security?

Mr. President, I did not vote for nor do I support a 100-percent mandate for MTBE. I did not vote for nor do I support a program that requires—that mandates—the United States. of America become more reliant on foreign sources of energy. Such a program is so outlandish that it would be laughed out of this chamber. Unfortunately, the adoption of the Johnston amendment would allow such a program to take place.

On the other hand, I do not support the administration's proposed solution to the clear distortion of the law that EPA had been seeking to implement. Rather than simply allowing the marketplace to be the judge, we now have a proposal that ethanol should be given 30 percent of the market. Why 30 percent, why not 25 percent or 50 percent or even 70 percent? It could just as easily be any of these numbers because 30 percent is arbitrary, it has no real foundation in the market or in science or any other field of fact. Of course, that should not surprise anyone since EPA has studiously avoided any field of fact from the beginning of this horrendous process.

EPA has long had an antiethanol bias. They had it in the Bush administration. As a result, the director of the EPA laboratory simply toys with numbers each time certified scientists pull back the curtain to reveal this Wizard of Oz and his tactics. There have been allegations of threats if private sector scientists did not cease seeking the truth, threats that no more EPA research dollars would flow their way. Mr. President, some day this will be rectified. It may not be today, it will not be resolved by this amendment, but it will be rectified.

EPA's antiethanol bias efforts to produce antiethanol results in testing efforts go beyond belief. During a Senate agriculture hearing this May, my colleague, Senator GRASSLEY, pointed out questionable testing procedures which included the removal of gas caps off cars and the failure to correct technical computer errors that would improve the testing outcome for ethanol. This type of control fails to provide a fair and accurate process to determine what everyone knows are the positive benefits of ethanol use.

The justification for not using the marketplace is EPA's assertion that ethanol will result in increased ozone. But, what we must all realize is that all of this science is nothing more than theory. That is right, not on fact but on theory the EPA tried to mandate that the United States become even more energy dependent of foreign energy sources, on theory EPA bureaucrats want to further jeopardize our energy security.

In addition, the health risks associated with the use of MTBE have been raised throughout the country. Senator GRASSLEY and I included this information in our dear colleague letter, however, there are those unhappy with questions raised about MTBE health risks. The American Medical Association has called for a moratorium on MTBE-blended fuels until scientific studies resolve these health risk questions. Alaska was identified in the resolution, and complaints have poured in from other States as well. Ongoing investigations into the health risks of MTBE by the center for disease control is a recognition of the concern for the potential harm associated with the use of MTBE-blended fuels. Reputable groups, such as the American Medical Association and the Center for Disease Control continue to question the health risks associated with MTBE-blended fuels. As long as the questions exist, we need to insure consumers have a choice in the marketplace.

If you do adopt the Johnston amendment, we create a de facto mandate for MTBE and not allow a choice for consumers.

As I said, I do not support the administration's proposed solution of a 30-percent ethanol mandate. But, the Senate has been placed in the untenable situation of having to vote for a 30-percent mandate of a 100 percent mandate. We are not allowed to choose the marketplace.

But we must vote. And I will vote against the Johnston amendment for the reasons I have stated and many others that have been stated on this floor today, and ask my colleagues do the same. If you want a 100-percent MTBE mandate, then I suppose you will support that amendment.

This is not what we were told was going to happen in the Clean Air Act. And I happen to think it is bad energy policy and bad trade policy.

So it seems to me that we are being asked to look at the lesser of two evils, the lesser of two evils by 70 percent.

I know that this has been described as a battle between the farmer and big oil. That is not the point I am trying to make. The point I am trying make is, I am opposed to mandates. Why not let the marketplace work? It seems to me in this case we have a choice between a 100-percent mandate and a 30 percent mandate. And I am prepared, at least in this case, to take the lesser of two evils.

Mr. JOHNSTON. Will the Senator yield?

Mr. DOLE. Yes.

Mr. JOHNSTON. Where did the Senator say this 100 percent mandate from MTBE comes from?

Mr. DOLE. That really comes from what the EPA did a couple years ago. That is where it all started. Ethanol was shut out altogether. They had an ethanol bias.

I must say, I tried to prevail on the Bush administration. Mr. Bill Reilly, as I recall, was the EPA Administrator. And I would insert for the RECORD a letter sent to Bill Reilly which outlines the concerns of EPA's actions toward ethanol. We met with him for month after month after month trying to find some relief. I think the Senator from Illinois may have been at one of the meetings.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 30, 1992.

Hon. WILLIAM K. REILLY,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR BILL: When Congress adopted the Clean Air Act Amendments of 1990, it did so with the expectation that alcohol fuels would not be precluded from being eligible to meet the section 211 requirements for reformulated gasoline, designed to provide cleaner fuel in ozone nonattainment areas.

At the same time, Congress did not intend that the Act be used indirectly as a methanol mandate at the expense of ethanol. Both ethanol and methanol were intended to be placed on equal footing consistent with the air quality goals of the Act. Unfortunately, reformulated gasoline regulations proposed by EPA, after a negotiated rulemaking, appear to have the effect of closing the reformulated gasoline program to ethanol and do not, as currently proposed, comply with the law.

We are aware of negotiations currently ongoing within the Administration which are attempting to resolve these problems. Since the Act itself does not create them, we strongly urge the EPA to resolve the problems created by the proposed rules in a timely manner so that reformulated gasoline is available by the statutory January 1, 1995 deadline.

To this end, we request your direct personal intervention in these negotiations to ensure the EPA is doing everything within its authority to uphold the intent of the Congress and the requirements of the law.

Thank you for your attention to this matter.

Sincerely,
BOB DOLE,
GEORGE MITCHELL,
JOHN CHAFEE,
MAX BAUCUS.

Mr. JOHNSTON. The Senator is not claiming there is a requirement in the law now for 100 percent use of MTBE.

Mr. DOLE. I am not claiming that.

Mr. JOHNSTON. The Senator does understand that the EPA rules require 30 percent of ethanol.

Mr. DOLE. I am saying the net effect of it is you have a 100-percent MTBE mandate.

I know what the rules require on ethanol. Why not let the marketplace work? Why rely on all the foreign sources? I know the Senator from West Virginia has a direct interest because it is very important to his State. I do not quarrel with that.

But my view from the start has been, even though it may not be shared by some who support ethanol, there is a marketplace out there and we ought to let it work. And I believe ethanol will do quite well. Maybe MTBE will do quite well, also.

Mr. JOHNSTON. Mr. President, my friend from Kansas, I sometimes disagree with him, but I never fail to be impressed with his wizardry here on the floor. To be able to say that the present law requires a 100-percent MTBE mandate is an example of that wizardry. It appears nowhere in the statute, nowhere in the rules, and yet it appears out of the legislative creativity of the mind of our friend from Kansas, and I stand in admiration of that.

Mr. DOLE. I just suggest, with ethanol shut out, you get it all. I am not sure what you call that. We have had a lot of talk about mandates and it seems to me that would be a fitting word to put in here. People understand mandates. That is where the Government says you cannot have any, and there is only one other product on the market. That is not much of a choice.

So it seems like it is 100 percent. Maybe I missed something.

Mr. JOHNSTON. Will the Senator agree with this: Whatever share of the market ethanol now has is as a result of the 54 cents a gallon; whatever share that MTBE has is as a result of the free market. And that is the sense of what my friend says is a complete mandate for MTBE.

Mr. DOLE. I cannot totally agree with that.

I have been prepared ever since we had the Clean Air Act to let the marketplace work. But, as I have said, there is and/or was, and I still think it may be to some extent, some anti-ethanol bias around this town and until we have an opportunity to compete fairly, then I do not think we have any choice but to vote against the Senator's amendment.

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank my friend from Louisiana.

I say to the Republican leader, I can almost count the times on one hand that I have been around on the floor and heard you speak and wanted to stand up and say that I did not agree with you, because that had not happened very often. So maybe you ought to just go ahead and leave before I do so, so I do not have to do it in front of you, because I do not do that very often.

Let me suggest that the distinguished Republican leader has it backwards, in my opinion. What this 30 percent mandate is going to do is to get rid of the marketplace. It is going to take the place of the marketplace.

As a matter of fact, speaking about EPA arbitrariness, nobody understands where this came from. I mean, it went through reg-neg, 2 years of hearings to establish regulations. And after they did that with everybody that has an interest, they decided there should be no mandate. And then, all of the sudden, and I hate to tell everybody this, but all of the sudden, I say to my good friend from Minnesota, the White House decided that it ought to be in there.

Now that is wonderful, except it does not have a lot to do with EPA and it does not have a lot to do with environmental cleanup.

Somehow or other, the Environmental Protection Agency was told after the full hearings on this that they had to go ahead and establish a new rule with 30 percent.

Am I not right, I ask my friend from Louisiana? Did not the EPA, before our committee, sit there and say, first, we do not know where it came from; like the 30 percent came out of the sky. The more we pushed them, it was obvious there was a nice trail from EPA over to the White House. Then, whether it was the President himself—nobody would quite say it—but obviously somebody told them to.

That is essentially what we are here for. Somebody in a high political position within the executive branch, after all of the appropriate hearings required by law were finished and there was no mandate on ethanol perceived to be in compliance with the law, needed by the law, or good for the country, after that all occurred the 30 percent came along.

Frankly, I am here because I recall vividly—and I thought he was on the floor a moment ago—during the debate on the Clean Air Act amendments, ethanol was discussed. Senator DASCHLE was the principal sponsor of an amendment that required that formulated gasoline use oxygenates.

And during that, Senator DASCHLE assured us,

> Our amendment does not lock refiners into any particular fuel composition. Refiners can decide how they want to get octane without toxic aromatics; they can decide how to achieve the oxygenate standard.

What has happened is that the Environmental Protection Agency—and, frankly, I do not agree with them all the time, I am not sure everything they have done on this issue is right—but essentially they followed the law. They wanted to make sure there would be competition. They wanted to make sure we were doing the very best by cleaning up our air yet bringing ethanol and methanol into the marketplace.

When they finished that, they decided there was competition, but they decided that it was not in the interests of the country to divvy up that market. If you could get ethanol cheaper, you ought to use it. If you could get methanol cheaper, you ought to use it. And, remember, ethanol has a pretty good subsidy going in. But that was not discussed. You take that as a given. If it was not competitive, obviously it would lose out.

It turns out that is not the case. But I might suggest for those who are wondering about competition, we are using a lot more ethanol today than we did 5 years ago. And it is growing without a mandate. I do not remember the numbers. Maybe somebody on the floor does. But that marketplace is growing. In fact, I will tell you right now, in my State in a purely competitive market there is a refinery using ethanol 100 percent.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DOMENICI. Sure.

Mr. JOHNSTON. The Senator says "a purely competitive market," purely competitive, keeping in mind the 54-cent subsidy for ethanol.

Mr. DOMENICI. As I said a while ago, nobody suggested, in deciding we would not further clutter up this market, to take anything away from ethanol. They were getting a subsidy, and it was assumed there is some benefit to the subsidy. So it has been left alone in these calculations.

In my State there is a refinery using 100 percent ethanol, and they are competitive. Frankly, I am very hopeful nobody votes for this on the basis that this is in favor of the refiners and against agriculture. I believe the vote in favor of the 1-year moratorium is a vote for the automobile users of America, which means all of them—millions of Americans. They will pay less for gasoline over the long haul. As a matter of fact, it might shock people, but my best information is that we will import more oil, not less—more oil, not less—if we go to this 30-percent standard.

Having said that, I am also hopeful nobody is confused about the environmental issue. There is a letter from the environmental groups suggesting in a very soft way they do not like this amendment. But not because they do not like the substance. They say they do not like it because they do not like the precedent of voting this kind of environmental prohibition on an appropriations bill.

Let me suggest there is no other way. If we do not do it this way, we will not get it done and this 30-percent rule will go into effect.

I will quote from the statement of the Sierra Club:

> The Sierra Club opposes the renewable oxygenate requirement for reformulated gasoline because the proposal is illegal, a violation of the regulatory negotiations, and the incomplete analysis fails to demonstrate that there are any significant air quality and other benefits that would warrant the additional costs imposed.

I want to close by saying to my friends Senator JOHNSTON and Senator BRADLEY, who have raised the issue of the existing subsidy of 54 cents—let me say to the Senator from Louisiana, did my colleague know we already calculate in our budget a very large cost to the budget of the United States based upon the 30-percent policy? It is assumed in the baseline we are using. And believe it or not, it increases the deficit over 5 years by $794 million.

Frankly, I think that is enough. That is enough for ethanol. That is more than they ought to get. We ought to try to save some of that money. But if we do not do what my colleague is suggesting, then that is added to the deficit by the policy of 30-percent.

Mr. JOHNSTON. If the Senator will yield, that also does not take into consideration that which is lost to the highway trust funds, $545 million.

Mr. DOMENICI. That is correct. That is correct. So I close saying that far be it from the Senator from New Mexico being opposed to farming, being opposed to raising corn, being opposed to using various of these kinds of crops to make energy for the United States. I just believe we have a lot of sources. The other source is natural gas. We have that in abundance also, to make the methanol. So I believe we ought to leave the marketplace alone. That is precisely why I am here. I wish this amendment did away with the 30 percent rule forever, but it actually is a compromise, I say to my friend from Oklahoma. It is just a 1-year moratorium in an effort to make sure we have some more time to get to this issue.

I yield the floor.

Several Senators addressed the Chair.

Mr. SIMON. On behalf of Senator HARKIN I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma sought recognition first. Who yields time?

Mr. SIMON. Mr. President, Senator HARKIN has time allotted to him. He has asked me to allot myself 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, we are hearing a lot of contradictory things here today. Let me just talk about a couple of things because Senator BRADLEY has indicated these in his letter. My friend, Senator ROCKEFELLER, who has done such a great job on health care, has indicated consumers are going to pay more. He is right on health care. He is wrong on this one.

Gasoline prices. EPA says this will increase gasoline prices between two-hundredths of 1 percent and two-tenths of 1 percent. So, yes, in gasoline prices a slight increase.

But on food it is not going to increase food prices one one-hundredth of 1 percent, because that is not the way the food market works. The price of corn flakes is not going to go up 1 penny.

Let me tell you from somebody who lives at Route 1, Makanda, IL, if the price of a combine by John Deere or International Harvester goes up, the price of wheat does not go up because that is not how we set the price of wheat out there. So do not think you are protecting consumers by voting for the amendment offered by my friend from Louisiana.

If this were to increase the price of the end product, the National Pork Producers Council would certainly not be indicating support for the position that I hold.

Mr. President, I ask unanimous consent that a letter from the National Pork Producers Council be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL PORK PRODUCERS COUNCIL,
Washington, DC, July 20, 1994.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: As you know, it has been suggested by some of your colleagues that the U.S. pork industry is not in support of the ethanol industry and the Administration's recent action on reformulated gasoline. To the contrary, the National Pork Producers Council (NPPC), which represents the nation's pork industry, supports a renewable fuels-based ethanol industry in the U.S. and the Clinton Administration's recently announced Renewable Oxygenate Requirement (ROR).

Furthermore, we strongly support the principle of value added agriculture, whether it be producing pork from corn or ethanol from corn. Both create jobs, increase revenues and generated economic activity which are vital to the long term viability of rural America.

Sincerely,

GLEN KEPPY,
President.

Mr. SIMON. Mr. President, my friend from New Mexico, for whom I have great regard and with whom I have worked on a lot of budget matters, indicated that this is going to cost money. The reality is the GAO study says we are going to save $100 million a year in terms of subsidies, and that includes what goes over to the Highway Trust Fund.

The Highway Trust Fund has been mentioned, and that we are going to lose jobs because of a lack of money going into the Highway Trust Fund. The reality is the Highway Trust Fund has an $11 billion surplus. What is stopping us from spending money from the Highway Trust Fund is not any regulation like this; it is our fiscal imprudence. I would love to be able to get Senator ROCKEFELLER and Senator JOHNSTON to join Thomas Jefferson in favoring a constitutional amendment that says we should have a balanced budget, and then when we allocate money like this, we will spend it for the purposes for which we should be spending it. But this is not going to lose one job, one highway project in West Virginia or Illinois or Minnesota or any other State.

I think Senator EXON is correct. A lot of this is a fight between agricultural States and big oil States, and I understand that. We all have our particular perspective.

Citizen Action does not have an ax to grind. They are opposed to this amendment.

I ask unanimous consent to print a letter from Citizen Action in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CITIZEN ACTION,
Washington, DC, July 18, 1994.

Hon. DALE BUMPERS,
Dirksen Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: It is our understanding that Senator J. Bennett Johnston may offer an amendment to the VA/HUD and Related Agencies Appropriations bill that would prevent the Environmental Protection Agency from implementing the proposed Renewable Oxygen Standard (ROS) as part of the Reformulated Gasoline program (RFG). Citizen Action and its three million members in 33 states, the nation's largest consumer organization, strongly opposes this amendment and urges you to vote against it if it is offered.

The EPA's Renewable Oxygen Standard is designed to ensure that domestically-produced, renewable oxygen components have a place in the RFG program. Without the ROS, major oil companies will rely on MTBE, an oxygen component which U.S. refiners cannot manufacture in sufficient quantity and which increasingly must be imported from unstable regions of the world like the Middle East.

Moreover, the ROS will assure consumers of competition among suppliers of oxygen components and choice in the reformulated fuels market. Without the ROS, most refiners will rely on MTBE, their oxygenate of choice. By increasing the available supply of oxygenates by 30 percent, using domestic renewable resources to make ethanol and ETBE, the overall cost of the RFG program would decline.

The aggressive propaganda and deceitful lobbying tactics against the ROS by the major oil companies and their trade associations, including the American Petroleum Institute and the National Petroleum Refiners Association, are self-serving and designed to block competition, not improve the environment. Their claims to the contrary, the ROS does not pose a serious threat to these companies. In point of fact, the ROS will only require 1.6 volume percent of all reformulated gasoline to be derived from renewable resources. The remaining 98.4 percent will still be components manufactured by the nation's refiners from hydrocarbon fuel sources.

Please vote against the Johnston amendment. Please vote for consumers. Please vote for cleaner-burning, domestically produced renewable fuel and competition in the market for oxygenate components.

Sincerely,

EDWIN S. ROTHSCHILD,
Energy Policy Director.

Mr. SIMON. Mr. President, finally, if there is anyone in the Senate who hears my voice who has not made up his or her mind yet—and it is going to be a close vote—ask this question: Will this amendment make us less dependent or more dependent on foreign oil? And the answer is, it is going to make us more dependent.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. SIMON. I want to use my 5 minutes. I will be pleased to yield to my friend after that.

The reality is it is going to make us more dependent on foreign oil. We are more dependent on foreign oil right now than we were in 1973, when we had the great crisis. We should not exacerbate that problem.

The reality is—and this will do just a small bit in making us more energy independent—but it gives us a renewable source, a domestic source for energy and, by all means, we ought to defeat this amendment of my friend from Louisiana who on many things is absolutely right and on this one, he is wrong.

Mr. JOHNSTON. Now, Mr. President, will the Senator yield?

Mr. SIMON. I will be pleased to yield.

Mr. JOHNSTON. I think the Senator is well acquainted with Argonne National Laboratories.

Mr. SIMON. I have heard of that facility. It is in my State.

Mr. JOHNSTON. It was commissioned by DOE to do a study on what the effect on oil imports would be of this. Is the Senator aware that their conclusion was:

> It is clear that there will be increases in oil use associated with the ROS.

ROS being the renewable oxygenated standard.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. JOHNSTON. On my time, 1 minute. Is the Senator aware that Argonne made that conclusion?

Mr. SIMON. I am aware of it. I also have a study I would like to enter into the RECORD—I do not have it with me—that points out the errors in the Argonne study, even though generally Argonne is a good source of information.

Mr. ROCKEFELLER. Will the Senator from Louisiana yield for the purpose of asking the Senator from Illinois a question?

Mr. JOHNSTON. Yes.

Mr. ROCKEFELLER. Mr. President, the Senator from Illinois made reference to the fact that not one single job would be lost if this ethanol mandate goes through. The Highway Users Federation, using a Federal Highway Administration formula, has estimated a loss of 13,000 jobs in highway and bridge construction alone. That is simply a fact I assume the Senator is willing to accept.

Mr. SIMON. It is a fact that they stated that. I disagree with their conclusion. They are opposed to any kind of use or any interference that might be made with the Highway Trust Fund, including use for mass transit and other things.

Mr. ROCKEFELLER. In addition, the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers—and I will submit this letter for the RECORD—states that: "For each $1 billion the trust fund loses America loses approximately 39,000 jobs. And that's a resource we cannot renew."

Is the Senator prepared to refute that?

Mr. SIMON. I will be pleased to respond. I am not familiar with that particular position, but let me say in response, the reality is, there is an $11 billion surplus in the highway trust fund.

The problem with the highway trust fund is not the EPA regulation. It is our fiscal imprudence so that we take that highway trust fund and try to pretend we are balancing the budget with that.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to print in the RECORD the letter to which I referred.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS AND HELPERS

Fairfax, VA, August 3, 1994.

Attention: Energy/Environment Legislative Aide.

Re support for the Bradley/Johnston amendment eliminating funding for the ethanol mandate.

Hon. JOHN D. ROCKEFELLER, IV D–WVA,
Hart Senate Office Building, U.S. Senate, Washington DC.

DEAR SENATOR. Today, the Senate resumes its consideration of the VA, HUD, and Independent Agencies Appropriations bill. This bill contains much that is vital for workers, including members of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL–CIO, and we urge its passage. However, we believe the bill can be vastly improved by striking the funding for the so-called ethanol mandate from the EPA budget, and therefore respectfully request that you endorse the Bradley/Johnston Amendment.

The International Brotherhood of Boilermakers include lodges representing cement and construction workers. Both are unfairly disadvantaged by the ethanol mandate. For each gallon of ethanol consumed in the United States, the Highway Trust Fund loses 54 cents. Given the additional usage anticipated under the EPA proposal, the Trust Fund can be expected to lose another $465 million—bringing total ethanol losses to over $1 billion. Trust Fund money buys the cement that Boilermakers make, and is used in projects on which Boilermakers work. For each $1 billion the Trust Fund loses, America loses approximately 39,000 jobs. And that's a resource we cannot renew!

Boilermakers have always supported alternative fuels. Indeed, we have actively encouraged the use of waste-derived fuels, or WDFs, in cement kilns. The difference is that where WDFs save jobs, ethanol loses them; where WDFs help the environment by recycling waste, ethanol hurts the environment by increasing volatile air emissions; and where recycling is encouraged under RCRA, the ethanol mandate appears illegal under the Clean Air Act.

Again, the International Brotherhood of Boilermakers encourages you to reject the ethanol mandate, and to support the Bradley/Johnston Amendment. Please let us know if you have further questions.

Very truly yours,

ANDE ABBOTT,
Director of Legislation.

Mr. ROCKEFELLER. Mr. President, one further question. The Senator made in his presentation the argument that methanol is made overseas, and therefore its use increases the trade imbalance.

Is the Senator aware 93 percent of the methanol consumption in North America is produced in North America, and that 80 percent of the methanol consumed in the United States is made in the United States itself?

Mr. SIMON. There are those who differ with those percentages, but I just point out, if you have a choice of 100 percent domestically or whatever percentage you have from overseas, I prefer 100 percent domestic consumption.

Mr. NICKLES addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I wish to congratulate my colleague from Louisiana for his leadership on this amendment. I wish this amendment were not necessary. I, frankly, think the EPA made a serious mistake when they tried to mandate that 30 percent of reformulated gasoline use ethanol. That is the reason we are here.

We are not trying to mandate methanol. I do not think Congress should be mandating fuels, period. I remember early in my Senate career in 1981 spending a great deal of time on this floor debating the Fuel Use Act, saying Congress should not prohibit the burning of natural gas. And Congress passed a law called the Fuel Use Act that said we could not burn natural gas in certain industrial capacities and certain power plants. We finally repealed that law. Congress made a mistake. That was part of the energy program in the late seventies, where Congress tried to impose its will or its wisdom on the burning of fuels, and it made serious mistakes that caused a lot of economic hardships and cost consumers billions of dollars. That was a mistake.

Many of us were involved in the negotiations of the Clean Air Act, and we made a decision. We were not going to dictate what type of oxygenates would be used. Then EPA comes in and says they are going to legislate, they are going to mandate, they are going to dictate that 30 percent of the oxygenates have to come from ethanol. I think they are doing it for political purposes because there is no environmental purpose to be served.

This does not improve the environment. I notice my friend and colleague, Senator BRADLEY, is here, and he asked the Assistant Administrator of the Office of Air and Radiation of the EPA, Ms. Mary Nichols:

> What evidence is there, or is there any improvement in the environment?

Her quote is this:

> But I think I was clear in my testimony, we are not claiming any air quality benefits as a result of this proposal.

No air quality benefits as a result of this proposal. So there is no environmental impact. Maybe even in some cases it would be detrimental to air quality. That is kind of technical, but we can get into that if people would like.

What about the argument that some have said, "Well, this will reduce oil imports?" The facts do not substantiate that. Actually, by mandating the use of ethanol, you are requiring a greater fuel use in the production and manufacture of reformulated gasoline than is necessary in comparison to ethanol. So it could actually cause an increase in oil imports as a result of this.

What is the impact on taxpayers? I have heard my colleagues, and I respect many colleagues who are debating the other side of this issue, say they think we should be fuel neutral. Then we should support the Johnston amendment. We are not fuel neutral now. The Johnston amendment is needed to make this issue fuel neutral.

We have a massive subsidy for ethanol, more so than any other fuel or any other type of fuel. It is already 5.4 cents a gallon, and that costs taxpayers today about $550 million. So that is a big subsidy already today. If this proposal passes, that will increase it about $545 million. So we are talking about a subsidy to the ethanol industry of over $1 billion, and we do not reduce oil imports, and we do not clean up the environment.

Well, we may make some ethanol producers happy, maybe one in particular, but I do not think we are accomplishing our objective. What are we doing to consumers? Well, we are increasing their price of fuel, and increasing their price of fuel substantially. What are we doing to taxpayers? Well, they are going to have to pay another $545 million in subsidies.

This 30 percent mandate that EPA is trying to put on is a mistake for a lot of reasons. One, it is legislation. We did not do this in the clean air bill for a purpose. We knew it would be a mistake. If EPA can make a ruling that says, well, 30 percent is right, I guess they could say 100 percent is right, or 50 percent. EPA does not have that kind of authority.

Now, this rule will be contested in court, but we should not allow this to go forward. This is a ripoff. This is an outrage. This is going to cost consumers and taxpayers hundreds of millions of dollars. People should know that. I have heard people say, well, this is big oil versus agriculture. That is hogwash. I happen to have both in my State. It is ridiculous to make that kind of statement because it is not true.

Let us allow the marketplace to dictate what should be burned, what oxygenate should be used. Let us allow science to be involved. And this again is a serious, serious mistake.

Finally, Mr. President, I would just note that some in the environmental community are opposed to this 30 percent mandate, and I think for proper reasons, because it does not improve the environment. I have also noted that there are several newspapers which have come out in strong opposition. I will read a couple of these. One is from Chicago. This is the Chicago Tribune. It says:

> The decision was a victory—

Talking about the 30-percent mandate for ethanol.

> The decision was a victory for Midwest corn farmers and ethanol producers, but it was a resounding defeat for good public policy and sound science.

I think they are exactly right.

In the New York Times:

> Ethanol will not clean the air beyond what the 1990 Clean Air Act would require; nor will it raise farm income very much or significantly cut oil imports. What the EPA's rule will do is take money from consumers and taxpayers and hand it over to ADM.

And the Washington Post:

> This misuse of environmental laws as patronage to benefit narrow economic interests is a mistake.

Finally in the Houston Chronicle:

> The requirement that a car's fuel be made from a renewable source like corn makes no more sense than a demand that its engine be made from wood.

Mr. President, that is exactly right. We should be fuel neutral. We should allow the marketplace to dictate what is the best fuel, what is the most economical fuel. This decision by EPA, which I think is somewhat politically motivated, is a serious mistake. It is not in consumers' interests. It is not in the environment's interests. It is not in the interest of reducing energy imports. I hope that my colleagues would support Senator JOHNSTON's amendment and send a signal to EPA that they are making a serious mistake.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Who yields time?

Mr. DURENBERGER. Mr. President, I ask the Senator from Iowa to yield me 10 minutes.

Mr. HARKIN. Mr. President, I will yield 10 minutes in just 1 second. I wish to get one thing in the RECORD here.

Mr. President, I yield myself a couple minutes.

I just keep hearing all this talk about the statement by Mary Nichols. It is true that she is a political appointee. She is an otherwise very bright, capable individual. I have a lot of respect for her. But I think a lot of this, the essence of what we are talking about in terms of ethanol and in terms of the oxygenate rule and what the environmental benefits were, was more clearly defined by Mr. Richard Wilson who is the expert, who works in that office and who has been there for several years. I do not know how long. He was here during the clean air debates.

After the hearing in which Mary Nichols made the statement that we keep hearing repeated all the time around here by the proponents of the Johnston amendment, we had Richard Wilson up to testify, who as I said is the expert. And here is what he said:

> So there are a number of benefits, environmental benefits, that we think will accrue both in the short term and particularly in the long term as a result of the proposal.

So the experts at EPA were saying something quite different.

Mr. President, I would like to have Mr. Wilson's entire statement be printed in the RECORD.

Mr. DASCHLE. Will the Senator yield?

Mr. HARKIN. I yield to the Senator.

Mr. DURENBERGER. Mr. President, did I not get recognition? I did not yield to everybody in this place. I only asked for 15 minutes of time.

The PRESIDING OFFICER. The Senator was recognized but the Senator from Iowa controls the time and had not yet yielded time to the Senator from Minnesota. So the Senator from Iowa has the floor.

Mr. DURENBERGER. I thank the Chair.

Mr. DASCHLE. I will just be very brief. EPA has provided an actual position statement on this question, entitled "Impacts of Renewable Oxygenates Rule," which confirms what the Senator from Iowa has just stated, although it elaborates in much more detail why the rule has intermediate and long-term benefits, and I think this would be an appropriate place to insert it in the RECORD as well.

Mr. HARKIN. I thank the Senator from South Dakota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF DICK WILSON

Q. Does EPA still believe that renewable oxygenates will reduce VOC's and toxic air pollutants?

A. Mr. WILSON. Well, Senator, as you know, we are in the midst of our rulemaking process, so we are gathering all the information that we can get from all the different sources. But we certainly believe that the renewable oxygenate proposal is likely to lead toward both shifting ethanol use out of summertime and into the wintertime where it can count toward the proposal and also likely over time to lead to an increase—to a new market for ethanol use and ETBE. And both of those trends would reduce VOC emissions in the summertime that lead to ozone depletion in many of the cities across the country.

So there are number of benefits, environmental benefits, that we think will accrue both in the short term and particularly in the long term as a result of the proposal.

IMPACTS OF THE RENEWABLE OXYGENATES RULE

ENVIRONMENTAL AND OTHER BENEFITS

The renewable oxygenates rule ensures that the benefits of the RFG program will be achieved. In addition to the 15 percent reduction in VOC and toxic emissions from vehicles using phase I RFG, additional reductions in VOC emissions may occur if ETBE displaces currently-used ethanol during the summer months. This occurs because the rule does not credit the use of renewable oxygenates that increase evaporative emissions during the summer smog season. (The summer season is defined as May 1 to September 15, although a state may request a longer season if needed for smog control.)

The rule provides a strong incentive for the development of new technology to efficiently produce renewable oxygenates which would lead to long-term global warming benefits. Short-term global warming benefits would occur if methanol from landfills is used to make renewable MTBE as one company announced recently.

There are also energy benefits. According to a DOE report, up to 20 percent less fossil energy is used to produce ethanol as compared to MTBE produced from natural gas.

COST

Consumers should see no increase in the prices of RFG at the pump as a result of the renewable oxygenate rule. EPA estimated that the reformulated gasoline rule that was promulgated last December would cost between 3 and 5 cents per gallon more than conventional gasoline. This includes the cost of oxygenates. The new rule simply requires some oxygenate to be renewable. EPA's analysis shows that the incremental cost impact of the new rule ranges from 0.02 cents to as much as 0.2 cents per gallon when spread over the 39 billion gallons of RFG that will be produced each year.

With respect to the impact on the Highway Trust Fund, EPA estimated a $180 million loss and published this estimate in the rule. Treasury, as part of updating the President's budget in the Mid Session review, subsequently estimated the loss to be around $240 million. USDA provided estimates that show that the Highway Trust Fund losses are more than offset by savings in farm deficiency payments. The rule included a $344 million savings estimate based on a USDA analysis of a report by the General Accounting Office. USDA has provided a more recent savings estimate of $275 million.

SUPPLY

There is no doubt that there exists today an adequate supply of renewable oxygenates to satisfy the requirements of this program. The only question is whether renewable oxygenates would need to be shifted out of existing markets and into RFG cities. To alleviate as much as possible concerns about the ability of the fuels industry to do some shifting and also provide time for new renewable oxygenate production to come on line, the Agency took a number of steps in the regulation. First, we set the initial year's requirement at 15 percent. In 1996, the requirement goes to 30 percent.

Second, we included averaging provisions. With averaging, a refiner may use more renewable oxygenate during the later part of 1995, for example, and none during the first part of the year, as long as over the year the 15 percent requirement is met.

Third, we included trading provisions, under which Refiner A in Chicago may use more than the required amount of renewable oxygenates. The "excess" oxygen credits may then be sold to Refiner B in Chicago or even Refiner C in Baltimore who choose not to use renewables.

As mentioned above, no industry is losing in the reformulated gasoline program. Renewable oxygenates, like ethanol from grain, will get 30 percent of the new RFG oxygenate market and nonrenewables, like MTBE from natural gas, will get 70 percent of the new market. The production of all oxygenates will grow significantly.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, July 21, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: Since EPA announced its decision on the role of renewable oxygenates in reformulated gasoline (RFG) on June 30, a great deal of misinformation has been heard from critics of the decision. I would like to take this opportunity to clarify EPA's views on this important clean air program.

The Administration is aware that floor amendments to EPA's appropriations bill may attempt to overturn EPA's rulemaking on renewable oxygenates. The Administration believes that it is inappropriate to legislate regulatory restrictions through the appropriations process and will strongly oppose any attempts to interfere with EPA's implementation or enforcement of the rule.

The requirement that 30 percent of the oxygenates used in RFG be produced from renewable sources, such as grain, biomass or even garbage, is necessary to assure that renewable oxygenates are not disadvantaged in the RFG program. EPA is not establishing a new program to benefit any particular fuel, rather we are assuring that renewable fuels continue to have an opportunity to compete in a changing world of cleaner burning gasoline. Our actions are consistent with longstanding Congressional support for renewable motor fuels and this Administration's environmental and energy goals.

We have taken the necessary steps in the rule to alleviate potential disruption in the gasoline distribution system. In the context of overall gasoline usage, this program will result in only one-half of one percent of the gasoline consumed in the U.S. annually being made from renewable sources.

It is not an "ethanol mandate." Rather, it is fuel neutral in that any renewable oxygenate will qualify. The production of all oxygenates will increase substantially as a result of the RFG program. For example, nonrenewable MTBE made from natural gas may well experience a 170 percent increase in its market. No industry is a loser in this program.

I hope the above points and enclosure are useful in explaining the role of renewable oxygenates in the reformulated gasoline program. Please contact us if you have any questions or need further information.

Sincerely,

CAROL M. BROWNER,
Administrator.

Mr. HARKIN. I yield 10 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise in opposition to the Johnston amendment and urge my colleagues to join me in voting for its defeat.

When the Senate and the Congress passed the Clean Air Act amendments in the spring of 1990, it was our unequivocal intent to provide a role for ethanol in the reformulated gas provisions in that bill which it cannot get from the marketplace because the oil companies own that marketplace, because they own the delivery system. We knew that at the time. It is specifically why we passed the amendment. And we have had 4 years now debating with people that own that marketplace and we do it again today. That particular role was critical to the passage of the Clean Air Act. Two years later, in the fall of 1992, when EPA proposed a rule which effectively denied ethanol this role—that was the "reg neg" that has been talked about—then there was a sense-of-the-Senate resolution that such action was illegal and it was inconsistent with the Clean Air Act.

In that same year, 1992, Senators DOLE, MITCHELL, CHAFEE, and BAUCUS sent a letter to then EPA Chief, Bill Reilly, insisting that ethanol be given the role that Congress gave it in the Clean Air Act. Since that time, both Presidents Bush and Clinton have attempted to promulgate rules consistent with congressional intent—and both have properly recognized a role for ethanol. President Clinton just did that, and that is the subject of this debate, the undoing of congressional intent.

The RFG section of the Clean Air Act directs the EPA to reduce ozone while taking into consideration factors, including cost, energy requirements, and air quality. To that end, EPA proposed renewable oxygenate standards. That is the ROS you have heard referred to. That would reduce ozone, cut RFG costs to the consumer, provide the United States with greater energy security, and improve the overall quality of the air we breathe while also bolstering the Nation's economy.

So I would like this afternoon to address three of the criticisms or perhaps misconceptions which have lingered over the proposed rule. The first is the air quality issue that various of my colleagues on the other side and the Senator from Oklahoma just argued. That is that ROS will have some adverse effect on the environment.

This is clearly contrary to all the evidence that we have seen to date. Last winter, in my home State of Minnesota, ethanol was used in all gasoline sold in the Minneapolis-St. Paul area and carbon monoxide levels were the lowest since the early 1970's.

The ROS will decrease greenhouse gas emissions as well. The Department of Agriculture estimates that production and use of renewable oxygenates like ethanol and ETB emit 27 percent less carbon dioxide than regular gasoline. And if you put that another way, an acre of Minnesota corn removes 100 tons of carbon dioxide every year, offsetting the increased levels resulting from burning coal and oil.

Much of the debate over the last few years has been about VOC emissions. This contributed largely to the opposition to the Bush proposal. But the VOC deals squarely with that issue by requiring that only oxygenates without the volatility problem associated with commingling such as ETBE are acceptable during summer months. I am going to get to that more specifically in a bit.

EPA estimates that the effect of this decision will be to reduce VOC emissions by as much as 6,400 tons annually.

These statistics only bear out what Minnesotans have come to realize through experience: renewable fuels such as ethanol and ETBE make good environmental sense.

Last on this issue, I think it is particularly telling that five of the United States' leading environmental communities—Friends of the Earth, Sierra Club, National Wildlife Federation, the Environmental Working Group, and the Natural Resources Defense Council—all oppose the Johnston amendment.

The second misconception is a smaller part of the congressional intent debate, and that is the contention of some that ROS strays from what Congress intended on the issue of fuel neutrality. Because in effect, as I heard it said, the ROS alters the market in favor of ethanol. In effect, it chooses the winner among otherwise competing oxygenates. In other words, the ROS is not fuel neutral.

In reality, the ROS does not choose a winner at all. It simply ensures that renewable fuels are not predestined losers. We all know—and we knew in 1990 when the Senator from South Dakota and I stood on this floor sponsoring the amendment which we are still debating today—that without something like the ROS that is exactly what renewable fuels would be, a predestined loser. As it is, we only get 30 percent of the market at best. But at least it will not be dead before it arrives on the scene. I can assure you it was never the intent of any of us who worked so hard back in 1990 to give MTBE a monopoly, and shut out ethanol.

MTBE is the oil company favorite. This is because it is produced by and sold through an infrastructure owned by the petroleum industry. Up against these facts, it is clear that ethanol and other renewable fuels would not stand a chance without the ROS. And, when we directed EPA to promulgate an RFG rule which considers the cost of the program to consumers, a monopoly with all the benefits of price gouging was the last thing any of us had in mind. By ensuring competition in the oxygenate market, the ROS is expected to reduce consumer costs for reformulated gasoline by $470 million. That is the benefit we had in mind. And, that is why America's largest consumer advocate group—Citizen Action—opposes the Johnston amendment.

Many of us involved in the Clean Air Act amendments had served in this body in the days of OPEC. We remembered the days when oil supplies were short and the patience of those waiting in gas lines was even shorter. We recognized the marriage between depleting supplies of oil at home and the growing dependence on supplies abroad—and, as their offspring, an ever-increasing trade deficit. So what we had in mind was not more dependence—but the self-reliance found in renewable fuels not domestic fuels as has been argued here, but domestic renewable fuels. The ROS sets out to achieve this end.

There is one last point on this that I think is worth noting. Commodity groups like the oil producers and our farmers should be partners. There's no reason they should not. EPA estimates domestic producers of methanol will likely fill the demands of the remaining 70 percent of the RFG market.

It seems to me that we could have a winner-winner situation here, if we were not presented with the challenge of this amendment.

This hardly makes MTBE a loser. So, with farmer-owned ethanol and domestic methanol producers splitting the market 70–30, it is hard to understand why these two commodity businesses—who have historically been friends—cannot work together on this issue.

ECONOMICS

Finally, the oil industry points to current tax exemptions received by ethanol producers and then maintains that by expanding the industry, costs to taxpayers will increase. It may be of some interest to note that, over the years, the oil industry has received countless billions worth in tax preferences in the committee I sat on for 16 years. But I am not going to argue that point. This point provides little solace to the taxpayer.

What does provide solace is that sagging rural economies are expected to get an $800 million a year boost out of ROS reducing annual government outlays for these areas by an estimated $400 million and providing between $60 and $70 million in new tax revenue. In fact, even when offset by losses in the Highway Trust Fund, the taxpayer comes out ahead. This is taxpayer savings.

And, speaking of the Federal Highway Trust Fund, I have behind me a chart supplied by my good friend from Louisiana which theorizes what States will lose under the ROS. Now, my friend Senator JOHNSTON is, I am sure, well-versed in French history. So, I think it is appropriate to say in the words of La Rochefoucauld, "There is nothing more horrible than the murder of beautiful theory by a brutal gang of facts." And, here are the facts:

This chart is supposed to reflect the cuts in State highway funds between 1995 and 1999. But, the fact is, we know that for fiscal year 1995, appropriations has already allocated $19 billion in highway trust funds to the States. So, we know for a fact that there will be no impact on 1995 funding levels to the States.

According to the Minnesota Department of Transportation the effects of ROS, if there are any, will not be known or calculated for the trust fund model until 1997. But just starting with that, even then, in 1997, two CBO officials and the Minnesota Department of Transportation told us to the extent there are any shifts in the trust fund moneys to the States, they will be negligible. The fact is FHA, the Federal Highway Administration, does not believe the ROS will have an effect on State funding levels at all. That is why they are expecting some revenue loss to the fund, a loss of less than one-half of 1 percent to be exact.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. DURENBERGER. I will just yield for a question.

Mr. JOHNSTON. The Senator is aware that this chart is made up of taking the tax committee's estimate of the loss to the highway users' fund and allocating it according to the formula used. The last allocation was in 1994. The Senator is aware that chart came from that; that is, you take the loss that was estimated to the highway users' trust fund and allocated it according to the last allocation.

Is the Senator aware that is how this chart was made?

Mr. DURENBERGER. I thank the Senator very much for the question. I am now aware of it.

I will just take a couple of minutes to complete what I began to say, now that he has explained where the chart came from.

If it were true that any revenue loss to the fund would be reflected in proportionate cuts in State funding, as is argued by my colleague from Louisiana, then there will not be any less revenue in the fund. In other words, if the fund gets less and spends less, there is no loss. It is very even. So we know that any impact on State funding levels they will be negligible at best. But they are far from imminent. In fact, I believe ROS will have no effect at all on State funding levels, and I am going to quickly explain why.

First, the ROS applies only to areas included in the Reformulated Gasoline Program [RFG]. These include nine cities with the worst smog problems, and States which have voluntarily opted-in to the RFG. So, the ROS does not even apply in those States which are not a part of the RFG—which are those States blacked-out on this map—and their Highway Trust Fund dollars are totally unaffected.

Second, even among those States which are enrolled in the RFG, many are what is called nonminimum allocation States. This means that the amount these States receive in Federal Highway Trust Fund dollars bears absolutely no relation to the amount they pay into that fund. In other words, the highway funds for 41 States are totally unaffected by this rule.

Third, four of the remaining States will use ETBE, a renewable ether fuel. ETBE has no effect on the Highway Trust Fund. So, these four States will see no change in their highway funding levels either.

Now, we are left with five States. One of them has already met the 30 percent renewable requirement and so the ROS is already satisfied there. And, in the remaining four States, oil companies are unlikely to use much ethanol, if any at all. Instead, they will either use ETBE, or they will more likely use ethanol and ETBE credits from other regions, to meet the overall 30 percent goal. So, even in these States, there would be no effect on highway funding levels.

So, now that Mardi Gras is over, the mask comes off, and all we see under the ROS is a country with cleaner air and well-funded highways.

Mr. President, I believe the ROS is faithful to the environment, energy, and the economic needs of the country as well as for the will of the Congress.

I urge my colleagues to maintain the will of the Congress by voting against the amendment of my colleague from Lousiana.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. JOHNSTON. Mr. President, I yield 20 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized

Mr. BRADLEY. Mr. President, I thank the distinguished floor leader of the amendment for yielding 20 minutes.

I rise in support of the amendment. Before I got to the floor, there were a number of statements made by opponents of this effort who talked about themselves as strong consumer advocates and who talked about the positive consumer benefits of this mandate. I think it should be noted that many of those who made these statements come from States in which the reformulated rule will not apply.

They are talking about my constituents, not their constituents. They are talking about primarily States in the Northeast and mid-Atlantic, in addition to the West, which will be forced to give 30 percent of the reformulated marketing to ethanol.

So I believe that what we need to do here is be very clear about who will be most adversely affected by this mandate. It will be the States that are forced to use ethanol as opposed to another reformulated fuel that might be more competitive.

Mr. President, it is with a certain sense of regret that I rise to speak. It is not always easy to criticize the administration or the EPA that I have worked to support. But I do so, nevertheless, because I feel strongly that the actions taken by the EPA in no way represent positive environmental policy. Indeed, I believe the EPA decision stands as a powerful threat to the agency itself and the prospect for effective implementation of the Clean Air Act. I would like to make a few points about the EPA ethanol mandate. First, the policy is intrusive, highly prescriptive, and the epitome of a "command and control" attitude. If we are going to pursue such policies, there has to be an overwhelming rationale for such involvement. That rationale simply does not exist.

Second, the underlying EPA rule for the use of reformulated gas is in fact rule neutral. It sets performance criteria and lets the industry figure out the most cost-effective way of meeting these criteria. There is no mandate for methanol. There is no mandate for ethanol. Under the RFG proposal, as it is, there will continue to be ethanol use, especially in the States in the Midwest, where it is most cost effective. If ethanol and its derivative ETBE are not used in markets such as in the Northeast, it is because these fuels are not economically competitive.

The underlying reformulated gas policy was set during the historic "regulatory negotiation," which brought together all of the involved parties to cut through the arguments and get to an agreement. Ethanol interests were directly involved, and ethanol interests signed the so-called "reg neg" agreement. Not one of the participants objected—not one. Yet, the ethanol interests are, today, trying to bury a rule that they themselves participated in, that they agreed to, and that was truly focused on performance and not on politics.

Third, there are no environmental benefits of the proposed rule. I know of no significant national environmental organization that supports EPA's findings of environmental benefits—not one. Indeed, the Sierra Club and the Northeast Air Quality managers—neither group with an obvious antifarmer or pro-oil company bias—testified against this mandate on environmental grounds. A little later in my presentation, I will submit a list of statements by various environmental groups in opposition to this mandate.

Earlier in the debate, Mary Nichols was quoted, and it was in answer to a question I asked in the committee. She is EPA's Assistant Administrator, and she was asked: "Do environmental benefits accompany this proposal?"

Her answer was: "I was clear in my testimony that we are not claiming any air quality benefits as a result of the proposal."

To be sure there was no mistake, I asked again: "No air quality benefits?"

The reply was: "Correct."

So much for the environment.

To my knowledge, Mary Nichols has not said something different. To my knowledge, she has not written a letter to the Senate saying, "I want to correct the record." To my knowledge, her comment stands.

Fourth, there are no energy security benefits to this proposal. Analysts at the Argonne National Labs performed an analysis for the Department of Energy which concludes:

> The results indicate that CO_2 emissions could be relevant to .3 percent to .4 percent higher than with year-round use of MTBE. Oil use is always higher (from .9 percent to 3.3 percent) under the program.

Somehow this analysis—which was doubtless paid for by the taxpayers—never made it into the EPA record. They never considered the analysis. A well-regarded think tank, the Resources for the Future, produced a study with similar results, concluding: "The oil savings achievable with MTBE would be at least 8 percent higher than those with ethanol."

Perhaps we will hear today that these researchers were biased against ethanol. I have heard one supporter of ethanol say that now there is another study. Well, who did the study and paid for the study? And what does the study say? The National Argonne Labs says: "No reduction in oil, particularly imported oil."

One of the points that needs to be made is that, under this proposal, increased ethanol and ETBE use does not displace oil. It displaces, most likely, the methanol-based additive, MTBE.

One of the arguments that will be made is that this methanol is imported and therefore bad. The fact is that the methanol used today is largely domestically produced. Furthermore, if you believe an analysis prepared by CRS analyst, David Gushee, the U.S. methanol industry is competitive worldwide and could expand. Interestingly, he wrote:

> The continued efforts to the ethanol industry to win legislative mandates and incentives which would favor ethanol against ethers have had and continue to have a tempering effect on investment planning for methanol capacity.

In other words, one man's job is another man's job loss. The supporters of this mandate attack all this imported ethanol, when their actions are directly leading to a weaker domestic industry.

The fifth point, Mr. President, is that this mandate is going to cost us in real dollars nationally. Any time you use a product that costs $1.10 per gallon to replace something generally available for less than half of that price, you are making a bad business decision. New Jersey's constituents will undoubtedly pay more for fuel—for no benefit.

The costs will certainly rise for gasoline refiners and marketers. This is a waste. And, more than a waste, it is potentially dangerous. A study by the Department of Commerce has indicated that some 66 U.S. refineries, representing 1 million barrels per day of capacity, are already at risk of closure due to the regulatory effects of the Clean Air Act. What is the rationale for pushing them closer to the brink? A loss of domestic refinery capacity of this magnitude will have important energy security implications.

The advocates of this proposal point happily at the possible increase in corn prices. Terrific. The subsidy mandates the market: A greater demand for corn, the price of corn will go up.

Once again, Mr. President, one person's higher price is another person's higher cost. If the higher prices predicted by the USDA materialize, consumers of corn will be paying an additional 10 cents per bushel. Ironically, the largest customer for corn is the livestock industry. These farmers consume as feed grain some 60 percent of the corn grown, roughly 5 billion bushels annually.

If corn farmers gained 10 cents a bushel, these other farmers with livestock, chickens, pigs, and cows lose $500 million each year. If the price of corn rises 10 cents, the corn farmer does experience greater sales revenue, but between 60 and 90 percent of this windfall is immediately offset by reduced USDA deficiency payments. The livestock industry, on the other hand, gets no relief, just higher prices. USDA does nothing to help the livestock industry whose costs have risen. Those farmers have to pass on their costs or eat them in lost earnings. How is this positive for agriculture?

Additionally, Mr. President, cereal and soft drink manufacturers and other consumers of corn face higher costs, lost income, and lost competitiveness. It is because of these potential adverse effects that the EPA's mandate is opposed by the National Association of Manufacturers and the U.S. Chamber of Commerce.

I have heard that this is just one little program. Surely, it cannot be that bad. Experience, however, tells us be wary of little disturbances, especially when energy markets are involved. In 1973 and then again in 1979, a supply shift of only a few percent paralyzed our Nation and cost us trillions of dollars in lost output. A couple of winters ago, an extreme cold spell led to a doubling of oil prices in the Northeast, and there was no physical shortage of the product at that time.

At the Senate hearing, I asked the DOE what analysis had been done to predict the impact of the mandate on fuel prices. The answer the Department of Energy gave was: None, no analysis. I asked them what analysis had been done of the impact on refiners and marketers. The answer was: None. I asked if the DOE could provide any assurance that the price of gas would not skyrocket in some regions. The answer: No assurance could be provided.

To be frank, Mr. President, I was appalled by these answers. You could have a small supply disruption, a small shortage that would translate to gigantic price increases all along the Atlantic seaboard and on the west coast. That is reality when you get into mandating a market.

This proposal does not amount to positive environmental or energy policy. Perhaps it is really agricultural or social policy, although I believe that I could make the case if this proposal fails on those grounds as well. But the last time I checked, these were neither the purposes of the EPA nor the goals of the Clean Air Act.

Mr. President, there has been a lot of subtle and not so subtle allusion to the motives of various Senators in this debate. The proponents of the ethanol mandate are wont to infer that those on our side of the debate somehow are motivated by a desire to protect the oil industry and their so-called monopoly of the reformulated gas market.

Mr. President, I think my record pretty well speaks for itself. In my first year in the Senate, I raised taxes on the oil industry $20 billion with the so-called windfall profit tax. My motivation is clear. As I said earlier, I find the EPA mandate to be an unnecessary, intrusive regulation with no benefits for the environment and clear costs to the consumers of New Jersey. If the oil industry agrees with me, well, so be it. But, frankly, I find it offensive and more than a little ridiculous that anyone would infer that my actions are motivated by some desire to please big oil.

I might simply point to the fact just 1 week ago on this floor I offered an amendment on the Interior appropriations bill to strike what I believed to be a $10 million subsidy to the oil and gas industry, and, ironically, some of the major supporters of ethanol opposed my amendment. At that time they were on the side of the oil and gas industry, supposedly, if we are making those kinds of judgments.

The fact is that we squander billions annually in targeted tax breaks on special interests—a lot of special interests. I have watched it for 16 years. When the Senate debated my amendment last week, I pointed out that the oil and gas industry is the beneficiary of $2 billion in tax breaks already—$2 billion.

Even after noting that level of assistance, which works out to be a little more than $1 per barrel of domestically produced oil, I find it unbelievable that the supporters of the EPA mandate can criticize the oil and gas subsidies. The fact is that the subsidies given to the ethanol industry are nothing short of astounding. This industry, which produces roughly the energy equivalent of a day's worth of U.S. oil demand, stands to gain nearly $1 billion annually in total tax subsidies when this mandate is phased in—$1 billion. That works out to over $30—not $1, but $30—in tax subsidies per barrel of oil displaced. Obviously, the ethanol industry has not drilled the ground; they have drilled the Tax Code, and they have uncovered a gusher: $1 billion. Thirty dollars for every barrel of oil displaced, versus the oil and gas industry that has $1 for every barrel of oil produced. My view is both of them should be gone. In this case we certainly should not increase what we give to the ethanol industry.

If the EPA mandate is allowed, we will increase the subsidy given to the ethanol industry. By giving an industry that is dominated by a very few firms a guaranteed market, we are creating a market skewed against the consumer. It is not too surprising that one Wall Street analyst has estimated that the EPA mandate will add $100 million annually to the bottom line of a single ethanol producer. The costs associated with this subsidy will be placed squarely on the backs of my constituents, paying higher prices for their gas, subject to a possible disruption of supply, paying significantly higher prices.

It is not too surprising, as I said, that given this particular subsidy, the cost associated with this subsidy placed on the backs of my constituents is simply too much. I do not have to be a strong defender of the oil and gas industry to find a reason to fight this EPA rule.

I am sure that we will hear today that these subsidies actually save us money. We probably already heard it before I got to the floor. That is pretty routine. You hear it all the time in the Finance Committee. I understand the USDA has done an analysis that shows that this mandate saves the taxpayer billions over the next few years.

This mandate will increase the demand for corn by 250 million bushels—about 3 percent of the national production—and USDA says it will save billions in support payments because of that increase in production.

Well, Mr. President, what can we say about that analysis? USDA did not consider that people might react to higher prices by buying less. USDA did not consider that exports might drop. USDA did not consider that farmers, ginned up by the ethanol hype, might actually plant a few more acres of corn than they otherwise would. The USDA did not take into consideration the higher costs that livestock farmers are going to pay, that chicken farmers, that those who have pigs, that those who have cows will have to pay. They did not take into consideration the higher prices, $500 million a year, that they will have to pay.

In short, Mr. President, the analysis of the USDA with regard to the total impact of this mandate on the economic fortunes of agriculture broadly defined is a joke.

Around the Congress, these USDA arguments fortunately do not carry much weight. Around the Congress, though, we have another way of estimating costs. USDA does not tell the Congress how much some measure will cost. What we do is ask the Congressional Budget Office. And when the Congressional Budget Office was asked how much will this mandate cost, they said that the EPA mandate will increase Federal outlays by $250 million over the next 5 years. That is what the CBO said.

And this analysis is only of the effect on outlays. It does not consider the additional hundreds of millions of dollars in lost tax revenue that also goes with the mandate.

So, Mr. President, it is not hard to see that this mandate creates some very big winners. Just do not expect me and my constituents to pick up that check—willingly or even reluctantly. This mandate, in my view, should be defeated. If we defeat it, we are going to save taxpayers a lot of money, and we are going to save consumers even more.

The PRESIDING OFFICER (Mr. CONRAD). The Senator's time has expired.

The Senator from Iowa.

Mr. HARKIN. I yield 10 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 10 minutes.

Mr. BAUCUS. I thank the Senator from Iowa.

Mr. President, I would like to make two points here.

The Environment and Public Works Committee spent a lot of time with the Clean Air Act, had an extended and lengthy debate, and amendments were finally passed in the Clean Air Act years ago.

The Environment and Public Works Committee has jurisdiction over the highway program, which has an interest in this measure.

Let me address both of the points.

First, with respect to the environment, I opposed the Johnston amendment very plainly, very simply, very clearly because the 1990 Clean Air Act amendments required the development of reformulated gasoline to meet the 2-percent oxygen to lower smog in the nine cities in the Nation with the most smog and allowed other cities to opt in.

You must remember we have dirty air in this country. We have had dirty air in this country for a lot of reasons, and one of them is because of the automobile. The Clean Air Act amendments had a lot of provisions with respect to the automobile, tougher tailpipe standards, on-board emissions canisters, other provisions, and one of them is the development of reformulated gasoline, because, obviously, the emissions that come out of the car have something to do with the nature of the gasoline that goes into the car.

Smog is one of the biggest problems in this country. What causes smog? Smog is caused by volatile organic compounds. It is caused by several contaminants. The biggest are the volatile organic compounds and oxygenates.

What are the facts about this rule and smog? Mr. President, ethanol reduces volatile organic compounds an additional 6 percent over methanol and MTBE. And ethanol reduces carbon dioxide emissions, carbon monoxide emissions, and toxic emissions. That, in turn, helps reduce smog and other air pollutants that come from cars.

When we passed the Clean Air Act amendments a few years ago in this body, it passed by a large margin. We then turned it over to the Environmental Protection Agency to implement and develop the reformulated gasoline rule. The Environmental Protection Agency is the agency with jurisdiction. They are the experts. They know more than any other Federal agency what that reformulated gasoline rule should say so that we have cleaner air in America, and particularly less smog in the smoggiest cities in our Nation. What did they have to consider? Right now there are four oxygenates. Ethanol and methanol, and they have derivatives, Mr. President, ethyl tertiary butyl ether, or ETBE, and methyl tertiary butyl ether, or MTBE.

The Environmental Protection Agency, after careful consideration of all these various different oxygenates, decided that the best way, with all the competing points of view and all the competing interests, in developing an oxygenate rule is the one they came up with.

Basically, it provides that 30 percent of all oxygenates be made from a renewable source, such as ethanol or ETBE. It is important public policy to use renewables where appropriate. Methanol and MTBE are both made from natural gas. That is, they are fossil fuels. Using them depletes a finite natural resource that we cannot replace. I believe that we as a nation should rely to the extent we can on renewable resources. And ethanol, which is made from corn, is one of those.

In addition, the Environmental Protection Agency's rule provides that ethanol can only be used in the winter months, in order to allay the concerns of some who have alleged that ethanol causes increases in smog during the summer months. Finally, the rule provides for flexibility in achieving the 30 percent requirement, phasing it in over a couple years so refiners can average the ethanol content of their fuel annually and they can trade their use of ethanol with other refiners, other cities, and other States. This means the city of New York, or the whole State of New Jersey, may never need to use a drop of ethanol if they choose not to.

All of this regulatory program is completely within the Environmental Protection Agency's discretion under the Clean Air Act amendments. The plain language of the statute permits the Environmental Protection Agency wide latitude to design the reformulated gasoline program, as long as it meets the statutory requirements, which this rule clearly does.

What Senator JOHNSTON's amendment purports to do basically is to second-guess the Environmental Protection Agency and say, "Oh, no, we have got a better idea." Well, if that is the case, frankly, we might as well be legislating all the regulations under the Clean Air Act here on the Senate floor. I do not think that is what we in the Senate should be doing. We already gave the Environmental Protection Agency all the guidance it needed when we wrote the Clean Air Act amendments. We do not have the expertise here to get into complex chemical formulas and competing scientific studies. We have properly delegated that to the Environmental Protection Agency to sort through and make the right decision. And I believe that the Environmental Protection Agency has done just that, and come up with a rule which works. It is time for us to stop arguing about it and let the Agency go on with its work of cleaning up the air.

Now some have said it does not have tremendous environmental benefits. Some have said that the Environmental Protection Agency's Assistant Administrator for Air, Mary Nichols, said that the ethanol rule does not have environmental benefits.

That, Mr. President, misses the point. This is a rule which, by its design, has strong environmental benefits, because Congress required it to have those benefits. I have already explained them —the 2 percent oxygenate content, the reductions in volatile organic compounds and nitrous oxide emissions. Those are strong environmental benefits. Methanol and MTBE provide no greater environmental benefits than ethanol and ETBE. They all meet the requirements of the law—they all provide environmental benefits, because that is what is required by law.

Now, there are other ways to reach the 2 percent oxygenate requirement, but the Clinton administration and the Environmental Protection Agency came up with this way because they felt it makes the most sense. And that is why I think we should not second-guess them.

I want to emphasize again that ethanol reduces the volatile organic compounds, VOCs, an additional 6 percent over methanol and MTBE. That is a big improvement. Ethanol reduces carbon dioxide emissions, reduces carbon monoxide emissions, and also reduces toxic emissions. There are tangible air quality benefits to the rule, and I want to set the record straight on that point.

In addition, I might add, several major environmental groups oppose this amendment. They oppose the amendment. Now some will stand up here and say they do it for various reasons not related to the substance of the rule itself. That is a rationalization. The fact is that major environmental groups oppose this amendment. I ask unanimous consent to have printed in the RECORD, Mr. President, a letter from the groups, the Sierra Club, Natural Resources Defense Council, the National Wildlife Federation, Friends of the Earth, and the Environmental Working Group, and so forth, stating their opposition to the Johnston amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FRIENDS OF THE EARTH; SIERRA CLUB; NATIONAL WILDLIFE FEDERATION; ENVIRONMENTAL WORKING GROUP; NATURAL RESOURCES DEFENSE COUNCIL,

July 21, 1994.

DEAR SENATOR: When the Senate considers the VA-HUD-Independent Agencies appropriations bill for FY95, we ask that you oppose all new policy amendments affecting the environment. We take this position regardless of the substantive merits of such amendments, which we believe are not the issue in this case.

Subcommittee Chair Barbara Mikulski and the members of the Subcommittee have reported a bill which focuses on the funding allocations which are the primary purpose of appropriations bills. While it is entirely appropriate to have a lively floor debate about those funding choices, we oppose any new proposal to encumber this bill with amendments which are legislation or limitations restricting specific environmental policies. Whatever the merits of any such proposals, we believe they would be more appropriately pursued through authorizing bills, regulatory procedures or the courts.

We recognize that Congress has a right and a responsibility to set environmental policies when necessary. However, floor amendments to the VA-HUD-independent agencies appropriations bill should not be the tool of first resort. We oppose any floor amendments on takings, risk, cost/benefit and unfunded mandates. Consistent with our general opposition on procedural grounds to new policy floor amendments, we oppose the Johnston amendment to prevent the Environmental Protection Agency from implementing the ethanol rule. We understand that a lawsuit has been filed on this matter, which we believe should be decided through regulatory and legal means.

We make no pretense that the appropriations process is procedurally pure, and believe that each bill should be handled on a case-by-case basis. In the case of this bill, we draw the line on the bill as reported, and urge you to oppose all new environmental policy amendments offered on the floor.

Sincerely,

RALPH DE GENNARO,
Director, Appropriations Project, Friends of the Earth.
A. BLAKEMAN EARLY,
Washington Director, Envir. Quality Program, Sierra Club.
DAVID HAWKINS,
Senior Attorney, Natural Resources Defense Council.
SHARON NEWSOME,
Vice President, Resources Conservation Dept., National Wildlife Federation.
DAVID DICKSON,
Senior Analyst, Environmental Working Group.

Mr. BAUCUS. What about public health? On this score, the issue is very simple. Methanol is toxic and ethanol is not. Methanol emissions contain formaldehyde, a carcinogen.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. BAUCUS. No; I will not. Later on, but not at this point. On the other hand, ethanol does not. Casual exposure to methanol can result in respiratory problems only a few hours later. If you drink methanol you will go blind.

And look at MTBE. Both the Centers for Disease Control and the American Medical Association have raised serious concerns about MTBE. Consumers in Montana, Alaska, New Jersey, New York, and North Carolina have suffered headaches and flu-like symptoms after coming into contact with MTBE. Last fall, the outcry was so great that the Senate voted overwhelmingly to oppose mandating the use of MTBE in Alaska due to the thousands of health complaints in that State.

Ethanol, by contrast, is not toxic. In fact, it can be ingested with no lasting harmful effects. And, most important, cities which use ethanol and ETBE have had no health complaints.

Finally, I want to address the comments of the Senator from New Jersey. He said that this rule will have a negative impact on air quality in the Northeast part of the country. I have a letter here from Administrator Carol Browner of the Environmental Protection Agency, addressing whether this rule has positive or negative environmental or economic effects in the Northeast. It is addressed to Senator HARKIN. Let me read from the letter.

> DEAR SENATOR HARKIN: I am writing you regarding questions that I understand have arisen with respect to the potential impact of Environmental Protection Agency's renewable oxygenate rule on the Northeast. The Environmental Protection Agency took great care in developing a final rule that will have environmental and energy benefits for the Northeast and not cause adverse economic impacts.

I ask unanimous consent that the full text of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC.
Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: I am writing you regarding questions that I understand have arisen with respect to the potential impact of EPA's renewable oxygenate rule on the Northeast. EPA took great care in developing a final rule that will have environmental and energy benefits for the Northeast and not cause adverse economic impacts.

EPA believes that this rule is consistent with longstanding Congressional and Administration policies to promote the use of renewable fuels, and does not violate the reg-neg agreement on reformulated gasoline.

During the comment period on this rule, the Northeast raised concerns that smog-forming emissions could increase during the summer ozone season. Although EPA believes that this should not be a problem for the Northeast, the agency included provisions in the final rule giving states the opportunity to address this issue by asking EPA to extend the summertime season. Moreover, EPA believes that the rule should not increase carbon monoxide emissions in the winter or nitrous oxide emissions.

Finally, EPA does not believe that this rule will increase the price of reformulated gasoline sold in the Northeast. The final rule includes averaging, trading and a program phase-in to avoid any short term shortages and price increase.

Thank you for your interest in this matter.

Sincerely

CAROL M. BROWNER.

Mr. BAUCUS. In sum, this rule is good for the environment. Second, I want to address the arguments raised here on the floor regarding the highway trust fund. I have heard some Senators say that if the Johnston amendment is defeated, somehow that is going to cost jobs. That its defeat is going to reduce the highway trust fund. That its defeat means we are not going to be able to build highways in this country. These statements are totally untrue. Totally untrue.

The highway trust fund by 1997 will have a surplus of at least $9.25 billion. We in the Congress every year under ISTEA, the highway authorization program, decide what the appropriations will be. The implementation of Environmental Protection Agency's rule will have no effect—none, zero, zip—on our ability here in the Congress, as we appropriate dollars for the highway program, to appropriate the same number of dollars we would in any case.

So let us not be confused. The Environment and Public Works Committee took a serious look at this issue of the impact of the reformulated gas rule on the highway trust fund and I can tell you, Mr. President, it does not have the adverse effect on jobs that some have alleged.

Mr. President, let me conclude by saying, there are terrific environmental benefits here. There is no adverse effect on jobs in the highway program here.

Most of all, this rule is good policy for this Nation as a whole. People like Shirley Ball, a tireless advocate for ethanol in Montana, cannot be wrong. For years she has worked to promote the use of ethanol, not because it is good energy policy, or good agricultural policy, or even good environmental policy. Although it is all of those things. Shirley has worked hard because she believes it is good for all the people of this country. Shirley's not an oil company executive or an agri-business person who will get rich or go bust depending on which way this rule comes out. She's just an ordinary American with an extra-ordinary amount of common sense. I believe in her good judgment.

For those reasons, and many others which other Senators have stated, I urge that the Senate table the Johnston amendment.

Mr. JOHNSTON. Will the Senator yield?

Mr. BAUCUS. Yes.

Mr. JOHNSTON. Mr. President, the Senator said methanol has adverse effects. The Senator is aware that competition here is not between methanol and ethanol, it is between MTBE and ethanol? Will the Senator agree?

Mr. BAUCUS. MTBE also has adverse effects. In fact, as I said——

Mr. JOHNSTON. But the Senator does agree with that?

Mr. BAUCUS. The Centers for Disease Control and the American Medical Association have raised serious concerns about MTBE.

Mr. JOHNSTON. Is the Senator aware, to use EPA's own words about the safety of MTBE, as reported in the Agency's Integrated Risk Information System, they say: "A comprehensive review by environmental"——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JOHNSTON. I yield myself 1 additional minute.

> As reported in the Agency's Integrated Risk Information System, a comprehensive review by Environmental Protection Agency scientists of 20 MTBE chronic exposure research projects establishes the safety of the MTBE.

Mr. BAUCUS. I am not familiar with that. I would have to look at it before I could comment on it.

Mr. JOHNSTON. It is from an EPA-sponsored research conference on MTBE and other oxygenates held on July 26 and 28, 1993 and it states as follows: "Just last year an extensive series of health studies on MTBE exposure * * * demonstrated that no adverse health effects occur from MTBE exposure."

Mr. BAUCUS. To answer the Senator's question, all I know is the EPA's rule does meet the requirements in the law for 2-percent-oxygen requirement.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 7 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 7 minutes.

Mr. SIMPSON. Mr. President, I appreciate that courtesy, especially the courtesy of my friend from Alaska. I had come here to the floor and so had he. Therefore I will abbreviate my remarks and just say I represent a State that is the No. 1 coal-producing State in the United States; the No. 5 oil and gas-producing State. I have seen issues like this debated in the Senate before.

This debate is not about the environment. It is about politics and gimmickry of the marketplace. Even the EPA is not claiming any significant air quality benefits which would result from the ethanol mandate.

This issue is really about designating a market share. We have seen this type of activity before when Congress did this in the Clean Air Act in 1977. Back then, midwestern Senators from high-sulfur coal-producing States put in the so-called percentage reduction requirement which was a response to a growing market for clean, low-sulfur western coal.

That provision was guaranteed to ensure that high-sulfur coal would have a large market share by mandating scrubbers on powerplants regardless of how low-sulfur content the coal was in the beginning. It took us 13 years to repeal that little whizzer.

The ethanol mandate is really no different. It is an effort to use the Clean Air Act to stack the deck in favor of ethanol instead of letting the free market work as it should.

I understand the motivation of the farm State Senators. I represent one of those States, a great agricultural State of Wyoming. I have farmers in my own State, many of them. There is an ethanol plant coming on stream in Wyoming. But I also know that ethanol would garner a generous share of the market regardless of this mandate—regardless of it. The mandate only increases the market share artificially. It was always a political decision. It was never an environmental policy decision. Let us be very clear about that.

The economy of my State depends primarily on the oil and gas industry. Unfortunately, that industry has been on the ropes in recent times, and my State has lost jobs and population and taxes because of the decline in oil prices and production. But I did not go out and ask the EPA to mandate ethanol or MTBE, or work with coal extracts to see if we could not determine some new type of fuel. An MTBE plant in Cheyenne has been on line for over a year. It is a very important part of our economy. There are plans to build another methanol plant in central Wyoming and I expect those plants to compete with ethanol on a level playing field. They should.

I want to see all oxygenates produced in my State including ethanol, but I do not want to get into a situation as we had with this onerous percentage reduction requirement in the Clean Air Act and have it stuck on the books for 13 years.

The other serious problem with ethanol mandate is its effect on the Highway Trust Fund. Many States will lose money, especially after 1997. Wyoming could lose up to $60 million between 1996 and the year 2005 simply because there is no tax—like a gasoline tax—to help build your highways. Pay attention to this one. In a rural State like Wyoming, where the transportation system is so vital, we have very little air transportation, that is a substantial sum.

So I want to express my support for the Johnston amendment.

Contrary to the rhetoric we have heard, this will not be an end of corn or be the end of ethanol production. It will be a return to a fundamental, American economic principle of a free marketplace. That is exactly where we ought to go.

I thank my colleague from Alaska. I thank my friend from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. I will yield the balance——

Mr. HARKIN. I yield 10 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SIMPSON. Mr. President, may I ask how much time did I have remaining on my 7 minutes?

The PRESIDING OFFICER. Approximately 2 minutes remaining.

Mr. SIMPSON. At the appropriate time I will yield that back or to the Senator from Alaska.

I thank the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Senator from Iowa for yielding.

As the primary author of the amendment on the Clean Air Act, I think it is very important that we understand exactly what it is that the Clean Air Act does. It simply requires that 33 percent of the gasoline sold in 1996 have more oxygen. That is what it says. There will be no requirement for any relation to source. There is no requirement relating to whether it be renewable or nonrenewable. It simply says some gasoline, 33 percent, ought to have more oxygen.

It has been 4 years since we passed the Clean Air Act. There have been many proposals. Environmentalists, consumers, and others have opposed the early drafts of some of these proposals. But the administration has listened. In fact, it has listened probably more carefully than any other past administration when it has come to the rulemaking process.

They received more comment on this rule than any other rule promulgated by the EPA. Some 12,000 comments were provided. Letters from virtually every Senator were provided to the EPA with regard to this rule. Having listened, the administration responded.

Let me commend them for the way in which they have responded because they have addressed many of the concerns raised, time after time, from Senators and other comments alike. This rule is fuel neutral. Let me emphasize that. This rule is not an ethanol rule. It is not a methanol rule. There is no requirement that we mandate ethanol or methanol in this rule. It simply says that 30 percent—30 percent—of the oxygen we use to provide more oxygen in the gasoline comes from renewable sources.

In fact, it is very clear today in a letter we received from Richard Wilson, Director of EPA's Office of Mobile Sources, that the renewable fuels rule does not violate the principle of fuel neutrality that so many Senators have raised this afternoon. Any fuel made from renewables, including the example methanol produced from landfill gases, would qualify. It can be renewable ethanol or it can be renewable methanol. It does not have to be an ethanol product.

The negotiated agreement did not address the fuel neutrality in the context of renewable versus nonrenewable oxygenates. So this is a supplement to the rule, not in any way in violation to the reg-neg process that was promulgated over the last 4 years. It reduces emissions of greenhouse gases. There is no increased cost to the consumer. It reduces the cost to the Federal Government. There is no equivocation on those facts. That is exactly the result of the rule promulgated by the EPA.

Environmental groups endorse that fact. Consumer groups have endorsed that fact. In fact, we have a letter from Citizen Action to which others have referred. Let me just relate the last paragraph of the letter dated July 18:

> Please vote for consumers. Please vote for cleaner-burning, domestically produced renewable fuel and competition in the market for oxygenates.

Citizens Action clearly has indicated their strong support for this rule and against this amendment.

Agriculture groups, energy groups, all of the groups have indicated that they support the President and this administration in opposing the amendment.

The Environmental Protection Agency could not have made it more clear in a letter to me on July 21. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, July 21, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: Since EPA announced its decision on the role of renewable oxygenates in reformulated gasoline (RFG) on June 30, a great deal of misinformation has been heard from critics of the decision. I would like to take this opportunity to clarify EPA's views on this important clean air program.

The administration is aware that floor amendments to EPA's appropriations bill may attempt to overturn EPA's rulemaking on renewable oxygenates. The Administration believes that it is inappropriate to legislate regulatory restrictions through the appropriations process and will strongly oppose any attempts to interfere with EPA's implementation or enforcement of the rule.

The requirement that 30 percent of the oxygenates used in RFG be produced from renewable sources, such as grain, biomass or even garbage, is necessary to assure that renewable oxygenates are not disadvantaged in the RFG program. EPA is not establishing a new program to benefit any particular fuel, rather we are assuring that renewable fuels continue to have an opportunity to compete in a changing world of cleaner burning gasoline. Our actions are consistent with longstanding Congressional support for renewable motor fuels and this Administration's environmental and energy goals.

We have taken the necessary steps in the rule to alleviate potential disruption in the gasoline distribution system. In the context of overall gasoline usage, this program will result in only one-half of one percent of the gasoline consumed in the U.S. annually being made from renewable sources.

It is not an "ethanol mandate." Rather, it is fuel neutral in that any renewable oxygenate will qualify. The production of all oxygenates will increase substantially as a result of the RFG program. For example, nonrenewable MTBE made from natural gas may well experience a 170 percent increase in its market. No industry is a loser in this program.

I hope the above points and enclosure are useful in explaining the role of renewable oxygenates in the reformulated gasoline program. Please contact us if you have any questions or need further information.

Sincerely,

CAROL M. BROWNER.

IMPACTS OF THE RENEWABLE OXYGENATES RULE

ENVIRONMENTAL AND OTHER BENEFITS

The renewable oxygenates rule ensures that the benefits of the RFG program will be achieved. In addition to the 15 percent reduction in VOC and toxic emissions from vehicles using Phase I RFG, additional reductions in VOC emissions may occur if ETBE displaces currently-used ethanol during the summer months. This occurs because the rule does not credit the use of renewable oxygenates that increase evaporative emissions during the summer smog season. (The summer season is defined as May 1 to September 15, although a state may request a longer season if needed for smog control.)

The rule provides a strong incentive for the development of new technology to efficiently produce renewable oxygenates which would lead to long-term global warming benefits. Short-term global warming benefits would occur if methanol from landfills is used to make renewable MTBE as one company accounced recently.

There are also energy benefits. According to a DOE report, up to 20 percent less fossil energy is used to produce ethanol as compared to MTBE produced from natural gas.

COST

Consumers should see no increase in the prices of RFG at the pump as a result of the renewable oxygenate rule. EPA estimated that the reformulated gasoline rule that was promulgated last December would cost between 3 and 5 cents per gallon more than conventional gasoline. This includes the cost of oxygenates. The new rule simply requires some oxygenate to be renewable. EPA's analysis shows that the incremental cost impact of the new rule ranges from 0.02 cents to as much as 0.2 cents per gallon when spread over the 39 billion gallons of RFG that will be produced each year.

With respect to the impact on the Highway Trust Fund, EPA estimated a $180 million loss and published this estimate in the rule. Treasury, as part of updating the President's budget in the Mid Session review, subsequently estimated the loss to be around $240 million. USDA provided estimates that show that the Highway Trust Fund losses are more than offset by savings in farm deficiency payments. The rule included a $344 million savings estimate based on a USDA analysis of a report by the General Accounting Office. USDA has provided a more recent savings estimate of $275 million.

SUPPLY

There is no doubt that there exists today an adequate supply of renewable oxygenates to satisfy the requirements of this program. The only question is whether renewable oxygenates would need to be shifted out of existing markets and into RFG cities. To alleviate as much as possible concerns about the ability of the fuels industry to do some shifting and also provide time for new renewable oxygenate production to come on line, the Agency took a number of steps in the regulation. First, we set the initial year's requirement at 15 percent. In 1996, the requirement goes to 30 percent.

Second, we included averaging provisions. With averaging, a refiner may use more renewable oxygenate during the later part of 1995, for example, and none during the first part of the year, as long as over the year the 15 percent requirement is met.

Third, we included trading provisions, under which Refiner A in Chicago may use more than the required amount of renewable oxygenates. The "excess" oxygen credits may then be sold to Refiner B in Chicago or even Refiner C in Baltimore who choose not to use renewables.

As mentioned above, no industry is losing in the reformulated gasoline program. Renewable oxygenates, like ethanol from grain, will get 30 percent of the new RFG oxygenate market and nonrenewables, like MTBE from natural gas, will get 70 percent of the new market. The production of all oxygenates will grow significantly.

Mr. DASCHLE. Mr. President, Carol Browner makes it clear this is not an ethanol mandate. Rather, it is fuel neutral in that any renewable oxygen will qualify. The production of all oxygenates will increase substantially as a result of the RFG program. For example, nonrenewable MTBE made from natural gas may well experience a 170-percent increase in its market. No industry is a loser in this program. So it is very clear.

Mr. JOHNSTON. Will the Senator yield?

Mr. DASCHLE. One hundred fifteen million gallons—I only have 5 minutes. I will yield at the end.

We are talking about 115 million gallons of gasoline; 33 percent of all gasoline used is affected by the RFG program; 3 percent of all that gasoline will probably be related to MTBE or nonrenewable sources. Only .6 percent, less than 1 percent of all the gasoline, will be renewable under this rule. That is really what we are talking about, Mr. President. That small green line on this chart relating to this entire gray column over on the right-hand side. That is the issue.

There is also a very significant misconception, frankly, about the volume of fuel affected. I think this chart lays it out very well. This chart demonstrates as clearly as anyone can, I believe, why the impact on price, on the environment, on all of the other issues that people have raised is so minimal. We are talking about sixty-eight hundredths of 1 percent of all gasoline affected.

There are so many arguments that I do not know that I have the time to talk about them all. But given the fact that many of these issues have been raised on the floor, let me just concentrate on three rebuttals to the issues raised by some of our colleagues.

The first issue raised is that ethanol is subsidized. I am glad my colleagues have raised the issue of subsidization because I think it really ought to be a matter of perspective here. I am glad they raised it because ethanol is not the only source that has received subsidization in energy. All energy sources receive a substantial degree of subsidization. In fact, the oil industry has received $125 billion in Federal tax incentives alone over the course of its development.

Today, the oil and gas industry still receive $8 billion in tax incentives, and they are asking for $3 billion more. That is in tax subsidies. They also receive another $5 billion in research and development. Natural gas gets $4 billion in subsidization. If you take all of the subsidization together for 1 year—and that is what I have depicted on this chart—the total annual subsidies for all fossil fuels totals over $20 billion. That is more than 20 times the amount of subsidy received by ethanol, even though oil and gas have been the traditional fuels for generations.

So let us talk about subsidy. Let us look at the comparative subsidization that exists between ethanol and all the fossil fuels, and if you look at the granddaddy of them all, nuclear fission, it receives $10.5 billion in subsidization on an annual basis. But that tax subsidization, Mr. President, is not the only issue as we look at what the real cost of our fuel is.

If you examine what it costs to protect our foreign sources of oil, the costs actually just about go off the chart. According to the General Accounting Office and other studies that I have listed here, the United States spends between $80 and $120 per barrel in production costs and the costs of defense for foreign oil from the Middle East. If you are going to take all the costs entailed in actually using and producing the fuel that we use today, more than $60 to $100 more than the market price for oil per barrel goes into the cost of subsidization for oil today.

Finally, there are the environmental costs, which cannot even be accurately calculated today. Fossil fuels are not alone. The nuclear industry and the fossil fuels together clearly are heavily subsidized by the Federal Government. I have not heard one comment from opponents of ethanol this afternoon in regard to the subsidization received for fossil fuels.

Together, between nuclear and the fossil fuel energy, they receive 84 percent of all Federal energy subsidization this year, and that is not including the cost of defending oil imports. So it is not subsidy, it is not the Federal tax policy they oppose, but the competition for available public resources that I believe is the real source of their opposition in this debate.

When it comes to energy policy, it just makes common sense that renewable sources ought to have a role and some commitment from the Federal Government to provide the competition and the balance we say we all want.

The second point I want to make this afternoon has to do with Federal cost. We heard a good deal of debate about it this afternoon. Let me try to explain very easily on this chart what the real Federal costs for the ethanol program is in 1994. Opponents talk of the loss of revenue to the Federal highway trust fund. I depict that here in the red. We do lose $270 million overall in costs as a result of the loss in the Federal highway trust fund. That is in large measure because of the exemption of 54 cents per gallon of pure ethanol. Since we are producing 500 million gallons, it is expected that that total annual cost will be somewhere around $270 million.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DASCHLE. I ask for 3 additional minutes.

Mr. HARKIN. I yield 3 additional minutes.

Mr. DASCHLE. Mr. President, income due to the exemption is taxable. Therefore, if we tax income from the exemption at the corporate rate, the return in revenue would be $100 million. So already we are offsetting that Highway Trust Fund.

Finally, because the rule increased corn prices, it reduces the farm program costs substantially. The USDA has made that very clear, and I ask unanimous consent that the text of the two letters from the USDA be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 27, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: This letter responds to your request that the Department of Agriculture (USDA) estimate the effect of Environmental Protection Agency's (EPA) renewable oxygenate requirement (ROR) on Federal outlays.

EPA's ROR for reformulated gasoline is expected to reduce USDA's Commodity Credit Corporation (CCC) outlays on price and income support programs by $2.3 billion during FY 1995–1999 compared with outlays in the absence of ROR. The decline in CCC outlays reflects lower deficiency payments for corn and other feed grains.

The ROR will increase the demand for corn used in ethanol production by 40–50 million bushels during the 1994/95 crop year. Larger increases in corn demand are expected following the ROR phase-in period. By 1996/97 the ROR is expected to expand the amount of corn used in ethanol production by 200–250 million bushels.

Increased amounts of corn used in ethanol production would raise the average price of corn by $0.02 per bushel during the 1994/95 crop year. Corn prices are estimated to increase by $0.08 per bushel annually once the ROR is phased in. Higher corn prices translate into higher prices for other feed grains and lower deficiency payments for corn and other feed grains.

Additional corn demand for ethanol production reduces the amount of corn available for other uses, including inventories held over from one year to the next. Reductions in carryover stocks are not expected to exceed 140 million bushels annually and therefore, are not expected to cause a lowering in the acreage reduction program (ARP) percentage for corn, and our projections therefore assume no changes during 1995–1999. A lowering of the ARP percentage would expand corn supplies, reduce corn prices, and reduce the estimated savings in CCC outlays under the ROR.

We have estimated the costs to the Treasury associated with the $0.54 per gallon excise tax exemption or blenders tax credit for ethanol. This calculation compares our long-term projections for corn use with and without the ROR. Our analysis shows that over the FY 1995–1999 period foregone tax revenues from additional ethanol production for the ROR would be about $1.2 billion. Subtracting these revenue losses from savings in CCC outlays shows a net savings of $1.1 billion for the 5-year period.

I hope this information is helpful, if you have any further questions concerning our estimates please do not hesitate to contact me.

Sincerely,

KEITH J. COLLINS,
Acting Assistant Secretary for Economics.

DEPARTMENT OF AGRICULTURE,
Washington, DC, July 22, 1994.

Mr. ERIC WASHBURN,
U.S. Senate, Washington, DC.

DEAR ERIC: This letter responds to your request for information regarding the costs and benefits of the Environmental Protection Agency's (EPA) regulation requiring use of renewable oxygenates in reformulated gasoline (RFG).

The renewable oxygenate requirement (ROR) will require refiners to produce RFG containing renewable oxygenates beginning January 1, 1995. The program will be phased in with a 15 percent ROR in 1995 and a full 30 percent ROR in 1996 and thereafter. The Department (USDA) and other agencies provided EPA with comments on many aspects of the regulation including costs and benefits. I am providing a copy of our comments for your information.

EPA has stated, for the record, that the ROR offers both immediate and long-term environmental benefits. In the preamble to the final ROR regulation, EPA discusses summer ozone-related benefits and global warming benefits. Summer ozone-related benefits are associated with ETBE use in RFG that is controlled for volatile organic compound (VOC) emissions. The ROR only gives refiners credit toward their percentage requirements in summer VOC-controlled RFG if ETBE is used, giving refiners an incentive to use ETBE. ETBE blended in VOC-controlled RFG has two effects; (1) reducing the amount of ethanol available for splash blending; and (2) the effect on the performance characteristics of RFG.

It is not illegal to use ethanol in VOC-controlled RFG, however ethanol blended into VOC-controlled RFG does not receive credit as a renewable oxygenate. The ROR provides incentives to blend ethanol in the winter and ETBE in the summer because ethanol raises the volatility of fuels it is mixed with. Even though all RFG must meet performance standards, ethanol blends could raise the volatility of other RFG when they are mixed in vehicle fuel tanks. This is called the commingling effect. Ethers like ETBE and MTBE do not exhibit a commingling effect. With incentives for ETBE, less ethanol will be available for blending in VOC-controlled gasoline. Therefore, in some RFG market areas there will be less commingling than might have occurred without the ROR. The result will be fewer VOC emissions and less ozone potential for those areas.

The second effect ETBE has on reducing VOC emissions is linked to the ether's ability to reduce evaporative emissions at temperatures above 100 degrees Fahrenheit. A large fraction of summer VOC emissions are generated when gasoline circulating in vehicle fuel systems becomes hot and evaporates. ETBE reduces this evaporation and lowers these emissions relative to both ethanol and MTBE. This effect is not accounted for in EPA certification models for RFG and thus, is a benefit not accounted for in RFG performance.

EPA has been reluctant to quantify these emissions benefits in their analysis of the ROR rule. This is partly due to the uncertainty over the amount of ETBE that will be used in RFG, particularly in the first year of the program. In addition, the data available to quantify these effects is limited. EPA does believe the available data have verified the scientific theory indicating real VOC emissions reductions, however, the data and estimation methodology have not been developed with sufficient rigor to provide reliable point estimates of these effects. EPA's final analysis of these issues indicate the net impact of displacing ethanol or MTBE with ETBE in VOC-controlled RFG would be a reduction in VOC emissions over what would have occurred in the absence of this rule.

EPA, USDA, and the Department of Energy (DOE) all believe the use of renewable fuels have the potential to significantly reduce emissions of greenhouse gases. Several new technologies are being developed that will enhance the productive efficiency of current conversion processes and allow ethanol to be produced from totally new feedstocks. We believe the development and commercialization of these new technologies depends on the existence of an expanding market for renewable fuels. If such a market does not exist, or lacks government support, potential investors will be unlikely to provide the capital necessary for the development of this industry. We believe the long-term viability of the renewables industry is linked to the success of the ROR program.

You have also asked for our assessment of the effect the ROR will have on Federal outlays. USDA has recently revised estimates of these effects. I have included a copy of this analysis for your information. Our analysis shows reductions in Commodity Credit Corporation outlays resulting from the ROR of about $2.3 billion over the 1995–1999 period. These reductions occur because prices of corn and other feed grains increase the level of deficiency payments for farmers participating in the program decreases.

We have also estimated incremental losses in the Highway Trust Fund of general revenues from new ethanol marketings resulting from the ROR. We believe about 115 million gallons of new ethanol in 1995 and an additional 385 million gallons in 1996 will be used to meet the ROR. In 1995, foregone revenues for this level of additional production will be $62 million. Thereafter revenue losses from 500 million gallons of new ethanol annually will be about $270 million per year. Total foregone revenues over the period 1995–1999 would amount to $1.15 billion as a result of the ROR. When farm program payment savings and revenue losses are considered together, net reductions in Federal outlays are $1.15 billion.

Finally, we have analyzed the costs of the ROR for consumers using RFG. We believe these costs will be minuscule for several reasons. First, the ROR provides for a flexible system that allows refiners to trade ROR credits among themselves and across geographic regions. Credit trading will allow renewables to be used in areas where they are most economical. Second, ethanol will be the low-cost oxygenate for making winter RFG and should actually save consumers money. Moreover, EPA has implemented a phase-in of the regulation that will allow markets to adjust to these requirements without causing shortages of oxygenates or reformulated gasoline. There is currently enough additional production and blending capacity in place to meet the 15 percent ROR in 1995.

I hope this information is helpful. If you have additional questions please give me a call.

Sincerely,

JOHN W. MCCLELLAND,
Associate Director.

Mr. DASCHLE. Mr. President, what the USDA reports in its analysis, and others have corroborated this information, given the savings in the Federal farm program of $517 million, the annual cost savings, and the Highway Trust Fund loss, and the tax revenue generated, the savings in the farm program is $343 million.

We have to rely upon domestic energy sources. The Wall Street Journal just today said there again has been a dramatic increase in the price of oil as a result of what is happening not in the United States, but in Nigeria.

Energy imports are growing rapidly. We are now importing 50 percent of all oil consumed. During the last 4 years, imports of MTBE have grown tenfold. Without this rule, we are told that MTBE will double or even triple just in the next 2 years. So for the sake of energy security, we have to develop the renewable fuel market.

Mr. President, finally, let me just say this. The integrity of the rulemaking process is at stake here. That is really what we are talking about. The President makes very clear how important this rule is to this administration, how important it is to him personally, how important it is to the integrity of the rulemaking process.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 22, 1994.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Last month, the Environmental Protection Agency (EPA) made an important decision to use renewable fuels to help achieve the objectives of the Clean Air Act. By promulgating the renewable oxygenate rule, my Administration made good on a long-standing commitment to a cleaner environment and a stronger economy. The use of reformulated gasoline will help to improve the quality of the air in the nation's dirtiest cities. Through this decision EPA is helping to assure that renewable fuels continue to have a fair market share in a changing world of cleaner burning gasoline.

I am aware of the attempts by some in Congress to block implementation and enforcement of EPA's rulemaking on renewable oxygenates. I strongly oppose any attempts to interfere with EPA's implementation or enforcement of this rule.

Sincerely,

BILL CLINTON.

Mr. DASCHLE. Mr. President, they have listened, they have consulted, they have responded. So the bottom line is that this rule is a good one because it is right. It is right on energy and tax policy; it is right on deficit reduction; it is right on the environment; it is right on reducing imports; it is right for America. The Senate should defeat this amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 15 minutes and 30 seconds.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I rise to support the amendment that would block funding for the enforcement of EPA's ethanol mandate.

In reality, EPA is initiating implementation of a mandate which, in my opinion, is a bad policy. Make no mistake about it, it is a mandate. I do not believe that EPA has the authority to mandate one fuel use over another under the Clean Air Act. The market should dictate what fuel is used.

Certainly this mandate is not fuel neutral. Congress should support a fuel neutral policy. Congress never gave the Environmental Protection Agency the legal authority to mandate one oxygenate over another for reformulated gasoline. The mandate violates specifically the regulatory negotiation agreement regarding fuel neutrality signed by all parties interested in the reformulated gasoline program including the ethanol interests. Mr. President, what we have here is a transfer of jobs from one industry to another.

The Senator from Montana indicated that we were concerned with the MTBE, the ETBE, the ethanol, and the methanol. The public is obviously a bit confused by this mumbo jumbo.

The Senator from Montana also said we should not second-guess the EPA. Well, I tell you, we should second-guess the EPA. In the opinion of the Senator from Alaska, the EPA is one agency that has totally run amok. I can tell you one horror story after another. The question of accountability in the mind of this Senator is the question as to whether the EPA is accountable to the Environment and Public Works Committee or it is the other way around. I am not sure which it is.

But Alaska experienced a case with the Environmental Protection Agency where they mandated adding MTBE to our gasoline to comply with the Clean Air Act 2 years ago. We had people getting sick when they were filling up their cars, women breaking out in rashes. It got so bad that our State government, under the authority of the Governor of Alaska, terminated the MTBE additive and appealed to the EPA to do a study. EPA promised that they would do a study in Alaska.

So they brought up a dynamometer. On the way up to Alaska, it fell off the truck and broke. The EPA never completed the study that they promised to complete for Alaskans to address the question of what health effects occur in cold weather, 40 degrees below zero and colder, associated with the burning of oxygenates in our gasoline. Neither MTBE nor ethanol have been adequately tested in Alaska's cold-weather climate.

The bare-bone ethanol study was incomplete and nonconclusive. There had been concerns regarding moisture picked up in the process of moving the fuel from the gas tank into the carburetor, resulting in a freezing of one's gas line.

So, Mr. President, I am somewhat amused when my colleagues in this body say do not second-guess the EPA. And I am further amused at the statement that we should pursue this 30 percent ethanol mandate because it is in the national interest of relieving our economy of imports.

Mr. President, I can tell you as a Senator from Alaska one thing that you can do today. You can simply allow exploration in the Arctic National Wildlife Reserve where there is a greater likelihood of finding major, major oil fields to supplant Prudhoe Bay, which is in decline, which has been providing this Nation with 24 percent of its total crude oil for about 20 years now. That does not require any subsidy, not one cent. It can be done right now. American capital will invest and provide U.S. jobs.

What we are doing here, Mr. President, is we are embarking, if you will, on a very dangerous principle. We are saying that, indeed, EPA has the authority to mandate. This mandate, in the opinion of the Senator from Alaska, is totally outside EPA's authority and its jurisdiction. I assure you, colleagues, that this is a very, very dangerous principle.

Finally, as we look at an argument that I have heard that the mandate will reduce corn deficiency payments of some $275 million per year, I come to the conclusion that we are only replacing one subsidy for another.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MURKOWSKI. I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, I yield 3 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 3 minutes.

Mr. BOND. Mr. President, I thank my colleague from Iowa.

Mr. President, when Congress passed the Clean Air Act of 1990, corn farmers viewed it as a significant step toward creating an opportunity for corn-based ethanol to compete in the renewable oxygenate market for motor fuel. Clearly, when Congress authorized the production and use of oxygenated fuels and reformulated gasoline in areas experiencing serious air pollution problems, the intent was to allow ethanol to complete fairly in this new market.

Because of the intent from Congress, the Environmental Protection Agency announced the renewable oxygenate requirement, ROR, which requires that 30 percent of the oxygen required in reformulated gasoline, RFG, must be derived from renewable sources such as corn-based ethanol.

Now, the Johnston-Bradley amendment would eliminate a major part of the Clean Air Act. This amendment attempts to rewrite history and undue the original intent of Congress. There are many in this body who have problems with the Clean Air Act who would like to rewrite history, the VA-HUD appropriations bill is not the place to change the Clean Air Act.

What is this debate all about? Well, if you support ethanol, a renewable resource, you support reducing our dependence on foreign oil, reducing harmful carbon monoxide and other tailpipe emissions, and providing a tremendous marketing opportunity for rural America.

The big oil lobby and those opponents of ethanol here today favor the continued use of foreign oil, the use of MTBE, a nonrenewable resource, and are willing to stop new growth in rural America.

In fact, St. Joseph, MO, a town that was hit hard by the great flood of 1993 and who has lost two major employers in the last year, has had several firms looking at St. Joseph as a possible site for an ethanol plant. Clearly, the thought of the big oil lobby trying to kill this towns prospect for new jobs is intolerable.

The current EPA program, which the Johnston-Bradley amendment will kill, will reduce our dependence on foreign oil. We will import 17 million less barrels of imported crude oil in 1995. Are jobs overseas more important to the big oil lobby then jobs in St. Joseph, MO?

The EPA's renewable oxygenate requirement will create millions of dollars of new growth in an otherwise stagnated rural economy. It is estimated that corn producers will see the price of corn increase by over 10 cents per bushel because of the expanded ethanol demand. To a typical 250 acre corn producer, that would mean an additional $3,000 in increased income. Missouri corn producers expected to harvest over 2.3 million acres in 1994 and the ROR could add an additional $25 million in income.

As a result of the Johnston amendment, CBO estimates that there would be an increase in outlays for Federal agriculture programs of $25 million for fiscal year 1995.

The ROR will ensure consumer choice in the marketplace. If the Johnston amendment passes, imported MTBE will virtually be the only oxygen component in reformulated gasoline and consumers will be without a choice.

The American Medical Association has called for a moratorium on MTBE until scientific studies resolve health risk questions. MTBE has been detected in blood samples, and reports of nausea, headaches, dizziness, cough, and eye irritation from MTBE have come from all over the country.

Environmental groups such as the Friends of the Earth, the Sierra Club, the National Wildlife Federation, the Environmental Working Group, and the Natural Resources Defense Council all oppose the Johnston amendment.

The ROS requires that a mere 1.6 percent of the total RFG market be derived from renewable resources. The remaining 98.4 percent will continue to be petroleum derived products. This will ensure that the intent of Congress will be carried out and that would allow ethanol to compete fairly in this new market.

I urge the Senate to reject the Johnston amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Senator MCCAIN be added as a cosponsor to our amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I yield 4 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 4 minutes.

Mr. WALLOP. Mr. President, I am deeply disturbed by efforts by the White House to abandon the requirement for fuel neutrality that is contained in the 1990 Clean Air amendments and the 1992 Energy Policy Act. What we are talking about is an intervention by the White House into EPA's regulatory proceeding to promote a special interest—ethanol—in order to deliver on a 1992 campaign promise to corn State farmers and constituents.

But what of his promises to the American people? In October 1992, on behalf of then Presidential Candidate Bill Clinton, Senator TOM DASCHLE addressed the National Conference on Clean Air Act Implementation and Reformulated Gasoline. At that time Senator DASCHLE assured the audience that:

> Governor Clinton and Senator Gore understand the importance of getting proposals on the table in order to make sure that there will be full compliance with the reformulated gasoline program in January 1995.

He then went on to add:

> * * * they also know that the program will only succeed if all oxygenates can compete for market share within the context of the law. Only in this way will we make sure that consumers are protected, the domestic economy is enhanced, and innovation into new, better ways of making gasoline and oxygenates continues.

Nevertheless, despite these promises, the Environmental Protection Agency has chosen to mandate the use of ethanol and its derivative, ETBE, in reformulated gasoline in place of cheaper and equally effective alternatives, such as the natural gas derivative MTBE.

Twice the Congress rejected policies that would authorize the Federal Government to select specific fuels or any particular oxygenate. In both the 1990 Clean Air Act amendments and the 1992 Energy Policy Act, the Congress enacted policies based on reliance on a competitive and fuel-neutral marketplace to make the selection among petroleum and nonpetroleum based transportation fuels.

Therefore, when it was reported last fall that the Environmental Protection Agency had completed its regulatory negotiation on reformulated gasoline, many of us were relieved. With the full participation of the ethanol and methanol industries, an agreement was reached that preserved fuel neutrality. Certainty was achieved. Finally, this long awaited Federal program could be launched.

Yet, betraying its proper role, before the ink was dry on the agreement, the EPA issued its supplementary rule regarding renewable oxygenates. Despite a lack of justification for the requirement, the final rule mandates a 2-year phase-in of a guaranteed 30 percent market share for renewable oxygenates. Uncertainty returned to the process.

We must not lose sight of the fact that this mandate would affect one-third of the gasoline used in the United States. Even if it satisfied the criteria proposed by the EPA, which it does not, adoption of the mandate at this late hour violates fuel neutrality as well a jeopardizes the orderly introduction of reformulated gasoline into the marketplace.

Let us also not forget that the ethanol fuel industry was created in the late 1970's out of the largest of the American taxpayer. During the last 15 years, there have been 17 attempts by special interests to carve out a guaranteed market for ethanol. Now ethanol producers are perhaps the United States' most heavily subsidized industry.

The annual taxpayer subsidy is $540 million per year. Over the last 10 years, this exemption has cost the highway trust fund $4.6 billion. What a deal for the middle class.

According to the letter from the Highway Users Federation and 12 other organizations, this new renewable oxygenate mandate will reduce annual deposits into the fund by an additional $465 million, for a total revenue loss of over $1 billion annually. This estimate is consistent with the estimate of Transportation Secretary Peña in his February 14 letter to OMB Director Panetta when he estimated that this mandate would result in an additional loss to the highway trust fund of from $340 to $465 million.

As a consequence, all Americans will be faced with higher taxes, poorer quality transportation and fewer jobs. Every billion dollars spent on highway construction creates about 39,000 jobs.

For example, California will lose $42 million annually; Georgia, $13 million; Illinois, $11 million; Indiana, $9.7 million; Maryland, $8 million; Massachusetts, $27 million; Michigan, $12.9 million; Minnesota, $6 million; North Carolina, $12 million; Virginia, $10 million; and South Dakota, $3 million.

Mr. President, fuel neutrality is a basic tenet of both the 1990 amendments to the CAA and the alternative fuel provisions in the Energy Policy Act of 1992. As a result of the EPA's inability to issue the regulations on time, gasoline producers were not able to finalize gasoline composition or to commit to refinery construction necessary to produce the new formulations.

Our Nation's transportation systems are in a critical period of transition. Ultimately, the marketplace must determine what combination of fuels and vehicles will meet the needs of American consumers consistent with national energy and environmental laws.

Because of the EPA's action, fuel neutrality has once again become an issue. Once again the Federal Government, through EPA regulations, is attempting to dictate the content of transportation fuels without regard to the environment. What is of particular concern is that this mandate will penalize American motorists, taxpayers, and the Federal Treasury—while having very little, if any, environmental benefits. Testimony before the Energy and Natural Resources Committee overwhelmingly supports this point.

During hearings before the Energy and Natural Resources Committee, I observed that the mandate not only appears to lack authority, but it violates the objectives of the reg-neg process itself. It fails to preserve the assurances provided to the participants by the EPA. Fifty-one Members of the Senate and over 100 Members of the House share my concerns and have communicated them to EPA Administrator Browner.

The mandate also appears to be inconsistent with President Clinton's Executive order that Federal agencies should only promulgate regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling public need. This proposal fails to meet these tests, as well.

Surely, the American consumer deserves better from its Government. They deserve what was promised by the Senator from South Dakota on behalf of Presidential Candidate Bill Clinton; namely:

> Under a Clinton-Gore Administration * * * [t]here will be leadership so that when disputes arise, as they inevitably will, they will be resolved in a quick and forceful manner. Groups won't be pitted against each other at the expense of progress. We will have an Administration that will work with Congress to make sure that our national objectives are advanced.

In the words of the Senator from South Dakota, "We should not settle for anything less."

Well, Mr. President, this administration's actions are settling for less with a disturbing political pay off to one firm. Farmer benefits will not even show next to those of Archer-Daniels-Midland Co.

A vote for the amendment of the Senator from Louisiana is a vote of support for the fuel neutrality requirement that was intended by the 1990 Clean Air Act amendments and the 1992 Energy Policy Act.

A vote for the amendment is a vote against Federal command and control policies.

A vote for the amendment is a vote for reliance on a competitive and fuel-neutral marketplace for the selection among petroleum and nonpetroleum based transportation fuels, as the Congress intended.

Let me address two other points. As of August 3, Mr. President, EPA has been particularly unresponsive in answering followup questions from members of the Energy and Natural Resources Committee from a May 12 hearing held on the Agency's proposed renewable oxygenate standard. Questions were sent to the EPA witness Assistant Administrator Mary Nichols on May 19, with a request that responses be provided to the committee by June 10. It has now been 76 days since these questions were sent to EPA, and no responses has been received—not even an interim communication.

In fact, EPA has a pattern of being unresponsive to questions from the Energy and Natural Resources Committee. Answers to questions are outstanding from four hearings.

The most egregious and flagrant example of EPA's disregard of requests from the Senate is their lack of response to our committee's questions from a March 16 hearing regarding the domestic and international implications of energy demand growth in China and the developing countries of the Pacific rim. It has been 128 days—or 4 months—since the questions were sent to EPA on March 28, and no response of any kind from EPA.

The third example is a March 24, 1994 hearing on the impact of the administration's superfund reauthorization proposal on DOE's weapons complex efforts. Followup questions were sent to Assistant Administrator Elliott Laws on March 28, 1994, with answers requested by April 12. In this case, 128 days have elapsed since the due date, and no responses have been received, as well.

Finally, the committee held a hearing on May 10 to examine the implementation of the administration's Climate Change Action Plan and the Energy Policy Act of 1992. Followup questions were sent on May 17. In this case, 78 days have elapsed, and no responses have been received.

Mr. President, I believe Administrator Browner owes not just the committee, but the Senate, an explanation for the deplorable manner in which her office handles routine requests for further oversight information on their programs. In the aggregate, answers to the above questions are 410 days overdue.

Perhaps the EPA Administrator should be called before the committee to explain this action—or lack of action—on her part. If EPA were in violation of an environmental statute, at $25,000 per day this would amount to $10.25 million. Perhaps we should consider assessing a fine on the Office of the EPA Administrator by reducing its appropriation by this amount.

And now we must display the deference between the politics of campaigns and the politics of records.

In October 1992, the Senator from South Dakota addressed the National Conference on Clean Air Act Implementation and Reformulated Gasoline in Washington, DC. At the time, certain promises were made to the American people on behalf of Presidential candidate Bill Clinton. I would like to read a few excerpts from his remarks.

In order to clarify congressional intent, the Senator stated that:

> There appears to be some question about Congressional intent relative to ethanol and the reformulated gasoline program. For this explanation, I will take off my Clinton-Gore hat for a moment. As the principal sponsor of the reformulated gasoline amendment in the Senate, I can speak with some authority on this subject. The goal of reformulated gasoline was to force gasoline makers to reduce the toxic, ozone forming elements of gasoline by using clean-burning oxygenates.

The Senator seems to agree that the goal of the reformulated gasoline program under the Clean Air Act is the abatement of ozone pollution. The Senator also seems to agree that the Clean Air Act does not grant the EPA specific authority to consider energy security or climate change concerns when establishing the performance standard for reformulated gasoline.

In his remarks, the Senator went on to make the point that:

> Contrary to some propaganda at the time, we did not give anyone a formula for gasoline. We did not say what oxygenate to use. We did not say whether to reduce olefins, or xylene, or sulfur or other components of gasoline that are known to cause ozone pollution * * *. Different refiners have different capabilities.

The Senator then added that:

> Some oxygenates are more readily available than others and may make more economic or technical sense depending on the refiner or blender. There are a host of variables that could be used to decrease ozone within the general parameters of our provision.

The Senator agreed on behalf of Governor Clinton that each refiner or blender should have the flexibility to use the oxygenate that makes the most economic or technical sense.

If the Clinton administration truly believes that each refiner should be able to use the oxygenate that makes the most economic or technical sense, then the administration should support reliance on the market, instead of promulgating a rule that guarantees renewable oxygenates a market regardless of price.

Later in the Senator's remarks he assured the audience that,

> Governor Clinton and Senator Gore understand the importance of getting proposals on the table in order to make sure that there will be full compliance with the reformulated gasoline program in January, 1995.

He then went on to add:

> * * * they also know that the program will only succeed if all oxygenates can compete for market share within the context of the law. Only in this way will we make sure that consumers are protected, the domestic economy is enhanced, and innovation into new, better ways of making gasoline and oxygenates continues.

If the Clinton-Gore administration believes that the consumer must be protected, then this Senator does not understand how EPA's action expedites full compliance by January 1995 with the reformulated gasoline program.

In my opinion, EPA has blatantly disregarded congressional intent regarding fuel neutrality in two major pieces of legislation—the Clean Air Act and the Energy Policy Act. Instead, the EPA has done just the opposite; they have pushed through the regulatory process a rule that favors one oxygenate over another.

The rule is not fuel neutral.

As the Senator from South Dakota said in his October 1992 statement, this program will only succeed if all oxygenates can compete for market share within the context of the law. EPA's renewable oxygenate rule fails to meet this test.

In October 1992, the Senator from South Dakota further assured those in attendance that "Governor Clinton wanted me to stress that he is not pro-ethanol at the expense of other oxygenates." The Senator then observed:

> There is a tremendous opportunity under the Clean Air Act for methanol and MTBE, biodiesel, CNG, and other alternative fuels. A strong methanol and MTBE industry in the U.S. has many of the same virtues as a strong ethanol program. Instead of helping bolster agricultural prices, methanol can play a substantial role in strengthening the natural gas industry, which is extremely important in enhancing our long-term energy security. MTBE an methanol growth will also strengthen our industrial sector and provide high paying jobs.
>
> Ethanol, ETBE, MTBE, TAME, and other oxygenates should all be able to play a role in reformulated gasoline. And these industries should be clear as the Federal Government's commitment to this objective.

If the administration believes, as the Senator from South Dakota has portrayed, that there is tremendous opportunity for methanol and MTBA, biodiesel, CNG, and other alternative fuels, then where is the justification for EPA's end run of the fuel neutral feature of current law that relies on a competitive market and guarantee renewable oxygenates a market regardless of price.

In October 1992, the solution advocated by the Senator from South Dakota on behalf of Governor Clinton was:

First, retain the environmental integrity of the law; and

Second, guarantee that ethanol will be able to play a role in competing for market share on an equal footing with other fuels.

If ethanol should compete with these other oxygenates on an equal basis, then I do not understand how he justifies either the EPA's mandate or the existing Federal tax subsidy.

In his remarks, the Senator from South Dakota then pledged that—

> If Bill Clinton were President * * * [w]e would have a complex model on the table by now letting science dictate what ethanol's role can and should be. Any solution to the current impasse must be based on consensus, as much as possible, and it must be able to withstand legal and technical challenges.

He then added that:

> The worst thing that could happen to the ethanol industry, not to mention the people who have to breathe the air in these cities, is for a political solution to be proposed that has no chance of withstanding protracted legal challenges.
>
> Under a Clinton-Gore Administration * * * [t]here will be leadership so that when disputes arise, as they inevitably will, they will be resolved in a quick and forceful manner. Groups won't be pitted against each other at the expense of progress. We will have an Administration that will work with Congress to make sure that our national objectives are advanced.
>
> We should not settle for anything less.

If, as the Senator from South Dakota believes the proposed EPA renewable oxygenate rule is "based on consensus" and is "able to withstand legal and technical challenges," then why is it being challenged by members of the reg-neg process.

The underlying reformulated gasoline rule is based on consensus and should withstand challenge. The same cannot be said for the renewable oxygenate rule.

The Clean Air Act and the Energy Policy Act specifically state, as does report language, that Congress' intent was to allow the marketplace to decide the appropriate, most cost-effective component of reformulated gasoline, rather than guaranteeing renewable oxygenates a market regardless of price.

My opinion is that the rule does not accomplish this objective. Instead, the EPA's action pits special interest groups against each other at the expense of environmental progress.

The administration's rule has been portrayed by the Senator from South Dakota as having our Nation's best interest at heart. I submit, Mr. President, that EPA's rule is not in our Nation's interest; rather it is intended to be in the best interest of Archer Daniels Midland.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, there are probably 10 or 15 undecided Senators. My guess is they will come to the floor in the next 15 or 20 minutes trying to make up their mind.

First of all, I want to thank the distinguished Senator from Wyoming for praising the President for keeping a campaign promise. That is precisely what he did. I appreciate the fact that the President is doing that.

Let me say that there are four arguments that I have heard against the renewable fuel rule, that the Environmental Protection Agency heard, and it finally issued. There are four arguments.

First, that it is bad for the American economy and jobs because it is antimarket. That is baloney; just pure baloney. I mean every regulation, every spending program in Washington, DC, is by definition antimarket. So if you supported any rule, regulation, or spending program, you basically supported intervention into the market. That is what we do here. We measure that intervention to protect jobs and to make sure that we are not doing something bad. But everything that we do is effectively an intervention. It is baloney to oppose this rule, to support the Johnston amendment because all of a sudden you are riding the high horse of being promarket.

Second, I have heard people say it is bad for farmers. Baloney again. Typically people who say it is bad for farmers have no idea what is going on in agriculture. Every farm organization in America is opposed to the Johnston amendment. So please do not vote for the Johnston amendment because you think it is going to be bad for farmers.

Third, that it is going to be bad for the taxpayer. Baloney. The fact is the distinguished Senator from Louisiana has to find a $39 million offset for his amendment because it is going to cost more money. So do not cite a study saying it is going to be bad for the taxpayer and all this stuff about money being lost to the trust fund and States losing highway money. The distinguished Senator from Minnesota earlier showed that only three States are affected. Baloney it is bad for the taxpayer.

Bad for the environment? Baloney. It is renewable fuel. You tell me why a renewable fuel is bad for the environment. The only thing it is bad for is for those people who want to exploit the environment and to deplete the resources that are nonrenewable.

Mr. President, this amendment should be defeated because of the policy implemented by the Clinton administration, and the courage of the President to confront the oil industries and those individuals who want the status quo. This policy will be good for jobs; 2,200 permanent jobs just from the investments in Nebraska in 1993; not jobs in the Middle East. I do not mean the Middle East but the United States. I do not mean Bahrain and the United Arab Emirates. Almost every single drop of petroleum produced will create jobs in the United States.

This policy creates jobs here at home. This policy will be good for taxpayers, as evidenced by the fact we have to find an offset to pay for the amendment. It is good for the taxpayers because it will reduce deficiency payments. It is good for farmers because every single farmer in America will benefit as a consequence of higher prices.

Finally, it is good for the environment. We will find ourselves very soon with the Vice President in the chair. He would not support this policy if he did not believe it was good for the environment of this country.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. Mr. President, I understand the Republicans cannot vote until 6:05. I therefore ask unanimous consent that the time for the vote be extended for 5 minutes until 6:05 and that the time be equally divided.

Mr. HARKIN. Mr. President, could we extend it to 6:07 equally divided?

Mr. JOHNSTON. Yes, Mr. President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JOHNSTON. I yield 1 minute to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, in terms of whether the environmental organizations are for the mandate or against the mandate, not some procedural nicety, but the mandate, I ask unanimous consent that a statement in opposition to the mandate by the Northeast States for Coordinated Air Use Management be placed in the RECORD, along with a statement by the California Air Resources Board in opposition to the mandate be placed in the RECORD; I ask unanimous consent that the Environmental Defense Fund statement in opposition to the mandate along with the Florida Audubon Society statement in opposition to the mandate; the Sierra Club statement in opposition to the mandate; National Resource Defense Council in opposition to the mandate; World Resources Institute in opposition to the mandate; National Audubon Society in opposition to the mandate; Resources for the Future in opposition to the mandate all be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NORTHEAST STATES FOR COORDINATED AIR USE MANAGEMENT,
July 29, 1994.

Senator BILL BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: In response to your request, the Northeast States for Coordinated Air Use Management (NESCAUM) is pleased to enumerate our concerns relative to the U.S. Environmental Protection Agency's (EPA's) Renewable Oxygenate Requirements for federal reformulated gasoline. NESCAUM is an association of state air quality control agencies in the six New England states, New Jersey and New York.

NESCAUM has publicly opposed the Renewable Oxygenate Requirements (ROR) proposal from the outset because we believe that such a program would result in adverse environmental and economic impacts in our region. Further, we believe that the proposed program is in direct contradiction to the negotiated agreement on reformulated gasoline (RFG) that NESCAUM member states were party to. In light of these concerns, NESCAUM appreciates and supports your efforts to alter EPA's plans to implement this program.

Of primary concern to NESCAUM is the fact that the increased use of ethanol under an ROR program would exacerbate several air quality problems in our region. Greater emissions of volatile organic compounds (VOCs) would occur during the early and late portions of the region's ozone season since gasoline blended with ethanol is more volatile than similar gasoline without ethanol. VOCs and oxides of nitrogen (NO_x) are the pollutants primarily responsible for creation of ground-level ozone or "smog". This initiative would promote conditions that result in extending the length of the Northeast ozone season. This effect would be particularly significant in the southern portion of the NESCAUM region. New Jersey, for example, is prone to high ambient levels of ozone in the Spring and early Fall.

We are also concerned that the increased use of ethanol during the remainder of the year would lead to increased emissions of carbon monoxide (CO) and NO_x. CO is primarily a winter problem in the Northeast. The higher volatility ethanol-blended gasoline can contribute to an overloading of an automobiles evaporative canister and subsequently lead to higher CO emissions. EPA has acknowledged that the increased use of ethanol will result in increased NO_x emissions. In addition to further contributing to the "shoulder" season ozone exceedances mentioned above, increased NO_x emissions contribute to elevated ambient levels of nitrogen dioxide and fine particulate matter, both are criteria air pollutants for which EPA has established national ambient air quality standards. The expected increase in NO_x and nitrous dioxide emissions under an ROR program also have important global climate change implications since these pollutants have 150 and 270 times greater climate change impacts than carbon dioxide (CO_2). These increased emissions will offset much of the CO_2 benefit that EPA has used as the primary environmental justification for the ROR program.

EPA estimates that inclusion of the renewable oxygenate requirements will add about one cent per gallon to the cost of RFG. Given that the ROR program provides little, if any, air quality benefits, the projected annual cost of $50 million is hard to justify. The proposed program would result in a significant transfer of wealth from the motorist in the Northeast to agricultural interest in the Midwest. In spite of the potential economic benefits of the ethanol initiative to the corn growing states, Midwest states with nonattainment areas have not pursued voluntary opt-in to the RFG program.

EPA has identified reduced foreign oil consumption as a major justification for the proposed ROR. However, the total estimated savings appear to be extremely modest on a relative basis, and highly dependent upon the assumptions made in the supporting analysis. While NESCAUM is generally supportive of efforts to foster energy savings and energy security, considerable question remains as to whether minor and uncertain energy benefits provide an adequate basis under the Clean Air Act for a new program such as that contemplated in the ROR proposal.

Finally, as active participants in the regulatory negotiation that produced the consensus agreement upon which the federal reformulated gasoline rule was to be based, NESCAUM is disheartened by EPA'S efforts to include an initiative that clearly violates the fuel neutral concept adopted by the "reg-neg" participants.

In conclusion, NESCAUM would like to state our continued opposition to the renewable oxygenates requirement and our support for your effort to keep this program from becoming part of the RFG program which we believe is a sound environmental program in its current form.

Sincerely,

MICHAEL J. BRADLEY,
Executive Director.

TESTIMONY OF MICHAEL J. BRADLEY BEFORE THE U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Good morning. My name is Michael Bradley and I am the Executive Director of the Northeast States for Coordinated Air Use Management (NESCAUM). NESCAUM is an association of state air pollution control agencies representing Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. The Association provides member agencies with technical assistance and policy guidance on regional air pollution issues of concern in the Northeast. We appreciate this opportunity to testify before the Committee regarding the Renewable Oxygenate Requirement (ROR) for Federal Reformulated Gasoline (RFG) which was proposed last December by the Environmental Protection Agency (EPA) in an effort to accommodate the corn grower's desire for a larger role in the RFG program.

I would like to begin by offering the Committee a brief explanation of the contribution of motor vehicles and their fuels as a source of air pollution in the northeastern U.S. and with an overview of the comprehensive motor vehicle emission control program that is currently being put in place in our region. I will then share with the Committee our concerns related to the ROR proposal and explain why NESCAUM believes that the proposed does not represent an appropriate or effective air quality control option. I would, however, like to emphasize the fact that NESCAUM strongly supports the federal reformulated gasoline program and that all ozone nonattainment areas in the Northeast have opted in to this program. My comments today are directed specifically at the proposed ROR component of the RFG program.

Ozone nonattainment remains a persistent and pervasive air pollution problem in the United States. The problem is particularly acute in the northeast corridor where the general public in states from Virginia to Maine is periodically subjected to unhealthful ambient ozone concentrations. Ozone and its precursor pollutants, volatile organic compounds (VOCs) and oxides of nitrogen (NO_X), are transported hundreds of kilometers along the east coast by weather systems. It is now widely understood that the ozone nonattainment problem in our region cannot be solved without addressing long-range transport. In recognition of this fact, Congress joined the NESCAUM states with our counterparts in the Mid-Atlantic region through the Northeast Ozone Transport Commission (OTC). The OTC has been charged with the challenging task of developing coordinated regional strategies to bring all areas of the region into timely compliance with the national ambient air quality standard (NAAQS) for this pollutant.

As you know, the 1990 Clean Air Act Amendments (CAA) require states to develop State Implementation Plans (SIPs) which demonstrate attainment of the ozone NAAQS within a given timeframe, according to the severity of an area's nonattainment problem.

* * * * *

The RFG revisions in the CAA of 1990 directed EPA to develop requirements that would address both the evaporative properties of gasoline and the combustion characteristics. NESCAUM's member agencies were active participants in the regulatory negotiation (reg-neg) process that produced consensus among all major interest groups on the structure of the RFG program. Throughout the ensuing federal rulemaking effort, we have supported the development of a cost-effective and fuel-neutral approach that results in the greatest feasible level of emission reductions. We are particularly pleased that EPA has ensured that Phase II RFG will provide reductions in emissions of NO_X which are critical to ozone attainment in the Northeast corridor. We are also encouraged that the vast majority of reg-neg participants have endeavored to adhere to the agreements reached in the negotiated rulemaking.

Based on the Administration's stated intention to make greater use of the regulatory negotiation process and similar dispute resolution techniques, we question the Agency's rationale for proposing the ROR concept which is inconsistent with the negotiated RFG rule. We would like to point out that after considerable deliberation, stakeholders involved in the reg-neg decided that, on the basis of fairness, the RFG program would be fuel-neutral. The ROR initiative proposed by EPA violates this objective. The state air agencies, as well as other parties, will be closely monitoring EPA action in this instance as an indicator of the federal government's commitment to abide by agreements reached through negotiated rulemaking.

We also question the merits of this proposal in terms of legal authority, air quality impacts, economic impacts and energy implications. The following sections highlight our concerns in each of these regards.

LEGAL BASIS

The CAA directs EPA, in developing requirements for RFG, to take into consideration "the cost of achieving such emission reductions, any non air-quality and other air-quality related health and environmental impacts and energy requirements." NESCAUM finds it curious that EPA is now pointing to this language as a rationale for proposing the ROR program. Indeed, these and other factors were afforded serious consideration during the regulatory negotiations, negotiations which included representatives of companies that produce "renewable oxygenates", that led to the reg-neg agreement and the subsequent EPA proposed rule for RFG. In fact, the resolution of these issues was critical to the development of a consensus agreement. We don't believe this statutory language provides sufficient authority or reason for the EPA to create an entirely new program, such as the proposed ROR.

NESCAUM is also concerned that the increased use of ethanol during the remainder of the year will lead to increased emissions of CO. Many researchers and public agencies (including EPA) have noted that increases in fuel volatility (RVP), which would occur with the use of ethanol, can result in increased evaporative canister loading and, consequently, increased CO emissions during the air/fuel mixture enrichment process that accompanies purging of the evaporative canister. Because the RFG program does not include an RVP limit outside the summer ozone season, any mandate leading to increased use of ethanol in the wintertime, would in NESCAUM's judgment, result in additional CO emissions.

EPA has acknowledged that the increased use of ethanol outside the peak ozone season would also result in increased emissions of nitrogen oxides (NO_X). In addition to adversely affecting ozone levels during the "shoulder" periods in Spring and Fall, increased NO_X emissions would contribute to elevated ambient levels of the criteria pollutants nitrogen dioxide (NO_2) and fine particulate matter (PM_{10}). While no areas in the Northeast currently exceed the NAAQS for NO_2, excursions above the standard are observed periodically in Boston and New York City, particularly during the winter. EPA is currently assessing the protectiveness of the NAAQS for NO_2. If the standard is revised so that attainment status is based on short-term ambient concentrations, areas like Boston and New York will be at risk of being designated as NO_2 nonattainment areas. In light of these issues, we are troubled by EPA's proposal of a mandate that would lead to increased emissions of NO_X.

It is also important to note that New York City has recently been designated as a PM_{10} nonattainment area. With a wealth of recent scientific evidence suggesting an enormous public health problem relating to the inhalation of fine particulate matter, EPA is currently reassessing the PM NAAQS. Any tightening of the particulate standard would place other areas in the Northeast at risk of being designated as PM nonattainment areas. Given the proclivity of NO_X to form secondary particulate matter and the potential for the proposed ROR to increase mobile source NO_X emissions, we must question the foresight of this EPA initiative.

EPA's failure to acknowledge the impacts of the increase in emissions of NO_X and nitrous oxide (N_2O) is also troubling because of the global climate change implications associated with increased emissions of these gases, which are respectively 150 and 270 times greater than that of CO_2. Given that EPA's estimate of the CO_2 reductions which would result from the proposed ROR appears to hinge on best-case assumptions regarding ethanol production efficiency, the failure to acknowledge NO_X and N_2O emissions calls into question the conclusion that the proposed ROR would actually offer any global climate change benefits.

CONCLUSION

While the U.S. EPA justifies the ROR proposal by pointing to projected greenhouse gas emission reductions and attempts to minimize possible adverse air quality consequences, NESCAUM believes that the potential global climate change benefits would be marginal, at best and that the adverse air quality impacts may be significant, especially if the ozone, nitrogen dioxide and/or particulate NAAQS are tightened. As stated, NESCAUM strongly supports the federal reformulated gasoline program as promulgated in December, 1993, as well as EPA's objective of implementing measures to reduce greenhouse gas emissions. Unfortunately, the ROR proposal will deliver only modest global climate change benefits at a significant cost in terms of adverse air quality and economic impacts in the Northeast. In light of the potential air quality disbenefits and the high cost of the proposed program on consumers and businesses in the region, NESCAUM opposes the ROR proposal.

NESCAUM believes it is particularly ironic that this program could be forced on the Northeast and Mid-Atlantic states when many Midwestern states eligible to participate in the federal reformulated gasoline program have resisted doing so in spite of a clear air quality need and the direct economic benefits that would accrue in those states.

In conclusion, NESCAUM believes that the ROR proposal represents an unsound environmental policy with unfair economic consequences for states that are trying to meet their Clean Air Act commitments in the most timely and cost effective manner. Adding further costs to the RFG initiative to include a program component without clear overall air quality benefits makes our job of providing healthy air to the citizens of our region more expensive and more difficult.

AIR RESOURCES BOARD,
Sacramento, CA, February 14, 1994.
U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC.

DEAR SIR OR MADAM: The California Air Resources Board (ARB/Board) appreciates this opportunity to comment on the United States Environmental Protection Agency's (U.S. EPA) proposed renewable oxygenates program for reformulated gasoline. I have summarized our comments below and enclosed a more detailed analysis for your consideration.

As now written, the proposed requirements would likely have adverse fiscal and air quality impacts on California. First, California will lose federal highway funds because the ethanol tax credit will reduce the federal excise tax by 54 cents for every gallon of ethanol blended with gasoline. Second, the proposed requirements could increase the refiners' cost to produce reformulated gasoline, which would likely be passed on to the consumer. Third, the proposed requirements could make it difficult for California refiners to meet the Phase 2 reformulated gasoline (RFG) regulations because it limits their flexibility in choosing how to meet the regulations. Because the ARB has adopted stringent standards on gasoline properties for Phase 2 RFG, our policy has always been to remain fuel-nuetral, providing refiners' with flexibility. The proposal would limit that flexibility, without providing an air quality benefit. In fact, the proposed requirements could also have negative impacts on California's air quality. Emissions of oxides of nitrogen, particulate matter, carbon monoxide, and hydrocarbons could increase, and this would force us to adopt other measures to attain and maintain state and national air quality standards.

Because of the concerns listed above, we cannot support the current proposal. We recommend that the U.S. EPA reexamine its proposal in light of these concerns and not promulgate a final rule that could have both adverse air quality and economic impacts on California.

ENVIRONMENTAL DEFENSE FUND,
Washington, DC, July 29, 1994.
Hon. BILL BRADLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRADLEY: You have requested the views of the Environmental Defense Fund (EDF) on the environmental consequences of using ethanol as an automotive fuel additive. As you may know, EDF provided written comments on EPA's proposed rule regarding ethanol which raised a number of environmental concerns. We wish to make clear that our views have not changed with the insurance of the final rule by EPA. Attached to this letter is a copy of our comments. We hope this letter and attachment adequately expresses our view on this matter.

Sincerely,
WILLIAM J. ROBERTS,
Legislative Director.

COMMENTS TO THE ENVIRONMENTAL PROTECTION AGENCY

(By Paul J. Miller, Ph.D., Environmental Defense Fund)

The Environmental Protection Agency is to be commended for its efforts to replace a portion of the fossil fuels currently consumed by the transportation sector with alternative fuels derived from renewably-grown biomass. Such an approach promises to reduce carbon dioxide emissions (a potent greenhouse gas) while also reducing the federal trade deficit incurred from foreign oil imports. It is heartening to see EPA address this issue, and the Environmental Defense Fund supports the environmental goals EPA seeks to achieve.

Unfortunately, while the proposed rulemaking has laudable goals, its practical effect at best will be to divert scarce resources away from other options that can have a greater impact on greenhouse gas emissions, and at worst will exacerbate the very problems it seeks to solve.

THE USE OF ETHANOL AS A RENEWABLE OXYGENATE

The primary reasons for using renewable oxygenates as part of reformulated gasoline are the potential improvements in air quality, reductions in greenhouse gas emissions and reductions in foreign oil imports. While EPA states methanol from biomass such as wood or organic waste products requires "essentially no use of crude oil," EPA goes on to say there is no methanol capacity in the United States based on biomass sources. Therefore, ethanol will be the most likely source of renewable oxygenates under this proposed rulemaking. As a practical matter, the ethanol will come from corn, the major source of ethanol in the United States.

It has been argued elsewhere that the use of "renewably" produced ethanol will have marginal benefits at best on air quality, and may in fact be detrimental during the "shoulder seasons" that immediately precede and follow the high ozone season (see testimony of S. William Becker, Executive Director, State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials). Even assuming, however, that there is some air quality benefit to the use of corn ethanol, it will be largely outweighed by the environmental damage caused by growing corn and the poor economics of corn as a source of ethanol.

THE ENVIRONMENT

Under the predominant agricultural practices of the United States today, corn is grown on land subjected to intensive cultivation with heavy applications of fertilizers, herbicides and pesticides. Large areas of land under cultivation have led to significant soil erosion along with a loss of natural biodiversity as land has been converted to monocropping. Heavy applications of fertilizers, herbicides and pesticides cause serious water pollution problems when rain water drains from fields into rivers and streams. This non-point source of pollution is a major issue in the current re-authorization of the Clean Water Act. In addition, biologically harmful levels of chemicals from agricultural sources concentrate in wildlife, leading to high mortality rates and birth deformities. Two vivid examples are the adverse effects widespread use of DDT has had on the reproduction rates of birds of prey, and the hatchling deformities caused by selenium poisoning of migratory waterfowl feeding in the irrigation evaporation ponds of California's San Joaquin Valley.

In a recent study of the environmental impacts of energy crops, the Office of Technology Assessment essentially dismissed the use of annual crops such as corn as a source of energy because of the environment damage associated with its cultivation.[1] With the poor environmental record of most modern day agriculture, the environmental harm that will be caused by greatly expanding corn ethanol production to meet the requirements of this proposed rulemaking will far outweigh the marginal air quality benefits that the use of ethanol may have in reformulated gasoline.

GREENHOUSE GAS EMISSIONS

In addition to increased environmental degradation from greater corn cultivation, the use of corn as a source of biofuel does little to reduce greenhouse gas emissions. According to scientists at the National Renewable Energy Laboratory (NREL), the fossil fuel savings obtained by the use of ethanol from corn in reformulated gasoline are largely canceled by the greater use of fossil fuels in the actual growing and processing of the corn to make ethanol.[2] Approximately one-third to more than one-half of the energy content of ethanol produced from corn is offset by the fossil energy used in fuel and fertilizer to grow the crop. Additional fossil fuel inputs are required to process the corn into ethanol. The NREL researchers conclude that, taken as a whole, the energy input from all fossil fuel sources is approximately equivalent to the energy content of the produced ethanol, and the net amount of carbon released from the fossil fuels is comparable to that of gasoline. Similarly, the fossil fuel required to make corn ethanol means any reduction in foreign oil imports is not likely to be significant. While these reasons alone make ethanol from corn unattractive, the greater emissions of nitrogen oxides from the increased use of fertilizers to grow more corn would have negative effects on greenhouse gas reductions. Fertilizer is a source of nitrogen oxides such as N_2O that are even more potent greenhouse gases than carbon dioxide.

ECONOMICS

Even apart from the environmental cost, the financial cost of ethanol from corn calls into question the utility of its use in reformulated gasoline. A cost breakdown of ethanol made from corn by both wet and dry milling is given in Table 1. While the cost varies from year to year depending on the price of corn, on average, the cost of a gallon of ethanol made from corn greatly exceeds the price of a gallon of gasoline. Even under the best of assumptions, the cost of corn ethanol will be about $1.50/gallon. Instead of the price falling with expanded ethanol production, the U.S. Department of Agriculture projects that the cost of corn will rise and the revenue from coproducts will fall as corn ethanol production increases over current levels.[3] Obviously, to make the price competitive will require huge subsidies. EPA estimates that the current $0.54/gallon tax credit given to the corn ethanol industry could amount to $340 million in lost highway-related revenue if this proposed rulemaking goes forward. This is on top of the roughly $550 million tax credit already given to the industry based on an annual ethanol production of about one billion gallons. Furthermore, about 80 percent of this alcohol is produced by a single firm that receives a comparable share of the tax subsidy.[4]

AN ALTERNATIVE

In light of the environmental cost of producing more corn and the limited benefit the use of corn ethanol will have on air quality and greenhouse gas emissions, it makes far more sense to target scarce resources on other measures that are more environmentally and economically sound.

One such measure that deserves more attention, but is beyond the scope of this proposed rulemaking, is to sustainably grow energy crops to displace fossil fuels currently used by utilities for powerful generation. Energy crops such as herbaceous energy crops (HECs) (*e.g.* switchgrass) and short-rotation woody crops (SRWCs) (*e.g.* poplars) reduce soil erosion and require fewer applications of fertilizers, herbicides and pesticides (see Table 2). While not having the biodiversity of undisturbed ecosystems, the growing of energy crops can improve the habitat potential of previously degraded farmlands because monocropping need not be done. As an added benefit, recent cost estimates indicate that energy crops are already competitive at today's electricity prices, therefore they do not need the massive subsidies required for ethanol production from corn (see Table 3).

Growing energy crops for power generation, however, is not without its own environmental implications. According to the Office to Technology Assessment, "Substituting energy crops (such as short-rotation woody crops or herbaceous perennials like switchgrass) for conventional new crops (such as corn or soybeans) will under proper management generally improve soil quality, reduce soil erosion and runoff, reduce the use of agricultural chemicals (fertilizers, pesticides, herbicides, fungicides), improve local air quality, and improve habitat for a variety of animals. On the other hand, substituting energy crops for hay, pasture, or well-managed Conservation Reserve Program Lands will generally have mixed impacts."[5]

If natural forests are replaced by monocrop energy plantations, a substantial loss of biodiversity could occur. Undisturbed wetlands are an integral part of surrounding ecosystems and should not be drained or converted for biomass farming. On the other hand, if biomass is grown on land currently degraded from overgrazing or farming, or on farmland whose ecology has been greatly simplified by monocropping, biological diversity can be greatly enriched, both above and below ground. Croplands with wetness problems may be prime candidates for bioenergy farming. As a specific example, scientists are evaluating the silver maple as a SRWC for occasionally flooded Iowa bottomland that was once cleared for farming, but subsequently used for pasture or abandoned.[6] Such work may provide an economically and ecologically-sound alternative to the rebuilding of levees destroyed during the 1993 Midwest floods.

The types of crops raised and growing methods used will need to be individually tailored on a regional basis. Environmental considerations such as maintaining or improving biodiversity may require biomass farmers to accept less than maximum yields. To address these issues, several recent efforts have begun to look at the development of environmental guidelines for biomass energy production.[7] These efforts deserve EPA's support and attention before it embarks upon a well-intentioned but misdirected program to mandate the use of "renewable" oxygenates in reformulated gasoline.

CONCLUSION

The proposed rulemaking at issue here will have the practical effect of greatly expanding the use of corn for ethanol production (potentially a 60% increase over current ethanol production levels by EPA's own estimate). This in turn will increase the environmental damage caused by intensive cultivation of corn, while the associated subsidies to the corn ethanol industry will drain scarce resources away from other options capable of achieving greater environmental benefits. While the goals enunciated by EPA as laudable, this proposed rulemaking is not the appropriate path towards a renewable energy future.

TABLE 1.—COST OF ETHANOL FROM GRAIN [1] (MODERN GREENFIELD PLANTS)

[Dollars per gallon of pure ethanol]

Cost component	Wet milling [2] (capacity=70 million gallons/year)	Dry milling [3] (capacity=20 million gallons/year)
Capital [4]	0.41	0.54
Energy costs		
Coal	0.10	0.14
Natural gas	0.32	0.32
Electricity	0.04	0.05
Subtotal	0.46	0.51
Chemicals, enzymes, yeast	0.04	0.12
Personnel	0.07	0.19
Maintenance	0.11	0.16
Feedstock [5]	1.16	1.12
Byproduct credit	−0.50 to −0.75	−0.03 to −0.64
Totals	1.50 to 1.75	2.00 to 2.34

[1] Except for corn prices, all cost components are from E.E. Wyman, R.L. Bain, N.D. Hinman, and D.J. Stevens, "Ethanol and Methanol from Cellulosic Feedstocks," pp. 865–923, in T.B. Johansson, H. Kelly, A.K.N. Reddy, and R.H. Williams, eds., Renewable Energy: Sources for Fuels and Electricity, Island Press, Washington, DC, 1993.

[2] For wet milling: the yield is 116 gallons of ethanol per ton of corn; coproducts are worth $57.8 to $86.7 per ton of corn ($0.50 to $0.75 per gallon), and the capital cost is $2.46 per gallon per year of capacity.

[3] For dry milling: the yield is 121 gallons of ethanol per ton of corn; coproducts are worth $35.9 to $76.9 per ton of corn ($0.30 to $0.64 per gallon), and the capital cost is $3.22 per gallon per year of capacity.

[4] The annual capital charge rate is 15.1% (based on an assumed 25-year plant life and average financial parameters for major US corporations, 1984–88: 9.9% real rate of return on equity, 6.2% real rate of return on debt, a 30% debt fraction, a 44% corporate income tax rate, a property tax plus insurance rate of 1.5% per year), and the plant capacity factor is assumed to be 90%.

[5] The average cost of corn production in the US, 1986–1990, excluding the return to the landowner was $268.79 per acre per year or $2.43 per bushel of corn (USDA, "Costs of Production—Major Field Crops, 1990"). To this should be added the net return to the corn farmer in this period, some $52.8 per acre, or ($52.8 per acre)/(110.61 bushels per acre)=$0.48 per bushel. Thus the total cost of corn, including the return to the farmer, averaged, 1986–91, $2.91 per bushel or ($2.91/bushel)/(0.02151 dry tons/bushel)=$135/dry ton of corn.

TABLE 2.—TYPICAL EROSION LEVELS AND AGRICULTURAL CHEMICAL USE OF SELECTED FOOD AND ENERGY CROPS [1]

Crop	Erosion (Mg/ha-yr)	Fertilizers			
		Nitrogen (kg/ha-yr)	Phosphorous (kg/ha-yr)	Potassium (kg/ha-yr)	Herbicide (kg/ha-yr)
Corn	21.8	135	60	80	3.06
HECs	0.2	30	50	90	0.25
SRWCs	2.0	60	30	80	0.39

[1] L.L. Wright and W.G. Hohenstein (eds.), "Biomass Energy Production in the United States: Opportuntiies and Constraints," US DOE and US EPA, draft, August 1992.

TABLE 3.—BIOMASS POWER[1]

Cost breakdown	Conventional traveling grate [2]	Whole-tree burner [3]	Gasifier/combustion turbine [4]	
			First	Tenth
Capital cost ($/kW)	1,850	1,416	1,500	994
Operating cost (¢/kWn)	4.12	2.01	3.67	3.14
Cost of electricity (¢/kWh)	7.54	4.63	6.45	4.98

[1] Data compiled by Union of Concerned Scientists, Powering the Midwest, p. 54 (1993). Costs are in real levelized terms, assuming 10.5 percent fixed charge rate, 65 percent capacity factor, and a fuel cost of $34 per dry ton ($2.0 per million Btu).

[2] US DOE, Solar Thermal and Biomass Division, Electricity from Biomass: A Developemnt Strategy (1992).

[3] Research Triangle Institute, Whole Tree Energy: Engineering and Economic Evaluation (Palo Alto, Calif.; Electric Power Research Institute, 1991). Operating costs for technologies compared in this report are significantly lower than in other sources.

[4] Supra note 15.

For comparison, baseload electricity is typically generated at a cost of about 6¢/kWh with peak electricity at about 10¢/kWh.

In addition to cost of constructing a wood-burning power plant from scratch, estimates have also been made on converting existing coal-fired power plants to co-fire wood and to burn whole trees. These costs are $50/kW and $410/kW, respectively.[8]

FOOTNOTES

[1] The OTA report states:

> Bioenergy crops include annual row crops such as corn, herbaceous perennial grasses . . . such as switchgrass, and short-rotation woody crops . . . such as poplar. Annual row crops are grown in essentially the same manner as their food crop counterparts and consequently offer few or no environmental benefits over conventional agricultural practices. Because of this, annual row crops are not examined further in this report.

U.S. Congress, Office of Technology Assessment, *Potential Environmental Impacts of Bioenergy Crop Production—Background Paper*, OTA-BP-E-118 (Washington, DC: US Government Printing Office, September 1993), p. 1.

[2] E.E. Wyman, R.L. Bain, N.D. Hinman, and D.J. Stevens, "Ethanol and Methanol from Cellulosic Feedstocks," pp. 910–12, in T.B. Johansson, H. Kelly, A.K.N. Reddy, and R.H. Williams, eds., *Renewable Energy: Sources for Fuels and Electricity*, Island Press, Washington, DC 1993.

[3] U.S. Department of Agriculture, *Ethanol's Role In Clean Air*, USDA Backgrounder Series, Washington, DC (1989).

[4] T.B. Johansson, H. Kelly, A.K.N. Reddy, and R.H. Williams, "Renewable Fuels and Electricity for a Growing World Economy: Defining and Achieving the Potential," p. 50, in T.B. Johansson, H. Kelly, A.K.N. Reddy, and R.H. Williams, eds., *Renewable Energy: Sources for Fuels and Electricity*, Island Press, Washington, DC, 1993.

[5] *Supra* note 1, p. 23.

[6] J.H. Cook, J. Beyea and K.H. Keeler, *Potential Impacts of Biomass Production in the United States on Biological Diversity*, Annu. Rev. Energy Environ., Vol. 16, p. 416 (1991); *citing* L.L. Wright, T.W. Doyle, P.A. Layton, and J.W. Ranney, *Short Rotation Woody Crops Program: Annual Progress Report for 1988. Environ. Sci. Div. Pub. No. 3373, ORNL–6594*, pp. 1–5, 31, 37, 41, 45, Oak Ridge Natl. Lab. (1989).

[7] These are: *Towards Ecological Guidelines for Large-Scale Biomass Energy Development*, Report of a Workshop Convened by the National Audubon Society and Princeton University, May 6, 1991; and the National Biofuels Roundtable, convened by the Electric

Power Research Institute and the National Audubon Society.

[8] *Supra* note 14, p. 50.

FLORIDA AUDUBON SOCIETY,
Casselberry, FL, July 28, 1994.
Hon. BILL BRADLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BRADLEY: This is to confirm our strong support for the Bradley/Johnson amendment which is intended to slow the precipitous move toward ethanol being pursued by the EPA and the sugar industry and other agricultural interests. For the past 4 years, FAS has been involved in a number of efforts designed to counteract the momentum of the ethanol lobby because of the serious negative impact that crop changes to produce increased quantities of ethanol have on wetlands and ultimately the Everglades ecosystem. We strongly urge you to continue your support of this important amendment.

Sincerely,

CHARLES LOE,
Senior Vice President.

TESTIMONY OF A. BLAKEMAN EARLY

Mr. Chairman and members of the Committee. I have attached to my testimony Sierra Club's comments on the EPA's proposed renewable oxygenate program. Briefly, those comments contend that the renewable oxygenate program is illegal, a violation of the regulatory negotiation that is the basis for the reformulated gasoline program regulations, and fail to provide any significant air quality or other benefits that would justify the additional cost and complexity imposed on the reformulated gasoline program.

My testimony will simply highlight and amplify some of these points.

1. The Renewable Oxygenate Program Proposal Violates the RFG Regulatory Negotiation.

As you may already know. The regulatory negotiation involved 35 parties, including the ethanol and corn growers and took many months to negotiate. This negotiation was first hailed as the most successful "reg-neg" ever. But from the environmental community's point of view it has proven to be a failure due in large part from the efforts of the ethanol industry and the corn growers to push changes that drastically alter the compromise they originally endorsed. One of the principal purposes of our participating in the "reg-neg" was to arrive at regulations that would be less controversial and less likely to be challenged with consequent delay and confusion in implementing the much-needed reformulated gasoline proposal. As a result of the ethanol industry and corn grower's efforts this program has been plagued with delay in the issuance of the regulations and, if this program is finalized, litigation—the very outcomes most reg-neg participants sought to avoid. This is a disservice to all the people in smog non-attainment areas who are struggling to reduce the smog problem and need this program to be implemented as quickly as possible to help them.

2. The Renewable Oxygenate Program Violates the Principal of Fuel Neutrality.

The oxygen requirement for reformulated gasoline was adopted by the Senate with the support of the ethanol, methanol industries and the environmental community on the basis of fuel neutrality. Senator DASCHLE, one of the authors, stated, "(O)ur amendment does not lock refiners into any particular fuel composition. * * * Refiners can decide how they want to get octane without toxic aromatics. They can decide how to achieve the oxygen standard."

Later Senator Daschle stated, "* * * to claim this is an ethanol amendment is wrong. The 2.7 percent oxygen standard is fuel neutral." By mandating that a specific percentage of the fuel contain domestic renewable oxygenate, the proposed regulation violates the very principal of fuel neutrality that was the basis for obtaining Congressional approval.

3. The Renewable Oxygenate Program Does Not Provide Global Warming and Air Quality Benefits.

As my testimony points out, even the EPA's initial analysis of the program failed to establish that mandated renewable oxygenate use would result in a net reduction of global warming gases. In proposing the renewable oxygen program, EPA claimed DOE support for its assertion that the renewable oxygen program "would reduce foreign oil imports, * * * reduce fossil energy use, and lower emissions of harmful greenhouse gases. The DOE has now challenged these EPA claims and recently released a report from Argonne National Laboratories showing that the ROP is more likely to increase—not reduce—foreign oil imports, fossil energy use, and global greenhouse gas emissions. The following table summarizes the recent DOE findings, assuming increase ethanol and ETBE production from corn.

	Percent increase over MTBE use	EPA estimates
Total Energy	1.6	
Oil Use	3.2	−1.8
Imported Oil Use	7.3	−0.26
CO2-equivalent Emissions	1.0	

The DOE study also considered a scenario under which the renewable oxygen program merely causes existing corn-based ethanol production to be diverted to the PFG program without an actual increase in total ethanol production. Under this scenario, DOE estimated total energy use will be reduced by only 0.6 percent and CO2-1 equivalent emissions by a barely noticeable 0.1 percent. And this analysis does not even calculate the impact of additional fertilizer use to global warming caused by nitrous oxide emissions from new corn fields. Testimony by numerous corn producers' organizations at the EPA hearing on the renewable oxygen program concluded that the renewable oxygen program would in fact increase corn-based ethanol production significantly. In fact, strong corn-grower support for the renewable oxygen program is predicted on the economic relief which corn growers believe that increase production will bring to their hard-pressed industry.

Although the main objective of the reformulated gasoline program is to reduce pollutants that contribute to smog and reduce toxics, the renewable oxygenate program appears to have no additional benefits in comparison to the reformulated gasoline program as finalized, and may in fact provide less air pollution reduction. EPA's analysis of the "shoulder season", hot periods which occur before and after the official "ozone season" may under estimate the ozone increases that higher use of ethanol is reformulated gasoline may create. Ethanol use by refiners may be very high during the non-ozone season in order to reduce the amount of ETBE use that would be needed during the season. The result could be significant increases in ozone levels from a program that is supposed to obtain decreases.

In addition, the EPA is under a general mandate to obtain "the greatest reduction" in emissions of toxic air pollutants. The renewable oxygenate program would appear to reduce the amount of toxic air pollutants. EPA has already publicly stated that "due to a characteristic of MTBE unique amount oxygenates, evaporative benzene emissions are suppressed, and MTBE achieves a greater toxic performance on a wight percent oxygen basis than the other oxygenates." By requiring less MTBE use and substituting ethanol, the proposed program would likely have the effect of reducing the amount of benzene emissions reduced. Moreover, it takes a greater volume of MTBE to provide the needed oxygen in reformulated gasoline. The added volume reduces the amount of toxic aromatics, thus reducing the over-all toxic emissions in comparison with lower volumes of ethanol needed to achieve the same oxygen level. I note that ETBE would have the same volumetric beneficial effect.

Finally, the proposed program is designed to encourage substantial use of ETBE before this fuel has been adequately tested. While ETBE has attractive properties as an oxygenate, we can not support its widespread use until testing assures we are not subjecting the public to a new toxic pollution hazard. Frankly, we fail to comprehend how the EPA can proceed without such assurance.

In sum, we see the renewable oxygenate program as potentially increasing global warming, increasing smog, increasing air toxics, and increasing water pollution and damage to erodible and sensitive habitat areas. All this at an increased cost to the reformulated gasoline consumer and a significant decrease in Highway Trust Fund revenues. I assert that this proposal is fatally flawed. It is time to focus on the main goal of the reformulated program which is reducing air pollution and stop trying to manipulate it for other purposes, such as increased ethanol demand.

There are farm groups, Governors, and Senators supporting the proposed renewable oxygenate program while severely criticizing the EPA for issuing regulations where the benefits do not justify the costs. In my opinion, the proposed renewable oxygenate program represents the essence of the very regulatory program they argue against in other circumstances. Only in this case, the costs fall on gasoline consumers and the benefits inure to corn farmers and ethanol producers. Sierra Club's message to them is—you can't have it both ways.

NATURAL RESOURCES
DEFENSE COUNCIL,
Washington, DC, March 8, 1994.
Hon. BILL BRADLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRADLEY: In a recent letter to you and other Senators regarding EPA's proposed renewable oxygenate requirement (ROR), Senators Daschle, Leahy, and Lugar quoted extensively from the Natural Resources Defense Council's comments to EPA on the ROR proposal. Taken out of context, these quotations may have given the erroneous impression that NRDC supports the ROR as currently proposed. I am writing to clarify our actual position on the issue.

A crucial part of NRDC's position on the ROR is an insistence that any such requirement include stringent full fuel-cycle environmental performance criteria. A minimum criterion, in our view, would require at least a 20 percent reduction in full fuel-cycle greenhouse gas emissions. As we point out in our comments, the ability of today's corn-based ethanol to meet such a test is, to say the least, debatable. Ethanol is not renewable to the extent that fossil fuels are consumed in agricultural production and fuel conversion processes. Thus, we concluded that without strict environmental criteria "the perverse result of a renewable oxygenate requirement might be to mandate use of a fuel that has little, and in the worst cases even negative, environmental benefit."

Independent of these issues, our comments also raised questions regarding the appropriateness of the ROR in the context of a previously concluded regulatory negotiation on reformulated gasoline. Finally, it may be worth noting that NRDC did not attempt to address cost and consumer concerns relevant to the ROR proposal that could also be significant.

It is true that we support EPA's general concern with broader environmental impacts—including global warming—and with stimulating truly renewable petroleum alternatives. Thus we agree that a renewable oxygenate requirement could achieve environmental benefits in theory; however, we also note that "designing a requirement such that it actually achieves those benefits in practice will not be straightforward." In sum, we cannot support EPA's ROR proposal until our concerns and those of other stakeholders are addressed.

I would be glad to discuss this issue further or to send you a copy of our comments to EPA. Meanwhile, I would appreciate your help in clarifying our position with your colleagues in the Senate.

Sincerely,

MARIKA TATSUTANI,
Senior Research Associate.

[From World Resources Institute, May 1994]

THE KEYS TO THE CAR: ELECTRIC AND HYDROGEN VEHICLES FOR THE 21ST CENTURY

(By James J. MacKenzie)

ETHANOL

Ethanol (ethyl alcohol, also known as grain alcohol) is the intoxicating ingredient in alcoholic beverages. In 1991, gasohol (nine parts gasoline and one part ethanol) accounted for about 6 percent of U.S. motor-fuel consumption. Congress and some agricultural states, have promoted the use of ethanol in cars, claiming that it will reduce carbon-monoxide emissions when blended with gasoline.

About 95 percent of the ethanol used in motor vehicles in the United States is derived from corn, and the greatest political support for ethanol comes from corn-growing states. But despite gasohol's political popularity, greater use of this fuel wouldn't significant reduce ozone levels. Nor would corn-based ethanol appreciably reduce the threat of global warming. In a study of ethanol's impacts on air quality, Sierra Research concluded that gasohol would on average reduce CO concentrations by 25 percent, but would increase NO_x emissions by 8 to 15 percent and evaporative emissions of VOCs by 50 percent. Switching to gasohol, the researchers estimated, would increase ozone concentrations by at least 6 percent. The Office of Technology Assessment also concluded that ethanol would not help cut smog concentrations:

* * * recent government studies indicate that future use of ethanol blends, assuming modern vehicles, low volatility gasoline, and no volatility corrections made for blending, will have negligible impact on urban ozone levels. * * *

A review in 1993 of air pollution from motor vehicles also found that switching to ethanol blends won't do much to conquer smog. Indeed, it concluded that the "addition of ethanol to gasoline is generally counterproductive with respect to ozone formation * * * [and that no] convincing argument based on combustion or atmospheric chemistry can be made for the addition of ethanol to gasoline."

Estimates of the net greenhouse impacts of ethanol are subject to great uncertainty. All depend on which feedstock is used, what fuels are used in distillation, and how much energy is credited to the by-products (such as animal feeds, in the case of corn) of ethanol production. According to OTA, the corn-based technology now used to produce ethanol offers no significant greenhouse benefit. Calculating the greenhouse gas emissions for vehicles running on pure ethanol (E100), DeLuchi concludes that switching to motor vehicles running on E100—made from corn—would increase greenhouse gas emissions by 20 percent (for light-duty vehicles) to 50 percent (for heavy-duty vehicles). DeLuchi also points out, though, that these results reflect a wide range of assumptions about the processes for producing ethanol and that:

"The general message of the corn-to-ethanol scenarios is that one can pick values for a set of assumptions that will support virtually any conclusion about the impact of the corn-to-ethanol cycle on global warming."

Like CNG, ethanol is subsidized by the federal and some state governments. The federal tax subsidy on gasohol is 5.4 cents per gallon (or $0.54 per gallon of ethanol). Several states also reduce their fuel taxes on gasohol. In 1990, combined federal and state subsidies amounted to $467 million. The average federal/state subsidy in 1990 was about $0.62 per gallon of ethanol, with present production costs estimated at $0.90 to $1.15 per gallon. The subsidy thus amounts to 50 to 70 percent of total production costs.

Producing ethanol from corn requires large amounts of land. To fuel a typical American car for a year on pure ethanol would take about 14 acres of corn—about nine times the amount of cropland needed to feed an average American. Even devoting the nation's entire corn crop, some 8 billion bushels, to ethanol production would displace less than 10 percent of the country's motor vehicle fuel. Moreover, growing corn year after year causes serious erosion. According to a recent OTA report, U.S. corn production erodes about 9 tons of soil per acre per year, some 20 times faster than new soil is formed. For these reasons, replacing all motor fuels with ethanol-from-corn is out of the question, and ethanol proponents agree that corn would not be used for making more than 2–3 billion gallons per year.

NATIONAL AUDUBON SOCIETY,
New York, NY, July 14, 1994.

Mr. DEAN KLECKNER,
President, American Farm Bureau Federation, Maryland Avenue, Washington, DC.

DEAR MR. KLECKNER: I am writing to draw your attention to the seemingly stark contradiction between the American Farm Bureau Federation's enthusiastic support for the Environmental Protection Agency's new policy on adding ethanol to gasoline, and your organization's equally enthusiastic support for the so-called "takings" or "property rights" agenda. The substantial threat that an exaggerated version of "takings" presents for the new EPA policy highlights, I respectfully suggest, your organization's shortsightedness in supporting a legislative and judicial agenda on "takings" that threatens to inflict serious harm on the agricultural community.

As you are well aware, on June 30, 1994, Administrator Carol Browner announced that nearly one-third of gasoline sold in the most polluted cities in the United States must contain renewable oxygen-bearing additives. In practice, these mandated additives will principally be ethanol derived from corn. According to press reports, the American Farm Bureau Federation, whose members obviously produce corn, and the Archer Daniels Midland Co., which produces at least 60% of the nation's ethanol supply, vigorously support the policy. On the other hand, the petroleum industry equally vigorously opposes the policy. The Environmental Protection Agency has defended the policy in the belief that it will help reduce green house emissions, help the balance of trade, and improve domestic energy security. Some or all of these ostensible benefits have been contested by the American Petroleum Institute and others, including some environmental groups.

Whatever the actual public benefits, however, this new policy will result in a potentially enormous transfer of wealth from one sector of the economy to another—from the natural gas industry and its employees to ethanol producers and corn farmers, who will now have an expanded market for their product. According to press reports, the Environmental Protection Agency has estimated that this new policy could boost annual demand for corn by some 250 million bushels; as a result, farmers, who already receive substantial federal subsidies, could receive at least $250 million in additional annual income. This increased income would naturally contribute to higher agricultural land values. On the other hand, the new policy will tend to reduce sales and jobs in the methanol and natural gas industries, reducing the value of these businesses.

In supporting takings legislation, the American Farm Bureau Federation and other supporters of these bills have often argued, generally in the context of wetlands or other environmental regulations, that when the government adopts new policies for public benefit, the public should "compensate" those whose property values are adversely affected by the new policy. Does this mean that the American Farm Bureau Federation would support payment by the American taxpayer to the natural gas industry to "compensate" these companies for the losses they will suffer as a result of this new policy?

It is interesting to observe how S. 2006, a "takings" bill introduced by Senator Robert Dole of Kansas, would have applied to the development of this new policy. S. 2006 would require federal agencies, before issuing any new "policy" which could result in a taking or diminution of use or value of private property" to prepare a "taking impact analysis." The analysis would include, among other things, an assessment of whether a "taking" may occur under the new policy, a description of the effect of the policy on private property, a description of alternatives to the proposed policy "that would lessen the adverse effects on the use or value of private property," and an estimate of "the reduction in use or value of any affected private property as a result of such policy." As applied to the new EPA ethanol policy, S. 2006 would have required preparation of a takings impact analysis, because the new policy will certainly diminish the "use" and "value" of property of the natural gas industry. The bill would also require an elaborate analysis of the estimated effects of the new policy on the natural gas industry and an evaluation of alternatives that would lessen the adverse effects on the property interests of the gas industry. It is obvious, at a minimum, that S. 2006, if enacted, would have been a formidable procedural barrier to the adoption of the new ethanol policy, to the detriment of the agricultural community.

Finally, press reports indicate that the petroleum industry recently commenced a legal action to challenge the new policy. It is interesting to speculate whether the natural gas industry might also file suite challenging the new policy as a Fifth Amendment "taking." The American Farm Bureau Federation has, of course, filed friend of the court briefs in recent Supreme Court "takings" cases urging the Court to adopt an increasingly more expansive view of Fifth Amendment property rights. I understand that your organization has taken the position that any action by the government that diminishes an owner's right to use his property constitutes a "taking" of that owner's property. Under this view of the Fifth Amendment "takings" clause, however, could it not be argued that the Environmental Protection Agency has adopted an ethanol policy that effects a taking because it surely will diminish the right of the natural gas industry to use its property? If the natural gas industry mounted such a challenge to the ethanol policy, would the American Farm Bureau Federation be willing to file a friend of the court brief in support of this particular application of an expansive reading of the "takings" clause? Or would your enthusiasm for this particular legal theory wane if it were turned into a sword and attack a policy of enormous benefit to the agricultural community?

There is an old saying: Be careful what you wish for; your wish may come true. This saying is particularly apt when it comes to the agricultural community and the "takings" issue.

Sincerely,

PETER A.A. BERLE,
President & CEO.

THE IMPACT OF A PROPOSED EPA RULE MANDATING RENEWABLE OXYGENATES FOR REFORMULATED GASOLINE: QUESTIONABLE ENERGY SECURITY, ENVIRONMENTAL AND ECONOMIC BENEFITS

(By Vito Stagliano, Resources for the Future)

In a proposed rule issued in December 1993, the Environmental Protection Agency (EPA) intends to require that 30 percent of the oxygenates to be used in reformulated gasoline be derived from renewable feedstock. The only such feedstock currently available is ethanol which is heavily subsidized by the Federal government and by a number of States. EPA justifies the rule on grounds that it would improve energy security, create domestic employment and contribute to reduction of greenhouse gas emissions. A RFF examination of the proposed rule leads to the conclusion that energy security would not be affected but oil imports would likely rise; employment would be redistributed rather than created, and global climate change benefits would be marginal or negative. This is due to the availability of unsubsidized, lower-cost, domestically produced, non-renewable oxygenates which can be blended with reformulated gasoline at greater volume than ethanol, and produce environmental benefits indistinguishable from those of renewable oxygenates.

EPA appears not to have considered the option of waiving the statutory requirement that summer reformulated gasoline contain 2 percent oxygen by weight. Authority is provided by the CAAA to exercise the waiver option in cases where the oxygen requirement is deemed counterproductive to the achievement of ozone control objectives. The addition of oxygen to summer reformulated gasoline imposes substantial costs to consumers without providing discernible environmental benefits, and would appear to meet the test for a waiver.

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The Clean Air Act Amendments (CAAA) of 1990 require, inter alia, that motor gasoline used in ozone non-attainment areas be "reformulated" to reduce emissions of volatile organic compounds (VOC). The law further requires that reformulated gasoline contain a minimum of 2 percent oxygen by weight. A proposed EPA rule[1] would further require that 30 percent of the oxygenates used in reformulated gasoline be derived from renewable sources. This paper examines the effects of the renewable oxygenate requirement and concludes that the proposed rule is likely to produce adverse economic and energy security results without improving environmental quality.

CAAA Title II Regulations

Title II of the CAAA aims inter alia to reduce emissions of toxic and tropospheric ozone-forming compounds in order to improve ambient air quality in U.S. cities. Nine[2] metropolitan areas are classified by EPA as having severe ozone problems. An additional 90 areas are classified as moderate to serious.

Congress specified in the statute that volatile organic compounds (VOC) which are precursors of ozone pollution, must be reduced by 15 percent between 1995 and 1999 and by 25 percent or more in 2000 and beyond, from 1990 baseline to be established by EPA. Congress directed that gasoline be "reformulated" to reduce VOCs and that reformulated gasoline contain a minimum 2 percent oxygen by weight. Congress also stipulated that maximum VOC reductions should be sought, taking into account cost, health and other air and non-air environmental impacts, and energy requirements.

The nine metropolitan areas classified as having severe ozone pollution account for approximately 21 percent of total U.S. gasoline consumption of 113 billion gallons per year. Under conditions of full option by the ninety additional moderate-to-serious areas, fully 55 percent of the U.S. gasoline pool would require reformulation.

Except for the requirement that reformulated gasoline contain a minimum 2 percent oxygen, the intent of Congress is precise. The 2 percent oxygen standard is an aberration because gasoline can be reformulated to achieve VOC reductions without the addition of oxygenates. Congress recognized that the 2 percent oxygen standard could be problematic and consequently provided to EPA waiver authority for cases in which the requirement would produce counterproductive results. Without so-specifying, Congress apparently wanted to create a new market for ethanol. Ethanol can be used in reformulated gasoline either directly in winter months or in the form of Ethyl Tertiary Butyl Ether (ETBE) in summer. The alternatives to ethanol and ETBE are methanol or Methyl Tertiary Butyl Ether (MTBE) derived from natural gas.

In interpreting Congressional intent, EPA was confronted by immutable science and economics. Ethanol, as such, cannot be blended into gasoline during summer months because its high volatility increase the very VOCs that reformulated gasoline is intended to reduce. If used as a feedstock for ETBE, the volatility problem is resolved but the higher cost of ethanol, even with its 54 cents/gallon exemption from Federal excise taxes, makes ETBE uncompetitive with MTBE.

EPA was further constrained by the fact that the reformulated gasoline rule took shape as a result of a regulatory negotiation process a process supported by stakeholders to the extent that the final rule would assure fuel (oxygenate) neutrality.[3] EPA was also under court order, obtained by the Natural Resources Defense Council to issue its rule no later than December 1993.

In December 1993, EPA issued the final reformulated gasoline rule. Separately, EPA issued a new, proposed rule aimed at ensuring the use of ethanol in reformulated gasoline.

In the proposed rule, EPA intends to require that an arbitrary 30% of the oxygenates to be used in reformulated gasoline be derived from renewable sources. These potentially include corn, grain, wood or any organic matter. But the only renewable oxygenate currently produced in the United States is ethanol derived from grain. EPA justifies this proposal on the grounds that it will reduce imports of crude oil, create investment and jobs in America, reduce fossil energy use, and lower emissions of greenhouse gases. EPA believes that the CAAA statute provides broad authority to carry out this proposal under Section 211 (K)(1) which directs EPA to promulgate regulations "establishing requirements for reformulated gasoline."

It remains for the courts to decide whether or not EPA has the statutory authority to direct a specific fuel, at a pre-determined level of consumption, into the transportation fuel market. Of analytical concern is whether or not the rationale provided in the EPA proposed rule makes policy sense on the merits. It should be noted that with this proposal, EPA enters policy areas substantially removed from its mandate. The proposal involves issues of energy security policy, domestic and international trade policy, domestic employment and investment policy and global climate change policy.

Benefits could potentially accrue to the Nation were Federal regulators to consider a particular rule's cascading effects. But in expanding the universe of considerations, regulators assume concomitant responsibility for results. As will be discussed in the following sections of this paper, it would appear that in the case of the renewable oxygenate rule, EPA's effort to broaden the policy considerations is stymied by counterproductive results.

Energy Security

EPA justifies its renewable oxygenate proposal, among other reasons, on grounds that the United States imports half of the oil it uses, and that these imports account for half of the U.S. trade deficit. EPA notes that since 1972 the U.S. has spent $1.3 trillion on imported oil. EPA believes that: "money now spent on imported oil . . . could instead be spent on renewable fuels currently grown or processed in the United States. This would keep capital in the U.S., provide domestic jobs, strengthen our national security, and support a wide variety of American agricultural and fuel industries."

Concerns about the trade deficit notwithstanding, the analytical literature is rich in the history of failed attempts to reduce U.S.

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[1] Footnote at end of article.

oil imports or find oil substitutes by means of government intervention in the market place. The Truman Administration experimented with Federal investment in synthetic liquid fuels. The experience was repeated, albeit at higher cost, by the Carter Administration. Eisenhower imposed controls on oil imports. Nixon imposed controls on oil prices. All of these efforts proved futile. The United States government has been repeatedly forced to reverse its policy of intervention in the petroleum market, because the costs of intervention have proved consistently higher than the benefits.

Energy security is a complex subject, extensively studied. A strong analytical concensus, reached perhaps as far back as 1981, supports the view that dependence on imported oil is not symmetrical with energy security. Even if U.S. oil imports were to be drastically reduced to a fraction of their present level of roughly 6 million barrels/day, the U.S. could not be insulated from disruptions in any part of the international oil market, nor from price fluctuations resulting from such disruptions. Rather, energy security is to a far greater degree a function of the geopolitical forces that shape the international oil market than of marginal policies to induce reductions in imports.

U.S. policies that have the aim of reducing oil imports by substitution of domestically subsidized fuels are inimical to broader U.S. security and trade interests. The United States obtains oil at market prices from nations that are, with few exceptions, allies and trade partners. They include, in order of oil trade importance, Saudi Arabia, Venezuela, Canada, Mexico, Nigeria, Angola, Virgin Islands, United Kingdom, Algeria and Norway. The U.S. obtains approximately 25% of its oil imports from Persian Gulf producers.

The majority of U.S. oil suppliers are liked to the United States, to each other, and to other trading nations by bi-lateral and multilateral treaties that have the force of law. These obligations include respect for market competition and avoidance of artificial preferences for national products. Federal interventions to mandate market share for domestic fuels would expose the United States to indefensible charges of protectionism; the same practices that have exacerbated U.S.-Japan trade relations, and recent U.S.-European Community negotiations on the Uruguay round of trade talks.

The substantial cost of oil imports is not, as EPA suggests, the sole factor to consider in assessing the value to the economy of higher priced oil substitutes. The U.S. economy actually derives substantial benefits from free access to the international oil markets. Low oil prices fuel economic growth, employment and productivity. High energy prices act as a drag on economic expansion and fuel inflationary pressures.

In sum, the U.S. cannot now, or in the foreseeable future, meet its petroleum needs except through imports. Federally mandated alternatives to oil imports decrease economic efficiency and hamper free trade without contributing to U.S. energy security.

Cost/Oil Barrel Saved

EPA calculates that the renewable oxygenate program will reduce oil imports by 9,000 barrels per day during the five months (summer ozone program) in which ETBE will be used in reformulated gasoline. EPA estimates that the high cost of ETBE will add $388 million to the cost of the reformulated gasoline program. In simple terms, this would mean that during the five months in which the ozone control program is in effect, 1.35 million barrels of oil will be saved as a result of EPA's renewable oxygenate proposal, at a per barrel cost of $289.00.

The proposal does not appear to be a cost-effective, or least cost means of reducing oil imports. For reference, the Department of Energy (DOE) estimates that the imposition of a $10.00/per barrel tariff on imported oil would increase domestic production by up to 500,000 barrels/day, with concomitant reductions in oil imports and a $10 billion to $12 billion improvement in the trade deficit. A $10.00/barrel fee would increase current oil prices to about $25.00 per barrel, or to less than a tenth the per barrel cost of the EPA proposal. Similarly, DOE estimates that synthetic oil substitutes (coal liquids) can be produced at a cost of $32.00 to $45.00 per barrel.

Actually, the oil import savings projected by EPA may be entirely illusory. A plausible second scenario leads to the opposite conclusion. Ethanol is currently blended with gasoline and sold as gasohol. Recall that ethanol cannot be directly blended in summer reformulated gasoline because of its high volatility, and can therefore be used in summer only as a feedstock for ETBE. EPA's requirement that 30% of oxygenates used in reformulated gasoline be produced from renewable sources would have the effect of making ETBE a higher value market for ethanol than the gasohol market. This is so because, as the only oxygenate that currently meets EPA's renewable source criterion, ETBE use will essentially be required by law. Under normal market dynamics, a proportion of ethanol currently used in gasohol will be diverted to the higher value reformulated gasoline market. As a consequence, a proportion of the oil displaced by current use of ethanol in gasohol, which amounts to about 900 million gallons/year, would no longer be displaced.

The effect on oil consumption and imports is compounded during the winter months of the reformulated gasoline program. In winter, when gasoline volatility is a lesser concern, reformulated gasoline makers would have no incentive to use the higher cost ETBE. They would, however, be required to fulfill the 30% renewable oxygenate mandate, and they would likely do so by using ethanol. Ethanol would be blended with reformulated gasoline at 5% by volume to meet the 2% by weight statutory oxygenate standard, and as a consequence would displace roughly 5% of the crude oil in the fuel. In the absence of the EPA mandate, however, reformulated gasoline makers would use MTBE, which can be blended at 13% by volume in order to achieve the 2% by weight statutory standard. As a consequence, and discounting variations in energy content, the oil savings achievable with MTBE would be at least 8% higher than those achievable with ethanol. Not incidentally, VOC as well as carbon dioxide emissions would also be lower in the MTBE case because oil would account for a lower proportion of the reformulated fuel.

In sum, the oil import savings claimed by EPA in the renewable oxygenate proposal appear implausible. The mandate will increase the cost of reformulated gasoline beyond the already significant cost of meeting the unnecessary 2% oxygen standard, most likely without producing any savings in crude oil consumption or imports.

Income Transfer and Deadweight Losses

The proposed renewable oxygenate rule will have the effect of transferring income from Gulf Coast natural gas and MTBE producers to corn and ethanol producers in the Mid-west. This may be a desirable national policy to the limited extent that corn production dedicated to ethanol production reduces Federal farm price support obligations. But the income transfer appears to be highly inefficient and would not, in any case, principally benefit farmers of corn.

Montgomery (1994) argues that 70% of the cost of producing ethanol is associated with post corn harvest costs. His analysis indicates the following cost breakdown of ethanol production: capital costs 32.2%; operating costs 39.8%, net corn (feedstock) costs 28%. Capital costs include a return on investment in ethanol processing plants; operating costs include the energy (mainly from coal) required for feedstock grinding, process steam and distillation.

Public policy aimed at income transfer, argues Montgomery, should aim to keep waste or deadweight losses minimal in relation to total income transferred. In this case of EPA's proposed rule, deadweight losses depend on the difference between the cost of producing ethanol and the cost of substitutes such as MTBE, which can be produced for 60% of ethanol's equivalent cost. Every dollar spent on ethanol, Montgomery concludes, delivers 30 cents of income to farmers, but imposes $1.40 in deadweight loss on consumers.

The proposed EPA rule would also transfer income from Northeastern and Californian consumers of reformulated gasoline to Midwestern corn and ethanol producers because the vast majority of ozone-non-attainment areas are located on the East and West coast of the United States. Only one is located in the Mid-west. The socio-economic distributional effects of the proposed rule would be inequitable as well: The higher, Federally-mandated cost of reformulated gasoline would effect low-income consumers disproportionately because they devote a higher proportion of their disposable income to energy costs than do higher-income consumers.

Active and Sunk Federal Subsidies

The U.S. ethanol industry was created by Congress and is maintained as an economic enterprise by a number of preferences in the Federal Tax Code. Initial taxpayer investments and current tax preferences can be summarized as follows:

National Energy Act of 1978: $400 million in loans were authorized by Congress to finance ethanol plant construction. DOE and Treasury data indicate that of 18 plants funded, the Federal government had, by 1992 received full repayment for only one.

Consolidated Farm and Rural Development Act of 1980: $250 million were appropriated by Congress to support loan guarantees administered by the Farmers Home Administration for producers of ethanol. The record of Federal debt exposure on these guarantees is not available.

Amendments of 1990 to the Tax Reform Act of 1984: Federal excise taxes for gasoline were set at 14.3 cents/gallon, but fuels containing 10% alcohol received an exemption of 5.4 cents/gallon. The value of the exemption equals 54 cents for every gallon of ethanol used in gasoline blends, and represents a subsidy of $22.68 per 42 gallon barrel of ethanol. Federal Treasury losses due to the ethanol excise tax exemption totalled about $550 million in 1992.

The Energy Policy Act of 1992: The excise tax exemption was extended to include blends of ethanol/gasoline at levels below ten percent. The statute, and previous laws were further interpreted by the Treasury Department to include a tax credit for producers of ETBE.

Omnibus Tax Reconciliation Act of 1980: Tariffs were imposed on alcohol imported for use as a fuel. The tariff was initially 10 cents per gallon but rose to 60 cents per gallon in 1986.

State Subsidies: Seventeen States offer fuel tax exemptions or producer subsidies for fuel ethanol ranging from $0.10 to $1.40 per gallon of ethanol.

In sum, Federal and State support of ethanol production is extensive, and probably sufficient to ensure—without market mandates—a share of the oxygenates market created by the CAAA. This market includes reformulated gasoline and oxygenated gasoline used to combat carbon monoxide pollution in thirty-nine metropolitan areas that do not meet CO ambient air quality standards.

Job Creation and Domestic Investment Policy

EPA argues in the proposed rule that because renewable oxygenates are more likely to be produced in the United States than are fossil fuel oxygenates, jobs and investment capital would be retained in the domestic economy. This argument may have mercantilist merit to the extent that the reformulated gasoline market induces incremental domestic production capacity for ethanol and ETBE. And it may have jingoistic merit to the extent that non-renewable oxygenates are imported rather than domestically produced. Neither argument, however, withstands scrutiny.

Current ethanol production capacity (operational and idle) is estimated at 1.2 billion gallons per year. Firm expansion plans are reported to likely achieve capacity of 1.6 billion gallons per year in 1995. Ethanol sales to the gasohol market were slightly over 810 million gallons in 1992. EPA estimates that the renewable oxygenate mandate would require roughly 630 million gallons of ethanol per year.

Assuming that the ethanol market will function competitively [which may not necessarily be the case because ethanol production capacity is abnormally concentrated], existing and projected ethanol capacity will be sufficient to meet most CAAA-induced demand. As earlier noted, ethanol currently used in gasohol is likely to be diverted to the higher-value ETBE market in the summer ozone season. In the winter, ethanol would be used to concurrently satisfy thirty percent of oxygenate requirements in reformulated gasoline and the separate requirements of the carbon monoxide control program. Under this scenario, it is difficult to detect demand for ethanol production capacity beyond capacity already in place or firmly planned. Further job creation seems unlikely.

The more probable outcome of the EPA proposal is loss of employment and devalued investment in the MTBE and methanol production industry. The oxygenates market was extensively analysed by the National Petroleum Council between 1992 and 1993. The NPC analysis modeled reformulated gasoline supply and demand under a variety of scenarios. Model results were as follows:

U.S. oxygenate supply 1995

[Barrels/day of MTBE equivalent]

U.S. domestic production and potential supply	442,000
U.S. total potential demand	345,000
Composed of:	
CAAA demand (9 cities plus known opt-ins)	276,000
Gasohol demand	69,000
U.S. projected excess capacity	97,000

Existing oxygenates production capacity is overwhelmingly for production of non-renewable oxygenates: 312,000 barrels per day versus renewable installed capacity of 100,000 barrels per day. It is therefore probable that the EPA renewable mandate will likely idle non-renewable oxygenate capacity rather than induce construction of new renewable oxygenate capacity. In sum, it seems virtually certain that the proposed rule would not increase employment but redistribute it.

Environmental Policy Beyond Clean Air

EPA believes that the renewable oxygenate requirement will provide added environmental benefits because the production of oxygenates from corn and other biomass involves lower emissions of greenhouse gases than that of oxygenates derived from fossil fuels. This is because fossile-fuel derived oxygenates (methanol, MTBE) are produced from natural gas feedstocks. ETBE and ethanol production require fossil fuels for soil fertilization, farm machinery, grinding, distillation and plant operation, but ethanol contains embedded solar energy which is, of course, non fossil fuel based. There may therefore be some carbon dioxide reduction benefits to the use of renewable oxygenates, although it is not entirely clear that total greenhouse gas emissions are lower for ethanol production than for production of alternatives.

The issue is not, however, whether the production of a given gallon of ethanol or ETBE emits less greenhouse gases than does the production of methanol or MTBE. The issue is, rather, whether the net greenhouse gas impact of the renewable oxygenate mandate is infact positive. The answer is almost certainly: no. As previously noted, during the winter reformulated gasoline program, the renewable mandate would force the use of ethanol blended at 5% by volume. In the absence of the mandate, winter reformulated gasoline would be blended with MTBE as 13% by volume. In the MTBE case, reformulated gasoline would contain 8% less crude oil than would the same gasoline blended with ethanol. Greenhouse gas emissions would consequently be lower in the MTBE case. In the summer reformulated gasoline program the greenhouse gas effects of using ETBE would be slightly more positive than those of using MTBE, but insufficient to offset the winter gasoline equation.

There is, in any case, a significant difference between claiming incidental benefits for a rulemaking on pollutants regulated by statute, and establishing a standard for emissions not currently regulated by any Federal law. EPA proposes to promulgate such a standard, requiring that renewable oxygenates be produced with a net 20% reduction in carbon dioxide emissions, compared to emissions from non-renewable oxygenates.

The issue is whether the Clean Air Act Amendments provide to EPA any statutory basis to set CO2 standards. Greenhouse gases are addressed in Title VI of the CAAA solely to the extent of codifying U.S. commitments to the Montreal Protocol on phase-out of CFCs and halons. But no reference can be found in the statute that can be interpreted to provide authority for regulation of carbon dioxide or other greenhouse gas emissions. EPA's presumption of authority to regulate CO2 emissions would set an unusual precedent of regulatory reach. It is difficult to see how the exercise of such self-awarded administrative authority could be judicially sustained.

Conclusions

The EPA proposal appears to be untenable on the very grounds used to justify it. It will have no material effect on energy security regardless of whether or not petroleum will be displaced by the mandate for ethanol use. Domestic employment and investment opportunities will not materialize because excess capacity exists to manufacture oxygenates. The more likely outcome will be to idle existing MTBE/Methanol capacity without inducing construction of incremental ethanol capacity.

FOOTNOTES

[1] EPA: Regulation of Fuels and Fuel Additives: Renewable Oxygenate Requirement for Reformulated Gasoline. Proposed Rule. December 1993.

[2] Severe ozone areas: Los Angeles, New York, greater Connecticut, Baltimore, Philadelphia, Chicago, Milwaukee, Houston, San Diego.

[3] A summary of the understandings reached during the RegNeg process between EPA and stakeholders can be found in testimony of January 14, 1994 by Roger Hemminghouse for the National Petroleum Refiners Association, delivered at the public hearing called by EPA to obtain comments on the proposed renewable oxygenate rule.

Mr. BRADLEY. Mr. President, I would like to take a few minutes to address, in detail, the lack of a positive environmental rationale for the EPA mandate. I understand that some environmental groups have signed a letter which urges opposition to all amendments on this bill. I am sure that this procedural position has created ambiguity about the substantive position of these groups on the EPA rule. I would like to clear away that uncertainty.

Before I do that, however, I would like to address some of the procedural issues that may be raised. I need to point out that the amendment does not amend the Clean Air Act or any environmental law. It merely prohibits the use of funds to implement an EPA regulation. I note that, already in the bill—page 62, lines 8 to 13, to be precise—there is a nearly identical prohibition of an EPA clean air requirement. There are other references to Clean Air Act regulations in the report. If anyone is to assert that this is somehow a clean bill that will be sullied by our amendment, they will have to argue against the existing text of the bill.

In my statement earlier, I quoted EPA Assistant Administrator Mary Nichols, who was unable to assert any definite environmental benefits from the ethanol mandate. I would like to include the relevant text from the Senate Energy Committee hearing in the RECORD.

EPA's testimony that day was clear, but what about the other environmental professionals? Mr. President, my region believes that reformulated gasoline can help with air quality problems. In fact, most of the Northeast and Mid-Atlantic have opted-in to the reformulated gas program. Connecticut, Maine, New Hampshire, Delaware, New Jersey, Pennsylvania, Rhode Island, New York, Virginia, Maryland, Massachusetts—these States have all voluntarily agreed to the original RFG program. My region believes that there can be benefits from RFG.

But what is the consensus on the ethanol mandate? Let me quote from a letter I received last week from the Northeast States for Coordinated Air Use Management, which includes representatives from eight States' environmental offices:

> NESCAUM has publicly opposed the Renewable Oxygenate Requirements (ROR) proposal from the outset because we believe that such a program would result in adverse environmental and economic impacts in our region.
>
> Of primary concern to NESCAUM is the fact that the increased use of ethanol under an ROR program would exacerbate several air quality problems in our region.
>
> This effect would be particularly significant in the southern portion of the NESCAUM region.
>
> [Note: That means New Jersey!]
>
> The proposed program would result in a significant transfer of wealth from the motorist in the Northeast to agricultural interest in the Midwest. In spite of the potential economic benefits of the ethanol initiative to the corn growing states. Midwest states with nonattainment areas have not pursued voluntary opt-in to the RFG program.
>
> In conclusion, NESCAUM would like to state our continued opposition to the renewable oxygenates requirement and our support for your effort * * *.

This letter makes one interesting point: My region has agreed to participate in the underlying RFG program. The Midwest, whose representatives today are telling us of the benefits of ethanol within the RFG program, is not even participating. Has Ohio or Illinois or Indiana opted-in to the program. No.

Another area that will be greatly affected by this mandate is southern California. The California Air Resource Board sees exactly the same problems and comes to the same conclusion as its northeast counterpart: "* * * the proposed requirements would likely have adverse fiscal and air quality impacts on California. * * * we cannot support the current proposal."

When I asked the EPA at a Senate hearing in May whether there was any support for the mandate from significant, national environmental organizations, the EPA could not provide a single example of an endorsement. The facts and the record are clear: There is no support. On the contrary, just about every major environmental organization opposes this mandate and has said so publicly. There are no environmental benefits. There may be environmental costs. Worse still, it appears to many of these groups that the Clean Air Act—which these groups fought so hard to create—is becoming a vehicle for political payback.

Last week, I received a letter from the Environmental Defense Fund, one of the driving organizations behind the 1990 Clean Air Act.

> We wish to make clear that our views have not changed with the issuance of the final rule by EPA.
>
> The proposed rulemaking at issue here will have the practical effect of greatly expanding the use of corn for ethanol production.
>
> This in turn will increase the environmental damage caused by intensive cultivation of corn, while the associated subsidies to the corn ethanol industry will drain scarce resources away from other options capable of achieving greater environmental benefits.

This mandate can also have profound negative effects at the local level in some instances. The Florida Audubon Society, which has been waging a strenuous and often lonely war to save the Everglades from extinction, wrote saying:

> This is to confirm our strong support for the Bradley/Johnston amendment * * *.
>
> For the past 4 years, FAS has been involved in a number of efforts designed to counteract the momentum involved in a number of efforts designed to counteract the momentum of the ethanol lobby because of the serious negative impact that crop changes to produce increased quantities of ethanol have on wetlands and ultimately the Everglades ecosystem.

The record is as clear as any record can be. The opposition is across the board.

From the Sierra Club, testimony of A. Blakeman Early:

> * * * we see the renewable oxygenate program as potentially increasing global warming, increasing smog, increasing air toxics, and increasing water pollution and damage to erodible and sensitive habitat areas.
>
> * * * this proposal is fatally flawed.

From the National Resource Defense Council:

> Ethanol is not renewable to the extent that fossil fuels are consumed in agricultural production and fuel conversion processes.
>
> * * * without strict environmental criteria "the perverse result of a renewable oxygenate requirement might be to mandate use of a fuel that has little, and in the worse cases even negative, environmental benefits."
>
> In sum, we cannot support the EPA's ROR proposal * * *
>
> [Note: "ROR" refers to Renewable Oxygenate Requirement; that is, the ethanol mandate.]

From the World Resources Institute:

> * * * despite gasohol's political popularity, greater use of this fuel wouldn't significantly reduce ozone levels. Nor would corn based ethanol appreciably reduce the threat of global warming.
>
> Switching to gasohol * * * would increase ozone concentrations by at least 6 percent.

From the National Audubon Society:

> * * * this new policy will result in a potentially enormous transfer of wealth from one sector of the economy to another—from the natural gas industry and its employees to ethanol producers and corn farmers * * *
>
> The EPA proposal appears to be untenable on the very grounds used to justify it. It will have no material effect on energy security regardless of whether or not petroleum will be displaced by the mandate for ethanol use. Domestic employment and investment opportunities will not materialize because excess capacity exists to manufacture oxygenates. The more likely outcome will be to idle existing MTBE/Methanol capacity without inducing construction of incremental ethanol capacity.

Mr. President, I hope that this exercise has cleared up the issue of the environmental virtues of this proposal. The simple truth is that there are none. On the contrary, many of long time defenders of the environment see this new rule as harmful.

Those are the facts. I realize that the opponents of our amendment are waiving a letter signed by several groups urging opposition to all amendments to this appropriations bill. But no one can allege that this procedural opposition to the amendment translates to substantive support for the EPA mandate.

There is no doubt that the EPA mandate represents terrible environmental policy. Our amendment should be adopted.

Mr. President, this mandate will cost the taxpayers $250 million. CBO says that this is a $30 per barrel subsidy for oil saved versus $1 per barrel subsidy for oil produced with oil. Ethanol gets $30 per barrel for every barrel that is saved. In terms of other subsidies, antimarket or promarket, the reality is the mandate and a subsidy is like the difference between allowing you to deduct your meals and mandating that you eat an entire meal 30 percent of the time of nothing but oysters.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator controls 12 minutes and 30 seconds.

Mr. HARKIN. I yield 2 minutes and 30 seconds to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, the American Medical Association passed a resolution urging that a moratorium be placed on the use of MTBE-blended fuels until such time that scientific studies show that MTBE-blended fuels are not harmful to our health.

Thanks to the oil industry that raised questions about this, they asked us to take another look at this AMA resolution. Taking another look at it, it literally blows the heart out of the oil industry's arguments that the EPA and other institutions have concluded that MTBE is not harmful to the health of American consumers.

Now note, the AMA resolution urges a moratorium on MTBE-blended fuels, not on pure MTBE. That is a very important, telling distinction. I would like to read for you from a May 16, 1993, article contained in the U.S. Oil Week. That publication is hardly a proethanol publication. I quote:

> EPA's 1993 MTBE study failed to find a high likelihood of dangerous or toxic health effects, but the agency admitted the study has flaws. Among the biggest flaws: EPA never tested gasoline/MTBE blends; just pure MTBE. But the recent health complaints recorded from the people are from gasoline/MTBE fuel blends, not pure MTBE or any other pure oxygenate.

The U.S. Oil Weekly continued:

> In 1993 MTBE studies, EPA failed to figure out why thousands of people have complained of headaches, dizziness, nausea, nosebleeds, and from MTBE oxy-fuel blends.

Mr. President, it is clear that it is the oil and MTBE industry and not renewable fuel advocates who are attempting to fool the American public.

The fact of the matter is and the AMA was right on target there have not been sufficient studies to clear MTBE-blended fuels. What is the health effect of burning MTBE-blended fuels; or, the effects of MTBE-blended emissions?

The Centers for Disease Control are still studying this problem. EPA has admitted there is sufficient grounds to do additional studies, but there is no evidence that they are doing so. Senator HARKIN and I asked for the reported conclusions of these new studies 2 months ago and we still do not have anything from EPA.

Chris Dyson, an energy policy analyst for Public Citizen has stated that, politically, EPA officials can't afford to give much credence to the public health concerns because "they have a lot invested in the oxygenated program."

Mr. President, it is that simple and that serious.

If you vote for the Johnston amendment, you are voting to deny American consumers, little alternative to MTBE-blended fuels which has made thousands of Americans throughout the country sick.

Mr. President, I ask unanimous consent that the full text of the AMA resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION PASSED BY THE AMERICAN MEDICAL ASSOCIATION

Whereas, The Clean Air Act amendment of 1990 required the use of oxygenated fuel in winter in all areas which exceed the National Ambient Air Quality Standard (NAAQS) for carbonmonoxide (CO), and Anchorage and Fairbanks were two of 39 cities required to use oxygenated fuel in the 1992–1993 winter season; and

Whereas, in Fairbanks and Anchorage in 1992–1993 a large number of citizens complained of symptoms including headaches, dizziness, nausea, cough, and eye irritation; and studies by the Alaska Division of Public Health and the National Centers for Disease Control and Prevention found that these symptoms were associated with exposure to oxygenated gasoline, that MTBE was detectable in the blood of all workers and communities studied in Fairbanks, and that the association between symptoms and exposure to MTBE in gasoline needs further study; and

Whereas, limited scientific evidence raises questions about the potential carcinogenicity of MTBE; and

Whereas, the Alaska Division of Public Health recommended in reports released on December 11, 1992 and December 23, 1992 that the oxygenated fuels programs, in Fairbanks and Anchorage, respectively, should be suspended; and

Whereas, results of recent scientific studies suggest that addition of MTBE to gasoline does not lower CO emissions from motor vehicle exhaust at temperatures below 0 degrees; and

Whereas, a dramatic decline in CO levels in ambient air in Anchorage and Fairbanks occurred before the implementation of the oxygenated fuels program as a result of the existing inspection and maintenance program and replacement of aging vehicles without using MTBE; and

Whereas, based on current ambient air CO levels in Anchorage and Fairbanks, characteristics of population, conditions of temperature and darkness, and low opportunity for exposure, no beneficial public health effects can be expected from further minor reductions of ambient CO levels that might result from use of MTBE, therefore be it.

Resolved, That the American Medical Association urges that a moratorium on the use of MTBE-blended fuels be put into place until such time that scientific studies show that MTBE-blended fuels are not harmful to health, and that no penalties or sanctions be imposed on Alaska during the moratorium.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that a news release on MTBE fuels from the American Medical Association, dated July 11, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

METHYL TERTIARY BUTYL ETHER FUELS

CHICAGO, July 11.—Reports that the American Medical Association is petitioning the U.S. Environmental Protection Agency today for a nationwide moratorium on Methyl Tertiary Butyl Ether (MTBE) fuels are inaccurate.

The questions raised about the alleged health hazards of MTBE fuels and their benefits at the AMA's annual meeting in June relate primarily to their use in extremely cold climates, and the focus of the resolution was the use of these fuels in Alaska.

Neither the AMA nor the resolution attempted to answer the question of MTBE fuels safety in Alaska or anywhere else.

Mr. JOHNSTON. This news release states:

> Reports that the American Medical Association is petitioning the U.S. Environmental Protection Agency today for a nationwide moratorium on MTBE fuels are inaccurate.

I ask unanimous consent that the words of EPA as written here be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Information on MTBE safety as recorded in the EPA's "Integrated Risk Information System":

"A comprehensive review by Environmental Protection Agency scientists of 20 major MTBE chronic exposure research projects establishes the safety of MTBE."

EPA's summary of the proceedings of an EPA-sponsored research conference on MTBE and other oxygenates, held on July 26–28, 1993:

"Just last year, an extensive series of health studies on MTBE exposure near cars or service stations demonstrated that no adverse health effects occur from MTBE exposure."

Mr. JOHNSTON. I yield the floor.

Mr. HARKIN. Mr. President, How much time exists on both sides?

The PRESIDING OFFICER. There are 9 minutes 46 seconds for the Senator from Iowa, and there are 7 minutes 6 seconds for the Senator from Louisiana.

Mr. HARKIN. I yield 2 minutes 30 seconds to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is the wrong amendment on the wrong bill at the wrong time. It is an end run on the regulatory process. It is a back-door attack on the integrity of the legislative process in the Senate. It is simply a bad amendment, and it does not belong on this bill.

The Senator from Louisiana is asking the Senate to reverse a rulemaking process that began with the passage of the Clean Air Act amendments in 1990. His amendment would upset years of rulemaking in one easy step.

When EPA began to develop the rulemaking on the use of reformulated gasolines, it did so under the express guidance of the Clean Air Act passed by this body, signed by the President.

Now the Senator from Louisiana wants to turn the clock back and rephrase the mandate for reformulated gasolines, and he wants to do it on an appropriations bill.

This amendment has not even seen the light of day in the authorizing committee. The Environment Committee and the Clean Air Subcommittee have jurisdiction over the act that delegated the authority for the rule. But have they been consulted? No.

This amendment would upset a rulemaking process in which 12,000 comments were filed to develop an important environment, energy, and rural economic policy.

Passing this amendment is bad for consumers. Citizen Action, one of the largest consumer organizations in the country, has noted that the adoption of the EPA rule would reduce the overall costs of the reformulated gas program.

Finally, as I said at the outset, this is the wrong time for this amendment. The rule that the Senator from Louisiana wants to eliminate is the subject of several lawsuits that have been filed.

If there is an issue as to whether the rule exceeds the scope of the legislative authority of the Clean Air Act, let the courts make that determination. We have a system of checks and balances between the legislative, executive, and judicial branches that works quite well.

Now is not the time to start second-guessing it. I understand that a number of my colleagues are prepared to speak at length if this amendment is not tabled. If the amendment is not tabled, I will join them, and I am willing to speak at length on this issue. I urge my colleagues to oppose the Johnston amendment rather than to have to listen to me and others speak at length.

Mr. JOHNSTON. Mr. President, I yield myself 4 minutes.

Mr. President, I must tell my colleague from Ohio that we will not have the pleasure of listening to him no matter what happens, because if this amendment is not tabled—and I hope and trust it will not be—then there will be, under the unanimous-consent agreement, I believe 10 minutes of debate equally divided, after which we will go to a cloture vote.

Mr. President, the debate has largely revolved around the question of whether this mandate cleans up the air and saves oil. Mr. President, we have heard about the question of what has the EPA said about this matter, and I ask unanimous consent to have printed in the RECORD the testimony of Ms. Nichols, who is the assistant administrator of EPA, with the responsibility for air.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The CHAIRMAN. Well, between now and 1998—you talk about there are no short-term advantages here. There is no advantage between 1998 in fuel displacement or air quality, is there?

Ms. NICHOLS. The only I think real benefits in the short term, according to the numbers that we receive, is the displacement of fossil energy used in making the reformulated gasoline.

The CHAIRMAN. Well, yesterday Mr. Sussman testified that that was pretty well a wash. I think he had some figure, point zero zero something or other. Is that not correct?

Ms. NICHOLS. It is very small. It is a very small benefit.

Mr. JOHNSTON. We had a colloquy earlier about what does she mean by short-term benefits. In a question from me, I asked about her about the short-term, and she said:

For the longer-term environmental impact, which we believe will only be realizable if and when there is a diversity of renewable sources.

That means in the next century. I also asked her:

Well, between now and 1998, you talk about there are no short-term advantages here. There is no advantage between 1998 in fuel displacement or air quality, is there?

Ms. NICHOLS: The only I think real benefits in the short term, according to the numbers that we receive, is the displacement of fossil fuel energy used in making reformulated gasoline.

Question:

Well, yesterday, Mr. Sussman testified that that was pretty well a wash. I think he had some figure, point zero zero something or other. Is that not correct?

Ms. NICHOLS: It is very small. It is a very small benefit.

Mr. JOHNSTON. Mr. President, also to the point is the rulemaking filed by EPA in the Federal Register. This is the official position of the EPA. Here is what they state at page 7719 of the Federal Register of February 16, 1994. I want to quote this because I think it settles this question:

At the time of the February 26, 1993 proposal, EPA had a number of concerns with respect to its legality, energy benefits, and environmental neutrality . . . Additional data and information has been developed which indicates that energy benefits would be unlikely to occur as a result of the proposal. While the production of much of the ethanol in the country produces on the margin more energy and uses less petroleum than went into its production, a recent study by the Department of Energy indicates that the margin disappears when ethanol is mixed with gasoline. The energy loss and additional petroleum consumption necessary to reduce the volatility of the blend to offset the volatility increase caused by the ethanol, causes the energy balance and petroleum balance to go negative.

I will repeat the last phrase:

. . . causes the energy balance and the petroleum balance to go negative.

I ask unanimous consent that this page from the Federal Register be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Concerns With the Proposal

At the time of the February 26, 1993 proposal, EPA had a number of concerns with respect to its legality, energy benefits, and environmental neutrality. Nevertheless, we proposed the provisions for public comment in the hope that these concerns could be overcome based on new data and information developed in-house or received through public comment. Since the time of the proposal these concerns have been enhanced. Additional data and information has been developed which indicates that energy benefits would be unlikely to occur as a result of the proposal. While the production of much of the ethanol in the country produces on the margin more energy and uses less petroleum than went into its production, a recent study by the Department of Energy (refer to DOE's comments on the proposal) indicates that the margin disappears when ethanol is mixed with gasoline. The energy loss and additional petroleum consumption necessary to reduce the volatility of the blend to offset the volatility increase caused by the ethanol causes the energy balance and petroleum balance to go negative. Since the potential energy benefits were the basis in the proposal for providing the incentives for renewable oxygenates, the justification for the proposal no longer exists.

Additional data and information has also been developed which indicates that VOC emissions would increase significantly under the proposal. As discussed in section I of the RIA, the commingling effect of mixing ethanol blends with non-ethanol blends in consumer's fuel tanks, the effect of ethanol on the distillation curve of the blend, and unrestricted early use of the complex model combined result in roughly a 6–7.5% increase in gasoline vehicle VOC emissions even though there is no increase in the average RVP of in-use gasoline. As a result, the proposal would have sacrificed 40 to 50 percent of the VOC control that is required under section 211(k) for reformulated gasoline in exchange for incentives for what is likely to have been only a marginal increase in the market share of ethanol in reformulated gasoline and no energy benefits or cost savings.

As discussed in section I of the RIA, ethanol is not excluded from competing in the reformulated gasoline market under the provisions of the April 16, 1992 SNPRM. As a result of the economic advantage of ethanol over other oxygenates, ethanol should maintain a significant market share under the reformulated gasoline program even without the renewable oxygenate incentives proposed in the February 16, 1993 proposal. As a result, the actual ethanol market share increase as a result of the renewable oxygenate provisions would be expected to be far less than the maximum of 30% for which incentives were provided. Given the relatively small increase in ethanol demand as a result of the renewable oxygenate provisions in exchange for such a large loss in the environmental control of the reformulated gasoline program, there does not appear to be any justification for promulgating these provisions.

Furthermore, comments were received from virtually all parties, including ethanol industry representatives, that the proposal was unworkable and would significantly increase the cost of the reformulated gasoline program. While EPA maintains that the program would have provided an economic incentive for the use of renewable oxygenates in reformulated gasoline up to a 30% market share, EPA acknowledges that the proposal would have intruded into the efficient operation of the marketplace, impacting the cost of the reformulated gasoline program. As a result, after taking into account the cost, non-air quality and environmental impacts, and energy impacts, EPA has found itself with no choice but to back away from the renewable oxygenate provisions of the February 26, 1993 proposal.

Mr. JOHNSTON. Mr. President, Robert Sussman, EPA Deputy Administrator testified:

It shows that increasing the use of ethanol derivatives and reformulated gasoline will have no net impact on the emission of greenhouse gases. In other words, the net impact will be neither positive nor negative.

Mr. President, one final statement, and that is from the study from Argonne National Lab for DOE. They state:

It is clear that there will be increases in oil use associated with the ROS.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Conclusions

The significance of these results varies with the parameter evaluated. One reviewer made the comment that the few percentage point differences estimated in this analysis do not mean that the impacts of alternative scenarios are really different. Another reviewer essentially termed impacts of less than 1% as trivial. This point, that the analysis has generated estimates of very small differences in the impact of the different oxygenates, is particularly true for the CO_2-equivalent emissions analysis. There are large uncertainties in estimating the CO_2-equivalent emissions of various fuels. This analysis only generates differences on the order of about one-half of one percent or less. From this we have to conclude that there are essentially no differences between the RFGs using various oxygenates in terms of their CO_2-equivalent emissions.

The uncertainty associated with the estimates of oil use and fossil energy is less than that for CO_2. Because the oil use increases associated with the use of ethanol and ETBE are higher than the CO_2 increases (about one to three percent) and because the uncertainty associated with their estimation is less, we attach more significance to the oil use estimates. It is clear that there will be increases in oil use associated with the ROS.

The significance associated with the decrease in fossil energy use is somewhere between the significance associated with the

CO_2 results and the oil use results. The uncertainty associated with these results is similar to that for oil, but the percentage decrease associated with the use of ethanol and ETBE only range from about one half to one percent. From this we conclude that there will be a small decrease in fossil energy use with the ROS.

Mr. JOHNSTON. Mr. President, it is just absolutely clear from the DOE, from the EPA, from the Argonne National Laboratory, from every reputable study, that this will not reduce oil imports. It will not clean up the air. That is why all of these environmental organizations have come out against this rule.

Mr. CONRAD. Mr. President, I want to speak in strong opposition to the Johnston amendment, which would prevent the Environmental Protection Agency from carrying out the Renewable Oxygenate Requirement [ROR] for Reformulated Gas [RFG] under the Clean Air Act. The ROR, which mandates that at least 30 percent of the oxygenates in RFG come from renewable sources, is a policy that will benefit all Americans. Simply put, it is good energy policy, good environmental policy, good economic policy, and good budget policy. The ROR should move forward in 1995, as planned. It should not be held up by the U.S. Senate.

I would like to briefly detail some of the benefits of the ROR. Before I begin, however, I would like to point out that the ROR includes all renewably produced oxygenates. This includes ethanol, ethanol derivatives [ETBE], and methanol derivatives [MTBE] produced from landfills and other renewable sources. The ROR is not an ethanol mandate. Nevertheless, my remarks will focus largely on ethanol, since it has drawn the brunt of the criticism from ROR opponents.

To begin with, the ROR is smart energy policy. For many years, we have struggled to put together a national energy strategy that increases our economic security and reduces our dependence on imported oil. The ROR helps to do this by substituting domestic renewable fuels for imported oil and imported MTBE. In fact, the ROR is estimated to reduce oil imports by over 17 million barrels per year and MTBE imports by 600 million gallons per year. If we do not use domestic renewable oxygenates, the U.S. demand will instead be met by imports from the Persian Gulf. In fact, a tremendous amount of MTBE production capacity is already being put in place in the gulf. I have always said that it is poor energy policy to depend on cheap imports, especially from an area as unstable as the Middle East.

Just as important, the increased demand for ethanol and ETBE will help strengthen the domestic renewable fuels industry, laying the groundwork for greater import reductions in the future. A viable renewable energy industry is essential for good U.S. energy policy, and that industry is now beginning to emerge. New technologies are being brought on line that make ethanol cheaper and more efficient to produce.

The ROR is also good for the environment. Reduced imports mean fewer tankers and less of a chance of a disastrous oil or MTBE spill. MTBE is highly toxic and can be very dangerous if spilled. By contrast, ethanol is nontoxic, safe, and will simply break down if spilled.

More significantly, the ROR will deliver cleaner air and lower greenhouse gas emissions. Ethanol and ETBE reduce emissions of volatile organic compounds [VOC's], carbon monoxide, and air toxics—all primary components of urban air pollution and smog. Some have expressed concern about the negative impact of ethanol use in summer months because of ethanol's high evaporative properties. This concern has been addressed by requiring less-evaporative ETBE in summer months. Renewably produced oxygenates will also significantly reduce carbon dioxide emissions compared to MTBE and other fossil fuels. New ethanol and ETBE production will incorporate more efficient technology, leading to even larger CO_2 reductions. In fact, new ethanol production has an efficiency of 110 to 120 percent, meaning you get more energy out than you put in.

If you aren't convinced about the merits of the ROR for energy and environmental reasons, you should be for economic ones. Increased ethanol production will create over 14,000 permanent new jobs, plus thousands of short-term construction jobs. This is the kind of economic development that is desperately needed in rural America. It is also the kind of development we should keep here in the United States, instead of shipping it overseas.

The ROR is also good for the American agricultural industry because it will increase the value of farmers' crops. Reasonable estimates put the increased annual farm income due to the ROR at $400 to 600 million. These are not pie-in-the-sky numbers, Mr. President. They come from the USDA Office of Economics, and they've been verified by other groups. This increased income will turn over many times, generating additional economic activity.

Some are worried that more money for U.S. farmers will result in significantly higher gasoline and food prices for U.S. consumers. This is not true. Even the most conservative estimates put the price increase for RFG at less than one cent per gallon. And, many people believe the ROR will actually reduce RFG costs by forcing MTBE to compete in the market. This is one of the reasons that Citizen Action, the Nation's largest consumer group, has endorsed the ROR and opposes the Johnston amendment. As for food, the cost of corn or wheat is only a tiny fraction of the overall cost of production. Go to the store each year and see if the price of your bread fluctuates with the price of wheat. You'll see that it doesn't.

Finally, what is the cost of the ROR to the Federal Government? Anyone familiar with agricultural programs and policies cannot help but conclude that the ROR will result in significant net budgetary savings. Why? Because increased commodity prices will reduce the farm program costs. USDA estimates the ROR will reduce these costs by $2.3 billion over the next 5 years. $2.3 billion. I say to my colleagues that this is budget cutting we all can live with. However, if we pass the Johnston amendment, we will not see this reduction. Instead, we will see decreased economic growth and greater farm program spending.

The Congressional Budget Office analysis of this issue differs greatly from the USDA analysis. CBO calculates that the Johnston amendment will save money in the out years. The difference between the two analyses involves some very arcane assumptions about farm acreage set-aside. I can only say that CBO's set-aside assumptions are wholly unrealistic, and therefore so are CBO's numbers. It would seem to me that USDA, the agency which determines the yearly set-asides, would have a better idea of what the right assumptions are in this case. However, CBO refuses to listen to USDA. My colleagues would be well-advised to consider USDA's opinion in this matter.

Mr. President, I will not deny that my State of North Dakota has a stake in this issue. We have two ethanol plants, and several others are in the planning stages. However, this is much more than a parochial issue—it is a national one. With the ROR, the entire country benefits from energy security, from environmental protection, from economic growth, and from deficit reduction. We should go forward with the renewable oxygenates requirement. We should defeat the Johnston amendment.

Mr. LIEBERMAN. Mr. President, I rise in support of the amendment offered by my colleagues Senator BRADLEY and JOHNSTON.

In general, I am very reluctant to support an amendment which prohibits the EPA from spending money to enforce properly promulgated regulations. There is a right to challenge these regulations in the Court of Appeals. In general, I believe this should be the route of opposition.

In this case, however, I am so concerned about the potential detrimental impact on the environment and consumers of Connecticut, as well as the integrity of the entire Clean Air Act implementation process, that I feel congressional action is warranted.

While there is no doubt that the potential negative environmental effects of this rule are far less than under the Bush administration proposal, the purpose of the Clean Air Act requirements is to help clean up our air, not potentially worsen air quality in order to serve some other social or economic purpose. This rule still has potential adverse air quality impacts on Connecticut and the Northeast. The Clean Air Act amendments do not allow EPA to sacrifice air quality to achieve other aims.

This November, the State of Connecticut and all other nonattainment areas must submit State implementation plans showing how they will achieve attainment by the dates in the Clean Air Act. In Connecticut, industries and individuals have come together to help ensure that the State can meet the act's requirements. But the reductions to be achieved from the reformulated gasoline program will be a very important part of this attainment demonstration. If the anticipated reductions are not achieved from reformulated gasoline, or air quality is actually worsened, the burden on the industries of Connecticut and other nonattainment areas potentially will increase.

At a hearing before the Senate Energy Committee, Assistant Administrator for Air and Radiation Mary Nichols testified that there would be no air quality benefits from the ethanol mandate. The Northeast States for Coordinated Air Use Management [NESCAUM] and the Sierra Club testified that the rule would have a significant cost in terms of adverse air quality. NESCAUM has reiterated these concerns in a letter to Senator BRADLEY dated July 29, 1994 in which it supports the efforts to alter EPA's plans to implement the program.

Let me spend a few minutes outlining my concerns about the environmental impact of the rule.

First, the Northeast States have raised concerns that while the rule discourages use of ethanol during the peak ozone season, the use of ethanol during the spring and fall months—the time period surrounding the high ozone season known as the shoulder season—will lead to increased emissions of volatile organic compounds. The Northeast States are required to monitor ozone levels from the period April 1 through October 31. The States have informed EPA that ozone excedances occur in the region during this shoulder period. The use of ethanol will contribute to elevated ozone levels during this period of time when the States are required to monitor their ozone levels.

The final EPA rule attempts to respond to this concern by allowing the States to petition EPA to extend the period of time for the high ozone season during which ethanol use is discouraged. I have consulted with the Northeast States and this response is entirely inadequate. States would not be able to even petition for this protection until 1997. The requirements that the States must demonstrate are onerous and resource-intensive; they are required to conduct complex and expensive additional air quality monitoring. Whether States will be able to meet this exacting test is unclear. Why should the States be faced with this burden in addition to their other very significant responsibilities under the Act? The State regulators have no motivation to discourage ethanol use during the shoulder season other than to protect air quality.

Second, the Northeast States are concerned that the increased use of ethanol will lead to increased emissions of carbon monoxide during the wintertime. According to the States, many researchers including EPA, have noted that increases in fuel volatility which would occur with the use of ethanol, can result in increased evaporative canister loading and consequently increased carbon monoxide emissions.

Third, EPA has acknowledged that the overall air toxics emissions performance would be reduced by the mandate.

Fourth, the States are concerned that the increased use of ethanol outside the peak ozone season will contribute to emissions of nitrogen oxides. NOx is a contributor to PM10. Based on recent studies by researchers at the Harvard School of Public Health and EPA, it has been estimated that 50,000 to 60,000 premature deaths a year are caused by pollution from small, respirable airborne particles known as particulate matter which are emitted without violating the current standard. New Haven, CT, and New York City are PM10 nonattainment areas under the current standard; and EPA is currently reassessing whether the current standard is protective and may revise the standard.

In its regulatory analysis accompanying this rule, EPA contends that the proposal may have a beneficial impact on air quality because it will encourage the use of ETBE, an ether made from ethanol, during the summertime months rather than the use of other additives. According to EPA, ETBE has a greater VOC reduction potential than other additives. However, EPA's analysis is highly speculative. In part, it is based on the contention that ETBE use will be encouraged because it is eligible for the Federal tax credit afforded to ethanol blends. But evidence in the RECORD and the testimony of the Northeast States indicates that ETBE is not eligible for this credit. Additionally, as the Sierra Club pointed out in its testimony and as EPA states in its regulatory analysis, the Agency to date has completed no health studies of ETBE to determine if any risks exist. I do take some comfort from EPA's statement that ETBE producers will be required to demonstrate any health impacts and if there are any risks, EPA will consider the implications of its rule in light of that information.

In short, implementation of this rule has potential negative air quality impacts for those States struggling to meet the requirements of the Clean Air Act.

Nor can this proposal be justified by global warming benefits. EPA retreated from its initial position that the proposal would provide benefits. EPA now states that there will be no global warming benefits in the short-term. Analysts at DOE's Argonne National Labs performed a study for DOE which concludes that carbon dioxide equivalent emissions would be higher with an ethanol mandate. EPA speculates that there will be potential global warming benefits in the long run, but these potential benefits rest on best-case assumptions about significant changes in the production processes for ethanol. Additionally, both the Northeast States and the Sierra Club have testified that EPA failed to adequately account for NO_x emissions in its global warming calculations.

I am also extremely concerned about the potential cost to the consumer in the Northeast. EPA states that the mandate itself will not result in any increase in costs at the pump. But I tend to agree with Senator BRADLEY: anytime you use a product that costs $1.10 per gallon, to replace something available for less than half the price, that's bound to be a bad decision and someone will pay for it. Also, EPA's cost estimates rest in part on ETBE's eligibility for a tax exemption, but that eligibility does not appear to be the case.

I also share the concern raised by the State of Connecticut about the impact on the Federal transportation trust fund of the ethanol mandate. Ethanol is exempt from contributing to this fund. The State of Connecticut has written to me that the loss of revenue resulting from the rule would hinder the ability of the fund to finance transportation infrastructure investments. Such investments are critical to our economic well-being and competitiveness."

For all of these reasons, I urge support of the Johnston-Bradley amendment.

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment by the Senator from Louisiana and my colleague from New Jersey to prohibit funds appropriated in this bill from being used to implement or enforce EPA's ethanol mandate regulations. The EPA regulation is inconsistent with the Clean Air Act, provides no clean air benefits and may worsen levels of polluted air, will increase costs to consumers, and will adversely affect funding of the Highway Trust Fund reducing the money available for transportation projects across the Nation.

Mr. President, I am one of the authors of the Clean Air Act. I understand full well the importance that reformulated gas can play in achieving clean air. But when we developed the bill, we did not mandate that any particular product be used to achieve the clean air goals of the reformulated gas program. We set a standard for levels of oxygenates which reduce pollution from gasoline and then left it up to industry to determine the most economical means of achieving this standard. EPA knows this. EPA's own Regulatory Impact Analysis on the ethanol mandate regulation says "EPA has no legal authority under the Clean Air Act to provide such a mandate." So the ethanol mandate is something which the Congress not only did not require, it did not authorize.

Mr. President, you would think that if EPA was going to mandate the use of ethanol, it would provide clean air benefits. But the ethanol mandate does not provide any benefit in reducing summertime ozone levels. All oxygenates will reduce emissions of smog forming pollutants.

And ethanol may actually worsen air pollution during what is known as the shoulder season. These are the months on either side of the summer smog season. Because ethanol is more volatile than other oxygenates, use of ethanol will exacerbate smog. Since the ethanol mandate is likely to lead to increased use of ethanol in the shoulder season, smog may become more of a problem in the shoulder season.

Mr. President, the ethanol mandate also will have a significant fiscal impact on the Highway Trust Fund. As chairman of the Senate Transportations Appropriations Subcommittee, I can tell you firsthand how important funding for the Fund is. Every year, I receive requests from virtually all of my colleagues to use the Highway Trust Fund for projects in their States. But if we deplete the fund, we will not have money available for these projects.

The ethanol mandate will result in a significant reduction in funds available to the Highway Trust Fund. Ethanol already receives a significant tax break from the Federal gasoline tax which reduces funding for the Highway Trust Fund. The more use of ethanol, the less money going into the Fund.

According to Secretary of Transportation Federico Peña, the ethanol mandate will result in losses to the Highway Trust Fund of from $340–$465 million per year. These losses would be on top of the current losses of over $500 million per year because of the fuel tax exemption for ethanol. Secretary Peña concluded that the ethanol mandate could cost as much as $10 billion over the next decade. That is a pretty steep impact for a program which will not provide clean air benefits.

I recently wrote CBO Director Robert Reischauer about the loss of Federal gas tax revenues. CBO's estimate of a loss of $545 million over 5 years is consistent with Secretary Peña's estimate. CBO also determined that the ethanol mandate would increase budget outlays over the next 5 years by $249 million. I ask unanimous consent that a copy of Director Reischauer's letter to me be included in the RECORD.

Finally, the ethanol mandate will result in higher gasoline costs. Resources for the Future, a respected think tank, estimated that consumers in the northeast will pay at least 7 cents per gallon more because of the ethanol mandate.

Mr. President, the EPA mandate is a bad policy. So I urge my colleagues to support the Johnston-Bradley amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 28, 1994.

Hon. FRANK R. LAUTENBERG,
Chairman, Subcommittee on Transportation and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your letter of July 21, you inquired about CBO's scoring of Senator Johnston's amendment that would delay implementation of the renewable oxygenate standard promulgated by the Environmental Protection Agency (EPA). If adopted, this amendment would preclude EPA from implementing—in fiscal year 1995—its rule mandating that a specified percentage of the oxygenates used in reformulated gasoline come from renewable sources. Because the standard takes effect on January 1, 1995, this amendment would prohibit enforcement for nine months.

There are two aspects to the scoring of the Johnston amendment—the effect on spending for farm price support programs and the effect on federal revenues.

Effect on Outlays. The Johnston amendment would affect spending for farm price support programs because demand for corn would diminish, leading to a reduction in the price of corn in the first year and subsequent actions by the Secretary of Agriculture to offset the impact of lower demand. CBO estimates that a nine-month delay in implementing the EPA standards would increase outlays for farm programs by $25 million in fiscal year 1995 and by $4 million in 1996. We expect that outlays would decline by $12 million in 1997. (A permanent delay would increase spending by $17 million in 1995, but would generate outlay savings totaling $249 million over the 1995–1999 period.)

Under the scorekeeping rules delineated in the conference report on the Budget Enforcement Act of 1990, such changes in mandatory spending made in appropriation bills are scored as discretionary. They would therefore be counted against the Appropriations Committee's spending allocations under the Congressional Budget Act of 1974 and against the discretionary spending caps established by the Balanced Budget and Emergency Deficit Control Act of 1985.

Effect on Revenues. The Johnston amendment would affect federal revenues because firms producing motor fuels that contain ethanol are eligible for tax preferences. Firms have the option of taking the tax preference as either an excise tax exemption or an income tax credit. A decline in ethanol use from delaying implementation of the EPA standards would increase federal tax revenues by diminishing the use of these preferences. The Joint Committee on Taxation (JCT) estimates that a nine-month delay in implementing the EPA standards would produce a revenue increase of $26 million in fiscal year 1995 and $37 million in fiscal year 1996. These amounts, which are net of reduced income and payroll tax revenues, reflect estimated increases in excise taxes dedicated to the Highway Trust Fund of $33 million in fiscal year 1995 and $47 million in fiscal year 1996. (A permanent delay in implementing the standards would have a much greater revenue effect, estimated by JCT to total $545 million over five years. This amount, which is net of reduced income and payroll tax revenues, is based on an estimated increase of $697 million in excise tax revenues for the Highway Trust Fund over the 1995–1999 period.)

Under established scorekeeping procedures, the revenue effects of appropriation bills do not affect the scoring of those bills relative to the committee's spending allocations and the dicretionary spending caps, because the legislative language of the Budget Enforcement Act of 1990 clearly puts all changes in revenues on the pay-as-you-go scorecard. Thus, even though the Johnston amendment would have the effect of generating additional revenues, the revenue increase cannot be used to offset an increase in spending that is charged against the Appropriations Committee's allocations and the discretionary caps.

I hope this explanation is helpful to you. If you would like further information on this issue, we would be pleased to provide it. The CBO staff contacts are Mark Booth (for revenue estimates), who can be reached at 226–2865, and David Hull (for outlay estimates), who can be reached at 226–2860.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

Mr. CHAFEE. Mr. President, the 1990 Clean Air Act amendments require the use of reformulated gasoline in the nine cities with the worst summertime smog problems. Smog results from the combination of air pollution—emissions from cars and trucks and industry—and sunlight. The principal component of smog is ozone.

Under the Clean Air Act the Federal Government has established a health standard for ozone. It is up to the States to develop plans to control various sources of pollution, so that the Federal health standard is attained in every city. One of the largest sources of the ozone problem is the gasoline fuel that we burn in our cars and trucks.

Gasoline is a complex mixture of 200 chemicals with a wide variety of recipes depending on the brand, octane rating and season of the year. The precise formulation can have dramatic impacts on air pollution.

For instance, one of the substances added to gasoline in increasing quantities in recent years is butane. Butane is a relatively inexpensive byproduct of natural gas production. It is the fuel used in cigarette lighters and is highly volatile. So volatile, in fact, that most of the butane added to gasoline evaporates from the gasoline tank of a car before it ever reaches the engine to be burned. Limiting butane content can reduce total smog pollution by up to 10 percent in some cities. EPA has issued a rule that limits the addition of butane to gasoline in summer months.

The 1990 Clean Air Act amendments require oil refiners who make and sell gasoline to reduce the hydrocarbon pollution from their gasoline by 15 percent in the 9 U.S. cities with the worst smog problem. The nine cities do not include any part of my home State of Rhode Island. But other cities with less serious smog problems may also "opt in" to the reformulated gasoline program. And the State of Rhode Island would like to use reformulated gasoline as one part of its strategy to reduce ozone.

In addition to the hydrocarbon reduction requirement, reformulated gasoline must also contain 2 percent oxygen by weight. This oxygen will be added by blending the gasoline with an alcohol—either methanol or ethanol. The oxygen in the fuel promotes more complete combustion and prevents the formation of carbon monoxide in the tailpipe exhaust gases. Carbon monoxide, like smog, is an air pollutant regulated under the Clean Air Act.

It is this requirement for additional oxygen in reformulated gasoline that is causing all the controversy. There are two competing additives. One is called MTBE and is made from methanol that might be derived from natural gas or coal. The other oxygen additive is ethanol made principally from corn in the United States. The potential market for these additives created by the reformulated gasoline requirements of the Clean Air Act have pitted the oil industry against agriculture in a heated battle over EPA's regulations.

There are many arguments on both sides of the question, but there are two concerns raised by the MTBE proponents to which I have given close attention. First, they allege that using ethanol in reformulated gasoline will actually make it more difficult to control smog pollution. If true, that would be good reason to vote for this amendment. But I believe the assertion is mistaken.

It is true that when ethanol is added to gasoline, the volatitlity—a measure of the amount of the fuel that evaporates—of the blended fuel is higher. A more volatile fuel will generally mean more air pollution. But the rule for reformulated gasoline puts an overall limit on smog-forming emissions. In other words, if refiners use ethanol to meet the oxygen requirements for reformulated gasoline, the rules will require them to make some other changes in the formulation to compensate for the increase in volatility. The overall result must be a 15-percent reduction in smog-forming emissions. There can be no negative air quality impact, if the finished fuel complies with the rules.

Second, the oil industry has charged that prices for fuels using ethanol as an oxygen additive will be much higher than prices for fuels using MTBE. The oil industry made a similar charge about reformulated gasoline, in general, asserting at the time the Senate considered the 1990 amendments that reformulated gasoline would increase prices to consumers by 25 cents per gallon. Shortly after the bill was passed some of the very same oil companies were running ads for their gas saying that it already met these new reformulated gasoline requirements. Little has been heard lately about the 25-cent-per-gallon price rise.

EPA has done a careful analysis of the costs of ethanol additives and the impact of its renewable fuels mandate on consumers. That analysis shows that costs to use ethanol might be slightly higher, perhaps totalling $4 million to $60 million per year for the Nation. But these cost increases are spread over such a large quantity of gasoline, nearly 40 billion gallons of reformulated gasoline will be sold each year, that consumers will not see any real change in price.

Mr. President, I have brought to the Senate floor today letters from President Clinton to Majority Leader MITCHELL and from EPA Administrator Carol Browner to Senator DASCHLE that address these questions of cost and air quality impact directly. We are assured by the Administration that its ethanol mandate will not cause prices to increase and that the air quality requirements of the Clean Air Act will be fully complied with.

Mr. President, I would ask unanimous consent that both of these letters, along with a letter addressed to the Senate signed by five major environmental organizations opposing this amendment, be printed in the RECORD after my remarks.

Because of these from the administration assurances, I intend to vote against the amendment offered by the Senator from Louisiana. I generally oppose amendments to appropriations bills that attempt to amend the underlying authorizing statutes. EPA believes it has the authority under the Clean Air Act to issue this rule. Senator JOHNSTON disagrees. But that is not a question the Senate need decide. The rule has been challenged in court and if EPA has exceeded its authority, the courts will overturn the rule.

I believe that section 211(k) of the Clean Air Act gives EPA clear authority to take into account the energy impacts of its rules. Here, the Agency has determined that a rule favoring domestically produced, renewable energy resources is an appropriate consideration in carrying out the reformulated gasoline requirements of the Clean Air Act. Considering all of these factors, I do not think the Senate should vote to overturn EPA's policy on a rider to appropriations bill. I would urge the Senate to reject the Senator's amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, July 22, 1994.

Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Last month, the Environmental Protection Agency (EPA) made an important decision to use renewable fuels to help achieve the objectives of the Clean Air Act. By promulgating the renewable oxygenate rule, my Administration made good on a long-standing commitment to a cleaner environment and a stronger economy. The use of reformulated gasoline will help to improve the quality of the air in the nation's dirtiest cities. Through this decision EPA is helping to assure that renewable fuels continue to have a fair market share in a changing world of cleaner burning gasoline.

I am aware of the attempts by some in Congress to block implementation and enforcement of EPA's rulemaking on renewable oxygenates. I strongly oppose any attempts to interfere with EPA's implementation or enforcement of this rule.

Sincerely,

BILL CLINTON.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, DC, July 21, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: Since EPA announced its decision on the role of renewable oxygenates in reformulated gasoline (RFG) on June 30, a great deal of misinformation has been heard from critics of the decision. I would like to take this opportunity to clarify EPA's views on this important clean air program.

The Administration is aware that floor amendments to EPA's appropriations bill may attempt to overturn EPA's rulemaking on renewable oxygenates. The Administration believes that it is inappropriate to legislate regulatory restrictions through the appropriations process and will strongly oppose any attempts to interfere with EPA's implementation or enforcement of the rule.

The requirement that 30 percent of the oxygenates used in RFG be produced from renewable sources, such as grain, biomass or even garbage, is necessary to assure that renewable oxygenates are not disadvantaged in the RFG program. EPA is not establishing a new program to benefit any particular fuel, rather we are assuring that renewable fuels continue to have an opportunity to compete in a changing world of cleaner burning gasoline. Our actions are consistent with long-standing Congressional support for renewable motor fuels and this Administration's environmental and energy goals.

We have taken the necessary steps in the rule to alleviate potential disruption in the gasoline distribution system. In the context of overall gasoline usage, this program will result in only one-half of one percent of the gasoline consumed in the U.S. annually being made from renewable sources.

It is not an "ethanol mandate." Rather, it is fuel neutral in that any renewable oxygenate will qualify. The production of all oxygenates will increase substantially as a result of the RFG program. For example, nonrenewable MTBE made from natural gas may well experience a 170 percent increase in its market. No industry is a loser in this program.

I hope the above points and enclosure are useful in explaining the role of renewable oxygenates in the reformulated gasoline program. Please contact us if you have any questions or need further information.

Sincerely,

CAROL M. BROWNER.

IMPACTS OF THE RENEWABLE OXYGENATES RULE

ENVIRONMENTAL AND OTHER BENEFITS

The renewable oxygenates rule ensures that the benefits of the RFG program will be achieved. In addition to the 15 percent reduction in VOC and toxic emissions from vehicles using Phase I RFG, additional reductions in VOC emissions may occur if ETBE displaces currently-used ethanol during the summer months. This occurs because the rule does not credit the use of renewable oxygenates that increase evaporative emissions during the summer smog season. (The summer season is defined as May 1 to September 15, although a State may request a longer season if needed for smog control.)

The rule provides a strong incentive for the development of new technology to efficiently produce renewable oxygenates which would lead to long-term global warming benefits. Short-term global warming benefits would occur if methanol from landfills is used to make renewable MTBE as one company announced recently.

There are also energy benefits. According to a DOE report, up to 20 percent less fossil energy is used to produce ethanol as compared to MTBE produced from natural gas.

COST

Consumers should see no increase in the prices of RFG at the pump as a result of the renewable oxygenate rule. EPA estimated that the reformulated gasoline rule that was promulgated last December would cost between 3 and 5 cents per gallon more than conventional gasoline. This includes the cost of oxygenates. The new rule simply requires some oxygenates to be renewable. EPA's analysis shows that the incremental cost impact of the new rule ranges from 0.02 cents to as much as 0.2 cents per gallon when spread over the 39 billion gallons of RFG that will be produced each year.

With respect to the impact on the Highway Trust Fund, EPA estimated a $180 million loss and published this estimate in the rule. Treasury, as part of updating the President's budget in the Mid Session review, subsequently estimated the loss to be around $240 million. USDA provided estimates that show that the Highway Trust Fund losses are more than offset by savings in farm deficiency payments. The rule included a $344 million savings estimate based on a USDA analysis of a report by the General Accounting Office. USDA has provided a more recent savings estimate of $275 million.

SUPPLY

There is no doubt that there exists today an adequate supply of renewable oxygenates to satisfy the requirements of this program. The only question is whether renewable oxygenates would need to be shifted out of existing markets and into RFG cities. To alleviate as much as possible concerns about the ability of the fuels industry to do some shifting and also provide time for new renewable oxygenates production to come on line, the Agency took a number of steps in the regulation. First, we set the initial year's requirement at 15 percent. In 1996, the requirement goes to 30 percent.

Second, we included averaging provisions. With averaging, a refiner may use more renewable oxygenate during the later part of 1995, for example, and none during the first part of the year, as long as over the year the 15 percent requirement is met.

Third, we included trading provisions, under which Refiner A in Chicago may use more than the required amount of renewable oxygenates. The "excess" oxygen credits may then be sold to Refiner B in Chicago or even Refiner C in Baltimore who choose not to use renewables.

As mentioned above, no industry is losing in the reformulated gasoline program. Renewable oxygenates, like ethanol from grain, will get 30 percent of the new RFG oxygenates market and nonrenewables, like MTBE from natural gas, will get 70 percent of the new market. The production of all oxygenates will grow significantly.

FRIENDS OF THE EARTH, SIERRA CLUB, NATIONAL WILDLIFE FEDERATION, ENVIRONMENTAL WORKING GROUP, NATURAL RESOURCES DEFENSE COUNCIL,

July 21, 1994.

DEAR SENATOR: When the Senate considers the VA-HUD-Independent Agencies appropriations bill for FY95, we ask that you oppose all new policy amendments affecting the environment. We take this position regardless of the substantive merits of such amendments, which we believe are not the issue in this case.

Subcommittee Chair Barbara Mikulski and the members of the Subcommittee have reported a bill which focuses on the funding allocations which are the primary purpose of appropriations bills. While it is entirely appropriate to have a lively floor debate about those funding choices, we oppose any new proposal to encumber this bill with amendments which are legislation or limitations restricting specific environmental policies. Whatever the merits of any such proposals, we believe they would be more appropriately pursued through authorizing bills, regulatory procedures or the courts.

We recognize that Congress has a right and a responsibility to set environmental policies when necessary. However, floor amendments to the VA-HUD-Independent Agencies appropriations bill should not be the tool of first resort. We oppose any floor amendments on takings, risk, cost/benefit and unfunded mandates. Consistent with our general opposition on procedural grounds to new policy floor amendments, we oppose the Johnston amendment to prevent the Environmental Protection Agency from implementing the ethanol rule. We understand that a lawsuit has been filed on this matter, which we believe should be decided through regulatory and legal means.

We make no pretense that the appropriations process is procedurally pure, and believe that each bill should be handled on a case-by-case basis. In the case of this bill, we draw the line on the bill as reported, and urge you to oppose all new environmental policy amendments offered on the floor.

Sincerely,

RALPH DE GENNARO,
Director, Appropriations project, Friends of the Earth.

DAVID HAWKINS,
Senior Attorney, National Resources Defense Council.

A. BLAKEMAN EARLY,
Washington Director, Envir. Quality Program, Sierra Club.

SHARON NEWSOME,
Vice President, Resources Conservation Dept., National Wildlife Federation.

DAVID DICKSON,
Senior Analyst, Environmental Working Group.

ETHANOL THE FUTURE IS NOW

Mr. PRESSLER. Mr. President, I oppose the Johnston amendment and urge this body to reject it. The crucial issue in this debate is how the United States can meet competitively future energy needs with cleaner burning fuels.

The new EPA renewable oxygenate standard [ROS], was developed to achieve this goal. The standard will permit renewable fuels, such as ethanol, to be competitive in the reformulated gasoline market. Adopting the Johnston amendment will prevent this from happening. The amendment is designed to deny ethanol a role in meeting this Nation's future energy needs. It should not be adopted.

BACKGROUND

EPA issued the renewable oxygenate standard on June 30, 1994. The proposed standard is the culmination of years of work and countless staff hours. It should be noted that the rule received more public comments—over 12,000—than any other regulation in EPA's history.

In addition, EPA officials received abundant expert testimony on the pros and cons of developing renewable oxygenate stands for the reformulated gasoline market. The use of renewable fuels in the reformulated gasoline program has been supported by both the past and current administrations. The record on this issue is complete. No stone was left unturned.

Simply put, the rule is designed to enable the development of fuels that are environmentally sensitive, renewable, and good for the economy. Yet there are those who do not want this to happen.

Mr. President, the renewable oxygenate standard [ROS] is the proper solution. The standard will assure adherence to the air quality standards of the 1990 Clean Air Act. It should be implemented.

WHO SUPPORTS THE STANDARD

The list of supporters of the renewable oxygenate standard is impressive. The administration strongly opposes the Johnston amendment. The EPA, USDA, OMB, and the Energy Department all support the standard.

Agriculture solidly supports EPA's renewable oxygenate standard. The Governor of the State of South Dakota supports the new standard. Consumer groups support the standard.

In addition, environmental groups oppose the Johnston amendment.

Friends of the Earth, the Sierra Club, the Natural Resources Defense Council, the National Wildlife Federation, and the Environment Working Groups all oppose the Johnston amendment.

Mr. President, I ask unanimous consent that letters from all these groups appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, ethanol is one of this Nation's most efficient sources of energy. The EPA has stated that the renewable oxygenate standard has both immediate and long-term environmental benefits.

BENEFITS

Greenhouse gas emissions will be reduced under the new rules, according to the EPA. Ethanol use lowers carbon monoxide output.

Several studies have shown that ethanol yields equivalent reductions in urban ozone as does the use of MTBE. Under EPA's rule, all environmental objectives of the reformulated gasoline program will be met. According to the EPA, the new standard "maintains the environmental benefits of the reformulated gasoline program as promulgated on December 15, 1993, and has the potential to increase these benefits through the incentives it provides for increased ETBE use during the summer months."

Earlier this year, I wrote a letter to the Journal of Commerce responding to an editorial that erroneously attacked ethanol. I ask unanimous consent that a copy of my letter appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce and Commercial, Mar. 10, 1994]

ETHANOL: GOOD NEWS FOR THE ENVIRONMENT

(By Sen. Larry Pressler)

Wayne Brough's article "A Special Bargain for Ethanol" (Opinion, March 2, Page 6A) sees the glass as half empty and not half full. His diatribe against the ethanol industry simply overlooked the facts. According to Mr. Brough, there are no environmental benefits, no economic benefits and no consumer benefits to ethanol. Nothing could be further from the truth.

The facts are these. Ethanol reduces our dependence on imported oil and enhances U.S. energy security. Dependence on foreign oil costs the United States $40 billion to $80 billion each year. Every billion dollars spent on imports results in the loss of 25,000–30,000 U.S. jobs. Ethanol can help change that. The EPA expects its proposal will create and sustain more than 10,000 new domestic jobs, a fact Mr. Brough overlooks.

Ethanol is one of this nation's most efficient sources of energy. A recent Department of Agriculture study showed that ethanol's energy efficiency was 108% to 125%. For every 100 BTUs used in the production of ethanol, 108–125 BTUs of ethanol are created. Compare ethanol's energy efficiency with gasoline's 85%, methyl tertiary butyl ether's (MTBE) 55% and coal gasification's 45%. It is evident that ethanol is an efficient energy source.

Ethanol production is vital to improving farmers' income and to economic growth in agricultural communities. The expanded production and use of ethanol prompted by EPA regulations should increase corn prices more than 30 cents a bushel and reduce corn price supports over 50%. Resulting savings to U.S. taxpayers should be in the hundreds of millions of dollars.

Ethanol has improved air quality and it has broad consumer acceptance. The city of Denver has experienced significant air quality improvements as a result of ethanol usage. Citizen Action, one of the largest consumer organizations, called on President Clinton to include the use of ethanol in the reformulated gasoline program.

The proposed rules recognize ethanol as a friend of the environment, and they assure a fuel-neutral reformulated gasoline marketplace. Without the changes adopted by the administration, MTBE would be the primary oxygenate used in reformulated gasoline. Without competition, consumers would pay higher prices. This was the ostensible goal of Mr. Brough's article—to demonstrate the need to avoid higher consumer costs. Ethanol can help achieve the goal Mr. Brough promotes.

He also attempted to illustrate how new government regulations under the Clean Air Act could cost Americans up to $25 billion annually. He raised a valid concern that the Clean Air Act could result in expanded government control over the economy. But Mr. Brough would have done well to discuss other EPA proposals, such as how new environmental regulations ignore the considerable costs they impose on farmers, ranchers and other small businesses.

Unfortunately, he missed that opportunity and unfairly attacked ethanol. The facts on ethanol speak for themselves. EPA carefully considered costs and energy and air quality effects in determining its proposed regulations. If the merits of ethanol had not been evident, the EPA would not have issued the regulations it did.

Mr. PRESSLER. Mr. President, USDA studies have shown that the renewable oxygenate standard can reduce farm program costs by $2.3 billion between 1995–99. These savings come from higher prices for corn as a result of the standard.

AGRICULTURAL AND BUDGET BENEFITS

Our farmers need higher prices for their crops. Corn is a leading crop in South Dakota. The proposed standard would raise the income of the average South Dakota corn producers by more than $3,600. However, should the Johnston amendment be approved, this potential income would be lost. Not only would it be lost, but corn prices could drop and corn farmers would be robbed of existing income.

Mr. President, the Johnston amendment would hinder economic growth, increase costs to the Government, adversely affect corn prices, and cause economic hardships for corn producers nationwide. Just last year, ethanol blended gasoline achieved a 44-percent market share in South Dakota making it the leading State in ethanol use. If this trend continues, South Dakota will become the first State in the Nation to achieve a 50-percent market share for ethanol blended fuel.

Increasing ethanol use will provide additional markets for South Dakota corn growers, benefit the State's agricultural economy, and decrease the U.S. dependency on foreign oil. If other States follow South Dakota's lead, ethanol production and consumption will benefit the economies of communities nationwide.

CONCLUSION

Mr. President, if one needs to know congressional intent on this issue, one only needs to look at the record. Congress clearly intends that ethanol play a role in the reformulated gasoline program.

Ethanol will help us meet our Nation's future fuel needs. There is no argument. Ethanol is good for the economy. It is good for agriculture. Ethanol is good for the environment.

I urge my colleagues to reject the Johnston amendment.

EXHIBIT 1

JULY 27, 1994.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: As representatives of America's farmers, we want to reiterate our support for the Renewable Oxygenate Requirement (ROR) for reformulating gasoline, and express our strong opposition to potential amendments to the VA, HUD and Independent Agencies appropriations bill that would effectively repeal this important program.

The ROR was recently finalized by the Environmental Protection Agency after extensive comment and careful consideration. This is the appropriate forum for consideration of Clean Air rules.

An expanded renewables market will generate demand for grain and other energy crops and provide economic opportunities for rural America. More importantly, this Clean Air rule will enhance the environmental benefits of reformulated gasoline, will contribute to energy security, will reduce emissions of greenhouse gasses, and will provide consumers with a choice of oxygenates. According to EPA, the ROR will maximize reductions of volatile organic compounds. The Department of Energy has concluded that the ROR will provide significant reductions in fossil energy use. The best news is that the positive environmental and energy benefits of the ROR will not increase the cost of reformulated gasoline at the pump for consumers.

The benefits of this Clean Air rule for agriculture are significant. According to an analysis completed by the U.S. Department of Agriculture, the ROR will increase the demand for corn used in ethanol production and will reduce farm program costs by $2.3 billion over the next five years. At the same time, feed co-products of ethanol production will be available to meet the needs of beef, dairy and poultry producers.

The ROR simply makes sense for America. We ask that you support the rule by opposing amendments to repeal this important program.

Sincerely,

American Agriculture Movement, Inc.; American Agri-Women; American

Farm Bureau Federation; American Seed Trade Association; American Society of Farm Managers and Rural Appraisers; American Soybean Association; American Sugar Beet Growers Association; National Agricultural Chemicals Association; National Association of State Departments of Agriculture; National Association of Wheat Growers; National Barley Growers Association; National Cattlemen's Association; National Corn Growers Association; National Cotton Council; National Council of Farmer Cooperatives; National Family Farm Coalition; National Farmers Organization; National Farmers Union; National Grain Sorghum Producers; National Grange; National Rural Electric Cooperative Association; Women Involved in Farm Economics.

JULY 21, 1994.

DEAR SENATOR: When the Senate considers the VA-HUD-Independent Agencies appropriations bill for FY95, we ask that you oppose all new policy amendments affectng the environment. We take this position regardless of the substantive merits of such amendments, which we believe are not the issue in this case.

Subcommittee Chair Barbara Mikulski and the members of the Subcommittee have reported a bill which focused on the funding allocations which are the primary purpose of appropriations bills. While it is entirely appropriate to have a lively floor debate about those funding choices, we oppose any new proposal to encumber this bill with amendments which are legislation or limitations restricting specific environmental policies. Whatever the merits of any such proposals, we believe they would be more appropriately pursued through authorizing bills, regulatory procedures or the courts.

We recognize that Congress has a right and a responsibility to set environmental policies when necessary. However, floor amendments to the VA-HUD-Independent Agencies appropriations bill should not be the tool of first resort. We oppose any floor amendments on takings, risk, cost/benefit and unfunded mandates. Consistent with our general opposition on procedural grounds to new policy floor amendments, we oppose the Johnston amendment to prevent the Environmental Protection Agency from implementing the ethanol rule. We understand that a lawsuit has been filed on this matter, which we believe should be decided through regulatory and legal means.

We make no pretense that the appropriations process is procedurally pure, and believe that each bill should be handled on a case-by-case basis. In the case of this bill, we draw the line on the bill as reported, and urge you to oppose all new environmental policy amendments offered on the floor.

Sincerely,

RALPH DE GENNARO,
Director, Appropriations Project, Friends of the Earth.
DAVID HAWKINS,
Senior Attorney, Natural Resources Defense Council.
A. BLAKEMAN EARLY,
Washington Director, Envir. Quality Program, Sierra Club.
SHARON NEWSOME,
Vice President, Resources Conservation Dept., National Wildlife Federation.
DAVID DICKSON,
Senior Analyst, Environmental Working Group.

THE WHITE HOUSE,
Washington, DC, July 22, 1994.
Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: Last month, the Environmental Protection Agency (EPA) made an important decision to use renewable fuels to help achieve the objectives of the Clean Air Act. By promulating the renewable oxyenate rule, my Administration made good on a long-standing commitment to a cleaner environment and a stronger economy. The use of reformulated gasoline will help to improve the quality of the air in the nation's dirtiest cities. Through this decision EPA is helping to assure that renewable fuels continue to have a fair market share in a changing world of cleaner burning gasoline.

I am aware of the attempts by some in Congress to block implementation and enforcement of EPA's rulemaking on renewable oxygenates. I strongly oppose any attempts to interfere with EPA's implementation or enforcement of this rule.

Sincerely,

BILL CLINTON.

STATE OF SOUTH DAKOTA,
Pierre, SD, May 4, 1994.
The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In the next several weeks, the United States Environmental Protection Agency will be issuing final rules regarding the ability of ethanol to be utilized as an oxygenate in the federal reformulated gasoline program. The proposed rule, "Renewable Oxygenate Requirement for Reformulated Gasoline" would require that 30% of the oxygenates used in reformulated gasoline be derived from renewable resources.

This rule, as proposed by the EPA, would result in a significant increase in the demand for ethanol. As you know, ethanol is one of this nation's premier renewable transportation fuels. Ethanol reduces greenhouse gas emissions, promotes rural economic development, and reduces our nation's dependance on imported petroleum products. Ethanol also stimulates the demand for agriculturally-derived products and services to reduce federal farm deficiency payments.

Without question, you have heard from the petroleum industry that the Renewable Oxygenate Requirement should be withdrawn for a variety of reasons. Principal among the criticisms is that the program will establish a mandate for fuel ethanol. We believe nothing could be further from the truth. In fact, it is my opinion this is a historic action by your administration to begin the long process of reducing our nation's dependance on foreign oil.

I wish to express my strong support for the adoption of the Renewable Oxygenate Requirement, and I encourage you to direct the EPA to promulgate the final rule as proposed. Such an action will send a strong signal of your commitment and approach to both environmental stewardship and economic development.

Thank you in advance for your continued support and attention to this important matter.

Sincerely,

WALTER D. MILLER,
Governor.

The PRESIDING OFFICER. Who controls time?

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Seven minutes four seconds.

Mr. HARKIN. I yield myself such time as I might consume.

Mr. President, let us face it. This boils down to one essential issue. It can be summed up in one sentence. All the debate held here today can be summed up in one sentence. This is a choice that we have to make, a choice between domestically produced, renewable fuels, or imported methanol and MTBE. That is it.

Are we going to vote for America and vote for American jobs and fuels produced here, renewable fuels, or are we going to vote to continue the pipeline from Saudi Arabia to America? This is what this vote is all about.

As it has been pointed out time and time again, environmental groups support our position in opposition to the Johnston amendment—Friends of the Earth, Natural Resources Defense Council, the Sierra Club, the National Wildlife Federation, and the Environmental Working Group.

A lot of Senators wanted to speak on this issue today. I particularly wanted to mention Senator DORGAN from North Dakota, who could not be here because he is in conference committee. He has been a great leader on this.

Mr. President, I ask unanimous consent to print in the RECORD the EPA response to major points raised by NESCAUM regarding the renewable oxygenate rule, and also the letter from the five environmental groups.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EPA RESPONSE TO MAJOR POINTS RAISED BY NESCAUM REGARDING THE RENEWABLE OXYGENATE RULE (ROR)

ACTION CONTRADICTS REG-NEG AGREEMENT

The provisions of the Renewable Oxygenate Rule were not covered by the Reg-Neg agreement.

Does not alter the emission performance standards or other provisions for the RFG program, which was based on Reg-Neg.

The renewable oxygenate requirement was promulgated as a supplement to the reformulated gasoline (RFG) program.

SHOULDER SEASON CONCERNS; OZONE VIOLATIONS IN NEW JERSEY

RFG program requires VOC-controlled fuel at the terminal from May 1–September 15; refiners will be shipping such fuel as early as March 1.

VOC controlled gasoline is thus expected to be utilized during most or all of the shoulder season months of concern in the Northeast.

Impacts of renewable oxygenate rule on VOC emissions during the shoulder season are thus, not likely to be a problem in the Northeast.

States already have authority to control fuel RVP and/or ethanol content; many have standards in place.

Furthermore, EPA included provisions in the final ROR by which states can petition EPA to extend the period during which ethanol cannot be blended for credit toward the renewable oxygenate requirement. This should give states complete assurance that the environmental benefit of the RFG program will be realized.

INCREASE IN EMISSIONS OF CARBON MONOXIDE (CO) IN WINTER

EPA's MOBILE5a does show a small effect of RVP on CO emissions above 45 degrees Fahrenheit.

Thus, only effect on CO emissions is potentially small increase on winter days with temperatures above 45 degrees Fahrenheit; the days with the least concern of CO exceedances.

In any event, the higher oxygen levels from the reformulated gasoline program and the use of renewable oxygenates result in large reductions in carbon monoxide emissions.

INCREASED EMISSIONS OF NO_x

Rule does not alter the NO_x performance standards under the RFG program.

Hence, no increase in NO_x emissions will result.

ECONOMIC IMPACTS

EPA does not believe this rule will increase the price of reformulated gasoline.

EPA has included averaging, trading, and a program phase-in to avoid any short term shortages and price increases.

ENERGY IMPACTS

Program will have fossil energy benefits.

Promulgated to be consistent with Congressional and Executive Branch efforts (past and present) to promote the use of renewables.

FRIENDS OF THE EARTH, SIERRA CLUB, NATIONAL WILDLIFE FEDERATION, ENVIRONMENTAL WORKING GROUP, NATURAL RESOURCES DEFENSE COUNCIL,

JULY 21, 1994.

DEAR SENATOR: When the Senate considers the VA-HUD-Independent Agencies appropriations bill for FY95, we ask that you oppose all new policy amendments affecting the environment. We take this position regardless of the substantive merits of such amendments, which we beleive are not the issue in this case.

Subcommittee Chair Barbara Mikulski and the members of the Subcommittee have reported a bill which focuses on the funding allocations which are the primary purpose of appropriations bills. While it is entirely appropriate to have a lively floor debate about those funding choices, we oppose any new proposal to encumber this bill with amendments which are legislation or limitations restricting specific environmental policies. Whatever the merits of any such proposals, we believe they would be more appropriately pursued through authorizing bills, regulatory procedures or the courts.

We recognize that Congress has a right and a responsibility to set environmental policies when necessary. However, floor amendments to the VA-HUD-Independent Agencies appropriations bill should not be the tool of first resort. We oppose any floor amendments on takings, risk, cost/benefit and unfunded mandates. Consistent with our general opposition on procedural grounds to new policy floor amendments, we oppose the Johnston amendment to prevent the Environmental Protection Agency from implementing the ethanol rule. We understand that a lawsuit has been filed on this matter, which we believe should be decided through regulatory and legal means.

We make no pretense that the appropriations process is procedurally pure, and believe that each bill should be handled on a case-by-case basis. In the case of this bill, we draw the line on the bill as reported, and urge you to oppose all new environmental policy amendments offered on the floor.

Sincerely,

RALPH DE GENNARO,
Director, Appropriations Project, Friends of the Earth.
DAVID HAWKINS,
Senior Attorney, Natural Resources Defense Council.
A. BLAKEMAN EARLY,
Washington Director, Envir. Quality Program, Sierra Club.
SHARON NEWSOME,
Vice President, Resources Conservation Dept., National Wildlife Federation.
DAVID DICKSON,
Senior Analyst, Environmental Working Group.

Mr. HARKIN. Mr. President, there has been so much smog put out by the proponents of the Johnston amendment, it is hard to know where to begin.

I thank all colleagues who have spoken before me, who laid to rest these myths that have been propounded by the proponents of the Johnston amendment.

Let me just summarize if I might.

First, the myth of increased cost to consumers and for subsidies. EPA has said that the renewable oxygenate rule will add only two-hundredths to two-tenths of 1 cent per gallon of gasoline—not the 7 cents a gallon that we heard from the Senator from New Jersey—two-hundredths to two-tenths of 1 cent per gallon.

The Senator from South Dakota [Mr. DASCHLE] has been a great leader on this issue since the Clean Air Act, and he points out that in 1 year alone subsidies to fossile fuels were $21 billion and the subsidies to ethanol were $879 million.

Mr. President, I ask unanimous consent to print in the RECORD an article which appeared in the Washington Post this Sunday, "Oil Slick: Profits Abroad and Poison at Home." It talks about how EPA estimates the cost of cleaning up ground water contaminated by petroleum will run about $790 million a year.

Who is going to pay it?

The cost of plugging 22,500 abandoned wells, $300 million.

Who is going to pay it?

If you think the oil company is going to pay it, you are living in dreamland. We are going to have to pay those bills. I think this editorial points it out.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 31, 1994]

OIL SLICK: PROFITS ABROAD AND POISON AT HOME

BIG PETROLEUM SHIPS OUT, LEAVING BEHIND A BIG MESS

(By Jack Doyle)

For the last five years the U.S. oil industry has been spending more of its production dollars abroad than it has at home. Companies such as Amoco, Chevron and Phillips are now earmarking 60 to 75 percent of their exploration and production budgets for operations abroad. Meanwhile, at home the oil companies have been selling off production fields, shutting down refineries and laying off workers. More than 500,000 oil jobs have been cut since 1982, at least 130 oil refineries have closed and an estimated $20 billion worth of oil property will come on the market in the next five years.

As Big Oil heads abroad, it is leaving behind a giant oil mess, the cost of which is becoming more apparent every day:

The Environmental Protection Agency estimates the cost of cleaning up groundwater contaminated by petroleum will run about $790 million a year.

The cost of plugging 22,500 abandoned wells on public lands will exceed $300 million, according to the inspector general of the U.S. Department of the Interior.

Texas auditors estimate the cost of cleaning up leaking underground storage tanks in the state will be about $2.5 billion and could take 38 years at current funding levels.

New York officials say well-plugging liability in their state is between $35 million and $100 million.

Oil, it is often forgotten, is a toxic substance, containing three dangerous chemicals: benezene, toluene and xylene. Benzene is a known human carcinogen and chronic exposure can cause leukemia. Toluene can cause mutations in living cells and can damage a developing fetus. It can also damage the liver, kidney, brain and bone marrow. Chronic exposure to xylene may damage the liver, kidneys, skin, eyes and bone marrow as well as developing fetuses. Citizens living near gas stations, storage terminals and refineries—as well as workers—are especially at risk, often exposed to higher levels of petroleum emissions and pollutants.

The problem, in part, is a leaky infrastructure. America's vast and sprawling oil empire—some 650,000 wells, 220,000 miles of pipelines, 2,500 marketing terminals, 700,000 above-ground storage tanks, 200 refineries and more—is aging and in disrepair. Oil, gasoline, jet fuel, diesel and petrochemicals are leaking out of the system in supertanker proportions. Every year, in fact, the energy equivalent of at least 1,000 Exxon Valdez oil spills, roughly 11 billion gallons, is leaked, spilled, evaporated, thrown out, used inefficiently or otherwise dissipated somewhere in the U.S. oil system.

According to the American Petroleum Institute, floating gasoline or other leaked hydrocarbon is found in groundwater beneath 357 oil facilities in the United States. Near Charlotte, NC, residents living near a gasoline tank farm where 17 wells have been contaminated have a leukemia rate double that of normal. In Newell, WVA., a foot of petroleum has been found on groundwater beneath a Quaker State refinery. In California, massive leaks in 28 separate locations have been found beneath a Unocal oil field where a petroleum thinner used to recover heavy crude has leaked out of pipes and storage tanks over the last 40 years.

The investment—or disinvestment—policies of the major oil companies are no small part of the leaky infrastructure problem. During the go-go 1980s, capital goods replacement and plant maintenance were not top priorities in the oil industry. On Wall Street, merger mania was the rule of the day, and Big Oil went prospecting. Chevron bought Gulf, Mobil bagged Superior, and Texaco went after Getty. Exxon bought up billions of dollars worth of its own stock. Unocal and Phillips borrowed heavily to defend themselves from corporate raiders. Enormous debt piled up, and in 1986 the collapse of oil prices made matters worse.

Soon, the debt service and profit pressures pushed management to cost-cutting and "restructuring." Seasoned employees were let go. Exxon alone cut 40,000 during the 1980s. Untrained, unskilled and less expensive contract workers were used to fill the gaps. Debt was paid down, gasoline was refined and the petrochemicals kept coming—but not without a price.

Between 1983 and 1992, fires and explosions at U.S. oil refineries and petrochemical plants killed more than 80 workers, injured 900 and caused thousands to be evacuated from nearby communities. The Oil, Chemical and Atomic Workers Union charged that many of the accidents were "linked [to] drastic reductions in the resources devoted to plant maintenance." Shell and Phillips, among other companies, were cited by the U.S. Occupational Safety and Health Administration for inadequate maintenance in fatal explosions during 1988–1989. After Exxon's string of spills and refinery mishaps in 1988–90, even Wall Street began to wonder if the company's restructuring hadn't gone too far.

Meanwhile, major U.S. oil companies have been shutting down or selling off old U.S. oil properties. Last year, Mobil closed 10 product storage terminals, sold 4 pipeline systems and cut its U.S. marine fleet by one-third. Exxon has sold $1.1 billion worth of U.S. assets in the last two years.

Chevron is selling off what it calls "marginal" oil and gas properties, hundreds of which were acquired in the 1984 takeover of Gulf Oil. In all, some 1,200 oil and gas properties are planned to be sold by 1995—properties that one senior Chevron official called "garbage." Chevron is also selling one-third of its U.S. refining capacity and more than 800 gas stations, using the proceeds to help pay for its overseas operations, such as its joint venture with Kazakhstan. Booming oil growth is already raging in many developing economies and is expected to pick up even more by the year 2000.

Back home, however, U.S. oilmen are quick to blame environmental regulations as the reason they are shutting down and heading abroad. True, environmental regulations are less stringent abroad—in fact, nonexistent in some countries. But should that become the global standard? In the United States, oil and gas interests already have specific exemptions or exclusions in at least nine federal environmental laws. The Superfund law mandating cleanup of toxic wastes, for example, does not cover petroleum. These exclusions—many obtained in the 1970s—have made possible what amounts to two decades of unregulated activity and toxic pollution. The American people are now paying dearly for this lack of regulation in expensive cleanups and rising public health costs.

Yet, as Big Oil heads abroad, American taxpayers are helping them go. In Russia, U.S. oil companies are receiving U.S. aid to produce oil. In September, the Overseas Private Investment Corp. (OPIC), a federal agency, approved loan guarantees and insurance worth $28 million to Texaco. The company will restore production at 150 idle oil wells in the Sutormin fields of Western Siberia. Last May, Conoco received aid from OPIC for a smaller project.

Texaco and all these other companies have on line projects that will cost multibillion dollars," explained an OPIC spokesman. "The administration has decided it's important for the U.S. to provide assistance to U.S. companies to help the former Soviet Union become a developed economy."

Meanwhile, in the United States, pipelines are leaking, tank farms are seeping and two-thirds of the oil ever discovered here is still in the ground. In fact, without even considering oil shale or tar sands, there is more oil to be extracted and discovered in the domestic U.S. onshore—more than twice as much under some scenarios of price and technology—than there is in the entire federal U.S. offshore and Alaskan regions combined. And fixing the leaks and capturing the inefficiencies in the U.S. oil system today would exceed the energy equivalent of Australia's annual petroleum consumption—about 263 million barrels.

An "oil boom" is possible in America, only this time the dollars must be invested in efficiency, new technology, environmental protection and worker training.

On one level, the oil industry is a very sophisticated technological player. Amazing feats of production are demonstrated daily almost anywhere in the world. Offshore oil platforms are engineering and technological marvels. Yet when it comes to efficiency and pollution prevention, the oil industry is laggard in its technologies.

Some industrial hazard analysts, such as Nicholas Ashford at MIT, point out that existing accident prevention systems are grounded in "secondary prevention"—measures that reduce the probability of accidents but do not really change the inherent risks associated with those technologies or processes. Ashford and others suggest that the industry should move to a new level of safety and plant design—known as "primary prevention" or "inherently safe technology," also applicable to the prevention of leaks, spills and emissions.

A few industry leaders have discovered that the necessary changes need not be all that earthshaking and can have multiple benefits.

"[W]e set out to improve stationary combustion safety at our refineries," reported British Petroleum's James Ross in a 1991 speech to petroleum analysts in Toronto. "The solution was to develop a new burner. This new burner not only increased safety, it also reduced nitrogen dioxide and particulate emissions—and it provided a material improvement in efficiency. We now also provide that technology to our customers."

Certainly in America—which now purports to lead the world in stabilizing greenhouse gases—oil profligacy and oil waste must end in all forms, especially within the oil industry itself.

But how does this process begin?

President Clinton should publicly challenge the oil industry to clean up its waste, repair the infrastructure and improve operating efficiencies capable of "backing out" millions of barrels of imported oil—now at record levels.

Congress should live up to its regulatory responsibilities and repeal the oil and gas exemptions found throughout the nation's environmental laws. Tax writers should abolish the write-off allowed oil companies for expensing oil spill cleanups and property damage. Double hulls should be required on the nation's 30,000 oil barges. Oil pipelines should have automatic shut-off values and improved leak-detection systems. And aboveground storage tanks should have double bottons.

As long as oil must be used—and the prospect of global climate change makes urgent the need to develop non-fossil alternatives—oil producers and oil refiners must be held to a higher standard of efficiency: no waste, no pollution, no endangerment. The petroleum system, in transition to whatever comes next, must perform to a new level of operational and environmental integrity. The free ride for oil should be free no more.

Mr. HARKIN. Mr. President, clearly, the costs of the renewable oxygenate rule are minimal. The benefits are monumental. To those who said they would not want to spend two-tenths of 1 cent, I say if cost is the only concern, maybe we ought to take catalytic converters off cars. They cost more. We could save that money. Why not put lead back in gasoline? That is the cheap way if you want to go that route of cutting cost.

No. The people of this country want cleaner air and domestically produced fuels.

The other myth is it takes more energy to produce ethanol than we get out of it. I heard that six times today. It simply is not true, as this chart points out. This chart shows the energy we get out for the fossil energy put in.

As you can see, for methanol, for every 100 Btu's to make methanol, you get 55 Btu's back. For every 100 Btu's to make gasoline you get 74 Btu's back. For each 100 Btu's used to make ethanol see what you get—118 Btu's out of it. That is the fact. It is not myth. It is fact. There are other data, maybe 20 years old, based on outdated production practices, but these are the facts today.

Now, one of the things we want to do with this rule is to move into the future. So we have another chart. This chart again shows methanol, gasoline, ethanol. You get 1.18 units of energy back for every unit you put into producing ethanol from corn grain. When we go to making ethanol from the total corn plants we get even more energy back, 1.90 units for each unit put in. When we go to making ethanol from switchgrass, for every one unit in we get 18.80 units out.

This chart shows the future, and that is where we are going. Yet the Johnston amendment would choke this bright future off in its infancy so we could not get to this day when we can use switchgrass, where for every 100 Btu we get 1,880 Btu's out of it. The Johnston amendment would choke this promising future for renewable energy off in its infancy.

Information Resources Inc. estimated that if we passed the Johnston amendment the imported MTBE—in 1995 alone, next year, will go up by 75 percent. That is money out of this country going to Saudi Arabia.

Next myth. Somehow this violates the regulatory negotiation agreement for the reformulated gasoline program. Mr. President, this rule complies with the reg-neg agreement.

Mr. President, I ask unanimous consent to print in the RECORD at this point a letter from the EPA to Senator DASCHLE pointing out that this rule complies fully with the reg-neg process.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, August 3, 1994.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DASCHLE: I understand a question has come up as to whether the Environmental Protection Agency's renewable fuels rule violates the reformulated gasoline regulatory negotiations agreement. Since the provisions of the renewable fuels rule were not covered by the negotiated agreement, the renewable fuels rule in no way violates that agreement. It does add to the program outlined in that agreement.

Furthermore, the renewable fuels rule does not violate the principle of fuel neutrality. Any fuel made from renewables (including for example methanol produced from landfill gases) would qualify. The negotiated agreement did not address fuel neutrality in the context of renewable vs. nonrenewable oxygenates.

Sincerely yours,
RICHARD D. WILSON,
Director, Office of Mobile Sources.

Mr. HARKIN. Mr. President, the parties accept the reg-neg agreement and the renewable oxygenate rule supports that.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 55 seconds.

Mr. HARKIN. Mr. President, think about the Bell Telephone Companies and the monopoly they had. We had to break it up to provide competition. When we did, we saved the taxpayers money. We got new instruments out there, new telephones and services at lower costs.

The Johnston amendment would provide for methanol and MTBE the same kind of monopoly. What we are asking for is competition. We ask to have a competitive atmosphere out there in the reformulated gasoline market, to have cleaner air, reduced greenhouse emissions, reduced reliance on imported fuels.

I ask my colleagues to reject the myth, cut through the smog, support real competition, domestic jobs, clean fuel, clean air. Vote for America. Vote for American jobs. Defeat the amendment by the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 30 seconds.

Mr. JOHNSTON. Mr. President, I yield myself the remainder of the time.

Mr. President, from time to time, we have an amendment on the floor of this Senate which I call the "buzzard coming home to roost" amendment. That is an amendment which sounds good when you are talking about it or a proposal that sounds good when you are talking about it but which, if enacted, comes back to haunt you.

I remember very well the catastrophic health plan that did that. I could quote several examples.

Mr. President, if this rule of EPA goes into effect, these buzzards are coming home to roost in terms of higher consumer prices, in terms of higher gasoline prices from 2 to 6 cents per gallon in 30 percent of the markets concerned, in terms of the budget which, according to CBO, is going to cost $250 million. According to the Joint Tax Committee it is going to cost over $½ billion to the Highway Users Fund, which impacts each State in the Nation, as I have stated.

Mr. President, I have put into the RECORD quotations from the EPA from their own mouth, from their own studies, which indicate this does not reduce imports, it does not clean the quality of the air. All it does is cost consumers, and it costs the price of gasoline, it costs the Highway Trust Fund and it costs the budget.

Mr. President, there is already $½ billion a year in subsidy for the ethanol market, and that is enough. Vote against tabling this amendment.

The PRESIDING OFFICER. All time controlled by the Senator from Louisiana has expired. All time has expired.

Ms. MIKULSKI. Mr. President, the substance of the JOHNSTON amendment is clearly a central issue at the heart of the Clean Air Act. While drafted as a limitation on funds, it is more appropriately considered as legislating on appropriations.

I am concerned as the manager of the bill that, if the amendment is adopted, it would seriously delay the enactment of this bill. It is enormously controversial. I do not want to delay the enactment of this bill, the vital things. And the VA-HUD appropriations meet compelling human needs—veterans' health care, housing for the homeless, emergency relief.

Therefore, Mr. President, as the manager of the bill and for procedural reasons, I move to table the JOHNSTON amendment and urge my colleagues to join me in that.

Mr. JOHNSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2426 offered by the Senator from Louisiana [Mr. JOHNSTON].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—50

Akaka
Baucus
Bond
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Conrad
Craig
Danforth
Daschle
DeConcini
Dodd
Dole
Dorgan
Durenberger
Exon
Feingold
Ford
Glenn
Gorton
Grassley
Harkin
Helms
Inouye
Jeffords
Kassebaum
Kempthorne
Kerrey
Kohl
Leahy
Levin
Lugar
Mathews
McConnell
Metzenbaum
Mikulski
Moseley-Braun
Packwood
Pressler
Pryor
Reid
Riegle
Sarbanes
Sasser
Simon
Thurmond
Wellstone

NAYS—50

Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Brown
Byrd
Cochran
Cohen
Coverdell
D'Amato
Domenici
Faircloth
Feinstein
Graham
Gramm
Gregg
Hatch
Hatfield
Heflin
Hollings
Hutchison
Johnston
Kennedy
Kerry
Lautenberg
Lieberman
Lott
Mack
McCain
Mitchell
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Robb
Rockefeller
Roth
Shelby
Simpson
Smith
Specter
Stevens
Wallop
Warner
Wofford

The VICE PRESIDENT. On this vote, the yeas are 50 and the nays are 50. The Senate being equally divided, the Vice President votes in the affirmative, and the motion to table the Johnston amendment No. 2446 is agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

The majority leader is recognized.

THE 50TH ANNIVERSARY AS MEMBER OF CONGRESSIONAL PRESS GALLERY

Mr. MITCHELL. Mr. President, I ask all Members of the Senate to join me in congratulating Sarah McClendon on this, her 50th anniversary as a member of the congressional press gallery. A native of Tyler, TX, Sarah McClendon worked as a reporter for a number of newspapers in Texas and other States.

In 1946, she founded the McClendon News Service, which serves newspapers throughout Texas. She has been the recipient of numerous awards, far too many to mention at this time. It is no exaggeration to say that in our Nation's Capital, Sarah McClendon is an institution. Her spirited questioning of Presidents and legislators is legendary. I have enjoyed my own many encounters with Sarah at dugout here in the Senate, after conferences, at news conference, and whenever we have happened to meet.

As everyone in Washington knows, Sarah McClendon has an uncanny ability for getting one's attention and getting answers to her questions.

I know all my Senate colleagues join me in commending Sarah McClendon on this, the anniversary of her first 50 years of reporting.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, let me join in the remarks of the distinguished majority leader, in paying tribute to Sarah McClendon on 50 years of membership in the Senate press gallery. I just had an opportunity to go up and visit with Sarah, who, today, is being honored by many of her friends and admirers.

In an extraordinary career spanning more than half a century, Sarah has covered every President since F.D.R., as well as Capitol Hill, the State Department, and just about every agency and every big story in the Nation's Capital.

As the majority leader indicates, she has the ability to get your attention. I have been trying to answer her questions for a long time; never got them right. I got the question right, but the answer was never right.

Her presence at a press conference is unmistakable, and her provocative questions often unforgettable. No doubt about it, Sarah has given her readers—her people, as she calls them—a unique and probing perspective on their Government. She's kept an eagle eye on big Government, been the voice of the little guy, and never shortchanged her readers. "When I see something wrong," Sarah once wrote, "I don't just want to write about it; I want to try to fix it. The right question can do more than produce a news story. It can change Government policy—hopefully, for the better." No doubt about it, Sarah's asked a lot of right questions over the years, and as the New Republic once wrote, "Sarah McClendon may have changed history."

She has performed an outstanding service, and she has many, many friends. In fact, we are all her friends on both sides of the aisle.

This distinguished independent journalist from Tyler, TX, has earned her place in journalism history.

We certainly want to congratulate her on 50 good years, as the majority leader indicated, and as many more as she wants to have.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senators now greet Sarah McClendon.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Applause.]

Mr. MITCHELL. Mr. President, if anybody in America thinks that this is going to do Senator DOLE or me any good, wait until the next press conference we have.

[Laughter.]

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. We will continue with consideration of the bill. It is my intention that we will complete action on this bill tomorrow. The Senate will return to its consideration at 9 o'clock in the morning.

I thank the managers for their diligence in pursuing the legislation.

Ms. MIKULSKI. Before the majority leader leaves, I would just like to bring to the leader's attention that it is the intention of the managers of this bill this evening to move on some amendments that have been agreed to and which we intend to take.

Tomorrow morning, the first order of business will be the Murkowski amendment on VA, with the Senators agreeing to 1 hour for debate.

Mr. MITCHELL. In that event, Mr. President, Senators should expect a vote at or about 10 a.m. tomorrow.

Ms. MIKULSKI. That is right, and it might just require a voice vote.

Mr. MITCHELL. Mr. President, if I might inquire of the manager, it is my understanding that the managers are attempting to put together a list of amendments which will be the only ones in order to this bill, and that that will be done this evening; am I correct in that?

Ms. MIKULSKI. We are working to do this. We believe that we have a complete list from the Democrats. The Republicans, Senator DOLE and his staff, are working very assiduously in helping us to complete that list. We ask cooperation of our colleagues and thank them for their effort.

Mr. MITCHELL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

CONDEMNING RECENT ACTS OF INTERNATIONAL TERRORISM

Mr. METZENBAUM. Mr. President, I ask unanimous consent to be permitted to send a resolution to the desk and that it be immediately considered. The resolution has been cleared by the Foreign Relations Committee, and cleared as far as other Members of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 247) condemning the recent acts of international terrorism committed against Jewish communities in Argentina, Panama, and Great Britain, and for other purposes.

The Senate proceeded to consider the resolution.

Mr. METZENBAUM. Mr. President, I rise along with Senators GRASSLEY, WELLSTONE, PELL, MIKULSKI, MOYNIHAN, and LEAHY to submit a resolution regarding the recent series of terrorist attacks in Argentina, Panama, and Great Britain.

I rise because these attacks, directed against Jewish targets, were intended to derail the Middle East peace process precisely at a time when that process is moving forward.

On September 13, 1993, Israelis and Palestinians came together here in Washington to begin a new era of peace. It was a major step in the process begun in Madrid 3 years ago.

On July 27, 1994, we witnessed another monumental step forward when Prime Minister Rabin and King Hussein jointly declared an end to 46 years of hostilities before this Congress.

These historic events, and the weeks leading up to them, were tragically marred by a series of terrorist bombings over a period of 9 days.

On July 18, a delivery van parked in front of Buenos Aires' central Jewish community offices, entirely demolished the building. It is reported that the van had to have been packed with nearly a quarter-ton of high explosives.

Over 100 people were killed; 230 people were wounded.

The next day, a Panamanian commercial plane was blown out of the sky, killing 21 people. Less than a week later, a car parked in front of the Israeli Embassy in London exploded, severely damaging the Embassy and wounding 14 people.

The next morning another car bomb wounded five people at a London Jewish community center.

In just 9 days, four bombs killed 121 people and wounded 249 others.

Mr. President, some think that the hand behind these bombings resides in Tehran. Some say Damascus. The investigation is proceeding on many fronts, and in many countries.

Mr. President, I want to take special note of the bombing in Argentina.

The death toll was by far the greatest in Buenos Aires history—although these outrages cannot be measured by mere numbers.

Senator WELLSTONE and I recently met with the leader of Argentina's Jewish community.

He conveyed to us the sense of fear hanging over his community as a result of the bombing. People do not know when they might next become targets. I am sure that similar situations exist in Panama and in Great Britain.

But he conveyed another message.

Apparently, over 100,000 Argentineans turned out—in the pouring rain—to express their outrage at the bombing. The reaction of the average Argentinian in the Buenos Aires rally is truly heartening.

I am informed that the Government of President Carlos Menem is energetically pursuing justice in this case. This official reaction is also heartening.

Mr. President, fighting terrorism is an international effort. But nations victimized by terrorism must take the lead in bringing perpetrators of specific incidents to justice.

They must also aggressively move to prevent further incidents within their borders.

I believe that the public and private reactions in Argentina indicate that it will be a truly inhospitable place for future terrorist endeavors.

Mr. President, we extend our condolences to families of the victims, and our support to those charged with bringing the guilty to justice.

Mr. President, I ask unanimous consent that Senators ROBB, LAUTENBERG, and DOLE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I am pleased to cosponsor the resolution that condemns recent terrorist acts taken against Jews and Jewish communities in Argentina, Panama, and Great Britain. These terrorist activities have caused the deaths of more than 100 people and the injury of hundreds more.

The attacks on the Jewish community center in Argentina, the plane in Panama, and the Israeli Embassy, and Jewish community center in England were carefully planned. And their timing seems to be directly related to the progress that has been achieved in the peace process, first with the Palestinian Liberation Organization and very recently with Jordan. I salute the efforts of everyone who has been willing to put aside decades of mistrust in an effort to bring peace to an important part of the world. The peace process is producing tremendous results that would have been unimaginable only a few years ago. However, terrorist organizations that are increasingly at odds with the positive developments in the Middle East are employing terrible means to try to halt that process.

The recent incidents are cause for great concern even apart from the human toll that has already occurred. These attacks were bold, involved new tactics, were planned out systematically, and took place thousands of miles from the Middle East. Fortunately, authorities in each of the affected countries are acting swiftly to investigate and hopefully apprehend the responsible persons. For instance, an Argentine judge has investigated leads tying the bombing in his country to Iran.

Also worthy of praise is Israel's reaction to these horrible incidents. Prime Minister Rabin has stated that the desire for peace will prevail despite the efforts of those who use terrorism to halt peace. Terrorists will not weaken Israel's resolve.

Nonetheless, I am deeply concerned that Jewish organizations and facilities anywhere in the world may be subjected to terrorist acts. That includes America. As Middle East expert Bruce Hoffman recently stated:

> After the World Trade Center bombing in New York, we are finally getting U.S. officials to take terrorism seriously. And this is serious: You could have synagogues and Jewish day schools and community centers being bombed across America. That is the meaning of Buenos Aires, Panama, and London.

Mr. President, recent diplomatic successes in the Middle East give all Americans reasons to celebrate. However, extremists have repeatedly shown that they will take brutal action in an effort to stop progress. Those who commit terrorist acts must recognize that their efforts to destroy the peace process will fail. Governments around the world will bring those who perpetrate such terrible crimes to justice. And I urge my colleagues to support the resolution of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask that the Senate move forward.

The PRESIDING OFFICE. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 247), with its preamble, is as follows:

S. RES. 247

Whereas on September 13, 1993, Israel and the Palestinian Liberation Organization opened a new era of Middle East peace negotiations;

Whereas on July 27, 1994, Israel and the Hashemite Kingdom of Jordan declared their 46-year state of hostilities at an end, giving additional momentum to the Middle East peace process;

Whereas radical groups have repeatedly pledged to derail the peace process through terrorist acts in the Middle East and around the world;

Whereas on July 18, 1994, more than 100 people were killed and 230 were wounded when a bomb exploded outside a Jewish community center in Buenos Aires, Argentina;

Whereas on July 19, 1994, 21 people, more than one-half of whom were Jewish businessmen, were killed when their aircraft was destroyed by a bomb over Colon, Panama;

Whereas on July 26, 1994, 14 people were wounded when a bomb exploded outside the Embassy of Israel in London, Great Britain; and

Whereas on July 27, 1994, 5 people were wounded when a bomb exploded outside a Jewish community center in London, Great Britain: Now, therefore, be it

Resolved, That—

(1) the Senate condemns the continued use of violence to pursue political objectives;

(2) the Senate condemns the worldwide targeting of Jewish communities by terrorists determined to disrupt the Middle East peace process;

(3) the Senate commends the people of Argentina, of Panama, and of Great Britain for the outrage they expressed in response to these acts of terror; and

(4) the Senate recognizes the efforts of Argentina, Panama, and Great Britain to investigate these terrorist incidents, urges their governments to commit any resources necessary to apprehend the perpetrators, and urges adoption of any lawful measures to prevent a recurrence of such horrible acts.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. I thank the Chair. I thank the floor manager.

VA-HUD APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI. We are now back on the VA-HUD appropriations, and we now will be turning to a Murkowski amendment on the National Science Foundation. I look forward to hearing the Senator's comments, and I believe it will be such that I will be able to accept his recommendation.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska [Mr. MURKOWSKI]. The Chair would remind the Senator that the pending amendment is on page 22, line 18.

AMENDMENT NO. 2447

(Purpose: To achieve funding parity between the Arctic and Antarctic research programs funded under the United States Polar Research Programs of the National Science Foundation)

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that my amendment be in order at this time for consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is temporarily laid aside. The clerk will report the amendment of the Senator from Alaska.

The legislative clerk read as follows:

> The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2447.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 77, line 9, insert the following before the period: "*Provided further*, That not less than 50 percent of the funds made available for the United States Polar Research Programs shall be used for a program of Arctic research.".

Mr. MURKOWSKI. Mr. President, let me thank the Senator from Maryland, the floor manager, for accommodating me on this very simple amendment that would require the National Science Foundation to achieve a reasonable balance in funding its Arctic and Antarctic research programs.

As the floor manager is aware, the National Science Foundation has an Office of Polar Programs which runs both the Antarctic and Arctic research programs, and within the Office of Polar Programs and the polar research program line item, the Antarctic program has historically received the lion's share of attention, funding, and staff.

The polar research program is roughly a $162 million line item. It is interesting to note that of that $162 million only about $27 million goes for Arctic research while $135 million goes to Antarctic research.

Mr. President, as we reflect on this budget allocation, about 17 percent of the polar programs are directed to the Arctic. That is about five times less than the Antarctic.

If you look at the personnel allocated to the Arctic in the Office of Polar Programs compared to the Antarctic, there is an even greater imbalance. Of the roughly 50 personnel of the National Science Foundation's Office of Polar Programs, only about five are involved in the Arctic program on a full-time basis. That is roughly 10 percent. Thus, the Arctic program has been something of a lonely stepchild. This disparity between funding and staff has been recognized for some time.

I have raised it on numerous occasions with three National Science Foundation directors. Each time I have had promises of reorganization, a reorientation, and a reprioritization, and I am still waiting for a visible change. It is this sense of frustration that has brought me to the floor of this body today.

Back in 1987, in a report to the National Science Board, a special blue ribbon "Committee on the NSF Role in Polar Regions," made a series of recommendations. A few of these recommendations were as follows:

In 1987, the committee recommended that "a logistics program be established for the Arctic to support the National Science Foundation research projects and scientists in the Northern Polar Regions."

Well, Mr. President, 7 years later, there is no such logistics program in the Arctic. The Antarctic program, on the other hand, has had one for several decades.

This 1987 blue ribbon committee also recommended that,

> * * * a research vessel with icebreaking capability be acquired for the U.S. Antarctic program, and a research vessel capable of scientific and engineering research in the Arctic seas should also be acquired.

Well, Mr. President, the Antarctic vessel has been built and is operating today, but the Arctic vessel has not been built. It has not even been designed. So as we wait for the GAO to study and determine whether the vessel should be leased or purchased, the truth of the matter is we simply do not have enough money to fund it.

Why? Because the Antarctic program gets about 83 percent of the Polar program funding.

Finally, Mr. President, in 1987 the blue ribbon committee recommended that "the NSF support and oversee the operation of a network of research support centers for the polar regions."

Mr. President, we have significant support infrastructure in the Antarctic. I have heard we are even planning to expend some $200 million for a South Pole station—$200 million. That is not in this bill, to my knowledge. That is something we will be asked to fund next year or perhaps the year after. We have nothing even remotely comparable in the Arctic. The Navy once had an Arctic research laboratory in Barrow. It shut down in 1981. The semblance of a facility is being maintained by the Native Village Corp. and the Borough North Slope in Barrow, AK.

But my point is a simple one, Mr. President. The NSF has adopted many of the recommendations of the blue ribbon committee with respect to the recommendations on the Antarctic but almost none with respect to the Arctic. The NSF would appear to have a clear bias toward the Antarctic program, and I wonder if this is justified.

Is this imbalance in funding and staff justified? I know the committee has sought to make scientific research more relative to our Nation's competitiveness and other interests. That is exactly what we must do when we prioritize in a tight budget environment.

What are our interests in the Antarctic versus the Arctic? We have no citizens living in the Antarctic. We have no strategic interests specifically in the Antarctic. We have no economic interests in the Antarctic. Under the provisions of the Antarctic Treaty, energy or mineral development is simply not permitted, and it is quite appropriate that that be the case.

Then why, Mr. President, do we maintain a scientific research program in the Antarctic at a cost of hundreds of millions of dollars?

We do so because Antarctica is a continent dedicated to the conduct of international scientific research under the provisions of the Antarctic Treaty.

In other words, we maintain an Antarctic scientific program to show the flag and keep up with the Joneses, to a degree.

There is some worthy research that occurs in the Antarctic, and I am not saying it should come to an end. But in a limited budget environment we have to prioritize and conform our programs with our national interests.

We have talked about our national interests in the Antarctic. Let us talk about U.S. interests in the Arctic:

The Arctic is a storehouse of mineral and energy wealth. It produces a quarter of our domestic oil production and a significant amount of our lead and zinc production.

The largest lead and zinc mine in North America located above the Arctic circle. We also have huge deposits of clean coal, and huge deposits of oil and gas.

Yet, to wisely develop these resources, we need special materials, specialized engineering and sound science to protect the environment as those resources are developed.

We need to make our decisions on sound science not emotion. Some of our issues relative to the Arctic, and my State of Alaska, are made on emotional arguments and not sound science.

So the Arctic is many things.

The Arctic is the key to understanding global climate change. The Arctic produces the cold, deep ocean currents that drive aspects of the ocean-atmosphere system, and impact the earth's climate. Moreover, nearly every global climate change model shows the first and most substantial climate changes, if they occur, will occur in the Arctic. Thus, if you want to study global climate change, there is a great deal of it you do in the Arctic.

The Japanese understand this. A Japanese company has just invested $10 million for a program at the Poker Flat research facility near Fairbanks, AK to study the upper atmosphere, including ozone loss.

The Japanese are coming over to our Arctic, and what are we doing. Not nearly enough.

The Arctic is very important for other reasons, as well:

The edge of the Arctic ice cap is a biologically-productive area that is the source of the nutrients that support our Nation's largest fisheries, and a significant percentage of the world's fish protein. Yet, we have seen vast fluctuations in marine life populations in the Arctic and North Pacific, and nobody knows why.

We have strategic interests in the Arctic. During the cold war, it was our common border with the Soviet Union. Even today, Russian nuclear missile subs still hide under the noisy, grinding ice at the edge of the Arctic ice pack.

We have pressing environmental concerns in the Arctic. Nuclear and environmental practices in the Former Soviet Union constitute a threat to the entire Arctic ecosystem.

It does not take much history to go back and recognize that there is a crisis in the Russian environment today, one that is almost incomprehensible.

The former Soviet Union haphazardly dumped nuclear waste in the Arctic and along riversheds that flow into the Arctic. This nuclear waste includes: 18 reactors dumped in the Arctic, including 6 with their nuclear fuel; up to 2 billion curies of radioactive contamination in the lakes, reservoirs, river sediments and groundwater from years of plutonium production at the "secret Soviet cities" of Chelybinsk and Tomsk.

To make a comparison, Chernobyl released 65 million curies; Three Mile Island released 15 curies.

We are talking 2 billion curies.

The problem is not just nuclear waste.

The air in 103 Russian cities, home to 70 million people, is unfit to breathe. In the Siberian city of Norilsk the children must be kept indoors for 90 days per year.

Mr. President, on many spring days in Barrow, AK, we can actually measure contaminants in the air traced to Norilsk.

Water pollution is also a problem. All of the major Russian rivers that flow into the Arctic, the Ob, the Lena, and the Yenisey, are filled with heavy metals, DDT, and Toxaphene.

People's health has suffered. In Magadan, Anchorage's sister city, air pollution has doubled while cancer deaths have increased 73 percent since 1983.

The most recent issue of National Geographic highlights many of these problems.

We have a possible environmental disaster in the former Soviet Union that threatens the entire Arctic ecosystem, which we share with many countries, both in the Western Hemisphere and Europe.

Yet, the Arctic Ocean is perhaps the least understood region of our planet.

We do not understand its chemistry or its currents, and nobody can tell us what threat this contamination poses to American citizens.

And that gets me to the principal difference between the Arctic and the Antarctic, and the primary reason I am standing here making this speech.

We have people who live in the Arctic. American citizens. Indigenous people who subsist from Arctic living resources. Indigenous peoples whose way of life is threatened by the contamination that may be moving across the Arctic from Russia.

So, in the Arctic, where Americans live; where we have economic interests; where we have strategic interests; where we have scientific interests, our national interests easily outweigh our interests in the Antarctic.

Despite these clear national interests, most of the NSF's polar research dollars go to the Antarctic.

There are a tremendous number of important scientific programs in the Arctic that await funding, even as we talk about spending $200 million for a new station at the South Pole.

We need to build or lease the ice-strengthened Arctic research ship we have needed for years. Yet we really do not know where we will eventually find the money to build or lease this ship.

We have an Arctic contaminants program that is being proposed inside some of the agencies. It could help answer our questions about the threat to the Arctic and its people resulting from nuclear waste, heavy metals, and industrial contaminants from the former Soviet Union. Yet we do not know where the money will come from to fund it.

Mr. President, I am not asking that the Antarctic program be gutted.

I am not asking that the entire Polar Research Program be directed to the Arctic.

I am just looking for some balance, and fairness.

My amendment would direct that no less than 50 percent of the Polar Research Program be directed to Arctic research.

I believe that is a fair and equitable division.

More than fair, in fact, given the national interests we have in the Arctic compared to the Antarctic.

Just because we created a large Antarctic program as a result of the Antarctic Treaty doesn't mean that it can continue through inertia at the expense of the Arctic program designed to answer scientific questions that are more meaningful to the lives of the citizens who foot the bill, namely you and me.

Mr. President, in conclusion, it is my understanding that our staffs have worked out draft conference report language that would help to promote a logistics support program for Arctic research.

With the assurance of the Senator from Maryland and the floor manager that there will be support for the development of a logistics support program, I hereby withdraw my amendment.

Ms. MIKULSKI. I thank the Senator from Alaska for withdrawing his amendment. I agree. We should build a greater balance between the arctic and the antarctic research. We certainly do not want to "polarize" the situation.

With that assurance, I thank the Senator from Alaska for withdrawing it. In the subcommittee, I will address this matter for greater balance, and will discuss with the Senator from Alaska what type of framework he would recommend for the Congress to consider. And also we will have report language reflecting the policy direction that the Senator is recommending.

Mr. MURKOWSKI. Mr. President, I thank the Senator.

In conclusion, may I thank my good friend, the Senator, the floor manager from Maryland for her accommodation and understanding, particularly her sensitivity to the people in my State who live in the Arctic and the unique conditions and circumstances that exist as a consequence of the harsh climate, and the realization that we clearly need this research.

There is an old saying. I am sure my friend from Maryland would recognize that, to a degree, charity begins at home. And Alaska is home to me.

I know of the great friendship which the Senator from Maryland has for the people of Alaska by her willingness to accommodate the Senator from Alaska.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MIKULSKI. Mr. President, we are in the final round of trying to clear the manager's amendment. We have only work to that end. I am going to suggest the absence of a quorum before we go into our next phase.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

GAO REPORT TO HELP ENSURE NATIONAL SERVICE PROGRAMS SPEND TAXPAYERS' MONEY WISELY

Mr. GRASSLEY. Mr. President, the administration is proud of its national service program, AmeriCorps. However, I am concerned that we must take steps to ensure that AmeriCorps does not join the many Great Society programs that were well-intentioned but ultimately, costly failures.

Fortunately, there is a blueprint to prevent this from happening. It is the administration's commendable efforts to reinvent government—which I fully support. It is my concern that AmeriCorps remain close to the principles of reinventing government to ensure that the taxpayers' funds are spent wisely and the program is successful.

Unfortunately, actions by the administration have given me concern. The administration has proposed a 67-percent increase in funding for AmeriCorps from $250 million in fiscal year 1994 to $418 million for fiscal year 1995. However, not a single participant has begun work under this program.

What we do have is experience from a handful of AmeriCorps demonstration programs and some interim data. Initial calculations show a cost-per-participant of those who completed service of approximately $30,400. This is considerably more than the $21,000 per year that the average American worker makes.

Clearly, the taxpayers would be troubled to learn that the cost to them of soliciting national service is two or even three times their yearly salary.

I have written to the Corporation for National and Community Service, which oversees AmeriCorps, requesting figures on cost, number of participants and number of service hours for both the AmeriCorps demonstration programs and AmeriCorps.

Unfortunately, there is a very little data available. Increasing funding by 67 percent for a program that has virtually no final performance data on the demonstration programs and so many unknowns and uncertainties is not a cautious and prudent approach. It is certainly not reinventing government.

The administration, in a letter to me dated July 19, 1994, states that the Federal cost per service hour will be $6.43 for AmeriCorps. However, the administration does not include the costs of the educational awards, matching funds provided by the grantees, in-kind matching, Federal and State administrative costs, technical assistance costs incurred by other Federal agencies, and other costs.

Therefore, I am very skeptical that when all the costs are considered, the taxpayer will still be paying one $6.43 per service hour.

My intention was to offer an amendment today that would restrict $168 million of the $148 million appropriated for AmeriCorps until the GAO had certified that costs would be less than $15 per hour of service—a cost equivalent of a $31,200-a-year job. My amendment was intended to ensure that the taxpayers' money is spent wisely on cost-effective programs and that the AmeriCorps program is managed in keeping with the tenets of reinventing government and the National Performance Review.

However, in discussions with my good friend, the Senator from Maryland, I believe a useful compromise has been reached. We have agreed to jointly ask the GAO to conduct a review of the AmeriCorps Program.

Also, the subcommittee's bill not allow a significant share of AmeriCorps funds to be spent until after September 1, 1995. This will allow Congress to consider rescinding funds for AmeriCorps if the GAO report raises serious questions.

I know the Senator from Maryland is a strong supporter of AmeriCorps, but she is also concerned that this program by successful. I commend her for doubling the administration's funding request for the Inspector General's Office at the Corporation and for joining me in requesting the GAO review. I think this is an important step in protecting the taxpayers' money.

I thank again the Senator from Maryland for working with me on this matter.

I ask unanimous consent that my correspondence with the Corporation for National and Community Service be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 14, 1994.

Mr. ELI J. SEGAL,
Chief Executive Officer, Corporation for National and Community Service, Washington, DC.

DEAR MR. SEGAL: I am writing to you regarding the administration's "AmeriCorps" and "Summer of Service" initiatives. The benefits that these programs have provided or will provide are certainly to be commended.

However, the services provided are only one aspect of these programs. President Clinton stated it well in his remarks on signing the National and Community Service Trust Act of 1993: "We want them to help reinvent our Government, to do more and cost less, by creating new ways for citizens to fulfill the mission of the public."

The National and Community Service Trust Act of 1993 also contained language stating that one of the purposes of the Act was to "Reinvent government to eliminate duplication, support locally established initiatives, require measurable goals for performance, and offer flexibility in meeting those goals;."

It is my concern that AmeriCorps and Summer of Service are not meeting these goals of reinventing government. I fear that AmeriCorps and Summer of Service may join the many "Great Society" programs that were well-intentioned, but ultimately, costly failures.

AMERICORPS PROGRAM

My concerns about AmeriCorps are raised by the Abt Associates report contracted by the Commission on National and Community Service (CNCS) entitled, "Serving America: The First Year of Programs Funded by the Commission on National and Community Service," dated March 1994.

This report discusses the National Service Demonstration programs, which, as you know, were the precursors to AmeriCorps. The Abt study shows that total reported funding for these demonstration programs was $18.6 million, awarded in 1992 and 1993, of which 73% was from CNCS (page 18 of report). This funding provided for 725 participants who provided 557,587 total hours of participation, of which 367,614 hours were direct service.

Thus, the cost per hour (for the 557,587 hours) for the demonstration projects for AmeriCorps were $33 per hour. When looking at direct service hours, the cost rises even higher to $50.59 per hour (page 4 of report). Here again, this may not even include additional costs for federal administration of the program. It should also be noted that these claims for hours served were not independently verified by Abt or CNCS (page 30). Therefore, the cost per hour could be even higher.

Of concern to me also is the number of participants in these demonstration programs who ultimately completed their service. The demonstration programs started with 725 participants (page 4) and only 447, or 62%, completed their service. And of these 447, only 81%, or 362 completed their service satisfactorily (page 20)—50% of the total 725 original participants. This would be a cost of $51,381 per participant who successfully completed his or her service as determined by CNCS' own guidelines. I recognize that these are tentative figures in the Abt report; however, the general picture is still troubling.

The questions raised by the demonstration programs persist with the recently announced AmeriCorps grants; for example, the AmeriCorps USA direct grant to the "American Farmworkers Opportunity Program" (AFOP), mentioned in your June 17, 1994 letter to me.

Based on consultations my staff had with the grant recipient, it is my understanding that, in addition to the $1.2 million that AmeriCorps awarded to AFOP, AFOP also has to match these funds with approximately $564,000 in funds from state and other sources for a total program cost of approximately $1.7 million.

The program will provide for 61 AmeriCorps participants, according to your office. Given the $1.7 million program cost, that equates to a total cost of $28,929 per member or $17 per hour per member. These figures assume that each member works a total of 1700 hours as required of full-time members of AmeriCorps. These figures do not include the AmeriCorps Educational Awards of $4,725 per full-time member that these individuals will be eligible to receive, nor do they include federal administrative costs. I have several questions regarding this program (see question 1 of attached sheet) that I would appreciate your answering.

Not only am I concerned about the general high costs of AmeriCorps, I am particularly troubled by the amount of funding that is going into bureaucratic overhead. In your written testimony of June 13, 1994 before the Senate Appropriations Subcommittee on VA, HUD and Independent Agencies, you stated that full-time participants would receive a stipend of approximately $7,640. Thus, in the AFOP program, the AmeriCorps participant see only $7,640 of the $28,929 spent per participant.

My question is how is the other $21,289 being spent? While the grantee receives the equivalent of $17 per hour, the participant only sees $4.50, according to your testimony. I recognize that the participant is provided additional benefits, such as child care, but this cannot explain away an overhead cost of nearly 75 percent. And again, let me state, an overhead that does not even include federal administrative costs. These overhead costs are not in keeping with many federal programs, such as Aid to Families with Dependent Children, which has an administrative overhead of approximately 13%.

SUMMER OF SERVICE (SOS)

It is my understanding that in FY '93 SOS was funded at $10 million. The program provided services for 8 weeks and involved approximately 1,464 young people. These young people worked a total of 466,191 service hours. This would equate to a total cost to the U.S. government of $6,830.60 per volunteer or $21.45 per hour.

My source for this information is the Congressional Research Service Issue Brief: "The national and Community Service Trust Act of 1993: Description and Related Programs," January 6, 1994, and a second report the Corporation for National and Community Service (CNCS) contracted Abt Associates Inc. to produce: "Evaluation of the Summer of Service Program," dated October 25, 1993. I have several questions regarding SOS attached (see question 3).

In reviewing the second Abt report, my concerns about the SOS program are heightened. The Abt report notes that $6.3 million in awards were made to 16 sites. Please detail how the remaining $3.7 million was spent. Assuming only the $6.3 million in awards to the program sites, the cost per participant per hour is $13.51 given 466,191 service hours (page 8). However, this does not reflect the federal administrative costs as well as any matching funds.

The Abt report also asked SOS participants whether their experience had met their expectations. In 13 of the 16 categories of expectations for the SOS program, according to the participants themselves, the SOS program did not meet their expectations, or the stated goals of the program, in such areas as improving the lives of children, learning about health issues or obtaining marketable job skills (page 48).

The Abt report is critical of the administration of the SOS programs in the following areas:

"At some sites, negotiations with project partners and specifications of objectives were still in an (sic) rudimentary stage when the program began."

"Many sites were not fully prepared for the extent of the administrative demands of the Summer of Service."

"Some sites did not fully accept the record-keeping and reporting responsibilities involved in the national evaluation."

"If the Corporation is interested in assessing program experience according to certain attributes, it should ensure that the grantees' programs are structured and funded in a way that allow those attributes."

What steps has the Corporation taken to address these fundamental problems raised by the Abt report (pages 57–64)? Also, I am concerned that it appears that the Abt report has provided no independent evaluation of the claimed outcomes made by grantees. What independent verification has been made of the claimed program outcomes? What audits have been performed on the expenditure of funds by the grantees? Was this performed by Abt? Was Abt awarded this contract on a competitive basis?

Enclosed are further questions I have about the Corporation for National and Community Service (CNCS), AmeriCorps, SOS, the Demonstration Programs and the National Service Trust Fund.

I appreciate your timely response to the questions and concerns that I have raised. I would ask for a response prior to Senate consideration of the VA/HUD appropriations bill.

In reviewing AmeriCorps and SOS, I am concerned that the objective of reinventing government is not being met. It seems the laudable goals of community service and reinventing government, which perhaps AmeriCorps and SOS were created, in part, to advance, are being undermined by the establishment and funding of a large and costly bureaucracy. Furthermore, the success of these programs must also be measured by their ability to foster in our young people a longterm desire to voluntarily serve their community without compensation. I am concerned that from what I've seen these programs may not achieve this goal.

If you have any questions, please contact Mr. Dean Zerbe of my staff at 224-6135.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senate.

QUESTIONS

(1) It is my understanding that AFOP intends to meet part of its matching requirement by using other federal funds. Is this correct?

Please provide a complete breakdown of all estimated expenditures for this program including federal health care contributions, administrative costs, child care, and travel. Also, please confirm that while the 61 AmeriCorps participants will not begin work until March, 1995, the program staff will begin work in September, 1994—a 6-month start-up period. What are the number of service hours that will be provided?

Related to the above, what is AmeriCorps' estimate of the amount of federal funds that will be used by all grantees for the purposes of meeting matching requirements?

(2) Your June 17, 1994 letter also mentioned a $2.6 million grant to the United States Department of Agriculture (USDA). Please inform me of the number of participants and the number of hours worked. Also, what funding will be provided by USDA, by other federal agencies, and by state and local governments as well as private sources. In addition, what is the cost to the USDA Director of National Service and all support staff? Finally, do other government departments and agencies have offices for national service?

(3) Please verify all of the figures I cite regarding SOS (and if any of the these individuals are going to receive an educational award). Also, were any other federal funds used by the state programs; if so, where did the funds come from, and what, if any, matching funds were the states required to provide? In addition, please provide any and all evaluations of SOS conducted by the SOS programs, independent organizations, the Kennedy school, CNCS progress reports and the local evaluations. Finally, of the 466,191 hours performed, how many hours were spent in training participants and other activities that do not provide services to the public?

Please also provide a complete breakdown of all expenditures, especially state and federal administrative costs. Finally, please provide the above information for the "Summer of Safety" (SOS) program for FY 94.

(4) There were several AmeriCorps demonstration programs. Please provide me a listing and description of these demonstration projects, total dollar expenditures (all sources), individual program expenditures, as well as the number of full-time and part-time participants and number of hours worked for each program and number of service hours provided.

(5) It is my understanding that there were audits and evaluations of these demonstration programs. These evaluations should be reviewed by the administration and the Congress in considering funding for this program. Please provide copies of all completed evaluations and audits and estimated completion dates for draft evaluations and audits. In particular, your testimony of June 13 mentioned a "detailed report on the subtitle D's, which were the demonstration programs" which would be available in July—please provide a copy of that report. Also, were these audits and evaluations conducted by organizations independent of CNCS? Do any of these evaluations independently verify the claims of service hours and accomplishments made by the grantees? Finally, what are your plans for independently evaluating and verifying the work of FY '94 grantees?

(6) The FY '94 budget justification estimated 20,000 participants in the AmeriCorps program. Will you meet this goal of 20,000 participants by October 1, 1994?

(7) What is the total number of AmeriCorps programs approved for FY '94? What is the total dollar amount in grants awarded? What is the total amount of matching dollars provided? What is the total number of participants? How many participants will be full-time or part-time? What will be the total hours worked and total service hours provided? What percentage of the total AmeriCorps budget will be for salaries and benefits for AmeriCorps participants? If you do not have specific figures, please provide projections.

(8) Please provide a more complete breakdown of the CNCS budget. Specifically, all funding provided to AmeriCorps or in support of AmeriCorps programs. For example, what percentage of the FY '95 budget, Activity 4: "Audits and Evaluations" supports AmeriCorps? Please provide the percentage of all budget activities.

(9) Please provide me the number of Presidential Appointee positions for CNCS and the number of Senior Executive Service employees. Also, how many employees have been hired to implement AmeriCorps and the summer service programs? Please provide a breakdown of the number of these employees that are hired under Schedule C and Schedule A. For all Schedule A employees, please provide a copy of their SF-171.

(10) Please provide a state-by-state estimate of the number of AmeriCorps participants for FY '94 and FY '95. Please provide the amount of funding provided to states for administration of AmeriCorps. What are the number of AmeriCorps program employees state-by-state (federal/state/local/nongovernmental)? What other funding, such as development grants or planning grants, have been provided to assist states or organizations in establishing programs?

(11) Please provide the estimated number of educational awards to be granted for FY '94 programs.

AMERICORPS NATIONAL SERVICE,
Washington, DC, July 19, 1994.

Hon. CHARLES E. GRASSLEY,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your July 14 letter. We appreciate your interest in the past and future of national service, and our staff has produced the attached information in answer to the questions you have posed. I want to give you my personal summary.

First, I share your belief in the principles of reinventing government. For us, as you correctly note, this means blending national standards with local initiative, and demanding real results and not just rhetoric. National service will be judged in large part on how well we meet these goals.

Second, I share your belief that cost-effectiveness is an essential test for any government program. Taxpayers have a right to know that we're working as hard to spend their money wisely as they had worked to earn it. The attached responses demonstrate that your staff's calculations substantially overstated actual per participant costs in both past and proposed national service programs.

Third, I share your belief that big overhead means bad management. Lean and efficient staffing was important to the success of my businesses over the years. We are applying the same logic here. I am happy to report that we have launched AmeriCorps and several related programs with minimal new hiring—and that our FY '95 budget request does not ask for any real dollar increase in administrative funding, despite our intention to increase greatly our grants to local programs.

These materials help answer your questions about what we're spending. Just as essential is the question: "What are we getting for the money?" As a new program, AmeriCorps will demonstrate its results over time, but I am convinced that the Congress' investment in national service will make taxpayers' funds work at least four times:

Because we insist on direct and demonstrable community results from our programs, our funds buy safer streets, smarter students, cleaner parks, and healthier babies.

Because we engage tens of thousands of AmeriCorps members in substantial efforts to help our nation and their neighborhoods, our funds work a second time, helping to instill habits of citizenship that produce results throughout lifetimes.

Because we make college or training easier to attain for those who have served, our funds work a third time, creating tens of thousands of better-educated and more-productive Americans, for the benefit of all.

Because we engage communities directly in the collective effort to reclaim their future, our funds work a fourth time, strengthening civic organizations and reknitting the frayed ties of community.

We have many examples of national service getting things done for Iowa. Our special support of flood relief efforts includes a partnership with the Norwest Bank Iowa fielding a total of 427 Iowa Conservation Corps members, who provided over 60,000 hours of direct service during the course of the last two summers, including delivery of 4 million gallons of water and the repair of over 40 miles of public trails. Their efforts are continuing.

Also continuing are national service grants to Iowa public schools through the State Department of Education. Our programs will involve over 370,000 Iowa school children (and 1,500 adult volunteers) over the course of the next three years.

They join more than 17,500 of Iowa's senior citizens and 57 AmeriCorps*VISTAs serving their communities and the country through programs we operate.

We don't sugar-coat things. In preparing for AmeriCorps' formal launch, we have learned a great deal from our own and others' programs, and some of those lessons are reflected in our answers to your questions. We know that national service will benefit from your active—and direct—engagement. Please don't hesitate to call me whenever you have suggestions or questions.

Very truly yours,

ELI J. SEGAL,
Chief Executive Officer.

RESPONSE TO LETTER OF INQUIRY DATED JULY 14, 1992 FROM HON. CHARLES E. GRASSLEY

A. FROM THE TEXT OF THE LETTER

1. Topic: Demonstration Programs of the Bush-era Commission on National and Community Service.

Letter calculates costs per hour variously as $33 or $50.59.

Response: The calculations are incorrect. Methodological errors include using funding (rather than the lower actual expenditures); failing to adjust for multi-year grants; calculating hours of service as of June 30 rather than after a full program-year (particularly since full program costs are used); and failing to include the more than 100,000 hours of direct service that the Abt report indicates were provided just through June 30, 1993 by individuals working with the programs without compensation. Their involvement was an intended and vital part of the programs, and contributed to the results achieved by each.

Conclusion: The Abt report expressly (p. 17) made it clear that they were not showing cost per hour—and that it was erroneous to extrapolate such figures from the materials they provided. Abt indicates that future reports will include cost information. As indicated in the demonstration program materials attached hereto, the average federal cost per FTE for demonstration programs receiving FY '92 grants was $17,340. AmeriCorps programs are anticipated to yield lower per participant costs, and AmeriCorps requires more actual service hours per participant (1700 hours, minimum), specifically to increase the cost-effectiveness of national service. For some programs, this nearly doubles the service hours performed.

Letter calculates completion rate at 50%.

Response: The calculations are incorrect. Abt's completion data reflected only those participants who completed service through June 30, 1993; many participants were still enrolled at that date and later finished service in accordance with program requirements. The letter improperly compares total enrollment with mid-term completion numbers.

Conclusion: The Abt report indicates that, of those participants who had enrolled and exited during the reporting period, 81% satisfactorily completed their program (p. 20). Some of the best Commission demonstration programs, such as the Delta Service Corps, reported only a 6% overall attrition rate.

2. Topic: Association of Farmworkers Opportunity Programs Grant

Letter calculates cost at $28,929/participant.

Response: The calculation is incorrect. This 18 month program—the first in the nation intended to train state-certified pesticide trainers, as required by EPA guidelines—includes six months of planning plus one year of service. The full grant (including the planning period) is $1,123,941 and there will be 75 FTEs in the operational phase. For that phase, not including the education award, the per participant cost is $13,839.

Letter calculates overhead at $21,289 per participant.

Response: The calculation is incorrect. Administrative overhead of AmeriCorps grantees is capped by law at 5%. For this grant (still subject to final grant negotiation), current figures indicate participant-related AmeriCorps costs (including the stipend, healthcare, FICA, childcare allowance and participant training) will equal $11,229 per participant, out of total per-participant costs of $13,839. The remaining $2,610 AmeriCorps cost per participant will fund direct program staffing and a budget for evaluation, and $644.21 in per-participant administrative costs.

Conclusion: AmeriCorps grants will vary in per-participant costs, but the federal share should not exceed $13,000 on average. The value to the community will exceed this cost. For example, the 75 AmeriCorps members in this program will: Be trained in pesticide safety and receive state certification in their state; in turn train upwards of 45,000 farmworkers, including an estimated 15% of Iowa's farmworkers, about the safe use of pesticides; and train 1,500 staff members of service providers who work with farmworkers how to recognize and treat pesticide-related illnesses. The program will thus reduce health care costs to farmers and farmworkers alike, and increase productivity by reducing absences due to illness.

And in every AmeriCorps grants program, no more than 5% of the AmeriCorps share of a program budget can be spent on administrative or overhead costs.

3. Topic: Summer of Service 1993

Letter calculates cost per hour of $21.45 or $13.51.

Response: Both calculations are incorrect. Neither includes 117,000 hours of training and service-learning (related to the direct service provided) of the stipended participants nor the 92,533 hours of direct service provided by the non-stipended participants (who also received 3,577 hours in training). Programs were required to provide these service-learning opportunities (as they are under the current legislation).

The Summer of Service 1993 leveraged federal funding by combining an average of approximately 2.5 non-stipended participants with each paid participant. The work product of these unstipended participants was certainly part of the value of the program to the community; and involving the community directly in community revitalization through collective service was a direct goal of the program—and will remain one of AmeriCorps'.

The federal cost per program hour accordingly was $9.27 ($6.3 million in SOS grant costs divided by 679,301 total SOS grant program hours).

Letter asserts Commission's 1993 Summer of Service didn't meet participant's expectations.

Response: Abt was particularly disturbed by this misrepresentation. "The section of the analysis to which Senator Grassley's letter was referring (pp. 43–56) had nothing to do with evaluating the achievement of overall program goals . . . [but measured how] the participants' perceptions of the relative importance of various personal benefits from participation had changed over the course of the summer." [italics in original]

Only 12% of participants indicated dissatisfaction.

Conclusion: Costs were far lower than asserted. Satisfaction was extremely high.

Letter asserts there were management problems in 1993 summer programs.

Response: We generally agree with Abt's comments, as quoted in Senator Grassley's letter (and note that Abt expressly applied each criticism only to some, rather than all, programs). One purpose of the Summer of Service 1993 was to forecast possible problems that could arise for AmeriCorps. It was useful in this respect. That's why the Commission asked Abt to study the Summer of Service.

Letter requests detailing of steps taken to address specified problems identified in Abt report.

Response: The Corporation's response is indicated below for each quoted Abt finding:

Quoted Abt Finding: "At some sites, negotiations with project partners and specifications of objectives were still in a rudimentary stage when the program began."

Abt Recommendation: "In the interests of improved program planning and focusing of resources at the local level, prior to the execution of further grant agreements the Corporation may want to be more systematic about confirming the formal status of interagency agreements, project objectives and workplans, and the measures of progress to be employed. If any of these elements is determined to be inadequately specified, it can be addressed through a special condition in the grant agreement."

Response: Prior to the final negotiation of 1994 Summer of Safety ("SOS '94") grant awards, senior members of the Corporation staff conducted preliminary site visits to the organizations selected as finalists to receive SOS '94 grant awards. The primary purpose of those visits was to determine if the applicant had the capacity to implement and manage a successful SOS '94 program. Emphasis was placed on visiting those sites that had never been the recipient of a national service grant and/or those that had never received any federal support.

A "Protocol for Discussion With Potential Grantees" was developed to examine management issues; issues related to the safety of participants; programmatic issues (e.g., staffing, supervision of participants; training of participants, and the strength of local partnerships); recruitment of participants; and potential technical assistance needs.

Given this preparation, these focused site visits provided the Corporation for National Service with greater information upon which to make a final grant decision than that available to the old Commission for its Summer of Service in 1993. The site visits also provided potential grantees with a greater understanding of what the Corporation would expect and require of SOS '94 grantees.

Quoted Abt Finding: "Many sites were not fully prepared for the extent of the administrative demands of the Summer of Service '94."

Abt Recommendation: "To help reduce such stresses on program sites in the future, the Corporation should conduct an explicit examination of what these administrative demands will be, and what level of administrative staffing and capabilities need to be available at the local sites to comply with them. The Corporation should also take steps through its funding process to ensure that the necessary resources are in place as a condition of the grant award."

Response: The Corporation's staff worked closely throughout the grant review and grant selection process to identify areas which would place potentially excessive administrative demands on grantees. In addition to communicating the Corporation's administrative expectations to SOS '94 finalists during preliminary site visits, each SOS '94 grantee was immediately assigned a program officer who will work closely with each project throughout the summer, beginning with the grant negotiation process.

Each program officer will conduct a minimum of two site visits to each project and speak weekly by phone to each local project director. A "Start-up Phase Protocol" was developed to offer program officers guidance on how to track each SOS '94 project's progress. It is also the responsibility of the program officer to work with grantees to make certain that they receive a timely response to any administrative or programmatic concerns.

In addition to the ongoing assistance and support SOS '94 projects receive from their program officers, technical assistance is also available to grantees on an as-needed basis from the National Crime Prevention Council. The Council has the expertise to respond rapidly to both administrative and programmatic issues and their availability to SOS '94 projects will continue throughout the summer.

Finally, to reduce the "stress of administrative demands" on SOS '94 grantees, a Summer of Safety Project Director's Workshop was conducted in May, 1994 for the purpose of providing grantees with information on a range of programmatic issues (e.g., recruitment, training and supervision of participants) as well as administrative guidance (e.g., how to administer grant awards and how SOS '94 projects would be evaluated).

Quoted Abt Finding: "Some sites did not fully accept the recordkeeping and reporting responsibilities involved in the national evaluation."

Abt Recommendation: "To dispel such confusion, and to ensure more timely and complete grantee compliance with reporting requirements in the future, program sites should receive a clearer statement from the Corporation regarding the specific recordkeeping and reporting responsibilities that will be associated with the grant, the priority that the Corporation attaches to such responsibilities, and the sanctions that will be imposed if they do not fulfill them. . . ."

Response: In order to address this problem, the Corporation, prior to the beginning of SOS '94, forwarded to each program a summary of the planned evaluation process and its responsibilities. The Corporation also presented a briefing to program directors on the evaluation during the directors' May conference. Finally the Corporation substantially reduced this summer's reporting burden for grantees. Much of the necessary descriptive information that the Commission asked for in its evaluation materials is available to the Corporation from the grant application. Participant data collection instrument were simplified and placed into a format which may be scanned. Finally, a draft comprehensive accomplishment survey is currently being distributed to programs, for an early indication of what information will be required of them at the end of the summer.

Quoted Abt Finding: "If the Corporation is interested in assessing program experience according to certain attributes, it should ensure that grantees' programs are structured and funded in a way that allow those attributes to be more easily measured."

Abt Recommendation: "In future community service funding rounds, if the Corporation feels that funded activities should be tracked by particular attributes such as Service Areas, it would be helpful to require applicants to design their programs, budgets, and record-keeping systems with explicit recognition of such categories."

Response: SOS '94 is focused on one program area: public safety. The Notice of Funds Available published in the Federal Register to begin the program competition for SOS '94 stated clear objectives for programs to achieve for the summer.

The application form required potential grantees to provide a detailed description of their institutional capacity to achieve these objectives, and required detailed responses indicating the program's ability to manage the program; to produce direct and demonstrable results; to administer payments to stipended participants; and to develop and sustain good working relationships with appropriate community organizations and public agencies (especially law enforcement) to help reduce crime and violence.

Peer review panels, including law enforcement and youth development professionals, conducted the first level of application review and recommendation, based on the applicant's ability to meet the criteria indicated above. Finally, grant negotiation clarified program objectives and monitoring and evaluation mechanisms.

Conclusion: We learned a great deal from the Commission's 1993 Summer of Service and have already applied those lessons. Continuous improvement is an essential aspect of reinventing government, and we intend to keep at it.

Letter questions veracity and completeness of Abt evaluation.

Response: For the Abt report to be useful as a management tool for AmeriCorps, it had to be prepared in far less time than a full program audit would have required. The report clearly indicates that it uses self-reporting of results by programs; in many cases, the Corporation sent field investigators to observe program performance, and they have corroborated the Abt data.

Abt was competitively selected by the Commission for National Service to evaluate its grants programs; the contract was extended to include the evaluation of the 1993 Summer of Service.

The Corporation's Office of the Inspector General will conduct financial, compliance and performance audits under the Inspector General Act of 1978, as amended. The office functions independently, and is currently conducting routine audits of two former Commission year-round programs, both in preliminary stages. Certain 1993 Commission Summer of Service grantees are institutions of higher education receiving multiple federal grants, and as such will be audited by their lead federal agency. Copies of such audits, if they have been conducted, have not yet been forwarded to the Corporation.

4. Topic: Letter calls for the creation of a service ethic in participants

Response: The President has consistently indicated that one goal of national service is to encourage an ethic of service among Americans of all backgrounds. We believe that AmeriCorps will help to achieve this goal.

In a program that does not officially launch for another two months, it is obviously premature to judge success. Nonetheless, the Abt report so frequently cited in the letter indicates that participation in the 1993 Summer of Service did help to foster a long-term commitment to service, even without compensation: 96% of participants "indicated that they expected to perform additional volunteer or community service in the future" with 88% anticipating "doing so within the next year" (p. 53). This is the result the Senator and we desire.

B. QUESTIONS ATTACHED TO LETTER

1. Topic: Association of Farmworkers Opportunity Programs Grant

Attachment questions whether grantee will meet its match requirement with other federal funds.

Grantee may use $123,000 of EPA funds to purchase training materials, tools and other needed program items; this funding would then count toward the AmeriCorps matching requirement (the 1994 Act allows federal funds to be used to meet the 25% program match, but not the 15% cash match for the participant stipend). The training grantee will provide is required under EPA Worker Protection Standards, which take effect January 1, 1995. Grantee has applied for private foundation support, which (to the extent received) would be used instead of the EPA funds to be put toward the AmeriCorps matching requirement.

Attachment requests complete breakdown of all estimated expenditures for this grantee.

Response: We can estimate the Corporation's share of estimated expenses, as follows:

	Planning period	Project period	Total
Participant training cost and materials	$0	$157,404	$157,404
Staff cost	68,210	136,420	204,630
Operational costs—Project related staff travel and office supplies	1,722	15,394	17,116
Internal evaluation and monitoring	0	31,500	31,500
Administration—office space, postage, printing, copying	16,105	32,211	48,316
Participant living allowance and health benefits	0	605,575	605,575
Child care for participants	0	59,400	59,400
Total	86,037	1,037,904	1,123,941

Attachment asks for program and staff start dates.

Response: As indicated above, this grant is for 18 months, including a six-month planning period (which begins in September, 1994). Only a portion of the staff will be retained during this period. Activities during the planning phase will include orientating and training staff, assisting in sites' participant recruitment and placement; coordinating with state authorities procedures for pesticide safety trainer certification; notifying agricultural employers of AmeriCorps members' imminent availability to conduct pesticide safety training; etc.

The program begins full operation in March, allowing AmeriCorps members to be trained before the prime agricultural season; they will then be ready when farmworkers will be accessible at worksites to learn safe pesticide procedures.

Attachment asks for number of service hours.

Response: The National and Community Service Trust Act of 1993 requires successful completion of a minimum of 1700 service hours for a participant to qualify for the education benefit. The subject grantee's participants will meet or exceed this minimum.

Attachment asks for amount of federal funds used by all grantees for purposes of meeting the matching requirements.

Response: None of AmeriCorps grants have yet been awarded; final grant negotiations are not underway with national non-profits, multi-state programs, federal agencies and other direct applicants (this category represents roughly one-third of total AmeriCorps grants), with the remainder to begin grant negotiation next month. We will provide the requested information as soon as grants are finalized and it can be calculated.

2. Topic: Grant to Department of Agriculture

Attachment requests number of participants and hours.

Response: The Department of Agriculture's grant is in negotiation. Current information indicates the program will involve 1,200 participants and provide 2.04 million service hours.

The Department of Agriculture notes that the Youth Conservation Service (run by its Forest Service) had 1,003 participants in 1993, and accomplished $1.43 worth of work for each dollar invested.

Attachment asks about funding by non-Corporation sources.

Response: The Department of Agriculture informs us that its funding level is contingent upon its own FY '95 appropriations and final grant negotiations with the Corporation. We understand that the Department is also considering other funding sources to support the program.

Attachment asks about federal agencies' national service staff.

Response: Until final grants are negotiated, agencies will not firmly establish staffing levels.

3. Topic: The former Commission's 1993 Summer of Service

Attachment requests Corporation to verify all cited figures.

Response: The responses given above indicate the methodological errors in the use of the source material and correct the conclusions.

Attachment asks about other federal funds and state matching funds.

Response: Employees of the former Commission are not aware of any other such funds.

Attachment asks about evaluations.

Response: Given the limited term of the program, the Commission selected only one independent evaluation firm (Abt) to conduct the comprehensive evaluation of the Summer of Service. As indicated above, Abt was competitively selected by the Commission for National Service to evaluate its grants programs; the contract was extended to include the evaluation of the 1993 Summer of Service.

Attachment asks about training and other non-service hours.

Response: Given above. Like any other endeavor, national service participants have to be trained to provide the specified service; the amount of training required varies widely. Nonetheless, AmeriCorps grants will require 1700 hours per full-time participant per year, of which 80% (1360 hours) must be in direct service.

Attachment asks about administrative costs.

Response: We find no indication that there were any state administrative costs associated with the Commission's 1993 Summer of Service program. The Commission did not separately delineate its administrative costs.

Attachment asks for Corporation's budget for 1994 Summer of Safety.

Response: The Corporation's 1994 Summer of Safety budget (in thousands) is as follows:

Program costs:	
3,200 full-time participants[1]	$7,504.6
4,000 part-time participants[2]	800.0
Federal administrative costs[3]	605.4
Training and technical assistance	850.0
Total costs	9,760.0
Educational award[4]	3,200.0

[1] Includes stipend, health and child care, training and supervision, project director salary, and grantee administration.

[2] Of the 4,000 part-time participants, approximately 2,000 are stipended and 2,000 are non-stipended. Half are senior citizen participants and half are school-age children volunteers.

[3] Estimate of staff time of Corporation's Washington, D.C. and field staff.

[4] Assumes all 3,200 full-time stipended participants complete service and use the $1,000 education award; not all will.

4. Topic: Demonstration Programs

Attachment requests program and financial information about these Commission grantees.

Response: The Commission on National and Community Service awarded a total of fifteen planning and operating grants over two fiscal years (1992 and 1993) to support national service demonstration programs under Subtitle D of the National and Community Service Act of 1990. Program summaries are attached hereto.

The FY 1992 appropriation for Subtitle D programs was $22.5 million. Of this amount, $20,266,680 was awarded in operating and planning grants to seven grantees leaving a balance of $2,233,320. Of this balance, $517,179 (3%) was allocated to program evaluation (partial funding of the Abt Associates contract), technical assistance and outreach for the grant application process, and costs associated with reviewing the actual grant proposals. The remaining $1,716,141 was brought forward to FY 1993.

The FY 1993 appropriation for Subtitle D was $22.5 million, making a total of $24,216,000 (including FY 1992 carry-over) available for award. Of this amount, $23,819,419 was awarded to six continuing and seven new grantees, leaving a balance of $396,581. Of this amount, approximately $135,000 (.6% of the total appropriations) was allocated for costs associated with the grant review process and for technical assistance to grantees, and all remaining funds reverted to the Treasury upon the expiration of the Commission on September 30, 1993.

Programs that received operating grants in FY 1992 and 1993 began operations at various times throughout the year, and thus the program year (the year in which participants serve in the program) does not correspond with the fiscal year. Calculation of aggregate hours of service or activity within a given calendar year (or about a program still in the midst of the program year) is accordingly impossible.

Calculations of service/non-service hours for Commission programs will be available at the end of September for a sample of the Commission's subtitle D (demonstration) programs, in the Abt report described below.

Unlike demonstration programs funded by the Commission, by law all AmeriCorps programs will require full-time participants to perform a minimum of 1700 service hours.

5. Topic: Audits and evaluations

Attachment requests demonstration programs' audits and evaluations.

Response: Abt Associates is preparing an interim report on the Subtitle D programs, which should be available in September (we hope to receive a draft of this interim report by the end of this month). As part of their work, Abt will verify the claims of service hours and accomplishments for a sample of projects completed by subtitle D programs in the Commission's second grant year (covering parts of calendar years 1993 and 1994).

The Corporation's Office of the Inspector General will conduct financial, compliance and performance audits under the Inspector General Act of 1978, as amended. The office functions independently, and is currently conducting routine audits of two former Commission year-round programs, both in preliminary stages.

Attachment inquires about plans for evaluating 1994 grantees.

Response: The Corporation is in final stages of a public, competitive process to select independent contractor(s) to evaluate 1994 grantees, based on extensive criteria included in the public solicitation documents.

The foundation of our evaluation system will be a comprehensive data system containing socio-demographic data on participants, local programs, and the communities in which they serve.

Building on this data, we will survey programs regarding their accomplishments. This survey will focus on results: what AmeriCorps gets done in communities and in the lives of AmeriCorps members.

To analyze that latter impact of national service better, we will also study a sample of national service participants and a comparison group of similar non-participants. We will track changes in their education, careers, values, and service activities.

We will carry out cost-benefit studies of our programs. We will use this information to make informed choices about areas where changes are needed and to learn what works well and what may not.

6. Topic: First year size of AmeriCorps

Response: We anticipate that grants to all first year AmeriCorps*USA programs will be awarded before October 1, 1994 and the majority of those programs will begin operation prior to that date. Where a new program requires more time in order to assure quality, the Corporation will make the funding commitment in this fiscal year and allow start-up within the following six months. As indicated in an attachment hereto, the National Service Trust contains funds for the education awards for 20,000 AmeriCorps members, who will participate in these first year AmeriCorps*USA grants programs, AmeriCorps*VISTA and AmeriCorps*NCCC (in the numbers indicated therein).

*7. Topic: AmeriCorps*USA '94*

Attachment requests a large amount of financial and program data.

Response: At this time, the national direct grantees have been announced, but the details of each grant are still subject to grants negotiation. This means that the following numbers are interim figures only (and only for this category):

Number of programs: 57.

Aggregate grants announced: $47,933,334.

Amount of match: Minimum of 25% of operational costs and 15% of stipend. Programs which exceeded matching requirements were viewed favorably during the competition. Aggregate match amounts cannot be determined until negotiations are completed, but will exceed minimum requirements.

Total number of participants: Estimated at approximately 7000, subject to negotiation.

Full/part-time split: Estimated to be 4902 full time and 2193 part-time.

Total estimated hours worked: 4902 FT×1700 hrs=8,333,400; 2193 PT×450 hrs=986,850=9,320,250 total hours.

With 80% required to be direct service=7,456,250 service hours.

Federal cost per service hour: $6.43.

Percentage of budget for participant salaries and benefits: Impossible to project until negotiations are completed; programs will vary widely.

We are in the process of reviewing the states' submittals of their formula and interstate competitive programs. The following are accordingly only initial rough estimates for these categories:

Number of programs: Estimate 240 formula programs and more than 50 competitive programs.

Aggregate grants awarded: Subject to final negotiation, but approximately $100 million.

Amount of match: Minimum of 25% of operational costs and 15% of stipend. Programs which exceeded matching requirements were viewed favorably in the competitive portion. Aggregate match amounts cannot be calculated until negotiations are concluded.

Total number of participants: Estimated at approximately 10,000, subject to negotiation.

Full/part-time split: We estimate that there could be twice as many full-timers as part-timers.

Total estimated hours worked: We would expect these categories to reflect the pattern of the national direct grants.

Percentage of budget for participant salaries and benefits: Impossible to project until negotiations are completed; programs will vary widely.

8. Topic: Break-down of FY '95 Corporation budget

Response: The Corporation provides an itemized budget in the justifications of appropriations estimates provided to the Congressional appropriations subcommittees. These documents have also been made available to all Congressional staff; please let us know if your office needs a copy.

If the question's intent is to separate AmeriCorps activities from other programs of the Corporation, then the attached table provides estimates of these costs for FY '95, assuming funding at the full level provided in the administration's budget. AmeriCorps consists of the grant programs (grouped under the umbrella "AmeriCorps*USA"), AmeriCorps*NCCC (the National Civilian Community Corps) and AmeriCorps*VISTA. Programs such as Learn and Serve and the National Senior Volunteer Corps are part of the Corporation, but not under the AmeriCorps umbrella.

Many departments of, or teams within, the Corporation (including the Office of the Inspector General, the evaluation and audit team, and others) have responsibilities regarding all of the Corporation's programs, not merely AmeriCorps. For such line items, we have tried to estimate those costs which relate only to AmeriCorps; the Corporation does not so segregate its financial or other data, and accordingly, the attached should be regarded only as estimates, provided in short order in response to this inquiry.

9. Topic: Personnel

Response: The Corporation is authorized five Presidential appointments (not including the 15 member Board of Directors), and has six SES employees (all of them former ACTION employees). Seventeen employees have been hired solely to implement AmeriCorps*USA and SOS '94, all under Schedule A authority. An additional eight employees with exclusive responsibilities in one or both of these areas were formerly employed by the Commission or ACTION (none of these individuals is a Schedule C employee). Finally, we estimate that perhaps 15 other Corporation staff members provide some support to AmeriCorps*USA and/or SOS '94 as a major part of their duties.

We believe that employees' rights to privacy under the Privacy Act would be violated by releasing items from their personnel files. Perhaps a specific question could be posed that we could answer, consistent with these rights.

10. Topic: States and AmeriCorps

Attachment requests a state-by-state estimate of AmeriCorps participants for 1994 and 1995.

Response: It is impossible to answer this question until all grants are fully negotiated. Even with the announced national direct grants, negotiations may lead to the dropping of one or more states as sites for an individual grantee.

Each state complying with the Corporation's regulations is guaranteed a minimum of 20 AmeriCorps members. Formula allocations per state, assuming full compliance, are indicated in the attached (again, this category represents roughly a third of the total grants funding).

Attachment requests funding amounts for state administrative costs.

Response: Details of FY '94 funding are attached.

Attachment requests details about total AmeriCorps program employees (all levels of government and non-government, by state).

Response: We have no information to answer this inquiry. Because national service is neither an entitlement nor an unfunded mandate, no entity is required to participate in the program and assemble a staff. And because grants are awarded after intensive competition which evaluates (inter alia) budgets on the ratio of staff-related to participant-related costs, programs have an incentive to keep staff levels at the minimum effective levels.

Attachment inquires about other funding (eg., planning grants).

Response: In the national direct competition, the Corporation awarded ten planning grants; state program planning grants have not yet been determined.

Each State Commission has been allowed up to $10,0000 to contract for technical assistance and training for their successful AmeriCorps grantees.

After final grant decisions are made, and upon submittal of detailed technical assistance and training plans, states may request additional resources (not to exceed $90,000 for any state); awards will be made on the basis of the number and size of AmeriCorps grantees.

After final grant decisions are made, and upon submittal of detailed technical assistance and training plans, states may request additional resources (not to exceed $90,000 for any state); awards will be made on the basis of the number and size of AmeriCorps programs in the state, and the excellence of the state's plan.

11. Topic: Educational awards for FY '94

Response: A detailed breakdown of estimated educational awards is attached.

U.S. SENATE,
Washington, DC, July 26, 1994.

Mr. ELI J. SEGAL,
Chief Executive Officer, Corporation for National and Community Service, Washington, DC.

DEAR MR. SEGAL: Thank you for your July 19 letter in reply to the questions I raised about the AmeriCorps and Summer of Service programs.

Your response attempts to rebut the cost-per-participant and cost-per-service-hour presented in my letter that were calculated using figures from your own reports.

But your response fails to provide the necessary data to corroborate or refute the analysis I presented. Meanwhile, your refutation seems predicated on two questionable assumptions. Your calculations merely shift the baselines of the different components that comprise an accurate cost analysis. In the process, you seem to conveniently paint a rosier picture than reality.

As a result, I am not persuaded that these two programs are cost-effective, or that they will attain the lofty goals and match the high-minded rhetoric established by the President.

My request to you was for actual and projected figures for matching funds, in-kind matching, educational awards, federal and state administrative and grant support funds, and federal funds provided outside the Corporation for National and Community Service. It was also for the number of direct service hours, and the number of participants.

I asked for these figures to acquire complete data related to all three of these cost components to determine the cost-per-service hour and/or the cost-per-participant for these programs.

While I appreciate the extensive effort you and your staff devoted to responding to my request, it fails to provide a complete picture for such a determination.

Meanwhile, your refutation is based on two questionable assumptions: (1) It includes volunteers in the pool of "participants," which has the effect of expanding the number of recipients and the number of service hours; and (2) It excludes certain cost elements of the program, which has the effect of shrinking the total dollars used in your calculation.

The result is, more "participants" and more service hours are divided into fewer dollars in your calculation. Therefore, the concerns I raised on behalf of the taxpayer, which question the cost-effectiveness of these programs, remain heightened.

Even for those programs in which actual results should be available—the AmeriCorp demonstration programs for FY 1992—the picture is incomplete.

From the Abt report, we have certain interim findings—a 20% dropout rate of participants, and the fact that 27% of costs come from non-federal sources. Based on information provided in your response, I learn that total federal grants were $20.2 million for FY 1992 demonstration programs.

Using these figures, the cost per successful participant for the FY 1992 demonstration grants is $30,400. (See my attachment 1.A for calculation.)

The reason this figure would be of such great concern to the American taxpayer, and my Iowa constituents, is that the average yearly wage for workers—say, in my state—is about $14,700.

This trend of high costs seems to continue with some of the demonstration programs for FY 1993. For example, I learn from your response that you have provided a federal grant of $2.9 million to the Northwest Service Academy (attachment 4 of your letter). When costs are calculated based on historical trends (see my attachment 1.B), the cost per successful participant is $45,000.

If these calculations are correct, clearly the taxpayers would be troubled to learn that the cost to them of soliciting national service is two or even three times their yearly salary.

TWO QUESTIONABLE ASSUMPTIONS

The first questionable assumption is your inclusion of volunteers in per-hour cost calculations. Yet, this appears to run counter to President Clinton's declaration of the program's goals: "I hope that some day the success of this program will make it possible for every young American who wishes to serve and earn credit against a college education or other kinds of education and training, to do that."

The President does not discuss volunteers, or "non-stipend participants," as you have called them; rather he refers to those who "earn credit". And your own report from Abt Associates recognizes that the proper calculation is comprised of participants, not volunteers (p. 17 of report). The inclusion of volunteers also inflates the number of hours used in calculating costs per hour of service provided by paid participants.

Furthermore, this program was presented to Congress as one that would provide jobs to young people. We were told that the jobs would involve performing community service. Each job pays approximately $7.27 an hour, including wages and educational award. In addition, medical benefits and child care are provided.

Set aside the merits of whether Congress should support such a jobs program; my concern is that the vast majority of dollars do not end up in the pockets of the participants. And the $7.27 per hour does not begin to reflect the actual cost to the taxpayers.

The second questionable assumption is your contention that the cost data should be limited to only federal grant costs. This is the equivalent of telling a prospective car buyer that a car costs only $12,000, though conveniently forgetting to mention the costs for destination, taxes, tags, dealer mark-up and other overhead making the real cost $16,440—assuming the $12,000 is only 73% of the costs, as is the case in the AmeriCorps demonstration grants.

The only relevant cost to the car buyer is the bottom line. Your calculations do not provide that same bottom line. Your calculations omit the cost of educational awards, matching funds, in-kind matches, administrative costs, technical assistance, and so on. These are all sources of funding for grantees.

Beyond these notable problems with your response, you also state that costs cannot be determined because grantees may actually serve more individuals or return unused grant funds. My experience is that this would have only a marginal impact on estimates. Otherwise, it raises the question of why additional funding is needed if grantees are returning substantial monies.

Finally you appear to discount the cost findings in the Abt report. Comments that there is not sufficient data to make analysis only raises the question of why the report was issued at cost to the taxpayer and why the administration is going forward with a request for a sharp increase in funding without final data available.

The Abt report covers 725 of the 1162 participants (62%) and 67% of federal funds ($13.6 million of $20.2 million). Only one grantee did not provide data. Is it unreasonable to analyze cost data from such a report, in your view?

I would note that concerns about the findings in the Abt report were not apparent in your testimony to the Senate, where you and your staff discussed at length the lessons learned from the material and data provided in the report.

Yet you appear to recognize that the demonstration programs have weaknesses by stating on page 1 of the attachment to your July 19 letter: "AmeriCorps programs are anticipated to yield lower per participant costs [than the demonstration programs], and AmeriCorps requires more actual service hours per participant (17 hours, minimum), specifically to increase the cost-effectiveness of national service. For some programs, this nearly doubles the service hours performed."

I remain concerned that we may spend too much money on these programs much too quickly. Reinventing government is not about doing more with more; it is about doing more with less.

Your comments during Senate testimony speak to this: "Again, I have no problems starting small or comparatively small to make sure we have a mechanism for training people properly, and doing all else that we can to make sure that in a time of some cynicism about whether the Government spends its money well we spend it well."

The administration's request for these national service programs is not consistent with your words of caution. Increasing funding by 67% for a program that has virtually no final performance data and so many unknowns and uncertainties is not a cautious and prudent approach.

Please find attached detailed comments and additional questions. I would ask that you provide as many answers as possible prior to consideration of the VA/HUD appropriation.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senate

FURTHER COMMENTS AND QUESTIONS

1. COST CALCULATIONS

A. Calculation of $30,400 per successful participant in FY '92 demonstration projects: Assuming that the $20.26 million in federal funds is only 73% of actual costs as stated on page 18 of the report, total funding is $27.75 million plus $510,000 for federal grant support for a total of $28.26 million (not including federal administrative costs and any educational awards). Total full-time equivalent participants is 1,162 (number of full-time 999 and number of part-time 490; part-time is calculated at one-third the rate of full-time per your office's footnote number 1 on page one of attachment to question 4). Assuming, per the Abt report, that 20% of participants fail to successfully complete the program, only 929 participants of 1,162 successfully completed. Thus, cost per successful participant based on these numbers appears to be approximately $30,400, based on my calculations.

B. Several of the FY '93 demonstration grants continue the trend of high costs. For example, you have provided a grant of $2.936 million to the Northwest Service Academy (attachment 4 of your letter). This will be for 112 participants (12 of whom are part-time). The cost per participant for just the AmeriCorps dollars will be $26,214. This does not include the funding provided by the U.S. Forest Service, state governments, nonprofits, AmeriCorps administrative and support costs and any educational awards.

However, using figures from the Abt report, which states that non-federal resources have been 27% of total costs in the demonstration programs, estimated total costs for the Northwest Service Academy grant would be $4.02 million or $35,900 per participant. Projecting a drop-out rate of 20% as shown on page 20 in the Abt report, the cost per successful participant would be approximately $45,000 based on these calculations. The fact that these are only informed estimates based on your own reported findings only heightens the need for complete data on expenditures.

2. SUMMER OF SERVICE

Your office has failed to respond meaningfully to my questions regarding Summer of Service (SOS). Your intent appears to be to deny the calculations made based on your own report without providing any substantive numbers to back up your own claims or allow independent calculations. Until you provide such additional information, the numbers calculated based on the report contracted by your office with Abt Associates: "Evaluation of the Summer of Service Program" of October 25, 1993 must still be considered valid. Unfortunately, it appears that given the high non-grant costs associated with the FY '94 SOS program, the estimate of $21.45 per hour of service for the FY '93 SOS program may actually be low. A higher figure assumes similar non-grant costs associated with the FY '93 SOS program.

I repeat my request for a complete accounting of the $10 million appropriated in FY '93 for the SOS program. You state that $6.3 million was allocated to grants but give no indication of how the remaining $3.7 million in funds were spent. The likelihood that other funds were spent in FY '93 on SOS is heightened by your FY '94 budget for SOS that provided $605 thousand in federal administrative costs, $850 thousand for training and technical assistance and $3.2 million for educational awards—none of which are mentioned in your FY '93 budget. Thus, in FY '94 $4.65 million of the $12.9 million in costs for Summer of Service were not grant funds. If these figures are available for FY '94, why are they not included in the FY '93 budget? In addition, your office provides no figures for direct service hours provided by paid participants in SOS FY '94, thus preventing any cost-per-participant analysis. Please provide the hours of service for paid participants, as was requested earlier. Additional comments and questions to your letter regarding SOS are provided at number 3 on the attached sheet.

Regarding non-service hours by paid participants, this program has been presented to Congress as youth providing services of benefit to the community. Your testimony of June 13 mentions at length the work to be performed under SOS for the benefit of the community. I find no discussion of training in your testimony regarding SOS. "Reinventing Government" is about measuring output. The output of SOS and AmeriCorps is service hours provided to the community by participants. It is for these reasons that cost per direct hour of service is a crucial measurement.

If your intent now is that SOS is a job training program such as Jobs Corps and the approximately 100 other jobs programs the federal government funds, then it would be helpful to inform the Congress so that your program's funding and outcomes can be considered in that light.

B. Regarding the findings on page 48 of the Abt report that in 13 of the 16 categories of expectations for the SOS program, according to the participants themselves, the SOS program did not meet their expectations, or the stated goals of the program. You asked Abt Associates to respond; please provide a copy of their letter. Abt's quoted comments seem to be in direct conflict with the plain meaning of their own report. As the Abt report itself states on page 45:

"Some of the more specific or detailed potential benefits didn't materialize to the extent participants expected, particularly learning about educational and health issues and getting a job."

"Even though some participants who hoped to improve children's lives didn't feel they did so, most of them did and the population as a whole felt this was the most important benefit."

C. I'm pleased that your office has attempted to take steps to rectify the management problems in the SOS program raised by the Abt report. I'm hopeful that the steps taken will solve the many problems cited by the report. However, whether the problems are solved will not be known for some time. This underscores the importance of not throwing additional money at a new program like AmeriCorps until we are certain funds will not be mismanaged or wasted.

D. I asked whether any additional funds were used by SOS grantees, such as private funds, in-kind contributions, state/local or other federal funds. I would appreciate a direct answer to the question and would suggest that, if necessary, you contact the grantees for a definitive answer. Please provide for both FY '93 and '94 SOS grantees.

3. AMERICORPS DEMONSTRATION GRANTS

A. I appreciate your clarifying that 1 out of 5 or approximately 20 percent of participants in the demonstration programs did not satisfactorily complete the program. Moreover, as you noted earlier, the number of hours of work required for AmeriCorps participants will be significantly higher than for the demonstration programs. This increase may unfortunately lead to an even lower completion rate, such as the 43% completion rate experienced by the Conservation and Youth Service Corps (page 20 of Abt report). Regardless, I question whether having 20 of participants not successfully complete the program is a success and should be the basis for expanding the program.

B. You comment that Abt will verify claims of service hours and accomplishments for a sample of projects from the second year of demonstration projects. Will there be no similar verification for projects from the first year on which the Abt report was based? Please provide a complete description of how this verification will be accomplished and how demonstration projects will be selected for verification.

C. I repeat my earlier request that you provide me the anticipated total dollar expenditures, including the dollar value for in-kind contributions, for all demonstration programs (not just the federal grant your office provided) as well as the number of direct service hours that will be provided under each grant.

D. I would appreciate your clarifying whether or not the FY '93 demonstration grant to the State of Arizona will provide for a total of 100 participants. Your letter states that the grant will provide for 100 full-time participants per year. However, in year 1, the state is given only a $271,222 planning grant. In year 2, the state is provided an operating grant award of $2.6 million. Is this year 2 grant a multi-year grant? in sum, what are the total number of participants under this grant and the number of direct services hours to be provided?

4. AMERICORPS

A. I appreciate your office providing the breakdown of the FY '95 budget for AmeriCorps. I would appreciate your providing an estimate of the number of consultants, contractors and any other non-government personnel that your office intends to hire in support of AmeriCorps. In addition, have any federal agencies directed employees to work for your office or assist your office? If so, please provide that number and what agencies they are from. Also, if your office is required to file an IRS 990 form, please provide copies of all forms filed. Finally, your breakdown of costs for AmeriCorps includes funding for National Civilian Community Corps, Serve America and other programs. I would ask for those costs, including educational awards, administrative, technical assistance and other support costs, that are associated solely with the 33,000 AmeriCorps participants in FY '95 and the 20,000 AmeriCorps participants in FY '94.

B. Could you please clarify why in your attached "State Commission Administrative Funding in FY '94" the State of Maryland was the only state to receive two grants, one for $209 thousand and one for $339 thousand? This provided Maryland approximately $548 thousand in total administrative funding. By contrast, the State of New York only received $489 thousand.

C. Your letter mentions that planning grants were awarded but does not provide any details. Please inform me as to who was awarded planning grants or grants for technical assistance and the dollar amounts. When the information is available for the states, please provide dollar amounts state-by-state. In addition, you comment that each state commission is allowed up to $10,000 to contract for technical assistance and training for their successful AmeriCorps grantees. Please clarify whether that is total or for each grantee in the state. Where does this funding come from in your budget?

D. The education award breakdown you provide is only the formula amount for the states. I would request a complete breakdown state-by-state for all awards when that is available.

E. Congress will have more confidence if provided the measurable performance goals and standards you have established for this program, as required by the Act. For example, what does AmeriCorps estimate its successful completion rate will be? What does AmeriCorps believe the cost-per-successful participant and cost-per-direct service hour must be for these programs?

5. EVALUATIONS AND AUDITS

A. Your letter states on page 6 of the attachment that your office sent field investigators to observe program performance of SOS. Please provide copies of all their findings and reports from the field. In particular, please detail what steps they took to independently verify performance claims made by the grantees.

My letter asked for all evaluations/audits done on SOS and the demonstration programs. Is it correct that the Abt studies are the only evaluations or audits done on these programs given that no additional material was provided to me?

Your letter's comment on page 6 of the attachment—that audits may have been conducted of SOS grantees by other federal agencies, but that your office doesn't know—does not reflect a high degree of management oversight over the taxpayer's funds. I would suggest that it would be prudent for your office or contractors to make a more definite determination of whether audits have been conducted in regard to funds you have awarded, and establish what the findings are of those audits.

6. ASSOCIATION OF FARMWORKERS OPPORTUNITY PROGRAM

Regarding actual costs of the grant to the Association of Farmworkers Opportunity Programs (AFOP): As your own letter states on page 8 of the attachment, "We can estimate the Corporation's share of estimated expenses. . . " Your funding estimate does not include approximately $350,000 for educational awards—from your own office. In addition, the costs you cite also do not include matching funds (approximately $300,000), and in-kind support from JTPA and EPA. It is my understanding that JTPA and EPA will provide office space and transportation costs. These additional funds certainly increase the costs of the program.

I would appreciate your providing final and complete funding estimates when the AFOP grant is awarded and for every other AmeriCorps grant awarded (broken down by the accounts you provided for the AFOP program) as well as an estimate of direct service hours to be provided by each grant. Funding should include a cost-estimate of in-kind support.

Ms. MIKULSKI. I want to say to the Senator from Iowa that I do join with him in asking for a GAO report on this. This is a new program. We want not only to get off on the right track, but we want it to stay on track. I want to make sure that type of inquiry that will make sure the taxpayers' dollars are being spent well.

Mr. GRASSLEY. I thank the Senator from Maryland for her assurance, her cooperation, and for working with me on this matter. I think this is a very good compromise and, hopefully, the General Accounting Office will come back with a recommendation to make sure that this program is conducted in a cost effective way. If they do not come back with that certainty, we will make some changes a year from now to reflect that.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

A THREATENED BASEBALL STRIKE

Mr. SPECTER. Mr. President, I have sought recognition to speak briefly about the threatened strike in baseball which is now set for August 12. I do so as a baseball fan of longstanding, and also as a Senator from Pennsylvania, which has two major league baseball teams and two cities—Philadelphia and Pittsburgh—which will be adversely affected very substantially by this strike, for thousands of baseball fans who will not be able to see the Pirates and the Phillies play in Three Rivers Stadium and the Vet, and for thousands of fans who will not be able to watch those games on television, hear them on radio, and for many whose livelihood will be at issue—vendors in ballparks and the restaurants adjacent to the parks and the hotels—and the very, very serious impact on those two cities from this threatened strike.

Mr. President, America has long had a love affair with baseball, and I have long had a love affair with baseball, since my childhood when I grew up in the Wichita, KS. The main interest at the start of every day was to check the Wichita Eagle and see what the box score showed; as a youngster, as a delivery boy, stopping at the barber shop to see the great calendar that had the statistics of Ty Cobb's batting average and Babe Ruth's batting average.

As a youngster, I found it inspirational to study the baseball players and see the tenacity and discipline and their character, and I think it has had a propound effect on Americans, and really worldwide in many, many ways, in being an example and providing a tremendous thrill when people would go to the park or listen on the radio, as I did as a youngster, or in the basement of the Wheeler Kelly Hagner Building, watch the scores on the big board.

There may be some wagering, perhaps in violation of Kansas law. And I would see the squares on the innings when someone would hit a home run, an extra square, double square, or triple squares, on rare occasion when there were two home runs or three home runs an inning.

All of that is now threatened by the baseball strike. I think it is especially troublesome, Mr. President, because baseball has a unique and a preferred status in America because it is a business which is not subject to America's antitrust laws. Every other business which exists in America has to function in a competitive way, and there may not be agreements in violation of open competition. Baseball is the one business, the only business, which does not have to abide by the antitrust laws of this country.

It came about in a curious way when Justice Oliver Wendell Holmes many years ago said that baseball was a sport and not a business. When Justice Holmes' decision was tested many decades later, the Supreme Court said, well, it is a business now, but we are not going to change its exemption from the antitrust laws because if Congress had wanted to do so, Congress could have done so. We are going to leave baseball in an exempt status.

On the Judiciary Committee, I have considered the issue of taking away baseball's antitrust exemption and for a time considered taking away football's limited antitrust exemption.

Unlike baseball, procedurally football has a limited antitrust exemption which applies only to pooling receipts on television. I was concerned about that when the Raiders moved from Oakland to Los Angeles. I was concerned about that when there was a threatened move of the Phillies from Philadelphia to Phoenix in about 1984.

We have never changed the antitrust exemption for many, many reasons, but there has long been a concern in the Congress about whether baseball ought to continue to have that antitrust exemption.

Just a few weeks ago in the Judiciary Committee, we took up the issue of taking away the antitrust exemption as it related to labor negotiations because the representation was made at that time that if we took that action, perhaps the baseball strike would not occur.

There have been discussions on the floor of the Senate, since the announcement was made about the impending strike on August 12, that perhaps the Congress ought to consider some action to take away the antitrust exemption.

I have been unwilling to do that, Mr. President, because if I were to support the antitrust exemption and taking away the antitrust exemption, and it failed in the committee most recently by only a single vote, or if we were to take away the antitrust exemption baseball enjoys more broadly, there would be a real threat that the Pittsburgh Pirates would leave the city of Pittsburgh, and that would be devastating for Pittsburgh. Right now, the representations are made that the Pirates lose $1 million a month, and there has been a city group coming in to take over the ownership of the Pirates to keep the Pirates in Pittsburgh.

So with concern for the interests of Pennsylvania and the city of Pittsburgh, I cannot join in an effort to remove the antitrust exemption because of the risk that it would pose for the Pirates leaving the city. But from many points of view, the Pirates have left the city, in a sense, when free agency has taken away Barry Bonds to San Francisco and Bob Bonilla to New York and other star players so that the Pirates, which had enormous talent, and had those players stayed there, the Pirates would have been a pennant contender and would have been a much, much stronger team.

Mr. President, I think that all parties to the dispute, the owners and the players, ought to be aware of the concern which exists in the Congress about the impending strike and the concern that exists as to whether we ought to continue the antitrust exemption.

It may well be that Congress will act if there is a strike. I think that there is going to be enormous public reaction. Right now, it is just speculative as to whether the strike will take place on August 12. But since the strike was announced, I have contacted representatives of the players and representatives of the owners in an effort to see if I could be helpful in settling the strike, or if there is anything that the Judiciary Committee could do, or others in the Senate could do, to settle the strike.

I am advised there is nothing that we could do, and from the discussions which I have had over the course of the past 3 days, it seems to me that we are headed for a baseball strike and for a disruption which may end the rest of the season and may eliminate the league championship playoff games and the World Series.

I think, Mr. President, that the parties may well kill the goose that lays the golden egg. If we were to eliminate the antitrust exemption, I do not know what would happen. I do not know if baseball could survive in its present form even if the players and the owners got together. There are enormous salaries, and a key point of disagreement is whether there should be a salary cap. The players make gigantic sums of money, millions of dollars a year, and the owners have tremendous revenues, although the owners claim that there are some 19 teams which are on the verge of bankruptcy and there is a dispute as to whether those financial figures are accurate because it is complicated.

There are many third-party contracts, where the Atlanta Braves have an agreement with the television network and the Chicago Cubs similarly have an agreement. And I do not know, Mr. President, who is right and who is wrong. It may be that both parties are wrong in subjecting the fans to the threat of this kind of a strike.

I have long believed, Mr. President, that sports are unique, and that baseball is affected with a public interest and that football is affected with a public interest.

Some have analogized sports to public utilities, and that may be going a little far. If you have a railroad strike, the Congress can intervene and stop the strike. Nobody is suggesting that the nature of baseball reaches the level of a railroad or a public utility, to that extent.

But it is my hope that the players and the owners will find an agreement. When you talk about free market, you talk about the very basic American attitude, and it is a principle of allowing people to earn as much money as the market will permit.

But I would suggest that there may be some outer limits of public tolerance, and public tolerance is reflected in the unique special position which baseball has as a result of the antitrust exemption. And if the public clamor is sufficient and the congressional outrage is sufficient, we may find that antitrust compensation removed. And then we would in fact have a situation where the parties who benefited from the goose which laid the golden egg would have in fact killed the goose.

So I hope there will be a consideration, and I have taken the initiative in talking to representatives of the players and representatives of baseball, because the game ought to be preserved, and perhaps arbitration would be the way. But the parties ought to come together and realize the public interest and the public concern and avert the strike.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor.

The Senator from New Jersey, [Mr. LAUTENBERG] is recognized.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Will the Senator indicate the length of time?

Mr. LAUTENBERG. Probably less than 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 15 minutes.

CHILD ABUSE

Mr. LAUTENBERG. Mr. President, yesterday the Senate accepted an amendment that I proposed to the Improving America's School Act of 1993 which is designed to protect the children of this country who ride to and from school on a schoolbus.

Mr. President, the woeful truth is that these children need protection from the people who drive their schoolbus. We all recognized the unfortunate fact that some people are attracted to the teaching profession because it gives them easy access to the children who are the focus of their sexual desire. What we do not recognize—or take precautions against—is the fact that some people drive schoolbuses for the same very reason—access to children.

Children who ride on schoolbuses, particularly those in their early years, the elementary school years, are extremely vulnerable to physical abuse. They are too young to comprehend what is being done to them and they are too small to physically defend themselves from an attack. Therefore, it is the responsibility of society to offer as much protection as possible to this vulnerable population.

My amendment recognizes that responsibility by requiring all States to do a Federal background check on potential schoolbus drivers before they are allowed to be alone with our children.

Schoolbus drivers are unique. They are alone with students off school property, often for extended periods of time.

Mr. President, we know that most of these people, by far, are good, law-abiding citizens, often parents themselves, who have no intentions to molest or attack children. But there are the others, and we have to guard against them.

I believe, as I hope do many of my colleagues, that parents deserve to know who is alone with their children.

At present, 18 States already conduct State and Federal background checks on their drivers. My amendment would not affect how these States administer their programs.

There are 14 States which currently only do State background checks. My bill would require those States to redirect the resources they are putting into these background checks towards a Federal program. While the intent of these State programs are good, they are flawed. A convicted sexual deviant can easily move to one of these States, receive a clean background check, and begin driving his prey to and from school.

Then there are the 18 States which have no background checks for their school bus drivers. There is no rational reason for the lack of responsibility these States are demonstrating in this area.

Is this a real problem? Unfortunately, it is. I have article after article identifying incident after incident of sexual abuse of pupils by their school bus driver. I would be happy to make these available to any Member who is interested in seeing them.

The question arises whether or not Federal background checks work. I believe they will. My amendment would also require—and there may be some inconvenience here—the fingerprinting of prospective drivers so their true identity can not be hidden.

During the 2 months after California instituted Federal criminal background checks in 1990, it screened out 150 convicted sex offenders, child molesters and violent criminals who tried to get permits to drive schoolbuses. That tells us something. This is shocking and my amendment will address this problem.

Mr. President, on any given school day, 25 million children ride in schoolbuses. For the vast majority of these children, the trip will be safe and uneventful. Unfortunately, for some it will be a nightmare that will affect them for the rest of their lives. So when that amendment passed yesterday, Mr. President, I was relieved.

I appreciate the fact that my colleagues support this amendment to protect children on their ride to and from school. I look forward to working with the conferees on the Improving America's Schools Act in order to ensure that Federal background checks for schoolbus drivers remains in the bill after conference.

TRAGEDY IN NEW JERSEY

Mr. LAUTENBERG. Mr. President, I have another statement. Unfortunately, it deals with not too dissimilar a subject, and that is attacks on children.

Mr. President, last week in New Jersey, a terrible tragedy took place, a tragedy so recent that the child who was killed has not yet had a funeral service for her burial.

A 7-year-old girl, Megan Kanka, was sexually assaulted first and then brutally murdered. It was a despicable and horrifying crime that shocked people throughout my State and throughout the Nation. Our hearts go out to her parents and her family. We can only imagine the pain that they are going through. We all pray that we will never have to endure that kind of feeling.

Mr. President, the man who has confessed to this outrageous killing already had been convicted of sexually related offenses. He spent a long time in confinement. Yet when he moved into Megan's community, nobody in the neighborhood was notified of his criminal history. So this convicted sex offender was free to mingle freely with the neighborhood children and to gain their trust. Meanwhile, the children's parents had no idea who he was, or the extreme danger he posed.

This kind of situation is intolerable, Mr. President. Something is terribly wrong when a dangerous sex offender can move into a community filled with young children, without any of the neighbors even being notified of his presence.

It is time we did something about this, Mr. President. It is long past time.

In fact, last year, the Senate adopted as part of the crime bill a provision authored by the distinguished Senator from Washington [Mr. GORTON] which would have conditioned Federal funds on a State adopting a registry of sexual predators, and providing for community notification when a sex offender established a new residence.

Senator GORTON's amendment was an important addition to the crime bill. Unfortunately, the proposal apparently has been weakened in conference. While the final language is not available, and I hope I am wrong, I have heard that the conference report does not provide for community notification when a dangerous sex offender gets out of prison.

That is disturbing to me, Mr. President. In my view, when you're talking about dangerous sexual offenders moving into a community, the neighboring parents have a right to know. And we should use whatever resources we have to encourage States to provide for such notification.

Mr. President, I know there are some who feel that once someone has served his or her sentence, they've repaid their debt to society and that's the end of it. But, Mr. President, it is just not that simple. Yes, even convicted people have rights. But communities have rights, too. Parents have rights. Young children have rights.

And the bottom line for me, Mr. President, is that the rights of children like Megan Kanka simply must come first. In fact, for me, it is not even a close call. Because, when you get right down to it, nothing is more important than protecting our children. Nothing.

So I look forward to working with Senator GORTON to continue the push for a community notification requirement, which already is now widely known in New Jersey as a Megan law.

Because, at a minimum, parents have a right to know when their kids are going to be exposed to a dangerous sex offender. And we have a moral responsibility to help provide them with that information.

Mr. President, I hope we will pass the Megan law, and do it soon.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VA-HUD APPROPRIATIONS ACT

The Senate continued with the consideration of the bill.

Mr. LIEBERMAN. Mr. President, I rise to compliment the chair of the subcommittee on her fine work in fashioning this bill. The people of Maryland are lucky to have her representing them in the Senate, and I appreciate the consideration she has given the people of Connecticut as well.

I am very pleased that this bill contains language which makes it clear that we ought to be looking at the aftereffects of what is known as radium nasopharyngeal treatment. This treatment, first developed in the 1920's, was used extensively in the 1940's and 1950's. Put simply, the treatment used radium in the nose to "burn-out" adenoid and lymphoid tissue. A large number of those treated were submariners and airmen—including many in my own State of Connecticut—servicemen who experienced sinus and adenoid problems after being exposed to rapid pressure changes. Estimates are that in excess of 35,000 servicemen and women had radium nasopharyngeal treatments.

In addition, the treatments extended beyond the military. From the late 1940's through the 1970's, it is estimated that something on the order of 200,000 civilians, mostly children, received this treatment, generally for adenoid problems.

In the late 1970's, the warning signals began to appear. In 1977, Johns Hopkins issued a public service bulletin stating that any patient who received this treatment should see a doctor. A 1982 Journal of the National Cancer Institute showed high rates of neck and head cancers in civilians who had undergone this procedure. In January 1992, a New England Journal of Medicine article calls for identification and medical surveillance of Navy submariners who had this treatment.

In February 1994, the Submarine Survivors Group was formed by Mr. Jim Garrity, a former submariner and Mr. Stewart Farber, a public health scientist and radiation risk assessment specialist. Since that time, the Survivors Group has set up a hotline, based in Massachusetts, to take calls from people who have received this treatment. As of July 24, less than 6 months after the group was formed, the hotline has been contacted by over 41,000 individuals who believe they have undergone radium nasopharyngeal treatment. Of those calls, over 10,000 are from Connecticut. There have been 5,800 calls from California. Another 5,400 calls from New York. From Maryland 1,000 calls. Texas accounts for nearly 4,000 calls, Missouri 2,200, Montana 2,200 and New Jersey 1,600.

The Submarine Survivors Group is the brainchild of two individuals—Jim Garrity and Stewart Farber. They are funding the hotline out of their own pockets. At the same time, it distresses me to report that Jim Garrity, who received this treatment, has been diagnosed as having incurable nasopharyngeal cancer.

I applaud the work that these two individuals have done to identify people who have had this treatment. They have managed to get the word out to many—just last week I learned of a man in Connecticut who had had this treatment as a child. He read about the Submarine Survivors Group in a local paper. He went to his doctor at Yale-New Haven Hospital to be tested and he has thyroid cancer. Left undiagnosed, his cancer would have been untreatable in a matter of months, even weeks.

So that is the kind of fine work that is being done by this group in getting the word out.

All of which is to say, that I compliment the gentlelady from Maryland. She has been a learned and sympathetic friend on this issue. To complement the language which is included in the VA research account, I am proposing an amendment to allow the VA to spend $500,000 for a study of veterans who received radium treatments for ear infections in the 1940's and 1950's. We need to gather all the data on this treatment we can, quantify the risk of this treatment and get the word out on the proper procedures to take if you have been exposed to this treatment.

I encourage my colleagues to support this amendment and I thank the Senator from Maryland, as well as her staff, for providing a sympathetic ear on this important issue.

Ms. MIKULSKI. I want to thank the Senator from Connecticut for his good work on this issue.

I intend to accept this amendment and in doing so I would like to state that I believe it is very important that the VA consider undertaking this study. The extent of this problem seems to be widespread. The VA study would help determine whether veterans who underwent radium nasopharyngeal treatment between the 1940's and 1950's are at increased risk of contracting head, neck, and brain cancers and thyroid problems.

The Senator from Connecticut is to be commended for his dogged effort to get the word out about this treatment and its possible consequences. At the very least, there is anecdotal evidence that getting the word out will save lives. That is a goal that I can support and I believe it is a goal that my colleagues can support as well.

Again, I strongly urge Veterans Affairs Secretary Brown to move forward with this study. The Senator from Connecticut informs me that Secretary Brown has been forthright and helpful in responding to inquiries on this issue. Conducting this study is a logical extension of the help Secretary Brown has provided to date and I hope that this study will begin sooner rather than later.

REGARDING DUCK RIVER WATERSHED RESTORATION

Mr. SASSER. Mr. President, I would like to take this opportunity to thank the subcommittee chair, the distinguished Senator from Maryland for the excellent way in which she has handled this year's appropriations bill. As all Senators know, this has been a very difficult budget year. I am delighted that this committee's bill contains $400,000 for the Duck River Agency in Tennessee. Under the abatement, control, and compliance component of the EPA budget, the subcommittee provided funds to begin restoration of the Duck River watershed. As the Chair well knows, this is a project that I consider very important to my State, and one on which I have worked for several years. The Duck River is the longest and one of the most beautiful rivers in Tennessee, supplying water for many communities along the river while providing a home for wildlife and an abundance of recreational opportunities.

Due to the deterioration of water quality in the Duck River Basin, mainly cause by nonpoint source pollution, the Duck River Development Agency, which was established to help protect and develop the natural and economic resources of the region, has crafted a watershed restoration plan to improve water quality and protect the unique ecosystem in the basin. This $1.2 million, 3-year plan consists of a number of pollution control and wildlife habitat restoration initiatives designed to restore the health of the Duck River ecosystem.

It is my understanding that it is the committee's intention for the $400,000 for the Duck River project to go directly to the Duck River Development Agency to begin implementation of the comprehensive watershed restoration proposals. Is this correct?

Ms. MIKULSKI. I thank the Senator from Tennessee for his kind words. I agree with his understanding of the funding for the Duck River watershed restoration proposal. Throughout our discussions on this project, it has always been the intention of the subcommittee that the $400,000 in this year's bill go directly to the Duck River Development Agency to begin implementation of its watershed restoration program.

INDIVIDUAL FOREIGN REFINER BASELINES

Mr. KERRY. Mr. President, I wish to clarify a paragraph on page 105 of the committee report. It reads:

> The Committee has included a provision prohibiting the [Environmental Protection] [A]gency from implementing a proposed rulemaking issued last April concerning foreign refinery baseline requirements for reformulated gasoline.

It is my understanding that this proposal does not apply to any other proposal presented by U.S. independent importers and blenders, and being considered by EPA, to eliminate inequities in the final EPA reformulated gasoline rule issued last December. Is this correct?

Ms. MIKULSKI. That is correct. The committee's prohibition is limited to EPA's proposal to permit foreign refineries to establish individual baselines for reformulated gasoline. Thus, the provision does not prevent the EPA from making modifications to the reformulated gasoline program that will permit domestic independent importers and blenders to participate in the gasoline market on an equal basis with domestic refiners.

Mr. KERRY. I thank the Chair for that clarification.

CLEVELAND MILL SUPERFUND SITE

Mr. BINGAMAN. In my home State of New Mexico there is an important issue which I would like to see addressed in the immediate future. The Cleveland Mill Superfund site is outside of my hometown of Silver City. This site is on the National Priorities List and is therefore being cleaned up under the Federal Superfund Program. Lead, copper, and zinc tailings left after milling ore are sitting in piles. These tailings are threatening ground water sources and are contaminating a nearby creek.

The record of decision [ROD] was signed in 1993 which identifies trucking the waste offsite for treatment as the best cleanup method. Citizens living in the area are very concerned about the transportation of these contaminated tailings down a small road called Little Walnut Road lined by an elementary school and other homes. Twenty fourton trucks carrying between 4,000 to 8,000 loads would not only seriously congest the small road but prove dangerous to children going to school and living in the area. In addition, citizens are concerned that fine particles from these tailings will blow around while being loaded on the trucks and transported to the treatment facility and would prefer the waste be treated onsite.

I have been advised that the Environmental Protection Agency [EPA] has not made a decision to use Little Walnut Road for the transportation of the waste. They have also explained that leaving the waste onsite could prove dangerous because high levels of cadmium and arsenic could leach into the ground water if left onsite. This is essential information that the residents of this community should know. The EPA has acknowledged that there is misinformation in the community because they have not been diligent in communicating with Silver City residents. I understand that EPA is working to resolve the communication problem by setting up a citizens advisory council who would have input in decisions made regarding the Cleveland Mill Superfund site. I believe this advisory council should be set up as soon as possible so that local citizens can have direct input on the best way to address the waste at Cleveland Mill.

Public participation in the Superfund process is essential. These sites directly affect those people living in the area and I strongly believe that EPA should ensure community participation and address health concerns in an open, inclusive process during the Superfund process. I am requesting that the EPA Regional Administrator in region 6 provide me with a progress report on setting up the citizens advisory council within 30 days. In addition, I am requesting that EPA region 6 hold a public meeting to update the citizens about the Cleveland Mill site within 60 days or once the council is founded, whichever is earlier. I would hope this group will be set up as quickly as possible so the voices of this community can be heard.

Ms. MIKULSKI. I agree with my colleague from New Mexico that public participation early in the Superfund process is critical. Addressing community concerns early ultimately expedites the cleanup process. Establishing a citizen advisory council to address concerns at the Cleveland Mill Superfund site will ensure that local citizens are heard. I agree that EPA region 6 should provide a status report on the formation of the council and hold a public meeting as my colleague from New Mexico has outlined. This will place a priority on providing accurate and current information to the residents living near the Cleveland Mill Superfund site.

PENNSYLVANIA EDUCATIONAL TELECOMMUNICATIONS EXCHANGE NETWORK

Mr. WOFFORD. Mr. President, I would like to draw my colleagues attention to an innovative program that is included in the Veterans Affairs, Housing and Urban Development, and independent agencies appropriations bill.

This legislation provides support for a community development initiative called the Pennsylvania Education Telecommunications Exchange Network. Known as PETE Net, this initiative is the cooperative effort of 16 colleges and universities in Pennsylvania. This consortium would enable schools to develop new methods of sharing academic and technological resources with each other, and with elementary and secondary schools in Pennsylvania.

Mr. President, this is the kind of innovative collaboration that should be encouraged. I strongly support the PETE Net program and appreciate the assistance of the members of the Appropriations Committee in providing funding for this important and innovative program.

PRO BONO LEGAL REPRESENTATION PROGRAM

Mr. BINGAMAN. Mr. President, I rise today in support of full funding for the Pro Bono Legal Representation Program of the U.S. Court of Veterans' Appeals, which is administered by the Legal Services Corporation.

Mr. President, this program, which was developed by the Court and Legal Services Corporation, has two components—recruitment and training of pro bono attorneys and qualified nonattorney representatives who are matched with unrepresented appellants; and financial support for organizations already providing representation free of charge to appellants before the court, so that these organizations may expand their efforts.

According to recent studies, the current backlog of claims at VA regional offices is estimated at nearly 600,000 cases, with an average of 226 days required to make a decision on a veteran's claim. By September 30, 1994, if a veteran appeals a decision to the Board of Veterans' Appeals, that veteran will wait an estimated average of 5 years for a decision.

Mr. President that is simply not acceptable, and our Nation's veterans deserve better. The Pro Bono Legal Representation Program is a step in the right direction in remedying this situation. As a result of cases placed with pro bono attorneys by the program in fiscal year 1993, the percentage of appellants having representation more than doubled from 17.5 percent to 42.5 percent. Of the 52 pro bono cases completed by the court through September 30, 1994, where representation was provided through the program, 86.5 percent resulted in a finding of error and a remand to the Board of Veterans' Appeals for correction of the error. Finally, including those appellants who received only legal advice from the program, two-thirds of all appellants before the Court in fiscal year 1993 had received some form of legal assistance. These are very substantial accomplishments for what can be described as a modest program and budget.

Mr. President, the commitment and dedication that all veterans make when they answered the call of service to their country must be matched by the same level of commitment and dedication from their government and the agencies established to serve them when they need our assistance. Veterans and their families must be able to rely on prompt and accurate disposition of their claims before the Board of Veterans' Appeals and the U.S. Court of Veterans' Appeal. Timely and accurate claims adjudication often means the difference between being able to meet financial and familial obligations and being required to make unnecessary and needless sacrifices. The seriousness of this situation, and the practical effect that it has on veterans and their families have been evident in my many encounters with veterans throughout New Mexico.

Mr. President, we asked our Nation's veterans to risk the ultimate sacrifice for their country and it is imperative that we in Congress act now to ensure that when a veteran has a claim, he or she will receive prompt and fair consideration of that claim. The Pro Bono Legal Representation Program is an important step toward addressing the problems with the VA claims adjudication system, and I urge all of my colleagues to support the program and to work with VA to develop further strategies for improving the system.

Mr. BOND. Mr. President, I congratulate the Chair of the HUD-VA Appropriations Subcommittee, Senator MIKULSKI, and the ranking member, Senator GRAMM, for their efforts in crafting a remarkably fair and thoughtful appropriation for HUD, the VA, and the independent agencies. Your efforts deserve special praise because of the tight budget constraints facing the Appropriations Committee and, in particular, the HUD/VA Appropriations Subcommittee for fiscal year 1995.

I want to emphasize several areas of special concern to me. In particular, I am very supportive of the $1.5 billion appropriation for fiscal year 1995 for the HOME Program. I strongly support the HOME Program which has become a key program in the Federal Government's commitment to provide decent, safe, and affordable housing to all Americans. The HOME Program provides formula funding to States and localities and relies on local decisionmaking to address local housing needs This program also leverages significant amount of additional resources in the creation of affordable housing. For example, since the publication of the final HOME rules in December 1993, some $1.2 billion in HOME funding has leveraged another $1.6 billion from other participants for HOME activities.

I also highlight the subcommittee's decision to fund fully public housing operating subsidies at $2.9 billion. This is the amount determined necessary to manage public housing under the performance funding system formula. This amount also represents an increase over the administration's budget request by some $400 million. I want to emphasize that the Housing Subcommittee and Banking Committee reported out on June 21, 1994, the Housing Choice and Community Investment Act of 1994, which would provide, among other things, a number of critical reforms to the Public Housing Program. This is no time to shortchange the Public Housing Program.

The subcommittee also appropriates $1.3 billion for elderly housing, of which $387 million is to be used for the creation of supportive housing for persons with disabilities. This is a significant increase over the $553 million requested by the administration and represents the continuing commitment of this subcommittee to recognize and address the housing needs of the elderly and the disabled.

The fiscal year 1995 appropriations bill also establishes section 8 Fair Market Rents [FMR's] at the 45th percentile of median rents for an area. Although this is current law, HUD has proposed the FMR's be reduced to the 40th percentile. The HUD proposal is an unacceptable reduction which runs counter to fair housing goals and would result in reducing the housing choices of low-income families assisted under HUD programs. I emphasize the need to provide housing choices to low-income families, not limit these choices.

I also support a provision incorporated from the Housing Choice and Community Investment Act of 1994 which would allow the streamline refinancing of FHA-insured multifamily housing projects at low-interest rates without affecting the availability of credit subsidy under the General and Special Risk Insurance funds. This provision will help multifamily housing owners refinance projects at lower interest rates, thus reducing the risk of default to the Government.

I also applaud the full funding of the space station and the wind tunnel project.

Nevertheless, I do have several concerns regarding this legislation and may be offering several amendments to address these concerns. I also want to express concern over whether FEMA is adequately funded for fiscal year 1995. FEMA deserves the highest praise for its quick and effective response to the tragic flooding in 1993 in Missouri and much of the Midwest. In particular, Missouri was among the first beneficiaries of the new partnership that FEMA developed with the States under Director Witt. Missouri saw firsthand what it was like to work hand-in-hand with FEMA with daily conference calls with Director Witt on Missouri's needs and requirements. FEMA also deserves high praise for its quick and effective response to the tragedy caused by the earthquake in Los Angeles and, more recently, to the flooding in Georgia. (see attachment on FEMA)

I am also concerned that the Senate HUD/VA appropriations bill does not provide funding for the Family Unification Program. This program fills an important gap in our housing assistance programs by providing needed housing assistance to prevent the unnecessary separation of children from their families. Under this program, eligible families must meet the section 8 eligibility criteria and also be at risk of having their children placed in foster care or being delayed in returning to the family from foster care, because of the families' housing problems. I pledge to work to have this funding restored during the conference.

Again, I thank Senator MIKULSKI and Senator GRAMM for their fine work on this legislation.

Mr. ROCKEFELLER. Mr. President, as Chairman of the Committee on Veterans' Affairs, I am pleased to comment on the pending measure, H.R. 4624, the fiscal year 1995 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies appropriation bill, and most particularly on title I, the part of the bill dealing with VA.

Mr. President, the chairman of the VA-HUD Subcommittee, Senator MIKULSKI, and the other members of the subcommittee deserve tremendous credit for the extraordinary efforts evident in this bill. Last year, it was generally thought that the budget situation for the VA-HUD Subcommittee for fiscal year 1994 was difficult, but that was nothing compared to what the subcommittee faced this year. Tough choices does not even begin to describe what Senator MIKULSKI confronted with respect to the subcommittee's allocation. The subcommittee's overall allocation was not only $316 million less than that of its House counterpart, it was $729 million less than the President's budget request.

In light of these circumstances, I am enormously pleased with the fiscal year 1995 appropriations in the bill for the Department of Veterans Affairs. Despite the tightest of fiscal restraints, the subcommittee mark, endorsed by the full Committee on Appropriations, addresses many of the higher priority VA funding needs. These are programs that need to be funded under the most stringent of circumstances if we hope to continue seeking to meet the needs of our Nation's veterans and their dependents and survivors.

At the outset, I note that in its report, the Committee on Appropriations identified four program areas under the VA, HUD, and Independent Agencies appropriation where funding was inadequate under the administration's proposal. Three of the four were VA programs: Veterans medical care, veterans medical and prosthetic research, and veterans benefits claims processing. I am particularly pleased to note that, in line with that conclusion, the committee has included in this bill additional funding above the administration's budget request for the programs identified by the Committee on Veterans' Affairs in our submission to the Budget Committee.

Mr. President, I specifically recognize that the bill provides the same amount for VA medical research—$252 million—that is included in H.R. 4624 as passed by the House. The amount appropriated by the committee is $41 million above the amount requested by the administration and allows the funding for research to remain at the fiscal year 1994 level. While this appropriation will not support any new research initiatives, it will salvage some 400 ongoing research projects, covering such critical problems as Alzheimer's disease, AIDS, and alcoholism.

I also note that the report language directs an additional $5 million to medical programs for women veterans. This funding is necessary to respond to the unmet needs of women veterans and to implement provisions in the Veterans Health Programs Improvement Act of 1994, S. 1030, passed by the Senate in May. In addition to expanding the types of life-saving services offered to women veterans, S. 1030 would require that VA facilities furnish pap smears and mammographies that comply with standards at least as stringent as those that apply to other providers under the Mammography Quality Standards Act of 1992.

Mr. President, I acknowledge with enormous gratitude that the committee took into consideration many of the requests made by the Committee on Veterans' Affairs concerning the funding of specific items in the medical care account, and I recognize that for a number of medical care programs, the bill provides additional amounts above the administration's budget request. Specifically, I note that the bill provides for increased funding above the amounts requested by the administration for the following purposes: to enhance medical care for women veterans; to increase funding for programs for homeless veterans; to increase funding for blind rehabilitation services; to establish up to five mental illness research, education, and clinical centers at existing VA medical facilities; and to support the installation of bedside telephone systems in VA hospitals.

Mr. President, I continue to be concerned about funding for homeless veterans' programs. While I am pleased with the increase in the bill of $8 million above the administration's request, this amount is disproportionately low in relation to overall Federal funding for homeless programs. Veterans represent over one third of our Nation's homeless population and in recognition of that fact, I encourage HUD to direct an appropriate level of funding to homeless veterans programs.

Mr. President, the bill's appropriation for VA's general operating expenses account is highly commendable as well. The administration proposed to cut 622 full-time equivalents from the Veterans Benefits Administration, at a time when the Department faces a claims backlog of well over 500,000 pending claims. As I have heard repeatedly from veterans in my own State of West Virginia and around the country, the current situation in the adjudication system is appalling. This cut in staffing not only would hinder VBA's efforts to reduce the backlog, it would likely serve to worsen what is already a devastating situation.

I urged Senator MIKULSKI to increase the funding for staffing for the VBA in order to restore staffing to the fiscal year 1994 level. The Appropriations Committee clearly recognized the importance of the adjudication process, and has appropriated an additional $19.2 million to address the claims backlog, specifically directed to VBA staffing, overtime, and training. Nothing the backlog of vocational rehabilitation and counseling claims, the report language directs another $1.6 million specifically to vocational rehabilitation and counseling.

The claims adjudication process is a core function of VA. VA desperately needs adequate funding and staffing to fulfill its obligation to provide all benefits to which veterans are entitled in a timely and efficient manner. While the additional funding will by no means solve the backlog problem, it certainly will help to avoid the situation becoming worse, and perhaps even begin to alleviate it.

I also note with pleasure that the bill appropriates additional funding for major construction projects. Under the administration's request, VA construction was dealt a considerable blow and would have sustained a cut of $254 million, or 53 percent, from the fiscal year 1994 level. The committee bill appropriates $92.5 million above the administration's budget request to this account.

Mr. President, as a final note, I express my strong support for the committee's action to fully fund the Court of Veterans Appeals Pro Bono Representation Program. This is of utmost importance to our Nation's veterans. The Court requested an appropriation of $790,000 for this deserving program, which has been extremely successful in securing pro bono representation for veterans appearing before the Court of Veterans Appeals. The House appropriation bill cut that funding by $140,000, a decrease that could have been devastating to this program. I am pleased to see that the Senate Appropriations Committee has appropriated the full amount requested.

Mr. President, I applaud the VA-HUD Subcommittee and the full Appropriations Committee for their fine work on the formidable task that was involved in crafting this measure. I truly appreciate the fact that the committee addressed many of the highest priority VA funding needs and that the Chair clearly considered the proposals made by the Committee on Veterans' Affairs for additional funding.

Mr. President, I express my deepest appreciation to the chair of the VA-HUD Subcommittee, Senator MIKULSKI, for her significant efforts concerning veterans' programs and for the tremendous cooperation between our respective committees. Over the years, Senator MIKULSKI has shown unfailing support for veterans' programs, and this year certainly is no exception. Her commitment to veterans is clearly exhibited in this appropriation bill. As always, I am also exceedingly grateful that Senator MIKULSKI and I and our respective committees enjoy such a tremendous spirit of cooperation during the appropriations process.

Mr. LAUTENBERG. The committee has given special attention to a series of meritorious projects in the special grants account section of the committee report. I want, however, to call attention to one project, in Camden, NJ, which was not included in that list.

The project in question, which involves the Southern New Jersey Regional Children's Hospital, needs $3 million in order to provide badly needed assistance to at-risk children. I have some statistics which document the urgent need this facility would address and I ask that this data be included in the RECORD.

Southern New Jersey is the largest region on the east coast which does not have a regional children's hospital. The project includes the construction of a new 171-bed center, 85 percent of which will be financed through non-Federal sources.

According to independent economic impact studies, the project would create over 2,700 new permanent jobs. Further, this facility will result in a capital infusion of $1.34 billion in the southern New Jersey economy over a 6-year period.

Because of the pressing need of this facility—which will provide critical community outreach, preventative care, primary care, and tertiary care to impoverished and needy children in my State—I hope that you will understand the importance of this project and support efforts to direct funding to it.

Ms. MIKULSKI. I thank the Senator from New Jersey for his continuing interest and support of such projects for children. My subcommittee has provided support for similar activities at other facilities that address pressing community development needs. We have, as the Senator knows, identified several projects in New Jersey for special consideration. I have looked at the data the Senator has presented in the context of the Southern New Jersey Regional Children's Hospital and when we go to conference, I will certainly give it every consideration.

MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP ACT

Ms. MOSELEY-BRAUN. Mr. President, I would like to call the attention of the distinguished floor manager of the VA/HUD appropriations bill, my good friend from the State of Maryland, Senator MIKULSKI to what I believe is a very important crime prevention initiative that is crucial to the education of our youth—the Midnight Basketball League Training and Partnership Act; and to ask that this program be funded as part of the Community Partnership Against Crime [COMPAC].

In recent years, our cities have been plagued by the ramifications of increased dropout rates of high school students and crime caused by adolescents. For instance in Chicago, the dropout rate for public high schools for the class of 1991 was 51.5 percent, up 5.6 percent from the graduating class of 1990. Also, Chicago, as well as most other cities, has been experiencing an increased level of violent crimes committed by urban youth.

The midnight basketball league would promote youth development by providing young people the opportunity to play basketball from 10 p.m. to 2 a.m. This will keep youth off the streets at the times when most crimes are committed. In addition to this initiative, the organizers of midnight basketball would strive to achieve increased graduation rates of all participants. To accomplish this, players are required to take class directly after their games. These educational opportunities include GED classes, employment counseling, and other job training courses.

Already, midnight basketball leagues have been established in 41 communities across the Nation and graduation rates have been steadily increasing as a result of this program.

Midnight basketball leagues would be eligible for grants ranging from $55,000 to $130,000 over a 5-year period. In addition the leagues would have to provide 35 percent in matching non-Federal funds for the first 2 years of operation. In the years thereafter, the midnight basketball leagues would have to provide 50 percent of the matching funds. To ensure this funding, midnight basketball needs to be included as part of an existing source. Based on the nature of this program, funding should originate from the Community Partnership Against Crime [COMPAC].

Therefore, during the conference consideration of the fiscal year 1995 VA, HUD, and independent agencies appropriations bill, I ask the distinguished Senator from Maryland to support funding in the Community Partnership Against Crime [COMPAC] for midnight basketball.

Ms. MIKULSKI. I thank the Senator from Illinois for her comments regarding midnight basketball leagues. Since this program is under the jurisdiction of local public housing authorities, midnight basketball would qualify as a program that could be funded under COMPAC. As a result, I can assure the distinguished Senator that I will give every consideration to this project within the budget limitations that we will continue to face in conference provided that it is authorized by that time.

AMERICORPS

Mr. GRASSLEY. Mr. President, I would like to enter into a brief discussion with the Senator from Maryland regarding AmeriCorps. I know that the Senator from Maryland has been a strong supporter of AmeriCorps and I share with her the hope that this program meets the administration's goals. My concern is that we need greater confidence in AmeriCorps' success before we add additional funds to the program.

During testimony before the Senator's subcommittee, Mr. Segal, chief executive officer for the Corporation for National and Community Service, stated:

> Again, I have no problems starting small or comparatively small to make sure we have a mechanism for training people properly, and doing all else that we can to make sure that in a time of some cynicism about whether the Government spends its money well we spend it well.

I ask my friend from Maryland if she shares in my concern, and if she shares the need for caution expressed by Mr. Segal?

Ms. MIKULSKI. Mr. President, I appreciate the concerns of the Senator from Iowa about funding for AmeriCorps. During the hearings for AmeriCorps, I expressed my support for AmeriCorps proceeding with care to ensure the quality of the program. It is also important that we ensure the taxpayers' money is spent wisely. The cost effectiveness of AmeriCorps will certainly be considered in future funding decisions, as is the case for all programs under my subcommittee.

Mr. GRASSLEY. To better educate the Congress and the public about the cost effectiveness of AmeriCorps, I ask the Senator from Maryland to join me in requesting that the General Accounting Office [GAO] conduct a review of this program.

Specifically, GAO's review would provide Congress a cost-per-paid-participant and cost-per-service-hour for the AmeriCorps program. GAO would report on the Federal Government's share of these costs as well as the total costs, to include all non-Federal funds. GAO would independently verify claims of participants and service hours of a representative sample of grantees. Overall, the intent of the GAO report would be to provide the Congress and the public a better understanding of the cost benefits of this new initiative and how the funds are spent. The review should be completed before August 1, 1995.

Ms. MIKULSKI. I am pleased to join Senator GRASSLEY in requesting a GAO review of the AmeriCorps program. While I believe that the Senator's cost estimates for the demonstration programs are premature and cannot be directly compared to AmeriCorps, he has certainly raised some points of valid concern regarding costs that need to be closely reviewed by the GAO to help ensure that AmeriCorps is a successful, cost-effective program.

Mr. GRASSLEY. I thank my friend from Maryland, and I appreciate her cooperation on this oversight effort.

Mr. LEAHY. I would appreciate some clarification from the Senator from Maryland about report language concerning the loss of minor use pesticides. On page 94 of the committee report, the Environmental Protection Agency [EPA] is directed "to give high priority to this issue, including the implementation of as many of the provisions of Senate bill 985 as possible, where the Agency determines it already has sufficient legal authority to do so." As the Senator may know, the Agriculture Committee is concerned about this and is considering bills to address the minor use issue. Based on my reading, the Appropriations Committee report in no way changes current law under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA].

Ms. MIKULSKI. The Senator from Vermont is correct. The report language does not change the current statutory authority.

Mr. LEAHY. I thank the Senator. I also have been working with the EPA and the U.S. Department of Agriculture [USDA] since February on a memorandum of understanding that would help get alternative pest management tools into the hands of farmers quickly when the EPA expects that regulatory action may be taken against a pesticide. This includes minor use pesticides that must be canceled because their manufacturers have decided not to reregister them. The memorandum, which should be signed shortly, would get the USDA to work right away on finding alternatives and involving growers in the process.

One of the provisions of S. 985 seeks time extensions for data submissions for minor use pesticides. Of course, current statutory deadlines cannot be changed. But it seems to me that any administrative extensions are most appropriate where the affected agencies and growers are committed to an alternative process, such as the one being developed in the memorandum. Any time extensions granted should be used productively so that when they expire, growers will have a new tool available. Would the Senator from Hawaii agree?

Mr. INOUYE. I also agree with the Senator from Vermont and thank him for clarifying this most important issue. I also wish to reiterate that the provisions of S. 985 are offered in response to economic considerations and not health, safety, or environmental issues. My concern is with those chemicals that are proven safe to applicators, consumers of foods treated by the chemicals, and the natural environment. Their unavailability simply stems from the high cost of registration or reregistration relative to the amount of chemical used. In view of my concerns, which are widely held by the 42 Senators who have cosponsored S. 985, I urge the Senator from Vermont to report out of committee the minor use amendments to the FIFRA during this session of Congress.

Mrs. MURRAY. Mr. President, I would like to take this opportunity to commend the Senator from Maryland, Senator MIKULSKI, for her leadership on this measure, and for the firm commitment she has continually shown to our Nation's veteran population.

The bill we are voting on today provides $37.4 billion in new spending for the Department of Veterans Affairs [VA]—an increase of $136 million above the level for VA spending approved by the House, and over $300 million above the President's request. The priority placed on VA funding in this bill goes a long way in ensuring that proper care, support, and recognition is provided to this country's veterans and their families.

I am pleased to note that the committee bill also recommends an increase of $41 million above the President's request for VA medical research, a vital program that plays a key role in improving health care for veterans and all Americans. The bill also provides funding in support of the President's request to begin the first phase of construction for a long-awaited National Cemetery for Washington State veterans and their families in Tacoma.

Let me take this opportunity to clarify with the Senator from Maryland a specific item of importance to the veterans of Washington State.

The Senate report accompanying H.R. 4624 provides $750,000 for a veterans counseling center in Bellingham, WA. As the Senator from Maryland knows, achieving funding for veterans counseling centers in underserved areas of my State has been an extremely high priority for me since coming to the Senate. The Senator from Maryland has been extremely supportive of my efforts, and I thank her very much.

For the record, I would like to clarify the committee's intention with regard to the $750,000 provided for veterans counseling in Washington State.

With this funding, it is my view that two counseling centers could be funded in Washington State—one in Bellingham and one in the Yakima Valley. Both areas are extremely underserved and remote—at least 150 miles from other vets counseling services. The veterans population in the Yakima Valley includes many Native Americans and Hispanics, a large proportion of whom are homeless.

The $750,000 provided for by the Senate Appropriations Committee is adequate to provide the startup costs associated with a vets counseling center in each location—Bellingham and the Yakima Valley—as well as meet the staffing needs of the two centers. Each center will require at least three full-time employees, which includes two full-time counselors.

With regard to the needed full-time equivalency [FTE] positions required for the two centers to operate, I want to be clear that it is the intention of the Senator from Maryland that the VA is not to take the necessary FTE's from the existing FTE slots available for the Readjustment Counseling Service Program. Therefore, the required FTE's for the new vets counseling centers to open in Bellingham and the Yakima Valley with fiscal year 1995 funds will come from the VA, exclusive of the Readjustment Counseling Service Program.

Does the Senator from Maryland and the Chair of this subcommittee agree with my statement?

Ms. MIKULSKI. I do agree that the funds available are adequate for two centers in the State of Washington, one in the Yakima Valley and one in Bellingham. I also agree that the required FTE's for the new vets counseling centers to open in Bellingham and the Yakima Valley with fiscal year 1995 funds will come from the VA, exclusive of the Readjustment Counseling Service Program.

The critical issue is that the Washington State centers get up and running during the next fiscal year and are adequately staffed, staffed, with not less than two full-time counselors.

Mrs. MURRAY. I thank the Senator from Maryland very much, and I know the veterans in Washington State are extremely grateful for her ongoing support.

Mrs. FEINSTEIN. I would like to thank the distinguished chairwomen of the VA, HUD and Independent Agencies Appropriations Subcommittee for her excellent work in producing an outstanding bill under severe budgetary constraints. There is one issue in particular that I would like to address in a brief colloquy with the Chair: Funding for replenishment of the Tracking and Data Relay Satellite [TDRS] system.

TDRS satellites serve as the primary communications link for a variety of NASA and Defense Department low-earth orbit satellite users. These users range from NASA's Space Shuttle and unique scientific missions, to DOD's classified satellites in support of U.S. national security. I am proud to point out that all TDRS satellites have been built in my home state of California.

Though most people agree that TDRS replenishment is needed, I am concerned about funding for the program. The bill we are considering today provides $25 million for TDRS replenishment, a $75 million reduction from the Administration's budget request of $100 million. The House VA-HUD-IA appropriations bill has proposed a $113 million general reduction from the Mission Support area of the NASA budget, but only identifies TDRS replenishment as a suggested area to cut.

I recognize the constraints we face in today's budgetary environment and realize the NASA's budget has decreased from last year's level. However, my concern lies in the fact that the TDRS communications system is essential. When the United States failed to replenish the GOES weather satellite, we were able to borrow from the Europeans. That is not the case here; no other alternative to TDRS currently exists.

Based on the existing TDRS life projections, a replenishment spacecraft must be on-orbit by early 1999 in order to maintain a prudent level of reliability. It takes 4 years to build a complicated TDRS satellite and it is now 1994. NASA has already issued requests for proposals for the TDRS replenishment satellites and I believe that the program should move forward in fiscal year 1995. I would hope that in the upcoming conference with the House on this bill, the Chair would consider supporting the maximum funding level necessary for replenishment of these vital communications satellites.

Ms. MIKULSKI. I agree with the Senator from California that TDRS satellites provide vital communications needs for a variety of NASA and DOD programs. Though our subcommittee is under severe budgetary constraints this year, the Senator may be assured that we still review the TDRS program in conference and will assess the funding level required for TDRS replenishment.

Mr. ROCKEFELLER. Mr. President, I note the presence of the chairman of the Appropriations Committee, Senator BYRD, on the floor, and I am wondering if I might pose a question to the distinguished senior Senator from West Virginia. I am sure Senator BYRD recalls that for many years there was a VA outpatient community-based clinic in Wheeling, WV. It was established at the end of World War II and was closed in 1979 by the Pittsburgh VA Medical Center, the hospital of jurisdiction. Since the closing of that VA clinic, veterans in the northern panhandle of West Virginia, and veterans in neighboring counties of Ohio and Pennsylvania, have had to travel long distances to receive medical care at a VA facility.

My question is about the VA community-based outpatient clinic proposed for Belmont County, OH, included in the appropriations bill. This clinic placement in Belmont County, directly across the Ohio River from Wheeling, WV, would make it immediately available to veterans in West Virginia, as well as Ohio and Pennsylvania. This would preclude the necessity for West Virginia veterans to travel to Pittsburgh for routine medical care and medical emergencies. Is this the understanding of the chairman of the Appropriations Committee?

Mr. BYRD. I say to my colleague, the chairman of the Committee on Veterans Affairs, that he is correct. It is my understanding that the community-based outpatient clinic for Belmont County, OH will be located directly across the river from Wheeling, WV, so that it will provide ready access to West Virginia veterans, as well as veterans in Ohio and Pennsylvania. Presently, veterans in the northern panhandle of West Virginia are served by the Pittsburgh VA Medical Center and this creates significant travel problems for many West Virginia veterans. Many of them are having to travel extensive distances to receive necessary medical care.

I would prefer the new community-based outpatient clinic be located in Wheeling, WV. But if that is not possible, then I would support a location that is directly across the Ohio River from Wheeling. Such a facility could be located just off the interstate, which would provide easy access for veterans from West Virginia, Ohio, and Pennsylvania.

Ms. MIKULSKI. The distinguished Senators from West Virginia are correct. I am told that there are over 100,000 veterans in this catchment area, and I believe this outpatient care facility is indeed justified. It is the intent of the subcommittee that the facility be located immediately across the Ohio River from Wheeling, WV, so that it will be readily accessible to veterans from Ohio, West Virginia, and Pennsylvania. This was our clear intent, and I hope the Secretary of the VA will take note.

THE CLUSTER RULE

Mr. CHAFEE. The committee report on H.R. 4624 discusses the so-called cluster rule for the pulp and paper products industry that was recently proposed by EPA. The rule would apply to both the surface water discharges and air pollution emissions of pulp and paper mills and is projected to impose significant costs on that industry. It is appropriate for the committee to express concerns that the rule be fully justified, but one sentence of the committee report does cause me concern.

On page 95 of Senate Report 103-311, the committee states the following:

> Prior to issuance of a final rule, EPA is to demonstrate that the requirements of the regulations that address risks which are substantially significant and will produce benefits which will not be exceeded by the anticipated costs.

I would be concerned that some might interpret that language as in contradiction with provisions of the Clean Water Act and the Clean Air Act which have guided the Agency in proposing this regulation. Section 112 of the Clean Air Act mandates that the considerable chloroform emissions from paper mills be reduced using best available technology. And sections 301 and 304 of the Clean Water Act establishes a series of considerations with respect to pollution control technology for industrial discharges including paper mills.

I would seek from the distinguished manager of the bill, an assurance that this report is not intended, and could not affect, the requirements of the Clean Air Act and the Clean Water Act that apply to this rulemaking.

Ms. MIKULSKI. The Senator is correct. When the cluster rule for the pulp and paper industry is issued, the regulations must comply with the requirements of the Clean Air Act and the Clean Water Act and nothing in the committee report can modify those requirements.

Mr. RIEGLE. Mr. President, I wish to commend the chairperson's work as chairperson of the VA-HUD and Independent Agencies Appropriations Subcommittee. As chairman of the Senate Committee of Banking, Housing and Urban Affairs, I believe you have developed a strong package that addresses the needs of our Nation's most distressed communities. I commend your longstanding support for key programs—such as the Community Development Block Grant Program and the HOME investment partnership and the new community development financial institutions fund—that help needy urban and rural areas.

I would like express my support for a key initiative that is not included in S. 4624—Focus: HOPE of Detroit—and urge that $3 million be provided for it during conference on the bill. The funds will be used for the renovation and conversion of the former Michigan Bell Building in Detroit into a residential facility to house students and faculty of Focus: HOPE's Center for Advanced Technology.

The Center for Advanced Technology [CAT] is a national project based on a historic 1989 Memorandum of Understanding among the Departments of Defense, Commerce, and Education. The memorandum declared a critical shortage of advanced manufacturing engineer-technologists at world-class levels and pledged joint support to establish a national training demonstration. The center is developing comprehensive education programs for advanced manufacturing engineer-technologists including a 6-year curriculum integrating hands-on manufacturing skill mastery and interdisciplinary engineering knowledge within an applications context. The center is expected to enroll 400 candidates within the next 3 years. At-risk minority youth are the primary target of the center's enrollment.

The Departments of Defense, Commerce, Housing and Urban Development, Health and Human Services, and Labor have strongly supported the center by providing funding for the purchase of equipment, renovation of manufacturing and educational facilities, and development of educational programs. The Federal investment in the center to date—$21.5 million—has been significantly matched by millions of dollars from the State of Michigan, private foundations, and corporations.

The center has ushered in a new era of government-industry partnership. This partnership is focused on the development of manufacturing skills to make U.S. industry a leader in the global marketplace. The center has already drawn broad national attention and generated great excitement within the Clinton administration. Since the President's visit to the center in March, he has talked about its success all across the Nation. The renovation of the Michigan Bell Building will add an important missing dimension to CAT's implementation and further demonstrate the success of this important government-industry partnership.

The Center for Advanced Technologies [CAT] is a bright spot in a city hard hit by the changing global economy. Detroit's economic base has been eroded over the past three decades as manufacturing processes have become more routinized, allowing firms to move their operations to other countries with less skilled work forces. The Center for Advanced Technologies will play not only a key role in assisting our national economy adjust to the changing global environment—but its success will be critical to Detroit's economic future.

Ms. MIKULSKI. I am familiar with the work that Focus: HOPE has done in Detroit through the Center for Advanced Technologies. Although resources are very scarce this year, the Center for Advanced Technology is an innovative initiative that has gained national recognition. It deserves the support of Congress. When the subcommittee meets in conference with the House on the fiscal 1995 VA-HUD appropriations bill, I will make every effort to find an appropriation for Focus: HOPE.

Mr. RIEGLE. I sincerely appreciate the chairperson's efforts to ensure that this very important project can move forward. I thank the Senator for her assistance on this matter.

PROVIDENCE VA MEDICAL CENTER

Mr. PELL. Mr. President, I would be most appreciative if the distinguished chairperson and manager of the bill, Senator MIKULSKI, could give us some words of advice, and hopefully support and encouragement, regarding an important VA construction project in Rhode Island.

The project, designated officially as "Project 650-073 Renovate Building No. 31", is based on a well-conceived plan to utilize existing structures to accommodate VA needs and avoid major new construction costs. Unfortunately, after an auspicious start, it seems to have become mired in bureaucratic complications.

The plan was designed to meet two needs. One was to provide more space for an ambulatory care facility which currently shares space with the medical center's administrative services, and the other was to provide space for the Veterans Benefits Administration Regional Office.

A ready solution presented itself with the availability of a nearby church school, Our Lady of Providence High School, which offers sufficient space to house both the administrative offices of the medical center as well as the VBA Regional Office. And this in turn will free up sufficient space in the existing medical center to allow for the expansion of the ambulatory care facility.

The plan makes a good deal of budgetary sense. It obviates the need for new construction of an outpatient clinical addition which was estimated in 1991 to cost approximately $40 million. And it would move the VBA Regional Office from current costly leased space to shared VA space in the former school.

The VA purchased Our Lady of Providence High School in April 1991 for $1.75 million. The estimated costs of renovation are $12.5 million, and the prospective saving to the Government of proceeding with the project in lieu of building a new facility is estimated at $15 to $20 million.

It should be noted at this point that the project has been deemed by the VA Assistant General Counsel to be fully authorized because it was partially funded prior to the enactment date of Public Law 102-405, which established the groundrules for funding such projects. The Providence project was thereby "grandfathered".

Notwithstanding its obvious virtues, Project 650-073 has not come to fruition. Design development work has been completed and the VA advises that the project is ready to be considered for funding for construction. But now, 3 years after acquisition of the school building, no funding has materialized and we have on our hands a vacant building which incurs costly maintenance, a crowded VA medical facility and a VA regional benefits office housed elsewhere in costly leased space.

Mr. President, this is a situation that just does not make sense. It reflects poorly on the Department of Veterans Affairs and on the Federal Government in general. Our constituents, particularly those veterans using the medical facility, cannot understand why their Government should start such a promising project, and buy up property only to leave it unused.

The Rhode Island congressional delegation has vigorously pursued the matter with the Department of Veterans Affairs over the past 3 years. We have done everything we could using the usual channels of communication and liaison to secure action. But the responses from the department always seem to take us deeper into a bureaucratic morass.

Most recently, we were told that the project would be considered for funding as soon as possible, based on the VA's scale of priorities for all pending projects. And here we learned that our project may be the victim of its own virtues: because it involves both administrative as well as medical facilities, it is scored as an administrative project and ranked lower on the priority list. This is ironic because one of the main objectives was to provide medical space and avoid the $40 million cost of building an addition to the Medical Center. Clearly the project should not be penalized because of its multipurpose nature.

It seems to me that this is one of those occasions where Congressional intervention is necessary to accommodate a special situation which doesn't quite fit the bureaucratic guidelines. In this connection, I am very pleased to note that the House Appropriations Committee, in its report on this bill, "urges the VA to proceed, from funds presently available, with the design of the regional office and hospital office project at the Providence VA Medical Center."

Mr. President, in this light, I would welcome any support and assistance which the distinguished manager of the bill, Senator MILKULSKI, could give us on this matter. I would be most appreciative if the committee could look into the matter of the classification and prioritization of such a multi-use project, particularly when the intent is to economize by freeing up administrative space to be used for medical purposes.

Further, I would appreciate clarification as to whether some funding might be obtained by reprogramming from the working reserve, particularly in view of the fact that the project has already received partial funding to cover the school acquisition. Specifically, I would like to know if the VA could propose such a refunding of reserve funds in the context of the fiscal year 1996 appropriations cycle.

I thank the Senator from Maryland for her attention to this matter and welcome any clarification she can provide.

Ms. MILKULSKI. Mr. President, the senior Senator from Rhode Island raises some very good points about the Providence Medical Center project. I can well understand the sense of frustration and distress that he and his colleagues and their constituents must feel about a project that seems to be stalled midstream after the Government has already acquired a property which is supposed to be part of the solution.

It seems to me that the Department of Veterans Affairs should try to be more responsive and more flexible in dealing with special circumstances. I agree with the Senator from Rhode Island that the project as described certainly appears to have a substantial medical purpose, and if that is the case, it certainly should be reflected in the priority assigned to the project. If upon further review the project receives a higher ranking, I see no reason why the department should not seek to reprogram existing funds to augment those already appropriated or amounts which might subsequently be appropriated. I am pleased to hear that the VA counsel has found the project to be fully authorized.

I can assure the Senator from Rhode Island that the committee expects VA to provide a full report on this project and on all the questions he has raised, and that we will continue to monitor the project closely until it comes to fruition.

SECOND TDRSS GROUND TERMINAL

Mr. DOMENICI. Mr. President, if the distinguished Senator from Maryland would yield, I would like to take this opportunity to inquire about the funding recommendation for NASA's second Tracking Data Relay Satellite System [TDRSS] Ground Terminal provided in the committee bill.

Ms. MIKULSKI. Mr. President, I am pleased to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Tracking Data Relay Satellite System is a series of satellites that relay data from other satellites and the space shuttle to a ground station at the White Sands Missile Range in New Mexico. It is a vital facility that provides NASA its access to data transmitted from space. Without TDRSS, NASA would literally lose contact with its assets in space and the ability to receive data gathered in space.

NASA has undertaken to construct a second ground station at White Sands to handle increased data transmission requirements. Unfortunately, the second TDRSS ground terminal has been plagued by cost overruns and technical difficulties. The NASA inspector general has issued a number of reports that raised serious concerns about the cost overruns. In response, appropriately, Congress capped the total allowable cost for the second ground terminal.

The program now appears to be back on track, and the facility is expected to be completed in fiscal year 1995 at a cost under the congressionally imposed cap.

Ms. MIKULSKI. Mr. President, my friend from New Mexico is correct. The second TDRSS ground terminal is of vital importance of NASA. Unfortunately, it has been plagued by significant escalations in cost and technical difficulties. Until recently, the committee anticipated that the second ground station would not be completed within the congressionally established cap. In addition, the committee has been frustrated by an earlier inability to hold contractors responsible for meeting certain technical requirements.

Mr. DOMENICI. I share Senator MIKULSKI's frustrations. However, it is my understanding that the program has resolved the issues that so concerned us earlier. In that regard, I recently met with the NASA Inspector General and the Associate Administrator for Space Communications. They have assured me that all the issues raised in previous inspector general reports have been addressed, that the technical issues have been, or are being, resolved, and that the facility can be completed within the cost cap.

Ms. MIKULSKI. I share Senator DOMENICI's understanding of the current situation. On July 21, the committee received a letter from NASA indicating that previous information provided the committee regarding an anticipated cost overrun was erroneous.

The committee is relieved that these problems appear to be behind us. The committee funding level clearly reflects a frustration at the previous state of affairs at the second TDRSS ground station. Now that it appears that situation has been resolved, it is my expectation that it will be appropriate, when this legislation is sent to the President, to provide full funding for completion of the second TDRSS ground station.

Mr. DOMENICI. I greatly appreciate the attention of the distinguished subcommittee chair to this important matter. May I inquire of my friend from Texas, Senator GRAMM, if he would concur in this matter?

Mr. GRAMM. I would certainly join my colleague from Maryland in conference to seek the funding needed to complete this important NASA facility.

Mr. DOMENICI. I thank the distinguished chair and ranking Republican member of the Appropriations Subcommittee on VA-HUD-Independent agencies for their assistance on this issue.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

Mr. RIEGLE. I wish to commend Chairperson MIKULSKI for her work to support the Community Development Financial Institutions Fund. The managers' amendment includes a provision that increases—by $100 million—the amounts provided for the fund in S. 4624, as passed by committee. In total, S. 4624 will provide $125 million for the fund in fiscal year 1995.

As chairman of the Senate Committee on Banking, Housing, and Urban Affairs, I have worked with the administration for more than a year to craft a program to promote innovation in community lending and investment through institutions with a primary purpose of community development. I am pleased that Chairperson MIKULSKI shares my commitment to this innovative initiative.

Over the last 5½ years, many hearings held by the Banking Committee have revealed that discrimination and redlining are still significant problems in distressed and minority communities. This lack of credit thwarts community development efforts and the creation of economic opportunities for residents. However, the committee has also discovered that community development financial institutions have been successful, not only in filling credit gaps—but more importantly—leveraging private investment and developing comprehensive revitalization strategies.

President Clinton has made promotion of community development financial institutions a key element of his strategy to revitalize distressed urban and rural communities. The conference report to H.R. 3474—the Community Development and Regulatory Improvement Act of 1994—authorizes this new initiative. Community development financial institutions are unique because they serve as bridges between conventional lenders and unconventional borrowers. They open new markets for conventional lenders while giving borrowers access to previously unreachable sources of capital and credit. Because community development financial institutions are dedicated to revitalization and possess specialized expertise, commitment, and flexibility, they are typically able to underwrite more nonstandard and complex loans than conventional lenders. Generally speaking, they fill market niches that conventional lenders do not serve fully—or at all—and have proven themselves successful in tailoring loan products to meet the needs of low-income and minority communities.

Ms. MIKULSKI. I commend Senator RIEGLE's work to make the President's new initiative a reality. I recognize that the President has had a longstanding commitment to community development financial institutions stemming back to his days as Governor of Arkansas when he played an instrumental role in establishing a community development bank. I am aware that there is interest across the Nation in replicating the success of existing community development financial institutions. In fact, the Morris Goldseker Foundation is currently working with South Shore Bank Advisory Services to establish a community development bank to serve distressed neighborhoods in Baltimore.

Mr. RIEGLE. Again, I commend Chairperson MIKULSKI for her support for this important new initiative. I urge her to retain $125 million in funding for the Community Development Financial Institutions Fund as H.R. 4624 moves to conference.

Ms. MIKULSKI. I share Senator RIEGLE's desire to support President Clinton's efforts to revitalize distressed communities. When the subcommittee meets in conference with the House on the fiscal year 1995 VA, HUD, and Independent Agencies Appropriations bill, I will do my best to ensure that we retain $125 million in funding for the Community Development Financial Institutions Fund.

Mr. RIEGLE. I sincerely appreciate the chairperson's efforts to ensure this initiative can become a reality. I look forward to working with her in conference and I thank the Senator for her assistance on this important matter.

WIND TUNNELS SITING

Mr. SASSER. Mr. President, I rise today to express my support for the Appropriations Committee decision to provide $400 million for the initial costs of two new wind tunnels recommended by the national facilities study. I commend the distinguished Chair of the Appropriations Subcommittee for VA, HUD, and Independent Agencies for the leadership she has shown in this decision. The committee also recommends that a site selection be made prior to January 1, 1996, and based on general principles of cost. I would inquire of the Senator from Maryland if the committee included this recommendation in its report to help ensure a fair and unbiased site selection process, based solely on the interests of the taxpayer?

Ms. MIKULSKI. Mr. President, I thank the Senator from Tennessee for his remarks, and would assure him that it is the intention of the committee that the selection process be unbiased and without prejudice against any area of the country wishing to compete as a potential site for the two new tunnels.

Mr. SASSER. I thank the Senator from Maryland.

EPA CLUSTER RULEMAKING FOR THE PULP AND PAPER INDUSTRY

Mr. ROBB. Mr. President, 2 weeks ago during full committee markup of this bill, language was added to the report to require the U.S. Environmental Protection Agency [EPA] to undertake additional actions prior to issuing a final rule under the cluster rulemaking for the forest products industry. This rule proposes new air and water regulations for domestic pulp and paper mills and could have a significant impact on the operations and employment in my State, as Virginia has about 14 pulp and paper mills. In total, the forest products industry employs over 44,000 workers. It is third in terms of payroll income spending and second in new capital expenditures, spending over $313.7 million annually. Capital expenditures in many cases are used to make environmental improvements. For example, the Union Camp mill in Franklin, VA, has already made significant environmental improvements over the years. Union Camp and others will still have to pay additional costs for environmental improvements, yet the benefits are negligible.

The pulp and paper industry is concerned that EPA is proposing requirements that will deprive manufacturers of the flexibility and cost-consciousness needed to effectively control pollution in the most efficient manner possible.

As stated in the committee's report, EPA estimates that the rulemaking will cost industry over $4 billion. Industry estimates that the rule would cost over three times as much, at $11.5 billion and result in over 21,500 direct and 86,000 indirect jobs lost. These high costs are not even the total cost, because an additional portion of the rule remains to be proposed.

Clearly, the excessively high cost of this proposal as anticipated by both EPA and the industry warrants a closer look by EPA. EPA should proceed with extreme caution when this many jobs are at risk. I am told the subcommittee will require this analysis to be conducted and presented to the committee. The steps outlined in the committee report will ensure that the cluster rule balances our economic interests and our environmental interests.

Ms. MIKULSKI. I appreciate the Senator's remarks and trust that EPA will take this information into account as they move forward with the rulemaking.

PULP AND PAPER CLUSTER RULE PROBLEMS

Mr. PRYOR. Mr. President, I want to compliment Senator MIKULSKI's subcommittee for including report language that requires the Environmental Protection Agency [EPA] to reevaluate industry data for the so-called cluster rulemaking to establish new air and water standards for the forest products industry.

After getting off to a good start, with involvement from all interested parties, the cluster process seems to have run into some problems. The forest products industry claims that the cluster rulemaking, as envisioned today, will cost over $4 billion to implement and will result in the loss of over 4,500 jobs. They believe that EPA has not had the benefit of adequate industry data in formulating its approach to the rule. Many of us in Congress hope that the administration will take a new look at the cluster process and gather more input from citizens, groups, and corporations following its progress.

Mr. President, I would like to take a moment to detail some of the concerns I have heard about the cluster rulemaking from Arkansas. There are approximately 10 bleach mills in Arkansas that will be affected by the cluster rule. The forest products industry employs over 37,000 people in our State and ranks as the second largest employer. It ranks first among our manufacturing industries.

Examples of the potential economic impact of the cluster rule come from the International Paper Corp.'s plants in Camden, which is my hometown, and in Pine Bluff. The Camden facility in Ouachita County employs over 1,000 people, and the Pine Bluff plant in Jefferson County employs nearly 1,400. These plants are among the largest employers in Ouachita and Jefferson Counties, and they are the backbone of industry in southern Arkansas.

International Paper estimates that the costs to these facilities, if the cluster rule is enacted, would be in excess of $298 million. I ask unanimous consent that a copy of a letter to me on this subject from Paul Henson, the resident manager at the Pine Bluff plant, be placed in the RECORD following this statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. Another pulp and paper interest, the Georgia-Pacific Corp., has two mills in Ashdown and Crossett, AR that employ roughly 4,300 people. Georgia Pacific estimates that the cost of the cluster rule to these plants would be over $250 million.

The Potlatch Corp. also has plants in Arkansas that stand to be affected by the cluster rule.

These are just a few specific examples of the economic impact in my home State, but there are more in Arkansas, and many more in other States, from Washington State all the way to Maryland.

Mr. President, again, I wish to compliment Chairwoman MIKULSKI for her leadership in this area and to offer my support to her and to the administration as efforts are made to find a resolution to this situation which will achieve our goal of creating a cleaner environment while supporting economic growth and American competitiveness.

EXHIBIT 1

INTERNATIONAL PAPER,
Pine Bluff, AR, August 2, 1994.

Hon. DAVID PRYOR,
U.S. Senator, Russell Building, Washington, DC.

DEAR SENATOR PRYOR: We are very pleased to provide the following information on the financial impact that the EPA's proposed Cluster Rule will have on the Pine Bluff and Camden mills. The Cluster Rule, as proposed, will significantly reduce the profitability of both mills. The data below compares the impact of the EPA's proposal with the industry alternatives for the Camden and Pine Bluff paper mills.

	EPA proposal	Industry alternative
Fixed capital investment costs:		
Camden	$106,597,000	$25,357,000
Pine Bluff	192,000,000	47,750,000
Reduction in profitability:[1]		
Camden	(13,231,000)	(3,803,000)
Pine Bluff	(47,750,000)	(8,080,000)

[1] Based on 1993 actual.

We fully support the goal in reducing the amount of waste from the mills entering the air, water and soil. In fact, International Paper has voluntarily invested more than one-half billion dollars since 1988 to reduce our impact on the environment. As a result of this investment, the dioxin levels are at non-detect at all our mills, including Pine Bluff. Solid waste destined for landfills has been reduced by more than 40 percent.

We are hopeful that the Environmental Protection Agency will consider alternatives such as that proposed by our industry that will yield equivalent environmental benefits at significantly less cost than the EPA proposal.

Your interest and support are greatly appreciated.

Sincerely,

P.M. HENSON,
Resident Manager.

VETERANS' OUTREACH AND MEDICAL CENTER IN LAS CRUCES, NM

Mr. BINGAMAN. Mr. President, it has come to my attention that the 4,000 veterans that live in Dona Ana County, and the many other veterans that live in southern New Mexico do not currently have a veterans' clinic or satellite outreach center available to them. Southern New Mexico is one of the fastest growing regions of New Mexico and the need for veterans' services has rapidly outgrown the available resources. Currently, veterans must travel to El Paso, TX, to visit a clinic and must rely on a counselor also from El Paso, who is available only one day a week in Las Cruces, to receive information on veterans' services and benefits. A veterans' medical clinic and satellite outreach center in Las Cruces would help to meet the vital needs of New Mexico's veterans, and it is my hope that the Department of Veterans' Affairs would study the need for these services and determine what resources can be made available to meet the needs of veterans for a medical and satellite outreach center in Las Cruces, NM.

Ms. MIKULSKI. I agree that the need for these services in southern New Mexico should be studied by the Department of Veterans Affairs and that the Department should determine what resources can be made available to meet the needs of these veterans. I will be glad to work with the Senator from New Mexico and the Department to address these concerns.

Mr. BINGAMAN. I thank my friend and colleague, the Senator from Maryland.

RENAL INSTITUTE OF THE PACIFIC

Mr. INOUYE. Mr. President, the Senator from Maryland has been most sensitive and helpful in addressing the unique concerns of my State. However, because of the budgetary problems we must all acknowledge, some projects that are most worthy have had to be set aside and not funded. One of these projects is a new state-of-the-art outpatient pavilion to house the operations of the St. Francis Medical Center's Renal Institute of the Pacific in Honolulu, HI.

I hope the Senator from Maryland, Senator MIKULSKI, chairman of the Appropriations Subcommittee on VA, HUD, and Independent Agencies, can provide the residents of Hawaii with some assurance that in the next appropriations cycle, she will once again give careful consideration to the St. Francis Medical Center's project.

Ms. MIKULSKI. I am pleased to assure the Senator that it will not only receive my careful consideration, it will receive my high priority. But, as everyone knows, in the final analysis everything depends upon the availability of funds.

UNANIMOUS-CONSENT REQUEST

Mr. GLENN. Mr. President, yesterday evening I asked that my formal remarks regarding funding for the international space station, be included in the CONGRESSIONAL RECORD as read. However, an oversight occurred and it was not included.

I ask unanimous consent that my formal statement be included as read, in today's CONGRESSIONAL RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, once again the Senate debates an amendment proposed by the Senator from Arkansas [Mr. BUMPERS] regarding the future of the international space station. As I'm sure my colleagues are aware, I am a strong supporter of this program. Construction and implementation of this project is an investment in our future and in the future of our children.

INTRODUCTION

In such limited financial times as we are experiencing in the United States today, one may ask, "Why finance another research project, and why one such as the international space station?" I find that question very easy to answer. There are many reasons why the United States must pursue the development of this project. I would like to list briefly for my colleagues several reasons why the space station will benefit our lives and those of our children. It will:

First, create a permanent orbiting science laboratory in space capable of performing long-duration research in materials and life sciences in a nearly gravity-free environment. Microgravity research in the life and physical sciences is of the utmost importance for the long term economic future of our Nation. The space station also represents continuance of our civilian space program. Manned space missions remain the core of our space activities. The space station will provide a safe environment for humans to live and work for long periods of time. Research to be performed on the station simply cannot be performed on Earth. The knowledge of how we adapt to weightless environments will lay the groundwork for future human exploration. Many feel that if the station is cancelled, the future of the entire U.S. space program will be in jeopardy.

Second, the space station will allow us to conduct medical research in space. A gravity-free environment will give us new insights into human health and disease prevention and treatment, including, but not limited too, heart, lung, and kidney function, osteoporosis, immune system and hormonal disorders, and brain function. This environment will allow scientists to grow protein crystals and study their structure. Better knowledge about the structure and function of these proteins will enhance the drug treatment of diseases. Crystals that have been grown on the shuttle for cancer, diabetes, emphysema, and immune system disorders are considerably superior to anything grown on Earth.

Third, the international space station will allow us to develop new materials and processes in industry. Experimental research in zero gravity produces new insights into industrial processes including an increased understanding of fluid physics and combustion. A better understanding of combustion can lead to energy conservation here on Earth. In fact, a 2-percent increase in burner efficiency for heaters could save the United States $8 billion a year.

Fourth, the station will accelerate breakthroughs in technology and engineering that can have practical and immediate applications for life on Earth. This will create jobs and economic opportunities for Americans now and in the future. Medical equipment, technology, and miniaturization techniques developed for the early astronauts are still paying off today, more than 30 years later. Some examples of spinoffs from NASA technology are: a "cool" suit developed for the Apollo mission which helps improve the quality of life of multiple sclerosis patients; NASA technology helped produce a pacemaker that can be programmed from outside the body; instruments developed for astronauts which measure bone loss and bone density without penetrating the skin are used in hospitals around the country; and, research from the space program has aided the development of an insulin delivery system for diabetics. This small implantable device, only 3 inches across, provides more precise control of blood sugar levels and frees up the diabetics from the burden of daily insulin injections.

Fifth, the station will allow the United States to maintain global leadership and competitiveness in space, and be a driving force for new technologies. Like the Apollo program before it, the space station will be a proving ground for advances in communications, computer, and systems integrations. Research on large scale space vehicles will lead to improved computer software, and materials for use in the communications, utility, and transportation industries.

Sixth, the station will forge new partnerships with other nations of the world. The international space station is the largest scientific cooperative program in history bringing together the resources of 13 international partners—the United States, Canada, Italy, Belgium, Netherlands, Denmark, Norway, France, Spain, Germany, United Kingdom, Japan, and now Russia. The station will demonstrate that former adversaries can join together in peaceful pursuits and at a fraction of what it costs to maintain the arms buildup in the cold war era.

Seventh, the space station and knowledge that accompanies it will inspire our children, fostering the next generation of scientists, engineers, and entrepreneurs. It will satisfy that most basic human instinct—the need to explore and achieve. By witnessing these broad international efforts, students will learn the value of cooperation. In the past, space science has proven to be a catalyst for academic achievement. Enrollment trends of U.S. students majoring in science and engineering, track closely with funding trends of U.S. space activities. During the 1960's, when America's space program first began to grow, the number of students entering science and engineering doctorate programs sky-rocketed. Who can say how important a vibrant space program was in inspiring young people into these fields?

And what, Mr. President, could be more inspirational to our children—the true future of our world? Space exploration fascinates young minds and draws their attention to science and mathematics at a very young age. Recent studies have shown that skills in math, science, and engineering of U.S. school children have fallen farther and farther behind those of their international counterparts. The space station will provide a concrete example to our children of current and exciting scientific research and discovery. It may guide some of them to pursue science and technology as career fields. As we know, mastery of these subjects is necessary if our workforce is going to remain competitive in the international marketplace.

Eighth, the space station is an investment for today and tomorrow—each dollar spent on space programs returns at least $2 a year in direct and indirect benefits.

The benefits that I have just stated are real and will be ours if we choose to pursue them. The first 30 years of spaceflight and exploration have provided us with extraordinary advancements, achievements, and discoveries. We have learned not only to travel into space but to live and work there. What will the next 30 years hold? I hope as much opportunity and promise as the last 3 decades, but only we can make that happen through continued funding for this very important program.

I would now like to go into greater detail for my colleagues here today, discussing the many benefits the international space station will bring us and future generations to come.

REDESIGN-COST

Mr. President, the President's Advisory Committee on the Redesign of the Space Station was appointed in March 1993, when scientists and engineers were once again asked to go back to the drawing board and redesign the space station. The challenge for them was to produce a station that would achieve research capabilities earlier, simplify assembly and program reorganization, consider enhanced Russian involvement, and dramatically reduce cost. After many months of negotiations, independent external review teams have confirmed that station management structure of the program has been greatly improved. The new design offers more laboratory space, more electric power and a larger crew, all at a cost predicted to be $5 million less than the cost projected for space station *Freedom*.

Dr. Charles Vest, chair of an independent review committee and president of MIT states, "NASA has performed a remarkable management turnaround" resulting in "profound change and potential stability to this program." The international space station incorporates approximately 75 percent of the hardware originally developed for space station *Freedom*. The increased Russian participation allows a cost and schedule saving while at the same time an increase in the science capability.

Mr. President, the redesigned program is affordable, the space station constitutes only one-seventh of 1 percent of the Federal budget—and less than 15 percent of the total NASA budget. The 1999 NASA budget request will be 28 percent less than was planned just 2 years ago. And, despite these budget cuts, NASA's key initiatives in major programs in science and aeronautics remain funded.

What does all this mean to the American taxpayer? To you and me? NASA estimates that the space station will cost the American taxpayer approximately $9 a year—about the same as a night out at the movies. Compared to the benefits it will provide for many years to come, the space station can be built and run for a relatively small cost.

INTERNATIONAL INVOLVEMENT

I would now like to touch on the international partners key role in the space program. Mr. President, America's role in a post-cold-war society will depend on our ability to develop and maintain peaceful international partnerships. At this time, the station is being jointly pursued and funded by 10 European nations, Japan, Canada, Russia, and the United States. These nations, working under signed agreements, have already invested heavily to develop laboratories and equipment which will be part of the U.S.-launched station. These partners expect the United States to fulfill its leadership role, and have expressed serious concern at the possibility of cancellation. Fulfilling our promise to lead in the development of the space station is an important step that will illustrate to our international partners the United States is committed to international involvement and cooperation.

Mr. President, in 1993 the space station went through its most extensive redesign to date emerging with a new look and emerging as a new symbol of the end of the cold war, by including Russia as a major participant. From the beginning of the disintegration of the Soviet Union and the end of the cold war the United States has stated that we need to transform our two nations from countries in conflict to countries in cooperation. I cannot see, Mr. President, a better opportunity for our two nation's to work toward this transformation that the joint pursuit of the international space station.

Many in Congress have expressed concern over the recent inclusion of the Russians in our station design. After competing with the Soviets for over three decades, it is hard for some to imagine a new era of cooperation and participation. However, for others, myself included, this participation represents the "new world order." The Russians have been in space, operated a space station, and studied space technology for many years and we can and should learn from their experiences. The Russians have considerable space station experience and the United States has the reusable space shuttle. We need to combine these technologies in harmony to develop even greater goals.

The station project allows the Russians to be responsible partners focusing on cooperation and commerce. Doesn't it make more sense, Mr. President, to provide incentives for Russia to adopt Western practices, develop industry-to-industry ties that can help open up formerly closed Russian markets, and jointly develop high-technology to help lead the world into the next century that to continue wasteful competition which does not benefit the monetary or technology policy of either nation?

Concerns have been raised about Russia standing by its commitments in the station project. What would happen if they pull out? Where will that leave the United States? For reasons tied to national security and national pride, Russia will continue to subsidize its space sector. The Russian Government has consistently stated that it would continue this domestic space program whether they participate in the international space station or not. At this time, the United States is finalizing contingency plans in the event of a Russian pull-out. The United States and international partners can build a space station alone, at a greater cost. However, with the use of more limited resources we can develop it with the Russians.

I have also been confronted with concerns about monetary payments to Russia, some stating that we are simply subsidizing the Russian economy. This, Mr. President, is simply not correct. The Russian Space Agency fulfills two rolls with NASA: it assumes the obligations and responsibilities as a full station partner; and, in the first phases of cooperation, will provide NASA hardware and services for the station. The Russian Space Agency will subcontract with other entities and function much like private subcontractors in the United States. Russian contributions to the station will include automated rendezvous and docking capabilities, guidance systems, and reboost and attitude control. Integration of Russian hardware into the station will result in increased power for payloads and additional pressurized volume. NASA has consistently stated that no decisions will be made out of the Russian launch facility without being approved through Houston first. The United States will remain in control of the project through all stages.

The impact on the Russian economy from space station participation will encourage privatization and participation in the legitimate development of trade and high technology. It will help Russia keep those scientists who wish to remain and practice their profession at home rather than forcing them to look elsewhere for work, in "hotspots" around the world, nations willing to pay a high price for Russian scientific know-how in high technology research and development.

Mr. President, the international space station is the largest international research and development project ever undertaken. This project will demonstrate the ability of multiple nations to work jointly toward a common, peaceful goal. The inclusion of Russia in the project enhances and solidifies the already impressive roll of nations already participating. Successful implementation of the international space station will serve as model for future international joint ventures. It is imperative that the United States stand by its responsibilities in this agreement and move ahead with development and construction.

SCIENCE TO BE PERFORMED ON STATION

Mr. President, much of the science and technology development to be performed on the international space station will focus on understanding the most basic workings of life and matter in a unique microgravity environment.

The goal of microgravity research on the space station is to evolve processes that exploit the unique characteristics of the microgravity environment of space to accomplish results that cannot be obtained on Earth.

In the field of biotechnology, NASA will test a new, cell growth system, known as the rotating wall bioreactor, to see if tissue can be grown better during long duration space flight than on Earth. This will allow scientists to see for the first time how tumors grow without the flaws produced by the Earth's gravitational effects.

It will also be possible to grow semiconductor crystals aboard the station which are purer than those found on Earth. Research in this area will provide data that will enhance semiconductor technology and expand its applications. Semiconductor crystals play a vital role in the manufacture of electronic devices, such as the tiny chips in televisions, microwave ovens, remote controls, and other modern conveniences.

Space station provides for the first time, adequate resources to support on-orbit material science experiments requiring high temperature, high power, and long duration. Studying the behavior of materials and fluids in the microgravity environment will provide a better understanding of the effects and limitations imposed on processes carried out on Earth.

The science to be performed on station and the technology gleaned from these experiments will benefit people in many aspects of their lives, from development of better, stronger, safer materials, food products, shelter, communications, transportation, and environmental conditions. I would like to run through a few of the important science experiments planned for station and their practical applications to humans here on Earth.

Subtopic	Applications on Earth
1. BIOTECHNOLOGY—MICROGRAVITY SCIENCES	
Tissue Culture Studies	Knowledge of normal and cancerous mammalian tissue development can provide a key to finding better treatment and cures.
Protein Crystal Growth	Larger more "perfect" crystals can be grown in a microgravity environment. This can lead scientists to design pharmaceuticals which block or modify the functioning of proteins—possible target: HIV virus.
Separation Sciences	Separation and purification of biological cells and proteins will be performed on station for disease treatment and research in the medical field.
Cell Fusion	Applications of cell fusion include production of cell-based pharmaceuticals that could lead to genetic engineering in agriculture to someday improve crop yield, nutrition, and disease resistance of food plants.
Collagen Processing	New methods for generating tissues can be used to reconstruct human connective tissues.
2. COMBUSTION—MICROGRAVITY SCIENCE	
Droplet/Pool Burning	An improved understanding of droplet and pool burning can have applications for fire safety, greater combustion efficiency in furnaces and engines.
Combustion Phenomena	Studying a more purer form of combustion in the microgravity environment can maximize the efficiency of energy utilization, including minimizing pollutants and waste heat and help us to understanding the global environmental heating process.
3. FLUID PHYSICS—MICROGRAVITY SCIENCES	
Multiple Flow and Heat Transfer	Can help provide solutions to environmental and energy related problems such as better design and operations of power plants.
Interface Dynamics	Applications include improved industrial films and coatings, oil spill recovery techniques, tracking of ground water contaminates and processing of semiconductor crystals.
4. GLASSES AND CERAMICS—MICROGRAVITY SCIENCES	
Glass Fiber Production	Improved high-strength materials for gas turbine engines and specialized cutting tools.
Fiber Reinforced Components	Fiber Reinforced Components can provide better pyroelectric devices for disaster and crime prevention, environmental control and life saving.
5. METALS AND ALLOYS—MICROGRAVITY SCIENCES	
Casting Processes	Applications of improved casting processes include an increased ability to produce defect-free castings for industries which rely on high-performance parts such as aerospace, infrastructure construction—bridges, buildings, nuclear plants, and electronics.
6. POLYMERS AND CHEMISTRY—MICROGRAVITY SCIENCES	
Diffusive Mixing of Organics	Scientists can obtain a greater understanding of many aspects of organic chemistry without the masking of buoyancy-driven convection caused by the effects of gravity.
Zeolite Growth	Larger, more efficient zeolite crystals may be grown in a microgravity environment which have hundreds of uses including absorption of pollutants, separation of wastes from air and water, oil and gasoline catalents, and many more.
Synthetic Chemistry	In space we can investigate the underlying chemical forces which on Earth are masked by dominant gravitational forces.
7. LIFE AND BIOMEDICAL SCIENCES	
Gravitational Biology	Research in the micro-gravity environment of the station can help us understanding the role of gravity in all life on Earth from simple bacteria, through plants, animals and humans.
Space Physiology	Knowledge of otolith and vestibular functions can lead to diagnostic devices for orthostatic impairment and osteoporosis, and insight into human immune system and imbalance disorders.
Controlled Ecological Life Support	The controlled life support system on the station will help us to better understand waste management and disposal, including recycling of gaseous and liquid consumables, food plant experiments to increase crop yields and shorted growth period without the use of pesticides.
Environmental Health	This closed environment can also help us to develop improved air and water quality sensors, analyzers, and filtering devices. An automated microbilogy system enhances identification of bacteria and population.
Operational Medicine	Vital knowledge of cardiovascular performance, neuro-vestibular and neuromuscular disorders, osteoporosis, and environmental effects for disease prevention and treatment.
Human Factors, Behavior, and Performance	Station research will lead to procedures to help sleep dysfunction, treatment of acquired brain damage, remote medical care technology, modeling of human performance and team building and training.
Crew Health Care	Biomedical monitoring and telemedicine systems for emergency and critical care can lead to compact integrated healthy care systems for use in remote locations.
8. ENGINEERING AND RESEARCH TECHNOLOGY DEVELOPMENT	
Human Support (Extra-Vehicular Activity)	Enhanced designs for firefighting suits, toxic waste cleanup suits, deep sea divers equipment. Cooling systems for physically impaired persons. Compact power tools.
Communications	The International Space Station will support commercial sector needs for new technology to maintain the lead in space-based communications.
Information Systems—Radiation Exposure	Information on radiation hardening and shielding of electronics for commercial spacecraft, airliners, and defense platforms.
Operations	Greater fire safety in confined environments. Efficient, safe management of pressurized liquids. Better controls and displays.
9. COMMERCIAL DEVELOPMENT	
Space Power	Technology used for the station will require lighter electrical power systems for commercial spacecraft thus allowing use of smaller, more economical launchers and maintenance of U.S. lead in spacecraft production.
Robotics	Use of artificial intelligence and expert systems for inspection, maintenance and manufacturing takes in hostile natural and manmade environments such as foundries, nuclear power plants, the Arctic, volcanoes.
Space Propulsion	Smaller, more efficient propulsion systems for commercial spacecraft making them more cost-effective and productive by extending on-orbit lifetimes.
Remote Sensing	Agricultural crop monitoring, forest mensuration, environmental assessment, land use planning, storm surge level forecasting, erosion effects prediction, ocean currents tracking, oil field locations, digital mapping, etc.
10. OBSERVATIONAL SCIENCE—EARTH AND ATMOSPHERIC SCIENCE	
Natural Resources Research	Investigation of river basin, urban/wilderness interaction, ecological disasters, snow cover, crop and natural vegetation, soils, surface mapping.
Oceanic Research	Monitoring of sea surface temperatures, wind speed and sea roughness, ocean currents, sea life, ice coverage, etc.

Subtopic	Applications on Earth
Atmospheric Research	Storm monitoring. Analysis of vertical distribution of atmospheric gasses and aerosols. Lidar measurement of clouds, ozone, and trace gasses.
Near-Earth Environment	Measurement of global radiation exposure such as gamma-ray bursts and solar particles.

Note.—Science description come from NASA Orbital Research Program publication, "Research Strategies and Associated Space Station Facilities" and from a Teledyne Brown Engineering requirements study done for NASA of Space Station Microgravity and Materials Processing Facility.

As my colleagues can see from the list I have just presented, the international space station will provide an invaluable research and learning environmental benefiting our lives here on Earth many times over.

APPLICATIONS OF SPACE RESEARCH—SPINOFF'S

Mr. President, the abundance of technology that flows from the exploration of space is a valuable national resource and a valuable investment in our future. New products and processes arising from the cutting edge technology used daily in our space program have significant, immediate, and lifesaving affects on our lives here on Earth.

In February of last year, President Clinton, in a technology policy statement said, "Technology is the engine of economic growth." I believe that technological innovation is a key element in reinventing and reinvigorating America's global competitiveness. The technology developed in NASA's air and space programs is transferable, it can be used again and again in both a research and everyday environment. This technology, when it is applied in the development of new processes, benefits the entire globe.

Research and technologies gleaned from the space program have produced thousands of lifesaving and necessary items, used everyday by you and I. I would like to list now for my colleagues just some of the hundreds of spinoff's that have been developed from technology derived for our space program.

MEDICAL SPINOFF'S

Breast cancer detection: A solar cell sensor can be positioned directly beneath x-ray film, and can determine exactly when film has received sufficient radiation and has been exposed to optimum density. At that point, associated electronic equipment sends a signal to cut off the x-ray source. The result is a reduction of mammography x-ray exposure which reduces the radiation hazard to patients and doubles the number of patient exams per machine.

Automated blood pressure measurement: The automated blood pressure measurement unit is a semiautomatic device that permits highly accurate blood pressure measurement. The system requires positioning and inflation of arm cuff; however, after that it operates automatically with blood pressure readings appearing automatically on a digital display.

Programmable pacemaker: The implantable pacemaker together with a physician's console containing a programmer and data printer allow the physician to communicate with the patient's pacemaker by means of wireless telemetry signals transmitted through the communicating apparatus held over the patient's chest.

New help for MS patients: Cooling systems developed for the Apollo program, enable multiple sclerosis, cerebral palsy, spina bifida patients and others to lower their body temperatures which produces a dramatic improvement in their symptoms. These systems can also be used by people who work with hazardous materials, armored vehicle crews, firefighters and crop dusters.

Hearing aid tester: Hearing aids often develop malfunctions that are undetectable to the wearer. A miniaturized, battery-powered system monitors hearing aid operation. Twice every hour the system performs a check of the hearing aid's battery, amplifier and receiver cord.

Respiratory distress: Each year in the United States over 20,000 babies succumb to respiratory distress, a syndrome where the child's lungs lose their ability to oxygenated blood. Positive and negative pressure techniques have been developed—first to fill the infant's lungs with air and then to keep the lung's expanded. If the infant can be kept alive for 4 days or more the missing substance in the lungs usually forms in sufficient quantity to permit normal breathing.

Laser angioplasty: Laser angiogplasty using a "cool" type of laser, the excimer laser, does not damage blood vessel walls and offers a nonsurgical yet highly precise cleaning of clogged arteries. The success rate of opening coronary arteries with this method is 85 percent and has fewer complications than the tradition balloon angioplasty.

Vision screening: Image processing technology can be used to detect eye problems in very young children because it requires no response from the patient. An electronic flash from a 35 millimeter camera sends light into a child's eye which is then reflected back into the camera lens to ultimately analyze the retinal reflexes generated and producing an image of the child's eye.

Voice controlled wheelchair: A voice-controlled wheelchair and its manipulator can pick up packages, open a door, turn a TV knob and perform a variety of other functions. The chair is controlled by the user with one-word voice commands such as go, stop, down, right, etc. Such technology can give those patients requiring wheelchairs greater freedom and flexibility.

Rehabilitation tool: Biotran is a force sensing system that helps doctors and physical therapists treat patients with movement deficiencies. Based on a NASA sensor technology, it has applications in sports training and evaluation assisting athletes in improving strength and balance.

Infant radiant warmer: A canopy placed atop an infants bassinet composed of laminated layer of transparent plastics and encasing a thin film of gold called Intrex emits low energy radiant heat over the infant's entire body. A skin sensor allows temperature control to be adjusted precisely to each baby's individual needs. This cradle warmer is widely used for routine post-operative care and recovery.

Mr. President, other important medical spinoff's include: Magnetic resonance imaging; programmable implants that dispense medication, alleviate pain and control blood pressure; insulin infusion pump for insulin-dependent diabetics; and reading machines for the blind and speech perceptions aids for the deaf.

In the field of consumer goods for home use and recreation, the space program has assisted with the development of hundreds of products and processes.

Athletic shoes: Material derived from the Moon boot and then encapsulated in running shoe midsoles improves shock absorption and provides superior stability and motion control.

Chameleon glass: Coated glass used to protect spacecraft and instruments from cosmic radiation and to protect human vision from unfiltered sunlight in space allows some wavelengths of light and color to reflect and others to pass through thus producing a chameleon effect. This same process has been developed on Earth to produce stained glass windows, mobiles and jewelry.

Cardio-muscular conditioner: Cardiovascular conditioner technology used on an orbiting laboratory has been used to develop a physical therapy and athletic development conditioner used by football teams, sports clinics and medical rehabilitation centers.

Other common everyday spinoffs include: Smoke detectors; air conditioners/dehumidifiers; heart rate monitors used during aerobic exercises; water conditioners and filters; bulb misers; sunglass lenses; solar water heaters; heat pipe systems; and even Mr. President, miniature cordless vacuum cleaners.

In the area of environmental and resource management, recent spinoff technologies include: Atmospheric visibility/studies; airborne imaging; pollution control devices; solid rock analyzers; natural air purifiers; heat pipes for the Alaskan pipeline; radiation insulation; water quality monitors; pollution measuring systems; earthquake prediction systems; sewage treatment methods; and fire resistant material and many, many more.

I could spend the next several hours going over the many more exciting and important advances that the space program has helped provide our lives. In fact, Mr. President, these two thick publications that I'm holding, list the medical and consumer spinoffs from 1976 to the present, over 350 new products.

The applications I listed here today are just some of the valuable advances that have been acquired from the first 30 years space exploration. Who can predict what the next 30 years will bring us? We must allow research and development to move forward. Funding a project such as the station is a serious commitment to doing so.

INSPIRATIONAL VALUE OF SPACE RESEARCH

Mr. President, another important aspect of continuing to fund space research, especially the International space station, is the inspiration that it provides our children. Space science is a impetus for achievement and has proven to be a catalyst for academic achievement. Enrollment trends of U.S. students majoring in science and engineering track closely with funding trends of U.S. space activities. During the 1960's, when America's space program first began to grow, the number of students entering science and engineering doctorate programs skyrocketed. Who can say how important a vibrant space program was in inspiring young people into these fields?

Mr. President, each week my office receives many unsolicited drawings and pictures done by children, illustrating their concepts of the space station and other space related activities. Astronauts have always been and will continue to be role models for our children. What could be more inspirational to our children—the true future of our world, than a working laboratory orbiting high above?

Space exploration fascinates young minds and draws their attention to science and mathematics at a very young age. Recent studies have shown that skills in math, science, and engineering of U.S. schoolchildren have fallen farther and farther behind those of their international counterparts. The space station will provide a concrete example to our children of current and exciting scientific research and discovery and may guide some of them to pursue science and technology as career fields. Mastery of these subjects is necessary if our workforce is going to remain competitive in the international marketplace.

CLOSING REMARKS

I have listed for my colleagues today many reasons why the United States must continue to support development of the international space station. The space station furthers our scientific knowledge, helps promote jobs here at home, stimulates an eagerness for our schoolchildren to continue study in the science and technology fields, fosters a feeling of cooperation with our international neighbors, and keeps our spirit of adventure, advancement, and achievement alive.

The exploration and study of space has unlimited possibilities, ones that we are only beginning to understand. Mr. President, how can we possibly close the door on this exciting and new frontier? Only by our pursuit can we discover the wonders and mysteries that the universe is waiting to reveal to us.

For these reasons, I ask that my colleagues continue to keep this vision alive and vote against the Bumpers amendment.

Ms. MIKULSKI. Mr. President, what we are doing here now is trying to clear some of our amendments so we can make further progress on the bill. We now have one housing amendment that requires consultation with the authorizers, Senator RIEGLE and Senator D'AMATO. We are waiting to hear from them. But, while we are waiting, I would like to bring to the attention of the Senate many of the things that we have done in this legislation.

In the course of debating on the Senate floor, what is often overlooked is what is good in the bill, because what is pending on the floor is amendments, amendments either to improve the bill or, in other instances, people taking advantage of the lack of a germaneness requirement in the Senate to parachute any number of other items on the bill.

But that is democracy, and that is the U.S. Senate. What I would like to do is talk about some of the significant things we were able to achieve in the bill with the cooperation of all of the members.

The tradition of the VA/HUD bill has always been that of a bipartisan nature. When I first became the chairman of this subcommittee, the ranking Republican was Senator Jake Garn, and we worked very assiduously together. Frankly, I learned a lot from Senator Garn. You might recall Senator Garn was also an astronaut Senator, and I learned a lot about space. He had very strong suggestions on the National Science Foundation.

Now I have as my ranking Republican, Senator PHIL GRAMM, with whom I served in the House, who gives strong support for veterans' health care, for making housing and urban development relevant and fiscally responsible, support for the National Science Foundation. And we have continued in that bipartisan tradition.

One of the things we have done in this bill that I think is really important to bring to everyone's attention is the issue of backlog of veterans' claims. I think America would be shocked to hear about the backlog of claims at the VA. We are talking about American citizens who have fought in the wars of their Nation, who have incurred, they believe, service-connected disabilities, and have applied for their benefits. They are standing in line.

You know, when they were inducted in the service, they did not have to stand in line. When they went to Kuwait, they did not have to stand in line. When they fought in other circumstances to defend the United States of America, they did not stand in line. And we do not want them to stand in line in order to get their claims adjudicated to ascertain if, in fact, they are eligible.

Therefore, in our legislation we have added a substantial amount of funds to reduce the mounting backlog of veterans' benefit claims and to recommend management reforms at the VA to be able to expedite that process. Some veterans wait as long as 3 years now for their claims to be processed.

I want to give to everyone the exact facts on this issue. We, the members of the committee, presented a report to the Senate and to the American people. And here is what we said in it, because it deals with this issue.

> The committee remains troubled with the backlog of claims in the Veterans Benefit Administration. The current backlog—

Now, hold onto your glass of water on this, Mr. President.

> The current backlog exceeds 500,000 cases, and more than one-quarter of these have been pending for more than 6 months.
>
> The Department's own standard of timeliness is 160 days. The committee believes that the backlog and average processing time is absolutely unacceptable and that the Department must take bold steps to correct the problem. The committee is aware of an initiative undertaken by the VA New York regional office to improve claims processing in which a case manager has been adopted in lieu of the traditional assembly-line approach to adjudication.

And you ought to see the forms they have to fill out. They have a whole shelf of just rules and regulations that the caseworker must go through to see about eligibility.

> We believe they need to streamline their processes. The committee is disappointed, however, that the Department is seemingly reluctant to embrace new methodology, new technology and new attitudes.

They are as sluggish in changing the way they do business as they are in adjudicating their claims. We think glaciers are fine in Alaska, but we do not think the glacial-like attitudes are fine in the Veterans Administration when it comes to moving VA claims. So this subcommittee has taken a firm, and I must say, stern approach to really ensuring that the veterans' claim process is improved.

So in our legislation:

> The committee directs the Veterans' Benefit Administration to complete its analysis of the New York regional office initiative and to provide to the committee by January 2, 1995, a report detailing the process that they intend to do to improve benefit claims.

We are not just only going to order them around to be more timely and move in a quick-step basis, we are actually providing them with funds to be able to do this.

We have acted on this because we have heard from two significant groups of people. We have heard from the veterans themselves and their advocate organizations—the American Legion, the VFW, the Paralyzed Veterans, and the ladies auxiliaries—all of those service organizations and the veterans themselves.

But we have also heard from VA employees who want to do a better, quicker job in being able to process them. So we say to the top echelon at the Veterans' Benefit Administration, "We are now going to give you the resources through what we have done with the analysis in the New York office and with other benefit claims you are going through," like at Social Security. We can now adopt new technologies to deal with this.

I strongly recommend that they look to the private sector that moves insurance claims and adjudications; that we adopt the best business practices that are being used.

I am old-fashioned, Mr. President. I believe promises made are promises kept. And when our veterans step forward to meet the call of this Nation to defend this Nation and, in the course of doing their duty, they have incurred a service-related disability, I want to be sure that the claims process is as fit for duty and as quick to respond as the veterans themselves.

So, Mr. President, that is why one of the key elements in our veterans legislation is in that area.

Another area that we are moving on within the area of the Veterans Administration is we provided a significant amount of funds for veterans' medical care. In addition to veterans' medical care, we provided significant funds for veterans' medical research. We would have liked to have done more in this area.

We on the subcommittee are strong believers in VA medical research. These are often different types of research than what is being done at NIH, but complementary to. Over in VA, they focus first of all on battle-related injuries. They focus also on orthopedic and spinal cord injuries and, at the same time, serving our veterans population. They focus on research with immediate clinical applicability.

We think this is excellent because it is there that we are developing new surgical techniques. I am proud to say that one of the things that the VA developed that is now benefiting civilian medicine and private sector medical care is a technique for a gall bladder operation developed by Dr. Zucker and Dr. Bailey at the University of Maryland Medical Center under a VA program.

The Presiding Officer might be aware, gall bladder surgery is very difficult because it is deep surgery, deep into the muscles. For those who undergo it, it is painful, it is extensive recovery, and if you are older and are at high risk, complications related to diabetes and others, it is often high-risk surgery to do this.

Dr. Zucker and Dr. Bailey, under a VA research grant at the University of Maryland, a flagship research center, and the VA Medical Center in Maryland, developed a laparoscopic technique to remove the gall bladder. It was first developed in France. We tested it out in VA among older veterans who were at risk, and we found that through this surgery, we could do quick intervention with people in a way that did not endanger their lives for placing them further at risk because of age and complication with anesthesia or other healing problems. We not only saved them from ruptured gall bladders, but they got better faster because of the nature of the technique.

Now that is being done not only at the University of Maryland, it is being done all over the United States of America, and it is done not only in centers of excellence at VA medical centers, but it is being done in private sector hospitals. That means now, whether you are really old or you are really sick with other complications, you can have a safe gall bladder operation. If you are younger, it also means you are going to return to the labor market faster because of this type of surgical technique because it shortens the recovery time. It is important for the family; it is important for American productivity in the private sector. This is, once more, one of those public investments in VA medical research that immediately moves into the medical community.

This is why we have funded VA medical research at last year's appropriated level. We would have liked to have done more. Next year, I pledge that if we get a more robust allocation from the Budget Committee, one of my highest priorities will be in VA medical research.

We have done other areas of research in this committee and one is now, of course, with the National Science Foundation. People might recall that the National Science Foundation was born because of Sputnik. When Sputnik erupted during the cold war, America's complacency and its place in the technological world was shattered because it looked like the Russians were superior to us.

We wanted to make wise use of taxpayers dollars, so the National Science Foundation, under the recommendations of Dr. Vanderveer, using a foundation model, not a Government model, not a socialist model, created a foundation in which we could put Government funds to fund basic research.

Great things have come from that research area, and we are proud to say that in this year's budget, there are $3 billion that will go to important scientific research, physics, engineering, practical research, like in Antarctica. People say what is practical about that?

Just a few minutes ago we heard from the Senator from Alaska why we need to look at climate there and how it relates to fishing, forestry, and America's productivity.

This subcommittee I chair plays a significant role in the investment of research, development, and technology advancements, whether it is in space, whether it is in VA, whether it is in EPA or the National Science Foundation. That is why I have liked chairing this committee, because we have been able to keep promises to America's veterans and, yet, I know it makes our veterans proud to think we are moving into the future.

So there are many other aspects to this bill, but I thought the Presiding Officer, and others, would find this interesting.

Mr. President, for now I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, it is my intention that the Senate complete action on the pending VA-HUD appropriations bill tomorrow. We have been operating through this week on an informal agreement, a part of which is that a good-faith effort would be made to complete this bill this week. I have been assured by the Republican leader that we will be able to do so tomorrow.

Therefore, I wanted to make clear for all of the Members of the Senate that we will complete action on this bill tomorrow.

I thank my colleagues for their cooperation, especially the distinguished manager of the bill, the Senator from Maryland, who has been so diligent and aggressive in leading the Senate on this bill. We will complete it tomorrow.

Ms. MIKULSKI. I thank the leader for his efforts in expediting the bill and also the Republican leader, who has cooperated.

I would really encourage Senators to limit their amendments to that which is either germane or relevant to this bill, and with that I could assure the majority leader we would be done early in the afternoon.

If all Senators who are contemplating amendments would confine themselves to that which is either germane or relevant to the bill, there are 25 agencies. We do not need to find other topics to keep us moving.

Mr. NUNN. Mr. President, I wish to take just a moment. We have been working carefully with the Senator from Maryland and her counterpart on the Republican side of the aisle on two very important amendments relating to the flood damage in the State of Georgia, the most important concerning the community development block grant programs. These amendments will be subject to the emergency provision, meaning they would not be activated without the President asking for the money under the emergency procedure.

I wish to thank the Senator from Maryland for working with us on these amendments. I also wish to thank the Senator from West Virginia, Senator BYRD, who was wise enough to put this emergency provision in the Budget Act which basically allows this to take place, if it is a true emergency requested by the President.

I wanted to thank the Senator for working with us and working out these amendments. These amendments are basically sponsored by myself and my colleague, Senator COVERDELL.

Ms. MIKULSKI. We hope to be able to completely work out a way to be able to respond to the needs of the people of Georgia. We watched the floods, myself and other members of the subcommittee watched the torrential rains, the flooding, the loss of livelihoods, the loss of homes, and it was indeed both drenching and wrenching, I might say to the Senator from Georgia. We look forward to trying to both cooperate and expedite the resolution of this issue.

Mr. NUNN. I thank the Senator from Maryland.

I would say also these amendments include the States of Alabama and Florida, which also suffered—not as much as Georgia, but they did suffer—substantial damage.

I would say to the Senator from Maryland that it looks as if the damage per capita in Georgia may be more than any one State suffered in the Midwest floods, and it also appears, although these numbers are not firm now and so this is just an estimate at this point, that the damage to public housing, which is one of the most critical needs addressed here, is more in Georgia than in any of the Midwest floods suffered last year. That is the low-income housing. Unfortunately, some of the areas that have been stricken in this flood are among the lowest in income in our State, and so it is particularly working a hardship on these people.

These amendments, assuming the President asks for the emergency help under the provision of law, will be enormously helpful.

I thank the Senator from Maryland.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Georgia suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that it now be in order to consider the excepted committee amendment beginning on page 47, line 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2448 TO COMMITTEE AMENDMENT ON PAGE 47

Ms. MIKULSKI. Mr. President, I now send a perfecting amendment to the desk on behalf of the Senator from Michigan [Mr. RIEGLE] and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for Mr. RIEGLE, proposes an amendment numbered 2448 to the committee amendment on page 47.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, strike out the matter beginning on line 22 through "*Provided*" on page 48, line 3, and insert in lieu thereof the following:

"For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $125,000,000, to remain available until September 30, 1996, of which $100,000,000 shall become available on September 23, 1995: *Provided*, That of the funds made available under this heading, up to $10,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: *Provided further*."

Ms. MIKULSKI. Mr. President, I urge adoption of the Riegle amendment.

The PRESIDING OFFICER. Is there debate? If not, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2448) was agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to temporarily set aside the pending committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2449

(Purpose: Managers' amendment to make technical and conforming corrections in the bill and to adopt other non-controversial changes)

Ms. MIKULSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 2449.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, strike out the matter beginning with the colon on line 11, through "$9,813,256,000" on line 16.

On page 8, line 18, before the period, insert the following new proviso: ":*Provided further*, That of the $15,622,452,000 made available under this heading for fiscal year 1994 in Public Law 103–124, the $9,863,265,000 restricted by section 509 of Public Law 103–124 for personnel compensation and benefits expenditures is reduced to $9,813,265,000".

On page 8, line 24, before the period, add the following proviso: ":*Provided*, That the Secretary may obligate not more than $500,000 of the funds made available under this heading for an epidemiological study of veterans who underwent radium nasopharyngeal irradiation".

On page 14, line 13, strike out "$1,400,000" and insert in lieu thereof: "$16,300,000".

On page 20, line 25, strike out "$765,000,000" and insert in lieu thereof: "$735,000,000".

On page 22, line 3, strike out "$156,000,000" and insert in lieu thereof: "$186,000,000".

On page 24, line 7, strike out "$3,062,000,000" and insert in lieu thereof: "$2,992,000,000".

On page 29, line 14, strike out the matter beginning with the colon, through the word "funds" on line 22.

On page 30, line 24, strike out the matter beginning with the colon, through the word "activities" on page 31, line 7.

On page 38, line 22, strike out "$953,973,000" and insert in lieu thereof "$947,398,000".

On page 45, strike out lines 7 through 12.

On page 45, after line 22, insert the following:

"Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

" "(aa) REFINANCING INCENTIVE.—

"(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

"(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

"(B) is subject to an assistance contract under this section; and

"(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

"(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

"(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

"(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988."."

"Section 223(a)(7) of the National Housing Act (42 U.S.C. 1751(a)(7)) is amended in subparagraph (B), by striking "and" at the end; and by inserting, before ": *Provided further*" in said paragraph, the following: "; and (D) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract"."

"The amendments of the two immediately preceding paragraphs shall be effective only during fiscal year 1995.".

On page 45, after line 22, insert the following:

"Section 601 of title VI of S. 2281 (103d Cong., 2d Sess), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103–307), is hereby incorporated into this Act, and such section 601 is deemed enacted into law upon enactment of this Act: *Provided*, That the provisions of such section 601 shall be effective only during fiscal year 1995.".

On page 45, after line 22, insert the following:

"Title VIII of S. 2281 (103d Cong., 2d Sess), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103–307), is hereby incorporated into this Act, and such title VIII is deemed enacted law upon enactment of this Act.".

On page 45, after line 22, insert the following:

"Notwithstanding any other provision of law, the New York City Housing Authority is authorized to use not more than $12,420,000, from development reservation number NY36P005324 for 100 public housing units previous awarded from funds appropriated under Public Law 101–507 (Nov. 5, 1990), for the purpose of completing a homeownership program involving not more than 463 dwelling units located in Bronx County, in the City of New York, in accordance with a certain submission dated November 16, 1993 made in response to a Notice of Funding Availability issued at 58 Fed. Reg. 41127. The Secretary of Housing and Urban Development shall thereafter add a similar number of existing nonfederal public housing units, designated by the Authority, to the agency's inventory of federally-assisted public housing developments and said units shall, for all purposes other than the repayment of any debt associated with their development or rehabilitation, be considered as if initially developed under title I of the Housing Act of 1937.".

On page 47, restore the matter stricken on lines 14 and 15, and insert at the end thereof the following new paragraph:

"For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376. $4,250,000.".

On page 57, line 3, before the period, insert the following: ": *Provided further*, That nothing in this paragraph shall prohibit the Administrator from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law".

On page 62, line 6, after the word "promulgation" insert the word "of".

On page 72, line 2, before the period, insert the following: ", to remain available until September 30, 1996".

On page 73, after line 16, insert the following new paragraph:

"Notwithstanding the limitation on the availability of funds appropriated for "Mission support", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1995 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.".

On page 91, after line 9, insert the following new section:

"SEC. . The budgetary resources made available to the National Aeronautics and Space Administration in this Act for fiscal year 1995 for procurement and procurement-related expenses are hereby reduced by an additional $19,703,000.".

On page 91, after line 9, insert the following new section:

"SEC. . None of the funds made available by this or any other Act shall be used to publish, implement, or enforce any regulations promulgated to carry out section 919 of the Housing and Community Development Act of 1992 before July 1, 1995.".

On page 91, after line 9, insert the following new title:

"TITLE VI

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Department of Housing and Urban Development

Community Planning and Development

Community Development Grants

For an additional amount for "Community development grants", as authorized under title I of the Housing and Community Development Act of 1974, for emergency expenses resulting from the January 1994 earthquake in Southern California, $225,000,000, to remain available until September 30, 1996, of which $50,000,000 shall be derived by transfer from funds provided under the head "Department of Education, Impact aid" in the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211): *Provided*, That of the foregoing amount, $200,000,000 and $25,000,000 shall be for the available until September 30, 1995 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.".

On page 74, after line 7, insert the following new paragraph:

"Hereafter, the Administrator may enter into contracts for the Space Station program that are for periods in excess of the period for which funds are otherwise available for obligation and provide for the payment of contingent liability which may accrue in excess of appropriations available for such contracts in the event the Government, for its convenience terminates such contracts, if any such contract limits the amount of the payments that the Government is allowed to make under such contract to amounts not in excess of unobligated funds, including prior year balances, available for activities herein appropriated under the heading "Human space flight": *Provided*, That hereafter, if funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the cost of such contract shall be paid from appropriations originally available for performance of the contract, or from other unobligated funds, including prior year balances, available for activities herein appropriated under the heading "Human space flight".".

On page 91, after line 9, insert the following new section: cities of Los Angeles and Santa Monica, California, respectively: *Provided further*, That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for statutory requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Community development grants", for grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development program as authorized by title I of the Housing and Community Development Act of 1974, to be used to assist States, local communities, and businesses in recovering from the flooding and damage caused by Tropical Storm Alberto and other disasters, $180,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the entire amount shall be available only to the extent of an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further*, That the Secretary of Housing and Urban Development may waive any provision of law (except for provisions relating to fair housing, the environment, or labor standards) if the Secretary determines such waiver is necessary to facilitate the obligation of the entire amount: *Provided further*, That the Secretary of Housing and Urban Development may transfer up to $50,000,000 to the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, to be used for purposes related to flooding and damage caused by Tropical Storm Alberto and other disasters.

FEDERAL EMERGENCY MANAGEMENT AGENCY

For an additional amount for "Disaster assistance * * * for the cost of direct loans, $12,500,000, as authorized by section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to be used to assist local governments in recovering from flooding and damage caused by Tropical Storm Alberto and other disasters: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $50,000,000 under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended: *Provided further*. That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the entire amount shall be available only to the extent of an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

Federal-Aid Highways

Emergency Relief Program

(Highway Trust Fund)

The matter under the heading in the Emergency Supplemental Appropriations Act of 1994 (Public Law 103-211) is amended by deleting "$950,000,000" and inserting in lieu thereof "$775,000,000.".

Mrs. FEINSTEIN. Mr. President, more than 6 months after the Los Angeles earthquake, the damage is still considerable. In June, I joined FEMA Director James Lee Witt and local officials to tour 2 of the 10 "ghost towns" that have emerged within the city. Rows and rows of abandoned buildings have turned streets in the city of Los Angeles into literal ghost towns where crime abounds. The potential impact on the city of Los Angeles is considerable and must be addressed.

I am pleased to speak today in strong support of the manager's amendment to the VA-HUD appropriations bill which includes $225 million to the Department of Housing and Urban Development to address this problem. No new funds are allocated, but this amendment simply shifts funds already approved in the Emergency Supplemental Appropriations Act of 1994 to address the problem of ghost towns.

I want to personally thank President Clinton, HUD Secretary Henry Cisneros, and acting Office of Management and Budget Director Alice Rivlin for working in such a diligent way with Los Angeles Mayor Richard Riordan and Santa Monica Mayor Judy Abdo to address this problem. And I also want to thank my chairwoman, Senator BARBARA MIKULSKI, for being so willing to facilitate this transfer when I talked with her earlier this week.

Overall, thanks to the administration's rapid response, and the swift action of this body, the Federal Government, in conjunction with a remarkable State and local effort, was able to provide needed relief to the victims in Los Angeles—a process that still continues.

The city of Los Angeles estimates that 50,000 homes were unsafe and residents could not return to their homes because of structural damage as result of the earthquake.

The most extensive earthquake damage as it effects families was to apartment and single-family homes. The Small Business Administration and the Department of Housing and Urban Development have been able to finance the repair or reconstruction of approximately 35,000 of these homes—allowing families to return and begin to put their lives back on track.

However, there remain 15,000 homes for which SBA and HUD are unable to provide assistance for various reasons—in many cases because the owners were unable to accept more debt or did not have sufficient credit. These owners in many instances have simply abandoned their residences leaving virtual ghost towns. This amendment is to address this very serious problem.

In June, when FEMA Director Witt and I personally toured two ghost towns in the San Fernando Valley, one in Sylmar and one in Sherman Oaks, the conditions we witnessed were terrible. Once thriving areas have been reduced to deserted, crime-ridden areas, literal ghost towns, where drug use and prostitution are widespread.

The city must move quickly in order to stem the spread of criminal activity and restore these areas to their prequake conditions. These funds will make a huge difference to those efforts.

This transfer of funds will provide HUD $225 million in CDBG funds for the city of Los Angeles to provide no-interest loans to assist owners in beginning the repair of these 15,000 homes.

The city plans to provide up to $35,000 per housing unit—although most estimates for repair are between $15,000 and $25,000—in no-interest loans. Loans will be made to buildings that lost their profitability due to the earthquake and will be repayed over a 25-year period.

Specifically, this amendment shifts $50 million from the Department of Education's "Impact Aid" Program—funds which are no longer required—and $175 from the Department of Education—funds left over from the miraculously speedy repair of freeways damaged during the earthquake. Due to unexpected cost-effective reconstruction methods, the funds to be transferred are no longer needed for their original purposes, but remain in their original accounts.

The administration and the city of Los Angeles have requested that these funds be given to HUD to end the ghost town situation in the San Fernando Valley and other places. The Departments of Transportation, Education, and Housing and Urban Development have all given their sanction to this transfer. The Office of Budget and Management, in response to President Clinton's request, has approved the reallocation. And the cities of Los Angeles and Santa Monica are ready to receive and disperse these funds in a manner that will provide help almost immediately.

All that remains is for the Congress to approve the plan. I urge the swift approval of the manager's amendment to the VA-HUD appropriations bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2449) was agreed to.

Ms. MIKULSKI. I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. These amendments were cleared on both sides of the aisle and will not affect the bill's remaining within its 602(b) allocation. That means we stay within the 602(b) allocation.

I, therefore, ask unanimous consent to have printed in the RECORD a more detailed description of these provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ITEMS IN THE MANAGERS AMENDMENT TO H.R. 4624

1. VA Medical Care FY'94 Floor for Personnel Costs. Makes technical changes to language originally included in the Committee-reported bill lowering the floor for VA personnel costs for fiscal year 1994 so that the Department can use these funds prior to the end of fiscal year 1994.

2. VA Study on Nasopharyngeal Irradiation. (On behalf of Senator Lieberman.) Gives VA discretion to spend up to $500,000 for a study of veterans who underwent radium nasopharyngeal irradiation between the 1940's and 1950's.

3. Parking Revolving Fund. Makes a technical correction to the bill making clear that the appropriation provided by the Senate is $16.3 million.

4. Section 8 amendments. Reduces section 8 amendments funding by $30 million as an offset in budget authority for an increase in AIDS housing.

5. AIDS Housing. (On behalf of Senators Feinstein and D'Amato.) Increases the funding for AIDS housing by $30 million, raising the total from $156 million to $186 million.

6. Section 8 Contract Renewals. Reduces section 8 contract renewal funding by $70 million as an offset for increasing funding for community development financial institutions.

7. COMPAC program. (On behalf of Senator Sarbanes). Deletes language proposed in the Committee amendment to permit the transfer of funds, subject to certain conditions, from the drug elimination grant program to a new community partnerships against crime program if authorized.

8. Youthbuild. (On behalf of Senator Sarbanes.) Deletes language fencing youthbuild funding until HUD consolidates all youth-related programs. This matter will be addressed separately in the housing authorization bill.

9. HUD Salaries & Expenses. Reduces HUD salary and expense costs by $6.575 million as a partial offset in outlays for deleting the provision in the Committee-reported bill related to fair market rents.

10. HUD Fair Market Rents. (On behalf of Senator Sarbanes.) Eliminates language on fair market rent rates.

11. Section 8 refinancing. (On behalf of Senator Sarbanes.) Adds language proposed in the Administration's budget, to encourage the refinancing of certain section 8 contracts. The language is included as a partial offset in outlays for deleting the provision in

the Committee-reported bill related to fair market rents.

12. Preservation reforms. Incorporates certain reforms in the preservation program as a partial offset in outlays for deleting the provision in the Committee-reported bill related to fair market rents.

13. Non-judicial foreclosure. (On behalf of Senator Sarbanes.) Adds language comparable to that proposed in S. 2281 that provides HUD with the authority for single family non-judicial foreclosures. The language is included as a partial offset in outlays for deleting the provision in the Committee-reported bill related to fair market rents.

14. New York Housing Authority. (On behalf of Senator D'Amato.) Permits the New York City Housing Authority to utilize certain public housing development funds already awarded to it for homeownership activities under the HOPE program.

15. Superfund. Inserts bill language that permits the Administrator to conform the existing program with subsequent changes that might be authorized.

16. Radon in Drinking Water. Makes a technical change to the language in the Committee-reported amendment.

17. Mission support funding. Makes funding under this NASA account available for a two-year period, except for personnel and related costs and travel, which would remain unavailable for just one year.

18. NASA Procurement Reform. Makes a reduction to NASA's budget of $19,703 million to be achieved through procurement reform activities as a partial offset in outlays for deleting the provision in the Committee-reported bill related to fair market rents.

19. Elderly service facilities. (On behalf of Senators Gorton, Reid, and Bryan.) Delays the publication, implementation or enforcement of elderly service facility regulations until July 1, 1995. The Administration opposes this amendment and hopes that some compromise might be reached in conference with the House.

20. Ghost Town supplemental. (On behalf of Senator Feinstein.) Provides $225 million for CDBG as an emergency supplemental for rental housing in so-called "ghost towns" created by the Northridge earthquake as requested by the Administration. Funding is offset by a transfer of $50 million for impact aid in the Northridge supplemental and by a reduction in the highway funds set aside in the Northridge supplemental.

21. Chemical Safety Board. Provides $4.25 million for Chemical Safety Board, as requested by the President.

22. Georgia disaster supplemental (On behalf of Senators Nunn and Coverdell).

Ms. MIKULSKI. Mr. President, I thank the Chair. For tonight, that concludes the business we will be conducting on the VA-HUD appropriation. In behalf of the leadership, I will now do the wrapup.

MORNING BUSINESS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TOBACCO, A LABOR-INTENSIVE CROP

Mr. FORD. Mr. President, back in February and March, when most of us were cursing the cold weather, Kentucky tobacco farmers were already putting into motion the cycle of planting, setting, cutting, and curing that has occurred for hundreds of years.

Tobacco is a labor intensive crop. As Kentucky writer and farmer Wendell Berry put it, that is because it is a "handmade crop; between plantbed and warehouse, every plant, every leaf, was looked at, touched and appraised, lifted and carried many times."

Because the seeds are so small—over 300,000 seeds to an ounce—farmers first plant them in beds or nurseries to produce seedlings large enough for transplanting.

Up until about 4 years ago, most tobacco farmers in Kentucky grew their burley plants in traditional seedbeds outside. Now, nearly 50 percent of Kentucky burley is started in greenhouses.

One Shelby County farmer told the Louisville Courier Journal that before they started using greenhouses, "It used to take 10 or 12 people working all day pulling plants out of the bed before you would have enough plants to set five acres. We'd start at 6 or 7 in the morning and work till 3 in the afternoon. Then you would transplant until dark."

But as Courier Journal farm writer, Greg Otolski, explains, it is still not an easy way to go. "At 7:10 p.m., 11 hours after they began, the 6.5 acres are planted and the machinery is taken back to the barn to be cleaned. Muscles ached and the skin on the ears and back of the neck stung from being burned by the sun, but the next day they got up and did it all again, because it is their way of life."

The Sun has been rising and setting on tobacco farmers working in the field for centuries. And it is that history, as much as the financial rewards, that policymakers must try and understand.

The culture of tobacco is ingrained in the history of grower States just as surely as the culture of automakers in the rustbelt, of fishermen along this Nation's coastlines, or oil drillers in the Southwest and of lumberjacks in the North.

That history began long before 1612, when James Rolfe started the commercial cultivation of tobacco in Virginia's Jamestown colony. In fact, one source writes "there is evidence that tobacco had once been abundantly cultivated long before the dawn of history. Excavated mounds built by stone age inhabitants yielded a wealth of pipes to indicate that tobacco had been an intimate part of the ceremonial and social life of a long-forgotten people."

And less than a century after Christopher Columbus found native Indians cultivating tobacco using many of the same practices still considered essential today—from topping to curing—tobacco had journeyed around the globe, becoming the economic foundation for the Colonies.

The leaf itself became currency, with Benjamin Franklin using it for collateral for loans extended by France to finance the Revolutionary War.

Eventually, tobacco cultivation became more sophisticated, and new types were developed. Dark types were suitable for Virginia, western Kentucky, and Tennessee soil, while the bright types were for the Carolinas, the bluegrass regions of Kentucky and Tennessee. The dark tobacco is often referred to as "black patch" and the bright as "burley."

But perhaps most important, a look back on history reveals that all too often, the farmer's interests were supplanted by those of government and industry.

Most social studies classes still teach the story of how Sir Walter Raleigh introduced tobacco to England, and how a maid doused him with a pitcher of water because she thought he was on fire.

But few talk about the year 1872, when the first tobacco tax was levied. It was done as a way to take control away from the farmer. The manufacturers reasoned that the tax would wipe out the grower-to-customer market, forcing the farmers to sell directly to the tobacco companies.

Farmers eventually conceded, because, even back then, there was no other crop to take its place.

According to the Kentucky Burley Tobacco Growers Cooperative, "in all the time that it has existed—despite several valiant efforts to give burley growers some semblance of bargaining power in the marketplace—the burley industry knew little relative stability until 1941."

It was 1941 that the tobacco program of price supports and production controls was introduced. It was a real victory for farmers, providing them stability and better control over their livelihood. And it is a successful program that could serve as a model for other commodities.

When a Kentucky farmer removes his young plants from the beds or the nursery by hand, and then replants them in the field, his hand shadows the motions of hundreds of thousands of others that have come before him.

John Berry, former head of the Kentucky Burley Tobacco Growers Cooperative Association put it this way, "Tobacco is inextricably involved in the history of the place where I live. It is not written in the history books but in the minds and memories of those who lived the experience and those who heard the stories."

That history is as ingrained in Kentucky farmers like Louis Jones or Roger Perkins or Gordon Catlett as their individual fingerprints.

Jones can trace his tobacco history back to 1735 when his family first came to this country. They have been raising tobacco ever since. The 57 acres he farms will buy new equipment, pay the mortgage and most important, someday help send his children to college.

When Roger Perkins and his father set tobacco on their Franklin County farm, they are walking down the same rows father and son of a generation before walked down. When his 15-year-old daughter goes to college, tobacco will have made it possible.

Gordon Catlett is a bit younger. And like 70 percent of Kentucky tobacco farmers, he works another job at the utility company. But thanks to tobacco, he is looking to buy the Anderson County farm he works. He understands what John Berry meant when he said, "If you want people to love their country, let them own a piece of it."

When each of them go to set their tobacco, they are planting a whole lot of history. And without government interference, they are planting their future as well.

What my colleagues need to understand, is that any attacks on tobacco are going to have a profound effect on a lot of small people.

I think you know who I am talking about. Many of you have stood here in the Senate and talked about the constituents in your State who put in a hard days work expecting nothing more than a fair wage and a safe environment to raise their families. Farmers and all the people in the close knit communities tobacco made possible are no different. You will be taking away not only their livelihood, but their sense of history—their sense of place.

So, Mr. President, when my colleagues dismiss the tobacco farmer, talking about giving them some sort of kickback from a tax or telling them they need to enter a retraining program, they just do not get it.

Those notions may play well in the newspaper, but they are counter to the traditions of hard work and independence that are the life-blood of any tobacco farmer.

Worms, weeds, and weather were certainly a part of that history. But government welfare, just as certainly was not.

I ask that Danny McKinney's column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

TOBACCO GROWERS

(By Danny McKinney)

While we Kentucky burley growers celebrated July Fourth, we had good reasons to commemorate our own heritage as farmer-patriots in 1775.

We were not public enemies then, and really are not today.

We simply grow tobacco—just as tobacco growers like George Washington and Thomas Jefferson did before us.

In fact, historians record that, nearly 400 years ago, tobacco quite literally launched America's economy.

In 1613, Pocahantas's husband, John Rolfe, sold his first commercial crop—tobacco—which was also Colonial America's first export.

And for nearly 200 years after Rolfe's start, tobacco would reign as this society's principal export.

Yet our heritage didn't stop there.

By 1633, tobacco was the British colonies' first and primary currency. This remained the rule, even during the American Revolution when George Washington appealed to other rebelling colonists, "If you can't send money, send tobacco."

And our ancestral farmer-patriots did just that.

The tobacco they donated helped to buy supplies for Washington's Colonial Army and to fund the First Continental Congress.

As well, during the Revolution's darkest hours, Benjamin Franklin negotiated a loan for Washington's soldiers from France, and that loan was backed by 5,000 wooden barrels of Virginia tobacco.

So like those early farmer-patriots, who in 1775 started the American revolution to protect their economy and way of life from oppressive government intrusions we modern Kentucky burley growers cannot retreat.

Our heritage as tobacco growers helped give birth to this nation, but nearly 220 years later we find ourselves in very much the same position as our forefathers.

Like them, we're compelled to defend our way of life against government tax and legislative proposals every bit as oppressive to us as those measures of 1775.

We cannot allow political opportunities to tear down the values associated with the growing of tobacco nurtured over hundreds of years and vital to our society—values like strong family bonds, work ethic, dedication, love for the land and pursuit of honorable endeavor.

Nor can we allow the extraordinary economic benefits generated by tobacco for all Kentuckians to be swept away in the ever-changing currents of public opinion.

TOBACCO SERIES/GROWING SEASON

Mr. FORD. Mr. President, I take to the Senate floor again to talk about tobacco—what it means to my State and every family that earns their livelihood from this agricultural product.

I believe there is one thing every Senator in this body can relate to as they work to represent their constituents the best way they know how. And that is what is known as a "way of life."

I think if you look around, nearly every Senator could point to a cash crop or commodity produced in their State, and tell story after story of how important that product is to their State's economy, how their State's history is tied to that product and how they have worked to protect and enhance it.

But perhaps most stories would revolve around people and community and how generation after generation relied on and developed trades around these particular commodities.

From the fishermen along our Nation's coastlines, to the dairy farmers in the North and Northwest, the ranchers out West the list goes on and on the stories about a "way of life" would basically be the same.

But I would like for you to think about something. What if communities in your State lost that one defining product that supported everything in the community from the local bank to the local grocery store? Would that commodity continue to exist as you know it?

A recent study talked about the meaning of tobacco to Kentucky this way:

> Tobacco is, in fact, an essential element in the cycle of Kentucky life, and forms an important thread of continuity with previous generations. While the technology surrounding the tobacco industry has changed, the basic activity has remained fundamentally the same for generations. In the same way that his great-great-grandfather spent his spring preparing plant beds and his winter stripping tobacco, today's tobacco farmer is connected in an intimate and fundamental way to his ancestors as he engages in the same activities, frequently cultivating the same land, and sometimes even using the same barns.

Tobacco in my State is a way of life.

When a person picks up the newspaper or turns on the television these days and sees anti-tobacco forces doing all they can to wipe tobacco off the face of the Earth, they will never see mentioned the dedication, sweat, and toil that goes into raising a crop of tobacco.

Nor will they see stories of college educations for children, mortgage payments on a farm, or payments on a new tractor that are gained from the sale of the yearly crop.

In my mind, the planting of tobacco represents the hopes and dreams of farmers as they put that plant in the ground with a prayer for cooperative weather during the growing season.

A few weeks after the tobacco was planted, or what we called "set," I can remember as a young boy getting up with the sun and making my way down row after row of tobacco, chopping out the weeds with a hoe, and tending the crop with my family.

This was part of the rhythm of the growing season, and it was a chore that was being replicated all across the State from farm to farm.

Before long, and with enough rain, the tobacco would be up to around shoulder level and begin blooming. And around this time every year, farmers would begin the process known as "topping" tobacco—breaking off the blooms and what were known as "suckers," and spraying the plants to get them ready for cutting in the next month or so.

As with most tobacco tasks, it was "hands on" labor and required many long hours and all the help you could get. When one farmer in the community was through topping their tobacco, you could expect to see them coming by to give you a hand. If you got through before another neighbor, chances are they would appreciate whatever help you could give them.

That's the way it was then, and that is the way it remains today. It is community in the truest sense of the word.

Today, to make ends meet, 69 percent of all Kentucky tobacco farmers have another job off the farm. They are willing to work weekends, nights and early mornings just to hold on to something they have known all their lives, their family farms.

They are a community and they are under attack.

In the same report I quoted earlier, it says, "Kentucky's social, economic and cultural fabric, however, is beginning to show the strain from the increasing pressure placed on tobacco by several forces."

It is a strain that is being felt because tobacco farmers and the industry are being singled out to bear the upfront costs of health care reform. As we proceed to this debate, I hope my colleagues will keep those words in mind as they vote on proposals that could, in effect, eliminate a "way of life."

I ask that Coleman McCarthy's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOICES FROM THE TOBACCO FIELDS

(Coleman McCarthy)

BLOOMFIELD, KY.—Much of what persuaded the 3,300 members of the Nelson County Farm Bureau to elect Jeff Eaves their president four years ago can be found in a small sign fronting his tractor shed: "Pride in Tobacco." He has been a successful grower for 20 years, the son, grandson and great-grandson of burley tobacco farmers, all of them cultivating the earth and raising families on knobby farmland about 60 miles south of Louisville.

Eaves, 38, married and father of two, earns two-thirds of his income from tobacco, with cattle most of the rest. This summer's crop has been in the ground about six weeks: Its broad and soft leaves—a lighter green than corn or squash—will eventually be hung in curing barns, graded, auctioned at around $1.80 a pound and end up between the lips of people who enjoy smoking.

Some 60,000 Kentucky small farmers raise tobacco, generating $800 million in sales and making it the state's cash crop. About 135,000 jobs in Kentucky are tobacco-related, with a Philip Morris plant in Louisville producing 75 billion cigarettes a year with 3,000 workers on the payroll.

In this spring and summer's square-off in congressional hearing rooms—where politicians, FDA officials and tobacco company CEOs have wrangled, postured and spieled—the issues are addiction, disease, tax hikes, nicotine levels and regulations. The debate has importance, but so also do the lives of farmers like Jeff Eaves and the futures of such rural communities as Bloomfield, which has one traffic light and its own commonweal.

The smooth talk and rough exchanges of Washington have omitted Eaves and people like him, as if they have no opinions worth hearing and no culture worth honoring. Do bans on smoking extend to those who suddenly find themselves in the minority?

On the porch of his farmhouse the other afternoon, Eaves fluctuated from dismay at the increasing attacks on cigarettes to resigned pessimism over where the debate was heading and what it would mean for him and his family. "Every time you turn on the news," he said, "it's 'tobacco is killing you,' and 'tobacco is the worst thing in the world.' I don't know what the government's trying to do—get everybody's mind off everything else and focus on tobacco so they don't think about how bad everything else is. God help us when they get rid of tobacco. What's next?"

A mile or so up Route 458 and beyond two duck ponds, Ted Shields, 63, a retired sheriff and a grower of 20,000 pounds of tobacco a year, had similar views: "I'm not saying tobacco is good for you, but it does help some people. They relax when they smoke. It settles the nerves. There's some enjoyment there. There's no law saying you have to smoke. It's a choice."

Neither Ted Shields, who began growing tobacco nearly two decades before the surgeon general's 1964 report on the dangers of cigarettes, nor Jeff Eaves is a smoker. In that sense, they are anti-tobacco. Their personal and professional lives have different standards. If an inconsistency is present, it's of the same variety found in congressional hearing rooms where some politicians equate cigarettes only with addiction and cancer and rarely hear, much less consider, the voices of rural tobacco men.

One non-Washington listener is Kentucky's Wendell Berry, the writer, farmer and teacher whose 1993 essay "The Problem of Tobacco" asked the country to put cigarettes in context: "In calling attention to the dangers of one kind of addiction, the tobacco controversy distracts from the much greater danger that we are an addictive society—that our people are rushing from one expensive and dangerous fix to another, from drugs to war to useless merchandise to various commercial thrills, and that our corporate pushers are addicted to our addictions. . . . We ought to be aware of our inconsistency in condemning tobacco and excusing other damaging addictions, some of which are more threatening than tobacco."

Such an awareness hasn't been overly displayed in the recent round of congressional hearings. One House member, exhaling outrage, said it would be "wonderful" if the tobacco companies were driven out of business. In his contempt for the CEOs at the top, he forgot Jeff Eaves, Ted Shields and others at the bottom. With no way to convert to other crops—poor soil, much lower prices—what are they to do? Just get lost? Sell the farm? Go up in smoke?

If any anti-smoking crusaders have any non-simplistic answers—and are free of their own addictions to press releases, finger-pointing and moralizing—60,000 Kentucky farmers would like to know.

MEDICAL WASTE INCINERATORS

Mr. MCCONNELL. Mr. President, I rise today to alert my colleagues to regulations that will be proposed shortly by the Environmental Protection Agency. These new regulations will greatly impact hospitals that operate medical waste incinerators by mandating strict emission levels that are unattainable by currently technology. The EPA admits that this regulation will close down 80 percent of the medical waste incinerators located in a large majority of hospitals nationwide, including veteran's hospitals.

Presently, 70 percent of hospitals operate incinerators as a cost-effective means of reducing their medical waste to a manageable capacity, and, equally importantly, transforming highly toxic waste into safe and inert material for transport to dumping sites. By mandating unreasonable emission levels, many hospitals will be forced to find alternative methods of disposing of their "Red Bag" medical waste. This waste includes needles, bandages, dialysis waste, and a variety of biomedical wastes.

Mr. President, the release of these regulations is to coincide with the release of a study on dioxin. It is my understanding that the EPA study will demonstrate that a multitude of combustion sources, including cars and trucks, are responsible for dioxin output. But, to my knowledge, this study has not been reviewed by anybody outside the EPA.

Mr. President, I am afraid that the EPA is putting the cart before the horse in this case. It has come to my attention that an official within the EPA has admitted this information is faulty, yet the EPA has decided to go ahead with issuing the regulations, hoping to correct them later. This is precisely the sort of action that riles taxpayers and business owners.

It is my understanding that the soon-to-be-released regulations are also inconsistent with sections 111 and 129 of the Clean Air Act Amendments passed by Congress in 1991. I have been informed that the EPA seeks to establish emission levels that are based on optimal performance levels which are not achievable in actual practice.

Mr. President, we need to consider the impact these regulations will have. They will not reduce the total amount of medical waste. Instead, hospitals will be forced to send possibly contaminated blood and tissue waste across town or across the country to a landfill or other type of waste incinerator.

I have received numerous studies indicating that many waste incinerators operate within very strict health and environmental standards already implemented by 40 States. In fact, Kentucky promulgated strict regulations the same year Congress approved the Clean Air Act Amendments of 1991.

For the past 4 years, Kentucky hospitals have safely operated incinerators that meet or exceed the standards set.

Technological advances have greatly reduced the level of harmful emissions. For instance, technology has helped reduce emissions of metal, lead and cadmium by 2,500 times. In fact, independent stack emission tests show that modern incinerations fall within U.S. EPA health risk guidelines.

In addition to dioxin levels, the EPA also strictly monitors other pollutants. Incinerators already on the market significantly limit the emissions of other pollutants to well within safe limits.

For example, carbon monoxide emissions from small medical waste incinerators are roughly a quarter of the emissions from a diesel truck and almost two-thirds lower than a wood burning fire. Studies also show that diesel truck emissions of nitrogen are roughly 2 times more than that of an incinerator.

Currently, 70 percent of all hospitals maintain incinerators because waste incineration is the most cost-effective means of disposal. Hospitals can dispose of one ton of waste for between $200 to $1,200 per ton. The EPA estimates that new regulations will drive the cost as high as $2,500 per ton.

Hospitals can't afford to double their costs for waste disposal. These new regulations will certainly not contribute to reducing the cost of health care. In addition, the EPA estimates that at a minimum, 7,000 jobs will be lost.

Of course, there are alternatives. One is to ship waste across State lines to a regional waste facility where it will be burned. Ironically, the dioxin emitted from two heavy diesel trucks used to haul the waste is the same as that emitted from a modern medical waste incinerator itself. Also in many cases, waste haulers are not as cheap and will add to hospitals' disposal costs.

Another method is to decontaminate the waste and put it into a landfill. However, pollution and a public perception problem continue to be associated with landfills.

I also might point out that New York State requires that medical waste must be unrecognizable at the point of disposal, thus limiting disposal options.

Mr. President, I cannot help thinking that the EPA has not done its homework nor does it seem to have a clear plan in mind. Does the EPA intend to eliminate incinerators because it believes that waste hauling is environmentally sound; or would it prefer to bury the waste?

What about the added cost, Mr. President? A number of environmental experts believe this policy will boost costs, thus, contributing to the illegal dumping of medical waste, which I believe everyone in this body would agree is undesirable.

Mr. President, I want to stress that I support regulations to require reasonable safeguards for all incinerators. However, these regulations are not required to be promulgated until April 1996. Although I do not suggest that EPA wait that long to adopt final regulations, clearly EPA does have time under the schedule we set to re-evaluate its own faulty data to solicit opinions from industry officials and the scientific experts before implementing these regulations. EPA needs to get it right the first time.

Therefore, I respectfully urge Administrator Browner to postpone the promulgation of these regulations and review the relevant material that will help her formulate environmentally and health conscious regulations, while keeping in mind the economic impact.

I hope Administrator Browner will seek out experts and experienced State administrators to formulate a feasible plan that will allow hospitals to dispose of their waste in a cost-effective but environmentally safe manner. After all, our decisions today will impact our environment in the future.

NOMINATION OF STEPHEN BREYER TO THE U.S. SUPREME COURT

Mr. DURENBERGER. Mr. President, I would like to discuss my support of the nomination of Judge Stephen Breyer to the United States Supreme Court. I regret that I was not able to cast my vote in support of Judge Breyer due to the fact that I had a prior commitment out of town which resulted in my absence the afternoon of the vote.

I have always taken very seriously my responsibility as a Senator to advise and consent on Presidential nominations. In my mind, my role is not to confirm only those nominees who agree with me on political issues. I have never applied a litmus test on any subject, such as abortion and the death penalty for example, even though I have strong convictions about both.

Regardless of the party in the White House, I have always asked three questions to determine whether presidential nominees deserve confirmation. First, does the nominee have the experience necessary to do the job? Second, does the nominee have the temperament to serve honorably? And finally, does the nominee have the character to be entrusted with the responsibility?

Without a doubt, Stephen Breyer has the experience necessary to serve as a Supreme Court Justice. He has had an exemplary career in the executive, legislative, and judicial branches. He has served on the Federal bench for 14 years, and spent the last 4 years as chief judge of the First Circuit Court of Appeals.

On the question of temperament, I believe Judge Breyer is qualified to serve on America's highest court. His decisions on the Federal bench have the reputation of being thoughtful and well-reasoned, without suggesting any particular political agenda. I trust he will continue to apply the law neutrally and fairly.

And finally, based on the evidence that is available, I have concluded that Judge Breyer has the character necessary to be entrusted with a seat on the Supreme Court.

I am aware that questions have been raised about Judge Breyer's membership in a Lloyd's of London syndicate that underwrites insurance for corporations with potential liability for environmental cleanup costs—at the same time he was reviewing toxic waste cases as a Federal appeals judge.

But there is no evidence that his decisions had a direct impact on any of his investments, and I believe Judge Breyer's assertion that his impartiality was not affected in any of those cases.

Rather than showing a defect in character, I believe this was a case of bad judgment. My distinguished colleague from Indiana, Senator LUGAR, has raised several valid points about the judgment that Judge Breyer exercised with respect to this investment.

However, I have concluded that this single error in judgment should not, in itself, preclude membership on the Supreme Court. I do not think that a reasonable measure of any person is the worst mistake they ever made. Instead, I look at the entire record of accomplishment, his record of reasonable decisions, his record of diligent work for justice, his temperament and his character. By that measure, Stephen Breyer is worthy of a seat on the Supreme Court. That is why I would have voted to confirm this nominee.

JUDGE STEPHEN BREYER'S BOOK "BREAKING THE VICIOUS CIRCLE: TOWARD EFFECTIVE RISK REDUCTION"

Mr. President, in 1993 Judge Breyer published a book with the title, "Breaking the Vicious Circle: Toward Effective Risk Reduction". While I realize that Judge Breyer's personal views on public policy matters are not relevant to the debate on his nomination, I did want to take this opportunity to comment on the views communicated in his book.

The central premise of his book is that the efforts of the Federal Government to reduce risks to public health and the environment are not well focused and produce inconsistent and illogical results.

The cause of this problem in Judge Breyer's view is the disjointed decision-making process that we in the Congress and as a nation use to choose the risk reduction policies that are actually imposed. The sources of risk to human health and the environment come to the attention of the public and the Congress one at a time. They are considered by a multitude of committees and subcommittees in the legislature. They are regulated under a series of statutes with disparate goals and objectives. The statutes are carried out by several departments and agencies of the executive branch.

In Judge Breyer's view, the result is a confusing and wasteful web of regulations that do not achieve the greatest risk reduction for the dollars we invest. He points to a swamp in New Hampshire that is cleaned up to extraordinary levels under the Superfund program, while Boston Harbor remains polluted. He cites a five-fold discrepancy in risk assessment outcomes between EPA and FDA methods. He reports examples of risk reduction regulations that may actually increase health risks from other sources.

Judge Breyer is not alone in raising these concerns. In 1987, the EPA itself published a study called "Unfinished Business" which suggested that government and private sector resources were being wasted because Government policy too often regulated low-level risks while larger threats went unaddressed. And in 1990, the Science Advisory Board of EPA came to a similar conclusion in its report, "Reducing Risk".

No one could argue with the proposition that we ought to allocate the resources we devote to risk reduction as carefully as possible. And everyone would agree that decisions based on solid scientific information are usually better than decisions guided by hunches, superstition, or bias.

However, we must often make decision before all the evidence is in. Congress is constantly called upon to make decisions that allocate billions of public and private dollars toward one problem or another often before the science on causes and solutions is settled. We make difficult choices that are criticized from every direction.

Judge Breyer proposes a new superagency with wide-ranging authority to reallocate government efforts as a solution to these problems. But there is no technical, scientific or bureaucratic fix for our condition. There is no philosopher king or group of senior bureaucrats who can relieve the Congress of the difficult job of setting priorities in a world of competing interests and limited knowledge. And there is not reason to believe that Congress has chosen incorrectly in the past.

A complete response to the concerns that Judge Breyer raises in his book would fill many pages of the RECORD. I would make just two brief points, today.

First, this is not a technical problem that can be solved by appointing an agency with broader powers and better staff. Allocating budgets, imposing regulatory costs, is an act of expressing values. And in a democracy we do it by voting.

There is not one objective yardstick on which one can rank the relative importance of all these competing objectives. How much do you spend on childrens' health, before you start spending money to save endangered species? This is a question of preferences that in our system of Government is assigned to elected Members of the Congress, not appointed members of science boards.

Second, even where one yardstick of risk can be applied, for instance the risk of contracting fatal cancer, it does not necessarily follow that allocating resources to achieve the largest risk reduction is an absolute guide to policy. I believe that the public is more willing to accept small risks widely distributed, than large risks focused on the few. It is not just the absolute mortality, but also the equity, the distribution of the risk, that informs the public's sense of priorities.

The public gets incensed about hazardous waste sites and leaking underground storage tanks because they are immediately devastating to their victims, even if those victims are few in number, and hundreds more could be saved by spending the same dollars cleaning up indoor air quality. Allocating public and private resources to achieve the greatest reduction in risk for each dollar spent is not the best public policy, because it fails to reflect the public's sense of equity and justice. How much an industry should be required to spend to prevent its externalities from imposing unjustified costs on others is, unless one takes an absolutist view, a value-laden decision that can only be made in the context of our entire social experience.

I am all for more science. And the Congress has a fundamental obligation to spend the taxpayers' money as wisely as possible. We often make mistakes. But I do not agree that the anecdotes cited in Judge Breyer's book call into question either the process we have used to select environmental priorities or the allocation of resources now reflected in the budget and regulations of EPA and the other agencies we charged to protect public health and the environment.

CENTER FOR EXCELLENCE IN EDUCATION

Mr. LIEBERMAN. Mr. President, the Improving America's School Act which was passed yesterday provides a new framework for choice and change for primary and secondary schools in America. I think it is fitting at this time to recognize the anniversary of the Center for Excellence in Education's 10 years of service to outstanding high school and college students from across the Nation. CEE was founded by the late Admiral H.G. Rickover to help keep the United States competitive in science and technology, and to further international understanding among the future leaders of the world. CEE's support in providing students cost-free participation in the Research Scientists Institute and mentoring throughout their undergraduate and graduate careers is unique in this country. I congratulate all of the Center's alumni, for the Center's success can only be measured in terms of the achievements of its students and I truly anticipate that the alumni of the Center will indeed be our country's future creators, inventors, scientists, and leaders.

History tells us time and again that leadership in science, technology, and business is not something solely predicated on the curricula mastered and years of work experience. Real breakthroughs and significant leadership are achieved when there is an environment which nurtures and rewards creativity and isn't afraid to recognize these traits in our young. The Center for Excellence in Education's continuing role in sparking and maintaining that flame of creativity is essential in keeping our country not only competitive but a leader among the nations of the world.

I was especially pleased to be able to host a meeting this winter with business leaders from the Washington, DC area to help with the Center's Role Models and Leaders Project. This program addresses the shortage of underrepresented populations pursuing scientific careers. It is essential that we do all we can to encourage more of our many outstanding minority high school students to consider advanced education and careers in science, technology, and business. The problem of the lack of minority participation in these areas is great, but my hope is that the Center's efforts will provide tangible and lasting results.

My congratulations to both the Center for Excellence in Education and its alumni for their past achievements and many more achievements to come.

IN MEMORY OF ALICE HOWARD

Mr. BREAUX. Mr. President, if there ever was an ultimate business professional, Mr. President, it was Alice Howard. Alice passed away recently. She was my personal friend and a friend of all Louisianians.

Alice was well-known and respected throughout the State and nationally as a representative of Louisiana's rural electric cooperatives.

She handled the cancer which ultimately took her life with the courage, grace, and dignity with which she handled all aspects of her life.

Her ever-present smile and her strong will and determination made Alice the remarkable person she was. An outstanding journalist, a governor's loyal appointments secretary, and a very effective Director of Legislative and Governmental Affairs for the Association of Louisiana Electric Cooperatives, she succeeded because of her spirit, her knowledge, her enthusiasm, and her dedication.

Alice represented Louisiana's rural cooperatives before the State and Federal Governments so effectively because of her ethical standards, her command of the issues, her knowledge of the industry. The Louisiana Legislature adopted a concurrent resolution to express its condolences to Alice's family and to remember and honor her, a testimony to the admiration and affection with which she was held.

Alice excelled as a professional because she was responsible and fair. Her assessments were accurate. Her judgments were well-reasoned. Her advice was sound.

Those qualities, when combined with her smile and personality, made her the ultimate professional. We will all miss her. In a phrase, Alice was larger than life. And there are many good memories that will always keep her with us, in our thoughts, our prayers and our smiles.

Thank you, Mr. President.

COL. MICHAEL D. BROWNELL RETIRES FROM THE U.S. ARMY

Mr. SHELBY. Mr. President, I rise today to honor Col. Michael D. Brownell, who will retire from the U.S. Army on October 1, 1994 after completing a long and distinguished career of more than 40 years of service to our Nation. I want to take a few minutes to highlight some of his contributions and accomplishments.

On September 22, 1954, Colonel Brownell enlisted in the Washington National Guard as a private at the age of 17. He was commissioned a Second Lieutenant in the U.S. Army Reserve in September 1964, and served in a variety of assignments.

Colonel Brownell entered on a statutory tour of active duty as a Captain in June 1975 at Headquarters, First United States Army, Fort George Meade, Maryland. This was the forerunner of the Active Guard Reserve [AGR] Program, as it is known today, and he was one of its earliest members. His initial duty assignment was as Chief, Senior Officer Branch, Headquarters, First United States Army, managing Army Reserve general officer and colonel command positions throughout the First Army Area.

Three years later, Colonel Brownell was selected for the position of General Management Officer in the Office of the Chief, Army Reserve, Department of the Army, a position which he held for 6 years. In October 1984, he was selected for the position of chief of the Command Coordination Branch of the newly-established Army Reserve Personnel Center in St. Louis, MO. He later served as chief of the Command Support Division at the same Center. His performance of duty in these assignments was outstanding.

In August 1986, Colonel Brownell, returned to the Pentagon as a Personnel Staff Officer in the Office of the Chief, Army Reserve, managing a variety of officer personnel programs including the development of a professional development plan for Army Reserve soldiers. He as later assigned as a Personnel Officer in the Officer Accession Branch of the Office of the Deputy Chief of Staff for Personnel, Department of the Army until his selection for promotion to the grade of Colonel.

Since February 1989, Colonel Brownell has served as Staff Director and Senior Army Reserve Policy Advisor of the Reserve Forces Policy Board in the Office of the Secretary of Defense. This Board is, by statute, the "principle policy advisor to the Secretary of Defense on matters relating to the Reserve components," In that capacity, Colonel Brownell demonstrated outstanding leadership, professional knowledge and skill in developing and recommending policies on a broad range of issues that have substantially contributed to the readiness and effectiveness of the National Guard and the Reserve components of the United States Armed Forces.

Colonel Brownell's initial assignment with the Reserve Forces Policy Board was an editor of the fiscal year 1989 annual report to the President and Congress entitled, Reserve Component Programs. This publication provides information on Reserve component programs and issues. The annual reports are especially valuable to Congress on matters relating to the Reserve components.

Colonel Browell subsequently served as Staff Director of the Board's Personnel Committee during Operations Desert Shield/Storm, and was instrumental in developing over 150 recommendations and resolutions which were adopted by the board to achieve equity in pay and entitlements for members of the Reserve components who served in the Persian Gulf war.

Colonel Brownell also assisted and was instrumental in the planning and the conduct of a symposium that complied and correlated the experiences of Army Reserve Civil Affairs units and personnel in the Persian Gulf. His exceptional service contributed to the publication of the symposium proceedings which constitutes permanent documentation of Civil Affairs service during Operations Desert Shield/Storm and Provide Comfort.

Colonel Brownell's civilian education includes an Associate of Arts degree from Olympic College in Bremerton, WA, and a Bachelor of Arts degree from the University of Washington; he received both degrees in 1959. In 1969 he earned a Master of Public Administration from the University of Washington School of Public Affairs.

While on active duty, Colonel Brownell completed the Army Command and General Staff College, the National Security Management Program at Harvard University and the Personnel Management for Executives Course. He continues to serve as a member of the faculty of the Army Training Center for the Personnel Management for Executives Course.

Colonel Brownell is a native of Bremerton, WA, and resides in Arlington, VA, with his wife, Janell. They have two daughters, Sandra and Melinda: Sandi is a First Lieutenant in the U.S. Army Reserve and Mindy is a Regular Army First Lieutenant stationed at Fort Lewis, WA.

Colonel Brownell is a member of the Board of Directors of the Northwest Ethics Institute. He is a life member of the Reserve Officers Association of the United States and the Retired Offices Association. He is also an Honorary Member of the Civil Affairs Association.

Colonel Brownell's decorations include the Defense Superior Service Medal, Legion of Merit, Defense Meritorious Service Medal, Army Meritorious Service Medal with two Oak Leaf Clusters, the Army Commendation Medal with one Oak Leaf Cluster and numerous others.

Mr. President, Colonel Brownell is an extraordinary soldier. I have been impressed by his outstanding service and contributions to our nation by his service in our Armed Forces. As he prepares to retire from military service, I congratulate and thank for him for his many years of outstanding service to our Nation.

THEY ALSO SERVE . . . .

Mr. BYRD. Mr. President, on a recent journey back to West Virginia, I stopped at one of my favorite restaurants, the Southern Kitchen, in Charleston. West Virginia boasts a number of excellent restaurants, individual enterprises here and there where the expectations of certain chefs, the personalities and spirits of certain waitresses, or the imaginations of specific managers give those establishments unique qualities of taste or service that distinguish them from their competitors.

The Southern Kitchen Restaurant is such an establishment. There, under the watchful eye of Miss Donna Messenger—"Susie," to her friends—I have found again and again a notable quality in the taste of the offerings on the menu and a defining caliber of service not found in many more formal and standardized restaurants.

Last year, largely through Miss Messenger's efforts, Governor Gaston Caperton designated one day in May as "Waitress Day" in West Virginia.

Across our country, for up to 365 days a year, thousands upon thousands of women serve in thousands of restaurants, "cafes," and other "eateries," answer the sometimes impatient, sometimes rude requests of customers for food and drink. Out of their wages, these women help to support their families—or, in some cases, are the sole support of their families. For often modest recompense, these women—these "waitresses"—serve in an honorable occupation—the consummate "service industry."

Over the years, as I have been here in the Senate and as I have traveled across West Virginia and around the country on my Senatorial duties, I have encountered dozens upon dozens of waitresses—women who through courtesy and efficiency have served me nutritious meals and sent me on my way refreshed and ready for the next speech, the next meeting, or the next rally.

I want to pay my own personal tribute to all of these waitresses in general, and to my friends at the Southern Kitchen in Charleston in particular, for the tasty meals that they have served and the courtesies that they have rendered in that service.

VOLUNTEERING VERSUS STIPENDED COMMUNITY SERVICE

Mr. HATCH. Mr. President, as we approach the first anniversary of the National and Community Service Act on September 21, I would like to call my colleagues' attention to a brief paper on the nature of effective community problem solving. This paper was written by my good friend and our former colleague in public service, Governor George Romney.

Governor Romney, though not opposed to the involvement of the Federal Government in encouraging community action, points out one of the principal flaws in the National and Community Service Corp. He suggests that the emphasis of the NCSC on supporting stipended service misses the mark. The introduction of stipends into community service taints the level of sacrifice inherent in the service being rendered.

Moreover, Governor Romney argues that the National body charged with promoting community service and distributing funds must be wholly nonpartisan and cannot pursue political agendas. If the nonpartisanship of the Federal effort is breached, the credibility of the entire effort is violated.

I believe the Governor's comments will be worthwhile reading for all Senators, and I urge my colleagues to take the time to do so. I ask unanimous consent that Governor Romney's paper be inserted in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

VOLUNTEERING VERSUS STIPENDED COMMUNITY SERVICE

One of America's great strengths is the legacy of a vast network of non-profit organizations that solve problems through volunteering and voluntary cooperation. The importance of this independent volunteer sector is not adequately recognized, organized, or utilized. Its superior problem-solving effectiveness results from the willingness of citizens to give their time without compensation and those needing their help realizing that they are helping because they care, not because they are being paid. Usually this motivates the one being helped to make a greater effort to benefit than with the help of a person who is being paid.

As our country's future is jeopardized by the explosion of moral, social, and poverty problems there is a greater need than ever before for volunteers. That is because most moral, social, and poverty problems require the persons being helped to change their thinking, their habits, or both. This cannot be accomplished primarily with money or government subsidy programs, but by people helping people voluntarily. However, both the nation's governmental and private leadership are focused on solving these problems with money rather than with volunteerism.

Privately, United Way, private foundations (Kellogg, Ford, etc.), corporate foundations, community foundations, corporations, and individuals constitute well-organized, managed and visible sources of private money.

Governmentally, many trillions of dollars have been spent but the moral, social, and poverty problems have reached dangerous levels that, unless reversed, will kill us as a great nation. The present federal budget contains hundreds of billions more and in addition, Congress has created a national service corporation with hundreds of millions to spend for subsidized community service. It seeks to strengthen the service ethics through state government commissions, universities, and an AmeriCorp. These corporation programs have other objectives, but can they be as effective as making volunteering as well organized as government and private source money? NO!

It is vital to organize volunteering as effectively as money if we are to successfully combat our vitally serious moral, social, and poverty problems. Doing this nationally commenced in February 1970 when the first private national organization to strengthen volunteering was established. Its first major program was to organize local volunteer centers to increase community volunteering and make it effective. The principal difficulty it encountered was the focus of community leaders, especially business leaders, on raising money as fulfillment of their social responsibility. It was obvious that if volunteering was to do what it could do it would require stronger leadership to correct the leadership imbalance between money and volunteering.

The opportunity to accomplish this occurred with the establishment of the private non-partisan, bi-partisan Points of Light Foundation. The foundation especially seeks to increase volunteering by creating and strengthening community volunteer centers, assisting corporations in establishing corporate employee programs, and persuading people through media publicity of the vital importance of their volunteering. Lacking as it did, and still does, adequate support from corporate and foundation sources of its vital mission, Congress has appropriated $5 million annually since 1989 and has authorized $5 million for 1995 and 1996.

The foundation has succeeded in now raising privately approximately the same amount annually but will need appropriation of the authorized amounts to have the time needed to establish a solid base of private funding. Its doing so has been made more difficult, and could be prevented, by the National Service Corporation. This was not true with the Community and National Service Commission that Congress replaced with the National Service Corporation.

The reasons are:

One: The commission grant making authority was vested in the bi-partisan commission, not in the director that it appointed.

Two: The corporations' president is appointed by the President and he is the "ultimate authority" in making grants. He is only required to "take recommendations of the (corporations bi-partisan) board seriously." In the Commission, bi-partisanship worked. In the corporation, it depends on a partisan corporation president.

This is a very important difference because for both volunteering and national service to be effective they must not be partisan or appear to be partisan. In addition to its government funding, the corporation will, like the foundation, seek funding from foundations, corporations and other private sources. This results in a competitive relationship.

Also because the foundation's appropriation is in the same appropriation act as the corporation's it is uncertain whether the corporation president thereby has authority to place conditions on the foundation receiving its appropriation. For the foundation to plan securely this ambiguity must be removed.

Congress should also decide whether the grant-making authority of the corporation should be vested in its President or in the bipartisan board as was the procedure with the commission.

The present administration's excessive focus on stipended community service is a partisan policy. It ignores the much greater importance of solving our social and other problems by our unique and precious legacy of unpaid volunteering, and could discourage citizens from giving their time without being paid.

Neither stipended community service nor unpaid volunteering will be fully effective unless both have bi-partisan and non-partisan leadership. This is not required of the National Service Corporation. It is imperative that it be restructured so as to make bipartisan non-partisan decision-making and grant-making a must.

IN SUPPORT OF FINAL PASSAGE OF THE IMPROVING AMERICA'S SCHOOLS ACT—THE REAUTHORIZATION OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Mr. SARBANES. Mr. President, I commend the Senate's recent passage of the Improving America's Schools Act of 1993, the eighth reauthorization of the Elementary and Secondary Education Act of 1965. Established as part of President Lyndon Johnson's war on poverty, the original bill offered Federal support, for the first time, to schools in low-income communities. It underscored the importance of ensuring that all American children have access to quality education.

By supporting local educational initiatives, the bill we have passed continues to fulfill the Federal Government's responsibility to our nation's young people. School districts across the country differ in many ways, and it would be impossible to develop a single Federal policy that meets each community's needs. This bill gives states the flexibility to develop specific educational programs because local educators and parents are in the best position to decide how to best serve their community.

There are a number of provisions I want to highlight. Contained in this bill is the Chapter 1 Program—the Federal Government's largest elementary and secondary education program. While the Federal Government contributes only 6 percent of the total funds used in education, nearly two-thirds of all money spent on basic skills instruction for children from disadvantaged families comes from the Chapter 1 Program.

Unfortunately, this valuable program reaches just 40 percent of eligible students. Given limited resources, I support the revised formula for distributing chapter 1 funds contained in this legislation. It attempts to focus additional resources on areas with higher concentrations of poor children while still meeting the needs of school districts that depend on this critical Federal assistance.

Additionally, this provision—for the first time—requires that the disadvantaged students targeted by the Chapter 1 Program be held to the same high academic standards as all students. States which apply for chapter 1 funds will develop content and performance standards to describe clearly what children should know and how successful students have been in meeting these expectations. Consistent with the recently-enacted Goals 2000 legislation, these standards will help to make certain that all American students will have the skills and knowledge necessary to succeed.

Among the new programs included in this reauthorization is the Transition-to-Success Program. This program is created to assist low-income children in their transition from Head Start to elementary school. The program appropriately continues the assistance children and their families received from the Head Start Program through grade school to help these young students strive to meet challenging academic standards. Since 1965, 13 million children have been served by the Head Start Program. It makes sense to ensure that the investment made in early childhood is not lost once these children reach elementary school.

There are also new measures designed to address the specific needs of both rural and urban school districts. Under title XVI, school districts will become eligible for grants to assist them in meeting the national educational goals.

This bill appropriately emphasizes high standards for teachers as well as for students. Title II focuses on improving teaching and learning, because better teachers make better students. Investing in professional development is a cost-effective way to guarantee that the standards set forth in this bill and the Goals 2000 Act will be realized.

To help students and teachers reach these goals, this measure also emphasizes the more effective use of technology in education. This investment is crucial in helping American students excel in today's high tech world. We must not underestimate the value of having the technological capability to quickly access vast quantities of information, thereby increasing knowledge.

Today, even more than in President Johnson's day, success in the workplace depends on success in the classroom. One of the most important challenges facing our Nation is to better prepare the next generation of Americans to compete and thrive in the rapidly-changing global economy.

Few issues so directly affect the Nation's future as does education. The programs in the Improving America's Schools Act provide the necessary mechanisms to help local school districts achieve the standards set forth in Goals 2000. By ensuring that every American has the knowledge and skills needed to succeed, we are ensuring the future success of America.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody does anything about it. Congress talks a good game about bringing Federal deficits and the Federal debt under control, but there are too many Senators and Members of the House of Representatives who unfailingly find all sorts of excuses for voting to defeat proposals for a constitutional amendment to require a balanced Federal budget.

As of Tuesday, August 2, at the close of business, the Federal debt stood—down to the penny—at exactly $4,648,620,283,828.45. This debt, mind you, was run up by the Congress of the United States—the big-spending bureaucrats in the executive branch of the U.S. Government cannot spend a dime that has not first been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every schoolboy is supposed to know.

And pay no attention to the declarations by politicians that the Federal debt was run up by one President or another, depending on party affiliation. Sometimes they say Ronald Reagan ran it up; sometimes they say George Bush. I even heard that Jimmy Carter helped run it up. All three suggestions are wrong. They are false because the Congress of the United States is the culprit.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was going on. A billion minutes ago, not many years had elapsed since Christ was crucified.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt of 4,648 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at 4 trillion, 628 billion, 620 million, 283 thousand 828 dollars and 45 cents.

THE CAPITOL OF THE UNITED STATES

Mr. HATFIELD. Mr. President, an interesting and informative essay on the history of the U.S. Capitol came to my attention recently. I would like to take this opportunity to share it with my colleagues.

Having housed the U.S. Congress for 195 years, the Capitol is only one of the most treasured and beloved buildings in Washington. Few people are more familiar with the history of the Capitol than Mr. Cornelius Heine, Executive Secretary of the U.S. Capitol Historical Society, who wrote the essay. I am pleased to be able to share his work with my colleagues.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

THE CAPITOL OF THE UNITED STATES

(By Cornelius W. Heine)

Symbol of a nation, of its resolve, of its people and its hopes for the future, the Capitol of the United States of America rises majestically upon a hill in the center of the city belonging to every American citizen. The location of that Federal City was approved by Congress in 1790 in accordance with the Constitution of the United States. The site for the building was chosen in 1791 by the planner of the city, Major Charles Pierre L'Enfant. The cornerstone of that Capitol was laid by President George Washington on September 18, 1793.

Following the design of Dr. William Thornton, the North wing was the first section of the Capitol to be completed in 1800, just in time for the national government and the Congress to move from Philadelphia to the new Federal City along the banks of the Potomac. On November 22, 1800, President John Adams addressed the Congress as it assembled in the Senate Chamber of the Capitol.

It was 1807 before the companion South Wing, also constructed of sandstone from Aquia Creek, Virginia, was completed for the House of Representatives. prior to that time the Senate and the House, as well as the Supreme Court and the Federal Commissioners, appointed by the President, were all housed in the North Wing.

Once the Congress had taken up residence in the Capitol, the building began to grow steadily by additions. The Capitol's growth paralleled the progress of the expanding nation. By 1865, as President Abraham Lincoln delivered his famed Second Inaugural Address, the Capitol appeared much as it does today, complete with a cast iron Dome topped by the Statue of Freedom.

The Capitol has been the home of the Congress of the United States for 195 years. After the burning of the Capitol by the British during the War of 1812, Congress was required to meet in temporary quarters (located where the Supreme Court building now stands) until the building was restored by 1822 largely under the direction of the architect Benjamin Henry Latrobe. Not only did the Capitol, with its solid foundations, and the American form of government both survive the fire of 1814, but the building and the institutions it houses have since weathered every military, constitutional and domestic crisis that has confronted the nation.

A cavalcade of momentous historic events, each of which altered the course of the nation and some even the world, have occurred within the walls of the Capitol. Such was the time a hushed House chamber heard President Franklin Roosevelt say "Yesterday, December 7, 1941, a date that will live in infamy, the United States of American was suddenly and deliberately attacked by the Naval and Air Forces of the Empire of Japan." Those dramatic words pushed the United States and its citizens into a world war which thrust upon them the mantle of world leadership.

The Capitol has been a great stage upon which the compelling drama of the nation's political history has been played out, the place where the nation faced every conceivable crisis. But in addition to the crises, the Capitol has been the scene of the day-to-day march of democracy in the place where the Congress, the instrument to carry out the principles of the Declaration of Independence, has represented the American citizens. It has been the place where the people have had their part under the Constitution in framing the laws which have shaped America's destiny and their own lives in a government "of the people, by the people, and for the people."

Architectural monument, treasure of art and working home of the Congress, the Capitol stands today as the embodiment of all the dreams of the American people as they seek progress with justice for all—a goal represented in the sculptural grouping above its central portico known as "The Genius of America."

And so to the Capitol, the Nation's crossroads, comes the steady flow of Americans from every walk of life. In their Capitol, these citizens observe their government at work; they walk the same hallowed halls and corridors as have presidents, statesmen and their elected representatives for almost 200 years. These millions of Americans feel the aura of the building itself and the spirit of the nation in which they, as citizens, play such integral roles. For it is they who are the lifeblood of the nation. It is their inner will and spirit which continues to fuel the engine of democracy on its forward journey in the Capitol.

CHIEF JUSTICE DAVID W. HARWELL

Mr. THURMOND. Mr. President, as everyone in this Chamber knows, our Nation was founded on a base of laws outlined in the Constitution and the Bill of Rights. These two documents dictate to lawmakers, from town council members to all of us in the Senate, how the law is to be made.

Despite our best efforts, disputes sometimes arise about the constitutionality of a law, or if it was applied properly. Such questions are addressed through the Nation's judicial system, sometimes all the way to the U.S. Supreme Court. In my home State, South Carolina, the ultimate court of appeal is the State supreme court, where approximately 500 cases are heard, submitted, and disposed of each year. Those who serve on this court are charged with a great responsibility, as their actions very literally can change the lives of countless people. It takes an individual of great intellect and courage to serve effectively as an associate justice, but it takes a person of even greater abilities to successfully serve as the court's chief justice. My good friend David W. Harwell is such a person.

For the past 3 years, David Harwell has served with great distinction as the chief justice of the South Carolina Supreme Court. A man of high integrity, Chief Justice Harwell has established an admirable reputation for being a capable, fair, and thorough jurist who treats those who appear in his court with courtesy and respect.

Chief Justice Harwell's tenure on the supreme court is the culmination of a distinguished career of service to South Carolina, which began with his election to the State house of representatives in 1962, where he served for 11 years. He began his career as a judge in 1973 when he was elected as a resident circuit judge and remained in that position until his election to the South Carolina Supreme Court in 1980. Additionally, Chief Justice Harwell served his Nation as a member of the U.S. Navy from 1952 to 1954.

Mr. President, Chief Justice Harwell will soon leave the South Carolina Supreme Court and return to private practice. I would like to take this opportunity to commend him on the fine job he has done and wish him good health and happiness in all his future endeavors. We are proud of him and grateful for his distinguished and selfless service.

ADMINISTATION LEADERSHIP PROMOTES CHANGE AT THE UNITED NATIONS

Mr. PELL. Mr. President, I would like to take a moment to draw my colleagues' attention to the outstanding work being done by our Ambassador to the United Nations, Madeleine Albright, and her staff, in promoting the establishment of an inspector general's office at the United Nations. The administration deserves kudos for advancing what I hope will be one of the most significant changes in the United Nations management practices in a long time.

This is no easy task. Many nations, and at times the U.N. bureaucracy itself, are distrustful of U.S. ideas for reforming the organization. Nonetheless, through deft diplomacy, the administration has succeeded in pushing through the General Assembly a resolution establishing an Office of Internal Oversight Services that is roughly comparable with a U.S. inspector general.

The resolution establishing the office is, as the administration itself has said, a starting point, not an end point. More work remains to be done. In particular, the United States will have to pay close attention to the implementing regulations prepared at the United Nations to carry out the resolution.

Nonetheless, given the record of Ambassador Albright's success so far, I believe there are ample grounds for optimism. As Ambassador Albright noted in her op-ed:

> The new Office of Internal Oversight Services is part of a process by which we may and must 'reinvent' the U.N. and make it more efficient, more accountable and more able to take advantage of the unprecedented opportunities for cooperative action that now exist. No single step will provide all the answers. But by creating a strong and independent internal inspection office, we have taken a giant step.

Mr. President, I could not agree more with the Ambassador's sentiments. I ask unanimous consent that her op-ed appear following my remarks in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[From the Sun, July 27, 1994]

CLEANING UP THE U.N.

(By Madeleine K. Albright)

Taxpayers from New York to New Delhi had reason to cheer last week as the United Nations agreed to establish a new Office of Internal Oversight Services, roughly analagous to our own system of inspectors-general. The purpose is to crack down on waste, fraud, corruption and mismanagement within the world organization.

America led the fight to establish the new oversight and inspections office because of our interest in a U.N. that spends its resources wisely, establishes sensible priorities and emphasizes results. In an era of relative international cooperation, more is possible at the U.N. and more is expected. But members must instill sound and modern management procedures for the U.N. to succeed.

During negotiations we were concerned that the new oversight mechanism be strong enough and independent enough not simply to promise reform, but to deliver it. Similar concerns were expressed by members of Congress. The resolution approved by the General Assembly, when supplemented by the necessary implementing regulations, appears to meet these tests.

First, the head of the new office will be at the level of undersecretary general, the second highest U.N. rank. He or she will have clout.

Second, the new office will be operationally independent. Like our own inspectors-general, the Internal Oversight Services office will have full authority to carry out inspections and evaluate programs. It will have access to documents, information and U.N. officials. It will be able to report directly to the General Assembly on key matters, including the adequacy of its own budget. The head of the office must be qualified technically. And he or she must be appointed by, and cannot be removed without, the concurrence of the General Assembly. Other important protections include safeguards for whistle-blowers and mechanisms for ensuring compliance with the new office's recommendations.

Most Americans support the U.N. We had the largest hand in writing the U.N. Charter. We stood with the organization through years of Soviet obstructionism and times when radical ideologies appeared ascendant. We did so because we believe the principles embodied by the U.N. are worthwhile, and that international cooperation is essential. But we also want to be sure that our contributions to the U.N. are wisely used, for purposes we can endorse, by managers who uphold high standards.

The new Office of Internal Oversight Services is part of a process by which we may and must "reinvent" the U.N. and make it more efficient, more accountable and more able to take advantage of the unprecedented opportunities for cooperative action that now exist. No single step will provide all the answers. But by creating a strong and independent internal inspection office, we have taken a giant step. We have kept faith with our taxpayers and with those around the world who want the U.N. to be an effective and useful instrument of addressing global needs.

TRIBUTE TO MAJ. GEN. ROBERT G. MOORHEAD

Mr. LUGAR. Mr. President, I rise today to honor the accomplishments of Maj. Gen. Robert G. Moorhead. Throughout his career, General Moorhead has provided the kind of patriotic leadership that makes Americans proud. His hard work and dedication to this country have not gone unnoticed. I would like to take a moment to elaborate on the life service and achievements of this outstanding man.

Bob Moorhead's military career with the Indiana National Guard is characterized by achievement and distinction. Promoted to Brigadier General in 1963, General Moorhead served as Assistant Division Commander, 38th Infantry Division, of the Guard from September 1963 through September 1971. He was promoted to the rank of Major General on February 28, 1973. In the spring of 1976, General Moorhead became the first National Guard Officer to serve in the position of Deputy Commanding General (MOBDES), United States Army Training and Doctrine Command. He served with honor in that capacity until May 1978.

In June 1978, Major General Moorhead retired from active National Guard duty after 36 years of service to his country. However, his dedication did not end with retirement. He returned to service the next year as a nonpaid consultant and assumed the chairmanship of the National Guard Public Affairs Development Committee. Further, in 1980, General Moorhead began a 4-year tenure as the president of the Second Region of the Association of the United States Army. He also served in other leadership positions in this organization, including vice-president and member of the Council of the Trustees.

Concurrent to his service during the 1980's, Bob Moorhead was selected as the only Army National Guard retiree State representative to serve a 3-year term on the Executive Council of the National Guard of the United States. Further, from 1984 to 1986 General Moorhead held the position of treasurer of the National Guard Association of the United States. He continues to work with the National Guard Association today, acting as chairman of the Committee on Finance, trustee of the National Guard Insurance Trust, and trustee of the Historical Society, Militia and National Guard.

General Moorhead is the recipient of many prestigious awards. He has been awarded the Legion of Merit (First Oak Leaf Cluster) and the National Guard Association of the United States Distinguished Service Medal for serving the nation with great distinction and dedication. The Department of the Army approved the award of Distinguished Service Medal for exceptionally meritorious service in a duty of great responsibility.

Bob Moorhead has been equally active and valuable in the community. He has served as chairman of the board of the United States Auto Club and the Indiana Division of the American Cancer Society. He has been president of WFYI channel 20 Public Television, the Printing Industry of Indiana, the Kiwanis International Foundation, the Downtown Indianapolis Kiwanis Club, the USO Council of Indianapolis, the 500 Festival Associates, the Crossroads Council of the Boy Scouts of America, and the board of directors of Crime Stoppers of Indianapolis. General Moorhead has also served on the board of directors of the Indianapolis Chamber of Commerce and Frankton Federal Savings of Indianapolis and Frankton.

Mr. Speaker, Gen. Robert Moorhead stands as a symbol of American military achievement and civic accomplishment. I am proud to rise today to pay tribute to this great Hoosier and American.

IN TRIBUTE TO RETIRED LT. COL. JAMES H. BARRETT

Ms. MIKULSKI. Mr. President, I rise today to pay tribute to retired Air Force Lt. Col. James H. Barrett, a Maryland native who lost his life while serving others. Lieutenant Colonel Barrett was tragically killed on July 29, 1994, outside the Pensacola Ladies Clinic while escorting Dr. John Britton to work at the clinic. Dr. Britton was also killed, and Lieutenant Colonel Barrett's wife was injured in the incident.

Lieutenant Colonel Barrett and Dr. Britton are the latest victims in a long history of escalating violence at women's health clinics. I am very disturbed by this violence, and deeply saddened by the terrible tragedy in Pensacola. The fact that Lieutenant Colonel Barrett was needed to escort a doctor to provide services at a women's health clinic is, in itself tragic. But the deaths of both Lieutenant Colonel Barrett and Dr. Britton make this tragic situation even more horrific.

Mr. President, Lieutenant Colonel Barrett was born and raised in my home State. After serving his country in the military through three wars, Lieutenant Colonel Barrett returned to Maryland where he taught math and science at a middle school. He and his late first wife raised two children. He met his second wife in Annapolis and they moved to Pensacola in 1992.

Lieutenant Colonel Barrett gave much to the people of my home State, the State of Florida and the country. He was committed to helping others and will be remembered for his dedicated service to the community. He was known for driving voters to the polls on election day and giving advice to young people interested in college. He worked to revive the Annapolis chapter of the Retired Officers Association, which provides scholarships for the children of military officers, operates a job bank for retired officers and performs charity work. In addition to volunteering as a clinic escort in Pensacola, Lieutenant Colonel Barrett and his wife were involved with the Pensacola Unitarian Universalist Fellowship, the Escambia AIDS Service and Education [EASE] and the Parents and Friends of Lesbians and Gays.

Lieutenant Colonel Barrett's death is a great loss to his loving family, the Annapolis community, the Pensacola community, and the many lives that he touched. As we mourn the loss of this noble American, I hope we can also join together in working to end this terrible violence.

REQUEST FROM SENATOR DONALD W. RIEGLE, JR., CHAIRMAN OF THE SENATE BANKING COMMITTEE

Mr. RIEGLE. I ask unanimous consent that the statement of managers filed with the conference report on H.R. 3841, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, which is attached, be reprinted in today's CONGRESSIONAL RECORD. The version of the statement printed in the August 2, 1994, CONGRESSIONAL RECORD omitted the crucial words "or branch" on page H6641 in the statement of managers description of "Applicability of Section 5197 of the Revised Statutes and Section 27 of the FDI Act." Reprinting it here will ensure that the public has the correct version.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3841) to amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

SUMMARY OF MAJOR PROVISIONS

TITLE I—INTERSTATE BANKING AND BRANCHING

INTERSTATE BANKING

The legislation permits bank holding companies to acquire banks in any State one year after enactment of the legislation. State laws which require the acquiring company to acquire a bank that has been in existence for a specified minimum period of time (not to exceed five years) are preserved. Any State law which requires a bank to be acquired to be in existence for more than five years applies as if it requires that the bank being acquired be five years old.

Section 3(d)(1)(D) of the Bank Holding Company Act, as amended by section 101, protects the applicability of a State law that makes the acquisition of a bank contingent upon a requirement that a portion of the bank's assets be available to a State-sponsored housing entity established under State law, under the conditions that the State law is not discriminatory, that the State law was in effect as of the date of enactment of this Act and that compliance with the State law would not result in an unacceptable risk to the deposit insurance fund and would not place the bank in an unsafe or unsound condition.

The Federal Reserve Board may not approve an interstate acquisition if, as a result of the acquisition, the bank holding company would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States or 30 percent or more of the deposits in the home State of the bank to be acquired. Notwithstanding the 30 percent limit, the Board could approve such a transaction if the home State waives the 30 percent limit either by statute, regulation, or order of the appropriate State official based on standards that do not have the effect of discriminating against out-of-State institutions.

The above concentration limits do not apply to initial entry into a State by a bank holding company. If, however, a State has a deposit concentration cap which applies in a nondiscriminatory manner to both in-State and out-of-State bank holding companies making initial entry acquisitions, then nothing in the legislation affects the State's authority to impose such deposit cap.

Community Reinvestment Laws

The Board shall continue to comply with its responsibilities under the Community Reinvestment Act of 1977 with respect to applications under section 3(d) of the Bank Holding Company Act of 1956. Currently the Board reviews applications under section 3(d) in accordance with existing regulations (such as Regulations Y and BB) and practices, and the conferees intend that nothing in this bill will alter or affect such regulations and practices as established by the Board.

In acting on an application under section 3(d), the Board shall also consider the applicant's record of compliance with applicable state community reinvestment laws.

Applicability of Antitrust Laws

The title provides that no provision of the antitrust laws is to be construed as being affected by the interstate banking amendments to the Bank Holding Company Act, including the Act's provisions on concentration limits. The applicability, if any, of State antitrust laws is likewise preserved. Nothing in this provision is intended to affect or expand the existing applicability of State antitrust laws, under current statutory or case law, to interstate acquisitions.

STATE TAXATION AUTHORITY

Section 101(b) amends the Bank Holding Company Act of 1956 to provide that nothing in that Act shall be construed as affecting the authority of any State or political subdivision to adopt, apply or administer any tax or method of taxation to any bank, bank holding company or foreign bank, or their affiliates, to the extent that such tax or tax method is otherwise permissible under the Constitution or other Federal law. This is intended to clarify that it is not the Conferees' intent to overturn existing State tax law pertaining to distinct legal entities within a corporate structure. The provision recognizes the existence of corporate affiliates and reaffirms that States may segregate the separately incorporated entities within a bank or bank holding company for state taxation purposes, to the extent permissible under the Constitution or other Federal law.

Similar amendments are made to section 44 of the Federal Deposit Insurance Act and to Title I.

AFFILIATED BANKS AS AGENTS

The Conferees accepted a modified version of a provision in the House bill permitting certain affiliated depository institutions to act as agents for each other for purposes of receiving deposits, renewing time deposits, closing loans, servicing loans and receiving payments on loans and other obligations for other affiliated depository institutions, with several amendments.

The modified provision permits bank subsidiaries, rather than depository institution subsidiaries, of bank holding companies to act as agents for depository institution affiliates. Subject to certain conditions, insured savings associations which were affiliated with banks as of July 1, 1994, may act as agents for such banks under this provision.

As used in this provision, the term "receive deposits" means the taking of deposits to be credited to an existing account and is not meant to include the opening or origination of new deposit accounts at an affiliated institution by the agent institution.

The Conferees deleted the authority in the House bill for affiliated depository institutions to disburse the proceeds of loans for other affiliated depository institutions and substituted authority to service loans. The Conferees intend that, under this authority to service loans, agent banks may perform ministerial functions for the principal bank making a loan. Those ministerial functions include such activities as providing loan applications, assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information (such as outstanding loan balances), and receiving payments. It does not include such loan functions as evaluating applications or disbursing loan funds. The term "close loans" does not include the making of a decision to extend credit or the extension of credit.

The Conferees also intend that the provision permit affiliated banks to act as agents for one another regardless of whether the institutions are located in the same or different states.

Under section 18(r)(3) of the Federal Deposit Insurance Act (as added by section 101(d) of this title), a bank may not conduct any activity as an agent that such bank is prohibited from conducting as principal under applicable Federal or State law. Prohibited activities under this provision include activities by a bank acting as agent that would be prohibited to the bank acting as principal under the applicable consumer protection, powers and other laws of the State where the bank is situated. The Conferees intend that the limitation on acting as agent under section 18(r)(3) shall also be applied to all United States offices of foreign banks covered under the definition of bank in the Act, when acting as agent for a depository institution affiliate. Agency relationships may be used to promote operational efficiencies, but they may not be used to evade applicable consumer protection, powers, and other laws of the State where the agent institution is situated.

The Conferees also intend to clarify, through the addition of a savings clause, that this section does not affect the authority of a depository institution to be an agent for a depository institution under any other provision of law, nor does it affect a determination under any other provision of law whether the agent should be considered to be a branch of the depository institution. The Conferees do not intend that new subsection 18(r) of the Federal Deposit Insurance Act affect the application of other provisions of law which permit agency relationships between affiliated depository institutions. The Conferees note that subsection 18(r) applies narrowly only to affiliated depository institutions acting as agents, and has no application to agency relationships concerning nondepositories as agent, whether or not affiliated with the depository institution.

Section 18(r) shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from one Federal deposit insurance fund to the other Federal deposit insurance fund.

INTERSTATE BRANCHING

Introduction

The Conferees decided on an interstate branching structure somewhat different than the structure of either the House or the Senate bills. Under the House structure, branching (other than the establishment of de novo branches) was permitted three years after enactment through a one-step acquisition of an existing bank and its conversion to branches of the acquiring bank, under the National Bank Act for national banks or the Federal Deposit Insurance Act for State banks. The Senate structure used a two-step process effective June 1, 1997, with the interstate acquisition of a bank under the Bank Holding Company Act of 1956 subsequently followed by a consolidation of the newly acquired bank with another bank owned by the holding company.

The Conferees adopted a structure under which a bank would engage in a merger transaction with the out-of-State bank and convert any of its offices into branches of the resulting bank under the authority of a new section of the Federal Deposit Insurance Act. Such a transaction would be subject to approval under the Bank Merger Act.

The House bill authorized bank holding companies to consolidate affiliated banks into a single bank with interstate branches 18 months after enactment of the legislation. The Senate bill did not provide for early consolidation. The House receded to the Senate, thereby permitting consolidation of affiliated banks in different States through an interstate merger transaction when interstate branching takes effect on June 1, 1997.

Once a bank has established branches in a host State through an interstate merger transaction, such bank may establish and acquire additional branches at any location in the host State where any bank involved in the interstate merger transaction could have established or acquired branches under applicable Federal or State law.

Interstate Branching Through Mergers

Beginning June 1, 1997, a bank may merge with a bank in another State so long as both States have not opted out of interstate branching between the date of enactment and May 31, 1997. States may enact laws opting-out of interstate branching before June 1, 1997, subject to certain conditions. States may also enact laws permitting interstate merger transactions before June 1, 1997. Host States may impose conditions on a branch resulting from an interstate merger transaction that occurs before June 1, 1997, if the conditions do not discriminate against out-of-State banks, are not preempted by Federal law, and do not apply or require performance after May 31, 1997.

State laws requiring out-of-State banks or bank holding companies to merge with, or acquire a bank that has been in existence for a specified minimum period of time (not to exceed five years) are preserved with respect to interstate merger transactions. Any such State law which imposes a minimum age requirement of more than five years on a bank to be acquired is to be applied as if the minimum age requirement is five years.

Any bank that files an application for an interstate merger transaction shall comply with any filing requirement of any host State of the bank resulting from the transaction, to the extent the requirement does not discriminate against out-of-State banks or bank holding companies, and is similar to any requirement imposed on nonbanking corporations incorporated in another State that engage in business in the host State. Banks must also file a copy of the application for the interstate merger transaction with the State bank supervisor of the host State. The responsible agency may not approve an application if the applicant materially fails to comply with the host State's filing requirements.

The responsible agency may not approve an application for an interstate merger if the resulting bank would control more than 10 percent or more of the total amount of deposits of insured depository institutions in the United States or 30 percent or more of the deposits in any State affected by the interstate merger. Notwithstanding the 30 percent limit, the responsible agency could approve such a transaction if the home State waives the 30 percent limit either by statute, regulation, or order of the appropriate State official based on standards that do not have the effect of discriminating against out-of-state institutions.

The concentration limits do not apply with respect to any interstate merger transactions involving affiliated banks. The concentration limits also do not apply to initial entry into a State by a bank or its affiliates. If, however, a State has a deposit concentration cap which applies in a non-discriminatory manner to both in-State and out-of-State banks and bank holding companies, then nothing in the legislation affects the State's authority also to impose such deposit caps to initial entries.

The responsible agency may approve an application for a merger only if each bank involved in the transaction is adequately capitalized as of the date the application is filed, and the agency determines that the resulting bank will continue to be adequately capitalized and adequately managed.

The laws of the host State regarding community reinvestment, consumer protection (including applicable usury ceilings), fair lending, and establishment of intrastate branches shall apply to any branch of a national bank in the host State to the same extent as such State laws apply to a branch of a bank chartered by that State, except when Federal law preempts, or when the Comptroller determines that the law has a discriminatory effect on the branch in comparison to branches of State-chartered banks. Such laws shall be enforced by the Comptroller of the Currency.

Acquisition of Branches

New section 44(a)(4)(A) of the Federal Deposit Insurance Act (as added by section 102(a)) permits the responsible Federal regulator to approve the acquisition of a branch of an insured bank without the acquisition of the entire bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank without acquiring the bank. The Conferees intend that, in approving such acquisitions, Federal regulators will ensure that state minimum age restrictions under paragraph (5) which apply to such acquisitions are preserved. Federal banking agencies should not approve the acquisition of a branch (if permitted under paragraph (4)) in host States which have minimum age laws regarding the acquisition of banks, unless such laws expressly permit branches in the host state to be acquired without the acquisition of the bank.

Applicability of Community Reinvestment Laws

Under current law, most interstate movement by banking organizations takes place via the Bank Holding Company Act. Current regulations and practices of the Board of Governors of Federal Reserve System delineate the scope of CRA performance considered by the Board in acting on applications by a bank holding company to move interstate via section 3(d) of the Bank Holding Company Act.

Section 44(b)(3) of the Federal Deposit Insurance Act (as added by section 102(a) of this title) provides that, only with respect to initial entry into a host state by a bank without branches or a bank affiliate in that host state, the scope of CRA performance considered by the responsible Federal banking agency in connection with an interstate branching application will parallel the scope of CRA performance which would be considered by the Board of Governors of the Federal Reserve System (to the same extent as outlined in the statement of managers accompanying section 3(d)(3) of the Bank Holding Company Act of 1956, as amended by section 101(a) of this title) if the application were for an interstate bank holding company acquisition pursuant to section 3(d) of the Bank Holding Company Act. Hence, in those cases of initial entry, the Conferees intend that the responsible federal banking agency comply with its responsibilities under section 804 of CRA consistent with current regulations and practices with respect to bank mergers and also to take into account the CRA record, including the most recent written evaluation, of any affiliate banks of the resulting bank.

With respect to all other interstate branching applications apart from those involving initial entry into a host state, the responsible Federal banking agency shall carry out its responsibilities under section 804 of the Community Reinvestment Act consistent with its current regulations and practices with respect to bank mergers.

In all cases, when taking into account the CRA performance of an institution with branches in more than one state in connection with acting on an interstate branching application, the Conferees expect that the responsible Federal banking agency will take into account the institution's performance under CRA in each state in which it maintains branches.

In addition, when acting on a interstate branching application, the responsible Federal banking agency shall take into account the records of compliance with applicable State community reinvestment laws of any applicant bank.

Applicable State Law

States have a strong interest in the activities and operations of depository institutions doing business within their jurisdictions, regardless of the type of charter an institution holds. In particular, States have a legitimate interest in protecting the rights of their consumers, businesses, and communities. Federal banking agencies, through their opinion letters and interpretive rules on preemption issues, play an important role in maintaining the balance of Federal and State law under the dual banking system. Congress does not intend that the Interstate Banking and Branching Efficiency Act of 1994 alter this balance and thereby weaken States' authority to protect the interests of their consumers, businesses, or communities.

Accordingly, the title emphasizes that a host state's laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches will apply to interstate branches of national banks established in the host state to the same extent as those laws apply to a branch of a State bank, except when Federal law preempts application of the State laws to a national bank, or when the Comptroller of the Currency determines that the State laws have a discriminatory effect on the branch as compared with their effect on a branch of a State bank.

Under well-established judicial principles, national banks are subject to State law in many significant respects. The laws of the State in which a national bank is situated will apply to the national bank unless those State laws are preempted by Federal law. Generally, State law applies to national banks unless the State law is in direct conflict with the Federal law, Federal law is so comprehensive as to evidence Congressional intent to occupy a given field, or the State law stands as an obstacle to the accomplishment of the full purposes and objectives of the Federal law. In this regard, the impact of a State law on the safe and sound operations of a national bank is one factor that may be taken into account in considering whether Federal law preempts State law. Courts generally use a rule of construction that avoids finding a conflict between the Federal and State law where possible. The title does not change these judicially established principles.

During the course of consideration of the title, the Conferees have been made aware of certain circumstances in which the Federal banking agencies have applied traditional preemption principles in a manner the Conferees believe is inappropriately aggressive, resulting in preemption of State law in situations where the federal interest did not warrant that result. One illustration is OCC Interpretive Letter No. 572, dated January 15, 1992, from the OCC to Robert M. Jaworski, Assistant Commissioner, State of New Jersey Department of Banking, concluding that national banks in New Jersey are not required to comply with the New Jersey Consumer Checking Account Act. It is of utmost concern to the Conferees that the agencies issue opinion letters and interpretive rules concluding that Federal law preempts state law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches only when the agency has determined that the Federal policy interest in preemption is clear. In the case of Interpretive Letter No. 572, it is the sense of the Conferees that the fact the Congress has acknowledged the benefits of more widespread use of lifeline accounts through the enactment of the Bank Enterprise Act did not indicate that Congress intended to override State basic banking laws, or occupy the area of basic banking services to such an extent as to displace State laws, or that the existence of State basic banking laws frustrated the purpose of Congress.

The Conferees have similar concerns regarding the scope of the OCC interpretive rule that appears at 12 C.F.R. §7.8000, which broadly asserts that Federal law governing the deposit-taking functions of national banks preempts any State law that attempts to prohibit, limit, or restrict deposit account service charges. In light of the Conferees' views regarding the proper application of recognized preemption standards discussed above, the Conferees urge the OCC to review Interpretive Ruling 7.800 to determine if it should be withdrawn or revised.

The Conferees understand that in certain cases some states have imposed conditions on, or obtained commitments from, bank holding companies in connection with a company's acquisition of banks outside its home state. The title provides that such conditions or commitments existing as of the date of enactment of the Interstate Banking and Branching Efficiency Act of 1994 will continue to be enforceable against the bank holding company or an affiliated successor company to the same extent as they were previously if a bank holding company with bank subsidiaries in more than one state chooses to combine its banks under new section 44 of the Federal Deposit Insurance Act (as added by section 102(a) of this title). The title does not create any new State enforcement authority with respect to any conditions imposed or commitments made before the enactment of the title.

Interpretations Concerning Federal Preemption of State Law

In view of the Congressional concern regarding preemption of State law regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, the Conferees concluded that a more open process for reaching preemption conclusions in these areas, with a clearly structured, meaningful opportunity for interested parties to communicate their views to the agency, was warranted. Also, it is important that the agencies make their determinations on Federal preemption of State law available to the public in a timely and accessible manner. Accordingly, the title imposes certain procedural requirements on agency preemption opinion letters and interpretive rules in connection with State laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, whether or not related to interstate branching. The Conferees believe that the public notice and openness provided by the new process will be a vital safeguard to ensure that an agency applies the recognized principles of preemption, discussed above, in a balanced fashion.

The title provides that before issuing any opinion letter or interpretive ruling concluding that Federal law preempts State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches, the appropriate Federal banking agency will publish notice in the Federal Register of the request, or of the agency's intention on its own motion, to determine whether Federal law preempts a particular State law. The notice should describe each State law in question and otherwise provide information sufficient to enable interested parties to comment meaningfully on the issue under consideration. The agency also should promptly make available upon request a copy of any incoming request letter. The title also requires the agency to publish in the Federal Register a copy of the final opinion letter or interpretive rule.

The Federal Register publication requirement is intended to provide readily available and widespread notice to interested parties of the opportunity to comment on preemption matters that have not been previously resolved by the agency or courts. The title requires the agency to give interested parties not less than 30 days in which to submit comments. In establishing the length of the comment period, the Conferees intend that the agencies should take into account the complexity of the preemption issue involved and the number of parties likely interested in responding to the solicitation of public comment and the resources of those parties. The Conferees also expect the agencies to be flexible in extending the comment period if requested to do so by an interested party for good cause shown. The title further requires the agency to take the public comments into account in reaching its decision, even though each particular comment need not be specifically discussed in the final product.

This process is not intended to confer upon the agency any new authority to preempt or to determine preemptive Congressional intent in the four areas described, or to change the substantive theories of preemption as set forth in existing law. Rather, it is intended to help focus any administrative preemption analysis and to help ensure that an agency only makes a preemption determination when the legal basis is compelling and the Federal policy interest is clear.

The public notice and comment process is not required when a particular request raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the agency or the courts, or when the incoming request regarding preemption contains no significant legal basis upon which to make a preemption determination. The title also exempts materials prepared for use in judicial proceedings, for submission to Congress or a member of Congress, and for intra-governmental use from the new public notice requirements. The intra-governmental use exception, in particular, is intended to carve out an exception for materials provided to or from, or shared with, agency personnel or other agencies in the Executive Branch. Examples of the type of such material include, but are not limited to, memoranda, letters, correspondence, advisory opinions, or other materials that are part of the deliberative process that governs the making of decisions and policies within the Executive Branch. An exception to the notice and comment provisions is also provided in cases when the appropriate Federal banking agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of a national bank.

The Comptroller must follow the notice and comment process in making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes that State laws discriminate against a branch of a national bank as compared with a branch of a State bank.

The Conferees expect that the Federal banking agencies will be receptive to well-supported requests from interested parties seeking reconsideration of previous interpretive rules or opinions regarding state community reinvestment, consumer protection, fair lending and intrastate branching laws, consistent with the approach to preemption discussed above.

Host State Notification Requirements

Host States may impose any notification or reporting requirement on a branch in the State if the requirement does not discriminate against out-of-State banks and is not preempted by Federal law. Such requirement is in addition to the filing requirement for individual transactions.

State Opt-Out of Interstate Branching

Section 44(a)(2) of the Federal Deposit Insurance Act (as added by section 102(a)) provides that States may opt out of interstate branching by enacting legislation after the date of enactment of the title and before June 1, 1997. If a State opts-out, no bank in any other state may establish a branch in that State, either State, either through an acquisition or de novo. A bank whose home State opts-out of interstate branching may not participate in any interstate merger transaction.

Interstate Branching De Novo With State Authorization

The appropriate Federal regulator may approve an application by a bank to establish and operate a de novo branch in a State in which the bank does not maintain a branch if a State opts-in to de novo branching, and expressly permits de novo branching. The establishment of the initial branch in a host State which permits de novo interstate branching is subject to the same requirements which apply to the initial acquisition of a bank in the host State, other than the deposit concentration limits. Those limits are inapplicable to de novo entry since, by definition, the bank would not control any deposits in the host State at the time of entry.

Once a bank has established a branch in a host State by de novo branching such bank may establish and acquire additional branches at any location in the host State in the same manner as a bank could have established or acquired under applicable Federal or State law.

Exclusive Means of Interstate Branching

The Conferees adopted provisions to assure that the comprehensive framework for interstate branching established by Title I will, when the provisions take effect, be the exclusive means for national and State banks to enter new States with interstate branches.

Paragraphs (2) and (3) of section 102(b) amend the National Bank Act and the Federal Deposit Insurance Act, respectively, to state that when the interstate merger and branching provisions take effect, initial interstate entry into a host State may, with exceptions for certain emergency situations, occur only in accordance with this legislation. These provisions will assure that the conditions and safeguards which accompany initial interstate branching will apply to the establishment of interstate branching networks at the time those provisions take effect.

The Comptroller of the Currency (OCC) has used the 30 mile relocation provision of the National Bank Act (section 2 of the Act of May 1, 1886, 12 U.S.C. 30), to approve several transactions which have permitted national banks to move their main offices to other

States but to retain branches in the States left by the main offices. Section 102(b)(2) amends the provision so that after June 1, 1997, a national bank relocating its main office to another state may maintain its branches in the first state only if those branches could have been established by a bank with its home State in the new State. However, along with the OCC's approval for the relocation, the bank would be required to obtain the Comptroller's approval under section 5155 of the Revised Statutes to continue to operate any remaining branch offices located in State other than the State of its new main office. Thus, the bank would be required to file a consolidated application with the OCC covering both aspects of the transaction; the OCC would be authorized to act on the remaining out-of-State branch aspect of the transaction only pursuant to section 5155. State banks are treated in a similar manner.

The Conferees are aware of the OCC procedures in permitting relocation across state lines. The Conferees concur with those procedures, including the application of appropriate State law and authority. The Conferees expect the OCC to continue to follow those procedures until the provisions of Title I become fully applicable on June 1, 1997.

Banks that have moved their main offices pursuant to 12 U.S.C. 30 should not be treated differently than other banks with their main offices in that state. Specifically, for purposes of section 3(d) of the Bank Holding Company, and sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, such banks shall be able to make acquisitions and establish branches in the state to which their main office is relocated to the same extent as any other bank with its main office in that state.

AMENDMENT TO THE HOME OWNERS LOAN ACT

The amendment made to the Home Owners Loan Act by section 102(b)(5) of the bill overturns an interpretation of that Act in *First Gibraltar Bank* v. *Morales*, (5th Cir., Dkt. 93-8170, decided April 29, 1994). In the case the United States Court of Appeals for the Fifth Circuit held that the Office of Thrift Supervision had the authority to issue a regulation preempting a provision in the Texas Constitution protecting homesteads of consumers in the State.

This amendment clarifies that neither the Home Owners Loan Act nor any other provision of law provides the Director of the Office of Thrift Supervision with the authority, through regulation or otherwise, to preempt Texas law in the area of homestead protection. By extension, housing creditors under the Alternative Mortgage Transaction Parity Act who were impacted by the decision in the *First Gibraltar* case also continue to be subject to Texas law in the area of homestead protection.

PROVISIONS RELATING TO DIRECT BRANCHES OF FOREIGN BANKS

Establishment of Direct Branches of a Foreign Bank Outside the Foreign Bank's Home State

Under the House bill, section 5(a) of the International Banking Act of 1978 (IBA) was amended to permit a foreign bank to establish and operate State-licensed branches, either de novo or by acquisition and merger, in any State outside its home State to the same extent that a bank chartered by the foreign bank's home State may establish such branches de novo or by acquisition and merger, respectively. A parallel provision allowed a foreign bank to establish and operate Federally-licensed branches in any State outside its home State to the same extend that a national bank from the foreign bank's home State may do so. In addition, the House bill restates the provision of current law that allows a State to permit foreign banks to establish agencies or limited branches that accept only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to accept.

The Senate bill did not amend the IBA. As a result, the Senate bill permitted foreign banks to engage in interstate branching only if they first established or acquired a bank in the United States and then followed the same procedures applicable to U.S. Banks. The Senate adopted its approach to address its concern that the wholesale direct branches of foreign banks enjoy competitive advantages over U.S. banks because such branches are not subject to the Community Reinvestment Act or to deposit insurance coverage and assessments.

The Conferees agreed to adopt the House structure regarding foreign banks. However, in order to address concerns regarding a level playing field between wholesale direct branches of foreign banks and domestic banks, the Conferees added provisions regarding: (a) continued application of CRA requirements to a direct branch resulting from an initial interstate entry by acquisition of a regulated financial institution: (b) revision of the regulations governing the types of deposits that may be accepted by uninsured direct branches of a foreign bank; (c) types of activities at offshore shell branches managed and controlled by U.S. branches and agencies of foreign banks; and (d) application of consumer protection laws to direct branches of foreign banks. These provisions are among those described below.

Requirement for a separate subsidiary. Section 5(a) of the IBA is amended to provide that the Federal Reserve Board or the Comptroller of the Currency may require a foreign bank to establish a separate U.S. subsidiary bank in order to engage in interstate branching if the Board or the Comptroller finds that it is the only way to verify that a foreign bank adheres to capital requirements that are equivalent to those applicable to a U.S. bank engaged in interstate branching.

Continued application of CRA requirements to a direct branch resulting from an initial interstate entry by acquisition of a regulated financial institution. The Conferees added section 5(a)(8) to the IBA to provide that in cases where a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank was, or was part of, immediately prior to the acquisition, a regulated financial institution as defined in the Community Reinvestment Act (CRA), the CRA shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a reguated financial institution. The Conferees note that the requirements of section 6(c) of the IBA will still apply. The requirements of section 5(a)(8) would not apply in the case of a branch that results from such acquisition that accepts only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to accept.

Continued authority for branches, agencies and commercial lending companies established prior to this Act. Section 5(b) of the IBA is amended to include a provision that permits foreign banks that lawfully established and operated interstate branches, agencies or commercial lending company subsidiaries before the date of enactment of this Act to continue to operate such offices or subsidiaries after the enactment of this Act.

Determining home State of foreign bank. Section 5(c) of the IBA is amended to provide that any foreign bank that operates a branch, agency, subsidiary commercial bank or commercial lending company must have a home State.

Clarification of direct branching rules in the case of a foreign bank with a domestic bank subsidiary. Section 5(d) is added to the IBA to clarify that a foreign bank may establish direct branches and agencies on an interstate basis and also own or control a U.S. subsidiary bank, and that a national or State subsidiary bank of a foreign bank may acquire, establish or operate branches outside its home State to the same extent as any other national or State bank, respectively, from the subsidiary bank's home State.

Deposits That May Be Accepted by Uninsured Direct Branches of Foreign Banks

Revision of regulations governing types of deposits that may be accepted by uninsured direct branches of foreign banks. The IBA was amended in 1991 to prohibit a foreign bank from establishing any new branches which take domestic retail deposits that have balances of less than $100,000 and require deposit insurance. As a result, a foreign bank must establish a U.S. subsidiary bank in order to conduct a domestic retail deposit-taking business. Regulations issued by the Federal Deposit Insurance Corporation (FDIC) and the Comptroller of the Currency under section 6 of the IBA govern the types of deposits that may be accepted by uninsured direct branches of foreign banks. To address concerns that these regulations may permit such branches to engage to some extent in domestic retail deposit-taking activity, in regard to which they are not subject to FDIC insurance coverage and assessments or to the requirements of the Community Reinvestment Act, the Conferees added a requirement that the FDIC and the Comptroller revise their regulations to ensure that foreign banking organizations do not receive an unfair competitive advantage over U.S. banking organizations.

In reviewing their regulations in accordance with this subsection, the agencies must consider whether to permit the acceptance of initial deposits of less than $100,000 only from specified types of customers. As part of this revision, the agencies must reduce—from five percent of average branch deposits to no more than one percent—the exemption that allows such branches to accept initial deposits of less than $100,000 from any party on a de minimis basis. In carrying out this revision, the agencies must take into account the importance of maintaining and improving the availability of credit to all sectors of the U.S. economy, including the international trade finance sector of the U.S. economy. The agencies must publish final regulations no later than twelve months after the date of enactment of this Act and may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that were previously permissible.

Treatment of FDIC-insured banks chartered in Puerto Rico, Guam, American Samoa, Virgin Islands and U.S. territories. Section 6(d) of the IBA is amended to clarify that banks insured by the FDIC and chartered in any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands are not included as foreign banks for purposes of the requirement to establish a banking subsidiary to engage in a domestic retail deposit-taking business. This provision clarifies that such insured banks (which are also subject to CRA requirements) are to be treated like any other FDIC-insured bank for purposes of acceptance of retail deposits and are therefore not subject to the provisions of section 6(c).

Types of Activities at Offshore Shell Branches Managed and Controlled by U.S. Agencies and Branches of Foreign Banks

U.S. banking agencies do not regulate or supervise the activities of offshore shell branches of foreign banks, even if such branches are managed and controlled by U.S. agencies and branches of foreign banks. The Conferees wanted to avoid any potential for a foreign bank to use its U.S. branches or agencies to manage types of activities through offshore shell branches that could not be managed by a U.S. bank at its foreign branches or subsidiaries.

To address this concern, the Conferees added Section 7(k) to the IBA to provide that a U.S. branch or agency of a foreign bank may not, through an offshore shell branch that it manages or controls, manage types of activities that a U.S. bank is not permitted to manage at a foreign branch or subsidiary. Any regulations promulgated to carry out this section must be promulgated in accordance with section 13 of the IBA and must be uniform, to the extent practicable.

Other Foreign Bank Provisions

Application of consumer protection laws to direct branches of foreign banks. Section 9(b) of the IBA is amended to affirm that direct branches and agencies of foreign banks and commercial lending company subsidiaries are, by various statutory provisions, subject to the following consumer protection laws: Electronic Funds Transfer Act, Equal Credit Opportunity Act, Expedited Funds Availability Act, Fair Credit Billing Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, Home Mortgage Disclosure Act, Real Estate Settlement Procedures Act, Truth in Lending Act, Truth in Leasing Act, and Truth in Savings Act.

Foreign bank examination fees. Sections 7(c) and 10(c) of the International Banking Act state that the Federal Reserve Board shall assess the cost of any examination of a branch, agency or representative office of a foreign bank against the foreign bank. The conference report provides a three-year moratorium on any assessments under these sections.

COORDINATION OF EXAMINATION AUTHORITY REGARDING INTERSTATE BRANCHES

Section 105 permits the appropriate State bank supervisor of a host State to examine branches of out-of-State Banks to assure compliance with host State laws, including those governing banking, community reinvestment, fair lending, consumer protection and permissible activities, and to assure that the activities of the branch are conducted in a safe and sound manner.

The host State bank supervisor, or other host State law enforcement officer (if authorized under host State law) may take appropriate enforcement actions and proceedings regarding the branch.

State bank supervisors are permitted to enter into cooperative agreements to facilitate supervision of State banks operating interstate. Under the Senate-passed bill, such agreements would have been subject to approval of the appropriate Federal regulator. The House-passed bill had no requirement for approval. The Senate receded to the House on this issue. Both bills contained a provision that nothing in the section affected the authority of Federal banking agencies to examine branches of insured depository institutions, and the Conferees enclosed such a provision in the title.

BRANCH CLOSURES

The House-passed bill added a new section 42(d) to the Federal Deposit Insurance Act, setting forth a procedure for notice, comment, consultation with community leaders and a meeting of representatives of the appropriate Federal banking agency whenever an interstate bank proposes closing a branch in a low- or moderate-income area. The Senate-passed bill contained no comparable provision.

The House provision was amended by the Conferees to specifically include other interested agencies in the required meeting in order to include the National Credit Union Administration in the meetings for the purpose of exploring the development of the use of community development credit unions.

This section does not affect the authority of an interstate bank to close a branch, or the timing of the closing.

FEDERAL RESERVE BOARD STUDY ON BANK FEES

The Federal Reserve is required to conduct an annual survey of the fees charged by banks for retail banking services. Each report shall describe any national or state trends in the cost and availability of such services. Reports are required for seven years.

PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES

In order to assure that the new interstate branching authorities provided by the Interstate Banking and Branching Efficiency Act of 1994 do not result in the taking of deposits from a community without concern for the credit needs of that community, section 107 requires each appropriate Federal banking agency to promulgate regulations effective June 1, 1997, prohibiting interstate branches from being used as deposit production offices. The regulations are to include guidelines to ensure that each interstate branch is reasonably helping to meet the credit needs of the community in which the branch operates.

The Conferees do not intend that section 109 creates any additional regulatory or paperwork burdens for any institution.

The regulations must require that if the percentage of loans made by an out-of-state bank in the host state relative to the deposits taken by the out-of-State bank in the host state is less than half the average of such percentage for all host-state banks, the appropriate federal banking agency shall review the loan portfolio of the bank and determine whether the out-of-state bank is reasonably helping to meet the credit needs of the community served by the bank in the host state. If the agency determines that it is not, it may order the branch to be closed and the bank which established the branch may not open to a new branch in that State, unless the bank provides reasonable assurances to the agency that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host state.

In making such a determination, the appropriate Federal banking agency shall consider a number of factors including whether the branch was acquired as part of the purchase of a failed or failing depository institution; whether the branch was acquired under circumstances where there was a low loan-to-deposit ratio; whether the branch has a higher concentration of commercial and credit card lending; and the ratings received by the out-of-state bank in CRA evaluations.

This provision applies to new interstate branches of national banks, state banks, and foreign banks established pursuant to this title or any amendment thereto.

COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES

For each insured institution that maintains branches in two or more states, the appropriate Federal banking agency must prepare a written evaluation (pursuant to sections 807 (a), (b), and (c) of the Community Reinvestment Act) of the institution's overall CRA performance, along with separate written evaluations and ratings of the institution's CRA performance in each state in which it maintains branches. If an institution has branches in two States in a single multi-state metropolitan area, the agency will prepare a separate written evaluation of the institution's CRA performance within that metropolitan area, and adjust the state-by-state evaluations of the institution accordingly.

Each state-by-state evaluation is to present information separately for each metropolitan area (within that state) in which the institution maintains one or more branches, and separately for the nonmetropolitan area of the state if the institution has at least one branch in such non-metropolitan area.

RESTATEMENT OF EXISTING LAW

State Taxation Authority

Section 111(1) restates as part of Title I the provisions of section 7(b) of the Bank Holding Company Act of 1956 regarding state taxation authority. Section 111(2) states that nothing in the title shall be construed as affecting the existing authority of any state or political subdivision of any state to impose and maintain a nondiscriminatory franchise or other nonproperty tax on any bank, branch or bank holding company.

Applicability of Section 5197 of the Revised Statutes and Section 27 of the FDI Act

Section 111(3) specifically states that nothing in Title I affects sections 5179 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act. Accordingly, the amendments made by the Interstate Banking and Branching Efficiency Act of 1994 that authorize insured depository institutions to branch interstate do not affect existing authorities with respect to any charges under section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act imposed by national or state banks for loans or other extensions of credit made to borrowers outside the state where the bank or branch making the loan or other extension of credit is located.

GAO REPORT ON DATA COLLECTION

The Conferees adopted a Senate provision requiring a General Accounting Office report no later than 9 months after enactment on existing requirements for insured depository institutions to collect and report deposit and lending data and determine what modifications are needed so that interstate branching results in no material loss of information important to regulatory or congressional oversight of insured depository institutions. The House-passed bill had no similar provision.

PREEMPTION OF ARKANSAS USURY CEILING AS IT APPLIES TO CERTAIN LOANS

The Conferees adopted a Senate-passed provision preempting Arkansas usury limit for Consolidated Farm and Rural Development Act loans, while providing the State with a three-year period in which to reenact its limitation. The House-passed bill had no similar provision.

TITLE II—GENERAL PROVISIONS

STATUTE OF LIMITATIONS

Section 201 of the bill as adopted by the conference would permit the FDIC or the RTC, as conservator or receiver of a failed depository institution, to "revive" under certain circumstances, certain tort claims that had expired under a State statute of limitations within five years of the appointment of the conservator or receiver. This provision does not affect other applicable State laws concerning the running or the tolling of statutes of limitations (by reason of adverse domination or otherwise), nor does it alter section 11(k) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(k), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

The revival of expired claims is an extraordinary remedy because it is a form of the retroactive application of law which the courts and Congress have generally disfavored. Accordingly, section 201 would limit this extraordinary remedy to claims arising from an egregious class of conduct, i.e., fraud, intentional misconduct resulting in unjust enrichment, and intentional misconduct resulting in substantial loss to the institution. This three-pronged, fraud/intentional misconduct standard is precisely the same as the one that Congress adopted last year, after considerable debate, with respect to a retroactive statute of limitations extension in the Resolution Trust Corporation Completion Act of 1993.

As with last year's reauthorization of the RTC, the intentional misconduct standard for revival in this provision is not intended to apply to claims arising from negligence, whether pleaded as simple, ordinary, or gross negligence. Claims arising from such negligent conduct by directors, officers, and outside professionals, such as negligent approval or review of loan applications, do not warrant the extraordinary remedy of revival if it is in the contravention of State law.

Section 201 would recognize that there is a level of misconduct which justifies Congressional actions to retroactively set aside a State statute of limitations, particularly where, for example, this misconduct involves individuals who improperly manipulated institutional affairs to prevent themselves from being brought to justice before the State period of limitations expired. This level of misconduct is reflected in particular forms of intentional behavior. The intentional misconduct standard is written to specifically include conduct such as self-dealing that result in unjust enrichment or a substantial loss to the institution, manipulation by institution insiders that results in a running of a statute of limitations, falsifying financial records that disguises increased financial loss, and conspiracy to violate banking rules or regulations.

SENSE OF THE SENATE REGARDING EXPORT CONTROLS

The Conferees adopted a Senate provision expressing the Sense of the Senate that the President should work toward establishment of a multilateral system to prevent acquisition by rogue regimes of products and technologies which could pose a threat to the national security of the United States. The House bill contained no similar provision.

AMENDMENT RELATING TO SILVER MEDALS FOR PERSIAN GULF WAR VETERANS

The purpose of the LaRocco Amendment is to permit the Secretary of the Treasury to begin production of the Persian Gulf silver medals, which were authorized by the 102nd Congress and signed into law by President Bush. These medals are in recognition of service rendered to the nation by members of the U.S. Armed Forces who served in the Gulf War. The amendment will allow the Secretary of the Treasury to use funds that have already been generated through ongoing sales of bronze replicas to begin production and continue so long as funds remain available.

COMMEMORATION OF 1995 SPECIAL OLYMPICS WORLD GAMES

The 1995 Special Olympics World Games Commemorative Coin Act authorizes the issuance of 800,000 one-dollar silver coins, which will be emblematic of the 1995 Special Olympics World Games. The coins will be issued during the period beginning on January 15, 1995 and ending on December 31, 1995, and will result in no net cost to the United States Government. The dates of issuance are not intended to conflict with any other coins authorized under this Act.

The 1995 Special Olympics World Games will be held July 1-9, 1995 in New Haven, CT and will attract more than 6,500 athletes from around the world. Funds raised through the ten dollar surcharge on the sale of each coin will be used to: (1) provide a world-class sporting event for athletes with mental retardation; (2) demonstrate to a global audience the talents, dedication and courage of persons with mental retardation; and (3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS

The National Community Service Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of community service volunteers. The coins will be issued for a period of no less than six months, and no more than 12 months, beginning no later than September 1, 1996, and will result in no net cost to the United States Government.

Funds raised through the ten dollar surcharge on the sale of each coin will be paid to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS

The Robert F. Kennedy Memorial Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of the life and work of former Attorney General and United States Senator Robert F. Kennedy. The coins will be issued for a period of no less than six months, and no more than 12 months, beginning no later than January 1, 1998, and will result in no net cost to the United States Government.

Funds raised through the ten dollar surcharge on the sale of each coin will be used to improve the endowment of the Robert F. Kennedy Memorial.

UNITED STATES MILITARY ACADEMY BICENTENNIAL COMMEMORATIVE COIN

This legislation provides for the minting of coins to commemorate the bicentennial of the U.S. Military Academy located in West Point, New York. The Academy will celebrate its bicentennial on March 16, 2002.

The Military Academy has provided our nation with the core of its military officers. It was founded in 1802, principally as a result of the vision of George Washington. West Point has been the source of most of our Nation's great military leaders, like Robert E. Lee, Ulysses S. Grant, John Pershing, Dwight Eisenhower, and Norman Schwarzkopf. However, West Point is much more than a training school for military leaders: It has always been a national bedrock of values which are best expressed by the Academy's motto, "Duty, Honor, Country."

In the year 2002, the United States Mint will issue 500,000 silver dollars to commemorate West Point's bicentennial. The silver dollars will be struck at the United States Bullion Depository at West Point. A $10 surcharge will be added to the cost of the coins. The money raised from the surcharges will be used by the Association of Graduates to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets at the United States Military Academy. The Association of Graduates provides important activities and programs for the Cadets in hopes of helping each young person adjust to the tough and demanding four years at West Point. These activities and programs are not funded by the taxpayers. These coins will be minted at no net cost to the government.

UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS

The United States Botanic Garden Commemorative Coin Act authorizes the issuance of 500,000 one-dollar silver commemorative coins, which will be emblematic of the 175th anniversary of the founding of the United States Botanic Garden. Although the coins will be issued beginning on January 1, 1997, and ending on December 31, 1997, the coins shall be inscribed with the years 1820–1995 in order to properly commemorate the Garden's 175th anniversary. No other dates shall appear on the coin. The issuance of these coins will result in no net cost to the United States Government.

MOUNT RUSHMORE COMMEMORATIVE COINS

In 1990, legislation was passed directing the U.S. Treasury to mint a series of Mount Rushmore commemorative coins in 1991. The legislation specified that 50 percent of the surcharge from each coin sold was to be directed to the Mount Rushmore Society to preserve the Memorial and upgrade its facilities. The other 50 percent of the surcharge was to be directed to the U.S. Treasury for the purposes of deficit reduction. At the time the legislation was passed, it was anticipated that all of the coins would be sold, providing revenues of $18,750,000 each of the Mount Rushmore Society and the U.S. Treasury.

Unfortunately, sales of the Mount Rushmore Commemorative Coins generated only $12 million. This left the Mount Rushmore Society with revenues of only $6 million—less than a third of what was anticipated and not enough to fund the Monument's preservation and improvement. This provision would direct the first $18,750,000 in surcharges to the Society, and allocate the remainder to the U.S. Treasury.

FINANCIAL SERVICES COMMISSION

The Conferees adopted a modified version of a Senate provision requiring a study of the United States financial services system. The House bill contained no similar provision.

The provision directs the Secretary of the Treasury to conduct a study of the strengths and weaknesses of the U.S. financial services system in meeting the needs of users of the system. The Secretary is to appoint between

9 and 14 members to an Advisory Commission on Financial Services, with which the Secretary is to consult in conducting the study. The Secretary is also to consult with enumerated federal agencies and officials in conducting the study. The Secretary is to report the results of the study and any recommendations not later than 15 months after the date of enactment of the legislation.

FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS

The Conferees agreed to reduce from two-thirds to a majority the proportion of the board of directors of a national bank who must reside in the same state in which the bank is located (or within 100 miles of the main office).

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
BARNEY FRANK,
PAUL E. KANJORSKI,
JOSEPH KENNEDY,
JAMES LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
TOM RIDGE,

As additional conferees from the Committee on Agriculture, for consideration of sec. 109 of the Senate amendment, and modifications committed to conference:

E DE LA GARZA,
CHARLIE STENHOLM,
HAROLD L. VOLKMER,
TIMOTHY J. PENNY,
TIM JOHNSON,
PAT ROBERTS,
LARRY COMBEST,
WAYNE ALLARD,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 101–03 of the House bill, and title II and secs. 102–03 of the Senate amendment, and modifications committed to conference:

R.L. MAZZOLI,
BILL HUGHES,
DAN GLICKMAN,
RICK BOUCHER,
JOHN BRYANT,
HAMILTON FISH,
CHAS T. CANADY,
BOB GOODLATTE,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
CHRISTOPHER DODD,
JIM SASSER,
Managers on the Part of the Senate.

MESSAGES FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the amendments of the Senate to the bill (H.R. 4429) to authorize the transfer of naval vessels to certain foreign countries; with amendments; in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills; in which it request the concurrence of the Senate:

H.R. 810. An act for the relief of Elizabeth M. Hill;

H.R. 2194. An act for the relief of Merrill Lannen; and

H.R. 2793. An act for the relief of Kris Murty.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 195. Joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. BYRD).

At 3:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 4003. An act to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes.

At 5:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1066. An act to restore Federal services to the Pokagon Band of Potawatomi Indians.

S. 1357. An act to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes.

The message also announced that the House agrees to the Senate amendment to the House amendment to the bill (S. 1458) to amend the Federal Aviation act of 1958 to establish time limitations on certain civil actions against manufacturers, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2194. An Act for the relief of Merrill Lannen; to the Committee on Governmenta. Affairs.

H.R. 2793. An Act for the relief of Kris Murty; to the Committee on Armed Services.

H.R. 4003. An Act to authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, August 3, 1994, she had presented to the President of the United States the following enrolled joint resolution:

S. J. Res. 195. Joint resolution to designate August 1, 1994, as "Helsinki Human Rights Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3137. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Imported Vehicle Safety Compliance Act of 1988" for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC–3138. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports from June 1994; to the Committee on Governmental Affairs.

EC–3139. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the procurement and identification of energy efficient products for Federal agencies; to the Committee on Governmental Affairs.

EC–3140. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–289 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3141. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–290 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3142. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–291 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3143. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–292 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3144. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–293 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3145. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–294 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3146. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–295 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3147. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10–296 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC–3148. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of

D.C. Act 10-301 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC-3149. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-302 adopted by the Council on July 25, 1994; to the Committee on Governmental Affairs.

EC-3150. A communication from the Assistant Attorney General, Department of Justice, transmitting, a draft of proposed legislation entitled "The Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act"; to the Committee on Indian Affairs.

EC-3151. A communication from the Chairman of the U.S. Sentencing Commission and the Director of the Federal Bureau of Prisons, transmitting, pursuant to law, the report on the maximum utilization of prisons' resources; to the Committee on the Judiciary.

EC-3152. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on training and employment programs for fiscal year 1991; to the Committee on Labor and Human Resources.

EC-3153. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-303 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3154. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-304 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3155. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-305 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3156. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-307 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3157. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-308 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3158. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-309 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3159. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-310 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3160. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-312 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3161. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-313 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3162. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 10-306 adopted by the Council on July 26, 1994; to the Committee on Governmental Affairs.

EC-3163. A communication from the President of the United States, transmitting, pursuant to law, requests for emergency fiscal year 1994 supplemental appropriations for the Departments of Defense and State and the Agency for International Development; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 823. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes (Rept. No. 103-324).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Paul M. Igasaki, of California, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1997;

Paul Steven Miller, of California, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1998;

Gilbert F. Casellas, of Pennsylvania, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1999; and

Kenneth Malerman Jarin, of Pennsylvania, to be a Member of the National Council of the Arts for a term expiring September 3, 1998.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Elizabeth Anne Moler, of Virginia, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 1999 (reappointment).

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COHEN:

S. 2353. A bill to authorize a certificate of documentation for the vessel *Jan Marie;* to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself, Mr. BOND, and Mr. PRYOR):

S. 2354. A bill to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse", and for other purposes; to the Committee on Environment and Public Works.

By Mr. LOTT:

S. 2355. A bill to authorize a certificate of documentation for the vessel *Empress*; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 2356. A bill to establish the Commission on the Advancement of Women in the Science and Engineering Work Forces; to the Committee on Labor and Human Resources.

By Mr. MITCHELL:

S. 2357. A bill to achieve universal health insurance coverage, and for other purposes; read the first time.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2358. A bill to amend the Clean Air Act to provide relief for non-selfgenerating ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. METZENBAUM (for himself, Mr. GRASSLEY, Mr. WELLSTONE, Mr. PELL, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. LEAHY, Mr. WOFFORD, Mr. ROBB, Mr. DOLE, and Mr. LEVIN):

S. Res. 247. A resolution condemning the recent acts of international terrorism committed against Jewish communities in Argentina, Panama, and Great Britain, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COHEN:

S. 2353. A bill to authorize a certificate of documentation for the vessel *Jan Marie*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION FOR THE VESSEL "JAN MARIE"

Mr. COHEN. Mr. President, I rise to introduce a bill today to direct that the vessel *Jan Marie*, official number 935835, be accorded trading privileges with a coastwise endorsement, a Great Lakes endorsement and transportation of merchandise endorsement of sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883).

The *Jan Marie* was built in Michigan in 1977 as a recreational vessel. It is 30.1 feet in length, 11.1 feet in breadth and 5.6 feet in depth.

This vessel was purchased in April, 1993 by Steven Doran of Freeport, ME. Mr. Doran bought the boat in order to start a sport fishing business. He received the certificate of documentation from the Coast Guard, realized the restrictions of the Jones Act and set about trying to trace the builder's certificate and first transfer of title in order to receive a waiver of these restrictions. Mr. Doran called the manufacturer of the boat and was told that they were out of business and all of their records had been sent to archives. Mr. Doran tried unsuccessfully to trace these records as well as contact the first owner, who might have had a copy of these documents. After much searching, it was determined that the first owner had passed away and there was no address of his family for further inquiry.

Therefore, Mr. Doran is seeking to have his vessel redocumented, so that these Jones Act restrictions may be removed. This will enable him to continue his pursuit of starting a sport fishing business in Maine.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the vessel JAN MARIE, United States official number 935835.

By Mr. LOTT:

S. 2355. A bill to authorize a certificate of documentation for the vessel *Empress*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION FOR THE VESSEL "EMPRESS"

• Mr. LOTT. Mr. President, I am introducing a bill today to direct the vessel *Empress*, Official Number 975018, be accorded coastwise trading privileges.

The *Empress* was constructed in 1925 in the United States. It is 75 feet in length, 16 feet in width, 5.5 feet in depth, and is self-propelled. The vessel was owned by the United States until 1960. The vessel has been used as a corporate business vessel, private residence, and charter vessel. It has also been used by non-profit groups such as the Special Olympics, March of Dimes, and the Ronald McDonald House.

The current owner obtained the boat from his father. The owner has all ownership records except for the years 1960-to-1965 when the vessel was being used by the Boy Scouts of America.

The owner of the vessel is seeking a waiver of the existing law so that the vessel can be used as a charter vessel.

Mr. President, I request that the text of the bill and this statement be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel EMPRESS, United States official number 975018.•

By Mr. HATCH:

S. 2356. A bill to establish the Commission on the Advancement of Women in the Science and Engineering Work Forces; to the Committee on Labor and Human resources.

ADVANCEMENT OF WOMEN IN SCIENCE AND ENGINEERING

Mr. HATCH. Mr. President, I am very pleased to join forces with my colleague in the House of Representatives, Congresswoman CONNIE MORELLA of Maryland, to sponsor the Senate companion to H.R. 467, the Commission on the Advancement of Women in Science and Engineering Work Forces Act.

This legislation would establish a bipartisan commission to examine the progress women have made in science and engineering professions.

One of the first Kennedy-Hatch collaborations shortly after I came to the Senate was in 1978 when we enacted the "Women in Science" bill as part of the National Science Foundation authorization for that year. In the mid-1980's, as chairman of the Senate Labor and Human Resources Committee, I authored a provision to the NSF bill that created an interagency committee to look at the barriers to women in Federal research positions and in Federally supported research.

The legislation I am now sponsoring with Congresswoman MORELLA is a logical followup to these activities. Not only does this proposal broaden the scope of inquiry, but it will provide some indication about the progress women have made over the last decade.

Let me assure my colleagues that, first, this commission will be bipartisan. There will be an equal number of Democratic and Republican appointments.

Second, there is a specific due date set for the report 1 year after the commission members are appointed. The commission expires 1 year after submitting the report. None of us wants to create another permanent commission.

Third, there are explicit assurances that private entities are not required to share information that would be considered private to that entity and that any information provided to the commission cannot be used in employment related litigation.

Again, Mr. President, I am happy to sponsor this initiative in the Senate and urge my colleagues to support it.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2358. A bill to amend the Clean Air Act to provide relief for nonselfgenerating ozone nonattainment areas, and for other purposes.

OZONE NONATTAINMENT AREA LEGISLATION

• Mr. LEVIN. Mr. President, a serious problem of unfairness with respect to implementation of the Clean Air Act has developed in three counties in west Michigan, and may be occurring elsewhere in the country too. I am introducing a bill today to correct this problem.

Let me explain the situation. Three west Michigan counties have been designated as two separate moderate ozone nonattainment areas by the EPA pursuant to the Clean Air Act; Kent and Ottawa counties are one, and Muskegon County is the other. Because of their classification as "moderate" ozone nonattainment areas, the State of Michigan was required by law to pass legislation imposing mandatory vehicle inspection and maintenance testing in these two areas starting in January 1995. This requirement would make sense were these three counties the cause of either their own nonattainment or the nonattainment of other areas. But they are not.

EPA has acknowledged that the three counties "are essentially overwhelmed by emissions coming from Chicago and northern Indiana." In a recent letter to the Michigan Department of Natural Resources, EPA Administrator Carol Browner said,

> "* * * the USEPA recognizes that ozone transport may make it very difficult, if not impossible, for Muskegon and Grand Rapids, themselves, to achieve the NAAQS for ozone by deadlines prescribed by the CAA.

In a hearing held on Monday, July 25, before my Subcommittee on Oversight of Government Management, EPA agreed "that Muskegon County would be in attainment but for ozone transport." EPA also confirmed that Muskegon and Grand Rapids "are not the cause of Chicago and northern Indiana being in nonattainment * * *".

In short, these three counties are not the cause of their own or any other area's ozone nonattainment problem and no matter what these counties do for themselves, it is very unlikely that they will be able to achieve nonattainment. Yet, because of ozone blown their way and their resultant classification as "moderate" nonattainment areas, they are being forced to implement a burdensome vehicle inspection program that won't make a significant difference. As stated succinctly in the Senate Environment Committee's report to accompany S. 1630, the Clean Air Act Amendments of 1989, "Because ozone is not a local phenomenon but is formed and transported over hundreds of miles and several days, localized control strategies will not be effective in reducing ozone levels." Unfortunately, this sentiment did not translate into the act's requirements and implementation. The inflexibility and inequity of the "localized" mandate undermines public support for the Clean Air Act and environmental laws, in an area of the country that is generally supportive of both.

At the hearing, I asked Mary Nichols, Assistant Administrator for Air, if these three counties were designated as rural, would they qualify for an exemption from the Clean Air Act requirements. Ms. Nichols replied, "I believe that is correct." She's right and that is at the heart of the unfairness of the Clean Air Act and EPA's implementation and that's what the legislation I am offering specifically addresses. Whether such an area is "rural" or contains a city shouldn't make any difference in the application. The principle is the same.

My bill applies that principle and eliminates the disparate treatment between rural and nonrural areas. EPA would be authorized to designate any ozone nonattainment area as a "rural transport area," if EPA finds that sources of ozone-causing emissions in that area do not make a significant contribution to the ozone concentrations measured in the area or in other areas. So, rather than rendering a metropolitan statistical area ineligible for the regulatory relief available to a rural transport area, the act would be made to apply equally for rural and nonrural areas and the burden would be fixed to place the burden more squarely on the shoulders of the "significant contributers."

By the end of the summer, EPA plans to issue a new policy on ozone transport that will hold "areas responsible only for that portion of the ozone problem which they cause." However, this new policy is expected to only correct another inequity in the act, the fact that downwind areas suffering from significant ozone and other pollution transported from more severely polluted areas have less time to achieve attainment. The change in attainment deadlines will not address the problem of areas inappropriately designated in the first place.

Mr. President, there appear to be a number of States that contain "victim of transport" areas in situations similar to west Michigan. Yet, there is great reluctance to attempt even minor changes in the act because of problems associated with "opening up" the statute. But, I say to my colleagues, the act is not flawless and it needs fixing. To stand by and watch our constituents spend time and money to correct a problem which they did not cause and cannot cure is wrong. We should right that wrong.

Mr. President, I strongly support the goals of the Clean Air Act. But, it needs to be applied with common sense, if it is to retain the support of the American people.

I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OZONE NONATTAINMENT AREAS.

Section 182(h)(1) of the Clean Air Act (42 U.S.C. 7511a(h)(1)) is amended by striking "that does not" and all that follows through "Census)".●

ADDITIONAL COSPONSORS

S. 1208

At the request of Mr. WOFFORD, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 1343

At the request of Mr. AKAKA, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1343, a bill entitled the "Steel Jaw Leghold Trap Prohibition Act".

S. 1746

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1746, a bill to establish a youth development grant program, and for other purposes.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 2120

At the request of Mr. INOUYE, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2183

At the request of Mrs. HUTCHISON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2258

At the request of Mr. WARNER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2258, a bill to create a Commission on the Roles and Capabilities of the U.S. Intelligence Community, and for other purposes.

S. 2286

At the request of Mr. LUGAR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2286, a bill to amend title 23, United States Code, to provide for the use of certain highway funds for improvements to railway-highway crossings.

S. 2330

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland [Mr. SARBANES], the Senator from New Hampshire [Mr. SMITH], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

SENATE RESOLUTION 247—RELATING TO THE RECENT ACTS OF INTERNATIONAL TERRORISM COMMITTED AGAINST JEWISH COMMUNITIES

Mr. METZENBAUM (for himself, Mr. GRASSLEY, Mr. WELLSTONE, Mr. PELL, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. LAUTENBERG, Mr. LEAHY, Mr. WOFFORD, Mr. ROBB, Mr. DOLE, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 247

Whereas on September 13, 1993, Israel and the Palestinian Liberation Organization opened a new era of Middle East peace negotiations;

Whereas on July 27, 1994, Israel and the Hashemit Kingdom of Jordan declared their 46-year state of hostilities at an end, giving additional momentum to the Middle East peace process;

Whereas radical groups have repeatedly pledged to derail the peace process through terrorist acts in the Middle East and around the world;

Whereas on July 18, 1994, more than 100 people were killed and 230 were wounded when a bomb exploded outside a Jewish community center in Buenos Aires, Argentina;

Whereas on July 19, 1994, 21 people, more than one-half of whom were Jewish businessmen, were killed when their aircraft was destroyed by a bomb over Colon, Panama;

Whereas on July 26, 1994, 14 people were wounded when a bomb exploded outside the Embassy of Israel in London, Great Britain; and

Whereas on July 27, 1994, 5 people were wounded when a bomb exploded outside a Jewish community center in London, Great Britain: Now, therefore, be it

Resolved, That—

(1) the Senate condemns the continued use of violence to pursue political objectives;

(2) the Senate condemns the worldwide targeting of Jewish communities by terrorists determined to disrupt the Middle East peace process;

(3) the Senate commends the people of Argentina, of Panama, and of Great Britain for the outrage they expressed in response to these acts of terror; and

(4) the Senate recognizes the efforts of Argentina, Panama, and Great Britain to investigate these terrorist incidents, urges their governments to commit any resources necessary to apprehend the perpetrators, and urges adoption of any lawful measures to prevent a recurrence of such horrible acts.

AMENDMENTS SUBMITTED

VA–HUD AND RELATED AGENCIES APPROPRIATIONS ACT

DOLE (AND OTHERS AMENDMENT) NO. 2445

Mr. DOLE (for himself, Mr. Gregg, Mr. Helms, Mr. Dodd, Mr. Durenberger, Mr. Warner, Mr. Coverdell, Mr. Lott, Mr. Pressler, Mr. Brown, Mr. Nickles, Mr. Murkowski, Mrs. Murray, and Mr. Graham) proposed an amendment to the bill (H.R. 4624) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new section:

LEGAL EFFECT OF SECURITY COUNCIL RESOLUTION ON HAITI

Sec. . It is the sense of the Senate that United Nations Security Council Resolution 940 of July 31, 1994, does not constitute authorization for the deployment of United States Armed Forces in Haiti under the Constitution of the United States or pursuant to the War Powers Resolution (Public Law 93–148).

JOHNSTON (AND OTHERS) AMENDMENT NO. 2446

Mr. JOHNSTON (for himself, Mr. Bradley, Mr. Wallop, Mr. Domenici, and Mr. McCain) proposed an amendment to the bill H.R. 4624, supra; as follows:

At the appropriate place in the bill, insert the following two new sections:

Sec. . No funds in this Act may be used to promulgate, implement, or enforce any requirement that a specified percentage of oxygen content of reformulated gasoline (as required by 42 U.S.C. 7545(k)) come from renewable oxygenates, such as that requirement proposed as "Regulation for Fuels and Fuel Additives: Renewable Oxygenate Requirement for Reformulated Gasoline" at volume 58 of the Federal Register at pages 68343 through 68353.

Sec. . The budgetary resources provided to the National Aeronautics and Space Administration in this Act for fiscal year 1995 for procurement and procurement-related expenses are reduced by $39,300,000.

MURKOWSKI AMENDMENT NO. 2447

Mr. MURKOWSKI proposed an amendment to the bill H.R. 4624, supra; as follows:

On page 77, line 9, insert the following before the period: ": *Provided further*, That not less than 50 percent of the funds made available for the United States Polar Research Programs shall be used for a program of Arctic research.".

RIEGLE AMENDMENT NO. 2448

Ms. MIKULSKI (for Mr. Riegle) proposed an amendment to the bill H.R. 4624, supra; as follows:

On page 47, strike out the matter beginning on line 22 through "*Provided*" on page 48, line 3, and insert in lieu thereof the following:

"For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $125,000,000, to remain available until September 30, 1996, of which $100,000,000 shall become available on September 23, 1995: *Provided*, That of the funds made available under this heading, up to $10,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: *Provided further*".

MIKULSKI AMENDMENT NO. 2449

Ms. MIKULSKI proposed an amendment to the bill H.R. 4624, supra; as follows:

On page 3, strike out the matter beginning with the colon on line 11, through "$9,813,256,000" on line 16.

On page 8, line 18, before the period, insert the following new proviso: ": *Provided further*, That of the $15,622,452,000 made available under this heading for fiscal year 1994 in Public Law 103–124, the $9,863,265,000 restricted by section 509 of Public Law 103–124 for personnel compensation and benefits expenditures is reduced to $9,813,265,000".

On page 8, line 24, before the period, add the following proviso: ": *Provided*, That the Secretary may obligate not more than $500,000 of the funds made available under this heading for an epidemiological study of veterans who underwent radium nasopharyngeal irradiation".

On page 14, line 13, strike out "$1,400,000" and insert in lieu thereof: "$16,300,000".

On page 20, line 25, strike out "$765,000,000" and insert in lieu thereof: "$735,000,000".

On page 22, line 3, strike out "$156,000,000" and insert in lieu thereof: "$186,000,000".

On page 24, line 7, strike out "$3,062,000,000" and insert in lieu thereof: "$2,992,000,000".

On page 29, line 14, strike out the matter beginning with the colon, through the word "funds" on line 22.

On page 30, line 24, strike out the matter beginning with the colon, through the word "activities" on page 31, line 7.

On page 38, line 22, strike out "$953,973,000" and insert in lieu thereof: "$947,398,000".

On page 45, strike out lines 7 through 12.

On page 45, after line 22, insert the following:

"Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(aa) Refinancing Incentive.—

"(1) In general.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

"(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

"(B) is subject to an assistance contract under this section; and

"(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

"(2) Share from reduced assistance payments.—The Secretary may pay the up front cost of refinancing only—

"(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

"(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988."."

"Section 223(a)(7) of the National Housing Act (42 U.S.C. 1751n(a)(7)) is amended in subparagraph (B), by striking "and" at the end; and by inserting, before ": *Provided further*" in said paragraph, the following: "; and (D) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract"."

"The amendments of the two immediately preceding paragraphs shall be effective only during fiscal year 1995.".

On page 45, after line 22, insert the following:

"Section 601 of title VI of S. 2281 (103d Cong., 2d Sess.), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103–307), is hereby incorporated into this Act, and such section 601 is deemed enacted into law upon enactment of this Act: *Provided*, That the provisions of such section 601 shall be effective only during fiscal year 1995.".

On page 45 after line 22, insert the following:

"Title VIII of S. 2281 (103d Cong., 2d Sess.), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103–307), is hereby incorporated into this Act, and such title VIII is deemed enacted into law upon enactment of this Act.".

On Page 45, after line 22, insert the following:

"Notwithstanding any other provision of law, the New York City Housing Authority is authorized to use not more than $12,420,000, from development reservation number NY36P005324 for 100 public housing units previously awarded from funds appropriated under Public Law 101–507 (Nov. 5, 1990), for the purpose of completing a homeownership program involving not more than 463 dwelling units located in Bronx County, in the City of New York, in accordance with a certain submission dated November 16, 1993 made in response to a Notice of Funding Availability issued at 58 Fed. Reg. 41127. The Secretary of Housing and Urban Development shall thereafter add a similar number of existing non-federal public housing units, designated by the Authority, to the Agency's inventory of federally-assisted public housing developments and said units shall, for all purposes other than the repayment of any debt associated with their development or rehabilitation, be considered as if initially developed under title I of the Housing Act of 1937.".

On page 47, restore the matter stricken on lines 14 and 15, and insert at the end thereof the following new paragraph:

"For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5

U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $4,250,000.".

On page 57, line 3, before the period, insert the following: ": *Provided further*, That nothing in this paragraph shall prohibit the Administrator from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law".

On page 62, line 6, after the word "promulgation" insert the word "of".

On page 72, line 2, before the period, insert the following: ", to remain available until September 30, 1996".

On page 73, after line 16, insert the following new paragraph:

"Notwithstanding the limitation on the availability of funds appropriated for "Mission support", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1995 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.".

On page 91, after line 9, insert the following new section:

"Sec. . The budgetary resources made available to the National Aeronautics and Space Administration in this Act for fiscal year 1995 for procurement and procurement-related expenses are hereby reduced by an additional $19,703,000.".

On page 91, line 9, insert the following new section:

"Sec. . None of the funds made available by this or any other Act shall be used to publish, implement, or enforce any regulations promulgated to carry out section 919 of the Housing and Community Development Act of 1992 before July 1, 1995.".

On page 91, after line 9, insert the following new title:

"TITLE VI—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community amount for "Community development grants", as authorized under title I of the Housing and Community Development Act of 1974, for emergency expenses resulting from the January 1994 earthquake in Southern California, $225,000,000, to remain available until September 30, 1996, of which $50,000,000 shall be derived by transfer from funds provided under the head "Department of Education, Impact aid" in the Emergency Supplemental Appropriations Act of 1994 (Public Law 103-211): *Provided*, That of the foregoing amount, $200,000,000 and $25,000,000 shall be for the available until September 30, 1995 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.".

On page 74, after line 7, insert the following new paragraph:

"Hereafter, the Administrator may enter into contracts for the Space Station program that are for periods in excess of the period for which funds are otherwise available for obligation and provide for the payment of contingent liability which may accrue in excess of appropriations available for such contracts in the event the Government, for its convenience terminates such contracts, if any such contract limits the amount of the payments that the Government is allowed to make under such contract to amounts not in excess of unobligated funds, including prior year balances, available for activities herein appropriated under the heading "Human space flight": *Provided*, That hereafter, if funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the cost of such contract shall be paid from appropriations originally available for performance of the contract, or from other unobligated funds, including prior year balances, available for activities herein appropriated under the heading "Human space flight".".

On page 91, after line 9, insert the following new section: cities of Los Angeles and Santa Monica, California, respectively: *Provided further*, That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for statutory requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Community development grants", for grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development program as authorized by title I of the Housing and Community Development Act of 1974, to be used to assist States, local communities, and businesses in recovering from the flooding and damage caused by Tropical Storm Alberto and other disasters, $180,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the entire amount shall be available only to the extent of an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further*, That the Secretary of Housing and Urban Development may waive any provision of law (except for provisions relating to fair housing, the environment, or labor standards) if the Secretary determines such waiver is necessary to facilitate the obligation of the entire amount: *Provided further*, That the Secretary of Housing and Urban Development may transfer up to $50,000,000 to the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, to be used for purposes related to flooding and damage caused by Tropical Storm Alberto and other disasters.

FEDERAL EMERGENCY MANAGEMENT AGENCY

For and additional amount for "Disaster assistance direct loan program account for the cost of direct loans, $12,500,000, as authorized by section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to be used to assist local governments in recovering from flooding and damage caused by Tropical Storm Albert and other disasters: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $50,000,000 under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the entire amount shall be available only to the extent of an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

Federal-Aid Highways

Emergency Relief Program

(Highway Trust Fund)

The matter under the heading in the Emergency Supplemental Appropriations Act of 1994 (Public Law 103-211) is amended by deleting "$950,000,000" and inserting in lieu thereof "$775,000,000.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, August 3, beginning at 9:30 a.m. to conduct a hearing pursuant to Senate Resolution 229.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 3, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, August 3, beginning at 10:00 a.m., to conduct a business meeting to consider the Superfund Reform Act of 1994, as reported by the Subcommittee on Superfund, Recycling and Solid Waste

Management, and a series of modifications as proposed by the chairman.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, August 3, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 3, 1994, at 10 a.m., in room 226, Senate Dirksen Office Building, on the nomination of H. Lee Sarokin of New Jersey, to be United States circuit judge for the third circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on August 3, 1994, at 9 a.m. for an executive session to consider S. 1629, Lupus Research Amendments of 1993; S. 2344, National Science Foundation Authorization Act of 1994; the Mental Health and Substance Abuse Programs Reauthorization Act of 1994; and the nominations of Gilbert F. Casellas, Paul M. Igasaki, and Paul S. Miller, to be members of the Equal Employment Opportunity Commission, and Kenneth M. Jarin, to be a member of the National Council on the Arts.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Committee on Small Business be permitted to meet during the Senate session on Wednesday, August 3, 1994, at 2:15 p.m. The committee will be holding a markup on the Small Business Administration reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs of the Senate Committee on the Judiciary, be authorized to meet during a session of the Senate on Wednesday, August 3, 1994, at 10:15 a.m., in Senate Hart room 216, on proposals for immigration reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Ms. MIKULSKI. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 4624, the VA-HUD appropriations bill at 9 a.m. on Thursday, August 4, Senator MURKOWSKI of Alaska be recognized to offer an amendment relating to VA construction, with a time limitation of 90 minutes for debate, with the time equally divided and controlled between Senators ROCKEFELLER and MURKOWSKI or their designees; and that no amendment be in order to the Murkowski amendment nor to any language which may be stricken; that when the time is used or yielded back, without intervening action, the Senate vote on or in relation to the Murkowski amendment; provided further that upon disposition of the Murkowski amendment, Senator REID be recognized to offer an amendment relating to immigration; that upon disposition of the Reid amendment, Senator COHEN be recognized to offer an amendment on behalf of himself and Senator MACK related to pension funds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, it is also the understanding that there will not be a vote until 10:30 tomorrow.

HEALTH SECURITY ACT—S. 2357

Ms. MIKULSKI. Mr. President, I understand that S. 2357, the Health Security Act, introduced earlier today by Senator MITCHELL, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read the bill for the first time.

Ms. MIKULSKI. Mr. President, I ask for its second reading, and on behalf of the Republican leader, I object.

The PRESIDING OFFICER. Objection is heard.

The bill is received for a second reading on the next legislative day.

ORDERS FOR TOMORROW

Ms. MIKULSKI. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Thursday, August 4; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of H.R. 4624, the VA-HUD appropriations bill, with Senator MURKOWSKI recognized to offer an amendment, as provided for under the conditions and limitations of a previous unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Ms. MIKULSKI. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:15 p.m., recessed until Thursday, August 4, 1994, at 9 a.m.

EXTENSIONS OF REMARKS

CRIME BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. PACKARD. Mr. Speaker, Americans are tired of living in fear and are demanding legislation that will stop the crime epidemic in this country. However, the crime bill now before us amounts to nothing more than another social welfare program.

The most publicized portion of the crime bill is the Community Policing Grant Program. The White House claims that this measure will put 100,000 new cops on the street over the next 6 years. But these figures do not add up.

If cities do not cut back on other services or raise taxes, the funds provided in the bill can keep, at most, just 20,000 permanent cops on the street over the next 6 years—the equivalent of one new police officer for every department in the Nation.

This seems especially ludicrous when you consider that this bill funds two new social workers on the street for every new cop. Are American families supposed to rely on social workers to ensure their safety?

Mr. Speaker, the American people deserve a crime bill which offers real crime fighting tools like more cops, more prisons, and strong sentencing provisions—not another welfare bill.

TRIBUTE TO THE LATE CHRISTINE ROUTOS—LIFETIME SERVANT OF NEW HAMPSHIRE'S VETERANS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. SWETT. Mr. Speaker, I rise today in remembrance of Christine Routos of New Hampshire, a woman who devoted her life to serving her fellow citizens. Her passing certainly has left a void in the hearts and minds of anyone who had the honor of knowing this compassionate woman.

Mrs. Routos served 6 years, from 1944 until 1950, at the Federal Regional Office in Manchester, NH. She continued her service at the V.A. Medical Center from 1950 until her retirement in 1990. Over her 46 years of service, she rendered emotional support, assistance, and guidance to patients, working above and beyond her duties as a ward secretary.

Constantly striving to improve the patients' surroundings, Mrs. Routos desired to create a therapeutic environment that was both informative and artistic. In doing so, she often sacrificed here personal time and funds to enhance the ward's atmosphere. She helped to increase the patients' morale and keep them in touch with current events. To contribute to the wards' home-like atmosphere, she shared tapes and records reminiscent of the World War II era, encouraging patients to congregate and share memories of the old days.

In 1988, Mrs. Routos was awarded the Administrator's Hands and Heart Award and remains to this day the only nonclinical employee to have been a recipient. She has also received numerous Superior Performance Awards and was honored as the New Hampshire Federal Employee of the Year in 1987. These endeavors and awards are only a sampling of Mrs. Routos' achievements on behalf of her community and her fellow citizens. To further honor the service of this fine woman and to cherish the memory of her boundless generosity, the employees of the Manchester V.A. Medical Center have planted a perennial garden in her memory outside of the nursing home.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Christine Routos. Mrs. Routos exemplifies the kind of dedication and diligence that is so needed in our society today. Her legacy of service and love for humanity will certainly live on as an inspiration to all whose lives she touched.

TRIBUTE TO CRESTWOOD HEIGHTS NURSING CENTER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to pay tribute to the Crestwood Heights Nursing Center in Crestwood, IL, part of the Third Congressional District. The center is one of the top three winners of the Governor of Illinois' 13th annual Hometown Awards.

In order to qualify for the prestigious Hometown Award, the center had to demonstrate a serious commitment to volunteerism, show evidence of broad-based community support, and attain tangible results from a community outreach event. The Governor's Hometown Awards program formally recognizes the commitment of volunteers helping others in their communities. The Crestwood Heights Nursing Center joined together with other groups concerned about the area's residents and organized a potluck dinner to provide relief to the community.

The Crestwood Heights Nursing Center was selected as an award recipient through its efforts to feed the homeless. In February, many of the staff and residents of the center pitched in to create a potluck dinner for the indigenous and homeless in the Crestwood area. They organized food and entertainment for over 100 people.

Established 22 years ago, the Crestwood Heights Nursing Center has a proven record of community service. Volunteering is an important part of life for the 325 residents and 260 staffers of the center.

The Crestwood Heights Nursing Center's commitment to its community is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to the Crestwood Heights Nursing Center for its selfless dedication and contributions to its community. I wish the center's residents and staff well and hope that their efforts are recognized by the Crestwood community as a shining example of community involvement.

IN HONOR OF J. KIM TUCCI, JOHN FERRARA, AND JOE FRESTA

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. GEPHARDT. Mr. Speaker, today I have the pleasure of extending congratulations to three outstanding St. Louisans. They are affectionately known as the Pasta House Boys", J. Kim Tucci, John Ferrara, and Joe Fresta. On August 7 and 8, they will be honored by the St. Louis Italian Open Golf Tournament for Charities for their many accomplishments on behalf of the community.

Twenty years ago, Kim, Joe, and John began their very successful restaurant business—the Pasta House Co. Not only did they begin a business, but they began a tradition of dedicated service to the community. Whenever there was a cry for help, they answered.

In their business endeavors and in their personal lives, Kim, Joe, and John have been involved in every aspect of civic live in the St, Louis area. Their activities and accomplishments, which are too numerous to mention, run the gamut from supporting the Boy Scouts, St. Patrick's Center, the Leukemia Society, and the Civic Italian American Organization to the Crusade Against Crime. They have been a voice for the business community in St. Louis and have been active supporters of many non-partisan civic projects.

They have never forgotten their roots and continue to support the neighborhoods and the schools that influenced their lives. They have set an example for the young people in our community—an example of vision, loyalty, generosity, and civic responsibility.

I have known Kim, John, and Joe for many years, and I continue to be impressed by their energetic and optimistic style. This has enabled them to achieve success in business and in their personal lives.

Kim Tucci, John Ferrara, and Joe Fresta are a source of pride and credit to the Italian-American community in St. Louis. They are a valuable asset of the greater St. Louis community. Most importantly, they epitomize the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

American dream. They are a source of pride for all of us.

LET'S REPAIR THE HOUSE HEALTH BILL

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. ANDREWS of Texas. Mr. Speaker, our goals for health care reform are in serious danger. It seems that our true objectives for controlling cost and providing coverage to those in need have been subverted by the desire to produce a massive new, Government-run program.

I commend the majority leader, RICHARD A. GEPHARDT, for bringing together the many interests in this crucial bill. While this bill offers many improvements over the current system, it fails to provide a method to control cost and maintain the quality care our public expects. Under a Government-run program, the goals of quality care and cost control are usually at odds with each other. No other program illustrates this inefficiency better than the Medicare program.

For example, the House bill creates a new entitlement program that includes up to 59 percent of the population under Medicare Part C, essentially leading the country toward a single payer system. While Medicare can place a cap on cost, the cap also causes a decline in quality. Due to the large increase in the number of patients in the Medicare Program, a much larger share of cost will be shifted onto the private sector. Compared to payments from the private sector, the current Medicare Program pays only 59 percent of cost for physicians' services, and 68 percent of cost for hospital services. Therefore, instead of providing all citizens with health care, patients will find more and more physicians who refuse to treat them due to the low Medicare payments.

I believe that Congress can act to remedy these problems, and to ultimately produce a bill that can insure health security, and reduce overall health spending.

[From the Dallas Morning News, Aug. 2, 1994]

HEALTH CARE—MEDICARE EXPANSION IS ILL ADVISED

The most eye-catching element of the health plan Rep. Dick Gephardt introduced Friday is the creation of a so-called Medicare Part C option. The Gephardt creation, which grew out of a House Ways and Means Committee recommendation, is an odd political beast.

In essence, the Part C provision says that any small employers who do not provide health coverage can enroll their employees in a government-managed health plan. Likewise, unemployed, self-employed and part-time workers can enroll in the new government program, which could eventually deliver health services to 60 million people.

What's politically odd is that Mr. Gephardt is proposing a new government program just as others within Washington are trying to rein in government's growth. Indeed, Medicare Part C would not be solely publicly financed. Small employers would still have to pay an extensive share of their employee's Part C expense, just as self-employed workers would have to make a hefty contribution.

But why create a new bureaucracy, which is unlikely to hold down overall medical prices? By contrast, private insurers, through such "managed care" options as health maintenance organizations, help control costs through negotiating fees with doctors and hospitals. A government-managed program has little ability to do that, since it does not enter the marketplace to bargain for lower health prices.

In fact, the Medicare Part C option would greatly expand fee-for-service medicine, where you go to any doctor and pay whatever fee he or she charges. That kind of service has been a significant force behind the explosive growth in medical costs.

Mr. Gephardt will surely argue that the Medicare Part C option would control expenditures through placing a ceiling on prices doctors and hospitals charge. But as health experts will inform you, those ceilings, which are often artificially low, only add to overall health costs. As medical providers receive low reimbursements for their Medicare clients, which often fail to meet their costs, they make up their loss by charging other clients higher prices.

Perhaps Mr. Gephardt is making a political pitch to House liberals who want a government-run health system for all Americans. But his Medicare Part C option is ill advised and deserves a defeat by the full House.

[From the New York Times, July 30, 1994]

THE FAILED HOUSE HEALTH BILL

The health-care bill that the Democratics leadership will take to the full House for debate early next month would do more harm than good. Though it starts off correctly—achieving universal coverage by requiring employers to pay for most of the cost of insuring their workers—it proposes insurance "reforms" that would bury the most innovative cost-effective plans that many Americans routinely choose today.

The bill would be a victory for highly paid physicians and would reward those in Congress who want to control the huge health-care industry. But it would be a defeat for patients who expect high-quality care at a reasonable price.

The leadership bill, announced yesterday, would create Medicare C, a public, fee-for-service plan, to enroll the poor and otherwise uninsured. That might sound like a sensible way to provide failsafe insurance to relatively few families because it would build upon Medicare, the existing plan for the elderly. But Medicare C, unlike the program limited to the elderly, threatens to trigger an inevitable roll toward government-run medicine for most Americans.

The Government cannot supervise treatment provided under Medicare. The only way it can control costs is clamp down on prices it pays providers. Medicare pays doctors and hospitals less than their costs; that forces providers to make up the loss by jacking up prices to private patients. This "cost shift" is already widespread. But the leadership bill would add to Medicare the poor, who are now covered by Medicaid, as well as the unemployed and other uninsured people; that would bring 50 percent of the population under Medicare, according to Congressional staff estimates. The cost shift to the remaining patients would become devastating. Fees to private patients would skyrocket, driving premiums up and private insurers out of business through no fault of their own.

Other detrimental features of the leadership bill are provisions that render illegal the approach used by most existing managed-care plans—which charge enrollees a fixed annual fee regardless of medical need in exchange for limiting care to a fixed panel of doctors and hospitals. The leadership bill would, for example, require most plans to hire any qualified doctors who apply—thereby eliminating the plans' ability to control the quality and cost of treatment by closely supervising a small panel of doctors. Most managed-care plans would have to hire specialists, like chiropractors, that they believe are unnecessary.

But the special interests were too powerful for the leadership to resist. The effect of the bill's anti-managed-care provisions is to lock in fee-for-service medicine that lies at the core of the existing system's penchant for wasteful and often inappropriate care.

The leadership did not have the gall to forthrightly propose a government takeover. But it has proposed a bill that would achieve the same end through stealth. When it comes to the floor, the bill's provision for universal coverage through an employer mandate is worth fighting for. Much of the rest deserves to be scrapped.

SIGNIFICANCE OF THE LANDING AT NORMANDY

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. SCHIFF. Mr. Speaker, I rise today to pay tribute to the brave men who risked their lives on the beaches of Normandy. I commend these troops with a heartfelt poem written by Tony Schuerch, a constituent of the First Congressional District of New Mexico, which I proudly represent.

Mr. Schuerch's thoughts on that day in American history should not go unnoticed. I hope the Members of this body appreciate these words as much as I do.

Normandy

On Normandy's now peaceful shore,
Above the beach where breakers roar,
And seagulls spread their wings and soar,
The gleaming rows of crosses stand
And Stars of David, on this land
Above the beach at Normandy.

They came from factory, school and farm
Exuberant, filled with fun and charm
Too young to think of death and harm
Too young to think of death and harm
Not knowing that their fate would be
To lie for all eternity
Above the beach at Normandy.

Peace in their time was not to be.
Convinced that people should be free
Some came by air; but most by sea
Sickened by fear, yet always knowing
That duty called and they were going
To storm the beach at Normandy.

Freedom's not easy to regain;
The price is blood and fear and pain
And grieving loved ones who remain.
Would be living under thrall
Had they held back from giving all
To storm the beach at Normandy?

Oh Gracious Father of mankind
In the weakness of our heart and mind
Grant us the power now to find
Their kind of strength and bravery
Beneath our flag which flutters free
Above the beach at Normandy.

—*Tony Schuerch.*

TRIBUTE TO STUDENTS OF BIDDEFORD HIGH SCHOOL

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. ANDREWS of Maine. Mr. Speaker, I rise today to pay tribute to an exceptional group of students from Biddeford High School, located in my home State of Maine. These students are to be congratulated for their fine performance in the "We the People. * * * The Citizens and the Constitution" national competition held in Washington, DC from April 30 to May 2, 1994. I was very impressed with the group's extensive knowledge of the U.S. Constitution, and the Bill of Rights in particular. The study of these great documents is a very admirable pursuit and these students are to be commended for the high level of understanding of the principles and history of the Constitution that they have gained.

The class from Biddeford that represented Maine in our Nation's Capital is: Jennifer Bergeron, Carissa Bolduc, Sophy Chea, Jason Conroy, Stephanie D'Amico, Kristel Dionne, Juile Gadbois, Sherri Gagnon, Nicole Hebert, James Hurtubise, Bryan Jordan, Jill Labelle, Brenna Laverriere, Jenny Nadeau, Randy Petit, Michael Ruel, Amanda Staples, Heather Thompson, Nicole Trottier, Carrie-anne Voisine, Tammy Welsh, Karen Whelan and Keith Willet. These students were under the guidance of the their teacher, Robert Libby.

Mr. Speaker, I congratulate Mr. Libby and his students for their outstanding effort in this competition and I ask that my colleagues join me in doing the same.

IN RECOGNITION OF MELANIE WILBUR

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. STRICKLAND. Mr. Speaker, I would like to recognize an exceptional young woman from my district. Melanie Wilbur is a talented senior at Jackson High School in Jackson, OH. I am pleased to submit into the RECORD the text of a speech she wrote for the Veterans of Foreign Wars Voice of Democracy contest.

MY COMMITMENT TO AMERICA

What is my commitment to America? What can I possibly give back to her that can even compare with what she has given to me? America gave my right to vote, my freedom of speech, religion, petition, and many more. America gave me the opportunity to be me and to voice my opinions.

What can I give her? The only thing that measures up to all she has given me is to give her my support, then that is what she receives. I give her my support to keep her strong, and America needs all the support she can get. We must provide our children and our children's children with something to see and to know what America was like prior to their birth so they can support America and continue to preserve the traditions and the heritage.

I try everyday to make America better for everyone. Whether I'm helping my peers in schoolwork or assisting my sisters in theirs, I'm helping them further themselves in their education so they can go farther in life.

Conserve energy, recycle and buy American are only a few of my responsibilities to America. I am the wave of the future, and my responsibilities are becoming more and more numerous. When I commit myself to completing these responsibilities, our foundation remains strong and something is only as strong as its foundations. The foundation of America will continue to hold by the joint efforts of the American people because the efforts of one are not as strong as the efforts of many. When people work together more can be achieved, and when more is achieved, the better America is for everyone.

If the influence of one individual could rub off onto others, then everyone would be committed to America. I help my country, whether through peaceful means of settling conflicts or understanding during a disaster. I do my part to conserve energy and the rain forests by recycling paper, glass, plastics, and aluminum. I support my country by buying products made in America, made by Americans, and by doing this I am helping to keep other Americans in their homes and with their families. I commit myself to helping in community service by cleaning litter off the streets in my community. I can adopt a section of highway and by cleaning the rubbish from the highway, I can practice recycling and get some good experience in the process. Whether or not I agree with my government, I support it and its decisions, but that doesn't stop me from voicing my opinions on it. I continue to commit myself to community by helping senior citizens and veterans either physically by helping them to do something or emotionally by just sitting down and listening to them.

When I think of commitment, one thing that comes to mind is faith. Before I can commit myself to America, I have to have faith in America. Do I believe in America's ideas and beliefs? Would I give my life for her? There is no question about it. If my country needed me to fight for my beliefs or defend her in any way, I would be there in a minute's notice.

No matter what way I commit myself to America, it is only the first step. When everyone is committed, then that will be the last.

In the immortal words of John F. Kennedy, "Ask not what your country can do for you, ask what you can do for your country."

TRIBUTE TO JUAN G. BLAS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its premier citizens on July 6 of this year. The Honorable Juan G. Blas was called to his eternal rest just 12 days after his 55th birthday.

The late Honorable Juan G. Blas served as the commissioner of the village of Yigo from January 1965 through September 1968, a post he held with great distinction. During his tenure he unselfishly and with great enthusiasm and spirit, devoted and dedicated his energies and efforts to the needs of his constituents and making the village of Yigo a proud and peaceful community.

In 1969, he opted to join the Federal Civil Service and served as U.S. marshall until his retirement in 1990. Subsequent to his retirement, he was appointed chief marshall for the Superior Court of Guam, a position he held until his untimely death.

The late Honorable Juan G. Blas left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. His distinguished career spawned a son who chose to follow in his footsteps. His son John also served as mayor of the village of Yigo.

His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his widow, the former Ms. Clotilde Finona, and their children: Evelyn, Elizabeth, John, Richard, David, Marie, Peter, Terese, Antoinette, and Kristine, in mourning the loss of a husband, a father, and a fellow servant to the people of Guam.

H.R. 2826 IS UNNECESSARY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. BURTON of Indiana. Mr. Speaker, on August 1, 1994, the U.S. House of Representatives passed H.R. 2826, a bill which mandates that the President undertake "a thorough investigation of the whereabouts of the U.S. citizens and others who have been missing from Cyprus since 1974." Prior to its passage, H.R. 2826 was described by its supporters as both just and necessary to overcome Turkish and Turkish Cypriot unwillingness in resolving the fates of five missing Americans. In reality, H.R. 2826 was neither just nor necessary. Regrettably, it was a bill designed to drive a wedge in United States-Turkish relations.

Mr. Speaker, I personally feel great sympathy for the five American families and Greek Cypriot families whose loved ones disappeared during the Turkish intervention on Cyprus in 1974. In spite of my sympathy for these families, I opposed the passage of H.R. 2826. By mandating an investigation of only those persons who became missing after 1974, H.R. 2826 effectively prohibits an investigation of 803 Turkish Cypriots who disappeared between 1963 and 1974. During this time, Greek-sponsored violence against Turkish Cypriots was at its peak, and Turkish Cypriots suffered greatly. While H.R. 2826 purports to help the families of missing Americans and Greek Cypriots, it does little to help Turkish Cypriot families.

We must never forget that Turkey intervened on Cyprus in response to an attempt by Greece to annex the island. Prior to the intervention, from 1963 to 1974, thousands of Turkish Cypriots were systematically killed. H.R. 2826, by design, erases this part of history which the bill's supporters would like to forget. It creates the illusion among the uninformed that Turkey is somehow to blame for the island's division. By so doing, it does a great disservice to the families of these missing Turkish Cypriots, who are just as worthy of an investigation by our President as the families of Greek Cypriots.

Mr. Speaker, besides being unjust, H.R. 2826 is also unnecessary. Why should we mandate a new Presidential investigation of missing persons on Cyprus, when there already exists a U.N. Committee on Missing Persons in Cyprus [CMP] which was created for this exact purpose? While the U.S. State Department chose neither to support or oppose H.R. 2826, it did express strong reservations about the bill in a March 9, 1994 letter to the chairman of the House Foreign Affairs Committee. In this letter, the State Department explains, "To conduct a thorough investigation of the approximately 2,400 individuals missing is far beyond the capacity of the current staff at our Embassy in Cyprus," and "Such an investigation would require an additional 12 employees and would take three years to conduct." It points out, "a three-person U.N. Special Commission [CMP] is meeting in Cyprus to investigate cases submitted by the two Cypriot communities." It concludes, "in our opinion this [CMP] offers the best hope for resolution of these cases," and recommends "that Congress defer action on this bill."

During consideration of H.R. 2826, the bill's supporters claimed that the CMP was ineffective and that somehow Turks and Turkish Cypriots were responsible. While their first claim has some merit, their second claim is absurd. To date, the Greek Cypriots have submitted less than half of the 1,600 names which they regularly claim are missing to the CMP despite promises to do so by President Clerides. In stark contrast, the Turkish Cypriots have submitted the names of 794 of their 803 missing persons. Why haven't the Greek Cypriots submitted these remaining names? According to the State Department, the majority of these persons were former soldiers and not civilians. The CMP is mandated only to investigate missing civilians, not soldiers. Submitting their names would show that Greek Cypriots have inflated the number of their missing persons for political purposes. In addition, it would further prove that Greece and Greek Cypriots had a large number of soldiers on Cyprus prior to the 1974 Turkish intervention.

The U.N. Committee on Missing Persons in Cyprus [CMP] is currently composed of a Greek Cypriot, a Turkish Cypriot, and a neutral third representative, usually from Switzerland. Before any action can be taken by the CMP, the unanimous consent of these three members is required. Regrettably, the CMP's work has been paralyzed. The Greek Cypriot representative has insisted that an unattainable set of criteria for ruling that a missing person is dead, first be accepted, before any investigation can begin. Meanwhile, the Swiss and Turkish Cypriot representatives have wanted to adopt more reasonable criteria. According to the State Department, the Greek Cypriot representative has refused to back down from this position for almost every case, and as a result, has prevented the CMP from carrying out any investigations.

Mr. Speaker, contrary to what was said by the supporters of H.R. 2826, both Turks and Turkish Cypriots have been cooperative on the missing persons issue. This cooperation was confirmed in May of 1992, when U.S. Ambassador Nelson Ledsky, the former Special Cyprus Coordinator, addressed a congressional Human Rights Caucus briefing. He told the caucus, "There is no indifference or lack of concern on the Turkish Cypriot side." "The Turkish Government is now extremely cooperative," said Ledsky. When asked by Representative BEN GILMAN, the ranking minority member of the House Foreign Affairs Committee, if there was any evidence to substantiate Turkish insistence that there are no prisoners in Turkey, Ambassador Ledsky stated, "evidence supports the Turkish position. Neither the United States nor international human rights organizations have found Cypriots in Turkish jails, although every single lead has been investigated." When Ambassador Ledsky was asked why over 800 Greek Cypriots cases had not been brought before the CMP, he replied "that question has to be put before the Greek Cypriot government."

With respect to the five missing Americans who are the principal target of H.R. 2826, only the cases of Christos Libertos and Andreas Kassapis have been submitted to the CMP. Except for Andreas Kassapis, four of the five Americans, if alive today, would be over 87 years old. Christos Libertos would be 91, Socratis Kapsoris would be 92, Kyriakos Leontiou would be 88, and Jack Sophocleous would be 87. Mr. Speaker, if the supporters of H.R. 2826 choose to argue that the CMP has been ineffective, they can only point the finger of blame at the Greek Cypriots.

During debate on H.R. 2826, the bill's supporters made many passionate appeals on behalf of the families who lost loved ones on Cyprus. Unfortunately, the passage of H.R. 2826 shows little compassion for Turkish Cypriot families, who also lost loved ones during ethnic strife on Cyprus between 1963 and 1974. Their bill deliberately bypasses the CMP which was designed to resolve the missing persons issue but rendered ineffective by Greek Cypriot actions. It totally disregards Turkish Cypriot and Turkish cooperation on the missing person issue, a cooperation which was noted by the United States former Special Cyprus Coordinator Nelson Ledsky. Finally, H.R. 2826 ignores a State Department warning that it lacks the capability to carry out a missing persons investigation and their judgment that the CMP is the best place to deal with the issue.

Mr. Speaker, the U.S. House of Representatives should never have passed H.R. 2826. Both the families of missing Turkish Cypriots, the Turkish Republic of Northern Cyprus, and Turkey deserve far better treatment.

TRIBUTE TO CHARLES COST

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Charles Cost of Troop 1 in North Scituate, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Charles performed community service in the town of Foster under the direction of the public works director.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Charles Cost. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Charles Cost will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

TRIBUTE TO WOODROW BOWMAN ON 50TH ANNIVERSARY OF WOODY'S

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. HALL of Ohio. Mr. Speaker, I rise to call attention to the special achievements and outstanding hard work of a constituent, Mr. Woodrow Bowman. Mr. Bowman, who worked on a farm as a boy, founded Woody's Market in West Carrollton, OH, on July 2, 1944. During the past 50 years, Mr. Bowman has expanded the original market from an outdoor, one-person roadside stand into a giant independent supermarket with nearly 100,000 square feet of area under one roof, employing about 500 people.

Woody's Market is equipped with its own bakery, general grocery, seafood, poultry, meat, fresh produce, delicatessen, and florist departments, in addition to a pharmacy and full service restaurant, providing the West Carrollton community and surrounding area with a convenient, one-step shopping center.

Woody's Market was the first supermarket in the entire Dayton area to introduce 7-day-a-week, 24-hour customer service. During the past 50 years, Woody's Market has constantly supported community organizations, charitable groups, and service clubs, becoming known as the Cornerstone of the West Carrollton Community.

Woody's Market celebrated its 50th year of operation in West Carrollton on Saturday, July

2, 1994. By exercising outstanding business acumen, innovative ability, and tireless energy, Mr. Bowman exemplifies the achievement of the American Dream, and in so doing, has strengthened the Dayton economy as well as the Ohio business community.

In recognition of these achievements, Ohio Governor, George Voinovich, declared Saturday, July 2, 1994, "Woodrow Bowman Day." Mr. Speaker, I commend Mr. Woodrow Bowman, a man dedicated to his work and to his community.

IMPROVING THE ECONOMY IN SOUTHERN INDIANA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 3, 1994, into the CONGRESSIONAL RECORD:

IMPROVING THE ECONOMY IN SOUTHERN INDIANA

Despite the current interest in health care reform in Congress and the press, the topic that comes up most frequently when I talk with residents of the Ninth District is the outlook for jobs and the economy in southern Indiana. Last month, I held a congressional hearing in New Albany—an informal roundtable discussion with 13 local academic and business leaders. The topic was the economy of southern Indiana and steps that could be taken at the federal, state, and local levels to improve business conditions and the business climate in our part of the State. The participants provided some useful information on the economy of southern Indiana and how we can strengthen it.

Current Economic Conditions: The general consensus was that, after 3 or 4 soft years, economic conditions in southern Indiana had improved significantly during the past year or so. Much of the new growth came from expansion at existing firms to meet growing domestic demand, but many firms in southern Indiana are also aggressively expanding their markets in foreign countries. There is also evidence of strong new business growth in southern Indiana—mostly in services but many in manufacturing—plus an increase in homebuilding. The improved economic conditions have stimulated substantial job growth; Indiana ranks 16th among the states in job creation, while the Louisville metropolitan area has added 10,000 jobs in the last year, many on the Indiana side of the river. Indiana's unemployment rate is now 4.7%, compared to the national average of 6.0%.

Improving Business Conditions: Many suggestions were made for improving the business climate in southern Indiana, with most of the discussion focusing on improving the transportation infrastructure, improving the quality of the workforce, and reducing the burden of government regulations.

There was widespread agreement that infrastructure problems, particularly transportation infrastructure, are holding back economic growth and development in southern Indiana. A strong infrastructure will be an important factor in helping Hoosier communities attract new jobs, and many specific projects were identified, including highway improvements to U.S. 50 and U.S. 231, a new highway between Evansville and Indianapolis, and new bridges across the Ohio River. We also need to upgrade local airports, improve some of the locks and dams on the Ohio, and improve local recreational facilities to attract tourism.

Among the most compelling problems raised during the roundtable was upgrading the workforce in southern Indiana in light of rapid changes that are occurring in the nature of work. Southern Indiana is blessed with a good, productive workforce, but several concerns were expressed about the future. Modern factories and businesses need highly skilled workers with strong backgrounds in math and statistics, good organizational and communication skills, and good judgment and imagination. Such skills are needed in order to keep up with rapid changes in production technology, the complex demands of flexible manufacturing, and expanded worker responsibilities. In southern Indiana, where we have fewer high school and college graduates than other parts of the country, we need to run harder just to keep up. Our schools are improving, but it is getting harder for schools across the country to keep pace with the revolutionary changes that are occurring in the workplace. Businesses will have to become more involved with local schools to help them define the skills that young people will need in the years ahead.

A frequently-raised topic was the impact of government regulation on businesses in southern Indiana. While all the participants expressed a desire to comply with regulations that benefit society, a number pointed out ways in which federal regulations impose unnecessary costs. Government often takes a single-minded approach that fails to consider the broader impact of its regulations on the economy and jobs. There can be problems with the enforcement staff who come into the plants, including a high turnover rate and occasionally a poor knowledge of regulations. New firms often face time-consuming delays obtaining necessary permits, while many small businesses do not have the staff to determine how to comply with many regulations or even to know what the regulations are.

A number of other issues also came up during the roundtable discussion, including lack of small business access to capital; the rising cost of health care; improved training for local development officials; and better incentives for businesses to invest for the future. On the other hand, recent cuts in the federal budget deficit have helped make firms in southern Indiana more competitive by lowering interest rates and the value of the dollar in foreign exchange markets, while government efforts to remove foreign barriers to U.S. exports have also been helpful.

The Future: I am following up on specific suggestions raised at the roundtable, for example, seeing what can be done about the problem of small businesses having no single source of information on government regulations. And I agree with the observations of participants that the federal government should reduce government barriers to job creation—excessive regulations or expensive federal mandates—and that it should continue to reduce the federal budget deficit. Yet the overriding sense I got from the roundtable was that policy initiatives at the federal level generally have an important, but limited impact on local economic development. None of the participants thought some new capital gains tax break or federal program for job training or community development was the key. The factors they emphasized—a well-trained, industrious work force and good roads and bridges—are primarily local responsibilities.

In the end, the initiative for change and the commitment to carry it out must come from local leaders. The key is often old-fashioned energy, skills, and entrepreneurship. The difference between economic vigor in one area and stagnation in another is frequently found in the entreprenurial skills of a few people. At the federal level, we can help local leaders by funding specific infrastructure or community development projects and can assist state and local efforts to improve education and training. But in the end a community's well-being is usually determined by the energy and innovations of its residents and the quality of its leadership.

CRIME BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. PACKARD. Mr. Speaker, Americans are tired of living in fear and are demanding legislation that will stop the crime epidemic in this country. However, the crime bill now before us amounts to nothing more than another social welfare program.

The most publicized portion of the crime bill is the Community Policing Grant Program. The White House claims that this measure will put 100,000 new cops on the streets over the next 6 years. But these figures do not add up.

If cities do not cut back on other services or raise taxes, the fund provided in the bill can keep, at most, just 20,000 permanent cops on the street over the next 6 years—the equivalent of one new police officer for every department in the Nation.

This seems especially ludicrous when you consider that this bill funds two new social workers on the street for every new cop. Are American families supposed to rely on social workers to ensure their safety?

Mr. Speaker, the American people deserve a crime bill which offers real crime fighting tools like more cops, more prisons, and strong sentencing provisions—not another welfare bill.

INTRODUCTION OF LEGISLATION GRANTING TAX BENEFITS TO THE CATAWBA INDIAN TRIBE OF SOUTH CAROLINA

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. SPRATT. Mr. Speaker, today I am reintroducing legislation which would grant several tax benefits to the Catawba Indian Tribe of South Carolina.

These provisions were part of the settlement agreement we signed with the tribe and part of H.R. 2399, initial legislation restoring the Catawba Tribe. Unfortunately, the Ways and Means Committee insisted last year that we drop these tax provisions from the restoration bill before it became law. After consulting with the tribe, we decided to drop the provisions because we did not want this to stop settlement of the claim and the restoration of the tribe. But I assured the tribe at the time that I would work for passage of these tax provisions in separate legislation. Even though there has been no major tax bill since the Catawba restoration bill became law, I will work to have them included in the next tax bill which the Congress passes and sends to the President.

Last year, after 4 years of long and arduous negotiations, Government and tribal negotiators settled a 150-year-old Catawba claim to 140,000 acres of land in South Carolina. On October 27, 1993, President Clinton signed the Catawba Restoration Act into law. To reach an agreement, both sides had to make difficult concessions. In return for the tribe's willingness to relinquish its land claim, Federal, State, and local governments agreed to pay the tribe $50 million. Negotiators also agreed to the restoration of the Catawbas as a federally recognized tribe and agreed to the establishment of a Federal reservation in South Carolina. Part of the settlement agreement provided the Catawbas with various State and Federal tax benefits. Although the South Carolina State Legislature approved the State tax benefits pledged in the settlement agreement, Congress has not yet approved the Federal benefits. The purpose of this bill is to see those provisions become law. Let me review some of the provisions of the legislation:

a. Involuntary Conversion.—In three other major Eastern Indian settlements, the Pequot, Rhode Island, and Maine settlements, Congress has authorized sales of land for the reservation to be treated as involuntary conversions. The Catawbas want the same treatment. They have concluded, and I agree, that it will be more difficult for them to purchase 3,000 acres in a densely populated and rapidly growing area unless they can offer the purchasers this tax deferral advantage.

b. Per Capita Payments.—As partial compensation to tribal members, the Federal Government will be paying each member of the tribe approximately $5,000 in cash. The tribe quite correctly believes it would be unfair for the Federal Government, on the one hand to compensate Catawbas and then take some of the money back by taxing them. For the same reason, the bill would exempt from Federal estate taxes the undistributed share of any member in the Catawba Per Capita Payment Trust Fund.

c. Settlement contributions.—The legislation provides that contributions by private parties to help settle the claim shall be treated either as a charitable deduction or a payment in settlement of litigation. Almost $3 million of the settlement money comes from private contributions and some of the private donors have conditioned their payment on their ability to deduct the contributions. Even though all contributions to the tribe will become tax deductible once the IRS grants the tribe tax-exempt status—and some payments are already tax deductible contributions in settlement of litigation—the IRS has not yet issued its ruling and enactment of this legislation might ensure a more speedy resolution of the tribe's status.

f. Sale of Catawba Artifacts.—The bill would exempt income earned from the sale of tribal pottery from Federal income taxes.

These tax provisions are consistent with several other Indian restoration bills and the cost to the Treasury is negligible. But the tribe believes, and I agree, that these provisions are important because they will help ensure that the tribe can become economically viable. I urge my colleagues to enact this bill into law.

ALMANSOR CENTER 20TH ANNIVERSARY CELEBRATION

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. MOORHEAD. Mr. Speaker, I am pleased to join the members of the Institute for the Redesign of Learning to celebrate the 20th anniversary of their cornerstone organization, the Almansor Center.

The Institute for the Redesign of Learning was established in 1991 to advance this Nation's education of at-risk individuals. It conducts ongoing research, training, and development of the innovative methods of learning pioneered by the Almansor Center.

From the beginning, this organization has sought to help children and adults overcome frustration and failure, and take personal responsibility for their own learning process. The nonprofit Almansor Center has been doing just that in its past two decades of service for infants, children, and adults at risk for learning, behavior, and emotional problems. Founded in 1974, the Center not only provides the primary research and training for the institute, but also offers early childhood education, specialized day school and outpatient mental health services, adult vocational training and job placement, and community outreach services, including Headstart programs and juvenile diversion at its campus in South Pasadena, CA.

The organization's newest venture is the Ultimate Outlet, a popular women's clothing store and Retail Occupations Training Program. This innovation gives to adults with disabilities the skills and confidence they need to find retail jobs in surrounding communities. Now in its second year, the Ultimate Outlet is an excellent model for cost-effective programming for young adults with severe disabilities.

These programs are to be saluted for their dedication to reasserting the rights of individuals to an education that enables each to fully express his or her innate capacity to explore, discover, and learn, and become responsible, caring, productive members of society.

Mr. Speaker, the Almansor Center provides a valuable and crucial service to our country. It is to be commended for two decades of excellence with my sincere wishes for continued success.

IN HONOR OF THE RETIREMENT OF DONNA LEE BELTZ

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. POSHARD. Mr. Speaker, I rise today to honor Donna Lee Beltz on her retirement as Postmistress of the Energy, IL, Post Office. For 28 years Donna has played an important role in assuring the mail has been delivered in an efficient and timely manner. Donna has triumphed over many obstacles in order to be able to provide her community with quality postal service.

Donna began her career with the U.S. Postal Service on June 11, 1966. She served as a postal clerk in the Energy Post Office under Postmaster Lawson Smith. Upon Postmaster Smith's retirement in 1974, Donna was appointed postmistress of the Energy Post Office, the position she has held until her retirement on August 3, 1994, when she will be able to enjoy her time with her husband, Ron, and their show horses.

I congratulate Donna Lee Beltz on her 28 years of faithful service to the U.S. Postal Service and the people of the 19th District and this Nation. I wish her and her family good health and happiness in the many wonderful years ahead.

TRIBUTE TO TARA ARDALAN

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. PACKARD. Mr. Speaker, I rise today to pay tribute to a truly outstanding athlete, Ms. Tara Ardalan of Valley Center, CA. Ms. Ardalan recently competed at the U.S. Olympic Festival in Defiance, MO. She and her horse, Witch Broome Wizard, were members of the gold medal winning west coast equestrian team.

Ms. Ardalan has competed in numerous competitions nationally. Her riding career is distinguished, with such accolades as an individual gold medal in show jumping at the U.S. Olympic Festival in San Antonio, TX, and an individual gold medal at the North America Young Riders Championships. She has also received first place in the Oaks Fall Classic in San Juan Capistrano, CA, and the Acorn Jumping Classic. She was champion in the junior jumper division in the Memorial Day Classic in California. She has performed exceptionally well in many other competitions as well.

Ms. Ardalan recently graduated from high school and plans to attend college. She is trained by her father, Mr. Arsia Ardalan. At her young age, she has accomplished much and I wish her the best in her future endeavors.

Mr. Speaker, I hope you and my colleagues will join me in recognizing the achievements of Tara Ardalan. I am pleased to enter these words of tribute and congratulations into the RECORD.

TRIBUTE TO DONNELL BROOKINS

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. HUTTO. Mr. Speaker, Bay County, FL, lost one of its most outstanding citizens and all of us lost a great friend with the passing of Donnell Brookins on July 27, 1994.

Donnell, without a doubt, was one of the most beloved politicians in northwest Florida. He served as Bay County tax collector from 1968 until his retirement in 1992. During this period, he was never really challenged and was returned to office repeatedly with only minor opposition one time. This was because he was a trusted public official who did his job and treated everyone fairly.

I had the pleasure of knowing Donnell Brookins as a close personal friend several years before he was elected to office. I met him when I went to work for WJHG–TV on November 3, 1963, and Donnell was employed there as a weatherman and announcer.

I will never forget that it was DB, as we often called Mr. Brookins, that first broke the news of the assassination of President John F. Kennedy when he interrupted his program on channel 7 with a news flash. Later that day, he and I did interviews on the streets of Panama City to get the reaction of the people to this terrible tragedy.

Donnell's wife Norma, daughter Pam, son Gary and family, and all of his many friends who knew and loved him, will greatly miss him. But we are comforted by many fond memories.

Honesty, integrity, trustworthiness, and many other attributes would fit Donnell. But, I feel the greatest thing that endeared people to him was his great sense of humor as well as his warm personality. Donnell Brookins was a devout Christian, a family man, a broadcaster, a patriot, and a community leader. He served us well. Though gone from us, he is not forgotten. Our loss is Heaven's gain.

TRIBUTE TO METROPOLITAN JEWISH GERIATRIC CENTER

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. NADLER. Mr. Speaker, in 1907, a group of civic-minded Brooklyn residents concerned about the well-being of their elderly neighbors pooled their energies and their resources to establish the Brooklyn Ladies Hebrew Home for the Aged.

That small institution grew steadily through the years; now it is known as Metropolitan Jewish Geriatric Center—a facility that has pioneered a wide range of programs to serve the elderly, and which reflects to this day the spirit and devotion of its founders.

Currently, Metropolitan serves more than 500 residents at its affiliated Brenner Pavilion in the Boro Park section of Brooklyn, and 359 at its Parshelsky Pavilion in Coney Island. Metropolitan is also meeting the needs of some 20,000 people in the metropolitan New York area through an array of outreach services and affiliated organizations.

On May 20, Metropolitan gave further expression to its abiding concern for the health, comfort, and dignity of its residents with the opening of its affiliated Shorefront Jewish Geriatric Center, a magnificent $48 million nursing care facility that will replace the nearby Parshelsky Pavilion.

Shorefront has been designated as the Harry and Jeanette Weinberg Pavilion in recognition of a generous gift to support its construction by the Baltimore-based Weinberg Foundation. A substantial contribution to the development of Shorefront was made also by the S.H. and Helen R. Scheuer Family Foundation.

Shorefront will be fully equipped to meet the needs of the resident population, with special attention devoted to services for patients with Alzheimer's disease and other mental impairments and sensory disorders.

The opening of Shorefront represents the initial phase in the establishment of a campus for the elderly of Coney Island.

The second phase will be the construction of Shorefront Towers, a multistory building that will provide 116 apartment units for low- to moderate-income elderly. It will be built on the Parshelsky site.

As the sponsor of Shorefront, Metropolitan will make available to the tenant a host of support programs, including social services, leisure activities, and pastoral care. Especially important is the fact that this housing will enable the elderly to enjoy independence and an enhanced quality of life.

The development of Shorefront Jewish Geriatric Center and Shorefront Towers is due in large measure to the leadership of Metropolitan—men and women who give selflessly of their time and energy to a truly worthy endeavor.

These dedicated individuals include the members of the building committee: Martin A. Simon, the chairman, who also is president of Metropolitan, and Harold Cohen, Michael Epstein, Philip Geller, Mark L. Goldstein, Eli S. Feldman, Seymour Levine, and John H. Wolff. All have been involved for many years in programs designed to enrich the lives of the elderly served by Metropolitan.

Mr. Speaker, I am proud to represent a community home to such an outstanding organization. Social services provided by this noble group have helped to better the lives of thousands. The Metropolitan Jewish Geriatric Center is a model of benevolence and altruism for the whole Nation.

HONORING KING MICHAEL AND THE ANTI-NAZI POLITICAL LEADERS OF ROMANIA FOR THEIR COURAGEOUS LEADERSHIP IN THE ANTI-NAZI COUP D'ETAT OF AUGUST 23, 1944

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. LANTOS. Mr. Speaker, free nations are now celebrating the 50th anniversary of the victorious allied assault on Nazi Europe and the heroic struggle for political freedom waged by the United States and her allies. Among the myriad instances of personal courage exhibited in these historic events, one of the most daring and intrepid occurred during the bold August 23, 1944, coup d'etat in Romania. Young King Michael of Romania played a key role in the arrest of Marshall Ion Antonescu, Romania's pro-Nazi dictator, and in proclaiming Romania's alliance with the anti-fascist coalition of nations.

In addition to the role of King Michael, leaders of the principal anti-Nazi and anti-fascist political parties played important parts in the planning and execution of the coup against Antonescu and in reversing Romania's foreign alliance afterward. We in the Congress should pay tribute for their roles in the August 23, 1944, coup to those political leaders and their associates—Iuliu Maniu and the National Peasant party, Dinu Bratianu and the Liberal party, C. Titel Petrescu and the Social Democrats, and also to officials of the Romanian Communist Party, who though they were very small in numbers were staunchly antifascist.

In tribute to his courage in the face of enormous risk and in recognition of his outstanding contribution to the cause of freedom and democracy, King Michael was awarded the Legion of Merit by President Harry Truman. President Truman said of King Michael:

> In July and August, 1944, his Nation under the dominance of a dictatorial regime over which the King had no control, having allied herself with the German aggressors, he, King Michai I, succeeded in giving purpose, direction and inspiration to the theretofore uncoordinated internal forces of opposition to the ruling dictator. In culmination of his efforts, on 23 August, 1944, although his capitol was still dominated by German troops, he personally, on his own initiative, and in complete disregard for his own safety, gave the signal for a coup d'état by ordering his palace guards to arrest the dictator and his chief ministers. Immediately thereafter, in an inspired country-wide radio address, he proclaimed to the Nation his decision to release Rumania from the Nazi yoke and called upon his Army to turn upon the German troops, and to kill, capture or drive them from the country. Confronted with this forthright and aggressive action on the part of their sovereign, the response of the Rumanian people and the Rumanian Army was wholehearted and immediate, with the result that, in the space of a few days, the greater part of the Rumanian territory was liberated from Nazi control, and the main line of German resistance on the Southwestern front was withdrawn over five hundred kilometers to the Northwest.

As we mark the 50th anniversary of this event, it is appropriate to pay credit and honor to the bravery and courage of King Michael and the political leaders of Romania in 1944 who took grave risks to overthrow the fascist regime in Romania and to hasten the destruction of Nazi Germany. The United States should remember and honor our country's wartime alliance with the democratic and anti-Nazi Romanian forces, an alliance that ceased only with Stalin's takeover of Eastern Europe.

Mr. Speaker, I would also like to mention in the context of commemorating the anniversary of August 23, the outstanding efforts of King

Michael and his mother, Queen Elena, to protect thousands of Jews in Romania from certain deportation and death at the hands of the Nazis. In March of 1993, Israel's Holocaust Memorial Authority (Yad Vashem) awarded the title of "Righteous Among the Nations" to Queen Elena for her efforts to save tens of thousands of Jews in Romanian-occupied Transnistria during World War II.

Mr. Speaker, today, 50 years after the heroic coup d'etat of August 23, 1994, I invite my colleagues in the Congress to join me in remembering those brave Romanian political leaders and King Michael of Romania, who took a daring and courageous step at an important time in the struggle against Nazi tyranny.

THE INTRODUCTION OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE COPYRIGHT ACT OF 1994

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 3, 1994

Mr. HUGHES. Mr. Speaker, I rise to introduce the General Agreement on Tariffs and Trade Copyright Act of 1994. The Subcommittee on Intellectual Property and Judicial Administration, which I chair, has exclusive jurisdiction over domestic intellectual property law. The subcommittee also has joint jurisdiction over trade laws such as section 337. The GATT/TRIP's agreement raises quite a number of important intellectual property issues within the subcommittee's jurisdiction and of interest to its members.

The U.S. Trade Representative has identified a very limited number of changes in domestic intellectual property law as being required by the GATT/TRIP's agreement. In the field of copyright, only one change has been identified as being required: repeal of the computer program sunset.

USTR has also identified a number of discretionary changes which, in its opinion, might be appropriate in the TRIP's implementing legislation, including a provision to grant retroactive protection to works of Berne and WTO origin that have not fallen into the public domain in their source country, a Federal antibootlegging statue, and Federal protection for foreign pre-1972 sound recordings.

The procedure under which the GATT agreement and other fast track trade agreements are considered in Congress denies to Congress and its committees the ability to apply the normal legislative processes, particularly the ability to amend the legislation after introduction. For this reason, the primary test for determining whether a particular matter should be included in fast track legislation is not whether it is a meritorious proposal, but rather whether it is an essential proposal; that is, essential to carry out our treaty obligations.

The administration has proposed including the nonessential items which I described above in the GATT/TRIP's implementation package. Discussions to determine if this is appropriate, and the form such legislation should take, have been held between our committee, the Senate Judiciary Committee, and the administration.

We entered into such discussions with the understanding that these items would be included in the GATT implementation package only if all agreed to their inclusion and to their contents.

Unfortunately, the complexity of the issues involved, and the process followed by the administration's lead agency, the Office of the U.S. Trade Representative, have as of yet left us unable successfully to complete this process in a manner which would permit the inclusion of these items in the GATT package.

However, the matters in question—restoration of copyright protection for Berne works, a Federal antibootlegging statute, and Federal protection for foreign pre-1972 sound recordings—are each important proposals which, in my view, merit prompt and serious consideration in the normal legislative process. For this reason, I am today introducing a bill addressing these three matters. The subcommittee intends to hold a joint hearing with the Senate Subcommittee on Patents, Copyrights and Trademarks at the earliest possible date.

This bill and the hearings will take the debate out of the shadows and will provide a constructive starting point for necessary public discussions on the important issues raised by the TRIP's agreement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Agreement on Tariffs and Trade Copyright Act of 1994".

SEC. 2. RENTAL RIGHTS IN COMPUTER PROGRAMS.

Section 804(c) of Public Law 101-650, 104 Stat. 5136, is amended by striking the first sentence.

TITLE I—FEDERAL ANTIBOOTLEG PROVISIONS

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Anti-Bootleg Act of 1994".

SEC. 102. UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.

Title 18, United States Code, is amended by adding the following:

§ 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

"(a) Whoever, without the consent of a featured performer, knowingly and for purposes of commercial advantage or private financial gain—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces phonorecords or copies of such a performance from an unauthorized fixation;

"(2) transmits of otherwise communities to the public the sounds or sounds in images of a live musical performance; or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics any copy or phonorecord fixed without the consent of a featured performer, regardless of whether the fixations occurred in the United States;

shall, upon judgment of conviction, be fined not more than $250,000 or imprisoned for not more than 5 years, or both.

"(b) When a person is convicted of a violation of subsection (a), the court shall in its judgment of conviction order the forfeiture and destruction of any copies of phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

"(c) If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of a featured performer, such copies or phonorecords are subject to seizure and forfeiture in the same manner as property imported in violation of the customs revenue laws. The Secretary of the Treasury and the United States Postal Service shall, separately or jointly, make regulations for the enforcement of the provisions of this subsection, including regulations by which any featured performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of phonorecords or copies that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

"(d) As used in this section—

"(1) The terms 'copy,' 'fixed', 'musical work', 'phonorecord', 'reproduce', 'sound recordings', and 'transmit' have the same meanings given such terms in section 101 of title 17, United States Code.

"(2) The term 'traffic' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of which intent to transport, transfer, or dispose of.

"(e) This section shall apply to the following acts that occur 1 year after the entry into force of the World Trade Organization Agreement—

"(1) live musical performances fixed without the consent of a featured performer;

"(2) distributions, offers to sell, sales, offers to sell, rentals, offers to rent, or trafficking in any copy or phonorecord fixed without the consent of a featured performer, regardless of when the fixation occurred; and

"(3) transmissions or other communications to the public of sounds or sounds and images of a live musical performance fixed without consent of a featured performer.".

TITLE II—COPYRIGHT IN RESTORED WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Berne and GATT Retroactivity Act of 1994".

SEC. 202. RESTORED WORKS.

(a) IN GENERAL.—Section 104A of title 17, United States Code, is amended to read as follows:

"SEC. 104A. COPYRIGHT IN RESTORED WORKS.

"(a) AUTOMATIC PROTECTION AND TERM.—

"(1) TERM.—Copyright subsists, in accordance with this section works, and vests automatically on the date of restoration.

"(A) Copyright in restored works published or registered with the Copyright Office before January 1, 1978, shall endure for a term of 75 years from the date of first publication or registration as the case may be.

"(B) Copyright in works created on or after January 1, 1978, shall endure for the term of protection established in section 302.

"(2) EXCEPTION.—No work in which the copyright was ever owned or administered by the Alien Property Custodian and in which the restored copyright would be owned by a government or instrumentality thereof, shall be a restored work.

"(b) Ownership of Restored Copyright.—A restored work vests initially in the author of the work as determined according to the law of its source country.

"(c) Filing of Notice of Intent to Enforce Restored Copyright Against Reliance Parties.—Any person owning copyright in a restored work or an exclusive right therein may file with the Copyright Office a notice of intent to enforce that copyright against reliance parties. Acceptance of a notice by the Copyright Office shall not create a presumption of the validity of any of the facts stated therein.

"(d) Remedies for Infringement of Restored Copyrights.—

"(1) Enforcement of copyright in restored works in the absence of a reliance party.—As against any party who is not a reliance party, the remedies provided in chapter 5 of this title shall be available immediately upon restoration with respect to any infringing act commenced on or after the date of restoration.

"(2) Enforcement of copyright in restored works as against reliance parties.—As against a reliance party, subject to paragraph (3), the remedies provided in chapter 5 of this title shall be available upon restoration—

"(A)(i) if the owner of the restored work files with the Copyright Office, between the date of restoration and 24 months thereafter, a notice of intent to enforce a restored work; and

"(ii) the act of infringement commenced on or after 12 months from the date of publication of the notice in the Federal Register.

"(B)(i) if the owner of the copyright in the restored work or an exclusive right therein serves upon that reliance party a notice of intent to enforce a restored work; and

"(ii) the act of infringement commenced prior to receipt of the notice;

"(C) if copies of a restored work are made after publication of the notice of intent in the Federal Register; or

"(D) in the case of a particular reliance party, after receipt of a notice of intent to enforce the restored work.

"(3) Commencement of infringement for reliance parties.—For purposes of section 412, in the case of reliance parties, infringement shall be deemed to have commenced prior to registration when acts which would have constituted infringement were committed prior to the date of the restoration and continued after such date.

"(e) Notices of Intent to Enforce a Restored Copyright.—

"(1) Notices of intent filed with the copyright office.—(A)(i) Notices of intent filed with the Copyright Office to enforce a restored work shall be signed by the owner of the copyright or the owner of the exclusive right filing the notice and shall identify the title of the restored work. If the notice is signed by an agent, the agency relationship must have been constituted in a writing signed by the owner of the restored work or the owner of the exclusive right therein prior to the filing of the notice. The notice may contain any other information specified in regulations established by the Register of Copyrights pursuant to this section.

"(ii) If a restored work has no formal title, it shall be described in the notice of intent in detail sufficient to aid in its identification. Minor errors or omissions may be corrected after the period established in subsection (d)(2)(A) and shall be published by the Register of Copyrights in the Federal Register pursuant to subparagraph (B).

"(B)(i) The Register of Copyrights shall publish in the Federal Register, commencing not later than 4 months after the date of the Agreement on Trade-Related Aspects of Intellectual Property of the General Agreement on Tariffs and Trade becomes effective with respect to the United States and every 4 months thereafter, lists identifying restored works and the ownership thereof if a notice of intent to enforce a restored work has been filed.

"(ii) Not less than 1 list containing all notices of intent to enforce a restored work filed with the Copyright Office shall be maintained in the Public Information Office of the Copyright Office and shall be available for inspection and copying during regular business hours pursuant to sections 705 and 708.

"(C) The Register of Copyrights is authorized to fix reasonable fees based on the costs of receipt, processing, recording, and publication of notices of intent to enforce a restored work.

"(D)(i) Not later than 30 days after the date the Agreement on Trade-Related Aspects of Intellectual Property of the General Agreement on Tariffs and Trade becomes effective with respect to the United States, the Copyright Office shall establish and publish in the Federal Register regulations governing the filing under this subsection of notices of intent to enforce a restored work.

"(ii) Such regulations shall permit owners of restored works to simultaneously obtain registration for a claim of copyright in the restored work.

"(2) Notices of intent served on a reliance party.—

"(A) Notices of the intent to enforce a restored work may be served by the copyright owner of the restored work or by the owner of any exclusive right therein on a reliance party.

"(B) Such notice shall identify the restored work and the use to which the owner objects and shall include an address and telephone number at which the reliance party may contact the owner.

"(f) Immunity From Warranty and Related Liability.—An individual who warranted, promised, or guaranteed that a work that such individual created did not violate 1 of the exclusive rights granted in section 106, shall not be liable for legal, equitable, arbitral, or administrative relief if the warranty, promise, or guarantee is breached by virtue of the restoration of copyright under this section.

"(g) Definitions.—For purposes of this section and section 109(a):

"(1) The term 'date of adherence' means the earlier of the dates upon which a foreign country that is not a member of the Berne Union or the World Trade Organization, as of the date of the enactment of the General Agreement on Tariffs and Trade Intellectual Property Act of 1994, becomes a member of the Berne Union or the World Trade Organization.

"(2) The term 'date of restoration' of a restored copyright means—

"(A) the date the Agreement on Trade-Related Aspects of Intellectual Property of the General Agreement on Tariffs and Trade becomes effective with respect to the United States, if the work is a restored work on such date; or

"(B) the date of adherence.

"(3) The term 'eligible country' means a country, other than the United States, which, on the date that copyright is restored under the provisions of this section, has joined the World Trade Organization or adhered to the Berne Convention for the Protection of Literary and Artistic Works.

"(4) The term 'reliance party' means any person who, prior to the date the Agreement on Trade-Related Aspects of Intellectual Property of the General Agreement on Tariffs and Trade becomes effective with respect to the United States, or who, prior to the date of adherence of a source country which became an eligible country after the date of the enactment of such Act—

"(A) engaged in acts which would have violated section 106 if the restored work had been subject to copyright protection, and who, after the date the Agreement on Trade-Related Aspects of Intellectual Property of the General Agreement on Tariffs and Trade becomes effective with respect to the United States, or after the date of adherence, continued to engage in such acts; or

"(B) made substantial monetary investments in a creation of a work which incorporates material portions of a restored work.

"(5) The term 'restored work' means an original work of authorship that—

"(A) is protected under subsection (a);

"(B) is not in the public domain in its source country;

"(C) is in the public domain in the United States due to—

"(i) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirement; or

"(ii) lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; and

"(D) has not less than 1 author who was, at the time the work was created, a national or domiciliary of an eligible country, and if published, was first published in an eligible country but not published in the United States during the 30-day period following publication in such eligible country.

"(6) The term 'source country' of a restored work means—

"(A) a country other than the United States;

"(B) in the case of an unpublished work—

"(i) the eligible country in which the author is a national or domiciliary, or, if a restored work has more than 1 author, the majority of foreign authors are nationals or domiciliaries of such eligible countries; or

"(ii) if the majority of authors are not foreign, the source country shall be the country, other than the United States, which has the most significant contacts with the work; and

"(C) in the case of a published work, the eligible country in which the work is first published, or if the restored work is published on the same day in 2 or more eligible countries, the source country shall be the country, other than the United States, which has the most significant contacts with the work.".

(b) Limitation.—Section 109(a) of title 17, United States Code, is amended by adding at the end the following:

"(e) the sale or other disposition without the authorization of the owner of a restored work of copies or phonorecords manufactured before the date of restoration of works in which copyright has been restored under section 104A may be sold or otherwise disposed of only during the period specified in section 104A(d)(3), and after such period, only as part of a sale or disposition of not more than 1 copy or phonorecord at a time.".

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 4, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 5

8:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Jose M. Amador, of Texas, to be Assistant Secretary for Science and Education, and Roger C. Viadero, of Virginia, to be Inspector General, both of the Department of Agriculture.

SR–332

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine Blue Cross/Blue Shield Federal contracts.

SD–342

9:30 a.m.

Banking, Housing, and Urban Affairs

To continue hearings to examine certain legal issues with regard to the Whitewater Development Company, Inc., and Madison Guaranty Savings and Loan.

SD–106

Banking, Housing, and Urban Affairs

Business meeting, to consider the nominations of Janet L. Yellen, of California, to be a Member of the Board of Governors of the Federal Reserve System, Julie D. Belaga, of Connecticut, to be a Member of the Board of Directors of the Export-Import Bank of the United States, and Susan R. Baron, of Maryland, and Danny K. Davis, of Illinois, each to be a Member of the National Corporation for Housing Partnerships.

SD–538

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

2359 Rayburn Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Domestic and Foreign Marketing and Product Promotion Subcommittee

To hold hearings on S. 1557, to revise the Dairy Production Stabilization Act of 1983 to require that members of the National Dairy Promotion and Research Board be elected by milk producers and to prohibit bloc voting by cooperative associations of milk producers in the election of the producers, and S. 1564, to revise the Dairy Production Stabilization Act of 1983 to ensure that all persons who benefit from the dairy promotion and research program contribute to the cost of the program, to terminate the program on December 31, 1996, and to prohibit bloc voting by cooperative associations of milk producers in connection with the program, and to examine the beef industry long range plan of the Cattlemen's Beef Promotion and Research Board.

SR–332

10:30 a.m.

Veterans' Affairs

To hold hearings to examine reproductive hazards associated with military service, focusing on the risks of radiation, Agent Orange, and Gulf War exposures.

SH–216

AUGUST 8

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine Blue Cross/Blue Shield Federal contracts.

SD–342

10:30 a.m.

Environment and Public Works

To hold hearings on the nominations of Kay Collett Goss, of Arkansas, to be an Associate Director of the Federal Emergency Management Agency (Preparedness, Exercise, and Training Directorate), Robert James Huggett, of Virginia, to be an Assistant Administrator (Office of Research and Development), and William A. Nitze, of the District of Columbia, to be an Assistant Administrator (Office of International Activities), both of the Environmental Protection Agency, and Bill Anoatubby, of Oklahoma, Terrence L. Bracy, of Virginia, Matt James, of California, and Norma Udall, of Virginia, each to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

SD–406

2:00 p.m.

Veterans' Affairs

To hold hearings on the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), S. 2330, to revise title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and other pending legislation.

SR–418

AUGUST 9

10:00 a.m.

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on S. 2272, to revise chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and S. 2341, to revise chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the United States Patent and Trademark Office.

SD–226

2:00 p.m.

Foreign Relations

To hold hearings on Richard Holbrooke, of New York, to be Assistant Secretary of State for European and Canadian Affairs, Eileen A. Malloy, of Connecticut, to be Ambassador to the Kyrgyz Republic, and James W. Swihart, Jr., of Virginia, to be Ambassador to the Republic of Lithuania.

SD–419

AUGUST 10

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 1821, authorizing funds to provide a comprehensive program for the prevention of fetal alcohol syndrome, S. 1781, to make improvements in the Black Lung Benefits Act, and proposed legislation to provide for civil and criminal money penalties reform.

SD–430

Office of Technology Assessment

Board meeting, to consider pending business.

EF–100, Capitol

10:00 a.m.

Foreign Relations

To hold hearings to examine the current status of the Law of the Sea Convention.

SD–419

Indian Affairs

Business meeting, to mark up S. 2269, to protect Native American cultures and to guarantee the free exercise of religion by Native Americans, S. 2036, to specify the terms of contracts entered into by the U.S. and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, S. 2150, to establish a Native Hawaiian housing program, S. 2259, to provide for the settlement of Confederated Tribes of the Colville Reservation claims concerning their contribution to the production of hydropower by the Grand Coulee Dam, and S. 2329, to provide for the settlement of certain Mohegan Indian land claims within the State of Connecticut; to be followed by hearings on pending nominations.

SH–216

1:30 p.m.

Small Business

Business meeting, to mark up S. 2060, authorizing funds for fiscal years 1995 through 1997 for programs of the Small Business Administration.

SR–428A

AUGUST 11

8:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, Conservation, Forestry and General Legislation Subcommittee

To hold hearings on the Administration's proposed legislation on meat and poultry inspection.

SR–332

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1991, to provide for the safety of journeyman boxers; to be followed by hearings on the oversight of activities of the Olympic Committee.

SR-253

AUGUST 12

8:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, Conservation, Forestry and General Legislation Subcommittee

To continue hearings on the Administration's proposed legislation on meat and poultry inspection.

SR-385

2:00 p.m.

Veterans' Affairs

Business meeting, to consider the nomination of Linda Marie Hooks, of Georgia, to be an Assistant Secretary of Veterans Affairs (Acquisition and Facilities), and to mark up pending legislation.

SR-418